TAX SYMPOSIUM

EU Tax Symposium 2023 – Minutes of Session 3, 25 October 2023

"How to further improve the business tax framework within the EU internal market beyond the international agreement"

Session 3 Day 2 focused on "**how to further improve the business tax framework within the EU internal market beyond the international agreement**".

Megatrends, such as the globalisation and digitalisation of our economies are challenging the international corporate tax framework. Designed more than a century ago, the current tax rules are ill-equipped to deal with increasingly globalised and digitalised business activities. This resulted in new routes for aggressive tax planning and increased complexity for businesses. Moreover, not all businesses are equally equipped to face those challenges – with large multinationals having more resources than their smaller peers – creating an uneven playing field. In this context, the global community under the aegis of the OECD has recently reached a historic step forward: the so-called two-pillar agreement that will update global corporate tax rules. Building on the success, the Commission has tabled proposals, such as the BEFIT, HOT and Transfer Pricing Directives, to further improve the business tax framework within the EU. In this context, panellists discussed the outcome of the OECD-led agreement and the remaining corporate tax challenges, in the EU and beyond.

The panel, moderated by **Pascal SAINT-AMANS** (Non-Resident Fellow Bruegel, Partner at Brunswick), was composed of:

- **Georg GEBERTH** (Vice-Chair of the BusinessEurope Tax Policy Working Group)
- **Isabel BENJUMEA** (Member of the European Parliament, ECON & FISC Committees)
- **Fabrizia LAPECORELLA** (Deputy Secretary-General, OECD)
- **Maria-Gabriela HORGA** (Vice-Chair of the Committee for Budget, Finance and Banks in Romania)
- **Karel LANNOO** (CEO, Centre for European Policy Studies)

Pascal SAINT-AMANS introduced the panellists and the issues for discussions. He then asked the panellists for their views on the possible way forward in the EU beyond the Two-Pillar global agreement.

Georg GEBERTH highlighted the constructive approach of the business sector in the design of the Two-Pillar Solution and its cooperation with the OECD and national governments during the last decade. He emphasised that the implementation of the Two-Pillar global agreement will be complex and demands major efforts from the business sector, for instance in terms of IT investments to gather the data needed for Pillar 2. In this context, Georg GEBERTH expressed his disagreement with the continued narrative that companies do not pay sufficient taxes, underlining the efforts taken in recent years.

MEP Isabel BENJUMEA started by commending the organisation of the Tax Symposium in the European Parliament and highlighting the important role of the FISC subcommittee. Isabel BENJUMEA considered that it is important to discuss taxation at the EU, even if it is a national competence. She is of the opinion that the EU must focus on cooperation and coordination among Member States and try to move forward with feasible goals in the area of harmonisation. Isabel BENJUMEA stressed that tax competition should not be stigmatised as it may be positive to steer competitiveness within the EU. With regards to the Two-Pillar Solution, Isabel BENJUMEA welcomed the global agreement but, in line with **Georg GEBERTH**, emphasised the need to acknowledge the complexity of the system and the resulting burden for the companies. In this respect, coordination and cooperation can for instance play a role and she considered that it may thus be needed to first focus on the delayed implementation of Pillar 1 before undertaking additional steps. Beyond the Two-Pillar approach, mostly focused on multinational groups, Isabel BENJUMEA indicated that a clear understanding of the difficulties of the SMEs is needed, as they pay proportionally more taxes than large companies and suffer more when there are adverse shocks or when they must comply with new regulations. Isabel BENJUMEA applauded the recently adopted EP report in this regard and called for giving a voice to SMEs and creating a business environment that support their investments. Finally, Isabel BENJUMEA welcomed the BEFIT proposal, as reflected in the report, although it is important to ensure that it will not become an additional burden for the companies.

Fabrizia LAPECORELLA put in value the historic significance of the Two-Pillar agreement, bringing together 145 countries. For the first time, there is a multilateral agreement on substantive taxation rules (Pillar 2), and countries are close to agreeing on the reallocation of taxing rights over a portion of residual profits of the largest multinational enterprises (Pillar 1). This has been a major step towards the stabilisation of the international tax system, even if it is not yet fulfilled. According to Fabrizia LAPECORELLA, now it is the moment to move forward with its implementation and take advantage of the synergies between the international discussions and the EU discussions. In this regard, Fabrizia LAPECORELLA stressed the importance of the OECD’s handbook for the implementation of Pillar 2.

In line with previous comments, **Maria-Gabriela HORGA** remarked that competition in the area of taxation is not contrary to the EU treaties and that while it is often argued that companies do not pay enough taxes, fair companies actually do. Maria-Gabriela HORGA recognised that digitalisation and globalisation pose challenges to the current tax system, undermining its fairness and providing opportunities for some companies to shift profits and evade taxes. Maria-Gabriela HORGA considers that the behaviour of these companies affects competition compared to fair companies. This needs to be addressed through exchange of information and deepened cooperation, as the Two-Pillar global agreement intends. Current EU proposals such as BEFIT and HOT are further steps towards reinforcing cooperation that need to be thoroughly discussed, as well as options such as unilateral responses by Member States if Pillar 1 is not signed and implemented.

Karel LANNOO started signalling that the old claim that “we do not have a single market for taxation” continues to be valid after 30 years. As evidence, he referred to a recent CEPS study[1] that shows continued profit shifting in the internal market. For this reason, Karel LANNOO praised the achievement of Pillar 2 agreement and the quick implementation at EU level with the related Directive, whose overall objective according to him is to tax large companies fairly. He for instance underlined that small companies currently pay more taxes than large companies. Looking forward, Karel LANNOO considers that BEFIT would be a first and important step towards a fair tax system for the internal market. It is the only way forward even if it may be complex. The current fragmentation is also

[1] Thomadakis, A. (2023), *EU corporate taxation in the digital era – The road to a new international order, CEPS-ECMI Task Force Report, Centre for European Policy Studies*. https://www.ceps.eu/ceps-publications/eu-corporate-taxation-in-the-digital-era/

complex. Tax policy could inspire from financial regulation, where the EU is working on the single rulebook. Second, Karel LANNOO highlighted that Pillar 2 would also ensure that multinational groups effectively pay taxes, which is needed for the fairness of the system. Finally, Karel LANNOO recalled that, even if some complex solutions may be needed, such as some sort of arbitrage system, the Two-Pillar agreement was also necessary to address digital companies that – contrary to traditional businesses - can avoid taxation because of the absence of physical presence.

Following the first round of interventions, **Pascal SAINT-AMANS** pointed out the progress done in recent years at international level despite the requirement of unanimity to move forward. In his opinion, this reveals that real progress happens when there is political will. Pascal SAINT-AMANS also added that contrary to what is sometimes stated, the Pillar 2 substance carveouts are not such big loopholes, because they stop excesses in new business models benefitting from tax competition, such as rents on intangible property.

Pascal SAINT-AMANS then opened the floor to gather some **questions from the audience**. Those referred to the possibility of having fair taxation in the EU without a single tax policy and a unified system for tax audits (Michael Katrinis, Member of the Greek Parliament), to the development of new tools to sharing tax information between Member States and reinforcing the fight against tax fraud (Rui Alfonso, Member of the Portuguese Parliament) and to the use of tax for budgets without hurting competitiveness, social welfare and intergenerational fiscal equality (Valentin Fagarasian, Member of the Romanian Parliament).

In their replies, the panellists raised the following points. **MEP Isabel BENJUMEA** remarked the difficulties to find the right balance between harmonisation and national sovereignty, as well as the need to prevent the creation of an excessive burden for businesses. Isabel BENJUMEA added that the EU should focus on realistic goals, such as having the same compliance system across the EU, or a simple deductions system. Isabel BENJUMEA stressed that tax compliance is a burden for startups. She noted that the EU is leading the debate on the fight against tax avoidance, but the fight must be tackled at international level. In Isabel BENJUMEA’s view, a simpler tax system would help to fight avoidance. **Georg GEBERTH** criticised the complexity of the regulations and agreed that the reporting of information should be more efficient in Europe. **Fabrizia LAPECORELLA** underlined that the new implementation framework agreed for Pillar 2 could facilitate tax compliance and cooperation between tax administrations. For instance, the GloBE Information Return is a good tool to further build on the progress made in recent years with the exchange of tax information. **Maria-Gabriela HORGA** concurred with the importance of exchanging information, for instance in the areas of VAT gap and electronic invoicing. Maria-Gabriela HORGA stressed the importance of simplifying the rules and expressed her hope that ‘HOT’ will function like a one-stop-shop. In her view, the fight against tax avoidance should go one step forward beyond the Two-Pillar solution and BEFIT. **Karel LANNOO** pointed out that cooperation between tax authorities can be easier than it sometimes appears. For instance, he referred to a recent study for an asset register requested by DG FISMA where it was possible to find all the necessary data, and that the incoming EU anti-money laundering authority is another example of improved and complementary cooperation in the fight against tax fraud. On the fairness of taxation within the internal market, Karel LANNOO recalled that the EU has instruments in the Treaties to act on this, such as state aid rules.

Next, taking the spillover effect of CBAM and the critical mass effect of Pillar 2 as examples, **Pascal SAINT-AMANS** highlighted that the EU can lead globally in the area of taxation, even if the competence lies with the Member States. In this light, Pascal SAINT-AMANS gathered panellists' views on the recent proposals for directives tabled in by the EU Commission, namely Business in Europe: Framework for Income Taxation (BEFIT), Head Office Tax System for SMEs (HOT), and Transfer Pricing (TP) – and possible steps beyond them.

According to **Fabrizia LAPECORELLA**, the Commission's proposals are substantially consistent with the latest developments at international level and will contribute to the simplification of the whole system. As such, BEFIT has the potential to make EU businesses more competitive, but needs to ensure alignment with other developments such as Pillar 1 and the EU Transfer Pricing Directive. The TP directive is also interesting and welcome. However, the rules must be consistent with OECD guidelines. In this respect, Fabrizia LAPECORELLA alerts that the EU decision-making process, based on unanimity, may make it difficult for the EU to appropriately pick up changes in the interpretation of the guidelines as agreed by the OECD in a much more dynamic process.

Maria-Gabriela HORGA commented that BEFIT is an important step forward. She noted that it is a useful way to reduce administrative burden for companies, although there may be concerns by businesses on the compatibility with Pillar 2. Romania is supporting BEFIT but has some concerns with regards to the assessment of its budgetary impact.

Georg GEBERTH welcomed the early publication of the proposals, which will allow a thorough analysis. There are clear benefits, such as cross-border loss relief. He added nonetheless that the tax adjustments in BEFIT differ from Pillar 2, which in his opinion can create duplications and will lead to double taxation for companies. BEFIT does not seem to bring a one-stop-shop and single tax base, as local filings remain, and Member States can make adjustments. Georg GEBERTH argued that BEFIT is difficult to assess as long as Pillar 2 is not in place.

MEP Isabel BENJUMEA agreed with Georg GEBERTH and with the objectives of BEFIT and HOT. Her main concern about the new initiatives is that their implementation leads to extra burden and requirements for companies. BEFIT should focus on making the tax system simpler and it should be possible to have a real one-stop-shop. Isabel BENJUMEA also welcomed the benchmarks in the proposal and expressed support for the HOT proposal.

Karel LANNOO underlined that, for the proposal on transfer pricing, the EU would be moving from guidelines to rules, and there are pros and cons to this. Regarding the BEFIT proposal, a common tax base will require significant exchange of information. This will require time.