<u>*Courtesy Translation*</u>

TO
MR JOSÉ MANUEL BARROSO
PRESIDENT OF THE
EUROPEAN COMMISSION

<u>Subject</u>: Reasoned Opinion of the National Assembly of the Republic of Bulgaria on the Proposal for a Council Directive on a Common Consolidated Corporate Tax Base (CCCTB) – COM (2011) 121

DEAR MR BARROSO,

One of the main challenges, arising for the Bulgarian Parliament from the Lisbon Treaty implementation, is the possibility to actively participate in the EU decision-making process by conducting subsidiarity checks and expressing reasoned opinions on the EU draft legislative acts being found incompliant with the subsidiarity principle.

Following these new responsibilities, the National Assembly of the Republic of Bulgaria via the Committee on European Affairs and Oversight of the European Funds (CEAOEF) and the Budget and Finance Committee (BFC) has thoroughly examined the proposal for a Council Directive on a Common Consolidated Corporate Tax Base (CCCTB) for compliance with the principles of subsidiarity and proportionality in accordance with Art. 5 of the Treaty on European Union and Protocol 2 of the Lisbon Treaty.

As a result of the held discussions within the relevant parliamentary committees[1], the Bulgarian Parliament considers that the proposal for a Council Directive on a Common Consolidated Corporate Tax Base (CCCTB) **is in breach of the principles of subsidiarity and proportionality**. Therefore, the Bulgarian Parliament **does not support** the proposal for a Council Directive, as presented now.

According to the Rules of Organization and Procedure of the National Assembly of the Republic of Bulgaria, the CEAOEF examines the draft acts of the EU institutions after receiving the other standing committees' reports. When the CEAOEF finds that a draft act of the EU institutions does not comply with the principle of subsidiarity, it issues a reasoned opinion which is being sent to the European Parliament, Council and European Commission Presidents by the Bulgarian Parliament President.

In this regard, herewith please find enclosed the CEAOEF Report which contains a Reasoned Opinion with a thorough argumentation of the reasons why the Bulgarian Parliament

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[1] *The proposal for a Council Directive has been reviewed at a BFC sitting on 4th of May 2011 and at a CEAOEF sitting on 11th of May 2011.*

considers the proposal for a Council Directive in breach of the principles of subsidiarity and proportionality. The Report takes into account the BFC statement on the draft EC proposal.

We highly appreciate that the Bulgarian Parliament's position will be taken into consideration during the future discussions on the proposal for a CCCTB Directive. In addition, I would like to inform you that the Reasoned Opinion has also been sent to the European Parliament, the Council and the Bulgarian Government.

In conclusion, let me express my confidence that our established, fruitful cooperation will be further developed and deepened.

Enclosure:

1. Report of the CEAOEF on the proposal for a Council Directive for a CCCTB, COM (2011) 121 final – *in Bulgarian*;

2. Reasoned opinion (an integrative part of the CEAOEF Report – point 1 of the enclosure) – *translation in English.*

Yours sincerely,

PRESIDENT
OF THE NATIONAL ASSEMBLY

TSETSKA TSACHEVA

REASONED OPINION OF THE NATIONAL ASSEMBLY OF THE REPUBLIC OF BULGARIA ON THE PROPOSAL FOR A COUNCIL DIRECTIVE ON A COMMON CONSOLIDATED CORPORATE TAX BASE (CCCTB) – COM (2011) 121

After the discussion on the proposal for a Council Directive on a Common Consolidated Corporate Tax Base (CCCTB) – COM (2011) 121, the Bulgarian Parliament via the Committee on European Affairs and Oversight of the European Funds (CEAOEF) expresses the following Reasoned Opinion, which is to be sent to the European institutions:

1. During the discussions on topical issues from the European Agenda related to the new EU economic governance and the Single Market, as well as coordinated actions surpassing the economic and financial crisis' negative effects, CEAOEF has expressed on numerous occasions its position on the common EU Tax Policy conduction: **it has to be carefully approached in order for the potential changes not to reflect negatively on the predictability, stability and competitiveness of the business environment.**

2. CEAOEF states that the **proposal for a Council Directive on a Common Consolidated Corporate Tax Base** is **not compliant** with the **principles of subsidiarity and proportionality** due to the following reasons:

Regarding the subsidiarity principle:

- CEAOEF states that the proposal for a Directive introducing a common consolidated base for corporate taxation on European level **is not compliant with the subsidiarity principle** established in article 5, paragraph 3 of the Treaty on European Union (TEU);
- CEAOEF states that the European Commission (EC) has not presented enough **qualitative and quantitative indicators** to prove that the objectives in the proposed action cannot be sufficiently achieved by the Member States acting on their own behalf, according to Protocol 2 regarding the application of the principle of subsidiarity and proportionality of the Lisbon Treaty;
- CEAOEF states that the tax base of each Member State reflects its own production structure specifics. For a lagging-behind economy like Bulgaria's, taking into account **the catching-up process is extremely important**. At this stage, the introduction of a common consolidated tax base at European level would lead to the so called "scissors effect" between the Member States - an obstacle for the intensification of the Single Market integration;
- CEAOEF supports the EC initiative for simplification of the common corporate tax rules. At the same time, it clearly expresses its vision that **a common consolidated tax base in the entire EU would deprive the separate Member States, as well as the EU as a whole, of important competitive advantages.** The corporate tax is an essential instrument for economic growth and employment stimulation. In this regard, we consider it being in the field of national competence;
- CEAOEF deems that in certain Member States, including Bulgaria, the implementation of **the three-factor formula**, proposed in the Directive, **would lead to their tax-base size reduction**. That would generate an **indirect pressure on their tax rate.**

According to the Bulgarian Ministry of Finance preliminary calculations, our current 10-% tax rate would have to be raised with approximately 3-4 % points, in order to compensate the shortages in the National Budget revenue side;

- CEAOEF states that the transfer pricing problem is not being solved by this Directive proposal, but it is being moved about between the group and third parties. In addition, it is important to remark that **tax preferences for the business remain a national decision**;
- CEAOEF deems that in the field of tax policy, **measures for coordination between the national tax systems could be taken**, but **the tax base should not be subject to consolidation;**

To recapitulate, CEAOEF states that **the objectives in the proposed action cannot be achieved better at EU level.**

Regarding the proportionality principle:

- The proposal introduces regulation at EU level which **is not compliant with the proportionality principle**, established in article 5, paragraph 4 of the Treaty on European Union (TEU) because **it creates additional administrative and financial burden for the Member States** via the **introduction of two different corporate tax systems**. In this way **it exceeds what is necessary to achieve the objectives of the Treaties;**
- The proposal for a Directive envisions **a complete separation between the fiscal and accounting rules** via the introduction of a tax balance with taxable incomes and costs, which is to serve as ground for the common tax base determination. The administrating of two parallel regimes for corporate taxation would lead to a **significant increase of both administrative and business costs**, in regard to the fulfillment of tax requirements and the application of a new tax accounting;
- The adoption of the Directive proposal would lead to **a complete change in the rules for taxing the profits and incomes of the companies**, regardless of whether they are part of the European group or no, and **a new legal framework** introduction. In addition, it would be **necessary to implement in the national tax legislation concepts of the international taxation which have not been used in our country to date**. That would represent **an additional burden for the business and the administration**;
- The proposal for a Council Directive might cause a negative effect on the national budget. The precautionary clause would not be able to compensate the unjustified cut in the companies' activity size. This scenario **deprives the national budget of the Member States of tax revenues** which **are part of the budget planning** for the respective year and **basis for the countries' national policies implementation**. In addition, the Directive proposal **allows the tax periods not to match the calendar periods** and **to vary between themselves within the group.** That would lead to **serious administrative and technical difficulties and would make the tax and accounting services more expensive for the companies;**
- Although the proposed action would create more favorable investment conditions within the Single Market framework according to the EC, **for the Republic of Bulgaria and some other Member States the effect on the investments would be negative.** Therefore, the proposal for a Council Directive **does not offer the most proportionate solution of the problems,** observed within the Single Market.