Working Party No. 8 on Tax Avoidance and Evasion

FEIRA CONCLUSIONS

(Note by the European Council)

This note is submitted FOR INFORMATION to the Delegates of Working Party No8 at their meeting to be held on 11-12 October 2000.

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NOTE BY THE COUNCIL OF THE EUROPEAN UNION

FEIRA CONCLUSIONS
(Santa Maria da Feira, 20 June 2000)

1. The Helsinki European Council on 10-11 December 1999 agreed that a High Level Working Group will provide a report to the Council with possible solutions on the issue of taxation of savings income and on the Code of Conduct and the Directive on Interest and Royalties as a package, and that the Council will report to the European Council in June 2000 at the latest. This report is in response to that remit.

2. The Council agrees that the Directive on the taxation of savings, which will apply only to non-residents, shall be based on the following key elements:

   a) With a view to implementing the principle, set out in the Helsinki European Council Conclusions, that all citizens resident in a Member State of the European Union should pay the tax due on all their savings income, exchange of information, on wide a basis as possible, shall be the ultimate objective of the EU in line with international developments.

   b) Until then, Member States shall exchange information on savings income with other Member States or, subject to point d), operate a withholding tax. Member States which operate a withholding tax agree to transfer an appropriate share of their revenue to the investor’s state of residence.

   c) In order to preserve the competitiveness of European financial markets, as soon as agreement has been reached by the Council on the substantial content of the Directive and before its adoption, the Presidency and the Commission shall enter into discussions immediately with the US and key third countries (Switzerland, Liechtenstein, Monaco, Andorra, San Marino) to promote the adoption of equivalent measures in those countries; at the same time the Member States concerned commit themselves to promote the adoption of the same measures in all relevant dependent or associated territories (the Channel Islands, Isle of Man, and the dependent or associated territories in the Caribbean). The Council shall be informed regularly on the progress of such discussions. Once sufficient reassurances with regard to the application of the same measures in dependent or associated territories and of equivalent measures in the named countries have been obtained, and on the basis of a report, the Council will decide on the adoption and implementation of the Directive no later than 31 December 2002, and do so by unanimity.

   d) The Commission shall report regularly on Member States’ experience with the application of the systems referred to under point b) above, as well as on international developments concerning the access to bank information for tax purposes. When the Council decides on the adoption and implementation of the Directive on the basis of paragraph c), with the consequences that follow for dependent or associated territories, any Member State operating
a withholding tax shall agree to implement exchange of information, as soon as conditions permit, and in any case, no later than seven years after the entry into force of the directive.

3. Work shall be pursued on this basis with a view to reaching agreement on the tax package as a whole, according to a parallel timetable for the key parts of the package (Taxation of savings, Code of Conduct (Business Taxation) and Interest and Royalties).

4. The Council further took note of the statements for the Council minutes as set out in the Annex.
ANNEX

Statements for the Council minutes

Re. taxation of savings

1. All Member States expect a resolution to the outstanding issues below before the Council adopts the Directive.

2. The Representatives of the Governments of the Member States, meeting within the Council, agree that no derogation from the exchange of information requirement shall be granted in enlargement negotiations with accession countries.

3. The Council and the Commission commit themselves to seeking agreement on the substantial content of the Directive, including on the rate of the withholding tax, by the end of the year 2000.

4. The Council states that the reference to unanimity under point 2.c) is without prejudice to the outcome of the IGC.

5. The Council notes that Austria and Luxembourg may operate the withholding tax during the transition period. Belgium, Greece and Portugal will inform the Council of their position before the end of the year 2000.

6. Luxembourg considers that the "equivalent measures" as well as the "same measures" referred to in paragraph c) also include the implementation of exchange of information as foreseen in the last sentence of paragraph d).

7. Denmark, France, Finland, Germany, Ireland, Italy, the Netherlands, Spain, Sweden and the United Kingdom expect that the rate of the withholding tax will be at least 20-25 percent, and it is their view that exchange of information should be introduced within 5 years after the adoption of the directive.

8. The Austrian government accepts the OECD report "Improving Access to Bank Information for Tax Purposes" but cannot, at this stage, for constitutional reasons, accept a move to drop banking secrecy for non-residents.

9. As the Directive will apply only to non-residents, Austria can retain its final withholding tax for residents and its present banking legislation as far as domestic residents are concerned.