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**Fiscal Aids: (In)Compatibility
With EU Rules?**

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Fiscal Aids: (In)Compatibility With EU Rules?

by Dr. Piergiorgio Valente and
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Tax aids granted by EU member states to some enterprises or to specific territorial areas are, along with other "aids granted by States," governed by articles 92 to 94 of the Treaty of Rome. We will therefore commence by analyzing those provisions so that their implications for tax aids will be properly understood.

Article 92, Paragraph 1

Article 3 (g) established the rules for "a system ensuring that competition in the internal market is not distorted." This is one of the instruments by which the treaty pursues the objectives described in article 2 of the treaty, particularly that of promoting a "harmonious and balanced development of economic activities" within the Community.

Aids granted by member states in favor of national enterprises may create some difficulties for the functioning of the common market, given that they engender discrimination between the enterprises receiving the aids and the enterprises excluded from that benefit, and this distorts free competition.

Article 92, paragraph 1, does not contain a definition of aid, but it states that "... any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens

to distort competition by favoring certain undertakings or the production of certain goods shall, in so far as it affects trade between member states, be incompatible with the Common Market." In the absence of a provision defining the notion of state aid, the concept may be inferred from the interpretations issued by the Commission and the European Court of Justice.

According to the court, an "aid" consists of any intervention that, no matter what form it takes, alleviates enterprises from charges to which they are normally subject. Any relief granted in favor of an enterprise, without a countercharge, or with a minimal countercharge that is not proportional to the actual value of the relief obtained, is deemed to be an aid.¹

The form of the aid granted is of no importance. Article 92 establishes that the aids may be granted "in any form." According to the Commission, forbidden aids may consist of hidden grants; allowance of credits without interest or at a special lower interest rate; loan guarantees; exemption from levies, taxes, and social charges; and supplying goods and services under preferential conditions.

The prerequisite for the aid, i.e., that it be *state*-originated, must be interpreted in a broad sense. Therefore, it is possible to include

not only aids directly granted by the state or by decentralized territorial powers, but also aids indirectly granted by bodies that strictly speaking do not belong to the public administration but that operate on the basis of a mandate received from the administration. This concept also includes aids that, although formally allocated by credit institutes, professional associations, or trading companies, are in reality imputable to the state.

For the aid to be inadmissible it must be selective; in other words, it must facilitate "certain undertakings or the production of certain goods" and consequently be to the detriment of the balance existing between enterprises benefiting from the aid and their rival enterprises.²

Another prerequisite for the application of article 92 is that the aids granted by the state must *distort or threaten to distort competition and affect trade between member states*. The aid must therefore have an effect on competition and intracommunity trade. The prohibition does not relate to aids³ that are minimal in value. The same is true for aids referring to goods and services

¹From this perspective, a state contribution whose only effect is the offsetting of an objective disadvantage of the receiving company would not be included within the scope of article 92.

²The prerequisite of selectivity establishes the difference between state aids and the general measures of economic policy adopted by the state in favor of the whole economic system. The adoption of general measures is an instrument for a member state to determine its economic policy and it is not deemed to be state aid inasmuch as it does not favor specific economic sectors or enterprises. It is regarded as such when it affects trade between member states and distorts or threatens to distort competition.

³The Commission published in 1996 a communication relating to *de minimis* aids (the official journal, No. C 68, March 6, 1996, p. 9) in which it established that aids not exceeding ECU 100,000 over a three-year period are not included in the scope of article 92.

that are not subject to competition in the European Union⁴ and are destined for the domestic market.

Principle of Incompatibility of State Aids

The provisions contained in article 92 are based on a principle of incompatibility, which does not completely prohibit state aids but strongly limits their granting. This is the reason why the treaty establishes that the Commission must supervise the application of the provision and interpret the derogations deriving from said provision. The treaty obliges member states to keep the Commission informed of proposed and existing aid regimes (article 93 of the EC Treaty).

Even if the prohibition is relative, in the sense that specific categories of aids are considered consistent with the common market, the incompatibility of state aids with the common market still remains the general rule. As a result, the derogations established by the second and third paragraphs of article 92 are exceptions and are to be interpreted restrictively; they are not, therefore, applicable to aid regimes that are not explicitly included in these exceptions.

Derogations to the Principle of Incompatibility

Notwithstanding the principle of incompatibility, the treaty allows two specific categories of aids.

Ipso Iure Exceptions

Article 92, paragraph 2, sets forth some exceptions that are *ipso iure* in the sense that aid regimes of this type are considered to be perfectly compatible with the common market. These exceptions include aids "... having a social character, granted to individual consumers, provided that such aid is granted without discrimination related to the origin of the products

concerned" and "... to make good the damage caused by natural disasters or other exceptional occurrences."

In these cases, member states are nevertheless compelled to communicate their aid proposals to the Commission. The latter will determine whether the aids in question are entitled to benefit from derogations.

Discretionary Exceptions

Article 92, paragraph 3, establishes derogations that have a different purpose. The main feature of this second group of exceptions is that they are not applied *ipso iure* but are applicable only when the Commission decides, after a discretionary evaluation, to approve a proposal notified by a member state.

The main categories of tax aid that may benefit from a derogation under paragraph 3 are "aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment,"⁵ and "aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest."⁶

⁴It is not sufficient, however, that the receiving enterprise operates only in the internal market, when the aid has the effect of hindering competition of other countries' products. With reference thereto, cf. the decision of the Court of Justice of July 13, 1988, case 102/87.

⁵According to the Communication of the Commission on the method of application of article 92, paragraph 3, letters (a) and (c) for regional aids, published in the official journal, No. C 212, August 12, 1988, p. 2, the regions where the standard of living is abnormally low are those with a per capita GDP lower than 75 percent of the Community average. The communication of the Commission on the maximum permissible levels of aids granted under article 92, paragraph 3, letters (a) and (c), published in the official journal, No. 31, February 3, 1979, p. 9, established that the amount of

aids distributable to these regions may not exceed 75 percent of the initial investment.

⁶The above-mentioned 1988 communication of the Commission states that, to benefit from the aids as per article 92, paragraph 3, letter (c), a region must record, when compared to the national average, an index lower than 15 percent in terms of gross domestic product and an index higher than 10 percent in terms of structural unemployment. These indexes are then compared to the average community indexes, so that the more the situation of the area taken into consideration is favorable with respect to the community average, the more its difference from the national average must be elevated to justify the granting of the aids. The above-mentioned 1979 communication of the Commission states that the intensity of the aid in these regions cannot exceed 30 percent of the initial investment.

According to the Commission's recent orientation of December 17, 1997, on regional aids and its effects on employment (Press Release IP/97/1137 of December 17, 1997), starting from January 1, 2000, and until 2006, a clearer aid regime for regional purposes will be adopted. There are four essential guiding principles for community choices: (1) the focusing of regional aids on the poorest regions; (2) a reduction of the global volume related to regional aids; (3) when examining the aid project, it is necessary to take into account the real effects on employment; and 4) developing a more coherent policy between regional aids and the management of structural funds. Concerning aid allocation with respect to the population, the acceptable total volume of aids must shift from 48 to 43 percent of the community population and, to reduce the negative effects of delocalization, the investments and the jobs benefiting from state aids must be maintained in those regions for at least five years to obtain the Commission's approval. Starting in 2000, in accordance with the situation of each single region, the intensity of the aid granted to an initial investment will be redetermined as follows: (1) aids to the regions where the standard of living is abnormally low (as per article 92, paragraph 3, letter (a): (i) 65 percent of ultra-suburban areas, (ii) 50 percent to the regions where GDP is lower than 60 percent compared to the European average, and (iii) 40 percent to the regions where GDP is between 60 and 75 percent of the European average; (2) aids to facilitate the development of some economic regions (as per article 92, paragraph 3, letter (c): (i) from a general perspective, it may not exceed 20 percent, (ii) it may reach 30 percent in ultra-suburban regions, and (iii) it will be limited to 10 percent in the regions where the GDP and the unemployment rate are much better when compared to the community average.

The Court of Justice established the limits of the discretionary power of the Commission in the application of the third paragraph of article 92. First, the Commission must ascertain the consequences of the aid, not only from a national standpoint, but also from an EU perspective, to prevent the aid from causing a transfer of economic difficulties from one member state to another, without offering a true solution to the problems.⁷

Furthermore, the aid must respect the principle of effectiveness according to which an aid is legitimate when it allows the receiving company to definitively resolve the economic difficulties that justify the granting of the aid so as to operate in the market under normal conditions. The aids must be granted only to the extent strictly necessary — both in terms of amount and duration — to allow the company to reacquire its competitive status on the market. As far as the fiscal framework is concerned, the Commission must attentively monitor that the receiving companies diligently operate to overcome their difficulties through restructuring or self-financing.

Tax Aids

As already stated, the fiscal nature of the aid does not exclude the application of community law, since article 92 establishes that aids granted by the state may be "of any kind." Nevertheless, the Commission may face specific problems in verifying the conformity of national fiscal measures with community law.

An aid is incompatible with the common market if it:

- distorts competition;
- is granted by the state;
- affects trade between member states; and
- favors certain undertakings or the production of certain goods.

The last prerequisite (the so-called "criterion of specificity") generates major problems when interpreting fiscal measures. This criterion establishes the difference between fiscal measures deriving from provisions about state aids and general measures of economic policy that are not included in the scope of article 92, in that they do not fulfill the prerequisite of selectivity. For instance, a generalized tax reduction implies a transfer of resources from the state to enterprises, but this reduction applies to all enterprises, in any sector, located anywhere, of any dimension and is, therefore, not deemed

The incompatibility of
state aids with the
common market still
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to be an aid granted by the state.⁸ Nevertheless, even if a fiscal measure is of a general economic nature, this does not imply that it is in line with overall community law. In fact, in cases when such a provision alters or distorts competition by directly affecting the proper functioning of the common market, the Commission may act within the limits of articles 100-102 of the EC Treaty.

In practice, the Commission has so far stated that only fiscal measures applied to the whole national territory fail to satisfy the criterion of specificity required by the first paragraph of article 92. Regional measures, because of their nature, always favor "certain undertakings or the production of

certain goods."⁹ Moreover, if the tax benefit has a sectoral nature, it is obviously covered by the scope of article 92 and, therefore, it may be inferred that a tax measure designed to favor one or more economic sectors constitutes a form of aid.

The fact that a fiscal measure may be considered a state aid does not necessarily imply that it may not benefit, like all other forms of aid, from the derogations established by paragraphs 2 and 3 of article 92.

Nevertheless, it is necessary to note that fiscal aids often are not linked to the realization of specific projects and they allow the reduction of enterprises' current expenses. Therefore, they are "aids to the functioning" that are generally not allowed by community law.

If we analyze fiscal aids granted to some free zones and to other privileged tax areas within the European Union, it is possible to note the remarkable risks concerning their incompatibility when related to community provisions. To include an aid within the above-mentioned regional derogations, the aid in question must contribute to regional develop-

⁷Cf. for instance, the decisions of the European Court of Justice C-730/79 (*Philip Morris*) of September 17, 1980, in ECR, 1980, p. 2671; and C-301/87 (*France vs. Commission*) of February 14, 1990, in ECR, 1990, p. 307.

⁸European Court of Justice (C-173/73 of July 2, 1974, *Italy v. Commission*, in ECR, 1974, p. 709), regarding health care contributions, established that it is possible to qualify as state aids all the measures destined to exempt enterprises of a specific sector from contribution charges that derive from the application on an ordinary basis of the general system, and "this exemption will not be justified by the Nature or the structure of this system."

⁹The situation is different if the tax relief is enacted by a local authority, on the whole territory, by exercising a constitutional right that grants it tax autonomy.

ment and must facilitate the creation of a local activity rooted in local production; an offshore center, for example, does not seem to satisfy these criteria. Furthermore, the ECJ continually asserts that aids must be examined by taking into account their effect within the Community context.¹⁰ The Commission should therefore consider the negative effects of these measures on other member states, for instance as regards income losses.

Areas Benefiting From Tax Reliefs

In examining planned or existing fiscal areas benefiting from tax reliefs and opinions expressed by the Commission thereon, we are faced with a broad spectrum of alternatives.

Only certain tax regimes were effectively notified by the Commission, which after an examination, decided to approve them on the basis of one of the derogations provided for in article 92. This is the case for regional aids to economically depressed areas (for example, Madeira).

Other regimes were rejected because they were not included in the above-mentioned derogations. Still others were not considered state aids because they were part of a general economic policy and, therefore, excluded from the scope of article 92 and from community control (an example of this are the benefits for the manufacturing sector in Ireland).

Many regimes have never been analyzed by the Commission (for instance, Gibraltar or the Dutch holding regime) and, at least for the time being, there have been no requests for explanations so that the nature of the fiscal aid granted could be examined.

Some Concrete Examples of Fiscal Public Aid

It may be useful to consider some concrete cases analyzed by the Commission to identify the elements determining the possible

compatibility of the fiscal measure with EU rules concerning aids.

Fiscal Aids for Investment in the Basque Country

In 1988, the Basque Country, which enjoys considerable tax autonomy from Spain, adopted an aid program for economic activities located in this region. The aids consisted of:

- a 95 percent reduction of the tax on deeds and contracts relating to investments;
- a 20 percent corporate or personal income tax credit;

The ECJ continually asserts that aids must be examined by taking into account their effect within the Community context.

- complete freedom of depreciation in the case of assets that constitute new investments; and
- an additional tax credit of 20 percent on technological investments.

The Commission in May 1991 decided that the system fell under article 92, paragraph 1, of the EC Treaty, and requested explanations from the Spanish government. On the basis of information gathered by the Commission, it established that aids for investment in the Basque Country were incompatible with the common market under article 92, para-

graph 1, in that they were granted according to procedures that contrasted with article 52 of the EC Treaty. In effect, the tax system was in conflict with the principle of freedom of establishment, in that a company of another member state that wanted to establish a subsidiary or a permanent establishment in the Basque Province but continued to carry out activities in the other member state could not benefit from these aids. Similarly, a Spanish company established in the Basque Province that extended its activities through a permanent establishment in another member state would lose the opportunity to receive the aids in question.

Therefore, in 1993 Spain was obligated to modify the Basque tax system to eliminate distortions under article 52, under penalty of recovery of all aids already distributed. Furthermore, Spain was required, within two months of the notification of the decision,¹¹ to operate in such a way as to grant the aids by respecting community provisions on the aids having different purposes¹² and within the limits established for some sectors of activity included in the Basque aid program (industry, agriculture, and fishing).

Fiscal Aids to Enterprises Operating in Corsica

Corsica may benefit from a particular tax regime that dates back to 1811 and that was speci-

¹⁰Court of Justice C-730/79 (*Philip Morris*) of September 17, 1980, in ECR, 1980, p. 2671.

¹¹Commission decision dated May 10, 1993, relating to a system of tax aids for investments in the Basque Country (93/337/EC), in the official journal, No. L 134, June 3, 1993, p. 25.

¹²Horizontal and regional aids: in other words, Spain was required to alter the tax regime so as to limit the level of aid to the level allowed by the Community regional aids rules and rules on aids to small and medium-sized enterprises.

fied in its Regional Autonomy Act. This regime had already established tax reliefs concerning succession rights, indirect taxation, excise duties, and corporate taxes. In 1985, the Corsican Assembly asked that the regime be extended to include incentives for investments oriented toward the creation of a free zone. The reason for the introduction of these new incentives, especially in the field of direct taxation, was the offsetting of reliefs lost in the field of indirect taxation, because of the process of harmonization involving VAT and European excise duties.

With Law No. 96-1143,¹³ the French government created a "free zone" in Corsica after submitting the project to the Commission. In effect, this is not an authentic free zone; it consists of a series of fiscal reliefs (partial exemption for five years from the tax on corporate or individual income; exemption from the *taxe professionnelle* for new activities; partial reduction of social security charges), principally designed to boost small enterprises. Always with the intention of encouraging small enterprises with economic difficulties, French law allocated further aids (a budget of FRF 75 millions for a seven-year period). However, the system establishes maximum exemptions — they may not exceed FRF 400,000 (approximately US \$60,000) for each enterprise.

The Commission did not raise any objections to the proposal filed by the French government.¹⁴ In considering the size of the receiving enterprises, their nature, activity, and Corsica's geographical characteristics, the Commission decided that the established aids did not jeopardize trade between member states. All this with special reference to the trade sector, in that existing enterprises belonging to big distributing groups may not benefit from the aids.

The Community decision took into account the specific charac-

teristics of public aids as follows. For existing companies, the aid was limited to the Community *de minimis* (ECU 100,000 in three years),¹⁵ reserved for small and medium-sized enterprises according to the criteria for the sector set out by the Commission.¹⁶ To avoid a distortion of the trade between member states, agricultural, fishing, and air and sea transportation sectors were excluded. With respect to aids to small and medium-sized enterprises, at a local level, the Commission may reconsider its analysis when future developments require it.

The Community has a specific interest in the development of a capital market in Eastern European countries, especially in view of a future enlargement of the European Union.

As for new enterprises, the aid was established on the basis of the Commission communication concerning state aids for regional purposes and concerning its guidelines on employment aids.¹⁷ In this case, the maximum limit of regional aids for Corsica was lower than 30 percent of the investment, amounting to exactly 29 percent, as a result of the exemption of the profits tax (17 percent), of the *taxe professionnelle* (3 percent), and of social security contributions (9 percent).

The aids to enterprises experiencing difficulties were in line with Community guidelines:¹⁸ (1) indebtedness higher than 20 percent when compared to the Community average for small and medium-sized enterprises of the sector; (2) financial statements in deficit for at least two years; (3) a concrete restructuring plan; and (4) preparation of an annual report including the list of the receiving companies to verify the accumulation of aids.¹⁹

Cases Under Examination: Canary Islands

The Spanish government introduced proposed legislation that would establish a fiscal and economic regime (FER) and a special economic zone (SEZ) containing various tax measures designed to promote economic development in the Canary Islands. Both pieces of legislation were examined by the European Commission on the basis of the provisions on state aids.

¹³Law No. 96-1143 of December 26, 1996, relating to the free zone of Corsica, in *Journal Officiel* of December 28, 1996, p. 19246.

¹⁴Press release issued by the European Commission on October 16, 1996 (IP/96/933).

¹⁵Communication issued by the Commission relating to *de minimis* aids, in the official journal, No. C 68, March 6, 1996, p. 9.

¹⁶Community tax treatment concerning state aids to small and medium-sized enterprises, in the official journal, No. C 213, July 24, 1996, p. 4.

¹⁷Communication issued by the Commission on state aids for regional purposes article 92, paragraph 3, letter (a), in the official journal, No. C 163, July 4, 1990, p. 1; and article 92, paragraph 3, letter (c), in the official journal, No. C 282, October 26, 1995, p. 11; Orientations concerning employment, in the official journal, No. C 334, December 12, 1995.

¹⁸Community orientations on aids for the bailout and restructuring of companies facing financial difficulties in the official journal, No. C 368, December 23, 1994.

¹⁹Communication issued by the Commission, in the official journal, No. C 3, January 5, 1985.

Recently, public aids, which were limited in terms of time (until 2003 for the aids to the "functioning of the company," 2005 for the aids to investments) and included in this package of tax measures,²⁰ were approved according to article 92, paragraph 3, letter (a) of the EC Treaty. These aids are principally designed to promote the creation of new enterprises or to strengthen existing enterprises by means of new productive investments and, to a limited extent, to protect existing enterprises. All these enterprises, according to the Commission, must face further expenses imputable to their "ultra-suburban" position at the geographical boundaries of the European Union.

The project for the establishment of a tax-free zone in the Canary Islands (SEZ) is still under examination by the Commission's financial services. The prevailing thought is that the project cannot obtain EU authorization because its goal is to attract merely financial investments, to the sole benefit of non-Spanish enterprises, without any relevant permanent effect on the territory. Therefore, it seems to be in contrast with the orientations concerning tax aids that the Commission underlined last November.²¹

Fiscal Reliefs for Companies in Trieste

Fiscal reliefs granted by Italy to companies operating in the financial and insurance center of Trieste are considered to be subject to article 92, paragraph 1, of the EC Treaty. These aids were granted to enterprises operating in only one part of the Italian territory and favored some enterprises with respect to rival enterprises not operating in the same part of the national territory. The Commission considers these relief aids incompatible with the common market, with the exception, of course, of the application of one of the derogations foreseen by the treaty.

Since the Trieste region (Venezia-Giulia) does not meet the prerequisites established by article 92, paragraph 3, letter (a) ("the standard of living is abnormally low or where there is serious underemployment"), it was not allowed to grant aids for the "functioning of the enterprise" because of the need for regional development.

The Commission considered differently the derogations established by article 92, paragraph 3, letter (b), favoring the development of a specific activity of community interest. The Commission affirmed, in effect, that the Community has a specific interest in the development of a capital

The project for the establishment of a tax-free zone in the Canary Islands (SEZ) is still under examination by the Commission's financial services.

market in Eastern European countries, especially in view of a future enlargement of the European Union. A measure that expressly promotes these initiatives is absolutely in line with Community purposes as regards external relationships and it respects the cultural and trading tradition of Trieste. In effect, it is a city that has been traditionally open to Eastern European countries and that has a significant experience in banking and insurance.

These considerations, as well as the modest amount of the aid (ITL 65 billion), led the Commission²² to affirm that the aid in question, if limited only to Eastern European countries, may be considered compatible with the common market, although its distortive effects on the market of financial services had to be kept under control during the concrete application of planned measures. The Commission underlined the necessity to limit the amount of aid over the time and forced Italy to draft regularly detailed reports about the economic results of the *offshore* area, to allow the Commission's timely intervention should the effects be different from the objectives established at the time of the preliminary analysis.

Italy: Fiscal Incentives Granted by the Tremonti Law

Recently, the European Commission started an infringement procedure²³ against Italy for the violation of the provisions on state aids regarding tax benefits established by Law No. 549/1995. The Italian rule involved, which

²⁰Press release issued by the European Commission on December 18, 1997 (IP/97/1141). Tax aids included in the FER consist of a 90 percent reduction of the taxation on profits reinvested within a three-year period; a 50 to 30 percent reduction of the tax on income derived from the production of material goods until 2003; and exemption from registration taxes for all corporate operations. The total amount of aid cannot exceed 35 percent of the investment.

²¹Press release IP/97/1005 of November 18, 1997. See above.

²²Decision of the Commission of April 12, 1995, relating to aid measures in the form of tax reliefs in favor of the enterprises operating in the *Centro di servizi finanziari ed assicurativi* in Trieste, established by article 3 of Italian Law No. 19 on January 9, 1991, (95/452/EC) in the official journal, No. L 263, November 7, 1995, p. 30.

²³Communication issued by the Commission published in the official journal, No. C 268/4, September 4, 1997.

refers to article 3 of Legislative Decree No. 357/1994, the so-called "Tremonti Law," sets forth aids granted to enterprises in the form of tax exemption on profits destined to investment financing realized in the course of 1996, exceeding the average of the investments realized over the five previous years. The aid regulations are applicable to all enterprises located in zones 1, 2, and 5b of the Structural Funds, ex EC Regulation No. 2052/88, and to minor enterprises located in other zones of the state territory. The infringement procedure is based on the fact that the regime also applies to economic sectors subject to specific community provisions (automobiles, naval constructions, synthetic fibers, and enterprises of the coal and steel sector, subject to the European Coal and Steel Community (ECSC) Treaty. According to the Italian government, specific community provisions could not apply in this case because they would only be valid for national regimes specifically aimed at these sectors. Law No. 549/1996 refers to all economic activities having certain dimensions or located in particular areas.

Conversely, the Commission maintained that tax measures of the Italian Law may be detrimental to free competition between member states and that the Italian government should have notified the measures it wanted to apply in these sectors at the time of their planning.

Fiscal Aids and the Code of Conduct

In November 1997, EU Competition Commissioner Karel Van Miert described the policy the Commission intends to implement in the sector of fiscal state aids²⁴ and announced his intention to publish, during the first half of 1998, a communication containing the principles for the application of the provisions relating to state aids regarding direct taxation concerning companies. The proposed communication is designed to provide a clear interpretation of Commission policy concerning fiscal aids to render its decisions foreseeable and to guarantee fair treatment.

The new interest in tax relief is a direct consequence of the Community will to counteract harmful tax competition between

member states. The code of conduct for business taxation adopted by the ECOFIN Council on December 1, 1997, is a historical event. In paragraph J of this code, the Council expressly refers to fiscal aids, by urging the Commission to:

- publish the communication concerning fiscal state aids;
- apply rigorously the provisions relating to state aids, by taking into consideration the negative effects highlighted by the application of the code of conduct; and
- analyze and reanalyze any single existing tax regime and any new proposal submitted by member states to determine if they are fully compliant and to ensure a fair treatment in the application of the treaty provisions and objectives. ♦

²⁴Press release issued by the Commission on the rules concerning state aids regarding tax provisions (IP/97/1005 of November 18, 1997).

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