Distinguished Chairman, Your Royal Highness, Mr. President, Judges, Ladies and Gentlemen

I. Introduction

I am greatly honoured and very appreciative of having been given the opportunity to address what is truly a celebration of the past 20 years. In particular I wish to thank the President of the Court, Judge Marc Jaeger, and his principal collaborators: Mr. Yves Mottard and Ms. Camille Hoffman, for their initiative in organising, and this invitation to address, this event.

Just over 20 years ago the Court of First Instance opened for business. It was created out of a desire to maintain the efficiency and quality of judicial scrutiny in the Community legal system.

How those 20 years have flown! The Court of First Instance can be justly proud of much of what it has achieved during that period. Following the path taken by the Court of Justice, it has established a formidable reputation, firmly grounded upon a solid jurisprudence of exceptional quality. This edifice has been constructed during a period of unprecedented change in the European Continent. In addition to the considerable technological and scientific changes of the past two decades, the Court of First Instance came into being almost simultaneously with the end of the partition of the European Continent. Throughout its entire history it has expanded in step with the enlargement of the European Union. It has thus evolved constantly in terms of size, personnel, legal influences and traditions. Throughout the entire of its existence
the Court of First Instance has been in a state of continuous and rapid evolution. There is nothing new in the Court of First Instance meeting the challenges posed by change – change is in its very bones.

In celebrating this milestone, this conference affords a unique opportunity for everyone concerned with the Court of First Instance to take stock of its development to date and to contribute to an exchange of views on its future progress. It is not, as the President of the Court acknowledged this morning, inspired by some masochistic urge. It is rather a brave effort to review and discuss the work of the Court of First Instance. It is also an unusually transparent opportunity for engaging with those most affected by its activities, for which the Court of First Instance deserves much credit. All of us come here from different perspectives. Mine is unambiguously that of a legal practitioner. It is thus unashamedly from that perspective that I offer these musings for your consideration.

In addressing the subject matter of this presentation, it may be apposite to refer to the reasons the Court of Justice advanced for the establishment of a Court of First Instance. This is less from a sense of historical perspective rather than recognising that these reasons retain their vitality to-day. The Court of Justice had identified two nefarious consequences from the increase in its case load. The first was the increasing time it was taking to deliver judgment, which lengthened the time to respond to references for preliminary ruling. The second was the want of sufficient time to give adequate attention to cases, particularly in the fields of competition and anti-dumping that involved a detailed examination of complex issues of law and fact.

These considerations thus arose from concerns that both the expeditious dispatch, and the quality, of justice would be afflicted by the inexorable increase in the case load of the Court of Justice. There can be no doubt but that the establishment of the Court of First Instance arrived just in time to avoid paralysis.

Time has moved on. According to the statistics available for 2008 it takes an average of 26 months for the Court of First Instance to hear and determine cases, other than those in the fields of intellectual property and staff matters, which have been described as having a “routine” character.¹ For obvious reasons, that average masks the average time taken to dispose of cases in certain discreet categories. An analysis of cases ruled by judgment in 2009 shows that, to date, dumping cases took
an average of 38 months to determine, agriculture cases 40 months, State aid cases 48 months and competition cases 56 months. It must, however, be emphasised that these figures refer to fully contested cases only.

II. Expedition in Perspective

It is often said that “Justice delayed is justice denied” or, as the Chairman cited this morning, “Slow justice is no justice”.

It has equally been said with approval that the “the wheels of justice grind slow, but they grind exceedingly fine”.

The desirability of doing justice expeditiously cannot be gainsaid. However, as the above cited quotations demonstrate, speed, whilst desirable, is not the predominant goal of the justice system. On a recent visit to the Palazzo Ducale in Venice I was informed that the Council of Ten of the Venetian Republic (which never sat in a formation of 10 members) prided itself on delivering judgment immediately after its deliberations. It is questionable whether that attribute enhanced the quality of justice dispensed since the expeditious delivery of its rulings is believed to have added considerably to the fear in which its determinations were regarded.

So far as may be relevant here, it may be observed that Article 6 (1) of the European Convention on Human Rights speaks of an entitlement to “a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law” in the context of “the determination of … civil rights and obligations or of any criminal charge”. The Court of Human Rights has consistently held that “civil rights and obligations” does not, at least in principle, include all matters governed by public law, taxation being perhaps the best known example. Whilst the Court of Human Rights defines this exclusion narrowly: it is telling that the authors of the European Convention on Human Rights seem to have been less concerned about the time required to address at certain public law matters as compared to the general run of civil and criminal cases.

Article 47 of the Charter of Fundamental Rights, of course, provides that everyone whose rights and freedoms are guaranteed by the law of the Union (which includes the subject matter of all proceedings before the Court of First Instance) and which are violated, has the right to an effective remedy. This includes an express entitlement “to a fair and public hearing within a reasonable time by an independent and impartial tribunal previously established by law.”

It is of significance that the adjective “reasonable” is used to describe the “time” for hearing and adjudicating upon proceedings. At the very least it leads to the observation that the right to expedition is a qualified one. Moreover the Court of Justice has expressly held that there is no positive right to judgments of the Court of First Instance being delivered within any specified period. In Baustahlgewebe the appellant contended that a period of 22 months between the close of the oral procedure and the delivery of judgment negated the usefulness of the oral procedure, it being asserted that the judges would no longer remember it by reason of that lapse of time. The Court of Justice found that neither the Rules of Procedure of the Court of First Instance, nor the Statute of the Court of Justice, required the Court of First Instance to deliver judgment within a specified period after the oral procedure. Absent any impact on the outcome of the proceedings before the Court of First Instance, in particular so far as the state of the evidence is concerned, the Court of Justice rejected this submission as unfounded.

Importing a concept such as reasonableness also requires the enjoyment of the right to be considered in the context in which it is raised. For something to be said to be reasonable account must be taken of relevant economic, financial, social and structural circumstances.

It is submitted that the desirability of expedition in many civil and criminal proceedings has an obvious root. Notwithstanding the availability of forms of evidence unthinkable even half a century ago, contested civil and criminal proceedings often, if not almost invariably, turn on the viva voce evidence of human beings. It is notorious that memory can be altered or distorted by the passage of time. Time can even have a deleterious effect upon some of the forms of evidence that have become available in the recent past, such as DNA samples.

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It follows that a want of expedition in the disposal of civil and criminal proceedings that involve adjudicating upon disputed issues of fact is capable of having deleterious consequences for their outcome. In this context expedition is symbiotically and inextricably linked with the quality of the justice being dispensed by the courts.

The same considerations do not, it is submitted, apply with equal force in the sphere of public law or the judicial review of administrative action. The requirement of expedition in cases involving the detention, expulsion, extradition or surrender of persons does not arise from the nature of the proceedings, or any desire to ensure the quality of the result reached by the tribunal, but rather out of respect for the fundamental right of human liberty. Whilst the Court of First Instance has no jurisdiction in matters of this kind the Court of Justice has successfully sought to vindicate this right, notably through devising and operating the urgent procedure for references for preliminary ruling raising questions in the areas covered by Title VI of the Treaty of European Union concerning police and judicial cooperation in criminal matters and Title IV of Part Three of the EC Treaty concerning visas, asylum, immigration and other policies related to free movement of persons.5

Similarly, the primary motivation for expedition in proceedings before the Court of First Instance is the impact on the parties of the lapse in time in adjudicating upon the proceedings. The Court of Justice recognised this in its judgment in Corus UK, where it observed that

The reasonableness of a period is to be appraised in the light of the circumstances specific to each case and, in particular, the importance of the case for the person concerned, its complexity and the conduct of the applicant and of the competent authorities (Baustahlgewebe, paragraph 29, and Limburgse Vinyl Maatschappij and Others, cited above, paragraph 187).6

The primary reason for the Court of First Instance to expedite the trial process is to ensure that parties obtain the benefit of the law in a timely fashion: in other words legal certainty expeditiously delivered. In some cases, such as merger control, expedition is of very considerable importance. In other cases, for example those involving challenges to decisions made under the EAGGF, expedition is of less importance. In all of these examples the purpose of affording an expeditious hearing is not to ensure that the trial process will arrive at a result of a higher quality. It is

5 Court of Justice, Rules of Procedure, Articles 104a and 104b respectively.
rather to ensure that the interests of the parties outside of the trial process will not suffer by reason of the time required to complete that process.

This being the case, one sometimes wonders if the Court of First Instance is perhaps putting itself under unnecessary pressure to resolve cases within self imposed deadlines. The tests that the Court of First Instance has laid down for the grant of interim measures appear, at least to the perspective of the common lawyer, to be excessively strict. Greater availability of interim relief in appropriate cases could reduce the negative consequences for litigants of the time required to deliver judgment. Such flexibility should, of course, come at a price, by requiring parties that succeed in obtaining interim relief to enter into undertakings pending the resolution of the action. This would ensure that they do not benefit from any windfall that might accrue should their application be ultimately unsuccessful.

The general interest of the Community legal order must also be taken into account when striking the balance between expedition and quality. As the Chairman observed in his opening remarks, the vast bulk of cases before the Court of First Instance are ultimately resolved on the basis of its judgments. The judgments of the Court of First Instance are widely recognised as authoritative statements of Community law. On many issues (the range of which will increase as its jurisdiction increases) the Court of First Instance provides the only authoritative view on an issue, at least until and unless the Court of Justice has had an opportunity to do so. The judgments of the Court of First Instance are thus of considerable precedent value in the Community legal order. In a context where the quality of justice demands a fully reasoned, considered response to what are often complicated and novel legal issues, there is thus obvious scope for tension between the quality of justice, which travels beyond the parties to the litigation, and the interest of the parties to the litigation in its expeditious dispatch. Hurriedly reached determinations carry the risk of misapplying or even misrepresenting the law. This is contrary to the principle of legal certainty that speedy access to judicial review is designed to protect. In passing it may be added that parties seeking the expeditious disposal of their cases are not well served by judgments that become the subject matter of an appeal. According to the Annual Report for 2008 the additional time involved in that process is currently somewhere in the region of 18 months, which average is likely to be considerably exceeded in fully contested appeals on complex issues. Thus the

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parties’ interests in expedition, whilst deserving of the greatest consideration and respect, are not and can not be the sole element to be taken into consideration.

In this context it may also be observed that approximately half of the cases heard by the Court of First Instance in 2008 were ruled by way of orders. It appears that this procedure will be used even more frequently in future by virtue of the amendment of the Rules of Procedure that permits appeals in intellectual property matters to be ruled without an oral hearing.

Whilst this may be of great assistance in expediting the trial process, it achieves that end by effectively omitting what many trial lawyers regard as its core: the trial itself. For reasons developed later in this speech, the oral hearing could and should be used as a tool to simultaneously expedite and improve the quality of justice. Since orders are not made after a full hearing, with all that it entails, they are an inherently unsuitable vehicle for the development of the Court’s jurisprudence, save perhaps in some very narrow fields. Their use should be limited to those cases where the law and facts are so clear as to admit of a straightforward answer. Reliance upon orders cannot satisfy the thirst for expedition, although it may, where appropriate, assist in slaking it.

It follows that celerity is neither the only nor indeed the most important goal. In hearing proceedings within a reasonable time the Court of First Instance is thus required to maintain what is an often difficult balance between ensuring that it maintains the highest standards in the exercise of its jurisdiction and not tarrying in meeting those standards.

III. Quality of Justice

If, as suggested, the quality of justice is the pre-eminent driver for the Court of First Instance, it must be given some consideration, no matter how brief, in the context of a discussion on the time factor in the trial process.

The jurisdiction of the Court of First Instance essentially consists of reviewing the legality of measures adopted by the Community institutions as to their compatibility with higher norms of a substantive and procedural character. The scope of such review is approached on the basis that the essential role of the judge is to control the legality of the decisions of the administration. Judicial review thus requires, in principle, that the judge determine whether the administration has correctly identified
and interpreted the applicable legal rules and whether it has correctly established the facts to which those rules have to be applied. The Court of First Instance does not seek to usurp the powers of the decision maker.

So far as it goes this analysis is, I would suggest, readily recognisable to any administrative lawyer in the European Union. A difficulty may arise as to whether the decision making body has correctly established the facts to which the relevant rules fall to be applied. This gives rise to no problems in those cases before the Court of First Instance where the scope for dispute on the facts is limited. There is nevertheless a category of cases (I am thinking of challenges to the validity of measures in the fields of competition and anti-dumping) which often raise (sometimes hotly) disputed issues of fact.

It is submitted that in cases where decisive facts are seriously in dispute between the parties the Court of First Instance, in the exercise of its judicial review jurisdiction, is required to examine in detail whether the decision making body in fact reached its conclusions on those facts in accordance with law. That involves adjudicating upon matters such as the weight to be given to the various items of evidence before the decision maker and the validity of such inferences as the decision maker may have drawn from that evidence. Ultimately it may involve a determination as to the factual sustainability of the findings made on the basis of that material.

There is, of course, what is now considered to be a well established line of authority to the effect that where the legislator entrusts the decision maker with powers containing a margin of assessment or the making of policy choices, any judicial review of those assessments is "limited to verifying whether the relevant procedural rules have been complied with, whether the facts have been accurately stated and whether there has been any manifest error of appraisal or a misuse of powers." Terms such as "complex economic assessment" are used to delineate the boundaries of review. It is suggested that these terms tend to obscure, rather than enlighten, the debate. Courts throughout the Union are required to assess complex factual situations on a daily basis in fields as diverse as science, finance and medicine in cases involving civil and criminal liability. From a judicial perspective there is nothing inherently sacred about the assessment of difficult factual situations.

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9 This is clear from the approach adopted by the Court of Justice in Joined Cases C-89/85, C-104/85, C-114/85, C-116/85, C-117/85 and C-125/85 to C-129/85 A. Ahlström Osakeyhtiö v. Commission [1993] ECR I-1307.
Complexity appears to be used as form of short hand to define the boundaries of judicial review. If that observation is correct, it is suggested that it is incorrect. The protracted, capacious or difficult nature of a task does not always involve the supervision of a discretionary power conferred by law. Of course, the power to prefer one policy or approach over another is reserved to the decision maker: but it is suggested that that particular boundary is far easier to correctly discern in circumstances where findings as to the sustainability of underlying facts are reviewed by a competent court.

It may come down to this: “light” judicial review suffers from the same deficiencies as “light” beer, “light” butter and “light” bread: designed to give the customer the impression of having consumed the real thing whilst not having done so. It is not suggested that the Court of First Instance should don the decision maker’s mantle: however decisions affecting parties must not, in a society governed by the rule of law, escape review as to their compatibility with that law. The greater the power conferred upon the Community Institutions, the greater the necessity for a comprehensive review of the legality of the process by which their decisions are made. That need is all the more pressing where decisions are made by a body that acts as investigator and fact finder and the action for annulment is the only opportunity for examining whether the powers so conferred are exercised in accordance with law.

IV. Controlling the Time Factor in the Trial Process

There seem to be two principal means whereby the time factor in the trial process before the Court of First Instance may be reduced: increased judicial resources and improvements in the conduct and management of the trial process.

Judicial resources

Judicial resources are finite. Moreover the prevailing economic climate is not conducive to their expansion, at least in the near future.

It is nonetheless obvious that at some point, which may have already been reached, expedition, particularly in the more difficult and complex of cases, can be attained only by means of an increase in the available human resources.
Two possibilities, not necessarily inconsistent, have received serious consideration.

The first is hiving off certain classes of cases to specialised panels. This has already been done to staff cases through the creation of the European Civil Service Tribunal. Proposals to establish similar bodies to determine intellectual property cases and competition cases have been current for some time. The arguments in favour of the former appear to be strong. Those in favour of the latter have not, as yet, received anything near the same degree of approval. Whether the Boards of Appeal should metamorphose into a tribunal to adjudicate upon decisions of the OHIM is perhaps a debate for another day. In that context due weight should be given to avoiding the creation of an over elaborate mechanism for the judicial review of its determinations.

The second is the more sensitive issue of appointing more judges to the Court of First Instance. The Court of First Instance proposed this a decade ago but it died what a former President of this Court described as “an undignified death” before the Council. In the absence of any decision to hive off intellectual property cases it may be premature to revisit this proposal. Nevertheless some consideration ought at least to be given as to how such a system might operate in practice. If the Member States could agree a system of strict rotation of membership of membership of a slimmed down Commission in the context of the Treaty of Nice there appears to be no reason why a similar regime could not apply to the appointment of additional judges to the Court of First Instance. Moreover one might apprehend that some of the initial reluctance to expand the membership of the Court of First Instance beyond the number of Member States would have evaporated. In 1989 the Court of First Instance could sit, and on occasion sat, in a plenary formation of 11 judges (one member being designated at an Advocate General). Such a plenary sitting would now be almost three times greater in size. It has thus been replaced by a Grand Chamber of less than the full compliment of judges sitting in cases that raise particularly important or sensitive legal issues. As the Chairman observed, 84.3% of the cases before the Court of First Instance in 2008 were heard by a chamber of three judges. The current structure is thus, in principle, capable of ready adjustment to accommodate additional judges. It is debatable whether that an increase should reflect the number of Member States. The experience gained in the appointment of

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10 Contrast the conclusions reached on this issue by the House of Lords European Union Committee – 15th Report, 27 March 2007 at paragraphs 84 and 173.
the members of the Civil Service Tribunal may assist in that context. In the event that the number of new judges was to be less than the number of Member States there should be no link between the size of the Member State and the appointment of an additional judge to the Court of First Instance. Ability should be the sole criterion for appointment.

In this discussion it is important not to overlook the fact that judicial resources are not just judges and their proximate advisors and assistants but include all those employed in back up services including the Court Registry, translation and interpretation, press and information, research and documentation, building management, huissiers et al. Any expansion in the number of judges, whether through the establishment of judicial panels or by way of direct appointment, requires a concomitant increase in these resources: otherwise the impact of an increase in the size of the Court of First Instance itself will be diluted.

It is worth observing that what in the greater scheme of things would be a very small increase in resources has the potential to generate very considerable improvements in the speed with which the Court of First Instance can discharge its functions.

*Improvements in the conduct and management of the trial process*

As the chairman acknowledged this morning the Court of First Instance has made great efforts to improve the conduct and management of the trial process. Notwithstanding these efficiencies there is, understandably, constant pressure upon the Court of First Instance to expedite its procedures. A number of items fall for consideration under this heading.

It may be observed that the Court of First Instance makes little use of the facility to allocate cases to a single judge. This is due at least in part to the significant strictures placed upon the availability of that procedure. Experience tends to indicate that cases that are relatively straightforward require relatively little attention. Thus although greater use of this facility could liberate some Court time it is not entirely obvious how much time would in fact be saved. In any case, at least at the current state of the evolution of the Community legal order, the single judge procedure would probably be unsuitable to resolve the larger, more complex, cases that are currently heard by formations of at least three judges. These are the cases where the greatest difficulties lie. For all practical purposes, therefore, it seems that the Court of First
Another initiative that has been suggested is the designation of specialised chambers for the resolution of particular types of cases, notably in the sphere of competition law. This panacea was rejected by the Select Committee of the House of Lords on European Union in its 15th report on the desirability of establishing a separate court for competition matters.\textsuperscript{12} I tend to agree with those conclusions. Specialisation within what may soon be baptised as “the General Court” seems to be a contradiction in terms. Notwithstanding the different subject matter out of which litigation arises there is considerable cross-fertilization in the law governing these areas. The unity of the Court’s jurisprudence might be stretched, if not actually weakened, by systematic internal specialisation. On a purely human level there is also something dispiriting about judges being required to face the same issues day in and day out. It may also be observed that it is doubtful that systematic internal specialisation would necessarily have the desired effect. It is difficult to see how shifting the burden of what are undoubtedly the more complex and difficult cases addressed by the Court of First Instance on to the shoulders of a sub-group of its judges would necessarily lead to speedier decision making, no matter how conscientious and hard working those members are.

The recent Practice Direction of the Court of First Instance on the length of pleadings and their regularisation in the event of their exceeding certain designated maxima also calls for comment. It is entirely understandable that the Court of First Instance seeks to lighten the burden on the resources available to it by requiring parties’ representatives to be more succinct in their written and oral pleadings. Whether attaining this goal necessitates the introduction of limits which for practical reasons must be applied across the board (save for a general exception in complex cases which of necessity cannot become the rule), is quite another matter.

There also seems to be something fundamentally undesirable about two features of the regularisation mechanism as it operates at present. First, any limitation on the length of pleadings must apply to almost all cases if it is to bring about the anticipated savings. This has the paradoxical consequence that the simpler case is essentially unaffected by the limitation whilst the presentation of the more difficult (and perhaps more important) case suffers. It is hard to see how applicants, irrespective of the

\textsuperscript{12} House of Lords European Union Committee – 15th Report, 27 March 2007, paragraphs 118 - 122.
approach they take, can adequately address decisions of 100, 150 or 200 pages in length and comply with the practice direction on the length of pleadings. Not only is this capable of shutting out applicants from making their case before the Court but these requirements also seem to be inconsistent with securing the quality of justice which, as already discussed, supersedes the goal of expedition.

A second objection is that the management of the practice direction by the Registry involves negotiations with one of the parties, presumably on its own initiative. It is understandably difficult for the Registry to apply the rules in the Practice Direction in a manner more flexible than as described therein. In this regard the operation of the Practice Direction raises questions of principle touching upon the right of access to the courts and the principle that justice be dispensed in public. For any directions as to how the substance of a case is to be presented, other than the most formal, must involve the exercise of what is quintessentially a judicial function. The greater the involvement of the judges, however, the greater the resources allocated. This has the effect of negating at least some of the savings that the Practice Direction seeks to make.

It is therefore suggested that the Court of First Instance might revisit this issue. One possibility would be to make it clearer to parties that the limits on the length of pleadings are, ultimately, in the nature of recommendations. Save in the most obvious of cases the “regularisation” of pleadings should be the last, not the first, resort. Another would be to operate a sliding scale on the size of pleadings by reference to their subject matter and/or content. The judicious use of costs orders (either between the parties or levied by the Court on parties) might also be more regularly used to discourage prolix pleadings.

One should also ask why pleadings are either too long or deemed to be too long relative to the subject matter of the proceedings? Is it a consequence of ignorance of, or inexperience in, European law? Is it as a result of pressure from clients? Is it a manifestation of greed or laziness? Or is it perhaps a combination of some or all of these factors?

These considerations lead on to a further, and perhaps more fundamental, point. The greatest respect that one can pay any court is brevity. The greatest discipline that one can impose upon a practicing lawyer is the risk of losing his or her case. An apprehension that a case will be lost by throwing up irrelevancies or pursuing weak
arguments is a greater incentive to keep to the point than all the professional rules and practice directions. It is perhaps easier to identify what is relevant in a system that contains an important oral component since the judge or judges hearing the matter can identify at an early stage in the proceedings the point or points that are central to the case. If one is confident that one has a good point and that it will be understood with alacrity, it is possible to be very succinct, even in the most complex of cases.

One might therefore ask how adopting such an approach might assist in expediting a procedure which, needs must, be principally conducted in writing. The Court of First Instance has consistently, and in my view, correctly, laid great emphasis upon the oral procedure. However consideration could perhaps be given to placing even greater emphasis upon the oral hearing. In that context changes in the preparation of the Report for the Hearing could be of considerable assistance. The Report for the Hearing is prepared once the written procedure is closed. It follows that no issue of pre-judgment arises as between the parties. At a minimum the Report for the Hearing should contain a well-summarised, distilled account of the arguments put forward by the parties. But why not perhaps go further? The Report of the Hearing could be used to indicate what, in the Court’s view, appear to be the real issues in the case. This would encourage parties to focus on the important issues in advance of the hearing. It would facilitate testing their opponents’ arguments at the hearing or, where necessary, pointing out to the Court the issues they consider are important. Greater interaction should lead to an atmosphere of greater trust and confidence in which the Court of First Instance could deliver judgments that do not address bad or irrelevant legal arguments. There appears to be no legal obstacle to the Court of First Instance doing so since it may deliver reasoned judgements that do not assess evidence it considers to be irrelevant or unimportant.13 Focussing upon the principal issues in the proceedings through the preparation of a more synthesised Report for the Hearing might also assist in the expeditious delivery of judgements.

An approach that is even more concentrated on the oral hearing should also avoid the necessity to revisit files at various stages throughout the procedure. In practice much time can be lost in simply getting up to speed with a case. That time could be saved were cases to be addressed by way of a more systematically focussed approach.
Making greater use of the oral procedure might also have the incidental effect of encouraging the parties’ representatives to put their best foot forward during the entire of the proceedings. At present it is all too tempting to put in everything including the kitchen sink into pleadings, secure in the knowledge that the worst that will happen is that the argument will be dismissed in a few paragraphs buried away in a lengthy judgment. The knowledge that such an approach may be publicly frowned upon and the apprehension that it could impair the presentation of what might otherwise be a good case should assist in encouraging parties and their advisors to keep to their best points.

The trial process is, of course, a two way street. The oral hearing is and should be the cutting edge of the trial process. It is intimidating for any practising lawyer to bring proceedings before any Court for the first time. Familiarity with the Court of First Instance and its procedures is therefore to be encouraged. The more lawyers are confident that their client’s case is being heard the less they will feel the need to put up everything in the hope that something will stick. It is possibly too much to hope that one day a lawyer could run a case on his/her best point and be completely confident that that precise issue would be addressed in a manner which, irrespective of the outcome of the case, was totally satisfactory. A greater degree of confidence among all concerned that everyone is doing their best in their respective roles would also assist in bringing about such an outcome.

V. Conclusion

To sum up:

- Expedition is not the most important feature of the work of the Court of First Instance;
- It is time to re-examine and enhance the scope of judicial review Community administrative action;
- More expedition requires more resources;
- Serious consideration should be given to placing even greater emphasis on the oral procedure in the trial process than is already the case.

Many thanks for your kind attention.

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