



## EUROPEAN COMMISSION

*Brussels, 21.12.2015  
C(2015) 9333 final*

*Dear President,*

*The Commission would like to thank the Assemblée nationale for its Opinion concerning the Commission proposal for a Council Directive amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation {COM(2015) 135 final} and the Communication from the Commission to the European Parliament and the Council on tax transparency to fight tax evasion and avoidance {COM(2015) 136 final}. The two documents are part of a package of tax transparency measures adopted by the Commission on 18 March 2015 designed to tackle in an efficient and effective way tax avoidance and harmful tax competition in the EU.*

*The Commission shares the view of the Assemblée nationale that the fight against aggressive tax planning is a necessary step in the further integration of the internal market and welcomes the acknowledgement that the EU must act quickly in this direction. The fight against tax avoidance and evasion remains a priority for the Commission as evidenced by the work programme for 2016 in which the Commission has restated its commitment to making further progress towards fairer and more growth-friendly corporate taxation based on the principle that companies should pay tax in the country where profits are generated.*

*The Commission also welcomes the endorsement by the Assemblée nationale of the OECD Base Erosion and Profit Shifting (BEPS) Project and of the high priority given to this objective at EU level. At the Antalya Summit in November 2015, G-20 leaders also endorsed the package of measures developed under the BEPS Project and called for their widespread and consistent implementation, in particular as regards the exchange of information on cross-border tax rulings. In this regard, the Commission welcomes the political agreement reached on the proposal for a Council Directive amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation.*

*Mr Claude BARTOLONE  
President of the  
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*The Commission is grateful to the Assemblée nationale for sharing its view on the expanding digital economy. The Commission believes that the digital economy raises questions as to the most appropriate taxation of profits, in other words who should have a taxing right and to which extent. Whilst several recommendations presented by the OECD in October as part of its BEPS Project address these questions, they do so however in a general manner for all types of industry since the overall conclusion was that no special rules for the digital economy might be needed.*

*The Commission has taken note of the Assemblée nationale's suggestion that action should be taken against Member States that grant selected tax advantages to companies, in addition to ordering the recovery of such incompatible state aid from the beneficiaries concerned. In this regard, the Commission respectfully notes that there is currently no possibility under existing state aid rules for this course of action although possibilities to launch infringements against Member States for not complying with existing EU rules already exist in various other areas.*

*Regarding the Assemblée nationale's request that it should be possible to exclude companies from public tenders which have subsidiaries that are domiciled in States that are on the OECD's "grey list" of uncooperative tax havens, the Commission would like to point out that public procurement rules are already in place, which need to be applied consistently in all Member States. The public procurement rules which are currently in force, however, do not consider the tax residence of a tenderer's subsidiary to be, by itself, a reason to exclude an economic operator from participation in a public procurement procedure.*

*The Commission hopes that these clarifications address the issues raised by the Assemblée nationale and looks forward to continuing our political dialogue in the future.*

*Yours faithfully,*

*Frans Timmermans  
First Vice-President*

*Pierre Moscovici  
Member of the Commission*