

Brussels, 29.04.2015
Ares(2015) 2051409

Dear Mr Lamassoure, Cher Alain,

Thank you again for your letter regarding the work of the TAXE Special Committee, and your request for further information on the Commission's State aid enforcement in relation to tax measures that fall within the Committee's mandate.

As explained in my letter of 7 April, I am committed to working constructively with your Committee to fulfil its important mandate.

The first item of information that you requested is a comprehensive overview of the Commission's State aid enforcement activity in relation to tax rulings and similar measures as of 1 January 1991.

In Annex 1, you will find the list of the tax cases that the Commission has concluded since 1 January 1991 and that my services identified as potentially falling within the mandate of the Committee. It is important to stress that the time period under examination by TAXE includes a long period where only paper archives were available. My services have endeavoured to give a response that is as comprehensive as possible. The methods that my services have used to compile the list and the caveats to the information on it are explained in the annex.

The list shows that the Commission has concluded **65 tax cases** potentially falling within the Committee's mandate since 1991 (not including pending investigations). Those cases involved 15 Member States. In selecting the cases we have given a broad interpretation to the mandate of the Committee, covering "*tax rulings and other measures similar in nature or effect*".

President Alain Lamassoure
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Directorate General for Internal Policies
Directorate A-Economic and Scientific Policies
Special Committee TAXE
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State aid control plays its role in ensuring fair taxation in Europe. It is there to preserve our internal market from competition between Member States that seek to attract or retain economic activity at the expense of other Member States by giving selective tax advantages to companies or industries.

But this also means that it does have its limits. In the taxation field as in all other areas, the Commission can only act against State measures that distort competition because they favour certain undertakings or certain economic activities. State aid control can be used to eliminate competition problems, not to decide the statutory corporate taxation rate that is applicable in each Member State.

Another limitation is that the Commission can, outside of notifications of tax measures by Member States, only act if there are concrete indications that selective advantages have been granted. These indications must come from complaints or from other sources that allow the Commission to launch investigations on its own initiative. This is why the debate on further European measures to enhance transparency on corporate taxation is so important.

The second item you request concerns the questionnaire that we sent to 22 Member States on 16 December 2014 to obtain further information on their tax rulings practices. You also request further information on the deadline we gave to the Member States to respond, the expected time of finalisation of our analysis and the possible follow-up that DG Competition will give to the information.

In Annex 2, you will find the questions that we put to the Member States. As you know, this questionnaire was a follow-up to steps that DG Competition already took over a longer period of time to look into tax rulings practices of some Member States under the State aid rules.

In June 2013, DG Competition started ex officio investigations into tax rulings practices in three Member States, namely Ireland, Luxembourg, and the Netherlands. In March 2014 it commenced similar investigations as regards the UK, Malta and Cyprus. In June 2014, the Commission opened formal State aid proceedings concerning specific tax rulings in favour of Apple (Ireland), Fiat Finance & Trade (Luxembourg) and Starbucks (the Netherlands). In October 2014, it opened a case concerning specific tax rulings for Amazon (Luxembourg) and extended an existing State aid investigation concerning Gibraltar into tax rulings practices in that UK territory. In February 2015, it opened a case concerning the excess profit ruling scheme in Belgium.

In December 2014, the Commission extended its enquiry into tax rulings practices to all Member States. Member States had a deadline of 20 working days to respond to the questionnaire. Member States did not all reply on the same date, and several asked for more time to respond. I have asked my services to prepare the necessary steps to ensure that the Member States who have not yet fully replied as of today's date – only three Member States – will provide the necessary information. In parallel, my services are currently analysing all the information received and are updating it with Member States where necessary.

A concrete timeline for the follow-up to that questionnaire is difficult to give at this stage. The timeline will depend on the information that DG Competition is able to collect and on the cooperation of Member States, as well as on the complexity and quality of the information provided.

Once the analysis of the information submitted is finalised, I will discuss with my services whether there is concrete evidence that individual tax measures or schemes grant selective advantages to companies or industries. If appropriate, I will propose to the College to open formal State aid proceedings against the Member States concerned.

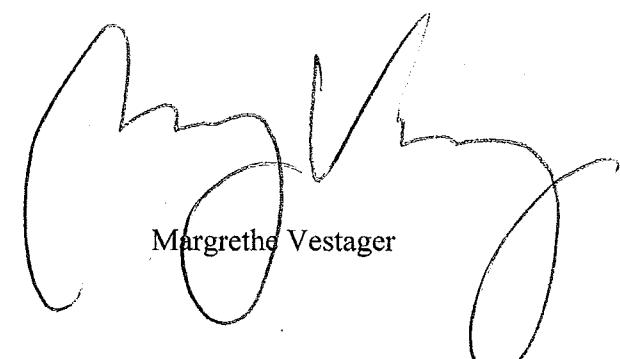
I appreciate that we both recognise that State aid enforcement takes place in a specific legal context. The Commission is responsible for enforcing the State aid rules and in doing so is bound by rules on professional secrecy laid down in the Treaty.

The cooperation that Member States give to the Commission in the conduct of State aid proceedings depends on the Commission's obligation to treat them fairly and to protect the confidentiality of the information that comes into its possession. It is in the common interest of the Commission and the Special Committee that in the important area of business taxation, State aid enforcement is not undermined. For those reasons, it is not possible for me and my services to share certain information, most notably information on pending investigations and enquiries apart from procedural steps that are public.

This being said, I have instructed my services to go as far as it is possible to share relevant information with you. When compiling the relevant information, my services have given a broad interpretation to the mandate of your committee to assist it in its work.

Under the Treaty, the Commission is bound by a duty of sincere cooperation with the Parliament, but equally with the Member States. I am therefore letting you know that my services have sent a letter to those Member States that have been affected by our State aid enforcement in this field, informing them of the case information that we now share with your committee.

On that basis, I hope that the extensive information provided with this letter meets your request. I look forward to our exchange of views on 5 May.



Margrethe Vestager

Questionnaire sent to Member States

1. Please confirm whether there exists in your Member State the possibility of providing the individual tax payer in advance with a binding or non-binding tax ruling (being it a company-specific decision, clearance, opinion or any other form of expression by the tax authorities) based on the laws or practice of your Member State. Please note that general interpretation that is public and open to all companies is not considered as a tax ruling for this request. (In case of doubt about the scope of this inquiry, please contact the case team, mentioned at the end of this letter, for clarification.) In case a tax ruling practice exists in your Member State, please provide the following information and answer the following questions.
 - (a) Please provide a copy of the relevant legislation allowing the tax authorities to grant APAs and other tax rulings concerning corporate/business income tax issues, as well as an overall description of the applicable procedure(s).
 - (b) Please provide a copy of any public or non-public administrative notice (circulars, internal instructions, etc.) providing guidance on the application of the tax ruling procedure(s).
2. Please specify:
 - (a) Can a ruling be granted in respect of transfer pricing arrangements between separate legal entities i.e. in an APA?
 - (b) Can a ruling cover the profit allocation between a branch or a permanent establishment and the company it is part of?
 - (c) For intra-group financial transactions, is there a standard method used for calculating the remuneration? If so, please describe it.
 - (d) For which other tax issues can a tax ruling be obtained (for example the existence of a permanent establishment, tax treatment of financial instruments, profit allocation, participation exemption, tax residence, etc.)?
 - (e) Could you specify a type of ruling, other than APAs, which is frequently requested by companies?
 - (f) What information does a tax payer need to provide when requesting an APA or any other tax ruling? Regarding an APA, is a transfer pricing report required?
 - (g) Please indicate which companies are eligible for obtaining a tax ruling. If tax rulings are only available to resident companies, please explain how tax residency is determined. In order to request a ruling do companies have to demonstrate sufficient substance and/or business activity in [MS]?
 - (h) For how long are rulings valid (per category if applicable)?
3. Please explain the internal decision process leading to the granting of tax rulings to individual companies. How far does this process prevent the exercise of discretionary power by tax officials and/or the tax authorities?
4. Please explain whether the granting of tax rulings to individual resident companies is subject to any form of publication. Is this publication subject to the taxpayer's consent?
5. Please provide a comprehensive list of all the APAs and other tax rulings granted to companies in 2010, 2011, 2012 and 2013, concerning corporate/business income tax. Include in the list:

- (a) The name of the company and if available the mother company name;
- (b) The year of the ruling;
- (c) A short description of the content of the ruling, providing information on the main topic of the ruling: (i) for APAs the kind of transaction concerned i.e. distribution, manufacturing, financing, etc., specifying whether it involves a profit allocation between a company and its branch or between separate legal entities, (ii) for other types of rulings the topic it concerns (as in question 2d above). Please specify whether the ruling contains a refusal of a request.

Summary overview

The annex contains a list of the tax rulings and measures similar in nature or effect that the Commission has examined under the State aid rules since 1 January 1991. The time period under examination by the TAXE Committee includes a long period where only paper archives were available. DG Competition used its best endeavours to compile the list on the basis of a search of its electronic State aid filing system (operational since 2003) and of a search in the paper archives. Despite the efforts involved in establishing the list, it cannot be guaranteed that it is exhaustive at the time of this response.

In total, DG Competition was able to identify 65 relevant State aid cases. This summary overview gives explanations to the entries on the list. In order to understand the terms used, it is useful to recall the remit of State aid control and the Commission's powers in this area.

The remit of State aid control

What state aid control seeks to do is to preserve our internal market from competition between Member States that seek to attract or retain economic activity at the expense of other Member States by giving selective advantages to companies or industries. Article 107 of the Treaty on the Functioning of the European Union ("TFEU") prohibits such State aid unless it serves a common interest that is defined in the Treaty, whilst the aid's positive effects outweigh its negative effects on competition. In principle, Member States need to notify their envisaged aid measures to the Commission and they cannot implement the aid without the Commission's approval.

Government measures that grant tax relief to companies and which fulfil the criteria of Article 107(1) TFEU are subject to State aid control, as any other means of government support. Given the remit of State aid control, the Commission can only intervene if a Member State adopts a tax measure or scheme that gives companies or industries a selective advantage. Tax relief that is granted to private individuals in a manner that does not indirectly favour certain undertakings or certain economic activities or that is open as a general measure to all companies – such as a general reduction of the corporate tax rate – is not covered by the notion of State aid.

The State aid rules do not oblige the Commission to undertake periodic fact-finding exercises in the Member States to check their compliance with State aid rules without prior indications that those rules are infringed. Apart from handling Member States' notifications, the Commission normally takes action under the State aid rules if there are concrete and credible reasons to believe that tax measures granted a selective advantage to companies or industries.

Companies and citizens can trigger investigations by lodging complaints or providing information to the Commission. The Commission can also launch investigations on its own initiative. Such "ex officio investigations" are started if other information sources give concrete reasons to believe that State aid rules may have been violated. DG Competition can request further information from the Member State concerned, and on the basis of the information in its possession, DG Competition examines whether there are sufficient indications that State aid rules were violated. The Commission can then, where appropriate, take formal action such as opening an in-depth investigation.

The Commission's investigations can have different outcomes (see the column 'Outcome of the examination' in the list in annex):

- The Commission can decide that a State measure does not constitute State aid ("no aid decision"). The State measure can then be implemented. In the taxation field, a no aid decision can be taken, for example, if the measure turned out to be a general measure open to all companies.
- The Commission can decide that a State measure constitutes State aid, but that it serves a common interest defined in the Treaty, whilst the positive effects outweigh the negative effects on competition. In legal terms, the Commission decides that the State aid is compatible with the internal market, which is why the relevant decisions in Annex 1 are called "compatible aid decisions". Such compatible aid measures can be implemented once the Commission has notified its decision to the Member State concerned.
- The Commission can decide that a State measure constitutes State aid that cannot be justified ("negative decision"). The Member State cannot implement that aid. If the aid has already been granted to the company involved, competition between it and other companies must be restored. To restore competition, the Commission normally orders the Member State to recover the aid with interest from the company that received it ("negative decision with recovery"). However, the Commission would not do so where ordering recovery would violate a principle of EU law, for instance where in light of the Commission's decisions or actions Member States could have been led to believe that a tax measure did not constitute aid (the legal term is "legitimate expectations"). In such cases, the Commission adopts a "negative decision without recovery".

The situation is different in the case of old pre-accession aid in the Member States and aid measures that were approved by the Commission in the past ("existing aid"). If they may involve incompatible State aid at the time that the Commission makes its (new) assessment, the Commission must inform the Member State concerned under a special cooperation procedure. The Commission can decide that the Member States should take "appropriate measures" to eliminate the negative effects on competition ("decisions to propose appropriate measures"). The Commission cannot order the recovery of existing aid granted in the past, but can ask and if necessary order the Member State to amend or repeal the measure. That decision will prevent the Member State from granting the aid for the future.

In the absence of notifications and formal complaints, the Commission has discretion to prioritise its State aid enforcement actions. It can close a case if based on the available information there is a low likelihood that incompatible State aid is involved, if the Member State decides to withdraw a notification, or if the case has no priority in light of the resources that are available to DG Competition and other priorities that exist at that time ("administrative closure").

The tax measures included in the list in annex

Based on the information that was available to it at the time of this response, DG Competition identified the tax cases that it dealt with and that seem to fall within the mandate of TAXE.

The list includes measures identified as tax rulings. It also includes measures that are similar in nature or effect, which DG Competition -pending further clarifications from TAXE- interpreted as "state measures that are liable to be used by multinationals for tax planning purposes". The list includes measures that share common features with tax rulings such as the obligation for taxpayers to request prior authorizations from the tax administration before applying the measure. It also includes corporate tax schemes which, by design, are targeted at multinational companies or at certain of their international or intragroup activities.

The Commission concluded cases on such tax measures throughout the period between 1 January 1991 and the present day. DG Competition identified a total of 65 cases that the Commission concluded in that period. They concern 15 Member States. 7 of the listed cases concern measures identified as tax rulings. The other 58 cases concern measures that are similar in nature or effect.

The vast majority of those cases (49) led to formal Commission decisions. Those decisions varied and included decisions on appropriate measures to remove competition concerns, negative decisions requiring the Member State to end the measures, decisions finding the aid compatible (in appropriate cases following modifications made by the Member State) and no aid decisions. To assist TAXE in its work, the list contains active links to the information that is available on the Commission State aid Register, to decisions, to press releases and Court judgments.

For 16 of the 65 measures, DG Competition closed the cases after a preliminary examination. The reasons for administrative closures of that type were listed above.

A few Commission decisions on the list were challenged before the Union Courts. Annex 1 includes the references and active links to the relevant judgments of the European Union Courts.

The source of the investigations

Out of the 65 listed tax measures, only 10 were notified by Member States. DG COMP investigated the vast majority of measures with own initiative investigations or following complaints.

An important source of information that led to own initiative investigations was the peer review exercise that the Member States launched following the adoption by the Council of Ministers in 1997 of the Code of Conduct on Business Taxation. The report by the Code of Conduct Working Group of 23 November 1999 identified a large number of harmful business taxation measures in the EU. DG Competition started investigating such measures under the State aid rules. In July 2001, the Commission launched a large scale State aid investigation into 15 schemes in 12 different Member States¹. It included 13 measures that were identified as potentially harmful tax measures by the Code of Conduct Group. These 13 measures are identified as such in Annex 1. At the same time and also on its own initiative, the Commission subjected another 6 potentially harmful corporate taxation measures to further investigations.

Overall, that process led to 21 final Commission decisions. They included 15 negative decisions. It also covers 5 cases where Member States had to adopt appropriate measures to eliminate the negative effects on competition, resulting in the repeal or substantial modification of the measures. Only one tax State aid measure investigated in that period was found to be compatible with the internal market.

¹ See press release IP/01/982.

TAXE is aware of the Commission's current activity in relation to tax rulings. Although the Commission has dealt with a small number of such tax rulings in the past, its activity increased significantly in the last two years.

Tax rulings as such can be beneficial as they give companies certainty on their tax liability and the factual situation that is relevant to determine that liability. Member States did not usually notify such tax rulings as measures that may constitute State aid. As far as DG Competition was able to determine, it did not receive complaints to that effect either. In 2013, concrete indications that government practices in relation to tax rulings may involve the granting of State aid to selected companies emerged, for instance following the US Senate inquiry into Apple and tax avoidance inquiries by the UK House of Commons Public Accounts Committee.

In June 2013, DG Competition started ex officio investigations into tax rulings and tax rulings practices in seven Member States (Belgium, Cyprus, Ireland, Luxembourg, Malta, the Netherlands and the UK). In June 2014, it opened formal State aid proceedings concerning specific tax rulings in favour of Apple (Ireland), FIAT (Luxembourg) and Starbucks (the Netherlands). In October 2014, it opened one further formal investigation concerning specific tax rulings for Amazon (Luxembourg). In the same month, it extended an existing formal investigation concerning Gibraltar to tax rulings practices in that UK territory. In December 2014, Commission extended its enquiry into tax rulings and tax rulings practices to all Member States. In February 2015, the Commission opened formal proceedings concerning the excess profit ruling system in Belgium.

State aid enforcement is covered by rules on professional secrecy laid down in the Treaty. The effectiveness of State aid control depends on third parties and Member States knowing that the Commission will treat them fairly and that confidential information will be protected. For that reason, the Commission is not able to include in Annex 1 information on pending investigations and enquiries in relation to tax measures that fall within the Committee's mandate.

Overview State aid cases concerning tax rulings and other measures similar in nature or effect since 01.01.1991

Disclaimer:

This list has been compiled on the basis of a search for fiscal aid cases in ISIS (the DG COMP case management IT system for State aid cases) and the archive). Given that the registration of cases in ISIS took place systematically only as of 2003, it cannot be guaranteed that the list is exhaustive. The cases concern tax rulings and measures similar in nature or effect. In attendance of further guidance by the TAXE Committee, the notion of "measures similar in nature or effect" has been interpreted as "tax measures liable to be used by multinationals in tax planning practices". The list does not contain any pending cases.

N°	Case number	Case	Member State	Notification	Date of initiation of the case	Short description	Outcome of the examination	Date of decision or admin. closure	IP	OJ	Code of Conduct Harmful? (List in Annex C of 1999 Primary Report)	Tax ruling or other type of tax measure?	Court judgment
1	SA.05220	Financial and tax aid scheme for the free zone of Madeira	PT	YES	28/11/1994	The scheme provided various tax advantages, including a reduced rate of corporate income tax. The scheme was first notified in 1986 and approved by the Commission in 1987 but only implemented in 1989 (Regime I) and was since then amended or extended [in 1992, 1995, 2002 (Regime II), in 2007 (Regime III)] in 2013 and in 2014 when the Commission approved the prolongation of the scheme (Regime IV) until 31 December 2014.	Compatible aid decision No aid decision.	03/02/1995	IP/95/39	C-290/1996, p.13	YES (No 37)	Other	Decision was not appealed
2	SA.08785	Technolease	NL	NO	18/03/1997	A sale & lease back arrangement between Philips and Rabobank in 1994 was authorized by the NL tax administration through a tax ruling. The arrangement allowed a shift in taxable income between the tax group of Philips and the tax group of Rabobank. In return Philips received from Rabobank an immediate cash payment and an inter-group debt was converted into a loan to Rabobank.	No aid decision.	21/04/1999	IP/99/241	L-297/2000, p.13	NO	Tax ruling	Decision was not appealed
3	SA.09553	International Financial Service Centre and Shannon custom free airport zone	IE	NO	23/06/1998	Special tax incentives applicable to companies locating and carrying on certified trading operations of companies in the International Financial Services Centre in Dublin and in the Shannon Customs-Free Airport Zone.	Decision proposing appropriate measures	22/07/1998	IP/98/691	C-395/1,998, p.14	YES (No 16 & 19)	Other	Decision was not appealed
4	SA.09554	Corporate Tax rate for the manufacturing sector	IE	NO	23/06/1998	Tax measure applicable to companies' income from manufacturing activities undertaken in Ireland. Income was subject to corporation tax at 10% instead of the standard rate (32% at the time).	Decision proposing appropriate measures	22/07/1998	IP/98/651	C-395/1,998, p.19	YES (No 17)	Other	Decision was not appealed
5	SA.05328	Aland Island Captive Insurance Companies	FI	YES	15/10/1998	Special tax relief scheme applicable to captive insurance companies. The aggregate rate of tax in respect of the income of the captive company was reduced to 18% (the normal rate being 28%).	Negative decision without recovery	10/07/2002	IP/02/1029	L-329/2002, p.22	YES (No 9)	Other	Decision was not appealed
6	SA.10264	Tax scheme for firms in Alava in the form of a tax credit	ES	NO	13/11/1998	Tax credit of 45% of investment exceeding €15 million (ESP 2.5 billion) in Alava.	Negative decision with recovery	11/07/2001	IP/01/981	L-296/2002, p.1	NO	Other	Joined Cases C-185/03 to C-450/03 judgment of 14 December 2006: The Court confirms Spain failed to execute the Commission's decision.
7	SA.16441	Régime fiscal des sociétés de réassurance	LU	NO	12/02/1999	Scheme that allowed the creation of tax free reserves to offset potential future costs.	Administrative closure	07/12/2004	NA	NA	YES (No 26)	Other	NA

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Case number	Case	Member State	Notification	Date of initiation of the case	Short description	Outcome of the examination	Date of decision or administrative closure	IP	OJ	Code of conduct harmful? (List in Annex C of 1999 Framework Report)	Tax ruling or other type of tax measure?	Court judgment
8	SA.16444	Fiscal Rulings until 31 March 2001	NL	NO 12/02/1999	Tax ruling schemes including profits calculated on the basis of cost-plus (between 5 - 15% margin) or resale minus (1-3% margin) methods limited to preparatory and auxiliary activities between related parties, rulings on the application of participation exemption provisions [holding companies' rulings] or on the appropriate spread for intragroup financing or licensing activities.	Administrative closure	21/04/2005	NA	NA YES (No 27-36)	Tax rulings	NA	
9	SA.16447	Centres de services	BE	NO 12/02/1999	Special tax regime applicable to services centers in Belgium that are part of a group. Tax base calculated on the basis of cost plus / resale minus methods limited to certain costs or certain profits.	Administrative closure	05/10/2005	NA	NA YES (No 5)	Other	NA	
10	SA.16448	Centres de distribution	BE	NO 12/02/1999	Special tax regime applicable to the distribution centers in Belgium that are part of a group. Tax base calculated on the basis of cost plus method excluding certain costs from the cost base.	Administrative closure	05/10/2005	NA	NA YES (No 4)	Other	NA	
11	SA.10562	Tax scheme for firms in Guipúzcoa in the form of a tax credit	ES	NO 11/03/1999	Tax credit of 45% of investment exceeding €15 million [ESP 2.5 billion] in Guipúzcoa	Negative decision with recovery	11/07/2001	IP/01/981	L_314/2002_B.26	NO	Other	Joined Cases C-485/03 to C-490/03 Commission, Spain. Judgment of 14 December 2006: The Court confirms Spain failed to execute the Commission's decision.
12	SA.10563	Tax scheme for certain newly-established firms in Vizcaya	ES	NO 11/03/1999	Tax scheme providing for the reduction of the tax base by 99%, 75%, 50% and 25% respectively for four consecutive tax years for newly established firms. The application of the scheme was subject to investment and employment conditions and subject to prior authorization.	Negative decision with recovery	11/07/2001	IP/01/981	L_279/2002_B.35	NO	Other	Joined Cases C-485/03 to C-490/03 Commission, Spain. Judgment of 14 December 2006: The Court confirms Spain failed to execute the Commission's decision.
13	SA.10564	Tax scheme for certain newly-established firms in Álava	ES	NO 11/03/1999	Tax scheme providing for the reduction of the tax base by 99%, 75%, 50% and 25% respectively for four consecutive tax years for newly established firms. The application of the scheme was subject to investment and employment conditions and subject to prior authorization.	Negative decision with recovery	11/07/2001	IP/01/981	L_314/2002_B.1	NO	Other	Joined Cases C-485/03 to C-490/03 Commission, Spain. Judgment of 14 December 2006: The Court confirms Spain failed to execute the Commission's decision.

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N°	Case number	Case	Member State	Date of initiation of the case	Short description	Outcome of the examination	Date of decision or admin. closure	IP	Q1	Code of Conduct Harmful? (List in Annex C of 1999 Prima ratio Report)	Tax ruling or other type of tax measure?	Court Judgment
14	SA.10565	Tax scheme for certain newly established firms in Guipúzcoa	ES	NO 11/03/1999	Tax scheme providing for the reduction of the tax base by 99%, 75%, 50% and 25% respectively for four consecutive tax years for newly established firms. The application of the scheme was subject to investment and employment conditions and subject to prior authorization.	Negative decision with recovery	11/07/2001	IP/01/981	L_174/2002, p.31	NO	Other	Joined Cases C-485/03 to C-490/03 Commission v Spain Judgment of 14 December 2006: The Court confirms Spain failed to execute the Commission's decisions.
15	SA.10566	Tax scheme for certain newly established firms in Navarre	ES	NO 11/03/1999	Tax scheme providing a 50% reduction of the amount of tax due for four tax years for firms newly established in Navarre. The application of the scheme was subject to investment and employment conditions and subject to prior authorization.	Negative decision with recovery	11/07/2001	IP/01/981	L_314/2002, p.12	NO	Other	Decision was not appealed
16	SA.00248	Foreign Insurance Companies	SE	NO 15/03/1999	Tax scheme applicable to foreign non-life insurance companies. In derogation to the rules applicable to resident non life insurance companies, the taxable income of the non-resident non-life insurance companies is determined as being 2% of the total gross insurance premium income.	Decision proposing appropriate measures	11/07/2001	IP/01/982	C.150/2002, p.7	NO	Other	Decision was not appealed
17	SA.00107	Coordination Centres	BE	NO 17/03/1999	Tax scheme for coordination centres certified by the tax authorities. The profits of the coordination centres were calculated on the basis of a cost-plus method with a reduced cost base and enjoyed other tax exemptions. A co-ordination centre had to form part of a multinational group.	Negative decision without recovery	17/02/2003	IP/03/242	L_282/2003, p.25	YES [No 3]	Other	Joined cases C.I.82 & C/217-03 Belgium and Forum 187 ASBL v Commission Judgment of 22 June 2006: The Court upheld the State aid assessment but annulled the decision in respect of the statutory period for beneficiaries to stop benefiting from the scheme.

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18	SA.00107	Coordination Centres	BE	NO 17/03/1999	Same case as No 17. New procedure after amendment of decision of 17/02/2003 as regards statutory period. New decision only concerns this period.	Negative decision without recovery	13/11/2007	IP/07/1582	L.90/2008.p.7	YES (No 3)	Other	Joined cases T.94/08 Centre de Coordination Carrefour / Commission and T.189/08 Forum 187 / Commission. Judgment of 18 March 2010: Court upheld the Commission decision of 13/11/2007 Case T-254/10P Centre de Coordination Carrefour / Commission Order of 3 March 2011: Court upheld the CFI judgement of 18/03/2010.
19	SA.01570	Coordination Centres	LU	NO 31/03/1999	Special tax scheme applicable to coordination centres of international groups. The profit of a coordination centre is determined on the basis of cost plus at least 5% of the deductible expenses relating to authorised services.	Negative decision without recovery	16/10/2002	IP/02/1481	L.170/2003.p.20	YES (No 2)	Other	Decision was not appealed
20	SA.01534	Finance Companies	LU	NO 31/03/1999	Special tax scheme applicable to intragroup financial activities. Profits, which consist of the difference between interest receivable and interest payable less administrative expenses are considered by the tax administration as sufficient if at least 0.25% or 0.12% if covered by legal security. The applicant must form part of an international group of companies.	Negative decision without recovery	16/10/2002	IP/02/1481	L.153/2003.p.40	YES (No 4)	Other	Decision was not appealed
21	SA.08559	Vizcaya Coordination Centres	ES	NO 26/04/1999	Tax scheme modelled on the Belgian coordination centres scheme that provides for an alternative cost-plus method (profit margin of 25% of all operating expenses except financial expenses) to calculate the income tax applicable to coordination centres located in the Spanish province of Vizcaya.	Negative decision without recovery	22/08/2002	IP/02/1236	L.03/2003.p.26	YES (No 18)	Other	Decision was not appealed
22	SA.08560	International Financing Activities	NL	NO 04/05/1999	Tax scheme under which multinationals can place up to 80% of their foreign source financial profits in a tax free risk reserve for a period of 10 years.	Negative decision without recovery	17/02/2003	IP/03/242	L.180/2003.p.52	YES (No 32)	Other	Case T-348/03 Koninklijke Friesland Foods v.Commission Judgment of 12 September 2007 : The Court upheld the State aid assessment but annulled the territory measures defined in Article 2 of the decision. Case T-519/07P Commission / Koninklijke FrieslandCampina Judgment of 17 September 2008: The Court set aside the judgement of the CFI and referred the case back to CFI (Applicant withdrew).

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N°	Case number	Case	Member State	Date of initiation of the case	Short description	Outcome of the examination	Date of decision or admin. closure	IP	Q	Code of Conduct Harmful? (List in Annex C of 1995 Primateo Report)	Tax ruling or other type of tax measure?	Court/Judgment
23	SA.10679	Tax scheme for firms in Vizcaya in the form of a tax credit	ES	NO 06/05/1999	Tax credit of 45% of investment exceeding €15 million [ESP 2.5 billion] in Vizcaya.	Negative decision with recovery	11/07/2001	IP/01/981	L_17/2003_p.1	NO	Other	Joined Cases: C-185/03 to C-190/03 Commission v Spain Judgement of 14 December 2006: The Court confirms Spain failed to execute the Commission's decision.
24	SA.00005	Headquarters and Logistic Centres	FR	NO 10/05/1999	Profits of headquarters and logistic centres are determined on a cost-plus basis (6-10% margin) of operating expenses incurred, excluding significant items of expenditure. This scheme was awarded through advance agreements and limited to headquarters and logistic centre of multinational groups.	Negative decision without recovery	13/05/2003	IP/03/698	L_23/2004_p.1	YES (No10)	Other	Decision was not appealed
25	SA.00234	Control and Coordination Centres	DE	NO 28/05/1999	The profit of control and coordination centres of foreign corporations was not calculated according to the normal method (profits less expenses) but following the cost-plus method with a profit margin (mark-up rate) of 5 - 10%. To benefit from that tax scheme, the company was required to be part of an international group.	Negative decision without recovery	05/09/2002		L_17/2003_p.17	YES (No 14)	Other	Decision was not appealed
26	SA.00108	Gibraltar Qualifying Companies	UK	NO 27/07/1999	Scheme that allowed the so called Qualifying Companies in Gibraltar to benefit from taxation on their profits at a rate which was always lower than the normal corporate tax rate (31% at that time). The tax rate applied was negotiated between the company concerned and the Gibraltar authorities.	Negative decision without recovery	30/03/2004		L_29/2005_p.24	YES (No 43)	Other	Decision was not appealed
27	SA.00004	Gibraltar Exempt Companies	UK	NO 27/07/1999	Tax scheme applicable to offshore companies with no trade or business activities within Gibraltar. A company registered in Gibraltar as an Exempt Company was subject to a fixed annual tax of between £225 and £300 (around €350-€500). It was exempt from any further taxation in Gibraltar.	Decision proposing appropriate measures	19/01/2005	IP/05/80	C_228/2005_p.9	YES (No 42)	Other	Decision was not appealed

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Case number	Case	Member State	Date of initiation of the case	Short description	Outcome of the examination	Date of decision or admin. closure	IP	OJ	Code on Conduct Harmful? (List in Annex C of 1999 Prima ratio Report)	Tax ruling or other type of tax measure?	Court Judgment
28	SA.03610	Gibraltar - "1992" companies	UK NO 27/07/1999	A "1992" company that is a parent company of a 25% subsidiary is exempt from tax (normally chargeable at 35%) in respect of the income of the subsidiary. The dividends can then be passed to the non-EU parent with a 1% withholding tax (dividends paid to a 25% EC parent are exempt). Interest payments are exempt from withholding tax.	Administrative closure	13/04/2005	NA	NA	YES (n.41)	Other	NA
29	SA.15633	Application of SOPARFI Scheme to intra-group arrangements	LU NO 04/08/1999	A SOPARFI is a company having share capital (SA or SRL). Although being a taxable company, its tax liability can be reduced with respect to inbound dividends and capital gains from holding of stocks subject to conditions.	Administrative closure	15/04/2005	NA	NA	NO	Other	NA
30	SA.00216	Central Corporate Treasury-Companies	FR NO 13/10/1999	Scheme providing a special tax regime for international treasury pools. Parent companies and their French subsidiaries operating within a multinational group agreeing that they intend to operate under a special treasury pool agreement were allowed to disregard a limit to the tax deduction of interest expenses in connection with loans provided by parent companies.	Negative decision without recovery	11/12/2002	IP/02/1847	L_330/2003_D_23	NO	Other	Decision was not appealed
31	SA.1592	Tax-free provisions for setting up establishments abroad	FR NO 14/03/2000	The tax scheme enables a firm temporarily to deduct from its tax base the losses incurred by its subsidiaries or certain establishments located abroad. The losses or investments are expressed as provisions, but have to be reincorporated once the foreign subsidiary or establishment becomes profitable again or, in any event, after 10 years.	Negative decision without recovery	23/11/2001	IP/01/1622	L_126/2002_B_27	NO	Other	Decision was not appealed
32	SA.00553	Companies with Foreign Income	IE NO 11/04/2000	Dividends received by a foreign branch profits of the Irish resident companies holding the respective certificates, following submission of an investment plan directed towards the creation or maintenance of employment in Ireland or involving additional employment in Ireland, are exempt from Irish corporate income tax.	Negative decision without recovery	17/02/2003	IP/03/242	L_204/2003_B_51	YES (n.26)	Other	Decision was not appealed

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N° Case number	Case	Member State	Notification	Date of initiation of the case	Short description	Outcome of the examination	Date of decision or admin. closure	IP	AI	Code of Conduct Harmful? (List in Annex C of 1999 Framework Report)	Tax ruling or other type of tax measure?	Court/Judgment
33	SA.06220 <u>Financial and tax aid scheme for the free zone of Madeira (2000)</u>	PT	YES	18/05/2000	The scheme provided various tax advantages, including a reduced rate of corporate income tax. The scheme was first notified in 1986 and approved by the Commission in 1987, but only implemented in 1989 (Regime I) and was since then amended or extended [in 1992, 1995, 2002 (Regime II), in 2007 (Regime III)], in 2013 and in 2014, when the Commission approved the prolongation of the scheme (Regime IV) until 31 December 2014.	Negative decision with recovery	11/12/2002	NA	<u>L_11/2003_p.25</u>	YES (No 37)	Other	Decision was not appealed
34	SA.04803 <u>Tax scheme of 1993 for certain newly established firms in Vizcaya</u>	ES	NO	01/08/2000	Tax scheme in the Basque province of Vizcaya providing "tax holidays" to newly established firms created prior to 31 December 1994 by exempting them from corporation tax.	Negative decision with recovery	20/12/2001	IP/03/310	<u>L_40/2003_p.11</u>	NO	Other	Decision was not appealed
35	SA.04946 <u>Tax scheme of 1993 for certain newly established firms in Guipúzcoa</u>	ES	NO	01/08/2000	Tax scheme in the Basque province of Guipúzcoa providing "tax holidays" to newly established firms created prior to 31 December 1994 by exempting them from corporation tax.	Negative decision with recovery	20/12/2001	IP/03/310	<u>L_77/2003_p.1</u>	NO	Other	Decision was not appealed
36	SA.04964 <u>Tax scheme of 1993 for certain newly established firms in Álava</u>	ES	NO	01/08/2000	Tax scheme in the Basque province of Álava providing "tax holidays" to newly established firms created prior to 31 December 1994 by exempting them from corporation tax.	Negative decision with recovery	20/12/2001	IP/03/310	<u>L_17/2003_p.20</u>	NO	Other	Decision was not appealed
37	SA.00003 <u>Taxation of Foreign Commercial and Industrial Firms</u>	EL	NO	31/08/2000	Tax scheme limited to certain companies carrying out investments offshore; beneficiaries were mainly foreign groups of companies	Decision proposing appropriate measures	11/07/2001	IP/01/982	<u>C_108/2002_p.2</u>	YES (No 15)	Other	Decision was not appealed
38	SA.02784 <u>Trieste Financial Services and Insurance Centre</u>	IT	NO	05/10/2000	Scheme providing a special tax regime for authorized banking and insurance services provided to Central and Eastern European Countries from a Special Financial Zone (exemption from corporation tax 0% instead of 37% and 50% reduction in local income tax (8% instead of 16%).)	Negative decision without recovery	11/12/2002	IP/02/3851	<u>L_091/2003_p.47</u>	YES (No 21)	Other	Decision was not appealed

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Nº Case number	Case number	Case	Member State	Notification	Date of initiation of the case	Short description	Outcome of the examination	Date of decision or admin. closure	IP	OJ	Code of Conduct Harmonised (List in Annex I of 1996 Primary Report)		
											Tax ruling or other type of tax measure?	Court/Judgment	
39	SA.16446	Informal Capital Rulings	BE	NO	23/03/2001	The part of the profits which - under the ruling - is attributed to informal capital, is not considered as resulting from the company's own activities. The informal capital was determined on a case by case basis by reference to the net profit margin of the company. It could be depreciated, for tax purposes, over 10 years.	Administrative closure	21/04/2005	NA	NA	YES [No 7]	Tax ruling NA	
40	SA.16445	Finance branches	LU	NO	26/03/2001	The fiscal regime concerns Luxembourgish companies which have a finance branch in Switzerland.	Administrative closure	13/05/2005	NA	NA	YES [No 24]	Other NA	
41	SA.16449	Advance Pricing Agreements / Advance Tax Rulings	NL	NO	25/04/2001	New general ruling system implemented as a rollback measure after identification of the old ruling practice as a potentially harmful tax measure by the Council Code of Conduct group.	Administrative closure	21/04/2005	NA	NA	NO	Tax ruling NA	
42	SA.16180	Exempt Holdings and Billionaire Holdings	LU	NO	17/12/2001	Scheme granting tax advantages to providers of certain financial services who set up holding structures in Luxembourg.	Negative decision without recovery	19/07/2006	IP/06/1021 <u>L.365/2005, p. 47</u>	YES [No 23]	Other	Decision was not appealed	
43	SA.13294	Umicore	BE	NO	18/12/2001	Settlement with the Belgian company UMICORE SA concerning the repayment of a VAT debt to the treasury.	No aid decision	30/11/2010	IP/10/616 <u>L.122/2011, p.76</u>	NO	Other	Decision was not appealed	
44	SA.06221	Tax Ruling for US Foreign Sales Corporations	BE	NO	29/01/2002	Scheme based on rulings specifically delivered to undertakings identified under US law as US Foreign Sales Corporations (FSCs). Alternative calculation of tax base according to a favourable cost plus method.	Negative decision without recovery	24/06/2003	IP/03/887 <u>L.023/2004, p. 14</u>	YES [No 6]	Tax ruling Decision was not appealed		
45	SA.14642	Financial and tax aid scheme for the free zone of Madeira (2003-2006)	PT	YES	12/03/2002	The scheme provided various tax advantages, including a reduced rate of corporate income tax. The scheme was first notified in 1986 and approved by the Commission in 1987 but only implemented in 1989 (Regime I) and Compatable aid decision was since then amended or extended [in 1992, 1995, 2002 (Regime II), in 2007 (Regime III), in 2013 and in 2014 when the Commission approved the prolongation of the scheme (Regime IV) until 31 December 2014].		11/12/2002	IP/02/1849 <u>L.65/2003, p. 23</u> <u>[Corr. L.134/2003, p.10</u>	YES [No 37]	Other	Decision was not appealed	
46	SA.13963	Amended Coordination centres scheme	BE	YES	21/05/2002	Notified scheme intended to replace the discontinued Coordination centres scheme (see measure no 17).	No aid decision	08/09/2004	IP/04/1082 <u>L.125/2005, p.10</u>	NO	Tax ruling Decision was not appealed		

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N°	Case number	Case	Member State	Date of initiation of the case	Short description	Outcome of the examination	Date of decision or administrative closure	IP	OJ	Code of Conduct Harmful? (List in Annex C of 1999 Prinario Report)	Tax ruling or other type of tax measure?	Court/Judgment
47	SA.14200	Gibraltar Corporate Tax Reform	UK	YES 19/08/2002	Planned reform of Gibraltar's company taxation laws aimed at providing to companies registered in Gibraltar a much lower tax rate than the corporate tax rate applicable in the UK. The reform was abolished.	Negative decision without recovery	30/03/2004	IP/04/404	L 85/2005, p.1	NO	Other	Case T-211/04: Government of Gibraltar and UK v European Commission. Judgment of the Court of First Instance of 18 December 2008. The Court annulled Commission decision.
48	SA.16635	Société à portefeuille	BE	NO 02/06/2003	Exemption from withholding tax on interest paid by holding companies listed on the stock market and intra-group banks.	Administrative closure	19/07/2005	NA	NA	NO	Other	Decision was not appealed
49	SA.16603	Tax scheme for fiscal Economic interest Groupings	FR	NO 17/07/2003	Early Accelerated depreciation method followed by exemption of income tax on substantial capital gains for authorized operations of financing long-term assets. Tax scheme mainly benefitting the transport sector (ships, planes, trains).	Negative decision with recovery	20/12/2006	IP/06/1852	L 112/2007, p.41	NO	Other	Decision was not appealed
50	SA.16771	International tax ruling practice	IT	NO 13/10/2003	International tax ruling practice limited to companies engaged in cross border activities.	Administrative closure	15/04/2005	NA	NA	NO	Tax ruling	NA
51	SA.17176	International Trading Companies	MT	NO 20/02/2004	Phasing out of preferential tax regimes for offshore trading companies. Malta accepted Commission's recommendation to abolish the existing aid schemes providing selective fiscal advantages in favour of International Trading Companies and Companies with Foreign income.	Decision proposing appropriate measures	22/03/2006	IP/06/353	NA	YES	Other	Decision was not appealed
52	SA.17560	Irish Holding Company Regime	IE	YES 30/07/2004	Exemption from capital gains tax to investor companies on disposals of shares in investee companies when the shareholding represent at least 10% of the investee company and a value of EUR 25 millions or at least 5% of the investee company and a value of EUR 50 millions.	No aid decision	22/09/2004	C 131/2005, p.1	NO	Other	Decision was not appealed	

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53	SA.17971	Bénéfice Mondial Consolidé / Viendi	FR	NO	31/08/2004	This measure introduced in 1965 the possibility for a French resident mother company to deduct losses incurred by its branches and subsidiaries abroad. The application of the scheme also implied the taxation of the profits made by all its branches and subsidiaries abroad. This regime was awarded upon administrative agreement and was binding for 5 years. The scheme was discontinued in 2011.	Administrative closure	13/12/2005	NA	NA	NO	Other	NA
54	SA.18104	SICAR / Titrisation	LU	NO	24/09/2004	The SICAR scheme was introduced to offer a new regulated vehicle for investment in private equity. The securitization scheme was introduced to offer a special purpose vehicle for refinancing a portfolio of assets. The owner of the portfolio sells it to a special purpose vehicle at a price based on the estimated future revenues of that portfolio.	Administrative closure	28/03/2011	NA	NA	NO	Other	NA
55	SA.18361	Tax deductions for intra group interest	HU	NO	15/11/2004	Scheme providing lower taxation for net interest income between affiliated companies belonging to the same group.	Existing aid decision	28/10/2009	No IP	L_42/2010_P.3	NO	Other	Decision was not appealed
56	SA.19058	<u>Companies with Foreign Income</u>	MT	NO	03/03/2005	Business tax regime for multinational groups setting up special-purpose companies which carry out cross-border activities, including financing activities and other intra-group services, and further distribute their earnings within such groups.	Decision proposing appropriate measures	22/03/2006	IP/06/3/63	NA	YES	Other	Decision was not appealed
57	SA.19914	Notional interest deduction	BE	NO	22/09/2005	The measure introduced the tax deduction of a notional interest on the equity of companies and aimed at reducing the difference in the tax treatment applied to dividends compared to interest. The measure applied to all companies in respect of their equity.	Administrative closure	23/11/2005	NA	NA	NO	Other	NA
58	SA.21233	Spanish tax lease	ES	NO	23/06/2006	Early accelerated depreciation method followed by exemption of income tax – under the Tonnage tax – on substantial capital gains for authorized operations of sea-going ship financing.	Negative decision with recovery	17/07/2013	IP/13/7/06	L_114/2014_P.1	NO	Other	The decision was challenged by Spain (T-515/13) and by more than 60 beneficiaries of the measures (a.o. T-700/13, T-719/13, T-1/14, T-3 to T-6/14, T-16/14, T-443/14, T-432/14/ T-461/14, T-484/14, T-491/14, T-514/14, T-485/14, T-509/14, T-500/14, T-508/14, T-515/14). All cases are pending.
59	SA.21261	Octroobox (Dutch Patent box)	NL	YES	29/06/2006	Patent box scheme according to which the benefits from self-developed patents would be subject to a reduced corporate tax rate. Notification was withdrawn on 26/12/2007.	Administrative closure	26/01/2007	NA	NA	NO	Other	NA

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60	SA.21376	Groeprentebox	NL	YES 13/07/2006	Scheme of taxation of interests in the context of intragroup relations. Such interests would be subject to a reduced corporate tax rate. The scheme aims at reducing differences in the fiscal treatment between two instruments of intra-group financing, namely equity and debt.	No aid decision	08/07/2009	IP/09/11/00	L_288/2009, p.26	NO	Other	Decision was not appealed
61	SA.22309	Spanish Goodwill	ES	NO 11/01/2007	Tax advantage (amortization of financial goodwill) for companies in Spain acquiring foreign firms, derogating from the normal corporate tax rules applicable in Spain. The decision of 28/10/2009 concerns the application of the scheme to the acquisition of EU targets.	Negative decision with recovery	28/10/2009	IP/09/16/01	L_7/2011, p.48	NO	Other	Case T-219/10 Autogrill España v. Commission. Judgment of 7 November 2014: The Court annulled the Commission decision. Case C-20/15 P. Commission v. Autogrill España. The Commission appealed the judgement before the Court of Justice; pending case
62	SA.22309	Spanish Goodwill II	ES	NO 11/01/2007	Tax advantage (amortization of financial goodwill) for companies in Spain acquiring foreign firms, derogating from the normal corporate tax rules applicable in Spain. The decision of 12/01/2011 concerns the application of the scheme to extra-EU acquisitions.	Negative decision with recovery	12/01/2011	IP/11/26	L_135/2011, p.1	NO	Other	Case T-405/11 Axa Mediterranean v. Commission. Pending. Case T-399/11 Banco Santander and Santusa v. Commission. Judgment of 7 November 2014: The Court annulled the Commission decision. Case C-21/15 P. Commission v. Banco Santander and Santusa. The Commission appealed the judgement before the Court of Justice; pending case
63	SA.23928	Intangible assets box taxation (Spanish Patent box)	ES	YES 20/08/2007	Scheme: granting 50% reduction on the revenue from certain intangible assets.	No aid decision	13/02/2008	No IP	C_80/2008, p.1	NO	Other	Decision was not appealed
64	SA.30003	Reduced taxation for interest income from foreign sources	HU	NO 10/12/2009	Tax measure providing a 75% tax exemption for foreign-sources interest. Scheme was abolished as of 01/01/2011.	Administrative closure	26/11/2010	NA	NA	NO	Other	NA

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65	SA.35550	Spanish Goodwill III	ES	NO	08/10/2012	Tax advantage (amortization of financial goodwill) for companies in Spain acquiring foreign firms, derogating from the normal corporate tax rules applicable in Spain. The decision of 15/10/2014 concerns the application of the scheme to acquisitions of indirect shareholdings in foreign companies.	Negative decision with recovery	15/10/2014	IP/14/1159	L 56/2015, p. 33	NO	Other	Cases T-326/14 Spain / Commission Pending Case T-12/15 Banco Santander and Santusa / Commission Pending