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M E M O R A N D U M

COMMUNITY ACTION IN THE CULTURAL SECTOR

(Communication from Mr. DAHRENDORF)

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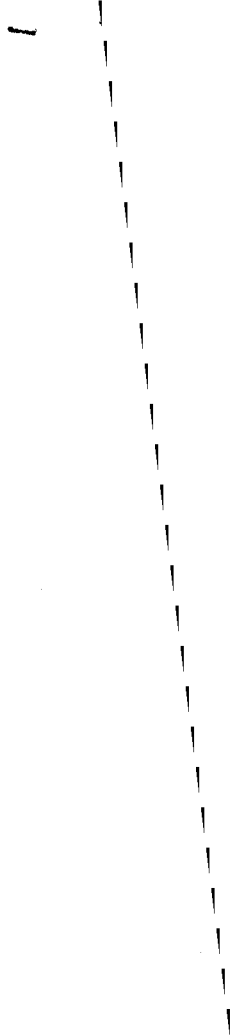
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Mr Dahrendorf would like the Commission to have an exploratory debate on this document at the 309th meeting which will be held on 24 September 1974. His Cabinet will ask that it be prepared at a special Chefs de Cabinet meeting.

This matter is on the agenda for the 309th meeting of the Commission, on 24 September 1974.

Copies to: the Members of the Commission

Mr SCHUSTER	Mr ALBAN HANSEN
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NOTE BY SECRETARIAT-GENERAL

PREPARATION OF DOCUMENT

Department responsible: DG XII

Departments associated:

Legal Department: Agreed

Others: Statistical Office, ACU, Environment and Consumer Protection Department, Directorates-General I, III, IV, V, VIII, X, XI, XIII, XV, XVI, XIX and XX.

With the help of the above DG XII has made a number of changes in the Memorandum, deleting some passages, inserting others and clarifying various points.

SUMMARY

The Memorandum first gives definitions designed to obviate any misunderstanding as to the scope of the Community cultural scheme of which it sets out the purpose (to scale down the cultural sector's economic and social difficulties so that it can serve culture more effectively), principles (in particular, non-interference with creative activities) and practical details, which involve no new departures on the legal or institutional side. Next, after citing various Summit Declarations, it describes the projected field programme - a response to a move by the European Parliament, and based to a great extent on the Resolution in which the Parliament laid down the relevant guidelines. The programme falls into three parts. (1) Economic and social provisions of the EEC Treaty: stepped-up application of these to production and distribution of cultural goods and services. (2) Cultural preparation for European Union: research and dissemination work to enable the "European dimension of culture" (defined in the Memorandum) to be more fully grasped by young and old. (3) Cooperation by Member States on the cultural front: for example, establishment of a European Historic Structures and Localities Fund, prevention of art thefts, etc. The point is made that the programme will not be a duplication of the work being done by the Council of Europe and UNESCO.

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Annex II

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- the exemption of creative artists;
- a reduced rate on original works of art, antiques and collectors' items.

Annex III

THE ARTISTS RESALE RIGHT IN FIVE MEMBER STATES OF THE COMMUNITY

DEFINITIONS

Cultural sector

The cultural sector is made up of all persons and enterprises engaged in the production and distribution of cultural services or goods.

Whereas culture itself is of the mind, the cultural sector is an economic and social matter. This means that, like all other branches of activity, it is covered by the economic and social provisions of the Treaty establishing the European Economic Community. Culture itself, however, is the negation of the very idea of control and intervention by the public authorities (*).

Cultural goods

Cultural goods include not only the products of culture ("works"), but also the aids to culture: film, projectors, microfilm readers, videotape recorders, video-cassettes, tape recorders, records, record players, etc.

The word "works" covers all categories: literary works, sculptures, musical compositions, scientific books, etc. A broad interpretation must also be given to the word "public": magazine readers, audiences at theatre and cinema performances, visitors to museums, listeners to scientific lectures, etc.

Cultural workers

Cultural workers are all those who make their living from culture - and through whom culture lives.

This includes the assistants of culture (e.g. the staff of printing works, film studio technicians, art restorers, etc.), the intermediaries (curators of museums, librarians, cultural organizers, etc.), the distributors (antique dealers, art dealers, bookshops, record shops, etc.), the interpreters (actors, singers, musicians) and the artists themselves: writers, composers, painters, craftsmen, film directors, journalists, etc.

Cultural workers are an extremely heterogeneous group from the point of view of status. There are self-employed persons, salaried workers in the private sector and civil servants.

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(*) In this memorandum, "public authorities" refers not only to the Community authorities (Community Institutions), but also to the national authorities (government, regional and municipal authorities).

Some cultural workers are semi-professionals. This semi-professionalism is often only a transitional stage - an apprenticeship or probationary period - and a large proportion of the cultural workers with this status constitute a "reserve" on which the cultural sector can draw.

Common cultural elements

There are differences between the various national and regional cultures within the countries of the Community. There are, however, also resemblances and affinities.

These resemblances and affinities constitute the common cultural elements.

European cultural dimension

It cannot be maintained that, when combined, these common cultural elements produce a European culture or a European cultural model. These two frequently-used expressions are too restricted and inflexible.

- The first is too vague and conjures up a uniformity which - fortunately - does not exist.
- The second suggests an unacceptable degree of standardization.

It is more realistic to say that the sum total of the common cultural elements constitutes the European cultural dimension.

The European cultural dimension is the resultant of the cultural elements common to all countries and regions of the Community.

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The reason for the absence of a definition of the word "culture" is that only men of culture are in a position to define it. This is not the job of the public authorities. Nor must the public authorities choose between the countless profound or brilliant definitions given in the course of the centuries by the great thinkers, or between the excellent definitions which are still appearing daily. This choice must be made by each individual. The public authorities must not go beyond formulating the simple working hypotheses essential for proceeding to action and, in particular, for laying down the principles on which their action in the cultural sector is to be based (*).

.../...

(*) Pages 9-11.

INTRODUCTION

1. At the Hague Summit Conference, the Heads of State or Government stated that they regarded Europe as being "an exceptional centre" for the development of culture. They also affirmed the need to "safeguard" this centre.

Nor was culture forgotten at the Paris Summit: it was the subject of several comments which are reflected in at least six places in the Final Declaration. In this, the Heads of State or Government included the following phrases: "the human and intellectual resources of Europe", "the genius of Europe", "the free movement of ideas", "economic expansion is not an end in itself", "it should result in an improvement in the quality of life as well as in standards of living", "particular attention will be given to intangible values and goods".

Finally, the Declaration on European Identity, adopted at the Copenhagen Conference, makes it clear that it is realized at the highest political level that culture is one of the basic elements of this identity.

2. What can the Community undertake in order to do justice to the importance attached to culture by the Member States? It can take action to ensure that the cultural sector becomes more active and more effective in the service of culture.

The Commission feels that the time has come for the Community to take action in the cultural sector in order to minimize the difficulties of this sector and increase its prosperity.

The Community action proposed by the Commission should lead to a considerable change in the economic and social situation of the cultural sector.

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The economic and social situation in the cultural sector

3. This can be summed up as follows:

- The exchange of cultural goods between the countries of the Community is still slow, inadequate and subject to conditions which are too great a burden.
- To date, there has been hardly any movement of cultural workers between the countries of the Community.
- There is no shortage of novels, paintings or scientific works in the Community. On the other hand, what has been called the "non-public"(1) is still much greater in size than the public. It has, for instance, been said that "the only time workers go into theatres is to build them"(2). Creative artists are confronted by vast expanses from which there is no response, by immense wastelands. It is the audience which is lacking - not the works. Although the Community is markedly underdeveloped as regards consumption of cultural products, it is certainly not affected by any under-development (either quantitative or qualitative) of cultural production. In view of this, what is needed is to reduce considerably the indifference or incomprehension and to make the greatest possible number of works available to the greatest possible number of people.
- One advantage is that it is no longer necessary to invent ways and means of spreading culture. Pilot schemes, for instance, have already been prepared to cover the fields of equipment, presentation (training of cultural organisers, methods, etc.) and for formulae aimed at alleviating the inadequate income of some recipients of culture. The stage of theory and experiments is far enough advanced for it to be possible now to proceed to that of actual practice.

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(1) Francis Jeanson: "L'action culturelle dans la Cité", Editions du Seuil, 1973.

(2) Roger Planchon, Directeur du Théâtre National Populaire (France):
"Le Monde", 2 May 1974.

- Among the adverse factors, there is first of all the fact that the cultural life of most people is in danger of being reduced to consumption of the products of the industries in the cultural sector. Because of the lack of an overall policy for the distribution of culture, the rapid expansion in the new cultural media is threatening the survival of the old media, although these have not become redundant.
- Another adverse factor is that, while the public is flooded with mediocre cultural "ware" because of its high production capacity and the ubiquity of its distribution network, economic constraints represent a considerable handicap to cultural expression backed by genuine creative energy.
- Some large companies which produce or distribute cultural goods are attempting to set up monopolies or to gain dominant positions which would allow them to exercise an undue influence over people's minds.
- Not much is known about the numbers and the social situation of cultural workers. What is certain, however, is that the numbers involved in cultural work are too high in relation to the number of openings, and that, for a large proportion of them, the income is unsatisfactory. The price of some paintings, the size of some authors' royalties and the fees paid to some stars (*) should not blind us to the fact that many cultural workers envy specialized factory workers not so much their working conditions, but their standard of living. To which should be added that when an income considerably below the average is compared to the steadily increasing purchasing power of the population as a whole, the limits of what is acceptable are reached. Many categories of cultural workers include a large number of men and women who are "marginals" - both financially and socially.

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(*) Nor should one forget the long years of stumbling effort during which the income of those who have succeeded - the "chosen few" - remains at a ridiculously low level.

4. This memorandum will first of all explain the principles which are to serve as a basis for Community action in the cultural sector (Section I). Following that, it will list, justify and describe the actions which the Commission would like to see included in a Community operational programme.

This programme is sub-divided into

- application of the Treaty to the cultural sector (Section II);
- cultural preparations for the European Union (Section III);
- cooperation between Member States in the cultural sector (Section IV).

5. The Commission realises that the programme, depending on one's point of view, could be considered either as too broad or as incomplete. In fact, it cannot all be put into action immediately. It is necessary to decide on priorities. These will emerge gradually during preparatory discussions, as a function of the interest which the Member States show with regard to the various actions envisaged. Besides, the Commission considered it should not go beyond the possibilities which the treaty offers, the direct implication of the Summits and actions in which cooperation appears to have the best opportunities for success.

The programme has three main features:

- it can be carried out by the simplest of procedures, without any institutional or legal innovations;
- it takes account of the positions adopted by the European Parliament on the cultural sector;
- it is in keeping with the ideas which have emerged from the work of the Council of Europe, the OECD and UNESCO.

Procedure

6. It is necessary for the Ministers responsible for cultural affairs (1) to meet regularly in the Council and there should be a regular Conference of representatives of the Member States (2).

This memorandum is intended to furnish an agenda for the meetings of the Ministers for Cultural Affairs, as well as the subjects on which decisions will be taken at these meetings.

The decisions will be taken by the Council when it is a question of applying the Treaty, and by the Conference when it is a question of cooperation. They will be taken on a proposal of the Commission in the former case, and may be taken at the suggestion of the Commission in the latter case.

The motive force of the European Parliament

7. Two resolutions should be mentioned.

In the Resolution of 9 May 1973 (3) on the 6th General Report on the activities of the Communities, the European Parliament invited the Commission "to work out proposals aimed at promoting cultural cooperation at the Community level".

The Resolution of 13 May 1974 (4), on the other hand, is concerned essentially with protecting the cultural heritage. This protection is,

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- (1) Responsibility for cultural affairs rests with the government in all countries of the Community, the only difference between countries being in the title of the government member(s) holding this responsibility. For the sake of simplicity, the title "Minister for Cultural Affairs" is used throughout this memorandum.
- (2) Suggestion of the European Parliament: see Annex I, page 2, item 8.
- (3) OJ No. C 37, 4 June 1973, page 42, paragraph 92.
- (4) OJ No. C 62, 30 May 1974. This text is of such importance for Community action in the cultural sector that the Commission felt it necessary to append it to this memorandum (Annex I).

however, interpreted in a broad sense, with particular reference to integrating it into an overall cultural programme. The European Parliament, for instance, showed its interest in "cultural works, both ancient and modern", and tackled a number of major problems in the cultural sector. Nor has the European Parliament restricted itself to proposing actions deriving from cooperation between the Member States (*); it has also advocated measures to be taken in application of the Treaty to the cultural sector, and it has referred to the Declaration on European Identity of 14 December 1973.

The contribution of the international organizations

8. In cultural matters, there is a considerable amount of material available in the form of the conclusions deriving from the joint deliberations, for which the international organizations have become the privileged forum, and from the studies which they have made or commissioned. Instead of repeating the theoretical work which has already been successfully concluded by the international organizations, the Community will use this work as a basis and draw the maximum profit from it.

In future, the Commission will propose to the international organizations ways and means of more operational cooperation.

This cooperation will naturally be devised in such a way that Community action in the cultural sector does not duplicate the cultural activities of the Council of Europe, the OECD and UNESCO.

.../...

(*) As a general rule, cooperation between Member States consists of action not provided for in the Treaty or which does not follow the lines given by the Summit Conferences - it is outside the scope or on the fringes of the Treaty and the Summits. For the Member States, applying the treaty and following the lines given by the Summit does not amount to cooperation - it is a Community act, not an act of cooperation.

Section I

THE PRINCIPLES

9. The Community action in the cultural sector will be based on four principles.

A. Non-interference in creativity

10. The Community will not interfere in cultural creation, but will concern itself exclusively with helping to spread culture.

11. Cultural creation must be completely independent of the public authorities, because of both substance (ideological liberty of the content) and form (opportunities for new styles). It is particularly necessary for creative workers and young people to feel perfectly at ease in culture - even if they oppose present-day society. The public authorities must therefore not retain any right to intervene in creative activities, since this would lead creative workers and young people to suspect that there was collusion between culture and the economic, social and political structures. Besides this, even though young people are turning their backs on forms of culture which they feel to be obsolete (whether rightly or wrongly is immaterial), they - or the vast majority of them - nevertheless attach great value to culture which seems to them to be close to the age in which they are living and which is in tune with the future they want. It is therefore essential that they should have no grounds for fearing that, by interfering in creation, the public authorities might be in a position to hinder renovation and innovation - to prevent culture being constantly questioned and, in a sense, reinvented.

12. The Community has an additional reason over and above those of the national authorities for not interfering with creation; any intervention by it might affect the varied spectrum of national and regional cultures. This variety, however, is one of the riches of the Community. Creative workers must not be led to obliterate, under an arbitrarily induced uniformity, the diversity passed down to them by their predecessors. In fact, they must be able to continue and even to develop it.

B. Diffusion in keeping with culture itself

13. The Community's assistance in diffusion will take account of the fact that culture brooks no limitations - in either aspect, time or style.

Aspect

14. Culture is not restricted to literature, music and the plastic arts. It has at least four aspects:

- the aesthetic aspect: literature, music and the plastic arts;
- the scientific aspect: science and technology;
- the physical aspect: sport and open-air activities;
- the social aspect: Man among his fellows; Man in the economy, in his working environment and in his life; Man in the city and in politics.

Time

15. Culture does not look only to the past, to the cultural heritage, but also bridges the present and culture under development. Culture is never finished - it is constantly being made. Culture belongs to the present and future just as much as to the past.

Style

16. Culture extends to the cultures of specific groups. No style of culture is excluded (*). There is also no lesser style of culture.

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(*) A Parliamentary question, by the very fact of its being raised, was extremely useful in reminding us that the circus, for instance, is also a form of culture. The circus is appreciated not only by children, but also gives pleasure to adults with advanced cultural tastes. It even has the power to bring the spectators together in such a way that, in spite of the differences in age and cultural level, they quickly become a "public", i.e. a group of people unanimous in their surprise and admiration. Besides this, the circus gives young people and a large number of older people a certain initiation in the plastic arts - have not painters found in it a rich source of inspiration ?

Provided the quality is there, culture benefits from a song just as much as from a poem.

C. Popular nature of diffusion

17. The diffusion of culture (both old and new) will be basically popular.

18. All socio-occupational categories have an equal right to culture and an equal need for it. The Community will affirm that the right to culture is one of the social rights, like the right to work and the right to education. The greatest possible number of people - each one with his or her human experience and occupational skills - should take part in criticizing and adapting the proposed culture and in cultural creation.

D. Autonomy of cultural action

19. Community action in the cultural sector will be autonomous though not isolated.

20. Cultural advancement is one of the factors in both economic and social progress. Increasingly, culture is even represented as being the outcome of economic development and the culmination of social progress. However, if Community action in the cultural sector were to be justified by the requirements of economic development or social progress, this action would risk soon becoming subordinated to economic or social considerations, and would hence be affected by the repercussions of all their ups and downs.

21. Community action in the cultural sector will not be integrated with any other Community action. Links will merely be established between this action and, for instance, other action in the fields of social policy, education, further education, the environment and research. These links will not be consubstantial or based on a principle, but purely operational, and will function under conditions of mutual independence.

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Section II

APPLICATION OF THE TREATY TO THE CULTURAL SECTOR

22. More than a few Treaty provisions have already been applied to the cultural sector. However, this has been done without any overall will or concept for Community action in this sector, and hence with dispersal of effort.

In the coming years, endeavours should be made to achieve consistent, full and coherent application of the Treaty to the cultural sector.

A. Free movement of cultural goods

23. The obstacles to the free movement of cultural goods consist particularly of administrative formalities.

List of administrative formalities

24. Many Community citizens - not only those producing or distributing cultural goods, but also those acquiring them - have often had occasion to note the existence and scope of these formalities, which are therefore widely known. It is, however, necessary to have a precise knowledge of them, and for this reason, the Commission intends to instruct its departments to draw up a descriptive and analytical list.

The Commission will request the Member States to instruct their competent departments to cooperate in drawing up this list.

Without this cooperation, there might be, in particular, a lack of objectivity in the list, if insufficient information was given to the Commission's departments about the possible justification for certain formalities.

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Simplification of the formalities

25. This involves the export formalities to be completed:

- when a cultural product is to remain in the other Community country into which it is taken;
- in order to obtain exemption from the fiscal charges, in the case of cultural material and works of art which will be returning to the country of origin. This also applies to tours of shows, concerts, festivals, exhibitions, etc.

On the basis of the list obtained through the cooperation of its departments and the competent departments of the Member States, the Commission will submit to the Council draft proposals which will considerably simplify the formalities or will introduce new and simpler formalities to replace the former ones. (1)

In particular, the cash security required under the present regulations for "temporary import" could be replaced by a moral guarantee (given either by the person responsible for the event or by his professional association).

In the case of the "export licences" which are still required for the export of certain cultural goods which the Member States involved consider may form part of their heritage, the Commission will ask the Member States involved to abolish these - provided their retention is not justified for "the protection of national treasures possessing artistic, historical or archaeological value" (2).

Retention of certain formalities

26. The decisions on the administrative formalities hindering the free movement of cultural goods will not go so far as to abolish all formalities.

.../...

(1) Suggestion of the European Parliament: see ANNEX I, page 2, paragraph 9.
(2) Article 36 of the Treaty.

Although simplified formalities are by no means incompatible with effective control, there can be no control without some formalities.

Control is necessary for three reasons :

- the need to levy taxes, until taxation has been harmonized in the Community;
- even after harmonization, the need to prevent thefts of cultural goods;
- the continuing need to protect the national heritages.

When drafting the decisions to be proposed to the Council, the Commission will take pains to ensure that these decisions, while making it possible to achieve the objective - assigned to the Community under the Treaty - of liberalizing trade, shall not be such as to make thefts easier or to jeopardize the national heritages.

Prevention of thefts of cultural goods

27. Thefts from private collections, galleries, museums and - particularly - churches are increasing in number. Although producers, distributors and purchasers of cultural goods should be affected as little as possible - in keeping with the aims of the Treaty - by the control formalities, this control must continue to make things difficult for thieves. The work of the specialists who meet regularly under the auspices of UNESCO is a valuable source of information and reflection concerning the precautions to be included in the decisions which the Commission will propose to the Council.

The Commission will take this work into the greatest possible consideration, while at the same time continuing its cooperation with UNESCO.

Protection of national heritages

28. Article 36 of the Treaty lays down that the provisions of the Common Market do not deprive the Member States of the right to prohibit exports to another Community country of "national treasures possessing artistic, historic or archaeological value".

One of the decisions which the Commission will submit to the Council will lay down criteria based on the age, rarity, quality and market value of cultural goods.

These criteria will not be restricted to "national treasures", since they must also take account of cultural goods which, although not "national treasures", are one of the riches of each country - their value being intangible rather than material. Moreover, the criteria will be such that they will not allow the Member States to be either over-generous or under-generous with regard to exports. There are two reasons for thinking that excessive generosity would not be justified.

- If certain masterpieces had formally been left where they were, they would have remained almost unknown for a long time. Nowadays, however, it is less necessary to bring the works to those likely to be interested in them, since the development of transport makes it possible for specialists, art-lovers and even the general public to go to the works. It is better to promote cultural tourism rather than to move the works of art.
- It is in the general interest to leave masterpieces in the environment in which they were conceived and executed, since it is there that they can be best appreciated.

If, however, the criteria made it possible to prohibit almost all exports, there is a danger that the Member States might fail to fulfil the conditions of Article 36: the Member States must not go beyond what is justifiable for the protection of their heritage; at the same time, the export ban "shall not constitute a means of arbitrary discrimination or a disguised restriction on trade between Member States". Neither should the criteria induce the Member States to disregard the fact that the export of a cultural work to another Community country or to a third country increases, in the former case, the influence of the culture of the country of origin within the Community, and, in the latter case, the international influence of the European cultural dimension and of the culture of the country of origin.

"Community heritage"

29. One draft decision will introduce the concept of "Community heritage".

This new concept will not replace that of national heritage in all cases, but will increasingly be taken into consideration.

If the stage is reached where the nine national heritages are regarded as a single Community heritage, it will be possible to simplify the administrative formalities to a much greater degree than would be possible if the concept of national heritages were retained. Thus, there is nothing to prevent the formalities being limited to those required for the prevention of theft and for a reduced control, the only aim of which would be to ensure that a cultural work does not pass through another Community country to be exported finally to a third country.

The adoption of the concept of "Community heritage" would also prepare the way for the establishment of a Community right of pre-emption.

The Community right of pre-emption would of course not replace the national rights of pre-emption, but would exist alongside them.

The intermediate stage would be the setting-up of a fund to help the Member States in buying works which were in danger of being exported to a non-member country.

It sometimes happens that a Member State, while not having felt it necessary to stop the export of a work of art, nevertheless regrets the fact that a lack of budgetary funds prevents it from exercising its right of pre-emption. In this case, the Fund would add its financial resources to those which the Member State was in a position to put up.

In the case of an operation by the Fund - either at the request of a Member State or on the initiative of the Community itself, after the establishment of the Community right of pre-emption - the work purchased would not go to another of the Nine, but would remain in the country benefiting from the operation.

B. Free movement of cultural workers

30. The procedure will be the same as for the free movement of cultural goods.

List of obstacles

31. As with the barriers to the free movement of cultural goods, some of the obstacles to the free movement of cultural workers are administrative - long and complicated formalities. Others are legal - particularly the requirement for "national" qualifications. Yet others, finally, are social. Exercising a profession in another country for a few years, for instance, may slow down the cultural worker's career and reduce his pension rights.

The nature and effect of these obstacles are widely known (1). It is, however, essential to have a more detailed knowledge of them.

With the cooperation - which it will request from the Member States - of the competent national authorities, the Commission will instruct its departments to draw up a motivated list of the administrative, legal and social obstacles to the free movement of cultural workers.

Elimination of the obstacles

32. Whereas the administrative formalities hampering the free movement of cultural goods cannot always be abolished (2), those hampering the free movement of cultural workers can - and hence should - be eliminated. This applies also to the legal and social obstacles.

.../...

(1) Nature of the obstacles: all cultural workers know how difficult it is for them to settle - even temporarily - outside the national frontiers.

Effect of the obstacles: theatre-goers, for instance, are aware that, apart from a few foreign companies on tour and a few stars whose presence is considered indispensable, they hardly ever see actors from another Community country - even when there is no language barrier to justify keeping these actors out. Musicians (not so much the soloists, but at least those playing in the anonymity of an orchestra) are no better off in this respect than actors.

(2) The drawbacks of the abolition of certain formalities are given in paragraph 26.

The Commission will submit to the Council those decisions which, in the light of the list, appear likely to lead to the rapid elimination of the administrative, legal and social obstacles to the free movement of cultural workers (*).

The decisions proposed will differ according to whether they refer to salaried cultural workers (who must benefit from freedom of movement in the strict sense of the Treaty) or independent cultural workers. These latter must benefit from the right of establishment and the provision of services.

In many cases, this will involve the question of mutual recognition of diplomas, certificates and other titles.

Young cultural workers

33. In this case, the Community already has specially adapted facilities available.

The Commission will submit to the Council measures which will open up to young cultural workers increased opportunities for periods of residence in another country of the Community, as organized under Article 50 of the Treaty.

The young cultural workers will derive particular benefit from these stays abroad. One need only think of the professional enrichment which a period of activity in a new working environment (where different methods are employed) will give to, for instance, a young musician or craftsman. Moreover, the participation of young cultural workers will give a new impetus to the application of Article 50, which has been extremely inadequate up till now.

C. Economic aspects

34. The decisions which the Commission will submit to the Council on the economic aspects of the cultural sector will be based on a series of studies.

.../...

(*) Suggestion of the European Parliament: see ANNEX I, page 2, paragraph 9.

Statistics

35. After analysing the statistics available on the cultural sector, the Statistical Office of the European Communities will compile the statistics relating to this sector until such time as it is in a position to prepare "satellite accounts - cultural sector" (*). The preparation of "satellite accounts - cultural sector" is in keeping with the recent trends within the Community to integrate into the economic accounting (particularly the basic nomenclatures) social factors which have been neglected or inadequately studied up till now. The analysis of cultural activities must form part of this more detailed examination.

On the basis of the large amount of data already in its possession, the Statistical Office will also carry out two studies giving descriptions and forecasts:

- one dealing with the "cultural expenditure" of households;
- the other with the working hours.

In conjunction with the results obtained by the Council of Europe for the national and local government cultural budgets, the first study will make it possible, by adding the sums which are (and will be) made available for culture by public authorities and private persons, to assess the present (and future) turnover in the cultural sector. The second study will provide an estimate of the free time which is (and will be) available for leisure and - more particularly - for culture. This will make it possible to assess the total consumption of cultural goods and services - in other words, the demand which the cultural sector will have to satisfy.

.../...

(*) "Satellite accounts" are a collection of accounts with concepts and definitions corresponding to those of national accounting. They are naturally more detailed, for each field covered, than the national accounts, and also more coherent than conventional statistics.

The Statistical Office introduced "satellite accounts - scientific research" in 1972, and plans to introduce "satellite accounts - education".

Branches of the cultural sector

36. The Commission will instruct experts to carry out several studies, each one of which will deal with a branch of the cultural sector: publishing, the crafts, the theatre, the cinema, the circus, etc. For each branch considered, the study will examine the following:

- receipts, investments, prime costs and profitability;
- two factors which have a considerable influence on profitability - subsidies (the existence of which will have to be checked from country to country) and taxation;
- the social situation (which cannot be isolated from the economic situation): number of persons employed, remuneration, social security benefits, working conditions, unemployment, etc.

Three reasons why the Commission should start with the circus.

- Because of the lack of information, it could give only a partial answer to the Parliamentary question mentioned above (*).
- The differences in subsidies (if any) and taxation create distortions of competition which are of extreme importance for a form of entertainment which, by its very nature, is particularly suited to international exchanges.
- The study devoted to the circus will serve as a testing-ground for the studies on the other branches of the cultural sector. Since there are not many circuses, this study can be carried out easily and finished fairly rapidly.

Structure of the mass media

37. The Commission will study the documentation available on the structure of the mass media in the countries of the Community.

(*). See footnote on page 10.

This question was on the taxes to which circuses are liable in the various countries of the Community and the financial aid to which they were entitled in the different Member States.

The result of a comparative analysis should further stimulate ideas on the diffusion of culture which at present are developing everywhere.

If one holds the view that the various cultural media are less competitive than complementary, the essential problem is how to ensure the survival of the more traditional without holding back the impetus of the more modern. It is possible to achieve this by a strategy which makes balanced use of all of them (libraries and audio-visual, cinema and television, etc.); that is to say according to an overall policy which attributes to each its most appropriate role. The particular suitability of each of the media depends both on its own characteristics (its method of expression, its language) and on the economic circumstances in which it is placed.

D. Competition

38. The Commission will take the middle path between two extremes when examining cases involving compliance with the Treaty rules on competition by undertakings engaged in the cultural sector:

- the undertakings should not be prevented from cooperating or amalgamating;
- free competition should be maintained or established between them.

Cooperation and amalgamations

39. If the cultural sector of the Community is unable to

- achieve a certain degree of standardization in the carriers of culture (particularly in the hardware of the new media), the result will be increased wastage;
- achieve and distribute an output of adequate quality and quantity, as regards the works and their carriers, the Common Market would offer a gap which the cultural industries of third countries would be ready to fill - not without deleterious effects in the economic, social and cultural spheres.

.../...

The cultural undertakings in the Community must therefore be able to conclude agreements on co-production, joint research, specialization, etc.

It must also be possible for undertakings on Community scale to be set up in the cultural sector.

Free competition

40. It must not be possible for some large companies engaged in the production or distribution of cultural goods either to set up a monopoly or to acquire a dominant position which would allow them to force medium or small undertakings out of the market.

In the cultural sector, medium and small undertakings fulfil a purpose for which they are indispensable, taking the risks - which large companies are inclined to decline - of research, diversification, quality and non-conformism. If only a few large companies were left on the market, they would be tempted to produce only that kind of culture from which they expected the maximum profit - a consumer-oriented production policy.

E. State subsidies

41. Whenever the Commission is called upon to judge a case in which a cultural undertaking is affected by the application of Articles 92 and 94 of the Treaty, it will be fully aware of the fact that implementation of these Articles is extremely delicate in the cultural sector and that, at the same time, it may prove extremely fruitful.

Flexible application of Articles 92 to 94

42. The consumers of culture must be the arbiters of its form of distribution. This, however, means that they must be in a position to exercise an effective choice. If distribution were left to obey the law of supply and demand, they would be deprived of this choice, since some works - and even some media - would be doomed to failure. Subsidies for culture are acceptable

provided they are intended not to abolish the law of supply and demand, but to alleviate its effects.

No genuinely cultural activity can dispense with financial aid from the public authorities.

The growth of the cultural sector and trade in the goods it produces would be jeopardized by an insufficiently flexible application of Articles 92 to 94.

Harmonization of cultural policies

43. Application of Articles 92 to 94 will have the positive effect of inducing the Member States to agree their respective cultural policies and to harmonize them in the direction of progress.

F. Taxation

Value added tax

44. The Commission recently made two amendments to its proposal for a Sixth Directive (*):

- "The supply of services by authors, writers, composers, lecturers, journalists, actors and musicians" will be exempt from VAT, "provided they themselves are not involved in publishing or reproducing their works" (Article 14);
- in the case of "original works of art created by the hand of the artist, antiques, collectors' items and stamps and coins being collectors' items", the basis of assessment for the VAT will be the dealer's profit margin (Article 26).

(*) "Proposal to the Council for a sixth directive on the harmonization of the legislations of the Member States concerning turnover taxes - common system of value added tax: uniform basis of assessment"; COM(73) 950 final.

It is permissible to ask oneself whether exemption should be extended to include creative artists in the plastic arts sector.

At a later date, when the Commission is called upon to submit to the Council a proposal on a directive for harmonization of VAT rates, the Commission will make a detailed study of the possibility of applying a much reduced rate to cultural goods and services (theatres, concerts, cinemas, circuses, museums, exhibitions, etc.).

ANNEX II contains a number of initial ideas on the exemption of creative artists in the plastic arts sector and on the introduction of a reduced rate for original works of art, antiques, and collectors' items.

Harmonization of taxation on cultural institutions

45. The foundations, associations and societies engaged in distributing culture are stepping-stones on the path to public participation. The patronage involved in their financing reduces the burden on the State.

The Commission will recommend to the Member States that there should be tax exemption, as far as possible, for foundations, associations and societies engaged in culture, as well as for the gifts and legacies made to them.

This will induce the Member States to discuss possibilities for the harmonization of the systems of taxation on cultural foundations and patronage (*). The harmonization will be towards the most favourable system of taxation.

G. Approximation of national laws

46. The suggestions of the European Parliament will lead to the choice of two examples of approximation of national laws.

.../...

(*) Suggestion of the European Parliament: see ANNEX I, page 3, paragraph 10.

The European Parliament mentioned royalties and "other related intellectual property-rights"(*).

Royalties

47. The fact that the Commission has had to enforce changes to some of the practices of some royalty companies illustrates the need for the Commission to proceed beyond the stage of ad hoc decisions. To achieve this, the Council must issue decisions aimed at approximation of the national laws on this subject.

Far from restricting the inheritance rights and the moral interests of the authors, the approximation of the national laws will put an end to situations which are contrary to these interests. Of the provisions at present in force,

- some perpetuate discrimination on the grounds of nationality, such as is prohibited by Article 7 of the Treaty;
- others, by the roundabout way of exclusive rights and various privileges, give rise to monopolistic situations which reduce the liberty of those whose works are being distributed;
- others hamper the exchange of cultural works;
- others distort the conditions of competition in the common market.

The approximation of national laws will, among other things, provide an opportunity to adapt the different royalty systems to the modern means of communication - video-cassettes, cable television, telecommunications satellites, etc. In the context of these means of communication, many provisions are out-dated and, because of the lack of modern provisions, some of the problems raised are still unsolved. A composer whose music is transmitted by satellite cannot be paid on the same basis as one whose music was played at village dances.

Finally, since pictures are becoming more and more important, particular attention will be paid to photographers' royalties.

.../...

(*) See ANNEX I, page 3, paragraph 11.

The Commission will submit suitable proposals to the Council.

Artists resale right

48. The artists resale right is generally considered one of the "other related intellectual property-rights". It is certainly the copyright of the creative artists in the plastic arts, since it guarantees them (or their heirs) a percentage of the price fetched at sales subsequent to the initial sale made by the artists themselves (1). In countries where there is no resale right, the capital gains on a painting or a sculpture are of no benefit to the artist or his heirs. No matter how high or how frequent they may be (a work of art often changes hands several times), they benefit only the owners and the middlemen. The artists resale right is applied

- to auctions, in Belgium, France and Germany only;
- to sales by art dealers, in Germany only.

The Community is thus faced

- in some countries, with a situation which is unfair to the artists;
- in other countries, with discrimination detrimental to these countries.

Sales are moving to those countries and those types of transactions in which there is no resale right. This means that there is justification for Community action under Article 100 of the Treaty. Another Community problem is the mere fact that the artists resale right already forms part of the legislation of five countries of the Community.

The Commission will submit to the Council a directive which, after approximating the laws on the artists resale right which already exist in five countries of the Community (2), will extend the application of the right to all Member States.

.../...

(1) Novelists, playwrights and composers, for instance, obtain a percentage (the royalties) of the receipts realized by each of their works, so that they are financially associated with the success of the work all through its career - and not just when it first appears.

(2) These laws are discussed in ANNEX III.

In particular, this approximation should deal with the types of transaction (auctions, sales by dealers, sales between private persons) and with the rate of the royalty - which at present varies from country to country.

H. Social policy

Cultural action and social policy

49. Culture was not the surest answer to all the drawbacks of the affluent society which were being denounced not so long ago. Nor can it make up for all the shortages of which we are now afraid. Speaking generally, although a lot may be expected of culture, we must not ask more of it than it can give. It is nevertheless true that culture is in a position to support social policy. It can, for instance, help to implement participation, on the need for which the Paris Summit placed such great emphasis. This is because cultural action is in a position to bridge the gap which is being formed between the knowledge of specialists and that of non-specialists. If there was no spread of culture, there would be no point in promising more participation. Anything done under such so-called "participation" would be nothing but a battle - and a consistently unequal one at that.

On the other hand, cultural action would be doomed to failure if there was no effective social policy to overcome the difficulties in the fields of security of employment, pay, distribution of wealth, job fragmentation, working rhythms, industrial accidents and occupational diseases, public services (particularly urban transport) and accommodation.

The Community

- will include cultural action among the ways and means of implementing its social policy;
- will add to the social objectives already set that of removing the obstacles which certain living and working conditions may place in the way of access to culture and the practice of culture.

.../...

It is also known that the presence of a large number of immigrant workers, instead of leading to mutual enrichment, gives rise to problems which are extremely distressing for both the populations of the host countries and the immigrants themselves. At the very least, it is a cause of worry among the one group and of dissatisfaction among the other.

The Community's social policy for immigrants will be accompanied by cultural action.

Cultural features will, for instance, form part of the "integrated programmes" which will range from preparations for immigration to the return of the immigrant to his country of origin. Some of the new financial aid from the European Social Fund (which is intended to improve immigrants' living conditions) will be used to finance pilot schemes on the cultural acclimitization of these workers and their families.

The social aspect of Community action in the cultural sector

50. It is time to forget the romantic illusion that the "artist" can live only from his passion. This is a matter of social justice. Just as society is under no obligation to support idlers who lay claim to culture without contributing anything to it (without proving their worth), neither is it entitled to accept as a free gift a work which it needs as much as any other one. Cultural work must receive its fair due.

The Community is under an obligation to state that, while there is no reason why cultural workers should be a privileged class, neither is there any reason why they should be at a disadvantage.

There is no doubt that, by intensifying the distribution of culture, the Community action in the cultural sector will help to solve the social problems (unemployment and inadequate income) of the workers in this sector. This alone, however, would not be sufficient.

The Community action in the cultural sector will have a social aspect.

The Commission will submit to the Council measures which will enable cultural workers to share the benefits accorded to other workers under the social articles of the Treaty and the various instruments adopted with a view to ensuring their implementation. Basically, this will mean adapting what has been done or approved for other workers to the conditions - including the psychological conditions - peculiar to cultural workers. In particular, it will be necessary to ensure that cultural workers who are forced to retrain or to resettle elsewhere are entitled to aid from the European Social Fund, as is granted to workers in such circumstances. The Commission will counter the objection that a cultural worker is more difficult to retrain than another worker (i.e. more difficult to retrain in an honourable and satisfactory way, in a trade in which the person involved does not suffer from a frustration complex) by pointing out that artists who do not have the exceptional talents needed to make their mark as great painters or sculptors - or who, in spite of having these talents, have been unfortunate - may nevertheless become first-class craftsmen. A painter, for instance, may become a ceramist, and an actor a cultural organizer.

The Member States should utilize the facilities offered by the European Social Fund, by introducing retraining projects in the case of salaried and wage-earning cultural workers, and by asking for a specific decision from the Council in the case of self-employed cultural workers.

Preparation of the social aspect

51. Much use will be made of the economic statistics and the studies mentioned above (*):

- these will contribute towards a better knowledge of the labour market for cultural workers and will help in forecasting the demand for these workers and the job opportunities which they can expect;
- they will provide information on the present and future financial opportunities in the cultural sector, these being of decisive importance for the living standard of cultural workers.

.../...

(*) Paragraphs 35 and 36.

The Statistical Office of the European Communities will also compile purely social statistics on cultural workers - their numbers, their earnings, their social security situation, full-time and part-time unemployment, etc.

Finally, the Standing Committee on Employment will make a detailed study of those problems in the cultural sector which are within its terms of reference.

I. Regions

52. Socio-economic stagnation in a region can sometimes be attributed partly to the insufficient dissemination of culture among the population.

The Commission will order studies on:

- the structure and level of cultural dissemination in regions with economic and social problems;
- "compensatory methods" by which these regions could close the gap in cultural dissemination, including dissemination of their own specific culture;
- ways of enabling the EAGGF (*) to support cultural programmes in rural areas. This would amount to a preliminary study of the ways and means - with particular reference to the financing of pilot schemes - of decentralizing cultural dissemination.

J. Crafts

53. The problems facing craftsmen can be solved by classing their products as cultural goods.

The Commission will submit to the Council a draft decision under which

- craftsmen's products will be classed as cultural goods;
- all measures affecting cultural goods will also apply to crafts.

(*) European Agricultural Guidance and Guarantee Fund. .../...

54. The Commission will submit to the Council a draft directive designed to protect craftsmen's artistic property.

It sometimes happens, for instance, that an industrialist, without making his profession known, buys an item from a craftsman and then turns out thousands of them. The creator receives no royalties and the value of his own products is reduced.

K. Research

55. Four examples will be given.

Underwater archaeology

56. The Community will give financial assistance to research into the exploration and protection of the sea bed. At a time when private interests are starting to engage in what can only be described as plundering, this research, which will combine archaeology and oceanography, will be aimed at plotting the position of known wrecks (archaeological chart), at establishing the conditions of the sites and at experimenting with scientific methods of salvage. It is not merely a question of recovering amphorae or other objects, but of discovering "cross-sections of life" and archaeological data of general value which were deposited on the sea bed at a particular moment in the history of civilization.

Records of the sculptural heritage (1)

57. The Community will provide financial assistance for research aimed at reducing the cost of using holography (2) in compiling these records.

Preservation of cultural works

58. The Commission is already promoting research into the use of nuclear techniques in the preservation of cultural works such as manuscripts, statues in wood or stone, paintings, furniture and all antiques. Initial results are

.../...

(1) Suggestion of the European Parliament: see ANNEX I, page 1, paragraph 1.

The records of the sculptural heritage would form part of the inventory of the European cultural heritage which the European Parliament suggested should be drawn up.

(2) Holography - a laser application - records and restores an object in three dimensions.

extremely encouraging. This research, however, is beyond the capabilities of the individual Member States.

The Community will grant financial aid for this research work. (*).

Information science and music

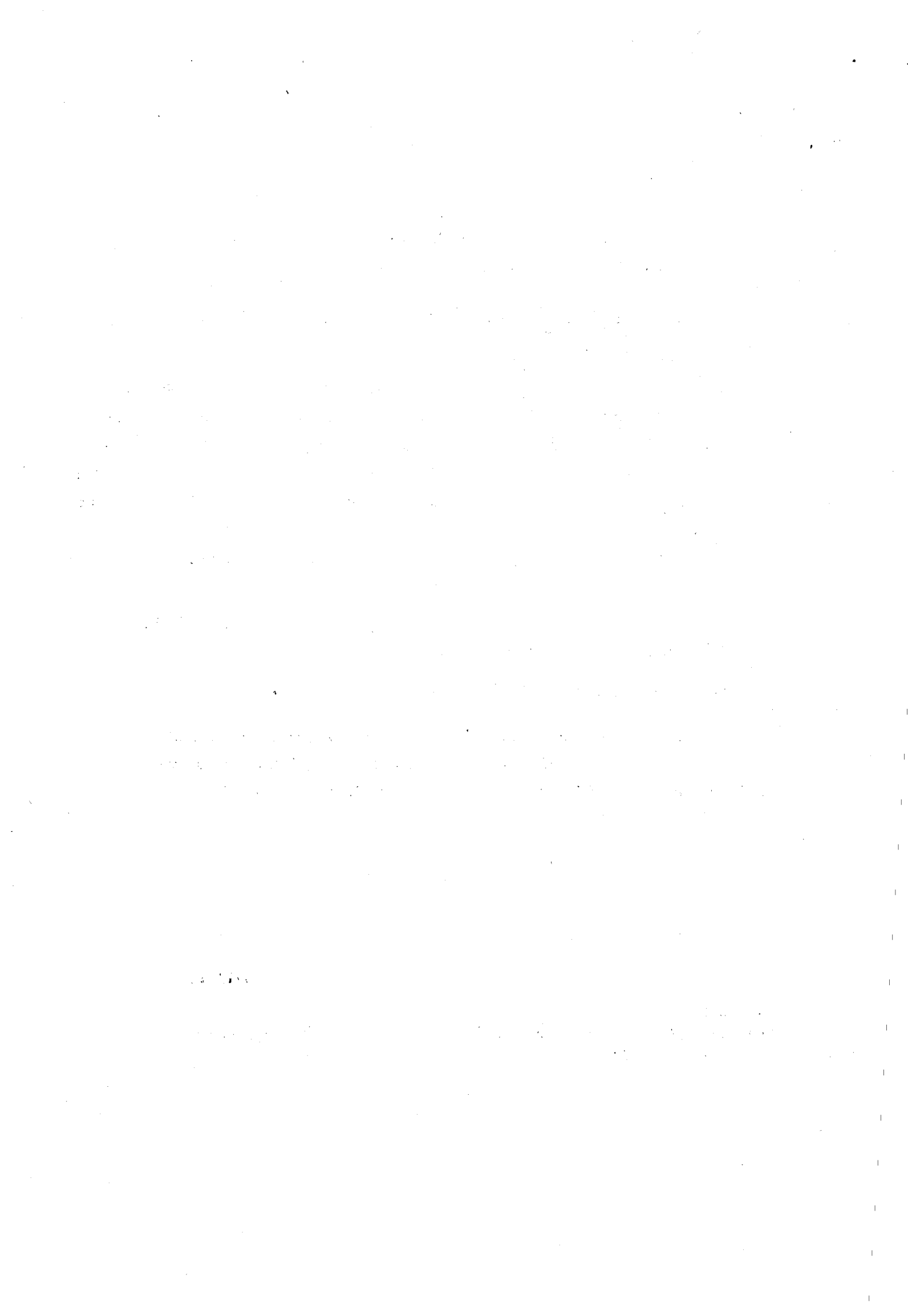
59. There is a need for research to supplement the various projects underway in the different Member States, in which some ten national groups are studying the composition, analysis and information science of music -- including the interactive techniques of information science and the creation of synthetic sound sources. The purpose of the research would be to find ways of enabling groups and individuals to choose the level of their musical environment and of finding new structures and qualities of tone. The aim would be to bridge the gap between

- music imposed on a "captive" audience, the insidious effect of which is gradually dulling their sense of hearing;
- music which appeals to the intelligence and feeling.

Only if it is integrated into the general framework of life will authentic music be able to overcome a crisis which appears even more serious than those which it has gone through in the past.

.../...

(*) Suggestion of the European Parliament: see ANNEX I, page 3, paragraph 13.



Section III

CULTURAL PREPARATION FOR EUROPEAN UNION

60. Looking towards 1980, the Paris Summit set the Community on the road towards "transforming the whole complex of relations between Member States into a European Union". It would appear, however, that relations between states will change only if human relations change.

The transformation of human relations depends on genuine familiarity between peoples.

This, in turn, can be achieved only if each people has a knowledge of what is most characteristic of other peoples - their cultures.

61. It would be a long and difficult undertaking to spread a knowledge of all the national and regional cultures of the Community.

This means that the Community must choose a faster and simpler course.

This course is facilitated by the European cultural dimension (*). Each nation will recognize its contribution to this - collected and balanced with the contributions of the other peoples.

62. None of the Community Institutions is in a position to take charge directly of the work involved in the European cultural dimension if the following are to be ensured:

- cultural preparation for the European Union, up to 1980;
- cultural accompaniment of the European Union after 1980.

.../...

(*) See page 2 for an attempted definition of the common cultural elements and the European cultural dimension.

Some of this work, however, is within the scope of the Robert Schuman Centre founded on 21 October 1972 by the Robert Schuman Association for Europe (*).

The Centre would of course cooperate closely with other bodies, including universities. In particular it would create a network of relations with the greatest possible number of regional cultural centres. These will develop, each in its own way, an activity of considerable importance. But they may feel that distance hampers their action.

63. The Commission will propose to the Council that it should
- instruct the Robert Schuman Centre to undertake some of the work involved in defining the content of the European cultural dimension and in disseminating the European cultural dimension;
 - make an annual allocation to the Robert Schuman Centre, from the Community budget, of the funds required for the work with which it has been entrusted.

64. Robert Schuman, who was -- and remains -- an unchallenged European personality, is the best possible choice as a symbol to represent the European cultural dimension to which the Centre bearing his name will be dedicated.

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65. The founders have agreed to establish the Robert Schuman Centre at Scy-Chazelles, the spot in Eastern France (in the Metz region) where the Father of Europe lived and is buried. They have also drawn up a plan to buy or lease some buildings lying only two hundred metres away from the house and grave of Robert Schuman and which housed a school up till 1973. Finally, they have established links with one of the departments of the

.../...

(*) Previously known as the Association of the Friends of President Robert Schuman.

Research Centre for International Relations of the Faculty of Arts of the University of Metz - the Robert Schuman Research Centre, set up on 14 January 1974.

66. The Centre will be governed by an Administrative Council composed of representatives of each of the Institutions and Member States of the Community, of the Robert Schuman Association for Europe and of the Robert Schuman Research Centre.

67. In order to carry out the research and dissemination work entrusted to it by the decision of the Council, the Centre will

- have a permanent staff of high-quality scientific and administrative personnel;
- hold open competitions.

A. The memory of Robert Schuman

68. As intended by the founders, the Centre will

- preserve the material heritage of Robert Schuman at Scy-Chazelles;
- set up the Robert Schuman Archives;
- publish the statesman's writings, speeches and correspondence;
- produce (or commission) and publish studies on the man and his achievements.

B. Research

Content of the European Cultural Dimension

69. It will be necessary to record the common cultural elements which, together, form the European cultural dimension, and to publish several books giving the common cultural elements chosen.

.../...

The recording and presentation will be done by a group of cultural personalities chosen by the Centre from all Community countries.

The Group's first book will be modest in size. This first book will restrict itself to what is essential and what is beyond dispute. Its value will lie not so much in the number of common cultural elements listed, but in their importance and in the evidence given for their existence. The book will also describe the state of culture at this very moment - on the threshold of the year 1980, which the Paris Summit appointed as the start of a new stage in the construction of Europe. The process by which culture has reached this state in the Community will be left to later books.

The subsequent books will proceed from the general to the particular :

- they will show the national and regional differences;
- they will draw attention to the interrelationship of these differences.

Methods of diffusion of the European cultural dimension

70. Since the European cultural dimension has never been diffused before, nothing is known about the methods to be used.

The Centre will carry out or commission research aimed at finding and implementing the most efficient methods of diffusion.

The research will consider successive specific target groups for diffusion of the European cultural dimension. It will bring together people and bodies with long experience with these groups - e.g. in the case of young people, representatives of the International Federation of Youth.

.../...

Music (1) and the European Federation of Youth Choirs (2). The Centre will ask the IFYM to prepare studies drawing conclusions from its "musical instruction in class" and its "school concerts".

Improved diffusion of music in the school environment is fully in keeping with one of the suggestions made by the European Parliament (3).

In the case of research into the diffusion of the European cultural dimension among immigrants, the Centre will start by holding symposia to which it will invite socio-cultural organizers - both voluntary and professional. Socio-cultural organizers do not have the same opportunities to express themselves as are frequently given to the theorists of cultural diffusion, and it is essential to know the results of the experience of the men and women who are in daily contact with the realities of the situation.

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- (1) Eight of the nine Member States of the Community are represented in the IFYM. Negotiations with the ninth country should soon be completed. The IFYM will be celebrating its thirtieth anniversary in 1975. Under the motto "Music by the young for the young", its thirty-five national sections cover more than two million children (from nursery school upwards) and adolescents. Besides introducing the young to Western "classical" music, they bring them into contact with music from all over the world and satisfy their taste for the most modern forms - jazz, folk music, pop music and electro-acoustical music. The national sections of the IFYM try to keep the financial contributions made by the young people to the concert expenses as low as possible.
 - (2) The activities of the EFYC, which was set up in 1960, derive from the concept that practising music promotes a knowledge of music, and from the fact that vocal music is easier than instrumental music - it is easier to sing high-quality pieces than to play them on the piano or violin.
 - (3) See ANNEX I, page 1, paragraphs 2 and 3.

C. Diffusion

71. The aim of the Centre's diffusion work will be to ensure that the European cultural dimension reaches the greatest possible number of people and adults.

Young people

72. The Centre will grant financial aid to various cultural events intended for young people.

Music, which is an essential element in the European cultural dimension, provides a particularly striking example. Through an annual grant from the Centre, the International Federation of Youth Music will be able to increase the frequency and scope of its musical instruction in the classroom and of its concerts for schoolchildren and students and - in the actual factories - for young workers.

The Centre could also grant financial aid to the Community Youth Orchestra, the setting-up of which was studied by the Committee on Cultural Affairs and Youth of the European Parliament.

The creation of this Orchestra and the organization of its performances would be entrusted to the International Festival of Youth Orchestras (United Kingdom) and the International Federation of Youth Music, which have drawn up a joint project. The International Festival of Youth Orchestras and the IFYM have experience of the problems involved in a youth orchestra, the former with the International Youth Orchestra and the latter with the World Orchestra of the International Federation of Youth Music.

Immigrants

73. As far as most immigrants are concerned, it is more a question of socio-cultural stimulation than of diffusion of culture, since, for most of them, access to culture is provided less by mere diffusion than by

.../...

analysing their economic and social situation and by making a conscious effort to relieve the pressure of this situation. Those immigrants who have managed to improve the conditions of their daily life must be offered the European cultural dimension, before they are offered the specific culture of the host country.

- Since the culture of the country of origin is present in the European cultural dimension, the latter is more accessible to them.
- They have the right - of which they are becoming more and more aware - to work and live in a country other than their own, without having to lose their identity.
- After spending some years in the host country, most of them return home. If they were forced to forget the culture of their own country, this would make their reintegration difficult or perhaps even impossible.

The Centre will engage in the following three activities simultaneously :

- help in working out a policy for the socio-cultural stimulation of immigrants;
- creation of a documentation service to compile the results of all the experience available on this socio-cultural stimulation and on the diffusion of culture among immigrants;
- organization of training courses in which active cultural organizers can specialize in the diffusion of the European cultural dimension among immigrants.

Other projects

74. This memorandum will restrict itself to giving three examples of the other work which might be undertaken by the Centre.

.../...

- Diffusion of the books from the Group "European cultural dimension"(*)

These books, containing clear, accessible and convenient information and documentation, will provide teachers, cultural organizers and the professionals of the mass media with the material they need in order to diffuse the European cultural dimension. The works available at present are too specialized, and hence almost useless for the men and women whose mission is to address youth and the general public - they do not give any easily exploitable concepts.

- Transposition of the content of the books from the Group "European cultural dimension" (*)

The content of these books will be transposed to other media - newspaper articles, brochures, teaching files, audiovisual montages, broadcasts and films for television and the cinema.

- Encouraging publication of a pocketbook on European art.

It is extremely important for this pocketbook to be published. It would play the same decisive part in promoting the plastic arts - through which the European cultural dimension so often becomes evident - as has been played for the last twenty years - and is still being played - by the paperback for literature. It would be marketed through the same channels as its predecessor - not only bookshops, but also supermarkets, station bookstalls, etc. This art pocketbook - which would have to contain a large number of illustrations of excellent quality - would naturally be more expensive than the literary paperback, but its price could nevertheless be kept at an acceptable level by selling it on a Community scale.

.../...

(*) Paragraph 69.

Section IV

COOPERATION BETWEEN MEMBER STATES IN THE CULTURAL SECTOR

75. The Commission feels that cooperation between Member States would be an effective accompaniment to application of the Treaty to this sector and to cultural preparations for the European Union.

This cooperation might involve

- the setting-up of a European Fund for Monuments and Sites;
- the fight against the theft of works of art;
- the other steps suggested - although this list is not complete - in Paragraph 82.

A. The setting-up of a European Fund for Monuments and Sites

76. Tens of thousands of monuments and sites are endangered in the Community. In spite of the budgetary aid afforded by each country to the monuments and sites on its own territory, no Member State can fully afford the cost of their restoration. Although joint aid is no substitute for national aid, it is a necessary addition to it.

The joint aid will be financed from a European Fund for Monuments and Sites, to be set up by a decision of either the Council or the Member States (*).

77. For the aid to be described as "Community aid" instead of "joint aid", it would have to come from the Community budget, and not from the contributions of the Member States. In this case, the EFMS would have to be set up, not by an intergovernmental agreement between the Member States, but by a decision of the Council under Article 235 of the Treaty.

.../...

(*) Suggestion of the European Parliament: see ANNEX I, page 3, paragraph 12.

In the Commission's view, it is too early yet to choose between the two alternatives.

78. Community (or joint) aid is justified in view of the fact that, with the increase in tourism between the nine countries, a monument or site no longer benefits only the citizens of one country, but the citizens of all Member States of the Community. The same developments and the same psychological and moral reasoning which once led the Member States to stop the communes and provinces bearing the entire financial burden of preserving monuments and sites must now induce the Community to stop the Member States bearing the whole of this burden.

The participation of all Europeans will not be presented in the unpleasant form of an obligation upon "foreigners" to pay a kind of additional entry fee. On the contrary, it will be considered as a form of ownership - each individual will be contributing towards the maintenance of a joint heritage, with the same rights and obligations for everyone. Of particular interest, in this context, is the suggestion of the European Parliament that the EFMS should be financed not only by the Community budget (or the contributions of the Member States), but also by the yield of a loan to which all Community citizens anxious about the future of our past (*) could subscribe.

79. Whereas the Council of Europe and UNESCO sometimes mount individual emergency operations - and, in any case, mostly outside the Community - the EFMS will use the solidarity of the peoples of the Community for a continuous policy of protecting the cultural heritage.

80. The activities of the EFMS will supplement those under the regional policy - in which tourism to monuments and sites plays an important part - and those for the protection of the environment - of which monuments and sites form part, and of which they are even an essential element.

.../...

(*) "A future for our past" is the title chosen by the Council of Europe for the European Architectural Heritage Year planned for 1975.

B. The fight against thefts of works of art (1)

81. The Member States will have to engage in cooperation which, as in the case of the fight against drugs, will involve

- strengthening and harmonizing the national laws and regulations;
- determining the methods with which the authorities in the various countries can give the most effective aid and assistance.

It is, for instance, clear that, for the police in the nine countries of the Community, combining their efforts will be easier than for the police of the 117 countries in Interpol.

C. Other action

82. The Member States should take the decisions necessary for them to be able to implement certain programmes under their cooperation in the cultural sector.

- Extension to the whole Community of the bilateral or multilateral agreements concluded between Member States for the purpose of increasing cultural exchanges.
- Increased formal consultations between Member States on the position to be adopted by their representatives in the various organs of the Council of Europe, the OECD and UNESCO (2).

A particularly welcome initial result of the intensified consultations would be the Community ratification of the Convention on measures to be adopted to forbid and prevent the import, export and transfer of ownership of illicitly acquired cultural goods (3). This Convention was adopted at

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(1) Suggestion of the European Parliament: see ANNEX I, page 3, paragraph 15.

The Commission interprets the expression "works of art" in a wide sense which covers the archaeological treasures mentioned by the European Parliament and all cultural goods in general.

(2) Suggestion of the European Parliament: see ANNEX I, page 4, paragraph 17.

(3) Suggestion of the European Parliament: see ANNEX I, page 3, paragraph 16.

the 16th session of the General Conference of UNESCO on 14 November 1970. None of the Member States of the Community has yet ratified it. By ratifying it together, the Member States would be showing their appreciation of the work of UNESCO and the importance they attach to preventing these offences, which have assumed the proportions of a regular menace.

- Cooperation between the cultural attachés of the Member States in third countries.

There is already a long-standing cooperation between the commercial and press attachés of the Member States. A system of cooperation suitable for the cultural sector must now be set up.

- Coordination of the activities of cultural institutions of the Member States in the Community countries and third countries.

One result of this coordination would be to avoid a drawback which has often been encountered: two or more cultural institutes from Member States organize events on the same day and in the same town, with the result that part of the public is deprived of seeing some of the events.

- Joint training and specialization (on a Community scale) of restorers of monuments and works of art (*).

None of the Community countries has a sufficient number of these highly-qualified specialists in restoration work.

- Development of the exchange of works of art between museums in the countries of the Community.

A museum often has several identical or similar items, while lacking other items of which another museum has too many. The Member States should develop a system of definitive exchanges (cession in due and proper form) and a system of temporary exchanges - i.e. loans for various periods of time.

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(*) Suggestion of the European Parliament: see ANNEX I, page 3, paragraph 14.

RESOLUTION OF THE EUROPEAN PARLIAMENT

(13 May 1974)

The European Parliament,

- concerned about the impoverishment of the European cultural heritage which often results both from natural causes and from human behaviour;
 - aware of the need to preserve historic and artistic relics of the past and to arouse greater interest among the public in the wealth these represent for all peoples;
 - referring to the "Declaration on European Identity" adopted at Copenhagen on 14 December 1973 by the Heads of State or of Government of the countries of the Community;
 - having regard to the motion for a resolution submitted by the Liberal and Allies Group (Doc. 73/73);
 - having regard to the report by the Committee on Cultural Affairs and Youth (Doc. 54/74),
1. points to the useful purpose served by drawing up an inventory of the European cultural heritage based on jointly-defined criteria;
 2. considers that those responsible for the education and training of young people should pay the greatest attention to the means of acquiring knowledge and appreciation by the young of cultural works, both ancient and modern;
 3. is convinced that the means of acquiring knowledge should be made available to young people as soon as possible and on a basis of equality, and that they must be taught appreciation by modern and stimulating methods;

4. urges the Governments of the nine Member States to attach greater importance to the defence and promotion of works of culture, particularly by passing the laws and providing the funds necessary for the development of permanent education;
5. notes the many activities undertaken at national and regional level with a view to the protection of historic monuments, buildings and sites, and urges the authorities responsible to increase further the number and scale of these activities;
6. welcomes the organization in 1975, by the Council of Europe, of a "European architectural-heritage year" with the title "A future for our past";
7. expresses satisfaction at the recent establishment, within the Commission of the European Communities, of two new administrative units: the "Environment and consumer protection department" (responsible, amongst other important matters, for protecting the cultural heritage) and the "Cultural problems" division;
8. hopes that the problem of protecting the European cultural heritage and a number of other cultural problems, for which Community action is possible and desirable, will be included in the agenda for meetings of the Council of Ministers of the European Communities attended by members of the Government responsible for cultural affairs in the various Member States;
9. asks the Commission to propose to the Council a series of concrete measures to be adopted in application of the provisions of the EEC Treaty, designed on the one hand to eliminate the administrative obstacles which still hamper the exchange of cultural works and, on the other, to eliminate the legal, administrative and social obstacles to the providing of services by cultural workers;

.../...

10. asks the Commission to draft proposals for the Council on the harmonization of systems of taxation on cultural institutions, and on the gifts and legacies which contribute to the financing of these institutions, and in general on the harmonization of the tax arrangements which the various Member States apply to cultural goods and services;
11. asks the Commission to propose measures to be adopted by the Council to approximate the national laws on the protection of the cultural heritage, royalties and other related intellectual property-rights;
12. requests the Commission to propose to the Member States the setting up within the Community of a fund which would provide financial support for the most urgent work on the restoration of monuments and sites and which could be partially financed by the yield of a loan floated contemporaneously in the nine States;
13. requests the Commission to examine means of contributing to the development of the use of nuclear techniques in the preservation of works of art;
14. requests the Commission to submit to the Member States arrangements for cooperation in the training of specialists in the restoration of monuments and works of art;
15. requests the Commission to propose to the Member States that they should take all measures to fight more effectively against the theft of and traffic in works of art and archaeological treasures;
16. emphasizes in this connection the moral and practical implications of ratification by all Member States of the Community of the Convention on measures to be adopted to forbid and prevent the import, exports and transfer of ownership of illicitly acquired cultural goods which was adopted at the 16th session of the General Conference of UNESCO on 14 November 1970;

.../...

17. requests the Commission to facilitate cooperation between representatives of the Member States of the Community, to ensure the adoption of common positions in the various bodies of the Council of Europe and UNESCO;
18. instructs its President to forward this resolution to the Council and Commission of the European Communities and to the ministers responsible in the various Member States.

TWO PROBLEMS CONCERNING VAT
IN THE PLASTIC ARTS SECTOR:

- the exemption of creative artists;
 - a reduced rate on original works of art, antiques and collectors' items.
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A. THE EXEMPTION OF CREATIVE ARTISTS IN THE
PLASTIC ARTS SECTOR

1. Article 14 of the draft Sixth Directive lists the activities exempt from VAT. This list does not include creative artists in the plastic arts sector.

2. The fact that artists are subject to the tax could attract some criticism of the Community. Public opinion might find it difficult to appreciate why dental technicians, organizers of games of chance or lotteries and undertakers should be exempt from the tax, while artists are not.

Apart from the psychological reasons (the intellectual and moral conditions peculiar to artistic creation, etc.), there are several factors in favour of exemption for artists.

- In spite of the fact that the plate used by the engraver, the canvas, colours and brushes used by the painter, and the plaster or clay used by the sculptor are somewhat more expensive than the notebook used by the writer (*), the "upstream" deductions which the artist may make are often ridiculously low.

(*) Under the amendment made by the Commission to its draft Sixth Directive, writers will be exempt - as will be "authors, composers, lecturers, journalists, actors, musicians"

- There are already precedents in two Community countries - Denmark and France - for the exemption of artists.
- Artists account for only a tiny proportion of the population, so that exempting their activities would not involve the public authorities in any great sacrifices.

3. On the other hand, there are several reasons why artists should be liable to tax.

- They sometimes, themselves, sell their works directly to private persons, and their exemption would then be unfair to the specialized dealers. This situation does not apply in the case of the other artistic profession exempt under Article 14 of the draft Sixth Directive.
- It is sometimes difficult to draw the line between the sector of the crafts, which is liable to VAT, and that of artistic creation, which would be exempt.
- The difficulties involved in making artists liable to the tax can be alleviated considerably by applying simplified taxation systems which the Member States are free to determine in accordance with their own criteria, each according to his requirements.

B. A REDUCED RATE ON ORIGINAL WORKS OF ART,
ANTIQUES AND COLLECTORS' ITEMS

4. The arguments for a reduced rate derive from the principle of VAT, cultural policy and the exigencies of the construction of Europe.

The principle of VAT

5. Most consumer goods are brought from a trader. Works of art, antiques and collectors' items, however, are often bought from a private person - i.e. someone

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who is exempt from VAT. This means that the price is not increased by VAT, and that it is thus in the buyers' interests to approach private persons. The result of this is that the dealers - who have to invoice the VAT - are at a competitive disadvantage compared with private persons, unlike most other traders. Although the effect of this distortion is mitigated considerably by the fact that a special system applies to dealers' purchases from private persons, a reduced rate of VAT would make the competition from private persons less harmful to the dealers.

Cultural policy

6. One of the aims of the cultural policy is that works of art, antiques and collectors' items should have as wide a distribution as possible. The increase in prices resulting from the application of the normal rate of VAT would run contrary to this aim.

The construction of Europe

7. One factor which must be constantly borne in mind is the setting up of the European Union in 1980, as announced by the Paris Summit.

If the European Community is to become the European Union, it is essential for Europeans to get to know each other better. One way of helping to achieve this is to have the maximum possible number of exchanges of works of art, antiques and collectors' items between the countries of the Community. These exchanges, however, would only be reduced in both number and quality by the increase in prices caused by applying the normal rate of VAT.

One of the guidelines of the Paris Summit

8. The Heads of State or Government included the following phrase in the Final Declaration at the Paris Summit: "particular attention will be given to intangible values and goods". This phrase includes works of art,

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antiques and collectors' items. Although these are, to some extent, just like any other goods, they are also - and to an even greater extent - goods of a special kind. Works of art, antiques and collectors' items are impregnated with those "values" of which the Heads of State or Government were thinking, and are characterized by their intangible nature. If the spirit of the Paris Summit is to be respected, works of art, antiques and collectors' items must be subject to a special system of VAT which, in particular, includes a reduced rate.

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9. The problem is even more serious in the case of contemporary works of art than for antiques and collectors' items.

Cultural policy

10. There is a fundamental difference between antiques and collectors' items, on the one hand, and contemporary works on the other.

No taxation measure is capable of increasing the number and quality of antiques and collectors' items. This is, however, not the case with contemporary works of art. By making them dearer, taxation measures might make the market for them smaller, with a subsequent detrimental effect on their number and quality - and this would run counter to the aims of the cultural policy.

A given rate of VAT can either hamper or promote sales of antiques and collectors' items, and thus affects only trade in these. In the case of contemporary works of art, however, it affects both marketing and production - i.e. their creation - since the creation of contemporary works of art is largely dependent upon the opportunities for marketing them.

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Although the cultural policy cannot neglect the problems involved in marketing antiques and collectors' items, it is its duty, above all, to concern itself with the problems involved in creating contemporary works of art.

Construction of Europe

11. If the problem is regarded as one of bringing present-day people closer together, repeated contact with the contemporary art of the different peoples is more effective than contact with their artistic heritages, which reflect only a more or less distant past. It is thus, above all, the exchanges of contemporary works of art between the countries of the Community which the system of taxation must avoid hampering by making the works of art more expensive.

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12. Granting a reduced rate for contemporary works of art would not involve the Member States in any great financial sacrifices. The selling prices for the great majority of contemporary works of art are not very high. It is the beautiful antiques and the interesting collectors' items which fetch the really high prices.

13. It is easy to refute the argument that contemporary works of art are also used for speculation. Antiques and collectors' items are used for speculation because, firstly, their value is considerable and, secondly, it is bound to rise still further. The present value of antiques and collectors' items is based on the fact that their price level has already been accepted for a long time. Their future value derives from the fact that the number of antiques and collectors' items is limited and cannot be increased. However, in the case of contemporary works of art - and new works are constantly coming on to the market - the rise in prices is always arbitrary. Very few contemporary works of art increase in value, and many even decrease in value as time goes on.

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14. It would not be advisable to have one system for works of art which are expensive and another system for those which are not.

Fixing a limit, above which the normal rate would be applied, would lead to administrative complications (in supervision) and would undoubtedly give rise to evasion (fraudulent invoices). In addition, the uncertainty about the future value affects even the works of famous living artists. The works may be expensive at the moment, but that does not prevent them from falling into oblivion at a later date. Some striking examples of this are provided by numerous painters who were famous at the turn of the century - their paintings, which fetched high prices in those days, are now unmarketable.

THE ARTISTS RESALE RIGHT IN FIVE MEMBER STATES
OF THE COMMUNITY

1. The amendment of 26 June 1948 enabled the artists resale right to be incorporated into the "Berne Convention of 9 December 1886 on the protection of literary and artistic works" (1).

The Convention states the principle of the resale right:
"In the case of original works of art (2) (.....), the creator - or, upon his death, those persons or bodies authorized by national law - has an inalienable right to benefit from sales of the work after the first assignment made by the creator" (Article 14 c, paragraph 1)

2. Although all the Member States are parties to the Berne Convention, the resale right is included in the national law of only five of the nine countries of the Community, viz. France, Belgium, Italy, West Germany and Luxembourg (3). What is more, the law introducing the artists resale right in Italy has never been applied, and the one introducing it in Luxembourg has not yet been applied. The methods and the rates applied also differ from country to country.

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- (1) "Supplemented in Paris on 4 May 1896, amended in Berlin on 13 November 1908, supplemented in Berne on 20 March 1914 and amended in Rome on 2 June 1928, in Brussels on 26 June 1948, in Stockholm on 14 July 1967 and in Paris on 24 July 1971."
- (2) Drawings, paintings, sculptures, engravings and lithographs. Engravings and lithographs are covered by the generic term "prints". Engravings include woodcuts, copper-plate engravings (etchings, aquatints, mezzotints, colour prints), serigraphs and monotypes.
- (3) The countries are listed in chronological order of the laws introducing the artists right of resale.

France

3. The artists resale right was introduced by the law of 20 June 1920.

This law states that the fee is levied in the case of auctions.

If the price fetched is less than 100 FF, the fee is not levied.

The right entitles the artist to a percentage of the selling price.

Originally, the rate was progressive - from 1 to 3% - but it has now been replaced by a flat rate of 3%.

The fee must be paid by the vendor.

The auctioneer remits the sum to a collecting society authorized by the artist or his heirs.

4. A new law on intellectual property came into force on 11 March 1957. This law includes a provision under which the right is extended to sales made by dealers.

The law of 11 March 1957 states that the procedure for levying the fee on these sales will be laid down in an administrative regulation. This regulation has, however, never been issued, so that the right still does not apply to sales by art dealers.

Belgium

5. The artists resale right was introduced by the law of 25 June 1921.

It applies to auctions.

It applies only when the price fetched for the work of art is 1,000 BF or more.

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The rate varies according to the selling price:

- from 1,000 to 10,000 BF 2%
- from 10,001 to 20,000 BF 3%
- from 20,001 to 50,000 BF 4%
- from 50,001 BF upwards 6%

The fee is payable by the buyer.

6. The "Collector for the artists resale right", an official of the Ministry of Education and Culture, receives the monies levied under the right and remits them to the artists or their legal successors, or to an association chosen by them.

Italy

7. The right was introduced by several of the provisions of the law of 22 April 1941, which came into force at the end of 1942.

8. The right applies not only to auctions (as in France and Belgium), but also to sales through dealers. In addition to auctions and sales by order of courts, the expression "public sales" includes:

- "sales at exhibitions authorized in accordance with the law of 2 April 1950 (No 328)";
- "sales of works included in auctions but withdrawn from the bidding as a result of private and prior negotiations";
- "sales at private exhibitions organized or carried out by third parties".

Article 147 of the law even extends the right to sales between private persons, provided two specified limits are reached - a particular selling price and a particular added value.

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9. The right applies only if the selling price for the work exceeds 1,000 L for drawings and prints, 5,000 L for paintings and 10,000 L for sculptures.

10. At the first sale, the right consists of a percentage of the price. This percentage represents "the assumed added value attained by the work compared with the price originally paid for its cession". It varies according to the selling price:

- 1% up to 50,000 L
- 2% from 50,001 to 100,000 L
- 5% from 100,001 L upwards.

The right does not apply if the organizer of the sale, the vendor or the purchaser can prove that the sale has not been preceded by any act of cession against payment or that the selling price is not higher than the original price of cession.

11. In the case of all sales other than the first, the right consists no longer of a percentage of the selling price (as in the case of the first sale or as in France and Belgium), but of a percentage of the added value. This percentage is based on the difference between the selling price in question and that at the time of the previous sale:

- 2% of an added value of not more than 10,000 L
- 3% of an added value of more than 10,000 L
- 4% of an added value of more than 30,000 L
- 5% of an added value of more than 50,000 L
- 6% of an added value of more than 75,000 L
- 7% of an added value of more than 100,000 L
- 8% of an added value of more than 125,000 L
- 9% of an added value of more than 150,000 L
- 10% of an added value of more than 175,000 L.

12. In the case of sales not considered as "public" under Italian Law (i.e sales between private persons), it is better to quote Article 147 of the law almost in full :

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"If the price fetched by the original work (...) at any sale not considered as public under this law is 4,000 L or more in the case of drawings and prints, 30,000 L or more in the case of paintings or 40,000 L or more in the case of sculptures, and if the price is more than five times the initial selling price - regardless of the form of the initial sale - 10% of this added value shall be paid to the creator of the work (...)."

"The creator himself must provide evidence of the price fetched by the work and of fulfilment of the conditions laid down in this Article;"

"The percentage is reduced to 5% if the vendor, for his part, proves that he acquired the work at a price not lower than that fetched,"

The law thus applies only to works sold for at least 4,000 L (drawings and prints), 30,000 L (paintings) or 40,000 L (sculptures).

This means that there are two distinct cases. If the selling price is twice the purchase price (i.e. if the added value is 50% of the selling price or the same as the purchase price), the right consists of a sum equivalent to 5% of the added value. If the selling price is five times the purchase price (i.e. if the added value is four-fifths of the selling price or four times the purchase price), the right consists of a sum equivalent to 10% of the added value.

13. The sum is payable by the vendor, regardless of the nature of the transaction.

Germany

14. The artists resale right was introduced by a law of 9 September 1965 on royalties.

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The right applies not only to auctions, but also to sales through dealers.

The sum is payable by the vendor.

15. On 21 September 1972, the Bundestag passed a law amending the previous one.

The rate was raised from 1% of the selling price to 5% of the selling price.

The minimum value of the works liable under the right of pursuit was lowered from 500 DM to 100 DM.

The sums payable under the right are not remitted directly to the artist, but to an administrative society authorized by the artist.

The law guarantees artists an effective right to information on any transactions involving their works. This right can be exercised only by an administrative society.

Luxembourg

16. The artists resale right first appears in the law of 29 March 1972 on royalties (Article 22).

The right applies to "all sales (...) by public auction or through a dealer".

The right applies only to works above a given selling price.

It entitles the artist to not more than 3% of the selling price.

17. Under the provisions of the law, the threshold price, the rate payable and the conditions under which the artists can obtain the sums involved, must be laid down by an administrative regulation. This

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regulation has not yet been issued, with the result that the right still does not apply in Luxembourg.

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18. The provisions of Articles 100 and 101 lay down that the laws on the artists resale right must be harmonized. In the case of sales of works of art by auction, some Community countries are at a disadvantage - to a varying degree - compared with other Community countries. Since these sales may shift to countries where there is no right, the disparities between the laws on the artists resale right "are distorting the conditions of competition in the common market".

In France and Belgium, there is a second element of distortion - sales by auction are at a disadvantage compared with sales through dealers.

A third element of distortion is evident in Germany - and will be evident in Italy and Luxembourg when their laws on the artists resale right come into force - in that art dealers there are at a disadvantage compared with art dealers in the other countries.

In view of the second and third elements of distortion, Articles 100 and 101 can also be invoked to justify the extension of the right to sales through dealers.

Finally, the fourth element of distortion: if sales between private persons continued to be exempt from the artists resale right, they would have an unfair advantage over sales by auction and sales through dealers in all countries of the Community.

19. The right must be extended to other countries and to other types of transaction. Its application must be extended as follows :

.../...

- for sales by auction: to the four Community countries other than France, Belgium, Italy, Germany and Luxembourg;
- for sales through dealers: to the six Community countries other than Germany, Italy and Luxembourg;
- for sales between private persons: to all nine Community countries (*).

(*) In Italy, only some such sales are subject to the artists resale right: see above, paragraph 12 (pages 4 and 5).