APPENDIX 2

Reasoned opinion from the Riksdag

At a general level, the Riksdag is positive to the Commission's ambition to facilitate and simplify for small and medium-sized enterprises undertaking cross-border operations in other member states.

The Commission's proposal suggests that small and medium-sized enterprises operating in another member state through a permanent establishment will be able to choose to compute their taxable result for the whole enterprise by applying taxation rules of the member state in which they have their head office. The taxable results of the permanent establishment will also be computed by applying the taxation rules of the member state in which the enterprise has its head office.

The Riksdag wishes to start by emphasising that the fundamental principle of tax sovereignty for member states must be safeguarded in the case of direct taxation. It falls within the national competence of each member state to safeguard welfare by levying and using tax revenues in an appropriate way. The benefit of having harmonised rules must therefore be balanced against the powers of member states and the opportunity to introduce and maintain their own national rules.

The Riksdag further notes that the proposal entails a deviation from the generally accepted principle of international taxation, according to which a permanent establishment shall be taxed as an independent enterprise in the country in which it operates. The Riksdag also notes that the proposal means that permanent establishments operating in the same member state will be taxed differently, depending on where the enterprises have their head office, and which tax system is applied. The proposal further entails, in the opinion of the Riksdag, that there is a risk that enterprises will choose to establish themselves in countries with the most favourable corporate tax systems, and that this in turn may lead to increased opportunities for tax planning and distorted competition.

In view of the above, the Riksdag considers that the Commission's proposal conflicts with the principle of subsidiarity.