

5.2. Three other pieces of proposed legislation dealing with civil aviation security should be promoted and adopted as quickly as possible.

5.3. This proposal deals only with security measures for boarding an aircraft. Legislation dealing with on-board security should be proposed and adopted as quickly as possible.

5.4. With regard to infrastructure, the suggested timeframe for implementing the proposal is unrealistic.

5.5. The significant additional expenditure involved in implementing the proposals should be shouldered by the Member States.

Brussels, 28 November 2001.

The President
of the Economic and Social Committee
Göke FRERICHS

Opinion of the Economic and Social Committee on 'Tax policy in the European Union — Priorities for the years ahead'

(2002/C 48/18)

On 5 June 2001 the Commission decided to consult the Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on 'Tax policy in the European Union — Priorities for the years ahead'.

The Section for Economic and Monetary Union and Economic and Social Cohesion, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 13 November 2001. The rapporteur was Mr Morgan.

At its 386th plenary session (meeting of 28 November 2001), the Economic and Social Committee adopted the following opinion by 72 votes for and 8 votes against with 7 abstentions.

1. Introduction

1.1. The Commission's communication is complete and comprehensive.

In its introduction ⁽¹⁾, the Commission explains the purpose of the communication:

'This Communication sets out the Commission view of the fundamental priorities for tax policy in the European Union in the years ahead. It explains the general approach which, in the Commission's opinion, the Community needs to adopt having regard to wider EU policy objectives, and highlights a number of priorities in specific tax areas. In view of the fact that the legal basis for decisions on taxation will, for the time being, remain unanimity, this

Communication also examines whether there are other appropriate instruments that could be used, in addition to legislation, to achieve these policy objectives.'

1.2. The communication is divided into four parts: the general context for developing EU tax policy; EU tax policy — specific objectives for the years ahead; mechanisms to achieve the objectives; conclusion. In section 2, we have summarised the Commission's statement of context without comment, simply to position the proposals which the Commission has subsequently made. In the next three sections of the opinion, we quote the Commission's actions/proposals and give an opinion as to whether they should be accepted or rejected.

⁽¹⁾ COM(2001) 260 final, Introduction, last paragraph.

1.3. One of the objectives of the Commission in its Communication has been to deal pragmatically with the backlog of issues affecting individual citizens and companies.

2. General context for developing EU tax policy

2.1. The Commission discusses the general context under four headings:

- recent EU developments;
- the global trend towards economic integration and cooperation;
- EU tax policy – general objectives;
- how to achieve these objectives.

2.2. The first two of these headings, Recent EU developments and The global trend towards economic integration and cooperation, are purely background material, but the second two provide an important context for the action programme.

2.3. EU tax policy — general objectives ⁽¹⁾

2.3.1. 'What type of EU tax policy would be compatible with or indeed support Member States' efforts to reform their taxation systems? Clearly, such a policy must, as a priority, serve the interests of citizens and business wishing to avail themselves of the four freedoms of the Internal Market (the free movement of persons, goods and capital, and the freedom to provide services). (...) Secondly, EU initiatives in the tax field must ensure that tax systems contribute to a higher efficiency in the functioning of the goods, services and capital markets as well as to a properly functioning labour market. This is required to achieve the Lisbon goals. (...) Thirdly, as called for in the BEPGs, EU tax policy should continue to facilitate efforts to cut nominal rates while broadening the tax base, thus reducing the economic distortions associated with Member States' tax systems (...)'.

2.4. How to achieve these objectives ⁽²⁾

2.4.1. When discussing the instruments for implementing the general objectives outlined above, one of the questions that is most frequently asked is the extent to which EU tax harmonisation is either necessary or desirable.

2.4.2. It is clear that there is no need for an across the board harmonisation of Member States' tax systems. Provided that they respect Community rules, Member States are free to choose the tax systems that they consider most appropriate and according to their preferences. (...)

2.4.3. But a high degree of harmonisation is essential in the indirect tax field. The Treaty specifically provides for such harmonisation (Article 93), because indirect taxes may create an immediate obstacle to the free movement of goods and the free supply of services within, an Internal Market. They may also create distortions of competition. (...)

2.4.4. As far as taxes on personal income are concerned, the view is that such taxes may be left to Member States even when the European Union achieves a higher level of integration than at present. (...)

2.4.5. In the case of direct taxation of mobile tax bases, the need for a certain degree of co-ordination has already been recognised, in particular: the exchange of information on savings income; in the Directives in the field of company taxation already adopted (under Article 94 of the Treaty); in the Code of Conduct for business taxation; and in the proposed Directive on interest and royalties. (...) More analysis is therefore needed, taking into account on the one hand those distortions which could threaten the proper functioning of the Internal Market, and on the other hand the effects of tax competition. (...)

2.4.6. Moreover, while it remains the Commission's view that a move to qualified majority voting at least for certain tax issues is indispensable, the legal basis will, for the present, remain unanimity. Given the difficulties in reaching unanimous decisions on legislative proposals, which will be compounded by enlargement, the Community should also consider the use of alternative instruments as a basis for initiatives in the tax field. (...)

3. EU tax policy — specific objectives for the years ahead

3.1. Indirect taxation

3.1.1. Value added tax

3.1.1.1. The Commission has brought forward proposals to improve the transitional system ⁽³⁾. In its opinion ⁽⁴⁾, the ESC concluded as follows:

⁽¹⁾ COM(2001) 260 final, 2.3, 1st–3rd paragraphs.

⁽²⁾ COM(2001) 260 final, 2.4, 1st–5th and 7th paragraphs.

⁽³⁾ COM(2000) 348 final.

⁽⁴⁾ OJ C 116, 20.4.2001, p. 59.

3.1.1.2. The Committee reiterates its position that the manifold and serious weaknesses of the present transitional system can only be finally removed by the introduction of a new definitive system based on the principle of taxation in the country of origin. It deeply regrets the total lack of progress which has been made towards achieving this goal and, while it welcomes the Commission's continued dedication to this as a long-term measure, it wonders how many more years of the ramshackle transitional system will have to be endured before this objective can be attained.

3.1.1.3. It calls upon the Member States to realise the advantages for the European Union which would accrue from a system which would make a reality of the single market, rather than undermining it, and do so much to stem the current tide of VAT fraud.

3.1.1.4. The Committee agrees that the key elements in improving the transitional system are simplification and modernisation of current rules, more uniform application of the rules and closer administrative cooperation. It accepts the Commission's proposition that 'modernisation and simplification' and 'administrative cooperation and fraud prevention' form a single package and must go hand in hand.

3.1.2. Excise duties

3.1.2.1. Energy and environmental taxation

3.1.2.1.1. It is important to recognise that taxation is one of a number of instruments for tackling environmental problems. For example, regulations relating to the technical efficiency of internal combustion engines, and the energy saving properties of buildings, are very important. A major contribution towards the Kyoto targets has been made by the switch of generating capacity from coal and oil to gas. It is important to keep the taxation instrument in a proper context. The ESC has spoken out in various opinions in favour of economic regulatory instruments in the field of environment policy. However, as the Committee has also pointed out repeatedly, 'the introduction of eco-taxes must not be allowed to lead to European firms becoming less competitive and to jobs being lost, especially in energy-intensive sectors' (1).

3.1.2.1.2. It is the ESC opinion that while EU support for the Kyoto protocol should not be put in question, we should not be afraid to continue to ask questions about how these targets are met.

3.1.2.1.3. The Commission observes (2) that 'the current mechanisms at both national and Community level thus lead to possible distortions in the consumer choices between energy sources or products and in the conditions of competition. A Community framework for facilitating the approximation of the taxation schemes of Member States would offer the most efficient remedy to these difficulties'. The Economic and Social Committee considers that this should remain a matter for the competence of Member State governments, depending as it does on the particular supply and demand patterns in each Member State. Nevertheless the ESC feels that Member States must come together to reduce pollution since pollution knows no boundaries.

3.1.2.1.4. The Commission is anxious to progress beyond the stalemate on the proposed Council Directive for restructuring the Community Framework for the taxation for Energy Products (3). While reiterating our support for Member State decision-making, the ESC commends to Member States the recommendation in the proposal that when implementing the directive they should avoid any increase in their overall tax burden.

3.1.2.1.5. The Commission feels that (4) 'the weaknesses of the current situation have once again been exposed by the range of different measures adopted by Member States, in particular in the road haulage sector, in response to the increased oil prices in 2000. It demonstrates once again that a common framework for the taxation of energy products should be established, not only on the structure of such taxes but also in relation to tax rates'. The Economic and Social Committee cannot see the connection between the reaction of Member States and the need for a common framework, since the events in different countries were caused by different national factors.

3.1.2.1.6. In conclusion, the Commission states that (5) 'the shift towards environmental taxes has clearly been a very slow one.' It asserts that 'a common framework including differentiated rates according to environmental objectives could be very useful.' However, in the view of the ESC, the attempt to agree a common framework should not hold back actions which countries would otherwise take. We would recommend a system of common goals while continuing to look for a common framework.

(1) OJ C 19, 21.1.1998, p. 91.

(2) COM(2001) 260 final, 3.1.2, Energy and environmental taxation, 3rd paragraph.

(3) COM(1997) 30.

(4) COM(2001) 260 final, 3.1.2, Energy and environmental taxation, 6th paragraph.

(5) COM(2001) 260 final, 3.1.2, Energy and environmental taxation, last paragraph.

3.1.2.2. Vehicle taxation

3.1.2.2.1. The Commission states that approximation of vehicle taxes should be encouraged. It seems to the Economic and Social Committee that the cross-border effects on private vehicles are de minimis at the citizen level, and that Member State priorities should prevail. However, the ESC notes that there is a competitiveness issue for commercial vehicles involved in cross-border activity.

3.1.2.2.2. The Commission states that ⁽¹⁾'the possibility of restructuring registration and circulation taxes in an environmental direction will be examined.' In principle, such moves will have Economic and Social Committee support, on the assumption that Member States would embrace such guidelines as part of their own CO₂ reduction plans.

3.1.2.3. Duties on alcohol and tobacco

3.1.2.3.1. Present excise duty frameworks in the European Union allow a wide range of discretion for Member State governments. A Commission proposal to amend the structure and rates of excise duty as applied on manufactured tobacco ⁽²⁾ has been considered by the ESC. This directive would align excise duties on tobacco were more clearly. The proposal has been rejected by the ESC in its Opinion CES 1330/2001. The Commission intends to adopt a report on alcohol taxation before the end of 2002.

The Economic and Social Committee feels that within a broad framework duties on alcohol and tobacco are fundamentally matters for Member State governments. There are clearly trade-offs between these duties, the overall levels of direct taxation, the overall levels of disposable income, and wider interests such as health and agricultural policies. The current wide differences between levels of excise duty on alcoholic drinks lead to much cross-border traffic (legal and illegal), but this is an issue for Member States.

3.2. Direct taxation

3.2.1. The international framework

3.2.1.1. The overall aim of the major world economics, including those of the EU Member States, has been to work towards a fiscal climate which promotes free and

fair competition and is conducive to cross-border business activity, while at the same time ensuring that national tax bases are not eroded. The work on tackling harmful tax competition, both in the OECD and also in the EU through the tax package, has been central to this aim in the last few years ⁽³⁾.

3.2.1.2. In a parallel Opinion (ECO/067), the ESC is giving a position on 'Fiscal competition and its impact on company competitiveness'. In general, we agree with the conclusions of the Commission ⁽⁴⁾ that 'considerable progress has been made in identifying harmful tax practices and agreeing timetables for their elimination.' The ESC opinion is being further developed in ECO/067.

3.2.2. Company taxation

3.2.2.1. In its tax policy communication, the Commission stated that an in-depth study of company taxation was being prepared.

3.2.2.2. 'The study will analyse differences in effective levels of corporate tax in Member States, taking into account, inter alia, the results of the report of the Ruding Committee (1992). Attention should be given to the influence of corporate tax bases on effective levels of taxation. Moreover, the study should also identify the main tax provisions that may hamper cross-border economic activity in the Single Market. On this basis, an assessment should be undertaken of the effects on the location of economic activity and investment. The Commission should highlight the tax policy issues involved in reducing tax-induced distortions and examine possible remedial measures, taking account of the respective spheres of competence of the Member States and the Community ⁽⁵⁾.'

3.2.2.3. We have now received this new communication and the ESC expects to prepare an opinion.

3.2.3. Personal income taxation

3.2.3.1. In summary, the Commission's position is as follows ⁽⁶⁾: As pointed out in section 2.3, personal income taxes fall in their entirety under the sole responsibility of Member States and co-ordination at EU level only becomes

⁽¹⁾ COM(2001) 260 final, 3.1.2, Vehicle taxation, 2nd paragraph.

⁽²⁾ COM(2001) 133 final.

⁽³⁾ COM(2001) 260 final, 3.2.1, 1st paragraph.

⁽⁴⁾ COM(2001) 260 final, 3.2.1, 2nd paragraph.

⁽⁵⁾ COM(2001) 260 final, 3.2.2, 2nd paragraph.

⁽⁶⁾ COM(2001) 260 final, 3.2.3, 1st and 3rd paragraphs.

necessary to prevent cross-border discrimination or obstacles to the exercise of the four freedoms. In particular, co-ordination of personal income taxes may in some areas be needed to avoid double taxation or unintentional non-taxation in cross-border situations, or to tackle tax evasion. (...)

3.2.3.2. (...) As the growing number of cases before the ECJ reveals, new problems can be expected to arise. If the problem of cross-border issues relating to personal income taxation is not to be completely left to the Court to resolve, greater co-ordination at EU level appears necessary.

3.2.3.3. The ESC welcomes a degree of co-ordination to facilitate cooperation between Member States.

3.2.4. Taxation of pensions

3.2.4.1. The Commission recognises that a minority of states do not permit tax deductions on personal pension payments by employers and employees (from another state). This clearly creates problems, and the Commission will seek to find solutions within the existing legal framework⁽¹⁾. The ESC shares the Commission's concern and has given its Opinion.

3.2.5. Tax fraud — direct and indirect taxes

3.2.5.1. The ESC remains concerned about the general level of fraud in the Community, in particular in the fields of VAT and Customs and Excise. The ESC welcomes the steps being taken by the Commission to tackle tax fraud.

3.2.6. Achieving the tax policy objectives in the enlargement process

3.2.6.1. The ESC supports the steps being taken by the Commission to ensure that in taking on the obligations of the *acquis communautaire*, candidate countries accept the fundamental cornerstones of the tax *acquis*.

4. Mechanisms to achieve the objectives

4.1. *The decision process* ⁽²⁾

4.1.1. The Commission has traditionally relied mainly on making proposals for Directives, and in some cases, regulations, as a way of achieving progress in the tax field. Directives and regulations have as advantages that they are adopted only after full discussion in the Council, the European Parliament and the Economic and Social Committee, and that they offer legal certainty because they may be enforced by the ECJ.

4.1.2. However, the pace at which proposals for Directives in the tax field are agreed has been disappointingly slow (...) in the context of rapid economic and technical change, where the need to adapt and modernise legislation quickly is apparent, the Commission intends to make more use of the implementing powers conferred on it by the Council as provided for in the Treaty.

4.1.3. (...) it remains the Commission's view that a move to qualified majority voting at least for certain tax issues is indispensable. Since the legal basis will, for the present, remain unanimity it will, after enlargement, be much more difficult to have any new Community legislation agreed. So where legislation is not absolutely essential (notably in the direct tax field), other methods will have to be found to achieve progress in removing tax obstacles and distortions to the Internal Market, which taxpayers have a right to expect.

4.1.4. The ESC shares the Commission's concern that it is difficult to make progress on tax matters and agree that other methods need to be found. Therefore the ESC welcomes the measures of the Commission as outlined in 4.2, 4.3 and 4.4 below.

4.2. *The Commission's role as guardian of the Treaty* ⁽³⁾

4.2.1. The Commission highlights the number of cases brought to the ECJ where Member State tax rules may contravene either the Treaty or existing Community legislation. It feels that 'the rapid development of EC case law in the direct tax field over the last few years through cases brought by individual litigants has highlighted the need for more Commission action.'

⁽¹⁾ COM(2001) 214.

⁽²⁾ COM(2001) 260 final, 4.1, 1st, 2nd and 4th paragraphs.

⁽³⁾ COM(2001) 260 final, 4.2, 1st–3rd and 5th paragraphs.

4.2.2. The Commission sees a role in proposing a common response to ECJ rulings, 'including where necessary through Community legislation. The Commission also plays an important role in ensuring that ECJ rulings are respected and properly implemented by Member States.'

4.2.3. In principle, the ESC is supportive of the Commission's approach to ECJ activity within the area of taxation.

4.2.4. '(...) it is clear that the Commission cannot, as guardian of the Treaty, be lenient on infringements in the tax field.'

4.2.5. '(...) the Commission now intends to adopt a more proactive strategy generally in the field of tax infringements and be more ready to initiate action where it believes that Community law is being broken. It will also ensure the correct application of judgements of the ECJ (...).'

4.2.6. The ESC is supportive of this approach, while bearing in mind that Member States may have different means of applying and integrating judgements into their national tax systems.

4.3. *Broadening the range of policy instruments* ⁽¹⁾

4.3.1. The use of non-legislative approaches or 'soft legislation' may be an additional means of making progress in the tax field. (...) Such non-legislative approaches should, to the largest extent possible, involve the European Parliament through the existing mechanisms for the consultation of Parliament.

4.3.2. The use of non-legislative or soft law approaches could be particularly effective in cases where they have a firm legal foundation, based on the Treaty and the case law of the Court of Justice. In such cases, instruments such as Communications, recommendations, guidelines and interpretative notices can provide guidance to Member States on the application of the Treaty principles and promote the rapid removal of obstacles to the Internal Market. (...).

4.3.3. The ESC is fully supportive of this. The ESC encourages the Commission to develop the use of non-legislative and soft-law instruments, where they can help to make progress in the tax field.

4.4. *Enhanced co-operation* ⁽²⁾

4.4.1. The Commission notes that 'the decision at Nice will enable the Commission to propose to the Council that as small a group as eight Member States may co-operate more closely, after approval within the Council by qualified majority. (...).'

4.4.2. The ESC is supportive of this approach of enhanced co-operation, where Member States conclude that it is in their interests.

5. **Conclusion**

In its conclusion, the Commission highlights six principal tax policy objectives.

i) Implementation of the VAT legislative strategy.

— The ESC fully endorses this ⁽³⁾.

ii) More approximation of Member State laws in the area of environmental and energy taxation.

— The ESC expects that this approximation will be difficult to achieve. Meanwhile the ESC would welcome a re-emphasis on goals together with guidelines on environmental taxes, waste disposal, etc.

iii) Enhanced convergence between excise duties on alcohol and tobacco.

— Because these duties are a major component of Member State fiscal systems it is not feasible to deal with them in isolation. The ESC believes that competition between countries should be allowed to drive approximations over time.

iv) Coordination of corporate taxes.

— The ESC expects to give its opinion in due course on the new Communication from the Commission on company taxation ⁽⁴⁾.

v) Elimination of tax obstacles to cross-border provision of occupational pensions.

— The ESC fully supports this objective.

vi) Improved decision-making on tax matters.

— The ESC agrees with the Commission's view that the legal basis for the present will remain unanimity.

⁽²⁾ COM(2001) 260 final, 4.4, 1st–2nd paragraphs.

⁽³⁾ OJ C 116, 20.4.2001, p. 59.

⁽⁴⁾ COM(2001) 582 final.

⁽¹⁾ COM(2001) 260 final, 4.3, 1st–2nd paragraphs.

In the meantime, the ESC supports both of the proposed mechanisms to be used in pursuing tax policy objectives ⁽¹⁾:

⁽¹⁾ Ibid, point 5, 2nd paragraph, last bullet point.

- a more pro-active, well-focused and even-handed use of infringement proceedings in the tax field;
- an increased use of non-legislative solutions and the mechanism of enhanced co-operation.

Brussels, 28 November 2001.

*The President
of the Economic and Social Committee*

Göke FRERICHS

Opinion of the Economic and Social Committee on 'World Economic Changes: New Economic Challenges for the European Union'

(2002/C 48/19)

At its plenary session of 28-29 November 2001 the Economic and Social Committee, acting under the third paragraph of Rule 23 of its Rules of Procedure, decided to draw up an Opinion on 'World Economic Changes: New Economic Challenges for the European Union'.

The Section for Economic and Monetary Union and Economic and Social Cohesion, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 12 November 2001. The rapporteur was Mrs Konitzer.

At its 386th plenary session of 28 and 29 November 2001, (meeting of 28 November), the Economic and Social Committee adopted the following opinion with 46 votes in favour and three abstentions.

1. Background

1.1. In 2000 the economic trend in the EU was more favourable than for more than a decade. GDP growth was just below 3 1/2 %. Employment rose strongly (1,7 %), so that by comparison with the previous year unemployment fell by a full percentage point to 8,3 % of the active population. Thus, following a peak of 11,1 % (1994), the level prevailing before the 1992/93 recession had effectively once again been reached. Despite high oil prices inflation was only a little over 2 % and the external economic balance seemed assured.

1.2. This favourable trend could be ascribed both to ongoing structural policy efforts to improve the operation of the markets for goods and services as well as those for labour

and capital and to significant progress in promoting the macroeconomic conditions for growth and employment made since the last recession, and particularly in the run-up to economic and monetary union ⁽²⁾.

1.3. However, hopes that this favourable trend would continue uninterrupted for a number of years, which was necessary to solve the EU's employment problem, were dashed in the course of 2001.

⁽²⁾ See also: OJ C 139, 11.5.2001, p. 51 (ECO/041), OJ C 139, 11.5.2001, p. 60 (ECO/042), OJ C 139, 11.5.2001, p. 72 (ECO/046), OJ C 139, 11.5.2001, p. 79 (ECO/054), OJ C 221, 7.8.2001, p. 177 (ECO/065).