Opinion on the proposal for a Council Regulation (EEC) on the use in the Community of TIR carnets and, as transit documents, of ATA carnets [1]

(91/C 41/11)

On 12 June 1990 the Council decided to consult the Economic and Social Committee, under Article 100 A of the Treaty establishing the European Economic Community, to ask the Economic and Social Committee for an Opinion on the abovementioned 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 9 November 1990. The Rapporteur was Mr Petersen.

At its 281st plenary session (meeting of 20 November 1990), the Economic and Social Committee adopted the following Opinion unanimously.

1. General comments

1.1. The international Conventions on the temporary use of goods in a participating state under cover of ATA carnets and on the transit of goods under cover of TIR carnets have essentially proved their worth.

1.2. The Committee regards the Commission proposal as a natural consequence of the forthcoming removal of internal frontiers to create the Single Market. It welcomes the possibility that, in future, goods from non-member countries can be carried within the Community not only under the external Community transit procedure but also under the provisions of the TIR and ATA Conventions.

1.3. The designation of the Community as a single territory for the purposes of these Conventions will speed up the transit of goods and hence save time and money, especially for hauliers.

2. Specific comments

Notwithstanding this basically positive assessment, the Committee would recommend a further review, and if necessary correction, of the following Articles.

2.1. *Article 1, last phrase*

This refers to Council Regulation (EEC) No 2151/84 of 23 July 1984 for the definition of the customs territory of the Community. The Committee, however, assumes that the Regulation on establishing a Community Customs Code [2] will also apply from 1 January 1993. The final version of the Regulation under consideration should therefore contain a reference to Article 3 of the Customs Code, in which the customs territory of the Community is defined.

2.2. *Article 12(2)*

In the Committee's view this provision runs counter to the principle enshrined in the TIR Convention that in the event of an offence or irregularity only a guaranteeing association can be called upon to pay any duties and other charges. Deviating from this principle, the present proposal provides for the possibility in certain cases of calling upon two guarantors — one from the Member States in which the offence or irregularity was detected and one from the Member State in which the offence or irregularity actually occurred.

This double levy is indeed subject to a deadline, but the usually lenghty compensation procedures could lead to considerable interest losses, which are not acceptable. The Committee therefore proposes that Article 12(2) be reworded to read:

> 'Where it is not possible to determine in which territory the offence or irregularity was committed, such offence or irregularity shall be deemed to have been committed in the Member State where it was detected. In such a case the Member State concerned shall levy the relevant duties and other charges. If at a later date the Member State where the said offence or irregularity was actually committed is determined, the duties and other charges to which the goods are subject in that State shall be refunded to it by the Member State which has levied them.'

In addition, the Committee would ask the Commission to check whether the place of the offence or irregularity could be determined along the lines of the future provisions on the Community transit procedure. Under these, an offence or irregularity of which the place cannot be determined is regarded as having been committed not in the Member State where it was detected but in the one to which the exit customs post belongs. Uniform rules to cover circumstances which have an identical result are in the interests both of those subject to customs checks and of the administration; the inter-

[1] OJ No C 142, 12. 6. 1990, p. 6.
[2] OJ No C 128, 23. 5. 1990, p. 1.

national nature of the TIR Convention should not stand in the way of such a simplification.

The Committee is of the considered opinion that the Member State's requirements as regards the documents covering the implementation of the TIR procedure are in urgent need of harmonization.

2.3. *Article 13(2)*

The planned exchange of all relevant findings, observations etc. among the competent authorities is particularly to be welcomed. One aim of this must be to ensure that irregularities of any kind are prevented as far as possible, since, apart from other considerations, they can constitute a serious safety hazard.

2.2. *Article 14*

The Committee regards it as inappropriate to allow the Member States only a right to be consulted on questions concerning the application of this Regulation. Since implementing provisions can also have an effect on national administrative structures, it is all the more necessary for Member States to have an active right of co-determination.

Done at Brussels, 20 November 1990.

The Chairman

of the Economic and Social Committee

François STAEDELIN

Opinion on the proposal for a Council Regulation (EEC) amending Regulation (EEC) No 1785/81 on the common organization of the markets in the sugar sector [1]

(91/C 41/12)

On 3 October 1990 the Council decided, in accordance with Article 198 of the Treaty establishing the European Economic Community, to ask the Economic and Social Committee for an Opinion on the abovementioned proposal.

The Economic and Social Committee decided to make the Rapporteur-General, Mr Barbagli, responsible for the preparatory work on the matter.

At its 281st plenary session (meeting of 20 November 1990), the Economic and Social Committee adopted the following Opinion by a large majority, with 3 votes against and 7 abstentions.

1. The Committee notes that the Commission proposal is concerned with the renewal of existing measures, particularly those dealing with such aspects of the common organization of the sugar market as the quota system, the system of self-financing funded by contributions from growers and manufacturers, and the granting of different types of aid.

2. The Committee takes note of the fact that Italy will continue to be authorized to grant digressive national adjustment aid and considers that the measure in question must be judged in the light of the role the sugar sector plays in reducing regional disparities.

2.1. In this context the Committee believes that the proposal to henceforth totally exclude from aid the industrial part of the Italian sugar sector is too extreme.

3. Bearing in mind

— the trends emerging from the multilateral negotiations of the General Agreement on Tariffs and Trade (GATT) on agriculture,

[1] OJ No C 258, 13. 10. 1990, p. 9.