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Report

drawn up on behalf of the Committee on the Environment, Public Health and
Consumer Protection

on the state of the Community environment

Rapporteur: Mr S. ALBER

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By letter of 29 January 1980 the Committee on the Environment, Public Health and Consumer Protection requested authorization to draw up an own-initiative report on the state of the Community environment. Authorization was granted on 11 March 1980.

On 21 March 1980 the committee appointed Mr ALBER rapporteur. On the same day it decided to invite altogether nine committees of the European Parliament to deliver an opinion on the basis of prepared questionnaires; in so doing it acted outside the formal consultation procedure pursuant to Rule 38(3) of the old Rules of Procedure. The committees concerned declined.

The Committee on the Environment, Public Health and Consumer Protection then requested the Bureau to authorize the Legal Affairs Committee, the Committee on Agriculture and the Committee on Economic and Monetary Affairs to deliver an opinion within the framework of Rule 38(3) of the old Rules of Procedure. This authorization was granted on 16 July 1980.

The Committee on the Environment, Public Health and Consumer Protection considered the draft report at its meetings of 2 October 1980, 26 February 1981 and 14 April 1981. At its meeting of 26 May 1981 it adopted the motion for a resolution by 17 votes in favour, 1 against and 3 abstentions.

The following were present: Mr Collins, chairman; Mr Alber, vice-chairman and rapporteur; Mr Johnson, vice-chairman; Mrs Weber, vice-chairman; Mr Adam (deputizing for Mrs Roudy), Mr Combe, Mr Del Duca (deputizing for Mr Verroken), Mr Forth (deputizing for Miss Hooper), Mr Ghergo, Mrs Krouwel-Vlam, Mrs Lentz-Cornette, Mrs Maij-Weggen, Mr Muntingh, Mr Petersen (deputizing for My Lynge), Mr Rogers (deputizing for Mr O'Connell), Mrs Schleicher, Mrs Seibel-Emmerling, Mr Sherlock, Mrs Squarcialupi, Sir Peter Vanneck and Mr Visas.

The opinion of the Legal Affairs Committee is annexed to this report.

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A

The Committee on the Environment, Public Health and Consumer Protection hereby submits to the European Parliament the following motion for a resolution, together with explanatory statement.

MOTION FOR A RESOLUTION

on the state of the Community environment

The European Parliament,

- having regard to the second report submitted by the Commission of the European Communities to the Council on the state of the Community environment (1979 report)
- having regard to the Community's activities to date in the field of environmental protection which are reviewed in the Communication from the Commission to the Council of 7 May 1980¹,
- having regard to the report of the Committee on the Environment, Public Health and Consumer Protection and the opinion of the Legal Affairs Committee (Doc. 1-276/81),

PART I: THIRD ACTION PROGRAMME ON THE ENVIRONMENT

1. General

(a) The need for a third action programme

1. Considers that a third environment action programme is urgently needed;
2. Believes that a start should be made on this programme in 1981 and that it should as far as possible be based on the experience gained from earlier programmes and actions;
3. Reaffirms its support for the principles, goals and objectives of the first and second environment action programmes and for the measures contained therein;

(b) Evaluation of previous programmes and actions

4. Proposes to this end that the Commission should report on the progress of completed programmes and explain where necessary why certain objectives were not attained in order that the third environmental programme can profit from this experience;
5. Urges the Commission also to consider the major national environmental programmes and evaluate their success;
6. (a) Welcomes the fact that the Commission has transformed its Environment and Consumer Protection Service into an independent directorate-general,

(b) At the same time, considers it essential for the Commission to be provided with the necessary material resources and staff to carry out existing and future programmes;

(c) Political principles and prerequisites

7. Welcomes the fact that environmental protection has developed from

¹ COM (80) 222 final

- a purely defensive concept aimed simply at repairing damage into a preventive policy with the emphasis on precautionary measures;
8. Is of the opinion that this preventive policy should incorporate the following principles:
 1. the stand-still principle
 2. the principle of the best technical means;
 3. the polluter-pays principle;
 9. Is of the opinion that other areas of policy should be tied to ecological parameters with the aid of these principles and that the main instruments to be used for this purpose might be
 1. legislation on the environment
 2. environmental impact assessment
 3. environmental surveys
 4. the laying down of standards;
 10. Recommends that this idea of prevention be developed still further and that environmental protection be regarded as a positive determining factor and, as such,
 - (a) incorporated in long-term plans, economic scheduling and profitability calculations, and
 - (b) made an integral part of all relevant policies;
 11. Proposes, therefore, that, in addition to the third programme, there should be an overall concept of, a strategy for, environmental protection with the individual measures envisaged forming part of this concept;
 12. Recommends, therefore since the desirable overall concept of environmental protection cannot be implemented immediately in its entirety, that the third programme should initially only deal with the most urgent problems;
 13. Considers that there must be a clear statement from the Council now on the medium and long-term relationship between questions of energy, economic growth, and raw materials, on the one hand, and environmental protection on the other; the costs and benefits of the relevant policies must be investigated from this point of view;
 14. Feels, also, that an integrated, ecological frame of reference must first be prepared providing a clear definition of the 'polluter pays' principle, the allocation of costs and the principle of cooperation;
 15. Proposes that an account should be given of the favourable effect which environmental protection can have on employment by creating new, different and additional jobs;
 16. Hopes that the Commission will include a statement of cost in all its future proposals in the environmental field;

(d) Progress to date

17. Recommends, further, that an assessment of what has already been accomplished in the environment sector should be appended, since the full range of individual measures so far taken is not universally known and the wealth of ad hoc projects does not give sufficiently clear indication of the efforts made and the resources deployed;
18. Considers also that national environmental protection measures should be included in this assessment, since this is the only way of providing an overall picture of what has been done and also of showing what results have been achieved, so that those areas can be identified in which more must be done or in which duplication of effort can be prevented;

2. Priorities for the third programme .

19. Recommends that a list of priorities should be prepared for the third programme including in particular the following:
- (a) development of cleaner alternative technologies and forms of energy;
 - (b) reduction of pollution from vehicles (noise and exhaust gases),
 - (c) measures to combat marine pollution,
 - (d) testing of effects of chemicals and drawing up of preventive measures,
 - (e) promotion of measures to eliminate waste products and to recover raw materials,
 - (f) reduction of water, land and atmospheric pollution,
 - (g) harmonization of the compulsory rules and provisions intended to adjust the conditions of competition,
 - (h) protection of nature and the countryside;
 - (i) research into the extent of soil pollution and the attendant pollution of the ground water and proposals to combat and prevent these types of pollution;

PART II : MEDIUM AND LONG-TERM MEASURES (FUTURE ENVIRONMENTAL STRATEGY)

20. Proposes to the Commission that the following points should form part of a future overall concept, insofar as they cannot be incorporated into the third action programme:

1. Protection and rational management of natural resources

(a) Pollution-free forms of energy and technology

21. Initiate policies to promote scientific and technological research with a view also to developing clean and alternative production processes and raw materials;
22. Encourage energy saving and the use of 'clean' energy;
23. In particular, place greater emphasis on research in the field of nuclear fusion and energy from hydrogen;
24. Prepare a comparative study on the effects, advantages, disadvantages quantities available and total costs - including expenditure on materials - of all types of energy;
25. Study the scope for producing energy from the biomass and examine in particular the potential for cultivation in those regions where farming is uneconomic and also consider, while assessing the cost involved: whether a change in the crops under cultivation could help reduce the the surplus production of certain agricultural products;

(b) Raw materials

26. Vigorously foster and encourage all projects designed to economize on or recycle raw materials or to develop and utilize substitute materials;

(c) Waste disposal and recycling

27. Encourage and facilitate all projects involving the recovery of materials from waste products - in particular the collection of sorted domestic waste;
28. Ensure that more use is made of recycled paper, in particular in public administrations in the Member States;
29. Call for transfrontier cooperation in connection with the elimination of particularly dangerous waste products;
30. Examine how (particularly with regard to packaging) the volume of waste products could be reduced, for example by introducing tax incentives or constraints;
31. Devote greater attention to problems connected with sludge;

2. Reduction of environmental pollution

(a) Water supplies and effluents

32. Arrange for careful investigations into future water requirements, and in particular into the volume of water available;
33. Adopt implementing directives concerning water quality;
34. Harmonize national regulations on effluent disposal charges;
35. Adopt, at long last, a directive on the discharge of list I substances into water, and establish for which substances regulations should be introduced as a matter of priority;

36. Provide for measures which can be used to combat not only specific but also scattered sources of water pollution;

(b) The sea

37. Undertake research into marine pollution and introduce measures to eliminate and prevent further pollution;

38. Set up an adequate European surveillance body with the necessary powers to monitor and control shipping in Community waters¹;

39. (a) Make the oil-tagging system, by which the oil in oil tankers can be made identifiable by adding metal particles to it, obligatory in European waters so as to make it easier to trace the origin of unlawful discharges,

(b) Require the Member States to provide adequate storage facilities in all sea ports for the used oil which ships wish to discharge;

40. Take precautions to prevent any pollution from the exploitation of the ocean bed, in particular drilling for oil²;

41. Prevent and monitor the discharge of poisonous substances and pollutants on the high seas;

(c) Air and atmosphere

42. Substantially lower the permitted levels of toxic exhaust gases from vehicles;

43. Take account of both direct and indirect aspects of sulphur dioxide (SO₂) pollution, particularly as regards its effect on forests, and fix acceptable sulphur levels for heavy heating oil³ and coal intended for combustion;

44. (a) Draw up a scale of priorities to find the most effective means of combatting the photo-chemical pollution of the air;

(b) Define permitted levels for concentrations of NO_x, CH and oxidants and incorporate them in a Community directive;

45. Continue with the preparation of common air quality standards and lay down, for specific pollutants, special standards applicable to areas surrounding the principal sources of emission;

46. Pay greater attention to problems connected with the pollution of the ozone layer with a more intensive study of possible effects on climate;

¹ See the resolutions adopted by Parliament on 16 January 1981 on the basis of the Maij-Weggen and Carossino reports (OJ C 28 of 9.2.1981, p 52 et seq.)

² See the resolution adopted by Parliament on 16.1.1981 on the basis of the Maij-Weggen report (OJ C 28 of 9.2.1981, p 56)

³ This has already been done for light heating oil; see Council directive of 24.11.1975 (OJ L 307 of 27 November 1975)

(d) Noise

47. Harmonize the noise emission levels of noisy products, particularly road vehicles, including goods imported from third countries;
48. Make a greater effort to combat noise at work (particularly from machines);
49. Take greater account in the campaign against noise of house and road construction;
50. Call upon
 - (a) the Council of Ministers to approve without delay all the directives now pending on the reduction of noise emission;
 - (b) the Commission to shorten the time limits laid down in the various directives for fixing noise levels that are less harmful to human hearing;

(e) Chemicals

51. Adopt the necessary legal provisions in implementation of the sixth amendment of the 1967 directive¹, in particular
 - (a) establishing a list of the substances present and their characteristics;
 - (b) introducing a procedure for monitoring substances,
 - (c) drawing up guidelines on classifying and labelling; in this connection, in view of the vast number of these substances and of the limited aids available, it is essential to:
 - (1) find a procedure for establishing priorities, and
 - (2) divide the work entailed among the Member States;
52. Urge the Council to adopt forthwith the directive on the major accident hazards of certain industrial activities (Seveso directive)²;

(f) Pesticides and fertilizers

53. Encourage
 - (a) the replacement of poisonous and non-degradable pesticides by products which cause minimal contamination of the atmosphere or waters;
 - (b) increased usage of fertilizers with lower nitrogen leachates,
54. Encourage research into and utilization of integrated pest control using natural and biological pesticides and life-forms;
55. Investigate to what extent biodynamic agriculture could be extended and promoted;

3. Protection and rational use of soil and land

56. Set up research and action programmes within the framework of European potential and competence to solve regional policy problems in

¹ OJ L 259 of 15 October 1979, p 11 et seq.

² OJ C 212 of 24 August 1979, p 4

- (a) rural areas,
- (b) coastal and mountainous areas and
- (c) built-up areas (with particular reference to possible urban redevelopment schemes - slum clearance);

57. Ensure that, above all in connection with town and traffic planning greater importance is attributed to the rational and careful use of land and that clearance and redevelopment schemes take precedence over new developments on new sites;

58. Promote the conservation of nature and the landscape and ensure that

- (a) nature reserves, areas of outstanding natural beauty and the natural course of rivers are unspoiled,
- (b) areas no longer under cultivation are revitalized, wetlands are preserved and restored and the consolidation of arable land, drainage systems and the development of large areas take greater account of the need to protect nature and the countryside, and
- (c) in order to improve the ecological balance near towns, small-scale nature reserves or green-belt areas are created or natural habitats - of plants and animals - are preserved;
- (d) representative chains of biogenetic reserves are created in the Community;

59. Take greater account of the impact of tourism (and recreational activities) on the countryside and minimize their harmful effects;

4. Protection of animals and plants

60. Ensure that stronger emphasis is placed on the concept of animal protection in large-scale animal husbandry;

61. Prevent the use of chemicals to fatten animals;

62. Ensure that the number of animal experiments is reduced to the absolute minimum and review the legal provisions which, among other things things, require experiments on animals for new pharmaceutical products;

63. Take steps

- (a) to prevent the hunting of birds, whales and other endangered animals scrupulously observing the Community directives and international conventions, and
- (b) substantially to restrict seal hunting;

64. Assist with the conservation of areas which are important for animals and plants and restore polluted areas;

65. Draw up

- (a) a directive on plants in need of protection in the Community,
- (b) a directive on the protection of endangered vertebrates in the Community,
- (c) a directive on the protection of endangered invertebrates;

5. Environmental planning and administration

(a) General points

66. Examine how universally valid bio-indicators for determining the quality of the environment might be established;
67. Provide ecological mapping of the EEC in a land register paying particular attention to border areas;
68. Establish binding criteria for environmental impact assessment and draw up guidelines for evaluating the implications of technology;
69. Compile easily interpreted statistics on the quality of the environment and ensure that the individual countries use a uniform method of presenting them;
70. Lay down obligations (compulsory reporting and other requirements) to be met by the relevant industries in order to prevent environmental disasters, and provide for reliability tests and controls which must, however, be designed to exclude the possibility of interference in management or other abuses;
71. Develop improved instruments for the early detection of hazards and for the reduction and prevention of damage, with particular reference to hazards and pollution with transfrontier implications;

(b) Law and administration

72. Speed up the harmonization of national environmental law;
73. Arrange for a comparative study of environmental law and a compilation of national judicial rulings in this field;
74. Take steps as part of the process of harmonization of national environmental law, to ensure that legal provisions are drafted in a clear and unambiguous manner and that the lack of a clear political line does not lead to the application of too many vague legal concepts, which would place too great a strain on the courts;
75. Recommend, in connection with this harmonization process and as an essential aid in applying the law, the establishment of values, measurement and assessment standards and their constant adaptation to scientific and technical knowledge, as well as the extension in law of the scope allowed for administrative discretion, particularly in areas involving forward estimates and decisions on scientific or technical matters;
76. Recommend, as part of the administrative machinery, the setting-up of a control body within the authorizing authority with the necessary scientific and technical expertise;
77. Arrange for a comparative study on the most appropriate institutional structure for environmental protection in the Member States;
78. Adapt competition law so that products and processes which protect the environment are not placed at a disadvantage by cost distortions;

(c) Transfrontier aspects

79. Develop suitable procedures for including neighbouring countries in the planning and running of installations which could have transfrontier effects;
80. Develop administrative instruments to deal with transfrontier environmental pollution;
81. Devote special attention to the pollution of the Rhine, not only by pressing for action under the Convention for the protection of the Rhine against chemical pollution but also by urging stronger measures to be taken to deal with the problem of salt, taking into account Parliament's resolutions of 14 December 1979¹;
82. Devote special attention to the Waddengebied, that important international nature area extending over 600,000 ha in the Netherlands, Germany and Denmark which, for a number of reasons (e.g. the Rhine), is threatened with destruction;

6. Research

83. Insist that research should concentrate on the developemnt of cleaner technologies and alternative energy sources and on the more economical use of resources;
84. Investigate in detail and discover not only the damage caused by individual substances but in particular the cumulative effect of various nuisances and sources of pollution (especially in built-up areas), including combined and long-term effects;
85. Ensure that, in order to reduce costs, speed up developments and share intellectual and technological potential, environmental research is coordinated more effectively between the individual countries, universities and research agencies and between the industries concerned;
86. Enable each country to have constant access to the results of research in the individual partner countries;

7. Information and education

87. Take steps to ensure that the exchange of information between countries is intensified and a flexible form of cooperation selected;
88. Seek to ensure that the general public is provided in good time with comprehensive information, in particular using audio-visual media, on the environmental situation in general and on measures which are proposed or have been implemented;
89. Propose more forcefully the inclusion of environmental policy among the subjects taught in schools;

¹ OJ C 4 of 7 January 1980, p 73 et seq

90. Encourage the Member States to promote the training of environmental specialists both for educational establishments and for the public administration;
91. Inform in particular the European Parliament in good time of all projects and plans and, in this connection, to enable national projects to be included by extending the information agreement;

8. Economic policy aspects and assistance measures

92. Introduce, in connection with environment policy, a policy for the protection of resources which covers all matters relating to tax incentives and constraints and to investment aid;
93. Examine whether, and if so how, tax concessions could be granted for the development, utilization or manufacture of environmentally harmless products and substitute materials and for the recovery of materials from waste products;
94. Consider whether the prices of cheaper imported products which are harmful to the environment could be increased (corresponding to levies in the agricultural sector);
95. Seek agreement with the Third World countries to prevent the manufacture of environmentally harmful products from being transferred to their territory;
96. Seek to ensure that more positive account is taken in profitability calculations and cost-benefit analyses of the concept of environmental protection and the scarcity of resources;

9. Ecology and development

97. Is of the opinion that, although nature and environment problems in the European Community are immense, they are even more serious in the countries of the Third World;
98. Is therefore convinced that the Community must pay much more attention to ecological problems in the Third World and that a separate chapter should be devoted to this subject in the third environment action plan;
99. Requests the Commission once again, following the resolution adopted by Parliament on 20 May 1980¹, to pursue the objectives of the World Conservation Strategy which are based on
 - (a) the conservation of essential ecological processes and eco-systems,
 - (b) the maintenance of genetic diversity,
 - (c) the responsible use of species and eco-systems;
100. Is of the opinion that a permanent advisory committee on ecology and development should be set up to advise the Commission on the steps to be taken;

¹ OJ C 147 of 16 June 1980, p 27

101. Is of the opinion that the ecological problems of the developing countries should become a permanent topic for consultations and the granting of aid within the framework of the Lomé Convention;
102. Is of the opinion that the activities of European financial institutions as well as those of the Community itself, where they affect aid granted to third countries, should in cooperation with the recipient countries, be tied to ecological parameters with use being made in particular of environmental impact assessments and ecological checklists;
103. Is of the opinion that the Community should, in particular, offer a helping hand for:
- the conservation of the last tropical rain forests
 - programmes to prevent the spreading of desert
 - water management programmes
 - the promotion of small-scale and ecologically responsible agricultural systems
 - the promotion of small-scale, non-pollutant and energy-saving cooking and heating facilities
 - education about the environment;
104. Is of the opinion that the measures outlined above should be implemented in close cooperation with UN bodies specialized in this field and with the Commission's Directorates-General for Development, Energy and Research and Economic and Financial Affairs;

PART III: FINANCE - FUND FOR ENVIRONMENTAL MEASURES

- 105 Recommends that a fund for environmental measures - or equivalent facilities - be set up to finance, in particular,
- (a) research and development in the field of clean energy sources and technologies,
 - (b) the protection of nature and the countryside,
 - (c) restorative action to compensate for damage to the environment,
 - (d) research and development in the field of the economical use and recycling of raw materials,
 - (e) the dissemination of information on environmental protection, not least in schools;
- 106 Recommends that adequate appropriations be made available for this fund.
107. Instructs its President to forward this resolution together with the report of the Committee on the Environment, Public Health and Consumer Protection to the Council and the Commission of the European Communities.

EXPLANATORY STATEMENT1. Introduction

The second environment action programme, which came into force in 1977 as a five-year programme, expires this year. The question is therefore how the Community should proceed with its environment policy in future.

2. Historical background

This environment policy began in 1971 when the Commission submitted its first memorandum on the environment to the Council. This document and further memoranda from several Member States led to the importance of environmental protection being explicitly acknowledged at the Paris summit in October 1972. In November 1973 the first programme came into force and this was followed in 1977 by the second programme which is now due to expire.

Deliberations are still in progress within the Council on the form environmental protection should take in future.

Whereas, in its early days, environmental protection adopted a defensive and ex post facto approach and in particular was used to make good damage after the event, it has now become more a policy which seeks to prevent damage occurring in the first place. Accordingly, the objectives of the second programme are twofold: appropriate management of resources and the incorporation of qualitative criteria.

The actions within the programme may be subsumed under four broad headings:

- (a) reducing environment pollution,
- (b) protecting resources,
- (c) supporting measures, (e.g., research, information, etc.),
- (d) problem-solving at the international level.

For further details see the communication from the Commission to the Council of 7.5.1980¹.

¹ Com (80) 222 final

3. Legal basis

There is no explicit reference in the Treaty of Rome to environmental protection as a Community activity. This is mainly due to the fact that at that time environmental protection had not assumed the political importance which it enjoys today.

There can, however, be no doubt that many problems in this sphere have a European dimension. Not only can environmental pollution transcend national borders, many issues involved also affect the free movement of goods and services. Various aspects of competition are affected in different areas.

The responsibility of the European Communities for environmental protection is not only justified under Article 235 but also by all the provisions relating to free movement, a uniform standard of living conditions and economic and social progress. The Council has recognized this fact by implementing these two programmes.

Certain restrictions may still apply to areas with a strong national component, such as the protection of flora and fauna or problems of soil and land management.

4. The importance and development of environment policy

The importance of environmental protection is undisputed. And because it is so important it must continue to be pursued in the form of a third action programme.

It is commendable that environmental protection has developed from simply repairing damage to a more preventive approach. There are moreover signs that environmental protection in future will be taken into account even at the planning stage. It needs to be fully integrated in all the relevant policies and programmes. This applies even when allowance is made for considerations of economy because it is far cheaper to take account of and incorporate environmental protection considerations from the outset than to make the necessary adjustments later.

5. Overall concepts and action programmes

Given the all-pervading importance of environmental protection and the need for this to be integrated in all the relevant policies, an overall conception is needed in the form of an environmental strategy. As this cannot be drawn up at a moment's notice, the third action

programme should confine itself to the most urgent projects as enumerated in the list of priorities in paragraph 19.

Initially, this means that environmental protection will continue in a similar form to previous programmes and the objectives, methods and organization of these are basically acceptable. Before the third programme is drawn up, however, an evaluation needs to be made. There would be little point in simply continuing without assessing the experience gained to date which could indicate that certain adjustments were necessary. National experience in this field should be included at the same time.

An overall concept is, however, essential in the medium and long term. Whereas specific actions may suffice to solve individual problems, environmental protection needs to become an integral and integrating factor of specific policies and to do so requires a common foundation. It will only be possible to coordinate individual measures and do full justice to environmental protection within the framework of a single strategy. Only in this way can environmental protection become an independent force and no longer simply a compensating factor in other policies.

Before such a strategy and concept can be defined, the governments should issue a clear and unequivocal statement on the issues referred to in paragraphs 13 and 14, i.e., nuclear energy, economic growth, costs, the allocation of costs and all general aspects of policy. Until these (politically sensitive) issues are resolved, environmental protection will of necessity remain a motley.

A lack of political courage often leads to a lack of clarity in legislation. It is clearly the courts which suffer as a result, because they are then obliged to take the decisions which the legislature has shirked. Paragraphs 72 et seq of the motion for a resolution seek to prevent this and also to preclude drawn-out legal proceedings.

6. Progress to date

A great deal more has already been achieved in the field of environmental protection than is generally recognized. It would therefore be appropriate to review the success of earlier actions. It is also important in this context to illustrate the positive effects of environmental protection, in particular to refute the claim that the costs involved in environmental protection lead to additional expense

and thus to a loss of jobs. It can easily be shown that environmental protection can create both new and additional jobs.

7. Individual proposals

The justification for the individual proposals is evident from the text. As these items generally correspond to the Commission's list, (even the additional proposals have been incorporated into these in a systematic manner) and as the different headings correspond more or less to those in previous action programmes, the communication from the Commission to the Council of 7 May 1980¹ may serve as an explanatory statement for individual items.

¹ COM (80) 222 final

OPINION OF THE LEGAL AFFAIRS COMMITTEE

for the Committee on the Environment, Public Health and Consumer Protection
on the state of the Community environment

Draftsman : Mr K. DE GUCHT

On 2 October 1980 the Legal Affairs Committee appointed Mr DE GUCHT
draftsman.

At its meeting of 13 and 14 April 1981, the committee considered the
draft opinion drawn up by Mr DE GUCHT and adopted it unanimously with
one abstention.

Present: Mr Chambeiron, vice-chairman and acting chairman; Mr De Gucht,
draftsman; Mrs Boot (deputizing for Mr Janssen van Raay), Mr Goppel,
Mrs Gouthier (deputizing for Mr D'Angelosante), Mr Prout, Mr Tyrrell,
Mrs Vayssade and Mr Vié.

A. The European Parliament and Community environment policy

1. The Committee on the Environment, Public Health and Consumer Protection has been authorized, at its own request, to draw up a report on the state of the Community environment.

As the committee responsible, it has based its political considerations on two fundamental documents:

- the Second Report of the Commission of the European Communities on the state of the environment¹;
- a communication (COM(80) 222 final) from the Commission to the Council on progress made in connection with the environment action programme and assessment of the work done to implement it.

The latter document consists of a summary and two annexes:

- a) the first annex describes the progress made and assesses the work done in each sector of activity under four headings: objectives, achievements, difficulties and prospects.
- b) the second is a list of texts adopted by the Council or the Commission.

2. The Community action programme on the environment was adopted in 1973 and covered a period of five years; it was confirmed and implemented for a further five-year period in 1977.

3. The committee responsible feels that a third action programme on the environment can and should be drawn up (see paragraph 1 of the motion for a resolution); this will entail confirming and bringing up to date the programme adopted in 1973; the third programme will serve as a blueprint for Community policy, with priority being given to certain points (see paragraphs 11 and 18 of the motion for a resolution).

Parliament must act to support the clear affirmation by the Council of the political will to achieve the objectives set out by the Commission in the above communication, as endorsed and supplemented by Parliament.

¹Office for Official Publications of the European Communities,
Catalogue No. CB-24-78-152-EN-C

B. - Comments by the Legal Affairs Committee¹

4. The Legal Affairs Committee notes that the priorities² fixed by the committee responsible constitute a wide-ranging and fairly ambitious whole; the diversity and number of the measures envisaged are such that the Legal Affairs Committee is unable to consider in detail the different legal problems liable to result from their implementation in time for a debate in plenary sitting that cannot be delayed; the Legal Affairs Committee is prepared to deliver a reasoned opinion on any proposal submitted by the Commission, particularly as regards approximation of national legislation in this area³.

5. As regards questions of principle⁴ falling more particularly within its terms of reference, and arising from paragraphs 66 to 73 of the draft motion for a resolution, the Legal Affairs Committee will confine itself to:

- supporting the recommendation that efforts be made to lay down totally unambiguous Community legislation and that a compilation be made of national provisions on the environment in order to establish in which areas an approximation of provisions on environmental protection is particularly necessary;

- suggesting that paragraphs 66 and 73 of the motion for a resolution should be condensed into a single paragraph that might read as follows:

'Continue work on the approximation of national legislation, especially where necessary for the elimination of all distortions of competition due to disparities between the laws, regulations and administrative provisions of the Member States.'

¹ Formulated taking into account the revised draft report (PE 69.663/rev.2 of 26 March 1981)

² The Legal Affairs Committee would like to suggest that of the actions which the committee responsible recommends for acceptance over the next five years the final text of the report should highlight those which do not appear in the Commission communication to the Council, and therefore constitute - along with support in principle for continuing and strengthening this Community policy - Parliament's own contribution.

³ It was in this spirit that the Legal Affairs Committee asked for authorization to deliver an opinion on the proposal for a directive (Doc. 1-293/80) concerning the assessment of the environmental effects of certain public and private projects.

⁴ As regards the scope offered by the Community Treaties in the matter of combatting pollution and protecting the environment, the Legal Affairs Committee recalls the resolution adopted by Parliament on 18 April 1972 (OJ No. C 46, 9.5.1972, p. 13) on the basis of the ARMENGAUD report (Doc. 15/72).

- urging that the provisions of Community legislation should constitute minimum provisions, i.e. that they should not affect the authority of the Member States to apply or create provisions which offer greater protection for the environment.

6. The Legal Affairs Committee thinks it worthwhile to draw attention to the important judgment¹ of the Court of Justice of the European Communities of 30 November 1976 giving a ruling favourable to the plaintiff on conflicts of jurisdiction arising in cases where water-borne or atmospheric pollution is carried from one Member State to another. In this case the Court ruled:

'Where the place of the happening of the event which may give rise to liability in tort, delict or quasidelict and the place where that event results in damage are not identical, the expression 'place where the harmful event occurred', in Article 5(3) of the Convention of 27 September 1968 on jurisdiction and the enforcement of Judgments in Civil and Commercial Matters, must be understood as being intended to cover both the place where the damage occurred and the place of the event giving rise to it.

The result is that the defendant may be sued, at the option of the plaintiff, either in the courts for the place where the damage occurred or in the courts for the place of the event which gives rise to and is at the origin of that damage.'

On this same subject of the legal means available for the protection of the environment, the Legal Affairs Committee suggests that a comparative study should be undertaken of the conditions subject to which registered associations for the protection of the environment are entitled to take legal action on all matters directly or indirectly prejudicial to the common interest.

¹ Court of Justice, 30 November 1976 (Bier v. Mines de Potasse d'Alsace), Reports of Cases before the Court, 1976-8, pp 1748-9.

