

Procedure file

Basic information	
CNS - Consultation procedure Decision	2004/0027(CNS) Procedure completed
EC/Switzerland agreement: taxation of savings income in the form of interest payments (Directive 2003/48/EC) See also Directive 2003/48/EC 2001/0164(CNS) See also 2015/0076(NLE)	
Subject 2.50.02 Savings 2.70.01 Direct taxation 6.40.01 Relations with EEA/EFTA countries	
Geographical area Switzerland	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	ECON Economic and Monetary Affairs		11/02/2004
		PPE-DE GARCÍA-MARGALLO Y MARFIL José Manuel	
	Committee for opinion	Rapporteur for opinion	Appointed
	JURI Legal Affairs and Internal Market	The committee decided not to give an opinion.	
Council of the European Union	Council configuration	Meeting	Date
	Economic and Financial Affairs ECOFIN	2587	02/06/2004
European Commission	Commission DG	Commissioner	
	Taxation and Customs Union		

Key events			
10/02/2004	Legislative proposal published	COM(2004)0075	Summary
08/03/2004	Committee referral announced in Parliament		
16/03/2004	Vote in committee		Summary
16/03/2004	Committee report tabled for plenary, 1st reading/single reading	A5-0169/2004	
30/03/2004	Decision by Parliament	T5-0201/2004	Summary
02/06/2004	Act adopted by Council after consultation of Parliament		
02/06/2004	End of procedure in Parliament		

29/12/2004

Final act published in Official Journal

Technical information

Procedure reference	2004/0027(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	International agreement
Legislative instrument	Decision
	See also Directive 2003/48/EC 2001/0164(CNS) See also 2015/0076(NLE)
Legal basis	EC Treaty (after Amsterdam) EC 300-p2; EC Treaty (after Amsterdam) EC 094
Stage reached in procedure	Procedure completed
Committee dossier	ECON/5/20707

Documentation gateway

Legislative proposal	COM(2004)0075	10/02/2004	EC	Summary
Committee report tabled for plenary, 1st reading/single reading	A5-0169/2004	16/03/2004	EP	
Text adopted by Parliament, 1st reading/single reading	T5-0201/2004 OJ C 103 29.04.2004, p. 0031-0149 E	30/03/2004	EP	Summary

Additional information

European Commission	EUR-Lex
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Final act

[Decision 2004/911](#)
[OJ L 385 29.12.2004, p. 0028-0029](#) Summary

EC/Switzerland agreement: taxation of savings income in the form of interest payments (Directive 2003/48/EC)

PURPOSE : to conclude the Agreement between the EC and the Swiss Confederation providing for measures equivalent to those laid down in Council Directive 2003/48/EC on the taxation of savings income in the form of interest payments and the Memorandum of Understanding

PROPOSED ACT : Council Decision. **CONTENT** : By its Decision of 16 October 2001, the Council authorised the Commission to negotiate with Switzerland and five other third countries (United States of America, Andorra, Liechtenstein, Monaco and San Marino) appropriate agreements for securing the adoption by these countries of measures equivalent to those to be applied within the Community to ensure effective taxation of savings income in the form of interest payments. In the course of negotiations, the Swiss side requested the extension to Switzerland of the regimes provided for in Council Directive 90/435/EEC on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States and in Council Directive 2003/49/EC on a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States. The draft approved by Council includes the Swiss request. However, in respect of Spain, the draft provides that the provision will only apply from the entry into force of a bilateral agreement between Spain and Switzerland on the exchange of information on request in cases of tax fraud or the like with respect to items of income not subject to this Agreement but covered by a bilateral convention or agreement between the two countries. In approving the draft Agreement, the Council took the view that the Community does not have exclusive competence to conclude an agreement with Switzerland on the tax treatment of dividends and of interest and royalty payments as mentioned in article 15 of the draft Agreement. Delegations agreed nevertheless, by way of exception and without creating a precedent, that Member States will not exercise their competence in this particular case. Member States maintain their competence to conclude bilateral agreements with other third countries on the tax treatment of dividends and of interest and royalty payments between companies. The Agreement is now being presented to the Council to be concluded. The accompanying Memorandum of Understanding: -commits Switzerland and Member States to enter into bilateral negotiations with a view to including in their respective double taxation conventions provisions on exchange of information on request for cases falling within the concept

of "tax fraud or the like" with respect to items of income not subject to the Agreement but covered by their respective conventions, and with a view to defining individual categories of cases falling under "the like" in accordance with the procedure of taxation applied by those countries; -confirms that, during the transitional period provided for in Council Directive 2003/48/EC, the EC will enter into discussions with other important financial centres with a view to promoting the adoption by those jurisdictions of measures equivalent to those to be applied by the Community; - provides that the agreed measures will be implemented in good faith and that parties will not act unilaterally to undermine this arrangement without due cause. Should any significant difference between the coverage of Council Directive 2003/48/EC and that of the Agreement be discovered, the Contracting Parties will immediately enter into consultations with a view to ensuring that the equivalent nature of the measures provided for in the Agreement is maintained.?

EC/Switzerland agreement: taxation of savings income in the form of interest payments (Directive 2003/48/EC)

The committee adopted the report by José GARCÍA-MARGALLO Y MARFIL (EPP-ED, E) broadly approving the proposal under the consultation procedure, subject to a few amendments. These essentially introduced several new recitals into the Council Decision raising a number of issues, i.e. the agreement with Switzerland should not be linked to negotiations with other parties, and the best way to tax savings income effectively is through the automatic exchange of information between tax authorities. One amendment pointed out that Switzerland, like some EU Member States, had opted in the framework of the EU Savings Tax Directive (2003/48/EC) for a withholding tax at source and would introduce such a tax on funds from EU residents of the European Union, with 75% of the revenue generated by the tax being transferred to the Member State of residence of the beneficial owner.?

EC/Switzerland agreement: taxation of savings income in the form of interest payments (Directive 2003/48/EC)

The European Parliament adopted a resolution drafted by Jos? Manuel GARCIA-MARGALLO Y MARFIL (EPP-ED, E) on the agreement with Switzerland on taxation of savings. (Please see the document of 16/03/04.) Parliament stated that consideration needs to be given to the needs of the banking sectors of some Member States and their structural differences by allowing them to have a transitional period during which they will levy a withholding tax, at a rate increasing progressively to 35%. Until full information exchange is achieved this will ensure a minimum level of effective taxation. The greater part of this revenue should be transferred to the Member State of residence of the beneficial owner of the interest. In order to prevent the flight of capital from the European Union, the application of the agreement should be conditional upon the adoption and implementation by the dependent or associated territories of the Member States mentioned in the Feira European Council Decision of 19 and 20 June 2000, as well as the United States of America, Andorra, Liechtenstein, Monaco and San Marino, respectively, of measures which conform with those contained in Directive 2003/48/EC or in the present agreement on the taxation of savings income in the form of interest payments. Negotiations with these third countries should be concluded in a timely manner and no further counter-requests from these countries should be accepted. Agreements with these countries should include the same fundamental elements as those in the agreement with Switzerland.?

EC/Switzerland agreement: taxation of savings income in the form of interest payments (Directive 2003/48/EC)

PURPOSE: Provision of measures on the taxation of savings income in the form of interest payments.

LEGISLATIVE ACT: Council Decision 2004/911/EC on the signing and conclusion of the Agreement between the European Community and the Swiss Confederation providing for measures equivalent to those laid down in Council Directive 2003/48/EC on taxation of savings income in the form of interest payments and the accompanying Memorandum of Understanding.

CONTENT: This Decision serves to approve on behalf of the European Community the Agreement between the European Community and the Swiss Confederation providing for measures equivalent to those laid down in Council Directive 2003/48/EC on taxation of savings income in the form of interest payments and the accompanying Memorandum of Understanding.

The texts of the Agreement and the accompanying Memorandum of Understanding are attached to this Decision.

The Commission is authorised to approve, on behalf of the Community, amendments to the Annexes to the Agreement which ensure that they correspond to the data relating to competent authorities resulting from the notifications referred to in Article 5(a) of Directive 2003/48/EC and to the data in the Annex thereto.

The President of the Council is authorised to designate the persons empowered to sign the Agreement, the accompanying Memorandum of Understanding and the Exchange of Letters referred to in Article 22(2) of the Agreement and in the Memorandum of Understanding on behalf of the Community.

ENTRY INTO FORCE: The date of entry into force of the Agreement will be published in the Official Journal of the European Union by the General Secretariat of the Council.