Briefing

September 2014

Hearings of European Commissioners-designate

Pierre Moscovici

Economic and Financial Affairs, Taxation and Customs

Hearing due to be held on Thursday 2 October at 09.00 hours.

Pierre Moscovici, France.

EP Committee responsible for the hearing

Economic and Monetary Affairs (ECON)

Biography

Born in 1957, Pierre Moscovici holds an advanced degree in economics, and is a graduate of the Institut des Sciences Politiques (Paris) and of the Ecole nationale d'administration. He was an MEP between 1994 and 1997, and again between 2004 and 2007. He was European Affairs Minister from 1997 to 2002 and, most recently Minister for the Economy and Finance from 2012 to 2014.

This is one of a set of Briefings designed to give Members of the European Parliament an overview of major issues of interest in the context of the hearings of the Commissioners-designate. A full set of such Briefings can be found at: http://epthinktank.eu/commissioner_hearings

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Background – economic and financial affairs

Creation of an Economic and Monetary Union (EMU) in Europe first came on to the political agenda in the late 1960s. In June 1989, after successful coordination of monetary policies to **stabilise exchange rates** through the Exchange-Rate Mechanism (ERM) of the European Monetary System (EMS), the European Council confirmed the objective of moving to EMU, in stages, based largely on the Delors Report of April that year. Since 1990, EMU has been realised in three stages, two of them completed. Currently, all 28 EU Member States take part in the economic union, while 18 of them are integrated more closely through having adopted the euro as their currency.

The core of EMU is a single currency and a common monetary policy administered by an independent European Central Bank (ECB). EMU essentially brings together monetary, fiscal and economic policies, with the aim to promote social and economic progress and boost growth and employment in the EU, maintain price stability and safeguard the strength and stability of the euro. EMU means that Member States **coordinate** and carry out **surveillance** of their economic policies at European level and that they commit to **avoiding excessive budgetary deficits and debts** (Stability and Growth Pact). While the responsibility for economic policy is shared between Member States and EU institutions, for the euro area, the single monetary policy is set by the ECB.

The European Commission has argued from the 1960s that EMU decisively underpins economic integration at EU level, creating advantages of scale, efficiency and robustness for both the European and national economies. A single currency should go hand in hand with a single market in permitting the benefits of a more efficient allocation of resources, generating growth and employment over the longer term.

Treaty base and EP competence

Articles 2-5, 119-144, 219, 282-284 of the Treaty on the Functioning of the European Union (TFEU) contain the provisions on EMU. Protocols cover the excessive deficit procedure; the convergence criteria; the European System of Central Banks and the European Central Bank (ECB); the Euro Group; and the opt-out provisions for the United Kingdom and Denmark. The EP is co-legislator for: multilateral surveillance; amendments to certain articles of the legislation on the ECB's statute; and measures necessary for the use of the euro. In addition the EP is consulted on agreements on euro exchange rates; choice of countries eligible to join euro; appointment of ECB executive board; and legislation implementing the excessive deficit procedure.

Recent developments

The past five years have been dominated by seeking responses to the consequences of the financial, fiscal and economic crisis. The main result is the creation of the reinforced **economic governance system** which covers fiscal policies, macroeconomic imbalances, crisis management and macro-financial supervision.

This system was launched in 2010 with the establishment of the European Semester. It synchronises the timings of economic and fiscal policy reporting and evaluation at EU level, and introduces ex-ante coordination of national economic policies. In 2011, the so-called 'Six Pack' was adopted. It contains measures strengthening the rules of the Stability and Growth Pact through tightened surveillance of fiscal policies (preventive arm) and correction of excessive deficits and debts (corrective arm), both of which may lead to sanctions in case of non-compliance by euro area Member States. There is a wide range of incentives and sanctions, and these can be used at an early stage as it becomes clear that a Member States is becoming non-compliant. New controls on macro-economic imbalances such as housing bubbles, and increasing gaps in competitiveness between Member States, have also been introduced in the package.

In 2012, all Member States apart from the United Kingdom and Czech Republic signed the intergovernmental (not so far integrated into EU law) Treaty on Stability, Coordination and Governance ('Fiscal Compact Treaty') under which the signatories agreed to implement a **balanced budget rule** in national law (annual limit of structural deficit not to exceed 0.5% of GDP). In 2013, the adoption of the so-called 'Two Pack' aimed at greater coordination of national budgetary processes in the euro area, through introducing a common budgetary timeline and rules. Budget plans are scrutinised by the European Commission which may request their correction. The 'Two Pack' also sets rules for tighter surveillance of Member States which have financial stability problems.

After the set-up of two temporary emergency funds (or 'firewalls') in 2009 and 2010 to help Member States cope with their debts, the permanent **European Stability Mechanism** (ESM) was launched in 2012, with a lending capacity of €500 billion. Through these instruments, and after coordination by the group of international lenders – the so-called 'Troika' of International Monetary Fund, Commission and ECB – financial assistance has been given to eight Member States. The EU has disbursed €267.1 billion so far.

European Parliament

The Lisbon Treaty introduced EP participation, as co-legislator under the ordinary legislative procedure, in setting rules for multilateral surveillance (Article 121(6) TFEU). The 'Six Pack' has strengthened the role of the Parliament, in particular through formalising the European Semester (Parliament gained the right to give its opinion on the current fiscal coordination cycle) and the installation of an Economic Dialogue (the EP may invite Commission and Council Presidents, amongst others, for discussion). The EP negotiators secured, inter alia, the requirement of a majority in the Council to block the issue of a warning, additional possibilities for examination of countries running surpluses when investigating sources of macroeconomic instability, and a wider range of fines and sanctions (such as for failure to act on a recommended corrective action).

MEPs' amendments in the 'Two Pack' focussed on safeguarding growth and employment (for example, budget cuts should not harm investments with growth potential or education). The legislation also made the Commission and Troika more accountable to the EP. The role of the Troika was further investigated by the EP, resulting in two own-initiative reports in 2014, identifying a series of problems with its set-up and programmes. The EP also favours full implementation of the current governance rules and the use of the Community method, rather than intergovernmental treaties, in future arrangements for economic governance.

Priorities and challenges

The President-elect of the European Commission, Jean-Claude Juncker, has stated that the main responsibility of Pierre Moscovici will be creating the conditions for a sound macro-economic environment (with healthy public finances and a stable euro), leading to job creation, growth and investment. He will be responsible for ensuring that the economic analysis underlying Commission proposals and activities is of high quality, and for **strengthening the EU's social market economy** through, for example, effective enforcement of the Stability and Growth Pact. Within the first three months of his mandate, Moscovici is to contribute to the jobs, growth and investment package (to generate an extra €300 billion in investment over the coming three years). This will include providing guidelines on the respect of the Stability and Growth Pact when financing growth, while making use of its flexibility.

Streamlining and reinforcing the **European Semester** will also be a priority of the new Commission, especially with a view to enhancing the multilateralism of the economic governance process, involving more actors at national level and increasing the country-specific knowledge within the Commission.

Furthermore, Moscovici will contribute to legislative and non-legislative initiatives for deepening the EMU such as a stability-oriented review of the 'Six Pack' and the 'Two Pack', proposals for further structural reform and stronger external representation of EMU. Particular focus will be given to preserving the stability of the euro and increasing convergence of economic, fiscal and labour market policies in the euro area.

During his hearing on 14 July 2014 (prior to taking up office as Economic and Monetary Affairs Commissioner in the outgoing Commission), Jyrki Katainen informed the Economic and Monetary Affairs Committee that he will prioritise the implementation of new rules in the area of economic governance rather than changing them. Katainen confirmed the necessity of continuing fiscal consolidation while maintaining public investment. He agreed to examine how cooperation between the EP and the Commission can increase Parliament's influence on the Troika.

Background – Taxation and Customs

Tax policy is a joint competence of the EU and Member States. Cooperation between Member States on taxation is essential in order to mitigate the impact of the globalised economy on national tax systems and budgets and to do away with tax obstacles to intra-Union mobility. EU action in the tax field is largely limited to the banning of discriminatory taxes to favour domestically produced goods, and the harmonisation of indirect taxes, including arrangements for value added tax (VAT). The attempt to align the type, scope and rates of various indirect taxes is meant to forestall de facto non-tariff barriers to trade existing within the Union, so undermining the single market.

The **customs union** is an exclusive EU competence. In the area of customs, EU law is applied on a day-to-day basis by national customs authorities. Cooperation between them and coordination of their work is also vital to the effectiveness of customs policy and to the proper functioning of the internal market. There are more than 1 000 customs offices located on the EU's external borders. Member States' customs authorities are responsible for completing the formalities needed so that goods can enter and leave the EU's customs territory. As regards imports, once customs formalities have been completed, goods are released and can be traded and transported on the internal market in the same way as EU goods.

Treaty base and EP competence

Taxation: Articles 110 to 115 of the Treaty on the Functioning of the European Union (TFEU). Under a special legislative procedure, the Council acts unanimously and Parliament is only consulted. Enhanced cooperation takes place under Articles 326 to 334 TFEU.

Customs Union: Articles 30 to 33 TFEU, exclusive competence. Customs tariff: adoption by the Council, Article 31 TFEU. Customs cooperation in the EU: ordinary legislative procedure, Article 33 TFEU.

Recent developments

In keeping with the aim of making taxation fair, effective and conducive to growth, priority has been given to the **fight against tax fraud and evasion**, as regards both direct (in particular measures to combat damaging tax practices) and indirect (unpaid VAT) taxes; **tax transparency** and **cooperation**; taxation of **online** traders; taxation of **energy products**; taxation of **financial transactions**.

In addition, progress has been made in the areas of **cooperation**, **transparency** and **exchanges of information** (among Member States and with third countries, for example as regards the taxation of savings), **measures to combat aggressive tax planning** (corporation tax, agreement on the issue of hybrid loans in the context of the revision of the Parent-Subsidiary Directive) and **improvements to tax rules** (introduction of a one-stop shop for VAT on telecommunications, broadcasting and electronic services applying the principle of taxation in the customer's – and not, as previously, the service provider's – Member State from 2015).

Although much still needs to be done in these areas, the will is now there to identify problems and devise solutions, using the procedures and instruments available.

The **Union Customs Code** (UCC) was adopted on 9 October 2013 and will take effect at the latest in 2016, once the Commission has adopted the requisite implementing and delegated acts. The UCC introduces on-line, pan-European administrative services (electronic customs) with a view to addressing the challenges posed by the **growing volumes of goods** entering and leaving the EU and by e-commerce. Its entry into force will represent a milestone in the efforts to reconcile the need to foster trade (by streamlining procedures with reliable trading partners) with the imperatives of safety and security.

Moreover, bilateral arrangements with third countries have cleared the way for more effective **customs cooperation** with the EU's main trading partners (in particular China, the United States, Japan, India, Switzerland and Norway) in a range of areas, including supply-chain safety, exchanges of information, the fight against piracy and counterfeiting, the establishment of safe and intelligent trading routes and container security, and the detection of drug precursors. Public-private cooperation, based on the concept of approved economic operator (AEO), is also helping the EU to achieve these goals.

Progress has also been made in the areas of protection of firms and consumers against counterfeiting, and piracy, product safety and risk identification.

European Parliament

The Parliament's role varies in these areas, ranging from consultation to codecision. It seeks to supplement its legislative powers by acting as a driving force, putting forward proposals on key issues with a view to improving the functioning of the customs union and the internal market. Parliament has called on the Commission to review the directive on taxation of savings, with a view to ending the temporary derogation currently in force for certain Member States, to extend its provisions to cover trusts and various forms of investment income and to broaden its scope to cover tax havens. It has also emphasised the need to revise the Parent-Subsidiary Directive and the Interest and Royalty Directive, with a view to eliminating tax fraud involving the use of hybrid financial instruments. It has also called for the introduction of a standardised European invoice to facilitate cross-border transactions and checks.

Priorities and challenges

President-elect Jean-Claude Juncker has set the priority of improving the functioning of the internal market in indirect taxation and developing a definitive VAT system at EU level, as well as concluding negotiations on the Financial Transaction Tax and the Common Consolidated Corporate Tax Base. He has also tasked Moscovici with the fight against tax fraud, tax evasion and aggressive tax planning, as well as addressing issues such as tax base erosion and profit shifting (also in the digital economy).

Juncker intends to further facilitate trade in the framework of the Customs Union, under which duties will be collected both efficiently and in strict compliance with EU rules on security, safety and intellectual property rights. Other important priorities for Moscovici include advancing customs modernisation, enhancing customs risk management, and increasing cooperation between customs authorities and other relevant services.

A number of other priorities may emerge in the context of efforts to strengthen EU tax policy and improve cooperation and coordination.

Tax restructuring may stimulate growth, in particular by altering the way the tax burden is split between labour, consumption and capital, and by broadening the tax base rather than raising tax rates. Against that background, the on-going revision of the VAT system to adapt to new economic models has been based on the introduction of a one-stop shop for televisual and digital services.

The overall aim is to make the **tax system simpler and more predictable**, so that it is easier and cheaper for individuals to meet their tax obligations and so that both small and medium-sized firms, and major concerns, face fewer administrative constraints. At the same time, the aim must be to reduce the number of loopholes stemming from the complex array of rules, assessment bases and rates which may apply to a single firm.

With that aim in mind, further efforts are needed to do away with tax barriers to cross-border activities, to improve tax cooperation and find a solution to the problem of double taxation. Further objectives may emerge, such as developing green taxation.

Fair taxation and continuing efforts to **combat tax fraud and tax evasion** are consistent with the broad objectives of the G7, the G20 and the OECD, all of which have started to focus on good tax governance, measures to combat aggressive tax planning, more effective tax cooperation and exchanges of tax information among Member States and with third countries. At EU level, the action plan must continue to be implemented and followed up, and exchanges of information must be improved, in particular as regards the taxation of savings (including bilateral aspects, both within the EU and with certain third countries). National tax systems must be assessed in the light of the relevant provisions of the Treaties (such as those on state aid).

Taxation in the EU should be tailored to current economic models and the digital world. The digitalisation of the economy has led to the emergence of new economic models: **digital economic models** are based on intangible assets (intellectual property) and obviate the need for firms or individuals to be physically present in the country in which a service is provided, or even to have a fixed geographic location of any kind (cloud computing makes it possible to provide services from anywhere using mobile terminals). As a result, it is now more difficult to determine who is liable for tax, and where goods and services should be taxed. Digitalisation has also had an impact on economic models in general, facilitating cross-border activities in the EU and with the rest of the world.

These changes pose a **challenge to tax systems**, but also offer them an incentive to adapt. They have highlighted the need for simplification, transparency and stability, not only in order to prevent 'treaty shopping', but also, and above all, in order to create conditions conducive to growth. Experts see the solution not in a specific tax system for on-line companies, but rather in the consistent application of general principles, in particular that of the destination principle in the context of VAT.

Measures are still being taken to improve the **practical functioning** of the Union's customs policy. The introduction of the UCC and the systems needed to apply it are an important aspect of this process. By the same token, consistency in identifying breaches of customs rules and in imposing appropriate penalties is fundamental to strengthening the customs union. A legislative proposal adopted by the Commission in late 2013 is currently being considered by the Parliament.

Measures designed to reconcile security and the facilitation of trade, and to coordinate the work performed by the customs authorities, which are responsible for monitoring goods entering the single market, are needed in order to respond to changes in economic models and the nature of trade.

Further reading

Economic and Monetary Union, Factsheets on the EU, European Parliament, 2014.

Taxation, Factsheets on the EU, European Parliament, 2014.

Economic and Financial Affairs, Commission website.

Taxation and customs union, Commission website.

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