



EUROPEAN COMMISSION

*Brussels, 10.3.2017
C(2017) 1628 final*

Dear President,

The Commission would like to thank the Assembleia da República for its Opinions on the Commission proposals for Directives on a Common Consolidated Corporate Tax Base {COM(2016) 683 final}, on a Common Corporate Tax Base {COM(2016) 685 final}, on Double Taxation Dispute Resolution Mechanisms in the European Union {COM(2016) 686 final}, and to amend Directive (EU) 2016/1164 as regards hybrid mismatches with third countries {COM(2016) 687 final}.

The Commission is pleased that the Assembleia da República concluded that all four proposals are compliant with the principle of subsidiarity. The Assembleia da República thus shares the view that action should be pursued at the level of the EU, rather than by each Member State individually, in order to best address distortions in the internal market, whether those are the result of double taxation, business unfriendly structures or of aggressive tax planning practices leading to low or no taxation.

Regarding the proposals for a Common (Consolidated) Corporate Tax Base, the Commission takes note of the Assembleia da República's suggestion for further monitoring, in particular in the following areas.

As regards the threshold of EUR 750 million that defines the mandatory scope of the proposals, the Assembleia da República suggests a lower threshold of EUR 500 million. In line with the principle of proportionality, the Commission limited the mandatory scope to those taxpayers that are most likely to have the ability to engage in aggressive tax planning. The chosen threshold of EUR 750 million captures the vast majority (circa 64%) of turnover generated by groups while limiting the risk of including purely domestic groups. The threshold is also coherent with the approach taken in other EU initiatives to counter tax avoidance.

*Mr Eduardo FERRO RODRIGUES
President of the
Assembleia da República
Palácio de S. Bento
P – 1249-068
LISBOA*

Concerning the detailed definition of expenses which are eligible to benefit from the super-deduction for research and development, the Commission acknowledges the importance of ensuring that the rules are sufficiently robust not to risk being manipulated. However, it is important to bear in mind that Directives are meant to incorporate principles-based legislation. The Commission remains open to discuss with Member States ways for addressing the need for more detail at the stage of implementation.

On the budgetary impact of the adoption of these proposals, the Commission refers to the impact assessment accompanying the proposals. However, it should be acknowledged that this assessment was subject to certain data limitations. Notably, it was not possible to quantify the impact of some of the important revenue-raising features, such as the absence of intellectual property box regimes in the common tax base or the impact of eliminating the possibility to reduce taxes through debt shifting. Moreover, it is also critical to point out that the precise impact on the revenues of Member States will be influenced by national policy choices. It goes without saying that the Commission would welcome any efforts to shed further light on the budgetary impacts of the proposals in Member States.

Concerning the proposal for Double Taxation Dispute Resolution Mechanisms, the Commission takes note that the Assembleia da República underlined some aspects in which the proposal brings added value compared to the national rules or existing bilateral treaties, particularly by providing more flexibility and a coordinated framework at EU level. The Commission is also pleased that the Assembleia da República concludes that this will secure legal certainty and predictability as regards tax dispute resolution for taxpayers and that the proposal will also ensure the creation of a common set of rules and a clear obligation of results as well as implementation terms for the dispute resolution decisions, in a consistent manner across the European Union.

The Commission hopes that these clarifications address the issues raised by the Assembleia da República and looks forward to continuing our political dialogue in the future.

Yours faithfully,

*Frans Timmermans
First Vice-President*

*Pierre Moscovici
Member of the Commission*