



Brussels,
TAXUD/D1/(2019) taxud.d.1(2019)

SUMMARY RECORD OF THE MEETING OF THE PLATFORM FOR TAX GOOD GOVERNANCE

held in Brussels on 19 December 2018

1. OPENING

1.1 The meeting was chaired by Valère Moutarlier, Director DG TAXUD.

2. ADOPTION OF THE AGENDA

2.1 The Chair presented the agenda of the day, which was built around the general theme of tax fairness.

2.2 The agenda was adopted.

3. TAX AND DEVELOPMENT: THE LINK BETWEEN INTERNATIONAL TAXATION, THE BASE EROSION PROFIT SHIFTING PROJECT AND THE 2030 SUSTAINABLE DEVELOPMENT AGENDA

3.1 Prof. Irma Mosquera Valderrama and PhD researcher Wouter Lips presented their study (co-authored with Prof. Dries Lesage) 'Tax and Development: The Link between International Taxation, The Base Erosion Profit Shifting Project and The 2030 Sustainable Development Agenda'. The study is part of an ongoing research project called GLOBTAXGOV funded by the European Research Council, at Leiden University. The project focuses on the BEPS 4 minimal standards and how they will be implemented in 12 countries around the world, considering two elements - implementation of BEPS and on the other hand, the implementation of the standards of good governance in tax matters within the EU but also in respect of the third non-EU countries.

3.2 The main question of the research is, under what conditions can the OECD-G20 and the EU models of global tax governance be feasible and legitimate for both developed and developing countries. Does the BEPS project also help the developing countries? How do we link BEPS and the 2030 sustainable development agenda? By introducing the standard of good governance including the BEPS 4 Minimum Standards in agreements between EU and African, Caribbean and Pacific countries, or Asian countries, the BEPS 4 Minimum Standards may be also applicable to developing countries including the countries who are not participating in the BEPS

Inclusive Framework. Then the question is since we are asking developing countries to commit to BEPS, what would be the link between BEPS and SDGs?.

- 3.3 Further questions stemming from here are for instance: Were the SDG's (sustainable development goals) and the interests of the developing countries to attract investment considered throughout the BEPS process? How will the implementation of BEPS contribute to achievement of the SDG's? Beyond BEPS, what other topics do we need to address in order to achieve the 2030 agenda for sustainable development? When we are talking about medium-term revenue strategies, how do we make sure that we have a holistic, inclusive and coordinated approach? How do we make sure that these developments in taxation are also going to help SDG's and the 2030 agenda for sustainable development? When we talk about fair and efficient corporate taxation, we may need to think about how we may tailor the BEPS to the needs of the developing countries, and whether by using regional approaches, we can help developing countries to exchange best practices?
- 3.4 Wouter Lips, researcher PhD at Ghent University, co-author of the paper, gave an overview on the issues that are important for the developing countries as far as the link between BEPS, tax development and the SDG's is concerned, and on tax capacity building. The SDG's that are specifically relevant to taxation are No. 17.1, on strengthening domestic resource mobilization, and No. 16.2, on reducing illicit financial flows by 2030.
- 3.5 So, how does BEPS help to achieve these two SDG's? The most visible international transparency initiatives that could be helping the developing countries with these two issues are the CbCR (country-by-country reporting) and the CRS (common reporting standards). If we look at the active CbCR and CRS relationships on the map, we see that the transparency agenda today is not reaching most developing countries.
- 3.6 BEPS was a great step forward but we should remember that BEPS is essentially western countries' solution to western countries' problems of artificial profit shifting within western countries' preferred norms, so parts of BEPS will help the developing countries, but the developing countries should carefully analyse which parts of BEPS, and it should also be analysed which wider ranges of issues of BEPS go beyond the issues that the develop countries should address. According to the TP bible, there is a severe lack of comparable transfer pricing databases that leave tax administrations in the global south vulnerable to tax avoidance.
- 3.7 Another issue are the double tax treaties. According to Mr Lips, what is needed in the developed countries is more politicization around double tax treaties and their effects. Proportionally the corporate income tax is much more important for the developing countries as part of their tax revenues than for the developed countries, which means that the developing countries are more vulnerable to tax avoidance or to profit shifting.
- 3.8 Beyond BEPS there is a whole range of other issues between tax, development and the SDG's. What the developing countries need is tax capacity building to achieve those two SDG's. Such aid is provided by UN, the ADDIS tax initiative through Platform for Collaboration on Tax, and regional tax organizations.

3.9 However, tax capacity building cannot be a one-size-fit-all model. For this reason, the Platform for Collaboration on Tax came up with a new governance tool called the medium-term revenue strategy (MTRS), which is now the most common strategy for the IMF, for instance. Still, also the MTRS has certain shortcomings that can be criticized, like the requirement for 5-10 year societal consensus on revenue goals, the issue of ownership, and its inflexibility as far as democratic development is concerned.

4. PROGRESSIVE TAXATION

4.1 ActionAid gave a presentation on ‘Taxation for equality: the case for progressive taxation’, based on the organisation’s eight briefings on progressive taxation touching upon VAT, capital gains tax, international trade taxes, taxes on the informal sector, property tax, excise taxes, and wealth taxes. ActionAid favours progressive tax systems that distribute contributions fairly and serve to bridge economic and gender inequalities, and defines progressive taxation by the motto “higher tax rates for those with higher income or more wealth”.

4.2 Taxes can be made more progressive with well-designed scales, exemptions and thresholds. What matters for the overall progressiveness of a tax system is the mix of different types of taxes and the rates applied to them.

4.3 ActionAid finds that domestic resource mobilisation is vital to financing development and the SDG’s. However, it is not only a question of how much tax is raised, but also *how* tax is raised that matters: regressive taxes risk pushing people into poverty and risk worsening economic inequalities, unless offset by strongly progressive spending. The VAT is an example of this; there is increasing evidence of the disproportionate impact that it can have on the poor and in particular on women. Despite this, many developing countries at the moment tend to increasingly rely on VAT and other consumption taxes. ActionAid took Uganda and Ghana as examples of this: between 2012 and 2016, Uganda raised more than 1/3 of its total tax revenues from VAT, while this figure in Ghana was 29%. In comparison, in the EU the contribution of VAT to total tax revenue averages only 17,5%. Developing countries’ increasing reliance on consumption taxes is accompanied by a massive scale of tax avoidance and tax evasion, which effectively means that the balance of contributions is shifted towards those earning less.

4.4 ActionAid finds that there is no one-size-fits-all solution for a progressive tax system. Still, governments should ensure that their tax systems do not reinforce gender and economic inequalities.

4.5 To rectify the situation, ActionAid’s recommendations include impact analyses on how implementation of a specific tax will affect different segments of society, and secondly, better communication to the public about taxes and how they are spent. Their third recommendation is to ensure that tax administrations are well-resourced and trained, and fourth, to increase transparency towards other tax authorities as well as the public.

4.6 ActionAid recalled that in the new European Consensus on Development, the EU and Member States have committed to “work with partner countries to promote progressive taxation and redistributive public policies”. Two ways in which EU

countries can do this are indispensable. First, they can play their part in curbing tax avoidance and evasion by corporations and wealthy individuals. Leading by example, by ensuring a high degree of policy coherence for development, is essential. Second, EU countries can do so via their aid to domestic resource mobilisation, including budget support or collaboration with other international and regional organisations.

- 4.7. After ActionAid's presentation, the Chair opened discussion on the two presentations. A Professionals' Association inquired what the speakers would propose for the European Commission and the Member States to do on the ground, referring to the vastly different situations in different developing countries. An NGO asked Mr Lips whether he considers the current transfer pricing system sustainable, and more specifically, whether it is suitable for developing countries. The same NGO asked Prof. Mosquera Valderrama whether she regards the 3rd criterion of the EU black-list process, which forces the screened developing countries to commit to the 4 BEPS minimum standards, as a fair requirement by the EU. A Member State invited to take stock of the situation of VAT and to see what solutions could be found so that VAT could be included in the idea of progressive taxation, and furthermore, pointed out that the problematics of tax incentives are an important factor in the domestic resource mobilisation.
- 4.8. Prof. Mosquera Valderrama replied to the Professionals' Association by explaining that, since all developments in taxation are now linked to development and to the developing countries, we must not discuss these topics separately, but we should discuss these issues jointly and the discussion should be further than domestic resource mobilization. This means then that there should be a discussion to find out a new model of global tax governance that also takes into account the needs of developing countries. Consequently, her proposal is, first of all, to have a dialogue with different stakeholders to try and find out together what we are asking from the developing countries and whether our requirements are reasonable for them, and if they are not, what needs to be done. This dialogue needs to be at regional and also at international level. In parallel, the study of BEPS implementation in 12 countries may illustrate the differences in implementation of BEPS 4 Minimum Standards in accordance to the country's tax system and tax culture. Prof. Mosquera Valderrama then reacted to the comment of the Member State by explaining in more detail how tax incentives should be used by the developing countries in a more efficient way without eroding the tax base.
- 4.9 In reply to the Professionals' Association on what can be done, ActionAid agreed that the context in developing countries is sometimes extremely difficult and thus work on taxation and the work on general governance must go hand in hand. According to ActionAid, the necessary steps to take are to increase transparency by pushing for EU public CbCR for all countries, and to carry out proper spill-over analysis of EU and European tax policies on developing countries. ActionAid considers that there are ways to make VAT less regressive through exemptions and zero-ratings, this is important because some of the other, more progressive taxes are not yet being explored by developing countries. To an NGO's question on whether current transfer pricing system is sustainable for the developing countries, Mr Lips replied that it is certainly necessary to have a debate on whether the current complex system is sustainable for the developing countries or whether we should move to an

easier to administer tax system that might be more crude but would guarantee for the developing countries a certain portion of the tax base.

- 4.10 An Academic Organisation pointed out that one should be careful to not introduce new asymmetries in the system in order to achieve other than fiscal goals, and concerning progressive taxation recalled that, while the organisation in principle adheres to the ‘ability to pay’ principle, however, it is being applied quite differently in different countries. A Business Association found the progressive taxation to be too political in nature and thus difficult to give general advice on, but agreed that taxes do play a role for the achievement of the SDG’s. The Association raised the importance of tax treaties in ensuring tax certainty and of adhering to principles. According to the Association, many factors speak in favour of consumption taxation not only for economic efficiency reasons, but also to advance environmental aspects. Finally this Association also warned against high degree of progressivity experienced in some countries. An NGO also welcomed the presentations, considering these topics an essential part of Platform’s agenda, emphasizing an SDG framing and in parallel to it, a human rights framing. This NGO joined the other NGO’s in calling for both beneficial ownership and CBCR to be made public, in order to improve the governance issues, and also urged to look at non-discrimination as one of the areas of developing good tax policy.
- 4.11 A Professionals’ Association welcomed the discussion, however, criticizing the fact that developing countries were underrepresented in it. The Association joined other Members in calling for more coordination of the support efforts, in order to ensure more certainty and growth, and, like several other Members, emphasized the necessity of good general governance. The Association reiterated the Business Association’s opinion, considering that using tax to steer the behaviour is very difficult, as it is not always very predictable. A Trade Union stated that it had always been in favour of progressive income taxes and against flat tax rates, and went on to enquire whether there is at this point any knowledge about the effects of the national transposition of BEPS measures in EU Member States.
- 4.12 Prof. Mosquera Valderrama commented on the remark on tax treaties as a way to ensure tax certainty, made by a Business Association, by explaining that both the OECD and the G20 are currently researching tax certainty issues, and by describing how certain elements of tax treaties will create more uncertainty. Furthermore, she commented on the relationship between tax treaties and investment, stressing that according to several international studies, tax treaties are not the only decisive element in creating investment, so we have to look at the whole network of tax treaties, investment treaties, stabilization clauses, work force, infrastructure, and so forth.
- 4.13 Mr Lips replied to the comment by a Professionals’ Association concerning coordination of the tax capacity support, agreeing that these are very relevant issues. According to him, tax capacity aid provided to the developing countries is often more supply-driven than demand-driven. However, there are now two tax capacity initiatives that focus on diagnostics: TADAT, the Tax Administration Diagnostic Assessment Tool, and MTRS, Medium Term Revenue Strategies.
- 4.14 In reply to the Business Association that found the progressive taxation too political in nature to be discussed by this expert group, ActionAid stated that in their view,

the issue of taxation indeed is a political issue and should stay so, and went on to emphasize that the revenue side cannot be split from the re-distribution side. Finally, ActionAid pointed out that there is a principle around progressivity, and whether the degree of progressivity is becoming too high in some countries, is a different discussion.

- 4.15 A Professionals' Association agreed with the Business Association, underlining the usefulness of double tax treaties. Moreover, this Association warmly welcomed the new initiative by OECD on tax certainty.
- 4.16 DG TAXUD clarified that the objective of the discussion was not to get rid of double tax treaties. Subsequently, DG TAXUD invited DG DEVCO to familiarize the Members with the significant amount of EU financial support to developing countries in these matters.
- 4.17 DG DEVCO welcomed the presentations' references to the European Consensus on Development, the Agenda 2030 and the Addis-Ababa Action Agenda - which are the fundamentals of the development policy of the EU. DG DEVCO then indicated that the EU jointly with other development partners committed in 2015 under the Addis Tax Initiative to collectively double DRM support to partner countries. In 2016, the EU mobilised €38 million of grant funding to support domestic revenue mobilisation (DRM) in developing countries. The EU co-finances DRM capacity building of the IMF (Revenue Mobilization Thematic Fund, Management of National Resource Wealth Thematic Fund, TADAT trust fund), the World Bank and the OECD. The EU also co-finances the work of the UN Tax Committee. Furthermore, DRM is an important feature of the EU's bilateral cooperation with partner countries, in particular in the context of budget support programmes. The EU provides budget support to about 90 countries and territories across the world, often as sectoral budget support to top-up the government budget in order to implement a policy with clear targets, for example in the education sector. Budget support entails a commitment by the government to improve public finance management and budget transparency. The EU considers this an effective way of improving the overall economic governance in partner countries. In 2017, the EU disbursed €1.8 billion of grant funding for budget support in partner countries, which is very significant.
- 4.18 The OECD commented on the question concerning the effects of BEPS, explaining that the OECD is expecting to have the first results as part of Action 11 – i.e. the monitoring of BEPS - sometime next year. Then OECD went on to develop more on capacity building and the OECD's flagship initiative, Tax Inspectors Without Borders program, a joint initiative with UNDP, which is estimated to have led to an increase of tax revenues of more than \$400 million. The OECD also provides tax policy advice to developing countries, such as a DRM program with developing countries to finance health-care systems in those countries. As far as progressive taxation is concerned, the OECD has been working on a project called Tax Design for Inclusive Economic Growth, under which it has done a number of studies on taxation of personal savings, on taxation of wealth, and on inheritance taxes. The OECD agreed with ActionAid that increasing progressivity in the developing countries is more difficult, and thus calls for more original solutions.
- 4.19 DG TAXUD concluded the discussion, however, underlining that this was just the beginning of the discussions and reflections. The objective of the day is to open a

wide range of issues, on which the further agenda will be shaped. In reply to a Business Association, DG TAXUD stated that the collective contribution of the Members is highly useful to widen the understanding of the issues the stakeholders have in mind, with the view of designing the future agenda. DG TAXUD thanked the presenters and considered they were to the point because the presentations triggered a lot of questions and comments, so it was a very good starting point for the future thinking on this area. According to DG TAXUD, there is an obvious cross-cutting element between development and tax, which we need to continue to tackle jointly. It seems that we cannot re-silo the discussion if we want to improve our collective capacity to meet the challenge. DG TAXUD's interest is to define an EU agenda. What is very important is that we could identify the issues on which the EU leverage is important and has best impact.

5. FAIR TAXATION FROM THE ECONOMIC PERSPECTIVE

- 5.1 DG TAXUD then introduced the next presentation, still on the topic of fair taxation, but from the angle of economic analysis. In the world with a lot of changing factors in the economic environment, while the EU has invested a lot during this Commission mandate into the issues of fair taxation, we still often see in the public debate discussions around the question, what exactly is fair corporate taxation.
- 5.2 Prof. Arjan Lejour, Ass. Professor at Tilburg University and Program Leader at the Netherlands Bureau of Economic Analysis, presented an economists' view on channels of tax avoidance and on the question of taxing rights, specifically tax treaty shopping, as well as some policy options. He explained that according to studies, most countries combine corporate income taxation (CIT) and personal income taxation (PIT), and have their own solutions for taxing dividend income in PIT/CIT, i.e. the position of the shareholder. Many economists are of the view that firms should not be taxed at all but instead, only the shareholders should be taxed. However, as long as the blockchain technologies are not sufficiently developed to indicate who the shareholders are, withholding tax is useful as an advanced levy. There are lots of efficiency and equality arguments also to tax capital income, although this question too is much discussed among economists. In conclusion, CIT should be studied together with withholding taxes.
- 5.3 Prof. Lejour continued by demonstrating how in the traditional tax architecture, taxing rights are based on the source of income and residence of the tax-payer, source being related to physical presence and production, and the residence being the place of primary location of receiving income. However, in the current economy with the growing digitalization and globalization, this distinction becomes blurred. The former consensus was that the source countries tax active business income of foreign permanent establishments (PE), while residence countries tax passive income like interests and royalties. However, with the modern global added value chains it becomes difficult to know where parts of the profits are allocated.
- 5.4 In attempts to solve the problem, the first obstacle is the existence of both territorial and worldwide systems. However, there is no clear distinction between them because of tax deferral, tax credits, and CFC rules which complicate the system. Withholding taxes on outgoing flows, relief given by residence countries, and double tax treaties

which reduce withholding tax rates, further contribute to a complicated picture of tax rules in a lot of countries, offering opportunities to benefit from the differences in the systems. Although there are numerous channels of base erosion and profit shifting, like transfer (mis)pricing (TP), strategic location of R&D functions of companies, international debt shifting, treaty shopping, tax deferral, corporate inversion, risk transfer, avoiding PE status, and hybrid entities, there is hardly any empirical material to say something about the amounts of tax avoidance.

- 5.5 Prof. Lejour continued by listing measures that have already been taken to reduce tax avoidance: TP regulation, thin capitalization rules, CFC rules, and the recent work on CbCR, and stated that the research seems to show that these measures are effective to some extent. Prof. Lejour then went on to analyse the economic effects of BEPS and anti-BEPS policies. There is some empirical and theoretical research showing that tax havens promote investment, however, on the downside, this could increase taxes on labour. Furthermore, the current systems hardly tax at all profits of the digital multinational companies. Recent studies show that BEPS affects product market competition, as anti-shifting rules increase market share of national competitors, so BEPS seems to improve the level playing field.
- 5.6 Next, Prof. Lejour outlined the distributive effects of BEPS, describing that while CIT revenues are a small part of total revenues, lower revenues and higher net returns on capital could contribute to wealth inequality and income inequality, in particular at the high end of the wealth and income distribution. Consequently, tax avoidance adds to the perspective that capital is hardly taxed. In general, we do not know much about economic and distributive effects of BEPS, except for its budgetary effects: host countries, among them developing countries, lose taxing rights, and countries with a high CIT tariff lose revenues.
- 5.7 Based on an IMF paper, Prof. Lejour demonstrated the effect of tariffs on the tax base. The so-called semi-elasticity of the CIT tax difference between the country and the average to the revenue base is 1, but it is increasing over time. A 10% point increase in the tax differential lowers profits by 10%. The observed tax base equals the commercial profits plus shifted income. The IMF has estimated that in the US the tax avoidance has led to a CIT revenue loss of 17%, in many other big economies to a loss of 4%, while for low-tax countries the revenues have risen by 20 % and at the global level, the revenue loss has been estimated at 2,6%.
- 5.8 Prof. Lejour then went on to visualize the treaty shopping schemes in the international tax system. Due to double tax treaties and the differences in withholding taxes, the optimal route for the multinational companies to transfer profits, while reducing taxes, is via a conduit country. The cheapest tax routes can be determined using algorithms. Only in 1/3 of cases, the direct route is optimal. Based on research on 108 countries, it has been shown that world average double tax rate is reduced with 6%, and the most avoided taxes are the withholding taxes. The potential tax reduction has been estimated at \$75 billion. Based on bare tax parameters, 10 most popular conduit countries had been listed, and they are typically characterized by EU membership, 0% general rate of WHT, and exemptions in a large number of tax treaties. Prof. Lejour put forward a comparison with the customs union, in which the tariffs are common for all the Member States, advocating the same approach in the capital market union, which needs common withholding taxes. According to a study, setting the WHT in the EU at a minimum level of 5%, would

reduce the amount of tax avoidance via Europe, but would not completely abolish the phenomenon.

- 5.9 Concerning the differences between the developed and the developing countries, Prof. Lejour analysed the double tax treaties (DTT), commenting that with the BEPS multilateral instruments, there are now better opportunities to exchange information and consequently observe abuse of tax treaties. However, he was wondering whether the developing countries actually have the capacity to use all this information. He concluded by two questions: Would it not be better to remove the tax incentives? And, instead of reducing WHT rates by double tax treaties, while at the same time providing development assistance to the developing countries, would it not be better to simply have a standard rate?
- 5.10 A Business Association agreed with Prof. Lejour in that for an economist, it is not easy to say what is fairness, and commented then on BEPS, stating that based on the share of GDP, the magnitude of tax avoidance is so minimal that the efforts undertaken deliver diminishing returns. The Association also struck a note of warning against increasing taxation of the shareholder level because it would, according to the Association, favour foreign capitalists, impact debt-equity issues, and influence the business and ownership structure in the country rather severely. An Academic Association considered that a particular issue here relates to data availability and accuracy. Consequently, the Association finds that in reality tax losses are much larger than in the presented paper, and hopes that CbCR will improve on this. In contrast to the Business Association, the Academic Association estimates non-taxation through base erosion to be significant. An NGO enquired Prof. Lejour whether the developing countries should sign the suggested DTT's or strive for DTT's based on the UN model tax treaty. A Professionals' Association disagreed that PSD (Parent-Subsidiary Directive) would be to blame for a lower WHT. The Association also pointed out that the reason why CbCR reporting lines seem to converge in Europe, is not only caused by tax avoidance opportunities offered by the European states but also by the fact that many companies work from Europe. The Association concluded by recalling that there still are no clear rules concerning companies like Google.
- 5.11 A Member State underlined that it must be ensured that CIT is a backstop for PIT. This Member State agreed that the rules in some circumstances are unclear and outdated, however, from a point of view of economic policy it is very difficult for many governments, having to run a fiscal consolidation exercise, to ask citizens to pay their fair share of tax while the corporations do not pay their fair tax. Finally, the Member State questioned, who pays for withholding tax, from an economic point of view.
- 5.12 Prof. Lejour responded to the comments by reiterating that the presented elasticity estimates originate from an IMF paper; and by explaining the reasons why in his opinion the magnitude of tax avoidance is not so minimal that remedying it would not be worth the efforts. Responding to the Professionals' Association's comment that the PSD should not be blamed for a lower WHT, Prof. Lejour explained that he had not suggested to eliminate the PSD but had only stated that it has some negative consequences. In reaction to the Member State that asked who is paying the tax, Prof. Lejour explained that although several studies have been done to shed light on that question, we still do not have clear answers on that. Furthermore, he admitted

that it is indeed possible to come up with better policies which are efficiency-improving while also improve the fairness, it will be difficult as the situation is so complicated, and because it needs to be supported by so many countries. Answering to the question of the NGO, he stated that double taxation issues should be prevented by a treaty, but it should not be the developing countries that lower their taxing rights.

- 5.13 An Academic Association enquired whether Prof. Lejour favours multiple taxation of profits. Another Professionals' Association put forward the idea that fair taxation requires looking beyond the corporate taxation, to take into account efficiency, predictability, and stability. The Association also insisted on the necessity to stop from time to time to analyse the situation, before proceeding in drafting more rules. Responding to the Academic Association, Prof. Lejour said that he understood the concern but in the end it is the total amount of tax that counts, not whether the total amount has resulted from multiple taxation or one-off taxation, and that the complexity of the system does not enable any easy answers. In response to the claim that fair taxation requires looking beyond the corporate taxation, Prof. Lejour clarified that he had in his presentation just demonstrated the existing measures against tax avoidance and what research has to say about their effectiveness, but he had not said that they would imply fair taxation. He further commented the question on economic growth by reminding that it is a much broader question that reaches beyond taxation.
- 5.14 DG TAXUD reacted on the doubts that tax avoidance would be of minimal importance because of its small share of GDP, questioning whether such objectives like reducing double taxation or facilitating tax compliance would also be considered as not worth the efforts because their impact on GDP could be small. The Business Association reiterated its opinion that measures undertaken will increase the administrative burden significantly, while having a limited effect on the overall size of the problem.
- 5.15 DG TAXUD thanked Prof. Lejour for having sparked very interesting discussions in the Platform by his very useful presentation. DG TAXUD agreed that fair taxation is more far-reaching than BEPS or the CIT, and emphasized that we are today going beyond the issue of pure figures, and what is at stake is the sustainability of the current economic model in the EU. Refusal to make alterations on the short-term will risk the sustainability of the model in the long term. DG TAXUD concluded by reminding that there is a lot of pressure on the system today, and while creating jobs is imperative, taxation can only play a limited role in that, and most importantly, we need to strike a balance.

6. FAIR TAXATION - ACHIEVEMENTS AND REMAINING CHALLENGES

- 6.1 DG TAXUD presented a document that takes stock of what has been done so far but also highlights what remains to be done. Because the international tax framework designed in the 1920's may not be fit to the modern globalized and digitalized economy, and consequently companies are playing on loopholes and mismatches to avoid paying tax, fighting against tax abuse has become a priority for the Commission especially since 2014. Debt shifting, duplication of intellectual property, misuse of transfer pricing, tax treaty shopping, and artificial avoidance of PE were mentioned as the most important channels of aggressive tax planning. The

negative effects of aggressive tax planning show as distortion of competition, decreasing competitiveness for the EU economy in the long run, loss of tax revenues, distortion of national account statistics, and the impact on tax-payers' moral and on inequalities.

- 6.2 Among the measures that the EU has accomplished in order to try to restore a fairer corporate taxation, DG TAXUD listed ATAD1 and ATAD2 Directives. By amendments to other Directives, the EU has improved automatic exchange of information on tax rulings and on country-by-country reports, and made disclosure of aggressive tax planning schemes mandatory for the intermediaries. In addition to the adopted measures, there are several proposals on table: CCCTB, revision of the Interest and Royalty Directive, public CbCR, and the proposal on taxation of the digital economy. Also the Code of Conduct (Business Taxation) group has done a lot on reviewing patent boxes and on listing of non-cooperative tax jurisdictions. Among other efficient tools for fighting aggressive tax planning are the European Semester and state aid procedures. At international level, the driving forces are the G20 and the OECD: BEPS provides for a number of actions to increase transparency, to improve anti-abuse measures, and to facilitate dispute resolution.
- 6.3 DG TAXUD then went on to the question, what remains still to be done. First of all, the EU will need to monitor the implementation and effects of the recently agreed rules. The question of outbound payments, interest, royalty or dividend payments are also of interest for the protection of the EU tax base. The double tax treaties will need to be safeguarded against aggressive tax planning. DG TAXUD concluded the presentation by stating that the process of ratification and the scope of the MLI (multilateral instrument) in the different Member States, as well as addressing remaining loopholes in the Member States' regimes, and coordinating better on transfer pricing rules will be of importance going forward.
- 6.4 European Parliament commented on the presentation given by DG TAXUD by regretting that, although several Directive proposals had been put on the table by the Commission and the European Parliament had supported them, the Council had not adopted them, so they could unfortunately not yet be regarded as achievements of the EU.
- 6.5 A Business Association disagreed with certain parts of the document, claiming that governments or countries whose tax base is eroded, are in the Association's opinion not forced to raise revenue from other taxes or have to reduce public investment, as they can reduce public spending or expenditures without touching public investments. This association also rejected the affirmation that aggressive tax planning opportunities would have an impact on the real capital investments that the multinational enterprises (MNE) will make in a given country, alerting that the MNE may not make investment at all. The Association also disapproved mentioning the digital service tax proposal in the same paragraph with the CCCTB proposal, and doubted whether tax competition actually is intensifying. Furthermore, the Association enquired what is meant by coordination on transfer pricing. The Association expressed its contentment with the work done on dispute resolution. A Professionals' Association joined the Business Association in acknowledging the work on dispute resolution and expressed their preference for the long-term solution on taxation of digital economy.

- 6.6 An NGO acknowledged the achievements of the European Commission in the last five years, adding that the effects on the citizens' tax morale and consequently on the social contract are difficult to calculate. The NGO invited DG TAXUD to include aggressive tax planning indicators to the criterion 2, in order to help address such countries that so far escape the effects of the EU listing process. Furthermore, the NGO found that the document could be more ambitious on tackling intra-EU tax competition, especially in issues of R&D incentives. Another NGO joined in complimenting the Commission for its work, and raised the importance of fighting inequality, advancing progressive taxation, curbing tax competition within Europe, and fast adoption of the CBCR including developing countries.
- 6.7 A Professionals' Association joined in commending the EU for the work done on dispute resolution, and insisted that the EU should get recognition for that. Moreover, the Association estimated that EU must include in its list of achievements the setting up of dialogues such as the Platform. The Association anticipated that going forward, the environment-related changes in Europe will abolish a large part of the tax base, which will, in their opinion, create a gap that will be larger than the share of CIT of GDP. Hence, the Association urged to look beyond the company taxation. The Association concluded by inviting the EU to agree on more explicit guidance on the new rules that have potentially discretionary application.
- 6.8 An Academic Association exhorted the EU to refrain from introducing new measures, which may be unnecessary while the effects of the current measures are not yet known, and thus new measures contain risks. DG TAXUD explained why it will not be possible to wait: the political pressure for the reforms is high because the audience does not trust that the right challenges have been tackled. Instead, the collective responsibility in this discussion is to see together how issues can be fixed in the few years to come.
- 6.9 Another NGO acknowledged the work done by the EU, especially in improving transparency, and according to this Organisation, transparency is key. This organisation encouraged the EU to proceed further in thinking how this system can deliver a better Europe for all, including businesses. UN should be given a bigger role in representing developing countries, and listening to the developing countries would be also in the interest of businesses. In conclusion, the Organisation encouraged the EU to discuss with the UN not only aid but also tax matters.
- 6.10 A Trade Union considered ATAD 1 and 2 Directives to be among the best achievements, and joined the European Parliament, regretting that the list of things not yet finalized is too long. Going forward, the Union regarded as the most important point to verify the efficiency of the measures taken, and if necessary, to make changes accordingly.
- 6.11 Another Professionals' Association congratulated the Commission on what it has achieved over the last four years, and encouraged the Commission to be more public about its achievements. The Association introduced business initiatives with new tax transparency proposals, standards and good methods for reporting tax transactions of companies. The Association thinks fairness in a tax system is more about seeing what the public expects from the government, and how that actually can be financed in the long term. The Association would like to see Europe and the Commission

leading the way on long-term solutions for both social problems and the means in which to finance them.

- 6.12 An NGO said that they could agree with the calls to wait and see the effects of the tax reforms done until now, if businesses were transparent about the progress made. The NGO also commented on the claim that workers pay the price for the CIT, arguing that based on studies, workers have not benefitted from CIT decrease.
- 6.13 Another Professionals' Association reiterated the request to wait and see, and assured that over time, businesses will become more transparent. The Association suspected that if audiences in Europe are not aware of the scale of work done by the EU in this area, that might be due to a communication problem.
- 6.14 The Chair closed the discussion thanking Members for their contributions: contributory leadership will enable the EU to identify a number of actions which will form the basis of the agenda for the upcoming term. The Chair encouraged Members to come back next year not only with questions but also with proposals and possible solutions. The Chair summed up the discussion by picking up ideas that had clearly come up: How do we coordinate the internal and external aspects of our agenda? What is fair taxation, beyond tax optimization? How to better balance tax stability when it comes to our tax reforms? What are the expectations of the people in Europe?

7. PRESENTATION ON FISCALIS

- 7.1. DG TAXUD presented the new Fiscalis program for the next multiannual financial framework for years 2021-27. FISCALIS exists since 2003 and it is a financial program which provides Member States' tax authorities and tax administrations with a set of tools, mechanisms, instruments and budget to facilitate and to enhance cooperation between themselves and with third countries. It also facilitates administrative capacity building in that it concerns the building of IT systems, training and competency building activities. It is crucial for the Member States to have a program in a domain that is submitted to national sovereignty but at the same time must function in an environment of free circulation of people, of services and capital.
- 7.2 DG TAXUD illustrated the overall architecture of the Multiannual Financial Framework which was adopted by the COM on the 2nd May 2018. 37 sectoral programs are grouped under this architecture, and Fiscalis is an isolated program together with the customs programme, and has been maintained separate from the general single market package. According to the current proposal, Fiscalis will continue to be an independent program, in order to ensure continuity of all the IT programs developed and operated within its framework. The proposed increase of budget should allow Fiscalis to take on board the efforts to push for a more enhanced operational collaboration between the Member States. It is also needed for operating and maintaining of all the IT systems that are now being developed and which are based on the legislation that is enacted in the Council. The new Fiscalis also includes novelties like enabling the Member States to develop together components of IT systems, to carry out joint audits, or to take on board the innovation and simplification that will be necessary in the next decade.

- 7.3 DG TAXUD explained that the new Fiscalis proposes broader categories of action, and its work will be based on multiannual work programs instead of annual programs. DG TAXUD subsequently gave examples of synergy benefits that can be achieved by the cooperation of the Member States. DG TAXUD also mentioned examples of topics discussed by the Platform, to illustrate the kinds of purposes to which Fiscalis can be used. Although the main participants of Fiscalis are the Member States and their governmental organisations, indirectly also the civil society can benefit from Fiscalis. In terms of negotiations, DG TAXUD explained that the Multiannual Financial Framework should be adopted in the course of next year, and it has already received positive evaluation from the EESC and the EP. The trilogue phase should start in the beginning of next year.
- 7.4 A Business Association welcomed the Fiscalis program as a very important tool, and invited Member States to have a positive view on it and to make use of it. The Association suggested that it should be further enlarged to include also a training facility.
- 7.5 A Professionals' Association pointed out that Fiscalis and the Tax Policy Survey should be listed in the Commission document among the achievements.

8. TAX POLICIES SURVEY IN THE EU – 2018

- 8.1 DG TAXUD gave a brief presentation on the recently published Tax Policies Survey in the EU for year 2018, illustrating first the structure of the Survey, which consists of the general principles for fair and efficient tax systems, analysis of the performance of national tax systems, and finally, introduction to recent tax reforms and policy options in the EU. In a nutshell, the Survey aims to improve transparency, and the data is used as part of the European Semester. Indicators show how Member States' tax systems perform against priorities of efficiency and fairness. Moreover, the Survey complements the taxation trends report. The new Survey will be presented at conferences and workshops, and the drafting of the next Survey (2019) will start in early spring. DG TAXUD concluded the presentation by welcoming any comments and suggestions that the members might have.

9. CONCLUSIONS

The Chair thanked all members for all their contributions to the lively discussions.

The next PF meeting will take place in the first quarter of the next year.

A summary record of the Platform meeting will be circulated to members and made available on the Platform website once approved.