II

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is not obligatory)

DECISIONS

COMMISSION

COMMISSION DECISION

of 10 March 2009

on the signature and conclusion of an Agreement in the form of an Exchange of Letters between the European Community and the Swiss Confederation on certain technical amendments to Annexes I and II to 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 by reason of the accession of the Republic of Bulgaria and Romania

(2009/602/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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

Having regard to Council Decision 2004/911/EC of 2 June 2004 on the signing and conclusion 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 and the accompanying Memorandum of Understanding [1] and in particular Article 2 thereof,

Whereas:

(1) Due to the accession of Bulgaria and Romania, both Annex I (List of competent authorities) and Annex II (List of related entities) to 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 require technical amendments.

(2) Bulgaria and Romania have designated their respective competent authorities through the formal notification of the Secretariat General of the Commission on 28 January 2008 and on 17 July 2007, respectively. These data are to be communicated by the Commission to the Swiss authorities by simple notification.

(3) The list of related entities of the Annex to Council Directive 2003/48/EC [2] was amended by Council Directive 2006/98/EC [3] which adapted certain Directives in the field of taxation, by reason of the accession of Bulgaria and Romania. In order to ensure that these changes are reflected in the Agreement with Switzerland, the Commission has to exercise the plenipotentiary powers conferred by the Council and make the corresponding amendments to Annex II to the Agreement by mutual agreement with Switzerland,

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 certain technical amendments to Annexes I and II to 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 by reason of the accession of the Republic of Bulgaria and Romania is hereby approved on behalf of the Community.

[1] OJ L 385, 29.12.2004, p. 28.

[2] OJ L 157, 26.6.2003, p. 38.

[3] OJ L 363, 20.12.2006, p. 129.

The text of the Exchange of Letters is attached to this Decision.

Article 2

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

Article 3

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels, 10 March 2009.

For the Commission
László KOVÁCS
Member of the Commission

ANNEX

Agreement in the form of an Exchange of Letters between the European Community and the Swiss Confederation on certain technical amendments to Annexes I and II to 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 by reason of the accession of the Republic of Bulgaria and Romania

A. LETTER OF THE EUROPEAN COMMUNITY

Sir,

I have the honour to refer to 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.

Due to the accession of the Republic of Bulgaria and Romania, the annexes to 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 require technical amendments as provided for by Article 21(2).

Article 21(2) of the said Agreement provides that the list of competent authorities in Annex I may be amended simply by notification of the other Contracting Party by Switzerland for the authority referred to in (a) therein and by the Community for the other authorities.

I hereby notify you on behalf of the Community that the competent authorities for the Republic of Bulgaria and Romania are:

— in Bulgaria: Изпълнителният директор на Националната агенция за приходите or an authorised representative,

— in Romania: Președintele Agenției Naționale de Administrare Fiscală or an authorised representative,

and they have to be added into Annex I under letters (aa) and (ab) respectively after the competent authorities mentioned under letter (z).

Moreover, Article 21(2) states that the list of related entities in Annex II may be amended by mutual agreement.

Therefore I kindly ask your agreement to amend Annex II in order to cover the related Bulgarian and Romanian entities, by inserting the following:

— between the entities for Belgium and Spain: 'Bulgaria Общините (municipalities) Социалноосигурителни фондове (Social Security Funds)' and,

— between the entities for Portugal and Slovakia: 'Romania autoritățile administrației publice locale (local public administration authorities)',

The agreement in the form of an Exchange of Letters enters into force on the date of the reply letter. The application of the provisions of this Exchange of Letters shall have retroactive effect as of 1 January 2007.

Please accept, Sir, the assurance of our highest consideration.

For the European Community
Robert VERRUE

B. LETTER OF THE SWISS CONFEDERATION

Sir,

I have the honour to acknowledge receipt of your letter of 19 May 2009, which reads as follows:

'Sir,

I have the honour to refer to 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.

Due to the accession of the Republic of Bulgaria and Romania, the annexes to 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 require technical amendments as provided for by Article 21(2).

Article 21(2) of the said Agreement provides that the list of competent authorities in Annex I may be amended simply by notification of the other Contracting Party by Switzerland for the authority referred to in (a) therein and by the Community for the other authorities.

I hereby notify you on behalf of the Community that the competent authorities for the Republic of Bulgaria and Romania are:

— in Bulgaria: Изпълнителният директор на Националната агенция за приходите or an authorised representative,

— in Romania: Președintele Agenției Naționale de Administrare Fiscală or an authorised representative,

and they have to be added into Annex I under letters (aa) and (ab) respectively after the competent authorities mentioned under letter (z).

Moreover, Article 21(2) states that the list of related entities in Annex II may be amended by mutual agreement.

Therefore I kindly ask your agreement to amend Annex II in order to cover the related Bulgarian and Romanian entities, by inserting the following:

— between the entities for Belgium and Spain: "Bulgaria Общините (municipalities) Социалноосигурителни фондове (Social Security Funds)" and,

— between the entities for Portugal and Slovakia: "Romania autoritățile administrației publice locale (local public administration authorities)",

The agreement in the form of an Exchange of Letters enters into force on the date of the reply letter. The application of the provisions of this Exchange of Letters shall have retroactive effect as of 1 January 2007.

Please accept, Sir, the assurance of our highest consideration.

For the European Community
Robert VERRUE'

I express hereby my agreement to amend Annex II, as proposed in your letter and confirm that this agreement in the form of an Exchange of Letters shall enter into force on the date of the reply letter and that the application of the provisions thereof shall have retroactive effect as of 1 January 2007.

Please accept, Sir, the assurance of our highest consideration.

For the Swiss Confederation
The Head of the Mission of Switzerland to the European Union
Jacques DE WATTEVILLE