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

held online on 17 November 2020, 9h30 – 12h30

1. OPENING AND ADOPTION OF THE AGENDA

1.1 The Chair presented the agenda which was adopted without comments.

2. WORK PROGRAMME

2.1 The Chair presented the objectives of the meeting: to listen members' views on the programme's priorities; to agree on the Agenda for the upcoming meetings; to agree on who does what, how to ensure that the discussions stay fruitful and that the Platform remains a usual forum.

2.2 CFE Tax Advisers Europe considered the taxpayers' rights in tax certainty, taxation on the digitalising economy, double taxation, dispute resolution, the MAP context and the APA framework as the most important topics. In reply to Question 2, they are willing to share their specialist knowledge on tax with stakeholders in the process of transition towards a low carbon economy.

2.3 Tax Executives Institute welcomed the balanced view between the fair taxation and growth and recovery and supported the previous speaker on the tax mix: it is important to look at how corporate tax contributes in view of the fairness. Also actions around circularity of the economy are an underdeveloped topic.

2.4 American Chamber of Commerce in EU welcomed the place given to business in the programme, and the emphasis given to action. They would like more focus on the single market as investment destination, i.e. focusing the tax policy on how to preserve and increase the attractiveness of the single market, in particular for digital services.

2.5 Oxfam asked for more specificity on the timing and on future initiatives. They pointed out that the first section is missing reference to the role of taxation in financing public services, and the second section reference to the recovery of EU own resources and minimum taxation.

2.6 International Chamber of Commerce supported Tax Executives Institute, welcoming a more balanced programme that focusses more on growth and recovery. They asked about the role of green taxes in this programme, joining CFE Tax Advisers Europe and Tax Executives Institute. They asked whether employee taxation and VAT should be discussed at the Platform, or the discussion is restricted to company taxation.

- 2.7 BEPS Monitoring Group noted that the OECD proposals in Pillars 1 and 2 present some fundamental issues concerning their implementation and their content, and that a careful scrutiny of these proposals is needed.
- 2.8 The Chair replied that the structure of the Platform agenda has to be discussed, to see whether the Platform can have OECD related discussions. Some Member States have drawn attention to this matter.
- 2.9 BusinessEurope found that the Programme can be a comprehensive basis for discussions while suggested that trade implications, tax incidence and impact assessment of tax proposals should get more emphasis. Tax systems need to be simplified and Members States' tax systems need to be better coordinated.
- 2.10 European Centre for International Political Economy was concerned about the recent communications on the Tax Action Plan, claiming that fair taxation is a way to a swift EU recovery. They mentioned that they had not been able to identify any initiative in the Action Plan that could contribute to the re-awakening of economic activity in the EU. They added that the priorities outlined in the programme are prudent in emphasizing the need for evidence-based policy-making and the recognition of the fact that businesses create growth. They objected to use the term fair taxation and asked what fairness means in taxation.
- 2.11 The Chair commented that the Commission values the concept of fair taxation and disagreed about the absence of link between fair taxation and recovery. The EU cannot keep increasing debt without caring about repaying it, while also doing it in a fair and growth-compatible way. People in businesses need to pay their fair share.
- 2.12 European Network for Debt and Development (EuroDaD) welcomed the easy accessibility of the Platform documents to the public but advocated for more clarity on the priorities of the Platform, echoing Oxfam. They mentioned that a list of deliverables for the Platform should be included. The document puts businesses at the centre while the role of tax systems in addressing inequalities and financing public services has not been sufficiently recognized. It should be referenced how the Platform will engage in minimum taxation, the CCCTB, discussion on own resources, digital taxation, the ADDIS tax initiative, the reform of the Code of Conduct in Business taxation, country-by-country reporting, beneficial ownership transparency and administrative cooperation in tax practices. It is necessary to ensure the requisite specificity to ground the Platform work in the really important discussions.
- 2.13 The Chair noted that many members have a high-level ambition for the Platform, however, it will not be possible to get through with all the good and meritorious suggestions made. He agreed on the question of the time-line. TAXUD will do its best to have a detailed one-year planning. As priorities can shift over time in our environment, flexibility is key. TAXUD intends to have 3-4 Platform meetings next year and compile a list of specific topics, indicating the meeting and timing where each topic will be discussed. The Platform will be more useful if it can push ideas upfront.

- 2.14 Tax Justice Network was missing a mention of the Common Consolidated Corporate Tax Base (CCCTB) as one of the most promising projects to simplify the business taxation and make it fairer, while many speakers had referred to the need for simplification and fairness. The OECD work does not look like a simplifying project, and the EU should depart more broadly from what the OECD will be presenting. Reference to the policy coherence for development is missing. The OECD Pillar 2 does not seem to deliver a fair playing field to the developing countries. The structure of the programme implies that the group may get stuck in an outdated theory that lower taxes induce economic growth and real investment.
- 2.15 European Association of Tax Law Professors asked to include reference to personal income taxes, in particular labour taxation and its impact on tax good governance. Tax policy should play its part in this goal announced by COM, and it also has an impact on labour taxation, related to tax competition on high-net worth individuals. Tax is not just about growth but mainly about how the profits from growth are re-distributed.
- 2.16 The Chair did not disagree but mentioned that the Member States are reluctant to enter into this field collectively. The Commission has so far intervened mainly via the European Semester. It is not an area where the Commission wants to stay completely idle. For instance, the Tax Action Plan includes the intention to harmonise the definition of tax residence. The Chair also noted that, with some members considering the Commission too simplistic, some others criticizing the OECD for being too complicated, a balance must be found.
- 2.17 The Chair then moved to the following main topic: the balance between fair taxation and growth-friendly measures, and asked whether there are other questions that members would like to address under this chapter.
- 2.18 Tax Executives Institute noted that the way that tax systems are designed is sometimes underestimated. They also supported a comment of BusinessEurope about the importance of impact assessments and noted that the way impact assessments are done should be reviewed.
- 2.19 American Chamber of Commerce in the EU made a point about ways to improve tax administration. Greater cooperation between tax administrations is important for tax certainty and that could include a more strategic approach to auditing, cross-border audit, joint audits and improving dispute resolution mechanisms.
- 2.20 Accountancy Europe welcomed the document as reflecting their priorities, including on green taxation. They asked to add an explicit reference to the cooperative compliance for SMEs.
- 2.21 The Chair confirmed that a working group has been launched in this field and noted the wish to discuss this topic in the Platform as well.
- 2.22 CFE Tax Advisors Europe made the remark that an efficient tax system calls for a balance between ensuring legal certainty and application of the law on one hand, but also promotes tax policies fit for purpose. They commented on improving tax administration: taxpayers face similar obligations in most countries in EU but are still not guaranteed equal rights in different Member States. Problems are seen

especially in the implementation of DAC6. They asked for a consistent transposition throughout the EU. They also request better and earlier initial consultations with stakeholders.

- 2.23 The Chair explained that we are still in the early days of DAC6, so it is too soon to judge. The Commission will carefully monitor the transposition of DAC6 and open infringement procedures if needed.
- 2.24 European Confederation of Independent Trade Unions wished to add a reference on how to strengthen tax administrations at national and local levels: resources for tax authorities, a sufficient number of civil servants, new tools for auditing, re-training.
- 2.25 The Chair agreed with this. The Commission had recently flagged to Member States the considerable opportunities offered by the recovery and resolution funds. He illustrated how some Member States have made spectacular progress on reducing the VAT gap, almost entirely owing to a smart big data system in place.
- 2.26 ActionAid commented that fairness is challenged by the outdated system, in particular for taxing multinational technology companies. They supported the other commentators in favour of the CCCTB. The current system is unfair towards SMEs. In connection with Sections 2 and 3, the ambition of the 4-year programme of this Platform should thus be to contribute to re-designing how multinationals are taxed, for a fair and simple system.
- 2.27 EuroDaD highlighted that the only way of ensuring that all tax authorities have equal access to information is to make information publicly available. It is therefore important to highlight the significance of public CBCR (country-by-country reporting). The Platform can play a specific role here. The effectiveness of the existing registries of beneficial ownership must also be assessed.
- 2.28 The Chair concurred with these comments and confirmed that these points are important for the Commission, which values tax transparency and finds that it helps nudging good behaviour. The Commission agrees on the importance of public CBCR. The balance of power in Council (which has blocked progress on the proposal) may have slightly changed lately.
- 2.29 The Chair moved on to the next section: the international tax policy of the EU. The Member States and the Commission have tried collectively to export fair tax behaviour, via notably the listing exercise. The existence of Annex 1 of Non-cooperative jurisdictions for tax purposes and Annex 2 of Jurisdictions which have taken commitments, was commented on by many members. The facts show that this policy is delivering. The Commission has screened a high number of third-country jurisdictions so far, and achieved to convince them to make 120 changes in legislation in 3 years. Few would have expected such results when the process started in 2017.
- 2.30 Oxfam considered that the Platform should also discuss the envisaged reform of the mandate of the CoC and suggested that members of the CoC group update the Platform on the ongoing work. They echoed the Tax Justice Network in recalling the importance of policy coherence for development and aligning tax policy with the priorities of DG DEVCO and the ADDIS initiative.

- 2.31 The Chair replied that via their instruments, DG DEVCO is indeed supporting the capacity of tax administrations in developing countries. Exchanges on this can be added, in presence of DG DEVCO and DG NEAR.
- 2.32 Tax Justice Network suggested considering a complete overhaul of the strategy of the listing exercise of non-cooperative jurisdictions, based on a colonial attitude. The EU should go after economic operators that abuse our systems, instead of going after third-country jurisdictions. The EU has the power to do so. Reference should be made to the UN's FACTI panel. Regarding the administrative part, they are pioneering using the illicit financial flows vulnerability track, an online tool, with some administrations.
- 2.33 The Chair underlined that all members are free to express their views. The Commission abides by the international rules, like the ones of the WTO. In addition, the word 'colonial' regarding the listing process seems misplaced, as the listing process is a multilateral process, where the EU tries to push for international good practices. The Chair elaborated this on the example of the criteria based on which third-country jurisdictions have to set up automatic exchanges of information with the EU. We should not refrain from going after jurisdictions with predatory practices and instead only target misbehaving companies. We need to engage in both courses of action simultaneously; this is the most efficient way
- 2.34 BEPS Monitoring Group commented on money-laundering, which is not just an issue for the EU list of non-cooperative tax jurisdictions, as stated in the programme. They also pointed out, as there had been several references to the need for tax certainty, that fairness and equity may require tax uncertainty.
- 2.35 The Chair made the remark that international money laundering (IML) is an important priority for the Commission, which has the intention to reform the way that the fight against money laundering is organised in the EU. The IML is closely connected to tax. TAXUD cooperates very closely with DG FISMA, which is in charge of the IML blacklist. A discussion on IML can be included in the agenda.
- 2.36 EuroDaD referred to Tax Justice Network's comment on the EU listing process and estimated that the question should not be whether black-listing leads countries to change their behaviour. We should take a broader approach to it instead. The developing countries are uncomfortable with having the OECD as the leader that shapes global tax standards. This discussion is becoming really big globally.
- 2.37 The Chair considered this to be a fair point. The Commission does have exchanges with the UN. The primary requirement that the EU asks to the listing countries is to subscribe to the international standards and practices – not to the EU standards. The standards to which the EU asks them to subscribe, have mostly been developed by the Inclusive Framework, a large group of close to 140 countries. There is value in taking standards from where they come from, and it is a fact that the OECD has so far been more efficient in pushing those standards forward than the UN.
- 2.38 A Tax Executives Institute representative made a comment on a personal note as she is member of two of the UN sub-committees on taxation. She found that it is an important subject to take into account on this programme because often tax officials

in the developing countries are very competent people but with limited resources, so it is key to ensure that EU actions towards the developing countries are consistent.

- 2.39 BusinessEurope supported Tax Justice Network who criticized the EU for applying a colonial approach to the EU List project. They emphasized the importance of faith in the measures which have already been enacted, as regards CBCR exchanges between tax authorities, instead of the public CBCR. They requested more support from EU tax authorities in cases of disputes with tax authorities in powerful third countries.
- 2.40 The Chair replied by bringing up a factual element: the least developed countries are not covered by the EU listing process. The Commission has no doubts that it is useful to push actively for good practices. The members should not doubt that the EU supports its companies. We should use the tools we have, to influence in a positive way the discussions on international taxation, in order to incentivize third countries to adhere to international tax standards. This said, the Chair mentioned that we should also defend ourselves when prevented by powerful third countries from acting in a fair manner.
- 2.41 The Chair then moved to the next section: flexible, open and inclusive framework.
- 2.42 EuroDaD welcomed that the tax system and our tax policies are set out within the context of many objectives and was pleased to hear of so much support from diverse stakeholders in favour of financing green goals. They commented on equity considerations regarding green taxation. They also noted that impact assessments are key. Finally, they stressed that when one discusses the EU List and more broadly, the external policies of the EU, it is necessary to accordingly cover the existing harmful tax practices within the EU.
- 2.43 The Chair agreed that EuroDaD touched upon important points and agreed on their concerns about green taxation and the external dimension. The EU is trying to design its policies with the purpose of incentivizing good behaviour (as with the carbon border adjustment mechanism). The Chair confirmed that the Commission has suggested to revise the mandate of the CoC. In addition, the Commission is in the process of establishing a new Tax Observatory on the request and financing by the EP. The Tax Observatory will start functioning as of next year, and one of its missions will be to research the situation in the Member States.
- 2.44 International Chamber of Commerce elaborated on BusinessEurope's comment. The work programme is missing a reference to the standardisation of tax processes in the tax administrations. Regarding the fight against illicit financial flows, this concept is often confused with tax planning, which leads to a perception that they are synonyms. As BusinessEurope, they requested that governments and the EU support EU companies.
- 2.45 The Chair considered that the way tax planning was presented was a bit old-fashioned, as the world has changed. EU legislation does not allow the use of EU funds in supporting projects that will lead to tax avoidance.
- 2.46 CFE Tax Advisors Europe supported the point made by ICC, to invest more in IT. Corporate compliance is greatly facilitated by the digitalisation.

- 2.47 The Chair agreed that digitalisation is a major priority that can simplify and make tax systems more efficient. The Commission has a number of ongoing work streams between Member States.
- 2.48 EuroDaD said that they agree that tax avoidance is linked to illicit financial flows.
- 2.49 The Chair then moved on to discussing the way TAXUD will organise the Platform meetings in the future. TAXUD will draft a timeline and topics for the next 3-4 meetings. Once the members are informed about the topics on the agenda, they will be able to circulate documents upfront and inform TAXUD whether they want to present at that following meeting. TAXUD will facilitate this discussion by circulating discussion papers. It was mentioned as very important that the members help the Commission shape the discussion through their contributions. An annual report on the activity of the Platform will be published.
- 2.50 Tax Executives Institute took the floor to say that all stakeholders should engage so that the Platform can have a discussion. They supported the outlined way forward and asked the Chair whether he sees any difference compared to how the Platform worked during the previous tenure.
- 2.51 In reply, the Chair explained that TAXUD is eager to avoid the situation where it is just the Commission presenting at the meetings and maybe getting some feedback from some of the participants. The main purpose of having the Platform is to receive the stakeholders' input on the various issues.
- 2.52 BusinessEurope supported the comment of the Chair and Tax Executives Institute, emphasizing active engagement from all stakeholders. The work programme of the Platform cannot be independent from that of Member States and the Commission. They found it valuable to invite external speakers, for instance representatives from the WTO on trade aspects.
- 2.53 The Chair thanked all participants and promised that TAXUD will revise the work programme and issue a list of specific topics for upcoming meetings.