

Official Journal

of the European Communities

ISSN 0378-6986

C 97

Volume 39

1 April 1996

English edition

Information and Notices

<u>Notice No</u>	<u>Contents</u>	<u>Page</u>
	I <i>Information</i>	
	
<hr/>		
	II <i>Preparatory Acts</i>	
	Economic and Social Committee	
	Session of January 1996	
96/C 97/01	Opinion on the 'Free movement of medicines in the European Union — Abolition of existing barriers'	1
96/C 97/02	Opinion on the proposal for a European Parliament and Council Directive amending Directive 89/686/EEC on the approximation of the laws of the Member States relating to personal protective equipment	8
96/C 97/03	Opinion on the 'Green Paper — Copyright and related rights in the information society'	9
96/C 97/04	Opinion on the allocation of the reserve for Community initiatives for the period up to the end of 1999	13
96/C 97/05	Opinion on the communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions entitled 'The development of short sea shipping in Europe: Prospects and challenges'	15
96/C 97/06	Opinion on the proposal for a Council Directive on marine equipment	22



Price: 13 ECU

(Continued overleaf)

<u>Notice No</u>	Contents (Continued)	Page
96/C 97/07	Opinion on the proposal for a Council Directive amending for the first time Directive 90/394/EEC on the protection of workers from the risks related to exposure to carcinogens at work	25
96/C 97/08	Opinion on: — the proposal for a Council Regulation (EC) amending the Annex to Council Regulation (EEC) No 3911/92 of 9 December 1992 on the export of cultural goods, and — the proposal for a European Parliament and Council Directive amending the Annex to Council Directive No 93/7/EEC of 15 March 1993 on the return of cultural objects unlawfully removed from the territory of a Member State	28
96/C 97/09	Opinion on the proposal for a Council Directive amending Directive 92/117/EEC concerning measures for protection against specified zoonoses and specified zoonotic agents in animals and products of animal origin in order to prevent outbreaks of food-borne infections and intoxications	29
96/C 97/10	Opinion on the proposal for a Council Regulation (EC) amending Council Regulation (EEC) No 1765/92 establishing a support system for producers of certain arable crops	30
96/C 97/11	Opinion on relations between the European Union and ASEAN	31

II

(Preparatory Acts)

ECONOMIC AND SOCIAL COMMITTEE

Opinion on the 'Free movement of medicines in the European Union — Abolition of existing barriers'

(96/C 97/01)

On 30 March 1995, the Economic and Social Committee, acting under the third paragraph of Rule 23 of the Rules of Procedure, decided to draw up an Opinion on the 'Free movement of medicines in the European Union — Abolition of existing barriers'.

The Section for Protection of the Environment, Public Health and Consumer Affairs, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 9 January 1996. The Rapporteur was Mr Colombo.

At its 332nd Plenary Session (meeting of 31 January 1996), the Economic and Social Committee adopted the following Opinion unanimously.

FOREWORD

This Own-initiative Opinion focuses on the issue of the free movement of medicines. The complex question of public health policy and health assistance system have been discussed in other Committee Opinions, and will be addressed again in the future.

1. Introduction

1.1. *The importance of the pharmaceutical sector for the European Union*

1.1.1. Progress in medicine, together with other factors for social progress, has made a significant contribution to reducing mortality, longer average life expectancy, the retreat of a number of major diseases, and an enhanced quality of life, particularly for older people and those suffering from chronic ailments.

1.1.2. Against this backdrop, the availability and correct use of safe, effective medicines should be recognized as playing an important role in public health protection.

1.1.3. The availability of innovative and effective medicines therefore represents an important factor for enhancing quality of life and merits particular attention on the part of the European Union in order to build up and strengthen a competitive and innovative European pharmaceutical industry.

1.1.4. Moreover, the significant contribution which the pharmaceutical industry can make to growth and employment in the European Union, as well as to its positive net trade flow, should not be underestimated. Up to 1992, employment grew in the sector by 2,4 % per annum, but since then the trend has been reversed, with a progressive decline setting in on the heels of diminishing competitiveness. The sector underwent significant job losses during the 1993-1995 period, with heavy disinvestment in research and manufacturing sites. This is partly the result of the frequent mergers between pharmaceutical companies.

1.1.5. It is important to provide a clear, stable and lasting reference framework, creating a dynamic context favourable to industrial development, given the emergence of signs of weakness in a sector which has to operate in a climate of increasingly fierce world competition and whose R&D mainstay demands ever

greater resources and, consequently, sufficient and growing self-financing capacity.

1.2. Industrial policy

1.2.1. Innovation and industrial investment are essential factors for progress both within the pharmaceutical sector and in society as a whole.

1.2.2. The Commission has issued important documents on industrial policy, including the communications on an industrial competitiveness policy for the European Union⁽¹⁾ and on the outlines of an industrial policy for the pharmaceutical sector in the European Community⁽²⁾: these should encourage the Member States to devise a long-term, Europe-wide industrial policy.

1.2.3. The industrial policy document for the pharmaceutical sector maps out the path to be followed:

- striking a proper balance between the need to maintain a strong, innovative, research-based pharmaceutical industry and the need to meet public expectations regarding the operation of national health systems and the availability of medicinal products best suited to public health care;
- creating the conditions for greater competitiveness in the sector, moving away from a direct price-control approach, which has proved unable to restrict public pharmaceutical expenditure or to encourage an innovative industry;
- improving protection for therapeutic innovation and fostering biotechnological research, from which most new products flow;
- uncoupling the price-setting aspect from reimbursement methods and, more generally, from forms of cost-containment;
- initiating competition mechanisms, including the use of generic medicines.

1.3. Free movement of medicines in Europe: a complex and difficult objective

1.3.1. The foundations for the harmonization of rules for marketing authorizations, production, distribution and the proper use of medicines in Europe have been established in a series of Directives adopted prior to 1993, culminating in the creation of the European Medicine Evaluation Agency (EMA, 'the Agency')

— which does not, however, ensure equivalent market conditions, particularly for prices and reimbursement systems, insofar as these are a matter for the Member States.

1.3.2. The experience of the 'free market' of the last two years has however shown that particular obstacles hampering the free movement of medicines persist, despite the results of technical harmonization.

1.3.3. Major differences remain in price-setting mechanisms and reimbursement methods. Member State approaches not only show few signs of converging, but frequently fail even to comply with the information requirements of Directive 89/105/EEC (transparency).

1.3.4. The need to contain health spending has led to differing ways of controlling pharmaceutical expenditure, mostly involving direct or indirect price control. In many cases the failure to achieve the initial objective of reducing expenditure has led to subsequent interventions in a process leading away from a free market model and multiplying differences between Member States, given the varying short-term priorities imposed by the need to cut spending.

1.3.5. The centralized registration procedure and placing on the market of a 'European' specialty by the EMA may fail to develop its full potential if pricing and reimbursement systems at the next stage, fixed by the Member States, act as deterrents.

1.3.6. The contradictory nature of this situation cannot but be of concern in the light of the process which should lead to European Monetary Union, with a single currency and the same economic and monetary policy. The question should therefore be examined in appropriate detail before the 1996 Intergovernmental Conference as this glaring breach in the fabric of European unity cannot be allowed to stand.

1.3.7. One of the fundamental aims of setting up and developing the European Union is to create a free market, as this fosters competitive and innovative capacity in industry and affords protection to individuals in satisfying their requirements.

1.3.8. In the pharmaceutical sector, protection for individuals means the prompt availability of the most appropriate medical treatment, freely available for prescription by doctors or for self-medication, subject to proper patient health and safety controls.

1.3.9. A free market involves real competition, free of market distortions generated by abuse of dominant

⁽¹⁾ COM(94)319 final of 14. 9. 1994.

⁽²⁾ COM(93)718 final of 2. 3. 1994.

positions on either the supply or demand side (monopsonistic position of public-sector demand), or by forms of artificial support for industries lacking innovative capacity.

1.3.10. Significant market distortions occur as a result of compulsory price reductions which militate against the import of competing products from countries with higher prices, and artificially favour exports from countries where the lowest prices are imposed.

1.3.11. The competitive advantage of a new drug is a temporary advantage, rewarding innovation. However, it hardly ever leads to a monopoly situation, since alternative treatments are available, and since drugs of the same or similar class are ever quicker to appear on the market.

1.4. *Medicines, health spending and the role of the public authorities*

1.4.1. The serious problem of ever-growing health spending from the public purse cannot, of course, be overlooked.

1.4.2. Although pharmaceutical expenditure varies between Member States, it represents a minor proportion of public health spending. However, all possible savings should be made without depriving European citizens of the necessary availability of medicines, and without reducing the pharmaceutical industry's capacity for innovation and competitiveness.

1.4.3. The public authorities have the main part to play in reducing expenditure. They must be urged to take more effective and wide-ranging action, given the poor results achieved by action based exclusively on squeezing prices.

1.4.4. It is equally essential that the role of the public authorities be modernized, so that they can make the necessary adjustments to the markets of the future, rather than merely react to them afterwards.

1.4.5. The public authorities are duty-bound, while keeping a close watch on public expenditure, to create a dynamic environment propitious to industrial development in the sector, by coordinating and attempting to harmonize all action likely to enhance health protection.

1.4.6. Social security and health service systems are of key importance here. The circumstances in which a pharmaceutical product is marketed have a considerable effect on market size, the shape of manufacturing

companies, investment in research and, consequently, on the rate of innovation.

1.4.7. The objective of a free, genuinely competitive market can only be achieved by participating in what will necessarily be a long-term process, with a comprehensive approach covering all the parties concerned, and successive actions, the effects of which should be assessed as they progress.

1.4.8. Through appropriate bodies, such as the Transparency Committee, the Member States should check in advance that planned measures to contain expenditure comply with European regulations, and should analyse the possible impact on the EU market, the industrial sector and distribution.

1.4.9. The Commission and Council should indicate the general criteria on which the Member States should base their action, ways of achieving convergence and the conditions under which the protection of European citizens' health can be safeguarded and greater innovation and competitiveness encouraged in the European pharmaceutical industry.

1.5. *The role and responsibilities of the various parties operating in the sector*

1.5.1. The complexity of the health sector cannot, of course, be overlooked: it must safeguard individual health protection, the social security system, the legitimate interests of the economic operators involved (manufacturers, wholesale distributors, dispensing chemists, etc.), the professional standing of doctors, chemists and other health operators, and a patient-centred approach.

1.5.2. The industry needs to restore its image regarding the proper balance between the research effort and innovative results contributing to health care, and temporary monopoly situations.

1.5.3. Pharmaceutical research must be strengthened and encouraged by means of appropriate public policies, and particularly as a result of market conditions favourable to innovative products.

1.5.4. Research in the rare diseases sector, where adequate treatment has not yet been devised, merits special attention. Since the size of the market frequently dissuades private research from tackling the problem of rare diseases, greater efforts are required, particularly at Community level, in favour of research into 'orphan drugs', and EMEA procedures for their registration should be simplified.

1.5.4.1. The Committee accordingly welcomes the Resolution of 30 November 1995 of the Council of Health Ministers calling upon the Commission to formulate proposals in this area, particularly concerning definitions and incentive measures.

1.5.5. Pharmaceutical distribution plays a highly important role. Distribution must adjust to the conditions of a contracting market which cannot support automatic income deriving from market position.

1.5.6. It is important to stress the role of wholesale distributors in ensuring that drugs do not deteriorate during the lengthy manufacturer-patient journey, that they can be located at any point of the distribution chain, and are rapidly available to end users under all circumstances.

1.5.7. The role of dispensing chemists, who provide a basic link between doctors and patients for prescribed medicines, and between patients and medicines for non-prescription medicines, should be put to good use not only in terms of distribution but also in encouraging and advising on the more rational use of medicines so as to achieve the best possible therapeutic results.

1.5.8. Dispensing chemists in particular play an important part in ensuring that self-medication products are properly used. Wider future use of these products may offer an important means of reducing social security spending, and would fit in with the prevention policy it is hoped will come into existence. This policy must offer all the appropriate safeguards and involves increased responsibilities as well as further training for chemists on pharmaceutical interaction and side-effects, to cope with these new responsibilities.

1.5.9. The central link in the chain is represented by the health operators, particularly doctors. It is they who determine the consumption of prescription medicines.

1.5.10. While fully retaining the freedom to prescribe the necessary medicine, more rational use must be aimed for, paying closer attention to the cost/benefit balance for each treatment, together with the more efficient use of existing health structures and technologies.

1.6. *The new European arrangements for authorizing medicines and the European Agency*

1.6.1. The creation of the European Medicines Evaluation Agency (EMA) is unquestionably a major step forward in the rapid dissemination of 'hi-tech' and innovative products throughout the EU, for pharmaco-

vigilance and for settling disputes which may arise within the context of the prevalent mechanism for reciprocal recognition.

1.6.2. The institutional responsibilities of the Agency, as defined in Directives 93/39, 40 and 41 and Regulation 2309/93, are strictly limited, and it is clear that, during the initial phase, the Agency should concentrate on ensuring that the centralized procedure is fully operative.

1.6.3. The decentralized procedure, based on mutual recognition, continues to apply to most products, and for registration purposes the national authorities remain responsible for inspections, quality control and pharmacovigilance.

1.6.4. The co-existence of the two systems should nevertheless be viewed in a dynamic light as strengthening the European dimension of the medicines market and reinforcing scientific cooperation and coordination between the appropriate authorities.

1.6.5. The EMA could, without exceeding its institutional powers, contribute to the competitiveness of the European industry by ensuring a rapid authorization procedure for innovative specialties, within the time limits set out in the abovementioned legislation and by providing the scientific and technical reference-point for defining the framework it is hoped the Monetary Union will have for medical specialties (see also paragraph 2.3).

1.7. *The preconditions for Community action in the pharmaceuticals sector*

1.7.1. In devising a strategy for the free movement of medical specialties within the Community it should be borne in mind that the conditions under which the market operates stem from a series of actions taken at different times, under varying circumstances, with sometimes differing aims and not always consistently in line with each other.

1.7.2. These actions have thus far been decided upon from an exclusively national point of view and almost always in response to immediate political interests and economic demands, without real assessment of the long-term consequences for public health protection and the proper functioning of the sector.

1.7.3. The strategic guidelines should therefore be mapped out at Community level and should, in the ESC's view, be grounded on two irrevocable principles:

- a) to guarantee the availability of medicines able to provide the highest possible level of health protection

for European citizens and to create real equality of availability for future innovative medicines;

- b) to secure a market climate guaranteeing the European pharmaceutical industry's international competitiveness, with a vigorous resurgence of research, fostering free enterprise while ensuring compatibility with health protection and with public-sector health spending limits.

1.7.4. A rounded approach of this kind would appear to be the only way of restoring a more positive image, and therefore greater public credibility, to the pharmaceutical system as a whole. This image has in the past been tarnished by profit-driven choices which have overlooked the complexity of the health issue and the needs of individual patients.

1.7.5. If the European industry prepares its strategic options better and harnesses its scientific and innovatory potential, it could contribute to increasing employment, particularly in the highly skilled categories, and could have a positive role to play in connection with the developing countries.

1.7.6. Trade with the developing countries must not, however, be seen by the European industry simply as an opportunity to maximize its profits, but should serve to create the conditions for availability of medicines to provide effective health protection, and should respond primarily to a sense of solidarity with the populations of the countries in question.

1.7.7. Up-to-date patent laws, protection of trademark ownership, active measures against counterfeiting and implementation of the GATT-Trips agreements are preconditions for a stronger local industry and proper relations with the European Union.

2. Lines of action

2.1. *The value of a European approach*

2.1.1. While recognizing the limits to the Union's powers in this area, the Committee is convinced that many lines of action exist which would strengthen the European dimension, bearing in mind the objectives of raising the quality of life and of economic and social cohesion, as set out in Treaty Article 2.

2.1.2. The path should be cleared for the removal of existing barriers to the free movement of medicines — especially the invisible barriers thrown up in areas still not standardized at European level — by an analysis,

coordinated by the Commission, of national experiences and assessing:

- the effectiveness of action in terms of the objectives set;
- compliance with Community objectives on the free market, the full development of industrial potential, and the protection of citizens;
- the compatibility of specific Member State policies and actions with the launch of a convergence process.

2.1.3. The Commission should encourage cooperation between Member States in planning all national measures, so as to assess them in the light of the previous experience of the other countries, and preparing simulations and feasibility studies for situations with the greatest economic impact. Such cooperation should form part of the efforts to promote a free market and competition, while at the same time ensuring the attainment of a high level of health protection [Treaty Article 3(o)].

2.2. *Suggested priorities for Community intervention*

2.2.1. The Economic and Social Committee believes that the Community bodies today responsible for certain aspects of the pharmaceutical system could, as a matter of priority, direct the bulk of their activities to creating the conditions for a free medical specialties market, or at least the necessary preconditions. It welcomes the conclusions of the Council meeting of 30 November 1995, especially the resolutions highlighting the impact of the free movement of medicines on health, and the need to integrate this aspect into overall public health strategy.

2.2.2. Practical implementation of the industrial policy guidelines set out in the two Commission documents (see point 1.2.2) also requires it to be heavily involved in supporting joint action with the Member States in order to achieve the objectives referred to in the documents and the broader aims stated in the Treaty.

2.2.3. Priority must be given to checking the application of the transparency directive as regards objectivity, transparency and the objective and verifiable reasons for the various price controls and refund schemes and their application to types of treatment and to individual medical specialties.

2.2.4. The procedures for ensuring observance of the transparency directive should be optimized in the review. In this event, observance of the transparency directive should be promoted in parallel, in the context of convergence policy.

2.2.5. The Commission is urged to use its supervisory powers over the application of Community law by Member States to check whether they have complied with the requirement to notify any intervention on their part in full, and in good time, to order immediate application in the event of non-compliance and, where appropriate, restore the violated 'rule of law' and to establish general principles/rules/methods designed to prevent interventions falling outside the above-mentioned law.

2.2.6. In order to strike a proper balance between the freedom of the pharmaceuticals market in the European Union on the one hand, and the Member States' need to control health spending on the other, it is suggested that further research should be carried out into the most appropriate means of separating price-fixing aspects from the question of State or social security reimbursement.

2.2.7. A further suggestion to the Commission is that it should prepare studies and analyses to provide a clearer picture of the fragmented European market and an objective assessment of possible Member State action, with the purpose of proposing means of mitigating existing distortions and paving the way for decisions which also take account of the international consequences. Studies on the situation within individual countries, and in comparison with the US and Japan, should focus particularly on the effects of past actions by the Member States, such as:

- direct price control in relation to consumption levels and the national industry's competitive capacity;
- the relationship between the various criteria and reimbursement levels and their impact on prescription patterns and consumption of medicines;
- the effect of fixed consumer contributions on prescribing attitudes and consumption of medicines;
- assessment of the efficacy and impact of integration on the internal market for the pharmaceutical sector;
- evaluation of the effects of price, reimbursement, classification and packaging interventions on the reorganization of producers' and wholesale distributors' structures, functions and activities.

2.2.8. The Commission is also urged to examine the possibilities and practicalities of a series of interventions

to help set up a free market in medical specialties. Priority should be given to the following:

- a) a programme for the progressive harmonization of operating conditions, from manufacture to sale of medicines (amount of product per package, single European packaging, explanatory leaflets for doctors and/or chemists distinct from those for patients, bar codes, European quality certificate, etc.);
- b) the correct method of comparing international prices;
- c) establishing in unequivocal terms conditions for the protection of industrial property, thereby encouraging development and innovation in the high technology sectors, particularly pharmaceuticals, thereby ensuring strict compliance with trademark protection as defined in the European Patent Convention; Regulation EEC/1768/92 and the national Additional Certificates for Protection, insofar as they are compatible with the Regulation;
- d) identifying the conditions under which generic medicines can play an effective role in price competition and in creating a more dynamic market, guaranteeing equivalent quality, safety and effectiveness as original medicines backed by the proper documents and free of artificially advantageous conditions, particularly substitution of specialities without consulting prescribing doctors;
- e) identifying and proposing the fiscal policy instruments most likely to boost research, some 95 % of the costs of which, in the pharmaceutical sector, are borne by private industry;
- f) considering broader use of the centralized procedure, collaborating with the EMEA to define a wider understanding of 'innovation' based on the therapeutic added value in terms of efficacy and safety.

2.3. *Suggestions for a future contribution by the EMEA to supporting Community policy*

2.3.1. The ESC, while considering it essential for the Agency to begin immediately discharging its duties as described under point 1.7, believes that the Agency can provide forward support for the issues outlined in 2.2 above.

2.3.2. The EMEA could, for example, help to harmonize the classification of existing products on the market through a phased programme, and proceed with the progressive harmonization of labelling and explanatory leaflets for products available in more than one country as they fall due for their five-yearly reviews.

2.3.3. Provided it is supplied with adequate economic and human resources, the Agency could also represent the ideal forum for discussion and contact — on a purely scientific and technical basis — with national agencies and with leading national experts on points which might contribute to a more closely aligned working environment in each of the Member States. Such points might involve:

- study and/or research into a medicinal specialty classification method applicable on a uniform basis at national and European level, with the capacity to define and describe pharmaceutical product features without penalization, thereby moving beyond the limits encountered in implementing the ATC classification;
- scientific and methodological criteria for classifying prescription products in therapeutic classes comparable in terms of seriousness of the pathology treated, to which Member States could refer for reimbursement purposes, so as to prevent treatment varying on purely economic grounds.

2.3.4. The EMEA could also put its technical and scientific skills at the Commission's service in order to devise guidelines on:

- the mutual recognition of products on the market for more than 10 years in several Member States or, alternatively, a simplified European authorization procedure;
- harmonized explanatory leaflets summarizing product characteristics for doctors, chemists and patients, including for products already on the market in more than one Member State;
- the attainment of a uniform, Europe-wide classification for the supply of medicines for human use; bearing in mind the need for a high quality of health protection for the patient, the aim must be to ensure that a particular medicine is either prescription or non-prescription throughout Europe (based on the criteria laid down in Directive 92/26/EEC) in the interests of greater harmonization of the legal framework for medicines in the single market, and the promotion of the free movement of medicines in the European Union.

3. Conclusions

3.1. The ESC's intention in drawing up an Own-initiative Opinion on the removal of barriers hampering

the free movement of medicines in the EU is to draw attention to the decisive role which Community action can play in this sector — a sensitive one because citizens' health is at stake — since the proper use of medicines represents a major contribution to an improved quality of life.

3.2. The Opinion outlines the strategic and operating suggestions which all the social forces represented on the ESC commend to the European Commission and the EMEA to further a policy supporting medicines.

3.3. The ESC believes that this type of action should take place within a reference framework which reflects, in terms of:

- general policy:
 - the objectives and priorities of medical treatment;
 - a strengthening of the European Commission's initiative in providing guidance on decisions to be made by national bodies, encouraging measures which further convergence and slowing down those which move away from the necessary process of Community-level harmonization;
- social policy:
 - a future guarantee of equal availability of medicines to all European citizens;
 - social protection arrangements adapted to the need for a high level of health protection;
- industrial policy:
 - conditions enabling the European pharmaceutical industry to become highly competitive with their US and Japanese counterparts;
 - encouragement for expanding employment within the sector.

3.4. The availability of safe, effective medicines, an industry which can ensure world-level competitiveness, the professional skills of those working at every stage of the production cycle and the potential for scientific innovation produced by European research represent the best safeguard for the most vulnerable sector of the society: the sick.

3.5. This contribution to health protection must not remain the exclusive property of industrialized nations, but should serve as a means of expressing solidarity with the developing countries in improving the quality of life.

3.6. The proposal refers to the pharmaceutical sector for human use only: a similarly detailed analysis should, however, be carried out with respect to veterinary medicine.

3.7. Veterinary medicines have a positive impact on the health of both livestock and pets. Proper use of

veterinary medicines for livestock can also make food products (meat, milk, eggs, etc.) healthier.

3.8. Given, however, that alongside the benefits described, there are also animal and human health and environmental risks, common rules on the use and movement of veterinary medicines must unarguably be further improved in the future.

Done at Brussels, 31 January 1996.

The President
of the Economic and Social Committee
Carlos FERRER

Opinion on the proposal for a European Parliament and Council Directive amending Directive 89/686/EEC on the approximation of the laws of the Member States relating to personal protective equipment

(96/C 97/02)

On 29 January 1996, the Council decided to consult the Economic and Social Committee, under Article 100a of the Treaty establishing the European Community on the above-mentioned proposal.

The Section for Industry, Commerce, Crafts and Services, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 10 January 1996. The Rapporteur was Mr Wright.

At its 332nd Plenary Session (meeting of 31 January 1996), the Economic and Social Committee adopted the following Opinion unanimously.

1. General comments

The Committee has in due time expressed its Opinion⁽¹⁾ on the substantial aspects of the Personal Protective Equipment (PPE) Directive⁽¹⁾.

The purpose of the draft Directive now presented by the Commission is to repeal the obligation to indicate on every item of PPE the year in which the EC marking was affixed. No aspects relating to users' health and safety will be diminished, and proper technical consultation of interested parties (which expressed their approval) has been carried on by the Commission.

The Committee approves, therefore, this proposal aimed to simplify costly administrative requirements imposed on the manufacturers.

Done at Brussels, 31 January 1996.

The President
of the Economic and Social Committee
Carlos FERRER

⁽¹⁾ OJ No C 337, 31. 12. 1988.

Opinion on the 'Green Paper — Copyright and related rights in the information society'

(96/C 97/03)

On 27 July 1995, the European Commission decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Economic Community, on the 'Green Paper — Copyright and related rights in the information society'.

The Section for Industry, Commerce, Crafts and Services, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 10 January 1996. The Rapporteur was Mr Moreland.

At its 332nd Plenary Session (meeting of 31 January 1996), the Economic and Social Committee adopted the following Opinion unanimously.

1. Commission document

1.1. This Green Paper is a general consultative document relating to possible further Community harmonization measures which may be needed as a result of the development of the 'information superhighway'.

1.2. The information superhighway, in essence, means the spread of computer networks as means of performing, displaying, distributing, exchanging and storing works and information in digital form. This means of transmitting information, cultural works and entertainment is becoming more and more important as more and more information and cultural material is capable of being carried digitally than ever before.

1.3. This is a request for the feedback on certain legal questions which arise from the spread of this advanced technology.

2. The Commission's general questions

2.1. First the Commission asks some preliminary general questions. They include:

2.1.1. What is the most appropriate level for dealing with intellectual property in the information society, national, Community or international?

2.1.2. Should the existence of multimedia products (e.g. CD-ROMs) require special legislation to take account of the necessity to protect the cultural heritage?

2.1.3. How is the overall economic value of copyright and related rights, which protect the works to be provided on the superhighway, to be measured?

2.1.4. There is a request for specific economical or statistical data relating to activities on the superhighway, and the economic consequences of intellectual property

protection for products and services distributed on the superhighway, particularly relating to SMEs and the effect on employment.

2.2. The Green Paper then discusses some specific issues and, again, raises certain issues by way of questions.

3. The Commission's specific questions

3.1. Intellectual property rights are territorial, and it will be difficult to assess where an act of intellectual property infringement is taking place. The Commission seeks views on whether a 'country of origin' rule along the lines of the Directive on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission (Cable and Satellite Directive) may be a way to solve this problem. In other words, the law of the State in which the transmission of the relevant material takes place would govern the whole transaction.

3.2. Views are sought on the question of international exhaustion of rights (the right to import into the EU products placed on the market with the consent of the intellectual property right holder for dissemination in States outside the EU).

3.3. It is asked whether the digitization of works should constitute reproduction and hence be an infringement of copyright if carried on without the consent of the right holder.

3.4. The Commission seeks views on transmission for private use and in what circumstances transmissions should be regarded as transmissions to the public at large.

3.5. The Commission asks whether there should be a specific right belonging to the copyright holder to control digital dissemination.

3.6. Digital broadcasting would allow many more broadcasts of a higher quality of sound and vision on the same frequency and considerably more cross-border broadcasting. If more is broadcast, then more is copyable. Views are sought on whether performers and other holders of 'related rights' should have an exclusive right to prevent their performances, etc., being broadcast.

3.7. An author's moral rights are his or her right to acknowledgement of authorship; not to have works altered without consent; and not to be subjected to derogatory treatment. Views are sought on whether moral rights laws in the Community should be harmonized; whether consent to digitization should be deemed a waiver of moral rights, should there be collective agreements dealing with moral rights between authors and publishers?

3.8. The Commission asks questions on the exploitation of rights, in particular whether there should be a centralized scheme for rights clearance for multimedia products and whether the Community should lay down rules for the central management of such things.

4. General comments

4.1. The Committee welcomes the Green Paper, particularly because the rapid development of technology means the constant reevaluation of the legal rules which govern it.

4.2. The most appropriate level for dealing with questions of intellectual property in the information society must be at the international level in the long term: the information society is reducing the significance of national boundaries. At the least, therefore, initiatives in this field should be at Community rather than national level and the emphasis must be on achieving an agreed position for the EU. This will be particularly important in the light of conclusions reached by the US Government in its recent White Paper on this subject.

4.3. Although the Commission is to be congratulated on the legislation, on which it has so far managed to achieve Council agreement, this is a slow and complex process and must have due regard to national and European cultures. It is important to have a sense of priority based on tackling those issues which are most damaging to the European industry and for the EU's possibilities of exploiting its cultural heritage in competition with the rest of the world and where there are clear problems related to barriers to trade in a single market.

4.4. In the Committee's view the main priorities are (in the order in which they are mentioned in the Green Paper):

4.4.1. the question of defining which law applies to cross-border transactions within the Community and to and from third countries;

4.4.2. the harmonization of the law of exhaustion of rights;

4.4.3. to ensure that the right to restrict digitization as part of the reproduction right is fully protected;

4.4.4. the harmonization of Member States' laws concerning (and/or defining) when works disseminated over the information highway are to be made available to the general public.

4.4.5. the harmonization of moral rights laws in the Community, which differ widely.

4.5. The solution to these needs to be given taking into account the balance of interests between 'authors', producers and consumers.

5. Specific comments

5.1. General questions

5.1.1. What is the most appropriate level for dealing with intellectual property in the information society, national, community or international? The most appropriate level for dealing with questions of intellectual property in the information society must be at the international level (see general comments above).

5.1.2. The Legal Protection of Data Bases Directive is sufficient to protect most multimedia products. In addition, there is a case for strong moral rights' legislation at the EU level.

5.1.3. The Committee believes that the overall economic value of copyright and related rights which protect the works to be provided on the superhighway is not easily measurable. As to the effect on SMEs, the Committee believes that the Software Directive balances the rights of the small developer against the rights of the larger enterprise. Something analogous may be appropriate here. Sometimes a balance between absolute prohibition and a compulsory licence must be struck. Also, the Committee considers that the employment effect of copyright law should not be underestimated and justifies the considerable attention that should be given to the subject of intellectual property at the EU level.

5.2. Specific questions

5.2.1. Applicable law

In principle, the Committee agrees that, as the Commission suggests, the solution to the difficulty presented by frequent transfer of data between countries may be a 'country of origin' rule along the lines of the Cable and Satellite Directive. Care should be taken, however, that people do not disseminate works from those Member States with lower levels of protection or enforcement capability. It is appropriate that the law of the country in which a server or other disseminator of works is situated should govern the uploading of the works on the server and its dissemination from the server. But any such legal provision must ensure that the right holder has the right to enforce his rights in the territory into which the download takes place. There is also need to harmonize and strengthen and practise enforcement rules on an EU level.

5.2.2. Exhaustion of rights

This is a complex issue. The basic question is whether electronic or physical imports incorporating intellectual property rights from outside the Community are subject to the control of the intellectual property right holder when they enter the Community. This depends upon the form in which the protected work or related matter is exploited. Existing Community legislation provides that the principle of exhaustion of rights only applies when these are incorporated in physical products, not, however, to its distribution in electronic form. Consequently, an intellectual property right holder would retain all control over electronic imports from outside the Community and their further distribution. In general, the Committee's view is that this should also apply to the import of works and other protected matter when being incorporated in physical products when they enter the Community. But in circumstances where a third country has adequate intellectual property right protection, and the intellectual property right holder has authorized the distribution of products in electronic form, this general principle may be varied. In those limited circumstances, the intellectual property right holder should not have the automatic right to restrict importation into the EU. An example of this latter limitation is the very common practice of downloading files and documents from a server in the USA to a computer in one of the Member States of the EU. It is practically impossible to police such activity. In these circumstances, in the Committee's view, it is just that a downloader in an EU Member State should have exactly the same rights — no more and no less — as a downloader in the US.

5.2.3. Digitization

It is asked whether the digitization of works should constitute reproduction and hence be an infringement of copyright if carried out without the consent of the right holder. The digitization of a work (permanently or temporarily) is the same as any other method of copying and in principle should be treated in the same way; to the extent that this is not a principle common to all Member States, harmonization measures should ensure that it is. A second and related question is whether the right of the copyright owner relating to digitization should be the right to exclude others from digitizing the work without consent; or whether it should simply be a right to receive remuneration for digitization, which subject to the payment of that remuneration would be authorized. Granted that digitization is no different from other means of copying, the Committee sees no reason to depart from the basic principle that the right of the copyright holder to prevent it should be an exclusionary one.

5.2.4. Private copying

Although it is not the case that private copying should be treated as automatically permitted, the priority should be to ensure that unlicensed copying for commercial purposes should clearly be forbidden. Special attention merits the copying for education and scientific use. So far as private, non-commercial copying is concerned, priority should be given to issues which clearly have a detrimental effect on rightholders.

5.2.5. Technical protection

The question is raised as to whether Member States should make provision for legal measures which guarantee compliance with technical systems for protection against copying. This question breaks down into two sub-questions, namely whether manufacturers should be bound to incorporate technical protection into their hardware; and whether it should be made the equivalent of infringing copyright or other rights in products which are the subject of technical protection to produce or sell hardware which circumvents that technical protection. In the Committee's view, it is not appropriate to impose upon right owners or manufacturers the obligation to follow any particular regime of technical protection but, if one is followed, then it should be unlawful to assist in circumventing it.

5.2.6. Digital broadcasting

The principles set out under 5.2.3 above indicate that the rights of 'related right' holders in principle be

exclusive ones, not merely rights to equitable remuneration and that there should be no distinction in this regard between analogue and digital broadcasts.

5.2.7. Digital dissemination or transmission right

The question is put by the Commission as to whether it is appropriate to extend the Rental Right Directive to electronic point-to-point transmission. The Committee does not consider this appropriate; such an extension would be artificial (transmission is not 'rental' in any meaningful sense of the term) and unnecessary (the rental right was introduced in part to compensate for the exhaustion of the right holder's rights in physical copies of the work and, as has been pointed out above, absolute exhaustion of rights in respect of electronic transmissions is not appropriate). In the Committee's view, however, transmission should be covered by the exclusive rights of the right holder, including the exclusive right to make works available to the general public. One simple method could be to ensure that the right to prevent point-to-point transmission is part of the right to prevent reproduction. An alternative, favoured by the US Government in its White Paper, would be the creation of an exclusive transmission right as part of the distribution right. The former is simpler.

5.2.8. Moral rights

Moral rights are important to authors. The increased cross-border traffic in works means that there is a stronger case for harmonization than there has been before. The ease with which digital works can be altered

means that the case for strong moral rights, at least at the level provided by the Berne Convention is, in the Committee's view, made out. However, a waiver of the use of these rights in explicit cases should be permitted.

5.2.9. Management of rights

There are also questions on acquisition and management of rights and on technical systems of protection, in particular as to whether there should be a centralized scheme for rights clearance for multimedia products and whether the Community should lay down rules for the central management of such schemes. In the view of the Committee, it is premature to consider centralized management of rights in this way; if authors want to licence their rights collectively, there is no reason to suppose that they will not band together to do so without intervention at EU level, as has happened in the past in the Member States.

5.3. Other issues — Computer generated works

The Committee has referred to this problem in previous Opinions (e.g. its Opinion on the draft of what is now the Directive on the legal protection of computer programmes (91/250/EEC)). The Green Paper does not touch upon the question of the protection of computer generated works, that is to say works which have been directly created by a computer programme. The progress of technology has increased the number and quality of such programmes and the issue should, in the Committee's view, be reconsidered. The Committee welcomes the Commission's stated intention to study the problem further.

Done at Brussels, 31 January 1996.

The President
of the Economic and Social Committee
Carlos FERRER

Opinion on the allocation of the reserve for Community initiatives for the period up to the end of 1999

(96/C 97/04)

On 31 October 1995, the Commission decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Community, on the allocation of the reserve for Community initiatives for the period up to the end of 1999.

The Section for Regional Development and Town and Country Planning, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 23 January 1996. The Rapporteur was Mr Christie.

At its 332nd Plenary Session (meeting of 31 January 1996), the Economic and Social Committee adopted the following Opinion unanimously.

1. Introduction

1.1. In October 1995 the Commission adopted a proposal in relation to the allocation of the reserve for Community initiatives for the period up to the end of 1999. In a communication to the Economic and Social Committee the Commission has sought the views of the Committee on the proposed allocation.

1.2. The Economic and Social Committee has in recent years adopted two Opinions on the subject of the Community initiatives⁽¹⁾. In both cases the Economic and Social Committee restated its strong support for the operation of this aspect to European Union efforts at securing a greater measure of economic and social cohesion. Community initiatives represent an invaluable opportunity to develop novel and innovative programmes of assistance in the disadvantaged regions. These are identifiably EU programmes in that they operate outside the implementation procedures for the bulk of Structural Funds support.

1.3. The financial arrangements agreed upon in 1993 with respect to the Community Initiatives provided for a total allocation of ECU 13,45 billion, of which ECU 1,6 billion (representing 11,9 %) was held in reserve to be assigned to specific programmes at a later date. The Commission has now come forward with proposals to allocate this reserve (ECU 1 665 billion) between a number of the thirteen existing Initiatives.

1.4. Within the total available for allocation, and in accordance with the decisions made at the Edinburgh Summit, the Commission proposes that ECU 690 million be allocated within Objective 1 regions, with the remaining ECU 975 million targeted at other regions.

2. General comments

2.1. The proposed allocation of the financial reserve is generally consistent with the priorities established during the last review of the Community initiatives

programme, priorities generally endorsed by the Economic and Social Committee in previous Opinions. Consequently, the Committee is broadly in favour of the Commission's proposed allocations.

2.2. In its communication, the Commission restates the principle that the Structural Funds generally should be directed towards creating employment in the Union. The Economic and Social Committee wholly endorses this principle. Community Initiatives are rightly considered to represent an important and innovative instrument in this respect, with programmes directed specifically at implementing measures designed to improve employment possibilities in disadvantaged regions.

2.3. The Committee also welcomes the proposal to further develop the Interreg initiative by introducing strand 'C' which will encourage cooperation and information exchange between recipient regions generally, and specifically in the case of questions relating to the management of flooding and drought. This will help ensure that the lessons learned in one region can be applied in other regions.

2.3.1. The Interreg programme remains a key mechanism for encouraging transnational cooperation with the objective of ensuring that best practice in particular regions can be applied elsewhere in the EU. In this respect it is important that there is a capacity whereby the expertise which specific regions have developed in matters such as the management of scarce water resources and flood control can be applied in other parts of the Union.

2.3.2. The Committee notes that the Commission proposals for Interreg 'C' require that at least three Member States are involved in an application for support. The Committee would propose that this be amended, where appropriate, to two Member States in that there are areas within the Union which are susceptible to flooding for which eligibility under this programme would be beneficial.

⁽¹⁾ OJ No C 304, 10. 11. 1993; OJ No C 295, 22. 10. 1994.

2.4. The Economic and Social Committee considers the extension of funding available under the four programmes aimed at promoting industrial change (Konver, Rechar, Resider and Retex) to be particularly important. In each of these programmes, Community Initiatives are directly promoting employment and enhancing the long term prospects for the recipient regions. That these programmes are now able to continue until 1999 is welcomed given the severity of the economic difficulties that many of the regions confront.

2.5. The focus on strengthening direct measures to assist the re-absorption of particularly disadvantaged groups within those unemployed is an aspect of the Community initiatives programme to which the Economic and Social Committee attaches particular importance. Consequently, the Committee endorses the Commission's proposal to increase the funds allocated to Youthstart and NOW, and fully supports the principle underlying the Commission's new initiative, Employment-Inclusion.

2.6. The additional resources to be made available to the Adapt programme indicates the importance now attaching to this comparatively new initiative. The Economic and Social Committee endorses the Commission's proposal to add to the resources allocated to this initiative which seeks to assist organizations to adapt to meet the new technologies and the new global economy in which many companies now have to compete.

2.7. In its proposal, the Commission seeks to ensure a degree of flexibility in the assignment of the reserve to permit Member States to concentrate resources around those initiatives yielding the greatest benefit. The Economic and Social Committee acknowledges that flexibility provides Member States with a means of maximising the benefits of the application of Community Initiatives.

2.8. The principle of flexibility in the application of the reserve is provided for explicitly in the Commission's proposals relating to the four Initiatives for industrial reconversion. Assuming that this does not jeopardize the principle of concentration, the Economic and Social Committee acknowledges that this flexibility will allow resources to be applied where the need is greatest. Moreover, this accords well with the principle of subsidiarity.

2.9. The Committee welcomes the emphasis that the Commission places upon continued support being available to promote the development of small and medium-sized enterprises (SMEs). The Committee notes that no further monies are proposed to be allocated specifically to the SME initiative. Consequently it is important that SMEs receive adequate funding within the framework of those initiatives that are receiving additional assistance.

2.10. The Committee notes that no mention is made of extending to 1999 the assistance available under the Community initiative for peace and reconciliation in Northern Ireland and the border counties of Ireland. This initiative is funded only to 1997. The Committee attaches great significance to this initiative and supports its extension to 1999. Whilst the Committee recognizes that only parts of the 'Peace initiative' funding comes from the Community initiative budget, it nevertheless proposes that finances are assigned to ensure the continuation of the initiative to 1999.

2.11. The Community initiative facility is intended to promote innovative approaches to problems common to a number of regions across the European Union. In this sense it operates in a similar manner as the programmes introduced under the provisions of Article 10 of the European Regional Development Fund Regulations. The Committee considers that, for purposes of maximising the impact of the Structural Funds as a whole, it is important that there is some degree of interaction and linkage between Community initiatives and programmes introduced under Article 10 of the ERDF.

3. Conclusion

3.1. As recorded, the Economic and Social Committee supports the Commission proposal for the allocation of the Community initiative reserve. It would, however, reiterate the view that monitoring and assessment of the specific programmes is required. In its previous Opinion, this Committee pointed to a number of specific issues that needed to be addressed in the context of monitoring and appraisal, and would call upon the Commission to report as soon as possible upon the direct impact that the Community initiatives have had.

Done at Brussels, 31 January 1996.

*The President
of the Economic and Social Committee*

Carlos FERRER

Opinion on the communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions entitled 'The development of short sea shipping in Europe: Prospects and challenges'

(96/C 97/05)

On 10 August 1995, the Commission decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Community, on the above-mentioned communication.

The Section for Transport and Communications, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 17 January 1996. The Rapporteur was Dr Bredima-Savopoulou.

At its 332nd Plenary Session (meeting of 31 January 1996), the Economic and Social Committee adopted the following Opinion with no votes against and three abstentions.

1. Introduction

On 5 July 1995 the European Commission presented its long-awaited communication on the development of short sea shipping in Europe. The communication — which is not a legal text but a policy document — includes an analysis of the potential of short sea shipping and of current problems, and an action programme with the aim of stimulating further discussion leading to specific proposals. It is worth noting that the communication is the fruit of many years' discussions on the short sea sector at European level under the auspices of the European Commission. The development of the single market was a basic factor contributing to the promotion of short sea shipping.

1.1. *Transport 2000+*

The report⁽¹⁾ by the Group Transport 2000 Plus under the aegis of the European Commission (1989), entitled 'Transport in a fast-changing Europe — Towards a European network of transport systems', was the first to note that, if measures are not taken to alleviate congestion in the various modes of land transport, and especially in road transport, European land transport will fall victim to a 'Verkehrsinfarkt' — a kind of 'traffic heart attack'. The preventive therapy would be to transfer goods from land to other transport modes, and particularly to short sea shipping and sea-river transport. The idea of transferring goods from land to sea is also aired in other Commission documents, such as the communication on the future development of the common transport policy (December 1992)⁽²⁾, and the Green Paper on the impact of transport on the environment (February 1992)⁽³⁾. In other words, short sea shipping is expected to have the potential to help relieve congestion in other forms of transport.

⁽¹⁾ See ESC Opinion in OJ No C 49, 24. 2. 1992, p. 52.

⁽²⁾ See ESC Opinion in OJ No C 352, 30. 12. 1993, p. 11.

⁽³⁾ See ESC Opinion in OJ No C 313, 30. 11. 1992, p. 43.

1.2. *Maritime Industries Forum/Short Sea Panel*

1.2.1. The catalyst for promoting short sea shipping was the MIF⁽⁴⁾ under the aegis of Commissioners Bangemann and Van Miert. At the plenary meeting of the MIF (Genoa, October 1992) it was decided that promotion of short sea shipping should be a basic activity of the MIF, through the setting-up of the Short Sea Panel (Panel I).

The MIF Short Sea Panel analyzed existing disincentives to the use of short sea shipping and sea/river transport. The Panel's recommendations concentrate on five points:

1. improvement of infrastructure and efficiency in and around ports;
2. simplification of administrative procedures;
3. fair competition between sea and land transport modes;
4. improved marketing of short sea shipping and of sea/river transport;
5. introduction of advanced technologies.

More specifically, the above five points are broken down as follows:

1) Port infrastructure

- greater flexibility in working methods and working hours in ports;
- flexible and transparent pricing;
- need for action against harmful monopolies;
- introduction of modern techniques;

⁽⁴⁾ European Maritime Industries Forum.

— incorporation of ports into a combined transport network (given that many ports are not linked up with the road/rail network of their hinterland, and delays occur).

2) Administrative procedures

The shipping industry must be in a position to employ administrative procedures which are as simple as those for other modes of transport. The main problems noted are:

- transit and customs procedures;
- VAT;
- veterinary checks;
- regulations on the transport of dangerous goods;
- obstacles of any kind which make it more difficult/unattractive to transfer goods from land to sea transport.

3) Fair competition between sea and land transport

I.e. the creation of competition on equal terms, by means of internalization of the external cost of land transport.

4) Need for improved marketing of short sea shipping

I.e. information and publicity about short sea shipping is inadequate, with the result that potential users are insufficiently aware of the existence of short sea services as alternative transport:

- frequency of port services;
- reliability;
- attractive pricing;
- short transit times in door-to-door transport;
- a single contracting party.

5) Introduction of advanced technologies

This plays an important role in improving the services supplied to users of short sea shipping. Special attention must be given to new types of ship and to new technologies for rapid loading/trans-shipment in ports. Electronic Data Interchange (EDI) and the Commission's R&D programme will help to achieve this aim.

It should be noted that most of the above points have been taken into account in the communication on short sea shipping.

1.3. As a step towards action based on the above recommendations, the MIF Short Sea Panel played a leading part in the creation of local and national Round

Tables to promote short sea shipping at national level on the basis of national conditions. The initial results of the Round Tables, particularly in the North, are encouraging. The South is following with a slight time-lag. On 4 and 5 May 1995 a workshop of national/local Round Tables was held in Marseilles: participants were encouraged to propose pilot projects, and 20 such projects are already awaiting the Commission's attention.

1.4. The aim of transferring goods from land to sea is consistent with the nature of short sea shipping, since it is:

- the most economic mode of transport in terms of energy consumption (per kilometre/tonne);
- the most effective mode of transport in terms of investment/transport capacity ratio;
- the most suitable mode of transport for serving peripheral regions of Europe, especially northern and southern regions, but also areas such as Ireland, the Black Sea and the Baltic Sea;
- the most environmentally-friendly mode of transport (statistically, marine transport accounts for only about 14 % of marine pollution, with the remainder coming from other sources);
- virtually free of detrimental effects for society (such as traffic congestion, noise) of land transport.

2. Main points of the communication

2.1. The communication examines the contribution which short sea shipping can make to implementing the basic principle of 'sustainable mobility'⁽¹⁾, i.e. mobility compatible with environmental requirements. Its main aim is to promote the shift of goods transport from land to sea. This aim is described as minimizing the land aspect and maximizing the sea aspect of transport.

The communication analyses the potential of short sea shipping under three headings:

- improving the quality and efficiency of short sea shipping services;
- improving port infrastructure and port efficiency;
- preparing short sea shipping for a wider Europe.

⁽¹⁾ See ESC Opinion on the future development of the common transport policy — OJ No C 352, 30. 12. 1993.

2.2. *Improving the quality and efficiency of short sea shipping services*

Short sea shipping services will be given a boost by the Community's fourth R&D framework programme. The Maris (Maritime Information Society) programme and its subprogramme Matrans for logistics receive special mention. EDI will also contribute to promoting short sea shipping, as will the expected liberalization of marine transport within Member States (cabotage) on the basis of the schedule laid down in Regulation No 3577/92.

2.3. *Improving port infrastructure and port efficiency*

Ports operate as links in the chain of combined transport (in which the short sea shipping must be integrated) and of trans-European transport networks (TENS). It is therefore necessary to adopt measures to improve them. The Commission is promoting transparency in port tariffs. A list of state subsidies for ports is being drawn up, and guidelines will be issued for the application of Article 92 of the EC Treaty, dealing with such subsidies. Similarly, application of the competition rules (Articles 85, 86 and 90 of the Treaty) will help to eliminate port monopolies. The activity of local and national Round Tables supported by the Commission will assist in arriving at practical solutions.

2.4. *Preparing short sea shipping for a wider Europe*

Development of short sea shipping must take account of the future broadening of the European Union's activities. A series of EU agreements with the Baltic, Eastern European and Mediterranean countries will result in increased trade and transport links; and hence in greater opportunities for the development of short sea shipping. The Commission has already set up — on the basis of the conclusions of relevant regional congresses — working parties on the development of waterborne transport in the Baltic, the Mediterranean and the Black Sea. Each working party will draw up a multi-annual work programme which will aim to promote short sea shipping.

2.5. The communication includes an action programme and five Annexes:

2.5.1. Annex I: The advantages of short sea shipping

The communication analyses the geographical and ecological advantages and stresses the low energy consumption.

2.5.2. Annex II: Growth potential of short sea shipping

Annex II states that a study co-financed by the Commission (the 'Corridors Study') has examined the competitive position of short sea shipping in eight important EU trade corridors, three of which extend beyond its external borders. The study demonstrated that there are growth opportunities for short sea shipping, i.e. opportunities for shifting trade from land transport to short sea shipping, in at least six of the eight corridors.

2.5.3. Annex III: Challenges for short sea shipping in Europe

This Annex on the one hand analyses the structural obstacles to the development of efficient short sea shipping services (lack of integration with combined transport, uncompetitive pricing, administrative formalities for transit and veterinary checks, unattractive image of the services). On the other, it analyses problems of port infrastructure and port efficiency (delays, high port dues, labour problems).

2.5.4. Annex IV: An integrated policy approach for short sea shipping in Europe

Annex IV identifies the non-integration of short sea shipping in the chain of multimodal transport as the main problem facing this type of shipping.

2.5.5. Annex V: Statistical data

The communication notes that the lack of reliable statistics and comparative data impedes assessment of the situation and renders proper planning impossible.

3. General comments

3.1. In recent years, the European Commission's activity has increasingly concerned itself with sea transport⁽¹⁾. The communication constitutes an important Commission initiative aiming to shift goods traffic from

⁽¹⁾ In its Opinion on the Legislative Commission programme for transport/the common transport policy action programme 1995-2000 (1305/95), the Committee concurs with the Commission's view that progress on transport policy matters was very slow during the EEC's first 25 years.

land to sea⁽¹⁾. Despite any difficulties or doubts as to the feasibility of the operation, it is clear that if this aim is achieved there will be multiple benefits for the environment, consumers and the short sea sector, and positive effects on the employment of seamen. This is a thorough, systematic study of the short sea sector, in which the influence of the MIF Short Sea Panel's conclusions is evident; the Commission should make further use of these conclusions. The ESC regrets that the Commission has not yet created the policy context in which the Short Sea Panel's recommendations will be followed up. It should also be pointed out that the Commission communication does not go into the problems of flags of convenience and the crews of ships sailing under them (i.e. of open ship registers and below-standard crews). It is also clear that these problems affect coastal shipping and give rise to considerable distortions of competition of marine transport and in relation to other modes of intra-Community transport, by undercutting international social and safety standards.

3.2. It is not the first time that the ESC has studied the development of short sea shipping. In its earlier Opinion on Community guidelines for the development of the trans-European transport network, the ESC expressed its interest in the forthcoming publication of the communication on short sea shipping⁽²⁾. In its Opinion on the Legislative Commission programme for transport, the Committee also welcomes the publication of the communication on short sea shipping⁽³⁾.

3.3. *Definition of short sea shipping*

3.3.1. The communication gives the widest possible definition of short sea shipping: it covers all sea transport which is not ocean-going. In other words, it includes coastal shipping, transport between mainland coasts and islands, intra-Community shipping (between Member States), shipping within Member States (cabotage) and

sea-river transport by ship to and from inland river ports. Geographically, it extends beyond the limits of the EU, to Norway, Iceland, the Black Sea, the Baltic and the Mediterranean area. An example of the kind of confusion that can be caused by the lack of a proper definition is that, in Annex V, Table 11 refers to an arbitrary dividing line between short sea and deep sea ships; but no such dividing line exists. Ships of 6 000 GRT are entirely suitable as ocean-going vessels, while large tankers are habitually used on short sea voyages. The size of ships is independent of their type of use.

3.3.2. The ESC notes that this definition will need to be further refined when later legislation is introduced to achieve the aims of the communication, in order to specify the beneficiaries as well. It is also doubtful to what extent the term 'short sea' is appropriate for describing all the above modes of transport, given that some of them are not even short-haul.

3.3.3. The ESC also points out that the short sea sector covers a wide range of diversified activities and services which are by no means homogeneous. Basic types of service in this area include bulk transport, ferries, feeder services and liner services. This is not sufficiently analysed in the communication. At all events, it will need to be taken into account in the formulation of specific policy measures.

3.4. *Bulk transport*

The communication covers mainly goods transport, and secondarily passenger transport. However, it is doubtful whether the analysis of the problems or the proposed measures take sufficient account of the bulk transport sector. The communication is concerned mainly with liner transport, which normally forms part of combined transport. However, bulk transport — which constitutes 50 % of short sea shipping — deserves more detailed examination in the document. As was rightly stated recently, maritime transport, and particularly maritime bulk transport, is the cinderella of transport⁽⁴⁾. It is worth noting that the MIF Short Sea Panel's remit clearly covers bulk transport.

3.5. *Ferries*

The communication does not appear to take into account the important role played by ferry (including ro-ro) services in intra-Community transport. They are

⁽¹⁾ A corresponding OECD study found that traffic congestion costs the developed industrialized countries 2 % of their Gross National Product (GNP). More particularly, the study finds that accidents account for 2 % of GNP, noise pollution 0,3 %, local pollution 0,4 %, total pollution 1-10 % in the long term; the whole time taken up by congestion costs 8,5 % of GNP, representing 2 % extra when compared with free flowing traffic. It is clear that the bulk of these costs derive from road transport — OECD/European Conference of Transport Ministers' study entitled 'Internalization of the Social Cost of Transport' (1993).

⁽²⁾ OJ No C 397, 31. 12. 1994, p. 23.

⁽³⁾ Opinion CES 1305/95.

⁽⁴⁾ M. Everard (11. 4. 1995) — Reginald Grout Shipping Lecture.

also of vital importance for certain remote islands and regions. Where such services carry the full economic costs and comparable road and rail services do not pay the full external costs, the competitive disadvantage for ferry services should be removed, or, on environmental grounds, reversed.

3.6. Feeder service

Feeder services connect hub ports with smaller ports not directly served by very large deep sea container ships. These services are probably the fastest growing sector within short sea shipping and their role will continue to grow. As to the proposed measures proper weight does not appear to be given to this important market.

4. Proposed studies

4.1. The communication envisages a large number of studies. The ESC believes that perhaps not all these studies are necessary to achieve the basic aim of the communication, i.e. the shift of goods transport from land to sea. It therefore recommends that, depending on the choice of studies, priorities be set on the basis of practical objectives, so as to maximize the effectiveness of Community resources in promoting short sea shipping. Timely consultations with the social partners in the shipping sector will contribute to achieving this.

4.2. Study of the eight trade corridors

The 'Corridors Study' (covering the eight trade corridors) sought to use typical examples to identify possibilities for shifting goods transport from land to sea routes. Although the study suggests that in absolute terms the freight volume which can be transferred is not at first sight very high in comparison with road transport, it is considered that, even this proportion contributes to reducing congestion on roads. Moreover, it must not be forgotten that the study in question does not exhaust all the possible goods/markets which could be transferred from land to sea routes. Moreover, it entirely ignores sea transport within Member States (cabotage) and confines itself to cross-frontier transport. Thus further coverage is required here.

4.3. Image of short sea shipping

The ESC agrees with the communication's stress on the need to improve the image which short sea shipping has among potential users, so as to make it a commercially

attractive alternative mode of transport. The sector's image is outdated; moreover, it suffers as a result of the very complicated bureaucratic procedures for goods transit in ports. Given that it is basically small and medium-sized enterprises which are involved in short sea shipping, the use of advertising, information, EDI and advanced technologies is very limited. Particularly for EDI development, the regional funds of the EU could contribute to the funding of the necessary investment.

4.4. Transit/Veterinary checks

The detection and elimination of superfluous bureaucratic checks (especially in transit) is particularly important. In this context, sea transport must not be put at a disadvantage in relation to land transport. The Commission's intention to restrict veterinary checks to the port of final destination is endorsed, but draft legislation is needed as soon as possible.

4.5. Railways versus short sea shipping

The ESC notes that the communication focuses on comparing short sea shipping with land transport. It pays little attention to the relationship between rail transport and short sea shipping, or to competition between them (especially in northern countries). Despite the fact that rail transport is generally environment-friendly, competition between it and short sea shipping must be on equal terms.

4.6. Freight forwarders

Another disincentive with a negative effect on the competitiveness of short sea shipping — not mentioned in the communication — is the fact that freight forwarders in the EU, for a variety of reasons prefer to use road transport rather than short sea shipping.

4.7. Maritime cabotage

Given that maritime cabotage comes under the definition of short sea shipping, the communication (Annex IV) does not give sufficient coverage to the impact of cabotage liberalization on the basis of the timetable laid down in Regulation 3577/92.

4.8. The ESC feels that the role of small- and medium-scale ports in relieving congestion in large ports and on the main road links should be given greater

emphasis and, where this would be justified, qualify for support from the Structural Funds or the Cohesion Fund.

5. Social dimension

5.1. The communication appears to ignore the social dimension of short sea shipping. Although the ESC acknowledges that to a certain extent the social problems of short sea shipping are of a horizontal nature, i.e. common to sea transport in general — and the Commission will deal with these general problems in other initiatives — nonetheless, specific social problems do exist in short sea shipping, and the communication ought to examine them. For instance, the lack of 24-hour working (in shifts) in certain ports reduces their productivity as a link in short sea/hinterland combined transport. The lack of flexibility in working conditions in certain ports further impedes the development of short sea shipping. Incentives in this direction should therefore be provided. These problems ought to be discussed by the Round Tables (attended by those properly concerned, including the social partners) with a view to finding practical solutions at the local level. The ESC acknowledges in any case that the development of short sea shipping will have the additional advantage of creating more job opportunities. Success will also depend on the quality of ships and seamen. Efforts to improve quality are all the more necessary because of the world shortage of qualified seamen.

5.2. There is therefore an urgent need at Community level for funding of programmes to attract and training Community citizens for seafaring jobs.

5.3. More stress should also be placed on initial and in-service training of the workforce at all levels, with funding from the European Social Fund. However, it must be acknowledged that progress has been made in the port sector in Europe generally, in terms of improving productivity through new investment in capital equipment and reorganization of working methods. As a result of this reorganization, the employment of dockers has been drastically reduced. In the long term, however, it is thought that the operational reorganization of ports will result in more jobs being created⁽¹⁾.

6. Transparency

6.1. The ESC agrees with the view expressed in the communication that greater transparency is needed, but at the same time notes the need for transparency to be imposed on all links in the transport chain (road and rail transport, ports, maritime transport, river transport).

6.2. Specifically for ports, it must be made clear which tariffs and subsidies affect the port services proper and which concern other services. Ports must operate competitively, given that indirect subsidies exist. In parallel, it is necessary to strengthen the role of ports in the trans-European networks, since for the moment the ports are the 'poor relations' in those networks⁽²⁾. River ports will also have to be incorporated into trans-European networks.

6.3. It is equally necessary to determine what direct or indirect subsidies go to the other transport modes, so that competition between modes is not distorted by differences in costs caused by different degrees of official financial support. The underlying principle should be that each mode pays its full costs. Cross-subsidization of transport modes must be discouraged. This argument is developed particularly in the ESC Opinion on the 'Green Paper on the impact of transport on the environment: a Community strategy for sustainable mobility'⁽³⁾. It is also developed in the ESC Opinion on aids for transport by rail, road and inland waterway (Regulation 1107/70)⁽⁴⁾. The ESC understands that the recent Green Paper on the fair and effective pricing of transport will help achieve this.

6.4. The ESC regards as very positive the conclusions of the Council of Ministers for Industry (6 November 1995) on transparency and state aids. In particular, attention is drawn to the fact that the various EU policies (including transport policy) will be reviewed in connection with monitoring of state aids.

7. Statistics

7.1. The use of turnaround time in ports as a statistical criterion for comparing port productivity can produce misleading conclusions. This approach ignores the fact that short sea ships spend a greater proportion of their time in port than do ocean-going ships, on account of the normally shorter sea distances and the more frequent loading/unloading in ports.

7.2. In general, the available statistics on short sea shipping are of low quality. Producing improved statistics should not however involve excessive burdens or costs for the firms supplying the data concerned.

⁽¹⁾ Sept./Oct. Bulletin 1995 — Netherlands Ministry of Transport.

⁽²⁾ OJ No C 397, 31. 12. 1994, p. 23.

⁽³⁾ OJ No C 313, 30. 11. 1992.

⁽⁴⁾ ESC Opinion CES 1316/95, 22. 11. 1995.

8. Subsidiarity

The proposed integrated policy fortunately covers the subsidiarity principle, i.e. the division of responsibilities at national and Community levels. However, efforts must be intensified to ensure energetic participation by the regions as well in order to achieve a better result. This could be achieved by involving the regions in the Round Tables.

9. Sea-transport strategy

9.1. The ESC hopes that the communication will be followed up, and that the short sea sector will receive due attention in the expected Commission document on sea-transport strategy.

9.2. The communication aims to stimulate further discussion leading to legislative measures. Although the communication achieves what it sets out to do, the ESC thinks it is now time to move on to the next stage. More action, less discussion. It is practical solutions which are needed, not more grand declarations. The Commission's enthusiasm for relieving traffic congestion through short sea shipping must be translated into specific measures which must form part of a broader transport policy. If appropriate steps are not taken, in a few years mobility will not be sustainable and an impasse will be reached. Shifting goods transport from land to sea routes is a complicated question, and its implementation depends on many factors. In view of the difficulty of the operation, the ESC would stress the contribution which the principle of subsidiarity can make to its success.

10. Specific comments

10.1. In Annex III, point 4, 'Difficulties in competitive pricing', applies only to liners. Non-liner transport usually has the opposite characteristic, i.e. high load factors and exceptionally competitive freight rates.

10.2. In Annex III.B, point 2, 'Port charges', the basic observation that short sea shipping is subject to disproportionately high port charges is correct. The ESC

agrees entirely with the stress placed on reducing them. However, the difference mentioned between port costs per container in Northern and Southern Europe is not representative of the variations affecting bulk transport. For instance, the charges at a port on the west coast of Britain can sometimes be three or more times those at a Mediterranean Spanish port.

11. Conclusions

11.1. In the light of the above, the ESC thinks that urgent attention must be given to the following:

- enabling short sea shipping to compete on equal terms with the other transport modes through transparency of subsidies and future internalization of external costs; the role of the European Commission in defining and implementing this idea will be crucial;
- full integration of short sea shipping in the trans-European networks as an equal partner with the other transport modes;
- working out practical solutions to administrative problems affecting short sea shipping (e.g. customs/transit procedure);
- upgrading the role of small and medium-sized ports to relieve congestion in large ports and main roads;
- improving and expanding the study of the eight trade corridors;
- a clearer image of short sea shipping as a commercially attractive alternative mode of transport;
- continuing support for and coordination with the MIF Short Sea Panel and support for the work of the Round Tables;
- concentration on the social dimension of the short sea sector (and especially on training).

11.2. To achieve the above, it is necessary to draw up a list of priorities and introduce continuous monitoring of the relevant actions, with close cooperation between the Commission, the Member States and the MIF Short Sea Panel.

Done at Brussels, 31 January 1996.

The President
of the Economic and Social Committee
Carlos FERRER

Opinion on the proposal for a Council Directive on marine equipment⁽¹⁾

(96/C 97/06)

On 8 August 1995, the Council decided to consult the Economic and Social Committee, under Article 84(2) of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for Transport and Communications, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 17 January 1996. The Rapporteur was Mr Colombo.

At its 332nd Plenary Session (meeting of 31 January 1996), the Economic and Social Committee unanimously adopted the following Opinion.

1. Introduction

The proposal is one of the measures envisaged by the Commission in its communication of 24 February 1993 on a common policy on safe seas (COM(93) 66 final).

The Committee Opinion on the communication⁽²⁾ felt that mutual recognition was the most effective way of handling the problem of the safety of shipborne equipment, with regular checks on the benefits of harmonization.

1.1. The proposal also meets the request made by the Council in its Resolution of 8 June 1993⁽³⁾ concerning the primary objective of increasing safety at sea.

2. Present situation

2.1. The international conventions adopted by the International Maritime Organization (IMO) on vessel safety and prevention of pollution from vessels specify the equipment (appliances, materials, devices and apparatus) needed to ensure general safety and safety of operations, and to prevent pollution.

2.2. These conventions lay down the general requirements for such equipment. The detailed standards and performance specifications relating to such items as lifesaving, fire-fighting, radio and on-board navigation equipment are laid down in recommendations and standards adopted by the IMO or other international bodies.

2.3. The equipment covered by the conventions must be of the type approved by the national authority. Before giving its approval, this authority must ascertain that

the equipment has been tested and proven to conform with the standards laid down in the IMO recommendations, or with criteria which are substantially equivalent and not of a lower level.

2.4. The IMO recently tackled the question of mutual recognition of equipment when it issued a proposal to establish international approval procedures based on an IMO code for equipment type-approval.

2.5. The proposal was not adopted because some countries supported the current practice based on bilateral or multinational arrangements.

3. Content of the proposal

3.1. The proposal is designed to enhance on-board safety through the uniform application of international standards, and to harmonize the procedures for assessing the conformity of the marine equipment which vessels must carry on board.

3.2. The situations obtaining in Member States differ as regards the bodies appointed by the national authorities to approve the equipment and the criteria for applying the international standards.

3.3. The Commission considers that the present situation is unsatisfactory in safety terms. Community harmonization therefore appears justified, in order to ensure that equipment is reliable and can thus protect human life and the marine environment in general.

3.4. As well as raising safety levels, the implemen-

⁽¹⁾ OJ No C 218, 23. 8. 1995, p. 9.

⁽²⁾ OJ No C 34, 2. 2. 1994, p. 47.

⁽³⁾ OJ No C 271, 7. 10. 1993, p. 1.

tation of precise Community rules should allow such equipment to circulate freely in all Member States.

3.5. This will be possible because approved equipment will bear a Community Mark that will enable its manufacturer to market it in other Member States without seeking specific approval there.

3.6. The Commission feels that this will lead to savings because it will reduce the administrative costs related to approval and will produce economies of scale, as the Community Mark will allow the equipment to be sold on a larger market.

3.7. The proposal takes a suitably gradual approach, grouping the equipment in two Annexes:

A1 — Equipment for which detailed testing standards already exist in international instruments;

A2 — Equipment for which detailed testing standards do not exist yet in international instruments.

4. Comments

4.1. *General comments*

4.1.1. The Committee approves the proposal, subject to the suggestions and comments which follow. It strongly supports the underlying objectives, namely:

- to improve safety at sea;
- to secure the harmonized application of testing standards within the EU;
- to allow free movement of the approved equipment in all Member States, according to the standards and criteria laid down by the EU.

4.1.2. The Committee endorses the basic consideration that achievement of the highest possible safety level is closely bound up with the on-board availability of safe, reliable equipment. Hence there is a close link between marine pollution and disasters and the standard and quality of equipment carried on board.

4.1.3. However, the proposal appears geared more to the objective of removing obstacles to the free movement of goods, rather than the further enhancement of safety levels.

4.1.4. The Committee holds safety as sacrosanct, and asks the Commission to give constant consideration to safety and environmental protection when framing

legislation in this field. Committee Opinions on maritime shipping, starting with the Opinion on a common policy on safe seas, have always highlighted these elements.

4.2. *The international backdrop to the proposal*

4.2.1. The Committee supports the free movement of equipment and the harmonization of testing criteria as key objectives for the automatic mutual recognition of equipment throughout the EU.

4.2.2. However, it feels that the Community must make a determined effort to extend to all international shipping the high safety and reliability criteria which it pursues itself.

4.2.3. This can be achieved by initiatives at the IMO to resume negotiations with a view to ensuring real and effective application of the international standards for safe and reliable equipment, to be extended to all world shipping.

4.2.4. The persistence of regional standards based on an often differing application of IMO standards may impair the competitiveness of European shipowners, and may lower safety and environmental protection levels — particularly in the case of non-EU vessels which sail in Community waters.

4.3. *Protection of the quality of Community production*

4.3.1. As regards the quality assurance for Community production (modules C and D appended to the proposal), the requirements seem sufficiently stringent to guarantee a high quality product.

4.3.2. However, the Committee asks the Commission, in leaving the IMO to establish the standards and assessment criteria for the equipment covered by Annex A2, to ensure the fullest possible protection for users.

4.3.3. Such protection should be assured by:

- strict application and regular updating of the criteria laid down in Articles 9, 12 and 13 and in Annex C;
- the Member States devoting careful attention to the appointment of the control bodies responsible for the authorization procedure laid down in Article 9.

4.3.4. While understanding the Commission's reasons, the Committee also wonders whether the mark of conformity mentioned in Annex D, which differs

from the certification system that was standardized by Directive 93/68, might create confusion and conflict with existing provisions governing life-saving equipment.

4.4. *Specific comments*

4.4.1. Article 1

The Article rightly enshrines the principle of improving safety. This principle should receive greater mention in the Articles which follow.

4.4.2. Article 2

In the definition of 'International Conventions', the reference to the 1966 convention should be deleted as this convention does not mention equipment.

In the definition of 'Testing Standards', mention should also be made of other bodies (such as CEN and Cenelec) which are recognized as leading European standardization bodies.

4.4.3. Articles 4, 5 and 6

These Articles constitute the core of the Directive, as they seek to strengthen the principle of safety and free movement of equipment.

4.4.4. Article 7

Article 7(2) and (4) empower the Commission to undertake certain tasks on the Community's behalf. The Committee thinks that the proposal is right, as the intention is clearly for the Commission ultimately to coordinate Member States' action on the Community's behalf.

4.4.5. Article 8

It should be more clearly stated that this Article is also to apply to existing third-country vessels which are transferred to the register of a Member State.

4.4.6. Article 13

The 'shortcomings in the Testing Standards' mentioned in Article 13(1)(c) do not constitute grounds for non-compliance. Article 13(1)(c) should therefore be deleted, as it could raise practical and legal problems in the event of action by a Member State.

4.4.7. Article 14

The scope of Article 14(2) should be clarified so as to specify whether it extends to equipment produced in third countries.

Done at Brussels, 31 January 1996.

The President
of the Economic and Social Committee
Carlos FERRER

Opinion on the proposal for a Council Directive amending for the first time Directive 90/394/EEC on the protection of workers from the risks related to exposure to carcinogens at work⁽¹⁾

(96/C 97/07)

On 10 October 1995, the Council decided to consult the Economic and Social Committee, under Article 118a of the Treaty establishing the European Union, on the above-mentioned proposal.

The Section for Social, Family, Educational and Cultural Affairs, which was responsible for preparing the Committee's work on the subject, adopted the Opinion on 18 January 1996. The Rapporteur was Mr Etty.

At its 332nd Plenary Session (meeting of 31 January 1996), the Economic and Social Committee adopted the following Opinion unanimously.

1. Introduction

1.1. The Commission proposal is presented as an amending Directive to the individual Directive on the protection of workers from the risks related to exposure to carcinogens at work (90/394) already adopted under the Framework Directive of 12 June 1989. That Directive provides the basis for the protection of the health and safety of workers against risk from chemical, physical and biological agents at work, reflected in a series of specific directives.

1.2. The Economic and Social Committee has continuously participated in the development of these measures; in recent years it has recorded Opinions on proposals for amendment to the Biological Agents Directive, a Physical Agents Directive and a Chemical Agents Directive⁽²⁾.

1.3. The current Carcinogens Directive provides for a series of general measures by employers to ensure that the exposure of workers to carcinogens is reduced to as low a level as is technically possible. (In this context, 'carcinogen' is meant to address chemicals capable of causing cancer; physical agents and biological agents with this hazard are not covered in the current Directive nor in the proposed amendment.)

1.4. The current Carcinogens Directive (Article 16) provided for the establishment by the Council of limit values on the basis of information, including scientific and technical data, in respect of all those carcinogens where this is possible, and, where necessary, other directly-related provisions. No such limits have yet been set. The proposed amendment therefore begins this process by setting a limit for benzene, a known human carcinogen, clearly demonstrated by epidemiological

studies. At present, different limit values for benzene are applied in different European and other countries.

1.5. The amendment proposal recognizes four important aspects of setting a limit value for benzene:

- (i) the need for compromise between the technical requirements for worker protection and a feasible step forward at this time;
- (ii) the need for temporary derogations so that those industries and workplaces which would require technical adjustments to meet the standard have time to do so, provided the worker-protection provisions of Directive 90/394 are observed;
- (iii) the need for uniformity within the European Union by providing a minimum level of protection of all workers in the Community which avoids any possible distortion in the area of competitiveness;
- (iv) the fact that further actions to lower exposure will not be required as legal provisions already exist in most Member States to restrict or prohibit the use of benzene.

1.6. Apart from the issue of limit values in general and that of benzene in particular as an exemplar for the setting of limit values for carcinogens, the proposal effects a major extension of the scope of the Carcinogens Directive by removal of restrictions implicit in the wording of the current instrument.

1.7. The current Directive identifies carcinogens as substances under Directive 67/548 and preparations under Directive 88/369 which have been allocated the risk-phrase R45 'may cause cancer' together with certain specified substances, preparations or processes in a short list in Annex 1. The new proposal would extend the scope of the Directive to medicinal and veterinary products, cosmetic products, mixed substances in waste,

⁽¹⁾ OJ No C 317, 28. 11. 1995, p. 16.

⁽²⁾ OJ No C 56, 6. 3. 1989, p. 38; OJ No 249, 13. 9. 1993, p. 28; OJ No. C 34, 2. 2. 1994, p. 42.

pesticides, munitions and intended explosive products. The proposal would thus prevent different levels of protection for workers exposed to carcinogens whether as substances or as preparations.

1.8. The proposal also corrects two specific faults in the current Directive:

- (i) it contains precise provisions for the protection against polycyclic aromatic hydrocarbons (PAH);
- (ii) it provides for the risk of skin absorption (and not just skin contact) in addition to other routes of exposure.

1.9. In summary, the proposed amendment is a logical step within the principles of the Framework Directive to advance protection of workers against the risks of exposure to carcinogens at work.

2. General comments

2.1. The Committee generally considers the Commission proposal for an amendment to the Carcinogens Directive to be a valuable advance in worker protection and an enhancement of regulatory controls provided that

- (i) it in no way conflicts with the effect of established Health and Safety Directives;
- (ii) the Committee is informed by the Commission on the arrangements foreseen for extending the list of substances to which specific limit values will be applied and the methods by which these will be agreed and established within the European Union. In this context, the Committee reiterates its Opinion made on the proposal for a Chemical Agents Directive:

'The Committee considers ... that limit values should be set by procedures involving full consultation with social partners, the Economic and Social Committee and the European Parliament.'

The Committee notes the reference to the Advisory Committee on Safety, Hygiene and Health at Work and its support in general for the proposed amendment, and also the views of the members of that Committee on the proposed limit value for benzene. The Economic and Social Committee understands that, although there are differences in view on the limit which might now be set for benzene, the Commission proposal of 1 ppm, supported by a series of derogations limited in time, would be the most feasible action at this time. In supporting this view, the Committee has been informed on levels applied or under discussion both within and

outside the European Union. The provisions proposed in the proposal, as those in the Carcinogens Directive, are minimum provisions. The Committee urges employers to take improved protective measures if possible.

2.2. The Committee stresses that the protective measures in the Carcinogens Directive of 1990 are in no way affected by the present proposal. They must also be observed in those sectors and activities selected for derogations. The Committee further reminds the Commission of the criticisms and suggestions expressed in its 1988 Opinion on the proposal for the Carcinogens Directive and urges the Commission to take further action on the basis of it.

2.3. The proposal must not lead to unnecessarily costly measures and the Committee notes that the Commission confirms that this will not be the case. The Committee emphasizes the application of risk-assessments in line with Article 6 of the Framework Directive 89/391. The Commission must provide more information on both the health-protection benefits and the cost implications of the consequential extensions in scope.

2.4. The Committee recognizes that carcinogenic risks are one aspect of adverse chemical effects. It also brings to the attention of the Commission that others are involved of an equally serious nature like genetic risks, which could require future Community action.

3. Specific comments

3.1. Article 1

3.1.1. The Committee considers that in view of the complexity of the subject and the extensions in scope arising from the revised definition in the proposed replacement for Article 2, the Commission should provide a guidance note which would assist employers and workers in understanding the application of the revised Directive to their circumstances of work. This will be of particular help to improve the working conditions in small and medium-sized enterprises. The Committee understands that the basis of classification is that the designation of a substance or preparation as a Category 1 or 2 Carcinogen to which the provisions of the Directive (as amended by the proposal) applies is:

Category 1: Substances known to be carcinogenic to man where there is sufficient evidence to establish a causal connection between human exposure to a substance and the development of cancer i.e. on the basis of epidemiological data.

Category 2: Substances which should be regarded as if they are carcinogenic to man. There is sufficient evidence to provide a strong presumption that human exposure to a substance may result in the development of cancer i.e. generally on the basis of animal experiments or other relevant data.

The Commission must ensure the application of these criteria for the implementation of the Directive and for any future proposals for limit values for substances.

The Committee recommends that in Article 2(a) explicit reference is made to substances classified with the label R 49 and to preparations classified as R 45.

3.1.2. The Committee supports the amendment to Article 3(3) (point 2 in the amendment) which recognizes that the risk from skin exposure is not confined to the skin alone but may extend to absorption into and through the skin.

3.1.3. The Committee accepts the derogations proposed under Annex III. It notes the statement of the Commission on the extension of the Directive to, a.o. different forms of waste.

3.1.4. The Committee thinks that point 3 in the amendment needs clarification. The Committee understands that the time-limited derogations are to provide for non-compliance with the proposed limit value for benzene by certain sectors of activity but do not extend to exemption from compliance with all the other protection measures laid down in the current Directive. It is not clear what additional safeguards are provided by this addition.

3.1.5. The Committee supports point 4 of the amendment which resolves problems in interpretation which led in some States to the incorrect inclusion of coal dust, with coal soot, coal tar and coal pitch in the definitions of Annex 1 'List of substances, preparations and processes work involving exposure to aromatic polycyclic hydrocarbons'. This important group of chemical agents includes some recognized carcinogens, which the Committee hopes the Commission will pay attention to in the near future.

3.1.6. With specific regard to benzene and the proposed limit value in the replacement for Annex III

reference is made to 1.5 above. The Committee reiterates its support for the Commission proposal for an occupational exposure limit of 1 ppm, measured or calculated as drafted in Note 5, Part A of Annex III, subject to justifiable derogations for specific activities or sectors of activity where implementation may be difficult to meet within the date specified (31 December 1998). The Committee recommends that the Commission explores the feasibility of amending, as quickly as possible after 31 December 1998, Annex III with a view to further reduction of the limit value.

The Committee requests information from the Commission on the availability of measurement instruments and technical experts to assist employers, particularly in small and medium-sized enterprises, to comply with the limit value.

3.1.7. The Committee is aware of the fact that benzene is used as a reactant and/or a reaction intermediate in certain industries such as the fragrance industry, where its uses are acceptable provided that they are under control.

3.1.8. The Committee finds it essential that a uniform measuring procedure should be found for application throughout the European Union.

3.1.9. In earlier Opinions, notably the Opinion on the Proposal for a Council Regulation (EEC) establishing a European Agency for Safety and Health at Work⁽¹⁾, the Committee has said that it attaches great importance to the improvement of exchange of information and experience and of cooperation with and between specialized institutes and other bodies in the field of occupational safety and health, and that it is a task of major importance to ensure that national data on safety and health at the workplace are comparable. The Committee wishes to reiterate that point in the context of the present Opinion.

(¹) OJ No C 169, 6. 7. 1992, p. 42.

Done at Brussels, 31 January 1996.

The President
of the Economic and Social Committee
Carlos FERRER

Opinion on:

- **the proposal for a Council Regulation (EC) amending the Annex to Council Regulation (EEC) No 3911/92 of 9 December 1992 on the export of cultural goods, and**
- **the proposal for a European Parliament and Council Directive amending the Annex to Council Directive No 93/7/EEC of 15 March 1993 on the return of cultural objects unlawfully removed from the territory of a Member State**

(96/C 97/08)

On 4 December 1995, the Council decided to consult the Economic and Social Committee, in accordance with Articles 100a and 198 of the Treaty establishing the European Community, on the above-mentioned proposals.

The Section for Social, Family, Educational and Cultural Affairs, which was instructed to prepare the Committee's work on this matter, drew up its Opinion on 18 January 1996 (Rapporteur: Mrs Rangoni Machiavelli).

At its 332nd Plenary Session (meeting of 31 January 1996), the Committee adopted the following Opinion by a unanimous vote.

1. The Advisory Committee on Cultural Goods, which has the role of assisting the Commission, has drawn attention to discrepancies between the classification and treatment by Member States of 'water-colours, gouaches and pastels' as listed in the Annex appended to both Council Regulation (EEC) No 3911/92 and Council Directive No 93/7/EEC.
2. These discrepancies are caused by differences between the various language versions of the Annex brought about by differences in the artistic traditions and concepts prevailing in the Member States. These differences currently make it impossible to ensure that water colours, gouaches and pastels are treated in the same way throughout the Community.
3. Some Member States place water-colours, gouaches and pastels in Category 3 of the Annex (paintings), whilst others are of the opinion that they come under Category 4 (drawings). As the financial thresholds in respect of the two categories are different (Category 3: ECU 150 000; Category 4: ECU 15 000), it is essential that amendments be made to the Annex as a matter of urgency in order to ensure that these works of art are treated in an identical way.
4. The Commission therefore proposes that a new separate category be set up for water-colours, gouaches and pastels and that a common financial threshold of ECU 30 000 be laid down.
5. In its Opinion on the original Proposal for a Regulation and Proposal for a Directive⁽¹⁾ the Committee drew attention to the danger that these provisions could be interpreted in different ways (see point 1.4.5). The Committee approves the proposed specific, limited amendments to the Annexes, insofar as they are designed to bring about greater legal certainty in respect of the implementation of the EU provisions.
6. With a view to the three-yearly review of both the Regulation and the Directive — due to be carried out in 1996 — and in the light of the implementation reports provided for in Article 10 of the Regulation and Article 16 of the Directive, the Committee does, however, wish to take this opportunity to call upon the Commission to attach especial importance to the following:
 - the level of implementation of the Regulation and the Directive in the various Member States;
 - the advisability of introducing a form of 'passport' or accompanying certificate for particular works of art;
 - increased cooperation between police forces and legal authorities in the field of the identification of stolen or unlawfully exported cultural goods.
7. On a more general note, the Committee gives its backing to all endeavours to safeguard the immense heritage of cultural goods in the EU; these cultural goods are an integral part of Europe's history and its different cultures.

(1) OJ No C 223 of 31. 8. 1992.

Done at Brussels, 31 January 1996.

The President
of the Economic and Social Committee
Carlos FERRER

Opinion on the proposal for a Council Directive amending Directive 92/117/EEC concerning measures for protection against specified zoonoses and specified zoonotic agents in animals and products of animal origin in order to prevent outbreaks of food-borne infections and intoxications

(96/C 97/09)

On 24 November 1995, the Council decided to consult the Economic and Social Committee, under Articles 43 and 198 of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for Agriculture and Fisheries, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 11 January 1996. The Rapporteur was Mr Mayayo Bello.

At its 332nd Plenary Session (meeting of 1 February 1996), the Economic and Social Committee adopted the following Opinion *nem.con.* with two abstentions.

1. In adopting Directive 92/117/EEC (the 'Zoonoses Directive') in 1992, the Council introduced an obligation for the Member States to collect information on the situation, communicate this information to the Commission and forward plans and national measures concerning salmonella in poultry to the Commission.
2. The Committee notes that Directive 92/117/EEC has proved difficult to implement in a number of Member States. It therefore supports the Commission's intention to carry out a thorough review of the Directive.
3. The Committee understands the Commission's reasons for requesting time to revise the Directive and to draft the essential report provided for in the new Article 15a.
4. The Committee recognizes that Directive 92/117/EEC has certain shortcomings, and regrets that some Member States have failed to comply with the Directive adequately. Inadequate control measures mean

that competition is distorted between poultry producers in different countries.

5. Consumers are increasingly aware of salmonella and some countries have adopted significant provisions on this matter, which the Committee considers necessary to fulfil the obligation of the EU Treaty to contribute to the attainment of a high level of health protection.
6. The Committee points out its interest in control and protection against zoonoses, and asks that the Committee be consulted in due course on the proposed new Directive which should include appropriate provisions to ensure that the situation does not deteriorate further, especially in those countries which have implemented the Directive.
7. Given the urgent need to further and speed up the implementation of control measures against salmonella in all EU countries, the Committee recommends that the Commission and other concerned parties arrange a public conference on this subject.

Done at Brussels, 1 February 1996.

The President
of the Economic and Social Committee
Carlos FERRER

Opinion on the proposal for a Council Regulation (EC) amending Council Regulation (EEC) No 1765/92 establishing a support system for producers of certain arable crops⁽¹⁾

(96/C 97/10)

On 20 December 1995, the Council decided to consult the Economic and Social Committee, under Articles 43 and 198 of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for Agriculture and Fisheries, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 11 January 1996. The Rapporteur was Mr Pricolo.

At its 332nd Plenary Session (meeting of 31 January 1996), the Economic and Social Committee adopted unanimously the following Opinion.

1. Introduction

1.1. It seems advisable to point out first of all that, in taking the initiative to present to the Council a proposal which in fact seeks to amplify, rather than amend, the basic Regulation 1765/92, the Commission is motivated by the wish to implement the pledge made by the EC to the USA concerning oilseeds under GATT (the 'Blair House Agreement').

1.2. Regulation 1765/92 sets up a system of compensatory aid per hectare as from the 1993-1994 marketing year for producers of certain arable crops in order to compensate the loss of revenue resulting from the reduction of institutional prices, i.e. the progressive alignment of EC prices on those on the world market.

1.3. Any producer who asks for the payment of per hectare aid under the 'general regime' (a 'simplified regime' is provided for small producers) is obliged to withdraw some of his farmland from production (the initial percentage was 15 %; currently it is 10 %), for which he receives compensation under Article 7(4) and (5).

1.4. The 'Memorandum of Understanding' on oilseeds concluded by the EC and the USA in June 1993 stipulates that the EC 'shall take appropriate corrective action within the framework of the CAP reform' if 'the by-products made available as a result of the cultivation of oilseeds on land set aside for the manufacture within the Community of products not primarily intended for human or animal consumption exceed one million tonnes annually expressed in soya bean meal equivalent'.

1.5. The Commission considers there has been a big increase in the cultivation of oilseeds on set-aside land and fears that the 1 million tonne limit may be exceeded; so, it is now proposing to the Council that measures be

introduced to monitor and forecast production trends in order to avoid any breaches of the limit on by-products (oil cake and meal) intended primarily for use as animal feed.

1.6. Basically, a scheme for monitoring the delivery contracts concluded annually between farmers and seed crushers will enable the volume of soya meal equivalent which could be produced to be worked out.

1.6.1. If production estimates suggest that the 1 million tonne ceiling might be breached, the amount of by-products authorized in each delivery contract would be reduced.

2. Comments

2.1. The ESC feels that from a purely formal standpoint the Commission's proposal fits in with the EC's pledges to the USA under GATT.

2.2. However, it considers that there is no real or imminent risk of the 1 million tonne ceiling for soya meal equivalent being breached.

2.2.1. Production of oilseed by-products on set-aside land remained below this threshold in 1995.

2.2.2. There should be no increase in EU production in 1996 for the following reasons:

a) the percentage of set-aside has been reduced from 15 to 10 %; and

⁽¹⁾ OJ No C 12, 17. 1. 1996, p. 11.

b) no measures have been adopted at Community level to remove taxes on fuels of agricultural origin.

2.3. In addition, world output for 1996 is expected to be 2 to 3 % down on the previous year due to forecasts of a 7 million tonne drop in the US soya harvest and a big fall in Brazilian production.

2.4. Although the Commission's initiative is aimed basically at setting up, under the basic Regulation 1765/92, the legal machinery for ensuring that the Blair House pledges are kept, the ESC would still point out that, at the end of the day, the proposed measures will discourage the growing of crops which might be used for the extraction of fuels.

Done at Brussels, 31 January 1996.

The President

of the Economic and Social Committee

Carlos FERRER

Opinion on relations between the European Union and ASEAN

(96/C 97/11)

On 30 March 1995, the Economic and Social Committee, acting under Rule 23(3) of its Rules of Procedure, decided to draw up an Opinion on relations between the European Union and ASEAN.

The Section for External Relations, Trade and Development Policy, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 12 January 1996. The Rapporteur was Mr Pezzini.

At its 332nd Plenary Session (meeting of 1 February 1996), the Economic and Social Committee adopted the following Opinion by a majority vote with five abstentions.

SUMMARY

The Committee notes that ASEAN has succeeded in its initial objective of avoiding conflict between its members, and that the resultant stability has enabled these countries to enjoy strong economic growth.

ASEAN's objectives have changed somewhat over the years, notably with the recent decision to establish a free trade area among its members. In this context, and in that of the accession of former or existing Communist countries (another issue which ASEAN must address), the EU could usefully pass on its experience, for instance by stepping up its cooperation with the ASEAN secretariat.

EU-ASEAN trade is growing considerably, and the trade balance tilts in favour of ASEAN. Trade relations are marred by such problems as market access, respect for

intellectual property rights, and the use of anti-dumping duties. The Committee considers that the EU needs first of all to improve its own commercial image in Asia. It hopes that the opening of European Business Information Centres (EBICs), and their linkage with the existing national Chambers of Commerce, will contribute to more fruitful forms of cooperation. It also advocates the setting-up of joint ventures between EU and ASEAN countries, via the EC Investment Partners and other projects devised by the Commission.

The Committee feels that the quality of the European presence in the region is more important than its size. It recommends that EU cooperation should focus on specific sectors such as the environment, telecommunications, energy and vocational training.

Dialogue on human rights is a delicate matter. The Committee reiterates its earlier calls for inclusion of a social clause in the work programme of the World Trade Organization, based on ILO Conventions. On the specific question of East Timor, the Committee considers that a Council 'troika' should hammer out a diplomatic solution based on the UN General Assembly resolutions.

An EU-Asia summit is to be held in Bangkok in March 1996, and the ASEAN countries will be taking part alongside Japan, China and South Korea. The Committee considers that the summit will provide an opportunity to relaunch a European presence in the region. The meeting should serve principally to consolidate dialogue and extend its scope to such fields as the environment, social problems and vocational training.

The Committee notes the wide gap between Europe and Asia, and calls for a major commitment to information and cultural cooperation; substantial resources should be earmarked for this. The Committee thinks that a variety of exchanges and contacts could usefully be promoted so as to deepen mutual understanding, including visits by civil servants, trainees and new graduates from ASEAN countries. The Committee also calls for contacts between EU and ASEAN socio-economic partners, and is ready to take any steps that might be useful. It also asks to be informed of the conclusions of the Bangkok summit so that it can decide what action it should take in the future.

1. Introduction

1.1. The European Union's reasons for granting Asia a higher priority than hitherto are comprehensible and soundly based. This strategy ties in with the globalization of the world economy, from which Europe cannot stand aside. Since the end of the Cold War, it is no longer possible to isolate the economy from the great political questions and to subordinate international economic relations to a higher 'political order'. The economy is now returning to the centre of the political stage, and economic and commercial considerations, with their important place in the foreign policy of the main countries, can be a source of conflict, e.g. the trade dispute between the USA and Japan.

1.1.1. Alongside geopolitics, then, one must speak of geoeconomics, to denote an approach which acknowledges the basic role of the economy in determining worldwide equilibria and defending national interests. In this sense, the European Union, as the world's main

trading power, has a role to play. In recent times the Union, in its efforts to rethink and revamp its external relations, has launched a strategy of action on all fronts intended to lead to 'third generation' cooperation agreements: first and foremost towards the 'adjoining' areas (Eastern Europe, the Mediterranean), but also towards regions which are more distant from European interests: Mercosur, other Latin American states, ASEAN and other Asian countries, southern Africa and South Africa.

It has done so not only to make economic cooperation more effective and maintain existing market shares, but also to conquer new markets in the new arena of global competition which has opened up among the main geoeconomic blocs. This strategy could not ignore Asia (particularly ASEAN, the object of an 'attention-paying strategy' since 1980).

However, it is worth considering whether the EU ought to fix its priorities and apportion its interventions accordingly. The criteria for prioritization are dictated first and foremost by political and security interests, pressing social concerns (immigration), and economic and trade interests.

On this basis, the top priority areas for the EU clearly appear to be the southern Mediterranean rim and central and eastern Europe, as they combine all three of the above-mentioned elements. Next comes sub-Saharan Africa, where the main motivation is the fight against poverty, hunger and disease in order to prevent social and environmental disasters. Lastly there are the more dynamic areas of Asia and Latin America, such as Mercosur and ASEAN, where economic and trade interests and the conclusion of partnership agreements are the chief concern.

1.1.2. Asia has acquired such economic and political weight in the global balance that it will certainly be a key player on the international stage in the next century. Current developments in many areas of Asia already make it a worthy partner. South-East Asia, with the recent and less recent NICs — Newly Industrialized Countries (South Korea, Taiwan, Singapore, Hong Kong, Thailand, Malaysia, Vietnam and Indonesia), China with its 'market socialism' and rapid economic and commercial growth (a 9% average annual increase in GDP over the last ten years); the reawakening and incipient transformation of India: all these are phenomena of great interest and potential, albeit not without dangers and threats which cannot yet be properly assessed or identified. According to an IMF study, as early as 2010 China will be the second largest

economy in the world in terms of volume of production. The IMF estimates the Chinese per capita income in 1992 as between \$ 1 300 and \$ 2 500 per annum, as against the official estimate of \$ 370.

1.1.3. Europe's intention to 'strengthen its economic presence in Asia in order to maintain its leading role in the world economy' is therefore praiseworthy. However, it is necessary to take account of certain preconditions without which the EU's declared readiness to open a dialogue could turn out to be not only sterile but counter-productive.

1.2. The first consideration is that Asia is not a region like others — neither in political nor in cultural terms — and that precisely for this reason a shared inspiration of civilization and cultural osmosis is lacking between Europe and Asia. Even without citing Samuel Huntington's essay [Samuel Huntington, the well-known political analyst, lecturer at Harvard University and adviser to several Democrat administrations, is the author of the controversial study 'The Clash of Civilizations' published in *Foreign Affairs* (Vol. 72, No 4, September-October 1993). This argued that most current and future international disputes will break out along the borders between different 'civilizations' and will have cultural rather than ideological or economic causes. Huntington postulates a confrontation between the West and the rest of the world, and more especially against a militant Islamic-Confucian coalition, developing on several levels, from military to human rights and to competition for control of the major international institutions.] it is plausible to state that Asia provides one of the most probable scenarios for a clash of cultures. While in the West many are convinced that the salient feature of the present situation is the strengthening of a diffuse global economic/financial culture based on modern technological, trading and financial practices 'transmitted' through the market, the advocates of the Asian model, in particular the so-called Singapore School [This thesis was put forward in interviews in the American press with Kishore Mahubani, a Singapore diplomat ('The West and the Rest' in *National Interest*, Spring 1992, and 'The Dangers of Decadence: What the Rest can teach the West' in *Foreign Affairs*, vol. 72, No 4, September-October 1993), and the former Prime Minister of Singapore, Lee Kuan Yew ('A conversation with Lee Kuan Yew' in *Foreign Affairs* No 2, March-April 1994).], reject the line that

the development of South-East Asia inevitably involves standardization on the Euro-American model and its system of values (including political democracy). This attitude, widespread amongst the Asian intellectual and managerial elite, stresses the cultural specificity of Asia and rejects the hypothesis that economic growth springs from the particular historical process which has led in Europe to the emergence of the market and of the democratic nation-state. Thus modernity is not identified with the institutions and values typical of western liberalism. There can be 'other roads' to modernity and growth, as shown by the experience of those Asian countries which have overcome the barrier of underdevelopment and become part of the world economy, with a role and dynamism of their own. The countries have undergone a cultural revival generated by the economic clout acquired by the region, but this revival is rooted in a great cultural tradition specific to the region, different from and independent of western culture.

1.2.1. Europe is culturally distant and perhaps the first effort should be to make European civilization better known, not only in terms of image, but as regards great artistic and intellectual works (music, graphic art, literature, scientific discoveries). Without full recognition of this special character, there can be neither political dialogue nor beneficial economic cooperation. Economic relations alone are not enough to justify a new strategy of devoting attention to Asia; it is necessary to go further and to try some kind of cultural approach, even if the presently ruling elite in Asia appears to be culturally immune to the model of representative democracy, and brooks no instruction or interference on human rights. Hence the need for qualitatively significant cooperation which is not based solely on trade and investment but which seeks to establish a relationship rooted in common rules.

1.3. When we talk of Asia it is necessary to understand exactly what we are referring to. The 26 countries covered by the Commission's communication⁽¹⁾ are not only heterogeneous but cannot be classified on purely geographical criteria. The document states that 'European Union strategies will have to be flexible and modular in order to anticipate changes in all three regions of Asia, and they will have to be geared to the particular circumstances of the different countries and regions there'. In the context of relations with the European Union, Asia can be divided into the following geopolitical and geoeconomic areas: eastern Asia, within which we must distinguish the six countries belonging to ASEAN; southern Asia, i.e. the Indian subcontinent;

(1) Commission communication to the Council, 'Towards a New Asia Strategy' (COM(94) 314 final of 13. 7. 1994).

central Asia and subregions of the Caucasus and the Gulf (which the Commission document does not cover).

This area does not provide homogenous multilateral partners for the European Union, as the countries of the area have not started processes of regional economic integration. The exception to this general rule is ASEAN, the Association of South-East Asian Nations, an associative body which, since its foundation as an anti-Communist politico-strategic bloc, has slowly evolved into an economic body focusing on regional cooperation and the achievement of internal synergies.

1.3.1. The Committee has decided to concentrate for the moment on ASEAN, because it is the subregion of Asia which can be seen as a clearly defined multilateral negotiating partner, and because it and the European Community have a formal institutional relationship dating back to 1980, with regular meetings between the relevant foreign ministers. Additional reports with more specific observations on other geopolitical divisions of Asia could follow this one.

The early 1990s saw an acceleration of the trend towards regional groupings, particularly in the West. A little over eighteen months saw the signings of the Treaty of Asunción (26 March 1991) which created Mercosur, the Maastricht Treaty (7 February 1992) which drew up the guidelines for an updated and more federally inclined European Community, which took the name European Union, and the Treaty instituting NAFTA, the North American Free Trade Area (12 August 1992). Furthermore, the favourable climate for regional integration was confirmed by the creation of an economic community by the Member States of APEC and by changes in the objectives and strategy of ASEAN.

1.3.2. ASEAN (the Association of South-East Asian Nations) was set up in Bangkok in 1967 by five countries: Indonesia, Malaysia, the Philippines, Singapore and Thailand, at the very height of the Vietnam war. Its other member countries are Brunei (1984) and Vietnam (July 1995) ⁽¹⁾. The treaty instituting the association, although it also mentions economic cooperation, sets its primary aim as being to maintain political stability in the face of the Communist threat posed by the Hanoi regime and its external patrons (the USSR and China). External threat was the catalyst for the foundation of ASEAN, and until the beginning of the 1980s, after the signing of the Geneva peace agreements and the reunification of Vietnam, its *raison d'être* was primarily defensive and anti-Vietnamese: there was a belief, the

famous 'domino theory', that the fall of Vietnam would bring the collapse of Cambodia, Laos and Thailand close on its heels. It should be noted that during this period ASEAN helped to bring about and maintain a climate of peace between its members, despite their long-standing and deep-rooted disputes, and that this was a major contributory factor in the resolution of the conflicts in bordering areas (e.g. Cambodia). This was perhaps ASEAN's most tangible achievement, without which South-East Asia would not have been able to achieve such rapid growth. Symptomatic of this sea-change in the political climate and aims of the Association was the accession, ratified last July, of Vietnam, a country which has never abandoned communism and has had no change of regime, although it has implemented various economic reforms.

1.3.3. In cultural, social and economic terms, ASEAN's member countries are extremely diverse. Malaysia and Indonesia form part of the Malay civilization, and Islam has been the predominant religion there since the fifteenth century. Thailand is Buddhist, and largely populated by peoples originating in Southern China, while the population of the Philippines, ethnically Malay, were colonized by the Spanish and partially converted to Catholicism. Singapore, where a trading post of the British East India Company was established in 1819, was governed for many years under the administrative arrangements which applied to the whole of peninsular Malaya. The present state of Singapore was established when the island seceded from the independent Federation of Malaysia in 1965. Singapore is an enclave dominated by expatriate Chinese who are also present as a minority in the other countries, and have played a dynamic and expansionist role in business affairs across the entire area.

1.3.3.1. The member countries had a total population of 335 million in 1993, greater than that of the 15 nation EU, while their economic power in terms of GDP is a little more than that of the Netherlands. The accession of Vietnam has taken the population over 400 million. Per capita income ranges from \$ 19 000 in Singapore, a city-state with three million inhabitants whose income figures outstripped those of France in 1995, to \$ 700 in Indonesia, with over 180 million; or from over \$ 21 000 in Brunei, a small — population 300 000 — oil-rich sultanate, to \$ 830 in the Philippines, with a population of 67 million, and \$ 170 in Vietnam (1993 figures). Malaysia has a population of 19 million and a per capita GDP of \$ 3 160. Thailand has a population of 58 million and a per capita GDP of \$ 2 040. Over the last six years Malaysia and Thailand have been among the world's most dynamic economies, with high GDP growth rates. Between 1988 and 1993 Malaysia's annual growth

⁽¹⁾ Vietnam joined ASEAN on 28 July 1995, at the 28th ministerial meeting of ASEAN countries in Brunei.

averaged 8,5 %, while Thailand averaged 9,2 % between 1986 and 1991 with a slight drop to 7,5 % in 1992 and 1993. Following the liberalization and restructuring of the protected and semi-autarkic economy, Indonesian growth also picked up to between 6 % and 7 % p.a. from 1988 to 1992. These three states have already joined the ranks of newly industrialized countries (NICs), while the Philippines and Vietnam, although they lag some way behind the leaders, are also nudging their way into the group. The whole area is hallmarked by very low labour costs and unregulated working conditions. On the social level, this produces wide divisions, and, from a manufacturing point of view in general, it is not conducive to the development of a skilled workforce. Apart from the differences in income mentioned above, a further cause for concern is the inability of the area's development model to distribute the benefits it produces fairly amongst the population.

1.3.3.2. The ASEAN countries are particularly rich in natural resources. Indonesia and Malaysia are oil-producers and major exporters of natural gas. Even after the collapse in oil prices the Indonesian economy remains heavily reliant on the oil industry, despite efforts to diversify. Indonesia has large (although as yet unquantifiable) reserves of a variety of coal and other minerals, including tin, bauxite, copper, nickel, iron and gold. However, the predominant economic sector is still agriculture, which contributes 20 % of GDP and employs 48 % of the workforce. Besides the domestic sector catering for the home market, cash crops for export (rubber, palm oil, coffee, tea, cocoa, sugar and tobacco) grown on large plantations have become very important. The forests — two-thirds of the land area — are an important resource. Between 1985 and 1992 the Indonesian government prohibited exports of timber to ensure that it was worked locally, thus increasing the added value of exports. Since 1993 the export of unworked timber has been heavily taxed, and the government is showing concern about the intensive exploitation of forestry resources and the consequent environmental damage. In 1992 they adopted a special action plan to ensure sustainable use of forestry resources, but many environmental organizations have condemned the indiscriminate destruction of one of the world ecosystem's most important tropical rain forests.

Malaysia is the world's foremost producer of rubber and palm oil. Although price fluctuations have led to falling production, they are still among the most

important elements of Malaysian exports; the EC is by far the largest market for Malaysian rubber (28 % of production) and one of the largest for palm oil (10 %). For Malaysia too the forests are a major source of exports. Since 1992 the Malaysian government has adopted a new policy of gradually introducing a 'sustainable development' system in the forestry sector. Production of cocoa, tropical fruit and fishery products and high-quality stockfarming are gaining in importance. In the mining sector, besides natural gas (21 million m³ of reserves with production increasing by 18 % annually in 1992-1993) tin is still fairly important; with 8,4 % of world production Malaysia is the fifth ranked nation.

In Thailand agriculture's contribution to GDP fell from 40 % in 1960 to 11,4 % in 1993, but it still employs two thirds of the labour force. Despite headlong growth in manufacturing industry, agriculture is still important and Thailand, along with Vietnam, is one of Asia's two net exporters of agricultural produce. Apart from rice (the world's leading exporter) tapioca, maize, sugar and rubber, Thailand is specializing in the production of soya, palm oil, coffee, cotton, and a wide variety of fruit (which has stimulated investment in the fruit juice industry). Stockfarming and fishing are expanding and highly remunerative sectors. Mining is less significant, but tin, antimony, lignite, iron, tungsten, manganese and zinc are to be found.

In the Philippines too the primary sector (agriculture, forestry and fishing) contributed 22,5 % of GDP in 1992 and employed 45,7 % of the workforce in 1993. It is split between an archaic, fragmented and labour-intensive sector producing for subsistence and the home market, and a more modern and capital-intensive sector (agro-business plantations) producing for export. The main products are rice, maize, coconuts, sugar, bananas, pineapples and other tropical fruit. Forests are one of the country's main resources, but they have suffered from uncontrolled exploitation resulting from population pressure, timber exports, illegal felling and insufficient replanting. In 1945, 15 million hectares were covered by forest; by 1988 this had been reduced to 1,2 million hectares. Since 1988 Corazon Aquino's democratic government has set up programmes of replanting and for protecting the remaining virgin forest, particularly on Mindanao.

Following the end of the Vietnam war and the reunification of North and South Vietnam in 1975, the country's

net material product (NMP) [Net material product is an economic variable which excludes public administration costs. It was used in the Comecon countries until Comecon was disbanded in 1990, when it was replaced by the variables (GDP, GNP, etc.) used elsewhere.] grew by a sluggish 1 % during the second half of the 1970s. In the period 1980-1985 NMP grew by some 7 % per year. In 1987 it slowed significantly, to 2,1 % — a sign of the continuing structural problems which the liberalization measures had not solved. Although the post-1976 Vietnamese Government did not jettison socialist economic principles entirely, it did introduce liberalizing market-based reforms. The public and private sector began to work in concert and generate synergies. The reforms, known as 'doi moi' (renewal), ensured full acceptance of private enterprise and spelt the end of state quotas and subsidies. However, the role of state planning in what is now a mixed economy has yet to be clarified. Following the reforms, GDP at constant prices rose by 4,7 % in 1991 and 8 % in 1993. Vietnam's economic structure remains weak and signally lags behind that of the other ASEAN countries. Agriculture continues to be a mainstay and still employs 73 % of the workforce, although its contribution to GDP fell from 50 % in 1989 to 29,3 % in 1993. Apart from the mining and traditional industries which were active during both the colonial period and the conflict between North and South Vietnam, there was no real industrial sector. This only began to develop after 1970 in North Vietnam with the emergence of a substantial heavy steel industry and the building of power stations and infrastructure. Light industry did not appear until the mid-1980s, mainly producing textiles, electronic components and manufactured goods with little added value.

1.3.3.3. A characteristic shared by the ASEAN countries is the headlong growth of the industrial sector in the last decade. In Malaysia it contributed 22,3 % of GDP in 1987, against 8,7 % in 1960. In 1993 that figure passed 30 %, representing 65 % of export earnings. Thailand is currently East Asia's leading recipient of foreign investment; the loss of comparative advantages, first by Japan and then to some extent by South Korea, Hong Kong, and Taiwan, has led to these countries relocating some production abroad, transforming Thailand into the country with East Asia's highest level of

investment in labour intensive, export-oriented industry. Thailand's main manufacturing industry is semiconductors and electronic components, whose exports grew by 13,9 % in 1992, matching the 14 % share of the textile industry, the traditional mainstay of the Thai economy.

Both Thailand and Malaysia are switching from low-added-value industrial production to more sophisticated products, but both countries suffer from a shortage of skilled labour, poor infrastructure and environmental problems caused by pollution and deforestation.

In Indonesia too the manufacturing sector accounted for less than 10 % of GDP in the mid-1960s. As in other South-East Asian countries, the Indonesian government initially followed an industrial strategy of import substitution. This enabled national industry to be set up, protected from international competition by strong tariff barriers. However, by contrast with other countries that changed to an export oriented strategy, Indonesia maintained this policy until the end of the 1980s, leaving its industries largely isolated from innovation and international investment, and hence rather uncompetitive. This partially explains Indonesia's backwardness in industrial development, which is still largely under state control. A few liberalizing reforms introduced at the end of the 1980s have stimulated the development of a private manufacturing sector, often in association with foreign companies. The manufacturing sector accounted for an estimated 20 % of GDP in 1993.

Singapore, which has had a solid base of export-oriented manufacturing industry for over 20 years, is specializing increasingly in higher technology sectors, and has stimulated productivity increases by linking them to pay rises. Having lost some of its comparative advantages, the annual GDP growth rate has stabilized at around 4 % to 5 %, while manufacturing has concentrated on mature and high technology products; the city-state is increasingly developing into an extremely important financial centre.

The Philippines find themselves in the converse situation; having taken the first steps towards light industrialization, they are attracting investments in labour-intensive, low added-value production. Overall, between 1985 and 1991, exports of manufactured products from ASEAN countries grew from 49 % to 85 % of total exports.

1.3.3.4. Japan's economic presence looms large. 37 % of local imports are Japanese products; more than 40 % of Japanese investment is channelled to the area, as are 60 % of Japanese cooperation funds.

The region has seen what economists term a 'flying geese' development model, which consists of a given country producing certain goods domestically while they enjoy certain comparative advantages. Thereafter, when these advantages are lost, production is relocated to neighbouring countries (at first Taiwan, South Korea and Hong Kong; in a second wave, Thailand, Malaysia, Indonesia, the Pacific islands, etc.) which take advantage of Japanese investment, while the leader-country, which has invested heavily in R&D, specializes in ever more sophisticated high-tech products using very flexible production methods. This cycle has replicated itself down the chain, and following in Japan's wake Korea, Taiwan, Singapore and Hong Kong are now transferring low added value, labour intensive production to neighbouring countries.

This phenomenon is most clearly demonstrated in the electronics industry. Between 1985 and 1991 ASEAN's exports of electronic products quintupled (from \$ 6,6 billion to \$ 32,8 billion) and their composition changed: components dropped from 60 % to 30 % of the total, while computers rose from 15 % to 22 % and telecommunications equipment from 18 % to 35 %. All the world's major electronics corporations, mainly Japanese, have a presence within ASEAN, where they have established an integrated circuit of production. This means that individual components (say, of a television set) are produced in different countries (e.g. Thailand, Indonesia) and then assembled in a third country (e.g. Malaysia), bringing a considerable reduction in costs. A third of trade between ASEAN members is in electronic products; this is mainly trading between multinationals.

Although it is not a formally integrated area — as Japan has never aspired to being the regional centre — in fact East Asia is integrated in terms of the globalization of production carried out by big businesses. Indeed, more than 60 % of its trade and investment is carried out within the area or with Japan.

2. Relations between the EU and ASEAN

2.1. As mentioned earlier, the European Union concluded a formal agreement with ASEAN in 1980 and maintains institutionalized relations involving regular meetings of foreign ministers. A joint committee has operated since then to examine scientific and technological cooperation programmes, to approve measures for promoting business contacts between the two regions and to approve development projects put forward by ASEAN countries for European Community funding. In 1983 an ASEAN-EC Business Council was set up to bring together business people from the two sides to identify common projects. The first meeting between

ASEAN and EC economic affairs ministers took place in October 1985, and it was decided that European investment in ASEAN (estimated 13 % of total foreign investment, compared with 28 % from Japan and 17 % from the USA) should be stimulated. In 1986 a joint working party on trade issues examined the problems of access to ASEAN markets and in 1987 joint committees on investment were set up in all ASEAN capitals. In 1988 an agreement was reached on the setting-up of a Joint Management Centre based in Brunei. In 1991 the Community adopted new guidelines on development cooperation, with an increase on aid to Asia and a change in the aid systems for ASEAN countries, giving priority to training, science, technology and venture capital, rather than aid for rural development.

At the June 1991 meeting of ASEAN and EU foreign ministers in Luxembourg, disagreements emerged between the two sides for the first time over the EU's proposals to tie economic agreements and aid programmes to human rights and environmental policies. In September 1993, the EU and ASEAN began negotiations for an agreement on the control of drug trafficking. Lastly, at the two-yearly meeting of EU and ASEAN foreign ministers held in Karlsruhe in September 1994, ministers confirmed the central importance of EU-ASEAN relations and agreed to pursue mutually beneficial economic cooperation and to foster wider involvement of the private sector.

Although ASEAN has not reached a level of integration on a par with that of the European Union, it has had and continues to have great importance for regional stability.

2.1.1. ASEAN is not yet either a free trade area or a customs union and has no intergovernmental — let alone supranational — institutions. The highest political body is the Meeting of ASEAN Heads of Government, which usually meets every three years. At the meeting in Singapore in January 1992, many changes were made to the organization to move it further in the direction of real economic cooperation, and the ASEAN Free Trade Area (AFTA) was established, with completion scheduled by 2003. AFTA is starting to make its presence felt. The final coverage of products and the list of tariff reductions within the Common Effective Preferential Tariff Scheme (CEPT) has led to the harmonization of tariff nomenclature and the elimination of quantitative restrictions from non-tariff barriers to products included

within CEPT. CEPT tariff concessions are granted on a reciprocal basis and all ASEAN members can conclude bilateral agreements. The CEPT programme also provides for a special reduction that enables member countries which reduce their customs tariffs to 20 % or beyond, even on the basis of the 'most favoured nation' principle, to enjoy the preferential CEPT tariffs granted by their partners.

However, the moves to create a single market are opposed by a number of entrenched interests.

The ASEAN countries apply varying — but on the whole high — levels of tariff protection; for some products they are extremely high. Non-tariff barriers (prohibitions, quotas, import monopolies, customs checks, etc.) are widespread but difficult to quantify. Liberalization is proceeding slowly and the governments are influenced by both the arguments of industrial pressure groups and by customs revenue, which provides a not insignificant proportion of state resources. Under AFTA, customs duties for goods produced within ASEAN are to be brought down to a 0 % to 5 % band by 2003. The formalities for its application are complex. The calendar distinguishes between products subject to a 'fast track' procedure and those which are to follow a normal process of tariff reduction. The weak point of the agreement, however, is that countries can temporarily or permanently exclude lists of products from it, with the lists being revised after the first eight years of the agreement. Indonesia has listed 1,800 such products (19 % of its tariff line) and the Philippines 1 350 (24 %). Trade between ASEAN countries rose by 41 % in 1994, from \$ 79 billion to \$111 billion. Total ASEAN trade with the rest of the world, including intra-regional trade, rose by some 30 %, from \$ 419 billion in 1993 to \$ 506 billion in 1994.

A conference of Heads of State was held in Bangkok in December 1995, and on 15 December participants signed a treaty making the region a nuclear weapon-free area. Consideration was also given to enlargement of ASEAN by the year 2000 to include Burma, Cambodia and Laos, which sent observers to the conference. Participants stressed that the prospect of a ten-member ASEAN should not prejudice the structure of the organization or impede the trade liberalization process. It was decided that intra-ASEAN tariffs should be cut to 5 % by the year 2000, with a three-year derogation for Vietnam. The idea of 'informal' summits of Heads of State between the official conferences was also mooted.

However, the real centre of power is the annual meeting of foreign ministers, which is charged with coordinating policy among the various ministerial working groups, of which the ASEAN Economic Ministers (AEM) is the most important. The AEM supervises the work of the five committees on trade and tourism, industry and energy, banking and finance, agriculture and forestry, and transport and telecommunications. The ASEAN Standing Committee meets every two months and is composed of the foreign minister of the country that holds the presidency (which rotates), and the ambassadors of the other countries, and maintains continuity in the organization's activities. Finally, there is a permanent secretariat, based in Jakarta, with a Secretary-General elected for a five-year term at the meeting of foreign ministers. The secretariat has around a hundred officials working on various projects of common interest. *Inter alia*, they have drawn up plans of action on social development, the environment, science and technology, culture and information and the control of drug abuse, in the form of directives to be implemented by the individual states. Decisions are consensus-driven, being taken by informal meetings at which any disagreements are ironed out and a unanimous decision is reached. The organization operates primarily on the basis of consultation and conciliation. Not by chance, the only common institution so far envisaged has been a court of law.

ASEAN countries maintain strict limitations on the rights of EU companies to establish a presence and to provide services, particularly financial and maritime services. In those countries for example, banks have severe restrictions on their ability to set up branches and to provide banking services. In this context, the maritime transport sector and the shipbuilding sector, which are developing rapidly in ASEAN countries, need to be addressed by the EU with a view to achieving liberalization in the former sector and the application of the principles of the recent OECD agreement (on abolition of shipbuilding subsidies) in ASEAN countries.

2.1.2. ASEAN is heavily dependent on the global market. The amount of inter-member trade is very low compared with trade with other regions, varying between 16 and 18 % of the total volume. Exports of manufactured goods increased considerably from 49 % of total exports in 1985 to 85 % in 1991, while exports of primary products fell from 68 to 33 %. The area's development depends largely on external — particularly Japanese — investment, which as previously mentioned, represents 28 % of the total direct investment in the area, followed by the USA (17 %) and the EU (13 %). Member countries' economies are rarely complementary; the ASEAN countries produce similar products and thus compete in third markets. Hence there is no vertical division of production, or specialization in the

sense that one country produces, say, cars while another makes household electrical goods. All the countries produce essentially the same products. However, there is some intra-sectoral and horizontal complementarity. In practice, this means that in certain sectors (such as electronics, but also textiles) trade is taking place within single companies having subsidiaries in different countries. This enables synergies to be created between branches of individual industries, thus opening up greater opportunities for complementarity. The degree of complementarity in trade between ASEAN countries shows that the trading structure is slowly evolving from a vertical to a horizontal division of labour. ASEAN will undoubtedly have to improve its internal complementarity, striving at the same time to expand its internal market and reduce intra-ASEAN competition on the international market.

2.1.3. ASEAN has no natural centre or integrated axis, such as the North Sea-Rhine Valley-Tyrrhenean Sea corridor in the European Community, functioning as a powerhouse for development throughout the region. The existence of a central powerhouse spread across several countries has been a very important factor in post-war European development and in the early stages of European integration. The absence of an equivalent region of ASEAN might mean that development, rather than proceeding in an integrated and harmonious manner, could be patchy and localized.

To offset this problem, ASEAN has developed sub-regional cooperation 'growth triangles' between some of its member countries in order to improve their border areas.

Devised in December 1989, the first 'growth triangle' (straddling Singapore, Indonesia and Malaysia) is intended to maximize the growth potential of the three adjoining areas, comprising Singapore, Jahore, the most southern state of Malaysia and the Riau islands of Indonesia, especially the islands of Batam and Bintan. Medan represents another 'growth triangle', set up in 1993 by Indonesia, Malaysia and Thailand and covering the north of Sumatra, four of Malaysia's northern states and southern Thailand. A third initiative centres on the 'Mindanao triangle', involving Indonesia, Malaysia and the Philippines.

2.2. Furthering regionalization

In its current state, ASEAN is not capable of providing a counterweight to the neighbouring giants China and

Japan or the economic pressure of the earlier NICs. Hence the search for support outside Asia, with hopes being pinned on outside partners such as the EU and APEC (Asia-Pacific Economic Cooperation) and on the United States, to whom the ASEAN countries are looking with increasing interest on both economic and political terms. All the ASEAN countries, despite some initial reluctance, have become members of APEC, and their willingness to become part of an organization — albeit unstructured — that also involves the USA is clearly evident.

2.2.1. Although APEC is an intergovernmental forum with extremely vague and general objectives, timetables and instruments, it is nevertheless a powerful source of attraction for the ASEAN countries, precisely because it includes the US which, under the Clinton administration, has placed great emphasis on the Asia-Pacific area. Together, these countries account for almost 60 % of world trade, and it is a particular feature of APEC that industrialized, newly-industrialized and developing countries all belong to it⁽¹⁾. It is seriously doubtful whether the aim of liberalization of trade can be achieved within the time limits and constraints proposed at Seattle and at the Bagor Conference in 1994, but in time APEC may become the privileged forum for action by the most dynamic Asian economies.

2.2.2. The European Union is at a disadvantage when competing with Japan and the US in the Asia-Pacific area for obvious geographic and political reasons. Nonetheless, in view of the influence exerted by the large Asian states and the US, the ASEAN states wish the EU to play a stronger role in various fields. The EU could, therefore, help to further the process of 'regionalization' of ASEAN by offering its experience with a view to helping improve the operation of AFTA, establish a free trade zone and, later, a customs union, set a common external tariff and step up economic cooperation between member countries.

2.2.3. The EU could make available its know-how in these fields, providing governments with the assistance they need to resolve the inevitable problems and resistance to implementing a free trade agreement and an open market. All the countries' economies would feel

⁽¹⁾ APEC has 18 member states: as well as the six ASEAN countries (Indonesia, Malaysia, Thailand, Philippines, Singapore and Brunei) it includes the NAFTA (Canada, US, Mexico) plus Japan, Hong Kong, Australia, New Zealand, Chile, Papua-New Guinea, China, Taiwan and South Korea.

the benefits over the medium to long term. Forecasts predict a 25 % increase in intra-ASEAN trade once the free trade agreement is up and running.

2.2.4. Moreover, Europe could provide support in setting up the more structured institutional framework which will be needed once ASEAN is required to manage increasingly complex economic and industrial cooperation. Initially, this support could take the form of reinforcement of the Secretariat responsible for coordination, preparing documentation and the decisions taken by the political bodies and a — perhaps — supranational court of arbitration to settle disputes.

2.2.5. The main problem concerns the intractable question of East Timor — a former Portuguese colony now occupied by Indonesia. Portugal has political objections to an agreement with ASEAN because of human rights abuses by Indonesia in East Timor. A major diplomatic effort using all the resources available is required to solve these problems clouding EU-ASEAN relations. It would therefore be helpful if at the earliest opportunity a representative of the Presidency (the foreign ministers of the troika) could draw up a proposal and hammer out a diplomatic solution based on the UN General Assembly Resolutions.

3. Factors favouring closer EU-ASEAN relations

3.1. The approach adopted in the Commission document⁽¹⁾ of placing future trade, economic and development policy towards ASEAN within the broader context of cooperation with Asia seems right. Against this backdrop, the Committee believes that the following elements justify closer relations.

3.2. The EU's relations with ASEAN are based on Europe's assessment of the role which ASEAN has played in the regional context since 1967 (when the Vietnam War was in progress), and is still playing in promoting the establishment of consultation structures on security and economic cooperation. With the collapse of the USSR and the volatile situation which has also developed in Asia, the strategic role of ASEAN is all the more important since this group of countries could help to contain the potential 'hegemonic' pressure from either China or Japan. Hence the European interest in maintaining a channel of communication with these countries and supporting the aim of establishing a Zone of Peace, Freedom and Neutrality (ZOPFAN) and a South-East Asian Nuclear Weapon Free Zone (SEANWFZ).

⁽¹⁾ See foot-note, p. 33.

3.2.1. Like the EU, ASEAN is today faced with the question of enlargement to embrace formerly communist countries, or countries which are still communist but are converting to market economies such as Vietnam, Laos and Cambodia, or politically unstable countries like Burma. Vietnam's membership will be a stabilizing factor throughout the region, and could also underpin the moderate line now espoused by the Vietnamese leadership. The same could apply to Laos, Cambodia and Burma, which currently have observer status but are due to join ASEAN by the year 2000, taking membership up to ten countries. These new partners, Vietnam included, are significantly less developed than the other members. ASEAN's leaders are convinced that within ten years Vietnam will reach the development levels of other member countries. The EU might offer ASEAN the benefit of its experience in cooperation with countries that are trying to move from a planned to a market economy, such as the Phare programme and support for the private and cooperative sectors.

European experience in this area could help the ASEAN countries to work together on the reconversion process. Enlargement would also increase ASEAN's economic and strategic autonomy in a region representing a market of over 455 million people. Current ASEAN members agree that the organization should not exceed ten members, and that one of the chief problems for the next few years will be how to integrate the new members without slowing the integration of the six original members.

The Committee considers that it is important to encourage EU-ASEAN partnership favouring Vietnam, in order to give effective support to the development process in a country still suffering the consequences of a long war.

ASEAN countries benefit from EU GSP tariff preferences although some ASEAN countries have grown rapidly, have GDP per head comparable to the poorest EU Member States and have demonstrated successful, aggressive export performance. In some cases, manufacturing employment within the EU therefore suffers.

3.2.2. The second point of interest for the European Union is based on the realistic scope for trade and investment between the two regions. The present volume of trade between the EU and ASEAN amounts to some ECU 50 billion (ECU 48,5 billion (about \$ 60 billion) in 1993), which is four times the volume in 1980. The trade balance tilts markedly in favour of ASEAN with a 1993 trade surplus of ECU 2,7 billion. A comparison of EU-CEEC and EU-ASEAN trade reveals an almost perfect symmetry in the volume of imports and exports between the EU and these countries — see Table 5B. The EU is ASEAN's third largest trading partner after Japan and the United States; it accounts for 15,5 % of

ASEAN exports and provides 13,7 % of goods imported into the region. In relations with the ASEAN countries, forms of economic cooperation, with reciprocal advantages, should be favoured over development cooperation. The recommendations in the Commission document regarding support for the European private sector to enable it to take advantage of a favourable commercial and financial climate should be supported and encouraged. The EU must select priority sectors for economic cooperation in which it has a clear relative advantage, such as banking, energy, environmental technology, means of transport and telecommunications.

ASEAN is a partner with a powerful economic motor which has not yet moved into top gear. Europe can help its development and become a privileged partner. However, as the European Parliament⁽¹⁾ has noted, the EU needs to emphasize commercial cooperation with Asia rather than competition. To this end, the European Union needs first of all to improve its own commercial image in Asia. The opening of European Business Information Centres (EBICs), and linking them up with the existing national Chambers of Commerce will contribute to more fruitful forms of economic cooperation.

Of similar importance is cooperation in science and R&D. For this to happen, funding needs to be found for cooperation in technology and innovation, as well as for travel grants and study visits by trainees, civil servants and new graduates from ASEAN countries. The Committee feels that there would be particular advantage in setting aside additional funding for programmes for Asian trainees in European institutes, universities and businesses, since this will not merely improve Europe's image, but will also foster mutual understanding and help bring together the cultures whose differences are one of the major obstacles to open dialogue between the two regions.

Another field in which there is scope for agreement with ASEAN countries is cooperation on joint economic initiatives in both the ex-Communist CEECs and the non-member Mediterranean countries. The major ASEAN countries have the financial and technological capacity for a tripartite EU-ASEAN-CEEC mechanism for investment in reconstruction and modernization

programmes in certain industrial sectors, now privatized in the ex-communist countries. The same sort of arrangement would be possible for development projects in Mediterranean countries. European-oriented development in a predominantly Muslim, but not fundamentalist, region could convince the Arab-Mediterranean world that modernization is compatible with the preservation of traditional values.

ASEAN is certainly a major trading partner, but although representing a model for reciprocal, profitable partnership between two regional groupings, numerous problems have clouded EU-ASEAN relations. The ASEAN countries are critical of the EU's anti-dumping policies, the new Generalized System of Preferences (GSP) and the farm-export subsidies. For its part, the EU can legitimately be critical of the problems of tariffs, market access, discriminatory legislation and the absence of environmental clauses in ASEAN countries.

3.2.3. The region's governments are not at all sensitive to western concerns over human rights, and regard any attempt to tackle the question as interference in their internal affairs and as an attempt to 'impose' European values. The European Union has for some time given priority to the problem of human rights, and has deplored their violation. The Maastricht Treaty makes the signing of new agreements conditional on respect for human rights. The Commission also intends to put forward other conditions that will reinforce the priority given to human rights. The human rights question in the ASEAN countries is undeniably bound up with democracy and respect for political opponents and minority groups. It is a typical case of incompatibility between good trading relations on the one hand, and sharp cultural and political differences on the other. The European Parliament report questions whether the insistence on strictly linking EU relations with ASEAN countries with respect for human rights may perhaps be hindering the development of such relations. In the report the EP implies that a more flexible attitude by the EU might be appropriate in order not to hinder economic relations. The issue is a tricky one because important interests and values are at stake. However, the Committee considers that questions of principle and values should have priority over mere economic and trade interests.

3.2.4. In view of its substantial trading surplus with the EU, ASEAN cannot adopt a 'take it or leave it'

⁽¹⁾ Report on the Commission communication to the Council, 'Towards a New Asia Strategy', PE 211.248 final, 12 April 1995.

attitude to European offers. In purely trading terms, the Community represents ASEAN's third largest export market. The EU could bring pragmatic and gradual use of conditionality to play on human rights, taking account of each country's level of development, history and culture in its assessments of them in this respect. The same applies to the treatment of the workforce.

3.2.4.1. In the first place, attention must be drawn to the fundamental rights of workers, trade unions and employers organizations enshrined in the ILO's 'human rights Conventions', and the most important Convention on minimum employment age. It is of great importance that the European Union convinces the governments of the ASEAN countries of the importance of ratifying and implementing these Conventions in so far as they have not yet done so. These Conventions are embodied in the 'social clause' which the Committee wishes to be placed on the agenda of the WTO. The social clause provides for:

- a ban on forced labour (Conventions 29 and 105);
- workers' right to organize and bargain collectively (Conventions 87 and 98);
- minimum age for admission to employment, and abolition of child labour (Convention 138);
- a ban on discrimination between workers, and equal remuneration for men and women for equivalent work (Conventions 111 and 110).

3.2.4.2. Secondly, working conditions and treatment of workers, and especially of women workers, often genuinely reach the level of social dumping in these countries, for instance as regards working hours, wages, occupational safety and health, and social protection systems. Here, the European Union should encourage the ASEAN governments to ratify and implement the relevant ILO Conventions, which have been designed as universal minimum standards and which can be adopted by industrialized as well as by developing countries.

The ILO has organized seminars on trade-union training and the framing of programmes to increase awareness of social rights and promote the application of ILO Conventions. The new ILO policy should, with the help of the European Commission, serve to promote cooperation programmes in the field of employment, vocational training and child labour. Progress could also be ensured through compliance with ILO Conventions, trade liberalization agreements and future WTO directives on this question.

3.2.5. To this end, Europe should direct its development aid programmes towards improving the working conditions of small farmers and women working in the computer chip and electronic components industries and should demand that education facilities, basic health care and family planning are made available. It should make an effort to help combat immediately and with great determination at least the ugliest and most exploitative forms of child labour. The way to attain these goals is to set up programmes with a strong social content, to be carried out by NGOs which are in a position to carry out work in the field and establish an effective dialogue with the beneficiaries of the project.

Unfortunately, child prostitution is rife in parts of south east Asia, partly due to increasing tourism and directly contravening UN Conventions. The Committee believes that the organization of sex tours should be made illegal in all Member States, and nationals prosecuted at home who have sex children abroad.

3.2.6. The employment demands of a large population mean that the governments of the region must pursue a goal of full employment and of eliminating the still vast pockets of poverty. With this in mind, programmes could be launched to encourage the establishment and spread of micro-enterprises and craft activities, a field in which the EU has considerable experience which might usefully be transferred. Similarly fundamental is the contribution the EU could make to upgrading the region's skills basis, improving training and devising vocational training programmes and courses to integrate young people and women into working life. To this end it would be both locally beneficial and exemplary of European interest in the area if a multi-purpose vocational training centre and technological research centres were to be set up in one of the ASEAN countries.

3.2.7. The Commission document⁽¹⁾ states that for countries with high growth potential, 'economic cooperation is aimed at improving the business and regulatory environment in partner countries in order to stimulate two-way trade and investments with the direct participation of the private sector'. Unfortunately, the private sector is not inclined to invest in high risk countries or those with a serious macro-economic imbalance. It has been observed that even when substantial incentives are provided, there are problems with private sector participation. This constant insistence in European Union documents on private sector participation, while correct in principle, amounts to little in practice if the requisite operational instruments are not created. The

(1) See foot-note, p. 33.

Commission document speaks of 'promoting business cooperation between European companies and their Asian counterparts... by increasing information and creating a favourable framework for industrial cooperation and notably for SMEs'.

Numerous initiatives have been launched to stimulate greater European investment in the ASEAN countries. EC investment in the region increased during the 1980s in volume, but shrank in relative terms as investment from other countries grew faster. EC investment focuses on the palm oil, chemicals, pharmaceuticals, foodstuffs, electrical and electronics industries, the car sector, banking and finance. The Committee hopes that when the forthcoming EU-ASEAN global cooperation agreement becomes operative, steps will be taken to improve the conditions contained therein for direct investment by EU companies in these countries. A legal framework is also needed for conciliation and arbitration procedures in case of disputes. The protection of intellectual property is of particular importance here.

3.2.8. The EC Investment Partners (ECIP), the EC's financial instrument for promoting joint ventures, could prove the most appropriate means of fostering European investment and joint ventures between European and ASEAN SMEs (some 20 regional projects concerning ASEAN are in the pipeline). The ECIP is currently the main instrument for the creation of joint ventures and for encouraging the spread of small and medium scale industry. To improve take-up, quicker and more simpler procedures should be found for the projects that receive ECIP funding. For infrastructure work greater involvement by the EIB (European Investment Bank) is desirable; for some years it has been permitted to fund projects in Asia and Latin America. Prior to involvement it would be necessary to ascertain whether the conditions exist in the ASEAN countries for the growth of the SME sector and whether the European model is exportable. Ideally the European Commission would fund research into the situation of SMEs in the ASEAN countries and into identifying the sectors with scope for cooperation with European SMEs.

4. Conclusions

4.1. North-South relations — as they have until recently been conceived — are rapidly changing in Asia. Within Asia, there is now a hierarchy of economically

strong countries which are no longer developing nations and which exist alongside countries where poverty is rife, generating the same imbalances within the continent as are found in North-South relations. The EU's main concern in relations with Asia is linked to the economic tensions between the two regions, given the potential impact on Europe's competitive position of accelerated growth in Asia by the end of the century. This must be countered by a strategy to step up cooperation between the two areas and defuse the potential for damaging the competitiveness of the EU, which has a lower growth rate and whose market share is also threatened on third markets.

4.2. It is clear, from a number of sources, that the prospect of the world's economic powerhouse shifting to the Pacific is regarded in ASEAN more with apprehension than anticipation, insofar as it would confirm China and Japan's overwhelming predominance. ASEAN countries would feel squeezed between them and obliged to align themselves with one or other.

4.3. In contrast to China and Japan, Southeast Asia has always been open to external influence: its self-declared 'open regionalism' has deep historical roots. During the colonial period, the region was drawn into a division of labour geared to Europe. There can, of course, be no question of resuming a relationship which belongs to the past, not least because of the level of development attained by the ASEAN countries. But, the opportunity — missed at the time of Taiwan and South Korea's take-off — is now there to have a positive influence on the 'drive for maturity' of countries which are beginning to take off with a significant, but unexceptional, average growth rate, and to re-establish a preferential relationship with Europe. Such an objective would bring the following advantages.

4.4. It seems difficult for the European Union to challenge the competitiveness and economic hegemony of Japan in what can be regarded as a 'reserved Japanese market'. It must be remembered that Eastern Asia is the third element of the capitalist 'trio' and is emerging as a competitor to the European Union, which could seek to re-establish a certain balance by securing the support of the Russian Federation which, as an 'Asian power' could have a certain influence on the region.

However, in this area the quality of the European presence is more important than its size, and this presence can be left up to the markets and to firms which may find it convenient either to set up joint ventures with local firms or to relocate their own

production and offices in order to reap maximum benefit from existing comparative advantages and the high level of services and infrastructure.

4.5. A broad-ranging European strategy, centred upon ASEAN, would not necessarily be in opposition to US interests. By containing excessive dominance of the Pacific and Indian Ocean by China and Japan, it would facilitate the emergence in the Asia-Pacific area of a balance capable of ensuring sufficient leeway for stable and profitable relations with the European Union.

The forthcoming Europe-Asia summit to be held in Bangkok in March 1996, in which the ASEAN countries will be taking part alongside Japan, China and South Korea, will be a unique opportunity to relaunch a European presence in one of the world's most dynamic areas which has vigorous economic and technological growth. It also offers an opportunity to set up new and advanced cooperation programmes, for which a few broad ideas have been sketched out in these pages.

The EU needs to take a more assertive and transparent approach to the forthcoming 1998 GSP arrangements. In particular, ASEAN countries should only benefit where their overall prosperity and export performance are weak. It is essential that the opportunity is taken to take a more assertive position by the EU and USA jointly. This should be based on a joint strategy aimed at improving access for goods and services and at better protection for intellectual and technical property rights, as foreseen in the joint EU-US action plan, agreed in Madrid in December 1995.

4.6. The meeting should serve principally to consolidate dialogue and extend its scope to such fields as the environment, social problems and vocational training. Given the wide gap between development levels, the Asian side is finding it difficult to establish an agenda and objectives for the meeting. A general consensus could be obtained on a few precise guidelines (i.e. the common vision and general approach to the problems), leaving the discussion of specific topics to a later date. The main aim is to create the missing point of contact between the EU and Asia.

As the political and social problems have been underestimated and UN General Assembly decisions have not been implemented by some ASEAN countries, the Committee hopes that these problems will be ironed out before the Europe-Asia summit, with the active involvement of the EU troika, so that the full potential of EU-ASEAN economic relations can be exploited.

4.7. The gap between Europe and Asia is wide. There must be a major commitment to information and

cultural cooperation and major resources should be assigned to this purpose. A variety of exchanges and contacts could usefully be promoted so as to deepen mutual understanding. The EU should keep in mind the diversity of Asia and adopt different strategies in its relations with Japan, China, India and the ASEAN countries (and there are special characteristics within the group).

4.8. The EU should adopt a qualitative approach to ASEAN cooperation and focus on such sectors as the environment, infrastructure, telecommunications, energy and vocational training. As the EU is already heavily committed to cooperation with central and eastern Europe and the Mediterranean countries, it lacks the means to make a large financial outlay on cooperation. It can make up for this by providing qualitatively significant cooperation focusing on exchanges in the fields of training, culture and improvement of mutual understanding.

4.9. The European presence in the ASEAN countries visited by an ESC delegation is far less marked than that of Japan and the United States. Europe needs to raise its profile in the region, inter alia by means of art exhibitions and scientific and cultural initiatives to help disseminate Europe's vast cultural heritage. Secondly, there should be greater investment in exhibitions and trade fairs, encouraging European firms to take part in them and familiarize their Asian partners with European technology and goods from different production sectors. The setting-up of European Business Information Centres could play an important role, notably in the promotion of small and medium-sized businesses. A proper distribution of tasks between these centres and Member States' bilateral chambers of commerce could yield worthwhile results.

4.10. Given the efficiency of the ASEAN secretariat, the EU should offer all technical assistance it can, for instance by passing on what it has learnt when setting up an external tariff and a common market. The ASEAN secretariat and the Commission could hold experience-swapping seminars and meetings. Some socio-economic organizations in the ASEAN countries are government controlled, and others are still embryonic. A two-track approach is needed involving dialogue at both ASEAN (with the Chamber of Commerce and the Trade Union Council) and national level (with individual organizations).

The Economic and Social Committee has an important role to play in dialogue and relations with the ASEAN

countries. It represents important sectors of Europe's civil society, and has links with the interactive networks which formed the real bedrock of European integration. It has comments to make and experience to share with its counterparts (trade unions, non-profit organizations, trade associations, employers) in the ASEAN countries.

Its involvement in the Venice cultural forum is an important first step here. The Committee hopes that it will be involved in the forthcoming Europe-Asia summit in Bangkok, or at the very least that it will be kept properly informed so that it can decide what action it should take in the medium to long term.

Done at Brussels, 1 February 1996.

*The President
of the Economic and Social Committee*

Carlos FERRER
