



EUROPEAN COMMISSION

*Brussels, 10.7.2017  
C(2017) 4685 final*

*Dear President,*

*The Commission would like to thank the Vouli ton Antiprosopon for its Opinion on the Commission's proposals for Directives on a Common Consolidated Corporate Tax Base {COM(2016) 683 final} and on a Common Corporate Tax Base {COM(2016) 685 final}. The Commission takes seriously the concerns expressed by the Vouli ton Antiprosopon and welcomes the opportunity to respond to the points made in the Opinion.*

*The Commission would like to make some general remarks about the political context of the proposals and their compliance with the principles of subsidiarity and proportionality, before addressing in detail the specific points in the Opinion.*

*In the explanatory memorandum that accompanies each proposal, the Commission sets out its arguments on why the objectives of these proposals cannot sufficiently be achieved through initiatives undertaken by each Member State on an individual basis. The Commission also explained how Union-wide action could more effectively tackle distortions of a cross-border nature that result from the interaction of national tax systems.*

*When considering questions of compliance with the principle of subsidiarity, it is critical that the main point of reference for assessing legislative proposals remains the internal market as a whole. The objectives that the Common (Consolidated) Corporate Tax Base system seeks to achieve essentially aim at tackling problems that reach beyond a single Member State and therefore, by their very nature require a common approach. Thus, the Common (Consolidated) Corporate Tax Base responds to the needs for increased growth and job creation in the internal market and also for countering aggressive tax planning. In the Commission's considered view, these challenges do not have a domestic focus. Instead, they arise in a cross-border framework. It is namely the interaction between different tax systems that generates opportunities for abuse or facilitates taking advantage of mismatches in the interaction of national corporate tax rules.*

*Mr Demetris SYLLOURIS  
President of the  
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### ***Restriction of the Member States' autonomy***

*Tax policies constitute an area of shared competence between Member States and the Union. It follows that in this constitutional framework, the Union holds the authority to act in line with the principles of subsidiarity and proportionality. Having said this, the Commission does not generally contest the competence of Member States in the field of taxation. It does however hold the view that Article 115 of the Treaty on the Functioning of the European Union (TFEU) provides the legal base for measures at the level of the European Union in this area and that these are subject to a review to ensure that they comply with the principle of subsidiarity. It is precisely on this premise that the Commission adopted the re-launch proposals for a Common (Consolidated) Corporate Tax Base, with the aim of improving the functioning of the internal market through reducing tax-related distortions caused by mismatches, harmful preferential tax regimes, double taxation and non-taxation, selective rulings and sweetheart deals. As explained above, individual uncoordinated initiatives at the national level cannot achieve these objectives. To the contrary, they are likely to exacerbate disparities.*

### ***Implications on domestic tax revenues for Cyprus***

*The Vouli ton Antiprosopon expresses the view that the proposals will inevitably reduce domestic tax revenues and will also have a negative impact on foreign investments and the gross domestic product in certain Member States.*

*The Commission would like to clarify that, in the absence of detailed actual revenue data from national tax administrations, gathering quantitative evidence on the impacts of the Common (Consolidated) Corporate Tax Base on individual national revenues would be particularly challenging and require the use of both representative and accurate data in the quantification of the future tax charge.*

*It is worth explaining that the subsidiarity exercise under Article 115 TFEU primarily focusses on determining the necessity for enacting a certain envisaged measure at the level of the European Union, instead of nationally, in order to ensure that the envisaged objectives can be fulfilled. This exercise does not necessarily include taking into account very detailed national information pertaining to each Member State. This being said, the impact assessment and the three external studies that have been published alongside it also provide extensive country-specific results.*

*The Commission would like to point out that assessing the impacts of a cross-border corporate tax system where more than one jurisdiction is involved is not a straightforward exercise. In fact, this can mainly be done through a model which brings together national data originating in disparate corporate tax systems. Although the modelling exercise that has been undertaken is state-of-the-art, it is clear that there are inherent limits to all such models. Notably, they cannot incorporate all elements of a proposal, including some of the important revenue-raising features, such as the impact of eliminating the possibility to reduce taxes through debt shifting. In addition to the work of*

*the Commission, national Ministries of Finance may also use the models and tax return data at their disposal to complement the analysis provided in the impact assessment.*

*Furthermore, the Common (Consolidated) Corporate Tax Base has very clear business-friendly aspects, which have been assessed in the impact assessment published with the proposal. These include, but are not limited to, the removal of cross-border investment obstacles, an allowance to foster research and development and an allowance for growth and investment.*

### ***Impact on social and economic policy***

*The Commission is of the opinion that the Common (Consolidated) Corporate Tax Base does not restrict Member States' power to design and implement their budgets, including concerning social and economic policies. The scheme does not go further than laying down common rules for the corporate tax base and leaves it to the Member States to determine, based on their fiscal priorities and objectives, the level at which they wish to collect taxes. Consequently, the impact on the revenues of Member States will ultimately depend on national policy choices with regard to possible adaptations of the mix of different revenue collection elements. Member States will hence have all the flexibility to control the impacts on tax revenues.*

*It is true that amendments to existing legislation at the level of the European Union would require unanimity in Council, which may take a substantial amount of time to achieve. On this point, Member States have to be reminded of the opportunity to pass certain non-essential implementing aspects of the system to delegated acts or implementing measures. This would alleviate the legislative process.*

### ***Additional administrative burden on tax administrations***

*The Vouli ton Antiprosopon criticises the common tax base for placing additional burdens on tax administrations due to the co-existence of a mandatory and optional scope in the proposals. Thus, Member States will be encumbered with operating two corporate tax systems in parallel.*

*The argument of administrative simplicity is primarily relevant to taxpayers and in particular, to those with cross-border activity in the internal market because they will be given the opportunity to settle their tax obligations through one single corporate tax system. When it comes to administrations, it is inevitable that in the first years following the introduction of the Common (Consolidated) Corporate Tax Base, they may need to dedicate some additional resources to running the Common (Consolidated) Corporate Tax Base but in the mid-term, administrations should be in a position to benefit from the reduction in workload in other areas, for example tasks related to transfer pricing compliance within the European Union.*

*Finally, the Commission does not share the argument that the Common (Consolidated) Corporate Tax Base proposals may disturb the balance achieved through bilateral agreements with third countries. On the contrary, the application of common principles*

*for resolving the existing fragmentation of the internal market would enhance its coherence and minimise the risk of double taxation.*

*The points made above are based on the initial proposal presented by the Commission which is currently in the legislative process involving both the European Parliament and the Council. The Opinion of the Vouli ton Antiprosopon has been made available to the Commission's representatives in the ongoing negotiations with the co-legislators and will inform these discussions.*

*The Commission hopes that the clarifications provided in this letter address the issues raised by the Vouli ton Antiprosopon and looks forward to continuing our political dialogue in the future.*

*Yours faithfully,*

*Frans Timmermans  
First Vice-President*

*Pierre Moscovici  
Member of the Commission*