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**A5-0169/2004**

17 March 2004

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## **REPORT**

on the proposal for a Council decision on the conclusion of the Agreement between the European Community and the Swiss Confederation providing for measures equivalent to those laid down in Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments and the accompanying Memorandum of Understanding  
(COM(2004) 75 – C5-0103/2004 – 2004/0027(CNS))

Committee on Economic and Monetary Affairs

Rapporteur: José Manuel García-Margallo y Marfil

### ***Symbols for procedures***

- \* Consultation procedure  
*majority of the votes cast*
- \*\*I Cooperation procedure (first reading)  
*majority of the votes cast*
- \*\*II Cooperation procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\* Assent procedure  
*majority of Parliament's component Members except in cases  
covered by Articles 105, 107, 161 and 300 of the EC Treaty and  
Article 7 of the EU Treaty*
- \*\*\*I Codecision procedure (first reading)  
*majority of the votes cast*
- \*\*\*II Codecision procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\*III Codecision procedure (third reading)  
*majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission)

### ***Amendments to a legislative text***

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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## PROCEDURAL PAGE

By letter of 26 February 2004 the Council consulted Parliament, pursuant to Article 300(3), first subparagraph, of the EC Treaty, on the proposal for a Council decision on the conclusion of the Agreement between the European Community and the Swiss Confederation providing for measures equivalent to those laid down in Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments and the accompanying Memorandum of Understanding (COM(2004) 75 – 2004/0027(CNS)).

At the sitting of 8 March 2004 the President of Parliament announced that he had referred the proposal to the Committee on Economic and Monetary Affairs as the committee responsible and the Committee on Legal Affairs and the Internal Market for its opinion (C5-0103/2004).

The Committee on Economic and Monetary Affairs had appointed José Manuel García-Margallo y Marfil rapporteur at its meeting of 11 February 2004.

The committee considered the Commission proposal and draft report at its meetings of 24 February, 8 March and 15 and 16 March 2004.

At the last meeting it adopted the draft legislative resolution by 26 votes with 1 abstention.

The following were present for the vote: Christa Randzio-Plath (chairwoman), Philippe A.R. Herzog (vice-chairman), John Purvis (vice-chairman), , Hans Udo Bullmann, Bert Doorn (for Othmar Karas), Jonathan Evans, Carles-Alfred Gasòliba i Böhm, Robert Goebbels, Lisbeth Grönfeldt Bergman, Christopher Huhne, Christoph Werner Konrad, Werner Langen (for Ingo Friedrich), Astrid Lulling, Thomas Mann (for Generoso Andria), David W. Martin, Hans-Peter Mayer, Simon Francis Murphy (for Mary Honeyball), Fernando Pérez Royo, José Javier Pomés Ruiz (for José Manuel García-Margallo y Marfil), Alexander Radwan, Bernhard Rapkay, Mónica Ridruejo, Peter William Skinner, Helena Torres Marques, Bruno Trentin, Ieke van den Burg (for Pervenche Berès) and Theresa Villiers.

The Committee on Legal Affairs and the Internal Market decided on 17 March 2004 not to deliver an opinion.

The report was tabled on 17 March 2004.

## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a Council decision on the conclusion of the Agreement between the European Community and the Swiss Confederation providing for measures equivalent to those laid down in Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments and the accompanying Memorandum of Understanding  
(COM(2004) 75 – C5-0103/2004 – 2004/0027(CNS))

### (Consultation procedure)

*The European Parliament,*

- having regard to the proposal for a Council decision (COM(2004) 75)<sup>1</sup>,
  - having regard to the draft agreement between the European Community and the Swiss Confederation providing for measures equivalent to those laid down in Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments and the accompanying Memorandum of Understanding (.....),
  - having regard to Articles 94 and 300(2), first subparagraph, of the EC Treaty,
  - having regard to Article 300(3), first subparagraph, of the EC Treaty, pursuant to which the Council consulted Parliament (C5-0103/2004),
  - having regard to Rules 67 and 97(7) of its Rules of Procedure,
  - having regard to the report of the Committee on Economic and Monetary Affairs (A5-0169/2004),
1. Approves the proposal for a Council decision as amended and approves the conclusion of the agreement;
  2. Instructs its President to forward its position to the Council and Commission, and the governments and parliaments of the Member States and the Swiss Confederation.

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Text proposed by the Commission

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Amendments by Parliament

Amendment 1  
Recital 4 a (new)

***(4a) The ultimate aim is to enable savings income in the form of interest payments made in one Member State to beneficial owners, individuals, resident in another Member State to be made subject to***

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<sup>1</sup> Not yet published in OJ.

*effective taxation which is needed to fight against harmful tax competition and to contribute towards improving the functioning of the single market by removing artificial incentives to the flow of capital in the EU and beyond.*

Amendment 2  
Recital 4 b (new)

*(4b) The equitable and effective tax treatment of savings in Europe necessarily implies that Member States should have the right to tax the EU-wide income of their residents according to their own domestic tax rules and tax scales.*

Amendment 3  
Recital 4 c (new)

*(4c) The best method of taxing savings effectively is for information to be exchanged automatically between tax authorities.*

Amendment 4  
Recital 4 d(new)

*(4d) Switzerland, like some Member States, has opted for a withholding tax at source, in connection with Council Directive 2003/48/EC of 3 June 2003, and will introduce such a tax on funds from European Union residents, 75% of the revenue generated by the tax being transferred to the Member State of residence of the beneficial owner.*

Amendment 5  
Recital 4 e (new)

***(4e) Nevertheless, consideration needs to be given to the needs of the banking sectors of some Member States and their structural differences by allowing them to have a transitional period during which they will levy a withholding tax, at a rate increasing progressively to 35%; until full information exchange is achieved this will ensure a minimum level of effective taxation; the greater part of this revenue should be transferred to the Member State of residence of the beneficial owner of the interest.***

Amendment 6  
Recital 4 f (new)

***(4f) In order to prevent the flight of capital from the European Union, the application of this agreement is conditional upon the adoption and implementation by the dependent or associated territories of the Member States mentioned in the Feira European Council Decision of 19 and 20 June 2000, as well as the United States of America, Andorra, Liechtenstein, Monaco and San Marino, respectively, of measures which conform with or are equivalent to those contained in Council Directive 2003/48/EC of 3 June 2003 or in the present agreement on the taxation of savings income in the form of interest payments.***

Amendment 7  
Recital 4 g (new)

***(4g) The conclusion of an agreement with Switzerland should not be linked to***

*ongoing negotiations with other parties.*

Amendment 8  
Recital 4 h (new)

*(4h) It is imperative that negotiations with the above-mentioned third countries are concluded in a timely manner; no further counter-requests from these countries should be accepted; agreements with these countries should include the same fundamental elements as those in the agreement with Switzerland.*

Amendment 9  
Recital 4 i (new)

*(4i) The same measures will be applied in all relevant dependent or associated territories (the Channel Islands, Isle of Man and the dependent or associated territories in the Caribbean).*



## **EXPLANATORY STATEMENT**

### **I. Background**

The absence in the EU of any coordination of national tax systems for taxation of savings income in the form of interest payments, means that residents of Member States are currently often able to avoid any form of taxation in their Member State of residence on interest they receive in another Member State. This creates a situation of harmful tax competition and artificial incentives to the flow of capital within the EU and towards other non-EU tax havens. The functioning of the Single Market is impaired by these practices.

In light of the above, a general consensus was reached at the European Council summit at Santa Maria da Feira in June 2000, that legislation was needed to abolish banking secrecy for fiscal purposes in the EU, and to reach an equitable and effective tax treatment of savings so that Member States would be able to tax the EU-wide income of their residents according to their own domestic tax rules and tax rates.

After extensive negotiations a political compromise was reached, and Directive 2003/48/EC on taxation of savings income in the form of interest payments was adopted by Council on 3 June 2003. Initially a co-existence model, allowing Member States to choose whether to levy a withholding tax or exchange information, was envisaged. However, this was considered not to be a feasible option in the long-run, and the final directive goes for the information exchange option. Thus Member States will be obliged as of 1 January 2005 to automatically exchange information on income received with other tax authorities.

Nevertheless, three Member States (Austria, Belgium and Luxembourg) were granted a transitional period during which they will be allowed to levy a progressively increasing withholding tax instead of exchange information. Once this transitional period expires, they will move to information exchange.

The political compromise that allowed the approval of the Directive was based on an important caveat: the directive would only be applied if other jurisdictions took equivalent tax measures. It was agreed that otherwise the EU would be put in a very uncompetitive position by allowing capital flight outside of its borders towards tax havens. It was thus that the Council, on 16 October 2001, authorised the Commission to negotiate with the United States, Switzerland, Andorra, Liechtenstein, Monaco, San Marino and British and Dutch dependent territories, appropriate agreements equivalent to those contained in the Directive.

On 3 June 2003, after extensive negotiations with Switzerland, the draft agreement submitted by the Commission was considered by the Council to be the final offer. The European Parliament has been consulted on the contents thereof.

### **II. Rapporteur's observations**

Your rapporteur regards the proposed agreement as reasonable and balanced. He does not propose any amendments but would like to raise a few key points.

The conclusion of an agreement with Switzerland needs to be concluded urgently. It should

not be linked to ongoing negotiations with other third countries. These other negotiations need also to progress quickly, as the 1 January 2005 deadline looms. No further counter-requests from these countries should be accepted and the Commission should strive to replicate the contents of the Switzerland agreement for the other countries. Pressure needs to be brought on these jurisdictions: the EU should not be held hostage to a prolonged negotiating ordeal and should use its political might to enforce a quick and fair outcome.

Your rapporteur welcomes the aims of the Directive and the agreement with Switzerland as he considers it an important step forward in the process of ensuring an equitable tax treatment of savings in Europe. The gradual abolishment of banking secrecy for fiscal purposes in the EU, and world-wide for that matter, will benefit fiscal transparency and the EU's Internal Market.

## **MINORITY OPINION**

Minority opinion by Robert Goebbels (PSE, L), pursuant to Rule 161(3) of the Rules of Procedure:

'My abstention from this vote is based on the opinion which I have always expressed concerning the agreement reached at the Santa Maria de Feira European Council of 19 and 20 June 2000, which in my view can only lead to a dead end. The continuing difficulties with Switzerland, despite the conclusion of the agreement which has now been submitted to us, and the difficult course of the negotiations with the other third countries, support this assessment, and my vote today.'