European Economic and Social Committee

ECO/140

Transitional periods/payment interest and royalties

Brussels, 28 April 2004

OPINION

of the European Economic and Social Committee

on the

Proposal for a Council Directive amending Directive 2003/49/EC as regards the possibility for certain Member States to apply transitional periods for the application of a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States

(COM(2004) 243 final - 2004/0076 CNS)

On 14 April 2004 the Council of the European Union decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the

Proposal for a Council Directive amending Directive 2003/49/EC as regards the possibility for certain Member States to apply transitional periods for the application of a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States
(COM(2004) 243 final - 2004/0076 CNS).

The European Economic and Social Committee decided to entrust the Section for Economic and Monetary Union and Economic and Social Cohesion with the preparatory work on this subject.

In view of the urgent nature of this work, the European Economic and Social Committee decided at its 408th plenary session held on 28 and 29 April 2004 (meeting of 28 April) to appoint **Mr Burani** as rapporteur-general and adopted the following opinion unanimously.

1. **The Commission proposal**

1.1 The purpose of this proposal is to amend Directive 2003/49/EC so as to incorporate transitional periods, for the application of the directive, following requests by the Czech Republic, Latvia, Lithuania, Poland and Slovakia.

1.2 As the directive was adopted on 3 June 2003, after the signing of the Act of Accession on 16 April 2003, it was not included in Chapter 9 of Annexe II of the Act of Accession. Nevertheless, the directive constitutes part of the Community *acquis* and therefore applies from the date of accession – 1 May 2004.

1.3 In May and July 2003, the acceding States were invited formally to submit their requests for transitional periods. The Czech Republic and the Republics of Latvia, Lithuania and Poland each submitted formal requests for transitional periods.

1.4 The Commission's assessment of the derogation requests took account of:

- the current withholding taxes applicable in the requesting countries under their domestic income legislation;
- the rate of withholding taxes on interest and royalty payments provided for in the Tax Conventions on Income and Capital of the requesting countries;
- the budgetary effect of abolishing the withholding taxes; and
- the transitional periods granted to existing Member States (Greece, Portugal and Spain).

1.5 Taking into account their present economic situations, their status as capital importing countries, the ongoing economic transition and their relatively low level of budget revenues, the acceding States might face budgetary difficulties were they required to abolish withholding taxes on interest and royalties payments.

1.6 The Commission assessed the acceding countries' requests against this background, taking into account their specific needs. Under these principles, any transitional periods should be of short duration and proportionate to the problem that they seek to address.

1.7 The Commission proposes that, with the exception of Slovakia, which only asked for two years, a transitional period of six years should be granted to all requesting states for the application of the directive regarding the taxation of payments of royalties; and a transitional period of six years should be granted to Latvia and Lithuania regarding the taxation of payments of interest – it being considered that six years should be sufficient to allow appropriate adjustments to be made. For a period of four years, the rate of tax applied by Latvia and Lithuania, to payments of interest, may not exceed 10% and for the remaining two years, that rate may not exceed 5%.

2. **The opinion of the European Economic and Social Committee**

2.1 The EESC welcomes the fact that the Commission has studied the requests submitted by the accession countries in an appropriate and coherent manner.

2.2 As the directive is part of the Community *acquis*, the acceding States will be required to apply it as of

1 May. If the transitional period is not approved, these countries may experience budgetary difficulties.

2.3 Given that existing EU members have been granted temporary exemptions in this area, it is only fair and reasonable in terms of both principle and precedent that the accession States should also be able to benefit from temporary exemptions where this can be justified.

2.4 In conclusion, the EESC recommends the approval of this directive, which will give a clear political signal to the accession States that the EU is fully committed to their development. In order to ensure that the accession States are not placed in a situation that could entail budgetary difficulties, the EESC calls on the Council to adopt this directive as soon as possible.

Brussels, 28 April 2004

The President of the European Economic and Social Committee	The Secretary-General of the European Economic and Social Committee
Roger Briesch	**Patrick Venturini**

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