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

held online on 10 March 2021, 9h30 – 13h00

1. OPENING OF THE MEETING

The meeting was chaired by Mr Angel, Director for Direct Taxation, Tax Coordination, Economic Analysis and Evaluation at the EU Commission Directorate General Taxation and Customs Union.

2. TAXPAYERS' RIGHTS

After a brief introduction by the Chair, the Commission services (TAXUD) presented ongoing work on taxpayers' rights. The Commission is working on two separate yet closely linked initiatives to simplify the life of taxpayers operating in the Single Market: first, a Communication taking stock of taxpayers' existing rights under EU law, second: a Recommendation to Member States to facilitate the implementation of taxpayers' rights and to simplify tax obligations. The Communication will catalogue existing rights based on case law and will start with landmark cases from the jurisprudence of the European Court of Justice (ECJ). The Communication will explain the case law and make clear which taxpayers' rights can be derived from it. The Recommendation also aims at improving the life of taxpayers in the Single Market. It deals with situations that are not *per se* in breach of EU law (e.g. obstacles, disparities), but that make the life of taxpayers more burdensome or costly and thus prevent them from exercising their rights of free movement. The Recommendation will concern both individual taxpayers and businesses, especially small and micro enterprises. To gather input from stakeholders, the Commission has launched a public consultation.¹ Input from Platform members to this consultation is welcome. The Communication and Recommendation should be released before the end of 2021. Following the presentation by the Commission services, the Chair opened the floor for comments and discussion.

¹ The public consultation will be online until 2 June 2021 at: <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12627-EU-taxpayers-rights-simplified-procedures-for-better-tax-compliance-Recommendation-public-consultation>

The Tax Justice Network² (TJN) enquired if, in light of Article 8 of the Treaty on the Functioning of the EU (TFEU)³ and as the Commission intends to build an “economy that works for the people”, it were possible to include a recommendation for making tax systems more progressive. According to TJN, more progressivity would reduce inequality and contribute to achieving the goals of the EU Treaties.

The Commission speaker replied to this remark recalling that personal income taxation mainly falls within the competence of Member States. As long as there is no difference in tax treatment between residents and non-residents, progressivity is not an EU competence. Therefore, the issue raised by TJN would go beyond the intended scope of the Recommendation on taxpayers’ rights.

The Chair added that, while progressivity is not within the scope of this initiative, it does not mean that the Commission ignores it. From an economic point of view, there is no doubt that taxation has a role to play in addressing inequalities. In this respect, the Commission regularly addresses this issue in economic policy documents for Member States in the context of the European Semester in particular. Another issue is what can be done from a legal point of view, taking into account the applicable legal basis. In the past, Member States have been reluctant to accept EU proposals to coordinate personal income taxation. In terms of EU legal instruments, Member States do not generally object to the EU Commission providing recommendations or observations on economic policy. Nonetheless, when it comes to EU legislation, there is clearly significant reluctance. In short, there is no straightforward answer to the issue raised by the representative of TJN.

A representative of an academic association took the floor. The speaker welcomed the initiative, as it aims at easing administrative burdens for taxpayers within the EU. The speaker pointed out that the title of this initiative is maybe not precise enough because the initiative seems a mix of various fields, rather than solely dedicated to taxpayers’ rights. It could be helpful to reflect upon a more precise title and clarify the scope. Finally, one should reflect on the instruments that could be used in this initiative. A Recommendation is non-binding and as such, its effect will be limited, unless the Commission chooses to make a legal proposal.

A speaker from an NGO emphasized that tax fairness and tax transparency should be addressed more clearly in the Communication, in order to enhance the social contract between states and citizens. Concerning VAT, the Commission should address the significant cross-border tax fraud. This should be a component of this initiative, in order to increase the perception of tax fairness and tax transparency across the EU.

The Chair clarified that other work streams are addressing the issue flagged by the speaker in relation to VAT. The Commission will have three new legislative proposals in the field

² Following their request, statements by representatives of the Tax Justice Network (TJN) are explicitly attributed to TJN.

³ Article 8 of the Treaty on the Functioning of the EU (TFEU) reads as follows: “In all its activities, the Union shall aim to eliminate inequalities, and to promote equality, between men and women.”

of tax evasion, tax transparency and tax avoidance, delivered hopefully within the current year. To tackle VAT fraud, the Commission is preparing a Communication, which should be adopted in the summer. This Communication will identify best practices mapped at national level across the EU and will ask Member States to draw inspiration from such practices. Too often VAT fraud is taken as given and cultural factors might play a role as well. Some Member States managed to reduce the VAT fraud by more than 10% over a very short period of time. The Commission is currently identifying these good practices and will invite all Member States to draw inspiration from them.

A speaker from a business association drew the attention to the [International Chamber of Commerce Tax \(ICC\) Charter](#). The ICC Tax Charter provides a common international approach to Tax Charters for individual countries and presents an effective roadmap based on the rights and obligations of both taxpayers and tax administrations. The Charter also aims to foster trust and create confidence in the tax system, improve administrative efficiency, as well as enhance certainty for business. It also addresses areas such as efficiency, non-discrimination, compliance burden, etc.

The Chair confirmed that the Commission will pay close attention to the ICC Tax Charter and thanked the previous speaker for drawing the Platform's attention on this regard.

A representative from a professionals' association thanked the Commission speaker for the very comprehensive presentation and welcomed the renewed focus of the Commission in this field. This association has considerable experience in this area and advocates the fundamental importance of taxpayers' rights for tax good governance. The speaker confirmed that their opinions, statements and comments will be shared with the Platform in due course.

3. CORPORATE SOCIAL RESPONSIBILITY (CSR) AND TAXATION

To introduce the topic, the Chair recalled that taxation is an important element of corporate social responsibility. Several companies treat it seriously and are aware of the importance of behaving in a socially responsible manner and of promoting good tax behaviour.

The Commission speaker gave an overview on corporate social responsibility and taxation. The Commission defines CSR as the responsibility of enterprises for their impact on society. Although CSR should be company-led, public authorities have an important role in supporting and encouraging companies in their efforts to conduct their business responsibly, including via soft law or legislation. More specifically, the role of the EU on CSR is built on its 2011 renewed strategy for CSR, which aims to align European and global approaches to CSR. In particular, tax transparency initiatives can contribute to CSR. Tax transparency can shed light on practices that might otherwise remain hidden and inform the public on the wider policy debate. One could even claim that greater tax transparency brought impetus into the debate that led to the original OECD BEPS Report and the BEPS Action Plan in 2012 and 2013. In the field of tax transparency, a recent example is the proposal for a Directive on Public Country by Country Reporting (CBCR). This proposal requires multinational groups to publish a yearly report on profits earned and taxes paid in each EU Member State where they are active. Another example of the benefits of tax transparency is the requirement under the fifth Anti Money Laundering Directive for Member States to make their registries of Beneficial Ownership information accessible to the public. Following a brief presentation of some national examples of good practices in CSR, the Chair opened the floor and called the Platform members to make their interventions.

A speaker from EuroDaD⁴ thanked the Commission for including this item in the agenda due to its relevance in the general debate for a number of years. The speaker pointed out that the Commission captured a few of the interesting debates in this field. Indeed, one can observe that often companies move further and much faster than Member States (e.g. voluntary approaches). The speaker flagged the challenges of voluntary initiatives and contrasted this with mandatory regimes that allow the comparison of information and access for consumers and stakeholders and on an equal footing. The speaker drew the attention on a couple of initiatives that were well received and introduced interesting ideas:

1. [Global Reporting Initiative \(GRI\)](#), which is a very large sustainability reporting standard. It constitutes a very broad non-governmental initiative. Approximately 75% of the largest multinationals worldwide embraced this standard. Within the GRI framework, the Global Sustainability Standards Board (GSSB), GRI's independent standard-setting body, approved the revised draft standard. This will be launched as *Tax Standard 207* in 2019. It provides for a number of disclosures, management practices and the strategy in relation to tax. Reporting organisations are encouraged to make their tax, CSR and overall strategy public and to explain the reasoning behind their choices. This project was widely supported by all involved stakeholders. The financial sector was also heavily represented. The Commission could draw inspiration in connection with the Public CbCR initiative.

2. [Fair Tax Mark](#), i.e. a UK initiative that has also been followed outside Europe. This is essentially a fair trade certification for consumers' products and it basically recognises that tax is as important as other elements in terms of companies' business behaviour.

Generally, a challenge for companies is that there are multiple standards and companies are consistently asking for tax certainty and common standards. Here the Commission and the Member States have a role to play in making the mandatory standards comparable and thus creating an effective level playing field in terms of available information.

The Chair thanked the EuroDaD speaker for the interesting intervention and confirmed that many of these flagged issues overlap with the ongoing work streams at Commission level.

A speaker from an NGO suggested to include the reasons why companies should engage in tax transparency (e.g. reputational reasons or information on taxes allocation in terms of accountability towards citizens). The speaker also echoed EuroDaD intervention in relation to the inclusion of GRI standards in the Public CbCR, for instance in the banking sector. Lastly, the speaker raised a question about assessing the impact of initiatives on corporate social responsibility and taxation.

The Chair acknowledged the relevance of the raised points and encouraged the Presidency of the Council of the EU to share the latest information concerning progress on adopting the Directive on Public CbCR.

A representative of a professionals' association highlighted that a lot of work remains to be done and that business is paving the way in this field. If one looks at stakeholders' models based on Environmental, Social and Corporate Governance (ESG) standards, tax needs to

⁴ Following their request, statements by representatives of the European Network on Debt and Development (EuroDaD) are explicitly attributed to EuroDaD.

be taken into consideration in a way that fits into these ESG trends. A couple of topics should be tackled here. The impact of taxes on society is acknowledged in many papers and one can observe that many companies are already embedding tax in their strategic objectives. This will happen more and more often, also due to the influence of the Non-Financial Reporting Directive. The CSR/tax/ESG topics need to be considered in a broader context and the Commission should perform a technical comparative analysis on what countries have included in their legislation. Many global companies have already joined these initiatives. These topics have unfortunately received limited attention by external auditors. In conclusion, there is already a lot of material available; it fits with the ESG strategies of organisations and in that context an investigative paper should be drafted around how companies embed this and what it means vis-à-vis the Non-Financial Reporting Directive. According to the speaker, it is very difficult to include behavioral aspects in a code of conduct as such, without a proper requirement linked to it. In short, work on corporate social responsibility and taxation should also deal with what it means to have tax in the ESG metrics, as these aspects will have an impact on fiscal strategies of organisations and tax administrations alike.

A speaker from a think tank also pointed out that tax transparency is a key aspect of CSR. The recent agreement in the Council concerning Public CbCR by multinationals is a great help in this regard. The Action Plan for Fair and Simple Taxation includes some interesting ideas for better tax reporting and transparency. One of these is on better quality and use of data. Within this context, it is important to understand the meaning of corporate residence in national statistics. Differences of notions of residence or incorporation are visible between the EU and the US. This divergence may have an impact on how multinationals report and disclose their tax figures. A precise determination of the tax base is needed to calculate effective tax rates, a key aspect of ongoing discussions on reforming international taxation.

A speaker from TJN confirmed that TJN supports both the GRI initiative and the Fair Tax Mark initiative. The Fair Tax Mark helps show how transparency works in practice in the corporate structure of multinationals. The speaker asked if the Commission could consider developing an EU label in relation to tax responsibility. Under this label, companies could be externally certified in order to assess whether their international tax behavior meets a common tax fairness standard.

The Commission speaker thanked all previous speakers for their interesting interventions and promised to take a close look to the GRI. The speaker agreed that it should be a Commission priority to inform the public and confirmed further Commission initiatives in tax transparency. Concerning Public CbCR, there has been progress recently and the proposal could be adopted soon. The Commission is eager to gather best practices coming from companies in relation to CSR. The Commission will keep exploring the subject of CSR and taxation, yet it is still too early to envisage legal proposals on this topic.

A representative from a business association confirmed that companies are leading concerning CSR. Tax has been included for many years in the companies' CSR agenda. For instance, many Danish companies have become much more transparent in their annual reports. This behavior stems from an increased interest from shareholders, investors but also from a better understanding of the role of companies in the society and of the impact of tax on the society. The business representative identified two challenges: 1) tax transparency can be abused by business competitors and for this reason, global or EU regulation is key; and 2) rules should be simpler and more standardized. When it comes to CSR, it should not

be only about transparency but about behavior as well. The Commission has a role to play in this field, in order to facilitate an open dialogue with all involved stakeholders.

The Chair made a few remarks. On the effective tax rate and the need for a global standard, there is some progress at OECD level on the so-called Pillar 2 reform, and the thinking is evolving in the US under the steer of the new Biden administration. On public CbCR, the EU side welcomes the important milestone of the text now moving into the final phase of negotiations. This is certainly an important development. Cooperative compliance is part of the Tax Action Plan adopted in July 2020. The EU is currently working and drawing useful lessons from the experience of International Compliance Assurance Program, (ICAP), in order to prepare an EU initiative in the corporative compliance field and thus improve the relationship between tax administrations and businesses for their mutual benefit.

A representative from a business association confirmed that tax practices are part of many companies' CSR policies. The speaker asked what is the legal basis for EU work in this area. In terms of CSR, many definitions have to be taken into account and the exchange of views can be confusing at times. The speaker encouraged the Commission to focus its efforts on a robust Single Market, strong tax systems, jobs' creation and the post-COVID-19 recovery.

Another representative from TJN followed up on the previous remarks regarding distortions stemming from Public CbCR, especially in competition with jurisdictions where these requirements do not apply. This is a point worth considering and, for this reason, all companies active in the EU Single Market should follow the same rules, no matter where they are headquartered. To tackle this issue, the representative pointed out two mitigation strategies: (i) to empower consumers, in order to make them choose companies that play fair with their tax, through a label; (ii) the EU could introduce stricter tax transparency standards for companies to access public procurement. These measures would incentivise companies to behave responsibly, also in taxation. TJN is currently working on a methodology aimed at setting up a Global Tax Mark for multinationals; this is due for publication in the coming autumn. The Commission could explore possible exchanges and synergies in this field.

The Chair confirmed that the Commission is having internal discussions on a possible fair tax label. So far, the Commission has been more focused on enabling conditions, e.g. to enhance tax transparency and facilitate private initiatives from NGOs or others. Whether a public authority can come up with a label is certainly an issue worth exploring and the Commission would be interested in hearing the opinions of Member States in this regard. However, the first step is certainly the creation of a legal framework that guarantees sufficient tax transparency for consumers, to form their views and find all possible public information. A recent experience of legislation allowing more transparency is the Register of Beneficial Owners introduced with the fifth Anti-Money Laundering directive. Concerning public procurement, the Commission is currently working on a new framework of public procurement and checking if tax elements can be included, e.g. presence in non-cooperative jurisdictions for tax purposes.

A representative from an NGO pointed out the great evolution of the debate around CSR and taxation. It is encouraging to see how far advanced a few companies in northern Europe are in this field, e.g. voluntary Public CbCR in Denmark. As already pointed out by the EuroDaD speaker, the next step could be to harmonise and institutionalise tax standards, fair taxation and tax responsibility, with an important role for the Commission. In terms of a fair tax mark or label, close to 50% of the municipalities in Denmark have committed to ensure

tax fairness in their public procurement activities. More instruments are needed however, especially at EU level.

A speaker from a business association invited the Commission to map more initiatives, especially at global level or from the point of view of SMEs, and to prioritize simplicity as a key element of all policies.

A speaker from EuroDaD thanked the Portuguese Presidency for the progress on Public CbCR. On the risks linked to tax transparency in terms of business competitiveness, the evidence gathered so far does not seem to confirm these risks. Another important point in the field of transparency is the need for global disaggregation of data, rather than presenting only aggregated figures of revenues earned outside the EU. Public CbCR should contain useful and meaningful data. Tax transparency should be seen as an opportunity. It can increase a company's value and make it more appealing to investors. Tax and CSR should go beyond reassuring consumers and establishing good practices. It is also about responsible and rational investment. Investors need to have assurance on the financial stability of a company and now data is simply not available. Public CbCR could help investors identify aggressive tax planning or unfair tax practices. The UN also advocates for public CbCR, in line with the principles of responsible investments. In conclusion, tax transparency can help the post-COVID recovery, address the public perception on tax fairness and, at the same time, create economic value for investors in the EU and beyond.

The Chair concluded the discussion, recalling that tax good governance and responsible tax behaviour remain key priorities for the Commission, not only from a purely tax perspective: tax good governance is becoming increasingly mainstream. It cannot be excluded that the number of EU initiatives on tax good governance grow in the future and involve not only purely tax proposals but also initiatives concerning financial markets, public procurement etc.

4. FACTI PANEL

The Chair introduced the third and last item of the agenda. Representatives of the United Nations High Level Panel on International Financial Accountability, Transparency and Integrity (FACTI) presented their report of 25 February 2021. The Chair introduced the two Panel members and gave the floor to the chief of the UN FACTI Secretariat for some introductory remarks.

The Chief of the UN FACTI Secretariat clarified that the Panel was launched in March 2020, by the initiative of the President of the 74th United Nations General Assembly and of the United Nations Economic and Social Council. The Panel has 17 members. The Chief of the Secretariat explained that the Panel engaged with governments and civil society and focused its activity on highly debated issues, such as taxation and financial flows.

Ms Wieczorek-Zeul, member of the FACTI panel, kicked off the presentation of the report.⁵ The latter aims at reviewing the existing international, institutional and legal frameworks to

⁵ A copy of the presentation shown is available at:

https://ec.europa.eu/taxation_customs/sites/taxation/files/facti_panel_report_technical_tax.pdf

see whether there are gaps. It makes recommendations to overcome bottlenecks on the way to more comprehensive, effective and universal systems. Since a very early stage, the FACTI report findings showed that the status quo that governs global finance is skewed. Illicit financial flows represent a “double theft”: an expropriation of funds as well as depriving citizens of a better future. This situation undermines trust in public powers, drains resources, pushes people into poverty and constrains efforts to tackle global challenges, including COVID-19 and the climate crisis. By strengthening integrity within global finance, countries can better deliver peace and prosperity for the people and the planet now and into the future. Building on decades of work by countries and the UN, the Panel has a blueprint to free the global economy from illicit financial practices and ultimately ensure sustainable development for all, everywhere.

In this instance, the UN calls for a global pact on financial integrity for sustainable development. Beyond tracking illicit financial flows, stopping them, and returning assets, the Panel adds that the recovered funds can be used to finance the UN Sustainable Development Goals (SDGs). Only 9 years are left in order to achieve the 2030 UN SDGs and the UN calls for action despite existing difficulties in this regard. The global pact requires that all countries agree to take comprehensive action to create financial integrity for sustainable development, and to use the proceeds released by these actions to make additional investments in achieving the SDGs.

Ms Wieczorek-Zeul presented a few numbers on the resources wasted due to corruption, money laundering and tax abuses, which are often of a scale that is unfathomable by ordinary citizens:⁶ \$20-40 billion a year estimated in bribes received by public officials in developing and transitioning countries, \$7 trillion of private wealth is hidden in tax haven countries (this group includes not only developing countries), \$500-600 billion a year lost from profit shifting by multinational enterprises (affecting specifically global south countries) and, lastly, \$1.6 trillion or 2.7% of global GDP lost in money laundering by criminals, including drug traffickers and organized crime.

After Ms Wieczorek-Zeul’s introduction, the floor was given to Ms Oguttu, member of the FACTI panel, to present in more details the tax elements of the report. Ms Oguttu started by giving a little recap on the 14 FACTI recommendations. The latter revolve around three main headlines: values, policies and institutions. The focus, going forward, is the link between these three headlines and taxation.

Values

Tax recommendations are linked to the value of legitimacy. Thus, all countries should have a say in the formation of the international norms, in order to make sure that the norms reflect their context and their needs. Transparency is another key value. The UN calls for an improvement of tax transparency by having all private multinational entities publish accounting and financial information on a public CbC basis. The next value linked to taxation is fairness and, in this regard, the FACTI report provides a specific set of recommendations. First, taxpayers, especially multinational corporations, should pay their fair share of taxes. The UN Tax Convention should provide for effective capital gains

⁶ For more information, please see the UN FACTI Panel report at: <https://www.factipanel.org/reports>

taxation. Taxation must be equitably applied to digitally supplied services. This requires taxing multinational corporations based on group global profit. Second, the UN calls for the creation of fairer rules and stronger incentives to combating unfair tax competition, tax avoidance and tax evasion, starting with an agreement on a global minimum corporate tax (currently discussed under OECD negotiations, Pillar 2). Third, to set up under the UN an impartial and fair mechanism for resolving international tax disputes. The rationale behind this is that the existing dispute resolution mechanisms, including the ones envisaged for Pillars 1 and 2, are not effective in resolving tax treaty disputes due to the lack of transparency and participation.

Policy

The recommendations address issues such as enablers, non-state actors, international cooperation and capacity building. Against the background of tax avoidance and evasion vis-à-vis developing countries, the report recommends to end information sharing asymmetries in the field of tax, so that all countries can receive information. In this instance, the FACTI report recommends free exchange of information at the national level as standard practice for combating illicit flows. The highlighted challenges in the FACTI recommendations are interrelated and need to be addressed in an interrelated manner.

Institutions

The FACTI recommendations deal with data, implementation review, national and global governance. Among other points, the report recommends creating an inclusive intergovernmental body on tax matters under the United Nations. The international community should reform, redesign and revitalize the global architecture to combat illicit financial flows with a view to cementing ‘financial integrity for sustainable development’. The resources released by the FACTI recommendations must be spent on delivering sustainable development for all, everywhere.

After the end of the remarks by Ms Oguttu, the Chair initiated the debate by asking whether the OECD (i.e. Global Forum) would not already be sufficiently representative to address global issues. If so, it would be more efficient and effective to invest more on the Global Forum rather than on creating *ex novo* a dedicated UN entity.

Ms Wieczorek-Zeul pointed out that developing countries are not members of the OECD and for this reason a UN-led entity could be more inclusive and representative at global level. It was mentioned that some countries have already signaled interest in a UN Tax Convention.

A representative from an NGO acknowledged the issue of inclusivity and fairness as a problem within the OECD. It was asked whether, in relation to a UN Tax Convention, the UN could rely on already existing structures and, if yes, which ones specifically.

Ms Oguttu explained that the existing UN Tax Committee already provides an inclusive intergovernmental body with universal membership. Its staff could become a secretariat on tax matters and such a body could coordinate the implementation of the UN Tax Convention. The Global Forum could link to the UN.

A representative from EuroDaD commented that the report brings in important messages, political findings and important analysis. The key question is for Member States: how are

governments responding to the FACTI recommendations? What is the impression and the engagement of governments so far in relation to the UN FACTI report? These recommendations could serve as a conversation starter especially for the EU countries.

These recommendations should not come as a surprise for the majority of countries, Ms Oguttu said. These issues have been on the table several times so far. In times of crisis, the status quo cannot hold and, in the field of taxation, this is true for multinationals and the problems of base erosion and profit shifting. The same applies to digital taxation against the backdrop of the COVID-19 and in relation to the achievement of the UN SDGs.

Ms Wieczorek-Zeul added that, as far as Germany is concerned, all parties running for the upcoming political elections in 2021 should be asked about their stance on this FACTI report, especially in relation to tax base erosion. In addition, an increased cooperation should be encouraged between the EU and the African Union. Such cooperation could translate into an alliance on specific points of the FACTI report, such as Beneficial Ownership, transparency, exchange of information or anti-money laundering.

A representative of a business association asked a few questions: what are the next steps for the UN Tax Convention and creation of an intergovernmental body on tax matters under the UN Tax Committee? How do the UN and OECD Inclusive Framework interact in this regard? How does the EU intend to integrate the FACTI recommendations in its work streams? Lastly, businesses need integrity and consistency and there are concerns about the standards' fragmentation or increased complexity.

Regarding the OECD Inclusive Framework question, Ms Oguttu confirmed that the FACTI report avoided prescriptive language and rather focused on broad recommendations that reflected international consensus and asked for implementation at national level. With respect to the OECD and issues of continuity, it was mentioned that the OECD has been instrumental in pushing forward the tax agenda; yet, it looks increasingly clear that the status quo is no longer fit for purpose. The OECD has historically shaped the existing tax norms but for developing countries, it has been difficult to carve out norms that better fit their needs. The gaps in the system need to be addressed (e.g. OECD peer review) and the perspective of the OECD countries is visible and needs to be rebalanced, to take into account the needs of the developing countries and their capacity building constraints (e.g. meetings' attendance).

The Chair stressed the involvement of developing countries in the work on the OECD Pillars 1 and 2, alongside the G20. This is visible and should be acknowledged.

A representative from a professionals' association pointed out that the current system needs to be rebalanced. Collaboration with African tax professionals' organisations is already taking place and should be taken into proper consideration.

A representative from TJN said that they welcome and support the FACTI recommendations, especially the finding that the international tax system benefits primarily OECD countries. The TJN's Corporate Tax Haven Index 2021⁷ found that the OECD Base

⁷ <https://cthi.taxjustice.net/en/>

Erosion and Profit Shifting (BEPS) Action 5 on Harmful Tax Practices Monitoring misses over 98% of corporate tax avoidance risks. Against the backdrop of the adoption of a future UN Tax Convention, TJN would like to know whether the EU could start addressing the shortcomings of the international tax architecture. According to the research provided by TJN, a few EU Member States maintain aggressive tax treaties with developing countries and currently have bilateral tax treaties with African countries that reduce the taxing rights of the latter more than they do with other countries worldwide. In light of this, TJN would like to know if the Commission currently considers enforcing the application of Article 208 TFEU on poverty eradication and in compliance with objectives approved by the United Nations.⁸

Ms Wieczorek-Zeul clarified that the OECD and the UN are not mutually exclusive but the UN is a more inclusive body, also taking into consideration the reform of the ECOSOC and the expertise of the UN Tax Committee. There is an important UN conference on corruption where issues such as the beneficial owners' registers and CbCR are discussed. All EU countries could engage with the UN within this specific conference and on these topics. NGOs could also bring forward important topics such as the protection of whistleblowers in cases of violations of human rights.

A business association representative said that, from a business point of view, there is a risk of double taxation that should not be underestimated. Most economists agree that double taxation is damaging for both companies and countries. For this reason, there must be convergence on certain issues. It is considered unfortunate that the focus of the discussion seems to be more on institutions than real problems. The process for reforming the rules of international taxation is currently at an advanced stage at the OECD. All stakeholders should support these efforts and the overall goal to have common principles and avoid the fragmentation of objectives worldwide.

Acknowledging the concerns on double taxation, the FACTI report takes into consideration the OECD efforts in this regard, but Ms Wieczorek-Zeul emphasized that the normative fragmentation also applies from the perspective of countries, e.g. blacklisting exercises taking place at EU level and also at national level. The OECD sets standards and countries are captured in the middle. Admittedly, only a few African countries are involved in the Global Forum or at G20 level. Developing countries, in Africa and elsewhere, expressed their concern for this lack of participation, at OECD level and beyond. For this reason, the FACTI report is questioning the status quo and current imbalances at global level. The FACTI panel is aware that consensus is more difficult to reach in a global context like the

⁸ Article 208 of the Treaty on the Functioning of the EU reads as follows: "1. Union policy in the field of development cooperation shall be conducted within the framework of the principles and objectives of the Union's external action. The Union's development cooperation policy and that of the Member States complement and reinforce each other. Union development cooperation policy shall have as its primary objective the reduction and, in the long term, the eradication of poverty. The Union shall take account of the objectives of development cooperation in the policies that it implements which are likely to affect developing countries. 2. The Union and the Member States shall comply with the commitments and take account of the objectives they have approved in the context of the United Nations and other competent international organisations."

UN but this is no sufficient reason to accept a system that currently leaves so many countries behind.

Considering that the Commission has not yet expressed its official view on the FACTI Report, the Chair put forward a few personal views on the FACTI recommendations. There is certainly large convergence on the majority of these recommendations. For instance, the register of beneficial owners has been an area where the EU has been active. Concerning tax dispute resolution, developed countries tend to support arbitration whilst developing countries much less. Lastly, the Chair emphasized the importance of reaching an international agreement at OECD level whatever its limitations. With an agreement on Pillar 1 now, the geographic scope could be extended in the future and stop the race to the bottom that damages all countries. Lastly, regarding the constraints of some developing countries to be present either at the UN or the Inclusive Framework, the answer could be to increase international cooperation and improve technical and administrative capabilities.

A representative from TJN pointed out that, in the process of BEPS 2.0 negotiations, the OECD proved once more that it cannot be an inclusive forum. For instance, the OECD Model Tax Convention is built around the interest of capital exporting nations. This is also a concern regarding the Pillar 2 blueprint. The OECD is, according to TJN, not a neutral forum and an alternative should be considered.

All 17 members of the FACTI panel agreed upon the final recommendations despite different backgrounds and points of view, Ms Wieczorek-Zeul said. The global consensus on climate change reached under the aegis of the UN could indicate that a similar consensus could be also reached in relation to taxing rights. Countries in Africa should have the chance to exercise their taxing rights and multinationals should not hamper their chances in this regard. Lastly, capacity building needs to be strengthened but international partnerships in the EU raise concerns in terms of earmarked funding. The UN approach tries to pave the way with a balanced approach and goals.

5. END OF THE MEETING

The Chair thanked the members for their active participation and confirmed that the next meeting will take place by video conference on 15 June 2021.