

**Opinion on 'Sustainable development in tune with the environment — an interim evaluation of the fifth Community Action Programme on the Environment'**

(96/C 18/25)

On 30 March 1995 the Economic and Social Committee decided, in pursuance of the third paragraph of Rule 23 of the Rules of Procedure, to draw up an Opinion on the following subject: 'Sustainable development in tune with the environment — an interim evaluation of the fifth Community Action Programme on the Environment'.

The Section for Protection of the Environment, Public Health and Consumer Affairs, which was instructed to prepare the Committee's work on the subject, adopted its Opinion on 19 September 1995. The Rapporteur was Mr Boisserée.

The Committee unanimously adopted the following Opinion at its 329th Plenary Session on 25-26 October 1995 (meeting of 25 October).

### 1. Preliminary observations

1.1. The fifth Community Action Programme on the Environment <sup>(1)</sup> provides the basis for the environmental policy of both the EC bodies and all the responsible parties concerned. The Action Programme, on which the Economic and Social Committee issued a detailed Opinion on 1 July 1992 <sup>(2)</sup>, is to run until the end of the century. Provision is, however, made for the programme to be reviewed at the end of 1995.

1.2. The Action Programme lists a number of parties involved in environmental policy, including the economic and social interest groups represented on the Economic and Social Committee; the Action Programme is thus not confined to the Member States, local and regional authorities and EC bodies. It is therefore appropriate for the Groups represented on the ESC to draw up an interim assessment and at the same time to submit proposals for revising the Programme, bearing in mind also the proposals put forward by the ESC in 1992.

### 2. Background to the ESC's observations

2.1. In the period since the Programme came into force, the Committee's Opinion of 1 July 1992 has had only a partial influence on Community environmental policy. Many of the demands addressed to EC bodies have not been heeded. This interim evaluation must therefore also review the comments expressed by the Committee in the earlier Opinion.

2.2. On 30 November 1994, the European Commission drew up its interim evaluation <sup>(3)</sup>. The ESC has not been officially requested to deliver an Opinion on this document; the views expressed by the Commission should, however, be taken into account in this Own-initiative Opinion.

The Committee would also draw attention to chapter 10 of the White Paper on Growth, Competitiveness and Employment published by the Commission in June 1993. In this chapter, entitled 'Thoughts on a new development model', the Commission sets out a number of fundamental observations which carry forward the views expressed in the fifth Action Programme and establish a link between environmental and economic needs. The Committee considers that these views should be taken into consideration in the review of the Action Programme.

Coinciding with the review, the Commission has submitted a report drawn up by a group of independent experts on the simplification of legal and administrative provisions ('Molitor Report') <sup>(4)</sup>. This report does not refer to the Action Programme; it is by no means confined to the environment field. It is, nonetheless, relevant in the context of observations on the review of the Action Programme.

2.3. 1995 is also the date set for the publication of a number of Opinions drawn up by socio-economic groups and organizations and interim evaluations, compiled by individual Member States, of the measures taken to implement the Action Programme.

### 3. Experience with the fifth Action Programme

3.1. In its document, the Commission summarizes its position as one of 'cautious optimism'. It underlines the importance of the Programme in the context of the measures to be taken following the Earth Summit in Rio de Janeiro (1992). The Commission's report also highlights considerable shortcomings in a number of areas.

3.2. The environmental situation has not of course been decisively altered (improved) by the Programme in the two years which have elapsed since its adoption. It is, however, clear that there is still a need for an action programme on the environment, since there has been no general improvement in the quality of the environment in the EC and in some areas it has not even been possible to maintain standards, (e.g. in respect of carbon dioxide

<sup>(1)</sup> OJ No C 138, 17. 5. 1993.

<sup>(2)</sup> OJ No C 287, 4. 11. 1992.

<sup>(3)</sup> COM(94) 453 final.

<sup>(4)</sup> COM(95) 288 final.

and waste). In this context, attention is drawn to the Dobříš Assessment (Europe's Environment, 1994)<sup>(1)</sup>. The timing of the ESC's interim evaluation — which was also prescribed by the Commission — is however appropriate:

- in order to determine the extent to which the Action Programme has been taken into account in measures adopted at EC and national levels (in as much as the relevant information is available to the ESC);
- in order to enable the Programme to be adjusted in the light of the developments in the intervening period.

3.3. The views expressed by the socio-economic interest groups involved in the implementation of the Action Programme — together with the views expressed by the Commission — point to the following conclusions:

3.3.1. It is proving difficult to achieve precise implementation of the Programme because in many cases the parties involved in environmental policy have simply been lumped together<sup>(2)</sup>. There is therefore a need to review the methodological approach pursued in the Programme in the light of experience.

3.3.2. One problem affecting the implementation of the Programme is the lack of social consensus on the aim of the fifth Action Programme and the way in which the instruments are to be used. A system of indicators of sustainable and environmentally-sound development has also still to be introduced. Attention is drawn to the Commission's communication on environmental indicators and green national accounting<sup>(3)</sup>. The very important work carried out by Eurostat in this field should be further encouraged.

3.3.3. The information available on the implementation of the Action Programme in the individual Member States is incomplete. Citizens are indeed making increased use of the opportunity of raising questions in the European Parliament, which are then forwarded to the Commission for reply. There is however no evidence that the Programme is being applied systematically. There have been widespread demands for the European Environment Agency to be more closely involved.

3.3.4. One of the central planks of the fifth Action Programme is partnership with the 'environmental policy actors' and their assumption of a joint responsibility. The involvement of associations and organizations representing economic and social interest groups in preparing EC-level programmes and measures has thus been improved. A number of environmental associations have however complained that their involvement has not produced any tangible influence. At national level, associations do not have the right to institute legal proceedings in the interest of the general public in the

absence of an injured party. In some Member States consumer associations do have the right to take legal action and this could serve as an example for similar provisions under environmental law<sup>(4)</sup>.

3.3.5. The incorporation of the fifth Action Programme into European and national policies, a need which was especially highlighted by the ESC, remains patchy. The political treatment afforded to the Action Programme is itself symptomatic of the problem. A series of publicity events have admittedly been organized at national level but EC and national political bodies have not been asked to give their views on detailed aspects of the programme. There has likewise been a lack of coordination of European and national environmental policies.

#### 4. Observations on the review of the fifth Action Programme

##### 4.1. *The fifth Action Programme and the White Paper on Growth, Competitiveness and Employment*

In its report the Commission sets out a series of proposals for updating the fifth Action Programme. The observations in chapter 10 of the White Paper have not, however, been incorporated into either the Action Programme or into the strategies for implementing the Programme. The ESC's position on this matter is echoed by the decision taken by the General Consultative Forum on the Environment (chapter 9 of the fifth Action Programme, page 115) on 17 February 1995. The ESC also takes the view — likewise shared by the Forum — that there is at present no need for a comprehensive revision of the fifth Action Programme or a new programme. The interim evaluation should primarily flesh out the provisions of the original Programme and concentrate on securing improved implementation of the Programme.

##### 4.2. *Strategies and policies*

4.2.1. The fifth Action Programme (and also chapter 10 of the White Paper) calls for a fundamental change of direction in all economic and social activities, insofar as they have a bearing on the environment. This is to be achieved by changing consumer habits and behavioural patterns. This fundamental part of the Action Programme has not been put into operation because of either a failure, or an inability, to provide sufficient instruments. Eco-labels and environmental audits, voluntary instruments which make it possible to advertise products or methods of management as being environmental friendly are undoubtedly important in this respect. Other economic instruments (such as taxes and levies) have repeatedly been heralded as a means of promoting new trends but such measures can only be considered on a case-by-case basis.

<sup>(1)</sup> Published by the European Environment Agency, Copenhagen, No ISBN 92-826-5409-5.

<sup>(2)</sup> Cf. point 3.2 of the ESC Opinion on the Action Programme — see p. 1 of this Opinion.

<sup>(3)</sup> COM(94) 670 final.

<sup>(4)</sup> OJ No C 295, 22. 10. 1994.

4.2.2. Clarification of the principle of subsidiarity (Article 3b of the EC Treaty) is an issue of particular importance in the context of the review of the Action Programme on the Environment. Subsidiarity should not constitute a barrier to the establishment of high level environmental protection standards (see Article 130r(2) of the EC Treaty). The ESC would make the following additional observations:

- the reflections on subsidiarity should also embrace regional and local levels; the important factor in this respect is, of course, the extent to which the structures required for the implementation of environmental policy are already available or can be established;
- the Commission should be called upon to set out criteria for cementing the principle of subsidiarity which identify the areas where action is to be taken mainly at European level and areas where action is to be taken mainly at national level. The Opinions issued by the ESC in recent years provide examples of such areas. Reference may be made here to the ESC Opinion on the IPPC (Integrated Pollution-Prevention and -Control) Directive<sup>(1)</sup> in which the ESC took the view that limit values for pollution should be established at EC level. On the other hand the ESC considered that it would not be appropriate, in view of the principle of subsidiarity, to lay down detailed implementing provisions at EC level.

With a view to providing a clear definition, consideration should be given to incorporating the Inter-institutional Agreement on Subsidiarity into the EC Treaty. The right to institute legal proceedings before the European Court of Justice should also be provided for.

4.2.3. When the Action Programme is being reviewed, account should be taken not only of continental and global environmental problems, but also of the concrete role played by environmental law in protecting the citizens concerned. This means that public bodies (at all levels) will have to accept responsibility for protecting the environment and for taking preventive action in the environmental field. As a result, deregulation and independent regulation by non-state bodies will have to be subject to limits. Issue has to be taken on this point with the Molitor Report (cf. point 2.2). This does not, however, detract from the wisdom of rationalizing environmental policy in the light of the experience acquired since the Action Programme came into force. Economic growth without preventive measures and environmental protection measures would not be socially acceptable.

4.2.4. The principle of taking preventive action falls within environmental policy's role of protecting society, as identified by the European Summit in Dublin (20 April 1990): all citizens of Europe are entitled to enjoy a healthy environment. This requirement has fundamental consequences for the incorporation of environmental protection into not merely political programmes, but also into manufacturing processes and technologies and the basic conditions applicable to the consumer. Environmental policy is a vital aspect of the 'Citizens' Europe' policy. Greater attention should be paid to this matter when the fifth Action Programme is being reviewed.

4.2.5. The interim evaluation should draw attention to the inter-relationship between environmental policy and the role of the social partners. This does not apply only to the field of the working environment (cf. point 3.3 of the ESC Opinion on the fifth Action Programme), but also

- with regard to the participation of workers — taking into account the size of the enterprise concerned — in decisions on the environment, e.g. through the appointment of plant-level environmental protection representatives,
- in respect of the participation of socio-economic groups at all levels of the legislative process and the process of establishing standards.

Integrated environmental protection requires environmental management involving the employees of enterprise. With this aim in view, it is essential that the workers carrying out the functions concerned be provided with the requisite training.

4.2.6. In its Opinion on training, safety and protection of the environment<sup>(2)</sup>, the ESC repeatedly highlighted the need for environmental training, especially at plant level. In its Resolution on environmental training in industry, including SMEs, the European Parliament firmly supported the calls made by the ESC. The Commission should take these proposals on board and bear in mind the work — which is by now well-advanced — undertaken in the field of environmental-protection jobs and job definitions<sup>(3)</sup>.

#### 4.3. *Environmental policy instruments*

4.3.1. In the course of the review of the Action Programme, there is a need to clarify the relationship between the established environmental policy instruments and the new instruments. In its Opinion on the Action Programme the Committee has already drawn attention to a number of examples of misleading definitions. The Molitor Report advocates only limited use in future of regulatory instruments, with environmental policy focussing on the use of economic instruments, applied largely by independent bodies. In the light of the protective role played by environmental policy (see point 4.3.2 above), regulatory provisions will also remain indispensable in the future.

4.3.2. The review of the various environmental policy instruments must also provide clarification for the following reasons:

- national legislation must continue to provide the basis for environmental policy,
- environmental policy will in almost all cases be implemented on the basis of a mix of instruments (regulatory instruments — economic instruments),

<sup>(2)</sup> OJ No C 159, 17. 6. 1991.

<sup>(3)</sup> In particular the work of CEDEFOP and the Dublin-based European Foundation for the Improvement of Living and Working Conditions.

<sup>(1)</sup> OJ No C 195, 18. 7. 1994.

— economic instruments, too, require public monitoring; there has to be a legal framework for voluntary agreements, which merit encouragement <sup>(1)</sup>.

4.3.3. Internalization of environmental damage costs should be the guiding principle for the use of economic instruments. This should involve:

- consistent application of the 'polluter pays' principle (Article 130r of the EC Treaty);
- environmental taxes and the revamping of the tax system to promote 'green' objectives <sup>(2)</sup>;
- improved provisions for civil liability for damage to the environment, including the introduction of compulsory third-party indemnity insurance (which, coupled with the participation of the insured enterprises in environmental audits, will constitute a very effective economic instrument).

A further beneficial step would be to broaden the corporate auditing system to take account of the public image of enterprises. This measure was already called for in the fifth Action Programme (see point 1.1.1). Implementation of the Regulation on environmental auditing <sup>(3)</sup> will promote this goal.

4.3.4. EC provisions covering public contracts should also be amended to cater for environmental considerations. This may be achieved by including environmental standards in the terms of the tendering procedure. In the case of invitations for tenders for the supply of mass-produced goods entitled to carry eco-labels, the invitation to tender should specify delivery of products which bear the eco-label.

4.3.5. The compilation of cost-benefit analysis criteria, taking account also of work carried out outside the EC, is a major issue in the introduction of economic instruments in environmental policy.

4.3.6. The Action Programme must make provision for increased use of EC resources (in particular to promote R&TD) for environmental purposes (in particular to promote objectives likely to lead to an improvement in the environmental situation). Applications for assistance under EC funds, especially the Structural Funds, should also be vetted more stringently as to their impact on the environment. In this context, attention is drawn to the earmarking of Cohesion Fund resources for environmental purposes. The Molitor Report also calls for such measures.

#### 4.4. *Individual fields of action in respect of environmental policy (incomplete list)*

4.4.1. In the Committee's view, the inter-relationship between environmental policy and employment policy

will be one of the central issues in the review of the Action Programme. European industrial policy should therefore pay greater attention to environmentally-friendly industries, whose importance for growth and employment is by no means taken sufficiently into account (see also chapter 10 of the White Paper). The Committee also calls for better statistics on environmentally-friendly technologies.

4.4.2. There is an ongoing need for harmonization. With this aim in view, EC standards should be adopted in respect of limit values for emissions and the assessment of the quality of the environment, also covering the individual regions of the EC. The principle of subsidiarity should not hamper the establishment of such standards as otherwise distortions in competition may occur. The Commission has shown an inconsistent attitude to this issue, even after the Action Programme came into force.

4.4.3. The inter-relationships between environmental policy and the following other policy areas (integration) remain key aspects of the Action Programme:

- energy policy <sup>(4)</sup>;
- agricultural policy <sup>(5)</sup>, also bearing in mind the conflicts between this policy and protection of nature and landscapes;
- consumer policy (qualitative aspects).

4.4.4. A further key aspect of the review should be transport problems; noise pollution, an issue which has not hitherto figured highly in EC programmes, comes under this heading.

The Action Programme rightly emphasizes the need to promote public transport. The trans-European networks must also be extended with minimum impact on the environment.

4.4.5. One of the as yet unfulfilled goals of the Action Programme is the introduction of environmental impact assessments in respect of plans and public programmes, in particular those designed to improve the urban environment (including the protection of historic town centres) and in respect of tourist infrastructure measures.

4.4.6. Legal provisions in respect of waste disposal, another key area of environmental policy, should be further expanded with a view to promoting the avoidance of waste and boosting recycling factors. The establishment of a precise definition of the term 'waste' and the categories of waste is equally necessary. This point should be underlined <sup>(6)</sup>.

<sup>(1)</sup> OJ No C 155, 21. 6. 1995.

<sup>(2)</sup> OJ No C 332, 31. 12. 1990.

<sup>(3)</sup> OJ No L 168/1, 10. 7. 1993.

<sup>(4)</sup> OJ No C 393, 31. 12. 1994.

<sup>(5)</sup> OJ No C 298/40, 27. 11. 1989.

<sup>(6)</sup> See the ESC Opinion published in this edition of the Official Journal.

Attention is also drawn to the Action Programme on Ground Water referred to in the Action Programme on the Environment.

#### 5. International dimension of European environmental policy

5.1. In the past, European environmental policy enjoyed world-wide renown. The review of the action programme should seek to maintain and enhance this standing. This same consideration should be borne in mind with regard to follow-up action to the Earth Summit in Rio de Janeiro in 1992. Europe should play an exemplary role in the field of environmental policy, offering inspiration also to States outside the EC. Environmental policy (which seeks to bring about sustainable development in tune with the environment) must therefore form part of European development policy.

5.2. As far as back as 1992, the ESC called for the action programme on the environment to be extended to the EFTA states, within the framework of the European Economic Area, and urged that an environmental partnership be established with the non-EC Mediterranean States and the countries of eastern Europe. This issue is especially topical in the case of those States which have applied to join the Community or announced their intention to do so. Once these States have joined the European Community, EC environmental protection measures will also apply within their boundaries. Consideration should be given to introducing special assistance programmes in preparation for this event.

5.3. The Community should also take steps to incorporate an environmental dimension into international trade policy (WTO). Product-manufacture and -quality requirements linked to the protection of the environment which apply to EC products, should also be applied to products from third countries.

#### 6. The Action Programme on the Environment and the review of the European Treaties in 1996

6.1. Articles 2 and 130r *et seq* of the EC Treaty already indicate that the European Community is also to become an 'environmental community'. This fact should be taken into consideration when individual provisions of the Treaty are redefined. Attention is drawn to the following points which may be crucial to the achievement of sustainable development with minimum impact on the environment:

6.2. The instruments provided for in the Treaty and secondary legal instruments should be improved by extending the co-determination procedure, or at least the cooperation procedure, to cover all areas of environmental policy (including the tax aspects of environmental protection provisions).

6.3. Some of the environmental protection standards applying in the new Member States, (Finland, Austria and Sweden), are more rigorous than those adopted by the Community. The European Institutions should examine this situation with a view to incorporating into Community law standards which have proved to be more effective. It may prove necessary to consider extending the current four-year transitional period during which the environmental protection provisions of these new Member States will remain in application.

6.4. The relationship between Article 100a (internal market) and Articles 130r *et seq.* (environmental policy) of the EC Treaty should be clarified and the wording of Article 100a(4) should be made more explicit. The establishment of an 'environmental Community' calls for equal status to be given to legislative procedures with different legal bases (internal market and environmental policy).

Done at Brussels, 25 October 1995.

*The President  
of the Economic and Social Committee*

Carlos FERRER