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**SUMMARY RECORD OF THE MEETING OF THE
PLATFORM FOR TAX GOOD GOVERNANCE
held in Brussels on 12 September 2018**

1. OPENING

1.1 The meeting was chaired by Valère Moutarlier.

2. ADOPTION OF THE AGENDA

2.1 The Chair presented the agenda of the day.

2.2 The agenda was adopted.

3. MISCOMMUNICATION AND DISTRUST IN THE INTERNATIONAL TAX DEBATE

3.1 Prof Dr. S.C.W. Douma of Amsterdam University gave a presentation on the subject. The presentation focused on the way in which persons in the international tax systems have been interacting both with each other within the system and with others outside the system. This interaction has given rise to frustration and distrust, played out in the media. Can participants in the international tax debate still understand and trust each other, under pressure as they are from public opinion?

3.2 He reviewed to what extent those participants at present actually trust each other and the international tax system. It has been shown that the international tax debate among stakeholders is quite intense, both in the Netherlands, the United Kingdom and in G20 countries, although considerable differences seem to exist between European countries and other States. It is safe to say that the debate can be characterized by the words 'miscommunication' and 'distrust'. A possible explanation may be that whoever 'wins' the debate in the media, also wins public opinion and – therefore – the path to legislative and policy change. Indeed, the impact of public opinion on public policy and law-making is substantial. At present, public trust in NGO's is globally at a high level. They seem to have been able to dominate public opinion.

3.3 Prof. Douma continued by explaining the international tax debate by applying insights from communication science. Although negative media coverage about 'aggressive tax planning practices' by particular companies does not immediately affect their behaviour,

such coverage does impact public opinion. Therefore, the notion of 'public opinion' and the effect of the media on that notion have been discussed. In this section of the presentation it was argued that a lack of transparent information by communicators in times of economic crisis almost inevitably renders the formation of a balanced public opinion impossible. Negative media coverage in such times and the media's use of agenda-setting, priming and framing in a 'publicity model', leads to a 'spiral of silence': the 'reception model' shows that variations may exist in countries because of cultural differences. In this climate, NGOs indeed seem best placed to get their views across, also because the salience of their information and the fact that the message seems to fit in with already existing views because of the global economic and financial crisis. This has left other participants in the debate with negative feelings.

- 3.4 In the next section of his presentation, Prof. Douma reflected on concrete suggestions for a better public opinion through the keywords transparency, stakeholder engagement and communication. Concrete initiatives employed by businesses and international organizations seem very encouraging in this respect. In his view it is better for politicians to wait for the effects of these and similar initiatives on public opinion before trying to bring back trust through legislative change. After all, without trust among the stakeholders and participants in the debate, such legislative changes will not solve the issue of the legitimacy of the international tax systems.
- 3.5 DG TAXUD thanked Prof. Douma for the presentation, which was raising very relevant points, and reiterated that we need to indeed engender trust amongst people, to make sure there is an approach which caters for concerns of citizens, and also to act in a way that ensures that our approach is well thought-out, well-argued, rational and reasonable. DG TAXUD asked the members to share their feelings on the topic: to what extent do they agree with the analysis presented?
- 3.6 A Professionals' Association fully supported the report. The Association thinks business in general and also tax advisors' profession has been damaged in the past years by excessive media criticism.
- 3.7 A Business Association also found recognizable points in the presentation and pointed out that platforms such as this one but also the other international platforms can be vital in bridging the paradoxical gap between the negativity bias and the building of trust. The Association asked Prof. Douma what in his opinion is causing the difference between the EU and the rest of the world in terms of trust, and whether the downward spiral in trust could also be related to a change in tone in politics. According to the Association, it is very important that policy makers do not only try to mirror what is going on in media and present arguments supporting what media is demanding or what rather populist public at times seems to demand and to deliver according to those requirements, but also to focus on facts and factual circumstances and to be very careful in presenting the facts when proposals are put forward.
- 3.8 Prof. Douma replied to the question of the Business Association by reiterating that the ACCA report shows indeed that in Europe there is a lower level of trust in public accountants, tax advisors, businesses, in comparison with other parts of the world, but it does not answer to the question why this is so. Prof. Douma assumed that the reason has to do with culture. He agreed that we are possibly moving into a different kind of

political culture and emphasized the importance of both aspects - the politicians staying in touch with the public opinion while their decision-making is based on facts.

- 3.9 An NGO brought up the aspect of technicality of tax issues and emphasized the right of the citizens to be part of the discussion. The NGO urged stakeholders to simplify tax narratives so that it would be easier for the public to understand. The NGO considered increased transparency another solution to this problem, and agreed that the mass media has a significant role, and for a high-quality public opinion, it is important to ensure fact-driven discussion. Another NGO supported these views, saying that NGO's have helped to bring tax to the media and into public debate which this NGO considers crucial to have healthy and democratic debate on tax. It pointed out that a simpler tax system is in the interests of both the NGOs and the businesses. This NGO criticized the framing in the presentation, which grouped together NGOs and the European Commission on one hand, and tax advisors and businesses on the other hand. DG TAXUD agreed that this was not the case. This NGO also criticized the presentation for ignoring the views of non-tax experts. As a way forward towards more transparency, this NGO recalled the public country-by-country reporting, which is now being discussed by the Member States.
- 3.10 A Professionals' Association welcomed bringing this important topic on the agenda and emphasized restoring of trust, in which the Association finds multi-stakeholder working groups most efficient.
- 3.11 A Trade Union agreed with the NGOs' views presented above and asked whether it would be better to not talk about the economic crisis in the media. The Union, however, agreed with the risks of distrust and highlighted that, if not addressed, it could create a sense of impunity among the public, which may become a strong trigger of public anger and may have led to the resurgence of the far-right in Europe, which the union considers a key challenge right now. The Union suspected that the presentation perhaps wished to make a comparison between fake news and the role of the NGO's in the public tax discussion over the last years.
- 3.12 Prof. Douma thanked for the comments and the many valuable points that had been made. He agreed on the point concerning framing, rectified a misunderstanding concerning non-tax stakeholders which had been involved in the ACCA research, and clarified that the point which he had wanted to make is that, of course media should report negative news in times of economic crisis but the research shows that they report it in a disproportionately negative way whereas in positive times they do not report it in a disproportionately positive way.
- 3.13 DG TAXUD commented that this perhaps has a very specific connotation in the EU because it has a very specific social model as compared to the rest of the world. This model depends greatly on taxes and perhaps there is a specific sensitivity that European citizens have towards tax avoidance or tax evasion.

4. COMPETITIVENESS AND TAXATION

4.A PRESENTATION BY THE COMMISSION

- 4.1 DG TAXUD presented a discussion paper on Competitiveness and Taxation. Globalisation and the growing importance of digitalisation and intangible assets to value creation have put increasing pressure on nation states to compete to promote investment. Businesses are increasingly able to serve markets remotely and have more options available to them when it comes to locating their productive activities. Corporate income taxes have fallen dramatically across the world over the last thirty years as countries have sought to attract business investment, nowhere more so than in the EU. Countries also compete to attract taxable revenues, as taxation policies can strongly influence where companies report profits for tax purposes. Tax competition between Member States is largely unregulated and there are even fewer restrictions outside the EU, and there are signs that tax competition is intensifying internationally. It is therefore timely to examine the role that taxation should play in boosting EU competitiveness and to consider how EU tax policy should be shaped accordingly.
- 4.2. Many different factors determine where a company chooses to invest; taxation policy is simply another factor, and its importance will vary depending on the type of investment. Companies tend to be more competitive when the tax burden decreases. In some respects, tax is like any other cost. On the other hand, if lower corporate tax receipts lead to lower public expenditures, this could be detrimental to a country's overall competitiveness. Tax competitiveness is about more than just tax rates. The tax environment is another important factor. Only competition on a level playing field allows that the best ideas and innovations and the most efficient businesses succeed in the market.
- 4.3 Tax competition continues to intensify around the world and there appears to be little appetite at an international level to regulate this competition. Against this background, it is more important than ever that the EU remains competitive. It has already made great strides to empower Europe to embrace the economic opportunities of the future through initiatives such as the Digital Single Market and Capital Markets Union. However, in the face of intense tax competition internationally, the EU and its Member States need to consider whether their current taxation policies support sustainable and inclusive growth.
- 4.4 From an EU perspective, a key question is whether a controlled approach to tax competition in the EU would help or hinder Member States' collective competitiveness. The current approach allows Member States to take into account their size and economic structure in the design of their tax policies. Another approach would be to move towards a more coordinated system. A strong and coherent EU approach to tax competition vis-a-vis the rest of the world should increase the EU's ability to influence the international norms in this area. This, in turn, could help to ensure that the international framework is also conducive to growth and competitiveness in Europe. Finally, DG TAXUD asked the Platform members' opinions on what they consider the key elements in taxation needed to boost EU competitiveness (e.g. rate, base, administration, etc.); what are the biggest risks to EU competitiveness today from a tax perspective; does international competition within the EU enhance or detract from

overall EU competitiveness; and how we can enhance competitiveness without compromising the EU agenda for fair taxation. There was a Slido poll conducted among the members.

- 4.5 During the Slido poll, a few comments were made, many of which concerned purely the technicalities of Slido. A Trade Union wished to challenge the assumption that tax competition is important for competitiveness, and asked how we can have trust when interests might be extremely diverging. A Trade and Business Association underlined that the companies should be able to know in advance how much tax they will pay, and in case of differences of interpretation on the cross-border level, there should be an accurate and efficient dispute resolution mechanism. An Academic organisation pointed out that it is very important for the EU to come up with principles on what is good tax competition and to have a common position on it. DG TAXUD answered to the two last points by saying it hopes that the dispute resolution mechanism will be implemented, and stating that the last comment is a very interesting perspective. An NGO recalled that fairness aspect implies also the obligation for the Member States not only concerning our own attractiveness to investment but also obligations in the policy coherence development, which should not be forgotten. A Professionals' Association commented that unless Europe manages to be at the forefront of the economic world, it will not be able to influence fairness in the world. DG TAXUD pointed out that this was also Pres. Juncker's line in his State of the Union speech.

4.B COMPETITIVENESS AND THE BELGIAN CORPORATE TAX REFORM

- 4.6 DG TAXUD introduced the purpose of the following two presentations given by Member States, explaining that they will enable to see in real life what has been introduced in domestic CIT reforms in order to meet the challenge of the competitiveness element of this reform and combining that with the BEPS angle.
- 4.7 The first of these presentations was given by Belgium, illustrating the way in which corporate tax has been reformed in Belgium. It fits in within a larger competitiveness agenda. BE is a small open economy, and now there is an attempt to re-open the BE economy especially in terms of imports and exports, because they determine 75-80% of the Belgian GDP. Prior to the reform, Belgium had a high nominal CIT rate but it was less clear-cut in terms of effective tax rate. During the past decades, Belgium has been competing by niche regimes, while keeping a relatively high nominal CIT rate. Allowance for Corporate Equity was introduced in 2005. Its economic merits are widely recognized, but there have been some concerns about its use for tax planning by the MNE's.
- 4.8 Belgium does not discuss competition on tax base, just competition on real economic activity. Company income tax is for sure neither the single, nor the main determinant. From an economic point of view what matters is the real exchange rate. Especially when we look at short- and medium-term competitiveness, price competitiveness is very important. Tax rates may matter as they have an effect on the cost of capital but the cost of labour, infrastructure etc. also matter. The CIT reform is part of a broad policy agenda that aims to restore competitiveness. Tax is being shifted from labour towards consumption. The government also launched a program of wage moderation to improve competitiveness, and all of this is eventually coupled with corporate tax reform. The tax

shift also aims to improve competitiveness, by including a tax cut in wage taxation combined with an increase in consumption taxes.

- 4.9 The CIT reform is phased on a period of three years, in years 2018-2020. The main principle is a broad base, lower rate. The CIT rate will be cut from 33,99% to 29,58% in 2018 and to 25% in 2020. SME's have in the current structure increasing marginal tax rate, with the average tax rates that converges to 33,99%. This will be changed into a reduced rate for the first 100.000€ of profits and the normal rate applying above the ceiling. Anti-abuse rules remain in place and the main rule has been reinforced: minimum remuneration of the manager increased from 36.000 to 45.000€
- 4.10 Among new incentives, there will be a temporary increase of the investment allowance from 4 to 20 %. Also the support for R&D will increase, and existing wage subsidy will be gradually extended to bachelors. Now, the fundamental change has come about in terms of ACE. It has been changed from an allowance based on the stock of equity to an allowance based on the increase in equity. It is based on a rolling average, involves stronger anti-abuse rules, and finally, the new ACE puts the emphasis on the economic merits of the ACE: it acts against the debt-equity bias, and there is no more windfall gain.
- 4.11 Belgium has looked at losses and other carried forward allowances, and these deductions will only be applicable as of 1.000.000€ and 70% of taxable profits. There is a minimum tax base of 30% for profits exceeding 1.000.000€ Implementation of the measures of the ATAD directive, which is also reflected in the BEPS recommendations, has been incorporated into the reform. It contains the CFC legislation, which falls also within ATAD, and the exit tax, also in ATAD. We looked at mismatches, and we also looked at BEPS for their definitions to implement actions 1 and 7 specifically. The reform tackles hybrid mismatches and as far as Permanent Establishment is concerned, it implements BEPS actions 1 and 7. It broadens the tax base. There are now more strict rules for depreciation, only straight-line is accepted, and DDB has been repealed. There are also stricter rules for deductible expenses.
- 4.12 Specific capital gains tax of 0,4% has been repealed, and as far as participation exemption is concerned, same rules now apply for dividends and capital gains. The incorporated and unincorporated enterprises now have same rules for the company car regime.

4.C COMPETITIVENESS AND THE SWEDISH CORPORATE TAX REFORM

- 4.13 The background of the Swedish CIT reform is in the base erosion and profit shifting (BEPS) by multinational firms. OECD estimates that revenue losses due to BEPS amount to USD 100 and 240 billion annually at 2015 levels, which equals to 4-10% of the global revenue from the corporate income tax. Furthermore, OECD suggests that multinational firms' effective tax rates are 4-8,5% less than corporate income tax of domestic firms. The Swedish corporate tax reform aims to make Sweden compliant with the OECD BEPS rules and with the EU ATAD directive, to ensure neutrality between debt and equity finance, and to limit international tax planning by multinational firms. In its corporate tax reform of 2019, Sweden has made considerable changes into its

corporate income tax system. The reform was passed in the parliament by a very broad majority.

- 4.14 The CIT rate will be 20,6% in 2021, but already in 2019 it will be lowered to 21,4%. SE has a long history of using base-broadening measures to cut the CIT rate. The reform includes a general interest deduction rule, capping net interest deductions at 30% of EBITDA, which will make Sweden fully compliant with ATAD. There is an escape clause – net interest up to SEK 5 million is always deductible. The Swedish reform is fully financed in static terms. As far as financial leasing is concerned, the leasing costs need to be divided into interest costs and other costs, and interest costs are subject to general rule limiting interest deductions. There is, however, an escape clause: leasing costs up to SEK 3 million do not have to be divided. There are also new rules concerning hybrids. There will also be changes to deemed income for tax allocation reserve and equalization reserve, and changes to rules concerning depreciation of apartment buildings, which will enjoy an additional depreciation of 2% for the first six years.
- 4.15 An NGO welcomed the reform of the notional interest deduction rule and the minimum tax rate for profits above 1 million in the Belgian tax reform, It encouraged all the EU Member States to follow the example of Romania when implementing ATAD directive. A Trade Union welcomed the discussion on CIT, but insisted on the need to link it to other tax measures, and asked what the compensation was for the reduction of CIT rates. Another NGO joined them, and moreover, asked what the specific thinking is behind lowering the CIT rate, and pointed out that if the trend continues, at some point we will hit 0, and there is also a risk of people incorporating themselves. This NGO also enquired whether there is a risk that with the lowering of nominal tax rates, the discrepancy between the nominal and effective tax rate will not diminish. Also DG TAXUD asked all Member States that had announced lowering of tax rate whether they see it as only one step or as one step before many others on the road of lowering. A Business Association welcomed the general direction in these tax reforms of reducing corporate tax rates and broadening the tax base, and answered the question of an NGO by stating that the main reason for lowering the CIT rate is to make more domestic investments economically viable. The association recalled that the common monetary policy has major implications on tax policy and fiscal policy; the starting point must be that we are not like any other country or economic area; and that one should be very careful in limiting the possibilities of individual countries in the periphery of Europe to pursue their fiscal policy and tax policy. On the other hand, the association also underlined that it pays off to listen to others and to have some international cooperation in the tax area. A Professionals' Association found it important to keep in mind the bigger picture and recalled that many members want to see innovation and growth as the main drivers for the tax reform, and the question is whether the proposals do that.
- 4.16 Belgium replied to the questions by reiterating that the reform is clearly related to the broad issue of the competitiveness, it is clearly BEPS related, and it is budgetary neutral. Belgium explained the mix of compensatory measures more in detail, and explained why comparisons are made against France, the Netherlands, Germany and Luxembourg. Although the patent box is still in place, Belgium pointed out that it is OECD and BEPS compatible. DG TAXUD clarified the question of several members

by enquiring whether the reform is neutral within the CIT, to which Belgium replied that it is for 99%.

- 4.17 Sweden replied to the question on how you keep the revenues steady, by explaining that the Swedish tax reform is fully financed within the corporate sector, and the revenue is kept steady by making more things taxable. To the question on what was the specific thinking behind the lowering of the tax rate, Sweden mentioned as one major argument that lowering of the corporate income tax rate makes aggressive tax planning less profitable at the margin. Sweden confirmed the explanation given by DG TAXUD on the question concerning the parliament. Finally, Sweden emphasized the strong continuity element in the development of the Swedish corporate tax income.
- 4.18 OECD enquired what Belgium and Sweden see as the main non-neutralities in their respective tax systems, and what would be gained from addressing those. According to Sweden, a report was commissioned in 2010 by the Swedish treasury on the non-neutralities and their “price tags”. Belgium admitted that it does not have full neutrality although some improvement has been made, while it also estimates that there is no country around the table in which the tax system is fully neutral.
- 4.19 A Business Association replied to a comment made by Belgium, admitting that it is indeed important to illustrate how statutory corporate tax rates have declined, while it is also important to illustrate what has happened to corporate tax revenues and why the corporate tax revenues have at the same time increased as a share of GDP.
- 4.20 DG TAXUD drew attention to the definition of taxable profit of companies. In taxation it is about an accounting profit, which follows a legal definition and in many cases defines profit in a way that is much larger than the economic profit. Thus, this notion of ‘low-rate large-base’ does not necessarily apply as such for corporate taxation. Next, DG TAXUD touched upon the deductibility of financing costs in addressing the equity bias, the developments in the rates vs. tax collection on CIT, and innovation policy.

4.D HOW COMPETITIVENESS CAN CONTRIBUTE TO FAIRNESS

- PRESENTATION BY EPSU

- 4.21 In the presentation, EPSU explained that when Trade Unions speak about fair taxation, what they mean is progressive taxation and effective transparent tax system, which serves the general interest. EPSU said that not only the Trade Unions or tax justice campaigners but also many MEPs from the mainstream political spectrum, members of the EESC and a number of economists, find that tax competition needs to be regulated and even brought to an end, and that it is the key obstacle to EU competitiveness and to social justice. The question is not whether but how and at which level we should tackle tax competition, and tax competition has little to do with competitiveness. EPSU agrees with the COM discussion document in that investment is driven by different factors, strong institutions, strong democratic framework, rule of law, good infrastructure, transport, a skilled and educated work force and stability. However, EPSU finds it a bit contradictory that the COM then states that tax is like any other cost, only one factor, and that the companies tend to be more competitive when the tax burden decreases.

- 4.22 EPSU would not see tax as a cost or burden. Also in reference to the discussions about communication and miscommunication, EPSU considers that the term "burden" is something to be avoided, and tax can be an investment. Tax also has a strong regulatory function; it finances public services, but also distributes and redistributes wealth and income, so the language used is very important. On certain issues, like CIT and wages, what has been said today, exactly the opposite could be said. It has been claimed that there is no robust evidence that the CIT would have a negative effect on wages. However, what we can say is that corporate tax avoidance has a negative effect on wages. According to a policy paper by IMF, CIT has very small negative effects on savings, investments and on growth. Even if tax might always depress consumption or investment, in any case, when compensated by government expenditure, spending for social services, skills, R&D, etc., that would in turn boost demand and employment.
- 4.23 What EPSU has observed is that too much reliance on VAT worsens household inequalities because VAT is a regressive tax. Reducing inequalities has a positive effect on growth. Furthermore, we need to know what kind of competitiveness we are talking about. Competitiveness is a tool which should serve the needs of the populations and not the other way around. What should the definition of competitiveness be based on? Level of tax has little to do with competitiveness – instead, competitiveness should be based on investment, skilled labour force, high-quality public infrastructures and health and social care, and useful innovation. EPSU considers that tax competition could have negative effects socially, economically and on the financing. EPSU considers it unfortunate that profits from intellectual property as patent boxes remain seen as spur to innovation when deep down they are tax competition tools. EPSU finds that the EU Parliament has done good work in fighting tax evasion.
- 4.24 EPSU published a report showing that McDonalds was likely to have avoided a billion euros in 12 European countries. This publication then contributed to the state aid investigation by the European Commission. McDonalds seems to have a business model which is actually based on tax avoidance and wage-dumping. Based on another report 3 years later it seems that the situation has become even more complicated. EPSU asked why it is that, while the anti-tax avoidance rules are in force, they are not used better. EPSU realises that there are limits to state-aid rules' application to fighting corporate tax avoidance. Moreover, EPSU has been calling for a common corporate tax for 20 years. EU has a single currency and single market, with common rules on public spending - but no common rules on public income, and this issue is affecting EU competitiveness. There is now also revision of company law directives taking place in the EP and in Council; this is extremely important in terms of corporate transparency and corporate legal structures. EPSU enquired why businesses, which often require simplifying of taxation, have created such complicated corporate structures.
- 4.25 To conclude, EPSU would welcome to continue this discussion, including at the international level at the UN, and encourages involvement of developing countries.
- 4.26 A Professionals' Association urged to ensure that the EU layer does not become another constraint if we want to be attractive for others to invest and want them to locate investments and businesses in the EU.
- 4.27 An NGO recalled that when we are looking at tax policies, we need to take the broader perspective into consideration and continue to do spill-over analysis.

- 4.28 DG TAXUD replied to this by explaining that there are many things that we have not discussed today, but spill-over analysis is not forgotten; it was difficult to capture under the menu for today which was competitiveness. To conclude on the last presentation, DG TAXUD noted that the underlying question is - competitiveness, what's in it for the citizens?
- 4.29 A Business Association asked whether it would be possible to have at the Platform a presentation of the Fiscalis programme 2021-27 to hear what the views are for the future. DG TAXUD replied positively to this request.

5. ANY OTHER BUSINESS

- 5.1 Under any other business, DG TAXUD informed the members that the CFE has asked us to distribute a document that they have prepared on the tax-payers' rights.

6. CONCLUSIONS

- 6.1 The Chair thanked all members for the constructive discussions.

The preliminary date of the next PF meeting is the 19 December.

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