

ECONOMIC AND SOCIAL CONSULTATIVE ASSEMBLY

# BULLETIN

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## **284th Plenary Session of 27 and 28 February 1991**

The 284th Plenary Session of the Economic and Social Committee of the European Communities was held in Brussels on 27 and 28 February 1991. It was attended by Mr Jean-Claude Juncker, the Luxembourg Minister for Finance and Labour, who came to present the programme of the Council Presidency, held by his country until the end of June, and Mr Jacques Delors, President of the Commission of the European Communities, who came to present his institution's programme for the current year. Among the 14 Opinions adopted, particular attention should be drawn to that on economic and monetary union, the Committee's second Own-initiative Opinion on the subject in the space of a year and a half, in which the Committee asks to be consulted in future on economic policy outlines to be proposed by the Commission. Replying to the rapporteur for the Opinion, Mr Meyer-Horn, Mr Juncker said that he supported the request.

### **Extracts from the speech by Mr Jean-Claude Juncker, Luxembourg Minister for Finance and Labour and President of the EC Council, followed by debates**

In his speech setting out the Luxembourg Presidency's programme, Mr Jean-Claude Juncker criticized European Ministers for Social Affairs for discussing the legal basis of Commission social policy proposals in a way which was damaging to their substance and content.

#### **Government by judges**

Questioned on this subject by a Luxembourg Member, Camille Giacomelli (Employers), the Minister said that he perceived a danger to European construction: ministers seeking the easy way out — more and more texts open to interpretation were being adopted. This gave rise to the risk of 'government by judges' with the Court of Justice interpreting texts to an ever-greater degree. The Court of Justice came to the fore whenever the political

authorities were weak, since ministers failed to take the time to talk to non-political groups, such as the Members of the Economic and Social Committee.

Mr Juncker, who was in favour of Community-level collective agreements, felt that certain political decisions could be taken more easily if the social partners were allowed to act in this field.

### **Over-use of subsidiarity**

The Luxembourg Minister also criticized the way Member States hid behind the concept of subsidiarity: they all 'played the subsidiarity card' in different fields when it suited them — social affairs, taxation, transport, etc. The cumulative effect would be to paralyse Community operations.

Mr Juncker made a number of statements on institutional matters:

*The future of the Economic and Social Committee:* 'The Committee's consultative role needs to be confirmed, and strengthened in certain areas (particularly social affairs). The Committee must be given the resources to perform this important function. Foreign and Finance Ministers are currently examining the Committee's proposals, which are on the agenda for the Intergovernmental Conference on Political Union.'

*EMU:* 'I agree that the ESC should be consulted on the economic guidelines proposed by the Commission'. Questioned by Klaus Meyer-Horn (Germany, Employers, rapporteur for an ESC Own-initiative Opinion on EMU) on press articles alluding to certain States' lack of enthusiasm for EMU, Mr Juncker replied that last Monday, 'the Ministers for Finance reached agreement on a wide range of points. Spokesmen tend to concentrate on the differences, and do not reflect the true atmosphere of the meetings'.

*The regions:* Tom Jenkins (United Kingdom, Workers' Group Chairman) wondered how elected regional representatives could work with Committee Members (representing social and professional sectors, appointed by the Committee). Mr Juncker replied that 'the idea of combining the Committee with a consultative assembly of the regions is losing momentum, and I would be opposed to it. These are two quite separate matters. Parliamentary channels for regional concerns must be developed'.

### **Harmonizing arms sales**

Questioned by Robert Pelletier (France, Employers, rapporteur for a Committee Opinion on money laundering) on his views on direct

taxation, Mr Juncker replied that in December 1990 he had proposed harmonizing direct taxation provided that the Council spelled out the areas to be covered. 'I am young, so harmonization of large areas of direct taxation should come within my lifetime. But I reject the accusation that Luxembourg is blocking harmonization, while there is no harmonization in other fields. I am in favour of morality, but let's first harmonize arms sales and then agree on the geographical areas to be covered by harmonization of direct taxation.'

### **Extracts from the Commission programme for 1991, presented by Mr Jacques Delors, Commission President**

'I have read with much attention the proposals which you have made for making the Economic and Social Committee more effective and I support them' said EC Commission President Jacques Delors to the European Communities' Economic and Social Committee on 28 February.

Recalling the Commission's priorities for the year in progress, Mr Delors emphasized how the Community was achieving greater internal depth while facing up to external events and looking ahead to the period after 1992.

#### **Two obstacles**

Two obstacles stood in the way of the completion of the Single Act: the free movement of persons and the question of taxation.

Freedom of movement: the Foreign Ministers had been instructed to deal with the whole issue, of which only a part came under the Community's terms of reference.

Taxation: the Council had not fully defined the content of the transitional period (up to 1996), for instance as regards mail order selling, nor had it committed itself to aligning VAT rates.

#### **A big disappointment**

For Mr Delors 'the big subject of disappointment' was the social dimension: 'No progress is being made. The Commission is in a difficult situation *vis-à-vis* the trade unions. The Luxembourg Presidency has decided to ask the Social Affairs Council to reach agreement on the content before debating the legal basis of each proposal. Personally I am feeling more and more uneasy' added the Commission President. 'The imbalance is now too marked, for a certain concept of building Europe is in jeopardy'.

On the environment, the Commission President deplored the fact that the 'quarrel over headquarters' was preventing the setting-up of the European Environment Agency.

On agriculture: 'How is one to reconcile competitiveness, rural development, land-use planning and environmental policy?' wondered Mr Delors, pointing out that the reform of the common agricultural policy had nothing to do with the GATT negotiations (As far as GATT was concerned, 'there are two elephants, the Community and the United States, which must come to an agreement so as not to crush other exporters.')

On Eastern Europe: 'The countries of Central and Eastern Europe want to join the Community immediately. But now they are waiting for two signals from the Community: one showing that the Community does not monopolize Europe and another leading to cooperation agreements like those which the Community signed with Turkey. We are currently preparing agreements with three dimensions: economic, political and cultural'.

### **The institutional battle will rage**

On political union: The intergovernmental conference was now preoccupied with security questions. The Commission was going to prepare texts on social affairs, the environment and economic and social cohesion. As for the institutional battle: 'It will rage. It is already here facing us'.

On economic and monetary union: 'Britain is sticking to its plan for a hard ecu. The German Government has just adopted a contrary position to that which Chancellor Kohl accepted at the European Council last October. France and Spain are tempted by a second phase where the ecu basket would play an important role. Finally there is the same institutional quarrel as that at the Conference on Political Union'.

On intergovernmental conferences: 'These must finish by the end of the year, in time for ratification by the national parliaments in 1993 and implementation in 1994'.

### **Replies to members**

Mr Delors replied as follows to members' questions:

On the internal market: 'The Commission's occupational hygiene consists of doing what has been decided. Hence the stress on what still has to be done to complete not only the internal market but also the whole of the Single Act'.



On over-complicated directives: The Commission had proposed distinguishing between primary legislation (laws) and secondary legislation (regulations). This would be accepted.

On the social dimension: 'We have never wanted to centralize social policy, but without a basic minimum the Community will be politically unbalanced'.

### **The hard ecu will not work**

On the hard ecu: the British proposal was a step forward politically. But it meant creating a 13th currency with nothing behind it and imposing it on the market. This would not work because a currency had to be backed by the public authorities.

On reform of the CAP: 'A lot of time will be needed to adapt the common agricultural policy and this time will be given'.

On employee consultation: 'We have submitted a text on the consultation of employees in multinational companies. This will be fully discussed at next May's informal Social Affairs Council'.

On the Middle East: 'Are our countries capable of thinking and acting together and are they capable of explaining to their people what will be the cost? After the conflict between Israel and the Palestinians has been sorted out, Israel and the Arab countries will need the lifeline of the single market to sell their fruit and vegetables. What will the Maghreb and the farmers of southern Europe say? [...]. The Community must have a subtle and intelligent policy towards the Arab world which is currently in a depleted state'.

### **Five or six-country EMU**

European central bank: 'A central bank need not be independent but it should be politically and democratically responsible. The EMS is a good thing. If the British have joined, it was because they needed it. Since then the British Government's statements to the public have changed'.

EMU: 'I was against a two-speed Europe but when I see the behaviour of some States it cannot be ruled out that at the end of 1993 EMU might be formed with five or six countries'.

The following Opinions were on the agenda.

## 1. ECONOMIC AND MONETARY UNION (Additional Own-initiative Opinion)

This is an Own-initiative Opinion by the Committee on the Commission's contribution to the Intergovernmental Conference on Economic and Monetary Union (EMU).

### **Gist of the Commission document**

#### **Benefits and costs of economic and monetary union**

The likely impact of EMU may be summarized as follows:

- (i) efficiency and growth: the introduction of a single currency and economic union will complement the establishment of the single market and consolidate the impact, thus bringing undoubted benefits;
- (ii) stability: better price stability will bring clear benefits;
- (iii) impartiality: it is not possible to anticipate the relative benefits for given regions. Experience shows, however, that the structural and regional policies will have to be evaluated and, where necessary, adjusted and strengthened. Even for the less prosperous regions the overall impact of EMU will be positive.

#### **Monetary union**

Monetary union will remain incomplete until a single currency is introduced, thereby completely removing transaction costs. This does not, however, imply that a single currency will be adopted forthwith. This step is expected to be taken only in the third stage of EMU since a breathing space will be required on both technical and psychological grounds to permit the deployment of the new payment instruments and to prepare the public for the use of these instruments. The single currency will be the ecu.

EC monetary policy and the institution responsible for managing this policy need to be committed explicitly to the objective of price stability and this commitment needs to be written into the legislative texts. The new Community monetary system must also be independent of governments and other Community institutions. This independence should apply to the system itself, national central banks, the operating procedures and staff (appointments, terms of office, etc.).

The proposed ratification provisions, the method of appointment of the President of the institution and the members of the Executive Board, the presentation of reports to the European Parliament and collaboration with both the Council and the Commission are all in line with the need to ensure that the new institution will be democratically accountable. The institution will have a federal structure, comprising the existing national central banks (the Council of the European System of Central Banks (ESCB)) and a central body, called the Executive Board.

The policy determined by the ESCB Council would be implemented by the national central banks under the authority of the Executive Board.

The ecu will also have an important role to play in the international monetary system. The EC should be represented on the international scene by those responsible for EC economic policy, assisted by the monetary authority. Exchange-rate policy should be defined in a framework of close cooperation.

### **Economic union**

There does not need to be a single economic policy in the same way as for monetary policy. The Community involvement in economic decision-making should be based on a balance between subsidiarity and parallelism. The Member States and the Community should commit themselves to economic policies geared to continuous and balanced expansion, increased stability and economic and social cohesion. The sound functioning of economic and monetary union will require coherence between the following aspects: efficiency, cooperation and cohesion. As the European Council is to ensure coherence, more operational cooperation should be established between the Economic and Financial Affairs Council, the Commission and the European Parliament. The Economic and Social Committee should be consulted on matters which come within its terms of reference.

In order to exploit the potential of the internal market to the full, the Community's role should be expanded in the following fields: competition policy, commercial policy, research and technological development, Europe-wide infrastructure, labour markets, the environment and some aspects of taxation. In order to bring about a strengthening of the Community's role, it will clearly be necessary to amend the Treaty and to discontinue the unanimity rule.

The Commission proposes that the following cooperation instruments be introduced:

- (i) multiannual economic policy guidelines;
- (ii) greater multilateral surveillance of economic performance;
- (iii) a special financial support scheme.

The threat to monetary stability and the sustainability of the union represented by excessively high levels of deficits and debt is a matter of special concern. Rules should therefore be set out in the Treaty with a view to avoiding excessive public deficits and the monetary financing or bailing out of budgetary deficits.

It may prove necessary to strengthen the structural policies in order to reduce regional and structural disparities.

Adjustments will have to be made to the Community's 'own resources' scheme and to the budgetary responsibilities of the EC institutions in the light of the requirements of economic union.

### **Transition**

The Commission proposes the following phases of implementation:

- (i) first stage: a high degree of economic convergence; monetary policy coordination and consolidation of the EMS;
- (ii) second stage, starting on 1 January 1993: establishment of the European system of central banks (ESCB) and introduction of secondary legislation;
- (iii) third stage: the ESCB would assume full responsibility for the single monetary policy; establishment of the single currency (the ecu), the role of which would have been consolidated during the transitional period.

### **Institutional aspects**

Several important Treaty modifications will be necessary with regard to:

- (i) the establishment, organization and tasks of the ESCB;
- (ii) the consolidation of multilateral surveillance;
- (iii) the establishment of two new economic policy instruments.

In order to ensure a satisfactory balance between the institutions (European Council, Economic and Financial Affairs Council, Commission, European Parliament and the ESCB) it will be necessary to strengthen the role of each of these institutions, to introduce a

degree of specialization and to define precisely relations between the institutions.

## **Gist of the Committee Opinion <sup>1</sup>**

### **General comments**

After having noted the major progress made in 1990 towards economic and monetary union (the launching of the first stage, the admission of further currencies to the exchange-rate mechanism of the EMS and the contributions to the intergovernmental conference made by the Monetary Committee, the Committee of Governors of the Central Banks and the European Commission, the Opinion discusses the objections and doubts which still have to be overcome.

These doubts basically concern the economic policy constraints stemming from a common monetary policy, variations in inflation rates, budget deficits and the financing thereof, and the views of certain Member States about the independence of a European Central Bank whose prime objective would be general price-level stability.

The consequences of economic and monetary union on the economic, budgetary and social policies of the Member States deserve to be better known and should be discussed more thoroughly.

The Committee supports the proposed path to economic and monetary union since it is a further step along the road to European integration. The Opinion recommends the introduction of a hard ecu in the 12 Member States at the beginning of the third stage of EMU. All Member States would participate in the work of the European System of Central Banks and would be involved in economic policy convergence. The exchange rate between the ecu and certain national currencies might still be allowed to vary during a transitional period. The Committee's institutional recommendations cover the independence of the European Central Bank, the strengthening of the Economic and Financial Affairs Council, the role of the European Parliament and the function of the Economic and Social Committee.

<sup>1</sup> CES 273/91.

**Comments on monetary policy**

The Committee approves the Commission's proposal that the EEC Treaty be amended to provide for a single currency throughout the Community. Full monetary union necessitates a uniform money and credit policy, as well as the creation of a European system of central banks (ESCB) at the beginning of the second stage.

Basing itself on the experience of the European monetary system (EMS), the Section approves price stability as the primary objective of the ESCB. The new Treaty Articles should (a) underline that the ESCB supports an economic policy based on common guidelines for the Community, (b) stipulate that the ESCB has exclusive responsibility for monetary policy and (c) make it clear that the institutional, operational and personal independence of the ESCB should be guaranteed. The democratic accountability of the ESCB to the European Council and European Parliament should be clarified and the ESCB should present reports. Recourse to the European Court of Justice would also be allowed.

A clear distinction should be made between the powers of the European Central Bank and the powers of the national central banks. The European Central Bank would alone take decisions on the use of domestic and external monetary-policy instruments. The division of responsibilities within the Council of the ESCB, between the Governors of the Central Banks and the members of the Executive Board should also be clarified. With regard to exchange-rate policy, decisions on changes in exchange-rate parities would lie with the political authorities, whilst the daily intervention policy on the world's foreign-exchange markets would fall within the remit of the European Central Bank. Majority voting is recommended, although weighted voting would be allowed in the case of financial decisions.

**Comments on economic and budgetary policy**

Unlike monetary policy, economic policy would be governed by the principle of subsidiarity. Economic cooperation must nevertheless be intensified and deepened and the economic policies of Member States closely coordinated. To this effect the role of the Council of Ministers for the Economy and Finance (Economic and Financial Affairs Council) would be strengthened. Arrangements would have to be made to align the ESC's common monetary policy with the economic policies coordinated by the Economic and Financial Affairs Council, and any conflict between the two would have to be avoided.

It is vital for the Council of Ministers to reach agreement on common economic policy guidelines and objectives and the Commission should be put in a position where it can take the necessary steps to prepare the decisions of the Council of Ministers and ensure the ongoing surveillance of economic convergence. Each year the Commission should establish economic policy guidelines which would be acted on by the Economic and Financial Affairs Council and the European Council after consultations with the European Parliament and the Economic and Social Committee. The latter would also be consulted on the country reports. The economic reform programmes of the structurally weaker Member States would be supported. Economic policy adjustments might be considered necessary on the basis of multilateral surveillance and a special financial aid might be made available.

The role of the Community should be strengthened in policy areas with a major European-wide impact: competition policy; trade policy; research and development; European infrastructures. Responsibility for fixing wages and salaries must remain in the hands of the two sides of industry but the Community should assume its responsibilities for improving the labour market and training.

Budgetary policies should be coordinated and rules should be laid down regarding the financing of public deficits. Criteria are also put forward for defining excessive public debt. It is also regretted that only slow progress has been made towards fiscal harmonization.

#### **Comments on the second phase and on transitional arrangements for the common currency in the third stage**

Given inadequate economic convergence, the structural weaknesses of certain countries and the need to strengthen the role of the institutions, not to speak of the experience of the EMS, the structurally weaker Member States should be allowed to continue to rely on exchange-rate adjustments as a way of dealing with adjustment pressures during the second and even the third stage. During the second stage (which should be short), the ESCB would be set up and the use of a hard ecu encouraged.

Monetary union would initially embrace a core of stable currencies, with temporary waivers being granted to Member States still relying on exchange-rate adjustments. A hard ecu would be brought into circulation by the ESCB in all the Member States and might replace the national currency in countries whose currencies were linked to one another by fixed exchange rates.

All Member States should participate in the work of the ESCB, the common monetary policy, the coordination of economic and budgetary policies and multilateral surveillance. This would mean more convergence in the course of the third stage.

The ecu could become the single European currency as soon as all Community currencies had joined the bloc of stable currencies. Other countries would also have the chance to join the system.

*This Opinion, adopted by a large majority with 6 abstentions, was drawn up in the light of the paper produced by the Section for Economic, Financial and Monetary Questions, chaired by Mr Jean Pardon (Belgium — Employers). The rapporteur was Mr Klaus Meyer-Horn (Germany — Employers).*

## 2. ENVIRONMENTAL RISKS

### **Proposal for a Council Regulation (EEC) on the evaluation and the control of the environmental risks of existing substances**

[COM(90) 227 final — SYN 276]

#### **Gist of the Commission proposal**

The proposal in question, which is based on Article 100a of the Treaty, stems from the fourth Community action programme, one of whose priority tasks is the evaluation of the risks to the environment and human health posed by chemical substances.

The Commission's general survey of the situation reveals considerable disparities between national laws on the matter. Community action is therefore needed to ensure the coherence of the internal market and guarantee a coordinated approach towards high-level protection of man and the environment.

A Regulation should guarantee that the provisions are implemented simultaneously, more rapidly and in the same manner in all Member States. It also allows data-collecting and reporting to be centralized, thereby obtaining a consistent picture at Community level for each substance.

A Regulation will also make it possible for the European chemical industry to organize itself for joint data-reporting on specific substances.

The proposal covers the approximately 100 000 chemical substances listed in the Eines inventory. The information will be collected by



industry in three stages, starting with substances whose production or import volumes will be greater than 1 000 tonnes a year and ending with substances of a production or import volume between 10 and 1 000 tonnes a year.

On the basis of the information collected, lists of priority substances will be prepared by a Regulatory Committee working together with the Commission. The work on the priority substances will be divided amongst the Member States which will nominate rapporteurs for given substances. At a later stage these rapporteurs will evaluate risks and make appropriate recommendations.

### **Gist of the Committee Opinion <sup>1</sup>**

Generally the Committee agrees with the reasons for the proposed regulation subject to the comments set out below.

The Committee reiterates the importance it attaches to all measures designed to ensure a full and reliable flow of information and effective checks so that risks can be evaluated, and existing substances controlled, in the interests of a high level of human and environmental protection.

It agrees with the adoption of a Regulation since this instrument will ensure that information on existing chemical substances is compiled and evaluated using standardized cross-Community procedures and methods, thereby precluding fragmentation and distortion of the Community market in chemical products.

The Committee notes with concern however, that five Member States (Ireland, Spain, Portugal, Greece and Luxembourg) still have no legislation in this specific field and recommends that the Commission help them implement the planned measure, so as to ensure that the Regulation is applied consistently.

In line with the principle of subsidiarity, and in order to ensure maximum efficiency, the Committee recommends that Member States be actively involved in the systematic compilation of data from the outset. To this end, the Committee wonders whether it might not be preferable for information to be forwarded to the relevant national authorities, with the Commission being informed, particularly since it is the national authorities' responsibility to ensure compliance with the Regulation and, where appropriate, to impose sanctions (Article 13).

<sup>1</sup> CES 275/91.

The Committee considers that systematic compilation of available data on chemical substances of a high production and/or import volume imposes a heavy and complex burden on Community firms. To ensure that data are both accurate and complete, the Committee urges the Commission to review the planned time-limits in the light of national conditions and the nature of the different substances.

The Commission's step-by-step approach, based on the quantities of substances produced or imported, does not necessarily provide absolute guarantees, since there is no connection between the quantity and the degree of risk presented by substances.

In the interests of lightening the workload and speeding up completion with regard to the highest-risk substances, thought should be given to the possibility of initially excluding from the data-collection system those chemical products generally recognized as being harmless or whose potential danger is well known and placing them on a separate list but without classifying them as risk-free substances.

The Committee calls for the greatest possible openness in the light of Directive 90/313/EEC on freedom of access to information on the environment, whilst at the same time recommending maximum guarantees of confidentiality for information which could have potentially adverse commercial impact.

*This Opinion, adopted unanimously, was drawn up in the light of the paper produced by the Section for Protection of the Environment, Public Health and Consumer Affairs, chaired by Mr Francisco Ceballos Herrero (Spain — Various Interests). The rapporteur was Mr Pedro Vidal (Portugal — Various Interests).*

### 3. TAKEOVER AND OTHER GENERAL BIDS (Additional Opinion)

**Amended proposal for a 13th Council Directive on company law, concerning takeover and other general aids**

[COM(90) 416 final — SYN 186]

#### **Gist of the amended proposal**

The Commission has adopted an amended proposal which takes account of the Economic and Social Committee and European Parliament Opinions plus the Council working party's discussions.

The amendments concern in particular:

- the restriction of the Directive's scope;
- the introduction of a definition of the term 'bid';
- the introduction of an objective criterion specifying when the obligation to make a bid arises;
- the list of exemptions from the obligation to make a bid;
- the insertion of a deadline for the granting of prior approval of the offer document, if required;
- the offer document;
- the establishment of rules for the case where a bid is made public in more than one Member State;
- the opinion of the board of the offeree company;
- the thresholds at which certain acquisitions of securities made while the bid is open must be declared;
- information for the representatives of the employees of the offeree company;
- the opportunity given to addressees who have already accepted one bid to accept a competing bid.

### **Gist of the Committee Opinion <sup>1</sup>**

As pointed out in the Committee's original Opinion in the field of takeovers there is a need for national regulatory authorities to be provided with powers that allow some measure of flexibility. Given the nature of takeovers, it is prudent that the supervisory authority be able to operate within an established framework of general principles which enable it to react quickly to changing situations and to adopt a flexible approach to the application of detailed rules. It is to be regretted that the amended draft has not taken this more into account.

Great care also needs to be taken to ensure that the Directive does not offer scope for tactical litigation during the course of an offer, either by the parties to a bid against the supervisory authority or between the parties to a bid. The risk is that the Directive would spawn large amounts of litigation during the course of a bid which has, for example, bedeviled American practice in this field, as pointed out in the Committee's original Opinion.

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<sup>1</sup> CES 277/91.

The state of both takeover activities between Member States and its regulation differs widely throughout the Community. Whatever the merits of reducing these differences it would seem prudent to take them into account by avoiding, where possible, a perspective approach.

### **Total takeover bid**

The proposed Directive does not contain any explicit rule on this point except where the acquirer holds 33%.

The principle of a takeover or other general bid for all the securities of the offeree company is defended so as to prevent the acquisition of companies for a price which does not reflect their true value; however, in the event of an agreement with the target company a partial takeover bid must still be possible so as to avoid wasting energy and money in battles which harm the economy as a whole.

Specifically, it is proposed that the takeover bid must be for 100% of the securities except where:

- (i) there is a prior agreement with the target company, or
- (ii) the agreement of the target company can be expected. In the latter case, the offer shall be for a percentage less than 100% subject to the favourable opinion of the board of the offeree company. If this is not obtained, the offer shall be for 100%, which means that from the outset the offeror must prove to the supervisory authority that it has the resources needed to finance an offer for all the securities.

The Committee considers that Article 8 is very important in the context of reducing barriers to takeovers within Member States. All barriers to takeovers should be reduced, not only legal ones.

*This Opinion, adopted by a large majority, with 19 votes against and 4 abstentions, was drawn up in the light of the paper produced by the Section for Economic, Financial and Monetary Questions, chaired by Mr Jean Pardon (Belgium — Employers). The rapporteur was Mr Andrew Tyrie (UK — Various Interests).*

#### 4. COSMETICS/CONSOLIDATION

**Proposal for a Council Directive on the approximation of the laws of the Member States relating to cosmetic products**

[SEC(90) 1985 final]

##### **Gist of the Commission proposal**

Community law is not transparent if numerous provisions that have been amended several times, often quite substantially, remain scattered.

On 1 April 1987 the Commission instructed its departments to produce a formal consolidation of legislative instruments no later than after their 10th amendment, but made it clear that this was a minimum requirement.

The present proposal consolidates Directive 76/768/EEC and the associated instruments. It leaves the substance untouched, making only the formal amendments required by the consolidation operation.

##### **Gist of the Committee Opinion <sup>1</sup>**

The Committee approves the proposal which will facilitate use of the Directive by industry, particularly small firms, and by other organizations dealing with the question of cosmetic products.

*This Opinion, adopted unanimously, was drawn up in the light of the paper produced by the Section for Protection of the Environment, Public Health and Consumer Affairs, chaired by Mr Francisco Ceballo Herrero (Spain — Various Interests). The rapporteur was Mr George Proumens (Belgium — Employers).*

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<sup>1</sup> CES 272/91.

## 5. SUPERVISION OF CREDIT INSTITUTIONS

### **Proposal for a Council Directive relating to the supervision of credit institutions on a consolidated basis [COM(90) 451 final]**

#### **Gist of the Commission document**

Council Directive 83/350/EEC of 13 June 1983 on the supervision of credit institutions on a consolidated basis<sup>1</sup> paved the way for the implementation of such supervision. Now that this Directive has been incorporated into national legislation, the principle of consolidated supervision is enforced throughout the Community. The Directive nevertheless only covers banking groups whose parent company is a credit institution.

There are four main aims underlying the proposed revision of the 1983 directive:

- (i) To extend the obligation to supervise banking on a consolidated basis where the parent undertaking of the group in question is not a credit institution but a 'financial holding company', i.e. an enterprise whose subsidiaries are exclusively or mainly credit or financial institutions.
- (ii) Where the parent undertaking is neither a credit institution nor a financial holding company but a 'mixed-activity holding company', to require the holding company and its non-banking subsidiaries to provide any information requested by the authorities responsible for the credit institutions which are part of the group.
- (iii) To specify the areas covered by supervision on a consolidated basis, namely solvency, the limits on large exposures, and the limits on the non-financial participation of a credit institution and its consolidated subsidiaries.
- (iv) To specify the consolidation methods to be applied in the light of the progress in Community legislation on the consolidated accounts of credit and other financial institutions.

<sup>1</sup> Under consolidated supervision, the activities carried out by a banking group are considered as a whole, regardless of the existence of separate legal entities within the group. This ensures the prudent supervision of complex group structures often with a multinational dimension and serves to strengthen the safety and soundness of the Community banking system.

Consolidated supervision is designed to ensure improved monitoring of credit institutions which belong to a group, whether as parent companies or as subsidiaries. It is not designed to establish rules for supervising what are currently termed 'financial conglomerates' (i.e. bank *plus* insurance groups) or to give the banking supervisory authorities a kind of pre-eminent status in the supervision of multi-activity groups.

The objective is to give the banking supervisory authorities a clearer view of the solvency of credit institutions belonging to a group and, therefore, to step up protection for depositors by more effective control of the Community's financial system.

The Commission proposal is a further step towards the completion of the internal market, and an important technical measure for the mutual recognition of supervisory systems set up under the second banking directive which comes into force on 1 January 1993.

### **Gist of the Committee Opinion <sup>1</sup>**

The Committee has one major reservation regarding the proposal in general: it would create distortions of competition between economic operators who should be treated in the same way.

The proposal allows the competent authorities to exclude from consolidation specialist financial institutions whose activities expose them principally to market risks. The problem of consolidation does not arise for a bank which deals in securities itself, and not through a subsidiary; its activities are governed by the prudential rules applicable to banks as supervised by the competent authority. However, a bank which has set up a subsidiary for handling its security dealings could, with the agreement of the authorities, avoid the consolidated supervision which would be the only means of enabling these two types of bank to be treated equally.

Of course, the question arises of fair competition between banks operating under two different systems: on the one hand, there is the continental European system consisting of universal banks or security dealing houses which are consolidated subsidiaries of banks and, on the other hand, there is the system of separate commercial banks and investment firms, where the latter may be subsidiaries of banks but are supervised separately and are therefore not consolidated with the parent company.

<sup>1</sup> CES 271/91.

It is clear that an optional consolidation scheme, which allows one of these systems the possibility of exempting its investment firms from a consolidated supervision system, creates a distortion of competition in so far as corresponding rules applicable to unconsolidated subsidiaries either do not exist — which is the case for credit operations carried out by investment firms — or are less stringent — which is also the case, since the proposed directive on the capital adequacy of investment firms and credit institutions (CAD) provides for a less strict set of rules.

The Committee feels that the compulsory consolidation of investment firms in a banking group is also necessary for the following reasons:

- (i) The distinction between credit institutions and investment firms is becoming less and less clear-cut. The boundary between the two types of firm is becoming blurred, with each carrying out transactions which formerly were almost the exclusive province of the other. One should therefore abandon the 'institutional' approach of legislating according to the type of institution and instead adopt a 'transactional' approach of legislating according to the type of transaction performed. The same transaction is always subject to the degree of risk, irrespective of the firm which performs it, and so it should have to comply with the same prudential regulations. Otherwise, there would be no guarantee of fair competition between the two types of institutions. The approach adopted in the CAD is not a fully 'transactional' one. Moreover, the CAD has not yet been adopted; changes which place banks at a further disadvantage cannot be ruled out. Consolidation, therefore, is the only way to avoid a distortion of competition between banks dealing in securities themselves and those operating through a subsidiary.
- (ii) Consolidation allows credit transactions relating to dealings in securities (e.g. lombard loans, advances on securities, margin financing) to be subject to the solvency ratio Directive (SRD). The volume of such credit transactions carried out by investment firms is considerable. If such loans are not deducted from own funds as an illiquid asset, they must be treated in the same way as is the case for banks. Banks are generally subject to an own funds requirement of 8% under the SRD.

*This Opinion, adopted by a large majority, with 13 votes against and 4 abstentions, was drawn up in the light of the paper drawn up by the Section for Industry, Commerce, Crafts and Services, chaired by*



*Mrs Ann Robinson (UK — Employers). The rapporteur was Mr Jean Pardon (Belgium — Employers).*

## 6. ECONOMIC SITUATION: ANNUAL REPORT 1990/91

**Proposal for a Council Decision adopting the Annual Economic Report 1990/91 on the economic situation in the Community and determining the economic policy orientation for the Community in 1991**  
[COM(90) 613 final]

### **Gist of the Commission document**

The Community embarked on Stage I of economic and monetary union on 1 July 1990. The success of Stage I will be crucial for the creation of EMU. To make Stage I a success with less favourable short-term prospects for the Community economy requires a stronger coordination of policies to support sustainable growth and greater nominal and real convergence. Given the considerable adjustments needed to bring about maximum possible convergence, this process must be reinforced from now onwards.

With the Community economy in better order and the fundamentals for growth still in good shape, it is not very likely that growth will come to an abrupt stop. Admittedly, there are negative factors in the world environment: the performance of the US is weak and the latest oil price rise, limited though it may be, will further reduce growth in activity. The falling US dollar mitigates oil-induced inflationary pressures in the Community. Provided that policies respond to the oil-price rise in a way which prevents the initial boost to prices becoming embedded in a wage-price spiral, it is not to be expected that a deceleration of world trade, going together with a US recession, will unduly weaken the confidence of the private sector. Notwithstanding the slowing-down of the growth performance in quite a number of EC countries, the underlying health of the Community's economy and the tonic provided by German unification probably imply that the momentum of the EC growth process will carry through in the medium term.

Another factor adding to medium-term growth prospects is the acceleration of the catching-up process in the less-favoured countries and regions.

A vital macroeconomic condition for the success of the catching-up process and the internal market programme is the consolidation — and subsequent acceleration in a non-inflationary manner — of growth performances in the more advanced economies: a supply-side orientated revitalization of EC growth performance in conditions of price stability. This is to be attained by way of stringency in monetary conditions, progressive consolidation of public finances, increased supply-side flexibility, real-wage moderation and strengthened coordination of policies within the context of multi-lateral surveillance of Stage I of EMU.

In the shorter run it will be crucial, in responding to the new oil price rise, to avoid the mistakes of the past: monetary policy will have to maintain and, if needed, even reinforce its anti-inflationary stance: no doubt must be left as to the authorities' intentions not to accommodate inflation. Fiscal policy should remain on a path of medium-term budget consolidation; there should be no attempt to compensate for the unavoidable income loss related to the oil shock. Such a policy stance is also important for a successful move into Stage II of EMU on 1 January 1994 and, ultimately, for making the attainment of economic and monetary union a realistic endeavour.

### **Gist of the Committee Opinion <sup>1</sup>**

The Committee explains that after several years of strong expansion in investment and employment, the economic climate changed for the worse in 1990. The short-term outlook for the Community economy is adversely affected by rising costs and consumer prices as well as by a series of external influences such as the increase in the price of oil, the depreciation of the dollar and the slow-down of growth in the United States' economy and in world trade.

The unresolved conflict in the Gulf has temporarily halted the reduction in defense expenditure previously envisaged as a result of the end of east-west confrontation. More importantly it has dealt a serious blow to confidence in the future in general — as demonstrated by the depressed level of stock prices throughout the world — and the security of future energy supplies in particular. As long as this conflict remains unsolved, uncertainty about the economic consequences of its outcome will remain a serious deterrent to new investment.

<sup>1</sup> CES 274/91.

### **Economic indicators for 1990-91**

The Member States have been variously affected by the deteriorating economic climate, but the aggregate real growth in the Community — excluding the five new *Länder* of the Federal Republic of Germany — is expected to show a decline from 3.3% in 1989 to 2.9% in 1990 and to 2.2% in 1991.

Growth should be around 3% in Germany, Luxembourg and Portugal, but 1% or less in Denmark, Greece and the United Kingdom. In the remaining countries the growth rate should be close to the average. All components of domestic demand are expected to weaken, but in particular investment.

The creation of new jobs will taper off, while consumer prices will continue to rise at the accelerated rate seen in 1990. Wage increases in 1990 have been estimated at 7.5% in nominal terms and more than 2% in real terms. These figures signify the end of the continuous improvement of profitability since 1981. For the first time in a decade, real unit labour costs increased in 1990.

### **The need to avoid new inflationary spirals**

The immediate policy concern, however, is inflation in view of the impetus added in the second half of 1990 to an already accelerating cost and price trend, which puts medium-term growth prospects at risk and which is most unfortunate in view of the competitive disadvantage imposed by high interest levels and a falling dollar rate.

The outbreak of hostilities in the Gulf has affected business confidence in the Community as a whole. Many investment plans have been put on hold while consumers have cut back their expenditure especially in the service sector. The war is therefore inducing a certain pause in economic activity. However, this slowdown could be reversed, if, as everyone hopes, the war is only of a short duration. Indeed, the war-induced pause could give way to a sharp rebound in activity.

### **Uncertainty about return to high growth rate**

Conscious of the great uncertainty at the time of writing and the difficulties involved in assessing psychological factors, the Committee would regretfully point out that the resumption of investment leading to renewed growth in 1992 is not the only possibility; only the most desirable. The policies to help bring this development about are dealt with in the remaining part of this Opinion.

Before turning to the choice of policies, however, it should be recorded that many people, overwhelmed by the rapidity of events which have intervened to change perceptions of the future during 1990 and by the major uncertainties still outstanding, find it difficult to accept without hesitation assertions of confidence in the ability of the Community to maintain its forward momentum as a lone unit of constant progress in the turmoil affecting the world which surrounds it.

### **The single market**

It is essential that expectations are not deceived and that the deadline of 1 January 1993 for the completion of the single market is respected. Important decisions concerning indirect taxation, necessary for the complete removal of border controls, have not yet been taken.

### **Towards irreversible monetary stability**

Expectations of monetary stability in Europe, essential for dynamic investment decisions, have been created by the successful liberalization of capital movements at the start, in July 1990, of the first phase of the road to economic and monetary union, and by the decision to commence phase two in January 1994. The British decision to join the exchange-rate mechanism, the renouncing of special conditions for Italian participation and the unilateral decision to attach the Norwegian currency to the ecu have enhanced these expectations. The realization of the growth potential of the Community requires that these expectations are not deceived.

### **Economic and social cohesion**

It is essential that all Member States and regions of the Community have their share in the common growth. It is therefore highly important that Spain, Portugal and Ireland have had a higher than average growth in recent years and it is a matter of serious concern that Greece has not contributed to reducing the income gap.

### **Sustainable growth**

Economic growth is not a desirable objective if it occurs at the expense of a deteriorated environment. Growth must be sustainable in the long run and must not present a threat to survival.

The Committee accepts as a principle that the costs of preserving a sustainable, inhabitable environment should be incorporated in production costs and prices (the principle of taxing firms which pollute and subsidizing clean firms), so that the polluter pays.

### **Price and cost convergence**

The burden of price level adjustment is concentrated on five countries. Delay in tackling the issue will not make the process less painful, but will only make the road to a common stable currency longer and more arduous.

### **Social and regional balance**

The Commission's guidelines need to be rectified, with a reminder of the need for greater cohesion between economic and social policy both in the Community, the Member States and the various regions.

### **The ESC's participation in macroeconomic dialogue**

The Committee is deeply concerned that the social partners maintain a role in the macroeconomic dialogue on medium-term trends and policies in the future Community framework. This dialogue contributes to the intended convergency of economic developments within the 12 Member States.

Consultation of the Committee should therefore be mandatory when economic developments are reviewed, when EC economic policy guidelines are drawn up, and for the country reports.

*This Opinion, adopted by a large majority with 1 vote against and 1 abstention, was drawn up in the light of the paper produced by the Section for Economic, Financial and Monetary Questions, chaired by Mr Jean Pardon (Belgium — Employers). The rapporteur was Mr Paul Kaaris (Denmark — Employers).*

## 7. SMEs — A NEW DIMENSION

**Enterprise policy: A new dimension for small and medium-sized enterprises — Proposal for a Council Decision revising the programme for the improvement of the business environment and the promotion of the development of enterprises, and in particular small and medium-sized enterprises, in the Community [COM(90) 528 final]**

### **Gist of the Commission document**

On 28 July 1989 the Council adopted Decision 89/490/EEC<sup>1</sup> on improving the business environment and promoting the development of firms in the Community, in particular SMEs; the Decision earmarks an initial sum of ECU 110 million for 1990-93 (Article 7); a further ECU 25 million may be made available for this same period if the Council should so decide after reviewing the programme.

The Commission is now proposing that the Council approve this additional ECU 25 million, thus boosting the SME support programme.

The Commission has analysed the relevant legislation and rules and is proposing to give new momentum to developing sectors.

In order to encourage firms' development, the Commission has defined a strategy geared to economic efficiency. This includes (a) improved information for firms, (b) cooperation between firms, (c) 'Euromarketing', (d) moves to prepare managers for the single market in 1993, (e) development of financial, computing and statistical instruments and (f) the establishment of a European monitoring centre for SMEs.

The Commission also proposes to boost cooperation with various regions outside the Community, thus adding an external dimension to SME business.

<sup>1</sup> OJ L 239/89.

## Gist of the Committee Opinion <sup>1</sup>

The Committee welcomes the Commission proposal but would like more details on how the Commission intends to integrate the SME dimension into various other Community policies.

Greater importance should be attached to workforce involvement in the Commission's 'integration policy' and it should be ensured that projects specifically geared to women in business are incorporated into overall business policy.

The Committee regrets that some activities designed to help improve the business climate — *inter alia* moves to ease the administrative burden — have not materialized; cutting down on red tape should not mean reduced protection for employees of SMEs.

How does the Commission intend to incorporate the conclusions of the Avignon Conference (October 1991) on crafts and very small businesses into its activities programme?

It is the Committee's view that policy relating to 'économie sociale' is out of place in sectoral policy.

The Committee endorses the idea of setting up (a) a European subcontracting forum and (b) a guarantee fund for certain SME investments, particularly in third countries. It reiterates its support for developing the use of statistics in analysing this sector and warns against the possibility that tasks assigned to specialized organizations may overlap.

The Committee agrees that Euro-Info-Centres and the BC-Net should be open to participants from third countries as long as this does not lead to delays.

*This Opinion, adopted unanimously, was drawn up in the light of the paper produced by the Section for Industry, Commerce, Crafts and Services, chaired by Mrs Ann Robinson (UK — Employers). The rapporteur was Mr C.W.M. Lustenhouwer (Netherlands — Various Interests).*

<sup>1</sup> CES 270/91.

## 8. EAGGF CLAIMS

**Proposal for a Council Directive amending Directive 76/308/EEC on mutual assistance for the recovery of claims resulting from operations forming part of the system of financing the European Agricultural Guidance and Guarantee Fund, and of agricultural levies and customs duties and in respect of value-added tax**

[COM(90) 525 final — SYN 313]

### **Gist of the Commission document**

The proposal seeks to extend the scope of the cooperation and control provisions of Directive 76/308/EEC and make them more efficient; it is not designed to align indirect taxation. The aim is to improve administrative cooperation between Member States' authorities; this is a logical corollary to the smooth operation of procedures governing the movement of goods, which is so crucial to the establishment of a single market. The proposal does not affect the substance of national tax systems, but it is intended to coordinate them to the degree necessary to achieve the objectives set out in Article 8a of the Treaty.

The Directive applies to all claims concerning:

- (a) refunds, interventions and other measures, falling within the total or partial financing arrangements of the European Agricultural and Guidance Guarantee Fund, including sums to be collected in connection with these measures;
- (b) import duties;
- (c) export duties;
- (d) value-added tax;
- (e) excise duties on:
  - manufactured tobacco,
  - alcoholic beverages and the alcohol contained in other products,
  - mineral oils;
- (f) interest and costs incidental to the recovery of the claims referred to above.



## **Gist of the Committee Opinion <sup>1</sup>**

The Committee approves the proposed Directive and recommends that Member States agree on a single order of priority for claims.

*This Opinion, adopted unanimously, was drawn up in the light of the paper produced by the Section for Economic, Financial and Monetary Questions chaired by Mr Jean Pardon (Belgium — Employers). The rapporteur was Mr José Bento Gonçalves (Portugal — Employers).*

## **9. VOCATIONAL QUALIFICATION OF YOUNG PEOPLE (PETRA)**

**Proposal for a Council Decision concerning an action programme for the vocational qualifications of young people and their preparation for adult and working life**  
[COM(90) 467 final/2]

### **Gist of the Commission proposal**

The present proposal consolidates the Petra programme and in particular aims to provide, for the first time at Community level, opportunities for young people in initial vocational education or training to participate in exchanges and work placements abroad.

Under the terms of the proposal some 100 000 young people in training are expected to benefit from this activity over the three years from 1992, thus complementing the exchange programmes which Erasmus makes possible at the higher education level.

The Community's existing scheme for exchanges of young workers, which currently involves more than 4 000 young workers each year, will in future be fully integrated within this programme, rather than being an independent activity, and will be at the core of the consolidated Petra programme.

A much greater emphasis will be placed on the organization of vocational guidance and counselling. Community experience has shown clearly that these two aspects are decisive for young people in preparing for their future careers in a completed single market. The enlarged programme will place greater emphasis on the European dimension of vocational training.

<sup>1</sup> CES 264/91.

## Gist of the Committee Opinion <sup>1</sup>

The Committee welcomes the current action programme, as it did the first Petra programme.

It should, however, continue to be borne in mind that the Community can do no more than provide support and back-up for the expansion and qualitative improvement of initial vocational training. It is the Member States and their governments, in collaboration with participating organizations, State-run bodies and social partners, which must do the spade work.

The Committee welcomes in particular the initiatives in the current programme aimed at increasing the European dimension of vocational training. In this way the right conditions must be created for ensuring freedom of movement for workers.

*This Opinion, adopted unanimously, was drawn up in the light of the paper produced by the Section for Social, Family, Educational and Cultural Affairs, chaired by Mr Vasco Cal (Portugal — Workers). The rapporteur was Mr Herbert Nierhaus (Germany — Workers).*

## 10. VOCATIONAL TRAINING OF CUSTOMS OFFICIALS

**Proposal for a Council Decision on the adoption of a programme of Community action on the subject of the vocational training of customs officials (the Matthaëus programme)**

[COM(90) 605 final — SYN 315]

### Gist of the Commission proposal

The establishment of the single market necessitates a new definition of the role of Community customs officials in ensuring the proper functioning of the customs union.

The objectives of the Matthaëus programme are as follows:

- (i) to prepare customs officials of the Member States for the implications of the single market with a view to the uniform application of Community rules at its external borders;

<sup>1</sup> CES 265/91.

- (ii) to make customs services more conscious of the fact that in the single market, even more than at present, each national administration will be working for the Community as a whole;
- (iii) to provide supplementary, specially adapted, vocational training for the greatest possible number of customs officials;
- (iv) to utilize to maximum advantage the know-how of customs services in the Community through greater mobility of customs personnel, and thus to perfect the management of the customs union and the implementation of tax provisions on imports and exports;
- (v) to stimulate intensive and ongoing cooperation at all relevant administrative levels in order to prepare them to work together in the context of the internal market.

The Council's adoption of this decision will form an important stage in the development of a European customs framework within which customs officials will be interchangeable.

### **Gist of the Committee Opinion <sup>1</sup>**

The Committee fully endorses the objective pursued by the Commission in the Matthaëus programme. The Committee also welcomes the proposal for a Council Decision in principle, but has a number of comments on matters such as language training, the desirability of a Community definition of the extent of exchange of officials' powers and civil responsibility, and the importance of providing participants with information on their rights and duties in these areas.

The Committee also draws the Commission's attention to the social implications of the abolition of internal frontiers for customs officials and other bodies and individuals contributing to the operation of the customs union.

*This Opinion, adopted unanimously, was drawn up in the light of the paper produced by the Section for Social, Family, Educational and Cultural Affairs, chaired by Mr Vasco Cal (Portugal — Workers). The rapporteur was Mr Richard Müller (Germany — Various Interests).*

<sup>1</sup> CES 266/91.

## 11. NON-LIFE INSURANCE

**Proposal for a third Council Directive on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and amending Directives 73/239/EEC and 88/357/EEC [COM(90) 348 final — SYN 291]**

### **Gist of the Commission proposal**

The proposal's aim is the completion of the internal market in the direct non-life insurance sector. In fact, it consists of a series of proposals designed to apply the principle of home-country control to all direct non-life insurance business and its subjection to a single set of legal arrangements.

For the achievement of this third stage in the non-life insurance sector (after the adoption of the first and second Directives) the Commission's strategy is identical to that used in other areas of financial services (Ucits, banking and investment services). It consists of bringing about such harmonization as is essential, necessary and sufficient to achieve mutual recognition of authorizations and prudential control systems, thereby making it possible to grant a single authorization valid throughout the Community and apply the principle of home-country control.

The introduction of this regime into the direct non-life insurance sector involves substantial amendment of the rules currently in force under the first and second Directives. Those Directives make no provision either for a single authorization system or for genuine home-country control. Nor has any coordination been carried out as yet as regards the essential harmonization of prudential supervision rules concerning insurance companies' technical provisions.

The proposal for a third Directive addresses these matters and amends the first two Directive so as to produce a cohesive system applicable to all direct non-life insurance business, whether it be transacted under conditions of establishment or under conditions of provision of services.

The present proposal has an urgency which may be explained by:

- (i) the need to bring about a genuine internal market before 1 January 1993;
- (ii) the disadvantage suffered by the insurance industry compared with other financial services as regards implementation of the right of establishment and the freedom to provide services;

- (iii) the judgments delivered by the Court of Justice in December 1986 sanctioning the application to insurance of the freedom to provide services as a fundamental principle of the Treaty and its subjection to a single set of legal arrangements based on the principle of home-country control.

### **Gist of the Committee Opinion**<sup>1</sup>

The Committee welcomes the proposal and considers achievement of its aim to be crucial to allowing consumers and economic operators access under proper conditions to a genuine single insurance market.

The reference to the general good as justification for a Member State preventing a policy which conforms with the laws of the home Member State being signed is still much too vague and likely to result in different interpretations, thus impeding completion of the single market in insurance.

Retaining the principle that the law of the policy-holder's home Member State should apply will produce a degree of legal uncertainty which is prejudicial to consumers and difficult to reconcile with the concept of the single market.

The dropping of the requirement for prior approval of policy conditions and premiums and its replacement with a notification system is a logical extension of the single authorization, and is to be welcomed.

Changes must, however, be made to take account of the degree of protection required by some policy-holders and victims of accidents, and permit, for example, rapid intervention by the supervisory authorities in cases where the cover offered in the host country does not fulfil the protection requirements of policy-holders in such sensitive areas as compulsory insurance, third-party motor insurance or accidents at work in countries where these areas are not covered by a public social security scheme.

In the case of compulsory insurance, notification could be required before the entry into force of general and specific policy conditions and standard premiums as the supervisory authorities of the Member State imposing the obligation are best placed to assess whether the cover offered complies with local rules.

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<sup>1</sup> CES 267/91.

Finally, where major irregularities arise, the authorities of the country in which the insurance service is provided should have the power to adopt urgent measures, after informing the Commission, which could go as far as preventing an insurance undertaking from another Member State from writing new insurance policies in the host country.

The extension of the supervisory powers of the authorities of a Member State to branches established in other Member States poses the problem of parallel systems of supervision within the same market.

Differences in supervisory practices from one Member State to another may cause distortions of competition, so supervisory practices should be reviewed with a view to harmonization later.

As regards taxation, the transitional retention of the taxation system of the country in which the service is provided is a cause for concern.

Such a situation is a source of distortions of competition, given the variety of tax regimes in the Member States. For the sake of consistency with the logic of the single market, the Commission should therefore as a matter of priority undertake harmonization of the taxation of premiums.

The Committee feels that disparities in taxation — with insurance being merely one illustration among others — are a serious obstacle to completion of the internal market, and that the Commission should initiate efforts to harmonize tax regimes as a matter of priority.

*This Opinion, adopted unanimously, was drawn up in the light of the paper produced by the Section for Industry, Commerce, Crafts and Services, chaired by Mrs Ann Robinson (UK — Employers). The rapporteur was Mr Robert Pelletier (France — Employers).*

## 12. INSURANCE COMMITTEE

### **Proposal for a Council Directive setting up an Insurance Committee**

[COM(90) 344 final — SYN 286]

### **Gist of the Commission document**

The present proposal is a necessary complement to all the single market insurance directives which confer executive powers on the

Commission. Its main aim is to create an Insurance Committee to help the Commission in the field of insurance, whether it be life assurance or non-life insurance. In particular, the implementation of the draft Commission proposals for third life and non-life insurance directives will require closer cooperation than has hitherto been the case between the national supervisory authorities and the Commission; these directives, which are of great importance to the implementation of a single insurance market, are based on the principles of authorization and supervision being required solely from the home country's supervisory authority.

The Insurance Committee will have two tasks:

- (i) first, to assist the Commission in carrying out the executive powers conferred on it by the Council in each of the acts adopted in the insurance sector; the committee is to be integrated into the procedure to be followed when such powers are invoked;
- (ii) second, to examine any matter concerning the application of existing directives and the preparation of new proposals for directives in the insurance sector.

The proposed procedure, which is the same as that proposed by the Commission for the banking sector, is based on Article 2 (procedure III, variant a) of Council Decision 87/373/EEC of 13 July 1987 laying down the procedures for carrying out the executive powers conferred on the Commission.

The Insurance Committee will be made up of representatives of the Member States and chaired by a representative of the Commission.

### **Gist of the Committee Opinion <sup>1</sup>**

The Committee believes that closer cooperation between the Commission and the various national supervisory authorities is desirable in order to facilitate the completion of a single insurance market, but wonders what form such cooperation should take.

The draft Directive would create a regulatory committee with multiple objectives.

In view of the role which the future Insurance Committee will be required to play in the field of secondary legislation, the Committee is uncertain about what role the advisory bodies provided for by the

<sup>1</sup> CES 268/91.

Treaty of Rome will play in the Community decision-making process.

Insurance is only one of an ever-growing number of instances.

When the Directives are being implemented, the Economic and Social Committee and the social categories represented on it must generally also be able to submit proposals to the Commission departments.

It would be unacceptable if, as part of the executive powers delegated to it by the Council, the Commission were to be given genuine regulatory power without the European Parliament and the Economic and Social Committee being formally involved.

*This Opinion, adopted unanimously less 9 abstentions, was drawn up in the light of the paper produced by the Section for Industry, Commerce, Crafts and Services, chaired by Mrs Ann Robinson (UK — Employers). The rapporteur was Mr Robert Pelletier (France — Employers).*

### 13. ELECTRONIC DATA INTERCHANGE

**Proposal for a Council Decision establishing the second phase of the Tedis programme (Trade electronic data interchange systems)**  
[COM(90) 475 final]

#### **Gist of the Commission document**

The first phase of the Tedis programme (Trade electronic data interchange systems) was implemented in 1988 and 1989.

The Tedis programme concerns a particular category of electronic data interchange, namely the electronic transmission of commercial or administrative 'forms' between data-processing systems (computers).

The second phase of Tedis has three objectives:

- (i) the intersectoral integration of work being done in the Member States in connection with the development and putting into service of EDI systems;
- (ii) examining the impact of EDI on the management of public and private companies, and the economic and social repercussions of EDI;



- (iii) increasing the awareness of potential users of EDI systems, in particular small businesses, and of European hardware and software manufacturers and suppliers of services.

The second phase of Tedis follows on directly from the first; it takes further steps in the light of progress already made and its scope of activity is extended.

The second phase has a budget of ECU 31.5 million for the period from 1 July 1991 to 30 June 1994.

### **Gist of the Committee Opinion <sup>1</sup>**

The Committee approves the proposed Council Decision. It welcomes the increase in funding and the clear definition of priorities, not to be found in the first phase.

The participation of banks in the programme should be stepped up by developing inter-bank EDI systems based on an Edifact standard, thus simplifying payments and credits in the Community.

The Committee highlights the need to extend existing telecommunications network infrastructure, the aim being to establish a Community-wide integrated services digital network (ISDN) based if possible on a uniform worldwide standard.

The Committee notes the need for EC-level harmonization of the legal aspects of data interchange. It is important that the security and confidentiality of the data be guaranteed. The Committee particularly welcomes the plan to set up national information centres, stressing the need to involve the Community's structurally weak regions in the programme. In order to minimize the social upheaval caused by the introduction of electronic data interchange, account must be taken of the social effects of corporate restructuring.

*This Opinion, adopted unanimously, was drawn up in the light of the paper produced by the Section for Industry, Commerce, Crafts and Services, chaired by Mrs Ann Robinson (UK — Employers). The rapporteur was Mr Herbert Nierhaus (Germany — Workers).*

<sup>1</sup> CES 269/91.

## 14. HOT-WATER BOILERS

### **Proposal for a Council Directive concerning the efficiency requirements for new hot-water boilers fired with liquid or gaseous fuels**

[COM(90) 368 final — SYN 294]

#### **Gist of the Commission proposal**

The purpose of the proposal for a Directive is to adopt output standards for new hot-water boilers fired by liquid or gaseous fuels with a nominal output equal to or greater than 10kW but less than 400kW applicable in all the Member States.

The following are excluded from the present proposal:

hot-water boilers fired with solid fuels;

steam boilers;

electric boilers;

condensation boilers, i.e. boilers with condensation of the water vapour contained in the fumes;

heat pumps;

hot-air generators;

equipment for the instantaneous preparation of sanitary hot water; boilers designed to be fired with fuels whose properties differ appreciably from the properties of liquid and gaseous fuels commonly marketed (industrial waste gas, biogas, etc.).

The Explanatory Memorandum refers, *inter alia*, to:

- (i) application of the Council resolution of 15 January 1985 on the improvement of energy-saving programmes in the Member States;
- (ii) application of the Council resolution of 16 September 1986<sup>1</sup> on new Community energy policy objectives for 1995 and convergence of the policies of the Member States<sup>2</sup> (objective: to improve the efficiency of final energy demand by at least 20%);
- (iii) Article 130r of the Treaty on the environment, which calls for prudent and rational utilization of natural resources;

<sup>1</sup> OJ C 20 of 22.1.1985, p. 29.

<sup>2</sup> OJ C 241 of 25.9.1986, p. 2.

- (iv) the attention paid in approximating the laws of the Member States to health, safety, environmental protection and consumer protection;
- (v) the Council resolution of 21 June 1989<sup>1</sup> on the danger of climatic change linked to the greenhouse effect;
- (vi) the growing importance of the domestic and tertiary sectors as final consumers of energy;
- (vii) the beneficial effects of better boiler efficiency on consumers and energy-saving which will be reflected in fewer imports of hydrocarbons, a drop in the Community's energy dependence and an improvement in its trade balance;
- (viii) the need to harmonize, at a high level within the possibilities of technologies currently available, the disparate efficiency requirements in the Member States arising from application of Council Directive 78/170/EEC of 13 February 1978<sup>2</sup> and Directive 82/855/EEC;<sup>3</sup>
- (ix) the completion of the internal market.

The proposal lays down minimum efficiency requirements for the sale and entry into service of hot water boilers in the Member States (Article 5). It also provides for the possibility of encouraging the sale of boilers which are more efficient than the minimum standards by the award of quality labels of one, two or three stars. Minimum output levels and, where appropriate, quality labels will be required to appear on the certificate which must be obtained before sale.

Before launching on the market boiler bodies and burners sold separately, the manufacturers, agents or importers must obtain certificates specifying the parameters that will allow the minimum useful efficiency set out in Article 5 to be reached after assembly.

Each Member State must notify the Commission and the other Member States of:

- (i) the bodies responsible for inspection and the issue of certificates;
- (ii) the adoption and publication before 1 January 1992 of the provisions necessary to comply with the Directive. The provisions shall apply from 1 January 1993.

<sup>1</sup> OJ C 183 of 20.7.1989, p. 4.

<sup>2</sup> OJ L 52 of 23.2.1978, p. 32.

<sup>3</sup> OJ L 378 of 31.12.1982, p. 19.

From 1 January 1993 to 31 December 1995 appliances complying with national rules may be placed on the market and put into service.

This proposal for a Directive is the first of the technical actions (definition of standards) planned under the SAVE programme.

### **Gist of the Committee Opinion <sup>1</sup>**

The Committee welcomes the general thrust of the Commission proposal, but calls upon the Council to take account of a number of comments.

It particularly recommends, as a matter of necessity, that the new proposal be harmonized with Directive 90/396 on gas appliances, adopted on 29 June 1990, and with the Directive on building materials, published in Official Journal L 40 of 11 February 1989.

Emphasis is laid on the importance, for the fixing of boiler efficiency levels, of safety, installation and environmental conditions in each of the Member States. Manufacturers, consumers and installation staff must be adequately protected.

Certificates must be granted for such boilers only after post-installation tests, under normal operating conditions, in order to guarantee that the rated output quoted by the manufacturer is maintained throughout service life.

The Commission must ensure that uniform test values are applied throughout the Community and provide for regular checks on test centres.

To be more precise, the Committee believes that the scope of the proposed Directive, applying to boilers with an output of less than 400kW, is too restrictive.

The exclusion of small natural draught burner appliances is unacceptable.

Doubts are voiced concerning the efficiency values for part-load tests.

It is suggested that the system proposed by the Commission for awarding boiler quality symbols be replaced by a single excellence title for boilers which exceed the standard efficiency set by a given percentage (at least 2 percentage points).

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<sup>1</sup> CES 276/91.

Lastly, the validity of given efficiency values is questioned, since the proposal fails to specify the test methods used or whether they are applicable to both fuel types.

*This Opinion, adopted by a large majority with 8 votes against and 12 abstentions, was drawn up in the light of the paper produced by the Section for Energy, Nuclear Questions and Research, chaired by Mr Aldo Romoli (Italy — Employers). The rapporteur was Mr Giuseppe Frandi (Italy — Workers).*

## **Representation and impact of the Economic and Social Committee**

### **Meetings attended by the Chairman and the Secretary-General**

1 February 1991 — Madrid: meeting with Mr Solbes, Spanish Secretary of State for European Affairs, and Mr S. Crespo, Secretary of State for Labour and Social Security, to discuss the forthcoming visit of the ESC Chairman/Vice-Chairmen to the Spanish Government and the Committee's future as an institution.

5 February 1991 — Luxembourg: 21st joint meeting between delegations from the ESC and the EFTA Consultative Committee, chaired by Mr François Staedelin and Mr Heinz Zourek.

5 February 1991: Meeting with Mr Zens, Chairman of the General Affairs Group (GAG) to discuss the draft revised ESC Rules of Procedure.

11 February 1991 — Brussels: Meeting with Mr Benedict de Tscharnier, Ambassador Extraordinary and Plenipotentiary and Head of the Swiss Confederation's Mission to the EC.

11 February 1991 — Brussels: Meeting with Mr Jürgen Trumpf, Permanent Representative of Germany to the EC.

12 February 1991 — Paris: Meeting with the President of the French Republic, François Mitterrand, on the institutional reform of the ESC.

12 and 13 February 1991 — Geneva and Lausanne: Attendance at a symposium organized by the Swiss Trade Union umbrella organization.

14 February 1991 — Paris: Meeting with Mr Jean-Pierre Soisson, Minister for Labour, Employment and Vocational Training.

14 February 1991 — Paris: Meeting with Mr Pierre de Boissieux, Director of Economic and Financial Affairs at the French Foreign Affairs Ministry.

18 February 1991 — Brussels: Meeting with the President of the European Commission, Jacques Delors.

21 February 1991 — Brussels: Meeting with H. E. Mr David Gamble, head of the New Zealand Mission to the EC.

21 February 1991 — Brussels: Meeting with Mr Jeff Bridgford of the Académie syndicale (union training college)

28 February 1991 — Brussels: Meeting with H. E. Mr David Gamble, head of New Zealand Mission to the EC.

### **Other meetings**

On 21 and 22 February 1991, the Study Group on Urban Environment (Section for Protection of the Environment, Public Health and Consumer Affairs) met in Rome to hold talks with local authorities, trade organizations and environmental protection organizations.

From 25 February to 2 March 1991, the contact group set up last year by the ESC and representatives of ACP (African, Caribbean and Pacific) socio-economic groups met in Kampala, Uganda, in parallel with the meeting of the ACP/EEC Joint Assembly.

## Fact-finding visits

The following groups visited the ESC in February:

- 1 February 1991: Rural Education and Careers Advice Institute, Bressuire (France)
- 5 February 1991: Committees for economic expansion in the Loire region (France)
- 6 February 1991: Uxbridge College, Middlesex (United Kingdom)
- 6 February 1991: Swedish Trade Union Confederation (Sweden)
- 7 February 1991: Lancashire Polytechnic (United Kingdom)
- 7 February 1991: North Warwickshire College (United Kingdom)
- 12 February 1991: Quaker Council for European Affairs (German group) (Germany)
- 12 February 1991: Sprogsåm (Denmark)
- 13 February 1991: Anglia Higher Education (United Kingdom)
- 13 February 1991: Sherwood College (United Kingdom)
- 13 February 1991: IUC (United Kingdom)
- 15 February 1991: Centre for Diplomatic and Strategic Studies (France)
- 18 February 1991: CNEL (National Council for the Economy and Labour) (Italy)
- 20 February 1991: Huddersfield Polytechnic (United Kingdom)
- 21 February 1991: IUC (Denmark)



- 25 February 1991: Spanish Confederation of Employers' Organizations (Spain)
- 25 February 1991: Newcastle-upon-Tyne Polytechnic (United Kingdom)
- 27 February 1991: German Association of Medical Insurance Schemes (Germany)
- 28 February 1991: Friedrich-Ebert Foundation (Delegation from Uganda)

## LIST OF PUBLICATIONS AND BROCHURES

### Available from the ESC

#### *General documentation*

The other European Assembly (CES 90-024)

Leaflet on the ESC

#### *Opinions and studies*

Disadvantaged island regions (July 1988) (ESC 88-009)

Horizon 1992: The ESC supports the removal of fiscal frontiers (July 1988) (eight Opinions)

Target date 1992: The ESC supports 'the new-frontier Europe' (June 1988) (seven Opinions) (ESC 88-010)

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