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TEXTS ADOPTED

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**P8\_TA(2016)0221**

**Mandatory automatic exchange of information in the field of taxation \***

**European Parliament legislative resolution of 12 May 2016 on the proposal for a Council directive amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation (COM(2016)0025 – C8-0030/2016 – 2016/0010(CNS))**

**(Special legislative procedure – consultation)**

*The European Parliament,*

- having regard to the Commission proposal to the Council (COM(2016)0025),
  - having regard to Articles 113 and 115 of the Treaty on the Functioning of the European Union, pursuant to which the Council consulted Parliament (C8-0030/2016),
  - having regard to the reasoned opinion submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Swedish Parliament, asserting that the draft legislative act does not comply with the principle of subsidiarity,
  - having regard to Rule 59 of its Rules of Procedure,
  - having regard to the report of the Committee on Economic and Monetary Affairs (A8-0157/2016),
1. Approves the Commission proposal as amended;
  2. Calls on the Commission to alter its proposal accordingly, in accordance with Article 293(2) of the Treaty on the Functioning of the European Union;
  3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
  4. Asks the Council to consult Parliament again if it intends to substantially amend the Commission proposal;
  5. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

## Amendment 1

### Proposal for a directive

#### Recital 1

##### *Text proposed by the Commission*

(1) In recent years, the challenge posed by tax fraud and tax evasion has increased considerably and has become a major focus of concern within the Union and at global level. The automatic exchange of information constitutes an important tool in this regard and the Commission in its Communication of 6 December 2012 containing an Action plan to strengthen the fight against tax fraud and tax evasion highlighted the need to promote vigorously the automatic exchange of information as the future European and international standard for transparency and exchange of information in tax matters. The European Council in its conclusions of 22 May 2013 requested the extension of automatic information exchange at Union and global levels with a view to combatting tax fraud, tax evasion and aggressive tax planning.

## Amendment 2

### Proposal for a directive

#### Recital 2

##### *Text proposed by the Commission*

(2) As Multi National Enterprise (MNE) Groups are active in different countries, they have the possibility of engaging in aggressive tax planning practices that are not available for domestic companies. When MNEs do so, purely domestic companies, normally small and medium-sized enterprises (SMEs) may be particularly affected as ***their tax burden is higher than that of MNE Groups. On the other hand***, all Member States may suffer revenue losses and there is the risk of competition to attract MNE Groups by offering them further tax benefits. There is

##### *Amendment*

(1) In recent years, the challenge posed by tax fraud, ***tax avoidance*** and tax evasion has increased considerably and has become a major focus of concern within the Union and at global level. The automatic exchange of information constitutes an important tool in this regard and the Commission in its Communication of 6 December 2012 containing an Action plan to strengthen the fight against tax fraud and tax evasion highlighted the need to promote vigorously the automatic exchange of information as the future European and international standard for transparency and exchange of information in tax matters. The European Council in its conclusions of 22 May 2013 requested the extension of automatic information exchange at Union and global levels with a view to combatting tax fraud, tax evasion and aggressive tax planning.

##### *Amendment*

(2) As Multi National Enterprise (MNE) Groups are active in different countries, they have the possibility of engaging in aggressive tax planning practices that are not available for domestic companies. When MNEs do so, purely domestic companies, normally small and medium-sized enterprises (SMEs) may be particularly affected as ***they usually pay an effective rate of tax that is much closer to statutory rates than MNEs, resulting in distortions to, and malfunctions of, the Internal Market as well as distortion of competition to the detriment of SMEs. To***

therefore a problem for the proper functioning of the Internal Market.

*avoid distortion of competition, domestic companies should not face disadvantages due to their size or lack of cross-border trade. Furthermore, all Member States may suffer revenue losses and there is the risk of **unfair** competition **between them** to attract MNE Groups by offering them further tax benefits. There is therefore a problem for the proper functioning of the Internal Market. **In this respect, it should be emphasised that it is the Commission that is in charge of the proper functioning of the Internal Market.***

### Amendment 3

#### Proposal for a directive Recital 2 a (new)

*Text proposed by the Commission*

*Amendment*

*(2a) It is of vital importance for the Union that tax rules are designed not to impair growth or investments, put Union companies at a competitive disadvantage, nor increase the risk of double taxation and that they are designed to minimise costs and administrative burdens for companies.*

### Amendment 4

#### Proposal for a directive Recital 3

*Text proposed by the Commission*

*Amendment*

(3) **Union** tax authorities need comprehensive and relevant information on MNE Groups regarding their structure, transfer pricing policy and internal transactions in and outside the **EU**. That information will enable the tax authorities to react to harmful tax practices through changes in the legislation or adequate risk assessments and tax audits, and to identify whether companies have engaged in practices that have the effect of artificially shifting substantial amounts of income into tax-advantaged environments.

(3) **Member States'** tax authorities need comprehensive and relevant information on MNE Groups regarding their structure, transfer pricing policy, **tax settlements, tax credits** and internal transactions in and outside the **Union**. That information will enable the tax authorities to react to harmful tax practices through changes in the legislation or adequate risk assessments and tax audits, and to identify whether companies have engaged in practices that have the effect of artificially shifting substantial amounts of income into tax-

advantaged environments. ***The Commission should also have access to the information exchanged between Member States' tax authorities in order to ensure compliance with the relevant competition rules. The Commission should treat the information as confidential and take all appropriate measures to protect that information.***

## **Amendment 5**

### **Proposal for a directive Recital 4**

*Text proposed by the Commission*

(4) ***Increased transparency towards*** tax authorities could have the effect of giving MNE Groups an incentive to abandon certain practices and pay their ***fair share of*** tax in the country where ***profits are made***. Enhancing transparency for MNE Groups is therefore an essential part of tackling base erosion and profit shifting.

*Amendment*

(4) ***An adequate level of information provided to and exchanged between Member States' tax authorities as well as the Commission*** could have the effect of giving MNE Groups an incentive to abandon certain practices and pay their tax ***due*** in the country where ***the value is created***. ***It would also increase the 'peer pressure' between Member States and would focus the attention of financial markets on the fiscal accountability of MNEs.*** Enhancing transparency for MNE Groups, ***without hampering the Union's competitiveness***, is therefore an essential part of tackling base erosion and profit shifting ***and, ultimately, tax avoidance***.

## **Amendment 6**

### **Proposal for a directive Recital 6**

*Text proposed by the Commission*

(6) In the country-by-country report, MNEs Groups should provide annually and for each tax jurisdiction in which they do business the amount of revenue, profit before income tax and income tax paid and accrued. MNE Groups should also report number of their employees, stated capital, retained earnings and tangible assets in each tax jurisdiction. Finally, MNE Groups

*Amendment*

(6) In the country-by-country report, MNEs Groups should provide annually and for each tax jurisdiction in which they do business the amount of revenue, profit before income tax and income tax paid and accrued, ***as well as tax credits***. MNE Groups should also report number of their employees, stated capital, retained earnings and tangible assets in each tax jurisdiction.

should identify each entity within the group doing business in a particular tax jurisdiction and should provide an indication of the business activities each entity engages in.

Finally, MNE Groups should identify each entity within the group doing business in a particular tax jurisdiction and should provide an indication of the business activities each entity engages in.

#### **Amendment 7**

##### **Proposal for a directive**

##### **Recital 8**

###### *Text proposed by the Commission*

(8) To ensure the proper functioning of the Internal Market, the **EU** has to provide for fair competition between EU MNE Groups and non-EU MNE Groups for which one or several of their entities are located in the **EU**. Both of them should therefore be subject to the reporting obligation.

###### *Amendment*

(8) To ensure the proper functioning of the Internal Market, the **Union** has to provide for fair competition between EU MNE Groups and non-EU MNE Groups for which one or several of their entities are located in the **Union**. Both of them should therefore be subject to the reporting obligation. ***Member States, in this respect, should be responsible for enforcing the reporting obligation of the MNEs through, for instance, introducing steps to penalise MNEs in the event of non-reporting.***

#### **Amendment 8**

##### **Proposal for a directive**

##### **Recital 9 a (new)**

###### *Text proposed by the Commission*

###### *Amendment*

***(9a) Member States should ensure that they maintain or increase the level of human, technical and financial resources dedicated to the automatic exchange of information between tax administrations and to data processing within tax administrations.***

#### **Amendment 9**

##### **Proposal for a directive**

##### **Recital 11**

###### *Text proposed by the Commission*

###### *Amendment*

(11) As regards exchange of information

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between Member States, Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC already provides for the mandatory automatic exchange of information in a number of fields. Its scope should be enlarged to provide for the mandatory automatic exchange of country-by-country reports between Member States.

between Member States, Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC already provides for the mandatory automatic exchange of information in a number of fields. Its scope should be enlarged to provide for the mandatory automatic exchange of country-by-country reports between Member States, ***and the communication of such reports to the Commission. Moreover, the Commission should make use of the country-by-country reports to assess the compliance of Member States with Union State aid rules, as there is also a State aid dimension to unfair tax practices in the field of corporate taxation.***

## **Amendment 10**

### **Proposal for a directive Recital 12**

#### *Text proposed by the Commission*

(12) The mandatory automatic exchange of country-by-country reports between Member States should in each case include the communication of a defined set of basic information ***that*** would be accessible to those Member States in which, on the basis of the information in the country-by-country report, one or more entities of the MNE Group are either resident for tax purposes, or are subject to tax with respect to the business carried out through a permanent establishment of an MNE Group.

## **Amendment 11**

### **Proposal for a directive Recital 16**

#### *Text proposed by the Commission*

(16) It is necessary to specify linguistic

#### *Amendment*

(12) The mandatory automatic exchange of country-by-country reports between Member States ***and with the Commission*** should in each case include the communication of a defined set of basic information ***which should be based on uniform definitions and which*** would be accessible to those Member States in which, on the basis of the information in the country-by-country report, one or more entities of the MNE Group are either resident for tax purposes, or are subject to tax with respect to the business carried out through a permanent establishment of an MNE Group.

#### *Amendment*

(16) It is necessary to specify linguistic

requirements for the exchange of information between Member States on country-by-country report. It is also necessary to adopt the practical arrangements necessary for the upgrading of CCN network. In order to ensure uniform conditions for the implementation of Articles 20(6) and 21(7), implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.

requirements for the exchange of information between Member States ***and the communication of such information to the Commission*** on country-by-country report. It is also necessary to adopt the practical arrangements necessary for the upgrading of CCN network ***and to make sure that the duplication of standards resulting in an increase in administrative costs for business operators is avoided***. In order to ensure uniform conditions for the implementation of Articles 20(6) and 21(7), implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.

## **Amendment 12**

### **Proposal for a directive Recital 18 a (new)**

*Text proposed by the Commission*

*Amendment*

***(18a) Member States' yearly reports to the Commission under this Directive, should detail the extent of filing under Article 8aa and Point 1, Section II, Annex III of this Directive and contain a list of any jurisdictions where ultimate parent entities of Union-based constituent entities are resident, but full reports have not been filed or exchanged.***

## **Amendment 13**

### **Proposal for a directive Recital 18 b (new)**

*Text proposed by the Commission*

*Amendment*

***(18b) It should be possible for information not to be exchanged under this Directive where such exchange would lead to the disclosure of a commercial, industrial or professional secret or of a commercial process, or of information the disclosure of which would be contrary to public policy.***

## Amendment 14

### Proposal for a directive Recital 18 c (new)

*Text proposed by the Commission*

*Amendment*

***(18c) Regard should be given to the European Parliament's resolution of 25 November 2015 on tax rulings and other measures similar in nature or effect, the report of Parliament's Committee on Legal Affairs on the proposal for a directive of the European Parliament and of the Council amending Directive 2007/36/EC as regards the encouragement of long-term shareholder engagement and Directive 2013/34/EU as regards certain elements of the corporate governance statement, as well as its resolution of 16 December 2015 with recommendations to the Commission on bringing transparency, coordination and convergence to corporate tax policies in the Union.***

## Amendment 15

### Proposal for a directive Recital 20

*Text proposed by the Commission*

*Amendment*

(20) Since the objective of this Directive, namely the efficient administrative cooperation between Member States under conditions compatible with the proper functioning of the internal market, cannot be sufficiently achieved by the Member States and can therefore, by reason of the uniformity and effectiveness required, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on the European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.

(20) Since the objective of this Directive, namely the efficient administrative cooperation between Member States ***and with the Commission*** under conditions compatible with the proper functioning of the internal market, cannot be sufficiently achieved by the Member States and can therefore, by reason of the uniformity and effectiveness required, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on the European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that

objective.

## Amendment 16

### Proposal for a directive

#### Article 1 – paragraph 1 – point -1 (new)

Directive 2011/16/EU

Article 1 – paragraph 1

#### *Present text*

1. This Directive lays down the rules and procedures under which the Member States shall cooperate with each other with a view to exchanging information that is foreseeably relevant to the administration and enforcement of the domestic laws of the Member States concerning the taxes referred to in Article 2.

#### *Amendment*

#### ***(-1) Article 1(1) is replaced by the following:***

‘1. This Directive lays down the rules and procedures under which the Member States shall cooperate with each other ***and with the Commission*** with a view to exchanging information that is foreseeably relevant to the administration and enforcement of the domestic laws of the Member States concerning the taxes referred to in Article 2.’

## Amendment 17

### Proposal for a directive

#### Article 1 – paragraph 1 – point 1 – point -a (new)

Directive 2011/16/EU

Article 3 – point 2

#### *Present text*

(2) ‘central liaison office’ means the office which has been designated as such with principal responsibility for contacts with other Member States in the field of administrative cooperation;

#### *Amendment*

#### ***(-a) Article 3(2) is replaced by the following:***

‘(2) ‘central liaison office’ means the office which has been designated as such with principal responsibility for contacts with other Member States ***and with the Commission*** in the field of administrative cooperation;’

## Amendment 18

### Proposal for a directive

#### Article 1 – paragraph 1 – point 1 – point a

Directive 2011/16/EU

Article 3 – point 9 – point a

*Text proposed by the Commission*

(a) for the purposes of Article 8(1) and Articles 8a and 8aa, the systematic communication of predefined information to another Member State, without prior request, at pre-established regular intervals; for the purposes of Article 8(1), reference to available information relates to information in the tax files of the Member State communicating the information, which is retrievable in accordance with the procedures for gathering and processing information in that Member State.

*Amendment*

(a) for the purposes of Article 8(1) and Articles 8a and 8aa, the systematic communication of predefined information to another Member State **and the Commission**, without prior request, at pre-established regular intervals; for the purposes of Article 8(1), reference to available information relates to information in the tax files of the Member State communicating the information, which is retrievable in accordance with the procedures for gathering and processing information in that Member State.

**Amendment 19**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 1 a (new)**

Directive 2011/16/EU

Article 4 – paragraph 6

*Present text*

6. Where a liaison department or a competent official sends or receives a request or a reply to a request for cooperation, it shall inform the central liaison office of its Member State under the procedures laid down by that Member State.

*Amendment*

***(1a) Article 4(6) is replaced by the following:***

‘6. Where a liaison department or a competent official sends or receives a request or a reply to a request for cooperation, it shall inform the central liaison office of its Member State **and the Commission** under the procedures laid down by that Member State.’

**Amendment 20**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 1 b (new)**

Directive 2011/16/EU

Article 6 – paragraph 2

*Present text*

2. The request referred to in Article 5 may contain a reasoned request for a specific

*Amendment*

***(1b) Article 6(2) is replaced by the following:***

‘2. The request referred to in Article 5 may contain a reasoned request for a specific

administrative enquiry. If the requested authority takes the view that no administrative enquiry is necessary, it shall immediately inform the requesting authority of the reasons thereof.

## **Amendment 21**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 1 c (new)**

Directive 2011/16/EU

Article 8 – paragraph 1 – point e a (new)

*Text proposed by the Commission*

administrative enquiry. If the requested authority takes the view that no administrative enquiry is necessary, it shall immediately inform the requesting authority **and the Commission** of the reasons thereof.’

*Amendment*

***(1c) In Article 8(1), the following point is added:***

***‘(ea) country-by-country reports,’***

## **Amendment 22**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 2**

Directive 2011/16/EU

Article 8aa – paragraph 2

*Text proposed by the Commission*

2. The competent authority of a Member State where the Country-by-Country Report was received pursuant to paragraph 1 shall, by means of automatic exchange, communicate the report to any other Member State in which, on the basis of the information in the country-by-country report, one or more Constituent Entities of the MNE Group of the Reporting Entity are either resident for tax purposes, or are subject to tax with respect to the business carried out through a permanent establishment within the deadline laid down in paragraph 4.

*Amendment*

2. The competent authority of a Member State where the Country-by-Country Report was received pursuant to paragraph 1 shall, by means of automatic exchange, ***as soon as possible*** communicate the report to any other Member State in which, on the basis of the information in the country-by-country report, one or more Constituent Entities of the MNE Group of the Reporting Entity are either resident for tax purposes, or are subject to tax with respect to the business carried out through a permanent establishment within the deadline laid down in paragraph 4. ***The competent authority of the Member State concerned shall also communicate the country-by-country report to the Commission, which is responsible for the centralised register of country-by-country reports, available to its competent***

*services.*

## **Amendment 23**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 2**

Directive 2011/16/EU

Article 8aa – paragraph 3 – point a

#### *Text proposed by the Commission*

(a) aggregate information relating to the amount of revenue, profit (loss) before income tax, income tax paid, income tax accrued, stated capital, accumulated earnings, number of employees, **and** tangible assets other than cash or cash equivalents with regard to each jurisdiction in which the MNE Group operates;

#### *Amendment*

(a) aggregate information relating to the amount of revenue, profit (loss) before income tax, income tax paid, income tax accrued, stated capital, accumulated earnings, number of employees, tangible assets other than cash or cash equivalents with regard to each jurisdiction in which the MNE Group operates, ***public subsidies received, the value of assets and annual cost of maintaining them, and sales and purchases made by the Group;***

## **Amendment 24**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 2**

Directive 2011/16/EU

Article 8aa – paragraph 3 – point b a (new)

#### *Text proposed by the Commission*

#### *Amendment*

***(ba) the future European tax identification number (TIN) of the MNE Group referred to in the Commission's 2012 Action Plan to strengthen the fight against fraud and tax evasion.***

## **Amendment 37**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 2**

Directive 2011/16/EU

Article 8aa – paragraph 4 a (new)

#### *Text proposed by the Commission*

#### *Amendment*

***4a. In order to enhance transparency***

*for citizens, the Commission shall publish an aggregated summary of the country-by-country reports, based on the information contained in the centralised register of country-by-country reports. In so doing, the Commission shall comply with the provisions of Article 23a on confidentiality.*

## **Amendment 26**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 2 a (new)**

Directive 2011/16/EU

Article 9 – paragraph 1 - introductory part

#### *Present text*

1. The competent authority of each Member State shall communicate the information referred to in Article 1(1) to the competent authority of any other Member State concerned, in any of the following circumstances:

#### *Amendment*

***(2a) The introductory part of Article 9(1) is replaced by the following:***

‘1. The competent authority of each Member State shall communicate the information referred to in Article 1(1) to the competent authority of any other Member State concerned ***and to the Commission***, in any of the following circumstances:’

## **Amendment 27**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 2 b (new)**

Directive 2011/16/EU

Article 9 – paragraph 2

#### *Present text*

2. The competent authorities of each Member State may communicate, by spontaneous exchange, to the competent authorities of the other Member States any information of which they are aware and which may be useful to the competent authorities of the other Member States.

#### *Amendment*

***(2b) Article 9(2) is replaced by the following:***

‘2. The competent authorities of each Member State may communicate, by spontaneous exchange, to the competent authorities of the other Member States ***and to the Commission*** any information of which they are aware and which may be useful to the competent authorities of the other Member States.’

## Amendment 28

### Proposal for a directive

#### Article 1 – paragraph 1 – point 4 a (new)

Directive 2011/16/EU

Article 23 – paragraph 2

#### *Present text*

2. Member States shall communicate to the Commission any relevant information necessary for the evaluation of the effectiveness of administrative cooperation in accordance with this Directive in combating tax evasion and tax avoidance.

#### *Amendment*

***(4a) Article 23(2) is replaced by the following:***

‘2. Member States shall communicate to the Commission any relevant information necessary for the evaluation of the effectiveness of administrative cooperation in accordance with this Directive in combating ***tax avoidance***, tax evasion and tax fraud.’

## Amendment 29

### Proposal for a directive

#### Article 1 – paragraph 1 – point 5

Directive 2011/16/EU

Article 23 – paragraph 3

#### *Text proposed by the Commission*

3. Member States shall communicate to the Commission a yearly assessment of the effectiveness of the automatic exchange of information referred to in Article 8, Article 8a and 8aa as well as the practical results achieved. The Commission shall, by means of implementing acts, adopt the form and the conditions of communication of that yearly assessment. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 26(2).

#### *Amendment*

3. Member States shall communicate to the Commission a yearly assessment of the effectiveness of the automatic exchange of information referred to in Article 8, Article 8a and 8aa as well as the practical results achieved. ***The Commission shall inform the European Parliament and the Council about those results in an appropriate manner, such as an annual consolidated report where the outcome and output of the reporting procedure are discussed.*** The Commission shall, by means of implementing acts, adopt the form and the conditions of communication of that yearly assessment. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 26(2).

## **Amendment 30**

### **Proposal for a directive**

**Article 1 – paragraph 1 – point 5 a (new)**

Directive 2011/16/EU

Article 23 – paragraph 3 a (new)

*Text proposed by the Commission*

*Amendment*

***(5a) In Article 23, the following paragraph is inserted:***

***'3a. The Commission shall submit a yearly consolidated report to the European Parliament and the Council concerning the Member States' yearly assessments of the effectiveness of the automatic exchange of information, as well as the practical results achieved.'***

## **Amendment 31**

### **Proposal for a directive**

**Article 1 – paragraph 1 – point 5 b (new)**

Directive 2011/16/EU

Article 23 – paragraph 3 b (new)

*Text proposed by the Commission*

*Amendment*

***(5b) In Article 23, the following paragraph is inserted:***

***'3b. In the event that the Commission's impact assessment on the consequences of public disclosure of country-by-country information determines that there are no negative consequences for MNE Groups, the Commission shall promptly propose legislation to make the information publicly available.'***

## **Amendment 32**

### **Proposal for a directive**

**Article 1 – paragraph 1 – point 5 c (new)**

Directive 2011/16/EU

Article 24 – paragraph 1

*Present text*

*Amendment*

***(5c) Article 24(1) is replaced by the***

1. Where the competent authority of a Member State receives from a third country information that is foreseeably relevant to the administration and enforcement of the domestic laws of that Member State concerning the taxes referred to in Article 2, that authority may, in so far as this is allowed pursuant to an agreement with that third country, provide that information to the competent authorities of Member States for which that information might be useful and to any requesting authorities.

### **Amendment 33**

#### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 7 a (new)**

Directive 2011/16/EU

Article 27 a (new)

*Text proposed by the Commission*

### **Amendment 34**

#### **Proposal for a directive**

#### **Annex – Annex III – Section II – paragraph 1 – subparagraph 2**

*Text proposed by the Commission*

Where there are more than one Constituent Entities of the same MNE Group that are resident for tax purposes in the Union and one or more of the conditions set out in point (b) apply, the MNE Group may designate one of such Constituent Entities to file the country-by-country report conforming to the requirements of Article

*following:*

'1. Where the competent authority of a Member State receives from a third country information that is foreseeably relevant to the administration and enforcement of the domestic laws of that Member State concerning the taxes referred to in Article 2, that authority may, in so far as this is allowed pursuant to an agreement with that third country, provide that information to the competent authorities of Member States for which that information might be useful and to any requesting authorities, *and to the Commission.*'

*Amendment*

*(7a) The following Article is inserted:*

*'Article 27a*

*Review*

*The Commission shall review the effectiveness of this Directive by... [three years after the date of entry into force of this Directive].'*

*Amendment*

Where there are more than one Constituent Entities of the same MNE Group that are resident for tax purposes in the Union and one or more of the conditions set out in point (b) apply, the MNE Group may designate one of such Constituent Entities, *preferably the one with the highest turnover*, to file the country-by-country

8aa(1) with respect to any Reporting Fiscal Year within the deadline specified in Article 8aa(1) and to notify the Member State that the filing is intended to satisfy the filing requirement of all the Constituent Entities of such MNE Group that are resident for tax purposes in the Union. That Member State shall, pursuant to Article 8aa(2), communicate the country-by-country report received to any other Member State in which, on the basis of the information in the country-by-country Report, one or more Constituent Entities of the MNE Group of the Reporting Entity are either resident for tax purposes, or are subject to tax with respect to the business carried out through a permanent establishment.

report conforming to the requirements of Article 8aa(1) with respect to any Reporting Fiscal Year within the deadline specified in Article 8aa(1) and to notify the Member State that the filing is intended to satisfy the filing requirement of all the Constituent Entities of such MNE Group that are resident for tax purposes in the Union. That Member State shall, pursuant to Article 8aa(2), communicate the country-by-country report received to any other Member State in which, on the basis of the information in the country-by-country Report, one or more Constituent Entities of the MNE Group of the Reporting Entity are either resident for tax purposes, or are subject to tax with respect to the business carried out through a permanent establishment.