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I

(Information)

COUNCIL

COUNCIL OPINION

of 21 January 2003

on the updated stability programme for Germany, 2002 to 2006

(2003/C 26/01)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council regulation (EC) No. 1466/97 of 7 July 1997 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies ⁽¹⁾, and in particular Article 5(3) thereof;

Having regard to the recommendation of the Commission,

After consulting the Economic and Financial Committee,

HAS DELIVERED THIS OPINION:

On 21 January 2003 the Council examined the updated stability programme for Germany, which covers the period 2002 to 2006. The updated programme projects general government finances to improve from a deficit of 3¾ % of GDP in 2002 to a balanced position in 2006. Government gross debt is expected to decrease from 61 % of GDP in 2002 to 57½ % in 2006.

The Council notes that the new update broadly complies with the requirements of the revised 'code of conduct on the content and format of stability and convergence programmes', although there is still some need for improvement, notably concerning the degree of precision of the quantitative information provided. While the deficit targets set in the Broad Economic Policy guidelines (BEPGs) have not been achieved, the adjustment path planned in the programme is broadly consistent with the Broad Economic Policy Guidelines (BEPG).

The Council notes that the projected deficit outcome for 2002 (3¾ % of GDP) is clearly higher than projected in the lower-growth scenario of the December 2001 update (2½ % of GDP). The Council regrets that it has proved not to be possible for the German authorities to fulfil their commitment of 12 February 2002 and the BEPG Recommendation for 2002 not to breach the 3 % of GDP reference value for the general government deficit in 2002. The Council notes that the rise in the nominal deficit from 2001 to 2002 cannot be explained only by the unexpected slowdown in growth, and that there

have once more been expenditure overruns in the health sector which contributed to a deterioration of the underlying balance.

The Council decided on 21 January that an excessive deficit exists in Germany and issued a recommendation to Germany according to Article 104(7) of the Treaty. According to this recommendation: (i) the German Government should put an end to the excessive deficit situation as rapidly as possible in accordance with Article 3(4) of Council Regulation (EC) No 1467/97; (ii) the German authorities should implement with resolve their budgetary plans for 2003 which, on the basis of a GDP growth projection of 1½ % in 2003, aim at reducing the general government deficit in 2003 to 2¾ % of GDP. In addition, the Council noted the commitment of the German authorities to ensure that the momentum of budgetary consolidation is maintained throughout the period covered by the updated stability programme, namely through a reduction of the underlying budgetary deficit by more than 0,5 % of GDP per year which in turn requires the introduction of structural reforms.

The Council notes that in the light of the weakening of economic indicators in recent months, the 1½ % growth rate expected for 2003 appears optimistic. It requires an early restoration of economic confidence, not least through implementation of a consistent budgetary adjustment programme. Furthermore, the average growth rates of 2¼ % assumed for the years 2004 to 2006 are above the estimated long-term growth potential of the German economy, which reflects the programme assumption that the output gap will be closed.

However, the level of growth potential in Germany is currently low. It is in the hands of the German Government to raise it significantly through coherent reforms, notably of the labour market. The Council strongly urges the German Government to undertake the necessary steps.

The Council considers that there is a non-negligible risk that the general government deficit in 2003 may again exceed the 3 % of GDP reference value. Therefore, the German authorities should ensure a rigorous budgetary execution and a thorough implementation of the measures announced in the budget for 2003.

⁽¹⁾ OJ L 209, 2.8.1997, p. 1.

The Council acknowledges the projected improvement in the underlying balance by more than 0,5 % of GDP per year up to the new programme's horizon, with the exception of 2005 due to the introduction of tax reforms; it notes that in underlying terms the government accounts would at least be close to balance by 2006. It is recalled, however that this adjustment path hinges on the full implementation of the announced measures, the respect of agreed expenditure targets for 2003 and 2004 and an agreement on ambitious expenditure targets for 2005 and 2006. The Council urges the German authorities to ensure that the implementation of the next steps of tax reform in 2004 and 2005 is compatible with a continuous adjustment path towards overall budget balance.

The Council notes that this should lead to a balanced budget by 2006, although this is two years later than planned in last year's update of the stability programme. The Council welcomes the confirmation of the 2006 target by the German *Finanzplanungsrat* (financial planning council) of 27 November 2002. It urges the federal and regional authorities to agree on ambitious expenditure targets for 2005 and 2006 and to ensure strict budgetary implementation at all levels of government. As shown by budgetary developments in the past, this will be crucial in order to attain the projected deficit targets, especially once growth recovers. While the Council welcomes the recent (advanced) implementation of the revised law on budgetary procedures (*Haushaltsgrundsätzegesetz*), the Council reiterates its view that the mechanism enshrined therein is not yet sufficient to guarantee compliance with mutually agreed objectives by all levels of government.

The Council takes note of the German authorities' intentions to bring the debt level down below the Treaty's reference value by 2005 but notes that these intentions are subject to a number of risks. Therefore the development of the debt ratio remains a source of concern given the need to ensure the sustainability of public finances. On the basis of current policies, the risk of unsustainable public finances in light of ageing populations cannot be excluded. If debt reduction is to make a noticeable contribution towards meeting the budgetary cost of ageing populations, then reaching a balanced budget position by 2006 is essential; this should be part of an ambitious three-pronged strategy to meet the long-term budgetary consequences of ageing and may have to include the running of surpluses. Running sound public finances over the long run will allow to achieve a significant reduction in the debt ratio prior to the budgetary impact of ageing populations taking hold.

The Council considers it to be indispensable that fiscal consolidation, in order to prove sustainable, should be underpinned by far-reaching reforms to raise Germany's very low growth potential. The Council stresses again that the German economy, despite its large size, remains highly vulnerable to external shocks and unable to generate an endogenous and durable growth process. While acknowledging that this still partially reflects the economic consequences of German unification, the Council reiterates the need for urgent reforms not only in the labour market, but also in social security and benefit systems in general, and for a reduction in the regulatory burden of the economy.

COUNCIL RESOLUTION

of 19 December 2002

on amendment of the liability for defective products Directive

(2003/C 26/02)

THE COUNCIL OF THE EUROPEAN UNION,

RECALLING THAT:

1. Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products ⁽¹⁾, as amended by European Parliament and Council Directive 1999/34/EC of 10 May 1999 ⁽²⁾, seeks to achieve an approximation of the laws of the Member States concerning the liability of the producer for damage caused by the defectiveness of his products because the existing divergences may distort competition and affect the movement of goods within the common market and entail a differing degree of protection of the consumer against damage caused by a defective product to his health or property. To provide an adequate solution to

the problem, peculiar to our age of increasing technicality, of a fair apportionment of the risks inherent in modern technological production, the Directive imposes liability on the producer without fault on his part for damage caused by the defectiveness of his products.

2. The producer is considered to be the manufacturer of a finished product, the producer of any raw material or the manufacturer of a component part and any person who, by putting his name, trade mark or other distinguishing feature on the product, presents himself as the producer, cf. Article 3(1) of the Directive. Without prejudice to the liability of the producer, any person who imports into the Community a product for sale, hire, leasing or any form of distribution in the course of his business shall be deemed to be a producer and shall be responsible as a producer, cf. Article 3(2) of the Directive.

⁽¹⁾ OJ L 210, 7.8.1985, p. 29.

⁽²⁾ OJ L 141, 4.6.1999, p. 20.

3. Where the producer or the importer of the product cannot be identified, each supplier of the product shall be treated as its producer unless he informs the injured person, within a reasonable time, of the identity of the producer or the importer or of the person who supplied him with the product, cf. Article 3(3) of the Directive. Apart from this specific Article the Directive contains no provisions concerning the liability of the supplier.

4. At the time of the adoption of the Directive (Session 1025 of the Council, 25 July 1985), the following joint statement of the Council and the Commission concerning the scope of the Directive was inserted in the Council minutes:

‘With regard to the interpretation of Articles 3 and 12, the Council and the Commission are in agreement that there is nothing to prevent individual Member States from laying down in their national legislation rules regarding liability for intermediaries, since intermediary liability is not covered by the Directive. There is further agreement that under the Directive the Member States may determine rules on the final mutual apportionment of liability among several liable producers (see Article 3) and intermediaries.’

At the same time the following statement was inserted in the Council minutes concerning the understanding of Article 3(3):

‘The Council notes that the word “supplier” within the meaning of Article 3(3) means the person who operates in the chain of distribution.’

5. In a judgment of 25 April 2002 (case C-52/00) the Court of Justice of the European Communities established that the Directive seeks to achieve, in the matters regulated by it, complete harmonisation of the laws, regulations and administrative provisions of the Member States (see also judgments of the same date in cases C-154/00 and C-183/00). Furthermore, the Court of Justice also estab-

lished in case C-52/00 that a national legislation providing that the supplier of a defective product is to be liable in all cases and on the same basis as the producer constitutes a violation of the Directive.

6. Thus, it seems that Member States may no longer lay down rules on liability of suppliers, i.e. persons who operate in the chain of distribution, based on the same ground as the liability system in the Directive concerning liability of producers. Except for cases provided for in Article 3(3) a system of liability of suppliers based on strict liability therefore seems to be precluded.

7. This legal situation gives rise to concern, since as pointed out in paragraph 3 the Directive does not, apart from Article 3(3), contain provisions concerning the liability of the supplier.

8. The possibility to lay down rules on liability of suppliers, including rules on strict liability, could involve benefits to the consumers, regardless of whether these rules are laid down at national or Community level. In relevant cases the consumer would then be able to raise his claim against the producer, subsequent suppliers, including the seller of the product, or them all. This could improve consumer's possibility of actually obtaining compensation.

The Council also recalls that one of the general objectives of the Community is to promote consumer interests and ensure a high level of consumer protection, cf. Articles 95 and 153 of the Treaty.

9. THE COUNCIL CONSIDERS that against this background there is a need to assess whether Directive 85/374/EEC, as amended by Directive 1999/34/EC, should be modified in such a way as to allow for national rules on liability of suppliers based on the same ground as the liability system in the Directive concerning liability of producers.

COUNCIL OPINION

of 21 January 2003

on the updated stability programme of Greece, 2002 to 2006

(2003/C 26/03)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1466/97 of 7 July 1997 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies ⁽¹⁾, and in particular Article 5(3) thereof,

Having regard to the recommendation of the Commission, after consulting the Economic and Financial Committee,

HAS DELIVERED THIS OPINION:

On 21 January 2003 the Council examined the 2002 update of the stability programme of Greece, which covers the period 2002 to 2006. The programme conforms with the requirements of the code of conduct on the content and format of the programmes endorsed by the Ecofin Council on 10 July 2001. The programme partly conforms with the recommendations of the BEPGs.

⁽¹⁾ OJ L 209, 2.8.1997.

In 2002, real GDP growth decelerated somewhat, as a result of deteriorating external environment, but remained robust, at 3,8 %, as projected in the 2001 stability programme. Inflation pressures under the impact of second round effects from the oil prices hike and other transitory factors, such as bad weather conditions, although easing in recent months, are still persisting with the inflation rate remaining high: the HICP was increasing by an annual rate of 3,9 % in November 2002.

The 2002 update of the stability programme projects annual real GDP growth at around 3,8 % in yearly average for the period 2003 to 2006, and marginally lower rates than the 2001 update for the period until 2004. The Council considers the projected real GDP growth as attainable, particularly until 2004 as economic activity will be underpinned by high private and public investment related to the preparation of the Olympic Games and sustained by the inflow of financial resources from the third Community Support framework. However, for growth to be sustained it is essential that fiscal policy remains tight and wage increases are based on labour productivity changes.

The Council notes that the general government accounts deteriorated in 2000 and 2001, when compared with the estimates of the 2001 update, due to a large extent to the revisions of the government accounts figures, in order to ensure compliance with ESA national accounting rules. As a consequence, the starting point of the budgetary projections changed considerably as compared with the 2001 update: according to the 2002 updated stability programme a general government deficit of 1,1 % of GDP is estimated for 2002 instead of a surplus of 0,8 % of GDP as projected in the 2001 update. Similarly, the government debt ratio is estimated at 105,3 % of GDP in 2002 in the current update, to be compared to 97,3 % of GDP in the previous update.

The Council considers that the budgetary developments as portrayed in the revised data, in particular the slow pace of reduction in the government debt ratio, in a period when the Greek economy has been growing at high rates, is a matter of serious concern.

The Council notes that the 2002 update projects the government balance to turn from a deficit equal to 1,1 % of GDP in 2002 to a surplus of 0,6 % of GDP in 2006; at the same time, the government debt ratio is expected to decline from 107 % of GDP in 2001 to 87,9 % of GDP in 2006; in particular, during the period 2001 to 2004, from a higher initial level, the debt ratio is projected to decline by 10,9 percentage points of GDP instead of 9,6 percentage points as projected in the 2001 update.

The Council notes that the improvement in the government balance in the period from 2002 to 2006 relies both on the reduction in interest payments and on the retrenchment in current primary expenditure. However, the Council considers that, taking into consideration recent experience, fast and continuous reductions in primary current expenditure are difficult to achieve. Up to now, the programme does not include clear binding norms for current primary expenditure. The Council takes note of the initiative of the Greek

Government to introduce a code of fiscal stability, in response to the recommendation in the Council opinions on the 2000 stability programme⁽²⁾ and on the 2001 update⁽³⁾. The Council urges the Greek authorities to accompany this new law by the introduction of appropriate mechanisms to ensure expenditure control. Setting binding norms for some categories of current public expenditures, such as the public sector wage bill, will contribute to the effective implementation of this code.

The Council considers that further budgetary adjustment effort is needed. Since the budgetary adjustment projected in the 2002 update is back-loaded, a heavy burden falls on later years of the programme. In 2006 there may still be a small cyclically adjusted government deficit. However, the Council considers that the level and recent developments in the government debt ratio require a stronger and more robust medium term budgetary adjustment, by at least 0,5 % of GDP per year in underlying terms. This is also required given the perspective of increasing budgetary costs stemming from the ageing population. The Council urges the Greek Government to take advantage of the current favourable macroeconomic situation to undertake determined effort in order to implement a durable budgetary adjustment leading to an improvement in the underlying budgetary position and a satisfactory pace of debt reduction.

The Council notes that strengthening structural reforms is a key economic policy objective of the updated programme; it considers that although progress has been made in recent years in this area, implementation of structural reforms must continue in the product, services and labour markets in order to ensure the efficiency in the markets and the competitiveness of the economy; the Council encourages the Government to proceed to the necessary reforms rapidly and welcomes the intention of the Government to implement reforms in the area of budgeting and management of expenditure in the public sector.

The Council welcomes the information provided in the updated programme on long-term sustainability of public finances. The Council considers that on the basis of current policies there is a serious risk of budgetary imbalances emerging in the future due to the ageing population. In this context the Council notes the information provided in the updated programme on the 'second phase' of the reform of the social security system introduced in 2002 as recommended in its opinion on the 2001 updated stability programme⁽³⁾. If debt reduction is to make a noticeable contribution towards meeting the budgetary cost of ageing populations, then reaching a balanced budget position by 2006 is essential; this should be part of an ambitious three-pronged strategy to meet the long-term budgetary consequences of ageing and may have to include the running of surpluses. Running sound public finances over the long run will allow to achieve a significant

⁽²⁾ OJ C 77, 9.3.2001.

⁽³⁾ OJ C 51, 26.2.2002.

reduction in the debt ratio prior to the budgetary impact of ageing populations taking hold. The Council considers that further reforms are required to the pension system to avoid an unsustainable increase in public spending. Furthermore, the

Council encourages the Greek authorities to promote supplementary privately-funded pension schemes and to take measures to raise participation rates and to control the evolution of age related expenditures.

COUNCIL OPINION

of 21 January 2003

on the updated Stability Programme of France, 2004-2006

(2003/C 26/04)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1466/97 of 7 July 1997 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies ⁽¹⁾, and in particular Article 5(3) thereof,

Having regard to the recommendation of the Commission, after consulting the Economic and Financial Committee,

HAS DELIVERED THIS OPINION:

On 21 January 2003 the Council examined the updated stability programme of France which covers the period 2003 to 2006. This update is the first programme prepared by the new Government, which took office in June 2002; it provides a budgetary strategy designed to support a strong and lasting improvement in economic and employment growth. The programme complies with the requirements of the revised Code of Conduct on the content and format of stability and convergence programmes. The Council considers that the programme complies partly with the recommendations of the 2002 Broad Economic Policy Guidelines.

The Council, having identified a significant divergence in 2002 budgetary developments from the projections of the 2001 update of the stability programme, and considering that this divergence is not corrected in the plans for 2003, adopted on 21 January 2003 a recommendation with a view to giving early warning to France in order to prevent the occurrence of an excessive deficit. According to this recommendation: (i) The French Government should take all the appropriate measures in order to ensure that the general Government deficit does not breach the 3 % of GDP threshold in 2003;

(ii) Adopting measures apt to improve the cyclically-adjusted budgetary position by at least 0,5 percentage point of GDP would not only reduce the risk for the general government deficit to breach the 3 % of GDP threshold in 2003, but also contribute to resuming a budgetary consolidation path towards a close to balance position as from 2003; (iii) Continuous adjustment in the underlying budgetary position by at least 0,5 % of GDP per year should be pursued also in subsequent years in order to achieve the medium-term budgetary position of close to balance or in surplus by 2006.

General government finances deteriorated markedly in 2002. The updated stability programme estimates the 2002 general government deficit at 2,8 % of GDP, a level higher than that recommended in the early warning and well above the 1,4 % of GDP planned in the previous update. The Council notes that a large part of the slippage in 2002 is due to a deterioration in the underlying balance, which mainly reflects an overrun in expenditures. The budget for 2003 projects the general government deficit at 2,6 % of GDP; this projection is consistent with a decrease in the cyclically-adjusted by 0,2 % of GDP in 2003 to 2,6 % of GDP ⁽²⁾.

The macroeconomic assumption underlying the budget of an increase in real GDP by 2,5 % in 2003 is to be considered as optimistic. Therefore, there is a danger for the government deficit to breach the reference value in 2003. A further deterioration in the 2002 position, which cannot be excluded, or an eventual slippage in the 2003 budget could also bring the general government deficit above 3 % of GDP in 2003. In its Autumn forecast, the Commission projected an increase in the government deficit by 0,2 percentage point between 2002 and 2003 under the assumption of real GDP growth at 2,0 %. Finally, a risk exists that the government debt breaches the 60 % of GDP reference value in 2003.

For the period 2004 to 2006, the macroeconomic projections of the 2002 update are based on two scenarios: a 'cautious' scenario, with real GDP growth at 2,5 % a year over the period, and a 'favourable' scenario where real GDP growth reaches 3 %

⁽¹⁾ OJ L 209, 2.8.1997.

⁽²⁾ These calculations are based on the production function method approved by the Council.

per year. The projections of the 'favourable' scenario encompass downside risks, and the 'cautious' scenario should be taken as the reference one for assessing budgetary developments. In the 'cautious' scenario, the government deficit is projected to decline by 0,5 percentage point of GDP per year as from 2004 to reach 1,0 % of GDP in 2006, which implies that the medium-term objective of close to balance or in surplus would not be reached in the programme period. In the 'favourable' scenario, the government deficit would reach a close to balance position in 2006.

The Council notes that the budgetary consolidation mainly takes place from 2004 onwards. The effort planned for 2003 reaches 0,2 percentage point of GDP, and between 2004 and 2006, the underlying budgetary position improves by 0,5 percentage point a year. The Council urges the French authorities to seek an improvement in the underlying budgetary position of at least 0,5 % each year in order to reduce the risk for the general government deficit to breach the 3 % of GDP threshold and to reach a close to balance position by 2006.

The slow budgetary adjustment is partly due to the implementation of tax cuts from 2003 worth 0,2/0,3 percentage point of GDP per year, in a context where expenditures are projected to increase at the same rate as in the 2001 update. Although considering that a reduction in the tax burden is to be welcomed in so far as it contributes to strengthen potential output growth, the Council regrets that the current update does not confirm that any reduction in the tax burden after 2003 is conditional on the attainment of a close to balance budgetary position.

The budgetary strategy of the 2002 updated stability programme remains based on defining norms for general government expenditure increases in real terms. This strategy has already been commended by the Council in its opinions on the previous updated programmes. Over the period 2004 to 2006, real expenditures are planned to increase by 3,9 % in real terms. The Council considers, in particular in view of recent economic and budgetary developments, that ambitious reforms should be rapidly implemented in order to ensure that this objective is achieved. The Council welcomes the structural measures designed to curb expenditures in the health sector taken recently and the actions aiming at improving the control of budgetary execution in the State sector. It also welcomes the commitment to implement corrective infra-annual measures in the social security sector in the event of an evidence of over-spending. The Council considers that these reforms should lead to a better adherence to the ex ante defined pluri-annual expenditure norms.

On the basis of current policies, the risk of unsustainable public finances in light of ageing populations cannot be excluded. If debt reduction is to make a noticeable contribution towards meeting the budgetary cost of ageing populations, then reaching a balanced budget position by 2006 is essential; this should be part of an ambitious three-pronged strategy to meet the long-term budgetary consequences of ageing and may have to include the running of surpluses. Running sound public finances over the long run will allow to achieve a significant reduction in the debt ratio prior to the budgetary impact of ageing populations taking hold. The Council welcomes the intentions of the French authorities to reform pension and health-care systems in light of ageing populations and urges them to proceed rapidly with these reforms given the limited window of opportunity.

COUNCIL OPINION**of 21 January 2003****on the updated stability programme of Italy, 2002 to 2006**

(2003/C 26/05)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1466/97 of 7 July 1997 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies ⁽¹⁾, and in particular Article 5(3) thereof,

Having regard to the recommendation of the Commission,

After consulting the Economic and Financial Committee,

HAS DELIVERED THIS OPINION:

On 21 January 2003 the Council examined Italy's updated stability programme, which covers the period 2002 to 2006.

The new update broadly complies with the data requirements of the revised Code of Conduct on the content and format of stability and convergence programmes. However, the lack of information on the additional measures foreseen to achieve the budgetary targets beyond 2003 is not in line with the requirements of the code.

The Council considers that the economic policies as reflected in the planned measures in the updated programme complies partly with the recommendations of the 2002 Broad Economic Policy Guidelines.

The Council welcomes Italy's goal of keeping high primary surpluses throughout the programme period, while allowing for some easing in the tax burden. The Council notes that according to Commission forecasts, the cyclically-adjusted deficit improved by 0,6 percent of GDP in 2002, largely due to one-off measures. It notes that, following a much worse deficit in 2001 than estimated in last year's programme and the delayed recovery in the economy, and in spite of corrective measures adopted in the course of the year, the projected deficit for 2002 significantly exceeds the original objectives. In turn, this implies that the 'close-to-balance' position would

be reached, according to the Government's own projections, in 2004 rather than in 2003. The Council regrets that the decline in the debt ratio has slowed down considerably since 2001, in a context of weak growth and slower-than-envisaged progress in the privatisation programme due to the conditions in financial markets. The reduction of the debt ratio below 100 % of GDP is now envisaged by the Government to occur in 2005 two years later than in the commitment made by Italy in 1998.

The programme's macroeconomic scenario assumes a pick-up in economic activity, which in the short term reflects the expected recovery of the world economy and in domestic demand and then the assumption that the output gap will be closed. However, in light of the more recent developments, the recovery is likely to be slower than anticipated, and growth assumptions, both nominal and potential, appear to be optimistic. Also, in the medium-term, a growth assumption of 2,5 % per year seems to be more plausible, which, together with a downward revision of the potential growth rate to 2 %, would result in an underlying deficit of 1,1 % in 2006. This would imply that, under this scenario, the medium-term objective of close to balance or in surplus would not be reached in the programme period. However, the Council takes note of the commitment of Italy to reach the objective of close to balance in 2004.

The programme projects the cyclically-adjusted budget position in 2003 to improve by 0,7 %. The Council observes that the budgetary target for 2003 relies heavily, as in the previous year, on one-off measures. According to Commission calculations based on the Italian programme update, the cyclically-adjusted deficit will remain at 0,9 % of GDP in 2003, still not complying with the requirement of the Stability and Growth Pact to achieve a budget position close to balance or in surplus. Even assuming that such one-off measures yield the expected results, the cyclically-adjusted budget position may fail to improve as planned on account of the risks to the trend budgetary projections, thus putting in jeopardy the attainment of the minimum adjustment of 0,5 % of GDP. While the Council welcomes the recently introduced measures for stricter control on public expenditures, it urges Italy to ensure the full implementation of the measures planned for 2003, so that, as a minimum, an improvement in the underlying balance of 0,5 % of GDP is ensured. The Council notes that attainment of the budgetary targets for 2004 and beyond, including the achievement of the close-to-balance objective, hinges strongly on the replacement of the main one-off measures implemented in 2003 by measures of a more permanent character together with corrections in order to achieve the reduction of at least 0,5 % in underlying terms.

The Council considers that, in order to implement a sustained path of consolidation, Italy should replace one-off measures with structural ones on the expenditure side. The Council notes that Italy undertakes to set out as a matter of urgency

⁽¹⁾ OJ L 209, 2.8.1997.

in its 2003 medium-term budgetary planning process the broad measures of a permanent nature that would ensure that a minimum improvement in the cyclically-adjusted balance of 0,5 % of GDP per year until the close-to-balance objective can be considered achieved. Generally, the Council invites Italy to clarify its fiscal strategy, particularly in the light of the goal of reducing the tax burden, which the Council shares, but which can be safely and effectively achieved only within a comprehensive reform plan on both the expenditure and the revenue side.

The Council considers that in the light of Italy's very high debt ratio the pace of its reduction should be significantly faster than is the experience of the past years. It notes the slowdown in the rate of debt reduction projected toward the end of the programme period also in connection with some 'below the line' operations. The Council is especially concerned that the risks to the programme deficit targets might imply too slow a pace of reduction in the debt ratio. The Council therefore urges Italy to act on all the factors under the Government's control to ensure that debt is sufficiently diminishing. In this respect, it recommends that measures of transitory nature, particularly sales of assets through securitisation

operations, be considered as a means to accelerate the reduction of the debt and not as a substitute for corrective action on the deficit side.

The Council recalls that the achievement of a position of underlying budget balance in the medium term is critical to placing public finances on a sustainable footing. On the basis of current policies, the risk of unsustainable public finances in light of ageing populations cannot be excluded. Given Italy's high debt, primary surpluses in the order of 5 % of GDP will have to be maintained for many years. The Council notes that Italy's ability to cope with the budgetary consequences of ageing is based on implementation of the major pension reforms adopted in the 1990s and a large increase in the participation rate. In line with its Opinion on the previous updated programmes and the Broad Economic Policy Guidelines for 2002, the Council encourages Italy to adopt further measures to promote supplementary privately-funded pension schemes and to address the outstanding critical issue in the public pension system, namely, the long transition period to the new contributions-based system. This should be coupled with the measures necessary to raise participation rates and to control the evolution of age-related expenditures.

COUNCIL OPINION

of 21 January 2003

on the updated convergence programme of Sweden, 2002 to 2004

(2003/C 26/06)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1466/97 of 7 July 1997 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies ⁽¹⁾, and in particular Article 9(3) thereof,

Having regard to the recommendation of the Commission,

After consulting the Economic and Financial Committee,

HAS DELIVERED THIS OPINION:

On 21 January 2003 the Council examined Sweden's updated convergence programme, which covers the period 2002 to 2004. This update provides detailed information, including

the analysis of the long-term sustainability of public finances, which is broadly in line with code of conduct. The lack of detailed information for 2005 in the programme is not in line with the code of conduct. However, the Council recognises that the Government's Budget Bill for 2003 did not include budgetary plans for 2005 as a result of prolonged negotiations with respect to forming a government in autumn 2002.

The Council considers that the updated programme is consistent with the previous Council Opinion ⁽²⁾ and the Broad Economic Policy Guidelines.

The Council notes with satisfaction that the updated programme envisages continued government surpluses throughout the period to 2004 as Sweden maintains its medium term objective of a budget surplus of 2 % of GDP on average over the business cycle. The strategy of maintaining sound public finances is supported by a commitment to continue to adhere to the ceilings for central government

⁽¹⁾ OJ L 209, 2.8.1997.

⁽²⁾ OJ C 33, 6.2.2002.

expenditure, which has been instrumental in strengthening the credibility of sound public finances in recent years, and a balanced budget constraint for local governments. This has been accompanied by tax cuts, of which the third step out of four was implemented in 2002. The Council further notes with satisfaction that the debt ratio remains below the reference value of 60 % of GDP, and is projected to continue on a downward trend over the remainder of the programme period.

The macroeconomic scenario presented in the programme, with GDP growth of 2,1 % in 2002 and 2,5 % in 2003 appears somewhat optimistic and the Council considers that there are downside risks to growth. Indeed, the Commission's autumn forecast is for growth of 1,6 % in 2002 and 2,2 % in 2003, suggesting a more subdued economic recovery, as there are signs of some fragility both externally and domestically. Economic growth can therefore be expected to return only gradually to the potential growth rate.

The Council considers that Sweden continues to fully respect the Stability and Growth Pact's requirement of a fiscal position 'close to balance or in surplus' over the programme period. Indeed, continued surpluses in the underlying budgetary position in each year over the period underpin that the public finances should remain sound. However, the Council notes that, on the basis of the Commission's analysis, the underlying budgetary position is expected to remain in surplus but below Sweden's 2 % of GDP fiscal rule in the years to 2004. This results from the fact that the considerable fiscal stimulus in 2001 and 2002 is only partially reversed in the following years. Moreover, some restraining measures may be necessary in order to ensure adherence to the expenditure ceilings.

The Council welcomes the attention paid to the sustainability of public finances in the convergence programme, and considers that prudent assumptions should be used as regards the potential evolution of non-age related spending. The Council considers that on the basis of current policies, public

finances appear to be on a sustainable footing to meet the budgetary costs of ageing populations, benefiting from the sustained running of budget surpluses and the ambitious reform of the pension system implemented during the 1990s. The Council welcomes the budgetary objective of running budget surpluses of 2 % of GDP up to 2015 with a view to running down public debt at a fast pace. This may however prove difficult for such a sustained period. A challenge will be to complete the tax reform while safeguarding the achievements of the past decade of placing public finances on a sustainable path.

Inflation in Sweden fell back towards the inflation target of 2 % in the spring of 2002. The Council notes that Sweden continues to fulfil the convergence criterion on price stability and is expected to continue do so in the years to 2004. Long-term interest rates in Sweden over the past year have been in line with the trend in the international bond and equity markets. Sweden continues to fulfil the long-term interest rate convergence criterion. Regarding the exchange rate, the krona has not participated in the ERM2 and it has exhibited some volatility since the submission of the previous update. Hence, Sweden does still not fulfil the exchange rate convergence criterion. The Council considers, as stated in its previous Opinion ⁽¹⁾, that 'Sweden needs to demonstrate its ability to stay in line with an appropriate parity between the krona and the euro over a sufficient period of time without severe tensions. To this end, the Council expects Sweden to decide to join the ERM2 in due course.'

In order to obtain high and sustainable economic growth, the strategy of previous programmes is continued and structural measures in this regard have been implemented and proposed, in line with the Broad Economic Policy Guidelines. To this end, the Council considers that completing the tax reform and efforts to reach the key policy objectives regarding employment, social security recipients and days of sick-leave should be given high importance within the framework of sound public finances.

⁽¹⁾ OJ C 33, 6.2.2002, p. 4.

COUNCIL OPINION**of 21 January 2003****on the updated stability programme of Finland, 2002-2006**

(2003/C 26/07)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1466/97 of 7 July 1997 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies ⁽¹⁾, and in particular Article 5 (3) thereof,

Having regard to the recommendation of the Commission,

After consulting the Economic and Financial Committee,

HAS DELIVERED THIS OPINION:

On 21 January 2003 the Council examined Finland's updated stability programme, which covers the period 2002 to 2006. The Council notes with satisfaction that the general government balance, which exceeded projections in 2001, is expected to remain clearly in surplus throughout the programme period. Furthermore, in spite of the higher than expected outcome in 2001, the general government debt to GDP ratio is projected to continue to decline, unlike in the previous programme, virtually every year during the programme period. The Council considers that the updated programme is consistent with the Broad Economic Policy Guidelines (BEPG).

The macroeconomic scenario presented in the 2002 updated stability programme projects a strengthening of economic activity in 2002 and 2003 which appears warranted on the back of most recent data. Subsequently, GDP growth is expected to decelerate slightly to below its trend rate, in the face of constraints on labour supply. Given the assumption of a favourable external environment, the projected deceleration of GDP growth in the later years of the programme represents a rather cautious view.

The Council notes that the programme projects a substantial decline in the general government surplus from 4,9 % of GDP in 2001 to just above 2 % in 2004 ⁽²⁾ and a return to close to 3 % is expected for the later years of the programme owing to assumed expenditure control. The Council notes, that all levels of government appear to be responsible for the weakening of

the financial position between 2002 to 2004, with only the social security funds, preparing for the coming age-related expenditure pressures, upholding the surplus at the general government level. The projected decline in the cyclically adjusted balance by 1 ½ percentage points of GDP between 2002 and 2004 is also partly due to the decline from the exceptionally high level recorded in 2000 in corporate taxes; however, the decline in the cyclically adjusted surplus seems to come at the time when the economy should be strongly gathering momentum, suggesting, thus, a pro-cyclical stance of fiscal policy.

The Council notes that, apart from the cyclical adjustment from exceptionally high starting point of 2000, the expected decline in the government surplus is mainly due to higher than originally planned income tax cuts between 2000 and 2003 and higher than planned discretionary spending at central government level in 2001 and 2002. Even though the previous high surpluses have created some additional room (for fiscal manoeuvre), the Council takes note of the apparent customary tendency of deviating from the medium-term spending guidelines which represent the Governments key fiscal policy instrument. These slippages raise some concern, since, in order to maintain high surpluses in coming years, the programme assumes tight restraints on spending — but also a decline in the revenue-to-GDP ratio. Therefore, the Council renews its recommendation from last year — also along the lines of 2002 BEPGs — that the Finnish Government reinforces its commitment to firmly control central Government outlays over the medium-term.

The Council also notes the somewhat slow pace of debt reduction over the programme period, in the light of the comfortably high primary surpluses, but recognises that this follows mainly from net accumulation of financial assets and, furthermore, that the general government financial assets appear to exceed the sectors gross debt. Nevertheless, in light of Finland's above-average exposure to expenditure pressures related to the ageing of the population, the Council encourages the Finnish Government to maintain the current high surpluses over the medium term to allow a continuous decline in the Government gross debt ratio.

The Council notes that the projected surplus in the Government accounts throughout the programme period is fully in line with the requirements of the Stability and Growth Pact. This is almost entirely due to a surplus in the accounts of statutory social security institutions preparing for the age-related expenditure pressures. In addition, in spite of expected deficit in central and local government finances, the estimated cyclically adjusted government surplus of at least 2 % of GDP should provide a sufficient safety margin against a breach of the 3 % of GDP reference value for the government deficit in normal cyclical fluctuations.

⁽¹⁾ OJ L 209, 2.8.1997.

⁽²⁾ Excluding 2004, this represents an upward revision of the budgetary targets compared with the previous programme, due also to surplus in 2001 having been higher than targeted.

The Council welcomes the measures recently adopted to improve financial stability at the local government level over the medium term. The Council recommends, in line with the 2002 Broad Economic Policy Guidelines and the updated stability programme, to ensure that the envisaged aims are achieved; in this respect, the introduction of a surveillance mechanism underpinning legislation requiring local governments to balance their budgets within a three year period would be welcome.

The Council welcomes the attention given in the stability programme to the sustainability of public finances. The Council considers that on the basis of current policies, public finances appear to be on a sustainable footing to meet the budgetary costs of ageing populations, benefiting from the

sustained running of budget surpluses, and a reformed pension system that has a high degree of prefunding.

The Council also takes note of reforms, both planned and underway, which aim at raising employment rates of older workers, and encourages the Finnish authorities to proceed with their implementation according to the time frame indicated in the stability programme.

The Council notes that the tax ratio in Finland is high compared with other industrialised countries. A major challenge will be to carry out the planned tax reforms, while safeguarding the achievements of the past decade of placing public finances on a sustainable path.

COMMISSION

Interest rate applied by the European Central Bank to its main refinancing operations ⁽¹⁾:

... % on 1 February 2003

Euro exchange rates ⁽²⁾

3 February 2003

(2003/C 26/08)

1 euro =

Currency			Exchange rate	Currency			Exchange rate
USD	US dollar		1,0729	LVL	Latvian lats		0,6224
JPY	Japanese yen		129,27	MTL	Maltese lira		0,4197
DKK	Danish krone		7,4377	PLN	Polish zloty		4,1153
GBP	Pound sterling		0,6553	ROL	Romanian leu		35613
SEK	Swedish krona		9,2334	SIT	Slovenian tolar		231,0655
CHF	Swiss franc		1,4684	SKK	Slovak koruna		41,894
ISK	Iceland króna		82,92	TRL	Turkish lira		1758000
NOK	Norwegian krone		7,479	AUD	Australian dollar		1,8405
BGN	Bulgarian lev		1,9553	CAD	Canadian dollar		1,6303
CYP	Cyprus pound		0,57927	HKD	Hong Kong dollar		8,3685
CZK	Czech koruna		31,56	NZD	New Zealand dollar		1,979
EEK	Estonian kroon		15,6466	SGD	Singapore dollar		1,8699
HUF	Hungarian forint		243,73	KRW	South Korean won		1264,41
LTL	Lithuanian litas		3,4521	ZAR	South African rand		9,1747

⁽¹⁾ Rate applied to the most recent operation carried out before the indicated day. In the case of a variable rate tender, the interest rate is the marginal rate.

⁽²⁾ Source: reference exchange rate published by the ECB.

COMMISSION OPINION**of 29 January 2003****concerning the plan for the disposal of radioactive waste resulting from modifications at the site of the Gundremmingen II Nuclear Power Station KRB II in the Federal Republic of Germany, in accordance with Article 37 of the Euratom Treaty**

(2003/C 26/09)

(Only the German text is authentic)

On 6 August 2002 the European Commission received from the Government of the Federal Republic of Germany, in accordance with Article 37 of the Euratom Treaty, general data relating to the plan for the disposal of radioactive waste resulting from modifications at the site of the Gundremmingen II Nuclear Power Station KRB II.

On the basis of these data, the Commission has considered that the plan concerned modifications to an existing plan on which an opinion had already been given. The Commission has further taken into consideration that the intermediate storage facility for irradiated fuel resulting from those modifications is designed to operate up to 40 years and could remain in operation after decommissioning and dismantling of the existing plant. Following consultation with the group of experts, the Commission has drawn up the following opinion:

- (a) the planned modifications require no changes to the existing authorised limits for gaseous and liquid discharges;
- (b) the planned modifications have no consequences in relation to the solid radioactive waste arising from the operation of the existing plant;
- (c) the planned modifications have no consequences in relation to the unplanned discharges of radioactive substances, which may follow an accident of the type and magnitude considered in the general data of the existing plan.

In conclusion, the Commission is of the opinion that the implementation of the plan for the disposal of radioactive waste in whatever form resulting from modifications at the site of the Gundremmingen II Nuclear Power Station KRB II, located in the Federal Republic of Germany, both in normal operation and in the event of an accident of the type and magnitude considered in the general data, is not liable to result in radioactive contamination, significant from the point of view of health, of the water, soil or airspace of another Member State.

Non-opposition to a notified concentration
(Case COMP/M.2844 — Linde/Komatsu/Forklift)

(2003/C 26/10)

(Text with EEA relevance)

On 19 December 2002, the Commission decided not to oppose the above notified concentration and to declare it compatible with the common market. This decision is based on Article 6(1)(b) of Council Regulation (EEC) No 4064/89. The full text of the decision is only available in English and will be made public after it is cleared of any business secrets it may contain. It will be available:

- as a paper version through the sales offices of the Office for Official Publications of the European Communities (see list on the last page),
- in electronic form in the 'CEN' version of the CELEX database, under document No 302M2844. CELEX is the computerised documentation system of European Community law.

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COURT OF JUSTICE

Decisions adopted by the Court at its meeting on 19 November 2002

(2003/C 26/11)

At its meeting on 19 November 2002, the Court of Justice of the European Communities adopted the following transitional measures which will apply for the period from the entry into force of the Nice Treaty amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts, signed at Nice, 26 February 2001 (OJ C 80, 10.3.2001), until the entry into force of the amendments to its Rules of Procedure made necessary by the Nice Treaty.

Appointment of Presidents of the Chambers

The Court confirmed the appointments of the Presidents of the Chambers made at its meeting on 17 September 2002 (OJ C 261, 6.10.2002).

Composition of the Chambers

The Court confirmed the composition of the Chambers determined at the same meeting on 17 September 2002.

Assigning of cases to benches

Until the adoption of rules for the appointment of the Judges called upon to form part of the Grand Chamber, the Court has decided to sit as the full Court for cases which are not assigned to a chamber of three or five Judges.
