



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 27 June 2014  
(OR. en)**

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2013/0400 (CNS)**

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**FISC 104  
ECOFIN 706**

**"I/A" ITEM NOTE**

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**From:** General Secretariat of the Council  
**To:** Permanent Representatives Committee/Council

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**Subject:** Council Directive amending Directive 2011/96/EU on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States  
- Adoption of the legislative act (LA + S)  
= Statements

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The Council will find in Annex the statements to be entered in the Minutes of the Session at which the abovementioned Directive will be adopted.

**DRAFT STATEMENTS  
TO BE ENTERED IN THE COUNCIL MINUTES**

The Council:

- recalls its willingness to fight aggressive tax planning and Base erosion and profit shifting (BEPS) at EU and international level and stresses that this work should consider the compatibility of ongoing OECD work with the EU legal framework;
- stresses the urgent need to close tax loopholes in the Parent-Subsidiaries Directive generated by exploiting the differences in national tax systems, in order to prevent Member States from losing significant revenues and to ensure fair competition between businesses in the Single Market;
- takes notes that, while direct taxation falls within the competence of Member States, all Member States agree that the tax loophole generated by Hybrid loans arrangements resulting in a double non-taxation should be addressed by the amending Directive;
- acknowledges that a splitting of the amending Proposal is necessary in order to allow for early progress in the field of hybrid loans, while noting that the other proposed part of the amending Directive requires further discussion since so far different views have been expressed by Member States and several Member States have raised concerns on this part of the proposal;
- underlines the need to continue to work on the remaining part of the amending Proposal and notes the intention of the incoming Italian presidency to allow for in depth discussion of further cases of double non taxation in the Council.

The Commission:

- Stresses that the proposed amendments to Article 4.1 (a) of the Parent subsidiary directive are applicable in situations of double non-taxation deriving from mismatches in the tax treatment of profit distributions between Member States which generate unintended tax benefits;
  - Confirms that the proposed amendments to Article 4.1 (a) of the Parent Subsidiary directive are not intended to be applicable if there is no double non-taxation or if their application would lead to double taxation of the profit distributions between parent and subsidiary companies;
  - and, in the light of the above, confirms that the adoption of this proposal does not oblige Member States to subscribe to any future legislative proposals in the field of direct taxation.
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