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11) Article 19 shall be amended as follows:

(a) The following paragraph shall be added:

'4a. Every year before 31 March, the exporter shall communicate to the Commission, sending a copy of the data to the competent authority of the Member State concerned, the records provided by each applicant in accordance with Article 12(4), in respect of the period 1 January to 31 December of the preceding year.'

(b) Paragraph 6 shall be replaced by the following:

'6. The Commission may, in accordance with the procedure referred to in Article 18(2), modify the reporting requirements laid down in paragraphs 1 to 4-A, to meet commitments under the Protocol or to improve the practical application of those reporting requirements.'

12) In Annex I the following words shall be added after Group VIII:

In the column headed 'Group' the words 'Group IX' are inserted, in the column headed 'Substance' the words 'CH₂BrC1 (halon 1011 bromochloromethane)' are inserted and in the column headed 'Ozone-depleting potential' the number '0,12' is inserted;

13) Annex II shall be deleted.

Article 2

This Regulation shall enter into force on the twentieth day following its publication in the Official Journal of the European Union.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at ..., on ...

For the European Parliament
The President

For the Council
The President

P5_TA(2003)0253

Employee financial participation

European Parliament resolution on the Commission communication to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions on a framework for the promotion of employee financial participation (COM(2002) 364 – 2002/2243(INI))

The European Parliament,

- having regard to the Commission communication (COM(2002) 364 – C5-0527/2002),
- having regard to the first Commission report on the promotion of participation by employed persons in profits and enterprise results (including equity participation) in the Member States – Pepper I⁽¹⁾,
- having regard to the Council recommendation 92/443/EEC of 27 July 1992 on the promotion of participation by employed persons in profits and enterprise results (including equity participation)⁽²⁾,

⁽¹⁾ Supplement 3/91, Social Europe.

⁽²⁾ OJ L 245, 26.8.1992, p. 53.

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- having regard to its opinion of 9 April 1992 on the Commission proposal for a Council recommendation on the promotion of employee participation in profits and enterprise results (including equity participation) ⁽¹⁾,
 - having regard to its resolution of 15 January 1998 on the second Commission report on the promotion of participation by employed persons in profits and enterprise results (including equity participation) in Member States – Pepper II (COM(1996) 697) ⁽²⁾,
 - having regard to the opinion of the Economic and Social Committee of 26 February 2003,
 - having regard to the working document of the European Parliament Secretariat, entitled ‘Employee participation in profits and ownership: a review of the issues and evidence’ ⁽³⁾,
 - having regard to the studies by the European Foundation for the Improvement of Living and Working Conditions on the topic of employee financial participation ⁽⁴⁾,
 - having regard to Rules 47(2) and 163 of its Rules of Procedure,
 - having regard to the report of the Committee on Employment and Social Affairs and the opinions of the Committee on Economic and Monetary Affairs, the Committee on Industry, External Trade, Research and Energy and the Committee on Women’s Rights and Equal Opportunities (A5-0150/2003),
- A. whereas take-up of employee financial participation remains limited overall, in particular employee shareholdings, despite the legislative provisions or initiatives adopted in a number of Member States since the Pepper reports,
- B. whereas employee financial participation is at a very low level in the countries of Central and Eastern Europe, and is running up against a number of specific obstacles that should be taken into account,
- C. having regard to the discrepancies between countries in relation to the spread of financial participation, and to the great diversity of existing employee financial participation schemes, not only as between Member States, but also within them,
- D. whereas it is as yet neither necessary nor desirable and practicable to harmonise fully the rules for financial participation schemes, as this would impede the flexibility of Member States policies, but whereas current practices should be compared and coordinated, through the establishment and development of common principles (which would have to be agreed), and fiscal and social security aspects should be examined,
- E. whereas employee participation in capital improves the equity ratio, making it easier to raise capital from outside sources (Basle II), and both factors increase the investment capacity of the enterprise,
- F. whereas studies and specific examples show that employee financial participation, where it is correctly implemented, not only increases company productivity, competitiveness, and profitability, but can also, at the same time, encourage worker participation, improve the quality of employment and contribute to greater social cohesion,
- G. whereas there are many forms of profit-sharing and enterprise participation by employees in the European Union, for which until now there has been no European framework,

⁽¹⁾ OJ C 125, 18.5.1992, p. 241.

⁽²⁾ OJ C 34, 2.2.1998, p. 151.

⁽³⁾ SOCI 109, Directorate-General for Research, European Parliament, Luxembourg, 2002.

⁽⁴⁾ ‘Employee share ownership and profit sharing in the European Union’ and ‘Recent trends in employee financial participation in the European Union’, European Foundation for the Improvement of Living and Working Conditions, Dublin 2001.

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- H. whereas models of share ownership and profit-sharing have become established to different degrees in the different EU Member States; whereas, in particular, the French policy on participation is a good example of what financial participation can do for employment policy,
- I. whereas in nearly all the accession countries there is no legal or fiscal framework for employee participation,
- J. whereas employee financial participation can contribute to greater social responsibility on behalf of the undertakings,
1. Considers that financial participation by employees in their undertaking is one of the preconditions for achieving the European social model;
 2. Welcomes the communication's general objective of greater participation by employees in the Member States and the EU in profits and productive capital and its aim to submit proposals on this subject by 2004; confirms its previous positions on profit-sharing and share ownership;
 3. Considers that the Commission's proposal may be expected to have direct results regarding, specifically, the increase of employment in the framework of the Lisbon objectives; notes that positive experiences of financial participation schemes can be found both inside and outside the European Union, although in the EU the use of such schemes is not, so far, prevalent in SMEs but is mostly linked to larger companies;
 4. Endorses the proposals in the communication and calls for better mutual recognition of the different national systems;
 5. Considers that the following principles are essential for the functioning of a model of financial participation:
 - (i) participation must be voluntary – all employees must be included in the participation scheme offered by the employer without any discrimination; particular attention must be paid to include part-time workers and women;
 - (ii) the scheme must be clear, transparent and simple, in line with the situation of the company, the undertaking and the economy;
 - (iii) unreasonable risks for employees should be avoided wherever possible;
 - (iv) where possible, avoidance of a pro-cyclical impact on Member States' national economies, for example, in cases of excessive growth in employee incomes and wealth in good times for the economy, or 'double' losses occurring during negative economic growth;
 - (v) the scheme must be compatible with worker mobility;
 6. Supports the Commission in its intention to step up its promotion of projects to encourage financial participation in the context of the Community budget, and reiterates its call for the implementation of a specific programme, adequately financed, to promote exchanges of information and best practice, as well as educating the social partners about Pepper schemes;
 7. Emphasises that a clear distinction has to be made between schemes which offer additional income for employees linked to the results of an enterprise (profit-sharing) and those which provide for a participation of employees in enterprises' assets (including employee share ownership or stock-options);
 8. Notes that, to date, the Commission has primarily recommended and described employees' profit-sharing and share ownership schemes that are based on securities, for example, shares (including employees' shares), bonds, convertible bonds and share option certificates; is concerned that the Commission has not given enough attention to other possibilities;

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9. Stresses that in order to implement a policy of a broad distribution of assets, it is vitally important to convince the social partners – employers, employees and their representatives; to this end, also calls for the promotion of networks of partnerships with financial participation;
10. Considers that special attention must be given to the involvement of women in the various forms of participation and the promotion of a balanced representation of women and men in social partner organisations, particularly in company structures and workers' organisations which opt for financial participation;
11. Stresses that serious reservations on the part of both sides of industry must be borne in mind; therefore considers it necessary to take account of the concerns or fears of employees and trade unions; in particular, holding pay negotiations between management and employees and negotiations on employee financial participation simultaneously must be avoided; believes that the premise must be that employee participation will always be an additional component, and should not replace the customary basic wage or wage components, in particular pension schemes or customary wage increases;
12. Expects that the basis for such financial-participation models can also be created through free collective bargaining;
13. Recognises that as well as opportunities, financial participation also involves risks and difficulties, in particular:
 - (i) the dual risk for employees with shares in the company where they work: in the event of the company's bankruptcy they will lose both their job and the value of their shares;
 - (ii) organisational and other obstacles, for example in relation to taxation law, social security law and labour law in transnational undertakings;
 - (iii) in connection with implementing employee financial participation in SMEs;
14. Therefore calls on the social partners, the Member States, EU bodies and others to develop and optimise strategies to minimise risks;
15. Insists that employees who invested their money in capital participation schemes enjoy at least the same rights emerging from ownership as any comparable owner, in particular in cases where employees cannot freely dispose of their investment;
16. Considers that the Commission's assurance that the application of the financial participation system will contribute to increasing employment needs to be further researched and evaluated taking particular account of SMEs;
17. Emphasises that SMEs are facing particular difficulties as regards the implementation of the system of employee participation and that the respective cost and the administrative problems may be considered prohibitive;
18. Recommends that the Member States also promote models of participation that can be used by small and medium-sized undertakings, such as dormant partnerships, and calls for EU research into which other forms of participation are suitable for SMEs and exist or should be set up in the Member States; also calls for advisory bodies such as information offices to be set up by regional authorities and/or regional workers' alliances;
19. Calls also on the Commission to examine the conditions and arrangements under which Pepper II schemes can be extended to public and non-commercial sectors;
20. Proposes alternative investment outlets outside the workplace for profit-shares earmarked for investment if in-house solutions are not possible in SMEs, whereby SME employees' share of profits which is not

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invested in their own undertaking is collected and channelled back to SMEs as a beneficial way of financing jobs; therefore recommends an increased use of:

- (i) investment associations for SMEs;
- (ii) company participation societies that increase resources not by collecting them into a fund but by issuing shares (to employees as well), and investment cooperatives;
- (iii) trusteeship funds in line with SMEs' capital requirement and employee stock ownership plans or employee stock ownership trusts (ESOP/ESOT) following the example of those in Great Britain and Ireland, and societies to boost the economy;

21. Reiterates its belief that equity participation which funds jobs is more deserving of Member State support than profit shares handed out in cash to employees;

22. Advocates, in addition to fiscal solutions, savings bonuses as employment benefits to encourage capital formation, as they benefit workers who pay little or no tax, and the bonus system is easier to harmonise in transnational participation models than are tax and social security advantages;

23. Urges active solutions and the following initiatives by the European Commission, including the setting up of a working group of independent experts who, in particular, can analyse transnational challenges, such as:

- (i) different levels of taxation on share values and capital yield in the Member States (double taxation); the most appropriate time to tax share options (exercise of a stock option); tax only to be payable when the shares acquired by way of option conversion are sold;
- (ii) various social security contributions on income from financial participation and investment holdings;
- (iii) legal questions arising from differences in national laws on securities and prospectuses and labour and social security laws;
- (iv) blocking periods when employees may not dispose of their shares;
- (v) cultural differences within Member States regarding the social partnership;
- (vi) the problem of raising the accession countries' awareness of employee participation;

24. Reiterates its call for the Commission to set up a working party made up of representatives of the social partners, Members of the European Parliament, experts, and representatives of employee-shareholder associations as well as of networks of companies that apply financial participation schemes, with responsibility for monitoring implementation of the actions proposed in the Communication for the years 2002-2004, and for investigating such future action as may become necessary;

25. Considers that recent developments on the global market call for a clear distinction between financial participation and pension schemes, with strong provisions to protect employees' acquired pension rights, to be included in the guiding principles;

26. Calls, in particular, for SME employees with shares in the company for which they work to be protected against the company's bankruptcy, at least during the blocking period, for example, by insolvency protection and/or bank guarantees; also calls for models of employee participation that are linked to pension plans to contain appropriate insurance for employees and to offset risks through a variety of investments if these are organised externally;

27. Takes the view that participation in productive capacity, capital formation to provide private and company pension schemes and capital formation by employees through home ownership should not be excluded from support;

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28. Expects financial participation to improve social cohesion and productivity and to create more jobs;
29. Notes the Commission's intention to carry out a series of studies on its proposal for the system of employee participation, and calls on it to support research concerning, inter alia, the effectiveness of the system in question on the success of the enterprise, productivity, competitiveness and employment;
30. Starts from the premise that the value added to an undertaking is created by all the factors in production working together; therefore calls for stock options issues not to be reserved exclusively for management, for investigations to be carried out to ascertain whether share options can be made available to all employees and, if so, how best to do this, and what forms of, or options for, participation are available or should be created to allow employees to share in growth and in open and hidden reserves without exposing them to unacceptable risks on the world capital markets (for example, profit participation rights);
31. Urges that a future concept be explored to offer strengthened partnership structures in financial participation models, taking account of the following possibilities:
- (i) grouping the rights of employee shareholders in staff shareholders' associations and/or improving the possibilities for these shareholders to be represented in company management bodies (as is already done in France);
 - (ii) establishing partnership committees, particularly in participative enterprises which are not limited companies, and minimum participation rights for employee shareholders;
 - (iii) establishing employee foundations which act as owners of employee shares; as legal persons in their own right they can also ensure that uniform payments are made to employees when profits are distributed, irrespective of short-term fluctuations in enterprise performance or in economic developments;
 - (iv) taking up the relevant proposals by Parliament on renewing the directive on the European Works Council and completing the provisions for the European Company (possibility of issuing employees' shares through an approved or limited increase of capital);
 - (v) creating an enterprise law that coordinates co-ownership and cooperation; introducing financial participation schemes in a general context of participatory management based on partnership;
32. Considers that it is particularly important to promote the relevant trade union and management training in companies which implement employee financial participation, with attention being given to the theme of equality between women and men;
33. Warns, however, that (co-)determination on the basis of financial participation can never be a reason for preventing normal employee information and consultation rights — for which European and national law lays down minimum provisions — from operating, or considering them as less important;
34. Calls on the Commission to submit to Parliament, by the end of 2004 at the latest, studies on the issues raised in this resolution, including a study of a European monitoring body for shareholding and participation, to be set up under the auspices of the European Foundation;
35. Stresses that attention must be paid to the new Member States, where financial participation has not developed to any great extent and the requisite legal and taxation frameworks are lacking;
36. Instructs its President to forward this resolution to the Council, the Commission, the Economic and Social Committee and the European social partners, and the Parliaments of the Member States and the candidate countries.
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