



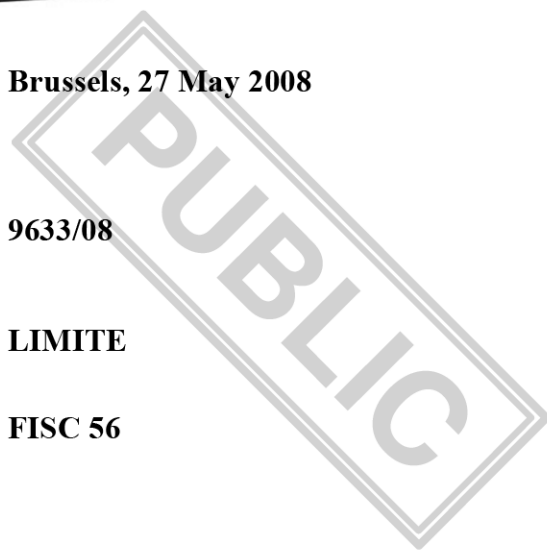
**COUNCIL OF
THE EUROPEAN UNION**

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REPORT

from :	Code of Conduct Group (Business Taxation)
to :	ECOFIN Council
on :	3 June 2008
Subject :	Code of Conduct (Business Taxation)
	Report to the ECOFIN Council

INTRODUCTION

1. On 1 December 1997, the Council and the Representatives of the Governments of the Member States, meeting within the Council, adopted a Resolution on a Code of Conduct for business taxation. This Resolution provides for the establishment of a Group within the framework of the Council to assess tax measures that may fall within the Code. In its report to the Feira European Council on 19 and 20 June 2000, the ECOFIN Council agreed that work should be pursued with a view to reaching agreement on the tax package as a whole, according to a parallel timetable for the key parts of the tax package (Taxation of savings, Code of Conduct (Business Taxation) and Interest and Royalties).
2. On 9 March 1998, the Council confirmed the establishment of the Code of Conduct Group. The Group reported regularly on the measures assessed and these reports have been forwarded to the Council for deliberation.

3. Two interim reports of the Code of Conduct Group were presented to the ECOFIN Council on 1 December 1998 and 25 May 1999 respectively (12530/98 FISC 164 and 8231/99 FISC 119). Subsequently, the Group reported to ECOFIN on 25 November 1999 setting out the results of the Group's work (SN 4901/99) on the assessment of 271 tax measures under the Code where the Group considered 66 measures harmful.
4. On 13 October 2003, the Council welcomed a report by the Working Party on Enlargement (Tax Experts) (13213/03 ELARG 94 FISC 138) establishing a list of 30 measures found harmful under the Code in the states that acceded on 1 May 2004. The Council also agreed on the adequacy of the rollback measures envisaged or already undertaken for 27 of these measures.
5. On 11 July 2006, the Council took note of a report by the Working Party on Enlargement (10879/06 ELARG 66 FISC 96) establishing a list of 8 measures found harmful under the Code in the two states (Bulgaria and Romania), which acceded on 1 January 2007.
6. This report from the Code Group encompasses the work of the Code Group in 2008 under the Slovenian Presidency.
7. As required by the ECOFIN Conclusions of 9 March 1998, the Group's reports reflect either the unanimous opinion of the members of the Group or the various opinions expressed in the course of discussion.

PROGRESS OF WORK

8. The Code of Conduct Group met on 6 February 2008, 22 April 2008 and 7 May 2008 under the Slovenian Presidency.

Appointment of Vice-Chairs

9. At the meeting on 6 February, Mrs Irena Erjavec (Director General of the Directorate of the System of Tax, Customs and Other Public Finance Revenues in the Ministry of Finance in Slovenia) and Mr Christian Comolet-Tirman (Director for European Affairs and International Relations in the French Tax Policy Directorate), were confirmed as the first and second Vice-Chairs respectively for the period up to the end of the Slovenian Presidency. The Group also confirmed a programme of work under the Slovenian Presidency, agreeing to take forward work in the following areas:
- implementation of rollback;
 - standstill; and
 - further discussion on the future of the Code of Conduct, based on the reflections of the Member States following the discussion of this issue at the ECOFIN Council on 4 December 2007.

Rollback

10. To facilitate the Code Group's work on the implementation of rollback, each Member State was asked to provide written information on developments since the last round of rollback returns in April 2007 concerning the implementation of rollback of the measures in its name which appear in:
- annex C of SN 4901/99; or
 - in the case of the ten Member States which acceded on 1 May 2004, the Annex to the Enlargement Group (Tax Experts) report of October 2003 (13213/03 ELARG 94 FISC 138); or
 - in the case of the two Member States which acceded on 1 January 2007, the Annex to the report from the Working Party on Enlargement of June 2006 (10879/06 ELARG 66 FISC 96).
11. At its meeting on 7 May, the Group was provided with information on all developments since January 2007 on the implementation of rollback.
12. The Group was informed that the UK: Isle of Man – Distributable Profits Charge (DPC) had been abolished (as foreseen in the Code Group report of 29 November 2007 - doc. 15545/1/07 REV 1 FISC 157).

Standstill

13. Member States have made commitments not to introduce new tax measures that would be harmful within the meaning of the Code. The work programme for the Slovenian presidency identified the following measures where further discussion under standstill was required:
 - *Belgium – Hybrid Finance Ruling*
 - *Belgium – Patents Regime*
 - *Luxembourg – Intellectual Property Regime*
 - *Portugal - Madeira Free Zones*
 - *Slovakia – Investment Aid Tax Credit*
 - *Spain – Intangible Assets Regime*
 - *UK: Jersey – Zero-Ten Corporate Tax Regime*
 - *UK: Guernsey – Zero-Ten Corporate Tax Regime*
14. At its meeting of 22 April 2008, the Group asked the Commission services to prepare descriptions of these tax measures, in consultation with the Member States concerned.
15. The Group discussed the description of Belgium's *Hybrid Finance Ruling*. The Group agreed to give further consideration to this measure at its next meeting.
16. The Group also discussed the description of Slovakia's *Investment Aid Tax Credit*. The Group agreed to give further consideration to this measure at its next meeting, on receipt of further information to be provided by the Slovak delegation.
17. With regard to the UK, the Group discussed the description of Jersey's and Guernsey's *Zero-Ten Corporate Tax Regimes* and the new tax legislation in the Isle of Man. The Group agreed to give further consideration to these measures at its next meeting, on receipt of further information to be provided by the UK delegation.

Future of the Code

18. The group reflected on the discussion that took place at the ECOFIN Council meeting of 4 December 2007 concerning the proposed “Future Work Package”. In this respect the Group discussed outstanding issues on a number of occasions but has not yet been able to reach agreement on the procedural aspects of the “Future Work Package”.
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