EU/France Agreement: application to the collectivity of Saint-Barthélemy of Union legislation on the taxation of savings and administrative cooperation in the field of taxation

2013/0269(NLE) - 30/07/2013 - Legislative proposal

PURPOSE: to conclude an Agreement between the European Union and the French Republic concerning the application to the collectivity of Saint-Barthélemy of Union legislation on the taxation of savings and administrative cooperation in the field of taxation.

PROPOSED ACT: Council Decision.

ROLE OF THE EUROPEAN PARLIAMENT: Council may adopt the act only if Parliament has given its consent to the act.

BACKGROUND: under European Council Decision 2010/718/EU, the territorial collectivity of Saint-Barthélemy ceased to be an outermost region of the Union and gained the status of overseas country or territory on 1 January 2012.

Decision 2010/718/EU noted that France had undertaken to conclude the agreements necessary to ensure that the interests of the Union were preserved when the change took place.

To further progress on such agreements, a Council Decision of 20 October 2011, which was sent to the European Commission on 24 October 2011, authorised the Commission to negotiate the terms. Specifically, the authorisation concerned an agreement between the French Republic, acting for Saint-Barthélemy, and the Union that provided, for that territory, for the application of Union legislation on the taxation of savings and administrative cooperation in the field of taxation

This is the subject of the proposal in question.

IMPACT ASSESSMENT: an impact assessment was not undertaken.

LEGAL BASIS: Articles 113 and 115, in conjunction with Article 218(6)(b) and (8), second subparagraph, of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: the objective is to conclude an agreement providing for the application to Saint-Barthélemy of the mechanisms laid down in:

- Council Directive 77/799/EEC
- Council Directive 2011/16/EU on administrative cooperation in the field of taxation, and
- Council Directive 2003/48/EC on taxation of savings income.

To this end, further legislative developments in these areas should be taken into account so that the **arrangements applicable to Saint-Barthélemy are equivalent to those applicable in mainland France.**

On the question of taxation of savings, the Agreement has to cover interest payments, as defined in Article 6 of Council Directive 2003/48/EC and any amendments, made by paying agents established in Saint-Barthélemy to beneficial owners resident in the EU.

N.B. the Agreement is rendered dynamic since it covers not only future amendments to the two Directives but also any current or future delegated and implementing acts. This is needed to ensure identical treatment at all times in situations within the European Union and between the Member States and Saint-Barthélemy.

Definitions: the Agreement lays down what is meant by competent authorities, central liaison offices, liaison departments and competent officials. This is to ensure consistency with any national measures transposing Council Directives 2011/16/EU and 2003/48/EC which have been taken, or will be taken, by the Member States.

Statistics: France shall be responsible for the provision to the European Commission of statistics, and information on the application of the Agreement to the collectivity of Saint-Barthélemy.

Settlement of disputes: provision is made for the settlement of disputes as follows:

- a mutual agreement procedure between the competent authorities of only the Member States concerned where implementation or interpretation of the agreement leads to problems or raises issues between these competent authorities;
- the European Commission will be informed of the results of this conciliation procedure, after which it must inform the other Member States. Where there are issues of interpretation, the European Commission may take part in consultations at the request of any of the competent authorities;
- in the event of a dispute between the parties on the interpretation or application of the agreement, they must meet with the Commission before any referral to the Court of Justice. The Court has sole jurisdiction to judge such disputes.

Duration of the Agreement: the Agreement shall be valid indeterminately.

BUDGETARY IMPLICATION: the proposal has no implications for the EU's budget.