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TABLE OF CASE LAW

Court of Justice of the EU

Case	Name	Reported	Reference
C-6/64	<i>Costa v ENEL</i>	ECLI:EU:C:1964:66	9.3.3, 9.4.4
C-173/73	<i>Italy v Commission</i>	ECLI:EU:C:1974:71	9.2.4, 9.4.4
C-8/74	<i>Dassonville</i>	ECLI:EU:C:1974:82	9.5.2.4
C-94/74	<i>IGAV v Ente nazionale per la Cellulosa</i>	ECLI:EU:C:1975:81	9.4.4
C-45/76	<i>Comet BV v Produktschap voor Siergewassen</i>	ECLI:EU:C:1976:191	9.4.4
C-120/78	<i>Rewe v Bundesmonopolverwaltung für Branntwein; 'Cassis de Dijon'</i>	ECLI:EU:C:1979:42	9.5.2.4
C-45/86	<i>Commission v Council</i>	ECLI:EU:C:1991:244	9.5.2.3
C-165/87	<i>Commission v Council</i>	ECLI:EU:C:1988:458	9.5.2.3
C-300/89	<i>Commission v Council; 'Titanium Dioxide'</i>	ECLI:EU:C:1991:244	9.5.2.3
C-267/91	<i>Keck and Mithouard</i>	ECLI:EU:C:1993:905	9.5.2.4
C-134/94	<i>Esso Española v Comunidad Autónoma de Canarias)</i>	ECLI:EU:C:1995:414	9.3.3, 9.4.4
C-338/01	<i>Commission v Council</i>	ECLI:EU:C:2004:253	9.5.2.3
C-365/02	<i>Lindfors</i>	ECLI:EU:C:2004:449	9.5.2.4
C-403/03	<i>Schempp</i>	ECLI:EU:C:2005:446	9.5.2.4
C-446/03	<i>Marks & Spencer</i>	ECLI:EU:C:2005:763	6.5.5.2, 7.8
C-513/04	<i>Kerckhaert and Morres</i>	ECLI:EU:C:2006:713	9.5.2.4
C-298/05	<i>Columbus Container Services</i>	ECLI:EU:C:2007:754	9.5.2.4
C-166/07	<i>Parliament v Council; 'International Fund for Ireland'</i>	ECLI:EU:C:2009:499	9.5.2.3
C-67/08	<i>Block</i>	ECLI:EU:C:2009:92	9.5.2.4
C-128/08	<i>Damseaux</i>	ECLI:EU:C:2009:471	9.5.2.4
C-106/09 and C-107/09	<i>Commission and Spain v Government of Gibraltar and United Kingdom; 'Gibraltar'</i>	ECLI:EU:C:2011:732	7.2.1, 9.5.2.6
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C-116/16	<i>T Denmark</i>	ECLI:EU:C:2019:135	8.4, 8.5
C-117/16	<i>Y Denmark</i>	ECLI:EU:C:2019:135	8.4, 8.5
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C-119/16	<i>C Denmark I</i>	ECLI:EU:C:2019:134	8.4, 8.5
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C-337/19	<i>Commission v Belgium</i>	n/a	7.13

General Court of the EU

Case	Name	Reported	Reference
T-760/15	<i>Netherlands v Commission; 'Starbucks'</i>	ECLI:EU:T:2019:669	6.5.5.1
T-755/15	<i>Luxembourg v Commission; 'Fiat'</i>	ECLI:EU:T:2019:670	6.5.5.1
T-131/16	<i>Belgium v Commission</i>	ECLI:EU:T:2019:91	7.13

EFTA Court

Case	Name	Reported	Reference
E-4/10, E-6/10 and E-7/10	<i>Principality of Liechtenstein, Reassur Aktiengesellschaft and Swisscom RE Aktiengesellschaft v EFTA Surveillance Authority</i>	OJEU C/294/2011	4.7
E-17/10 and E-6/11	<i>Principality of Liechtenstein and VTM Fundmanagement AG v EFTA Surveillance Authority</i>	OJEU C/307/2012	4.7

TABLE OF PSEUDO-CASE LAW OF THE CODE OF CONDUCT GROUP

Case	Name	Harmful tax competition assessment	State aid assessment	Reference
Generic corporate tax regimes				
A/1	<i>Gibraltar – Tax exemption regime for passive income</i>	Harmful (2012)	State aid (2018)	5.4, 6.5.2.2, 6.5.3.2, 6.5.4.2, 7.2.1, 7.2.2, 7.2.3, 7.16.2, 7.16.3
A/2	<i>Gibraltar – Tax treatment of asset holding companies</i>	Harmful (2016)	Not assessed	4.2.4.2, 5.4, 6.5.4.2, 7.2.1, 7.2.3
A/3	<i>Isle of Man – Retail tax regime</i>	Not formally assessed (2013)	n/a	7.2.1, 7.2.4
Shareholder tax regimes				
B/1	<i>Aruba – Imputation payment company regime</i>	Harmful (2004)	n/a	6.5.2.2, 6.5.3.2, 6.5.4.2, 7.3.1, 7.10
B/2	<i>Malta – Advance company income tax and refunds regime</i>	(Initial rollback) harmful (2006)	No State aid (2006)	7.3.1, 7.3.3, 7.16.3
B/3	<i>The Isle of Man – Distributable profits charge regime</i>	Harmful (2007)	n/a	5.6, 6.5.2.2, 7.2.4, 7.3.1, 7.3.4, 7.4.2, 7.4.3
B/4	<i>Jersey – Deemed distribution and attribution regime</i>	Harmful (2011)	n/a	6.5.2.2, 6.5.3.2, 7.2.1, 7.3.1, 7.3.4, 7.3.5, 7.4.3, 7.16.2
B/5	<i>The Isle of Man – Attribution regime for individuals</i>	Harmful (2011)	n/a	5.6, 6.5.2.2, 6.5.3.2, 7.2.4, 7.3.1, 7.3.4, 7.3.5, 7.4.3, 7.16.2
B/6	<i>Guernsey – Deemed distribution regime</i>	Harmful (2012)	n/a	5.6, 6.5.2.2, 6.5.3.2, 7.3.1, 7.3.5, 7.4.3, 7.16.2
Interest regimes				
A. Interest deduction regimes				
Actual deduction regimes				
C/1	<i>France – Finance centres regime</i>	Non-harmful (1999)	State aid (2002)	7.4.1, 7.4.2
C/2	<i>Italy – Tax deduction for deemed interest paid by branch regime</i>	Non-harmful (1999)	Not assessed	7.4.1, 7.4.2, 7.4.3
C/3	<i>Guernsey – International loan business regime</i>	Harmful (2003)	n/a	5.6, 5.7, 6.5.2.2, 7.4.1, 7.4.2, 7.4.3
C/4	<i>Jersey – International treasury operations regime</i>	Harmful (2003)	n/a	5.6, 6.5.2.2, 7.4.1, 7.4.2, 7.4.3
C/5	<i>The Isle of Man – International loan business regime</i>	Harmful (2003)	n/a	5.6, 6.5.2.2, 7.4.1, 7.4.2, 7.4.3
B. Tax rate regimes				

Reduced tax rate regimes				
C/6	<i>Ireland – International financial services centre of Dublin regime</i>	Harmful (2003)	State aid (1998)	6.5.2.2, 7.4.1, 7.4.4, 7.4.7.4
C. Tax base regimes				
Tax exemption regimes				
C/7	<i>Italy – Trieste financial services and insurance centre regime</i>	Harmful (2003)	State aid (2002)	6.5.2.2, 7.4.1, 7.4.5
C/8	<i>The Isle of Man – Offshore banking business regime</i>	Harmful (2003)	n/a	5.6, 7.4.1, 7.4.5
C/9	<i>Greece – Offices of foreign companies regime</i>	Harmful (2003)	Not assessed	7.4.1, 7.4.5
Tax-free reserve regimes				
C/10	<i>The Netherlands – International financing activities regime</i>	Harmful (2003)	State aid (2003)	6.5.2.2, 7.4.1, 7.4.6, 7.4.7.3
Tax base reduction regimes				
C/11	<i>Hungary – Interest from affiliated companies regime</i>	Non-decision (2005)	State Aid (2009)	4.2.3.3, 4.2.4.2, 4.9, 6.5.2.2, 6.6.5, 7.4.1, 7.4.7.1, 7.4.7.2, 7.4.7.3, 7.4.7.4, 7.6.3, 7.16.2, 7.16.3, 9.2.5
C/12	<i>The Netherlands – Group interest box regime (not implemented)</i>	Not formally assessed (2007)	No State aid (2009) (following a revision of the regime)	2.9, 7.4.1, 7.4.7.1, 7.4.7.3, 9.2.5
C/13	<i>Hungary – Tax base for interest payments received from abroad regime</i>	Not formally assessed (2011)	Not assessed	6.5.2.2, 6.5.3.2, 6.5.4.3, 7.4.1, 7.4.7.1, 7.4.7.4
Notional interest deduction regimes				
Equity stock-based regimes				
D/1	<i>Belgium – (former) NID-regime (in force between 2006-2018)</i>	No need to formally assess (2006)	Not assessed	7.5, 7.16.2
D/2	<i>Croatia – (former) NID-regime (in force between 1994-2001)</i>	Not assessed	Not assessed	7.5
D/3	<i>Liechtenstein (third country) – NID-regime (in force since 2011)</i>	Harmful (2017)	Not assessed	6.5.4.2, 7.5
D/4	<i>Switzerland (third country) – NID-regime (not yet implemented)</i>	Assessment ongoing (2019)	Not assessed	7.5, 7.6.3
Incremental-based regimes				
D/5	<i>Austria – (former) NID-regime (in force between 2000-2004)</i>	Not assessed	Not assessed	7.5
D/6	<i>Belgium – NID-regime (revision of the former regime (Case C/1); in force since 2018)</i>	Non-harmful (2018)	Not assessed	7.5
D/7	<i>Italy – NID-regime (in force since 2011)</i>	Non-harmful (2018)	Not assessed	7.5
D/8	<i>Malta – NID-regime (in force since 2018)</i>	Non-harmful (2018)	Not assessed	7.5
D/9	<i>Portugal – NID-regime (in force since 2017)</i>	Out of scope (2018)	Not assessed	7.5
D/10	<i>Cyprus – NID-regime (in force since 2015)</i>	Harmful (2019)	Not assessed	6.5.1, 6.5.2.1, 7.5
D/11	<i>Turkey (third country) – NID-regime (in force since 2015)</i>	Not assessed	Not assessed	7.5
D/12	<i>Brazil (third country) – NID-regime (in force since 1996)</i>	Not assessed	Not assessed	7.5
D/13	<i>EU (CCTB-proposal) – Allowance for growth and investment (AGI) regime (not yet implemented)</i>	Not assessed	Not assessed	7.5
D/14	<i>Poland – NID-regime (in force since 2020)</i>	Not harmful (2019)	Not assessed	7.5
Intellectual property regimes				
Front-end (cost) based regimes				
E/1	<i>Belgium – Investment deductions regime</i>	Non-harmful (1999)	Not assessed or compatible aid	7.6.1, 7.6.2

E/2	<i>Austria – Research and development allowance regime</i>	Non-harmful (1999)	Not assessed or compatible aid	7.6.1, 7.6.2
E/3	<i>Bulgaria – Investment tax credit regime</i>	Non-harmful (2006)	Regional aid compatible	7.6.1, 7.6.2
E/4	<i>Slovenia – Relief for investment in research and development regime</i>	Non-harmful (2006)	Not assessed or compatible aid	7.6.1, 7.6.2
E/5	<i>The Netherlands – Research and development wage tax credit regime</i>	Not assessed (out of scope)	Not assessed or compatible aid	7.6.1, 7.6.2
E/28	<i>Croatia – Research and development regime</i>	No need to assess (2019)	Not assessed or compatible aid	7.6.1, 7.6.2
Back-end (income) based regimes				
E/6	<i>Ireland – Research and technical development regime</i>	Non-harmful (1999)	Not assessed	7.6.1, 7.6.3
E/7	<i>France – Royalty income - patents regime</i>	Harmful (2003); harmful (2014); non-harmful (2019)	Not assessed	2.8, 6.4.3, 6.5.2.1, 6.5.2.2, 6.6.5, 7.4.7.1, 7.4.7.2, 7.6.1, 7.6.3, 7.10, 7.16.2, 9.2.5
E/8	<i>Hungary – Royalty income regime</i>	Non-harmful (2005); harmful (2014); and non-harmful (2017)	Not assessed	6.6.5, 7.6.1, 7.6.3
E/9	<i>Romania – Patent profits exemption regime</i>	Harmful (2006)	Not assessed	7.6.1, 7.6.3
E/10	<i>The Netherlands – Patent box regime</i>	No need to assess (2007); harmful (2014); and non-harmful (2017)	Not assessed	4.2.4.2, 6.6.5, 7.6.1
E/11	<i>Belgium – Patent income deduction regime</i>	No need to assess (2008); no agreement (2013); harmful (2014); and non-harmful (2017)	Not assessed	6.6.5, 7.6.1, 7.6.3
E/12	<i>Luxembourg – Intellectual property regime</i>	No need to assess (2008); harmful (2014); non-harmful (2017); and non-harmful (2018)	Not assessed	6.6.5, 7.6.1, 7.6.3
E/13	<i>Spain – Partial exemption of income from certain intangible assets regime</i>	No need to assess (2008); harmful (2014); and non-harmful (2018)	No State aid (2008)	6.6.5, 7.6.1, 7.6.3
E/14	<i>Spain / Basque Country – Partial exemption of income from certain intangible assets regime</i>	Harmful (2014) and non-harmful (2018)	Not assessed	7.6.1, 7.6.3
E/15	<i>Spain / Navarra – Partial exemption of income from certain intangible assets regime</i>	Harmful (2014) and non-harmful (2018)	Not assessed	7.6.1, 7.6.3
E/16	<i>United Kingdom – Patent box regime</i>	No agreement (2013); Harmful (2014); and non-harmful (2017)	Not assessed	7.6.1, 7.6.3
E/17	<i>Cyprus – Intellectual property regime</i>	No agreement (2013); harmful (2014); and non-harmful (2017)	Not assessed	7.6.1, 7.6.3
E/18	<i>Italy – Patent box regime</i>	Harmful (2014) and non-harmful (2017)	Not assessed	7.6.1, 7.6.3
E/19	<i>Portugal – Partial exemption of income from certain intangible property regime</i>	Harmful (2014) and non-harmful (2017)	Not assessed	7.6.1
E/20	<i>Malta – Exemption on royalties derived from patents regime</i>	Harmful (2014); and non-harmful (2019)	Not assessed	7.6.1, 7.6.3
E/21	<i>Ireland – Knowledge development box regime</i>	Non-harmful (2017)	Not assessed	7.6.1, 7.6.3
E/22	<i>Greece – Knowledge development box regimes</i>	No need to assess (2018)	Not assessed	7.6.1, 7.6.3
E/23	<i>Romania – Profit tax exemption for companies with innovation and research and development activities regime</i>	Assessment ongoing (2018)	Not assessed	7.6.1, 7.6.3

E/24	<i>Lithuania – New special corporate income tax regime for patented assets and copyrighted software</i>	Non-harmful (2019)	Not assessed	7.6.1, 7.6.3
E/25	<i>Slovakia – Patent box regime</i>	Non-harmful (2018)	Not assessed	7.6.1, 7.6.3
E/26	<i>Liechtenstein (third country) – Royalty box regime</i>	No assessed (abolished before) (2018)	n/a	7.5, 7.6.1
E/27	<i>Switzerland (third country) – Patent box regime</i>	Not assessed	n/a	7.5, 7.6.1, 7.6.3
E/29	<i>Poland – Preferential taxation of income from intellectual property regime</i>	Non-harmful (2019)	n/a	7.6.1, 7.6.3
Insurance company regimes				
F/1	<i>Finland – Aland islands captive insurance regime</i>	Harmful (2003)	State aid (2002)	7.7
F/2	<i>France – Technical provisions for insurance and reinsurance undertakings regime</i>	Non-harmful (1999)	Not assessed	7.7
F/3	<i>Germany – Provisions for fluctuation in insurance and re-insurance regime</i>	Non-harmful (1999)	Not assessed	7.7
F/4	<i>Luxembourg – Provisions for fluctuations in reinsurance regime</i>	Harmful (1999)	Not assessed	7.7
F/5	<i>Portugal – Reinsurance regime</i>	Non-harmful (1999)	Not assessed	7.7
F/6	<i>Sweden – Foreign insurance regime</i>	Non-harmful (1999)	State aid (2001)	7.7, 7.16.
F/7	<i>Gibraltar – Exempt (offshore) companies and captive insurance regime</i>	Harmful (2003)	State aid (2005)	7.7, 7.16.2
F/8	<i>Gibraltar – Qualifying (offshore) companies and captive insurance regime</i>	Harmful (2003)	State aid (2004)	5.4, 7.7
F/9	<i>Aruba – Captive insurance regime</i>	Harmful (2003)	n/a	7.7
F/10	<i>Guernsey – Offshore insurance companies regimes</i>	Harmful (2003)	n/a	7.7
F/11	<i>Guernsey – Insurance companies regime</i>	Harmful (2003)	n/a	7.7
F/12	<i>The Isle of Man – Exempt insurance companies regime</i>	Harmful (2003)	n/a	7.7
F/13	<i>Jersey – Captive insurance companies regime</i>	Harmful (2003)	n/a	7.7
F/14	<i>The Netherlands Antilles – Captive insurance regime</i>	Harmful (2003)	n/a	7.7
F/15	<i>Cyprus – Insurance companies regime</i>	Harmful (2003)	Not assessed	7.7
F/16	<i>Bulgaria – Insurance companies regime</i>	Harmful (2006)	Not assessed	6.5.4.2, 7.7,
F/17	<i>Barbados (third country) – Exempt insurance company regime</i>	Harmful (2018)	n/a	5.7, 7.7
F/18	<i>Barbados (third country) – Qualifying insurance company regime</i>	Harmful (2018)	n/a	7.7
F/19	<i>Cook Islands (third country) – International insurance companies regime</i>	Harmful (2018)	n/a	7.7
F/20	<i>Cook Islands (third country) – Overseas insurance companies regime</i>	Harmful (2018)	n/a	7.7
F/21	<i>Cook Islands (third country) – International Captive insurance companies regime</i>	Harmful (2018)	n/a	7.7
F/22	<i>Grenada (third country) – International insurance regime</i>	Harmful (2018)	n/a	7.7
F/23	<i>Hong Kong (third country) – Offshore reinsurance regime</i>	Harmful (2018)	n/a	7.7
F/24	<i>Hong Kong (third country) – Offshore captive insurance regime</i>	Harmful (2018)	n/a	7.7
F/25	<i>Mauritius (third country) – Captive insurance regime</i>	Harmful (2018)	n/a	7.7
F/26	<i>Malaysia (third country) – Inward re-insurance and offshore insurance regime</i>	Harmful (2018)	n/a	7.7
F/27	<i>Seychelles third country) – Offshore insurance regime</i>	Harmful (2018)	n/a	7.7
F/28	<i>Seychelles (third country) – Reinsurance regime</i>	Harmful (2018)	n/a	7.7

Generic holding company regimes (participation exemptions)				
G/1	<i>Austria – Participation exemption</i>	Harmful (2003) and not formally assessed (2016)	Not assessed	6.5.5.2, 7.8
G/2	<i>Belgium – Participation exemption</i>	Non-harmful (1999) and not formally assessed (2016)	Not assessed	7.8
G/3	<i>Bulgaria – Participation exemption</i>	Not formally assessed (2016)	Not assessed	7.8
G/4	<i>Cyprus – Participation exemption</i>	Non-harmful (2003) and not formally assessed (2016)	Not assessed	7.8
G/5	<i>Czech Republic – Participation exemption</i>	Not formally assessed (2016)	Not assessed	7.8
G/6	<i>Denmark – Participation exemption</i>	Harmful (2003) and not formally assessed (2016)	Not assessed	7.8
G/7	<i>Estonia – Participation exemption</i>	Not formally assessed (2016)	Not assessed	7.8
G/8	<i>Finland – Participation exemption</i>	Not formally assessed (2016)	Not assessed	7.8
G/9	<i>France – Participation exemption</i>	Non-harmful (1999) and not formally assessed (2016)	Not assessed	7.8
G/10	<i>Germany – Participation exemption</i>	Non-harmful (1999) not formally assessed (2016)	Not assessed	7.8
G/11	<i>Greece – Participation exemption</i>	Non-formally assessed (2016)	Not assessed	7.8
G/12	<i>Croatia – Participation exemption</i>	Not formally assessed (2016)	Not assessed	7.8
G/13	<i>Hungary – Participation exemption</i>	Non-harmful (2003) and not formally assessed (2016)	Not assessed	7.8
G/14	<i>Ireland – Participation exemption</i>	No need to assess (2005) and not formally assessed (2016)	Not assessed	7.8
G/15	<i>Italy – Participation exemption</i>	No need to assess (2004) and not formally assessed (2016)	Not assessed	7.8
G/16	<i>Latvia – Participation exemption</i>	Not formally assessed (2016)	Not assessed	7.8
G/17	<i>Lithuania – Participation exemption</i>	Not formally assessed (2016) and harmful (2019)	Not assessed	7.8
G/18	<i>Luxembourg – Participation exemption</i>	Not formally assessed (2016)	Not assessed	7.8
G/19	<i>Malta – Participation exemption</i>	Not formally assessed (2016)	Not assessed	7.8
G/20	<i>The Netherlands – Participation exemption</i>	Harmful (2003) and not formally assessed (2016)	Not assessed	6.5.5.2, 7.8
G/21	<i>Poland – Participation exemption</i>	Not formally assessed (2016)	Not assessed	7.8
G/22	<i>Portugal – Participation exemption</i>	Not formally assessed (2016)	Not assessed	7.8
G/23	<i>Romania – Participation exemption</i>	Not formally assessed (2016)	Not assessed	7.8
G/24	<i>Slovakia – Participation exemption</i>	Not formally assessed (2016)	Not assessed	7.8
G/25	<i>Slovenia – Participation exemption</i>	Harmful (2003) and not formally assessed (2016)	Not assessed	7.8

G/26	<i>Spain – Participation exemption</i>	Not formally assessed (2016)	Not assessed	7.8
G/27	<i>Sweden – Participation exemption</i>	No need to assess (2004) and not formally assessed (2016)	Not assessed	7.8
G/28	<i>The United Kingdom – Participation exemption</i>	Not formally assessed (2016)	Not assessed	7.8
G/29	<i>Liechtenstein (third country) – Participation exemption</i>	Harmful (2017)	n/a	5.7, 6.5.4.2, 6.5.5.2, 7.5, 7.8, 7.16.2
G/30	<i>The Netherlands Antilles – Participation exemption</i>	Harmful (2004)	n/a	7.8
Group coordination regimes				
H/1	<i>Belgium – Coordination centres regime</i>	Harmful (2003)	No State aid (1984), no State aid (1987), State aid (2003) and State aid (2007)	6.5.2.2, 6.5.6.2, 7.5, 7.9, 7.16.2
H/2	<i>Spain – Basque and Navarra coordination centres regime</i>	Harmful (2003)	Staid aid (2002)	7.9
H/3	<i>Luxembourg – Coordination centres regime</i>	Harmful (2003)	Staid aid (2002)	6.5.6.2, 7.9
H/4	<i>Germany – Control and coordination centres of foreign companies regime</i>	Harmful (2003)	Staid aid (2002)	7.9
H/5	<i>France – Headquarters and Logistic Centres regime</i>	Harmful (2003)	Staid aid (2002)	7.9
H/6	<i>Morocco (third country) – Coordination centres regime</i>	Harmful (2018)	n/a	5.7, 7.9
Special holding company regimes				
I/1	<i>Luxembourg – 1929 Holding companies regime</i>	Harmful (2003)	State aid (2006)	7.3.2, 7.6.3, 7.8, 7.10, 7.16.2, 7.16.3
I/2	<i>Switzerland (third country) – Cantonal mixed company regime</i>	Harmful (2013)	State aid (2007)	5.7, 7.10
I/3	<i>Switzerland (third country) – Cantonal holding company regime</i>	Harmful (2013)	State aid (2007)	5.7, 7.10
Intermediate group finance and license company regimes				
Group finance company regimes				
J/1	<i>The Netherlands – Intra-group finance activities regime</i>	Harmful (2003)	No State aid (1995)	6.5.6.2, 7.4.2, 7.4.3, 7.9, 7.11, 7.13
J/2	<i>Luxembourg – Finance companies regime</i>	Harmful (2003)	State aid (2002)	4.2.4.2, 6.5.6.2, 7.4.2, 7.4.3, 7.11, 7.12, 7.16.2
J/3	<i>Luxembourg – Group financing companies (advance confirmation of margins) regime</i>	Not formally assessed (2010) and not harmful (2017)	Not assessed	4.2.4.2, 7.11, 7.12, 7.16.2
J/4	<i>The Netherlands – Royalties regime</i>	Harmful (2003)	No State aid (1995)	7.11
Foreign finance branch regimes				
K/1	<i>The Netherlands – Financing branch regime</i>	Harmful (2003)	Not assessed	6.5.5.2, 6.5.6.2, 7.9, 7.11, 7.12
K/2	<i>Luxembourg – Financing branch regimes</i>	Harmful (2003)	Not assessed	6.5.5.2, 6.5.6.2, 7.12
Informal capital regimes				
L/1	<i>The Netherlands – Informal capital regime</i>	Harmful (2003)	Not assessed	6.5.5.2, 6.5.6.2, 7.11, 7.12, 7.13, 7.16.2, 8.2

L/2	<i>Belgium – Informal capital regime</i>	Harmful (2003)	Not assessed	6.5.5.2, 6.5.6.2, 7.12, 7.13, 7.16.2, 8.2
L/3	<i>Belgium – Excess profits regime</i>	Not assessed	State aid (2016), but Belgium appealed and General Court annulled the Commission decision on formal grounds (2019) (Appeal pending before the CJEU)	6.5.5.2, 7.12, 7.13
L/4	<i>Luxembourg – Informal capital regime</i>	Not assessed	Assessment ongoing (2019)	6.5.5.2, 7.12, 7.13
Hybrid financing regime				
M/1	<i>Belgium – Profit participating loan ruling</i>	Not formally assessed (2008)	Not assessed	7.14, 7.16.2
Free zone regimes				
N/1	<i>Belgium – Employment zones regime</i>	Non-harmful (1999)	Not assessed or regional State aid compatible	7.15
N/2	<i>Belgium – Incentives for investments in certain regions regime</i>	Non-harmful (1999)	Not assessed or regional State aid compatible	7.15
N/3	<i>Belgium – Re-conversion zones regime</i>	Non-harmful (1999)	Not assessed or regional State aid compatible	7.15
N/4	<i>Denmark – Enterprise zones regime</i>	Non-harmful (1999)	Not assessed or regional State aid compatible	7.15
N/5	<i>Germany – Business Investment in former GDR and West Berlin regime</i>	Non-harmful (1999)	Not assessed or regional State aid compatible	7.15
N/6	<i>Germany – Equipment in former GDR and West Berlin regime</i>	Non-harmful (1999)	Not assessed or regional State aid compatible	7.15
N/7	<i>Germany – Commercial investments in FRG/GDR border area regime</i>	Non-harmful (1999)	Not assessed or regional State aid compatible	7.15
N/8	<i>Spain – Canary Islands REF regime</i>	Non-harmful (1999)	Not assessed or regional State aid compatible	7.15
N/9	<i>Spain – Basque Country Start up relief regime</i>	Non-harmful (1999)	Not assessed or regional State aid compatible	5.3, 7.15
N/10	<i>Spain – Navarra Start up relief regime</i>	Non-harmful (1999)	Not assessed or regional State aid compatible	7.15
N/11	<i>France – Corsica incentive regime (I, II and II)</i>	Non-harmful (1999)	Not assessed or regional State aid compatible	7.15
N/12	<i>France – Tax free zones (ZFU) regime</i>	Non-harmful (1999)	Not assessed or regional State aid compatible	7.15
N/13	<i>France – Enterprise zones regime</i>	Non-harmful (1999)	Not assessed or regional State aid compatible	7.15
N/14	<i>France – Overseas Departments regime</i>	Non-harmful (1999)	n/a	7.15
N/15	<i>France – Privileged investment zone (Nord-Pas de Calais) regime</i>	Non-harmful (1999)	Not assessed or regional State aid compatible	7.15
N/16	<i>Ireland – Shannon Airport regime</i>	Harmful (2003)	Approved regional aid (1981-1994) and State aid (1998)	7.15

N/17	<i>Ireland – New investments / Buildings in rundown urban areas regime</i>	Non-harmful (1999)	Not assessed or regional State aid compatible	7.15
N/18	<i>The Netherlands – Accelerated depreciation of new buildings in certain regions regime</i>	Non-harmful (1999)	Not assessed or regional State aid compatible	7.15
N/19	<i>Finland – Accelerated depreciation / investments in developing regions regime</i>	Non-harmful (1999)	Not assessed or regional State aid compatible	7.15
N/20	<i>United Kingdom – Enterprise zones regime</i>	Non-harmful (1999)	Not assessed or regional State aid compatible	7.15
N/21	<i>United Kingdom – Small and Medium sized enterprises in Northern Ireland regime</i>	Non-harmful (1999)	Not assessed or regional State aid compatible	7.15
N/22	<i>Spain – Ceuta and Melilla regime</i>	Non-harmful (1999)	Not assessed or regional State aid compatible	7.15,
N/22	<i>France – Building under urban and rural planning arrangements regime</i>	Non-harmful (1999)	Not assessed or regional State aid compatible	7.15
N/23	<i>Italy – Regional incentives south of Italy Mezzogiorno</i>	Non-harmful (1999)	Not assessed or regional State aid compatible	7.15
N/24	<i>Portugal – Madeira free zones regime</i>	Harmful (2003)	Approved regional aid (1987-2014) and State aid investigation opened (2018)	5.3, 7.15
N/25	<i>Portugal (Madeira & Azores) – Industrial free zones regime</i>	Non-harmful (1999)	Not assessed or regional State aid compatible	7.15
N/26	<i>Greece – Small islands income tax reduction regime</i>	Non-harmful (1999)	Not assessed or regional State aid compatible	7.15
N/27	<i>The Netherlands Antilles – Free zones regime</i>	Harmful (2003)	n/a	7.15
N/28	<i>Aruba – Free zones regime</i>	Harmful (2003) and non-harmful (2017)	n/a	5.5, 7.15
N/29	<i>Latvia – Special economic zones and free ports</i>	Harmful (2003)	Not assessed or regional State aid compatible	7.15
N/30	<i>Lithuania – Free economic zone regime</i>	Harmful (2003); no need to assess (2017); and no need to assess (2018)	Not assessed or regional State aid compatible	7.15
N/31	<i>Malta – Onshore free port regimes</i>	Non-harmful (2003)	Not assessed or regional State aid compatible	7.15
N/32	<i>Poland – Special Economic zones regime</i>	Harmful (2003)	Not assessed or regional State aid compatible	6.5.4.2, 6.5.6.2 7.15
N/33	<i>Slovenia – Special Economic zones regime</i>	Non-harmful (2003)	Not assessed or regional State aid compatible	7.15
N/34	<i>Romania – Free zones regime</i>	Harmful (2006)	Not assessed or regional State aid compatible	6.5.4.2, 7.15
N/35	<i>Romania – Disadvantaged zones regime</i>	Non-harmful (2006)	Not assessed or regional State aid compatible	6.5.4.2, 7.15
N/36	<i>Slovenia – Tax relief Pomurje region regime</i>	Not formally assessed (2012)	Approved regional aid (2010) and approved regional aid (2013)	7.15
N/37	<i>Croatia – Profit tax act regime</i>	Non-harmful (2014)	Not assessed or regional State aid compatible	7.15
N/38	<i>Aruba – Special San Nicolas zone regime</i>	Harmful (2018)	n/a	5.5, 7.15,

N/39	<i>Curacao – Ezone regime</i>	Harmful (2018)	n/a	5.5, 5.7, 7.15
N/40	<i>Curacao – Manufacturing activities under the Ezone regime regime</i>	Harmful (2018)	n/a	7.15
N/41	<i>Poland – Investment zone regime</i>	Harmful (2019)	Not assessed or regional State aid compatible	7.15

APPENDIX

CODE OF CONDUCT FOR BUSINESS TAXATION

RESOLUTION OF THE COUNCIL AND THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES, MEETING WITHIN THE COUNCIL of 1 December 1997 on a code of conduct for business taxation

THE COUNCIL OF THE EUROPEAN UNION AND THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES, MEETING WITHIN THE COUNCIL,

RECALLING that a comprehensive approach to taxation policy was launched, at the Commission's instigation, at the informal meeting of the Ministers for Economic Affairs and Finance held in Verona in April 1996 and confirmed at the meeting in Mondorf-les-Bains in September 1997 in the light of the consideration that coordinated action at European level is needed in order to reduce continuing distortions in the single market, prevent significant losses of tax revenue and help tax structures develop in a more employment-friendly way,

ACKNOWLEDGING the major contribution made by the Taxation Policy Group to the preparation of this Resolution,

NOTING the Commission communication to the Council and the European Parliament of 5 November 1997,

ACKNOWLEDGING the positive effects of fair competition and the need to consolidate the competitiveness of the European Union and the Member States at international level, whilst noting that tax competition may also lead to tax measures with harmful effects,

ACKNOWLEDGING, therefore, the need for a code of conduct for business taxation designed to curb harmful tax measures,

EMPHASIZING that the code of conduct is a political commitment and does not affect the Member States' rights and obligations or the respective spheres of competence of the Member States and the Community resulting from the Treaty,

HEREBY ADOPT THE FOLLOWING CODE OF CONDUCT:

Code of conduct for business taxation tax measures covered

- A. Without prejudice to the respective spheres of competence of the Member States and the Community, this code of conduct, which covers business taxation, concerns those measures which affect, or may affect, in a significant way the location of business activity in the Community.

Business activity in this respect also includes all activities carried out within a group of companies.

The tax measures covered by the code include both laws or regulations and administrative practices.

- B. Within the scope specified in paragraph A, tax measures which provide for a significantly lower effective level of taxation, including zero taxation, than those levels which generally apply in the Member State in question are to be regarded as potentially harmful and therefore covered by this code.

Such a level of taxation may operate by virtue of the nominal tax rate, the tax base or any other relevant factor.

When assessing whether such measures are harmful, account should be taken of, inter alia:

1. whether advantages are accorded only to non-residents or in respect of transactions carried out with non-residents, or
2. whether advantages are ring-fenced from the domestic market, so they do not affect the national tax base, or
3. whether advantages are granted even without any real economic activity and substantial economic presence within the Member State offering such tax advantages, or
4. whether the rules for profit determination in respect of activities within a multinational group of companies departs from internationally accepted principles, notably the rules agreed upon within the OECD, or
5. whether the tax measures lack transparency, including where legal provisions are relaxed at administrative level in a non-transparent way.

Standstill and Rollback

Standstill

- C. Member States commit themselves not to introduce new tax measures which are harmful within the meaning of this code. Member States will therefore respect the principles underlying the code when determining future policy and will have due regard for the review process referred to in paragraphs E to I in assessing whether any new tax measure is harmful.

Rollback

- D. Member States commit themselves to re-examining their existing laws and established practices, having regard to the principles underlying the code and to the review process outlined in paragraphs E to I. Member States will amend such laws and practices as necessary with a view to eliminating any harmful measures as soon as possible taking into account the Council's discussions following the review process.

Review process

Provision of relevant information

- E. In accordance with the principles of transparency and openness Member States will inform each other of existing and proposed tax measures which may fall within the scope of the code. In particular, Member States are called upon to provide at the request of another Member State information on any tax measure which appears to fall within the scope of the code. Where envisaged tax measures need parliamentary approval, such information need not be given until after their announcement to Parliament.

Assessment of harmful measures

- F. Any Member State may request the opportunity to discuss and comment on a tax measure of another Member State that may fall within the scope of the code. This will permit an assessment to be made of whether the tax measures in question are harmful, in the light of the effects that they may have within the Community. That assessment will take into account all the factors identified in paragraph B.
- G. The Council also emphasizes the need to evaluate carefully in that assessment the effects that the tax measures have on other Member States, inter alia in the light of how the activities concerned are effectively taxed throughout the Community.

Insofar as the tax measures are used to support the economic development of particular regions, an assessment will be made of whether the measures are in proportion to, and targeted at, the aims sought. In assessing this, particular attention will be paid to special features and constraints in the case of the outermost regions and small islands, without undermining the integrity and coherence of the Community legal order, including the internal market and common policies.

Procedure

- H. A group will be set up by the Council to assess the tax measures that may fall within the scope of this code and to oversee the provision of information on those measures. The Council invites each Member State and the Commission to appoint a high-level representative and a deputy to this group, which will be chaired by a representative of a Member State. The group, which will meet regularly, will select and review the tax measures for assessment in accordance with the provisions laid down in paragraphs E to G. The group will report regularly on the measures assessed. These reports will be forwarded to the Council for deliberation and, if the Council so decides, published.
- I. The Council invites the Commission to assist the group in carrying out the necessary preparatory work for its meetings and to facilitate the provision of information and the review process. To this end, the Council requests Member States to provide the Commission with the information referred to in paragraph E so that the Commission may coordinate the exchange of such information between the Member States.

State aid

- J. The Council notes that some of the tax measures covered by this code may fall within the scope of the provisions on State aid in Articles 92 to 94 of the Treaty. Without prejudice to Community law and the objectives of the Treaty, the Council notes that the Commission undertakes to publish guidelines on the application of the State aid rules to measures relating to direct business taxation by mid- 1998, after submitting the draft guidelines to experts from the Member States at a multilateral meeting, and commits itself to the strict application of the aid rules concerned, taking into account, inter alia, the negative effects of aid that are brought to light in the application of this code. The Council also notes that the Commission intends to examine or re-examine existing tax arrangements and proposed new legislation by Member States case by case, thus ensuring that the rules and objectives of the Treaty are applied consistently and equally to all.

Action to combat tax avoidance and evasion

- K. The Council calls on the Member States to cooperate fully in the fight against tax avoidance and evasion, notably in the exchange of information between Member States, in accordance with their respective national laws.
- L. The Council notes that anti-abuse provisions or countermeasures contained in tax laws and in double taxation conventions play a fundamental role in counteracting tax avoidance and evasion.

Geographical extension

- M. The Council considers it advisable that principles aimed at abolishing harmful tax measures should be adopted on as broad a geographical basis as possible. To this end, Member States commit themselves to promoting their adoption in third countries; they also commit themselves to promoting their adoption in territories to which the Treaty does not apply.

In particular, Member States with dependent or associated territories or which have special responsibilities or taxation prerogatives in respect of other territories commit themselves, within the framework of their constitutional arrangements, to ensuring that these principles are applied in those territories. In this connection, those Member States will take stock of the situation in the form of reports to the group referred to in paragraph H, which will assess them under the review procedure described above.

Monitoring and revision

- N. In order to ensure the even and effective implementation of the code, the Council invites the Commission to report to it annually on the implementation thereof and on the application of fiscal State aid. The Council and the Member States will review the provisions of the code two years after its adoption.