

COUNCIL DECISION

of 25 October 2004

on the conclusion of the Agreement in the form of an Exchange of Letters between the European Community and the Swiss Confederation on the date of application of the Agreement between the European Community and the Swiss Confederation providing for measures equivalent to those laid down in Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments

(2004/912/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 94 in conjunction with Article 300(2) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) Article 17(2) of the Agreement between the European Community and the Swiss Confederation providing for measures equivalent to those laid down in Council Directive 2003/48/EC on taxation of savings income in the form of interest payments provides that, subject to the conditions set out therein, Switzerland and where applicable the Community shall effectively implement and apply this Agreement from 1 January 2005.
- (2) Pursuant to Article 18(1), the application of the Agreement is conditional on the adoption and implementation by certain dependent or associated territories of the Member States and by the United States of America, Andorra, Liechtenstein, Monaco and San Marino respectively of measures which conform with or are equivalent to those contained in the Directive or the Agreement. Under Article 18(2), if the Contracting Parties do not, at least six months prior to the date referred to in Article 17(2) (1 January 2005), decide that the condition will be met, they shall, by common accord, adopt a new date for the purposes of Article 17(2). No such decision was taken.
- (3) Not all the third countries in question will be in a position to implement the measures referred to in Article 18(1) by 1 January 2005. Moreover, it will only be possible for Switzerland to implement and apply this Agreement from 1 July 2005 and this on the condition that Swiss constitutional requirements will be met by that date. It appears that each of the third countries and dependent or associated territories referred to in Article

18(1) of the Agreement will also be able to meet the conditions set out in that paragraph by 1 July 2005.

- (4) The date of 1 July 2005 should therefore be adopted as the new date for the purposes of Article 17(2) of the Agreement, in accordance with Article 18(2) of the Agreement.
- (5) The Agreement in the form of an Exchange of Letters providing for a new date of application of the Agreement on taxation of savings income in the form of interest payments should be approved,

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement in the form of an Exchange of Letters between the European Community and the Swiss Confederation on the date of application of the Agreement between the European Community and the Swiss Confederation providing for measures equivalent to those laid down in Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments is hereby approved on behalf of the Community.

The text of the Agreement in the form of an Exchange of Letters is attached to this Decision.

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Agreement in order to bind the Community.

Done at Luxembourg, 25 October 2004.

For the Council
The President
R. VERDONK