Proposed discussion points from the Tax Justice Network

Considering the language in the EC decision renewing the Platform for Tax Good Governance, Aggressive Tax Planning and Double Taxation (2019/C 428/08), we understand that our work should be focused on the items presented in Article 2 therein. In particular: informing on issues, advising on possible means of progress, discussing among 'stakeholders', and proposing practical solutions…"in the field of good governance in tax matters, aggressive tax planning and double taxation [and double non-taxation]" (ibid.). Importantly, the task of the platform is also to assist the EC in its commitments under the Addis Tax Initiative to meet UN SDGs. Accordingly, we suggest [for quick read, please see in yellow]:

- **Legal and Beneficial Ownership Transparency**
  - *Task relevant to the Platform*: Cut illicit financial flows, protecting domestic tax bases, improving domestic tax compliance, improving tools and procedures to stem both cross-border and domestic tax evasion and tax avoidance, technical support to developing countries (Addis Tax Initiative); promote tax good governance, including transparency and exchange of information in tax matters (C(2012) 8805)
  - *Discussion point*: Legal and beneficial ownership registration globally, and among EU member states in particular, is necessary to implement domestic tax compliance in both personal and corporate income taxation. This will help bridging the gap between markedly different access – higher observed avoidance in higher income deciles – to the international tools and advice for tax avoidance and evasion.
  - *Proposed measures*: Setting an EU standard for legal and beneficial ownership information, where such data is: updated, verified, all % holdings, publicly accessible, for all legal entities, differentiating senior manager in registries. Furthermore, in order to push for global implementation, implement STR flagging for transactions with jurisdictions not meeting the standard and/or withholding in financial flows to non-compliant jurisdictions. Legal entity identifiers seem an essential tool for the implementation of these rules (COFFERS 2020 recommendations). Also importantly, providing financial and technical support to developing countries to meet the standard in domestic registries.

- **Harmful tax regimes in the EU**
  - *Task relevant to the Platform*: Prevent aggressive tax planning, including foreign income exemptions and exploitation of cross-country mismatches (COM(2012) 722); promote tax good governance, including transparency (C(2012) 8805); foster domestic revenue mobilization, specifically in developing countries, together with fair, efficient and transparent tax systems that equitably distribute tax burdens and benefits (Addis Tax Initiative).
  - *Discussion point*: In order protect the tax bases of jurisdictions where substantial economic activities occur, and guarantee domestic revenue mobilization in developing countries, it is paramount to eliminate tax exemptions that are granted without any expenditure requirement (profits-based tax exemptions), in particular where the activity in question is geographically mobile. Furthermore, in the context of climate emergency and the COVID-19 pandemic, exemptions for passive income

streams such as real estate rents and dividends stemming from environmentally damaging activities need to be eliminated.

- *Proposed measures*: Monitoring and eradication of profits-based tax exemptions and alternative tax regimes in the EU, in particular for investment/business/digital services and the shipping business; monitor all tax regimes relevant to natural resource extraction; monitoring and eradication of passive income exemptions in particular when derived from real estate rents and non-green investment. Additionally, online publication of all tax incentives with each corresponding budget cost estimation in a common EU portal, with fully transparent specification of econometric assumptions.

- **EU Tax Rulings**
  - *Task relevant to the Platform*: Prevent aggressive tax planning, including foreign income exemptions and illicit exploitation of bilateral conventions and internal market economic freedoms (COM(2012) 722); promote tax good governance, including transparency; and prevent decoupling of income recognition and real economic activity (C(2012) 8805); foster efficient and transparent tax systems that equitably distribute tax burdens and benefits, accountability (Addis Tax Initiative).
  - *Discussion point*: Secret tax rulings - and massive tax dumping through any type of ruling - damages cohesion among EU Member States (MS), hinders integration, and surrenders funds that are necessary to redress financial, health and climate crisis – for the benefit of all Member States. Effective transition towards unitary taxation in the EU would not only eradicate ad hoc preferential treatment by MS, but also mean a high degree of simplification of taxation within the EU – with high compliance cost savings to private actors (see COFFERS 2020 recommendations).
  - *Proposed measures*: Implementing full transparency of EU tax rulings, with accessibility through a shared EU portal, and systematic application of substantial standards such as the de minimis State Aid rule i.e. max tax ruling preferential treatment 200k€ over 3 years. Implementing a Common Consolidated Corporate Tax Base (CCCTB).

- **Real Estate**
  - *Task relevant to the Platform*: Prevent aggressive tax planning, including evasion and avoidance of personal and corporate taxation exploiting particularities in real estate transactions and ownership registration (COM(2012) 722); promote tax good governance, including transparency; and preventing harmful advantages accorded to non-residents (C(2012) 8805); foster efficient and transparent tax systems that equitably distribute tax burdens and benefits, and improvement of domestic tax compliance; improving tools and procedures to stem both cross-border and domestic tax evasion and tax avoidance; technical support to developing countries (Addis Tax Initiative)
  - *Discussion point*: Transparency in legal and beneficial ownership of immovable property is essential to the consistent application of personal and corporate tax rules, specifically with regard to passive income stemming from ownership of foreign real estate assets, and implementation of wealth taxes. Appropriate assessment of wealth together with information exchange can be key to the simplification of taxation (see TJN policy call). In developing countries, improved

land registers are key to “boost a country's economic growth, foster social development, shield the rights of vulnerable groups, and help with environmental protection” (World Bank).

- *Proposed measures*: Including assessment of real estate ownership registration among harmful practices considered through the EU Code of Conduct. Revitalizing and making mandatory the adherence to the European Land Registry Network. Addressing through progressive taxation income and wealth inequalities that derive from untaxed rental income accumulation, urban estate speculation, and subsequent foreclosures. Additionally, technical cooperation and support should be strengthened with developing countries to assist land registry digitalization, while ensuring acknowledgement local ownership and land use practices.

- **Financial and Tax regulatory integration**
  - *Task relevant to the Platform*: Prevent aggressive tax planning, including evasion and avoidance of personal and corporate taxation exploiting the lack of administrative cooperation in financial and tax intelligence, such as arrangements or series of arrangements that are artificial or lack commercial substance – recommendation 4.4 – (COM(2012) 722); promote tax good governance, including administrative cooperation in the field of taxation, and the prevention of the artificial or ad hoc rooting of economic activity through jurisdictions with lower levels of protection (C(2012) 8805); foster efficient and transparent tax systems that equitably distribute tax burdens and benefits, and improvement of domestic tax compliance; improving tools and procedures to stem both cross-border and domestic tax evasion and tax avoidance (Addis Tax Initiative)
  - *Discussion point*: As stated in the final policy recommendations of the EU COFFERS project (2020), the development of an EU Tax Intelligence Centre would not only provide reliable data to tax administrations to fight tax evasion and avoidance and money laundering, but would also “foster trust in institutions, contribute to a level playing field and fortify the rule of law”(ibid.).
  - *Proposed measure*: Although recent efforts in the consolidation of STR frameworks across the EU are clear improvements, the level of fragmentation of financial and tax intelligence in the EU, together with chronic reliance in risk self-assessment by private actors need to be addressed. Developing an EU financial and tax intelligence with direct access to transaction level data should be a priority for EU integration, ensuring the health of the single market. The implementation of an EU Financial Transaction Tax using union infrastructures, as well as the mandatory use of a legal entity identifier, would greatly help in achieving this goal.

- **EU Tax Treaty Standard**
  - *Task relevant to the Platform*: “Having regard to the Treaty on the Functioning of the European Union” (2019/C 428/08) – and in particular to Article 208; Prevent aggressive tax planning, including evasion and avoidance of personal and corporate taxation exploiting “double taxation conventions” – recommendation 3 – (COM(2012) 722); promote tax good governance, including the prevention of the artificial or ad hoc rooting of economic activity through jurisdictions with treaties whose application reduces overall tax liability (C(2012) 8805); foster efficient and

transparent tax systems that equitably distribute tax burdens and benefits, and improvement of domestic tax compliance; domestic revenue mobilization (Addis Tax Initiative)

- *Discussion point*: The treat-making policy of individual MS, and the refusal to amend old treaties (in many cases pre-European Union treaties), directly affects the ability by developing countries to levy the necessary domestic revenues in order to finance institutional, infrastructure, social and economic development. In fostering the enforcement of TFUE's policy coherence for development, the European Commission would ensure adherence to the Addis Tax Initiative. Acknowledgement that a significant (if not most) part of double taxation could be resolved through unilateral measures such as tax credits for foreign tax paid.
- *Proposed measure*: Developing an EU tax treaty model, including characteristics such as source taxation of interests, royalties, service payments, and capital gains stemming from the disposition of land-rich companies (*inter alia*). The EC should set a timeline to amend or cancel all non-compliant treaties, and priority should be given to the amendment of aggressive treaties that greatly reduce the domestic tax base of developing countries. The refusal by some countries to implement unilateral measures against double taxation should be viewed as inconsistent with the TFUE and addressed via EU courts. Every country should publish estimates of tax losses to each tax treaty partner stemming from the direct and indirect (re-routing) use of its tax treaties.