

	Page
1. Summary	1
2. European Councils	6
3. Economic, Budgetary and Monetary Matters	9
4. Employment, Education, Culture and other areas of Community activity	16
5. External Relations, including Trade and Aid	23
6. The Single Market	28
7. Agriculture, Fisheries and Food	30
8. Environment and Transport	41
9. Industry, Energy and Consumer Issues	48
10. Structural and other funds	52
11. Subsidiarity, Proportionality and Better Regulation	53
12. Common Foreign and Security Policy	56
13. Justice and Home Affairs	60

	Page
Appendix A: Major Treaties and Agreements	63
Appendix B: European Court of Justice Cases	67
Appendix C: Parliamentary Scrutiny of European Documents	93
Appendix D: United Kingdom Trade with other Member States of the European Union	97

Note: Sterling/ECU conversions shown in this publication are at the 31 December 1998 market rate of £1 = 1.4175 ecu.

1. Summary

1.1 The following is a summary of key developments under the Austrian Presidency.

- **Economic and Monetary Union.** On 31 December, ECOFIN unanimously agreed the exchange rates at which participating currencies would be irrevocably fixed against the euro. Three items of secondary legislation relating to the operation of the European Central Bank (ECB) were adopted. These defined minimum reserve requirements, sanctions operated by the ECB, and statistical reporting requirements (Chapter 3).
- **Economic Reform.** The Vienna European Council in December agreed on the importance of strengthening existing instruments to accelerate reform in product, service and capital markets, as part of an overall strategy for employment, growth, stability as well as economic reform, evolving towards a European Employment Pact within the framework of the Luxembourg process. Heads of State and Government agreed conclusions which welcomed the receipt of member states' progress reports on structural reform, and looked forward to assessment of those reports (Chapter 3).
- **EC Budget.** The European Parliament adopted the 1999 Budget on 17 December. The budget respects the financial perspective ceilings for 1999 and is significantly below the own resources ceiling of 1.26 per cent of Community GNP. The 20 November Budget Council considered Letter of Amendment No.1 to the 1999 Preliminary Draft Budget, which provided updated forecasts of agriculture expenditure. The 1998 Supplementary and Amending Budget was adopted at the 14–18 December European Parliamentary plenary; the main effect was to return part of the 1997 cash surplus to member states, budgetise part of the 1998 cash surplus and provide additional appropriations for exceptional in-year needs (Chapter 3).
- **Financial Management of the Community Budget.** The Annual Report of the European Court of Auditors (ECA) on the financial year 1997 was published in November together with the Statement of Assurance required under the terms of the Maastricht Treaty. In November, the Commission published its report on the follow up to the 1996 ECA Annual Report. Work continued under phase III of the Commission's SEM2000 (Sound and Efficient Management) programme. The Group of Personal Representatives of

Finance Ministers which advises the Commission produced a further six-monthly report in November. ECOFIN took note of the report at its 23 November meeting. In December, the Commission published a proposal for a European Fraud Investigation Office (Chapter 3).

- **Duty Free.** The Vienna European Council asked the Commission and the ECOFIN Council to examine by March 1999 the problems which could arise with regard to employment from the abolition of intra-EU duty free sales and to address possible means of tackling these, including the possibility of a limited extension of duty free sales (Chapter 3).
- **Employment and Social Affairs Issues.** The Vienna European Council agreed revised Employment Guidelines for 1999, and that member states would submit, before the Cologne European Council, a report on the implementation of their 1998 National Action Plans. The Social Affairs Council agreed directives on the protection of workers from carcinogens and from potentially explosive atmospheres; on a regulation to extend certain elements of the co-ordination of social security for migrant workers to students; and on a decision to encourage mobility through work-linked vocational training (Chapter 4).
- **Education Issues.** The Education Council reached agreement on decisions establishing the second phases of the SOCRATES, LEONARDO DA VINCI and TEMPUS programmes (Chapter 4).
- **Enlargement and External Relations.** Substantive negotiations on EU accessions were opened with Cyprus, the Czech Republic, Estonia, Hungary, Poland and Slovakia on 10 November. The EU held summit meetings with Japan, China, Canada, the US, Russia and Ukraine. Negotiations on a successor to the fourth Lomé Convention opened in Brussels on 30 September. In November, negotiations began to establish a free trade area between the EU and Mexico (Chapter 5).
- **Single Market.** The Commission's Single Market Action Plan reached its deadline for implementation at the end of 1998, with most of its targets achieved. Although not all outstanding directives were transposed by the end of 1998, member states continued to improve their performance on transposition and agreed that the Single Market Scoreboard should continue as a monitoring tool. Work continued on initiatives to improve enforcement and to simplify the legal basis of the Single Market. A regulation to safeguard the free movement of goods in the EU was adopted (Chapter 6).
- **Agriculture and Food.** The Agriculture Council agreed a number of measures in the second half of 1998, notably in

November when a proposal on the Date Based Export Scheme was put to a vote. Although a qualified majority was not obtained, the procedures under which the vote on the Scheme was taken allowed the Commission formally to adopt the decision. In December new agrimonetary arrangements were agreed which would apply following the introduction of the Single Currency on 1 January 1999. The December Council also agreed a proposal to send food aid to Russia. Proposals for reform of the wine regime were presented at the July Council. These were incorporated into discussions on the Agenda 2000 proposals for reform of the Common Agricultural Policy which concentrated on resolving technical issues (Chapter 7).

- **Environment.** Following a request at the Cardiff European Council, the Transport, Energy and Agriculture Councils produced reports on integrating the environment into their policy areas for consideration at the Vienna European Council. The Vienna Council welcomed the initial work of these Councils and requested that more comprehensive strategies in these areas, including a timetable for further measures and a set of indicators, be provided to the Helsinki European Council in December 1999. The Council were invited to further develop this work into other Community policies, particularly in the Development, Industry and Internal Market Councils. The Commission were asked to prepare reports on the process of integration, and the EU strategy on climate policy, for consideration at the Cologne European Council in June. Progress was made on a number of other important issues and in particular the Environment Council reached agreement on, the Community's negotiating position in advance of the Fourth Conference of the Parties to the UN Framework on Climate Change in Buenos Aires, a directive to reduce emissions from Heavy Duty Vehicles and a regulation on substances that deplete the ozone layer.
- **Transport.** Common positions were reached on transportable pressure equipment and on HGV charging. Agreement was reached on the outcome of transport negotiations with Switzerland. There was Council discussion of the Community's proposals for a regulatory framework for the provision of rail services. A common position was reached on restrictions on the use of "hush-kitted" aircraft. The Council agreed a report on integrating environmental requirements into transport policy (Chapter 8).
- **EU Funding.** Negotiations on the Agenda 2000 package, which included reform of the Structural and Cohesion funds and which started in April 1998 continued. Structural Fund programmes including Community Initiatives made good progress in committing funds to competitiveness-

related and regional regeneration projects in eligible areas of the UK (Chapter 10).

- **Better Regulation.** Work to achieve better EU regulation was given a high profile. The Industry and Internal Market Councils affirmed their support for several initiatives, including:
 - Simpler Legislation for the Internal Market (SLIM), which completed its 3rd phase of reviews of existing single market legislation.
 - The pilot of the European Business Test Panel, which aims to obtain information directly from business on the likely impact of new legislative proposals.
 - The creation of an Action Plan to implement the recommendations of the Business Environment Simplification Task Force (BEST) on encouraging entrepreneurship and small businesses.

The Vienna European Council emphasised that simplifying administration is an important part of the EU's work on economic reform, and that simplification work should continue beyond the conclusion of the Single Market Action Plan. The Vienna Council Conclusions contained a strong commitment to the importance of the principles of subsidiarity and proportionality, and decided that the institutions would begin immediately to be guided by the "Protocol on Subsidiarity and Proportionality" of the Treaty of Amsterdam. They also called on the Council to debate Green and White Papers in the light of the subsidiarity principle, and on the Commission to review existing measures in the same field when bringing forward new legislation (Chapter 11).

- **Common Foreign and Security Policy.** The Prime Minister's initiative on European Defence, launched at the Pörschach informal meeting of Heads of Government in October, was welcomed by the Vienna European Council. The Western Balkans, the Middle East Peace Process and the Great Lakes region of Africa continued to dominate discussion (Chapter 12).
- **Justice and Home Affairs.** Agreement was reached on the Action Plan on establishing an Area of Freedom, Security and Justice, which in effect sets out the future agenda on Justice and Home Affairs matters for the five years following the entry into force of the Amsterdam Treaty. The Europol Convention came into force on 1 October following ratification by the last Member States. Europol itself will not, however, be able to assume its full range of functions until certain implementing Regulations have also been agreed. The Council reached political agreement on the Eurodac

Convention on the basis that its text should be frozen pending the introduction of a Community-based instrument after the coming into force of the Treaty of Amsterdam. The Council considered a paper by the Presidency on an EU Strategy for dealing with asylum and migration matters, which will be used as a basis for further work in the run-up to the special European Council on JHA to be held in Tampere in October 1999. Work continued on preparations for the incorporation of the Schengen acquis into the framework of the European Union on the entry into force of the Amsterdam Treaty (Chapter 13).

1.2 Further details of these and other developments during the Austrian Presidency can be found elsewhere in this Paper.

2. European Councils

Pörtlach: 24-25 October

2.1 EU Heads of State and Government and the President of the European Commission met on 24–25 October in Pörtlach to continue the discussions they had begun at the Cardiff European Council in June on the future development of the European Union. Before the meeting began, there were short contributions from Yasser Arafat (on the Middle East Peace Process), EP President Gil-Robles and Austrian Foreign Minister Schüssel. A number of issues were discussed, notably economic policy, Agenda 2000, internal security issues (eg. crime and drugs), the future of the Common Foreign and Security Policy and institutional reform. As the meeting was informal, there was no formal agenda and no formal decisions were taken.

Vienna European Council: 11–12 December

2.2 The European Council met in Vienna on 11–12 December to discuss the main issues and challenges facing the European Union. It began its proceedings with an exchange of views with EP President Gil-Robles. The Council concentrated on employment and economic issues, Agenda 2000, enlargement, the future of Europe and a number of foreign policy questions. Helmut Kohl, the former Federal Chancellor of Germany, was awarded the title “Honorary Citizen of Europe” for his outstanding contribution to the development of the European Union.

Economic Reform and Employment

2.3 The strategy on economic reform and employment agreed at Amsterdam and Luxembourg and reinforced at Cardiff was confirmed and strengthened. An agreement was reached on the revised employment guidelines on which next year’s national action plans will be based. Particular emphasis was placed on: tackling long-term unemployment; promoting equal opportunities; making a reality of life-long learning; fully exploiting the potential of the service sector; creating the right climate for entrepreneurship; reviewing tax and benefit systems to provide incentives for the unemployed to take up work or training; promoting social inclusion; and examining regulations to ensure that they reduce barriers to employment (see also Chapter 4).

2.4 In the economic field, the Council agreed new measures to complete the internal market, improve innovation, increase the availability of risk capital and strengthen investment in infrastructure. It was agreed that co-operation on tax policy was not aimed at achieving uniform tax rates or preventing fair tax competition; rather its aim is to reduce harmful distortions in the single market, prevent excessive losses of tax revenue, and encourage employment-friendly tax structures.

Agenda 2000 and Enlargement

2.5 On Agenda 2000, the Council confirmed the political objective of reaching overall agreement at a special meeting of the European Council on 24–25 March.

2.6 The Council welcomed the fact that the first practical results have been reached in negotiations with Cyprus, Hungary, Poland, Estonia, the Czech Republic and Slovenia. It also welcomed the progress made by Romania, Slovakia, Latvia, Lithuania and Bulgaria; the reactivation of Malta's application; and recognised the importance of implementing the EU's strategy to prepare Turkey for membership (see also Chapter 5).

Future of Europe

2.7 The Vienna European Council agreed further steps to make a reality of subsidiarity (see Chapter 11) and improve the effectiveness of EU institutions. It was agreed that a millennium declaration setting out the Union's priorities for the period ahead would be issued at the end of 1999, to coincide with a new Commission taking office.

Foreign Policies

2.8 The Council welcomed the strengthening of the EU foreign policy by backing it with credible capability for military action in regional crises. It was agreed that work should be taken forward under the German presidency.

2.9 On current foreign policy issues, Heads of Government underlined the urgency of bringing the parties in Kosovo to a political agreement and the importance of the EU continuing its political and economic support for the Middle East peace process. The readiness to help Russia overcome its present severe difficulties was repeated, and agreement reached that Russia should be the subject of one of the common foreign and security policy common strategies when the Amsterdam Treaty enters into force (see also Chapter 12).

Environment

2.10 The Vienna Council welcomed the initial work of these Councils and requested that more comprehensive strategies in these areas, including a timetable for further measures and a set of indicators, be provided to the Helsinki European Council in December 1999. The Council were invited to further develop this work into other Community policies, particularly in the Development, Industry and Internal Market Councils. The Commission were asked to prepare reports on the process of integration, and the EU strategy on climate policy, for consideration at the Cologne European Council in June (see also Chapter 8).

Single Market

2.11 The Council agreed that the Commission's Single Market Scoreboard should continue to monitor progress within the Single Market and that further simplification and improvement of legislation is necessary to improve the effectiveness of Single Market rules. It invited the Commission to present a report assessing the Single Market Action Plan and launching a debate on future priorities. The Council renewed its commitment to transpose outstanding directives without delay (see also Chapter 6).

3. Economic, Budgetary and Monetary Matters

Economic and Monetary Union (EMU)

3.1 On 31 December, in accordance with Article 109(4) of the Treaty, ECOFIN unanimously agreed the exchange rates at which participating currencies would be irrevocably fixed against the euro and at which rates the euro would divide into the national currency units. The regulation entered into force at midnight local time on 31 December when the euro was officially launched.

3.2 ECOFIN adopted three items of secondary legislation relating to the operation of the European Central Bank (ECB). These regulations defined the regime of minimum reserve requirements and sanctions operated by the ECB and the ECB's statistical reporting requirements. ECOFIN also adopted a number of decisions relating to the continuation of monetary and exchange rate arrangements between participating member states and territorial communities in Stage Three of EMU.

External Representation of the Euro

3.3 The Vienna European Council conclusions noted that the introduction of the euro would be a major event for the international monetary system and would require the Community to play a full role in international monetary and economic fora.

3.4 The European Council endorsed the report of the Council on the external representation of the Community, which argued that the President of ECOFIN or, if the President is from a non-euro area member state, the President of the Euro 11, assisted by the Commission, should participate in meetings of the G7 Finance Ministers and Central Bank Governors on issues of particular relevance to EMU, in line with Article 109(4) of the Treaty. The ECB, as the Community body competent for monetary policy, should also be granted an observer status at the International Monetary Fund (IMF) board. This report requires the agreement of international partners eg. in G7, IMF, for it to be implemented.

Euro 11

3.5 The Euro 11 Group met several times to discuss issues of particular relevance to EMU. Euro 11 is an informal body without

decision-making powers. ECOFIN remains the sole decision making body on economic co-ordination, and whenever matters of common interest are discussed by Euro 11, all member states will be present.

Economic Reform

3.6 Further progress was made to take forward the economic reform agenda, and meet the requirements set down at the Cardiff European Council, which called for member states and the Commission to produce short year-end reports within their areas of competence on product and capital markets.

3.7 The 12 October meeting of Economic and Finance Ministers agreed on the outline that the national reports should take; namely, that the reports should be short (10–15 pages) and concentrate on national priorities, progress achieved, and principle problems met with regard to the functioning of goods, service and capital markets.

3.8 The Vienna European Council welcomed the receipt of the national progress reports on structural reform, and looked forward to the assessment of those reports and peer review between member states. This was seen as a further step to improving the Broad Economic Policy Guidelines.

3.9 The European Council also welcomed the intention of the Internal Market Council to evaluate the progress reports in order to complement the considerations of ECOFIN from a single market perspective.

3.10 The Commission document “Risk capital: a key to job creation in the EU”, presented at the Cardiff European Council, included an action plan of measures for the Commission and member states to pursue in order to promote risk capital. The UK was the first member state to submit a response which was discussed briefly at ECOFIN on 23 November. The Vienna European Council invited other member states to submit reports by March 1999 with a view to a Commission review of these documents in mid-1999.

Excessive deficits and UK Convergence Programme

3.11 The UK submitted its first Convergence Programme required by the Stability and Growth Pact in December, following the Pre-Budget Report. The only member state with an excessive deficit recommendation is Greece. All other member states, including the UK, were judged by ECOFIN not to have an excessive deficit.

The Community Budget

3.12 Following the Budget Councils held on 17 July and 20 November, and its own first reading in October, the European

Parliament adopted the 1999 Budget on 17 December. As adopted, the Budget totals 96,929 million ecus (£68,380 million) in commitment appropriations, which is 6,455 million ecus (£4,554 million) below the financial perspective ceiling and 6.91 per cent higher than the 1998 budget. It also totals 85,558 million ecus (£60,358 million) in payment appropriations, which is 1.10 per cent of Community GNP, significantly below the own resources ceiling of 1.27 per cent, and 2.34 per cent higher than 1998.

3.13 Letter of Amendment No.1 to the 1999 Preliminary Draft Budget, which provided updated forecasts of agriculture expenditure, forecasting in particular additional expenditure for cereals, was approved at the November Budget Council, although modified by imposing an across-the-board cut of the same size of the proposed amendment to restrict the final budget for agriculture to the level initially proposed by the Commission.

3.14 Following the Council's agreement at an extraordinary Budget Council on 8 December, the European Parliament adopted the 1998 Supplementary and Amending Budget, whose main purposes were to return the underspend from the 1997 to member states and to provide for additional expenditure, mainly in the form of payment appropriations, to meet exceptional needs.

Financial Management of the Community Budget

3.15 The Annual Report of the European Court of Auditors (ECA) on the financial year 1997 was published in November together with the Statement of Assurance required under the terms of the Maastricht Treaty.

3.16 In November the Commission published its report on the follow up to the 1996 ECA Annual Report. This consisted of measures taken by the Commission in response to the Council's comments accompanying the recommendation to the European Parliament on discharge. It also included the responses of member states to observations made by the ECA in the report. This year it did not include responses to the European Parliament's discharge conclusions as the European Parliament has not yet granted discharge for the 1996 financial year.

3.17 In December, the Commission presented a proposal to establish a European Fraud Investigation Office. This proposal will be considered by ECOFIN in early 1999.

3.18 Work continued under Phase III of the Commission's SEM2000 (Sound and Efficient management) programme. The group of Personal Representatives of Finance Ministers which advises the Commission produced a further six-monthly report in November. ECOFIN took note of the report at its 23 November meeting. The main areas where progress was noted in the report were co-

operation meetings between the Commission and member states on financial control of Structural Funds expenditure, consideration of the Commission's working document on recasting the financial regulation, budget forecasting and execution and evaluation. The work of the group will continue.

Direct Tax

3.19 The tax package agreed by ECOFIN on 1 December 1997 progressed as follows:

- **Code of Conduct for Business Taxation**, the Group has continued its work assessing harmful tax measures. An interim report was presented to ECOFIN on 1 December by the Code of Conduct Group. The Vienna European Council encouraged the Group to conclude its work at the latest by the Helsinki European Council;
- **Taxation of savings**, several meetings of the Council financial questions group were arranged to discuss different aspects of the draft directive which aims to eliminate evasion of tax on cross-border payments of interest to individuals within the EU;
- **Interest and royalties**, draft directive negotiations continued at a technical level. The draft directive provides for the elimination of withholding taxes on payments of interest and royalties made between associated companies of different member states.

Financial Services

3.20 On 28 October, the Commission published a Communication entitled 'Financial Services: Building a Framework for Action'. This fulfilled the remit of the Cardiff European Council for the Commission to publish a new framework "to improve the single market in financial services, in particular examining the effectiveness of implementation of current legislation and identifying weaknesses which may require amending legislation." A high-level financial services policy group is meeting in early 1999 to carry forward work on the new framework.

3.21 A number of proposals for new financial services directive were made by the Commission. These were:

- A proposal for a European Parliament and Council directive on the taking up, the pursuit and the prudential supervision of the business of electronic money institutions (21 September 1998);
- A proposal for a European Parliament and Council directive concerning the distance marketing of consumer financial

services and modifying Directives 90/619/EEC, 97/7/EC and 98/27/EC (14 October 1998);

- On 17 July 1998 the Commission presented two proposals for European Parliament and Council directives amending Directive 85/611/EEC on the co-ordination of Laws, Regulations and Administrative provisions relating to Undertakings for Collective Investment in Transferable Securities (UCITS). These two proposals would, respectively, extend harmonisation to collective investment schemes investing in a wider range of financial instruments and introduce regulation of, and a European passport for, UCITS management companies.

Insurance

3.22 On 27 October, the Council adopted a directive on the supplementary supervision of insurance undertakings in an insurance group.

European Investment Bank (EIB)

3.23 In the year-ending December 1998 the EIB lent a total of 30 billion ecus (£21.2 billion) investment in regional development, infrastructure, industry and other activities. The Board of Governors (EU Finance Ministers) approved an increase in the subscribed capital of the Bank from 62 billion ecus (£43.7 billion) to 100 billion ecus (£70.5 billion). This was linked to a new Strategic Framework for the Bank which focused on value-added lending which would complement the activities of the commercial banks and capital markets. The Governors also approved an exceptional payment to shareholders (member states) of 1 billion ecus (£0.7 billion) from the Bank's operating surplus.

3.24 The EIB used its position as the world's largest international borrower to develop a range of ecu-denominated bond-issues. In 1998 half its borrowing, about 15 billion ecus (£10.6 billion) was in ecu-denominated or convertible "ecu-tributary" bonds.

3.25 The EIB lent over 25 billion ecus (£17.6 billion) within the EU and 4.4 billion ecus (£3.1 billion) externally (half of which was to the pre-accession countries of East and Central Europe). The Bank developed new lending activities under the Amsterdam Special Action Programme (ASAP) which included investment in the health and education sectors and the provision of risk capital for small and medium-sized enterprises.

3.26 The Vienna European Council called for a review of progress on Trans-European Networks including ways to enhance financing arrangements also involving the EIB.

International Issues

- **Macro-financial Assistance to Third Countries.** No new lending to third countries was agreed by ECOFIN over the period;
- **Russia.** ECOFIN closely following events in Russia, and was consulted over the provision of exceptional assistance for former Soviet Union countries affected by the Russian crisis;
- **Strengthening the International Financial Systems.** The Vienna Council welcomed the report by ECOFIN on strengthening the international financial system, demonstrating member states' common outlook on the appropriate responses to the global financial crisis.

Draft Energy Products Directive

3.27 The Commission made a proposal in March 1997 to establish a common system for taxing energy products and common minimum rates. The new directive introduces a new Community framework for taxation of all energy products, requiring member states to apply minimum rates to electricity, natural gas and solid fuels and increase the minimum rates that currently apply to mineral oils used as fuel. Additionally, it introduces some welcome simplifications in the duty structure, allowing member states more flexibility, for example, in varying duty rates on environmental grounds.

3.28 The Austrian Presidency undertook to continue the work initiated by the UK Presidency on exploring a package of exceptions and derogations to establish the scope for compromises which might allow progress to be made. There was no substantive progress, but the Presidency presented a brief paper to the 1 December ECOFIN, which extended the working group's mandate to continue to work on the proposal.

3.29 The UK Government continued to favour some aspects of the proposal, such as higher minimum rates of tax on road fuels. However, we could not accept, for social policy reasons, any obligation to impose new taxes on domestic fuel and power and remained to be convinced of the Single Market rationale for extending minimum rates to gas, electricity or to solid fuels. We also indicated that the Government's attitude to new taxes on business use of energy would depend on the decisions taken in the light of Lord Marshall's report on 'Economic Instruments and the Business Use of Energy', which was published on 3 November.

Transit reform

3.30 The New Computerised Transit System (NCTS) provisions for Community Transit were adopted by the Commission. The initial

implementation stage is expected to commence, in certain pilot member states, during December 1999.

Duty Free

3.31 At ECOFIN on 1 December a number of member states called for a postponement of the abolition of duty free sales. However unanimity was not achieved and the timetable for abolition remains. The issue of postponement was discussed at the General Affairs Council on 7 December but no agreement was reached.

3.32 The Vienna European Council asked the Commission and ECOFIN to examine by March 1999 the problems which could arise from the abolition of intra-EU duty free sales with regard to employment and to address on the basis of proposals from the Commission possible means of tackling these problems, including the possibility of a limited extension of duty free sales.

VAT Gold Directive

3.33 This directive was formally adopted on 12 October and will be implemented into national law with effect from 1 January 2000. The directive aims to standardise the VAT treatment of investment gold at EC level, remove current cross-border distortions of competition and reduce opportunities for fraud. The directive exempts investment gold in the form of gold bars and wafers and gold coins sold mainly for their gold value.

4. Employment, Education, Culture and other areas of Community activity

Employment and Social Affairs issues

4.1 The European Council in Vienna agreed revised Employment Guidelines for 1999, and that member states would submit, before the Cologne European Council, a report on the implementation of their 1998 National Action Plans. The reports are also to describe changes made to the plans to take account of the 1999 Guidelines (see Box below for details).

4.2 At the Social Affairs Council on 27 October the Commission presented its draft Employment Guidelines for 1999, its draft Joint Report on member states' implementation of their National Employment Actions Plans, and the Employment Rates Report. The Council broadly welcomed the proposed Guidelines.

4.3 The Council discussed a Presidency paper setting out the remaining areas for agreement on employee involvement within the European Company Statute and held an open debate on the Commission's Social Action Programme 1998-2000. Many delegations supported the Action Programme's emphasis on promoting employment and tackling unemployment. The Council also noted a progress report on the reform of the Standing Committee on Employment.

4.4 Further discussion of the draft Guidelines took place at the Social Affairs Council on 20 November. At a joint session of Social Affairs and Finance Ministers held on 1 December, it was agreed that the Guidelines and the Joint Report should be submitted for endorsement by the Vienna European Council. The joint meeting also heard a presentation from Sir Brian Unwin, Chairman of the European Investment Bank, on progress in implementing the Amsterdam Special Action Programme for increased lending by the Bank to promote employment (see also paragraph 3.25).

4.5 The Social Affairs Council on 2 December reached political agreement on a common position on the second amendment to the directive on the protection of workers from carcinogens, and political agreement on a common position on a proposed directive on potentially explosive atmospheres.

4.6 The Council reached political agreement on the amendment to Regulation 1408/71 (co-ordination of social security for migrant workers) to extend certain elements to students, and on a decision to encourage mobility between member states for people through work-linked vocational training (Europass).

4.7 The Council discussed a Presidency report on the follow up to the 1995 Beijing Women's Conference and agreed the Commission's mid-term report on safety, hygiene and health at work. The Commission reported on its three recent initiatives: on information and consultation of workers at national level, where the social partners had failed to reach agreement and the Commission had chosen to bring forward its own proposal; on a proposed extension of the Working Time Directive to excluded sectors; and on its Communication on work organisation. The Council was unable to reach agreement on employee involvement within the European Company Statute.

4.8 At a conference in Vienna on 4 December the Social Affairs Commissioner indicated that under article 13 of the Treaty of Amsterdam, the Commission is thinking of developing a package of proposals dealing with discrimination: (i) a horizontal framework directive in the field of employment and occupation dealing with all the grounds of discrimination, except gender, which is already covered separately; (ii) a directive dealing specifically with discrimination based on race or ethnic origin with a broader scope, covering not only employment, but also the supply of and access to goods and services, health, education, social security and social protection; and (iii) an action plan to strengthen co-operation between member states.

Summary of the 1999 Employment Guidelines

The 22 Employment Guidelines are grouped into four areas, or pillars:

Improving Employability

Member states will create a new culture of employability by taking active measures that favour employment and encourage the workforce to acquire new skills. For example, member states will:

- ensure that every unemployed young person is offered a new start before reaching 6 months of unemployment (and adults before 12 months of unemployment) in the form of training, retraining, work practice, a job or other employability measure; and increase the numbers of unemployed who are offered training or any similar measure, by fixing a target of gradually achieving the average of the three most successful member states (and at least 20 per cent);
- refocus (where necessary) tax and benefit systems to provide incentives for people to seek and take up work or measures to enhance their employability, and encourage job creation by employers;

- improve school systems to reduce drop-out and improve the transition from school to work, and set a national target for participants benefiting from lifelong learning;
- give special attention to the needs of the disabled, ethnic minorities and other groups and individuals who may be disadvantaged in the labour market.

Developing Entrepreneurship

Member states will create a new culture of entrepreneurship with a focus on helping small and medium sized businesses to expand and create jobs. For example, member states will:

- reduce the overhead costs and administrative burdens for businesses, especially small and medium-sized enterprises;
- encourage the development of self-employment and job creation at the local level;
- exploit the employment potential of the services sector; and
- set a target for gradually reducing the overall tax burden.

Encouraging Adaptability of Businesses and their Employees

Member states and the social partners should promote adaptability to enable businesses to respond to new challenges and opportunities:

- the social partners are invited to negotiate agreements to modernise the organisation of work and introduce flexible working arrangements; and
- member states should examine all new and existing regulations to ensure that they contribute to reducing barriers to employment and examine the obstacles (particularly tax obstacles) to investment in human resources.

Strengthening Equal Opportunities Policies for Women and Men

Member states should:

- adopt a mainstreaming approach for gender issues when implementing all four pillars of the guidelines;
- reduce the gap in unemployment rates between women and men;
- promote equal pay for equal work or work of equal value;
- design and promote family friendly policies including affordable, accessible and high quality care services for dependants and eliminate obstacles to the return to work after an absence.

Employment Legislation

4.9 The UK implemented the European Working Time Directive on 1 October 1998. The Working Time Regulations create protection for workers over an average 48 hours a week; confer an entitlement to paid annual leave and daily, weekly and in-work rest periods; impose limits on night working and provide for special protections

for young people. The Commission published proposals on 18 November, which extend the Working Time Directive to those sectors which are currently excluded. We will seek to ensure they do not adversely affect the competitiveness of industry or the delivery of healthcare within the NHS.

4.10 Negotiations continued on a directive on worker participation relating to the European Company Statute, building on the text proposed under the UK Presidency. The European Company Statute will create a legal framework allowing companies operating in more than one member state to incorporate themselves as single European companies. Further progress towards reaching an agreement was made.

4.11 The Commission brought forward a proposal on information and consultation rights for employees on 11 November. The Government has nevertheless made it clear that it is not persuaded of the need for a directive on information and consultation in companies operating only at national level.

4.12 Following the conclusions of the Cardiff European Council which pressed for a strong and broad-based social dialogue, the Austrian Presidency took this forward with a conference on "European Social Model/Social Dialogue" in Vienna in November. In addition, representatives of the SME sector were included in the troika meeting of heads of government and social partners before the Vienna European Council.

Health

4.13 In the health field, the Presidency was concerned to highlight the importance of attaining high levels of health protection. It held an informal conference of health ministers on 24 July to discuss "Quality in Health Care – Opportunities and Limits of Co-operation at EU Level Aimed at Achieving a High Level of Health Protection in the Member States."

4.14 The Health Council met once on 12 November. It discussed the key issue of the future of public health policy and adopted conclusions stressing the importance of better prioritisation and co-ordination of public health activities by the Community to complement action taken by member states.

4.15 As part of the existing public health framework, the Council agreed its common position on the Commission's proposal for an injury prevention programme. The purpose of the programme is to take action on certain key areas to reduce avoidable injury and death. Significant progress was made on two further public health programmes on rare and polluted-related diseases. Both

programmes aim to encourage the sharing of information between member states.

4.16 The Commission reported on progress on combating smoking within the Community and announced that it intended to propose further measures on the tar and nicotine content of cigarettes and labelling of packets, as well as on smuggling. Progress on the draft recommendation on limitation of exposure of the general public to electromagnetic fields was noted and a response to the Commission's report on the revision of the homeopathic medicines directives was agreed.

4.17 The Council discussed co-operation between the EU and the World Health Organisation, and stressed the need for a more focused approach on the EU-United States Task Force on Communicable Diseases. It also welcomed the recommendations of the conference held in Copenhagen on 9–10 September on "The Microbial Threat".

4.18 The Council agreed to continue to consider Transmissible Spongiform Encephalopathies (TSEs) at each meeting and asked the Commission to provide regular reports on the issue.

4.20 Directive 98/43/EC which bans advertising for tobacco products on posters and in magazines, as well as promotional activities and advertising through sponsorship was adopted on 9 July. It also addresses the issue of indirect advertising through branded goods and bans the free distribution of tobacco products. Regulations are now being drafted to bring the directive into force in the UK.

Education and Youth

4.21 On 4 December, the Education Council reached political agreement on common position texts for decisions establishing the second phases of the SOCRATES and LEONARDO DA VINCI programmes. Agreement was also reached on a decision establishing the third phase of the TEMPUS programme.

4.22 The Council received information from the Commission on implementation of the Commission's White Paper "Teaching and Learning: Towards the Learning Society" and on the Commission's Action Plan on the promotion of trans-national mobility in the Community in the fields of education, training and youth. The Council also received information from the Austrian delegation on education events organised during the Austrian Presidency.

4.23 The Youth Council met on 26 November and adopted a Resolution on the Participation of Young People in Society.

Culture, Media and Sport

Audiovisual

4.24 The Culture/Audiovisual Council on 17 November agreed a Resolution on the importance of public service broadcasting of capitalising on developments in new technologies as part of their fulfilment of their public mission.

4.25 Ministers also discussed a Community Statistical Information Decision and the Presidency reported that work on it would continue in Working Group.

4.26 The report of the High-Level Group on Audiovisual Policy was published. The Group was set up as part of a general review of Community audiovisual policy to reflect on future audiovisual policy guidelines for the EU in the face of the digital transformation of the audiovisual landscape. The report identified the key elements of a future audiovisual policy and offered guidance to the Commission.

Culture

4.27 The 17 November Culture Council reached agreement on the content and structure of the first European Community framework programme in support of culture. Entitled "Culture 2000", it will bring under one heading the varied programmes and actions currently operating in the cultural field. Further discussions on the budget for the reform were required, and a common position was therefore not agreed. In view of this it was decided to extend for another year the "Kaleidoscope" and "Ariane" programmes, which support arts and literature projects respectively.

4.28 The contribution that culture and the creative industries can make to employment objectives was the subject of a Presidency conference, the conclusions of which formed ministerial discussion in the Council. Importance was also attached by the Presidency to increased cultural co-operation with Central and Eastern European countries and co-operation between the EU and the Council of Europe.

4.29 The November Culture Council discussed the issue of cross-border fixed book pricing and its place within the framework of European law. While domestic fixed book pricing was a matter for individual member states, the Commission would rule on cross-border agreements in due course.

Sport

4.30 Nine young people from Britain attended EU Sports Days in Vienna on 18–19 September and produced a declaration which stressed the need for sport to be accessible to all young people.

4.31 The Presidency convened a meeting of EU Directors of Sport in Vienna on 15 October and highlighted their priorities: employment and training; anti-doping measures; and introducing sport into the legal framework of the EU. These were further developed at a Troika meeting in Salzburg on 24 November attended by Tony Banks, Minister for Sport.

4.32 The Vienna European Council agreed a statement expressing concern about doping in sport and recommending further work on safeguarding sports structures and maintaining the social function of sport.

Research And Development

4.33 Final agreement was reached on the EU's Fifth Framework Programme for Research and Development (FP5), paving the way for the launch of the programme in spring 1999. Following agreement on the budget for FP5 on 17 November through the conciliation procedure with the European Parliament, the Research Council reached final agreement on FP5's legislation at its meeting on 22 December. The UK warmly welcomes the programme agreed, which opens up new opportunities for European collaborative research to tackle major challenges to promote competitiveness and enhance the quality of life. The programme offers the prospect of continued strong participation by UK researchers.

4.34 The Council also agreed conclusions calling for greater emphasis on research, development and innovation activities in the EU's MEDA programme for development co-operation with Mediterranean countries. It approved signature of an agreement for scientific and technological co-operation between the European Community and China and made decisions progressing a number of other scientific and technological co-operation agreements between the Community and third countries.

5. External Relations, including Trade and Aid

Enlargement

5.1 The Commission submitted to the General Affairs Council in November progress reports on all applicants. Substantive accession negotiations were opened with Cyprus, the Czech Republic, Estonia, Hungary, Poland and Slovenia on the first seven chapters of the acquis on 10 November.

5.2 The Vienna European Council welcomed the progress that the applicants had made, and agreed with the Commission recommendation that Bulgaria, Latvia, Lithuania, Romania and Slovakia were not yet ready to start substantive accession negotiations. Vienna underlined the importance of further developing relations between the EU and Turkey, taking forward the European Strategy to prepare Turkey for membership.

5.3 Following elections in September, Malta re-activated its application to join the EU.

5.4 The European Conference met at Foreign Minister level in October. It focused on combating trans-national organised crime (especially child pornography) and regional co-operation on environmental issues.

World Trade Organisation (WTO)

5.5 The Vienna European Council reaffirmed the EU's commitment to the WTO and its support for further multilateral trade liberalisation through a comprehensive and wide-ranging new round of negotiations starting in 2000. Latvia and the Kyrgyz Republic joined the WTO bringing the number of members to 133 at the end of 1998.

EU/Former Yugoslavia

5.6 On 9 November, the General Affairs Council reviewed the compliance of Croatia, Bosnia and Herzegovina, the Federal Republic of Yugoslavia, the former Yugoslav Republic of Macedonia and Albania with the EU Regional Approach criteria. The Council agreed that the status of EU relations with these countries should remain unchanged.

5.7 The Vienna European Council reaffirmed the EU's determination to support humanitarian aid and reconstruction efforts and emphasised the need for full compliance by both sides in the Kosovo crisis with the relevant United Nations Security Council resolutions.

EU/Russia

5.8 An EU/Russia Summit was held in Vienna on 27 October. The discussions covered foreign policy issues, bilateral trade and technical co-operation. The European Council in Vienna underlined the Union's readiness to help Russia overcome its present economic crisis. The Agriculture Council decided in December to provide 400 million euros (£282 million) worth of food aid to Russia.

EU/Ukraine

5.9 The EU/Ukraine Summit in Vienna on 16 October discussed implementation of the Partnership and Co-operation Agreement. The EU announced its decision to grant Ukraine a balance of payments loan of 150 million euros (£106 million). The European Council in Vienna reaffirmed the fundamental importance of the partnership between the EU and Ukraine.

EU/Moldova

5.10 The Partnership and Co-operation Agreement between the EU and Moldova entered into force on 1 July. The inaugural Co-operation Council, which oversees the operation of the Agreement, was held in Brussels on 14 July.

EU/Kyrgyzstan

5.11 An interim agreement between Kyrgyzstan and the European Community, covering the trade and trade-related aspects of the EU/Kyrgyzstan Partnership and Co-operation Agreement, entered into force on 1 August.

EU/Switzerland

5.12 The Vienna European Council welcomed the conclusion of negotiations with Switzerland on a EU/Switzerland Agreement. The Agreement covers seven sectors: air transport, land transport, research and development, free movement of persons, agriculture, mutual recognition of standards and public procurement.

EU/Canada

5.13 The EU/Canada Summit in Ottawa on 17 December discussed a broad agenda, including human security issues, economic and trade questions and improved business to business contacts. Agreements were signed on Veterinary Equivalence, Science and Technology and on Nuclear Research Co-operation. The EU and Canada also formally launched a new EU-Canada Trade Initiative (ECTI) and issued a joint statement on small arms and anti-personnel mines.

EU/US

5.14 The biannual EU/US Summit took place in Washington on 18 December. There were wide ranging discussions on foreign policy issues, including Iraq and the Middle East Peace Process, and on economic issues. The Summit stressed the joint EU/US role as engines of global economic growth and also welcomed the launch of negotiations on bilateral trade issues under the Transatlantic Economic Partnership. EU/US discussions continued on a number of trade issues, including the EU's banana regime and US extra-territorial legislation.

EU/Latin America

5.15 The annual meeting of EU and Rio Group Foreign Ministers took place on 22 September in the margins of the United Nations General Assembly (UNGA). EU troika Foreign Ministers met with their Mercosur colleagues, also at UNGA, on 24 September; Foreign Ministers of Chile and Bolivia, as associate members of Mercosur, took part. The troika Foreign Ministers additionally met with their San José Group counterparts on 24 September.

EU/Mexico

5.16 Negotiations began on 9 November in Mexico City to establish a free trade area between the EU and Mexico. The negotiations form part of the new and comprehensive relationship between the EU and Mexico following the signature in December 1997 of two Partnership and Co-operation Agreements. They are expected to conclude in 1999.

EU/Japan

5.17 Negotiations began on a draft regulation to implement measures and actions to improve access of EU goods and services to the Japanese market. Discussions continued when Sir Leon Brittan visited Japan for the EU/Japan Ministerial meeting on 12 October. EU Heads of Mission in Tokyo produced a report entitled "Enhancing EU/Japan Political Relations". Negotiations began for a co-operation

agreement between the European Atomic Energy Community (Euratom) and Japan.

EU/China

5.18 Jacques Santer and Sir Leon Brittan visited China on 25–31 October. Discussion of trade issues covered maritime transport, insurance, textiles and investment conditions. The second EU/China Human Rights seminar took place in a positive atmosphere in Beijing 19–20 October. An Agreement on Scientific and Technological Co-operation between the EC and China was signed in Brussels on 22 December.

EU/Hong Kong

5.19 In a European Parliament Plenary debate on 7 October MEPs welcomed the success of the one country, two systems model, whilst highlighting a number of shortcomings in respect of democracy and human rights. Jacques Santer and Sir Leon Brittan visited Hong Kong in November. A Customs Co-operation Agreement was initialled during this visit.

EU/Republic of Korea

5.20 Sir Leon Brittan led an EU investment mission to Korea on 13–15 October. Discussions focused on Korea's economic reforms. There was an EC/Korea Ministerial Meeting in Brussels on 27 October. A Commission Communication on EU relations with Korea was published on 9 December. Discussions continued on several unresolved trade issues; those of most concern to the UK included pharmaceuticals, legal services and spirits (whisky).

EU/Democratic People's Republic of Korea (DPRK)

5.21 The first EU/DPRK working level dialogue took place in Brussels on 2 December. The discussion focused on the humanitarian situation in the DPRK, the security situation on the Korean Peninsula and the Korean Economic Development Organisation (KEDO).

ASEM (Asia-Europe Meeting)

5.22 Initiatives launched at the second ASEM Summit in London earlier in the year were taken forward. Seminars and meetings of experts were held to take forward work under the Trade and Investment Action Plans. Work continued in the fields of science and technology, the environment, education, culture and child welfare. The UK played a leading role in the establishment of the ASEM Trust Fund and the European Financial Expertise Network (EFEX), which support the World Bank in helping the Asian ASEM countries

recover from the effects of the financial crises in Asia and help prevent future recurrences.

EU/Asia

5.23 An EU/India Troika Ministerial meeting was held in New Delhi on 13 November. The second EC/Vietnam Joint Commission met in Brussels on 7–8 October. The EC/Sri Lanka Joint Commission met in Brussels on 16 December.

Mediterranean

5.24 Negotiations continued for Association Agreements with Egypt, Lebanon, Algeria and Syria. The first EU/Tunisia Association Council, established by the EU/Tunisia Association Agreement, was held on 14 July.

5.25 The EC/Gulf Co-operation Council (GCC) Joint Council was held on 27 October. Discussion focused on Iraq and the Middle East Peace Process, and on the progress of negotiations for an EC/GCC Free Trade Agreement.

5.26 Under the Euro-Mediterranean Process, Ministerial meetings were held on Culture (Rhodes, 24–25 September) and Industry (Klagenfurt, 4 October).

EU/South Africa

5.27 Negotiations continued with South Africa on the establishment of a Free Trade Area, and on parallel agreements on Fisheries and Wines and Spirits. At the Vienna European Council, Heads of Government underlined the political importance of this Trade and Co-operation Agreement. They made a commitment to reach a successful conclusion to negotiations as soon as possible, and by the European Council in March 1999 at the latest.

Relations with Developing Countries

5.28 Negotiations for a successor to the Lomé Convention on co-operation with African, Caribbean and Pacific (ACP) countries opened in Brussels on 30 September. The EU mandate was agreed under the UK Presidency. It includes strong backing for international poverty eradication targets, proposals to bring the trade arrangements into line with World Trade Organisation (WTO) rules, and recognises the importance of the agricultural protocols. The UK participated in an extraordinary ministerial level meeting of EU and ACP troikas on 3 December to reaffirm mutual commitment to the EU/ACP relationship. The current Convention expires on 29 February 2000.

6. The Single Market

The Single Market Action Plan

Good progress continued to be made on the implementation of the Commission's Action Plan, with most commitments achieved within the overall deadline of 31 December 1998. The Action Plan set out legislative and non-legislative targets to improve the operation of the Single Market. On legislative achievements, the November Council adopted the Conditional Access Directive, which protects broadcasters' ability to get paid for their services by making the use of pirate decoders illegal.

One of the major objectives of the Action Plan was the elimination of the backlog in the implementation of Directives. By the end of 1998, the percentage of Directives not yet implemented in all 15 member states was 13.9%, compared to 35% in June 1997. The Council agreed that the Single Market Scoreboard should continue to monitor progress on this and other aspects of the Single Market. Progress was also made on the Simpler Legislation in the Internal Market (SLIM) initiative and Business Test Panels, the Commission initiative aimed at improving consultation with business on the likely impact of selected legislative proposals (see Chapter 11).

6.1 In July, the Commission put forward a proposal for a regulation to lay down a Community procedure for designating and providing incentives for the development of orphan medicinal products. These are medicinal products which broadly seek to treat rare diseases, and which would be uneconomic to develop without incentives. The proposal has been considered by the European Parliament and a number of amendments have been suggested.

6.2 The 24 September Internal Market Council adopted Conclusions reaffirming its commitment to the implementation of the Action Plan and considered a Commission communication setting out ideas for making Single Market rules more effective.

6.3 Directive 98/79/EC on in-vitro diagnostic medical devices was adopted on 27 October. This harmonises rules designed to ensure the safety and effectiveness of in-vitro diagnostic medical devices. The issue concerning devices that contain substances derived from human tissue is being dealt with separately and is under discussion at working group level.

6.4 The 9 November Internal Market Council reached political agreement on a measure on cableways, which harmonises safety aspects of cableway installations, and on a regulation setting the fee arrangements structure for the European Medicine Evaluation Agency. This Regulation, which introduces a revised set of fees to be charged to the pharmaceutical industry for work undertaken in

assessing applications for marketing authorisations for human and veterinary products, was adopted on 14 December.

6.5 In November, the Commission published a communication on the 'Single Market in Pharmaceuticals', which sets out the current operation of the pharmaceuticals market in the Community, with the aim of contributing to policy development. The document provides a useful point of departure for future action.

6.6 The draft directive on good clinical practice in the conduct of clinical trials on medicinal products for human use remains under discussion and the Commission are considering amendments proposed by the European Parliament. This proposal would speed up procedures within individual Member States, as well as Europe as a whole and also create data on clinical trials that is compatible throughout Europe. It would bring ethics committees within the scope of the law.

6.7 The 7 December Internal Market Council reached political agreement on the extension of the Product Liability Directive to primary agricultural products; and on the Fourth Motor Insurance Directive, which will make it easier for victims of road accidents that take place in another member state to make an insurance claim. The Council also adopted the Free Movement of Goods Regulation and Resolution, which will allow member states to deal rapidly with serious disruptions to the free movement of goods. The UK played a significant role, particularly during our Presidency, in promoting this measure.

6.8 Progress was made on the economic reform process agreed at the Cardiff European Council, with member states and the Commission having produced reports on the functioning of product and capital markets. Internal Market Ministers agreed at their December Council that they would consider these reports from a Single Market perspective and contribute to ECOFIN's deliberations in the formulation of the Broad Economic Guidelines. This analysis will also be used to identify Single Market priorities, especially in relation to removing barriers to a better functioning Single Market.

7. Agriculture, Fisheries and Food

AGRICULTURE

Bovine Spongiform Encephalopathy

7.1 The Government continued to implement measures designed to eradicate BSE and to protect public health in the UK. It has fulfilled all five pre-conditions laid down in the Florence Agreement towards securing a progressive resumption of exports of beef and beef products.

7.2 The selective cull, one of the Florence pre-conditions, is now in its final stages. By the end of 1998, virtually all the cattle to be culled had been identified. Out of the 140,000 sold out of their herds of origin, only 2,000 had still to be traced. 74,000 cattle had been slaughtered.

7.3 In accordance with Decision 98/256/EC, commercial beef exports from animals slaughtered in Northern Ireland under an Export Certified Herds Scheme (ECHS) began in September.

7.4 The Government submitted a formal proposal for a UK Date-based Export Scheme (DBES) to the Commission on 2 October 1997 together with proposals for a cull of cattle born after 1 August 1996 to BSE cases. Following the procedure in the Florence framework, the proposals were considered by the Scientific Steering Committee. Subsequently, the Commission issued their proposal for a DBES on 10 June 1998.

7.5 Commission representatives visited the UK from 20–24 July to look at the Government's proposals for implementing the DBES. The Commission presented their report of the visit to the Standing Veterinary Committee (SVC) on 8 September which was generally positive and helpful. On 28 October the Commission tabled a revised proposal which omitted certain requirements on the treatment of bones and specified risk material (SRM) on the domestic UK market. This was voted on in the Standing Veterinary Committee (SVC) on 4 November, but did not achieve the qualified majority vote necessary to secure its adoption at that stage and was referred to the Council.

7.6 At the Agriculture Council on 23 November, 10 member states voted in favour of the DBES proposal (one member state voted against and four abstained). This allowed the Commission to adopt the proposal under its own authority. On 25 November the Commission adopted Commission Decision 98/692/EC providing for

the DBES. The Government issued a consultation document on the legislation and procedures to implement the DBES on 14 December. A further inspection is required before the Commission can set a date on which exports might resume.

7.8 The premise upon which the DBES is based is that after 1 August 1996 all risks of feedborne transmission ceased and maternal transmission appears to represent the only remaining route of infection. The offspring cull supports the DBES by removing animals born after that date which may have been infected by their dams. Before beef exports can resume under the DBES the UK must slaughter all offspring born on or after 1 August 1996 to BSE cases confirmed before 25 November 1998. When new cases of BSE occur, any offspring born after 1 August 1996 must be slaughtered without delay.

7.9 In anticipation of the Commission Decision on the DBES, and to minimise the time between its agreement and the resumption of exports, the offspring cull began on a voluntary basis in August. Following the adoption of the Commission Decision, the BSE Offspring Slaughter Regulations 1998 implementing a compulsory cull were laid before Parliament on 10 December, and came into force on 4 January 1999. 2435 offspring had been found to be already dead and 1532 had been slaughtered under the voluntary phase of the cull.

Date Based Export Scheme

On 27 March 1996 the Commission introduced an indefinite world-wide ban on UK exports of cattle, beef or any products, apart from milk and dairy products, derived from cattle slaughtered in the UK. This followed the Government's announcement the previous day of the discovery of a new variant of Creutzfeldt Jacob Disease (nvCJD) possibly linked to BSE. However, on 21 June 1996 at the Florence European Council, heads of member states agreed a framework for lifting the ban for UK beef, subject to five preconditions. Since the export ban was implemented the UK has worked hard to meet all these preconditions for exports to begin.

The Florence Agreement envisaged various steps by which the export ban might be lifted. One of these was in respect of animals from certified herds (Export Certified Herds Scheme (ECHS)). Exports have been permitted from Northern Ireland on that basis since 1 June 1998.

Another step was a scheme for animals born after a specified date, known as the Date-based Export Scheme (DBES). The Agriculture Council voted on 23 November 1998 on a proposal from the Commission to permit exports of deboned beef and beef products from UK animals born after 1 August 1996. That was the date on which the Commission verified that infected feed was removed from the feed chain. The proposal was agreed by a majority of member states and opposed by only one. This showed that there was support throughout the Community for the measures the UK had taken, confidence in our controls and a recognition that there was no longer any scientific justification for the export ban to remain. The Commission adopted the proposal on 25 November 1998.

The date for exports to resume will be set after an inspection by the Commission of the UK's strict controls and of progress on the associated cull of offspring of BSE cases.

7.10 56 establishments in Great Britain were approved by December to export foreign origin bovine material under the Bovines and Bovine Products (Trade) Regulations 1998, which implement the requirements of Council Decision 98/256/EC. This Decision sets out tightened requirements for the export to other member states and third countries of fresh meat, minced meat, meat preparations, meat products, other products of animal origin, and food for domestic carnivores obtained from bovine animals not slaughtered in the UK. Similar regulations on bovines and bovine products have been made in Northern Ireland.

7.11 By the end of 1998, fifteen plants had been approved for the export of gelatin, collagen, tallow derivatives, amino acids and peptides made from materials derived from bovine animals slaughtered outside the UK. All remain subject to regular inspections by the Veterinary Field Service to ensure they continue to meet the requirements of Council Decision 98/256/EC.

7.12 Inspections of the three plants registered to produce tallow from UK bovine materials for use in animal feed, cosmetics, medical or pharmaceutical products has continued. However, the export of tallow produced by these plants remained prohibited since the necessary inspections by the Commission had not been carried out.

7.13 On 18 November the Commission published a proposal to amend Commission Decision 97/534/EC on (SRM), the tissues most likely to carry BSE infectivity. Application of the Decision had previously been deferred by the Council of Ministers until 1 January 1999. The proposal was the Commission's third attempt to replace Decision 97/534 following recognition that it would have serious consequences for the supply of cosmetics and pharmaceuticals to the Community market. The proposal sought to impose requirements on member states to remove SRM from the human food and animal feed chains and from fertiliser, according to their geographical transmissible spongiform encephalopathy (TSE) risk. It also sought to require third countries to remove SRM from products sent to the Community market, according to their TSE risk. Unlike previous proposals, it permitted the use of SRM in products other than those for human food, animal feed or fertilisers, provided there was no possibility of cross contamination.

7.14 If the proposal had been adopted, member states and third countries would have been placed in one of four categories by the Commission according to their BSE incidence and the control measures in place. No SRM removal would have been required in category 1 (lowest risk) countries. In category 4 (highest risk) countries exclusion of a long list of SRMs, including vertebral column, would have been necessary. The proposal also provided for import and export controls to ensure that animals and animal products were subject to the SRM requirements of their country of origin or residence, whichever was most restrictive. But SRM removal would not have been necessary for animals passing a TSE

test, if and when such a test was approved by the Commission. No such tests have yet been approved.

7.15 No member state voted in favour of the proposal at the SVC meeting on 1 December. In accordance with the procedures laid down in Community rules it was then referred by the Commission to the Council of Ministers and was discussed at the Agriculture Council on 14–15 December. The proposal found little support in the Council. The Commission therefore brought forward a proposal postponing once again the application of Decision 97/534, this time until 31 December 1999. This was formally adopted on 17 December.

7.16 Following a public consultation exercise which ended in July, the Government amended the Specified Risk Material Regulations 1997 to enable producers to send carcasses of sheep over 12 months of age to plants in France without having first to remove their spinal cord. In order to minimise the risk of such carcasses going astray, the Specified Risk Material (Amendment) Regulations require them to be marked with a special stamp and transported in sealed containers directly to an approved plant in France where the spinal cord would be removed. They also require confirmation of their delivery to be given to the official veterinarian responsible for the abattoir from which they originated. The Specified Risk Material (Amendment) Regulations came into force on 8 October.

7.17 On 30 October, the SVC agreed Commission Decision 98/653, which prohibits the export of live cattle and a number of other products of bovine origin from Portugal. This followed increases in the number of reported cases of BSE and reports by the European Commission's Food and Veterinary Office which suggested that not all risk factors were being adequately managed by the Portuguese authorities.

7.18 Although Decision 98/653 imposed obligations on the Portuguese authorities to ensure that proscribed animals and products were not sent from their territory, the Government decided to take action to ensure that any animals or products which escaped the Portuguese controls could be properly dealt with if they arrived in Great Britain. Declarations under Regulation 35 of the Products of Animal Origin (Import and Export) Regulations 1995 and Regulation 27 of the Animals and Animal Products (Import and Export) Regulations 1998 made it an offence to import animals or products from Portugal, except in accordance with Decision 98/653.

7.19 The European Parliament/Commission joint conference on the EU and Food Safety (Lessons to be Learned from the BSE Crisis) was held in Brussels on 30 November–1 December. The main points made at the meeting were that the Commission was now collaborating satisfactorily with the European Parliament to combat the BSE epidemic and that BSE was on the decline. Member states, however, were still failing to co-operate fully.

Veterinary and Phytosanitary Equivalence Agreements

7.20 In February 1995, the Council of Ministers gave the Commission a mandate to carry out negotiations with third countries towards the adoption of Equivalence Agreements on veterinary and, in some cases, phytosanitary matters. Such agreements are provided for in the WTO's Sanitary and Phytosanitary (SPS) Agreement and recognise that as each party's control measures provide equivalent levels of protection of animal and public health, reduced levels of checks at borders are possible, so facilitating trade.

7.21 Agreements with Canada and the USA were adopted by the Council of Ministers in 1998. The Agreement with Canada was signed in December, but signature of the USA agreement remained dependent on further action by the USA to recognise the current disease status of the Community. The Agreement with the Czech Republic, which was adopted in 1997, came into force on 20 November. Discussions with New Zealand on implementation of the Agreement between the Community and New Zealand continued throughout the year.

Agricultural Trade

Food aid for Russia

7.22 The Agriculture Council agreed on 14–15 December to a package of food aid for the Russian Federation for the winter of 1998/99. The supplies of grains, pigmeat, beef and skimmed milk powder are targeted on regions with the greatest need.

Flax and Hemp

7.23 The textile fibres regime has been further tightened up. It is now a requirement to declare flax and hemp areas on IACS returns and to provide proof of processing of hemp, and the definition of processing has been tightened. From the 1999/00 marketing year there will be a requirement to test field samples of hemp to monitor narcotic content of approved varieties.

Disputes

Bananas

7.24 The revised EC banana regime agreed in June 1998 came under criticism from countries with an interest in exporting Latin American bananas to the Community. On 10 November the USA published a preliminary list of exports from member states on which it proposed to impose prohibitive retaliatory tariffs, followed by a revised shorter proposed list on 21 December. At the end of the year Ecuador

indicated that it would seek a World Trade Organisation panel to examine the new EC banana regime. In the meantime discussions continued on an EC framework of assistance for traditional African, Caribbean and Pacific suppliers to help them to adapt to the revised regime and improve their long-term competitiveness.

FISHERIES

7.25 On 22 October the Fisheries Council agreed to compensate those fishermen affected by the forthcoming drift nets ban. On 18 December, the Council agreed 1999 total allowable catches and quotas for over 100 stocks and measures to strengthen fisheries enforcement throughout the Community.

Internal Regime

7.26 On 22 October, the Fisheries Council agreed on a Decision to provide compensation for those EU fishermen adversely affected by the high seas drift nets ban that comes into force on 1 January 2002.

7.27 Agreement was reached in November on institutional prices for the main commercial fish species to apply in 1999.

7.28 On 18 December, the Fisheries Council reached agreement on the Total Allowable Catches (TACs) and quotas to be set for 1999. In recognition of the need to adopt a Precautionary Approach, a number of TACs were reduced in order to conserve fish stocks for the future while others were increased where the state of the stocks justified it.

External regime

7.29 On 18 December, the Fisheries Council agreed bilateral fisheries arrangements for 1999 with Norway, Greenland, the Faroe Islands, Iceland, Estonia, Latvia, Lithuania, Poland and Russia; and fishing opportunities for EU vessels in the waters of the North West Atlantic Fisheries Organisation (NAFO) and the North East Atlantic Fisheries Commission (NEAFC).

7.30 A new protocol with the Seychelles was initialled on 21 December, extending the fisheries agreement for a further three years.

FOOD

Food Irradiation

7.31 Significant progress was made in 1998 toward a consolidated text for the EC directive concerning food and food ingredients

treated with ionising radiation. Text for the directive was approved by the Conciliation Committee on 9 December for taking forward to Council in early 1999.

Labelling of Genetically Modified (GM) Foods

7.32 Council Regulation 1139/98, concerning the compulsory indication on the labelling of certain foodstuffs produced from genetically modified organisms of particulars other than those provided for in Directive 79/112/EEC, came into force in September. The regulation requires all foods containing ingredients produced from GM soya and GM maize to be labelled except when neither protein nor DNA resulting from the modification is present. The regulation also makes provisions for the formulation of a list of ingredients which member states agree do not contain novel protein or DNA and further discussion on the question of a *de minimis* threshold for the presence of DNA or protein resulting from genetic modification. This regulation replaces Commission Regulation 1813/97, which will therefore be repealed.

Annex to Chapter 7: Major Proposals Adopted

Agriculture and Food

Council Regulation (EC) 1623/98 fixing the monthly increases in the intervention price for cereals for the 1998/99 marketing year. Adopted 20 July.

Council Regulation 1625/98 fixing the monthly increases in the intervention price for paddy rice for the 1998/99 marketing year. Adopted 20 July.

Council Regulation (EC) 1804/98 establishing an autonomous duty applicable for residues from the manufacture of starch from maize falling within CN codes 2303 10 19 and 2309 90 20 and introducing a tariff rate quota on imports of residues from the manufacture of starch from maize (corn gluten feed) falling within CN codes 2303 10 19 and 2309 90 20 originating in the United States of America. Adopted 14 August.

Council Regulation (EC) 2072/98 amending Council Regulation (EC) 3072/95 on the common organisation of the market in rice with regard to the scheme for compensatory payment. Adopted 28 September.

Council Regulation (EC) No 1635/98 derogating from certain provisions of Regulation (EEC) No 1765/92 establishing a support system for producers of certain arable crops. Adopted 20 July.

Council Regulation (EC) No 1624/98 amending Regulation (EEC) No 1765/92 establishing a support system for producers of certain arable crops. Adopted 20 July.

Council Regulation (EC) 1637/98 amending Regulation (EEC) 404/93 on the common organisation of the market in bananas. Adopted 20 July.

Council Regulation (EC) 1706/98 on the arrangements applicable to agricultural products and goods resulting from the processing of agricultural products originating in the African, Caribbean and Pacific States and repealing Regulation (EEC) No. 715/90. Adopted 20 July.

Council Regulation (EC) 2802/98 on a programme to supply agricultural products to the Russian Federation. Adopted 17 December.

Council Directive 98/56/EC on the marketing of propagating material of ornamental plants. Adopted 20 July.

*Council Directive 98/57/EC on the control of *Ralstonia solanacearum* (potato brown rot). Adopted 20 July.*

Council Directive 98/95/EC which amends the existing seed marketing and common catalogue directives to remove barriers to trade and to create legal bases to take account of developments in the areas of genetically modified

varieties, novel food and the conservation of genetic resources. The directive also introduces, for the first time, a definition of marketing. Adopted 14 December.

Council Directive 98/96/EC which amends the existing seed marketing and common catalogue directives to provide for the permanent use of officially supervised (licensed) crop inspectors; to extend the scope of temporary experiments to allow consideration of improved alternatives to certain provisions set out in the directives; to allow the lists of species (other than potatoes and beet) covered by the directives to be amended by Commission procedure rather than by Council procedure and to create a legal basis for the denomination of varieties. Adopted 14 December.

Fisheries

Council Regulation (EC) No 1722/98 amending the Annex to Regulation 2632/97 temporarily suspending some or all of the autonomous Common Customs Tariff duties on certain fishery products.

Council Regulation (EC) No 2039/98 amending Regulation 1890/97 and 1897/97 imposing definitive anti-dumping and countervailing duties on imports of farmed Atlantic Salmon originating in Norway.

Council Regulation (EC) No 2468/98 laying down the criteria and arrangements regarding Community structural assistance in the fisheries and aquaculture sector and the processing and marketing of its products.

Council Regulation (EC) No 2678/98 amending Regulation 1891/97 imposing definitive anti-dumping and countervailing duties on imports of farmed Atlantic Salmon originating in Norway.

Council Regulation (EC) No 2763/98 fixing, for the 1999 fishing year, the Community producer price for Tuna intended for the industrial manufacture of products falling within CN code 1604.

Council Regulation (EC) No 2764/98 fixing, for the 1999 fishing year, the guide prices for the fishery products listed in Annex II to Regulation 3759/92.

Council Regulation (EC) No 2765/98 fixing, for the 1999 fishing year, the guide prices for the fishery products listed in Annex I(A), (D) and (E) of Regulation 3759/92.

Council Regulation (EC) No 2822/98 temporarily suspending some or all of the autonomous common customs tariff duties on certain fishery products.

Council Regulation (EC) No 2823/98 amending Regulation 730/98 opening and providing for the administration of autonomous Community tariff quotas for certain fishery products.

Council Regulation (EC) No 48/99 fixing, for certain fish stocks and groups of fish stocks, the total allowable catches for 1999 and certain conditions under which they may be fished.

Council Regulation (EC) No 49/99 fixing, for certain stocks of highly migratory fish, the total allowable catches for 1999, their distribution in quotas to member states and certain conditions under which they may be fished.

Council Regulation (EC) No 50/99 laying down, for 1999, certain measures for the conservation and management of fishery resources applicable to vessels flying the flag of Norway; Council Regulation (EC) No 51/99 allocating, for 1999, certain catch quotas between member states for vessels fishing in the Norwegian exclusive economic zone and the fishing zone around Jan Mayen.

Council Regulation (EC) No 52/99 laying down, for 1999, certain measures for the conservation and management of fishery resources applicable to vessels flying the flag of the Faroe Islands; and Council Regulation (EC) No 53/99 allocating, for 1999, certain catch quotas between member states for vessels fishing in Faroese waters.

Council Regulation (EC) No 54/99 allocating, for 1999, Community catch quotas in Greenland waters.

Council Regulation (EC) No 55/99 allocating, for 1999, Community catch quotas between Member states for vessels fishing in Icelandic waters.

Council Regulation (EC) No 56/99 laying down, for 1999, certain measures for the conservation and management of fishery resources applicable to vessels flying the flag of Estonia; and Council Regulation (EC) No 57/99 allocating for 1999 catch quotas between member states for vessels fishing in Estonian waters.

Council Regulation (EC) No 58/99 laying down, for 1999, certain measures for the conservation and management of fishery resources applicable to vessels flying the flag of Latvia; and Council Regulation (EC) No 59/99 allocating for 1999 catch quotas between member states for vessels fishing in Latvian waters.

Council Regulation (EC) No 60/99 laying down, for 1999, certain measures for the conservation and management of fishery resources applicable to vessels flying the flag of Lithuania; and Council Regulation (EC) No 61/99 allocating for 1999 catch quotas between member states for vessels fishing in Lithuanian waters.

Council Regulation (EC) No 62/99 laying down, for 1999, certain measures for the conservation and management of fishery resources applicable to vessels flying the flag of Poland; and Council Regulation (EC) No 63/99 allocating for 1999 catch quotas between member states for vessels fishing in Polish waters.

Council Regulation (EC) No 64/99 laying down, for 1999, certain measures for the conservation and management of fishery resources applicable to vessels flying the flag of the Russian Federation; and Council Regulation (EC) No 65/99 allocating for 1999 catch quotas between member states for vessels fishing in the zone of the Russian Federation.

Council Regulation (EC) No 66/99 laying down for 1999 certain conservation and management measures for fishery resources in the Regulatory Area as defined in the Convention on Future Multilateral Co-operation in the North West Atlantic Fisheries.

Council Regulation (EC) No 67/99 laying down for 1999 certain conservation and management measures for fishery resources in the Convention Area as defined in the Convention on Future Multilateral Co-operation in North-East Atlantic Fisheries.

Council Regulation (EC) No 2469/98 on the conclusion of the Agreement between the European Community and the Gabonese Republic on fishing off the coast of Gabon.

Council Regulation (EC) No 2585/98 on the conclusion of a Protocol setting out the fishing opportunities and financial contribution provided for in the Agreement between the European Economic Community and the Government of the Democratic Republic of Madagascar on fishing off Madagascar for the period from 21 May 1998 to 20 May 2001.

Council Regulation (EC) No 2127/98 relating to the conclusion of the Protocol setting out, for the period 28 February 1998 to 27 February 2001, the fishing opportunities and financial contribution provided for in the Agreement between the European Economic Community and the Islamic Federal Republic of the Comoros on fishing off the Comoros.

Council Regulation No. (EC) 2846/98 amending the fisheries control regulation establishing a control system applicable to the common fisheries policy. The amendments to the control regulation will strengthen monitoring, inspection and surveillance arrangements in all member states and will lead to greater co-operation and transparency of enforcement activity. Adopted at the December Fisheries Council.

8. Environment and Transport

ENVIRONMENT

Integration

8.1 Following a request at the Cardiff European Summit, the Transport, Energy and Agriculture Councils produced reports on integrating the environment into their policy areas for consideration at the Vienna European Council. The Vienna Council welcomed the initial work of these Councils and requested that more comprehensive strategies in these areas, including a timetable for further measures and a set of indicators, be provided to the European Council, Helsinki in December 1999. The Council were invited to further develop this work into other Community policies, particularly in the Development, Industry and Internal Market Councils. The Commission were asked to prepare reports on the process of integration, and on the EU strategy on climate policy, for consideration at the Cologne European Council in June (see also paragraph 8.25 and Chapter 9).

Climate change

8.2 The Environment Council agreed conclusions on 6 October which prepared the Community's negotiating position for the Fourth Conference of the Parties to the UN Framework Convention on Climate Change held in Buenos Aires in November. Following this Conference the Environment Council agreed Presidency conclusions on 20–21 December which noted the achievements of Buenos Aires and set out further areas of discussion.

8.3 Discussions continued on the Community Strategy to reduce CO₂ emissions from new passenger cars. On 6 October the Council endorsed the voluntary agreement between the Commission and the European Car Manufacturers' Association (ACEA) to cut Carbon Dioxide emissions from new cars by 25 per cent by 2008 over 1996 levels. The agreement will play a considerable role in reducing greenhouse gas emissions in the EU. Ministers also discussed two proposals which complement this agreement. The first is for a scheme to monitor the emissions from new cars and the second will require information on the fuel consumption and carbon dioxide emissions of new cars to be prominently displayed in promotional literature. These two proposals were agreed at the Environment Council on 20–21 December. At the same Council Conclusions were also adopted requesting a progress report at the March 1999

Environment Council on the Commission's negotiations with non-European car manufacturers which seek to secure an equivalent agreement to that reached with ACEA earlier this year.

Ozone layer

8.4 The Environment Council reached political agreement on a new regulation on substances that deplete the ozone layer on 20–21 December. This regulation implements in some respects and goes beyond the requirements of the Montreal Protocol, setting tougher controls for the production, supply and use of ozone depleting substances.

Air pollution

8.5 The Environment Council on 20–21 December reached a common position on a directive controlling the emissions from Heavy Duty Vehicles. Initial emission cuts of 30 per cent by the year 2000 were agreed, and then further cuts of particulates by 80 per cent in the year 2005, and reductions of NOx by 60 per cent in 2008.

Waste

8.6 Important discussions were held on a directive concerning End of Life vehicles that aims to encourage greater recycling of scrapped vehicles and to limit the use of heavy metals in new vehicles. A considerable degree of common understanding was reached on the proposal at the Environment Council meeting on 20–21 December, which will give member states flexibility in the implementation of the directive. A formal agreement could not be reached on this directive in the absence of the European Parliament's opinion.

Genetically Modified Organisms

8.7 On 20–21 December the Environment Council held an orientation debate on the proposal for a revision to Directive 90/220 on the deliberate release into the environment of genetically modified organisms. In the debate, member states agreed that a revision of the directive should be agreed as soon as possible. In the interim Ministers agreed to exploit the flexibility of the existing directive to strengthen environmental risk assessment and monitoring arrangements.

General

8.8 A Council Resolution on Environment and Employment was agreed by the Environment Council on 6 October.

8.9 On 20–21 December an amendment to the Directive on the Labelling of Dangerous Substances was agreed by the Environment Council, extending by two years derogations granted to Austria and Sweden on their accession.

8.10 Also on 20–21 December, Council conclusions were agreed by the Environment Council on a review, undertaken by the Commission, of the environmental and health standards of the Community following the accession of Austria, Finland and Sweden.

8.11 Council conclusions on the Community's Chemical Policy were also adopted by the Environment Council on 20–21 December.

Informal Environment Council

8.12 An informal meeting of EU Environment Ministers took place in Graz, Austria on 17–19 July. Discussions were held on the integration of environment issues into other policy areas and renewable energy. Ministers from the accession countries to the EU joined the session discussing renewable energy.

TRANSPORT

Road

8.13 The Transport Council on 1 October reached a common position on a directive to facilitate the free movement of transportable pressure equipment within the Community.

8.14 There was discussion at the 1 October Council of a directive on heavy goods vehicle taxation and charges for the use of certain infrastructures (known as the "Eurovignette" directive). The 30 November–1 December Transport Council agreed a common position on this directive.

8.15 The European Commission, which had been negotiating an agreement on land and air transport with Switzerland, reported to the 1 October Council on the Swiss referendum on lorry charges held the previous month. The referendum approved a law allowing the Swiss Government to impose Alpine transit charges, which would be higher than those foreseen by the draft EC/Switzerland agreement. The 30 November–1 December Council reached agreement on the outcome of the Commission's transport negotiations with Switzerland, leaving the complete package of negotiations, on transport and other items, to be finalised by the General Affairs Council.

8.16 The 1 October Transport Council debated the proposal to amend Community rules on the promotion of combined transport. This would require reduced taxes for lorries engaged in combined

transport and would permit lorries above current Community weight limits to carry out such operations. There was discussion of the need for careful definition of combined transport, if the proposal was to lead to a real incentive to reduce road mileage. At the 30 November–1 December Council, there was a further debate. Although there was general support for the underlying aim, there were concerns about the proposals as drafted.

Rail

8.17 The Commission presented to the 1 October Council its package of proposals on rail, including access charging and train path allocation. The aim of the proposals is to contribute to the revitalisation of the Community's railways by clarifying the regulatory framework for the provision of rail services. There was further discussion of the Commission's legislative proposals at the 30 November–1 December Council.

Inland Waterways

8.18 Two measures were discussed at the 30 November–1 December Council relating to inland waterways, neither of which applies to the UK. Broad agreement was reached on a measure to extend a fleet capacity management programme, and Council discussed a draft amending directive on technical standards for inland waterways vessels

Air

8.19 The 1 October Council reached a common position on a regulation to restrict the use of older aircraft which have been modified ("hush-kitted") to meet the latest noise regulations, but which produce more noise than newer aircraft. The UK agreed, reluctantly, to enable progress to be made on this important measure, to the suspension of Gibraltar from the scope of this regulation.

8.20 The 1 October Council noted progress on a Commission proposal to amend the rules on compensation for passengers denied boarding on overbooked flights. At the 30 November–1 December Council, disagreement between Spain and the UK over application to Gibraltar Airport, prevented the Council from reaching agreement on the amending regulation.

8.21 Also at the 30 November-1 December Council, the Presidency noted the Commission's request for further work on a regulation on aviation statistics which has not progressed since 1996 when disagreement on application to Gibraltar Airport prevented its adoption. The Council also discussed a draft directive providing for ramp checks on third country aircraft using EU airports which had

previously been agreed, because Spain had now requested suspension of the application of the measure to Gibraltar Airport. (The latter measure has since fallen, having failed to meet the deadline set down in the legislative procedure.)

8.22 At the 1 October and 30 November–1 December Councils, there was further discussion of the proposal to grant the Commission a mandate to negotiate market access with the US. At the latter Council, the Presidency concluded that there was insufficient support for the draft conclusions which it had tabled; it asked for further work to be carried out.

8.23 The 30 November–1 December Council noted the Commission's reports on the progress of negotiations to establish a European Aviation Safety Authority, for Community membership of Eurocontrol, and on extending the single aviation market to ten central and eastern European countries. The Council also noted progress on the draft Directive on airport charging, and received a report on the outcome of the 32nd meeting of the International Civil Aviation Organisation (ICAO) Assembly in Montreal.

Maritime

8.24 There was a debate at the 30 November–1 December Council on the draft directive on ferry manning conditions. At the Presidency's request, the Commission agreed to produce a report on the directive's likely impact.

General

8.25 The 30 November–1 December Council agreed a report on integrating environmental requirements into transport policy, to be presented to the European Council in Vienna. The report outlined progress to date and indicated that the Council will draw up a phased work programme, a first report on which will be discussed by the end of 1999.

8.26 The Commission reported to the 1 October Council that, following the break-down of negotiations between employers and employees on working time in road transport, it would propose the extension of the Working Time Directive to non-mobile workers in road transport, and a separate measure for mobile workers. The Commission presented to the 30 November–1 December Council its proposal for new working time rules in the road and maritime sectors.

8.27 Also at the 30 November–1 December Council, the Commission presented its report on the development of transport Trans-European Networks.

Informal Transport Council

8.28 An informal meeting of EU Transport Ministers took place in Feldkirch, Austria, on 15–16 September 1998. The discussion centred on: (i) the consequences of liberalisation of transport markets for employment, social conditions and safety; and (ii) the environmental problems caused by heavy goods vehicles.

Annex to Chapter 8. Major Proposals Adopted

Environment

Council Decision (EC) 98/487 of 13 July 1998 concerning the conclusions of an International Agreement on the form of an Agreed Minute between the European Community and the United States of America on humane trapping standards.

Council Directive (EC) 98/81 of 26 October 1998 amending directive 90/219/EEC on the contained use of genetically modified organisms.

Council Directive (EC) 98/83 of 3 November 1998 on the quality of water intended for human consumption.

Council Decision (EC)98/746 of 21 December 1998 concerning the approval, on behalf of the Community, of amendments to Appendices II and III to the Berne Convention on the conservation of European wildlife and natural habitats adopted at the 17th meeting of the Convention's Standing Committee.

Transport

Council Directive 98/55/EC of 17 July 1998 amending Directive 93/75/EEC concerning minimum requirements for vessels bound for or leaving Community ports and carrying dangerous or polluting goods.

Council Directive 98/76/EC of 1 October 1998 amending Directive 96/26/EC on admission to the occupation of road haulage operator and road passenger transport operator and mutual recognition of diplomas, certificates and other evidence of formal qualifications intended to facilitate for these operators the right to freedom of establishment in national and international transport operations.

Council Regulation (EC) No 2196/98 of 1 October 1998 concerning the granting of Community financial assistance for actions of an innovative nature to promote combined transport.

Council Regulation (EC) No 2411/98 of 3 November 1998 on the recognition in intra-Community traffic of the distinguishing sign of the Member State in which motor vehicles and their trailers are registered.

Directive 98/91/EC of the European Parliament and of the Council of 14 December 1998 relating to motor vehicles and their trailers intended for the transport of dangerous goods by road and amending Directive 70/156/EEC relating to the type approval of motor vehicles and their trailers.

9. Industry, Energy and Consumer Issues

INDUSTRY

State Aid Regulation

The Industry Council on 16 November reached political agreement on a Commission proposal for a State Aid Procedural regulation. Applying to all sectors, this important regulation codifies for the first time the various procedural rules which have developed over the years and which, up to now, have lain scattered in different documents. In addition, the regulation will strengthen the Commission's powers to enforce the rules against unlawful aid. The Commission will be able to order the immediate recovery of aid implemented in advance of a Commission decision in cases where this threatens to cause serious damage to a competitor. The Commission will also be able to carry out on-site inspections in cases where there is good reason to doubt that the terms of a State Aid Decision is being complied with

On 11 November, the Commission published its long-awaited guidelines on the application of the State Aid rules to direct business taxation. Without affecting the Commission's exclusive competence to decide on the compatibility of tax aid measures, these guidelines complement the work being carried out in the Code of Conduct Group on harmful tax measures (business taxation), which is chaired by the Paymaster General.

Competitiveness

9.1 The 16 November Industry Council had an open debate on the Competitiveness of European Industry. The Commission noted that European industry was catching up with world competition, but that worker productivity was still behind that of the USA and Japan. The debate was followed by a round table discussion on competitiveness which included the results of four benchmarking studies and the Commission's response to the Business Environment Simplification Task Force (BEST) report.

9.2 The Council adopted conclusions on benchmarking and the competitiveness of business services. The Presidency concluded the debate by welcoming the progress on benchmarking and invited COREPER to take forward further work on this and the Commission response to the BEST Report (see also Chapter 11).

Shipbuilding

9.3 There was a discussion on a Commission monitoring report on aid to certain shipyards in Germany and Spain, where the Commission was encouraged to continue to monitor rigorously all aid to this sector. The Commission also gave a brief presentation on the impact of the crisis in Korea on shipbuilding.

Meeting with Industry Ministers from the CEEs and Cyprus

9.4 A number of applicant states made prepared statements describing the reforms they are undertaking. During the discussion it was emphasised that applicant states needed both to complete industrial restructuring and take on the regulatory acquis before accession. The Commission also proposed a closer working-level dialogue in eight key sectors, including coal, steel and automotive industries, which could provide analysis of the CEEs' progress. The Presidency concluded that this should be followed up and that there was a general consensus for increasing bilateral contacts and advice to the applicants.

Late Payment

9.5 An orientation debate was held on the draft directive on late payment in commercial transactions. During this debate all member states expressed support for the objective of the proposal, but had concerns on the degree of harmonisation of other aspects of national civil law. The Presidency concluded that discussions should be continued at official level with a view to reaching a Common Position as soon as possible.

Other Issues

9.6 The Council also adopted conclusions on the restructuring of the steel industry and the competitiveness of the recycling industry.

TELECOMMUNICATIONS

9.7 The 27 November Telecommunications Council reached unanimous political agreement towards common positions on two decisions establishing a five year programme for interchange of data between administrations (IDA). The proposals set out a series of guidelines, including the identification of projects of common interest, and a series of actions and measures to ensure interoperability of and access to trans-European networks of electronic IDA.

9.8 Decisions on the co-ordinated introduction of a third generation mobile and wireless communication system (UMTS) in the Community and on a multi-annual Community action plan on promoting safer use of the internet by combating illegal and harmful content on global networks were also adopted during this period.

ENERGY

Oil Stocks Directive

9.9 On 13 November, the Energy Council agreed to revise the Oil Stocks Directive which requires all member states to hold contingency oil stocks. The revised directive, which must be implemented by 1 January 2000, introduces important amendments including a strengthening of support for bilateral agreements, clearer definitions and simplified reporting times. As a result of the revision, the UK, as an exporter of oil, will be eligible for a reduction in its stocking obligation.

Energy Framework Programme

9.10 On 14 December the Council adopted the basic Decision on the Energy Framework Programme. This multi-annual programme brings together Community spending programmes in the field of energy. In addition to the basic decision, on 14 December the Council also adopted four of the specific instruments: ETAP (shared studies and analyses); SYNERGY (international co-operation); CARNOT (clean and efficient use of solid fuels); and SURE (safe transport of nuclear materials and safeguards). The Energy Council reached an informal political agreement on the remaining programmes, ALTENER (renewable energy) and SAVE (energy conservation), pending the opinion of the European Parliament. A total financial reference amount of £119,700,000 over five years was agreed, to be reviewed after three years.

Energy and the Environment

In response to the call made at the Cardiff European Council, the Energy Council agreed a report on the integration of environmental objectives into energy policy which was submitted to the Vienna European Council. The Vienna Council welcomed the report and invited the Energy Council (and the Transport and Agriculture Councils) to continue their work with a view to submitting comprehensive strategies in these sectors, including a timetable for further measures and a set of indicators, to the Helsinki European Council.

Following an open debate on renewable energy at the Energy Council, the UK called for the establishment of a task force to bring together the Commission and member

states to co-ordinate efforts, exchange experiences and share problems to support the development of renewable energy within the internal energy market and to facilitate cross-border trade.

The Energy Council adopted a Resolution on Energy Efficiency which complements the work on renewables. It recognises that more energy saving measures (such as minimum standards, best practice and voluntary agreements) are needed, inter alia to enable the Community and member states to meet their Kyoto Protocol commitments. The Resolution proposes indicative energy efficiency targets and calls on the Commission to produce an action plan.

CONSUMER AFFAIRS

9.11 At the 3 November Consumer Affairs Council, Ministers discussed the proposal for a Decision establishing a general framework for Community activities in the consumer interest (1999–2003). A budget for Community consumer affairs expenditure of 112.5 million ecus (£80.35 million) for the five years from 1999 to 2003 was subsequently agreed, and the budget legislation formally adopted, to enable expenditure on Community consumer activities to be carried out in the new year as planned.

9.12 The Council adopted a Resolution on the Consumer Dimension of the Information Society which highlights the importance of protecting consumers shopping electronically, and invites the Commission to review the legislative framework and promote the interests of consumers in developing policies. The Council also adopted a Resolution which aims to improve the quality of operating instructions for technical consumer goods, and particularly for more complex and advanced products.

9.13 There was an exchange of views between member states on Community consumer policy priorities for the three years from 1999 to 2001. On the basis of this discussion, the Commission adopted and published an Action Plan in December 1998 setting out the key priorities for activities in the forthcoming three years (1999–2001), including action in the areas of electronic commerce, food safety, consumer education and representation, and enforcement of Community consumer law.

10. Structural and Other Funds

Structural and Cohesion Funds

10.1 Negotiations on the reform of the Structural and Cohesion Fund, concentrating on administrative simplification issues, moved forward. The Vienna European Council endorsed the March 1999 deadline for agreement on the key elements of the Agenda 2000 package, set by the Cardiff European Council in June 1998.

European Social Fund

10.2 The Commission agreed how ESF Objective 3 (to support the long-term employed, the young, and the socially disadvantaged) could be used to enhance the UK's employment New Deals (for the long-term unemployed and young people). The first round of the ESF Objective 4 (to support the adaptation of workers to industrial change) in Great Britain was completed by the end of 1998. Nearly 1,100 Objective 4 Projects worth over £40 million were approved. Many projects will develop many of the Government's lifelong learning initiatives and support the overall lifelong learning strategy.

Northern Ireland

Special Programme for Peace and Reconciliation

10.3 The Commission approved, in December, a final additional 100 million ecu (£70,547 million) for the Programme. Member states and the Commission also agreed the national contributions to these additional funds including 16.4 million ecu from the UK.

International Fund for Ireland

10.4 In July the Fund received the remaining community contribution of 13 million ecu (£9.171 million) out of the 17 million ecu (£11.993 million) agreed for 1998. The Fund was established as an independent organisation by the British and Irish Governments in 1986. The Objectives of the Fund are to promote economic and social advance and to encourage contact, dialogue and reconciliation between nationalists and unionists throughout Ireland.

11. Subsidiarity, Proportionality and Better Regulation

Better Regulation

11.1 The Minister for the Cabinet Office, Dr Jack Cunningham, co-chaired (with Austrian Economics Minister Dr Hannes Farnleitner) an Austrian Presidency conference in Vienna on 12–13 October. The conference was entitled “Better Regulation Serves Employment”, and was attended by ministers from 14 member states, as well as senior Commission officials, and representatives of business, academia and the social partners. The event aimed to build on the “Better Government: More Effective Regulation” conference held in Manchester under the UK Presidency, by focusing on the economic benefits which better regulation can bring. The conclusions of the conference stressed the importance of considering the social and economic situation, and the special position of small businesses, when regulations are being planned. These conclusions were welcomed by the Internal Market Council on 9 November. Germany gave a commitment to taking forward work on better regulation during its Presidency.

11.2 The Commission’s Simpler Legislation for the Internal Market (SLIM) initiative completed its third phase. This phase covered reviews of existing insurance, electromagnetic compatibility and social security rules. At the Internal Market Council on 9 November the Commission gave an oral report on the results of these SLIM reviews, followed by an open debate. Ministers expressed continuing support for SLIM, and agreed that it, as well as other work on administrative simplification, was now an established part of efforts to improve the Single Market. The Commission announced that a fourth phase of SLIM will cover dangerous substances (chemicals), company law and quantity markings on pre-packaged goods. The UK will be represented on the hazardous substances team.

11.3 The first pilot of the European Business Test Panel was conducted in September. This initiative aims to consult businesses, especially small firms, on the administrative costs or savings that would be created by specific new proposals for EU legislation. Seven member states (Austria, Belgium, Germany, Denmark, France, Italy and the UK) participated in the first pilot, which covered proposed amendments to the 6th VAT Directive. The Commission announced at the Internal Market Council on 9 November that it welcomed the results of the first pilot, which saw a response rate across the participating member states of 43%, and that further pilots would be held. The second, covering amendments to the 4th Accounting

Directive, was conducted in November and December, with eight member states (the original seven plus the Netherlands) involved.

11.4 At the Industry Council on 16 November the Commission presented its response to the Business Environment Simplification Task Force (BEST) report, including to the recommendations covering the improvement of public administration. Industry Ministers broadly welcomed the Commission's response, and the Presidency invited member states to take forward the work, including agreement of an Action Plan for the implementation of the BEST recommendations.

Quality of Legislation

Declaration No. 39 annexed to the Treaty of Amsterdam called for an improvement in the quality of the drafting of Community legislation. It mandated the three institutions (Commission, European Parliament and Council of Ministers) to set down joint guidelines to this end. An Inter Institutional Agreement on Common Guidelines for the Drafting of Community Legislation has now been agreed.

In summary the new Guidelines:

- **set out the general principles of good quality drafting;** including that
- Community legislative acts shall be drafted clearly, simply and precisely;
- the drafting of Community acts shall be appropriate to the type of act concerned, and in particular, whether or not it is binding (regulation, directive, decision, recommendation or other act); and
- the drafting of acts shall take account of the persons to whom they are intended to apply, with a view to enabling them to identify their rights and obligations unambiguously, and of the persons responsible for putting the acts into effect
- **are joint and therefore have the backing of all the institutions;** Commission and Parliament as well as Council; and
- **contain implementing measures:** they therefore require some follow-up, including:
 - production of a practical guide to back up the headline guidelines;
 - reorganisation of the internal procedures of the institutions to involve the legal services at an early stage in the drafting of legislation;
 - creation of drafting units in each institution; and
 - collaboration between the legal services of the institutions.

Most of the action for implementation falls to the EU Institutions but member states are also required to play their part. UK Ministers will encourage officials to take up the guidelines and press others involved in negotiations to act in the same way. The Cabinet Office, in consultation within and outside government, is also preparing new guidance for UK officials on best practice in negotiating and implementing European legislation. The Inter Institutional Agreement will form part of this Guide. Copies of the draft Guide and the new Guidelines can be accessed on the Internet at: <http://www.open.gov.uk/co/bru/ber>.

Subsidiarity and Proportionality

11.5 Subsidiarity is the principle that decisions should be taken at the most appropriate level, be that European, national, regional or local. Proportionality is the principle that any action by the EC should not go beyond what is needed to meet the objectives laid down by the Treaty. The informal gathering of Heads of Government at Pörtlach on 24–25 October and the Vienna European Council discussed the application of these principles within the EU, and the Council decided that the institutions will, from the Vienna Council onwards, be guided by the criteria and practices in the “Protocol on Subsidiarity and Proportionality” which will be annexed to the EC Treaty after the Treaty of Amsterdam is fully ratified. The European Council also decided that the Council will conduct an orientation debate on future Commission White and Green papers in light of the subsidiarity principle, and that before proposing a significant new piece of legislation, the Commission should consider whether existing Community legislation on the same issue needs to be modified, consolidated or repealed.

11.6 The Commission presented its 1998 version of the “Better Lawmaking – A Shared Responsibility” report to the Vienna European Council. The report states that the overall number of Commission proposals for new legislation continues to fall, despite the need for a number of new measures connected with the implementation of Agenda 2000. It also highlights the Commission’s use of new technology to improve access to information on Community legislation and activities, including the growing usage of the Commission website. While setting out the achievements of the initiatives on better regulation described above, the report also emphasises that continuing to improve legislation is a responsibility shared by the Commission, the Council, the European Parliament and the member states.

12. Common Foreign and Security Policy (CFSP)

12.1 During the Austrian Presidency there were regular meetings of the General Affairs Council and Political Committee, at which a range of international issues, including the Western Balkans, the Middle East Peace Process and the Great Lakes Regions of Africa were discussed.

European Defence

At the informal meeting of EU Heads of Government at Pörschach in October, the Prime Minister invited his colleagues to look again at the EU's Common Foreign and Security Policy. He said that the EU needed a coherent and authoritative voice in international affairs, and to be able to back up that voice with the credible threat of military force. He called on others to enter an open-minded debate on possible new European defence arrangements.

At the UK-French Summit in St Malo in early December, the Prime Minister agreed a statement of principle with President Chirac and Prime Minister Jospin. It stated that:

- the EU needs to play a fuller international role;
- the EU should have the capacity for autonomous military action where NATO as a whole is not engaged;
- Europe should have armed forces that can react rapidly to post-Cold War risks, and which are supported by a strong European defence industry;
- any new arrangements should take into account the positions of individual member states, including their obligations within NATO;

Heads of Government welcomed this initiative at the Vienna European Council, and asked the incoming German Presidency to prepare a report for the Cologne European Council in June 1999.

Common Positions and Joint Actions

12.2 The EU agreed a range of Common Positions and Joint Actions, as well as other common measures, including on:

- despatch of a team of EU forensic experts to investigate the killing of civilians in Kosovo;
- non-proliferation of Small Arms;
- support for the democratic process in Nigeria;

- visa ban on representatives of the Former Republic of Yugoslavia and Serbia involved in the repression of the independent media;
- non-proliferation, confidence-building and conflict-prevention in South Asia;
- the infringement of the Vienna Convention on Diplomatic Relations by the Government of Belarus;
- peace and stability in South East Europe.

12.3 In addition, the Vienna European Council set out in its conclusions the four subjects for the first Common Foreign and Security Policy Common Strategies, introduced by the Treaty of Amsterdam. They will be Russia, Ukraine, the Mediterranean region (including the Middle East Peace Process) and the Western Balkans. The Council also agreed that the new Secretary General of the Council and High Representative for CFSP should be someone with a high political profile.

12.4 The EU also issued 91 declarations and statements on countries and issues within the framework of CFSP. These covered, inter alia North Korea's missile test, the economic and financial situation in Russia, human rights in Rwanda, and settlements on the Golan Heights. A full list of the declarations can be found in the following Annex.

Annex to Chapter 12: European Union Declarations and Statements

8 July	• Algeria
8 July	Guinea-Bissau
13 July	• Belarus
13 July	Rwanda
17 July	• Democratic Republic of the Congo (DRC)
20 July	Former Republic of Yugoslavia (FRY)/Kosovo
22 July	International Court of Justice
22 July	Liberia/Sierra Leone
22 July	Nigeria
28 July	• Afghanistan
29 July	• Guinea-Bissau
31 July	• Cambodia
31 July	• Burma
3 August	• Code of Conduct on the Export of Arms
7 August	• Colombia
11 August	•* DRC
12 August	• East Timor/Indonesia
14 August	• Sudan
19 August	• DRC
19 August	Russia
26 August	Golan Heights
27 August	• DRC
28 August	Lockerbie
2 September	• Guinea-Bissau
3 September	• North Korea
3 September	• Ethiopia/Eritrea
3 September	Cambodia
4 September	• Sierra Leone
6 September	Russia
7 September	Bosnia-Herzegovina
11 September	• Burma
11 September	Afghanistan
15 September	Bosnia-Herzegovina
16 September	FRY
18 September	• Nigeria
22 September	• EU/Latin America/Caribbean Summit
22 September	Algeria
23 September	Croatia/Bosnia-Herzegovina
23 September	• Afghanistan
24 September	• FRY
25 September	Turkey
28 September	Iran
29 September	Lesotho
29 September	Angola
30 September	Slovak Republic

2 October	Malaysia
5 October	Latvia
6 October	• Equatorial Guinea
7 October	• Sudan
9 October	• Burma
20 October	• Republic of Korea
21 October	Eritrea
22 October	• Guinea-Bissau
22 October	Sierra Leone
22 October	• Guatemala
26 October	Middle East
27 October	• Peru/Ecuador
27 October	FRY/Kosovo
27 October	Turkey/Syria
30 October	• Burma
30 October	Nigeria
30 October	• Burma
4 November	• South Africa
9 November	Albania
9 November	Iraq
13 November	Ethiopia/Eritrea
17 November	• Guinea-Bissau
19 November	Cambodia
20 November	Indonesia
20 November	• Burundi
23 November	Ocalan
27 November	• Malaysia
26 November	• Russia
3 December	• Burundi
4 December	Middle East
9 December	Estonia
9 December	• Chechnya
10 December	Human Rights
10 December	Belarus
11 December	Bulgaria
16 December	Iran
16 December	• Ethiopia/Eritrea
22 December	• Biological and Toxin Weapons Convention
23 December	Israel
23 December	• FRY
28 December	• Angola
29 December	Western Sahara
29 December	Lithuania
30 December	Cyprus
31 December	Kyrgystan
31 December	Turkmenistan

- Declarations to which the Associate Countries, Cyprus and EFTA/EEA have been associated.
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13. Justice and Home Affairs

Immigration and Asylum

13.1 With a view to the incorporation of the Schengen Agreements into the EU Treaty structure on the entry in force of the Treaty of Amsterdam, work continued on the definition of the Schengen acquis and the allocation of a legal base to individual instruments. Progress was also made drawing up Agreements between the EU member states and Norway and Iceland for their continuing association with the Schengen arrangements after their incorporation into the EU.

13.2 The Justice and Home Affairs (JHA) Council on 24 September received an oral report from the Presidency on implementation of the Action Plan on the influx of migrants from Iraq and the neighbouring region.

13.3 The JHA Council on 3–4 December took note of an interim report on the Austrian Presidency's Strategy Paper on migration and asylum and agreed to the paper's use as a basis for work for the special European Council on JHA matters to be held at Tampere meeting in October 1999. It was also agreed that an asylum and migration task force (subsequently renamed the High Level Working Group on Asylum and Migration) should be set up with a view to reporting to the special European Council.

13.4 At the same meeting, political agreement was reached on the provisions in the draft Eurodac Convention on the basis that the text would be frozen pending the introduction by the Commission of a Community instrument after the entry into force of the Amsterdam Treaty.

13.5 Contact was maintained between JHA Ministers and their counterparts from the associated Central and Eastern European countries (CEECs) and Cyprus.

Europol

13.6 The Europol Convention came into force on 1 October. The occasion was marked by an official opening ceremony in The Hague and the first meeting of Europol's Management Board. The UK's representative on the Management Board is the Director-General of NCIS, Mr John Abbott.

13.7 Although Europol is now legally in existence, it will only be able to begin its activities once a series of implementing regulations have been agreed by the appropriate Europol bodies and the JHA Council. The current expectation is that all the regulations will be agreed in time for Europol to begin its activities on 1 July 1999.

13.8 At the JHA Council meeting on 3-4 December, it was agreed that from 1 January 1999 Europol's mandate would be extended to terrorism; and the trafficking in human beings remit would be extended to include the sale, production and distribution of child pornography.

Organised Crime

13.9 The JHA Council on 24 September agreed Italy's explanatory report on the Convention on the Fight against Corruption, for adoption at a later Council meeting. Immediately after the Council, a meeting was held between EU JHA Ministers and their counterparts from the CEECs and Cyprus on the subject of organised crime. Discussion focused on the actions the associated countries were taking to combat organised crime. Common themes included the development of domestic legislation, the creation of multi-disciplinary task forces to co-ordinate action and the development of practical operational co-operation between police forces.

13.10 The JHA Council of 3-4 December endorsed the 1997 EU Situation Report on Organised Crime and agreed that it should be forwarded to the European Parliament. The Council also endorsed a proposal that the Multi-Disciplinary Group and, where appropriate, Europol would monitor implementation of the recommendations set out in the report.

Police Co-operation

13.11 An inventory of bilateral (non-operational) police training in Central and Eastern Europe was completed. This, together with a European Curriculum of Police Training, will serve as useful tools in determining the future provision of training and assistance to the CEECs. A contract, worth some 4.5 million euro (£3.2 million), was agreed by the Commission to deliver some 75 training projects in 1999/2000.

Customs Co-operation

13.12 A Protocol amending the Customs Information System (CIS) Convention was agreed by the JHA Council on 3-4 December, subject to one outstanding Parliamentary reserve entered by one member state. The Protocol will extend the money laundering provisions of the Convention by bringing them into line with those

of the Naples II Convention. It will also plug a gap in the current Convention by providing for the inclusion of vehicle registration details in the list of CIS data elements.

Judicial Co-operation

13.13 The Council adopted a Joint Action on corruption in the private sector, which requires member states to criminalise private sector corruption under their national law. Following the lifting of a Parliamentary scrutiny reserve by one member state, the Council also adopted a Joint Action on participation in a criminal organisation, the text of which had been finalised during the UK Presidency. This instrument establishes a common definition of criminal organisation, and requires member states to criminalise participation in such organisations, or conspiracy to commit an offence.

13.14 The first meeting of the European Judicial Network, established under the UK Presidency, took place on 25 September.

13.15 The Council adopted a Joint Action on asset confiscation, which aims to ensure full and effective implementation by all member states of the European Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime (including action to minimise the risk of assets being dissipated pending legal action).

Appendix A : Major Treaties and Agreements Signed by the Community and Member States

* Denotes agreements signed during the UK Presidency but not listed in Cm 4152.

Miscellaneous

Convention drawn up on the basis of Article K.3 of the Treaty of European Union on driving disqualifications.

Signed in Brussels, 17 June

Convention drawn up on the basis of Article K.3 of the Treaty of European Union on jurisdiction and the recognition and enforcement of judgments in matrimonial matters.

Signed in Brussels, 28 May*

Protocol drawn up on the basis of Article K.3 of the Treaty of European Union on the interpretation by the Court of Justice of the European Communities of the Convention of jurisdiction and enforcement of judgments in matrimonial matters.

Signed in Brussels, 28 May*

Signed by the Community and Member States

Partnership and co-operation agreement establishing a partnership between the European Communities and their Member States, of the one part, and Turkmenistan, of the other part, with declarations, Protocol, Exchange of Letters, and Final Act.

Signed in Brussels, 25 May*

Protocol adjusting trade aspects of the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Lithuania, of the other part, to take into account the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the European Union and the outcome of the Uruguay Round negotiations on agriculture, including improvements to the existing preferential arrangements.

Signed in Brussels, 16 July

Protocol for the adaption of the trade aspects of the Europe Agreement between the European Communities and their Member States, of the one part, and Romania, of the other part, to take into account the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the European Union and the results of the agricultural negotiations of the Uruguay Round, including the improvements to the existing preferential regime.

Signed in Brussels, 13 October

Protocol for the adaption of trade aspects of the Europe Agreement between the European Communities and their Member States, of the one part, and the Slovak Republic, of the other

part, to take into account the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the European Union and the results of the agricultural negotiations of the Uruguay Round, including the improvements to the existing preferential regime.

Signed in Brussels, 19 October

Czech Republic

Protocol for the adaption of trade aspects of the Europe Agreement between the European Communities and their Member States, of the one part, and the Czech Republic, of the other part, to take into account the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the European Union and the results of the agricultural negotiations of the Uruguay Round, including the improvements of the existing preferential regime.

Signed in Brussels, 27 October

“Community Alone” Treaties

Australia

Agreement on mutual recognition to conformity assessment, certificates and markings between the European Community and Australia.

Signed in Canberra, 24 June

Canada

Convention on mutual recognition between the European Community and Canada.

Signed in London, 14 May*

Agreement between Canada and the European Atomic Energy Community for co-operation in the area of nuclear research.

Signed in Ottawa, 17 December

Chile

Agreement between the European Community and the Republic of Chile on precursors and chemical substances frequently used for the illicit manufacture of narcotic drugs and psychotropic substances.

Signed in Brussels, 24 November

China, People’s Republic

Agreement in the form of an Exchange of Letters between the European Community and the People’s Republic of China amending the Agreement between the European Community and the People’s Republic of China on trade in textile products as last amended by Agreements initialled on 13 December 1995.

Signed in Brussels, 9 December

Comoros

Protocol setting out, for the period 28 February 1998 to 27 February 2001, the fishing opportunities and financial contribution provided for in the Agreement between the European Economic Community and the Islamic Federal Republic of the Comoros on fishing off the Comoros.

Signed in Brussels, 20 July

Gabon

Agreement between the European Community and the Gabonese Republic on fishing off the coast of Gabon.

Signed in Libreville, 1 April*

Protocol setting out the fishing opportunities and financial compensation provided for in the Agreement between the European Community and the Gabonese Republic on fishing off the coast of Gabon.

Signed in Brussels, 9 November

Hungary

Exchange of Letters between the European Community and the Republic of Hungary on certain import arrangements for agricultural products.

Signed in Brussels, 20 October

India

Agreement in the form of an Exchange of Letters between the European Community and the Republic of India on the guaranteed prices for cane sugar for the 1997/98 delivery period.

Signed in Brussels, 26 June

Laos

Agreement between the European Community and the Lao People's Democratic Republic on trade in textile products.

Signed in Brussels, 9 November

Madagascar

Protocol setting out the fishing opportunities and financial compensation provided for in the Agreement between the European Economic Community and the Republic of Madagascar on fishing off Madagascar for the period from 21 May 1998 to 20 May 2001.

Signed in Luxembourg, 25 May*

New Zealand

Agreement on mutual recognition in relation to conformity assessment between the European Community and New Zealand.

Signed in Wellington, 25 June

Poland

Agreement in the form of an Exchange of Letters between the European Community and the Republic of Poland regarding a Protocol on a European Conformity Assessment Agreement.

Signed in Brussels, 30 July

Vietnam

Agreement in the form of an Exchange of Letters amending and extending the Agreement between the European Community and the Socialist Republic of Vietnam on trade in textile and clothing products initialled on 15 December 1992, as last amended by the Agreement in the form of an Exchange of Letters initialled on 1 August 1995.

Signed in Brussels, 10 September

Multilateral

Accession by the European Community and the European Atomic Energy Community, acting as one party, to the Agreement to establish a science and technology centre in Ukraine, of 25 October 1993, between Canada, Sweden, Ukraine and the United States of America.

Signed in Brussels, 30 July

Agreement in the form of an Exchange of Letters between the European Community and Barbados, Belize, the Republic of the Congo, Fiji, the Co-operative Republic of Guyana, the Republic of Cote d'Ivoire, Jamaica, the Republic of Kenya, the Republic of Madagascar, the Republic of Malawi, the Republic of Mauritius, the Republic of Suriname, Saint Kitts and Nevis, the Kingdom of Swaziland, the United Republic of Tanzania, the Republic of Trinidad and Tobago, the Republic of Uganda, the Republic of Zambia and the Republic of Zimbabwe on the guaranteed prices for cane sugar for the 1997/98 delivery period.

Signed in Brussels, 3 November

Additional Protocol to the Interim Agreement on trade and trade-related matters between the European Community, the European Coal and Steel Community and the European Atomic Energy Community, of the one part, and the Republic of Slovenia, of the other part, and to the Europe Agreement between the European Communities and their Member States, of the one part, and the Republic of Slovenia, of the other part.

Signed in Brussels, 30 October

Appendix B, Part 1: List of European Court of Justice Cases involving the United Kingdom

This list includes all cases awaiting judgment and those in which judgment was received during the period. An asterisk denotes those cases in which the United Kingdom applied to intervene or submitted Observations/Pleadings during the period.

(i) Actions initiated by the United Kingdom under Article 173 of the EC Treaty.

1. C-150/94 : United Kingdom -v- Council
Application seeking the annulment of Council Regulation 519/94 in so far as it imposes quantitative quotas on three categories of toys originating in China. Judgment 19 November. See Summary in Part 2.
2. *C-274/94 : United Kingdom -v- Commission
Seeking the annulment of Commission Decision C23/94 of 27 July 1994 on the increased capitalization of Air France. Stayed pending decision of CFI in T371/94 (British Airways & Others -v- Commission). Withdrawn following judgment of CFI.
3. C-106/96, C-239/96, C-240/96, C-305/96: United Kingdom -v- Commission
By these actions the UK is seeking the annulment of certain Commission decisions concerning expenditure on the ground that they lack legal base. Judgment in case C-106/96 12 May. C-239/96, C-240/96 and C-305/96 withdrawn.
4. C-209/96: United Kingdom -v- Commission
EAGGF clearance of accounts – 1992 and 1993 – beef and veal. Judgment 1 October.

(ii) Direct actions against the United Kingdom under Article 169 of the EC Treaty.

1. C-340/96 : Commission -v- United Kingdom
Directive 80/778/EEC on the quality of water intended for human consumption. The Commission alleges that the UK has failed to implement this directive correctly in relation to arrangements for enforcing compliance by water companies and maximum admissible concentrations.
2. *C-359/97 : Commission -v- United Kingdom
Sixth VAT Directive : road tolls.

(iii) Cases referred to the European Court under Article 177 of the EC Treaty from United Kingdom courts or tribunals.

1. C-82/96 : R -v- Secretary of State for Trade and Industry ex parte the Consumers Association and Which(?)
The High Court has referred questions concerning the interpretation of Council Directive 93/13 on unfair terms in consumer contracts in the light of the Unfair Terms in Consumer Contracts Regulations 1994. In particular the applicants challenge the implementation of

Article 7(2) of the Directive which identifies the category of persons or organisations which can challenge unfair terms in consumer contracts. Withdrawn.

2. C-100/96 R -v- MAFF ex parte British Agrochemicals Associations Ltd
UK reference on the implementation of provisions for the approval in the UK of parallel imports, from within and outside the EEA, of products identical to products already authorised as "master" plant protection products.

3. C-171/96 : Roque -v- Lieutenant Governor of Jersey
A reference from the Royal Court of Jersey concerning the deportation of a Portuguese national. Judgment 16 July. See Summary in Part 2.

4. C-172/96 : HM C&E -v- First National Bank of Chicago
The High Court has referred questions asking the ECJ to rule on whether foreign exchange transactions constitute the supply of goods and services and, if so, what is the nature of the consideration provided in that supply. Judgment 15 September. See Summary in Part 2.

5. C-264/96 : ICI -v- Colmer
Article 52 EC concerning a disputed claim for consortium relief under the Income and Corporation Taxes Act 1970. Judgment 16 July 1998. See Summary in Part 2.

6. C-308/96 : HM C&E -v- Madgett & Baldwin
Concerns the interpretation of the Sixth VAT Directive, in particular, the criteria to be applied in determining whether a person making supplies of travel and accommodation is to be regarded as a tour operator or travel agent. See also C-94/97 below. Judgment 22 October. See Summary in Part 2.

7. C-326/96 : Mrs B S Levez -v- T H Jennings (Harlow Pools) Ltd
The issue in this case is whether the 2 years' arrears limit in the Equal Pay Act is compatible with Community law. Judgment 1 December. See Summary in Part 2.

8. C-349/96 : Card Protection Plan -v- HM C&E
Article 13(B)(a) of the Sixth VAT Directive. Whether the provision of a service consisting of insuring against loss of credit cards and various ancillary services is subject to VAT.

9. C-368/96 : Medicines Control Agency ex parte Generics (UK) Ltd
Council Directive 65/65 on the granting of marketing authorisations for medicinal products. An abbreviated procedure applies where a licence is sought in relation to a product which is "essentially similar" to a product for which authorisation has already been granted. The High Court seeks guidance as to the interpretation of this phrase. Judgment 3 December.

10. C-411/96 : M Boyle & Others -v- Equal Opportunities Commission
Concerns the compatibility with Article 119, the Equal Pay and Treatment Directives and the Pregnant Workers Directive with various conditions of employment concerning maternity, in particular conditions concerning accrual of annual leave, pensionable service and the inter-relationship between paid sick and paid maternity leave. Judgment 28 October. See Summary in Part 2.

11. C-416/96 : Nour Eddine El Yassini -v- Secretary of State for the Home Department EC/Morocco Co-operation Agreement. The case turns upon whether the prohibition against discrimination regarding "working conditions" in Article 40 of the Agreement extends to security of employment and, consequently, confers a right of residence.

12. C-3/97: R -v- HM C&E ex parte John Charles Goodwin and Edwin Thomas Unstead
Concerns whether the supply of counterfeit perfume products falls within the scope of the Sixth VAT Directive. Judgment 28 May 1998.

13. C-48/97 : Kuwait Petroleum
Sixth VAT Directive. Whether redemption goods provided in exchange for vouchers obtained on the purchase of premium goods in a business promotion scheme are to be classified as free gifts incurring VAT for the promoter.
14. C-90/97 : Robin Swaddling -v- Adjudication Officer
Concerns the compatibility with Article 48 of the EC Treaty of the UK condition of habitual residence in relation to entitlement to income support.
15. C-94/97 : T P Madgett and R M Baldwin trading as the Howden Court Hotel -v- HMC&E (No 2)
This is a follow up to case C-308/96 above concerning the method by which a tour operator's 'margin' is to be calculated when there is a mixed supply of 'in-house' and 'bought-in' services. Judgment 22 October.
16. C-120/97 : Upjohn Ltd -v- The Licensing Authority
Directive 65/65 on the granting of marketing authorisations for medicinal products. In this case the Applicant's licence for a particular product was revoked by the Licensing authority on the grounds of safety. The Applicant contends that by virtue of the Directive and Community law generally it is entitled to a full appeal on the facts to a court of law rather than the limited right of review provided for in the Medicines Act.
17. C-136/97 : Norbury Developments -v- HM C&E
Sixth VAT Directive. Whether the UK exemption in respect of building land is compatible with the Directive.
18. C-149/97 : The Institute of the Motor Industry -v- HMC&E
Sixth VAT Directive; whether a voluntary association of employees in the retail motor industry falls within the scope of the exemption in respect of organisations with the aim of a trade union nature. Judgment 12 November.
19. C-167/97 : R -v- Secretary of State for Employment ex parte Nicole Seymour Smith & Another
Whether the qualifying period of 2 year's service for eligibility for certain employment protection rights is indirectly discriminatory on grounds of sex and, if so, whether it is objectively justified - appropriate tests to be applied in deciding these issues.
20. C-168/97 : R -v- Secretary of State for Defence ex parte Terence Perkins
Whether the Equal Treatment Directive (76/207/EEC) applies to discrimination on the grounds of sexual orientation and, if so, whether the policy of discharging homosexuals from the armed forces is justified by reference to Article 224 of the EC Treaty as being necessary to ensure the combat effectiveness of the armed forces. Withdrawn.
21. C-185/97 : Mrs B J Coote -v- Granada Hospitality Ltd
Reference from the EAT asking whether the protection afforded by the Equal Treatment Directive (76/207/EEC) includes protection against victimisation which occurs after the employment relationship has ended. Judgment 22 September. See Summary in Part 2.
22. C-197/97 : Donna Marie Davies -v- Girobank
Article 119 EC Treaty; whether certain contractual provisions relating to pay and pension contributions during periods of maternity leave are compatible with the principle of equal treatment.
23. C-216/97 : Gregg and Gregg -v- HM C&E
Sixth VAT Directive. Whether a private nursing home falls within the scope of the exemption in relation to the provision of care, etc in hospitals.
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24. C-263/97 : R -v- Intervention Board for Agriculture ex parte First City Trading Ltd & Another
Reference arising out of the beef crisis, concerning the interpretation of Regulation 3665/87 and the doctrine of force majeure. Judgment 29 September.
25. C-273/97 : Mrs A M Sirdar -v- The Army Board and the Secretary of State for Defence
Whether the exclusion of women from the Royal Marines on grounds of combat effectiveness is compatible with the EC Treaty and the Equal Treatment Directive.
26. C-293/97 : R -v- Secretary of State for the Environment and Ministry of Agriculture, Fisheries & Food ex parte H A Standley & Others
Council Directive 91/676/EEC on pollution caused by nitrates from agricultural sources. The applicants contend that the UK has incorrectly implemented the Directive or, alternatively, that the Directive is invalid.
27. C-305/97 : Royscot Leasing & Others -v- HM C&E
Second and Sixth VAT Directives. The applicants challenge the prohibition of deduction of VAT payable on motor cars in circumstances in which they can be regarded as tools of the trade and where any private use can be quantified.
28. C-37/98: R -v- Secretary of State for the Home Department, ex parte Abdul Nasir Savas
Articles 13 and 41 of the Additional Protocol to the EEC/Turkey Agreement 1970 and whether these provisions confer benefits on Turkish workers who have entered or remained in a Member State in breach of domestic immigration rules. Awaiting hearing for oral submissions.
29. C-78/98: Preston and Others -v- Wolverhampton Healthcare NHS Trust and Others, and Fletcher and Others -v- Midland Bank plc
National procedural rules relating to claims concerning occupational pension rights.
30. *C-94/98: R -v- MCA ex parte Rhone-Poulenc Rorer and Another
Medicinal products: marketing authorisation parallel import: application for judicial review of MCA's decision to grant parallel import licence.
31. C-98/98: HMC&E -v- Midland Bank plc
Whether VAT incurred in respect of the supply of legal services to a taxable person is deductible wholly or only in part.
32. *C-196/98: Hepple -v- Adjudication Officer
Article 79/97: reduction of industrial injuries benefits at pensionable age.
33. *C-198/98: Everson & Barrass -v- (1) Secretary of State for Trade & Industry (2) Bell Lines Ltd.
UK reference asking which Member State's guarantee institution should be liable to pay under the Insolvency Protection Directive, where an employer is made insolvent in one Member State, but the employee works and pays social security contributions in another.
34. *C-219/98: G C & Others -v- Amalgamated Construction Co. Ltd.
Reference from Leeds IT asking whether the Acquired Rights Directive is capable of applying to transfers of workers between associated companies and if so, what are the criteria for deciding whether there has been a transfer.
35. *C-306/98: R -v- MAFF ex parte Monsanto
Reference from Lightman J concerning a challenge to MAFF's evaluation of "me-too" applications for glyphosphate-based herbicide products without complying with certain requirements of Directive 91/414.

(iv) Cases referred to the European Court under Article 177 of the EC Treaty from other Member States' courts or tribunals in which Written Observations and/or Oral Observations have been made by the United Kingdom.

1. C-320/95: *Alvite -v- Instituto Nacional de Empleo et de la Seguridad Social*
Spanish reference concerning Article 76(1) of Regulation 1408/71 and whether periods of employment and unemployment in other Member States must be taken into account for the purposes of the Spanish unemployment allowance for persons over 52.
2. C-50/96 : *Schroeder -v- Deutsche Bundespost Telekom*
Article 119 EC. Exclusion of certain part-time employees from an occupational pension scheme. AGO (provisional) provided.
3. C-66/96 : *Pedersen -v- FBD*
Pay during absence from work on grounds of illness, outside the maternity leave period. Judgment 19 November. See summary in Part 2.
4. C-127/96 : *Hernandez Vidal*
Acquired Rights Directive. Judgment 10 December 1998.
5. C-136/96: *Scotch Whisky Association*
This French reference concerns the question of whether Article 5 of Regulation 1576/89 permits a blended drink which is less than 40% proof to have the word "whisky" in the description of the drink or on the label of the bottle. Judgment 16 July. See Summary in Part 2.
6. C-173/96 : *Sanchez Hidalgo*
Acquired Rights Directive. Judgment 10 December.
7. C-228/96 : *Fallimento Aprile Srl in Liquidazione and Amministrazione delle Finanze*
Concerns a claim for repayment of customs duties levied in contravention of Community law; the referring court asks whether a domestic law time limit of three years from the date of payment of the disputed charge is compatible with Community law, having regard to the fact the Civil Code provides for a longer limitation for similar classes of claims. Judgment 17 November 1998. See Summary in Part 2.
8. C-231/96 : *Societa Edis and Ministero delle Finanze*
This case raises issues similar to those in case C-228/96: *Fallimento Aprile*. In addition the national court, referring to case C-208/90: *Emmott*, asks whether national time limits begin to run before the national provision which is inconsistent with Community law is repealed. Judgment 15 September. See Summary in Part 2.
9. C-260/96 : *Ministero delle Finanze and SPAC S.P.A.*
This case is essentially the same as Case C-228/96: *Fallimento Aprile* and Case C-231/96: *Societa Edis*. Judgment 15 September 1998. Judgment 15 September. See Summary in Part 2.
10. C-262/96 : *Serul*
Decision 80/EEC/Turkey Association Council.
11. C-279/96 : *Ansaldo Energia*
See cases C228/96 and C231/96. Judgment 15 September.

12. C-343/96 : Dilexport S.r.l. -v- Amministrazione delle Finanze dello Stato
This case raises issues similar to those in Case C-125/94: Aprile and concerns the application of national time limits to claims for reimbursement of sums levied in breach of Community law.
13. C-348/96 : Criminal Proceedings against Donatella Calfa
Concerns the compatibility with Community law of an order made by a criminal Court excluding a Community national from Greece.
14. C-355/96 : Silhouette International Schmied Gesellschaft GmbH -v- Hartlauer Handelsgesellschaft GmbH
Concerns the interpretation of the Trade Marks Directive (89/104) and the principle of international exhaustion of trade mark rights. Judgment 16 July. See Summary in Part 2.
15. C-360/96 : Gemeente Arnhem and Gemeente Rheden -v- BFI Holding BV
Concerns the scope of the definition of "contracting authority" and of bodies governed by public law for the purposes of the public procurement Directives. Judgment 10 November.
16. C-370/96 : Covita A.V.E. -v- Elliniko Dimisio
Concerns the procedures for post clearance of import duties. The issue is whether an error of law on the part of the Customs authorities precludes such recovery. Judgment 26 November.
17. C-399/96 : Europieces SA in liquidation -v- Winifred Sanders and Others
Concerns the application of the Acquired Rights Directive to transfers made by an undertaking in voluntary liquidation. Judgment 12 November.
18. C-400/96 : Criminal Proceedings against Jean Harpegnies
Concerns the compatibility with Article 30 of Belgian legislation which requires approval by the Belgian authorities of plant protection products marketed in another member state. Judgment 17 September 1998.
19. C-414/96 : Mechthild Kehrl -v- Allgemeine Ortskrankenkasse Hamburg
Directive 79/7 on equal treatment between men and women in the field of social security. This case is concerned with the German threshold (18 hours per week) for cover under the statutory unemployment insurance scheme. The applicant holds two part time jobs but is not permitted to aggregate her hours of work. She contends that this rule is indirectly discriminatory.
20. C-10/97 - C-22/97 : Ministero delle Finanze -v- IN.CO.GE.'90 Srl
Another reference from the Italian courts concerning the application of national time limits to claims for reimbursement of sums levied in contravention of Community law. Judgment 22 October. See Summary in Part 2.
21. C-33/97 : Colim NV -v- Bigg's Continent Noord NV
Concerns the rules on the labelling of foodstuffs and whether domestic legislation on this subject might constitute 'technical regulations' within the meaning of Directive 83/189.
22. *C-34/97 : RWE Energie AG and Stadt Nordhorn -v- Bundeskartellamt
Concerns the application by the domestic competition authorities of EC competition rules to the electricity sector. The issues arising include whether national authorities are required to refrain from applying Article 85 when a common position has been reached concerning rules for the internal market in electricity and whether such authorities can apply Article 85 pending a decision by the Commission on negative clearance. Case withdrawn.
23. C-39/97 : Canon Kabushiki Kaisha -v- Pathe Communications Corporation
Raises questions about the interpretation of the Trade Marks Directive, in particular, the extent to which the reputation of an earlier mark is relevant in assessing whether there is a risk of confusion owing to the degree of similarity between that mark and one for which registration is sought. Judgment 29 September.
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24. C-61/97 : Forenigen Af Dansk Videodistributører acting on behalf of Egmont Film A/S and Others -v- Laserdisken v/Hans Kristian Pedersen
Directive 92/100 on rental rights and copyright. The issue is whether the enforcement by the copyright holder of his exclusive rental right is contrary to Article 30 of the Treaty. Judgment 22 September.
25. C-63/97 : Bayerische Motorwerke AG and Another -v- Ronald Karel Deenik
Concerns the Trade Marks Directive (89/104). At issue is the legitimacy of the use by a firm which specialises in the sale of second hand BMWs and the repair of BMWs of the BMW trade mark in advertising its services.
26. C-74/97 : Montana -v- Renfe
Spanish reference on the application of the Acquired Rights Directive in circumstances where an undertaking decides to resume an activity which it had previously contracted out. Judgment 10 December.
27. C-77/97 : Österreichische Unilever GmbH -v- Smithkline Beecham Markenartikel GmbH
Concerns the Cosmetic Directive 76/768 - the national court asks whether member states are free to impose requirements which are more stringent than those set out in the Directive in relation to statements in advertising toothpaste which give a misleading view as to the product's efficacy in combatting tooth decay.
28. C-85/97 : SPRL -v- Belgium
VAT limitation period starting point: method of calculation. Judgment 19 November.
29. C-124/97 : Markku Laara & Others -v- District Prosecutor
The appellants were convicted of operating gaming machines without a licence; the referring court asks whether Finnish legislation regulating gaming machines is compatible with Articles 30,59 and 60 of the EC Treaty.
30. C-125/97 : A G R Regeling -v- Bestuur van de Bedrijfsvereniging voor de Metaalnijverheid
Council Directive 80/987 on the protection of employees on the insolvency of their employer. Appropriate method of calculating the arrears of pay for which the guarantee institution is liable. Judgment 14 July.
31. C-126/97 : Eco Swiss China Time Ltd -v- Benetton International NV
Whether arbitrators appointed by virtue of a private agreement between parties are under an obligation to apply Article 85 of the EC Treaty where the parties themselves have not raised this issue and national procedural rules prevent the arbitrators from raising the issue themselves.
32. C-140/97 : Walter Rechberger & Others -v- Republik Österreich
Whether Council Directive 90/314/EEC on package travel applies to holidays offered as prizes by a newspaper. Awaiting judgment.
33. C-178/97 : Barry Bank & Others -v- Théâtre Royale de la Monnaie
Whether self-employed musicians holding the relevant certificate from the UK authorities are liable to pay Belgian security contributions.
34. C-202/97 : Fitzwilliam Executive Search Limited -v- Bestuur van het Landelijk Instituut Sociale Verzekeringen
Article 17 of Regulation 1408/71; posted workers.
35. C-212/97 : Centros Limited -v- Erhvervs-Og Selskabsstyrelsen
Challenge by a UK company with a share capital of £100 of a refusal by the Danish authorities to register its subsidiary on the grounds that the subsidiary had been acquired for the
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purpose of circumventing Danish law which requires a substantially higher share capital for the formation of a private limited company.

36. C-230/97 : Awoymi Ibiyinka -v- Openbaar Ministerie

Reference from a Belgian court concerning a challenge by a third country national to the requirements contained in the driving licence Directives. Judgment 29 October.

37. C-237/97 : Proceedings brought by AFS Intercultural Programmes Finland RY

Whether the Package Travel Directive applies to student exchange programmes.

38. C-249/97 : Gabriele Gruber

Concerns the compatibility of Austrian legislation relating to payment of compensation on termination of employment with Article 119 where payments made to employees who give up work to care for children are less than those paid in other circumstances where the employee terminates the employment relationship.

39. C262/97: Rijkdienst voor Pensioenen -v- Robert Engelbrecht

Belgian reference concerning the pension entitlement of migrant workers (Regulation 1408/71) and the scope of Van Munster.

40. C-275/97 : DE and ES Bauunternehmung

Fourth Council Directive 78/660/EEC on company accounts; treatment of provision for liabilities arising under building warranties.

41. C-306/97 : Connemara Machine Turf Company -v- Collite Teorranta

Concerns the definition of a "contracting authority" for the purpose of Council Directives 77/62/EEC and 93/36/EEC on the award of public supply contracts. Judgment 17 December. .

42. C-333/97 : Lewen -v- Denda

Whether a bonus primarily intended to relate to future work constitutes pay within Article 119 EC Treaty of a payment within the scope of the Pregnant Workers' Directive.

43. *C-343/98: Renato Collino and Luisella Chipero -v- Telecom Italia Spa

Italian reference concerning the applicability of the Acquired Rights Directive 77/187/EEC to the transfer of a telephone installation and operating service from an emanation of the State to a private company and the consequences of such a transfer. Observations filed by the UK on 26 December.

44. *C-375/97: General Motors Corp. -v- Yplon SA

Belgian reference concerning the proper construction of the term "repute of the trade mark".

45. C-378/97 : Criminal proceedings against Wijsenbeek

This Dutch reference concerns border controls between the Netherlands and other Member States and Articles 7a and 8a of the EC Treaty.

46. *C-379/97 : Upjohn SA Danmark -v- Paranova

Danish reference concerning trademarks and the parallel importation of rebranded pharmaceutical products.

47. C-360/97: Nijhuis -v- Landelijk Instituut Sociale Verzekeringen

Dutch reference on the application of Regulation 1408/71 to a special insurance scheme for civil servants in the Netherlands outside the scope of the Regulation.

48. C-392/97 : Farmitalia Carlo Erba Srl

German reference concerning trademarks – scope of supplementary protection certificates for medicinal products.

49. *C-418/97 and C-419/97: Archo Chemie Nederland Ltd and Vereniging Doepsbelan Hess Stichting Werkgroep Weurt and Others
This is a Dutch reference concerning the interpretation of the waste directives and in particular what is regarded as a recovery operation.
50. C-424/97 : Haim -v- Kassenzahnaertzliche Vereinigung Nordrhein
Mutual recognition of diplomas: dentists. The case also raises procedural issues on the recovery of Factortame damages.
51. C-435/97 : World Wildlife Fund -v- Autonome Provinz Bozen
Environmental Impact Assessment Directive: restructuring of Bolzano Airport.
52. C-3/98 : Openbaar Ministerie -v- Schacht
Application of Article 14a(1)(a) of Regulation 1408/71 which provides that a self employed person who performs work in another Member State shall continue to be subject to the legislation of the first Member State provided the work does not exceed 12 months.
53. C-4/98: Calvin Klein -v- Cowboyland
Reference withdrawn in light of ECJ's decision in C-355/96: Silhouette (see Summary in Part 2).
54. C-6/98 : Arbeitsgemeinschaft Deutscher Runfunkanstalten -v- Pro Sieben Media AG
German reference concerning the Television Directive – principle to be applied in determining the permitted amount of advertising time.
55. C-17/98 : Emesa Sugar (Free Zone) NV -v- Aruba
This Dutch reference concerns the import into the Community from Overseas Countries and Territories of sugar, a product which is subject to a common organisation of the market under the CAP including specific measures regulating prices, quantities, exports from, and imports to the Community.
56. C-35/98 : Staatssecretaris van Financien -v- Verkooyen
Liability to income tax on dividends: exemptions up to a certain amount on dividends paid in respect of the shares in companies established in a member state.
57. C-44/98 : BASF -v- President of the German Patent Office
German reference concerning whether the requirement of translation of patents is compatible with the principles of free movement of goods.
58. C-48/98 : Firma Sohlke -v- Hauptzollamt Bremen
German reference concerning the Customs Code – Article 49 of Regulation 2913/92 and principle of legal certainty.
59. C-61/98: De Haan Beheer BV -v- Inspecteur der Invoerrechten en Accijnzen
Dutch reference asking whether the fact that the Dutch Authorities did not warn a customs agent in advance of their suspicions that a fraud was about to be perpetrated can affect the existence of the customs debt.
60. C-65/98 : Eyup -v- Landesgeschäftsstelle des Arbeitsmarktservice Vorarlberg
This Austrian reference concerns the interpretation of Article 7 of Decision 1/80 of the EEC/Turkey Association Council and the definition of a member of the Turkish workers' family. The questions referred also concern questions of interim relief. Hearing awaited.
61. *C-81/98: Alcatel Austria Aktiengesellschaft and Others -v- Bundesministerium
Reference on the interpretation of Council Directive 89/665/EEC on the co-ordination of laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts.
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62. *C-104/98: Buchner -v- Sozialversicherungsanstalt Der Bauern
Article 7(1)(a) of Directive 79/7: determination of pensionable ages.
63. *C-179/98: Etat Belge -v- Fatna Mesbah
This is a Belgian reference concerning the interpretation of Article 41(1) of the Morocco/EEC Co-operation Agreement and the principle of non-discrimination regarding Moroccan workers and members of their family in the context of disability benefits.
64. *C-190/98: Volker Graf -v- Filzmoser Maschinenbau GmbH
Austrian reference concerning a German national's challenge to severance payments in Austria which are only payable where a worker loses his or her job as a consequence of an employer's decision. Alleged restriction to the right of free movement under Article 48.
65. *C-218/98: Omar Dabo Abdoulaye and Others -v- SA Renault
French reference concerning a complaint by male employees against their employer about a one off payment given to pregnant workers on commencement of maternity leave.
66. *C-222/98: Van de Woude -v- Stichting Beatrixoord
This is a Dutch reference concerning the interpretation of Articles 85 and 86 of the EC Treaty. Questions referred ask whether and if so to what extent, the provision of a non-wage benefit to employees arising under a collective labour agreement is subject to the competition provisions of the EC Treaty.
67. *C-238/98: Hocsman -v- Ministre de l'emploi et de la Solidarite
Recognition of medical qualifications - equivalence accorded by one Member State.
68. *C-287/98: Luxembourg -v- Consorts Linster
Reference concerning the Environmental Impacts Assessment Directive.
69. *C-293/98: EGEDA -v- HOESA
Spanish reference concerning Directive 93/98 on the co-ordination of certain rules concerning copyright rights applicable to satellite broadcasting and cable retransmission.
70. *C-300/98: Dior -v- TUK Consultancy
Whether Article 50(6) of TRIPS has direct effect.
71. *C-330/98: Wellcome Foundation Limited -v- Nycomed Austria GmbH
Austrian reference concerning the application in law of provisions of recital in a later regulation which purport to amend an earlier regulation. The later recital purports to do this by applying the meaning given by it to an Article in the later regulation to a similar Article in the earlier regulation.
72. C-314/98: Snellers Autos -v- Algeineen Directeur van de Dienst Wegverkeer
Directive 83/189 on technical standards and regulations: regulations concerning the way in which the date of first authorisation of a vehicle for use on the public highway is determined.
73. *C-333/98: Merck -v- Ufficio Italiano Brevetti e Marchi
Italian reference concerning supplementary protection certificated. Similar issues to C-330/98.

(v) Actions in which the United Kingdom intervened in The Court of Justice under Article 37 of the Protocol on the Statute of the Court of Justice.

1. C-158/95 : Germany -v- Commission
Action under Article 173 for annulment of a Commission Decision relating to state aid to the German steel industry. Stayed pending outcome of Cases T-2/96, T-97/96 and T-129/96.

2. *C-388/95 : Belgium -v- Spain

Belgium challenges Spain's alleged failure to implement the judgment in Case C-47/90: Delhaize, in breach of Article 34 EC Treaty. The Spanish laws in issue in Delhaize which regulate the production of wine were found to constitute a restriction on exports, have not only been maintained in force, but similar laws have been introduced in other regions of Spain. The UK has intervened in support of Belgium.

3. C-399/95 : Germany -v- Commission

Action under Article 173 for the annulment of a Commission Decision relating to state aid to the German steel industry. Stayed pending outcome of Cases T-2/96, T-97/96 and T-129/96.

4. C-404/95 : Germany -v- Commission

Action under Article 173 for annulment of a Commission Decision relating to state aid to the German steel industry. Stayed pending outcome of Cases T-2/96, T-97/96 and T-129/96.

5. C-124/96 : Commission -v- Spain

The UK has intervened in support of Spain as we disagree with the Commission's interpretation of Article 13A of the Sixth VAT Directive.

6. C-195/96 : Germany -v- Commission

Related to Case C-399/95. Stayed pending outcome of Cases T-2/96, T-97/96 and T-129/96.

7. C-384/97 : Commission -v- Greece

This case concerns Directive 76/464 on pollution caused by certain dangerous substances discharged into the aquatic environment. The UK has intervened in support of Greece.

8. *C-387/97: Commission -v- Greece

This case concerns the non-implementation of an ECJ judgment. The Commission is seeking a penalty payment under Article 171 EC. The UK has intervened in support of the Commission regarding the method by which fines should be calculated.

9. C-429/97 : Commission -v- France

The UK has intervened in support of France in this case in which the Commission alleges that France has infringed Article 2 of the Eighth VAT Directive (79/1072) in refusing to refund VAT to a taxable person not established in France.

10. *C-168/98: Luxembourg -v- Council

This is a challenge concerning Directive 98/5 to facilitate practice of the profession of lawyer on a permanent basis in a member state other than that in which the qualification was obtained. UK has intervened in support of the Council.

11. *C-197/98: Commission -v- Greece

Non-implementation of an ECJ judgment: application under Article 171 for penalty payment. UK has intervened in support of the Commission on the same basis as 15 above.

12. *C-252/98: Commission -v- France

This application by the Commission concerns the General Systems Directives and direct entry specialist nurses. The UK has intervened in support of the Commission.

(vi) Actions in which the United Kingdom intervened in the Court of First Instance under Article 37 of the Protocol on the Statute of the Court of Justice

1. T-375/94, T-384/94 and T-388/94: European Night Services Ltd -v- Commission
Articles 85 and 86 of the EC Treaty - Joint venture by railway companies in respect of rail services via the Channel Tunnel - Commission granted limited exemption under Article 85 - challenge to conditions imposed. Judgment 15 September. See Summary in Part 2.

2. T-11/95 : BP -v- Commission
Article 93 of the EC Treaty - State aid to Italian chemicals industry – injection of capital – market investor principle. Judgment 15 September.
3. T-110/95 : IECC -v- Commission
Articles 85 and 86 - Commission investigation of a complaint regarding arrangements between Post Offices in the member states concerning remail services. Judgment 16 September.
4. T-129/95, T-2/96 and T-97/96: Neue Maxhutte Stahlwerke -v- Commission
German state aids. UK intervened in support of Commission.
5. T-133/95 : IECC -v- Commission
See T-110/95. Judgment 16 September.
6. T-204/95 : IECC -v- Commission
See T-10/95 and T-133/95. Judgment 16 September.
7. T-234/95 : DSG Dradenauer Stahlgesellschaft mbH -v- Commission (formerly Hamburger Stahlwerke -v- Commission)
An application to annul a Commission Decision on state aid granted to the German Steel industry.
8. T-46/97: SIC -v- Commission
The UK has intervened in support of the Commission in this case which concerns state aids granted to a public broadcaster in Portugal.
9. T-50/97: Primex -v-Commission
Judgment 17 September.
10. T-125/96 : Boehringer Ingelheim Vetmedica GmbH and C H Boehringer Sohn Limited Partnership -v- Council
This is an action for damages in respect of loss caused by the adoption of a Council Directive prohibiting the marketing of certain products. The United Kingdom has intervened in support of the Applicants on admissibility plea only in order to take issue with the Council's submission that any such proceedings should be directed at Member States whose implementation of the Directive will be the proximate cause of Applicant's loss.
11. T-132/96 : Freistaat Sachsen -v- Commission
State Aids - challenge to a Commission decision - whether the applicants have sufficient standing to bring proceedings - UK has intervened in support of the Commission.
12. T-143/96 : Volkswagen AG & Volkswagen Sachsen -v- Commission
See Case T-132/96 above.
13. T-46/97 : Sociedade Independente de Comunicação SA -v- Commission
Whether the concession granted by the Portuguese government to RTP, the concession holder for public service television, constitutes state aid. The UK has intervened in support of the Commission. Statement in Intervention not submitted. Awaiting date for oral submissions.
14. *T-186/97, 187/97, 190/97, 191/97, 192/97, 210/97, 211/97, 279/97 and 280/97 : Kaufring AG and others, DFDS and Wilson Holland -v- Commission
Linked to T-216/97 etc above. Seven German and two Dutch actions against Commission refusals to remit duties incurred on importation of Turkish TVs.
15. T-213/97: Eurocoton & Others -v- Council
Action to (a) declare void the Council's decision to reject the Commission's proposal for a

Regulation imposing definitive anti-dumping duties on imports of unbleached cotton fabric from India, Indonesia, Pakistan, Turkey, China and Egypt and collecting the provisional duties imposed by Regulation 2208/96; and (b) order that the Council make good any damages caused to the applicants by the unlawful rejection of the Commission's proposal. UK intervened in support of the Council.

16. T-216 - T218/97: Lema SA -v- Commission

Three French actions against Commission's refusal to remit duties incurred after importation of "duty free" Turkish TVs. Linked to T-186/97 etc. below.

17. *T-220/97: H & R Ecroyd Holdings Ltd -v- Commission

Action to annul alleged refusal of the Commission to give effect to judgment in C-127/94 ex parte H & R Ecroyd. UK intervening in support of the Commission's contention that Applicants are not entitled to SLOM III quota because they were not producers at the material time.

18. *T-256/97 : European Office of Consumer Unions -v- Commission

Action for annulment of Commission decision not to recognise BEUC as an interested party in an anti-dumping proceeding concerning a product not commonly sold at retail level.

19. *T-293/97 : ELTA GMBH -v- Commission

Another German "Turkish TV" challenge. See cases T-186/97 etc and T-216/97 etc.

20. *T-309/97 : Bavarian Lager Co Ltd -v- Commission

Action concerning refusal by the Commission to provide a reasoned opinion. The UK has intervened in support of the Commission.

21. *T-8/98 : Siderca SAIC -v- Commission

The UK has intervened in support of the Applicant to challenge the Commission's extraterritorial exercise of jurisdiction in an Article 85 investigation. The Applicant company is Argentine and does not do business in the Community.

22. *T-44/98, T-52/98, T-53/98 and T-54/98: Emesa Sugar and Others -v- the Commission

The UK has intervened in these four cases in support of the Commission. The applicants challenge certain decisions and regulations regarding the importation into the Community of sugar originating in the OCT. The applicants argue that the measures in question are illegal because they infringe WTO provisions. A Statement in Intervention has been filed in regard to T-44/98.

(vii) Cases referred to the European Court under the Judgments Convention

1. C-391/95 - Van Uden Maritime

Brussels Convention - scope for the Arbitration Exception and whether this extends to proceedings for interim or protective relief. Judgment 17 November. See Summary in Part 2.

2. C-150/97 : Società Transporti Spedizioni Internazionali SPA -v- Hugo Trumpy SPA

Article 17 of the Brussels Convention; whether a shipper's signature on a bill of lading is sufficient to constitute an agreement conferring exclusive jurisdiction on the courts of a Contracting Party.

3. *C-420/97 : Leatherex -v- Bodetex

Belgian reference concerning jurisdictions over obligations of equal rank under the Convention.

4. *C-440/97 : GIE Groupe Concorde -v- Capitaine Commandant "Suhadiwarno Panja"

Italian reference concerning Article 5(1) of the Convention regarding place of performance.

5. *C-8/98 : Dansommer A/S -v- Goetz

Whether Article 16(1)(a) of the Convention applies to an agreement between a tour operator and a private individual concerning a short term letting whether the tour operator is not the owner of the property let.

(viii) Requests for an Advisory Opinion of the European Court of Justice under Article 228(1) of the EEC Treaty.

None.

(ix) Actions against United Kingdom under Article 170.

None.

(x) Appeals from the CFI to the ECJ

1. C-73/97P : Comafrika SPA and Dole Fresh Fruit Europe Ltd & Co. -v- Commission
The UK has intervened in support of France to argue that the appeal is admissible and that the CFI was wrong in Case T-70/94 to dismiss the objection of inadmissibility raised by the Commission. Judgment 21.1.99.

2. *C-163/98P : Eyckeler -v- Commission

Appeal by Commission against judgment of CFI given on 19 February 1998. The UK has intervened in support of Eyckeler.

(xi) EFTA Court

1. E-9/97 : Erla Maria Sveinbjornsdottir -v- Iceland

Request for an Advisory Opinion on the Insolvency Directive 80/987. UK has submitted observations to the effect that Member States should have the option to exclude employees under Article 10 of the Directive even where such employees do not appear in the Annex.

Appendix B, Part 2: Summaries of Important Judgments

ECJ Case C150/94: United Kingdom –v– Council of the European Union (19 November)

1. The UK (supported by Germany) sought annulment of Council Regulation 519/94 on common rules for imports from certain countries, which imposed quotas on the import of toys from China.
2. The application was dismissed. Where a regulation is of general application, the Council is not bound to set out the information on which it based its conclusion that certain sectors of Community industry were sensitive to imports. Specific reasons are required only where exceptional circumstances require the imposition of restrictive measures confined to one or more regions of the Community.
3. The Community institutions enjoy a margin of discretion in their choice of the means needed to achieve the common commercial policy. Judicial review must be limited to verifying whether the facts on which the contested choice is based have been accurately stated, and whether there has been a manifest error in the appraisal of those facts or a misuse of powers.
4. Where the Community legislature is obliged to assess the future effects of rules, its assessment is open to criticism only if it appears manifestly incorrect in the light of the information available to it. The Court cannot substitute its assessment of the measures adopted unless they are shown to be manifestly inappropriate for achieving the objective pursued.

CFI Cases T-374/94, T-375/94, T-384/94 and T-388/94: European Night Services Limited –v– Commission (Judgment 15 September)

1. In these joined cases before the Court of First Instance, the applicants sought the annulment of a Commission Decision applying the EC competition rules contained in Article 85 of the Treaty and the provisions of Council Regulation (EEC) No 1017/68, which applies those rules to transport by rail, road and inland waterway, to an agreement setting up a joint venture - European Night Services Limited (ENS) - for the operation of night passenger rail services through the Channel Tunnel, and to a series of agreements concluded between the joint venture and its parent railway undertakings.
2. In its Decision, the Commission had found that the ENS agreements limited or appreciably restricted the scope for competition between the parent railway undertakings and ENS, contrary to the provisions of Council Directive 91/440 of 29 July 1991 on the development of the Community's railways, and could impede access to the market by third party transport operators. In examining the agreements under Regulation 1017/68, the Commission nevertheless concluded that the formation of ENS was likely to facilitate economic progress and to benefit users, and that in view of the financial risks incurred in providing the new services, some restrictions of competition were necessary. However, the Commission granted an exemption for a period of eight years only, and imposed a condition that the railway undertakings should supply to any international grouping of railway undertakings or any transport operator wishing to operate night passenger trains through the

Channel Tunnel the same necessary rail services as they had agreed to supply to ENS, that is, the provision of the locomotive, train crew and path on each national network and in the Channel Tunnel; such services would have to be provided on the same technical and financial terms as those offered to ENS.

3. In its judgment, the CFI upheld the applicants' arguments, which the UK supported, and annulled the Commission's Decision. The CFI found, first, that the Commission had failed to make a correct and adequate assessment of the economic and legal context in which the ENS agreements were concluded. Thus, the Commission erred both in concluding that the creation of ENS had the object or effect of restricting competition, given the absence of any actual or potential competition in the relevant market, and in characterising ENS as a transport operator, when it constituted an international grouping established in accordance with Directive 91/440 to provide international rail transport services between member states. The Court then found that, even if the Commission's analysis under Article 85(1) had not been flawed, the condition imposed by the Commission's Decision concerning the provision of necessary rail services to other transport operators was disproportionate and unnecessary. In this context, the Court considered, by analogy with the case-law on Article 86 of the EC Treaty, that the services provided by the railway undertakings parties to the agreements were neither 'necessary' nor 'essential' for ENS's competitors, in the sense that without them they would be unable to penetrate the relevant market or continue operating on it. Finally, the Court held that, assuming that the Commission's analysis under Article 85(1) was adequate and correct, the exemption period granted was too short to enable the parent undertakings to recoup their investment.

4. The Court's judgment is important in that it confirms the need for the Commission to take account of the specific characteristics of the rail transport sector and the degree of market liberalisation achieved under Directive 91/440 when applying the competition rules to rail transport. The judgment is also of particular interest for its contribution to the Court's case-law on the concept of essential facilities.

ECJ Case C391/95: Van Uden Maritime B V –v– Kommanditgesellschaft in Firma Deco-Line

1. This case involved the interpretation of the 1968 Brussels Convention on Jurisdiction and the Recognition and Enforcement of Judgements in Civil and Commercial Matters. It concerned an application for interim relief relating to the payment of debts arising under a contract which contained an arbitration clause. The issues referred to the Court of Justice concerned the jurisdiction available under the Convention for a national court hearing applications for such relief.

2. The Court held as follows:

- a court which has jurisdiction under Article 5.1 of the Convention also has jurisdiction to order provisional or protective measures;
- whereas the parties to a contractual dispute have validly excluded the jurisdiction of the courts and have referred their dispute to arbitration no such measures may be ordered under Article 5.1;
- where the subject matter of an application for such measures falls within the scope of the Convention, they may be ordered under Article 24 even where proceedings have already been, or may be, commenced on the substance of the case and are to be conducted before arbitrators;
- the granting of such measures under Article 24 is conditional on the existence of a real connecting link between the subject matter of the measures sought and the

territorial jurisdiction of the State of the court before which those measures are sought;

- interim payment of a contractual consideration does not constitute a provisional measure within Article 24 unless:
 - repayment to the defendant of the sum awarded is guaranteed in the event that the plaintiff is unsuccessful as regards the substance of his claim, and
 - the measure sought relates only to specific assets of the defendant located or to be located within the territorial jurisdiction of the court to which application is made.

ECJ Case C66/96: Pedersen –v– Skive (Judgment 19 November)

1. This case questions the compatibility with article 119 of the EC Treaty, the Equal Pay Directive 75/117/EEC, the Equal Treatment Directive 76/207/EEC and the Pregnant Workers Directive 92/85/EEC of national legislation concerning the maintenance of wages during absences from work connected with pregnancy.

2. This reference for a preliminary ruling under article 177 came from the Danish court and concerned the claims of four women whose pregnancies followed an abnormal course prior to the three months preceding the expected date of confinement. The women challenged the national legislation as being incompatible with EC law as it exempted employers from paying salaries to pregnant employees where they were absent for a reason connected with their pregnancies. These women were instead entitled to state benefits paid by their local authority. These benefits were lower than their salaries. In contrast, national legislation provides that all workers are in principle entitled to be paid in full in the event of incapacity for work as attested by a medical certificate.

3. The Court found that it was contrary to Article 119 of the EC Treaty and the Equal Pay Directive 75/117/EEC for national legislation to exempt an employer from paying a woman full pay (and thereby forcing her to claim state benefits) when she is absent, before the beginning of her maternity leave, because she is unfit for work by reason of a pathological condition connected with her pregnancy as attested by a medical certificate. It was contrary to EC law because a woman in such a position would be only be entitled to state benefits in the event of incapacity of work whereas a fellow worker who is absent in the event of incapacity for work on grounds of illness, as attested by a medical certificate, is according to national legislation in principle entitled to full pay from his or her employer.

4. The court found that it was not contrary to Article 119 of the EC Treaty and the Equal Pay Directive 75/117/EEC for national legislation to provide that a pregnant woman is not entitled to receive her pay from her employer where, before the beginning of her maternity leave, she is absent from work by reason of routine pregnancy-related inconveniences, when there is in fact no incapacity for work, or of medical recommendation intended to protect the unborn child but not based on an actual pathological condition or on any special risks for the unborn child, while any worker who is unfit for work on the grounds of illness is in principle entitled thereto.

5. The Court also found that it was contrary to the Equal Treatment Directive 76/207/EEC and the Pregnant Workers Directive 92/85/EEC for national legislation to provide that an employer may send a woman who is pregnant, although not unfit for work, without paying her salary in full when he considers that he cannot provide work for her.

6. This case follows on from the principles established in the case of C 394/96, *Brown v Rentokil* [1998] ECR I-4185. It further explores the rights and benefits attached to a period of absence due to illness connected with pregnancy. The ECJ is concerned with ensuring that the protection of pregnant women also extends into the period of illness connected with pregnancy preceding the protected period of maternity leave. Brown gave women the right not to be dismissed for a reason connected with an illness due to pregnancy. This case further enhances the scope of protection under EC law by ensuring that women are not discriminated against in terms of pay during a period of absence due to an illness connected with pregnancy preceding the protected period of maternity leave.

ECJ Case C-136/96: Scotch Whisky Association –v– Compagnie Financière Européenne de Prises de Participation, Prisunic SA & Centrale d’Achats et de Services Alimentaires SARL (Judgment 16 July)

1. The Scotch Whisky Association commenced proceedings regarding the marketing of a spirit drink with an alcoholic strength of 30 per cent under the description “whisky”. Directive 79/112/EEC specifies that labelling of foodstuffs must not mislead consumers. Regulation 1576/89 (general rules on the definition, description and presentation of spirit drinks) defines “whisky” and stipulates that its minimum alcoholic strength should be 40 per cent. The regulation further stipulates that to be sold as “whisky”, a spirit drink must conform to the definition and requirements provided therein; in the event that it does not do so, it must be sold under the description “spirit” or “spirit drink”.

2. The ECJ found that Regulation 1576/89 prohibits the inclusion of the term “whisky” in the sales description of a spirit drink with an alcoholic strength of less than 40 per cent. It also prohibits the addition of the term “whisky” to the description “spirit” or “spirit drink” applied to such a drink. However, the Court recognised that pursuant to Directive 79/112/EEC, the term “whisky” may, in limited circumstances, appear on the label of such a product, subject to the proviso that the labelling must not mislead the consumer. It is therefore possible for the term “whisky” to appear without qualification in an ingredients list, but it may not appear in close proximity to the sales description of the product unless it is clearly separated and more discreet.

ECJ Case C171/96: Pereira Roque (Judgment 16 July)

1. This case concerned a Portuguese national who went to live in Jersey in 1992. He was convicted of theft in October 1993 and sentenced to one year’s probation and eighty hours community service. He breached his probation by committing further thefts and was sentenced to fourteen weeks’ imprisonment. The Lieutenant Governor of Jersey then issued a deportation order against him.

2. The validity of the deportation order was challenged on the ground that it was incompatible with Community law and, in particular, Article 4 of Protocol No.3 annexed to the UK’s Act of Accession of 1972. Article 4 provides ‘The authorities of these territories [ie the Channel Islands and the Isle of Man] shall apply the same treatment to all natural and legal persons of the Community’. In essence, the claim was that, because a British citizen cannot be deported from Jersey, no citizen of any other member state should be deported. The Royal Court of Jersey referred the matter to the ECJ.

3. The ECJ held as follows:

- The rule on equal treatment set out in Article 4 of Protocol No.3 does not have the effect of prohibiting the deportation from Jersey of nationals of a member state

other than the UK, even though British citizens are not liable to be deported from Jersey.

- Article 4 of Protocol No 3 does prohibit the Jersey authorities from making a deportation order against a national of another member state by reason of conduct which, when attributable to citizens of the UK, does not give rise on the part of the Jersey authorities to repressive measures or other genuine and effective measures intended to combat such conduct. Otherwise, the Jersey authorities would be making an arbitrary distinction to the detriment of nationals of other member states.
- Protocol No.3 cannot be interpreted in such a way that a deportation order made by the Jersey authorities against a national of a member state other than the UK would have effect in the territory of the UK for reasons and considerations other than those for which the UK authorities might otherwise restrict the free movement of persons under Community law.

ECJ Case C-172/96: First National Bank of Chicago -v- Commissioners of Customs and Excise (Judgment 15 September)

1. The reference to the ECJ in this case concerned the interpretation of Articles 2(1) and 11A(i)(a) of Council Directive 77/388 EEC relating to the common system of value added tax (VAT).
2. The Court decided that where the Bank agreed to purchase from another party an agreed amount in one currency against the sale by it to the other party of an agreed amount in another currency, both such amounts being deliverable on the same value date, and in respect of which transactions the parties have agreed (whether orally, electronically or in writing) the currencies involved, the amounts of such currencies to be purchased and sold, which party will purchase which currency and the value date, such transactions constitute supplies of services effected for consideration within the meaning of Article 2(1) of the Sixth Directive.
3. The Court also decided that Article 11A(1)(a) of the Sixth Directive must be construed as meaning that, in foreign exchange transactions in which no fees or commission are calculated with regard to certain specific transactions, the taxable amount is the net result of the transactions of the supplier of the services over a given period of time.
4. The importance of the decision lies in the fact that the Bank has, as a result of the decision, established an entitlement to a substantial credit of VAT and other traders in the same position as the Bank might also be entitled to credits of VAT.

ECJ Case C-231/96 : Edilizia Industriale Siderurgica Srl (EDIS) -v- Ministero Delle Finanze; ECJ Case C-260/96 : Ministero Delle Finanze -v- Spac SpA; and Joined ECJ Cases C-278/96-C-281/96 : Ansaldo Energia SpA -v- Amministrazione delle Finanze dello Stato, Amministrazione delle Finanze dello Stato -v- Marine Insurance Consultants Srl, and GMB Srl and Others -v- Amministrazione delle Finanze dello Stato

1. The hearings in these references took place on the same day but three separate judgments were given on 15 September. The references were all made by Italian courts in the course of proceedings brought by companies for the recovery of administrative charges which the companies had had to pay in order to be entered on the companies register. In its judgment in Joined Cases C-71/91 and C-178/91 *Ponente Carni and Cispadana Costruzioni* [1993] ECR I-1915, the ECJ had held that this registration charge was levied by the Italian authorities in breach of Articles 10 and 12 of Council Directive 69/355/EEC concerning indirect taxes on the raising of capital.

2. In Case C-231/96, the ECJ was asked to consider whether the fact that it had given a preliminary ruling interpreting a provision of Community law, without limiting the temporal effects of its judgment, affected the right of a member State to impose a time limit (or time-bar) under national law, within which proceedings for repayment of charges levied in breach of that provision of Community law must be commenced. The Court held that the member states' rights were not affected and a time bar could be imposed.

3. In Case C-231/96 and Case C-260/96, the Court held that Community law does not prohibit a member State from resisting actions for repayment of charges levied in breach of Community law by relying on what it described as a reasonable time limit of three years, even where this was by way of derogation from the ordinary (and more favourable) rules governing actions between individuals for the recovery of sums paid but not due. Community law did require that the shorter time limit was applied in the same way to actions for repayment of such charges based on Community law as to actions based on national law.

4. In all three cases, the Commission made written submissions that the Court's judgment in Case C-208/90 *Emmott* [1991] ECR I-4269 was applicable. In *Emmott*, the Court had held that until such time as a directive has been properly transposed, a defaulting member state may not rely on an individual's delay in initiating proceedings against it in order to protect rights conferred by the provisions of a Directive and that a period laid down by national law within which proceedings must be initiated cannot begin to run before that time.

5. In each of these three cases, the ECJ confirmed that its judgment in *Emmott* had been justified because of the particular circumstances of that case. However, the circumstances of these references did not justify a similar result. The Court held that Community law does not prevent a member state from resisting actions for repayment of charges levied in breach of a directive by relying on a time limit under national law which is reckoned from date of payment of the charges in question, even if, at that date, the directive had not yet been properly transposed into national law.

6. Joined Cases C-278/96 to C-281/96 raised an additional point about the payment of interest in the event of the repayment of charges levied in breach of Community law. The Court held that interest may be calculated by methods less favourable than those applicable under the ordinary rules governing actions for the recovery of sums paid but not due between private individuals, provided that the methods of calculation of interest apply in the same way to actions brought under Community law as to actions brought under national law.

7. The cases are important because they provide further confirmation that the judgment in *Emmott* is limited to the facts of that case. They also make it clear that Community law does not in principle preclude the legislation of a member state from laying down, alongside a limitation period applicable under the ordinary law to actions between individuals for money paid but not due, special detailed rules governing claims and legal proceedings challenging the imposition of charges and levies.

ECJ Case C-228/96: Aprile Srl, in liquidation –v– Amministrazione Delle Finanze Dello Stato (Judgment 17 November)

1. This reference from an Italian court to the ECJ concerned the operation of national procedural time limits in relation to the recovery of sums paid but not due. The sums in question were charges imposed by the Italian authorities in breach of provisions of the Treaty concerning the prohibition of charges having an effect equivalent to customs duties. Traders were charged, in respect of intra Community trade, the cost of inspections and administrative formalities carried out during the normal business hours of frontier customs posts.

2. The case is important because the ECJ held that Community law does not preclude the application of national provisions which impose, for the recovery of sums paid to national authorities but not due, a special time limit of five, and subsequently three years, instead of the ordinary limitation period of ten years, provided that that time limit applies in the same way to all actions for repayment of such charges, both those based on Community law and those based on national law.

3. The Court referred to a number of judgments which it has given since its decision in Emmott (Case C-208/90, [1991] ECR I-4296), all of which have made it clear that the solution adopted in that case is not applicable to claims for repayment which are not based on the direct effect of a directive. It held that in circumstances such as those of the main proceedings before the Italian Court, Community law does not preclude a member State from resisting actions for repayment of charges levied in breach of Community law by relying on a time limit under national law, even if that member State has not yet amended its national rules in order to render them compatible with directly applicable Community instruments.

ECJ Case C264/96: ICI –v– Colmer (Judgment 16 July 1998)

1. In this case the ECJ was asked to consider whether the tax rules for consortium relief impose an unlawful restriction on the freedom of establishment guaranteed by Articles 52 and 58 of the EC Treaty and, if so, whether Article 5 of the Treaty requires the court to construe the UK legislation so as to comply with Community law even where, on the facts of the particular case, no issue of Community law arises.

2. This case involved the refusal of a claim by ICI to consortium relief. Consortium relief allows a company to claim the benefit of losses and certain other relief of another company where one company is owned by a consortium and the other is a member of the same consortium. A consortium exists where companies (consortium members) each own at least 5 per cent, and together own at least 75 per cent, of the share capital of a trading company, or a holding company whose business is wholly or mainly the holding of shares in trading companies of which it owns 90 per cent of the share capital. ICI's claim was refused on the grounds that consortium relief was not available where shares were held through a holding company which had a majority of non-UK resident subsidiaries.

3. The Court found against ICI on the facts of the case, but also found that UK consortium relief rules are contrary to Community law because they impose residence requirements that restrict the freedom of establishment in other member states. It also found that, where, on the facts of a case, no issue of Community law arose, there was no obligation on the UK courts to interpret UK legislation so as to avoid any potential conflict with Community law.

4. The case is significant because it establishes that the existence of a tax group or consortium may be established by reference to a company or companies resident in the EU or European Economic Area and because it clarifies the obligations of national Courts under Article 5 of the Treaty.

ECJ Case C-269/96: Sucreries et Raffineries d'Erstein SA –v– Fonds d'Intervention et de Regularisation du Marché du Sucre (FIRS) (Judgment 12 November)

1. Council Regulations 1785/81 and 2225/86 provide for the payment of aid for the refining in the European regions of the Community of cane sugar produced in the French overseas departments. Erstein is a French sugar manufacturer whose industrial complex includes a plant which processes sugar beet as well as a refining plant which processes both syrups and raw sugar. Erstein had applied for refining aid but its application had been rejected by the French authorities on the basis that it did not constitute a "refinery" within the definition provided in Article 9(4) of Regulation 1785/81.

2. The ECJ held that a "refinery" for the purposes of the application of the rules in question is a production unit which refines exclusively raw cane sugar (subject to the exceptions provided in the Community legislation); it may not also involve, intermittently, the refining of sugar-bearing liquids obtained from beet, even separately.

3. The Court's ruling clarifies the definition of "refinery" laid down in Article 9(4) of Regulation 1785/81 which applies not only to the particular type of aid being sought by Erstein, but also to other benefits laid down for cane sugar in the EC sugar regime.

ECJ Cases C-308/96 AND C-94/97: Madgett & Baldwin T/A The Howden Court Hotel –v– Commissioners of Customs and Excise (Judgment 22 October)

1. The references to the ECJ in this case, which were joined and heard together, concerned the interpretation of Article 26 of Council Directive 77/388/EEC relating to the common system of value added tax (VAT).

2. The ECJ decided that terms 'tour operator' and 'travel agent' within article 26 encompassed hoteliers, who buy in and supply transport to their hotel for their customers. Further, the ECJ considered that in determining the value of the in-house supplies made by a tour operator or travel agent, there was an entitlement on the part of the trader to apply a method based upon the open market value of those supplies (as opposed to a requirement to value those supplies using a method based on cost).

3. The decision of the ECJ has endorsed the UK view that the provisions of Article 26 are applicable in principle to any person who buys and resells travel facilities for the direct benefit of a traveller. The part of the decision which relates to the determination of the value of in-house supplies for the purposes of calculation of the margin upon which tax is payable has provided clarification of this aspect of Article 26. This aspect will be referred back to the domestic VAT and Duties tribunal.

ECJ Case C326/96: Levez –v– T H Jennings (Harlow Pools) Ltd (Judgment 1 December)

1. This case was referred from the Employment Appeal Tribunal and concerned the interpretation of Article 119 of the EC Treaty and Articles 2 and 6 of the Equal Treatment Directive. Mrs Levez took proceedings against her former employer, Jennings (Harlow Pools) Ltd, for payment of arrears of salary not paid by reason of discrimination on grounds of sex.

2. Mrs Levez had been employed as a manager of a betting shop by Jennings between February 1991 and March 1993. After a few months' service, in December 1991 Mrs Levez was redeployed and replaced a male manager in another shop. Her salary was lower than that paid to her male predecessor but was told by her employer that this was the level of salary that had been paid to him. Her salary only reached that level in April 1992. It was only after Mrs Levez had left her job that she discovered that she had been paid less than her male predecessor for the same work and began proceedings in September 1993 against her employer for arrears of salary.

3. The employment tribunal found in Mrs Levez's favour and awarded her arrears of salary dating back to the date on which she had been employed, February 1991. Jennings argued that the two-year limitation period fixed by section 2(5) of the Equal Pay Act meant that her arrears could only date back to September 1991. The Employment Tribunal concurred with this view and amended their decision accordingly. Mrs Levez appealed this decision before the Employment Appeals Tribunal who then referred two questions to the ECJ.

4. The ECJ found that the two year limitation period set by the national rule did not in itself breach the principles of equivalence and effectiveness and was in the interests of legal certainty. The ECJ found, however, that the rigidity of the rule infringed the rule of effectiveness in circumstances where the employer's misrepresentations to the employee had led to the delay in bringing proceedings. The inability of the national court to take special circumstances, such as those in this case, into account could not be reasonably justified on principles of legal certainty or of proper conduct of proceedings.

5. The ECJ felt that, in the light of their answer to the first question, there was no need to fully answer the second question. The ECJ did want to address an issue raised by the UK government in argument, that is, that Mrs Levez could have obtained full compensation via other proceedings such as the tort of deceit and this two year limitation would not have applied. The ECJ emphasised that it was for each member state to determine the most effective procedural rules for safeguarding the rights of their nationals which derive from EC law so long as such rules are no less favourable than those governing similar domestic actions.

6. The ECJ found that EC law precludes the application of national law to impose a limitation on an employee's entitlement to arrears of remuneration or damages for breach of the principle of equal pay, even when another remedy is available, if the alternative remedy is likely to entail procedural rules or other conditions which are less favourable than those applicable to similar domestic actions. The ECJ said that it was for the national courts to ascertain whether or not the procedural rules complied with the principle of equivalence. The principle of equivalence did not, however, mean that member states are required to extend their most favourable rules to all actions brought. The principle of equivalence is not satisfied by merely pointing to the fact that the same procedural rules, namely the limitation period laid down by Section 2(5) Equal Pay Act, apply to two comparable claims, one relying on a right conferred by EC law, the other on a right acquired under domestic law since one and same form of action is involved. This suggests that there needs to be some other comparator to the Equal Pay Act in order to determine if the Act itself satisfies the principle of equivalence. While it is up to the national court to determine whether or not a national rule is equivalent, the ECJ made some suggestions as to what would be relevant factors: comparison with the purpose of allegedly similar domestic actions, additional costs or delay in making the alternative claim, the complexity of the procedural rules involved.

ECJ Case C355/96: Silhouette –v– Hartlauer Handelsgesellschaft (Judgment 16 July)

1. This case concerned a reference by the Austrian Oberster Gerichtshof for a preliminary ruling, under Article 177 of the EC Treaty, on the interpretation of article 7 of the

First Council Directive 89/104/EC ('the Directive') to approximate the laws of the member states relating to trade marks. Article 7 concerns exhaustion of the rights conferred by trade marks.

2. Silhouette International Schmeid GmbH & Co. is an Austrian company which manufactures spectacles in the higher price ranges. It markets them worldwide under the trade mark 'Silhouette', registered in Austria and most countries of the world. In Austria, Silhouette itself supplies spectacles to opticians; in other states it has subsidiary companies or distributors. Hartlauer Handelsgesellschaft mbH sells inter alia spectacles through its numerous subsidiaries in Austria, and its low prices are its chief selling point. It is not supplied by Silhouette because that company considers that the distribution of its products by Hartlauer would be harmful to its image as a manufacturer of top-quality fashion spectacles.

3. Silhouette sold 21,000 out-of-fashion spectacle frames to Union Trading, a Bulgarian Company, with the intention that they were to be sold only in Bulgaria or the states of the former USSR. It was impossible to prove whether this restriction was actually transmitted to Union Trading. Hartlauer bought these spectacle frames from an unknown party and offered them for sale in Austria. In an advertising campaign Hartlauer announced that, despite not being supplied by Silhouette, it had managed to acquire 21,000 Silhouette frames abroad.

4. Silhouette sought an injunction restraining Hartlauer from offering spectacles or spectacle frames in Austria under its trade mark, where they had not been put on the market in the EEA by Silhouette or by third parties with its consent. Hartlauer contended that the action should be dismissed since Silhouette had not sold the frames subject to any prohibition of re-importation into the Community.

5. The Court was asked whether article 7(1) of the Directive is to be interpreted as meaning that the trade mark entitles its proprietor to prohibit a third party from using the mark for goods which have been put on the market under that mark in a non-Community State. The Court was also asked the secondary question of whether a trade mark proprietor may, on the basis of article 7(1) of the Directive alone, seek an order that the third party cease using the trade mark for goods which have been put on the market under that mark in a non-Community State.

6. The judgment of the Court states that Articles 5 to 7 of the Directive must be construed as embodying a complete harmonisation of the rules relating to the rights conferred by a trade mark. National rules providing for the exhaustion of trade-mark rights in respect of products put on the market outside the EEA under that mark by the proprietor or with his consent are contrary to Article 7(1) of the Directive, as amended by the EEA agreement. Exhaustion of trade mark rights only occurs where the products have been put on the market in the EEA by the proprietor or with his consent. Therefore the trade mark does entitle its proprietor, within the Community, to prohibit a third party from using the mark for goods which have been put on the market under that mark in a non-EEA State. The Court answered the secondary question by stating that, subject to the national court's duty to interpret, so far as possible, domestic law in conformity with Community law, Article 7(1) of the Directive cannot be interpreted as meaning that the proprietor of a trade mark is entitled, on the basis of that provision alone, to obtain an order restraining a third party from using his trade mark on products which have been put on the market outside the EEA under that mark by the proprietor or with his consent.

ECJ Case C411/96: Boyle and Others –v– Equal Opportunities Commission (Judgment 27 October)

1. This case raises the issue of compatibility with EC Law of contractual conditions relating to entitlement to contractual maternity pay, the back-dating of maternity leave in the event of pregnancy-related illness, contractual sick leave, and the accrual of holidays and pension rights during maternity leave. The judgment addresses the extent to which

contractual benefits must be maintained during maternity leave and further develops the arguments in the ECJ case of C-342/93 Gillespie v Northern Health and Social Services Board.

2. Mrs Boyle claimed that the Equal Opportunities Commission (EOC) were acting in breach of Article 119 of the Treaty of Rome, EU Equal Treatment Directive No 76/207 and the EU Pregnant Workers Directive No 92/85 by imposing various contractual conditions upon women on maternity leave. The Court found that:

- EC law does not preclude a contractual clause which makes the payment of pay (during the 14 week protected period under the PWD), higher than the statutory payments in respect of maternity leave, conditional on the worker undertaking to return to work after the birth of the child for at least one month, failing which she is required to repay the difference in the amounts.
- it was not discriminatory for an employer to bring forward the start of maternity leave where a woman gave birth during a period of pregnancy related sick leave to a date either at the beginning of the 6th week before the expected birth date (as consistent with the provisions in section 72 of the Employment Rights Act 1996) or to the beginning of the sick leave if later.
- while it is discriminatory to require a woman to terminate her maternity leave and return to work during her protected 14 weeks in order to avail herself of contractual sick leave, it was not discriminatory to make such a requirement in respect of supplementary maternity leave.
- EC law did not preclude a contractual clause limiting the period during which annual leave accrues to the minimum 14 weeks maternity leave entitlement under the PWD. Neither did it prevent a clause which provides for such accrual to cease during supplementary maternity leave.
- the PWD precludes a clause in an employment contract which limits the accrual of pension rights under an occupational scheme wholly financed by the employer during the 14 week period protected by Article 8 of the directive, such rights must be ensured during that period and it cannot be made conditional upon the woman receiving the pay provided for by her employment contract or statutory maternity pay during that period.

3. The ECJ was concerned with protecting the rights connected with the employment contract during a woman's statutory 14 week maternity period in accordance with Article 11 of the Pregnant Workers Directive No 92/85. Applying the rationale in Gillespie, the ECJ stated that supplementary maternity leave was a special advantage available only to women over and above the protection afforded by Directive No 92/85. A distinction had to be drawn between the period of maternity leave of at least 14 weeks protected by the PWD and any supplementary maternity leave which an employer was prepared to offer. The ECJ also stated that the fact that additional rights, such as the accrual of annual leave, were not attached to that advantage did not constitute unfavourable treatment to the disadvantage of women

Joined Cases C-10/97 to C-22/97 : Ministero delle Finanze –v– IN.CO.GE. '90 and Others (Judgment 22 October)

1. These references were raised in proceedings before an Italian court and concerned the administrative charges levied for entering the company on the register of companies in breach of Council Directive 69/335/EEC of 17 July 1969 concerning indirect taxes on the raising of capital.

2. The ECJ held that the obligation on a national court to disapply national legislation introducing a charge contrary to Community law must lead the national court, in principle, to up-hold the claims for repayment of that charge. However, it also held that repayment must be ensured in accordance with the provisions of national law, on condition that those provisions are not less favourable than those governing similar domestic actions and do not render virtually impossible or excessively difficult the exercise of rights conferred by Community law. Both the detailed rules for repayment which are to apply, and the rules about the classification for that purpose of the legal relationship established between the tax authorities and the companies when the charge was levied, are matters which fall to be determined under national law. The Court rejected the Commission's contention that the incompatibility with Community law of a subsequently adopted rule of national law has the effect of rendering that rule of national law non-existent.

3. The Court confirmed its judgments in Case 231/96 and Case 260/96, stating that Community law does not in principle preclude the legislation of a member state from laying down, alongside a limitation period applicable under the ordinary law to actions between individuals for sums paid and not due, special detailed rules governing claims and legal proceedings challenging the imposition of charges and levies.

ECJ Case C185/97: Coote –v– Granada Hospitality Ltd (Judgment 22 September)

1. This reference for a preliminary ruling arose out of proceedings between Ms Coote and her former private-sector employer, Granada Hospitality Ltd, concerning Granada's refusal to provide references to potential employers of Ms Coote.

2. Ms Coote had brought a claim for sex discrimination in 1993 alleging that Granada had dismissed her because of pregnancy. The claim was settled and Ms Coote's employment with Granada ended by mutual agreement on 7 September 1993. Ms Coote's attempts to gain new employment were not successful and she brought a further claim against Granada claiming that she had been victimised by Granada's refusal to supply a reference to the employment agency and that the refusal was due to her previous discrimination claim.

3. The Employment Appeal Tribunal (EAT) found that Ms Coote could not make a claim of discrimination by way of victimisation because section 6 of the Sex Discrimination Act 1975 was limited to discrimination or retaliatory measures taken by an employer during the relevant employment relationship and its protection did not extend to former employees. The EAT requested a ruling from the ECJ on whether or not this interpretation of the provisions of the Sex Discrimination Act 1975 was compatible with the provisions of the Equal Treatment Directive 76/207/EEC.

4. The ECJ considered that Article 6 of the Directive No 76/207/ EEC (the provision requiring member states to introduce into their national legal systems measures that allow victims to pursue claims by judicial process) should be interpreted in the light of Article 6 of the ECHR. The ECJ felt that Article 6 of the Directive No 76/207/EEC articulated the general principle in Article 6 of the ECHR, that is, that each individual who is unfairly treated has the right to recourse in the courts. The ECJ were concerned with consistent interpretation of the law of the EC and the ECHR and felt, taking a purposive approach, that the Directive No 76/207/EEC could not be interpreted in such a way so as to limit workers' rights. The ECJ found that in accordance with the principle of effective judicial control laid down by Article 6 of the Equal Treatment Directive 76/207/EEC, member states are required to introduce into their national legal systems such measures as are necessary to ensure judicial protection for workers whose employer, after the employment relationship has ended, refuses to provide references as a reaction to legal proceedings brought to enforce compliance with the principle of equal treatment within the meaning of that directive. This case is unusual in that it is a rare example of the ECJ relying upon the principles of the ECHR to assist in the interpretation of EC law.

Appendix C, Part 1: Parliamentary Scrutiny of European Documents

Review of Parliamentary Scrutiny Procedures

1. An overhaul of the arrangements for the Parliamentary scrutiny of EU business began in July 1996 with the publication of a report from the House of Commons European Legislation Committee (27th report, 1995–96). The House of Commons Select Committee on Procedure subsequently considered this report and published a further report on this subject in March 1997 (3rd report, 1997–98). These reports were considered by the House of Commons Select Committee on the Modernisation of the House of Commons in their report on this matter which published in March 1998 (7th report, 1997–98).

2. The Government responded to the report from the Modernisation Committee in November, when a White Paper on the Scrutiny of European Business was published (Cm 4095). The White Paper set out the Government's views on how the Parliamentary scrutiny of EU business could be enhanced. The Government subsequently tabled formal proposals in the House of Commons to amend the appropriate Standing Orders to effect the necessary procedural changes proposed. The House approved the Government's proposals in a debate on 17 November. The changes took immediate effect. The key changes were:

- The name of the House of Commons Select Committee on European Legislation was changed to "the European Scrutiny Committee".
- Proposals for measures in the field of Common Foreign and Security Policy (CFSP) and Justice and Home Affairs (JHA) will be subject to systematic scrutiny.
- The Government's undertakings to Parliament not to agree to measures in the Council of Ministers (known as the Scrutiny Reserve Resolution) was strengthened to include, business in the field of CFSP and JHA, the stages of legislation under the co-decision procedure, the stage of political agreement in the Council of Ministers, pre-legislative documents, and to certain decisions taken by heads of government at meetings of the European Council.
- Introduction of a formal system of pre- and post-Council scrutiny.
- The number of European Standing Committees was increased from two to three and the procedure for debating business was improved.
- The European Scrutiny Committee will be able to scrutinise Commission legislation.
- A framework has been put in place for other Select Committees to become more closely involved in European business.

Where appropriate these changes also apply to the House of Lords Select Committee on the European Communities.

3. In November, the Government submitted a Supplementary Memorandum to the House of Lords Select Committee on the European Communities responding to the Committee's report on "Enhancing Parliamentary Scrutiny of the Third Pillar" (6th report, 97–98). The

Memorandum completed the Government's response to this report. Previously the Government had responded to 22 of the 29 conclusions of the report, but had deferred a response to those conclusions which needed to be considered in the light of the review of the House of Commons procedures, and the Government's overhaul of scrutiny generally referred to above.

Deposit of Documents in Parliament

4. 351 European Community documents were deposited in Parliament for consideration by the House of Commons European Scrutiny Committee and the House of Lords European Communities Committee.

Consideration by the Scrutiny Committees

5. 6 debates on European Community documents were held in the House of Commons, one on the Floor of the House, one in European Standing Committee A and four in European Standing Committee B. See Part 2 of this Appendix. The European Scrutiny Committee published 14 reports on documents/EMs considered at their weekly meetings. The Committee also published the minutes of evidence taken when Mrs Liddell, Economic Secretary appeared before the Committee on 15 July (35th Report, 97-98), when Ms Quin, Minister of State, FCO appeared before the Committee on 25 November (12th Report, 98-99), and when Mr Kilfoyle, Parliamentary Secretary, Cabinet Office appeared on 2 December (11th Report, 98-99),

6. The European Communities Committee published 11 reports, five were presented for debate and two were presented for information. See Part 3 of this Appendix.

Appendix C; Part 2: House of Commons Debates on European Community Documents

Date Subject and Document References

a. Floor of the House

1. 15 December Fisheries: TACs and quotas for 1999 (U/N EM submitted by MAFF on 7 December 1998 – subsequently numbered 12855/97)

b. European Standing Committee A

1. 18 November Agrimonetary arrangements and the introduction of the euro (9597/98)

c. European Standing Committee B

1. 8 July EU Budget for 1999 (SEC(98)800, COM(98)300)
2. 4 November Social Action Programme (1998–2000) (8328/98)
3. 11 November Agenda 2000: Financial Perspective/Inter-institutional Agreement of 29 October 1993/Own Resources based on VAT and GNP/Financing the EU (7221/98, 7046/98, 9302/98 ADD 1, COM(98)560)
4. 18 November EC Development Aid to South Africa 1986–1996 (9690/98)

Appendix C; Part 3: Reports from the House of Lords Select Committee on the European Communities

a. Reports presented for Debate

	Reports presented	Report No. and Date of Report
1.	Europol: Third Country Rules (8033/5/97)	29th Report (97–98) 21 July
2.	Incorporating the Schengen Acquis into the European Union (6816/2/98 REV 2; 7233/1/98 REV 1)	31st Report (97–98) 27 July
3.	Airline Competition (8582/97)	32nd Report (97–98) 17 November
4.	Partnership and Trust: The TACIS Programme (10350/97)	33rd Report (97–98) 17 November
5.	EC Regulation on Genetic Modification in Agriculture (6378/98)	2nd Report (98–99)

b. Reports Presented for Information

	Reports presented	Report No. and Date of Report
1.	Reform of the Structural Funds and the Cohesion Fund (7046/98, 7055/98, 7609/98)	30th Report (97–98) 28 July
2.	Evidence by the Minister of State, FCO, on the Cardiff European Council	1st Report (98–99) 3 December

c. Reports Debated

	Reports presented	Report No. and Date of Debate
1.	Sustainable Landfill (6692/97)	17th Report (97–98) 13 October
2.	The European Central Bank	24th Report (97–98) 13 October
3.	Europol: Third Country Rules (8033/5/97)	29th Report (97–98) 6 November
4.	Incorporating the Schengen Acquis into the European Union (6816/2/98 REV 2, 7233/1/98)	31st Report (97–98) 6 November

Appendix D: United Kingdom Trade in Goods with the European Union

1. During the second half of 1998, 57 per cent of the United Kingdom's trade in goods (exports plus imports) was with other member states, compared with 56 per cent in the previous 6 months.
2. United Kingdom trade in goods with other member states amounted to £98.1 billion in the second half of 1998, little changed from the previous 6 months. Neither exports nor imports showed any significant overall growth by value.
3. The continued appreciation of sterling during the period led to a further fall in the sterling price of both exports and imports. Export prices fell by 1½ per cent and import prices fell by 2 per cent compared with the previous 6 months. However, in volume terms exports rose by 1½ per cent and imports rose by 3 per cent.
4. The United Kingdom's balance of trade in goods with other member states was in deficit by £2.7 billion during the second half of 1998 compared with a deficit of £2.6 billion in the previous 6 months. Surpluses in oil (£1.7 billion) and capital goods (£2.0 billion) were more than offset by deficits in cars (£2.7 billion), food (£2.2 billion) and material manufacturers (£1.8 billion).
5. The volume of cars exported increased by 16 per cent compared with the previous 6 months, while exports of capital goods increased by 5 per cent. The main import volume increases were also in cars (8 per cent) and capital goods (7 per cent).
6. Oil export prices fell by 12 per cent while oil import prices fell by 15 per cent. There were smaller price decreases in all the other main commodity groups.

Appendix D

UK TRADE IN GOODS WITH THE EU

Balance of Payments Basis

	VALUE (£ billion)			INDICES (1995=100)				
	Seasonally adjusted			Volume		Price		
	Exports	Imports	Balance	Seasonally adjusted		Not Seasonally adjusted		
				Exports	Imports	Exports	Imports	
1994	77.0	82.5	-5.5	89.7	94.8	96.5	93.5	
1995	89.7	93.9	-4.2	100.0	100.0	100.0	100.0	
1996	96.0	100.2	-4.2	107.5	107.2	99.8	99.7	
1997	95.9	99.9	-4.0	115.4	114.9	92.3	93.0	
1998	95.4	100.7	-5.3	122.5	123.8	86.7	88.1	
6 months ended								
December 1997	48.0	50.1	-2.1	117.4	116.8	90.9	92.0	
June 1998	47.7	50.3	-2.6	121.5	121.9	87.4	89.0	
December 1998	47.7	50.4	-2.7	123.4	125.7	86.0	87.2	

Source: Office for National Statistics



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July–December 1998

*Presented to Parliament by the Secretary of State
for Foreign and Commonwealth Affairs
by Command of Her Majesty
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