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REPORT

drawn up on behalf of the Committee on Legal Affairs and
Citizens' Rights

on the proposal from the Commission of the European
Communities to the Council (COM(86) 397 final - C 2-76/86)
for an eleventh Council directive based on Article 54(3)(g)
of the Treaty concerning disclosure requirements in respect
of branches opened in a Member State by certain types of
companies governed by the law of another Member State

Rapporteur: Mr O. VETTER

WG(VS1)6801E

PE 113.292/fin.
Or. De.

**EXPLANATION OF SYMBOLS APPEARING ON THE
COVER PAGE OF SERIES A SESSION DOCUMENTS**



= Consultation procedure requiring a single reading



= Cooperation procedure (first reading)



= Cooperation procedure (second reading) which requires the votes of the majority of the Members of Parliament



= Parliamentary assent which requires the votes of the majority of the current Members of Parliament

By letter of 12 August 1986 the Council of the European Communities consulted the European Parliament on the basis of Article 54(3)(g) and Article 54(2) of the EEC Treaty on the proposal from the Commission of the European Communities to the Council for an eleventh directive concerning disclosure requirements in respect of branches opened in a Member State by certain types of companies governed by the law of another Member State.

On 8 September 1986 the President of Parliament referred the proposal to the Committee on Legal Affairs and Citizens' Rights as the committee responsible and to the Committee on Economic and Monetary Affairs and Industrial Policy for its opinion.

At its meeting of 17 September 1986 the Committee on Legal Affairs and Citizens' Rights appointed Mr Vetter rapporteur. The committee held a general exchange of views on the Commission proposal at its meeting of 22 April 1987. It considered the proposal and the draft report at its meetings of 25-26 June and 3-4 November 1987.

At the latter meeting the committee approved the Commission proposal, subject to the amendment it had adopted.

The Commission informed the committee that it would state its views on Parliament's amendments in the House.

The committee then adopted the draft legislative resolution as a whole unopposed by 19 votes, with one abstention. The following took part in the vote: Lady ELLES, chairman; Mrs VAYSSADE, Mr SARIDAKIS and Mr VERDE I ALDEA, vice-chairmen; Mr ROTHLEY (deputizing for the rapporteur); Mr ALBER, Mr BARZANI, Mr CABANILLAS GALLAS, Mr CABREA BAZAN, Mr CASINI, Mrs FONTAINE, Mr GARCIA AMIGO, Mr GAZIS, Mrs MARINARO, Mr MARQUES MENDES, Mrs MIRANDA DE LAGE, Mrs NEUGEBAUER, Mr RUBERT DE VENTOS (deputizing for Mr HOON), Mr PORDEA and Mr STAUFENBERG.

The opinion of the Committee on Economic and Monetary Affairs and Industrial Policy is attached. The report was tabled on 4 November 1987.

The deadline for tabling amendments to this report will be indicated in the draft agenda for the part-session at which it will be debated.

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The Committee on Legal Affairs and Citizens' Rights hereby submits to the European Parliament the following amendments to the Commission's proposal and motion for a resolution together with explanatory statement:

Commission proposal for an Eleventh Council Directive based on Article 54(3)(g) of the Treaty concerning disclosure requirements in respect of branches opened in a Member State by certain types of companies governed by the law of another State

Text proposed by the Commission

Amendments tabled by the Committee on
Legal Affairs and Citizens' Rights

Citations unchanged
Recitals 1,2,3,4 and 5 unchanged

Sixth Recital

Amendment No. 1

Whereas to ensure the protection of persons who deal with companies by way of a branch, measures in respect of disclosure are required in the Member State in which the branch is situated, and to effect such disclosure it is necessary to make use of the procedure already instituted for limited liability companies within the Community;

Whereas to ensure the protection of persons who deal with companies by way of a branch, measures in respect of disclosure are required in the Member State in which the branch is situated, whereas the economic and social influence of a branch may be comparable to that of a subsidiary company, so that to that extent the public interest in disclosure is comparable; whereas to effect such disclosure it is necessary to make use of the procedure already instituted for limited liability companies within the Community;

Text proposed by the Commission

Amendments tabled by the Committee on
Legal Affairs and Citizens' Rights

Recital 7

Whereas the said disclosure with an exception in respect of those having powers of representation may be confined to information concerning the branch itself together with a reference to the register of the company of which the branch is part, given that, pursuant to Community rules, all information covering the company as such is available on that register;

Unchanged

Amendment No. 2

Add the following:

whereas details relating to the nullity of the company, any decision by a court on the dissolution of the company, the appointment and particulars of liquidators and their powers, and the conclusion of liquidation must be published without delay in the State in which the branch is situated;

Eight and ninth recitals unchanged

I. Heading unchanged

Article 1

Documents and particulars relating to a branch set up in a Member State by a company which is subject to the law of another Member State and to which Directive 68/151/EEC applies shall be disclosed according to the law of the Member State of the branch in compliance with Article 3 of the said Directive.

Amendment No. 3

Documents and particulars relating to a branch set up in a Member State by a company which is subject to the law of another Member State and to which Directive 68/151/EEC applies shall be disclosed according to the Law of the Member State of the branch in compliance with Article 3 of the said Directive.

Particulars of branches in the same country and abroad must also be disclosed at the seat of the company.

Article 2

1. The compulsory disclosure provided for in Article 1 shall cover the following documents and particulars:

(a) the address of the branch;

(b) the register in which the company file mentioned in Article 3 of Directive 68/151/EEC is kept, together with the registration number in that register;

Article 2

Unchanged

(a) Unchanged

Amendment No. 4

(b)(new) the object of the activities of the branch and the number of its employees;

(c) Old (b) unchanged

Text proposed by the Commission

Amendments tabled by the Committee on
Legal Affairs and Citizens' Rights

Amendment No. 5

(d)(new) information pursuant to
Directive 68/151/EEC in the official
language(s) of the country in which
the branch is set up;

(c) the name of the branch if that
is different from the name of the
company;

(e) Old bracket (c) unchanged

(d) the appointment, termination of
office and particulars of the persons
who, either as a body constituted
pursuant to law or as members of any
such body and those who as permanent
representatives of the company for
the activities of the branch, are
authorized to represent the company in
dealings with third parties and in
legal proceedings. It must be stated
whether the persons authorized to
represent the company may do so alone
or must act jointly;

(f) Old bracket (d) unchanged

Amendment No. 6

(g)(new) the existence of other
branches in the same Member State
including the register and the number
in it under which these other
branches are entered;

Amendment No. 7

(h)(new) transfers of the location of
the branch

(e) the accounting documents covered
by Article 3;

(i) old (e) unchanged

(f) the closure of the branch.

(k) old (f) unchanged

2. The Member State of the place of
the branch may require the deposit in
the register of the branch of the
certified signature of the persons
referred to in paragraph 1(d).

unchanged

Text proposed by the Commission

Amendments tabled by the Committee on
Legal Affairs and Citizens' Rights

Article 3

Article 3

1. The compulsory disclosure of accounting documents provided for by Article 2(1)(e) shall be limited to the annual accounts and annual report of the company. These documents must have been drawn up and audited in accordance with the law of the Member State by which the company is governed in compliance with Directives 78/660/EEC and 84/253/EEC.

unchanged

Amendment No. 8

2. In respect of the branch's economic activity, information shall be required concerning investment in fixed assets, sales and personal costs, if the branch or group of branches is not small within the meaning of Article 11 of Directive 78/660/EEC; in such cases the Member States may also require the branch or group of branches to draw up and publish its own accounts.

2. Paragraph 1 shall not apply where, pursuant to Article 57 of Directive 78/660/EEC, the provisions thereof concerning the content, auditing and publication of the annual accounts do not apply to a company which is a subsidiary company within the meaning of Directive 83/349/EEC. In this event the compulsory disclosure provided for in Article 1 shall cover the consolidated accounts and the consolidated annual report of the parent undertaking of the company.

unchanged

These documents must have been drawn up and audited in accordance with the law of the Member State by which the parent undertaking is governed in compliance with Council Directive 83/349/EEC and 84/253/EEC.

unchanged

Text proposed by the Commission

Amendments tabled by the Committee on
Legal Affairs and Citizens' Rights

Amendment No. 9

3. The Member State in which the branch was created may stipulate that the documents and particulars referred to in paragraphs 1 and 2 must be published in its official language and that their translation must be certified.

3. The documents and particulars referred to in paragraphs 1 and 2 must be published in the official languages of the Member State in which the branch is located and their translation must be certified.

II. Subheading unchanged

Article 4 and 5 unchanged

Article 6

1. The compulsory disclosure provided for in Article 15 shall cover at least the following documents and particulars:

Article 6

Unchanged

Amendment No. 10

(a) The address of the branch;

(a) The documents and particulars provided for in Article 2 of this Directive;

(b) the law of the State by which the company is governed;

(b) Unchanged

(c) where the said law so provides, the register in which the company is recorded and the registration number of the company in that register;

(c) Unchanged

(d) the instruments of constitution, and the memorandum and articles of association if they are contained in a separate instrument with all amendments to these documents;

(d) Unchanged

(e) the legal form of the company, its seat, its name and its object and the amount of subscribed capital if these matters are not shown in the documents covered by subparagraph (d);

(e) Unchanged

Text proposed by the Commission

(f) the name of the branch if that is different from the name of the company;

(g) the appointment, termination of office and particulars of the persons who either as a body constituted pursuant to law or as members of any such body and those who as permanent representatives of the company for the activities of the branch are authorized to represent the company in dealings with third parties and in legal proceedings.

(h) It must be stated whether the persons authorized to represent the company may do so alone or must act jointly;

(i) the closure of the branch;

2. The Member State of the place of the branch may require the deposit in the register of the branch of the certified signature of the persons referred to in paragraph 1(g).

Article 7

1. The compulsory disclosure of accounting documents provided for by Article 6(1)(h) shall apply to at least the annual accounts and annual report of the company.

Amendments tabled by the Committee on Legal Affairs and Citizens' Rights

Amendment No. 11

Delete

Amendment No. 12

Delete

(f) old (h) unchanged

Amendment No. 13

delete

Unchanged

Article 7

Amendment No. 14

1. The compulsory disclosure of accounting documents provided for by Article 6(1)(f) shall apply to at least the annual accounts and annual report of the company.

Text proposed by the Commission

2. Where the company produces consolidated accounts and a consolidated annual report instead of annual accounts and an annual report the compulsory disclosure provided for in Article 5 shall cover such consolidated accounts and the consolidated annual report.

3. The documents covered by paragraphs 1 and 2 must have been drawn up and audited pursuant to the law which governs the company and in accordance with the relevant provisions of such legislation or, in default thereof, in accordance with the accounting principles generally accepted in the State in question.

4. Article 3(3) shall apply.

Article 8

Amendments tabled by the Committee on
Legal Affairs and Citizens' Rights

2. Unchanged

Amendment No. 15

3. The documents covered by paragraphs 1 and 2 must have been drawn up in accordance with Council Directive 78/660/EEC or 83/349/EEC, or so as to be equivalent to annual accounts or consolidated accounts and annual report or a consolidated annual report drawn up according to that directive; they must also have been audited pursuant to the law which governs the company.

Amendment No. 16

4. If one or more of the conditions laid down in paragraph 3 are not fulfilled, the fact must be mentioned in the disclosure. In such cases the compulsory disclosure shall also cover annual accounts restricted to the activities of the branch or group of branches. This document must have been drawn up in accordance with the law of the Member State in which the branch or group of branches is located pursuant to Council Directive 78/660/EEC and have been audited by one or more approved persons under that law in accordance with Council Directive 84/253/EEC.

Amendment No. 17

5. Article 3(2) and (3) shall apply.

Article 8

Text proposed by the Commission

Member States shall prescribe that letters and order forms used by the branch shall state the register in which the file in respect of the branch is kept together with the number of the branch in that register.

Article 11

Pending subsequent coordination, Member States need not apply the provisions of Articles 3 and 7 to the branches of banks, other financial institutions and insurance companies.

Article 12

1. Member States shall bring into force the laws, regulations and administrative provisions necessary for them to comply with this Directive by 1 January 1990. They shall forthwith inform the Commission thereof.

2. Member States may stipulate that the provisions referred to in paragraph 1 shall not apply until 1 January 1992.

3. Member States shall communicate to the Commission the texts of the main provisions of national law which they adopt in the field covered by this Directive.

Articles 13 and 14 unchanged

Amendments tabled by the Committee on
Legal Affairs and Citizens' Rights

Amendment No. 18

Member States shall prescribe that letters and order forms used by the branch shall state the register in which the file in respect of the branch is kept together with the number of the branch in that register. If the law governing the company requires an entry in a register, that register and the number of the entry shall also be stated.

Amendment No. 19

Article 11

Pending subsequent coordination, Member States need not apply the provisions of Articles 3 and 7 to the branches of banks and other financial institutions. (3 words deleted)

Article 12

1. Unchanged

Amendment No. 20

2. Member States shall stipulate that the provisions referred to in paragraph 1 shall (1 word deleted) apply from 1 January 1991

Amendment No. 21

3. Member States shall communicate to the Commission the texts of the (1 word deleted) provisions of national law which they adopt in the field covered by this Directive.

A
DRAFT LEGISLATIVE RESOLUTION

embodying the opinion of the European Parliament in first reading pursuant to Article 149(2)(a) of the EEC Treaty on the proposal from the Commission to the Council for an eleventh directive based on Article 54(3)(g) of the Treaty concerning disclosure requirements in respect of branches opened in a Member State by certain types of companies governed by the law of another State

The European Parliament,

- having regard to the proposal from the Commission to the Council (COM(86) 397 final)¹,
 - having been consulted by the Council pursuant to Article 54(3)(g) of the EEC Treaty²,
 - having regard to the report of the Committee on Legal Affairs and Citizens' Rights and the opinion of the Committee on Economic and Monetary Affairs and Industrial Policy (Doc. A 2-192/87),
 - having regard to the result of the vote on the Commission's proposal,
1. Approves the legal basis proposed for the directive;
 2. Calls on the Commission to adopt, pursuant to Article 149(3) of the EEC Treaty, the amendments which it has tabled;
 3. Calls on the Council to incorporate these amendments in the common position it adopts pursuant to Article 149(2)(a) of the EEC Treaty;
 4. Instructs its President to forward to the Council and Commission, as Parliament's opinion, the proposal as amended by Parliament and this legislative resolution.

¹OJ No. C 203, 12.8.1986, p. 12 et seq.

²Doc. C 2-76/86

B.
EXPLANATORY STATEMENT

1. The draft Eleventh Directive on 'disclosure requirements in respect of branches opened in a Member State by certain types of companies governed by the law of another State' is a further proposal by the Commission aimed at aligning company law in the European Community, and hence a further step towards the completion of the internal market scheduled for 1992.

Aims and content of the proposed directive

2. The general aim of the proposal is stated to be to facilitate the exercise of the right of establishment granted by the EEC Treaty to companies as well as natural persons. At present, as the Tenth Directive on cross-border mergers has not yet been adopted, this right can be exercised by companies only by creating a subsidiary company or opening a branch. There are, however, fundamental differences between a subsidiary company and a branch:
 - a subsidiary company has a legal personality separate from that of its parent company, and may conclude contracts with third parties in its own name. As it may itself own assets, it is liable for the commitments entered into with those assets;
 - a branch, on the other hand, is an integral part of an undertaking and does not have its own legal personality. It may therefore conclude contracts with third parties only on behalf of the undertaking of which it forms a part. Liability for commitments entered into by a branch is borne by the undertaking. Branches do however have a management and may conduct business on behalf of the undertaking to which they belong³.
3. Provisions covering accounting and disclosure are uniform throughout the Community for limited companies and their subsidiaries, but vary between the Member States in respect of branches. The Commission considers that European company law needs to be adjusted to take into account the situation where companies establish branches in other Member States than that in which they are established. Existing and future discrepancies in accounting and disclosure requirements between independent subsidiaries and dependent branches, the latter of which will certainly proliferate with the development of the internal market⁴, are to be removed. To ensure protection for third parties, and the provision of information to the public in the case of branches established by a company in another Member State, the following Community arrangements would be adopted, based on existing procedures for limited liability companies:

³ See also the definition of a branch given in the judgment of the Court of Justice of 22.11.1978 (Case 33/78), 'The concept of branch, agency or other establishment implies a place of business which has the appearance of permanency, such as the extension of a parent body, has a management and is materially equipped to negotiate business with third parties so that the latter, although knowing that there will if necessary be a legal link with the parent body, the head office of which is abroad, do not have to deal directly with such parent body but may transact business at the place of business constituting the extension.'

⁴ In his opinion on this proposal for a directive, Mr Herman estimates that there are currently 20 000 branches of companies in other Member States (see PE 111.003/final of 18.12.1986)

(a) Subjects of disclosure (Article 2)

4. The appropriate register in the Member State in which the branch of a foreign company is established is in the first instance to contain only those facts which concern the branch itself, that is to say according to Article 2:
- address, company name, appointment, termination of office and particulars of the persons at the branch who are authorized to represent the company in legal proceedings, and closure of the branch;
 - the accounting documents covered by Article 3;
 - the register in which the company file is kept, and the registration number.

In view of the provisions of the First Directive, further documents would not seem necessary, as they are already available for inspection on the register governing the head office of the company.

(b) Accounting

5. There is a great disparity in the Member States' requirements for disclosure of the company's accounting documents in the registers covering the branch. In some Member States, such as Belgium, annual accounts for the branches are also required.
6. To protect shareholders and third parties, especially creditors, the annual accounts and annual report of the company, drawn up in accordance with the Fourth, Seventh and Eighth Directives, also have to be disclosed on the register of the branch (Article 3). Compulsory disclosure of the annual accounts and annual report shall not apply to a company which is itself a subsidiary company within the meaning of Article 43 of the Seventh Directive, if the parent company is liable for the commitments of the subsidiary. In such cases the consolidated annual accounts of the parent company alone need be disclosed on the register of the branch.
7. After this directive has come into force, the Member State in which the branch is located may not, in contrast to present practice in some Member States, require disclosure of any other accounting documents. However, the Member State will be able to stipulate that the document be published in its official language and that the translation must be certified.

(c) Branches of companies from third countries

- B. This directive would also apply to branches of companies with their head offices outside the Community, if they are of a comparable legal form. Articles 5 - 8 therefore lay down minimum rules on disclosure (e.g. annual accounts and annual report or the consolidated accounts) of those companies. They do not however require these accounts to be the equivalent of accounts drawn up pursuant to Directives 78/660/EEC or 83/349/EEC, so that the amount of information they reveal may vary considerably. Articles 9 and 13 contain transitional and final provisions.

Assessment of this proposal for a directive

9. Although the Commission's intention of introducing compulsory disclosure for branches of foreign companies in all the Member States is to be welcomed, reservations, some of them fundamental, have to be made.

Departing from the principles that have applied hitherto in aligning company law in the Community, this proposed Eleventh Directive sets very low requirements, lower than those currently in force in some Member States, and are defined as maximum standards, so that with few exceptions the Member States are prevented from setting further requirements. The Member States may not require branches or companies to disclose further documents or particulars. The justification given for these low maximum requirements is the need to remove obstacles to the exercise of the right of establishment and the creation of the internal market.

10. Another unsatisfactory feature of the Commission's proposal is that it provides for no information on the economic activities of the branch itself, but simply for disclosure of the annual accounts and annual report or consolidated accounts of the company. Of course such information on the company or parent company is necessary, but it is just as essential in respect of the branch, especially if the latter is of major importance in economic and social terms. Above a certain economic size there is a special public interest, as well as the special interest of the workforce and its representatives, in the economic situation of both the company and the branch itself. Minimum amounts of information, depending on the size of the branch, should therefore be required, at least the number of employees as an indication of the extent of its economic activity for all branches, and for medium and larger branches, investment in fixed assets, turnover and staff expenses of the branch at least. The Member State must also have the right to require a separate set of annual accounts from branches which count as other than small. Such information must be easily accessible to workers and their representatives, i.e. in their own language, as in addition to purely linguistic barriers there are often difficulties with different legal systems. In any case, disclosure in the language of the country in which the branch is located would be cheaper, as only one translation would then have to be made, by the undertaking to which the branch belongs; without this provision every individual interested party would have to make a separate translation, with the result that translation costs would multiply with the number of interested parties.
11. The importance of this requirement will be all the greater if, after adoption of the Tenth Directive, trans-border mergers of limited companies make, what once were very large undertakings legally dependent establishments or branches. The result might be that in one Member State one or more establishments might exercise considerable economic and social influence without being subject to accounting and disclosure requirements such as already apply to subsidiaries, for example. It would be logical, in the light of previous directives on disclosure and their explanatory memoranda, to make branches subject to the same accounting and disclosure requirements as legally independent subsidiaries the extent of such requirements also being based on the size criteria in the Fourth and Seventh Directives. A separate set of annual accounts should also be required for branches if the company has its head office outside the Community, and its annual accounts or consolidated accounts do not comply with the Fourth or Seventh Directives or are not equivalent.

12. In conclusion, we would draw attention to the widening discrepancies in the development of company law in the European Community. Directives of this kind are increasingly clearing away legal and economic 'obstacles' to facilitate business activities and cooperation. These attempts to cut out red tape are in fact clouding economic activity in the Community and hampering the proper operation of the market, instead of ensuring the clarity for which there is so much clamour.

So far there is no sign of any effort to safeguard and extend the rights of workers and their representatives to co-determination and information, to accompany the harmonization of company law in the Community.

OPINION

(Rule 101 of the Rules of Procedure)
of the Committee on Economic and
Monetary Affairs and Industrial Policy

At its meeting of 25-27 November 1986, the Committee on Economic and Monetary Affairs and Industrial Policy appointed Mr HERMAN draftsman of its opinion.

It considered the draft opinion at its meeting of 16 December 1986 and adopted the conclusions by 19 votes to 2 with 4 abstentions.

The following took part in the vote: Mr von BISMARCK, vice-chairman and acting chairman; Mr HERMAN, draftsman, Mr BEIROCO, Mr BEUMER, Mr BONACCINI, Mr BRU PURON, Mr BUENO VICENTE, Mr CASSIDY, Mr CHRISTODOULOU (deputizing for Mr ABELIN), Mr CRYER (deputizing for Mrs GREDAL), Mr DIMITRIADIS, Mr FALCONER, Mr FICH(Rule 93(2) substitute), Mr FOURCANS, Mr I. FRIEDRICH, Mr MARQUES MENDES, Mr METTEN, Mr NOVELLI, Mrs OPPENHEIM, Mr PAPOUTSIS (deputizing for Mr MORONI), Mr PATTERSON, Mr PETERS (deputizing for Ms QUIN), Mr ROGALLA, Mr WEDEKIND and Mr von WOGAU.

I. AIM OF THE PROPOSED DIRECTIVE

In order to become established in another Member State than the one in which it has its head office, a company may create a subsidiary or open a branch.

So far however the creation of branches has not been covered by the various directives on the coordination of company law in the Community.

The result is that branches set up abroad¹ are subject to different laws in different Member States.

Thus, where the company has to be identified or accounting documents published, the creation of branches conflicts with the principle of freedom of establishment of companies and may be prejudicial to people who have dealings with those branches.

Thus, for the sake of public protection and attainment of the internal market, the disclosure requirements incumbent on branches of companies of Member States and non-Member countries also had to be coordinated.

Although they have no legal personality, assets or power to act on their own, branches are clearly an extension of the parent company². In view of their number, activities and special legal status, and in order to prevent any discrimination between undertakings and ensure that the public can obtain information about them, branches must be the subject of coordinated Community provisions.

¹ Estimated to number 20 000

² See Court of Justice judgment of 22 November 1978, Case 33/78

II ARRANGEMENTS FOR COORDINATING THE RULES

The general principle adopted by the Commission in its proposed directive is that branches should benefit from the harmonization measures adopted for companies proper. For the sake of simplification and harmonization, the directive therefore keeps to a minimum the disclosure requirements incumbent on branches set up in a Member State other than that in which the parent company has its head office.

(a) Branches of companies of Member States

With reference to existing directives, the coordination is limited to disclosure by branches of foreign limited liability companies only.

Thus, the disclosure requirements incumbent on companies, which are listed in Article 2 (address, name, appointment and termination of office of persons representing the company for the activities of the branch and authorized to represent the company in dealings with third parties) apply to branches registered in the Member State in which they are located.

The compulsory disclosure of accounting documents is limited to the annual account and annual report of a company. In the case of a branch of a subsidiary, the disclosure requirement covers the consolidated accounts and the consolidated annual report of the parent company.

It will no longer be possible to require publication of branch accounts, as is done in some Member States. Lastly, Member States may require that these documents may be published in their official languages (Article 3).

(b) Branches of companies from third countries

To prevent any discrimination between companies, the directive also covers branches of companies from third countries that have a comparable legal form.

Community legislation does not cover companies from third countries. Using the comparability criteria as its basis, therefore, the directive merely imposes a number of minimum rules on such branches as regards disclosure in the register of the branch. Member States may however demand additional information they deem necessary (Article 6).

As regards accounts, branches must publish the annual accounts of the parent companies from third countries or their consolidated accounts.

(c) Transitional and final provisions

Lastly, the directive contains a number of transitional and final provisions:

- concerning penalties for failure to fulfil the disclosure requirements
- for derogations in respect of branches of banks, other financial institutions and insurance companies, pending further coordination as provided for in the 4th and 7th directives on consolidated accounts
- a transitional period, the date of entry into force of the directive being 1 January 1990 or 1 January 1992 if some Member States so desire,
- reference to the role of the Contact Committee set up pursuant to Article 52 of Directive 78/660/EEC.

Conclusions

In conclusion, the Committee on Economic and Monetary Affairs and Industrial Policy has the following points to make:

1. Some 20 000 branches of limited liability companies established outside the frontiers of the Member State in which the parent companies have their head offices have not so far been covered by the various directives on the coordination of company law. This situation is to be regretted since it gives rise to discrimination and conflicts with the principle of freedom of establishment of companies in the Community and protection of the public. It also conflicts with the need to encourage transparency in the information available to third parties.

2. To remedy this situation, this directive on the coordination of disclosure requirements merely requires branches to meet the obligations currently imposed on companies as regards identification and publication of accounts in their register.

In the case of branches of companies from third countries, the directive takes the comparability criterion as its basis and lists a number of minimum rules which Member States may, if they deem necessary, tighten up.

3. By coordinating the disclosure measures imposed on branches by existing directives on company law and especially by abolishing the requirement that branches publish their own accounts, this directive ensures that branches of limited liability companies in the Community will henceforth have the right of establishment. There will be no discrimination and the public will be protected in accordance with the objective of attaining the internal market.

4. Nevertheless, the Committee on Legal Affairs and Citizens' Rights is asked to consider:

- the date of entry into force of the directive. This should no longer be optional but should be fixed at 1 January 1990.

Subject to these reservations, the proposed directive should be approved.

LIST OF AMENDMENTS OBTAINING AT LEAST
5 VOTES IN THE COMMITTEE RESPONSIBLE
(see Rule 36(6) of the Rules of Procedure)

The following amendments were rejected in committee but obtained at least 5 votes:

Amendments Nos. 1,2,5,6,12,13 and 21 by Mr VETTER, rapporteur, contained in draft report PE 113.292.