



**EUROPEAN COMMISSION**  
DIRECTORATE-GENERAL  
TAXATION AND CUSTOMS UNION  
Direct taxation, Tax Coordination, Economic Analysis and Evaluation  
**Company Taxation Initiatives**

Brussels, 16 June 2017  
Taxud D1/ / / Ares (2017) 3458448

## **Meeting Report Code of Conduct Group**

**8 June 2017**

### **I. EXECUTIVE SUMMARY**

- **1. Dialogue with third countries**
  - a) **Switzerland** – The Swiss delegation gave a presentation on the progress of their tax reform efforts to date and underlined their commitment to abolishing the harmful tax regimes. COM will monitor progress.
  - b) **Liechtenstein - LIE** gave a presentation on recent developments in this jurisdiction on tax reform and took questions from MS. COM was asked to prepare draft assessments of the identified regimes.
- **2. External strategy of the EU – Subgroup on third countries – Delegates** discussed and agreed on the way forward for some horizontal issues concerning the EU screening exercise. The suggestions included in the note by the Chair have been all endorsed by the group, without any change.
- **3. Standstill and rollback: Standstill (except patent box regimes)**
  - a) **Croatia** – The Group will return to this item in July, on the basis of a draft assessment from COM on the new law which will be passed by the end of June.
  - b) **The Netherlands: Aruba** – NL informed the Group that Aruba intended to repeal the potentially harmful IP regime aspects of their new measure within 3 months. The Group therefore did not discuss the draft assessment.
  - c) **Latvia** – The Group agreed not to pursue this matter further due to its de minimus dimension.
  - d) **Lithuania** – Discussion of the recent amendments to the SEZ was closed but the Group will return to the possible IP aspects of the measure once information on this is provided by LT.
- **4. Standstill and rollback: Patent Boxes**
  - a) **Rollback** – The Group noted progress made by IT and ES, and will continue to monitor rollback developments for IT, ES, and FR.
  - b) **Standstill** – The Italian regime was agreed as not-harmful. ES and FR were asked to bring their regimes into line as soon as possible. FR noted its recent change of government would impact progress.
- **5. Subgroup on the clarification of the third and fourth criteria:**

**Endorsement of the Draft Guidance Note on Tax Privileges Related to Special Economic Zones (SEZ) – The guidance was agreed by the Group.**

- **6. Report to the Council (ECOFIN) – after two rounds of comments from MS, the report to Ecofin was endorsed.**
- **7. Any other business - None.**

## **II. REPORT**

### **1. Dialogue with third countries**

#### **a) Switzerland**

- *The Chair* presented the background of the dialogue between Switzerland and the Code Group.
- *CH* then updated the Group on the state of play and way forward on their commitments based on the Joint Statement. Based on the results of the ongoing public consultation on the tax reform proposal, a legislative proposal will be presented to the Parliament in 2018. [REDACTED]  
[REDACTED]. *CH* also confirmed that the tax reform will include the abolition of the designated tax regimes. [REDACTED]  
[REDACTED]  
[REDACTED]

■ [REDACTED]  
[REDACTED]

■ [REDACTED]  
[REDACTED]

■ [REDACTED]  
[REDACTED]

■ [REDACTED]  
[REDACTED]

■ [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

■ [REDACTED]  
[REDACTED]

■ [REDACTED].

**1 b) Dialogue with third countries - Liechtenstein**

- *The Commission* informed the Group that an agreed description of the measures has been circulated.

- [REDACTED]

- Regarding the agreed description of its measures, *LIE* made the following comments:

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

## **2. External strategy of the EU – Subgroup on third countries**

- Delegates discussed and agreed on the way forward for some horizontal issues concerning the EU screening exercise on the basis of the note on the state of play prepared by the Chair. [REDACTED]
- [REDACTED]
- [REDACTED]

### **3 a) Standstill - Croatia**

- *The Commission* made an oral update to the Group on the Investment Promotion Act measures. The Commission recalled that the assessment was postponed until July 2017 in view of an upcoming amendment to the Act.
- *Croatia* confirmed that the Act should be amended by the end of the 2<sup>nd</sup> quarter of 2017 and that they would try and meet the agreed deadline.
- The Group will return to this item in July, on the basis of a draft assessment from COM on the new law, which will be passed by the end of June.

### **3 b) Standstill - Aruba**

- A draft assessment of Aruba's IP regime was circulated to the Group.
- *NL* provided additional information to the Group on behalf of Aruba. According to this information, Aruba is in the process of abolishing its IP regime and expects this process to be completed within three months.

- In response to the question asked by *the Commission*, *NL* confirmed that Aruba has been informed of the content of the draft assessment prepared by the Commission services.
- *The Chair* proposed to monitor these developments closely and reserves the possibility to come back to the draft assessment if necessary.

### 3 c) Standstill - Latvia

- The Group agreed not to pursue this matter further due to its *de minimus* dimension.

### 3 d) Standstill - Lithuania

- *The Commission* presented the agreed description. Its preliminary view was that the measure notified under the 2017 standstill exercise (extension of SEZ to certain specified service activities) does not present any major issue. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED].
- *Lithuanian representative* took the floor and further clarified the measure. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED].
- *The CHAIR concluded* that the Group did not see any worrying aspect worth assessing in respect of the measure notified, while the IP component had to be further clarified, and invited *LT* to provide further information to the Group so that a full assessment can be made.

### Point 4. a) Rollback Patent boxes

- *The Commission* took the floor and informed the Group about recent information received from Spain and Italy on the amendments made or planned in order to comply with their rollback obligations. It maintained its overall positive assessment of the rollback exercise, except as regards the *FR* regime.
- *IT* presented statistics on the effects of the IP box (new entrants) and explained the cut-off date provisions.
- *BE and DE delegations* took the floor to raise the issue of a future monitoring of the effects of the grandfathering rules.
- *The CHAIR* took note of the good progress made on the rollback and the need to report it. [REDACTED]  
[REDACTED].

#### Point 4. b) Standstill Patent boxes

##### French patent box

- *The Commission* briefly presented its draft assessment of the French patent box. It concluded that its preliminary assessment was that the French regime was harmful.
- [REDACTED]  
[REDACTED]  
[REDACTED].

##### Spanish patent boxes

- *The Commission* presented its draft assessments of the three patent boxes (National, Basque and Navarra). [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED].
- *Spanish representative* intervened expressing their intention to amend the regime.
- [REDACTED]  
[REDACTED].

##### Italian patent box

- *The Commission* presented its draft assessment of the Italian patent boxes. It emphasized *IT's* assurance that the Italian IP regime will only grant tax benefits to eligible IP assets in accordance to the Action 5 BEPS Report and proposed monitoring on the use, in practice, of the Italian regime.
- *The Commission* concluded that, based on Italy's clarification, its preliminary assessment was that the Italian regime was not harmful.
- As requested by some delegations (*DE, DK*), Italy's clarification on its regime was to be included in the Report to ECOFIN. The *IT* regime was agreed as not harmful.

#### 5. Subgroup on the clarification of the third and fourth criteria: Endorsement of the Draft Guidance Note on Tax Privileges Related to Special Economic Zones (SEZ)

- **PRES** explained the background to the draft guidance on Special Economic Zones that had been agreed by the subgroup by way of a silence procedure.
- **CHAIR** concluded that there was agreement in the Code Group on the guidance which would be in annex to the report of the Group to the ECOFIN council.

#### 6. Report to the Council (ECOFIN)

- After two rounds of comments from MS, the report to Ecofin was endorsed.

**7. AOB:** None

*Reported by* [redacted]

<i>Circulation:</i> [redacted]
[redacted]
[redacted], <i>TAXUD DI</i> , [redacted]