

SUMMARY REPORT

ON THE RESPONSES RECEIVED

**COMMISSION'S PUBLIC CONSULTATION ON POSSIBLE
AMENDMENTS TO THE COUNCIL DIRECTIVE ON A
COMMON SYSTEM OF TAXATION APPLICABLE TO
INTEREST AND ROYALTY PAYMENTS MADE
BETWEEN ASSOCIATED COMPANIES OF DIFFERENT
MEMBER STATES**

**DIRECTORATE-GENERAL FOR
TAXATION AND CUSTOMS UNION**

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MAIN CONCLUSIONS

BACKGROUND

The Commission is currently considering proposals to recast and amend Council Directive 2003/49/EC of 3 June 2003 on a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States ('the Directive' or 'the Interest and Royalties Directive'). In the case of cross-border interest and royalty payments, the recipient companies may face excessive or double taxation due to withholding taxes charged in the source Member State, leading to further efficiency losses: burdensome administrative formalities linked to payments, resulting in compliance costs and cash-flow problems. The purpose of the Directive is to put cross-border interest and royalty payments between associated companies in the EU on an equal footing with domestic payments by exempting them from taxes imposed by the source States. However, the effects of the Directive are limited due to its current scope. If this remains unchanged, the inefficiencies hampering the single market will not be removed.

The Commission launched this public consultation in August 2010 to find out the views of stakeholders on the different legislative options that are being considered in order to extend the benefits of the Directive. The initial selection of topics was based on a Commission report on the operation of the Directive (see below) and debate among tax policy makers. By the closing date in October 2010 a total of 71 responses had been received.

There are three main factors involved in the recast and amendment of the Directive. In the first place, the report on the Directive, COM(2009) 179, required by Article 8 and published in April 2009, refers to the need to introduce some legal amendments to make it function better. It stresses in particular the need to extend the Directive's scope. Secondly, the Directive has been amended by Directives 2004/66/EC and 2004/76/EC. The former extends its scope to companies and taxes of the countries that joined the EU in 2004, while the latter grants some of these new Member States temporary derogations from one or more of its provisions. These texts need to be consolidated. Lastly, in 2003, the Commission tabled a proposal amending the Directive (COM(2003) 841 final, 30.12.2003) with two main objectives: updating the Annex listing the types of companies falling within the scope of the Directive (including the European Company and the European Cooperative Society) and better targeting the subject-to-tax requirement, something the Council requested when the original Directive was adopted. The proposal has since been withdrawn but these aspects could now be incorporated into the recast of the Directive.

SOME HIGHLIGHTS FROM THE CONSULTATION

The Annex provides comments and a detailed graphical representation of the answers received.

In addition, the following points are worth stressing:

- Stakeholders agree extensively on the need to extend the Directive's scope by updating the list of companies to which it applies, and the consensus is basically to align the list of entities annexed to the Directive with that included in the Parent-Subsidiary Directive (90 % of the replies).
- A more ambitious reform to extend the Directive's scope does not receive so much support (47 % of the responses). The traditional idea of covering all entities subject to corporate tax was referred to as a solution to the current limited scope by only 21.1 % of the replies.
- Stakeholders agree extensively on the need to compute indirect shareholdings when determining whether companies are associated (91 % of the replies).
- Almost all responses (89 %) agree to the idea of changing the shareholding requirements for companies to be considered as associated. The proposal to align this requirement with that laid down in the Parent-Subsidiary Directive is also supported by nearly all respondents (87 %). The option to reduce the threshold below 10 % does not receive so much support.
- 71 % of the responding companies indicated that they suffer from double taxation and administrative costs in their transactions not covered by the Directive since they take place with other unrelated undertakings. However, very few firms gave information on the estimated costs.
- Almost all respondents see the need to amend the Directive in order to clarify that the withholding tax exemption should be applicable to payments constituting a cost linked to the activities of the permanent establishment.
- Concerning SMEs, a significant number of respondents (41 %) find that withholding taxes and associated compliance costs constitute a burden heavy enough to limit or restrict cross-border activities. Adding up the responses that consider them as a significant obstacle, the results (around 76 %) lead to the conclusion that they are important for SMEs and that some tax policy action needs to be taken.
- On extending the list of companies to which the Directive applies to new legal types ensuring that those normally used by SMEs are covered, it is surprising to find that even when 47 % of the replies consider that extending the list of companies and making it similar to that included in the Parent-Subsidiary Directive would not be sufficient to cover them, very few responses refer to the method for extending the list: 6 out of a total of 17, or 35.3 %. All these responses refer to the extension of the Directive's coverage to all entities.

SUMMARY ANALYSIS

The questionnaire confirms the interest of stakeholders in the initiatives raised by the Commission departments. There is clear support for the need to take tax policy action and amend the Directive. Thus, a large majority consider that the list of companies within the Directive's scope should be updated. Similarly, it was asked whether there was a need to change the minimum shareholding requirements to consider companies as associated and thus enjoy the Directive's benefits, and only 4% of the responses were against such a change. In fact, all the possible amending options are supported by a large majority, normally over 80% of the responses.

We can conclude that the preferred option of most respondents is for the eligibility conditions of the Directive to be aligned with the Parent-Subsidiary Directive, namely:

- extend the list of entities covered and make it similar to that annexed to the Parent-Subsidiary Directive;
- compute indirect shareholdings in order to meet the requirements of association (91% of the responses were in favour);
- reduce the holding threshold for association to 10% (87% of the responses).

The alternative of extending the Directive to cover payments between unrelated undertakings received little support, 28% of the responses. The pattern of responses changes significantly across groups among those showing interest in further reduction of the threshold below 10%. The coverage of unrelated transactions where no association is required between the payer and the recipient companies is a proposal widely supported among business organisations (91%) while multinationals are divided in their opinion (56% support this initiative). Tax advisors and tax practitioners show more preference for maintaining a reduced shareholding requirement of 5% (62%). It should be pointed out that these results correspond to 42.8% of the total responses. Thus, the idea of aligning the Directive's requirement on this matter with the conditions of the Parent-Subsidiary Directive is the preferred option.

FOLLOW-UP

The Commission will consider the results of the consultation as input when deciding on the content of the future proposal to recast Directive, which is planned to be adopted during the 2nd quarter of 2011.

ANNEX

1. INTRODUCTION

The public consultation on possible amendments to the Council Directive on a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States ('the Directive') took place between 24 August and 31 October 2010.

The Commission launched this consultation to obtain contributions to the debate, collect relevant information and help it develop its thinking in this area. Its objective was to encourage stakeholders to submit their opinion on the different alternatives for amending the Directive.

The idea of amending the Directive was already raised in Article 8, which required the Commission to report to the Council on the operation of the Directive, in particular with a view to extending its coverage to companies or undertakings other than those referred to in its provisions.

This report summarises the responses received during the consultation. Such input will help DG TAXUD to make the necessary choices among the different policy options considered for making the Directive work better.

The questionnaire published was divided into five parts corresponding to the following tax policy issues:

- extension of the list of entities covered by the Directive;
- extension of the definition of associated companies: indirect shareholdings;
- lowering of the shareholding thresholds required in order to be considered as associated companies;
- extending the Directive to payments between related undertakings;
- the tax deductibility requirement applicable to payments made by permanent establishments.

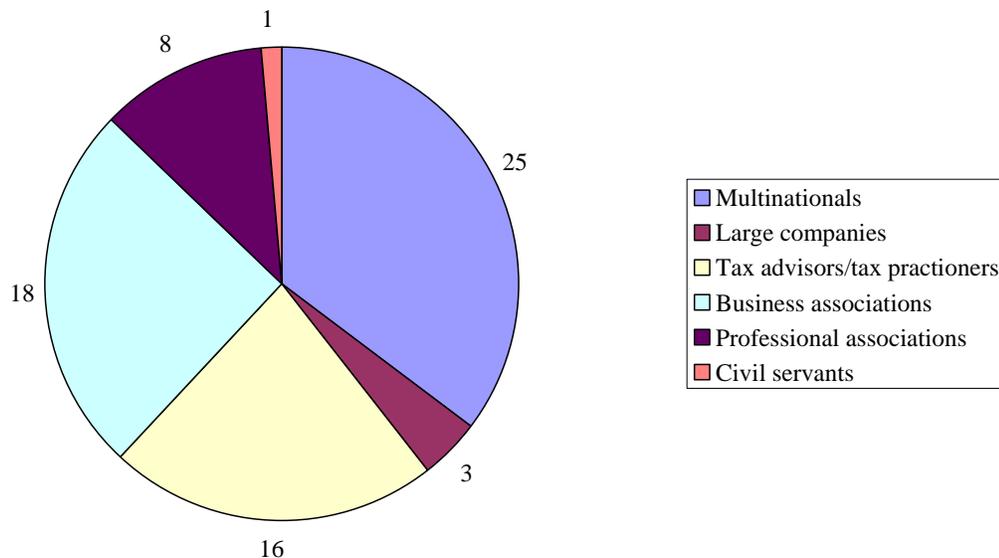
A final section of the consultation paper included specific questions to SMEs¹.

¹ Title I, Article 2 of the Annex to Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises defines SMEs as enterprises which employ fewer than 250 persons and which have an annual turnover not exceeding €50 million, and/or an annual balance sheet total not exceeding €43 million. Within the SME category, a small enterprise is defined as an enterprise which employs fewer than 50 persons and whose annual turnover

2. IDENTIFICATION OF STAKEHOLDERS

2.1 Type of respondents

A total of 71 stakeholders responded to the questionnaire. They can be grouped in the following categories:



This summary will refer to the aggregate responses of all these stakeholders since the pattern of the answers across the different groups is similar, with two exceptions: tax advisors and business organisations are much more in favour (just over 60%) of an ambitious extension of the personal scope of the Directive than multinationals (only 28%); lowering the shareholding requirements or extending the Directive to payments between unrelated undertakings is regarded more favourably by multinationals and business organisations. For further details, the Appendixes to this document include the results of questions 2 to 9 by groups with a sufficient number of responses, including organisations and associations representing the general interests of their members since these could be considered particularly representative (multinationals, tax advisors, business organisations and professional associations).

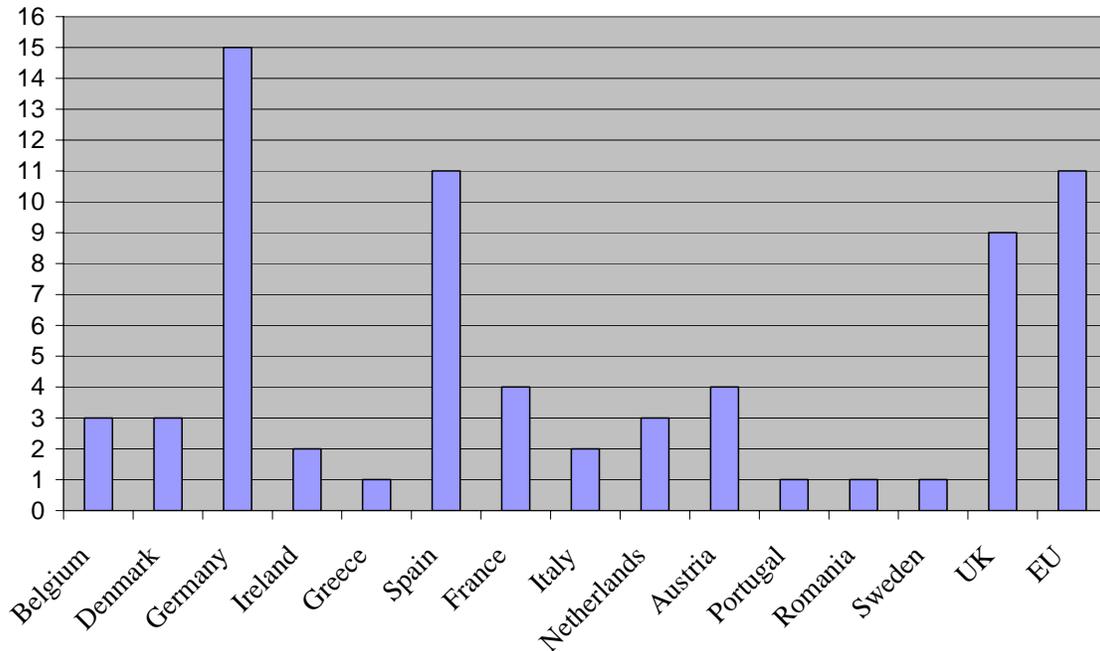
No responses were received from SMEs. However, 6 tax advisors, 9 business organisations and 2 professional associations answered the questions referring to them.

and/or annual balance sheet total does not exceed €10 million. Within the SME category, a microenterprise is defined as an enterprise which employs fewer than 10 persons and whose annual turnover and/or annual balance sheet total does not exceed €2 million.

Such responses have been computed in order to illustrate better the stakeholders' opinions on the proposed questions. Still, it should be borne in mind that the results do not directly reflect the views of the affected taxpayers but of those having different types of relations with them.

2.2 Place of origin of respondents

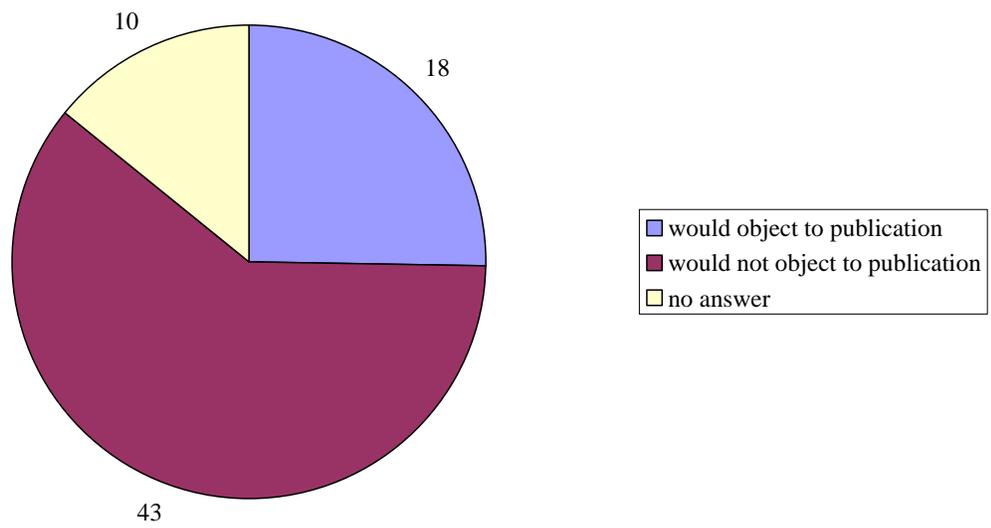
The respondents can be grouped according to their place of establishment:



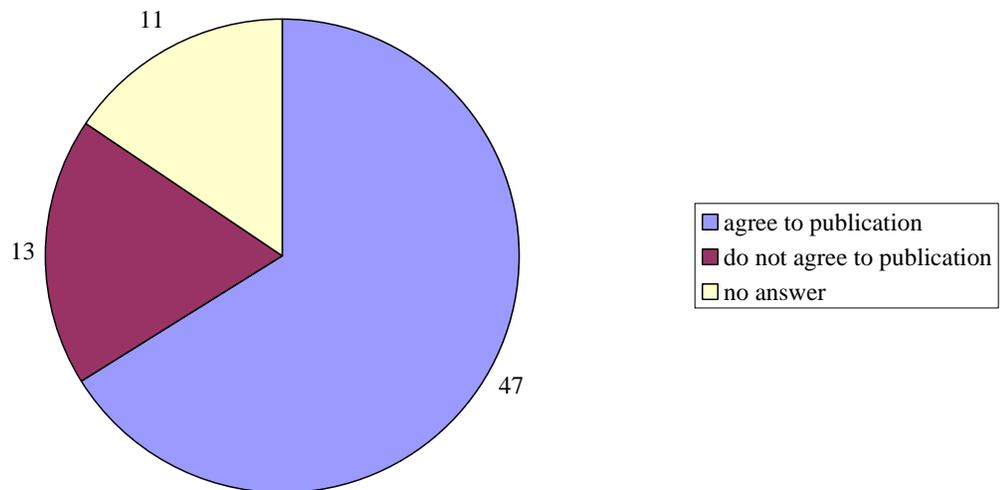
Replies were received from 14 Member States. These correspond to the EU-15 with the exception of Finland and Luxembourg, while one response was received from Romania. The differences in the level of participation should be highlighted. A larger share of French and Italian stakeholders could have been expected. On the other hand, there were 11 replies from organisations with a European dimension (6 business organisations, 3 professional associations and 2 tax advisors — law firms).

2.3 Publication of personal data and disclosure of information

Question 1 asked whether respondents would object to publication of personal data on the grounds that such publication would harm their legitimate interests.



Respondents were also asked whether they agreed to their responses to the consultation being published along with other responses.



3. QUESTIONS ON AMENDMENTS TO THE DIRECTIVE

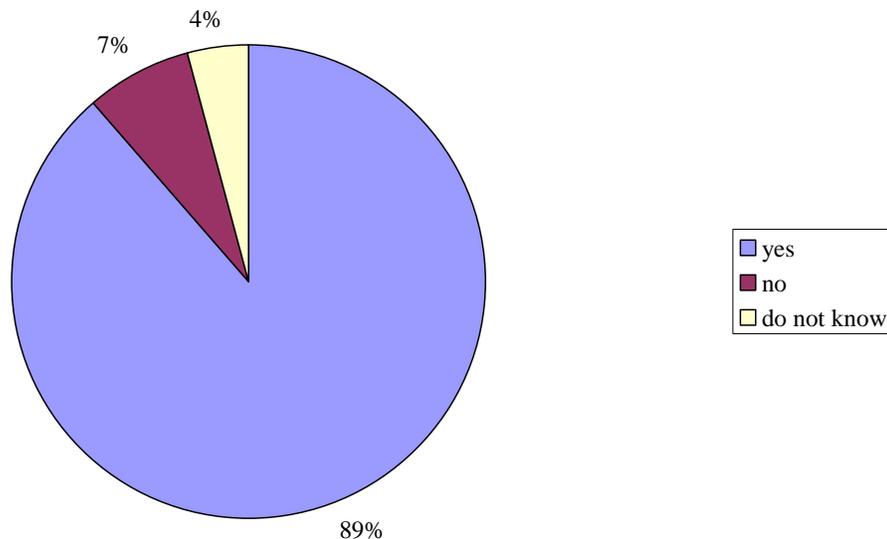
3.1 Extension of the list of entities covered by the Directive

3.1.1 Data from the replies

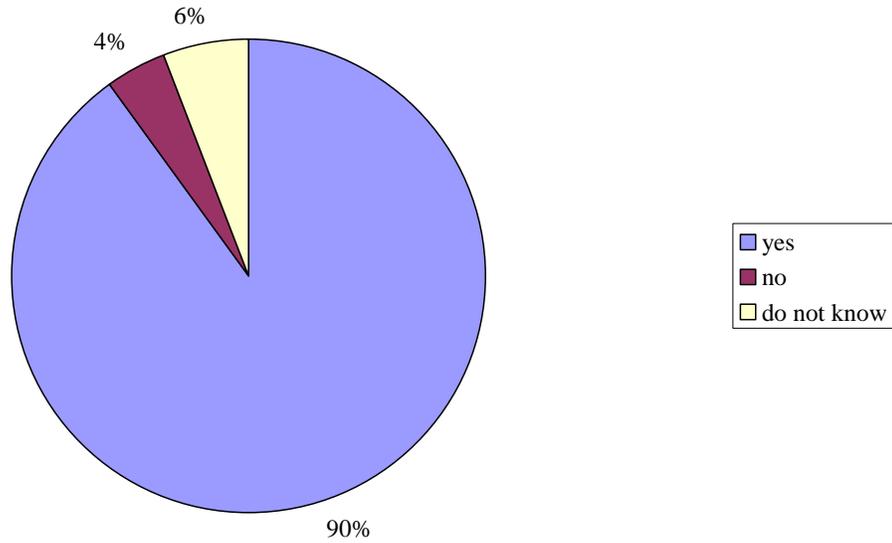
The Directive is only applicable to companies which have one of the legal types listed in the Annex. The list of entities is drawn up by reference to national laws. There is an entry for each Member State indicating the legal types covered by the Directive. Council Directive 90/435/EEC on the common tax regime applicable in the case of parent companies and subsidiaries of different Member States ('the Parent-Subsidiary Directive') also applies to the legal types included in its own list. The latter Directive shares the aim of the Interest and Royalties Directive, namely the elimination of double taxation. However, the lists annexed to the two Directives are different. The one annexed to the Parent-Subsidiary Directive is broader and refers to more legal types.

The questions that stakeholders were asked and the answers they gave are set out below.

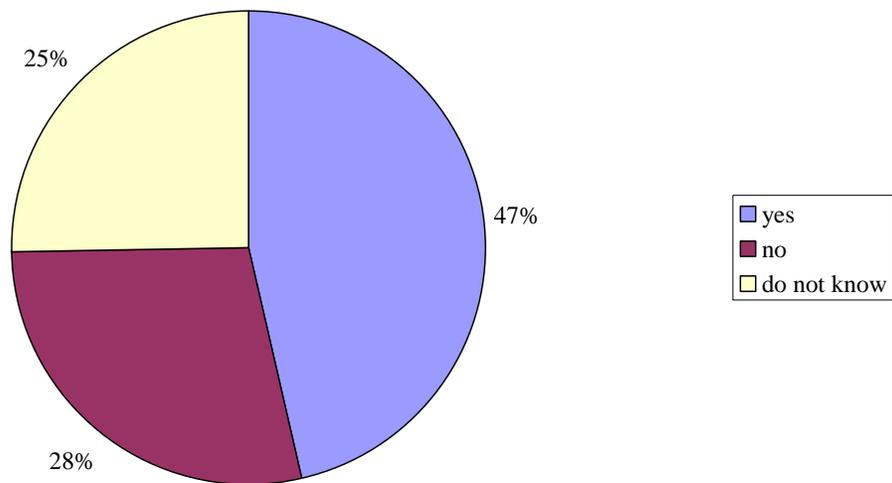
Question 2. Do you think that there is a need to update the list of companies covered by the Directive?



Question 3. Do you think that the list annexed to the Directive should cover the same legal types as are included in the list of the Parent-Subsidiary Directive, including the European Company and the European Cooperative Society?



Question 4. Do you think that the list should be extended so as to include other types of companies not referred to in the Parent-Subsidiary Directive?



Respondents answering yes to question 4 were asked to name other legal types that they think should be included in the list of companies covered by the Directive. Their answers can be grouped in four categories.

In first place, 15 answers (21.1 % of the total) referred to the inclusion of a general clause to extend the Annex to any entity or corporate body. Secondly, 7 answers (9.8 % of the total) described the type of entities that should be covered by the Directive and referred to SMEs, partnerships, or those partnerships whose partners are in the Annex to the Directive, financing vehicles and funds, even if they are transparent for tax purposes. In 2 cases (0.3 %) the responses referred to non-EU entities with permanent establishments in the EU. Finally, 8 replies (11.3 %) named specific entities, including the following: the French SAS, the German Personengesellschaften, Sondervermögen and REITs, the Austrian Mitunternehmernschaften and Personengesellschaften, the Italian società di capitali, the Dutch Coöperatie u.A/W.A./B.A and the Economic Interest Groups.

3.1.2 Conclusions on possible amendments to the list of entities covered by the Directive

Stakeholders agree extensively on the need to update the list and the consensus is basically to align the list of entities annexed to the Directive with that included in the Parent-Subsidiary Directive (90 % of the replies).

A more ambitious reform does not receive so much support (47 % of the responses). The traditional idea of covering all entities subject to corporate tax was referred to as a solution to the current limited scope by only 21.1 % of the replies. A limited number of responses also named a specific legal type to be included in the Directive's coverage. It would be more difficult to deal with a proposal referring to entities described in vague terms.

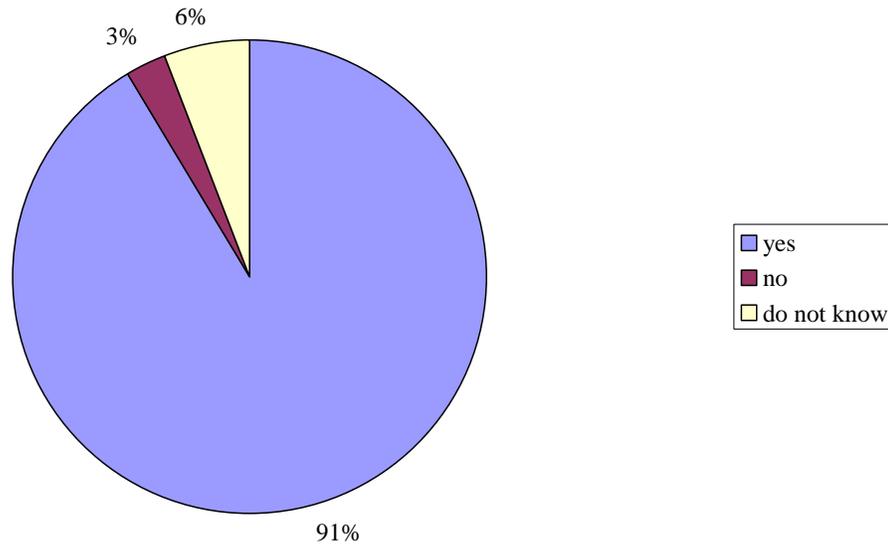
3.2 Computation of indirect shareholdings to establish that companies are associated

3.2.1 Data from the replies

The Directive covers payments between associated companies. An association is deemed to exist when one of the companies has a direct minimum holding of 25 % in the capital of the other company, or a third company has a direct minimum holding of 25 % in the capital of both the payer and the recipient companies. On the other hand, the Parent-Subsidiary Directive allows indirect shareholdings to be computed.

The question that stakeholders were asked and the answers they gave are set out below.

Question 5. Do you consider it beneficial to allow indirect shareholdings to be taken into account when the minimum shareholding is being determined?



3.2.2 *Conclusions on the computation of indirect shareholdings*

Stakeholders agree extensively on the need for indirect shareholdings to be computed when establishing whether companies are associated (91 % of the replies).

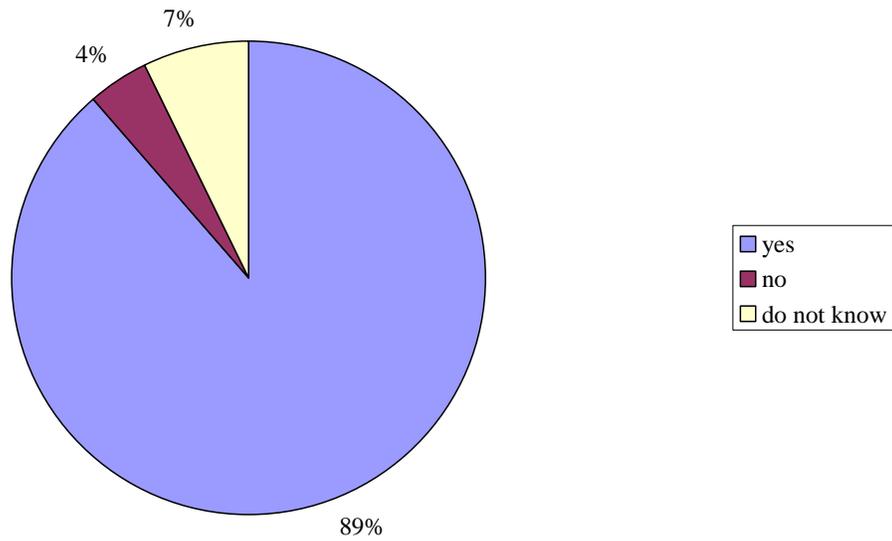
3.3 **Lowering of the shareholding threshold required in order to be considered as associated companies**

3.3.1 *Data from the replies*

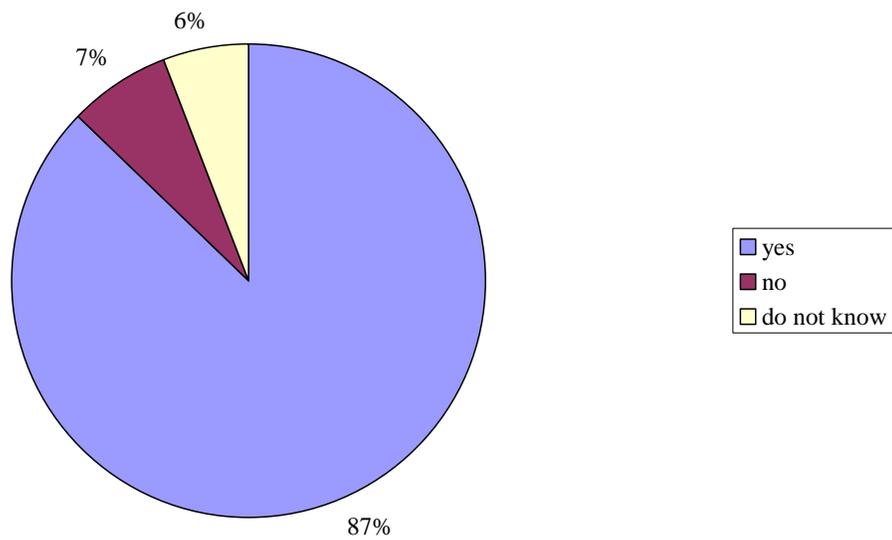
As mentioned before, the minimum shareholding requirements of the Directive currently differ from those of the Parent-Subsidiary Directive, by requiring a 25 % holding rather than the 10 % holding of the Parent-Subsidiary Directive.

The questions that stakeholders were asked and the answers they gave are set out below.

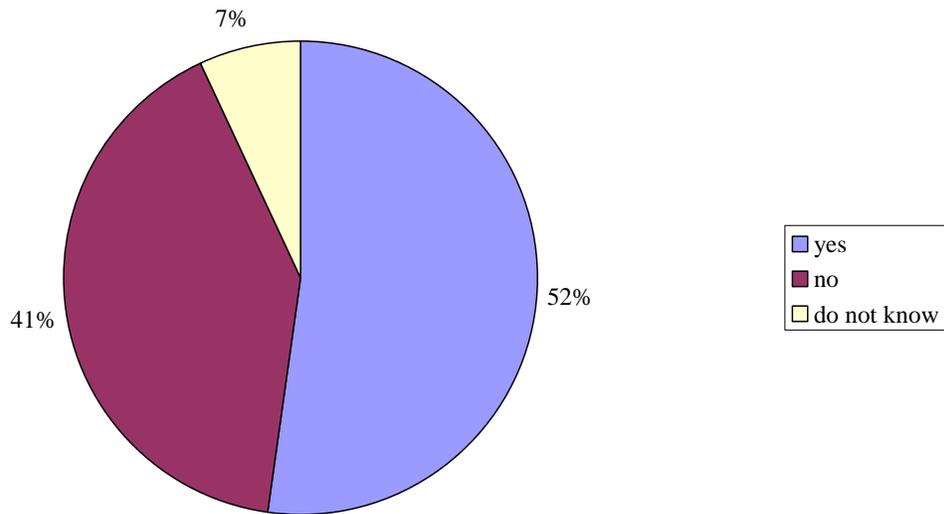
Question 6. Do you think that there is a need to change the minimum shareholding requirements?



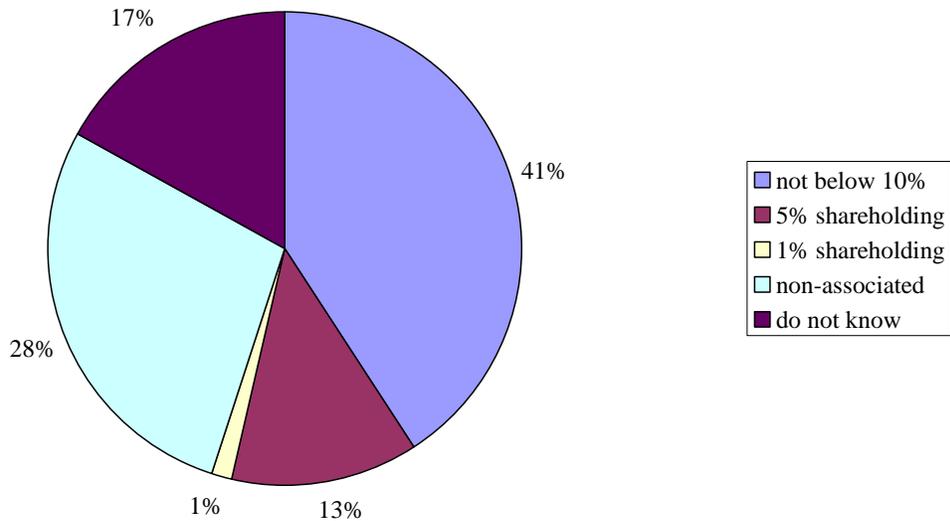
Question 7. Do you think that the shareholding requirements of the Interest and Royalties Directive should be reduced to 10% and thus be aligned with those established in the Parent-Subsidiary Directive?



Question 8. Do you think that the shareholding requirements of the Interest and Royalties Directive should be reduced to below 10%?



If your answer is yes, please specify the shareholding requirement



3.3.2 Conclusions on the computation of indirect shareholdings

Almost all responses (89%) agree with the idea of changing the shareholding requirements established for considering that companies are associated. The proposal to align this requirement with that provided for in the Parent-Subsidiary Directive is also

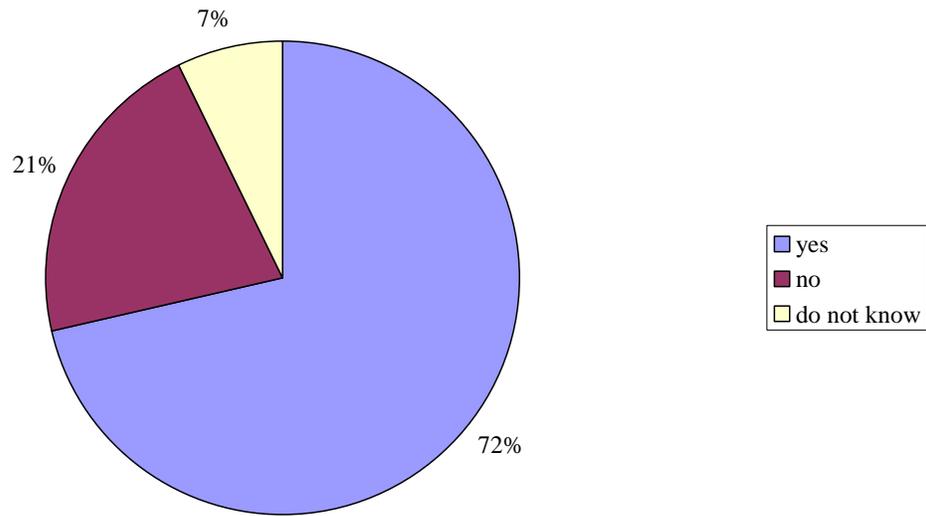
supported by nearly all respondents (87%). The option of reducing the threshold below 10% does not receive so much support: a 5% shareholding is supported by 13% of the answers; a 1% shareholding is backed by 1%; the most ambitious solution to extend the Directive's scope to unrelated undertakings is supported by 28% of the responses received.

3.4 Costs linked to payments between unrelated undertakings not covered by the Directive

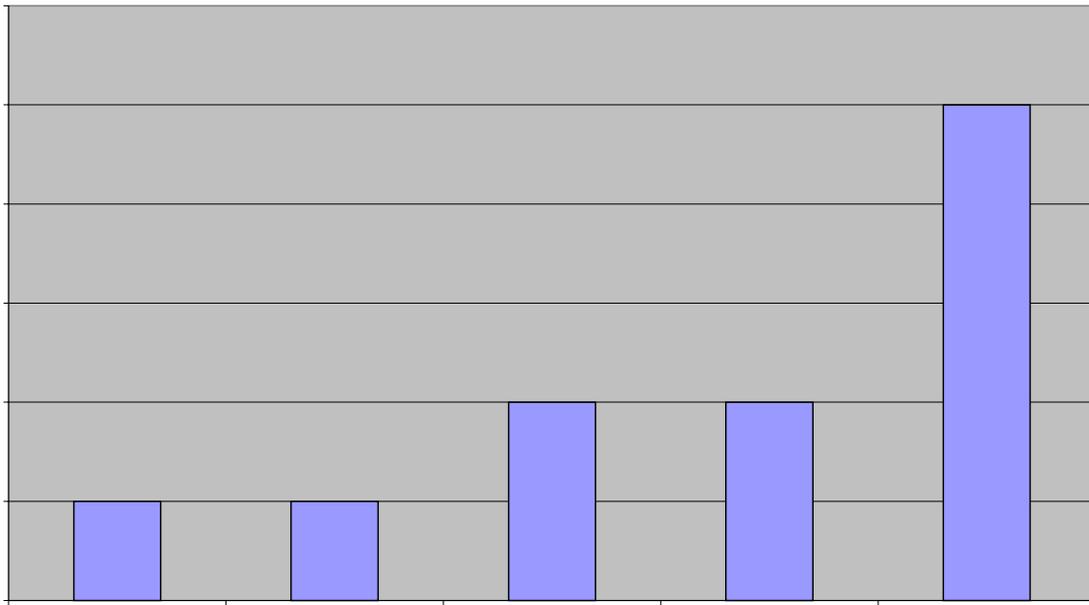
3.4.1 Data from the replies

One option might be for the Directive to eventually encompass unrelated undertakings. It is self-evident that international double taxation, burdensome administrative formalities and cash-flow problems, such as cross-border obstacles to transactions between related companies, are also present in the case of payments between unrelated parties. The current harmonised tax law fosters activities within multinational groups, but does not address the double taxation issues that are hampering the smooth functioning of the single market in the case of transactions between independent parties. The questions that stakeholders were asked and the answers they gave are set out below.

Question 9. Do you currently suffer from double taxation and/or additional administrative costs because the Directive does not extend to transactions between unrelated undertakings (non-associated)?



If your answer is yes, please estimate the annual additional taxes and costs in euros.



3.4.2 *Conclusions on costs linked to payments not covered by the Directive*

71% of the companies that responded indicated that they suffer from double taxation and administrative costs in their transactions not covered by the Directive due to the fact that

they take place with other unrelated undertakings. However, very few firms gave information on the estimated costs.

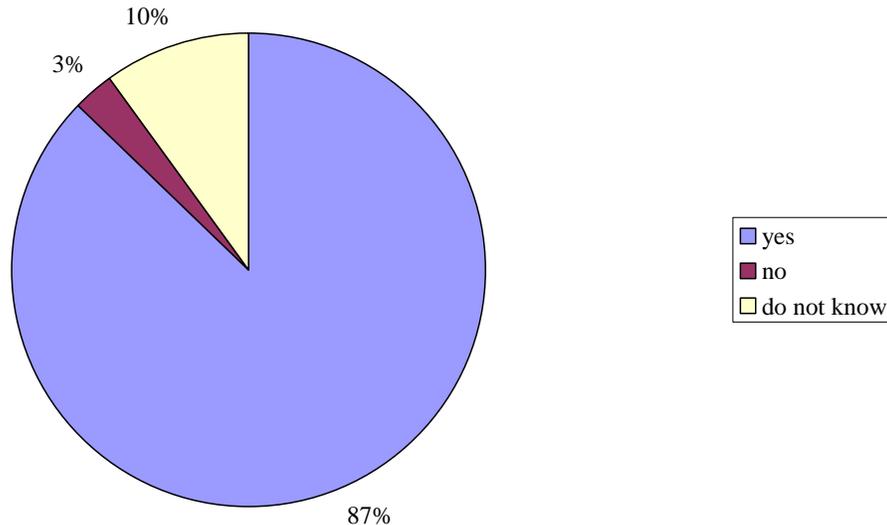
3.5 Tax deductibility requirement applicable to payments made by permanent establishments

3.5.1 Data from the replies

The Directive covers payments made by permanent establishments of companies situated in an EU Member State. In these cases, the obligation of the source State to refrain from taxing is made conditional on such payments being a tax-deductible expense for the payer. It is clear from the context that the purpose of the ‘tax-deductibility’ requirement is to ensure that the benefits of the Directive accrue only in respect of those payments that represent expenses which are attributable to the permanent establishment. However, as currently worded, the provision would also apply to cases where deduction is denied on other grounds, such as the payment not meeting all the formal requirements for tax deductibility.

The question that stakeholders were asked and the answers they gave are set out below.

Question 10. Do you think that the text of the Directive should be clarified in order to guarantee that its benefits apply to interest or royalty payments constituting an expense attributable to permanent establishment?



3.5.2 *Conclusions on the tax deductibility requirement in the case of payments received by permanent establishments*

Almost all respondents see the need to amend the Directive in order to clarify that the withholding tax exemption provided by the Directive should be applicable to payments constituting a cost linked to the activities of the permanent establishment.

3.6 **Issues concerning SMEs**

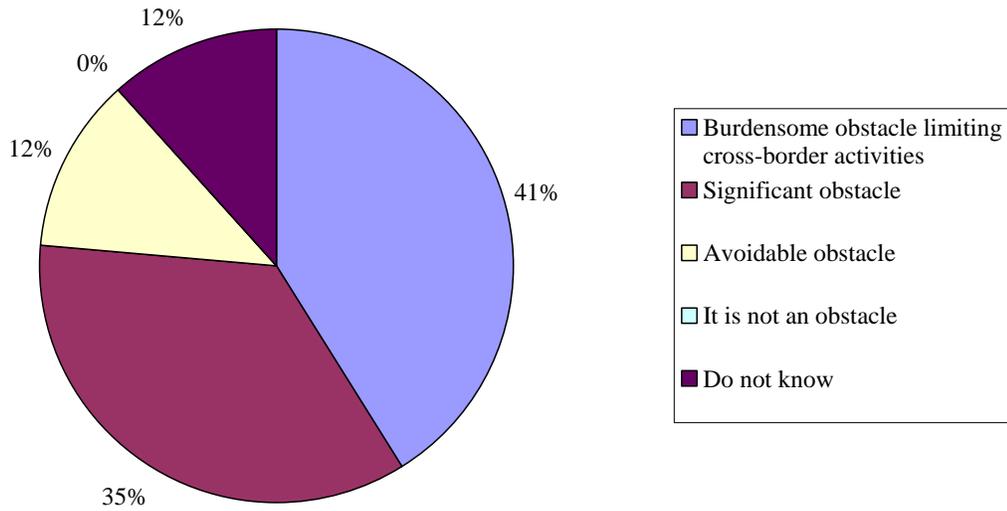
3.6.1 *Data from the replies*

The Commission departments were interested in the potential impact that the above issues and others might have on SMEs.

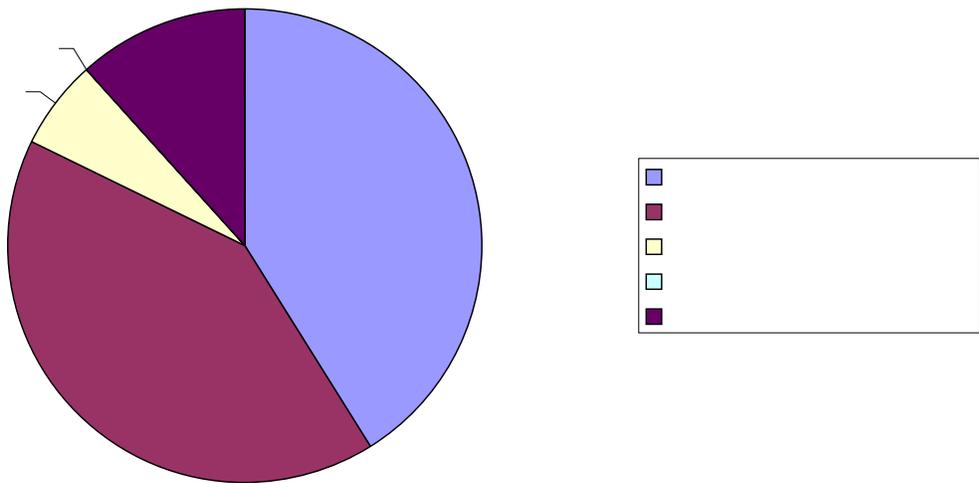
We should remember that no responses were received from SMEs. In all 6 tax advisors, 9 business organisations and 2 professional associations answered the questions referring to them. Thus, the results do not derive directly from answers by the taxpayers concerned but by stakeholders having different types of relations with them based on experience and giving views shaped by professional relations or internal studies.

The questions that stakeholders were asked and the answers they gave are set out below.

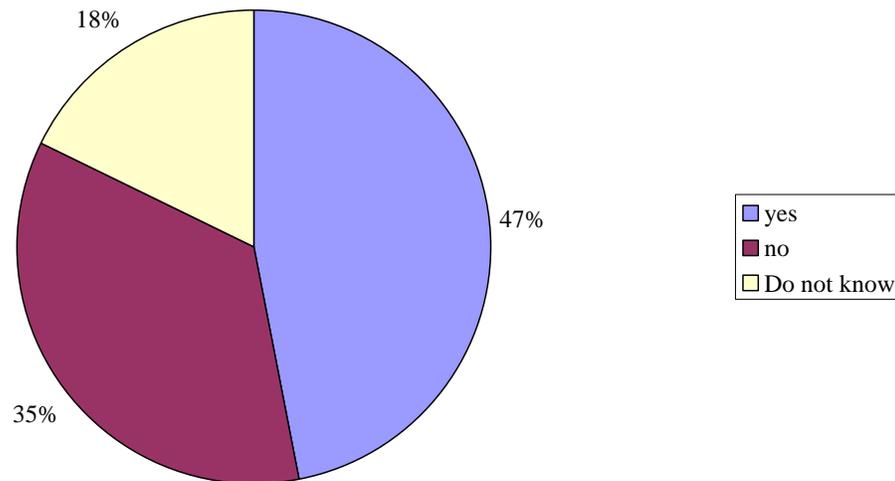
Question 11. Do you regard withholding taxes charged on your interest or royalty cross-border income as an obstacle to your activities?



Question 12. Do you find that the tax compliance costs linked to cross-border interest or royalty payments are:



Question 13. Do you think that extending the Directive's scope to include all the entities currently covered by the Parent-Subsidiary Directive would ensure that all SMEs will be covered by it?



Respondents answering no to this question were asked to specify which other legal types currently used by SMEs should be included in the Directive. Only 6 answers give an opinion and state that the Directive should cover any legal entity subject to corporate tax.

3.6.2 Conclusions on SMEs

A significant number of respondents find that withholding taxes and associated compliance costs (41 %) constitute a burden heavy enough to limit or restrict cross-border activities. Adding up the responses that consider them as a significant obstacle, the results (around 76 %) lead to the conclusion that they are important for SMEs and that some tax policy action needs to be taken. Very few consider such restrictions as avoidable or bearable.

On extending the list of companies to which the Directive applies to new legal types ensuring that those normally used by SMEs are covered, it is surprising to find that even when 47 % of the replies consider that extending the list of companies and making it similar to that included in the Parent-Subsidiary Directive would not be sufficient to cover them, very few responses refer to the method for extending the list: 6 out of a total of 17, or 35.3 %. All these responses refer to the extension of the Directive's coverage to all entities.

4. GENERAL CONCLUSIONS

The questionnaire confirms the interest of stakeholders in the initiatives raised by the Commission departments. There is clear support for the need to take tax policy action and amend the Directive. Thus, the questionnaire asked whether the list of companies covered by the Directive needed to be updated and a large majority thought so. Only 7% of respondents did not consider it necessary to update the scope of entities covered by the Directive. Similarly, it was asked whether the minimum shareholding requirements needed to be changed and only 4% of the responses were against such an idea.

All the possible amending options are supported by a large majority, normally over 80% of the responses. The replies vary more widely in open questions where the respondents are asked about their preferred alternatives. There are two such cases: when asked to indicate what other entities should be covered by the Directive beyond those included in the Parent-Subsidiary Directive and when asked if the shareholding requirements should be lowered below the level already provided for in that Directive.

We can conclude that the preferred options coincide with the necessary amendments to the Directive to align it with the Parent-Subsidiary Directive, which are:

- extending the list of entities covered and making it similar to that annexed to the Parent-Subsidiary Directive. This idea receives almost unanimous support: 90% of the responses. Adding other entities is not so well perceived: 47%. At the same time, this latter option is considered differently by the various groups of respondents: while multinationals are not much in favour of extending the list to types not included in the Parent-Subsidiary Directive (only 28%), tax advisors and business organisations are more inclined towards this option (just over 60%);

- computing indirect shareholding in order to meet the requirements of association (91% of the responses were in favour);

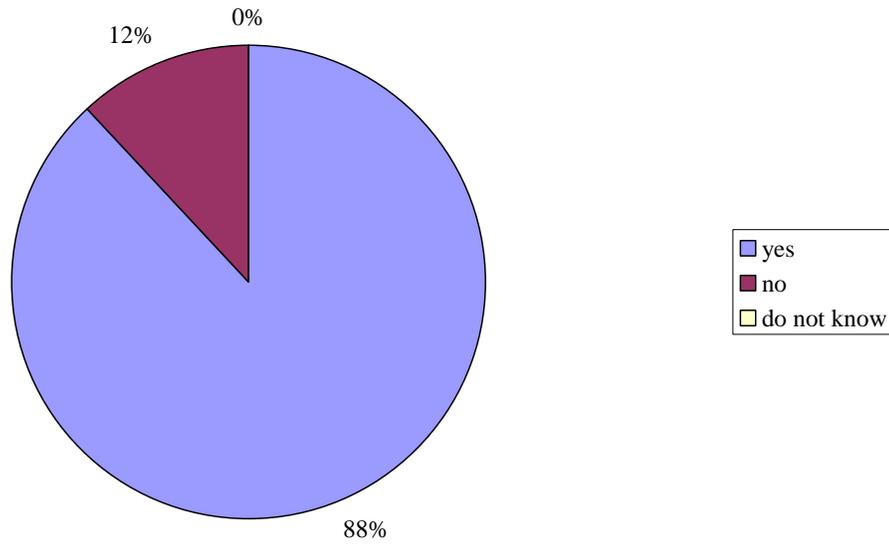
- reducing the holding threshold for association to 10% (87% of the responses). The idea of reducing the threshold below that percentage does not receive so much support (52%). When it comes to establishing a concrete threshold, the answers vary and there is no answer that receives sufficient support: 13% of replies referred to 5%; 1% referred to 1%.

There is another alternative to the initiative set out above: extending the Directive to cover payments between unrelated undertakings. This solution receives little support, 28% of the responses. At the same time, the replies vary across respondent groups: business organisations are very keen on it (91%) and multinationals are also in favour (56%). The rest of the groups did not show much support, so that the final result is limited as already mentioned.

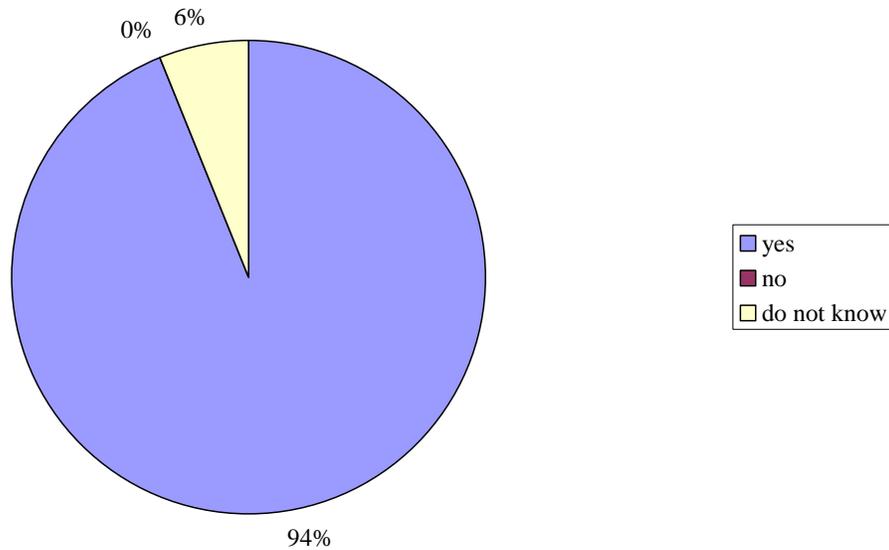
Appendix 1 — Answer to Question 2 by type of respondent

Do you think that there is a need to update the list of companies covered by the Directive?

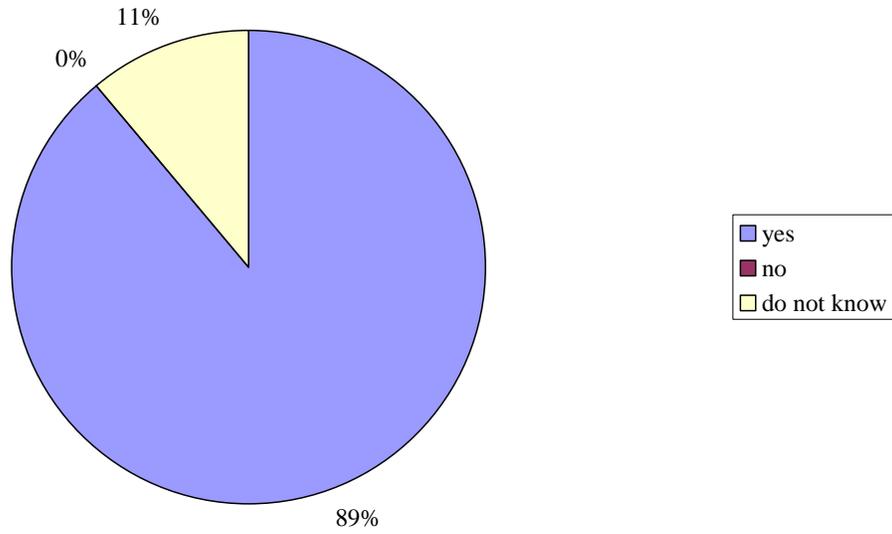
1. Replies from multinationals



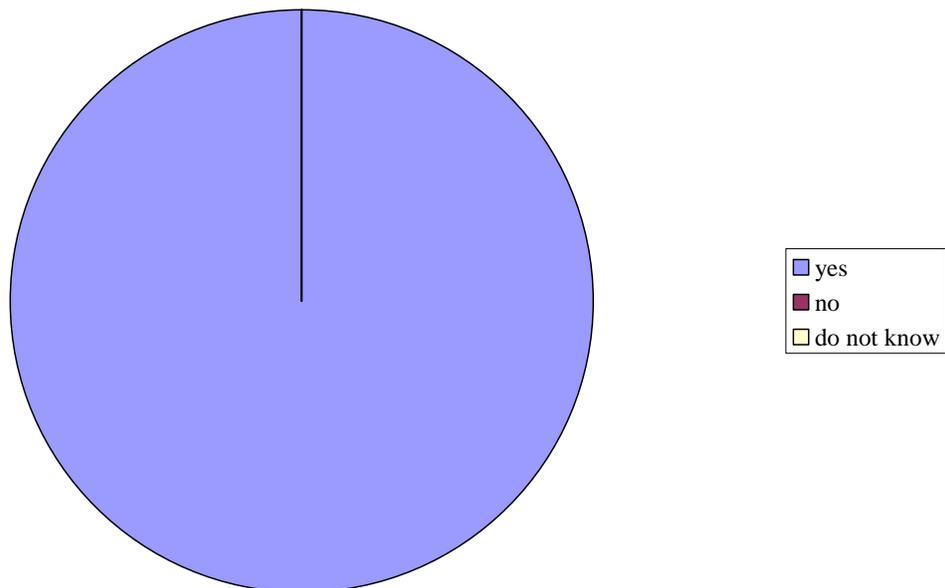
2. Replies from tax advisors/tax practitioners



3. Replies from business organisations



4. Replies from professional associations



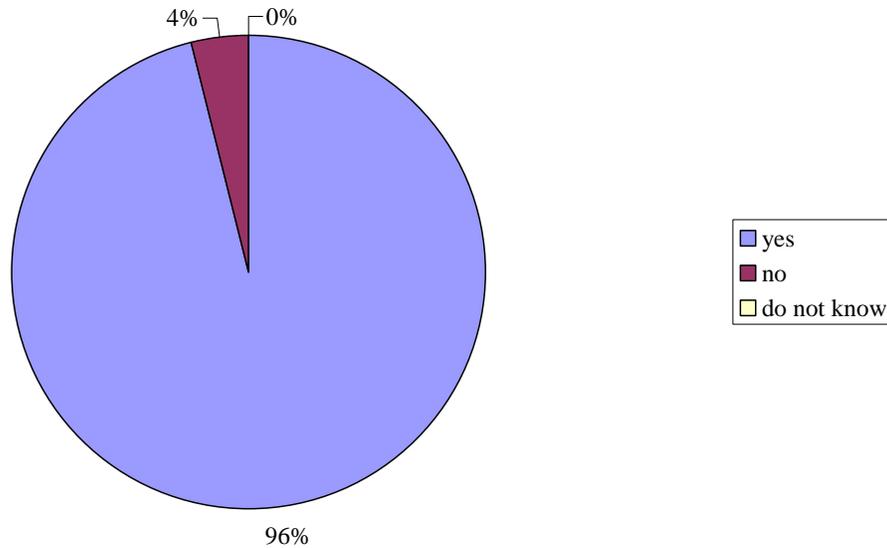
5. Conclusions

All these types of respondents show a similar pattern of response, largely positive to the proposed amendment. We can highlight the unanimous position of professional associations, where 100% of the responses supported the initiative to update the list of entities covered by the Directive.

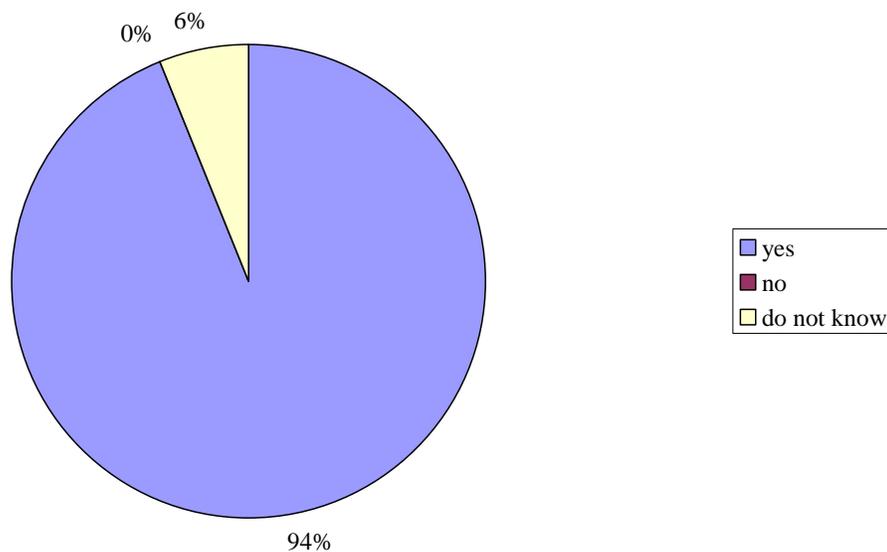
Appendix 2 — Answer to Question 3 by type of respondent

Do you think that the list annexed to the Directive should cover the same legal types as are included in the list of the Parent-Subsidiary Directive, including the European Company and the European Cooperative Society?

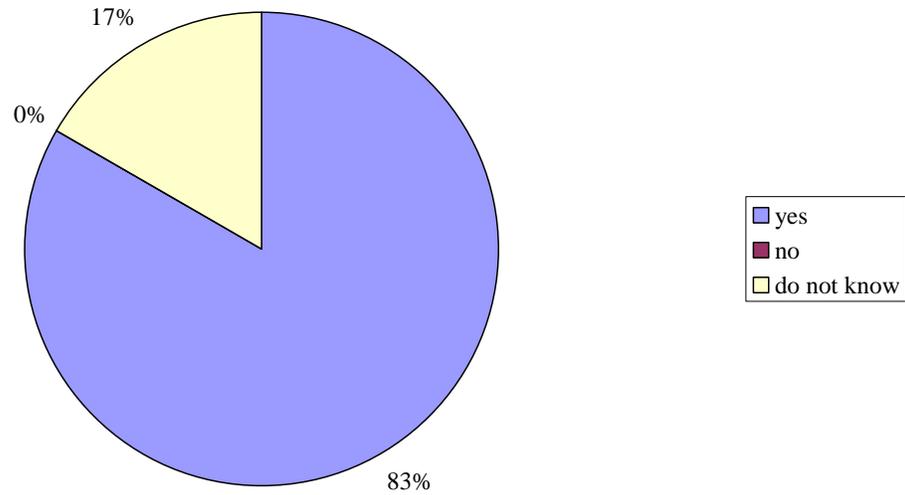
1. Replies from multinationals



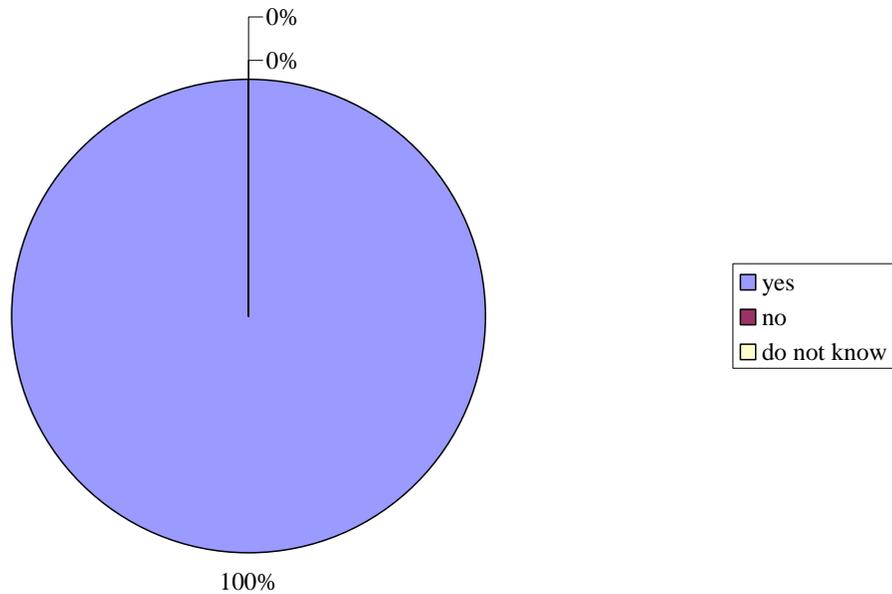
2. Replies from tax advisors/tax practitioners



3. Replies from business organisations



4. Replies from professional associations



5. Conclusions

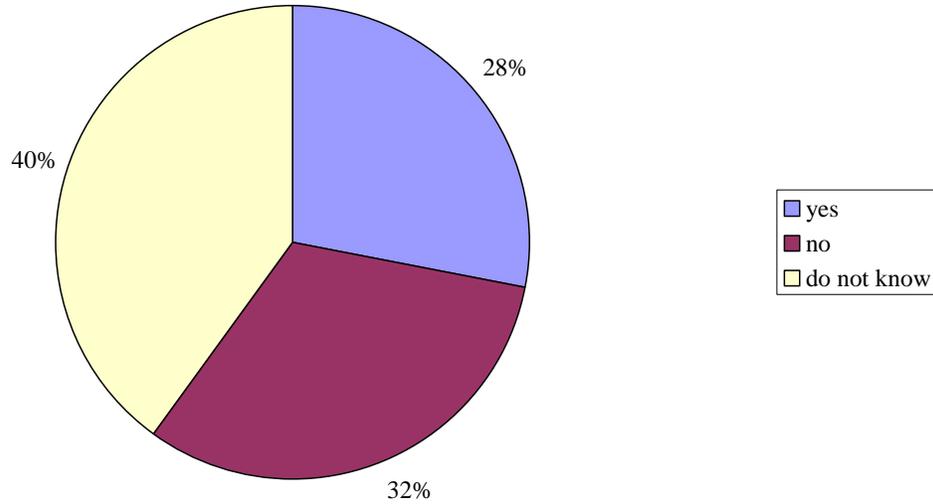
All these types of respondents show a similar pattern of response, positive to the proposed amendment. We can highlight the unanimous position of professional

associations, where 100% of the responses supported the initiative to update the list of entities covered by the Directive.

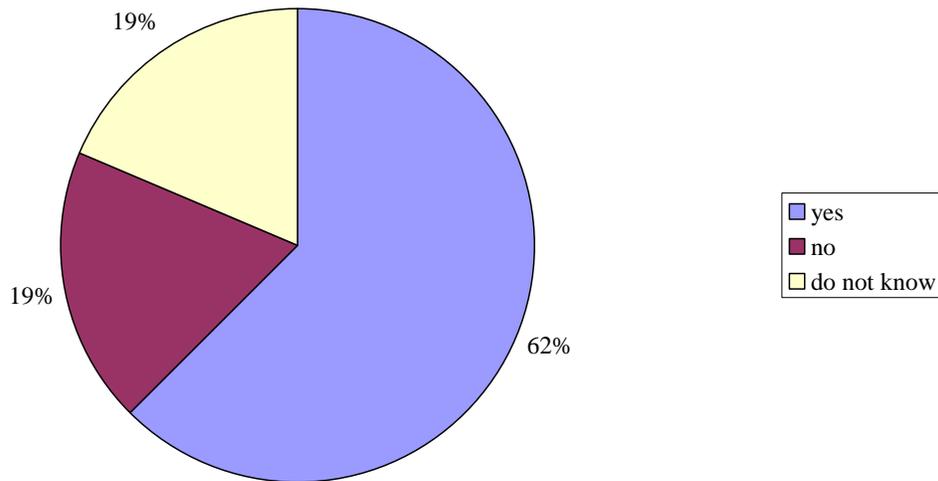
Appendix 3 — Answer to Question 4 by type of respondent

Do you think that the list should be extended so as to include other types of companies not referred to in the Parent-Subsidiary Directive?

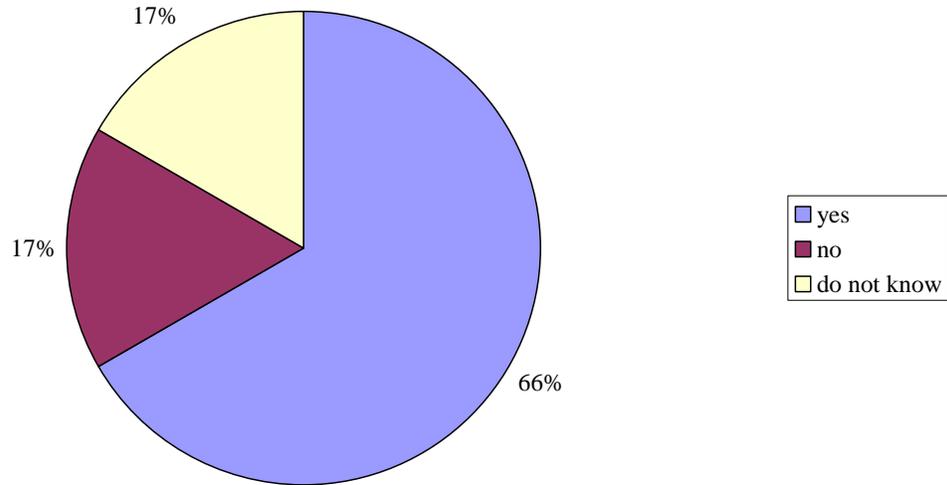
1. Replies from multinationals



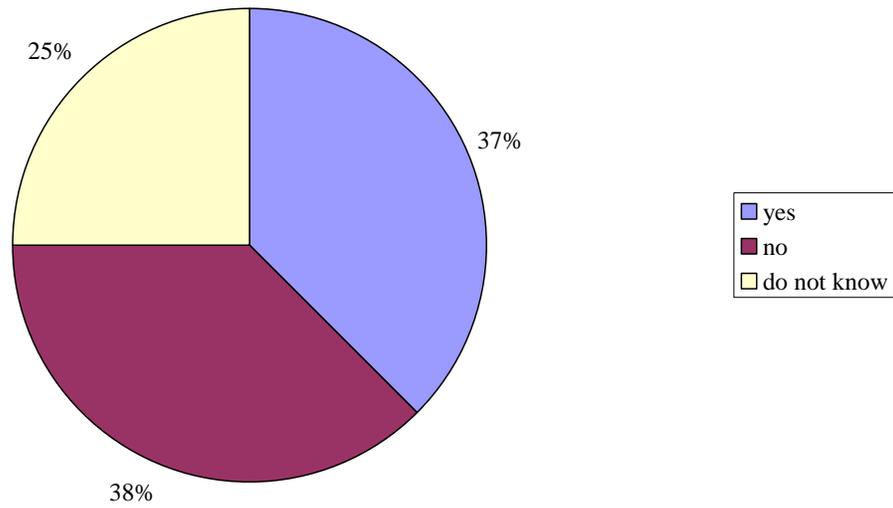
2. Replies from tax advisors/tax practitioners



3. Replies from business organisations



4. Replies from professional associations



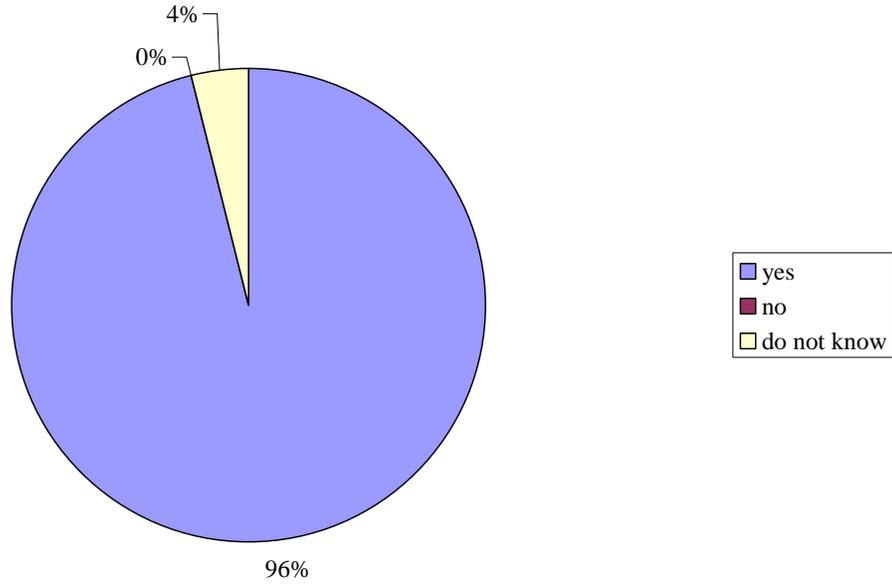
5. Conclusions

The answers to the question on extending the list beyond the Parent-Subsidiary Directive vary according to the type of respondent. The aggregate result shows that the most common answer is affirmative but it reaches only 47%. Breaking down this result, we find that tax advisors and tax practitioners gave a more positive response, reaching 62%, as well as business organisations (66%). Professional associations and companies gave a negative response: only 37% and 28%, respectively, supported such an ambitious reform, while 38% and 32% were against it.

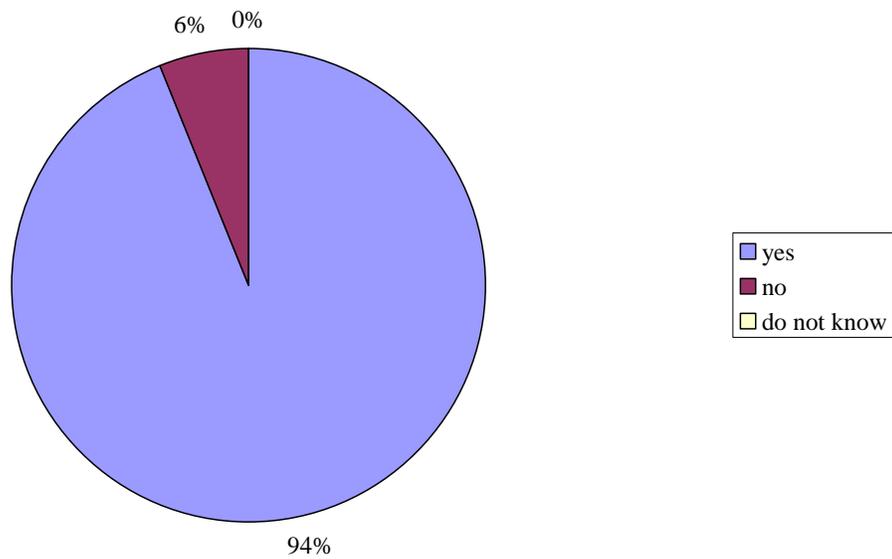
Appendix 4 — Answer to Question 5 by type of respondent

Do you consider it beneficial to allow indirect shareholdings to be taken into account when the minimum shareholding is being determined?

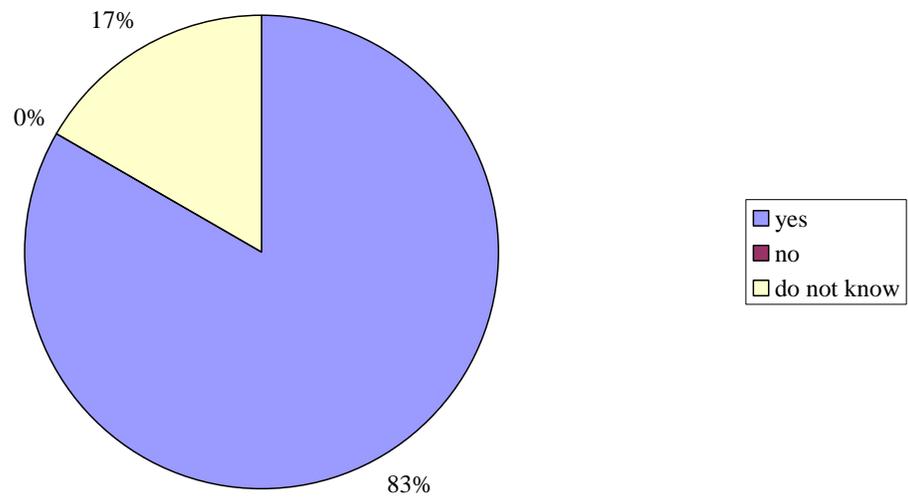
1. Replies from multinationals



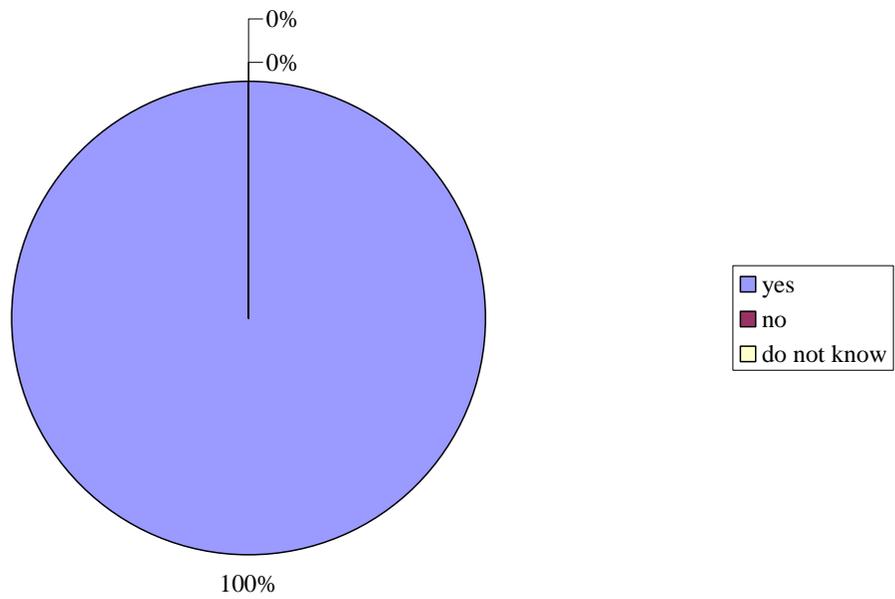
2. Replies from tax advisors/tax practitioners



3. Replies from business organisations



4. Replies from professional associations



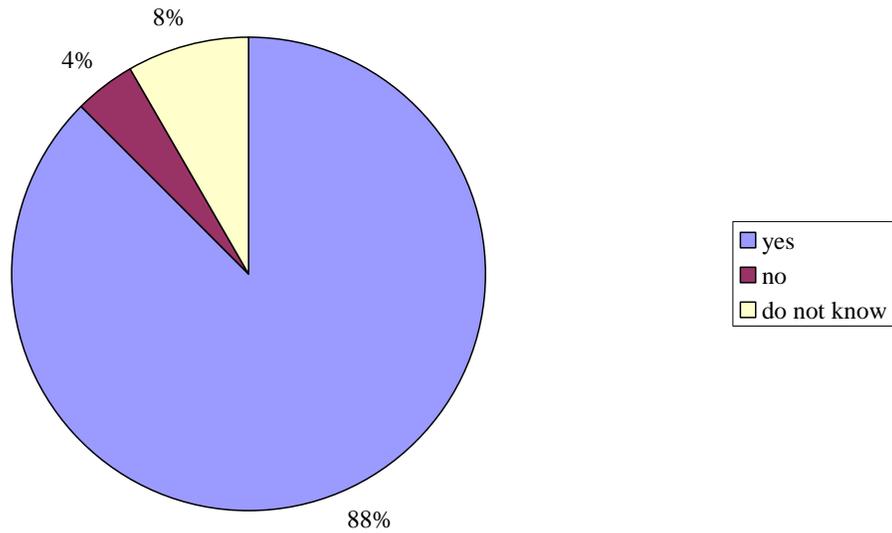
5. Conclusions

Responses were largely in favour of this initiative and the different types of respondents supported it with over 90% of the responses, with the exception of business organisations where 17% of the replies did not express a clear position.

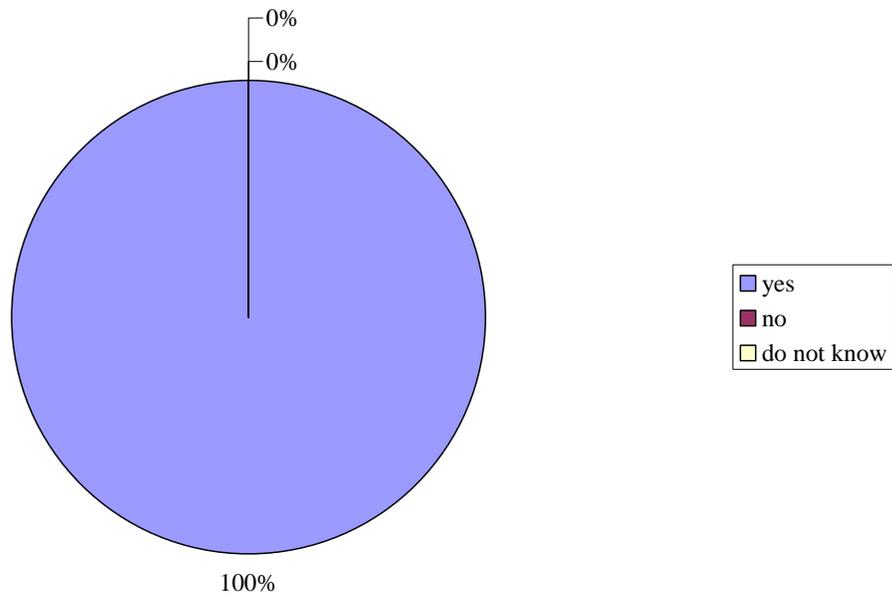
Appendix 5 — Answer to Question 6 by type of respondent

Do you think that there is a need to change the minimum shareholding requirements?

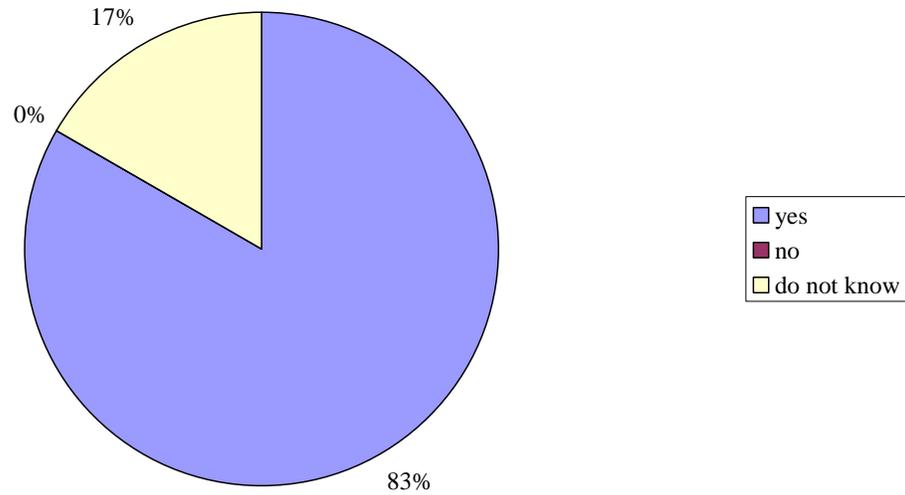
1. Replies from multinationals



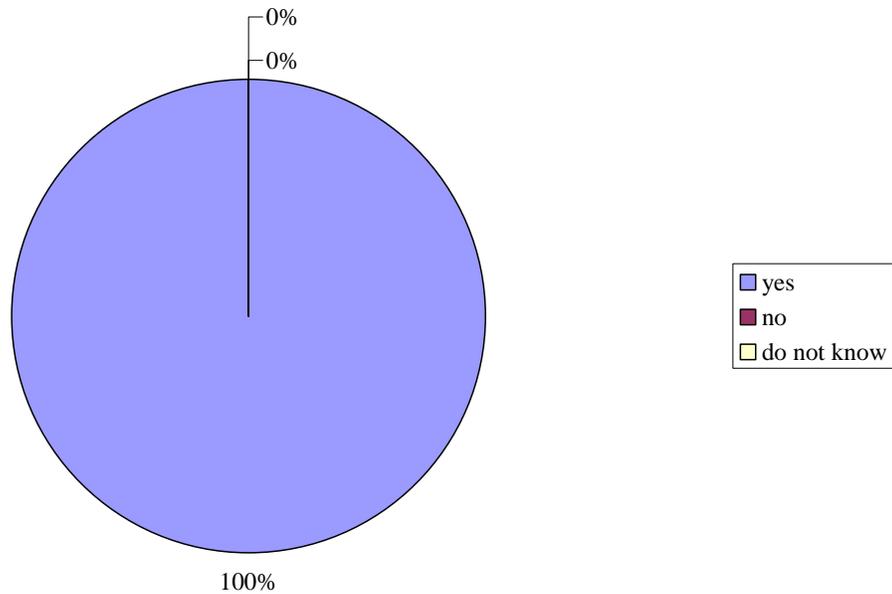
2. Replies from tax advisors/tax practitioners



3. Replies from business organisations



4. Replies from professional associations



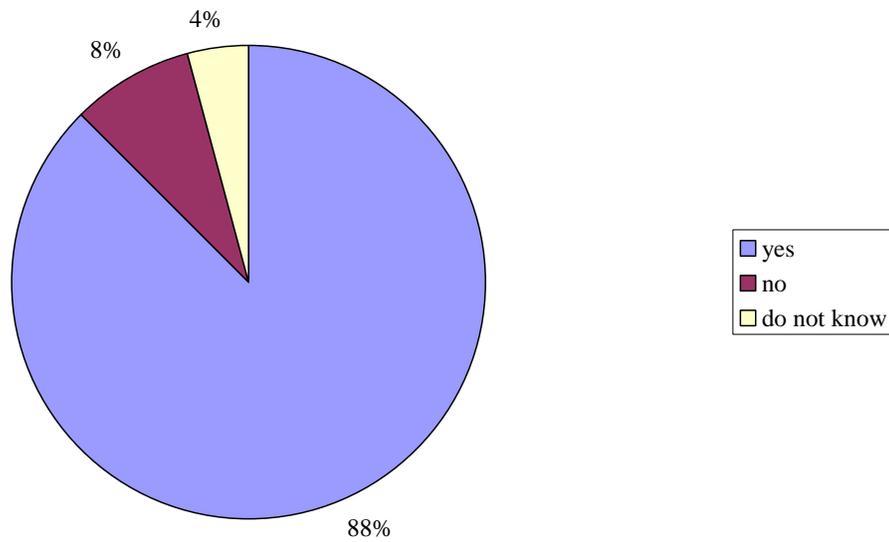
5. Conclusions

The pattern of responses is similar across the various types of respondent. We can highlight that 100% of the responses from tax advisors/tax practitioners and professional associations were in favour of the idea of lowering the threshold for association.

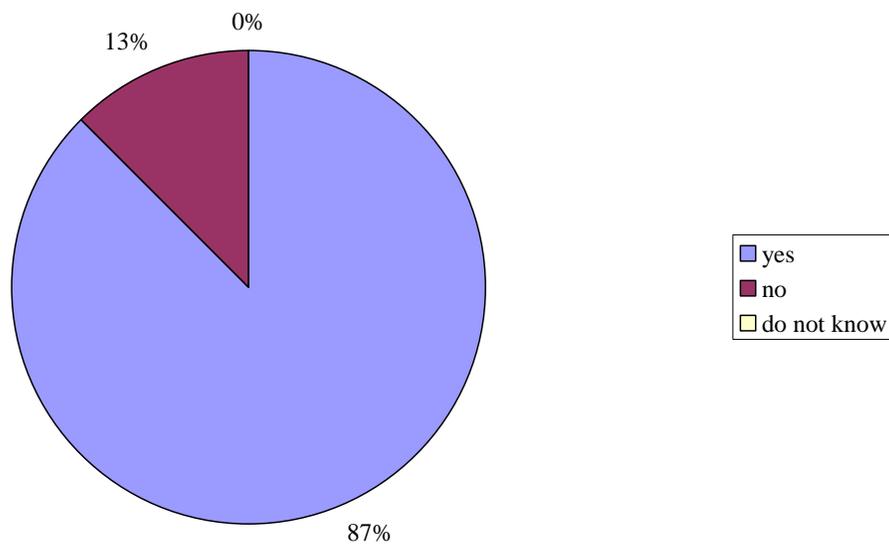
Appendix 6 — Answer to Question 7 by type of respondent

Do you think that the shareholding requirements of the Interest and Royalties Directive should be reduced to 10% and thus be aligned with those established in the Parent-Subsidiary Directive?

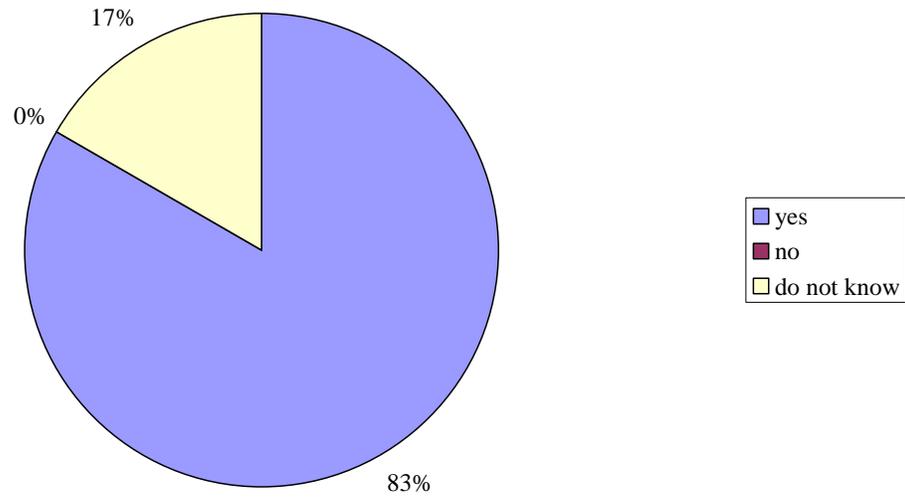
1. Replies from multinationals



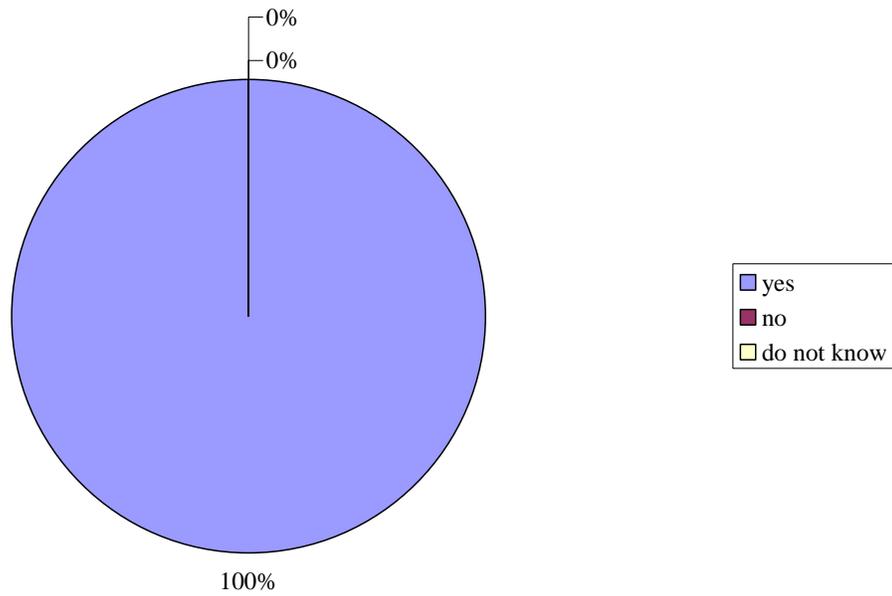
2. Replies from tax advisors/tax practitioners



3. Replies from business organisations



4. Replies from professional associations



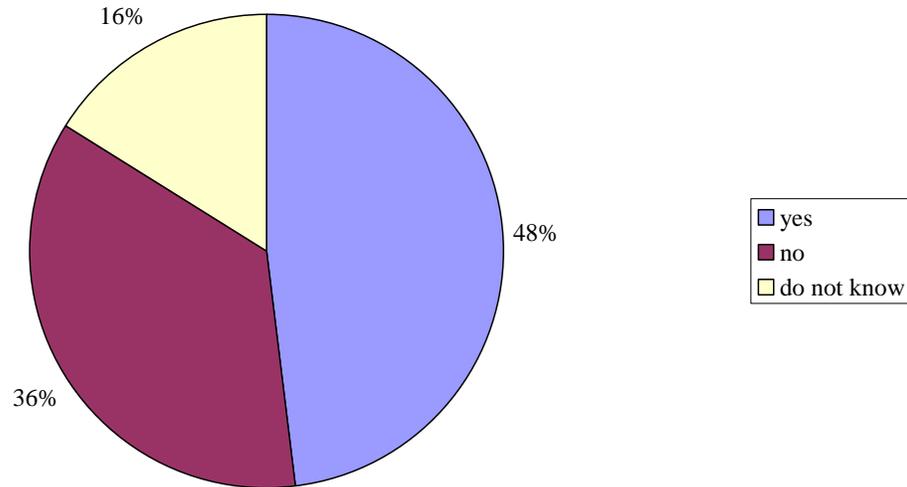
5. Conclusions

Aligning the threshold of association of the Directive with that of the Parent-Subsidiary Directive receives very substantial support across all groups of respondents. 100% of the professional associations answering the questionnaire agree with this proposal.

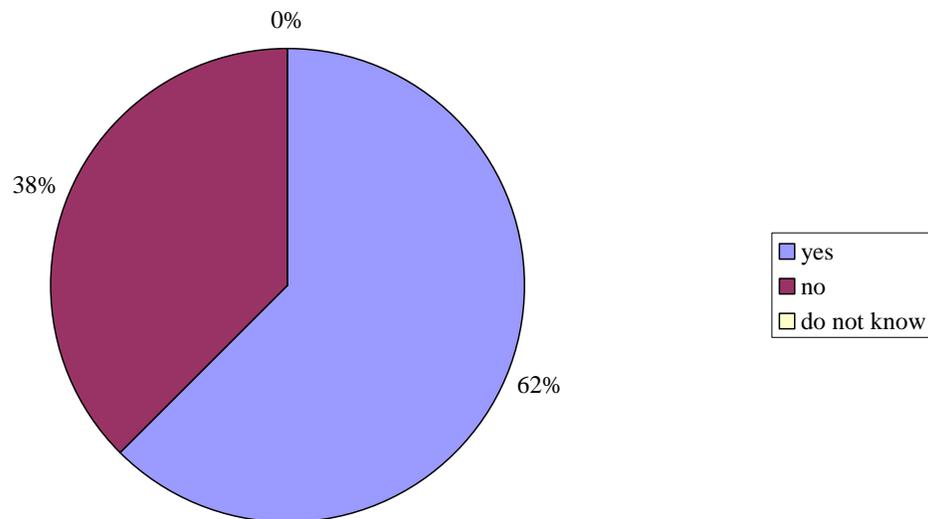
Appendix 7 — Answer to Question 8 by type of respondent

Do you think that the shareholding requirements of the Interest and Royalties Directive should be reduced to below 10%?

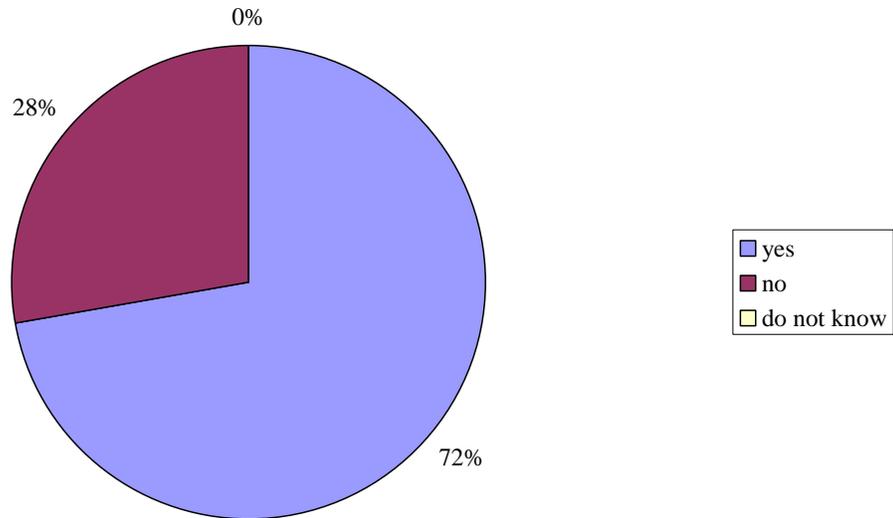
1. Replies from multinationals



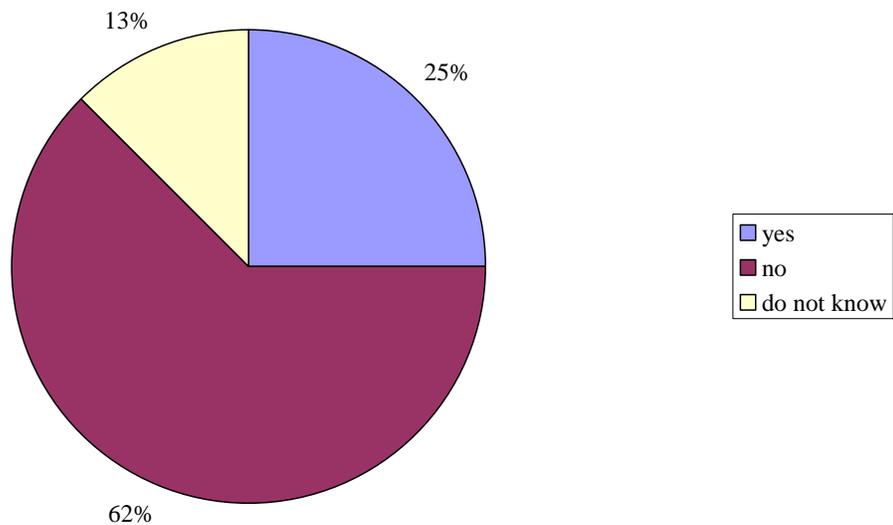
2. Replies from tax advisors/tax practitioners



3. Replies from business organisations



4. Replies from professional associations



5. Conclusions

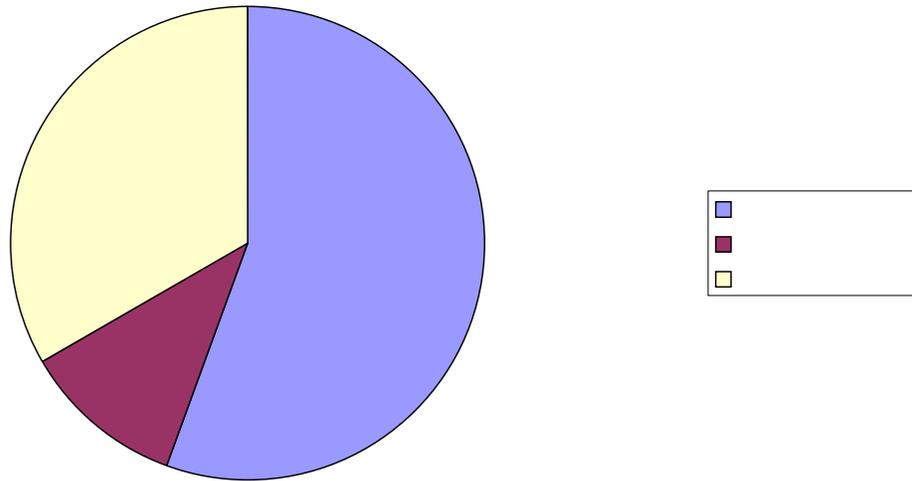
The pattern of responses to the idea of lowering the shareholding threshold below 10 % varies. Tax advisors and business organisations support such a reduction in two thirds of cases (62 and 72 % respectively); 48 % of the responses from multinationals were

positive. However, 62% of the professional organisations were opposed to such an extension of the Directive's scope.

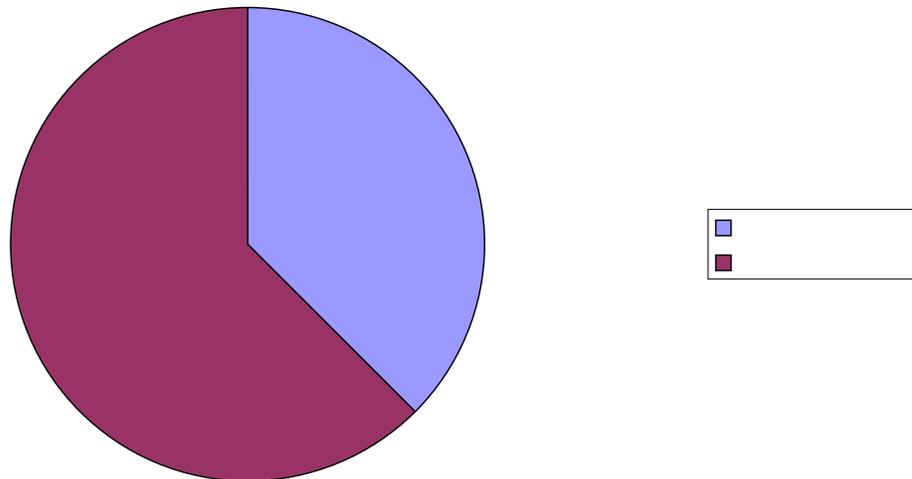
Appendix 8 — Answer to Question 8.1 by type of respondent

The questionnaire asked those respondents that agreed to reducing the shareholding requirements below 10% to indicate a shareholding requirement.

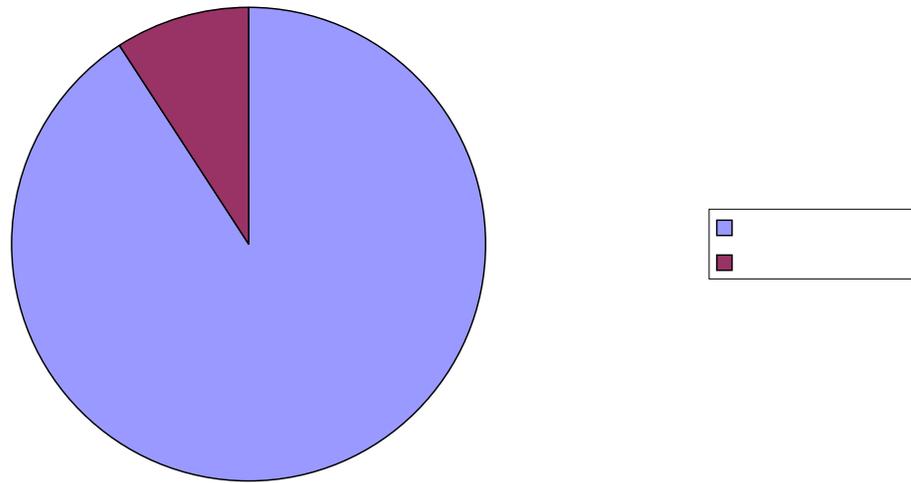
1. Replies from multinationals



2. Replies from tax advisors/tax practitioners



3. Replies from business organisations



4. Replies from professional associations

The number of responses received (3) is too low to draw any conclusions in this case.

5. Conclusions

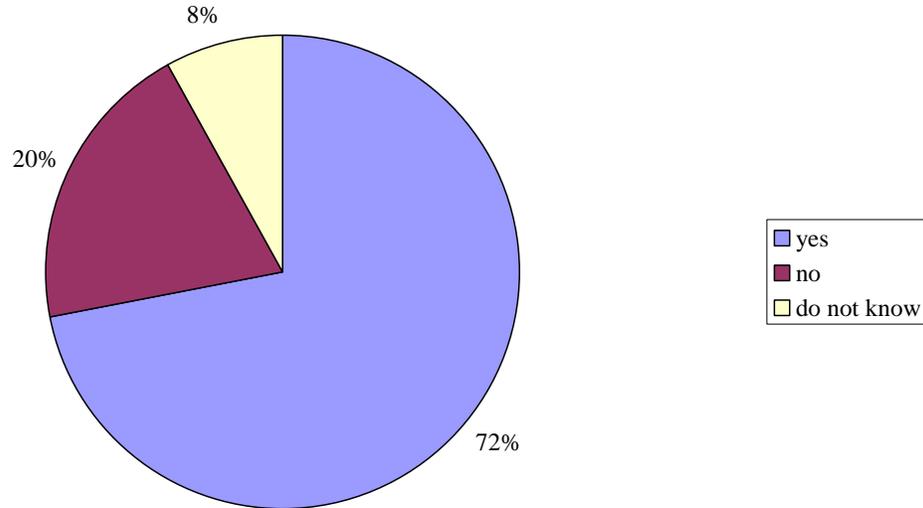
The pattern of responses changes significantly across groups among those showing interest in further reduction of the threshold below 10%. The coverage of unrelated transactions where no association is required between the payer and the recipient companies is a proposal widely supported among business organisations (91%) while multinationals are divided in their opinion (56% support this initiative). Tax advisors and tax practitioners show more preference for maintaining a reduced shareholding requirement of 5% (62%).

It should be pointed out that these results correspond to 42.8% of the total responses. Thus, the idea of aligning the Directive's requirement on this matter with the conditions of the Parent-Subsidiary Directive is the preferred option.

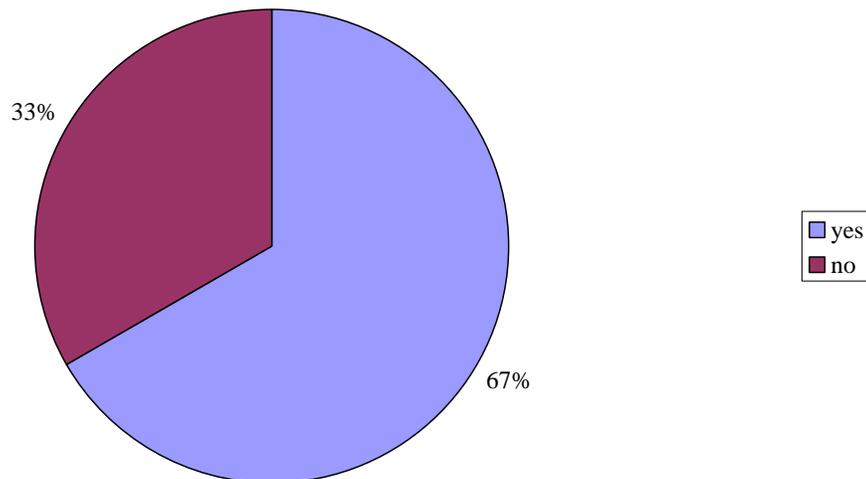
Appendix 9 — Answer to Question 9 by type of respondent

Do you currently suffer from double taxation and/or additional administrative costs because the Directive does not extend to transactions between unrelated undertakings?

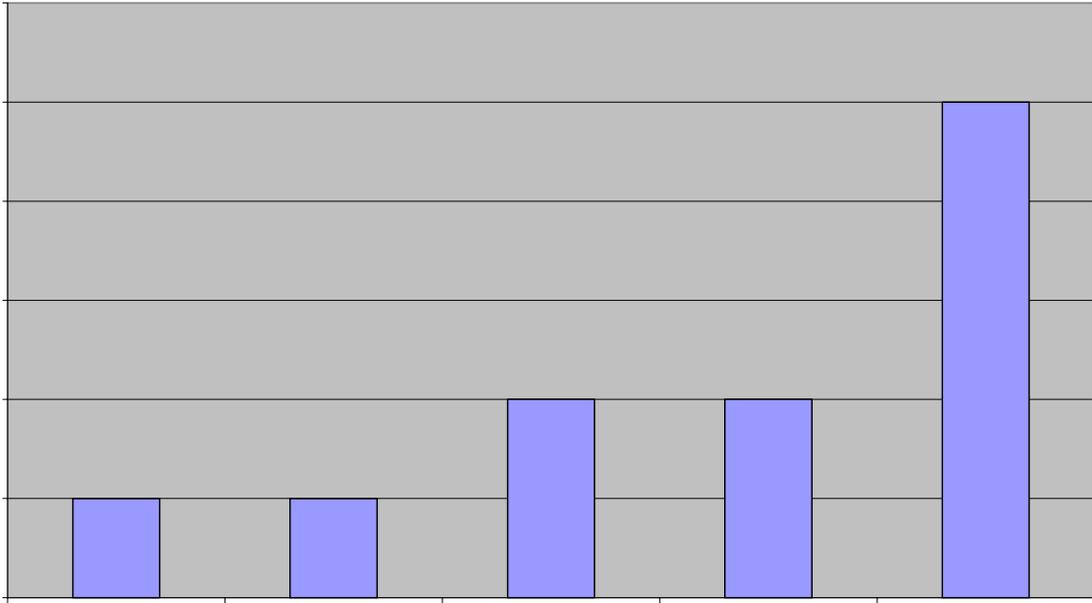
1. Replies from multinationals



2. Replies from tax advisors/tax practitioners



3. Cost deriving from double taxation and administrative costs



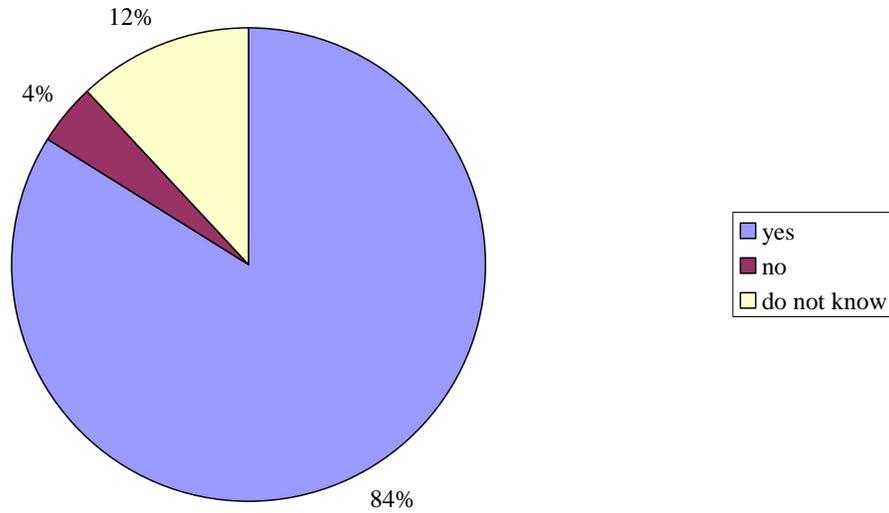
3. Conclusions

Most companies state that they face double taxation and administrative costs due to withholding taxes charged on their transactions with unrelated parties, the percentage of multinational companies being slightly larger than that of large companies. Only 11 responses give an estimate of the annual amount of such costs. The absolute figures vary.

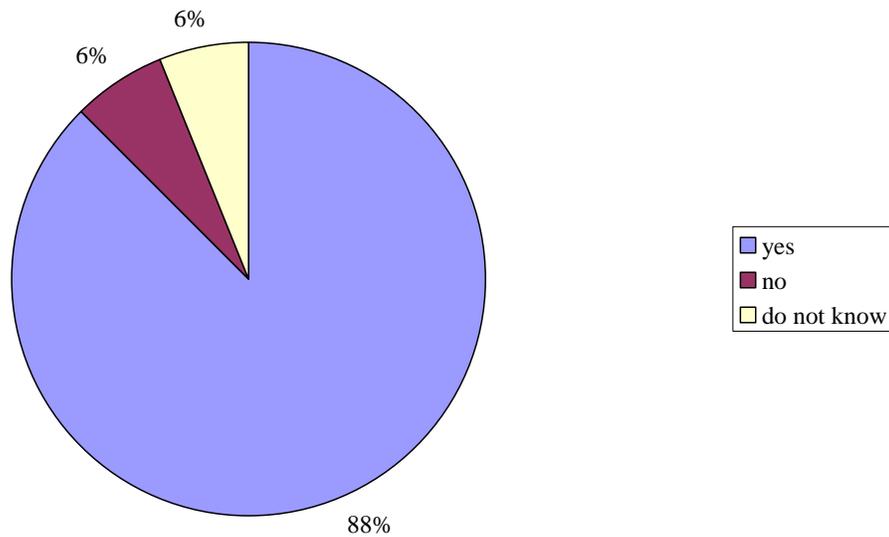
Appendix 10 — Answer to Question 10 by type of respondent

Do you think that the text of the Directive should be clarified in order to guarantee that its benefits apply to interest or royalty payments constituting an expense attributable to permanent establishment?

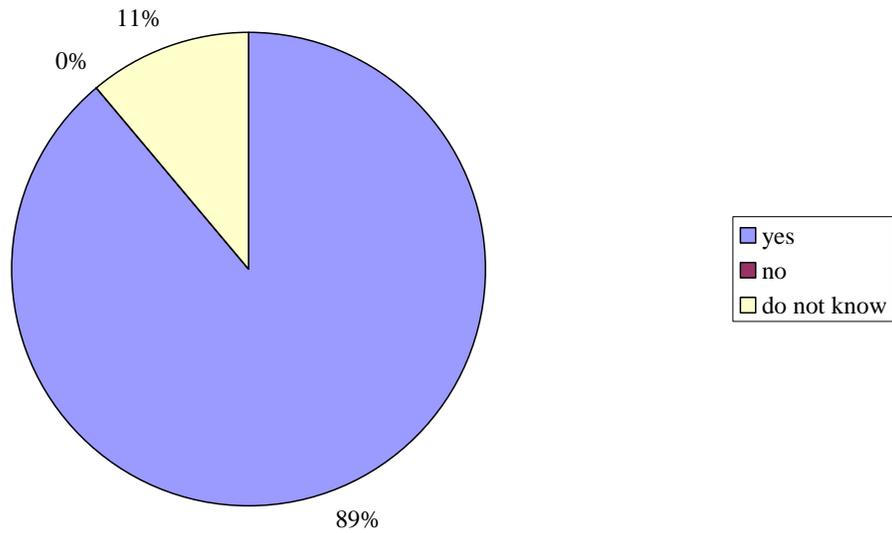
1. Replies from multinationals



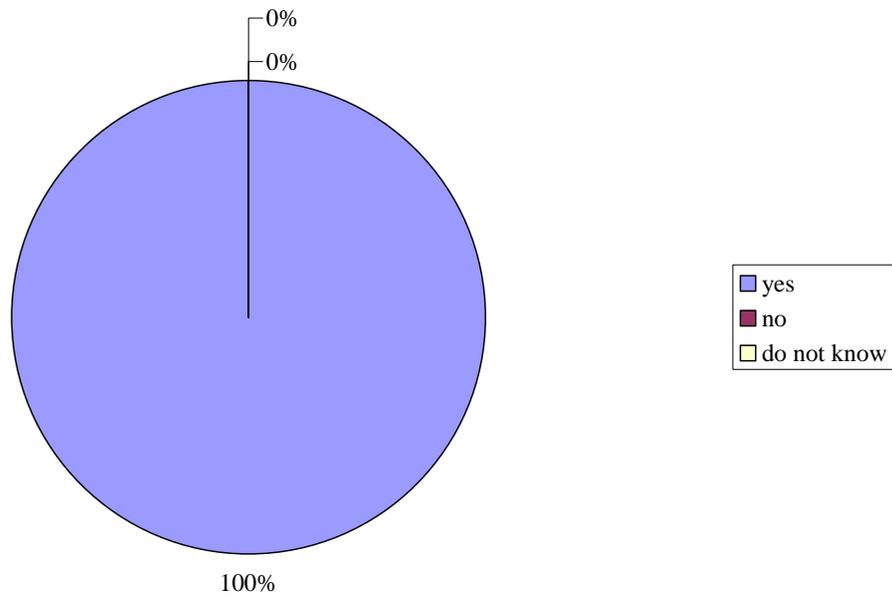
2. Replies from tax advisors/tax practitioners



3. Replies from business organisations



4. Replies from professional associations



5. Conclusions

The pattern of replies is similar across groups of respondents and supports the initiative to amend the Directive in order to clarify its wording so that its benefits apply to all cases where the payments received by permanent establishments are linked to their activities. 100 % of the professional associations agree to this proposal.