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The Need for a Community Directive on Tourism and Its Effect on the Natural Habitat of the European Community

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INTRODUCTION

Tourism is the single largest industry in the European Community (EC or Community).\(^1\) The natural habitat which attracts many of the tourists to the Community,\(^2\) however, has fallen victim to the competitive nature of the tourist industry. For example, the Alpine region, the site of the 1992 Winter Olympics, is beginning to show the effects of mass tourism.\(^3\)

In June 1991, the European Parliament (Parliament) debated two reports concerning tourism.\(^4\) The first report, known as the McMillan-Scott Report, focused on the need to reverse the decline in the EC tourist industry.\(^5\) The second, known as the Partsch Report, called for a halt to the destruction of the environment brought about by mass tourism.\(^6\) The issuance of these two reports, and the parliamentary debate which ensued, manifest the need for Community legislation which integrates the interests in promoting tourism while protecting the environment. Part I of this Comment evaluates the essential role of tourism in the EC and the recent efforts to attract tourists to the Community. Part II discusses the corresponding dangers to the EC's natural habitat and the possible solutions recently debated by Parliament. Part III proposes that the EC implement a directive harmonizing past parliamentary resolutions on tourism and the environment and that it clarify how Member States can achieve both objectives simultaneously.

\(^1\) Eur. Parl. Deb. (No. 3-406) 23 (June 10, 1991) [hereinafter Debate]; 1991 O.J. (C 183) 77.
\(^2\) 1991 O.J. (C 183) 81; 1990 O.J. (C 231) 235.
\(^3\) See Christopher Dickey, Remodeling the Slopes, Newsweek, Jan. 6, 1992, at 46.
\(^4\) Debate, supra note 1, at 22–23.
I. THE TOURIST INDUSTRY IN THE EC

Recent data indicate a downward turn in EC tourism.\(^7\) Europe now shares in less than 60 percent of world tourism, representing a 10 percent decline in the last ten years.\(^8\) The Gulf War served as the most recent tourist deterrent.\(^9\) With the effects of that conflict disappearing, however, commentators now believe that completion of the Single Market\(^10\) will benefit the EC's tourist industry.\(^11\)

Efforts to increase the number of tourists travelling to the EC, however, may have adverse environmental consequences. In the past, Member States have emphasized the economic aspects of tourism rather than its social and environmental impact.\(^12\) Failure to address the negative environmental effects of mass tourism may well offset the economic benefits derived from an increase in EC tourism.\(^13\)

In 1988, Parliament passed a resolution focusing on the facilitation, promotion, and funding of tourism.\(^14\) According to the resolution, tourism provides approximately 5.5 million full-time jobs in the EC. Tourism also helps sustain the economy in those regions which are unsuitable for agricultural or industrial development.\(^15\) For example, 70 percent of the twelve million inhabitants of the Alps depend on the tourist industry for their livelihood.\(^16\)

\(^7\) DEBATE, supra note 1, at 23, 28.
\(^8\) Id.
\(^9\) 1991 O.J. (C 183) 77; DEBATE, supra note 1, at 28; McMillan-Scott Report, supra note 5, at 9. Other deterrents have included the Chernobyl incident in 1986, the U.S. air-raid on Libya in 1986, and an increase in terrorism. McMillan-Scott Report, supra note 5, at 27.
\(^10\) Although its plan is currently plagued with problems, the EC is preparing to create a single currency before the year 2000. Richard H. Stevenson, Big Stakes in Europe, N.Y. TIMES, Sept. 24, 1992, at D8.
\(^12\) 1991 O.J. (C 183) 75; DEBATE, supra note 1, at 34.
\(^13\) See 1991 O.J. (C 183) 77.
\(^14\) 1988 O.J. (C 49) 157; DEBATE, supra note 1, at 23.
\(^15\) 1988 O.J. (C 49) 159. Unlike many other industries, tourism's potential for generating growth and new jobs is better in the periphery of Europe than in the central regions. DEBATE, supra note 1, at 30.
\(^16\) Partsch Report, supra note 6, at 7. Tourism in the Alpine region accounts for 25
In its 1988 resolution, Parliament proposed that the Community declare 1990 as the European Year of the Traveller. In its objectives for the Tourism Year, the Council addressed environmental interests by promising to "promote a better distribution of tourism over time and location while respecting the quality of the environment, particularly by encouraging the staggering of holidays and the development of alternatives to mass tourism, and of new destinations and new forms of tourism." In December 1990, however, Parliament passed a resolution criticizing the way the European Commission (Commission) handled the Tourism Year, noting that it had met few of its objectives.

In 1991, Mr. McMillan-Scott, rapporteur for the Committee on Transport and Tourism, presented a new report. Critics claim that the McMillan-Scott Report continues to ignore environment-
tal concerns. The McMillan-Scott Report focuses on the various aspects of the tourism industry that the Commission should develop. It urges the Commission to focus on the regional aspects of tourism. For example, the McMillan-Scott Report suggests offering financial incentives to private and public groups in less-developed regions of the EC who exercise innovative approaches to attracting tourists to their area. The McMillan-Scott Report also calls upon the Commission to develop the consumer protection aspect of tourism: by regulating the standards that hotels and hostels must follow; by ratifying agreements covering travel and accident insurance; and by ensuring that minority tourists, in particular, are not harassed or victimized while in the EC.

The McMillan-Scott Report promotes the sharing of information on tourism policies and practices between Member States in order to strengthen the tourism industry and to enable it to attract more tourists to the EC. For example, the report encourages the publication and dissemination of tourism studies, training sessions, and seminars throughout the Community. Additionally, the McMillan-Scott Report encourages further Community legislation on tourism. The McMillan-Scott Report also urges common rules on the improvement of air, road, rail, sea, and river routes throughout Europe in order to bring more tourists to the region and to facilitate travel while they are there.

Despite the desire to use cooperative tourism practices in order to strengthen the industry, the McMillan-Scott Report does not promote tourism that is standardized or commercialized. Instead, the McMillan-Scott Report proposes that Community action focus on tourism diversification. This report also supports

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23 Debate, supra note 1, at 29, 30, 77. Mr. Bettini, from the Green Group in Parliament, stated that in the McMillan-Scott Report, "environmental questions, which ought to be the main pillar of the report, are instead an affectation, a window-dressing." Id. at 29. Mrs. Diez de Rivera Icaza argued on behalf of the Socialist Group that the McMillan-Scott Report did not adequately meet the ecological concerns confronting the EC. Id. at 77.

25 Id. at 13.
26 Id. at 21.
27 See id. at 10.
28 Id.
29 Id. Recent legislation covers computerized reservation systems, package travel, liberalization of air transport, and a denied-boarding compensation system. Id. at 12, 30.
30 See id. at 11.
31 Id.
32 Id.
the idea that Community funds should support tourism projects in declining industrial regions of the EC.\textsuperscript{35} The McMillan-Scott Report favors programs that would make tourism accessible to everyone.\textsuperscript{34} The idea which emerged from the parliamentary debates was that the EC could incorporate many of the McMillan-Scott proposals into legislation focusing on increasing the attractiveness of tourism in the EC.\textsuperscript{35} Members of Parliament stressed, however, that measures promoting tourism must take into account the detrimental impact of tourism on the natural habitat.\textsuperscript{36}

\section*{II. The Growing Concern about the Environment in the EC}

The Council designated 1987 as the European Year of the Environment.\textsuperscript{37} Nonetheless, the EC only recently established an environmental protection policy.\textsuperscript{38} Previously, lacking a Community-wide environmental policy, the EC paid little or no attention to the environmental aspects of tourism.\textsuperscript{39} Thus, the EC has only begun to acknowledge the extent of damage that tourism inflicts upon the environment.

The Partsch Report,\textsuperscript{40} for example, focuses on the degree of devastation that tourism has caused in the Alpine region, the site of the 1992 Winter Olympics.\textsuperscript{41} During his presentation of the Partsch Report to Parliament, Mr. Partsch concluded that the

\begin{footnotesize}
\begin{enumerate}
\item[33] Id. at 13.
\item[34] Id. at 15–16. The McMillan-Scott Report advocates accessibility to tourism by workers, families, youths, the elderly, the disabled, and emigrants. Id. at 16–17.
\item[35] See DEBATE, supra note 1, at 30 ("let us mix a little of the Partsch report with the McMillan-Scott report, and who knows . . . we might have some positive fall-out.").
\item[36] Id. at 26.
\item[37] 1988 O.J. (C 129) 1.
\item[39] DEBATE, supra note 1, at 34.
\item[41] Partsch Report, supra note 6, at 4.
\end{enumerate}
\end{footnotesize}
state of environmental decline in the Alps is critical.42 For example, only weeks before the 1992 Olympic games, the Alpine region experienced several avalanches, paralyzing many small towns.43 Environmentalists had foreseen that avalanches would occur because the Alps are "saturated with ill-conceived ski resorts that threaten the Alps' delicate balance of man and mountain."44 In addition, other environmental groups have reported that resorts, traffic jams, and deforestation of the Alpine landscape resulted in diseased forests, decline of agriculture, and disruption of rural life.45

The Partsch Report notes that heavy machinery used for the development and maintenance of ski trails has caused the greatest damage to the Alps because it compacts the soil, decreases absorption, and results in erosion of the land.46 Furthermore, bulldozers and steel-edged skis can cut into the soil, harming vegetation.47 The harm is not limited to the man-made ski slopes; off-trail skiers harm various species of flora and fauna.48

Summer tourism endangers the natural habitat as well. Hikers and mountain bikers often make their own trails, or extend previously existing ones, thereby accelerating erosion.49 Resorts have developed summer skiing on thirty-six glaciers.50 Such glaciers are valuable water reserves and are important for temperature regulation.51 Tourist automobiles release hazardous substances into the Alpine air,52 causing pollution. Pesticides and herbicides applied to maintain golf courses53 and chemicals involved in the making of artificial snow54 seep into the ground, further dam-

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42 DEBATE, supra note 1, at 23.
43 Dickey, supra note 3, at 46.
46 Partsch Report, supra note 6, at 8.
47 Id. As a result of tourist activity, bare rock, formerly covered by grass, topsoil, and trees now lies directly beneath the snow. Dickey, supra note 3, at 46–47.
48 Partsch Report, supra note 6, at 8.
49 DEBATE, supra note 1, at 156; Partsch Report, supra note 6, at 8.
50 1991 O.J. (C 183) 113.
51 DEBATE, supra note 1, at 155.
52 Id. at 34.
53 Dickey, supra note 3, at 47.
54 Partsch Report, supra note 6, at 5.
aging vegetation and wildlife. Moreover, to accommodate both
winter and summer tourism, as well as the Olympics, developers
continue to cut down forests. The Partsch Report makes it clear
that in order to save the environment, and thus a major element
of the tourist industry, both immediate and more long-term mea­
sures are necessary.

III. PROPOSAL FOR A DIRECTIVE ON TOURISM AND THE NATURAL
HABITAT OF THE EC

During the parliamentary debates of the McMillan-Scott and
Partsch Reports, members of Parliament expressed concerns both
about losing ground in a vital industry and about mass tourism’s
effect on the environment. Parliament ultimately adopted a
separate resolution on each topic. Members of Parliament faced
complex issues. The EC must satisfy the growth of demand while
maintaining the quality of tourism demanded. It must strive to
protect the Community’s cultural and environmental heritage,
while avoiding artificial and uniform tourist resorts. The EC
must continue to expand the supply of tourism, yet compete with
tourism that is less expensive outside the EC. Parliament did
not attempt to harmonize these concerns itself; it adopted the
McMillan-Scott and Partsch Reports verbatim and instructed
the Parliament’s President to forward the resolutions to the Coun­
cil and the Commission for further action or approval. While
the parliamentary debates apparently spurred Council action,
continued piecemeal legislation on the environment is an inadequate response to the immediate crisis facing the entire EC.65

The Commission should draft a proposal for a directive that strikes a balance between promoting tourism while protecting the natural habitat throughout the EC.66 Any such directive could incorporate points made during the parliamentary debates of June 1991.67 First, a proposed directive could create non-development zones and impose the "polluter pays" principle.68 Second,

65 Fifth EEC Programme: Commission Launches "Sustainable Development", Transport Europe (Eur. Info. Serv.), Mar. 28, 1992, available in LEXIS, Europe Library, Alleur File [hereinafter Sustainable Development]. The EC has adopted approximately 200 legislative acts regulating air, soil, and water pollution in the last twenty years. "In spite of the action that has been taken, [a report recently adopted by the Commission] shows that the state of the environment still leaves a lot to be desired." Id. (quoting former European Commissioner for the Environment, Carlo Ripa di Meana). A true environmental protection policy at the Community level is "still a long way off." Coopers & Lybrand, Environment, supra note 38, at *10.

66 See Motion for a Resolution (B3-1989/90) by Mr. Simeoni Pursuant to Rule 63 of the Rules of Procedure on the Damage Caused to Natural and Semi-Natural Habitats by Land and Property Speculation in Connection with Large-Scale Tourist Projects, Partsch Report, supra note 6, at Annex I; Debate, supra note 1, at 37 (acknowledging definite need for a certain regulatory framework regarding the environment and tourism). The EC could implement a regulation or a directive on the subject of tourism and the environment. Although both directives and regulations are binding upon Member States, the directive seems preferable because it is a milder form of legislation that allows Member States to consider unique domestic circumstances when implementing Community law. Additionally, directives allow the EC to "achieve the necessary measure of unity while preserving the multiplicity of national characteristics." BORCHARDT, supra note 63, at 31–32.

67 A proposed directive could also incorporate points from certain newly-adopted documents which are beyond the scope of this Comment. First, the Council recently proposed the establishment of Natura 2000, consisting of special conservation areas throughout the EC to protect various species of animal and plant life. Council Directive 92/43/EEC of 21 May 1992 on the Conservation of Natural Habitats and of Wild Fauna and Flora, 1992 OJ. (L 206) 10 [hereinafter Natural Habitat Directive]. The Natural Habitat Directive, however, does not mention mass tourism as a cause of environmental destruction; it suggests rather limited means of restoring or maintaining the environment. See id. at 9–15. Second, a proposed directive could incorporate Parliament's objectives as spelled out in its Fifth Action Programme. See generally Fifth Environmental Action Programme, COM(92)23 final [hereinafter Fifth Action Programme]; Coopers & Lybrand, Environment, supra note 38, at *10.8. The Fifth Action Programme's objective is to achieve "sustainable development," or development that does not destroy natural resources for the future. Tony Carritt, EC Offers Dialogue with Industry on Environment, Reuters, Mar. 18, 1992, available in LEXIS, Europe Library, Alleur File. Furthermore, the Fifth Action Programme encourages cooperation and shared responsibility in this area. Coopers & Lybrand, Environment, supra note 38, at *10.8. The Fifth Action Programme, however, as an environmental research and development programme, has no legal effect in the EC. Id.

68 See Partsch Report, supra note 6, at 4. Under the "polluter pays" principle, polluters "must pay the costs of such measures as are necessary to eliminate that pollution or to reduce it so as to comply" with applicable standards. Council Recommendation of 3 March
a directive could encourage travel to different areas of the EC and could improve upon the modes of environmentally-clean travel. Finally, it could demonstrate that protecting the environment does not necessitate a decrease in tourism; a directive could encourage different forms of tourism that respect the natural habitat.

A. Immediate Measures

A directive on the effect of tourism on the natural habitat of the EC must set forth clear guidelines on how to alleviate short-term environmental concerns. The Partsch Report calls for immediate labeling of the most threatened areas as non-development zones and conservation areas. The Partsch Report would declare the whole Alpine region a non-development zone. Such action would allow endangered areas to begin to recover from environmental damage.

Other immediate measures could include refusal by the EC to finance any ski lifts or land development absent studies on their environmental impact. The EC could also forbid further exploitation of glaciers for summer skiing. Hikers should not be allowed to fashion their own trails; fences and clear signs could be erected immediately to prevent any further harm to vegetation.

In addition to these prohibitory measures, a directive could provide for affirmative short-term Community action, similar to the activities that occurred during the Tourism Year. For example, a directive could establish programs providing for supervised hiking or biking vacations. A proposed directive could also promote conferences or seminars on topics relating to the envi-


69 See Partsch Report, supra note 6, at 9; DEBATE, supra note 1, at 23. "The sensitive ecosystem of the Alps is so much at risk that the situation is already critical. Only the immediate implementation of the measures that are needed can save the situation." DEBATE, supra note 1, at 23.

70 Partsch Report, supra note 6, at 4; DEBATE, supra note 1, at 155.

71 Partsch Report, supra note 6, at 4.

72 DEBATE, supra note 1, at 155.

73 See id.

74 See Partsch Report, supra note 6, at 8.

75 Report on the European Year of Tourism, supra note 17, at 45.
ronment.\textsuperscript{76} Other provisions focusing on replanting trees and vegetation could begin immediately in order to offset environmental damage caused by mass tourism.\textsuperscript{77}

To ensure protection of the environment, the Commission could advocate penalizing developers whose projects damage the Alps. It could assess compensation according to the polluter pays principle.\textsuperscript{78} According to the polluter pays principle, any person exploiting the Alps for tourism purposes would have to cover "the associated external environmental costs."\textsuperscript{79} Under such a doctrine, ski-lift firms would compensate farmers for their loss in earnings.\textsuperscript{80} The polluter pays principle would provide an effective incentive for developers to find immediate ways of decreasing their activities which pollute or damage the environment.\textsuperscript{81}

B. \textit{Long-term Measures to Distribute Tourists over Time and Location}

A proposed directive's long-term goals should focus on discouraging tourists from converging at a few tourist locations in the EC.\textsuperscript{82} A directive could advocate alternative forms of tourism that disperse tourists seasonally and geographically.\textsuperscript{83} The Commission could distribute tourist activities throughout the year by regulating when tourists may travel.\textsuperscript{84} In addition to spreading tourism out over time, the Commission must expand the tourist industry into different regions of the EC.\textsuperscript{85} Finally, a proposed

\textsuperscript{76} Id.
\textsuperscript{77} DEBATE, supra note 1, at 24.
\textsuperscript{78} 1991 O.J. (C 183) 113.
\textsuperscript{79} Partsch Report, supra note 6, at 4.
\textsuperscript{80} 1991 O.J. (C 183) 113. The Partsch Report recommends that the EC subsidize farmers who cultivate the landscape. Such action would guarantee that the surface area of the Alps will continue to be cared for, so that they remain viable, and at the same time attractive to tourists. Partsch Report, supra note 6, at 8.
\textsuperscript{81} Council Recommendation, supra note 68, at 3.
\textsuperscript{82} See 1988 Council Decision, supra note 18, at 53.
\textsuperscript{83} Id.; see supra note 19 and accompanying text.
\textsuperscript{84} For example, the Commission could take action to stagger school holidays and workers' leaves. 1988 Council Decision, supra note 18, at 53. It is admittedly difficult "to influence the seasonal spread of holidays because of the complexity of the matter and the number of variables influencing the decision as to when holidays are to be taken . . . as well as the choice of holiday destination." 1991 O.J. (C 323) 1. The Commission has initiated studies and advocated conferences on the issue of staggering holidays. Id.
\textsuperscript{85} 1988 Council Decision, supra note 18, at 53.
directive could facilitate the movement of tourists within the EC by improving the rail system. 86

1. Changing the Forms of Tourism

In order to disperse tourists geographically as a means of protecting the environment, a proposed directive could encourage tourists to vacation in different locations and to participate in activities that do not harm the environment. 87 A directive could encourage each Member State to implement programs that spark interest in its particular region. 88 Competitions which have occurred in the past include rewards for the “best flower-planting in a town” or “the best organization, presentation, and promotion of three cultural itineraries.” 89 Promoting certain forms of tourism could offset any anti-tourist restrictions adopted to protect the environment. 90

The parliamentary debates emphasize “soft” or “gentle” tourism, or tourism that is respectful of the environment and of local cultures. 91 Soft tourism promotes “the culture of places, diversification of the means of transport, alternative accommodation and the culture of local foods.” 92 Soft tourism seems to include the various forms of tourism that Members of Parliament suggested during the 1991 debates. 93 For example, “cultural tourism” 94 and “rural tourism” 95 encourage tourists to travel to new destinations in the EC, and to participate in different activ-

86 1991 O.J. (C 183) 76.
87 See 1989 O.J. (L 17) 53.
88 McMillan-Scott Report, supra note 5, at 18.
90 See 1990 O.J. (C 231) 235.
91 DEBATE, supra note 1, at 25, 30, 34, 37.
92 Id. at 30.
93 See id. at 25, 36–37.
94 Report on the European Year of Tourism, supra note 17, at 53. Cultural tourism focuses on increasing the awareness of the common roots and cultures that Europeans share, as well as establishing cultural itineraries of interest to all tourists, such as the Baroque Routes and the Route of the Celts in Europe. Id. Thus, the development of areas of cultural interest has great potential for increasing EC tourism. McMillan-Scott Report, supra note 5, at 18.
95 Report on the European Year of Tourism, supra note 17, at 53. Rural tourism includes an “understanding of ... heritage, the discovery of local culture, attention to the natural landscape and the way of life of the local populations. ...” McMillan-Scott Report, supra note 5, at 14; see generally Community Action to Promote Rural Tourism, Communication from the Commission, COM(90)438 final.
ities. These two forms of tourism, as well as "social tourism,"
96 could potentially increase the number of tourists,97 while decreasing the degree of environmental damage by spreading tourism over more locations.98

The Commission could promote these new forms of tourism in a directive. Tourism which disperses tourists and which is independent of the seasons is less harmful to the environment.99 A directive could encourage each Member State to develop and promote the folklore and customs unique to its area.100 It could also provide financial incentives for Member States to develop tourism innovatively.101 The Commission could encourage a return to one's roots and could promote cultural activities to interest tourists in different areas of the EC.102 Such provisions would promote local economies103 while distributing tourism throughout the EC. Consequently, environmental damage would be reduced.104

A proposed directive could also establish a European information network105 to coordinate data and to investigate forms of soft tourism.106 The network could publish lists of activities that are harmful to the environment. Such a network could serve as a useful resource for the mass media, a necessary tool for promoting tourism.107

In addition, a proposed directive could incorporate a prominent role for the package tour industry in order to further facilitate the flow of tourists from one location to another and to avoid excessive concentration of tourists in one area. The EC could assimilate ideas from the Council Directive on Package

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96 Report on the European Year of Tourism, supra note 17, at 53. Social tourism incorporates the idea of making tourism accessible to everyone, including single-parent families, the disabled, and the elderly. Id.; DEBATE, supra note 1, at 36. The Commission has recommended the implementation of a European over-sixties card providing for travel, accommodation, or other reductions. 1991 O.J. (C 323) 25. Similar proposals have been made for youth cards.
97 See, e.g., 1991 O.J. (C 183) 75.
98 DEBATE, supra note 1, at 25, 28.
99 Id. at 26.
100 McMillan-Scott Report, supra note 5, at 18.
102 DEBATE, supra note 1, at 27–28; McMillan-Scott Report, supra note 5, at 18.
103 DEBATE, supra note 1, at 25.
104 Id. at 28.
105 1991 O.J. (C 183) 112.
106 Id.
Travel, Package Holidays and Package Tours.\textsuperscript{108} The policy underlying that directive was that the promulgation of common rules in the package travel industry would stimulate growth and would not only benefit EC citizens buying packages, but would also attract tourists from outside the EC seeking the benefits of guaranteed standards in packages.\textsuperscript{109}

2. Rail Travel

A directive could further promote the expansion of tourism into less-frequently explored regions of the EC by encouraging a switch from private to public travel.\textsuperscript{110} Train travel is a relatively clean mode of transportation, and it is safe and efficient.\textsuperscript{111} Currently, however, only 14 percent of European travel is by train.\textsuperscript{112} The Commission could propose the establishment of an even more comprehensive rail system than currently exists in order to facilitate travel throughout the EC.\textsuperscript{113} Additionally, the Commission, through advertising and marketing in the mass media, could encourage tourists to use the existing rail system more extensively.

The Single Market will probably result in air transport becoming more expensive than other forms of travel, such as train


\textsuperscript{109} Id.

\textsuperscript{110} Regin, supra note 45; 1991 O.J. (C 183) 76, 79; DEBATE, supra note 1, at 77.

\textsuperscript{111} 1991 O.J. (C 183) 76. Trains are desirable as a means of transport because of their "speed, safety, low environmental impact, and rational use of energy." McMillan-Scott Report, supra note 5, at 30.

\textsuperscript{112} DEBATE, supra note 1, at 35. Transport by car accounts for 70 percent of all travel, and 13 percent of travel takes place by air. Id.

\textsuperscript{113} See, e.g., 1991 O.J. (C 214) 3. On December 17, 1990, the Council adopted a resolution on the development of a high-speed rail system. 1991 O.J. (C 33) 1. The Council expects the Commission to submit an updated outline plan before the end of 1992. 1992 O.J. (C 20) 32. The current European rail system has room for improvement, both in terms of efficiency and ecology. Id. Mr. Frederic Rosmini presented a written question to the Commission, noting that France received aid for research into the future of the high-speed train (TGV). Mr. Rosmini stated that "the high-speed train constitutes an essential element of European regional policy. Given the considerable investment necessary to establish such a network at [sic] national level, it is only logical to envision a network operating on a larger scale serving the major European capitals." Id. He inquired whether the Commission had initiated a European high-speed rail project comparable to and compatible with the French system, "taking into account the vital ecological factors of the areas which such a network would cross." Id. The Commission responded that a working group was formulating plans for a European high-speed rail system which would be compatible with the French network. Id.
travel. In addition, the EC could take steps to diminish the amount of travel by car by either raising gasoline prices or reducing train fares for family or group travel. Thus, it might be easier to encourage tourists to use more environmentally sound means of transport, such as trains, rather than cars or airplanes.

By giving assistance, perhaps in the form of reduced fares, to individuals who would not normally travel, tourism might increase once again in the EC. With complementary measures to ensure that these tourists are not concentrated in overpopulated areas, the detriment to the environment could be diminished. If travel costs remained low, tourists would be more apt to venture to the peripheral Member States.

A proposed directive could include support for Community-wide tourism. The development of high-speed transport could allow tourists to visit multiple sites in the EC, instead of remaining concentrated in a single area. Such transport measures could promote the flow of tourists, and at the same time, protect the environment. Arguably, expansion of tourism into areas which have not yet been exploited will result in environmental damage over a wider area of the EC. A policy which discourages tourists from congregating in the popular tourist spots, however, might reduce the aggregate damage to the EC's environment. Moreover, measures that cut down on the number of tourists at a particular resort or tourist attraction at any one time need not

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114 DEBATE, supra note 1, at 27. Although frontier checks and certain border restrictions will be eliminated, the Single Market will likely be accompanied by an increase in the Value-Added Tax (VAT) on plane tickets, an elimination of tax-free sales, and perhaps an excise duty imposed on fuel, making flying more expensive. Id.

115 See Action Plan, supra note 11, at 11. Community bodies are currently discussing the use of economic or tax instruments to affect behavior that has an environmental impact. Id.


118 DEBATE, supra note 1, at 28.

119 See id. at 30–31. A proposed directive could incorporate the Council's objectives for the 1990 European Year of Tourism. See 1988 Council Decision, supra note 18, at 53. For example, the Council could continue to encourage the public and private sectors to coordinate reductions in accommodations and fares during the off-season. Id. at 55.


121 1991 O.J. (C 183) 79; McMillan-Scott Report, supra note 5, at 11.

122 See 1991 O.J. (C 183) 76.

123 See id.; DEBATE, supra note 1, at 28.
diminish the overall number of tourists who annually visit the EC.124

A directive could advocate environmentally-clean modes of transport to travel to new EC destinations. Although spreading tourism over time and location constitutes a slight restriction on tourist activities, the practice would not necessarily impair tourism. On the contrary, protecting the environment is a precondition for the development of the tourist industry.125

C. The Costs of the Solutions

Undoubtedly, the costs of potential solutions to the crisis facing the EC will be great. When questioned about how the restructuring of the tourism sector would be financed, the Commission responded that more than 2 billion European currency units (ECU) have been allocated for Community assistance for tourism in eligible regions.126 The Commission's promise to continue programs begun during the European Tourism Year would apparently be financed in this manner.127 On June 4, 1992, the EC Ministers funded their action plan for tourism with ECU 17 million, or nearly $23 million.128 "This humble budget will mainly serve to fund exchanges of information between Member States and to promote national projects which could serve as an example . . . throughout the EC when it comes to unconventional forms of tourism such as 'green', rural, cultural or social tourism."129

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124 See 1988 Council Decision, supra note 18, at 53. The preambular paragraphs to the Council's decision suggest that tourism must focus on balancing the flow of tourists, rather than decreasing the number of winter tourists.

Whereas the most serious problem confronting tourism in Europe is its over-concentration in the high season with congestion of transport and accommodation services as well as deterioration of the natural and man-made environment and under-utilization of capital and human resources in the low season. . . . Whereas European Tourism Year can promote greater awareness throughout the Community on the opportunities and advantages of extending the tourist seasons for the regions of the Community.

See id.

125 1990 O.J. (C 231) 235.
127 See id. at 1. The Commission recently noted that in light of its "firm commitment to follow up the work already undertaken," it would "continue to co-finance projects . . . which offer the greatest potential for advancing the European tourist industry." Id.
129 Ministers' Action Plan, supra note 128.
Thus, the EC’s limited funds would appear to be inadequate to implement all of the programs which could be included in a directive.

On the other hand, individual Member States can also contribute necessary funds. In Ireland, for example,

much of the funding for new tourist projects comes directly from European Community grants, but the Irish government has played its part. New hotel accommodation, and tourist orientated facilities such as marinas, have been funded indirectly by the exchequer through the Business Expansion Scheme, which provided tax concessions for private investors. Earlier this year, the government announced a[n] . . . ‘agri-tourism’ scheme offering grant aids to farmers for the development of leisure pursuits, with funding for up to half the total costs of a project available. 130

Furthermore, if the Commission were to include tax incentives in a proposed directive, the increase in the flow of subsidies could finance the expansion in tourism. 131 Increased tourism would lead to increased tourist receipts by EC businesses, which could mean an increased tax recovery to fund environmentally-safe tourism projects. Certain programs could arguably pay for themselves. A proposed directive could focus on the financial cooperation of individuals, corporations, individual Member States, and the EC as a whole to fund the restructuring of the tourist industry and the protection of the environment. 132

CONCLUSION

The Commission should propose a directive, rather than another region-specific convention or action programme, to en-

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131 Cf. Eric Frey, *Plenty to Smile About—Tourism*, FIN. TIMES LTD., Oct. 9, 1991, Survey, at VI. In Austria, for example,

[t]ourism enterprises are generally undercapitalised, as Austria’s tax code is offering few incentives to companies to strengthen their capital base . . . . And the massive flow of subsidies that has helped to finance the expansion in tourism over the past 30 years is shrinking because of budgetary constraints and Austria’s adjustment to European Community rules.

Id.
132 See *Sustainable Development*, supra note 65. The European Commissioner for the Environment, in conjunction with releasing the EC’s Fifth Action Programme on the Environment and Sustainable Development, recently noted that “[a] greater effort needs to be made to appeal to the sense of responsibility of companies, consumers, individuals, and public authorities so as to ensure that environmental considerations become a part of individual behaviour patterns. . . .” Id.
courage Member States to protect the natural habitat of the EC. Any proposed directive should strike a careful balance between the economic need for tourism and the environmental need to regulate the dangers inherent in mass tourism. There are clear tensions between these two goals. Shifting the focus of tourism from the exploitation of the environment to the exploration of different cultures would benefit the environment, while not necessarily impairing the tourist industry. Slight restrictions on tourist behavior, necessary to protect the environment, ensure the continued well-being of the tourist industry. Furthermore, dispersing tourism over time and distance and pursuing measures to continue attracting new tourists to the EC could result in an increase in tourism and a decrease in environmental damage to the European Community.

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