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COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

A Fair and Efficient Corporate Tax System in the European Union: 5 Key Areas for Action

{SWD(2015) 121 final}

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Introduction

Europe's priority today is to promote sustainable growth and investment within a fairer and deeper Single Market. Europe needs a framework for fair and efficient taxation of corporate profits, in order to distribute the tax burden equitably, to promote sustainable growth and investment, to diversify funding sources of the European economy, and to strengthen the competitiveness of Europe's economy.

Corporate taxation is an essential element of a fair and efficient tax system. It is an important source of revenue for Member States and an important factor in influencing companies' business decisions, for example on investments and research & development activities.

The current rules for corporate taxation no longer fit the modern context. Corporate income is taxed at national level, but the economic environment has become more globalised, mobile and digital. Business models and corporate structures have become more complex, making it easier to shift profits. This has made it more difficult to determine which country is supposed to tax a multinational company's income.

Certain companies are exploiting this situation to artificially shift profits to the lowest tax jurisdictions and minimise their overall tax contribution. The fact that certain profitable multinationals appear to pay very little tax in relation to their income, while many citizens are heavily impacted by fiscal adjustment efforts, has caused public discontent. This perceived lack of fairness threatens the social contract between governments and their citizens, and may even impact overall tax compliance. There is an urgent need to challenge such corporate tax abuse and to review corporate tax rules in order to better tackle aggressive tax planning.

At the same time, other companies are still subject to double taxation of their income by more than one Member State. Complex and intransparent tax rules are inefficient. They put smaller businesses, which are the backbone of Europe's economy, at a disadvantage. They create uncertainties when businesses need legal clarity to invest. Increasing the already high tax burden on labour hampers growth. Tax systems which favour debt over equity financing discourage firms from building a strong equity base and tapping capital markets.

The current lack of coordination in corporate taxation between Member States creates obstacles for companies acting in the Single Market, as they are confronted with 28 different tax bases of corporate taxation, creating heavy compliance costs and administrative burdens which are detrimental to European competitiveness. It also allows companies to exploit mismatches. Intense competition for mobile tax bases has created new opportunities for aggressive tax planners, while other companies are still facing double taxation.

On 18 March, the Commission proposed a package of measures to create more transparency in corporate taxation in the EU. This Communication sets out a more comprehensive European approach to corporate taxation.

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Challenges and Objectives

Historical Context

The corporate tax systems in place today were conceived to a large extent in the aftermath of World War I. At that time, multinational enterprises were mostly industrial companies, selling tangible products. Business models were largely decentralised, with production processes clearly divided between parent and subsidiary companies. This made source taxation, whereby profits are taxed where they arise, relatively simple to apply. To ensure the fair distribution of tax revenues between countries, while avoiding double taxation, transfer pricing based on the arm's length principle (ALP) was devised. The ALP ensured that the price of intra-group transactions matched comparable market prices, thereby providing a clear means of allocating profits within a multinational enterprise. To resolve cross-border disputes on corporate taxation, bilateral treaties were chosen as the preferred tool, rather than a multilateral approach.

Overall, this international framework for corporate taxation worked well in an era of more limited cross-border activity and traditional business models. It was only as the economy evolved and trade became more globalised that cracks in the system started to appear.

In the EU, the debate around corporate taxation began to emerge as early as the 1960s, as economic and political integration led to more cross-border activity. Problems which could hamper the development of the Single Market, such as double taxation, became more important. From the early 1990s, the focus was on preventing such tax obstacles, and the Parent-Subsidiary Directive[1] and Interest and Royalties Directive[2] were adopted for this purpose.

For many years, the non-binding Code of Conduct for Business Taxation has been considered an effective tool for addressing tax competition in the Single Market. However, as corporate tax planning has become more sophisticated and competitive forces between Member States have increased, the tools for ensuring fair tax competition within the EU have reached their limits.

Economic Context

Harmful corporate tax competition has become a global phenomenon[3]. Differences in corporate taxation between countries are the driving force for corporate profit shifting.

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1 Council Directive 90/435/EEC of 23 July 1990 on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States, which was repealed by Council Directive 2011/96/EU of 30 November 2011

2 Council Directive 2003/49/EC of 3 June 2003 on a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States.

3 The global dimension, highlighted by extensive work in the OECD/G20, is documented in detail in the Staff Working Document.

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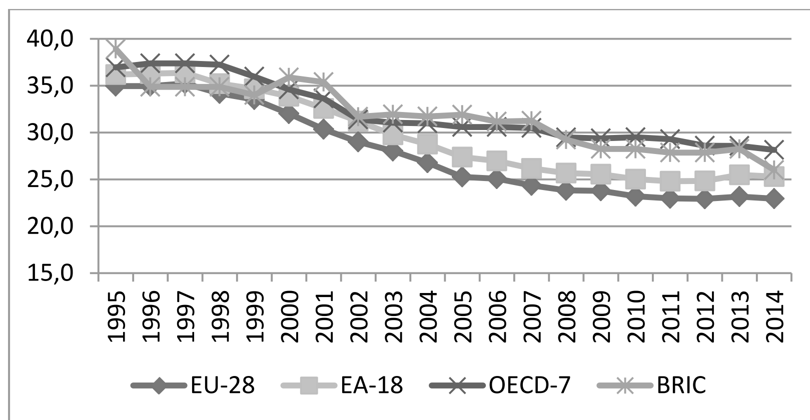
The Single Market offers unique advantages to citizens and businesses. It has increased welfare by lowering prices and increasing choices. It has helped businesses to access larger markets, tap new sources of finance and allocate their activities according to their economic needs. However, the co-existence of 28 different tax systems in one integrated market has also resulted in strong tax competition between Member States. As a consequence, Member States have progressively lowered their corporate tax rates, in order to protect their tax bases and attract foreign direct investment. Graph 1 shows that the general decrease in statutory tax rates is particularly strong in the euro area and in the EU as whole, where the principles of free movement in the Single Market allow for even greater mobility of tax bases and profits.

Graph 1: Statutory corporate tax rates 1995-2014



As set out in the Annual Growth Survey 2015, broadening tax bases, simplification and enhanced transparency can help increase the efficiency of the tax system and improve tax compliance as well as the fight against aggressive tax planning.[4] Indeed most governments have broadened the tax base to at least partly compensate for the lower rates, but a number of them offer targeted regimes or rulings that provide considerably lower rates for certain types of income or companies. Also, the majority of corporate income tax systems favour debt over equity, by allowing the deductibility of interest payments while not granting similar treatment to equity. This may lead to an excessive reliance on debt by business which could restrain investments.

Even though corporate tax rates have fallen, company taxation continues to be an important source of revenue for every Member State. In 2012, on average 6.5% of tax revenue was collected from corporations in the EU-27 (2.6% of GDP).

[4] COM(2014) 902 final of 28.11.2014, p. 15.

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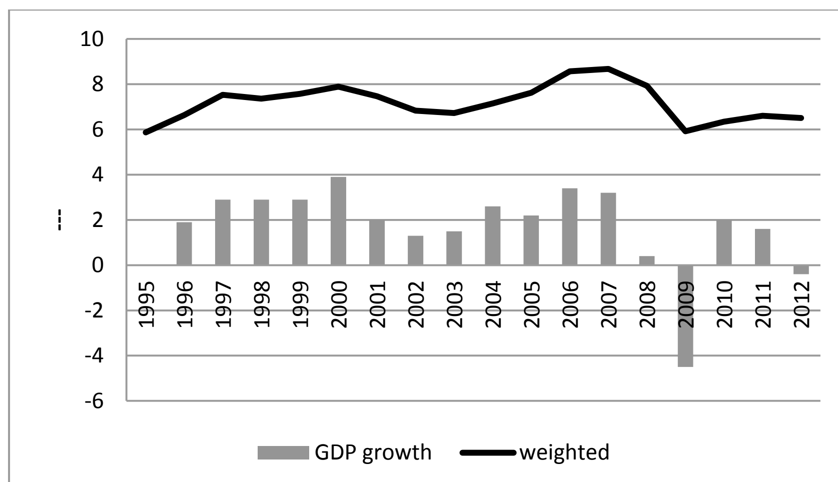
Graph 2: CIT in per cent of total tax revenue, EU-27



Despite the stability in corporate revenue, many factors suggest that corporate tax revenues should instead have increased over time. First, policies to broaden the tax base have partly offset the impact of lower rates. Second, incorporation has increased in recent years and this has increased the overall base. Lastly, relatively low interest rates in recent years have limited the interest deductibility from the corporate tax base which has also had a base broadening effect. These effects do not only explain the stability of tax revenues, they indeed raise the question why the share of corporate taxes in total revenue has not increased over time. This may be due to the fact that certain companies pay far less than the statutory tax rate, including by engaging in aggressive tax planning.

To offset the impact of lower corporate tax rates and corporate tax avoidance, some governments have also increased the tax burden on less mobile companies and on labour. This undermines the efficiency and growth-friendliness of their tax systems. The increased tax burden on labour creates disincentives to work and to create employment. The higher tax burden on less mobile companies raises their cost of capital and reduces their capacity to invest. Furthermore, businesses which cannot, or will not, engage in aggressive tax planning also suffer competitive disadvantages compared to those who do. SMEs are particularly affected in this respect.

Beyond revenue considerations, there is a need to consider the macroeconomic implications of the current diversity in Member States' corporate tax systems for a currency union, and how taxation should fit into the deeper economic and financial integration of the Union and the euro area.

Politically, governments are faced with a dual challenge when it comes to corporate taxation. On one hand, there is strong public demand for greater fairness in taxation. On the other hand, Member States are under intense pressure to create corporate tax systems that are attractive to multinational investors and internationally competitive. As a result, countries continue to stretch the boundaries of what is considered to be acceptable in tax competition, despite EU and OECD/G20 attempts to tackle harmful tax regimes.

While fair tax competition is often considered as a means to encourage investor-friendly tax regimes, tax systems must also secure sustainable revenues, in a fair and efficient way. The legitimacy of tax competition is weakening, if such competition is abused for corporate tax avoidance, fragments the Single Market and prevents fair and efficient taxation.

A new approach is therefore needed to ensure that corporate taxation can be growth-friendly, fair and transparent. To this end, the corporate tax framework in the EU needs to be significantly reviewed. There is a strong case for reforming the corporate tax framework in Europe and reviewing how national tax systems interact.

EU approach in a global context

A review of the corporate tax framework within the EU will also provide the foundation for a more coherent and competitive EU approach in the global context.

Internationally, the OECD is working on the Base Erosion and Profit Shifting (BEPS) project to close loopholes that facilitate avoidance, and to find solutions to today's tax challenges, including those raised by the digital economy. The EU can build on these international reforms, and it must consider how best to integrate the results of the BEPS project at EU level[5].

Certain factors which are unique to the EU need to be taken into account in developing effective solutions. These include the unique elements of the Single Market and the single currency area. The Treaties require that the fundamental freedoms – including the freedom of establishment – be respected. Reforms must therefore be tailored for the EU context and fix inconsistencies on an EU-wide basis. In this respect, the EU has the advantage of being able to introduce legislation.

A common EU approach will reinforce the Single Market as a whole and protect it from base erosion. EU solutions to implement the OECD BEPS measures and additional anti-avoidance initiatives should maintain a strong focus on preventing profits generated in the EU from being shifted elsewhere without being taxed anywhere in the EU.

Objectives

A new approach to corporate taxation is needed in the EU, to meet the goal of fairer and more efficient taxation and to effectively tackle corporate tax avoidance. This approach should be driven by the following objectives:

1. Re-establishing the link between taxation and where economic activity takes place.

2. Ensuring that Member States can correctly value corporate activity in their jurisdiction.

3. Creating a competitive and growth-friendly corporate tax environment for the EU, resulting in a more resilient corporate sector, in line with the recommendations in the European Semester.

4. Protecting the Single Market and securing a strong EU approach to external corporate tax issues, including measures to implement OECD BEPS, to deal with non-cooperative tax jurisdictions and to increase tax transparency.

[5] See Annex 4 in the Staff Working Document, regarding links with the OECD BEPS project.

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The 5 key areas for Action

This Action Plan sets out a series of measures to meet the above objectives. They focus on areas where EU action would be the most effective way to address corporate tax challenges and to target particular types of abuse. This includes addressing mechanisms identified within the EU and globally as those most likely to facilitate aggressive tax planning, such as transfer pricing, patent boxes and debt.[6] Taken together, these measures offer a more coordinated corporate tax environment within the EU, leading to fairer taxation, more stable revenues and a better environment for businesses. They would also allow for a more cohesive EU approach in relation to third countries.

1. CCCTB: A HOLISTIC SOLUTION TO PROFIT SHIFTING

The Common Consolidated Corporate Tax Base (CCCTB), proposed by the Commission in 2011, could be an extremely effective tool for meeting the objectives of fairer and more efficient taxation.

The CCCTB would greatly improve the environment for businesses in the EU. It is one of the Commission's REFIT initiatives, aimed at reducing administrative burdens and simplifying the Single Market for businesses. The CCCTB would reduce the complexities and compliance costs for cross-border companies, who would only have to follow one set of rules when computing their taxable income, rather than face up to 28 different systems. In addition, consolidation offers groups the significant advantage of being able to offset losses in one Member State against profits in another.

At the same time, the CCCTB could be highly effective in tackling profit shifting and corporate tax abuse in the EU. The common base would eliminate mismatches between national systems which aggressive tax planners often exploit, and remove the possibility of using preferential regimes for profit shifting. The possibility to manipulate transfer pricing would be removed, as intra-group transactions would be ignored and the consolidated group profit figure shared by a formula. The CCCTB could also be a useful instrument to address the debt bias. Moreover, the common base would introduce complete transparency on the effective tax rate of each jurisdiction, thereby reducing the scope for harmful tax competition.

In addition, the CCCTB would allow Member States to implement a common approach vis-à-vis third countries and defend the Single Market against aggressive tax planning. For example, Member States would have a unified response to controlled foreign companies, to prevent profits from being shifted to non-cooperative tax jurisdictions.

Given the benefits that the CCCTB can offer, and taking into account the comments of Member States, businesses and other stakeholders, the Commission has decided to re-launch the CCCTB. The aim is to strengthen the CCCTB so that it addresses the current challenges in corporate taxation. The key changes will be:

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[6] See Annex 4 in the Staff Working Document, identifying links between the actions and ongoing OECD work in the BEPS project.

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1.1. Making the CCCTB mandatory

The existing proposal is for an optional CCCTB. This would limit its effectiveness as a tool for preventing profit shifting, as multinational enterprises that minimise their taxable profits through aggressive tax planning would be unlikely to opt in to the CCCTB. The Commission will therefore work on a proposal to make the CCCTB compulsory, at least for multinational enterprises.

1.2. Developing a staged approach to implementing the CCCTB

The CCCTB is a very ambitious initiative. Discussions in the Council have shown that it will not be adopted in one piece. Difficult debate on the more complex aspects is holding back potential progress on other important elements of the proposal. Therefore, the Commission is advocating a step-by-step approach to agreeing on the different elements of the CCCTB.

Consolidation has been the most difficult aspect in Member States' negotiations on the CCCTB. Therefore, the Commission will propose that work on consolidation is postponed until after the common base has been agreed and implemented.

The primary focus should be on securing the common tax base. The Commission will review the elements in the proposed base, to reflect Member States' discussions so far and to ensure it contributes to the growth and jobs agenda in the EU. In particular, the Commission will consider whether the beneficial treatment of Research and Development expenses in the current proposal should be further developed and whether to address the corporate debt equity bias in order to strengthen the capital markets union.

The Commission will present a new legislative proposal next year, adjusting the base accordingly, introducing the mandatory element and providing for a staged approach to the CCCTB. This would include an element of cross border loss relief initially, until consolidation is re-introduced at a later stage.

2. ENSURING EFFECTIVE TAXATION WHERE PROFITS ARE GENERATED

Companies that benefit from the Single Market and generate profits there should pay tax on those profits within the EU, at the place of activity. However, certain companies exploit mismatches in national tax provisions to shift profits. They shift profits from where they are generated to Member States offering low tax rates and preferential regimes, and out to third countries, with no link to where the value is created. Based on existing corporate tax legislation[7], one Member State may be prevented from taxing corporate revenue when it is moved to another Member State. As a result, there is evidence that certain multinational enterprises pay an extremely low level of effective taxation (or no tax at all) at the place of actual economic activity, even if they generate significant profits there.

[7] Parent-Subsidiary Directive and Interest and Royalties Directive

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There has been a growing demand from the European Parliament, Member States and stakeholders to address this issue and ensure that profits generated in the EU are taxed at the place where the actual activities take place. This echoes on-going discussions at international level in the context of the OECD BEPS project.

2.1. Bringing taxation closer to where profits are generated and ensuring effective taxation of profits

A fully-fledged CCCTB would make a major difference in reinforcing the link between taxation and where profits are generated. While the new proposal is being prepared, work must continue in the framework of the proposal currently on the table of the Council on some international aspects of the common base which are linked to the BEPS project. For example, this would include adjusting the definition of "permanent establishment" so that companies cannot artificially avoid having a taxable presence in Member States in which they have economic activity[8], and improving the Controlled Foreign Corporation rules[9], which ensure that profits parked in low or no tax countries are effectively taxed. Consensus on these elements should be achieved in the Council within 12 months, and should be made legally binding before an agreement is reached on the revised CCCTB. This will ensure a coherent EU approach to implementing the new international standards arising from the OECD BEPS project, providing consistency for businesses and preventing a fragmented approach in the Single Market.

In addition, there are a number of other measures which can also be pursued to re-establish the link between taxation and economic activity, in order to ensure fairer taxation in the EU. The Commission will consider how to ensure effective taxation of profits, while taking into account the need for a competitive and growth-friendly corporate tax environment.

The Commission will explore concrete measures to ensure that these objectives are achieved, starting, for example, within the Code of Conduct for Business Taxation. The Commission recommends that the Code criteria be modified so that the Group can give high priority to ensuring effective taxation.

The Commission will also consider how to ensure that EU corporate tax legislation aimed at preventing double taxation does not inadvertently lead to double non-taxation. The ongoing recast of the Interest and Royalties Directive is the earliest opportunity for the Council to action. It should amend the legislation so that Member States are not required to give beneficial treatment to interest and royalty payments if there is no effective taxation elsewhere in the EU. Based on the outcome of this negotiation, and as a second step, the Commission could align the Parent Subsidiary Directive with the recast Interest and Royalties Directive.

The ultimate effect of any such measures should be to safeguard Member States' rights to tax revenues generated in the Single Market and reduce the capacity of certain companies to escape taxation altogether.

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[8] Changes to the definition of Permanent Establishment (PE) are being developed at international level, to prevent the artificial avoidance of PE status in relation to BEPS, including through the use of commissionaire arrangements and the specific activity exemptions.

[9] Internationally, work is underway to address BEPS using controlled foreign company (CFC) rules. Many countries already have CFC rules, but these rules do not always counter BEPS in a comprehensive manner.

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2.2. Improving the Transfer Pricing framework in the EU

Transfer pricing rules are aimed at ensuring that the price of intra-group transactions matches a comparable market price and that profits are fairly divided between jurisdictions in which a multinational enterprise operates. However, it is clear that the current transfer pricing system no longer works effectively in the modern economy. Both businesses and tax administrations find the current system complex. Furthermore, the system can be manipulated by businesses to shift profits to low or no tax jurisdictions.

The OECD BEPS project is bringing forward guidelines intended to bring the Transfer Pricing outcomes in line with value creation. These guidelines will be fairly broad, however, to reflect the needs of the wider OECD/G20 membership.

Therefore, the Commission will begin work with Member States and businesses to build on these rules and develop coordinated and more concrete implementation within the EU, reflecting the economic reality of the Single Market. For example, recent OECD and EU proposals aiming at increasing transparency will provide new information which could help tax administrations identify intragroup transactions which require further investigation. The Commission could provide guidance and propose specific tools on how this information could be best used by tax administrations.

2.3. Linking preferential regimes to where value is generated

Certain preferential tax regimes are perceived to facilitate tax avoidance rather than genuinely encouraging the economic activities for which the tax benefit is offered. For example, a company may locate its intellectual property in a different country to its real R&D activities, in order to avail of the preferential tax treatment, in particular patent boxes.

In 2014 the Code of Conduct for Business Taxation Group agreed that, in order to address this problem, preferential regimes, such as patent boxes, should be based on the "modified nexus approach[10]". This means that there must be a direct link between the tax benefits and the underlying research and development activities.

The Commission will continue to provide guidance to Member States on how to implement patent box regimes in line with the new approach so as to ensure that they are not harmful, and will carefully monitor this implementation. If, within 12 months, the Commission finds that Member States are not applying this new approach consistently, it will prepare binding legislative measures to ensure its proper implementation.

3. ADDITIONAL MEASURES FOR A BETTER TAX ENVIRONMENT FOR BUSINESS

Any review of the corporate tax framework in the EU must have a firm focus on creating an environment which encourages business and fosters growth and jobs in the Single Market. As outlined above, unfettered tax competition which facilitates aggressive tax planning by certain companies creates competitive distortions for businesses, hampers growth-friendly taxation and fragments the Single Market.

[10] http://www.oecd.org/ctp/beps-action-5-agreement-on-modified-nexus-approach-for-ip-regimes.pdf

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In order to create a more favourable business environment in the EU, there must be greater coordination between Member States on tax policy, along with measures to reduce administrative burden, compliance costs and tax obstacles in the Single Market.

A number of the measures set out in this Action Plan contribute to this goal. Revising Transfer Pricing or Permanent Establishment rules to better reflect modern business realities, for example, may bring practical benefits for cross-border companies in the EU.

The CCCTB, as proposed by the Commission, would be a major step towards a better tax environment for businesses. However, if consolidation is to be delayed in the first phase of the new approach to CCCTB, other initiatives should enhance the EU's tax environment for companies and investors. The Commission intends to proceed with two important new initiatives in this respect.

3.1. Enabling cross border loss offset

The Commission will propose that, until full CCCTB consolidation is introduced, group entities should be able to offset profits and losses they make in different Member States. This would remove a major tax obstacle in the Single Market for businesses, by allowing them temporary cross-border loss relief so that they pay tax on their net profits in the EU.

To ensure that one Member State does not definitively carry the burden of losses incurred in another Member State, there would be a mechanism to recapture these losses once the group entity is profit-making again. The Commission plans to include this initiative as one of the stages in its revised proposal on the CCCTB.

3.2. Improving double taxation dispute resolution mechanisms

Double taxation occurs when different Member States tax the same income. This can be a serious tax obstacle for businesses operating in more than one Member State, creating unnecessary costs and administrative burdens for businesses. Double taxation in the Single Market has a negative impact on cross border investment and leads to economic distortions and inefficiencies. The common base in the CCCTB proposal would eliminate the risk of double taxation in the EU. However, until this is agreed, other solutions are needed.

Most Member States have bilateral tax treaties with each other to relieve double taxation when it occurs, and there are procedures to resolve disputes when they occur. However, these procedures are long, costly and do not always result in an agreement.[11] The multilateral Arbitration Convention, agreed between Member States to solve disputes between Member States, provides some relief. The Arbitration Convention's scope is limited to transfer pricing disputes, and there is no recourse to appeal the interpretation of the rules.

[11] For example, see responses to the public consultation on Double Tax Conventions and the Internal Market http://ec.europa.eu/taxation_customs/common/consultations/tax/2010_04_doubletax_en.htm

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In order to create greater certainty for companies, the Commission will propose improvements to the current mechanisms to resolve double taxation disputes in the EU, by summer 2016. The aim is to create a coordinated EU approach to dispute resolution, with clearer rules and more stringent timelines, building on the systems already in place. This work will review whether the scope of the Arbitration Convention should be extended within the Union and whether turning it into an EU instrument would be more efficient in improving the functioning of the Single Market.

4. FURTHER PROGRESS ON TAX TRANSPARENCY

Transparency is a crucial element in securing fairer taxation, both in the EU and internationally. It is important for tackling tax abuse and ensuring that taxation reflects where economic activity takes place. The Commission has given high priority to improving tax transparency in the Single Market, and has already put forward a number of important initiatives to this end. In particular, the proposal for the automatic exchange of information on cross border tax rulings, presented in March 2015, will ensure greater openness and cooperation between tax authorities and help governments to better protect their tax bases. Member States should quickly adopt this proposal, so that it can be implemented by 1 January 2016 as foreseen.

Meanwhile, the Commission has identified other measures which should be taken forward to further boost transparency, both in the EU and in relation to third countries. These include a common approach to non-cooperative tax jurisdictions, as well as proceeding on impact assessment work on further options.

Furthermore, the Commission is working with other international partners to promote transparency, including through the Extractive Industries Transparency Initiative (EITI). It also stresses the importance of the implementation of the BEPS Action Plan. These initiatives must foster a level playing field for the taxation of multinational corporations, including in developing countries, as we are determined to tackle tax evasion and avoidance globally.

4.1. Ensuring a more common approach to third country non-cooperative tax jurisdictions

In 2012, the Commission issued Recommendations[12] on measures to tackle aggressive tax planning and encourage third countries to apply minimum standards of good governance in tax matters, and committed to report on their application within three years. The aim was to build a common approach to identifying and dealing with non-cooperative tax jurisdictions, which would create a strong EU stance against them. The implementation of these Recommendations has been monitored through the Platform on Tax Good Governance, which was set up for that purpose. On that basis, further measures have been identified to tackle aggressive tax planning and to strengthen the EU approach in tackling non-cooperative tax jurisdictions.

[12] C(2012)8806 and C(2012)8805

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As an immediate first step, the Commission has published an EU-wide list of third country non-cooperative tax jurisdictions, compiled from Member States' independent national blacklists which were discussed in the December 2014 Platform on Good Tax Governance. Those jurisdictions included on the EU-wide list were identified by at least 10 Member States. The list, published on the Commission's website[13], offers Member States a transparent tool to compare their national lists and adjust their respective approaches to non-cooperative tax jurisdictions as necessary. Going forward, the Commission will amend this list on a periodic basis to reflect changes to Member States' own national lists.

Further work in screening third countries for compliance with tax good governance standards should be performed on the basis of this list. The Code of Conduct for Business Taxation Group would be the most appropriate forum to do this, based on its previous experience in this field[14]. The screening should start with the countries that appear most frequently on Member States' lists of non-cooperative jurisdictions, as listed in the Annex to this Action Plan, with a view to assisting them in improving their good governance standards. The Commission is ready to support Member States in this work, which should be completed within 24 months.

As a second step, the Commission is willing to coordinate possible counter-measures towards non-cooperative tax jurisdictions to address situations of non-compliance with good governance principle in tax matters.

4.2. Proceeding with work on corporate tax transparency, such as country-by-country reporting options

As announced in the March 2015 Tax Transparency Package, the Commission is assessing whether additional disclosure obligations of certain corporate tax information should be introduced. Together with this Action Plan, the Commission is launching a public consultation[15] on various possible options, which will feed into the impact assessment work that will be concluded at the latest in the first quarter of 2016.

5. EU TOOLS FOR COORDINATION

Cooperation between Member States is an essential element in tackling tax avoidance and aggressive tax planning. EU legislation provides for administrative cooperation between Member States' tax authorities, and sets out a series of instruments to help them to cooperate in collecting their due revenues. The Commission believes that the effective use of these instruments is currently sub-optimal, and that Member States could gain advantage from their better exploitation.

There are also a number of different groups that discuss EU taxation issues. These are important tools for ensuring cooperation, coordination and information exchange

[13] http://ec-europa-eu/taxation_customs/taxation/gen_info/good_governance_matters/lists_of_countries/index_en.htm

[14] The European Commission successfully concluded a dialogue on company tax issues with Switzerland which initiated the removal of five CH tax regimes which were considered harmful. A similar dialogue is currently ongoing with Liechtenstein and Mauritius.

[15] https://ec.europa.eu/eusurvey/further-corporate-tax-transparency-2015/management/test

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between Member States and for consulting with various stakeholders on key issues. Two groups in particular, the Code of Conduct for Business Taxation Group and the Platform on Tax Good Governance, have played an important role in EU tax policy. However, they now need to be reviewed to ensure that they make a positive and effective contribution in the future.

5.1. Improving Member States' coordination on tax audits

The Directive on Administrative Cooperation provides for cooperation between Member States on tax inspections and audits, and encourages the exchange of best practices between tax authorities. These instruments are not yet being used to full effect however, and the divergent national approaches to auditing corporations contrast with the highly organised tax planning techniques of certain companies. The Commission will therefore promote greater cooperation between Member States in this area. It will launch a discussion with Member States, within the Platform on Tax Good Governance, to determine how a more strategic approach to controlling and auditing cross-border companies can be taken forward.

5.2. Reforming the Code of Conduct for Business Taxation and the Platform on Tax Good Governance

The Code of Conduct for Business Taxation Group is composed of Member State representatives to deal with harmful tax competition in the EU, in a non-binding way, on the basis of peer pressure. A number of Member States and stakeholders have supported the idea of extending the mandate of the Code and changing the working methods of this Group, to enable it to react more efficiently to cases of harmful tax competition. The Group should also provide guidance on how to implement non-legislative EU measures against corporate tax avoidance. The Commission will make a proposal to introduce these reforms in the Code of Conduct for Business Taxation, in close consultation with Member States.

The Platform on Tax Good Governance is a forum for Member States, businesses and NGOs to consult on tax policy issues, and to review progress on a range of measures, including the 2012 Action Plan on tax fraud and evasion. Its work has been very useful to date. The Commission has decided to prolong the mandate of the Platform, which was due to expire in 2016. It also has expanded the scope of the Platform and enhanced its working methods. As such, the Platform can help to deliver on the new Action Plan, facilitate discussions on Member States' tax rulings in light of the proposed new information exchange rules, and provide feedback on new anti-avoidance initiatives.

Conclusion

This Action Plan provides the foundation on which to build a fairer, growth-friendly corporate tax framework for EU. Measures proposed will contribute to achieving revenue stability, a stronger Single Market, greater corporate resilience and efficiency and a fair and level-playing field for businesses.

This Action Plan has identified the core areas of work for the immediate, medium and long-term future. The harmonisation of corporate tax rates is not part of this agenda. The aim is to coordinate Member States tax systems so that they can better combat aggressive tax planning.

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In the short term, some issues related to base erosion and profit shifting can usefully be discussed. The issue of effective taxation of profits in the Single Market also needs to be addressed. The Commission would urge the current and upcoming Presidencies to concentrate their efforts on making progress on these issues in the context of existing legislative proposals and by reforming the Code of Conduct for Business Taxation. The Commission expects good results to be achieved in the EU over the next 18 months, following the BEPS agenda.

In the medium to long term, the revised CCCTB proposal will offer a strong tool to establish fair, predictable and efficient corporate taxation in the EU, including the final objective of consolidation. This will only materialise if Member States are committed and invest sufficiently in the new proposal. Strong political commitment will be necessary to achieve successful results on a post-BEPS corporate tax agenda for the EU.

This Action Plan will be the basis for Commission work on corporate tax policy over the next years. Work will evolve to take account of the input of the European Parliament, contributions of other EU institutions and stakeholders, and outcomes of the OECD BEPS initiative. The Commission will keep progress under review.

Ultimately, the key to reforming corporate taxation in the EU, to make it fairer and more efficient, is in the hands of the Member States. Member States need to overcome their differences for the sake of fairness, competitiveness and efficiency. It is therefore time to move forward.

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