



Brussels,
TAXUD/D1/(2020)

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

held as a virtual meeting on 15 September 2020, 9h30 to 13h

1. OPENING OF THE MEETING, ADOPTION OF THE AGENDA, ADOPTION OF RULES OF PROCEDURE

- 1.1 The meeting was opened by Mr Angel, Director for Direct Taxation, Tax Coordination, Economic Analysis and Evaluation at the Commission Directorate-General Taxation and Customs Union. After his opening words and adoption of the Agenda, Mr Zuijendorp, Head of Unit Company Taxation Initiatives, took over and chaired the rest of the meeting.
- 1.2 After welcoming participants to the first meeting of the Platform in its new mandate 2019-2024, the Chair recalled the key objectives of the Platform, an unique place and opportunity for dialogue on tax policy.
- 1.3 The Chair placed the Platform in the broader context of the EU tax policy, which wants to be digital, fair and global. The EU will keep promoting higher standards of tax good governance worldwide, to ensure a level playing field beyond the EU single market, linking tax policy to development, environment, climate change and digital single market. The Chair reminded of achieved results so far and stressed the importance of interaction and participation, emphasizing the role of civil society in contributing to EU tax policy.
- 1.4 The Chair thanked the Members who had already shared, prior to the meeting, their ideas on the future work of the Platform, and invited everyone to present their thoughts in short 2-3 minute interventions, in order to encourage a debate thereafter.
- 1.5 An NGO suggested that the Platform's deliberations shall be public. In practice, this could be done by allowing web streaming of the meetings, the NGO suggested. The Chairman asked whether any of the Members had any objection to this suggestion, after which a Member stated their objection, joined by several other Members. Thus, as there were different opinions on this point, a vote was organised. The majority of members voted against this suggestion.
- 1.6 The Draft Rules of Procedure were adopted without modification.

2. ROUND OF INTRODUCTION AND KEY PRIORITIES OF NON-GOVERNMENTAL MEMBERS

- 2.1 Accountancy Europe invited the Platform to re-think existing rules in order to build public trust and thus make the taxation system more transparent as a whole. Accountancy Europe also emphasized the importance of tax compliance in promoting the EU recovery against the backdrop of the COVID-19 fallout.
- 2.2 Action Aid highlighted the impact of tax policy vis-à-vis developing countries and in relation to specific EU initiatives such as Addis Tax initiative and Domestic Revenue Mobilisation, stressing the need for policy coherence between development and taxation. In terms of priorities, Action Aid pointed out issues such as the corporate tax system in the EU, digital taxation and tax transparency to be promoted at EU and at global level.
- 2.3 American Chamber of Commerce stressed the importance of growth-oriented taxation, a business tax system at the same time stable, consistent and certain (especially for companies operating cross-border) and, lastly, the relevance of multilateral agreements, in order to build international consensus and a growth-orientated business and investment climate at transatlantic level.
- 2.4 The Base Erosion & Profit Shifting (BEPS) Monitoring Group praised the relevance of the July 2020 Tax Package, e.g. the 25 initiatives of the Tax Action Plan, and two priorities for the future work were singled out. First, the global minimum tax, and plans for its implementation in the EU either (a) if international agreement is reached, or (b) if there is no international agreement this October. Second, a review of the approach to listing of ‘non-cooperative jurisdictions’ for tax purposes, in view of the evidence that (a) tax evasion/avoidance is often linked to money-laundering and to financial fraud, and (b) these occur as much or more in some EU Member States compared to some third jurisdictions.
- 2.5 Business Europe called for a focus on strengthening of the EU's internal market, as an effective course to restore and strengthen the economies after the Covid-19 crisis. For Business Europe priorities are: harmonisation of reporting requirements and of some administrative procedures, tax cooperation between national tax authorities, corporate tax incidence and the importance of proper and comprehensive tax impact assessment, tax principles on greenhouse gases and impact assessment of trade barriers or protectionist taxes, tax incentives towards developing countries and risks of sovereignty infringements and, lastly, tax certainty alongside no double taxation guaranteed at international level.
- 2.6 The European Confederation of Independent Trade Unions (CESI) singled out issues such as tax avoidance and improvement of the international tax system within the framework of tax good governance standards. Echoing what was previously raised by other members, CESI also believes that tax good governance standards will play a pivotal role in the EU recovery against the backdrop of the current COVID-19 crisis and its severe socio-economic repercussions at EU level.
- 2.7 Confédération Fiscale Européenne (CFE) highlighted ten key policy areas. CFE key policies areas are the following ones: taxpayers rights and tax certainty, taxation of

the digitised economy, a common approach to anti-tax avoidance and substance measures, mandatory disclosure rules, tax and sustainable tax policies in relation to climate change, tax systems and tax competition, double taxation and dispute resolution, anti-money laundering, simplification of indirect taxes and, lastly, global tax policy within the global tax advisers platform (GTAP), e.g. Ulan Bator Declaration and Torino-Busan Declaration.

- 2.8 The European Association of Tax Law Professors (EATLP) called for a focus on sharing best practices in tax policy, tax legislation as well as tax administration among the Member States. It is important to strike the correct balance between rights and duties, an EU taxpayers' rights charter and a cooperative compliance framework with a special focus on the simplification of tax reporting duties. Consequences of the COVID-19 crisis in relation to taxpayers' liquidity, tax measures aiming at growth/sustainable development (e.g. green taxation economic impact or harmful tax competition/prohibited state aid) and new taxes at EU level should also be discussed, as well as tax good governance standards for EU tax policy.
- 2.9 The European Centre for International Political Economy (ECIPE) flagged relevant issues such as tax fairness vis-à-vis corporate taxation, VAT collection, accountable taxation to combine with a high level of detail in relation to certain targeted groups (e.g. corporations, rich taxpayers), general impact of corporate income taxation vis-à-vis SMEs, digital taxation in light of the current OECD negotiations, stronger advocacy on evidence-based policy making in relation to tax good governance standards and, lastly, a streamlined approach of tax collection across the EU Member States.
- 2.10 The European Network on Debt and Development (EuroDaD) highlighted that its priorities are in line with a few priorities enumerated by other Non-Governmental Members, among others: delivery of the Addis Tax Initiative, support for domestic resource mobilisation in developing countries, tax transparency; a reform of the Code of Conduct Group on Business Taxation, a review of the criteria for the EU List of non-cooperative jurisdictions; an impact assessment of harmful tax regimes within the EU vis-à-vis developing countries. Other issues presented included unitary taxation on the basis of global consolidated profits and a minimum effective corporate tax rate high enough to stop the race to the bottom on corporate tax rates, and more cooperation with the UN Group of 77 (G77), which represents more than 130 developing countries, to establish a fair and inclusive partnership, for instance via an equal footing intergovernmental tax body.
- 2.11 The International Chamber of Commerce (ICC) mentioned three topics: dispute prevention, dispute resolution and digitalisation of tax processes (general topic of efficiency). Other issues to be considered are harmonisation of employees' stocks and harmonisation of pension taxation.
- 2.12 Oxfam International emphasised the relevance of three main areas. First, harmful tax practices: in specific, review the Code of Conduct for Business Taxation, the Code of Conduct Group and the criteria of the list of non-cooperative jurisdictions for tax purposes. Second, international tax reforms in the areas of digital taxation and minimum taxation, taking into consideration the activities undertaken by the OECD Inclusive Framework. Third, as raised by other Non-Governmental Members, Policy

Coherence for Development and Aid to Domestic Revenue Mobilisation (DRM), e.g. Addis Tax Initiative and spill over analysis on EU and MSs tax policies.

- 2.13 SME United singled out tax credit deductions schemes in light of the current COVID-19 circumstances, a greater focus on SMEs and their current economic hurdles and priorities, fair and transparent taxation that takes into account the size of companies, e.g. corporations' taxation.
- 2.14 The Tax Executives Institute (TEI) called for specific attention on: better and simpler rules on tax good governance standards and tax laws (in light of the EU Recovery Plan but not only), responsible taxation and, last but certainly not least, tax impact of the EU green deal, as already shared by other Non-Governmental Members.
- 2.15 The Tax Justice Network (TJN) singled out a few areas to be analysed. First, legal and beneficial ownership transparency, also coupled with technical support to developing countries (Addis Tax Initiative), policy coherence for development and spill over analysis of the EU and Member States taxes. Second, harmful tax regimes within the EU and, in light of the current COVID-19 and climate crises, the elimination of certain categories of tax exemptions. A clear issue in this regard is the consistency between EU Member States and non-EU countries. Third, full transparency on EU tax rulings and real estate: the first element linked to the risk of tax dumping between the EU Member States whilst the latter element should be coupled with an appropriate assessment of wealth (e.g. immovable property) together with information exchange. Fourth, financial and tax regulatory integration: financial intelligence (e.g. development of an EU Tax Intelligence Centre) and compliance harmonisation.

3. COMMISSION RECOMMENDATION ON MAKING STATE FINANCIAL SUPPORT TO UNDERTAKINGS IN THE UNION CONDITIONAL ON THE ABSENCE OF LINKS TO NON-COOPERATIVE JURISDICTIONS

- 3.1 On 14 July 2020, The Commission adopted the Recommendation with the aim of avoiding that state financial support is given to businesses with links to non-cooperative jurisdictions, i.e. those listed in Annex I of the EU list. Due to high volume of financial support, action to prevent misuse of public financing has been deemed necessary at EU level.
- 3.2 DG TAXUD explained the scope of the Recommendation, the conditions for its application and features linked to its implementation. The Recommendation includes specific carve-outs under which an EU MS may disregard the existence of links with a listed jurisdiction. As far as implementation and enforcement are concerned, the Recommendation spells out reasonable requirements for evidencing entitlement (e.g. self-certifications, sanctions or enhanced verification). The EU Member States are invited to inform the Commission about measures that they take, if any, to address the Recommendation whilst the Commission is expected to publish a report on the Recommendation's application by 14 July 2023.

- 3.3 Following questions by some of the Members, the Commission provided additional clarifications on the scope of the Recommendation and reiterated the non-legal binding nature of the Recommendation, stressing that it simply clarifies principles. One member commented that the procedure for adoption of this Recommendation could have been more inclusive.

4. TAX GOOD GOVERNANCE COMMUNICATION: A PRESENTATION

- 4.1 DG TAXUD presented the Communication on Tax Good Governance (TGG) in the EU and beyond. The Communication is one of the three instruments of the so-called July package.
- 4.2 With regard to the EU “internal dimension” of fair taxation, the DG TAXUD mentioned that the EU has relied so far on the Code of Conduct on business taxation, which shaped tax competition in the single market and is also currently applied to third countries in the context of the EU listing process. It is clear that this instrument now needs to be brought up to speed with the tax environment, which has evolved a lot since the inception of the Code over 20 years ago. The Commission wishes to expand the scope of the Code of Conduct, by looking at more general features of tax regimes, and in particular by looking at minimum effective taxation. Other measures that could affect the location of business, such as measures targeting high-net individuals should also be integrated. A reform of the governance of the Code of Conduct Group is also necessary to enhance transparency and accountability.
- 4.3 The EU listing process will continue to be the external tool for promoting fair taxation. For the years to come, the Commission will update the scoreboard (by the end of 2020) and assist Member States in identifying the new jurisdictions for screening. A better coordination of the EU tax list with the AML and national listing processes will also be explored. The work on the EU listing criteria and the coordination of defensive measures will accordingly continue. DG TAXUD noted that the Commission will continue to push for the inclusion of the Tax Good Governance clause in international treaties.
- 4.4 DG TAXUD made special reference to the intentions of the Commission on defensive measures, which include starting a dialogue with EU Member States by the end of 2020 on how the achievements reached in the past two years on the use of EU funds (i.e. on tax avoidance and NCJs) could be reflected in national funding policies. The Commission will take a series of steps in the coming years.
- 4.5 By way of final point, DG TAXUD outlined the interaction between TGG and other relevant EU policies with a focus on development aid. Within this framework, TGG rules play a significant role in directly/indirectly supporting, and assisting in stimulating, Domestic Revenue Mobilisation (DRM).

5. EU LIST: AN UPDATE

- 5.1 DG TAXUD provided an update on the most recent developments in the EU list of non-cooperative jurisdictions for tax purposes. The Commission explained that the

list is currently updated twice per year. The list update will take place again in October 2020 and this will be a special update due to the COVID-19 crisis. It will not be a fully-fledged update since only some jurisdictions will be added to the blacklist and no new commitments will be requested. The extension of the current deadlines is also an important element. This takes place because EU MS decided to take into account the inability of jurisdictions to focus on their commitments during the ongoing COVID-19 pandemic. Jurisdictions added to the EU List will only be those whose evaluation has started before the COVID-19 crisis.

- 5.2 In terms of policy work in 2019 and 2020, in 2019 the main technical discussions took place around the work on Foreign Source Income Exemption regimes and Collective Investment Vehicles.
- 5.3 In 2020, the policy work slowed down because of COVID-19 pandemic. The Commission still focusses on zero tax jurisdictions and remains vigilant to backtracking. Another important area of work involves new listing criteria, in particular Country-by-Country Reporting (CbCR) and Beneficial Ownership (BO). CbCR has been put on hold but will start applying soon. EU MS are still discussing on BO.
- 5.4 In relation to the Commission work vis-à-vis third jurisdictions, DG TAXUD mentioned that 2019 has been a year of missions, direct dialogue and multiple exchanges with jurisdictions. Discussion in a regional dimension is also an important change ahead, which the Commission fully acknowledges.
- 5.5 Lastly, the work in the coming months will focus on what is coming next for the EU listing process: a review of geographical scope on the basis of a new scoreboard; expansion and review of EU list criteria; more clarity on the interaction between the EU List and national lists as well as the AML List on high-risk third countries.
- 5.6 A member asked whether the Commission is envisaging to include Member States in the EU listing process. In connection to defensive measures, it also asked whether the Commission believes that withholding taxes should be introduced to boost with the Common Reporting Standards. DG TAXUD replied that the EU listing process is meant to address external issues. For Member States, there are various available tools at the disposal of the Commission, which can ensure the level playing field with third countries. Withholding taxes are one of the defensives measures envisaged in the toolbox agreed by Member States in 2019 to apply against listed jurisdictions. The Commission will monitor how EU Member States will do so.
- 5.7 Another member requested a clarification on the political process to reform the Code of Conduct. DG TAXUD replied that this is a matter of negotiation between the EU Member States. The same member stated that developing countries should not be subject to different (stricter) standards, compared to MS.
- 5.8 A third member made a remark on the future agenda as outlined in the Communication, which in its view does not seem to sufficiently focus on the Single Market. The association was also of the view that withholding taxes are an instrument Member States should refrain from applying.

6. PRESENTATION OF THE REPORT "TAXATION TRENDS IN THE EU"

- 6.1 The Unit Economic analysis, evaluation & impact assessment support of DG TAXUD presented the 2020 Report on Taxation Trends in the EU. The report is based on evidence regarding the economic consequences of the COVID-19 pandemic although a large part of 'hard data' is still mostly unavailable. Therefore, the gathered data still reflects the pre-COVID-19 picture and thus the difficulty in forecasting with certainty the recent past or near-future developments in tax revenues or expenditure trends.
- 6.2 Against the backdrop of the COVID-19 pandemic, the report provides policymakers and academia with relevant updated data on some key taxation indicators concerning tax revenues, tax rates, revenues by economic function, implicit tax rates, etc. This report is coupled with the EU Commission Tax Survey, which is more focused on the analytical aspects.
- 6.3 Lastly, it was emphasized that the report specifically focusses on the performance of tax systems and serves as a useful source for the European Semester and its Country Specific Recommendations (all the more so under the new Recovery and Resilience Facility).

7. ANY OTHER BUSINESS

- 7.1 The Chair drew the attention of all members to a few specific items. In detail, the online conference "Fair and Simple: the role of taxation in recovery and long-term growth" on 21 September and the call for applications to the EU Tax Observatory (deadline: 2 October 2020).
- 7.2 The next Platform online meeting will take place in November but the date has not been fixed yet. Further communication on date and agenda will follow in the upcoming weeks.
- 7.3 A summary record of the Platform meeting will be circulated to all members and made available on the Platform website once approved.