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DOCUMENT 114/74 – ANNEX

OPINION

of the Committee on Economic and Monetary Affairs

on the proposal from the Commission of the European Communities to the Council (Doc. 17/74) for a recommendation to the Member States regarding cost allocations and action by public authorities on environmental matters

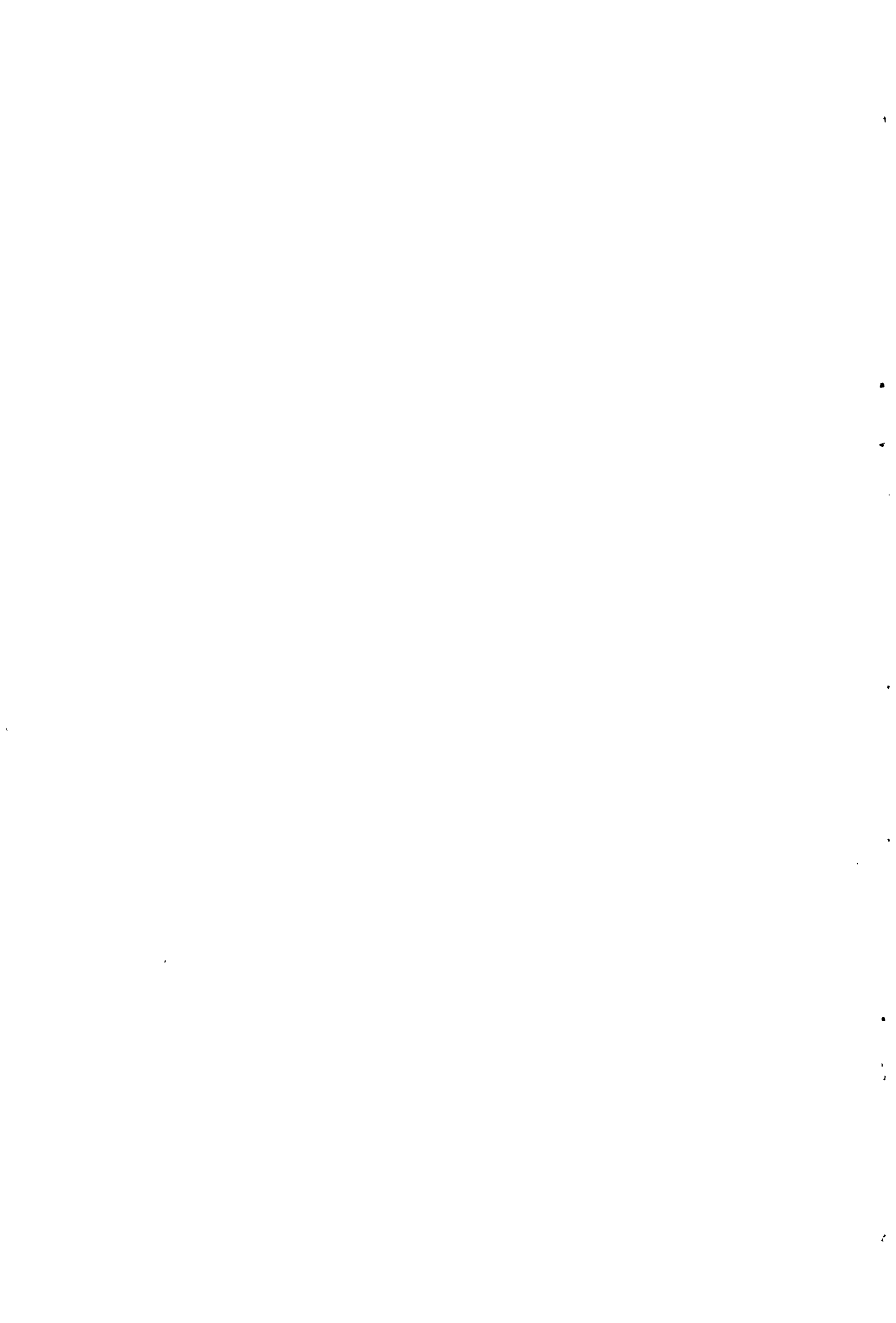
Draftsman of the opinion: Mr Harry NOTENBOOM

EP 1974-75; 114/74 Annex

12.1

English Edition

PE 36.996/fin.



The Committee on Economic and Monetary Affairs appointed Mr Notenboom draftsman of the opinion on 19 April 1974.

It considered the draft opinion at its meetings of 18/19 April and 27/28 May 1974, and adopted it unanimously at the latter meeting.

The following were present:

Mr Lange, chairman;

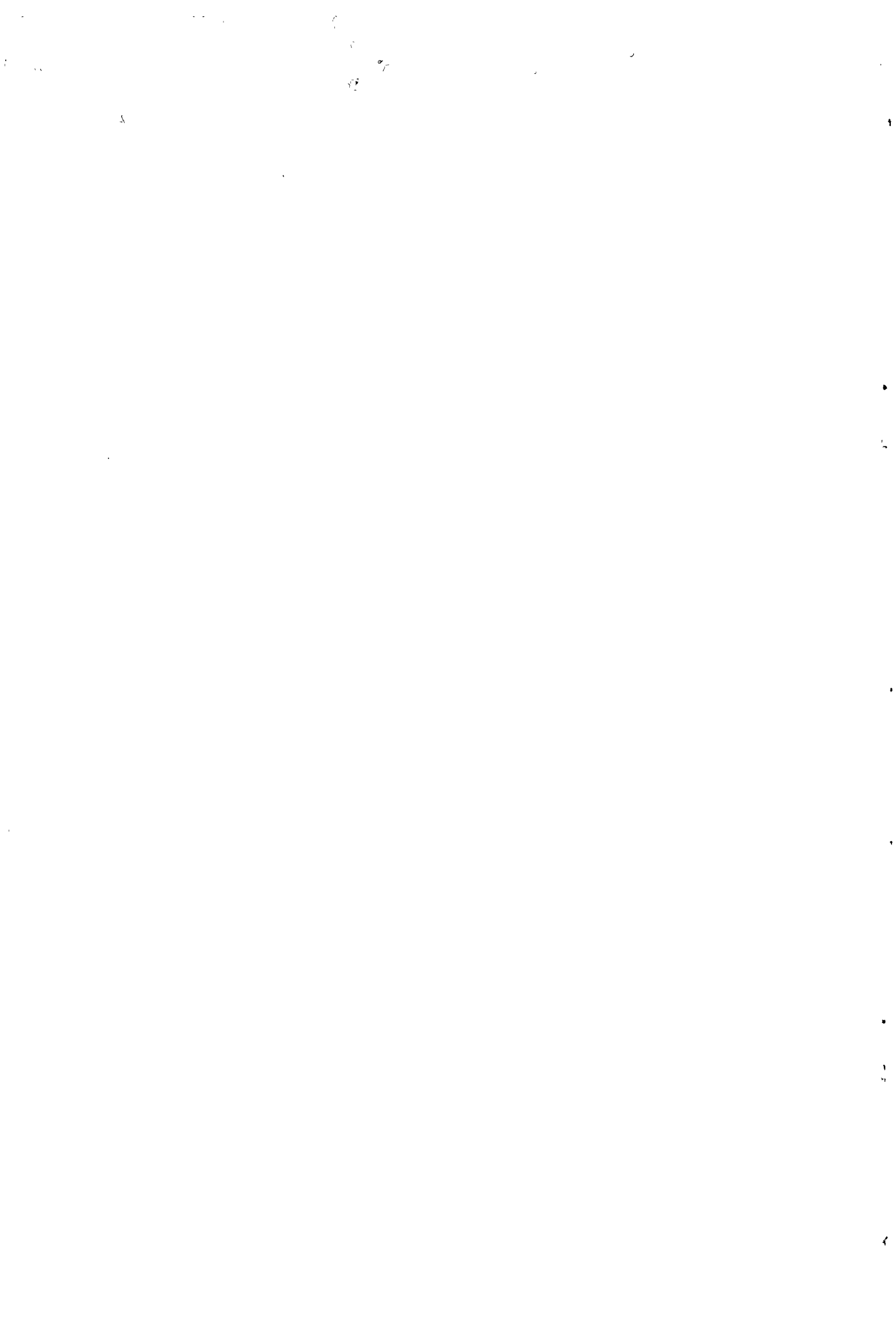
Mr Notenboom, draftsman of the opinion and vice-chairman;

Mr Berthoin (deputizing for Mr de Broglie), Mr Burgbacher, Mr Cousté,

Mr Delmotte (deputizing for Mr Wohlfahrt), Mr Flämig (deputizing for

Mr Van der Hek), Mr Hougardy, Mr Kater, Mr Leenhardt, Mr Brøndlund

Nielsen, Mr Nørgaard, Mr Schachtschabel, Mr Schwörer



I. 'Polluter pays' principle

When environmental resources are in short supply, the price of their consumption must be included in the macro-economic calculations. If possible, the 'external effects' must also be included in the calculations of the economic agents; in other words, the polluter pays according to the extent to which he pollutes the environment¹. The underlying concept is that the Community has a patrimony of environmental resources. Any inroads into this patrimony translate into social costs which must be taken into account. The Committee on Economic and Monetary Affairs has defended this standpoint on a number of occasions².

The above is generally summarized in the principle of 'the polluter pays'. However, simply to adopt this principle is not enough. If we are to avoid distortion of competition and reach a solution which respects both environmental and economic criteria, we must also determine exactly what costs are to be charged to the polluter and in what way. The varying stringency of environmental provisions and the practical details of financing may both lead to distortion of competition.

II. What exactly must polluters pay?

The first question is : what costs are to be charged to the polluter? Pollution of the environment results in four types of costs which are contained by implication in the Commission's proposal but are not sufficiently clearly defined :

- (1) costs incurred in order to prevent or repair by technical means any damage to environmental resources: purification of polluted water, smoke filters;
- (2) costs incurred in connection with the indemnification of third parties where pollution of the environment cannot be prevented: damage to vegetation in the vicinity of polluting industries, soot deposits on laundry,³ etc;

¹

The polluter pays principle does not of course give an undertaking carte blanche to pollute the environment in exchange for payment. In the case of highly toxic substances - heavy metals in particular - the only solution compatible with a responsible environmental policy is the strict prohibition of discharge.

²

See opinions PE 28.969/fin. and PE 30.188/fin.

³

In fact it is not so much a question of allocating costs for the consumption of environmental resources, but simply, as the Commission representative observed at the meeting of the Committee on Economic and Monetary Affairs on 27/28 May 1974, of liability towards third parties.

- (3) other calculable costs relating to environmental policy:
research into the effect of environmental pollution on the health of human and animal life, installations to measure the degree of pollution, costs incurred in supervising the application of environmental regulations, expenditure on making the public environment-conscious, costs incurred in connection with the imposition of levies;
- (4) costs which cannot yet or can hardly be expressed in terms of money (some perhaps never will be) : destruction of the ecological balance, disfigurement of the countryside.

Paragraph 6 of the Commission's draft recommendation indicates which costs polluters must bear. The list is slightly confusing because point (b) of this paragraph defines the nature of the costs on the basis of the manner in which they are to be charged. The Committee on Economic and Monetary Affairs would prefer the classification given above which provides a clearer idea of the charges to be imposed.

On the basis of this classification, the Committee on Economic and Monetary Affairs considers that the costs given under (1), (2) and (4) should in principle certainly be charged to the polluter (with the reservation that the costs given under point (4) can usually not be charged fairly and the authorities are therefore compelled to resort to prohibitions and restrictions). The Commission seems to share this view. As regards the costs mentioned under (3), the Commission would like to see these borne by the public authorities (paragraph 6, last sub-paragraph, of the draft recommendation)¹.

The Commission's view on this point too is acceptable, with certain reservations. The costs of the activities mentioned under (3) could be charged to the public in two different ways: public funds or an increase in environmental taxes. Under certain circumstances, the latter could be the more appropriate means. If these activities were to be financed from public funds, it would place a heavy burden on budgets, all the more so since the authorities are already losing revenue by granting tax relief or interest rebates to undertakings which cannot comply fully at short notice with environmental standards. If all the costs mentioned under (3) were to be financed by public funds, other important collective services might suffer. The possibility should therefore be considered of adding a certain percentage to the environment tax, the revenue from which could be used to cover at least in part the cost of research, control, measurement etc.,

¹ Of the costs mentioned under (3), the Commission would charge to the polluter only those connected with the collection of levies. At least your rapporteur assumes that the Commission is referring to these collection costs when it speaks in terms of 'the administration costs directly linked to the implementation of anti-pollution measures' (paragraph 6, penultimate sentence of the draft recommendation.)

III. Transitional measures

Having established which costs are in principle to be charged to the polluter, it will be obvious that not all existing undertakings can adapt immediately to these demands. A transitional period is necessary if full application of the 'polluter pays' principle hinders the smooth running of the economy or of an important branch of industry. The Commission understands this, as is clear from paragraph 7(a) of the draft recommendation, in which a distinction is rightly made between 'old' and 'new' undertakings. For the latter category, environmental provisions must apply right from the start. However, if investment or taxation to improve the quality of the environment should prove an obviously too heavy burden for an established undertaking, a more flexible system could be temporarily applied.

It is not easy to determine exactly when the conditions exist for the application of such a system. The Commission refers only to 'real difficulties in adapting to environmental quality standards ...' (paragraph 7(a), first sentence). This is not exactly a sound basis for a harmonized policy in the Community. This part of the draft recommendation could perhaps be expressed in slightly more concrete terms by introducing the following three criteria: (a) possibility of passing on to the consumer the costs incurred in investment or taxation to protect the environment; (b) percentage of gross profit (obviously calculated over several years) to be used for expenditure on environmental protection; (c) possibly also the importance of the industry concerned as regards employment in the region.

As the Commission states in its document, there are two ways of providing temporary relief for undertakings: (a) temporary application of a less stringent quality standard, or (b) temporary aid. As to the latter, the Commission specifies only that it must comply with the provisions of Article 92 of the EEC Treaty. This is correct, of course, but insufficient since aid for environmental expenditure would generally come under paragraph 3(d) of this Article, i.e. 'such other categories of aid' ... 'which may be considered to be compatible with the common market'. In other words, by referring to Article 92, the Commission specifies only that the compatibility of each case with the EEC Treaty shall be examined separately. This is rather a poor criterion, which can be applied very restrictively or too liberally.

It is not clear whether the Commission is thinking in terms of cheap credit or of easy depreciation conditions or other advantages; neither is it clear how long the transitional period would last. However, subsidies and tax relief as well as the period for which they are to apply must be harmonized to a certain extent in order to avoid distortion of competition. The Committee on Economic and Monetary Affairs would like to receive from the Commission a list of all the forms of tax relief currently granted in the Member States, and if possible also of the subsidies granted in connection with environmental

expenditure. Since the granting of credit constitutes a more specific aid than tax relief, preference should in principle be given to the first method. The possibility should be considered of setting up a Community credit system for environment investments. Tax relief is too general a form of aid to satisfy the criteria for the application of transitional measures which constitute a temporary derogation from the 'polluter pays' principle.

IV. Levy or standard

Once it has been determined what costs the polluter must in principle bear and what transitional arrangements are to be made, it remains to be established just how these costs are to be charged to him.

Undertakings - the term is applied very generally here to denote all polluters of the environment - can be induced in two ways to act in the interests of the environment: by means of physical regulations or financial regulations. The first category includes what the Commission calls standards, i.e. laws, prohibitions, restrictions, compulsory production methods, compulsory composition of products; the second category comprises levies, subsidies, interest rebates and tax relief.

The Commission does not indicate when levies should be imposed rather than standards, and yet this is not immaterial as far as distortion of competition is concerned. The expenditure which an undertaking must accept in order to comply with a standard may be higher than a levy, for instance if the latter has an 'incentive function', as the Commission calls it. That is why some harmonization is necessary also on this point. The Committee on Economic and Monetary Affairs is particularly desirous that environmental standards should be laid down at Community level. This does not mean that the same standard must apply everywhere; certain regional differences may be entirely justified. Neither can these standards be defined once and for all; they must evolve as scientific knowledge improves. The important thing is that these standards should be the Community's responsibility. In each separate case the environmental factors must be weighed against the economic factors. Risks cannot always be excluded; in other words, environmental quality standards must take due account of economic facts.

Levies seem an attractive solution insofar as they serve to incorporate the price of the scarce environmental resource in the cost price of the product. In this way, the levy does at least lead to a better allocation of production factors and bring about the replacement of polluting products by harmless products (possibilities of substitution have unfortunately proved more limited in practice than was originally thought). However, imposition of the 'incentive' levy is rather arbitrary and the likelihood of 'errors' consequently greater.

A levy is not an effective solution in cases where demand elasticity is low, because the levy will do little to reduce production and consumption and consequently pollution of the environment.

It might be useful, even in cases where an identical type of pollution is concerned, to impose a temporary levy on an established undertaking while at the same time requiring new undertakings to comply immediately with a stringent standard.

The Commission itself realizes that the choice between standard and levy cannot simply be left to the Member States (paragraph 5(c) of the draft recommendation) but it does nothing beyond establishing this fact; this is a pity, but it is understandable.

On previous occasions, the Committee on Economic and Monetary Affairs has already pronounced on other proposals contained in the recommendation, such as the collective levy and the levy or standard varying from region to region. These proposals require no comment since they correspond exactly to the suggestions made by the Committee on Economic and Monetary Affairs in previous opinions.

V. Legal form

The Commission wishes, by means of a recommendation, to achieve a certain harmonization in the allocation of costs to protect the environment. Under Article 189 of the EEC Treaty, the recommendation is not binding. It is strange that in order to harmonize regulations in such a remarkably new field as environmental policy, the Commission should have chosen the non-obligatory form of a recommendation. How clear it is that the policy guidelines contained in the recommendation are indeed not precise enough to be cast in the form of a directive. Nevertheless, the Community has need of an outline directive of this sort. While the recommendation proposed by the Commission will do no harm, it is unlikely to do much good either, i.e. it will not contribute very much to the harmonization of cost allocation for consumption of environmental resources. The Committee on Economic and Monetary Affairs therefore proposes that the recommendation either be replaced by a directive or be followed soon by more binding implementing regulations.

VI. Conclusions

- 1) The Community has a patrimony of environment resources; any inroads into this patrimony translate into social costs which must, if possible, be calculated and charged to the consumer: the polluter pays.

- 2) Differences in environmental provisions and in financing methods may both lead to distortion of competition; a Community scheme is therefore required.
- 3) The cost of technical measures to prevent or repair damage to the environment is to be charged to the polluter.
- 4) The other calculable costs relating to environmental policy should also possibly be charged - at least in part - to the polluter.
- 5) In principle, environmental provisions apply equally to old and new undertakings. However, a transitional period could be instituted during which less stringent quality standards would apply or aid be granted; the criteria for applying such transitional measures should be defined more clearly as indicated in paragraph III of this opinion.
- 6) If aid is justified it should be granted preferably in the form of cheap credit, for which a Community scheme is needed.
- 7) The laying down of environmental quality standards is the responsibility of the Community; under certain conditions, standards may vary from region to region; they must also be adapted regularly to the state of scientific knowledge. When Community standards are being defined, economic feasibility must be weighed against environmental desirability in each separate case, at least when requirements in both sectors do not point in the same direction.
- 8) The recommendation is not a binding legal instrument. It is both possible and necessary to define Community policy more clearly, either in this draft recommendation or in supplementary texts which ought to be drawn up as soon as possible, governing the implementation of this recommendation.

Since the Committee on Public Health and the Environment, as the committee responsible, had already adopted its report when the Committee on Economic and Monetary Affairs adopted its opinion, it was not possible to incorporate the above conclusions in the report. The Committee on Economic and Monetary Affairs urges the European Commission in particular to pay due regard to these conclusions in its future proposals.