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WORKING GROUP ON FINANCIAL SERVICES

EFTA COMMENTS ON THE GREEN PAPER ON SUPPLEMENTARY PENSIONS IN THE SINGLE MARKET

Note by the Secretariat

INTRODUCTION

1. With reference to the Commissions' invitation this paper contains comments on the Green Paper on Supplementary Pensions from the EFTA EEA States together with a brief description of the pension schemes in these countries. There is, furthermore, some factual information about the situation in Switzerland as regards its pension system but the views expressed on policy issues stem only from the EFTA EEA States.

2. The provision of pensions is a crucial element of the social protection in the EFTA EEA States as well as in the European Union. Furthermore, the safeguarding of the funds accumulated over an individual's lifetime as a member of a supplementary pension scheme is of utmost importance. Hence these countries find it important to submit their input on this Green Paper to the European Commission in order for the Commission to be able to take into account their views and experiences, bearing in mind that if Community legislation emerges from the consultation process initiated by the Green Paper, it will presumably be integrated into the EEA Agreement in due course and transposed into the national legislation of these countries.

3. The paper follows precisely the Chapters and Subchapters of the Green Paper with an additional summary of the main views of the EFTA EEA States on the various issues of the Green Paper. See the following table of contents:

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CHAPTER I : The demographic and economic context

A. Current demographic trends

4. Like the EFTA EEA States many EU countries are experiencing a steady trend towards fewer people of working age to each pensioner.

5. In *Iceland* there are currently approximately 5 people of working age per. pensioner, while in 2030 it is estimated that the ratio will be 3 of working age per. pensioner.

6. In *Norway* the number of working people per pensioner fell from 3 in 1967 to 2 1\2 in 1991. The number of working people per pensioner is expected to fall further to roughly 2 in 2030.

7. In *Liechtenstein* the demographic problem is moderate as even the first pillar of the compulsory old age insurance holds reserves to finance its obligations for many years.

8. In *Switzerland* demographic developments follow those of most other Western European countries. While in 1948, there was still one pensioner per 6.5 working people, today's ratio is about one per 4 and the estimates for the year 2030 are one pensioner per 2.3 working people only.

B. Budgetary implications of demographic changes for state pension arrangements

Iceland:

9. The cost of the social security pensions in *Iceland* is currently about 3.3% of GDP, but an estimate of the increasing cost due to unfavourable demographic trends is not available. Pension payments from pension funds are about 2.2% of GDP and will increase in the near future. The relatively favourable age distribution of the Icelandic people, the creation of compulsory funded pension funds in 1969 and changes made to pay-as-you go pension schemes with employer guarantees, indicate that the problems which follow the unfavourable changes in demographic trends will not be as serious in Iceland as in many other European Countries. Approximately 40% of all paid out pensions come from occupational pension funds (pillar 2) and their assets amount to approximately 60% of GDP. The statutory public pensions scheme (pillar 1) forms the remaining 60% of all paid out pensions.

Liechtenstein:

10. The premiums paid into the social security pensions of *Liechtenstein* in 1995 (first and second pillar) was about 9,9% of GDP. Pension payments out of the first pillar amounted in 1995 to approx. 3.2% of GDP.

Norway:

11. At present 82% of total acquired pension rights in *Norway* are in the National Insurance Scheme, i.e. the pillar 1 pay-as-you-go scheme. The total expenses incurred by old age and disability from the National Insurance amounted to approximately 8% of GDP in 1990, and may

increase to 17% in 2030. These are indications that without further savings it may become difficult for future generations to meet the obligations inherent in the National Insurance Scheme.

Switzerland:
12. In *Switzerland* the total expenditure for old-age, survivors' and disability pensions of the first (basic) pension scheme and the second professional pension scheme corresponded to about 11.5% of GDP in 1994.

C. Current structure of pension provision

Iceland:
13. The **Icelandic** pension system is composed of a tax financed public pension scheme (pillar 1), mandatory funded occupational pension schemes (pillar 2) and a small voluntary 3rd pillar of private pension savings.

14. The public pension scheme pays a basic pension from the age of 67 and an income related supplementary pension from the age of retirement (usually 65-70). It will guarantee a single old age pensioner a minimum pension that in the autumn of 1997 is roughly equivalent to 44% of the average pre-tax salary of a male industrial worker. This is, however, considerably reduced if the pensioner receives any other income or pension.

15. All employed and self-employed persons have had a legal obligation to pay contributions to their respective occupational pension funds (pillar 2) since 1980, - the duty had been, however, self-regulatory since 1969. There has, however, not been general legislation on the operation of such funds until a new law was enacted by the Althing at the end of 1997. The aim of the new legislation is to strengthen the foundations of the pension system and to ensure similar pension rights for all pensioners. The funds pay somewhat different old age pensions depending on their respective financial position. It has been estimated that, according to present rules the average occupational pension fund will pay a pension amounting to 45 to 58%[1] of the earnings of 40 to 60 years olds and that the basic public pension might add another 11%, giving a total replacement ratio of 60 to 70%. The over-funding of many of the funds and the prospects of high returns in the years ahead make it very likely that the replacement ratio will turn out to be higher than this.

16. Contribution to the funds must be no less than 10% of gross salary, 6% paid by the employer and 4% by the employee. The funds pay out old-age pensions, disability pensions and pension payments to surviving spouses and/or children. The invested rights of pensioners is irrespective of whether they move abroad, before or after pension age is reached.

17. The third pillar (private investment) is very small in Iceland. Life insurance premiums amount to some 500 Million ISK annually which is about 0.09% of GDP (insured for death, rather than old age) compared to 19 Billion ISK paid annually as contributions to pension funds. This pillar might be somewhat bigger than is estimated by the authorities as people might save additionally to their old age by individual means or into defined contribution funds.

[1] This assumes annual real wage increases of 1-2%:

18. On present trends the provision of retirement income will in the next century be based on three pillars: a relatively small public pension, dominant mandatory funded pension schemes and voluntary private saving.

Liechtenstein:

19. In **Liechtenstein** the pension system is composed of 3 pillars: a basic compulsory scheme, a compulsory occupational scheme and additional private insurance.

20. The basic scheme was established by law in 1954. It covers all persons who are gainfully active in Liechtenstein, both employed, self-employed and all other residents. The minimum period of membership is one year. Retirement age in Liecthenstein is currently 62 years for women and 65 years for men. The legal retirement age is gradually being brought to 64 for both sexes. For employed persons the contribution is 3.8% from each, the employer and the employee and 7.6% for self-employed persons. The contributions are less for those not gainfully employed. Other income does not affect the amount of the ordinary pension. A worker who moves away from Liechtenstein has the right to have his fund paid out.

21. The basic legislation for the second pillar dates from 1989. This pillar is also compulsory for all gainfully employed residents and non-residents working in Liechtenstein. The retirement age is the same as for the basic scheme. To this scheme the employer and employee pay 5% each of the gross wage up to a ceiling of CHF 70,000 p.a. This scheme covers also disability and survivors benefits. Workers who move from Liechtenstein have the right to have their assets in this fund paid out.

22. The second pillar pension funds were 37 in the year 1996. They managed 1,2 billion CHF for more than 21000 employees. There is a legal minimum interest rate that the funds shall pay to their members, 4% p.a., but there are not figures available about the rate of return of the funds.

23. The concept of the third pillar is a broad one. It could be any private savings. There are no figures available of the size of this pillar.

Norway:

24. The **Norwegian** pension system is also composed of three main pillars: the National Insurance Scheme (pillar 1), the State Pension Scheme and other occupational pension schemes (pillar 2) and individual pension schemes. Pensions under the National Insurance Scheme are financed on a pay-as-you-go basis and with general budget allocations. This amounts to 82% of the total acquired pension rights.

25. Of the pillar 2, occupational schemes, the pay-as-you-go State Pensions amount to 11% of the total acquired pension rights and the funded private pensions to 6%. The pensions under the State Pension Scheme are so -called “gross guaranteed” pensions, which implies that a pension paid through the National Insurance lead to a proportional reduction of the pension paid under the State Pension Scheme. The full pension, which is reached after 30 years, amounts to 66% of salary at time of retirement.

26. One third of all employees of the private sector in Norway are members of a private employer pension scheme. Membership of these schemes is limited to employers working in companies where such schemes are established. The contributions can be shared by employer and employees. The schemes are funded and only defined benefit schemes are accepted for tax deductibility. The acquisition of vested rights takes place normally after one year of employment. Pension payments start at the age of 67, which is the normal retirement age in Norway. The pillar 2 schemes cover old-age, disability and loss of spouse.

27. The private, pillar 3, schemes may be used to supplement the first and the second pillars. The contract is arranged individually and directly with a life assurance company, mutual fund or a bank. The scheme can be a life assurance pension policy or pension savings without assurance elements. The third pillar amounts to 2% of total acquired pension rights.

Switzerland:

28. Twenty-five years ago, the Swiss population adopted the constitutional base for the following three pillar concept for old-age, survivors' and disability pensions: Pillar one, a basic federal pension scheme completed by cantonal supplementary schemes, pillar two, an occupational pension insurance and pillar three, individual private provident measures.

29. The first pillar whose benefits should cover the basic needs of the insured persons, is compulsory for all persons who are domiciled in Switzerland or engaged there in paid employment. For persons not engaged in paid employment the obligation starts when they are 20 years old and continues until they reach their 65/62 year. This scheme is financed with contributions from employers and employees and from self-employed persons as a percentage of their income while non-active persons pay a fixed amount which varies according to their financial situation. The pensions are calculated on the basis of the average annual income and the years of contributions. When the period of contributions is complete, the old-age pension for a single person is between CHF 995 per month(minimum) and CHF 1990 per month (maximum). The financing is based on the pay-as-you-go method. Switzerland has concluded bilateral agreements with all EU Member States and EFTA States (expect Iceland) which contain co-ordination rules for migrant workers and other formerly insured persons.

30. The second pillar consists of an occupational pension insurance whose benefits - together with those of the first pillar - should allow the insured person to continue his/her usual standard of living. The scheme is compulsory for employed persons whose annual income exceeds CHF 23,880. The contributions vary according to the regulations of the funds but the average contribution is 15% of the income. The sum of the employer's contribution should at least be equal to the sum of the contributions of the employee. The pension is calculated as a percentage of the retirement assets which the insured person has accumulated. These are fully funded pension schemes. When leaving the country there are no obstacles to either a refund of contributions or a pension, according to the case and the rules of the pension fund.

31. The third pillar is based on private initiative and entirely optional. It may consist of life insurance, saving, investment in property etc. There are tax incentives for personal savings. The amounts must be paid to a special bank account or an insurance policy which block them until the insured event occurs. Furthermore, there are legal provisions to promote living on people's own houses and apartments by financing through pension credits.

CHAPTER II: The size and investment of pension funds

A. Size

Iceland:
32. In 1996 pension fund net assets amounted to 307 billion IKR or 64% of GDP and 34% of the assets of the credit system. The funds are already bigger than the banks in terms of assets. The pension funds have been growing fairly fast in recent years in relation to GDP and are expected to do so in the immediate future. Contributions will be above pension payments for several years as the funds are far from maturity. The funds are expected to reach their maximum somewhere before the middle of the next century.

Liechtenstein:
33. In 1996 pension funds assets amounted to 1,2 billion CHF or 48% of GDP. It is expected that until the around the year 2030 the contributions to the funds will be above pension payments. That is when the funds are expected to reach their maximum size.

Norway:
34. In 1996 pension fund assets amounted to 60 billion NOK or 5.9% of GDP.

Switzerland:
35. In 1994 the total assets of the first and second pillar amounted to approximately 310 billion CHF.

B. Investments

Iceland:
36. Until now the pension funds have mainly invested in domestic bonds. At the end of 1996 long term claims and shares accounted for 93% of the net assets of the funds. Of that portfolio, 41% was in government guaranteed housing finance bonds, 14% was in bonds issued by banks and other financial institutions, 13% was lending to members of the funds, around 9% was government bonds or bonds issued by government institutions and a similar amount was in bonds issued by enterprises. At the same time only 5% was in equity and foreign assets were just under 3%. It is clear that these ratios have to change drastically if in light of the future growth of the funds they can get a satisfactory return. A growing proportion of new investment is in equity and foreign assets.

37. The expected future growth of the pension funds has already triggered speculation on issues such as the development of the net foreign asset position, the prospective development of real interest rates and on the ownership and control of companies in Iceland.

Liechtenstein:
38. The investment policy of Liechtenstein is governed by the actuarial principles. There are limits on how much the funds can invest in any one category of investments and how much per company.

39. By the end of 1996 investments with banks and insurance companies were 46% of total assets, investments in bonds, issued in CHF with debtor with head office in Liechtenstein or Switzerland 10%, in foreign bonds denominated in CHF 16%, and 7% of bonds issued in foreign currency. Investments in equity amounted to 12% (9% local, Liechtenstein or Switzerland and 3% foreign), in real estate to 8% and finally 1% was invested with the employer contributing to the fund (subject to strict conditions).

Norway:
40. Equivalent investment rules apply to pension funds and to life insurance companies. They can invest 20% of their technical provisions (provisions covering future claims) in shares and 30% in bonds issued by private undertakings. There is ,furthermore, a detailed list of other permitted investments. At the end of 1996 pension funds invested 63% in bonds and 14% in shares. There is no information at hand as to what extent investments were in foreign assets.

Switzerland:
41. The investment policy of Swiss pension funds is strictly regulated by law. There are specific investment limits and global limits. As an example the maximum limit on real estate is 50%, whilst in estate pawns on real estate, it is of 75%; maximum limits in state bonds is of 100%. In 1997 Swiss pension funds invested 17.8% in equity, 53.1% in fixed income bonds, 17.1% in real estate, 11.9% in short term assets and 16% in foreign assets.

C. Returns on assets

Iceland:
42. Actuarial surveys in recent years show that the funds are in general sound[2] . In the year 1996 the net real rate of return for the pension funds was on average of 7.6%, while the corresponding figure for 1995 was 6.6%.

Liechtenstein:
43. There is no information is available on the rate of return for the pension funds.

Norway:
44. In Norway the nominal rate of return for the pension funds in 1996 was 7.8%, which corresponds to a real rate of return of 6.5%.

Switzerland:
45. According to information from 1995 the real rate of return for Swiss pension funds was 2.1% on the equities and 0.9% on bonds.

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[2] Most actuarial assessments assume 3.5% real interest rate, whereas the net real return of the occupational funds without employer guarantee has been above 7% during 1992-1996.

D.-F. Views on investment policy and risk

46. The EFTA EEA States agree with the view of the Green Paper that it is appropriate to focus on the relationship between assets and liabilities when evaluating risk and making asset allocation decisions in pension funds.

47. Liechtenstein has stated that the problems and possibilities of efficient asset management are much more complex than described in the Green Paper. In general there is a trade off between the possibility of higher returns on the capital market and the safety of an investment. A second connection exists between inflation and higher interest rates, the latter being to some extent a compensation for the continuous erosion of the real value of capital stock.

48. In light of the considerable size of the pension funds in Iceland, its authorities have taken a somewhat different point of view and more in line with the elaboration in Chapter II of the Green Paper. They state that the future growth of funded pension schemes require increased investment in equity and foreign assets and that more diversification of assets could improve the risk-return composition of the funds. Equity and foreign assets might in isolation be considered more risky than the current investments of pension funds which are commonly dominated by domestic bonds in Iceland as well as in many other EEA countries. Equity has, admittedly, had a higher return in the long run.

CHAPTER III: Prudential supervision

A. Role of supervision of pension and life insurance funds and fund managers

49. The EFTA EEA States agree that the principles drawn up in article 36 constitute an appropriate basis for the regulation of pension funds. The prudential rules on investments should, however, not exclude rules that limit quantitative restrictions on certain types of risks, e.g. linked to positions in currencies or towards individual firms or activities.

B. The effect of excessive rules on pillar 2 investments

50. Reference is made to the questions in paragraph 39 of the Green Paper about quantitative restrictions for the investments by pension funds and the effect of such restrictions at present and in the foreseeable future.

51. In all three EFTA EEA States there are some quantitative restrictions on the investments but in none of them are they believed to put limitations on the investment strategy of the funds.

52. In *Iceland* the restrictions on investments have for most of the pension funds been self-regulatory until a new act was adopted by the Parliament in December 1997. The most common limit on equity has been 10%, but some funds have only recently allowed investment in equity. Equity as a percentage of total assets of the general pension funds is 4 to 6% (year-end 1996). Recently, pension funds have actively sought international diversification.

53. According to the new Act on pension funds the main limits on investment are the following: Equity: maximum 35%; assets in foreign currency: maximum 40% (more if hedged). There will be no restrictions on investments in government bonds. Funds available for investment are already very big in Iceland. The assets of Icelandic pension funds amount to 64% of GDP and exceed funds held by all the banks together.

54. In *Liechtenstein* there is a well-developed pension system and it is not to be expected that the funds available for investment will increase considerably in the next decades. The quantitative restrictions in force generally do not limit investment strategy. Among the restrictions are that investments in or participation in the employer's company should be limited as well as investments in other currencies than that of the future denomination of the pension fund.

55. In *Norway* private pension funds can invest up to 20 percent of their technical provisions in shares. At the end of the years 1995 and 1996 shares amounted to 14-15% percent of pension fund total assets. Although there is no reason to believe that the quantitative restrictions on equities have limited investments, it is assumed that the existing restrictions may become effective in near future, due to changing investment strategies of pension funds and life insurance companies. The Ministry of Finance has recently suggested to relaxing or abandoning the quantitative restriction on equity investments. It is unlikely in Norway that there will be a considerable increase of the funds available for investments in the near future.

Reference is made to paragraph 41 of the Green Paper where the Commission asks if interested parties agree that the supervisory rules described under paragraph 40 could provide adequate prudential security at the same time as offering the advantages of prospects of higher returns.

56. The EFTA EEA States find that increased freedom for fund managers to offer services all over the single market could increase competition and lower costs of fund managing, and therefore give higher net returns on funds.

57. Regulation of investments should be based on prudential principles restricting the risk taking of pension funds. The importance of the relation between prudential principles and the liabilities of pension funds should be emphasised in this connection. A regulation on investments not taking this relation into account could lead to a situation where pension funds would be unable to meet their obligation due to a lack of “matching”. The safeguarding of pension rights calls for quantitative restrictions that require a minimum of matching of assets and liabilities.

58. The EFTA EEA States would find it interesting to learn more about how the “prudent man” principle relates to such “matching” requirements and how to identify portfolios inconsistent with the “prudent man” principle. It is important that a regulation of portfolio compositions contains rules that help identifying portfolios which are inconsistent with the regulation.

C. Rules on pillar 3 investments

59. According to the experience in the EFTA EEA States quantitative restrictions on investments have not had limiting effects in the past.

D. Should there be similar EU rules for pillar 2 and 3 schemes ?

60. In Iceland and Liechtenstein there are no specific links between the prudential rules for pension funds and for life insurance companies. In these countries the nature of the pension funds is such that the funds are neither profit seeking nor in need of paying dividends; the growth goes all to the contributing members of the funds. These countries do not see a reason for applying similar rules to these two types of operations.

61. In *Norway*, on the other hand, the BIS- recommendations on liable capital have been implemented both for insurance companies and pension funds, in addition to credit institutions. One reason for this wide application of the BIS- recommendations is to avoid competition distortion. Norway is, therefore, supportive of the idea of making pension schemes (pillar 2) subject to equivalent prudential rules, whether they are managed or operated by a pension fund or life insurer.

E. Fund managers

62. In the EFTA EEA States there are no restrictions or impediments on a pension scheme’s ability to call on advice and management services provided that a manager is authorised in

accordance with the Investment Services Directive, the Third Life Insurance Directive or the Second Banking Directive in any of the EEA States (i.e. EU or EFTA EEA).

F. The way forward

Reference is made to the three options introduced under paragraph 47 of the Green Paper.

63. The EFTA EEA States will keep their national currencies after the introduction of the Euro. It will, therefore, not have the effect on the currency matching of the investments of their pension funds described by the Commission under option 1. When comparing the options of relying on the application of current Treaty freedoms to the adoption of a directive, they agree that the latter option might offer the advantage of better transparency, but might also involve disadvantages, including the risk of failing to take into proper consideration the diversity of systems in the countries within the single market.

64. Liechtenstein, however, emphasises that it considers it appropriate that every country finds specific solutions in the field of pensions, solving its specific problems according to its political traditions.

CHAPTER IV: Facilitating the free movement of workers

A. General considerations

B. Obstacles to free movement of persons relating to supplementary pensions

Iceland:

65. Article 51 of the EU Treaty requires Community legislation to be adopted in order to remove barriers created by social security. On the basis of Article 51 the Community adopted Regulation 1408/71 and 574/72 to remove obstacles to free movement of workers in the field of statutory pensions. The regulations do not apply to supplementary pension schemes as defined in the Green Paper.

66. Article 29 of the EEA Agreement has almost the same wording as Article 51 of the EU Treaty. On the basis of Article 29 the EFTA/EEA States have incorporated the two EU regulations on social security (1408/71 and 574/72) into their legislation.

67. In Iceland there is a three pillar pension system, i.e. basic system (funded by taxes), occupational system (the pension funds) and a small private system. (See Chapter I for details).

68. When deciding what parts of the pension system in Iceland should fall within the scope of Regulation 1408/71, Iceland decided that the basic scheme (pillar 1) and the compulsory occupational scheme (the pension funds) should fall under the scope of the Regulation. This means that the pension funds are defined as statutory pension schemes in relation to free movement of workers and it also means that there are fewer obstacles to free movement of workers in the Icelandic pension system. There might, however, still be minor obstacles regarding taxes, but they could best be removed by bilateral tax agreements.

69. The questions at the end of the Chapter are, therefore, mostly irrelevant to Iceland.

Liechtenstein:

70. National legislation both for the first and for the second pillar has always taken the needs of free movement of the workers into consideration. After one year of employment in Liechtenstein the contributions to the first pillar give rights to a minimal pension.

71. The accumulated reserves of the employer’s pension scheme are handed over to the fund of the new employer after a worker has left. If he leaves abroad EC, he can request to have these reserves paid out.

Reference is made to the questions posed towards the end of Chapter IV

1. From the EFTA EEA point of view, the legislation relating to supplementary pensions should not be an obstacle to the free movement of workers. To the extent such legislation is an obstacle, action at Community level could be required. As is stated above, the scope of Regulation 1408/71 has been extended to the pension funds in Iceland and thus there is no obstacle to the free movement of workers in that country.

2. Burdensome qualifying conditions for acquiring supplementary pension rights could be solved by legislation at Community level, i.e. by imposing legislation on maximum contributing periods.

The problem on the transferability of vested pension rights from one state to another is more difficult to solve through legislation at Community level. As long as the legislation concerning rights acquired by a pension scheme differ from one state to another, it is difficult to accept unconditional right of transfer. On the other hand, it should be stated, if necessary at Community level, that a worker posted in a different country should not lose acquired rights.
The EFTA EEA States are of the opinion that the tax questions are not necessarily the main obstacles to the free movement of workers. It would be a problem if vested pension rights are taxed at the time of movement. Otherwise, it seems that most problems could best be solved through bilateral tax treaties.

3. (Not applicable to answer).

4. There is reason to believe that the complexity of the legislation relating to supplementary pension schemes will necessitate step by step progress. This will be the situation as long as the Green Paper indicates that there will be no immediate work on the harmonisation of pension schemes within the Community. A Community Pension Forum as indicated in paragraph 51 in the Green Paper seems, however, to be a useful proposal. Such a Forum consisting of different interest groups may be the best way to find solutions to facilitate the free movement of workers, taking into account the necessity for tax administrations as well as social security administrations to be able to minimise the possibility for tax evasion and abuse.

CHAPTER V The importance of taxation for supplementary pensions

72. Taxation issues are not covered by the EEA Agreement. As general taxation is subject to the subsidiarity principle in the EU, the situation in the EU Member States and EFTA EEA States are comparable in that the countries themselves design and apply their own rules as regards the tax treatment of pension schemes. Simultaneously, while designing their rules, the countries must respect their obligation to provide for free movement of people and free provision of services.

73. Having taken into consideration the arguments of the Green Paper concerning this matter and the experience in the respective countries the EFTA EEA States are of the opinion that taxation rules concerning pension rights are not a major obstacle to the free movement of workers. A bigger problem seems to be the diversification of legislation governing the pension schemes themselves.

74. There is a close connection in the EFTA EEA States as well as in most of the EU Member States between the tax relief given for contributions to pension schemes, taxation of pension funds and taxation of the benefits granted by the pension funds. The tax relief given in most countries for contributions to pension schemes is usually not a final tax exemption. More often it is a tax deferral until the accrued benefits are disposable for the beneficiary. Binding common rules on cross-border payments of contributions and pensions could, therefore, unfavourably affect the tax base of some countries and create inequality among countries and among individuals within a country.

75. It is, therefore, the opinion of the EFTA EEA States that Community legislation in this field is neither timely nor feasible. It should rather be left to the Member States themselves to ensure that taxation rules regarding pensions do not constitute a barrier to the free movement of workers.

76. The EFTA EEA States believe that bilateral tax treaties are the appropriate means for the removal of possible barriers related to taxation of cross-border payments. One solution could be to revise the OECD model convention as far as pensions are concerned in order to provide the Member States with some measures appropriate for their respective specific situations. This has in fact been under consideration for some years.[3]

[3] Reference is made to the commentaries to Article 18 of the 1996 OECD model.

CONCLUSIONS

77. Following is a summary of the views of the EFTA EEA States expressed previously in these Comments on the various policy issues touched upon in the Green Paper:

Investment policy and risk

78. The three EFTA EEA States agree with the view of the Green Paper that it is appropriate to focus on the relationship between assets and liabilities when evaluating risk and making asset allocation decisions in pension funds. In Iceland future growth of funded pension schemes require increased investment in equity and foreign assets and that more diversification of assets could improve the risk-return composition of the funds. Liechtenstein on the other hand expressed some reservations to the Green Papers' theories on investment for pension funds.

Adequate supervisory rules

79. The EFTA EEA States consider that prudential principles restricting the risk taking of pension funds should be the basis for regulating investments. They, furthermore, consider that the importance of the relation between the prudential principles and the liabilities of pension funds should be emphasised. They state that the safety of pension rights calls for quantitative restrictions requiring a minimum of matching of assets and liabilities.

Comparability between prudential rules for pillar 2 and 3 schemes

80. One EFTA EEA State (Norway) supports the idea of making pension schemes (pillar 2) subject to equivalent prudential rules as life insurance companies. In Iceland and Liechtenstein there are on the other hand no specific links between the prudential rules for pension funds and for life insurance companies. These countries do not see a reason for applying similar rules to these two types of operations.

The way forward regarding prudential supervision of pension and life insurance funds.

81. The EFTA EEA States will keep their national currencies after the introduction of the Euro. It will, therefore, not have the effect on the currency matching of the investments of their pension funds described by the Commission under option 1. When comparing the options of relying on the application of current Treaty freedoms to the adoption of a directive, we agree that the latter option might offer the advantage of better transparency, but might also involve disadvantages, including the risk of failing to take into proper consideration the diversity of systems in the countries within the single market.

82. Liechtenstein, however, emphasises that it considers it appropriate that every country finds specific solutions in the field of pensions, solving its specific problems according to its political traditions.

Facilitating the free movement of workers

83. If national pension rights legislation in the EU/EEA creates obstacles to the free movement of workers, the EFTA EEA States recognise that legislation at Community level might be advisable.

84. There is reason to believe that the complexity of the legislation relating to pension schemes and the elimination of obstacles to free movement of workers will necessitate step by step progress. A Community Pension Forum as suggested in paragraph 51 in the Green Paper

seems to be a useful proposal. Such a Forum composed of different interest groups may be the best way to find solutions to facilitate the free movement of workers, taking into account the concerns of tax authorities as well as those of social security administrations.

Taxation

85. The EFTA EEA States believe that bilateral tax treaties are the appropriate means for the removal of possible barriers related to taxation of cross-border payments. One solution could be to revise the OECD model convention as far as pensions are concerned in order to provide the Member States with some measures appropriate for their respective specific situations.

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