

**EUROPAUDVALGET
(2. samling)**

Alm. del - bilag 850 (offentligt)

Medlemmerne af Folketingets Europaudvalg
og deres stedfortrædere

Asiatisk Plads 2
DK-1448 København K
Tel. +45 33 92 00 00
Fax +45 32 54 05 33
E-mail: um@um.dk
Telex 31292 ETR DK
Telegr. adr. Etrangeres
Girokonto 300-1806

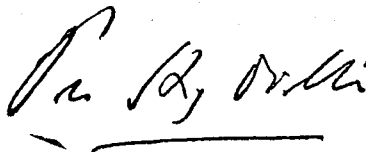
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de skattepakken, 9623/02.





**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 5 June 2002

9623/02

LIMITE

FISC 148

REPORT

from : ECOFIN Council
to : Seville European Council
on: 21/22 June 2002

Subject : Tax package

1. The Göteborg European Council on 15 and 16 June 2001 asked to be regularly informed of progress on the tax package.

This report is intended to fulfil that request.

Timetable for the tax package:

2. In accordance with the conclusions of the Feira European Council and confirmed by the European Councils in Nice and Stockholm, the ECOFIN Council of 10 July 2001 approved a parallel timetable for work on the various components of the tax package.

Taxation of Savings:

3. According to that timetable, the ECOFIN Council was to complete work on the implementation of a standard format for the exchange of information in March 2002.
4. The ECOFIN Council of 5 March 2002 approved the format stating that "*The Council agreed on a standard format for the exchange of information for the purpose of the taxation of savings to be applied in the context of the future Directive. The format in the Directive is based on an OECD format for the automatic exchange of information*".
5. The General Affairs Council of 11 March 2002 agreed on the entities which will be regarded as a "*related entity acting as a public authority or whose role is recognised by an international treaty*" for the purposes of Article 15 of the proposal for a Directive on taxation of savings income in the form of interest payments within the Community (6836/02 FISC 72).
6. During this six-month period, the Commission has presented reports at all ECOFIN Councils on the progress of negotiations with the six key third countries referred to in the conclusions of the Feira European Council (United States, Switzerland, Monaco, Andorra, San Marino and Liechtenstein).
7. Contacts at political and technical level have been held with the United States, Monaco, Andorra, San Marino and Liechtenstein. These States have expressed their willingness to cooperate with the European Union. In accordance with the timetable approved in July 2001, the ECOFIN Council will, before the end of the year, assess whether sufficient reassurances have been obtained with regard to the application of equivalent measures.
- ~~8. As far as negotiations with Switzerland are concerned, the steps taken have not yielded positive results. Both the Commission and the Council have made repeated calls on the Swiss authorities to start negotiations, both at political and technical level. The Swiss authorities have not accepted any of these invitations, even though they have had the necessary mandate to do so since the beginning of this six-month period.~~

9. Likewise, during this half of the year, the Member States concerned have reported to the ECOFIN Council on progress in the discussions with their dependent or associated territories (the Channel Islands, the Isle of Man and the dependent or associated territories in the Caribbean).
10. The Netherlands informed the ECOFIN Council that they had reached agreements with the Netherlands Antilles and Aruba regarding the commitment by these territories to exchange information on savings.
11. The United Kingdom informed the Council (ECOFIN) that discussions had been held with all the relevant dependent and associated territories. The territories had expressed a willingness to co-operate, and Jersey and Guernsey have both announced that they will move to exchange of information.
12. The ECOFIN Council of 4 June 2002 adopted the following conclusions in respect of the taxation of savings:

The Council:

- "Recalls the need to implement the principle that all citizens resident in a Member State of the European Union should pay the tax due on all their savings income and to maintain the competitiveness of European financial markets.
- Recalls the Feira European Council's conclusion that the exchange of information, on as wide a basis as possible, is to be the ultimate objective of the European Union in line with international developments.
- Asks the Commission to press for the exchange of information as the European Union's ultimate objective when negotiating, in close conjunction with the Presidency of the Council, the adoption of equivalent measures by the United States of America, Switzerland, Liechtenstein, Monaco, Andorra and San Marino.

- Welcomes the willingness to co-operate expressed by these six key third countries.
- Takes note of the opening and development of negotiations with the United States of America, Liechtenstein, Monaco, Andorra and San Marino.
- Regrets that negotiations with Switzerland on the taxation of savings have not yet been opened and trusts that the Swiss authorities will engage in such negotiations without further delay.
- Welcomes the willingness to co-operate as expressed in the reports on discussions between the Member States concerned and their relevant dependent or associated territories.”

13. Since November 2001, the Commission and the Council have made repeated calls to the Swiss authorities to start negotiations. However, the Swiss authorities were not prepared to agree to hold the first meeting until 18 June, even though the Swiss authorities had the necessary mandate to do so since the beginning of this six-month period.

14. The Swiss authorities repeated at the first meeting their traditional position in support of banking secrecy.

15. The ECOFIN Council regrets the Swiss position on exchange of information which, in view of the international developments, is becoming more isolated and which could have a negative impact in the privileged present relations between the Swiss Confederation and the European Union.

Code of Conduct (Business taxation)

1316. In accordance with the timetable for the tax package set by the ECOFIN Council of 10 July 2001 and with the work programme agreed by the Code of Conduct Group, and noted by the ECOFIN Council of 5 March 2002, the Code of Conduct Group has focused its work between February and May 2002 on three areas:

- standstill;
- rollback; and

- transparency and information exchange in respect of the agreed elements of transfer pricing.

~~14~~17. The ECOFIN Council of 5 March also took note of the reports on the progress of discussions between the Member States concerned and their dependent or associated territories.

~~15~~18. The Group submitted a report to the ECOFIN Council (8848/02 FISC 129) on progress made during the six-month period.

~~16~~19. At its meeting on 4 June, the ECOFIN Council adopted the following conclusions:

“With regard to the Code of Conduct (Business Taxation), the Council:

- Takes note of the progress achieved by the Code of Conduct Group (Business Taxation) as set out in the report (8848/02 FISC 129).
- Concludes that further work is necessary in order to enable the ECOFIN Council to assess, in compliance with the timetable for the tax package laid down in the Conclusions of the ECOFIN Council of 10 July 2001¹, the adequacy of the envisaged legislative or administrative measures to rollback the harmful aspects of the measures identified in Annex C to the Code of Conduct Group's report to the ECOFIN Council on 23 November 1999 (SN 4901/99).
- Asks the Group to continue the rollback work conducted under the Spanish Presidency and, with the assistance of the Commission services, to prepare agreed descriptions of the revised or replacement regimes implemented or proposed for each of the measures on the list in Annex C to the Group's report to the ECOFIN Council on 23 November 1999 (SN 4901/99) in order to facilitate an initial evaluation by the Group of the adequacy of the rollback proposals.
- Invites the Group to complete its work programme on transparency and exchange of information in the area of transfer pricing (Annex 1 to the Group's report to the ECOFIN Council of 5 June 2001 (8789/01 FISC 83)) and to produce appropriate proposals in the context of paragraph 17 of Annex 1 to the Group's report to the ECOFIN Council on 26 and 27 November 2000 (13563/00 FISC 193).

¹ - "June 2002: The ECOFIN Council

...

= As far as the Code of Conduct is concerned, to assess the adequacy of the envisaged legislative or administrative measures to rollback the harmful features of the measures identified in the Code Group's November 99 Report and to finalise the work relating to standstill and to the possible extension of benefits for certain measures beyond 2005."

- Agrees that the Group should report back to the Council in November 2002”.

Interest and royalty payments:

1720. With regard to the proposal for a Directive on interest and royalty payments made between associated companies, the ECOFIN Council reached an agreement on all pending issues at its meeting of 26 and 27 November 2000. The Swedish Presidency drew up a revised version of the proposal (8697/01 FISC 82) reflecting the conclusions of the ECOFIN Council.

Tax package as a whole:

1821 The ECOFIN Council of 4 June 2002 confirmed its commitment to securing the final adoption of the tax package before the end of the year.

Forthcoming work:

1922. During the second half of 2002 and on 31 December 2002 at the latest, in compliance with the timetable for the tax package laid down in the Conclusions of the Ecofin Council of 10 July 2001 and with the work referred to in the Ecofin Council of 4 June 2002, the Ecofin Council is due to :

- as far as taxation of savings is concerned, to discuss and take note of the finalisation of the negotiations with the third countries named in the Feira conclusions and of discussions between the Member States concerned and all relevant dependent or associated territories (the Channel Islands, the Isle of Man and dependent or associated territories in the Caribbean) and assess on the basis of a report whether sufficient reassurances have been obtained with regard to the application of the same measures in all relevant dependent or associated territories and of equivalent measures in the named third countries ¹;
- as far as the Code of Conduct is concerned, assess the implementation of measures and the results reached on the rollback of the harmful measures and on the possible extension of benefits for some of these measures beyond the end of 2005;
- once agreement is reached on the above assessments, and subject to the Opinions of the European Parliament and the Economic and Social Committee, the ECOFIN Council, by unanimity, will:
 - adopt the Directive on taxation of savings;
 - conclude the Agreements with the third countries named to in the Feira conclusions;
 - adopt the Directive on interest and royalty payments made between associated companies of different Member States.

¹ United States, Switzerland, Monaco, Andorra, San Marino and Liechtenstein.

