4. Conclusion

4.1. The Committee welcomes the Commission document. It is evident that the Commission has gone to considerable lengths to ensure the proper implementation of the new Structural Fund Regulations with regard to Objective 1 programmes. However, it is essential that this effective beginning to the new programming phase is reinforced throughout the period of the programme by timely reporting, monitoring and evaluation of outcomes in the regions themselves.

Brussels, 28 November 2001.

The President

of the Economic and Social Committee

Göke FRERICHS

Opinion of the Economic and Social Committee on the 'Proposal for a Council Directive to ensure effective taxation of savings income in the form of interest payments within the Community'

(2002/C 48/13)

On 30 August 2001, the Council decided to consult the Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the above-mentioned proposal.

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 (rapporteur: Mr Ravoet).

At its 386th plenary session held on 28 and 29 November 2001 (meeting of 28 November 2001), the Economic and Social Committee adopted the following opinion by 117 votes with 3 abstentions.

1. Introduction

1.1. The proposal for the Directive under review seeks to ensure effective taxation in the EU of income from savings in the form of interest payments. More precisely, the aim is to bring about effective taxation of interest payments made in a Member State to a beneficial owner (individual) resident in another Member State, in accordance with the national legislation of the latter Member State (referred to below as the 'Member State of residence').

1.2. This proposal for a Directive replaces that published by the Council on 20 May 1998 which sought to ensure a minimum of effective taxation of savings income in the form of interest payments within the EU. The Economic and Social Committee issued an opinion on this proposal on 24 February 1999 [1].

2. General background

2.1. In line with the ECOFIN Council conclusions of 1 December 1997 [2], the Commission based its proposal on the 'co-existence model', whereby each Member State would be able to choose between applying a withholding tax on interest payments made to individuals who are resident in other Member States or providing information to the beneficial owners' Member State of residence, with a view to enabling a taxation to be levied.

(1) OJ C 116, 28.4.1999, p. 18.
(2) OJ C 2, 6.1.1998, p. 1.

2.2. At a later stage, following the acceptance at the Helsinki European Council held in December 1999 [1] of the principle that 'all citizens resident in a Member State of the European Union should pay the tax due on all their savings income', the Member States agreed at the Feira European Council [2] that the exchange of information, on as wide a basis as possible should be the ultimate objective within the EU. Belgium, Luxembourg and Austria nonetheless retained the possibility to operate a withholding tax system for a certain period, provided that an appropriate percentage of the revenue from it was transferred to the tax collection bodies of the relevant Member States of residence.

2.3. It was also agreed that, as soon as agreement had been reached on the substantial content of the Directive, the Council presidency and the Commission would immediately enter into discussions with the USA and key third countries (Switzerland, Liechtenstein, Monaco, Andorra and San Marino) to promote the adoption of equivalent measures in those countries. At the same time, the Member States concerned committed themselves to promoting the adoption of the same measures in all the main dependent or associated territories (Channel Islands, Isle of Man and dependent or association territories in the Caribbean).

2.4. The ECOFIN Council reached agreement on the abovementioned 'substantial content of the Directive' at its meeting in Brussels on 26 and 27 November 2000 [3].

2.5. The Commission supported the new approach adopted by the Council. As the new approach clearly differs from the earlier principles, the Commission therefore decided to withdraw its 1998 proposal. The new proposal, which aims to reflect as closely as possible the agreement between the Member States, was published on 18 July 2001.

3. Gist of the proposal

3.1. The proposal seeks to ensure effective taxation of savings income in the form of interest payments received by savers who are EU residents (the 'beneficial owners' of the income) from a Member State other than their Member State of residence. It does not concern national regimes for taxing income from savings.

3.2. In the proposal, the term 'beneficial owner' is taken to mean individuals who receive interest payments for their own benefit. By extension, the proposal will also be applicable in cases where the interest is paid to particular 'entities' which are not legal persons, are not subject to ordinary law provisions on business taxation and are also not undertakings for collective investment in transferable securities (UCITS) (see point 3.6 below).

3.3. Every individual receiving an interest payment will be regarded as receiving the payments for his own benefit, unless he demonstrates that the opposite is the case. This may be the case for example, when the recipient acts as a paying agent (see points 3.5 and 3.6 below) for another legal person, a UCITS or another entity referred to in the proposal. It is also the case if the recipient acts on behalf of another individual.

3.4. All beneficial owners must be properly identified and their place of residence must be established. The proposal sets out specific standards in this field which are to constitute minimum standards for the Member States. In this context, a distinction is drawn between contractual relations entered into before the date of implementation of the proposal and contractual relations entered into after the date of implementation. As regards the first category of relations, use is made of information made available in pursuance of the provisions of the Directive on the prevention of money laundering. Specific rules are set out in the case of the second category of contractual relations.

3.5. The Directive has to be implemented by the paying agent. The party which collects information or applies the withholding tax is thus the economic operator who pays interest to the beneficial owner or who secures the payment of interest for the immediate benefit of the beneficial owner. Paying agents are generally financial institutions, but in cases where the payment is made directly to the beneficial owner by the debtor, the latter is regarded as the paying agent.

3.6. Any entity which is not a legal person, which is not subject to ordinary law provisions on business taxation, which is not a UCITS and which does not opt to be treated as a UCITS is also regarded as a paying agent. Such a body is regarded as a paying agent at the moment when interest payments are received or when payment is demanded. The proposal for a Directive therefore has to be implemented at that juncture (system known as 'paying agent upon receipt'). Generally speaking, the entities involved here are not subject to very strict control by the tax authorities. By regarding these entities as paying agents, they are brought within the scope of the proposal and made subject to it.

[1] Presidency conclusions of the Helsinki European Council of 10 and 11 December 1999. Press release No. 00300/1/99 of 11.12.99, published on the website of the Council of the European Union (http://ue.eu.int).

[2] Annex IV to the Presidency conclusions of the Santa Maria da Feira European Council of 19 and 20.6.2000. Press release No. 200/1/00 of 19.6.2000, published on the website of the Council of the European Union.

[3] Conclusions of the ECOFIN Council of 26 and 27 November 2000. Press release No. 13861/00 (Presse 453) of 26.11.2000, published on the website of the Council of the European Union.

3.7. The new proposal also sets out its own definition of 'interest payment' which thus differs from the definitions used in each Member State. The new definition does in fact cover all income from debt-claims, including income from capitalisation bonds and zero-coupon bonds. In such cases the sum involved is the amount of the income realised at the sale, refund or redemption of the debt-claims. All interest payments made within the EU are covered, irrespective of the place of establishment of the debtor.

3.8. The definition also covers income deriving expressly from interest payments (application of the 'look-through approach') distributed by UCITS, entities referred to in point 3.6 above (which have opted to be treated as a UCITS) and collective investment undertakings from outside the EU.

Income realised from the sale, refund or redemption of shares or units in the above-mentioned UCITS, entities or institutions, provided that these bodies have invested more than 15 % (40 % during the 7-year transitional period) of their assets in debt-claims, also comes with the field of application of the Directive. In these cases the amount of the income realised represented by interest payments or — if this latter amount is not known — the whole amount realised is regarded as an interest payment for the purposes of the Directive.

3.9. In those Member States which have opted to exchange information, the paying agents are to collect all useful information on the interest payments and communicate this information to their national competent authorities.

3.10. The abovementioned competent authority shall, in its turn, pass on this information to the competent authority in the relevant Member States of residence. This information must be communicated on an automatic basis at least once a year, within six months following the end of the tax year for the income concerned.

3.11. Belgium, Luxembourg and Austria will subject interest payments to a withholding tax during a transitional period of seven years following the entry into force of the Directive. During this period these Member States retain the right not to communicate information to the other Member States but they are entitled to receive such information.

During the first three years of the transitional period, the withholding tax will be levied at a rate of 15 %, rising to 20 % for the remainder of the transitional period.

3.12. In the abovementioned Member States beneficial owners must always have the possibility of not being subject to the payment of withholding tax. In such cases they will then be taxed only in their Member State of residence. With that aim in view, provision must also be made in the three Member States concerned for the application of the procedure referred to in point 3.9 above (in such cases the 'beneficial owner' authorises the paying agent to forward the information to the tax authorities) or the use of a certificate issued by the competent authority of the beneficial owner's Member State of residence.

3.13. 75 % of the revenue of the withholding tax must be transferred to each Member State of residence concerned, within six months following the end of the tax year. 25 % of the tax revenue accrues to the Member State levying the withholding tax.

3.14. During the transitional period, the Member States of residence are obliged to make provision for a procedure for preventing double taxation.

3.15. Under the 'grandfathering clause', bonds and other negotiable loan securities and the interest payments accruing from them are excluded from the scope of the proposal if they were first issued before 1 March 2001 or if the issuing prospectuses were certified before that date. If a further issue or 'tap' is made, special provisions apply to those which are made on or after 1 March 2002. In cases where such further issues are made by a government on or after 1 March 2002, the entire issue is then covered by the Directive. In the case of issues made by other (private) bodies, on the other hand, only 'taps' made on or after this date are covered by the Directive. These exceptions will apply only during the seven-year transitional period referred to in point 3.11 above.

3.16. During the transitional period, Belgium, Luxembourg and Austria may refrain from levying a withholding tax on interest payments in respect of debt-claims issued by international organisations, if this would be contrary to the rules laid down in international treaties signed by these states.

3.17. Member States are free to levy other types of withholding tax, (e.g. debtor-type withholding tax) on this type of income. These types of withholding tax would not be incompatible with the withholding tax provided for in the proposal (see point 3.11 above).

3.18. Member States are to bring into force the requisite national measures to comply with this Directive by 1 January 2004.

3.19. The Commission is to report to the Council every three years on the operation of this Directive. The requisite amendments will be proposed on the basis of these reports.

4. **General comments**

4.1. The Committee has already set out its views on the taxation of cross-border interest payments in the EU in a number of opinions, including the opinion on direct and indirect taxation [1], the opinion on taxation in the European Union — Report on the development of tax systems [2] and the opinion on the previous proposal for a Directive [3].

4.2. The Committee notes that since the publication of the previous proposal for a Directive in 1998 all the parties involved have worked very hard on this matter. The European Council, the ECOFIN Council, the successive Council presidencies and the Commission and its departments have done their utmost to achieve progress in this field and a remarkable degree of progress has been attained.

4.3. The subject of the present proposal forms part of the 'tax package' agreed upon by the ECOFIN Council on 1 December 1997. This subject, together with the code of conduct for business taxation and an EU regime for the payment of interest and royalties, between enterprises, are regarded in principle as forming one indissoluble package. It has also been agreed that work on the different elements of the tax package should be carried out in accordance with a parallel timetable. The aim is to achieve, if possible, final agreement on the whole tax package by 31 December 2002, at the latest. It is, in the Committee's view, very important to adhere to this principle of parallel progress in the work on the three parts of the tax package. Coordination of the taxation of savings in the EU is also a key factor which will enable progress to be made in a number of other integration processes at European level.

4.4. Attention is also drawn to the fact that two Member States, namely Austria and Luxembourg, have stated that they will only endorse the Directive on the taxation of savings income when a binding decision has been taken on the roll-back of the 66 measures taken into consideration within the framework of the implementation of the code of conduct [4].

4.5. The Committee welcomes the proposal for a Directive under review. Opting for the ultimate objective of generalising the mutual exchange of information between the Member States would make it possible to levy tax on interest payments received in other states at the same rate of income tax to which the beneficiary is normally subject. Any unfair competition in respect of taxation could thus be eliminated.

The ESC notes that the proposal forms part of a broader tax package, that implementation of the three component parts of the package is inter-dependent and that work in the various fields will be carried out according to a parallel timetable. The ESC also takes note of the political declarations made by particular Member States.

4.6. The proposal was formulated following intense discussions between the Member States (primarily at the level of the European Council and ECOFIN Council); the new text reflects the results of these discussions. Now that a political balance has been achieved, the ESC has no intention of calling into question the common standpoint agreed upon by the Member States. Such an approach would be all the more inappropriate given the fact that the earlier proposals also failed to come up with an ideal solution. These proposals did, on the contrary, allow certain differences between capital-importing and -exporting Member States to continue to exist and particular problems, such as the possible relocation of capital markets (e.g. the eurobond markets) had either not been resolved or at least not been adequately resolved. The ESC therefore intends to confine itself to making a number of general observations and to dealing with more technical matters.

4.7. The ESC takes the view that it was absolutely right for the agreement between the Member States [5] to embrace concerns over the maintenance of the competitiveness of European financial markets. Steps must be taken to ensure that European financial centres are not placed at a disadvantage, with the attendant risk that capital is transferred outside the EU. The ESC supports the statement in the Conclusions of the Presidency that only once 'sufficient reassurances with regard to the application of the same measures in dependent or associated territories and of equivalent measures in the named countries have been obtained, and on the basis of a report, the Council will decide on the adoption and implementation of the Directive no later than 31 December 2002 and do so by unanimity' [6]. This is, in the Committee's view, a clear and crucial policy element which should play a major — if not decisive — role in the final phase of the decision-making process.

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(1) OJ C 82, 19.3.1996.
(2) OJ C 296, 29.9.1997.
(3) OJ C 212, 28.4.1999.
(4) Conclusions of the ECOFIN Council held in Brussels on 26 and 27 November 2000 — Press release 13 861/60, statements for the Council minutes a), 1.
(5) See point 2.8 above.
(6) Conclusions of the Presidency in respect of the European Council held in Santa Maria da Feira on 19 and 20 June 2000.

4.8. The agreements referred to above also appear to be important with regard to measures to tackle and prevent tax avoidance and/or tax evasion committed by EU residents. These agreements are thus of crucial importance with a view to protecting the tax incomes of the Member States. It would indeed be just too easy if tax-payers were able to substantially reduce or even totally avoid the tax which they were due to pay by transferring their capital to areas within the EU where the Directive was not in force, to dependent or associated territories of Member States or to other financial centres, which are frequently situated in nearby countries.

4.9. It will clearly not be easy to work out the technical details of the Directive. This does not, however, make it any less necessary for efforts to be made to achieve an adequate level of transparency and simplicity. At various points in the Explanatory Memorandum to the proposal for a Directive to the need for transparency and simplicity is underlined, as is also the need for the burden placed on the paying agents to be kept in check. The question arises, however, as to whether the present proposal really makes it possible to meet this objective and whether account is indeed taken of this concern? In view of the complex nature of this matter and the real implementation problems, the question arises as to whether there are adequate guarantees that the provisions will be applied without distortions in competition throughout the EU. Risks of distortions in competition must be avoided not only in respect of non-EU states but also within the EU itself. With this aim in view, it would be desirable, for example, to make available to paying agents in all Member States lists of the various types of legal persons and categories of entities taxed on their profits under the general arrangements for business taxation (cf. Article 2(1)(b) of the draft Directive) which are not covered by the Directive.

4.10. It is also essential to avoid distortions in competition during the transitional period in respect of relations between those Member States which agree to exchange information forthwith and the three Member States exempted by virtue of the fact that they have opted to operate the withholding tax system. In the case of the latter Member States, implementation problems for paying agents will indeed have consequences which are much more far-reaching than in the case of the other Member States which have to gather information.

4.11. The Commission has attached an 'Impact Assessment Form' to its proposal. This form deals, above all, with the possible consequences for enterprises. The Commission's assessments are almost exclusively positive. In cases where it identifies a risk, these risks are too small to take account of or, according to the Commission, everything possible has already been done to reduce the detrimental impact. The Commission adopts a reassuring tone above all as regards the consequences for the paying agents (including costs and administrative burdens); considerable concern has, however, been expressed over this matter, particularly in the financial sector.

The Committee wonders whether it would not be possible to introduce an improved and more balanced impact-assessment procedure. By way of example, an appraisal carried out by an independent third party could enhance the objectiveness and credibility of the conclusions reached. Attention may be drawn, for example, to the approach adopted by the European Central Bank (ECB) which intends to impose additional obligations on credit institutions in the euro zone in respect of statistical reports. In such cases the ECB endeavours to gauge the impact of its plans by means of a procedure within the Eurosystem (involvement of the national banks) and consultations with the sector concerned (fact-finding exercises are carried out, inter alia, in order to gauge the feasibility of the plans and a cost-assessment exercise is carried out to assess the costs and administrative burdens for a number of bodies, including credit institutions.

4.12. A generalised system for the exchange of information between Member States, as provided for in the proposal, represents a new departure. Such a system has never existed before, with the result that the application of the system may, during an initial period, involve a degree of risk. Despite this, the Committee considers it essential that the system, in the form provided for in the proposal, should be applicable and capable of being brought into effect, and that it should make it possible to achieve the desired result using a proportionate level of human and other resources. This should be the case in respect of both the national (usually fiscal) authorities of the different Member States and the paying agents. It is therefore a question of making the system both effective and technically feasible.

4.13. Consideration of the new provisions shows that there has been a marked change in the aim of the new draft Directive. The aim is no longer 'to ensure a minimum of effective taxation of savings income in the form of interest payments within the Community' but rather to ensure that this same income is taxed in accordance with the rules of the Member State of the beneficial owner.

Furthermore, under the new proposal, the withholding tax provisions are set out in Chapter III of the document under the heading 'Transitional provisions'. In the Explanatory Memorandum and the recitals which precede the proposal for a Directive, it is pointed out that only three Member States may apply these provisions for a given period 'in order to allow them more time to adapt their legislation' (to bring it into line with the generalised information-exchange system). This being the case, the ESC questions this new presentation. The three Member States which have chosen to apply the withholding tax system are the very Member States which recognise professional secrecy on the part of banks or banking secrecy in tax matters. It is clear that the system which best responds to the above principles is the withholding tax system.

Even though it adopts a different point of view in its final conclusion, the OECD has quite recently reaffirmed the value of professional secrecy and banking secrecy in tax matters in a study [1] published last year on improving access for tax administrations to bank information.

The new text makes no mention of these principles and thus appears to wish to diminish their value. However, as was pointed out above, it is vitally important that non-EU states and dependent or associated territories formulate, at the same time, provisions which are equivalent or identical in content and mode of operation. It is obvious that in a number of cases the likelihood of achieving agreement with the states and territories concerned is made yet more uncertain if the solution of introducing a withholding tax is dismissed in advance.

5. Specific comments

5.1. The ESC points out that the text of the proposal raises a number of important questions in various fields. Without wishing, however, to call into question in every case the aims of the provisions concerned, attention should be drawn to the problems which will face all of the parties which have to apply the Directive and, in particular, the paying agents.

5.2. An initial problem of this type concerns income from undertakings for collective investment (UCITS) which have themselves invested at least 15 % (40 % during the transitional period) of their assets in debt-claims [2]. This threshold has been set in order to avoid including within the scope of the Directive UCITS investing in debt-claims only as a secondary activity and to contend with their liquidity requirements. In order to prevent virtually all UCITS from falling within the scope of the proposal, the percentage should be substantially increased. Furthermore, it is not easy for a paying agent who does not have direct contact with a UCITS to be familiar with its investment policy.

5.3. Moreover, remaining on the subject of income from UCITS, the Committee points out that the terminology used in defining the income in question remains unclear and that components other than interest in the strict sense of the term, which are not covered by the aim of the proposal, have been included in the definition of 'interest payments'.

5.4. It is understandable that, with a view to tackling certain weaknesses in the proposed Directive, specified hybrid entities [3] (entities which are not a legal person, are not taxed on their profits under the arrangements for business taxation and are not UCITS) have been brought within its scope. The solution put forward is, however, not practical. Furthermore, the obligations placed upon economic operators paying interest to such entities are excessive. This criticism applies, inter alia, to the obligation to communicate to the national authority the amount of the interest paid to the entity.

5.5. The rules governing the identification of the beneficial owner [4] are more far-reaching than the usual rules laid down in connection with measures to combat money laundering. The additional distinction relating to the moment in time when contractual relations were entered into does, in any case, represent a needless complication, and furthermore, it should be made clear that a paying agent cannot guarantee the correctness of information relating to the residence for tax purposes of the beneficial owner. This is the responsibility of the tax authorities. Moreover, the rules set out in respect of persons holding a passport from one Member State but having a residence for tax purposes outside that Member State cannot be applied in cases where the third state refuses to issue a residence certificate.

5.6. Under the proposal, Member States have the option of requiring paying agents to 'annualise' interest, i.e. to calculate it on an annual basis and to treat such annualised interest as an interest payment [5]. No explanation is given anywhere for the reasons behind this provision or its objectives. It would appear to be impossible to implement this provision in practice and it will actually simply result in the transfer of capital to other Member States which have not exercised this option.

5.7. The 'grandfathering clause' [6] draws a distinction between issues which come within the scope of the proposal for a Directive and other issues. It is in practice far from easy to draw this distinction, in particular with regard to issues originating outside the EU. As regards further issues or 'taps', the special system applicable to securities issued by governments or 'related entities' be implemented in practice only if paying agents are provided with additional information on such 'related entities'.

(1) Document drawn up by the OECD's Committee on Fiscal Affairs entitled: 'Improving access to bank information for tax purposes', published on 12 April 2000. Document DAFFE/CFA (2000) 4/final.
(2) Articles 6(1), 6(2), 6(3), 6(6), 6(7) and 6(8) and point 3.8 above.
(3) Article 4(2) and point 3.6 above.
(4) Article 3 and point 3.4 above.
(5) Article 6(5).
(6) Article 15 and point 3.15 above.

5.8. The procedure for preventing double taxation comes into force whenever a beneficial owner has been subject to a level of withholding tax which is higher than the tax ultimately payable in his own Member State of residence. The text of the proposal does not explicitly indicate whether this principle also applies in cases where income is exempt from taxation in the latter state; the text therefore needs to be clarified on this point.

5.9. A number of procedures set out in the proposal differ according to whether they relate to the period before or after the Directive comes into force. These provisions therefore act retrospectively. In order to avoid this, the differential treatment should come into effect from the date of entry into force of national rules for implementing the Directive.

5.10. Furthermore, paying agents need to be given sufficient time between the publication of national rules and their entry into force in order to enable them to bring their internal systems into line (above all in the IT field). In the light of the impact which the Directive will have, a period of a minimum of one year seems suitable. The current text fails to clarify this matter. Moreover, it would be best for the entry into force of the rules and the introduction of the definitive system to coincide with the beginning of a new calendar year.

5.11. The Committee likewise draws attention to the fact that a number of other sources of income, such as particular insurance benefits, are not covered by the proposal. These products, which generally cover risks, which are to a certain extent biometric risks, nonetheless essentially closely resemble or may be equated with the investments in debt-claims covered by the proposal, are currently proving to be quite successful. The only recital to the proposal which deals with this matter [1] states that: 'The scope of this Directive should be limited to taxation of savings income in the form of interest payments on debt-claims, to the exclusion of the issues relating to the taxation of pension and insurance benefits'. This recital would now appear to be rather unconvincing bearing in mind that shares or units in UCITS are indeed covered by the proposal. Furthermore, in its recent communication on the elimination of tax obstacles to the cross-border provision of occupational pensions [2], the Commission regarded the exchange of information, as proposed in the present proposal, as the best way of safeguarding the tax income of the Member States.

5.12. A further difficulty concerns the establishment of the basis on which the Directive is to be applied in case of the payment of interest and the sale, refund or redemption of debt-claims. This is all the more important in view of the fact that an information-exchange system, as set out in the proposal for a Directive, has never previously been applied on such a scale. Furthermore, the principle of establishing a 'level playing field' should not be pursued only in respect of non-EU states (see point 4.7) but also within the EU.

In this connection, the proposal provides for the application of the pro rata principle, whereby income is determined in the light of the period during which the beneficial owner holds the debt-claims. The pro rata principle is, however, only provided for explicitly in the case of the enforcement of the system of withholding tax [3].

The ESC wonders whether the pro rata principle should not be applied on a general basis, and therefore also apply in the case of the enforcement of the exchange of information system.

Under the proposal [4] the information involved in this case may cover the amount of the interest paid.

This matter is important inasmuch as, in the absence of clear rules on this subject, quite large differences could occur with regard to the establishment of the basis on which the Directive is applied. This could occur, for example, in the case of the sale of capitalisation bonds after a certain holding period (e.g. zero-coupon bonds, capitalisation UCITS, etc.). Bearing in mind the goal of the proposal and the fact that the determination of the basis on which the Directive is applied is of key importance to its implementation, no convincing case can be made for not tackling this issue in the proposal. Furthermore, differences between the Member States could have a disruptive effect (see point 4.9).

This same issue could also be raised in cases where income is expressed in a foreign currency. The proposal does not set out any conversion rules. Here, too, a clear and unambiguous solution should be found.

6. Conclusions

6.1. The ESC welcomes the proposal, the ultimate objective of which is the reciprocal exchange of information between the Member States. This approach will facilitate proper taxation of the beneficial owner, prevent unfair competition in the taxation field between the Member States and help to achieve a fair allocation of tax revenue.

(1) Recital 15.
(2) COM(2001) 214 final.
(3) Article 11(3).
(4) Article 8(2).

6.2. The ESC is pleased to note that all the parties involved in this field have recently made strenuous efforts to resolve this issue. The present proposal is a compromise which expresses the common position of the Member States.

6.3. It is, in the ESC's view, desirable for the agreed parallel programme of work to continue to be pursued so as to enable final agreement to be reached on the various elements of the taxation package of 1 December 1997 by the set deadline of the end of 2002. The present proposal forms part of the tax package, along with the code of conduct for business taxation and common rules on interest and royalty payments.

6.4. The ESC fully endorses the concerns over and the importance of maintaining the competitiveness of the European financial markets and centres. With this aim in view, the need to have prior assurance that the same measures will be applied in the dependent and associated territories and that equivalent measures will be taken in a number of nearby and/or key financial centres is of crucial and decisive importance. These agreements are also important in the context of combating tax evasion and/or fraud committed by EU residents.

In this connection the ESC welcomes the decision adopted by the ECOFIN Council at its meeting in Luxembourg on 16 October 2001 providing a mandate to negotiate with the six key non-EU states, namely the USA, Switzerland, Liechtenstein, Monaco, Andorra and San Marino, on the question of the taxation of savings in order to secure adoption by these states of measures equivalent to those to be applied in the EU [1].

6.5. The ESC takes the view that the proposal needs to be both simple and effective. It therefore calls upon all the parties concerned to make a thorough and critical appraisal of the proposal and propose improvements in respect of all of the points which could be ameliorated, whilst endeavouring to contain the cost of implementing the proposal as far as possible. Governments and paying agents must assume their responsibility with regard to this matter.

The ESC also takes the view that the field of application of the proposal for a Directive on the taxation of savings must be as broad and consistent as possible. As the definition of 'interest payment' given in the proposal already includes interest accruing directly from debt-claims and indirectly from investments in certain UCITS, the ESC believes that consideration should also be given to including in the definition other investments which may give rise to interest indirectly, such as certain insurance products.

6.6. In conclusion, the ESC takes the view that it is essential for paying agents to be involved as closely as possible in the further development of this system as they have a key role to play in its actual implementation. With this aim in view, the ESC also asks the Commission to consider making improvements to the procedure for carrying out the impact assessment of the proposal and to apply itself to this task.

(1) ECOFIN Council meeting in Luxembourg on 16 October 2001 — Press: 363 — No. 12827/01.

Brussels, 28 November 2001.

The President

of the Economic and Social Committee

Göke FRERICHS