



L'impôt des sociétés en Europe: Quelles convergences?

European Commission - DG Taxation and Customs Union

The Commission Communication of October 2001: where do we stand 50 months later?

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Institutional background

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- **Member States are free to choose their direct tax systems provided they respect Community law**
- **The Treaty only provides for the approximation of laws that directly affect the functioning of the common market (Art. 94)**
- **Very different structure and level of taxation in the different Member States**
- **Unanimity requirement in tax matters**



EU Corporate Taxation: Basic approach

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- **Company Tax Communication & Company Tax Study (October 2001)**
 - Examined effective tax rates in the EU
 - Identified tax obstacles in the Internal Market
 - Set out remedies: a twin track strategy for their removal: targeted measures & longer-term comprehensive measures



Approach to tax competition

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- **The level of (corporate) taxation is the sovereign choice of each Member State**
- **Provided**
 - it respects the Treaty rules on State aid
 - it complies with the political commitment of the Code of Conduct on business taxation not to use harmful preferential tax regimes
- **Conclusion: no EU rules against competition with respect to general corporation tax rates**



Effective tax rates

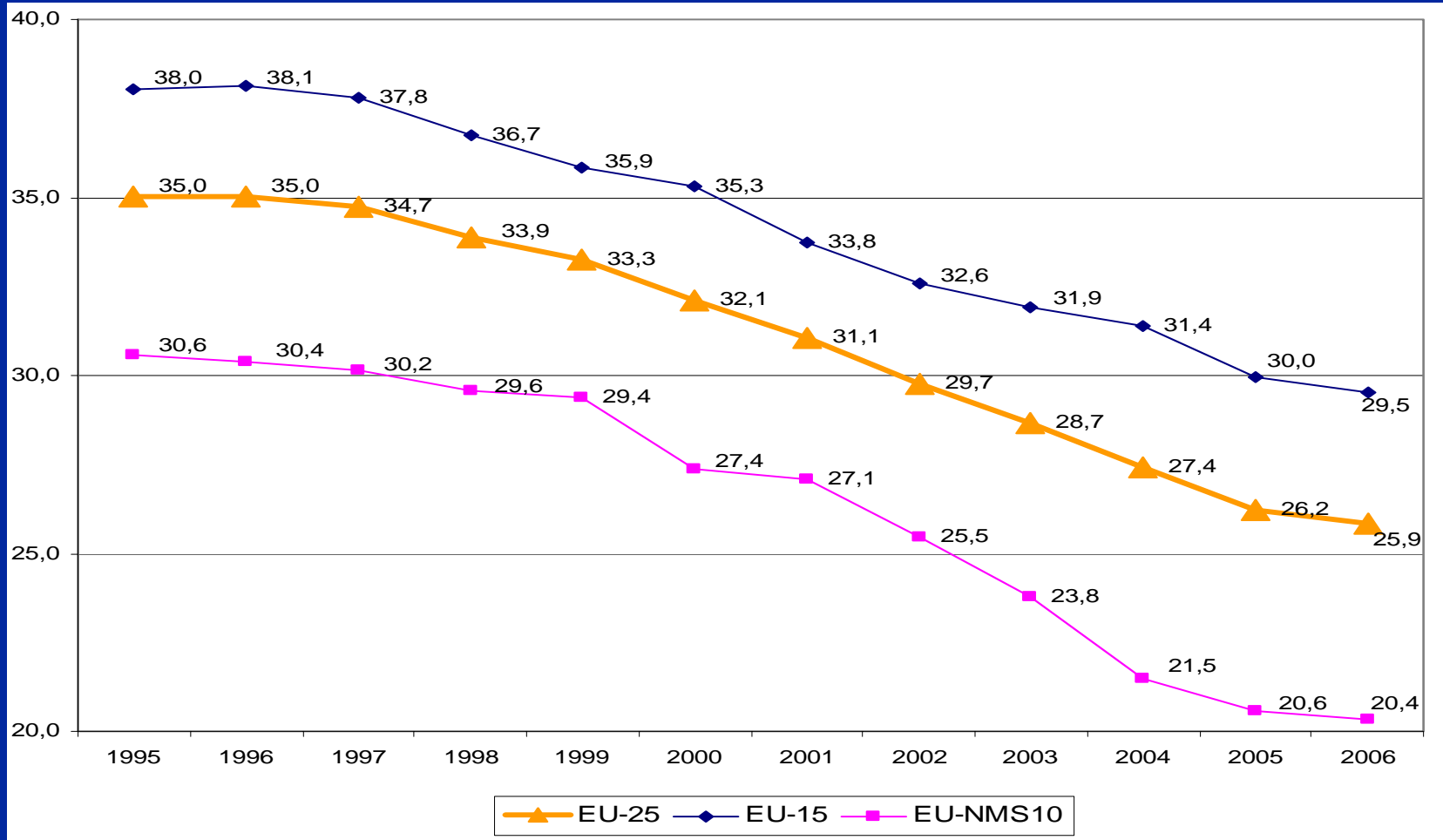
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- **The Commission in 2001**
 - found a large variation in effective corporate tax rates in the EU (over 30 percentage points)
 - found statutory tax rates to be the main drivers for effective tax rates
 - did not assess the size of possible welfare effects related to these differences
 - did not analyse the evolution of effective tax rates over time
 - did, at that point in time, not see convincing evidence for recommending specific actions on tax rates
 - expressed its intention to monitor the trends
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2006: Evolution of statutory corp. tax rates

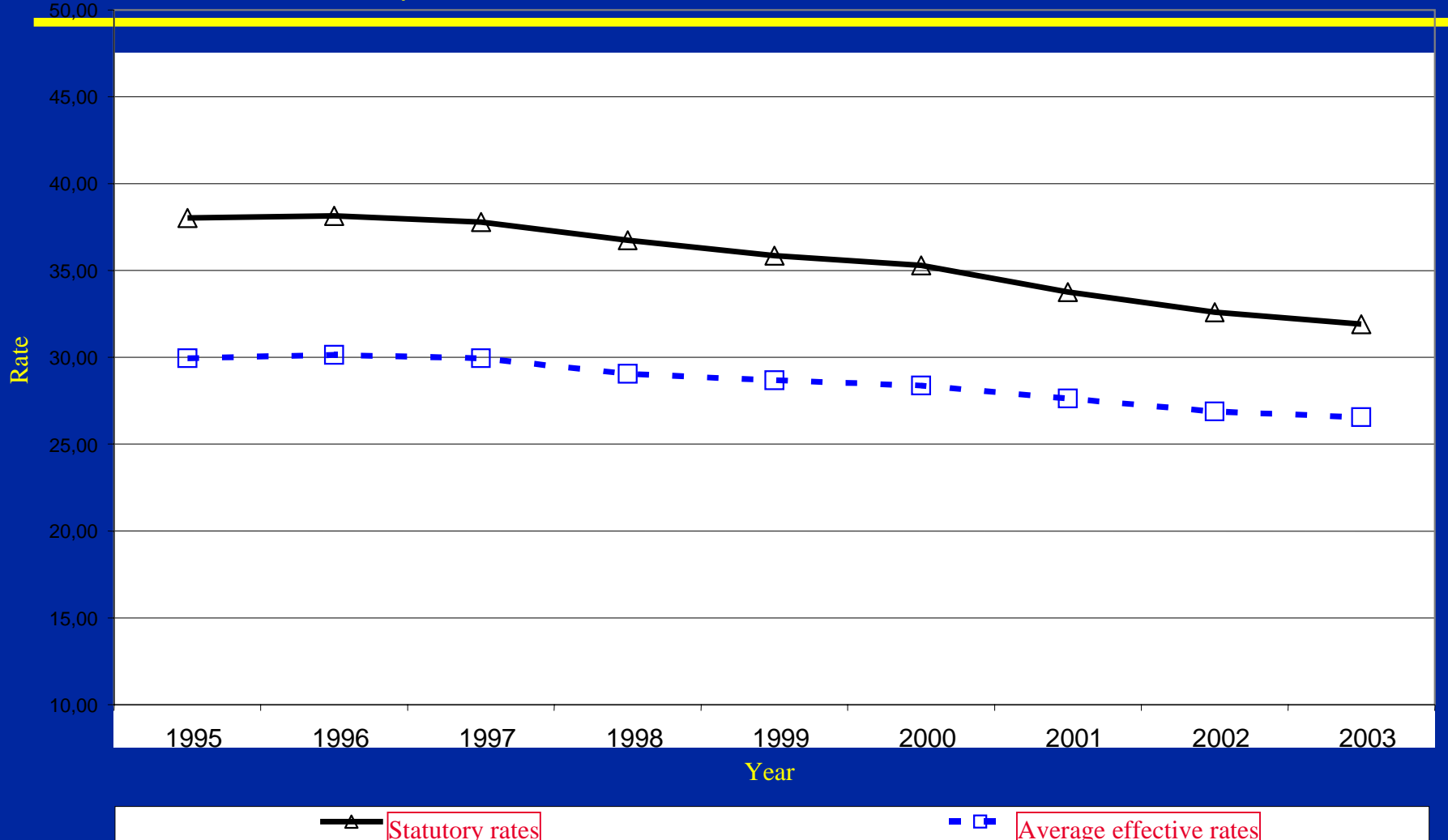
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Statutory and (average) effective tax rates (EU15)

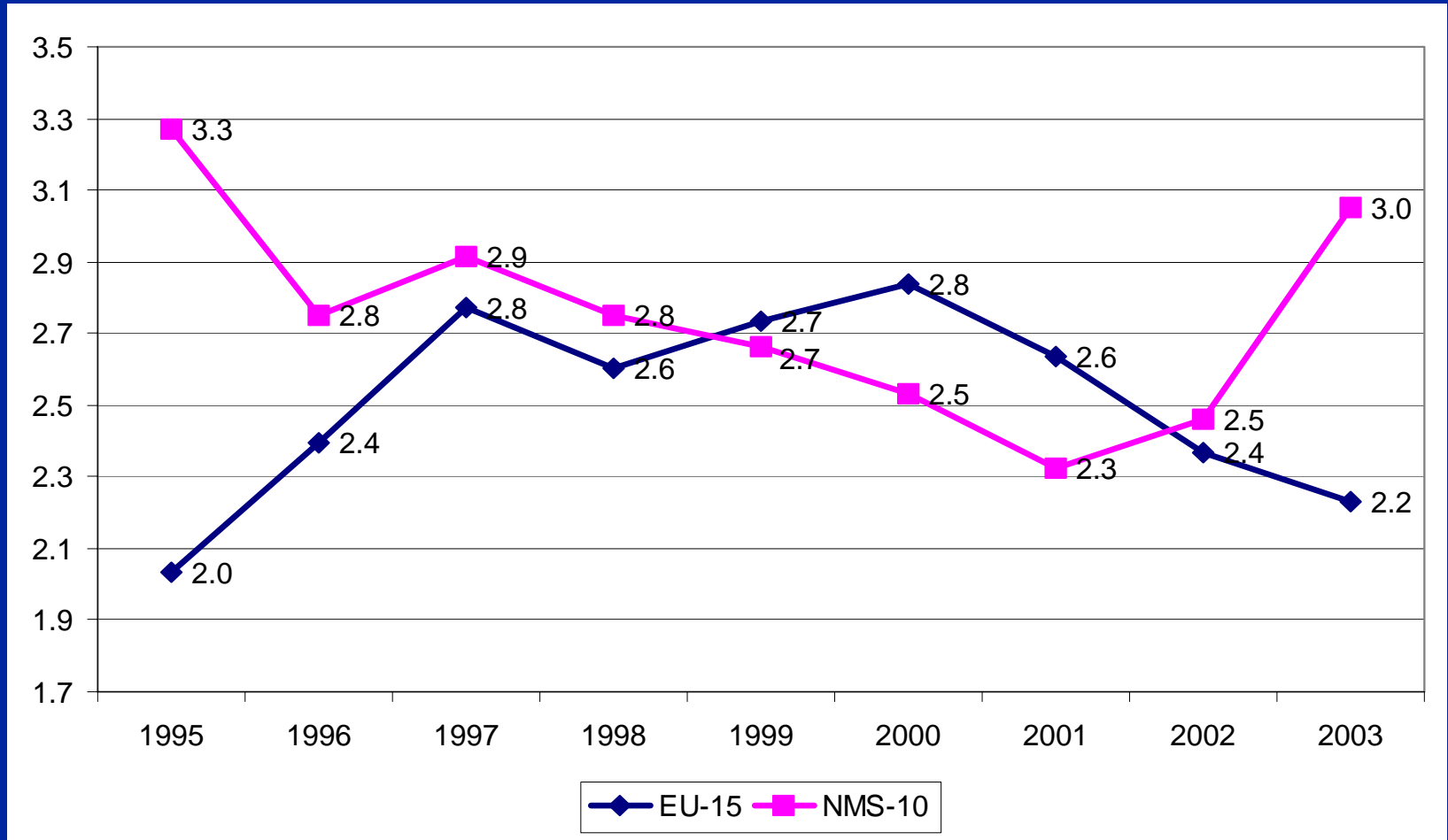
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Evolution of corporation tax revenues (% of GDP)

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2006: Conclusions on tax rates

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- **Remaining large differences in tax rates**
 - **Significant reduction in statutory tax rates**
 - **A more modest fall in effective tax rates**
 - **So far no clear downward trend in corporation tax revenues**
 - **So far no "race to the bottom"**
 - **Presently no justification for EU action**
 - **But need to monitor further developments**
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2001: Tax obstacles in the Internal Market

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- **Deficiencies in existing EU legislation and its implementation in some Member States**
 - **Cross-border loss-offset for subsidiaries practically absent**
 - **Cross border restructuring can entail higher tax charges**
 - **Problems concerning bilateral taxation treaties (incomplete network and scope; legal doubts)**
 - **Insufficiencies in existing transfer pricing dispute resolution instruments (notably EU Arbitration Convention)**
 - **Increasing costs of complying with transfer pricing rules**
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Effects of existing company tax obstacles

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- **Abstracting from international tax planning, higher tax burden for trans-national companies compared to otherwise identical national companies**
- **Instances of (economic) double taxation resulting from incompatibilities between national tax systems**
- **Extra tax burden in case of cross-border economic restructuring**
- **High compliance costs because of the necessity of dealing with up to 25 different tax systems in the EU**



Twin-track strategy for removing the tax obstacles

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- **Targeted measures to address tax obstacles to cross-border economic activity in the Internal Market**
 - Directives
 - Non-binding initiatives (Codes of Conduct, Recommendations, Communications etc.)
 - Guidance on ECJ rulings
- **Comprehensive solution: providing companies in the longer-term with one set of corporate tax rules for their EU-wide activities (common tax base)**



Targeted initiatives

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- **Parent-Subsidiary Directive amended**
- **Merger Directive amended**
- **Interest & Royalties Directive adopted**
- **Joint Transfer Pricing Forum working**
- **Communication on cross-border loss-offset in preparation**
- **Communication on tax bilateral treaties in preparation**
- **Guidance and policy co-ordination in order to respect Community law**



Long Term strategy

- a common consolidated tax base

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- **Problems would remain even after implementing all targeted initiatives**
 - **A logical approach to a single market would be to offer companies a single tax base for their EU-wide activities**
 - **Reduce compliance costs of dealing with 25 different tax systems**
 - **Significantly reduce transfer pricing problems**
 - **Allow cross border consolidation**
 - **Simplify EU corporate restructuring**
 - **Avoid double taxation**
 - **Remove many discriminatory situations and restrictions**
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Which base?

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- **2001 Communication identified four options**
Home State Taxation (HST), Common Consolidated Base Taxation (CCCTB), European Corporate Income Tax (EUCIT), Compulsory Harmonisation
 - **All options would**
 - offer companies the possibility of using a single tax base for all their EU-wide activities
 - require a mechanism for allocating tax base / tax revenues between MS (except EUCIT)
 - leave MS setting tax rates (perhaps except EUCIT)
 - **Optional HST and CCCTB more realistic?**
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Home State Taxation (HST)

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- **Based on the mutual recognition by Member States of each others tax rules (Internal Market principle)**
 - **A group of companies can choose to calculate their tax base according to the rules of the Member State where its headquarters is based – the 'home state'**
 - **This tax base is apportioned to the MS concerned**
 - **Each Member State then taxes its share of the overall taxable group profits at its own tax rate**
 - **Bilateral or multilateral agreement between Member States having a similar tax base**
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Particular suitability of Home State Taxation (HST) for SMEs

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HST not ideal, but:

- HST particularly suitable for addressing the tax issues which hamper SMEs most in their cross-border activities: compliance costs, loss-compensation on start-ups etc.
- Lower amount of tax 'at stake' for Member States
- Problems linked to HST less important for SMEs (e.g. double-taxation treaties; definition of 'home state' etc.)
- Commission Communication setting out a possible pilot project of December 2005



Common (Consolidated) Corporate Tax Base

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● Concept

- Additional EU tax base that is available as option for internationally active group
- Formulary apportionment of tax base to MS with subsequent application of national tax rates
- Coherent and systematic approach from industry perspective

● Potential drawbacks

- Developing a completely new EU tax base is a complex and time-consuming task
- Member States would have to administer two tax systems
- Potential technical problems (double-taxation agreements with third countries; treatment of minority shareholders)



CCCTB Working Group

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- **Informal ECOFIN Council of September 2004**
 - In discussion of Non-Paper only a minority of MS opposed work on CCCTB
 - Support for creation of CCCTB working group

 - **CCCTB technical working group**
 - Commission chair; participation of all 25 MS
 - Initially mandate for three years
 - Tentative work programme agreed
 - Meetings +/- every three months
 - Several sub-groups chaired by a Member State
 - Full information on COM website
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CCCTB Working Group (continued)

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● Work programme

○ General Tax Principles

- General economic and tax accounting principles

○ Traditional Structural Elements of the Tax Base

- Depreciation, provisions/reserves, definition of income, international aspects, etc.

○ Additional Elements of a Common Consolidated Tax Base

- Consolidation method
- Allocation mechanism
- Anti-avoidance rules

○ Application of the Common Consolidated Tax Base



CCCTB Working Group (continued)

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- **More political issues to be addressed in due course also beyond CCCTB working group**
 - **CCCTB as an option for companies or compulsory (parallel or not)?**
 - **Detailed scope - just for large companies, for specific categories of companies (e.g. those run as *Societas Europaea*) or open to all?**
 - **Consolidation?**
 - **Enhanced co-operation?**
 - **CCCTB is part of the Commission action plan for achieving the Lisbon-objectives!**
 - **Communication planned for early 2006**
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Conclusions

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- **Short term targeted measures – good progress; some initiatives already implemented**
- **Comprehensive initiatives – slower progress, but it is long term project**
 - **Home State Taxation - Communication December 2005**
 - **Common Consolidated Tax Base – CCCTB working group active with three year mandate; Communication in Spring 2006**
- **No EU action on tax rates**
- **For more information: Company Tax Website**
http://europa.eu.int/comm/taxation_customs/taxation/company_tax/gen_overview/index_en.htm