

ECO/179

Brussels, 3 November 1993

OPINION
of the
Section for Economic, Financial and Monetary Questions
on the
Proposal for a Council Directive
amending Directive 90/435/EEC of 23 July 1990 on the
common system of taxation applicable in the case of parent
companies and subsidiaries of different Member States
(COM(93) 293 final)

Rapporteur : Mr R. PELLETIER

Memorized text.

On 12 August 1993 the Council decided to consult the Economic and Social Committee on the

Proposal for a Council Directive amending Directive 90/435/EEC of 23 July 1990 on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States
(COM(93) 293 final).

The Section for Economic, Financial and Monetary Questions, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 26 October 1993. The Rapporteur was Mr R. PELLETIER.

At its ... Plenary Session (meeting of ...), the Economic and Social Committee adopted the following Opinion ...:

1. The proposed Directive

1.1. The proposed Directive contains two measures:

- The purpose of the **first measure** is to extend the common system of taxation applicable to parent companies and subsidiaries from different Member States to all companies which, having a parent-subsidiary relationship within the meaning of Article 3 of Directive 90/435/EEC of 23 July 1990, are subject to corporation tax, **whatever their legal form**: the form requirement referred to under Article 2 (a) of the Directive of 23 July would therefore be abolished. This would make the following, in particular, eligible for the common system of taxation applicable to parent companies and subsidiaries: cooperatives, public savings banks and partnerships partially subject to corporation tax or having opted for imposition of this tax.
- the purpose of the **second measure** is to **extend the imputation method** which is one of the two methods used to prevent economic double taxation of the profits distributed by a subsidiary established in one Member State to a parent company established in another country: **where there is a chain of successive subsidiaries** established in different Member States, the parent company at the head of the group could deduct from the tax on the distributed profits which it receives from its direct subsidiary that fraction of the tax paid not only by this direct subsidiary but also by successive subsidiaries downstream of the direct subsidiary.

2. The Section's Opinion

2.1. The Section **approves** the proposed Directive.

2.2. **Regarding the first measure**, however, it would refer to the recommendations which it has already made in its Opinion on *the Conclusions and Recommendations of the Ruding Committee of Independent Experts on Company Taxation*¹. There it is recommended that all intra-Community financial flows of dividends, interest and royalty payments be exempt from withholding taxes where these financial flows are between companies, including in the form of partnerships, situated in different Member States, **even if there is no parent-subsidiary relationship between these companies**; while it is justified to require evidence of a parent-subsidiary relationship and for the company to be subject to corporation tax when the aim is to eliminate economic double taxation of a group's profits, there is no real need for this when the aim is to exempt dividend, interest and royalty flows between companies from different Member States from withholding taxes.

Brussels, 26 October 1993.

The Chairman The Secretary-General
of the of the
Section for Economic, Economic and Social
Financial and Monetary Questions Committee

Jean PARDON Simon-Pierre NOTHOMB

¹ OJ C 19/65 of 25 January 1993

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