



Brussels,
TAXUD/D1/AC/equ (2016)

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

held in Brussels on 14 June 2016

1. OPENING

- 1.1. The meeting was chaired by Valère Moutarlier. Stephen Quest, TAXUD Director General gave an introductory speech as this was the first meeting of the Platform with the renewed membership. The Chair emphasized the usefulness and the good reputation of the Platform established during the past 3 years.
- 1.2. This was followed by a tour de table of the 15 non-MS members who presented themselves briefly¹.

2. ADOPTION OF THE AGENDA

- 2.1. The Chair presented the agenda of the day and, at the request of a non-MS member, agreed to add a point on the potential review of the Non Cooperative Jurisdictions' strategy of the EIB under AOB.
- 2.2. The agenda was adopted.

3. PLATFORM RULES OF PROCEDURE

- 3.1 The Chair stated that, given the recent issuing of a new Commission decision on expert groups, its services were analysing their possible impact on the Platform rules of procedure. Therefore, the current Platform rules of procedure will provisionally stay in force. The Chair insisted on the importance of confidentiality of discussions; a detailed summary record is published after each meeting, but it will not quote who said what.
- 3.2 A non-MS member asked whether the current situation where Platform meetings are held under the Chatham House Rule² would still prevail in the future. This member

¹ See list of non-MS members on Platform webpage: http://ec.europa.eu/taxation_customs/taxation/gen_info/good_governance_matters/platform/index_en.htm

insisted on the Ombudsman recommendation on horizontal rules that should foresee the publication of minutes including the positions expressed by members and a further distinction between the type of members.

3.3 The Chair replied that this point was currently under scrutiny and stated that once available, the draft new rules of procedure would be sent to members.

4. PLATFORM WORK PROGRAM

4.1 The Chair stated that the revised version of the Work Program (WP) had been circulated and presented at the current meeting in order to enable new members to have their say. It applies until 2017, but might be amended if needed. It takes comments received on the first draft into account to the extent that they have been deemed relevant.

4.2 Several non-MS members expressed both their understanding and disappointment on the fact that measures under discussion in Council could not be discussed in the Platform. They asked for details on the future role of the PF in the common EU list of third countries process, given that this topic will be discussed in Council. Another non-MS member asked for an assessment of the impact of the CCCTB on developing countries. On CCCTB, it was asked when the replies to the public consultation would be published. Several members support closer cooperation between MS on tax inspections and audits, one of them stating that it requires proper staffing in tax administrations. On transparency several views were expressed: tax transparency enhances the fairness of tax systems and cannot be limited by competitiveness considerations; a coordinated approach is very important; reporting between tax administrations cannot be considered as transparency, which is associated to public reporting according to this non-MS member. It was also stated that the efficiency of a social responsibility label for companies as a solution to address tax evasion and ATP should be added to the WP. A non-MS member requested more information on the "Tax and Growth" point of the WP – is there not a risk of a "race to the bottom" amongst MS? – and asked why the WP did not contain a point on the Commission "ATP study" recently presented to the PF members by COM. It was also stated that the WP should make a clear reference to the European Parliament as a key partner, and to the tax elements of the European Semester.

4.3 On good governance support to developing countries, several non-MS members welcomed the proposal to help build administrative capacity in developing countries. One non-MS member stated that it should focus on resources in tax administrations, another one insisted on technology being important as well. Another non-MS member stated that a definition of developing country should be provided, and asked whether the pan-EU list of third country jurisdictions contained developing countries. The good governance support to developing countries should be seen in relation with international standards and in coordination with other institutions (OECD, UN).

² When a meeting, or part thereof, is held under the Chatham House Rule, participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s)

4.4 A MS stated that the PF had a valid role to play as ideas generating body; and noted that a lot of work has already been invested in the Platform on the issue of MS lists and the pan-EU list. According to this MS, given that all MS have agreed on the future common list, it might be wise to concentrate on this approach and perhaps suspend work on the current pan-EU list. The same MS noted Commission proposals on the re-launch of the C(C)CTB, common tax audits and dispute resolution, and welcomes work on tax transparency and tax and growth topics.

4.5 The Chair reiterated that the mission of the PF is not to duplicate discussions taking place in other fora. In particular, subjects discussed in the Council will not be discussed in an expert group. On dispute resolution for instance, until the moment the Commission will table a proposal, PF can contribute to the debate and fee de preparatory work of the Commission. Council and European Parliament are both key partners and we will ensure that this is clear from the WP. On lists there are two parallel projects: Commission wants to have more clarity on MS initiatives, in particular on the criteria they use in their listing processes; in parallel, work has started on the future common EU list. The Commission will put this point on the agenda when it considers the PF can give useful input; until the future common list is ready, the current pan-EU list map will be updated at least once a year as foreseen in the January 2016 Commission communication. On cooperation with global institutions, the Chair reminded members that the OECD has been invited to all PF meetings as an observer, and the Global Forum has recently been added. The WP must be in line with the mandate defined in the COM decision prolonging the PF: tax good governance, the fight against Aggressive Tax Planning, and double taxation issues.

5. THE COLLECT MORE SPEND BETTER STRATEGY

5.1 The Chair introduced DG DEVCO's presentation³ on its work to assist developing countries in line with the Commission "Collect More Spend Better" strategy.

5.2 Following the presentation, the OECD⁴ representative stated the BEPS Inclusive Framework aims at ensuring global implementation of BEPS beyond OECD/G20 countries; they are welcoming more and more countries, including developing countries. There will be a new Platform with OECD, World Bank, IMF and UN to coordinate on development policies and address, amongst others, BEPS issues. They will produce tool kits for developing countries, for instance in the area of tax incentives.

5.3 A MS-member wondered how far we can go in telling developing countries how to spend their money. He also enquired on the possibility of supporting local NGOs to fight corruption and lobbying in their own country. This member also said he would support a global tax summit. Several other opinions were expressed by non-MS members in this framework: (1) support better public sector accounting methods (accrual accounting) in developing countries but also within the EU (as not all MS use accrual accounting); (2) such a holistic approach (revenue/expenditure) is new

³ Presentation available on the Platform webpage.

⁴ The OECD is invited to all Platform meetings with an observer status

and should be applied inside EU as well; (3) on capacity building, both MS administrations and the business community can contribute; (4) the issue of the balance direct taxes vs indirect taxes was raised; some economic studies say that Corporate tax and withholding taxes negatively impact investments while tax treaties have a positive impact on FDI, we should reflect on the opportunity to use consumption taxes rather than income taxes; (5) the adverse opinion was also expressed: progressive income tax is a socially fair taxation, while consumption taxes are socially unfair; (6) building capacity and sharing good practices are good initiatives, but smaller and poorer countries may not have adequate staff that can absorb BEPS work or other initiatives.

5.4 A MS member encouraged all other MS to sign up to the Addis Ababa initiative and highlighted the G20 commission to the international organisations which recommend ways to make tax capacity building more effective and will report to Finance Ministers in July; developing countries should be encouraged to join the Global Forum and the BEPS inclusive framework. The same member stated that OECD work on transfer pricing had been successful in helping developing countries raise revenues; as international organisations produce more toolkits on BEPS, we can replicate the work done on transfer pricing.

5.5 The Chair stated that EU has a lot of experience in international matters, the fact that we could do even better inside the EU, does not mean we should refrain from sharing our experience with others. On the issue of the balance between direct and indirect taxes, just as our MS want to keep their sovereignty on their choices, so do our international partners.

5.6 The Commission services made it clear that their approach was based on expertise, with a wide approach (revenue, fairness, equity, etc...); they give advice on the consequences of different options, put the focus on some loopholes in the domestic legislation and contribute to the analysis of the needs, but the final choice remains with the local governmental authorities. Last year, the Commission issued guidelines on the involvement of civil society.

6. STUDIES ON THE SPILL OVER EFFECT OF TAX POLICIES ON DEVELOPING COUNTRIES

6.1 Three presentations were made that analyse the impact of MS and EU tax policies on developing countries, from different points of view: Action Aid (an NGO active in development) and two MS (Ireland and the Netherlands). These three presentations are available on the Platform webpage.

6.2. According to a non-MS member, a higher level of CIT or WHT will result in investors requiring higher rate of return before tax which will in turn negatively impact the level of investment; a country specific estimate of the elasticity of investment in response to tax should be made. Since Double tax Conventions (DTC) aim at allocating taxing rights, if developing countries are entitled to tax more, MS will be entitled to tax less, are all MS ready to accept this? The UNCTAD report showed the need for a right balance between tax revenues and investments stimulation. Another non-MS member welcomed studies by two MS, although the

Irish study fails to analyse how Irish Tax rules together with other MS tax rules negatively impact developing countries; according to this member, Ireland has had a driving role in driving down the CIT rate inside EU, which in turn, has negatively impacted CIT rates in developing countries. On WHT on dividends, one non-MS member expressed its view that if the benefit is taxed (CIT) in the country of the payer, and in the hands of the person receiving it in its country of residence, than the removal of cross-border WHT is a fair means to prevent double taxation. Another non-MS member asked whether these studies by MSs will lead to the renegotiation of DTCs, or did the renegotiation of DTC trigger these studies; will there be similar initiatives in other MS? The main subjects of concern regarding DTC between developed and developing countries are linked to Permanent Establishment (PE) and WHT. On investment, it was stated that the IMF estimates that for low-income countries, new investments cannot compensate revenues lost in tax through DTCs; the data set used in the NGO's study is available free of charge on their website.

- 6.3 Ireland replied that they favour fair tax competition which helped create jobs and growth in Ireland, what is bad is artificial profit shifting. On WHT on dividends, since Ireland operates a credit system, there is no risk of double non taxation, even if the DTC prevents the source country from levying withhold tax. The Netherlands stated that much effort had been made to renegotiate DTCs in order to include anti-abuse clauses in compliance with the new global standards, but in the case of older DTCs a more comprehensive renegotiation could be conducted.
- 6.4. The OECD stated that the BEPS inclusive framework currently takes between 30 and 40 developing countries on board, and can be considered in some way as a Forum of capacity building by peers. The OECD, World Bank, IMF and UN are developing toolkits that should help developing countries in areas such as treaty negotiation skills, and related policy issues.
- 6.5 The Chair reminded members that DTC policy was a matter of MS sovereignty. These analysis and reflection are led in the more general framework of the Commission external strategy. The Chair expressed the idea of a tool box based on the experience gained with these three studies for other MSs that would be willing to examine their own DTC network; in this context, the PF could work on a methodology for such studies.

7. PILOT PROJECT

In 2016, the European Parliament approved funding for a pilot project to help build civil society capacity to join in the fight against tax avoidance; this program will be implemented by the Commission. The idea is to focus on NGOs, Trade Unions, consumer organisations based in MS, offer them training, and the opportunity to network amongst themselves

8. ANY OTHER BUSINESS

Answering a specific question concerning the potential review of the Non Cooperative Jurisdictions' policy of the EIB, the Chair informed members that work with ECFIN and EIB has been on-going for several months with the aim of assuring that up-to-date tax good governance criteria were taken into account in the analysis of investment files by the EIB. We aim at an agreement in the first half of 2017. On

the updating of Art 140 of the Financial Regulation, work with DG BUDG is ongoing and a Commission proposal will be tabled after summer break.

9. CONCLUSIONS

The Chair thanked all members for the constructive discussions.

The next PF meeting should take place end of September or early October. The WP will be sent to members along with the agenda of the next meeting.

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