The following members, present or represented, abstained:

Mr/Mrs/Miss: BERNABEI, BERNS, DUNKEL, ENGELEN-KEFER, HAGEN, LAPPAS, LARSEN, MERCIER, PAVLOPOULOS.

APPENDIX III

to the opinion of the Economic and Social Committee

Following the vote by roll call on the complete text of the Opinion, the following members of Group II (Workers), who had voted against the text, issued a declaration containing the text of the counter-Opinion set out in Appendix I

Mr/Mrs/Miss: ABEJON RESA, ATTLEY, BAEZA, BLESER, BRIESCH, CAL, CARROLL, CASSINA, CHRISTIE, COLOMBO, DECAILLON, van DIJK, DRAIJER, DRILLEAUD, ETTY, EULEN, FLUM, FREEMAN, GEUENICH, GOMEZ MARTINEZ, GROBEN, JANSSEN, JENKINS, de KNEGT, LACA MARTIN, LIVERANI, LYONS, MADDOCKS, MASUCCI, MOLINA VALLEJO, MORRIS, MOURGUES, NIELSEN B., NIELSEN P., NIERHAUS, PE, PIETTE, SANDERSON, SANTILLAN CABEZA, SANTOS, SCHMITZ, von SCHWERIN, SEQUEIRA, SMITH, THEONAS, TIXIER, VERBOVEN, WAGENMANS, WALDACK, ZUFIAUR NARVAIZA.

Opinion on the proposal for a Council Directive amending Directive 80/390/EEC coordinating the Requirements for the Drawing-up, Scrutiny and Distribution of the Listing Particulars to be Published for the Admission of Securities to Official Stock Exchange Listing, with regard to the Obligation to Publish Listing Particulars [1]

(93/C 161/09)

On 22 February 1993 the Council decided, in accordance with Article 54(2) of the EEC Treaty, to consult the Economic and Social Committee on the abovementioned proposal.

The Committee instructed its Section for Economic, Financial and Monetary Questions to carry out the preparatory work. During its work the Committee appointed Mr Meyer-Horn Rapporteur-General (Articles 18 and 46 of the Rules of Procedure).

At its 305th Plenary Session (meeting of 28 April 1993), the Economic and Social Committee adopted unanimously the following Opinion.

1. Introduction

1.1. The first EC directives on securities and stock markets were devoted entirely to investor protection. They covered the harmonization of:

— the conditions to be satisfied in order to qualify for a stock exchange listing;

— the listing prospectus itself;

— the regular communications of listed companies;

— the reporting of qualifying holdings;

— issue prospectuses; and

— the prohibition of insider trading.

A directive on public takeover bids is still lacking. The investment services and capital adequacy directives will place freedom of establishment and the freedom to provide services under the aegis of home country supervision, while the supplementary directive on investment firms' clearing schemes will again deal with investor protection.

[1] OJ No C 23, 27. 1. 1993, p. 6.

1.2. Since the 1980 Listing Particulars Directive, capital movements in the EC have been liberalised. Competition relationships between securities markets have also changed. In many Member States the so-called 'regional' stock exchanges have lost ground to the country's leading market. And the leading markets in the Member States have lost trading volume to international computer trading systems, especially in share dealing.

1.3. The Commission has always supported an opening-up of stock exchanges on a European scale. As long ago as November 1980 it organised a symposium in Brussels with the theme 'Towards a European Stock Market'. In the years which followed, the EC stock exchanges committee, the forerunner of the present association, made intensive preparations for an online stock exchange association.

1.3.1. The stock exchanges committee's project was initially an ambitious trading system known as IDIS, then as PIPE or Euroquote, and now the somewhat more modest Eurolist. Despite big difficulties in co-ordinating the various ideas, a prompt start was always announced for the relevant project, as is the case now for the less ambitious Eurolist. This is supposed to provide simultaneous listing for the shares of some 250 large EC companies in at least 5 EC exchanges outside their home country (350 companies from the whole European Economic Area, or EEA).

1.3.2. To bring about simultaneous listing, representatives of the stock exchanges approached the Commission with their wish for simplification of the Listing Particulars Directive. This unusual but commendable step is expressly mentioned in the Explanatory Memorandum of the present proposal [doc. COM(92) 556 fin — SYN 451].

1.4. A large number of foreign shares have been listed on EC exchanges for some time, but trading volume leaves a lot to be desired. An operational Eurolist system could boost business because there would no longer be any fear of arbitrage and buyers of foreign shares would place orders on their own markets.

2. Aim of the present proposal

The aim of the present proposal [doc. COM(92) 566 fin — SYN 451] is to amend Directive 80/390/EEC, which co-ordinates the requirements for the drawing-up, scrutiny and distribution of the listing particulars to be published for the admission of securities to official stock exchange listing.

It seeks to simplify companies' listing obligations in three ways:

2.1. Listed companies seeking a further listing in other Member States would no longer have to publish a new listing prospectus, but merely a simplified set of documents.

2.2. Companies whose shares have been traded on a regulated second-tier market in the same Member State for more than two years and who wish to be officially listed would also no longer have to publish a full listing prospectus, but would merely have to make available the data contained in such a document.

2.3. Finally, and most important, all information, notices, posters, documents etc. would only have to be published in a language which investors in the host Member State could easily understand, rather than in the official language of the country.

3. General comments

3.1. The original 1980 Directive was criticised at the time because its requirements would make prospectuses too weighty and difficult to read. Shareholders, however, are mainly interested in the latest news. So, in 1987 a first amendment to the Directive provided for the mutual recognition of listing particulars and a second amendment in 1990 extended this principle to issue prospectuses.

3.2. The present proposal to update the original, complete listing prospectus with a much shorter document and do away with long and costly translations where possible is the next logical step.

3.3. Of course, there may well be arguments over what languages can be easily understood in a Member State if the competent authorities have not previously taken a decision on the matter (see point 4.1.5 below).

3.4. It will also be easier for companies in junior markets to 'move up' to an official listing. This is a good thing, although it has nothing to do directly with the so-called 'Eurolist Directive'.

3.5. The ESC supports the proposed directive, subject to the specific comments made below.

4. Specific comments

4.1. The Commission's attention is drawn to a number of points which need to be clarified or amended:

4.1.1. Time limits

The new Article 6(4)(d) refers to national legislation or regulations, in recognition of the subsidiarity principle. The free provision of information 'at the office of the paying agents' would mean, within a fairly short time, that all the branches of the relevant credit institution would have to be supplied with such documents; this would not be practical, as experience with the Stock Exchange Access Directive 79/279/EEC has shown.

4.1.2. Bonds and tap issues

The Eurolist project does not cover such securities. Any interest in foreign listings of such paper is unlikely, as the international interpenetration of bond markets has already been extensively achieved by telephone and computer trading through Euromarkets such as London and Luxembourg and through derived financial instruments.

4.1.3. Essential amendments or developments

The second indent of the new Article 6(4)(d)(i) contains the principal item of the new document, but the vagueness of its wording could cause difficulties of interpretation in disputes; just what are 'essential amendments or developments'?

4.1.4. 'Moving up' from the second-tier market

The wording of Article 6(5) ('.... in the opinion of the competent authorities ...') also represents a far-reaching concession to the principle of subsidiarity, especially as an official listing can, after three years, be the basis for a listing abroad.

4.1.5. Investors and languages

'A language which investors in the host Member State can easily understand' is a highly problematical concept, even if reference is made in the Explanatory Memorandum to current jurisprudence. One need only think of the Decision of the European Court of Justice in case No C-369/89 (Piageme and others versus BVBA Peeters) concerning food labelling. It is not necessary for private investors to have an above-average knowledge of foreign languages. If one wished to interpret this provision broadly, it would be better to refer to the staff of investment firms.

Done at Brussels, 28 April 1993.

The Chairman

of the Economic and Social Committee

Susanne TIEMANN