

**COMMITTEE ON FINANCIAL CRIMES,  
TAX EVASION AND TAX AVOIDANCE (TAX3)**

**THURSDAY 21 JUNE 2018**

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**PUBLIC HEARING**

**LESSONS LEARNT FROM THE PARADISE PAPERS**

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***Panel I: Do the 'Paradise Papers' show loopholes in the EU tax legislation?***

Irene Yates, Vice-President, Corporate Tax, McDonald's Corporation

Patricia Johnson, Vice-President and Chief Tax Officer, Nike Inc.

***Panel II: Alleged aggressive tax planning schemes within the EU***

Achim Pross, Head of the International Cooperation and Tax Administration Division, OECD

Juliette Garside, Guardian correspondent and ICIJ Paradise Papers reporter

Lucía Rossel Flores, Researcher, COFFERS project, Utrecht University

1-002-0000

**IN THE CHAIR: PETR JEŽEK**  
*Chair of the Special Committee on Financial Crimes,  
Tax Evasion and Tax Avoidance*

*(The meeting opened at 9.07)*

***Panel I: Do the ‘Paradise Papers’ show loopholes in the EU tax legislation?***

1-004-0000

**Chair.** – I would like to welcome the Members of the TAX3 Committee, guest speakers and the audience to this meeting and public hearing. After the informative workshop held by the committee, its work continues by hosting a hearing on the ‘Lessons learnt from the Paradise Papers’.

The hearing will be structured in two panels. The first one will be devoted to analysing whether the ‘Paradise Papers’ show loopholes in EU tax legislation and whether further action needs to be taken. Mr Achim Pross, from the OECD, Ms Juliette Garside, journalist from *The Guardian* and member of the ICIJ Consortium, and Ms Lucia Rossel, Researcher at the project on Combating Fiscal Fraud and Empowering Regulators (COFFERS), have been invited to share their views with the committee. A warm welcome. Speaking about the ICIJ and journalists in general, I would like to express my appreciation again for their continuous efforts. As you know, other revelations have also come about through the Panama Papers.

The second panel will consist of a hearing with multinational corporations on alleged aggressive tax planning schemes within the EU. Two multinationals – McDonald’s and Nike – will engage with the committee.

Apple was also invited to the meeting, but they excused themselves on the ground of a legal aid case against the Commission now pending before the General Court. A delegation from the TAX3 Committee will meet with Apple in Washington DC in July in the framework of the committee mission to the United States. Apple has committed also to attend a public hearing of the committee once a decision is taken on its Court litigation.

The European Group Kering did not accept our invitation on the grounds that their CEO was not available for today’s meeting and they could not provide us with any replacement. The coordinators of the political groups will decide on Monday what follow-up to give, particularly on whether another date can be given to the Kering Group.

Intermediaries Appleby and Baker McKenzie were also invited to this hearing, but declined our invitation with the pretext of a duty of confidentiality – despite my assurances that the committee was not interested in particular clients and that they could always remain silent if they considered they were not in a position to reply to a question. The coordinators will discuss the follow-up and possible measures next Monday as well.

On behalf of the committee, I consider it inadmissible that a company refuses to appear in front of a committee set up by the European Parliament. I consider that being transparent to the public should be one of the core values of any company. In this context, I appreciate the presence of Nike and McDonald’s.

By refusing to participate in the hearing, Appleby and Baker McKenzie do not consider it necessary to comment or react to the press articles revealed following the Paradise Papers. This silence leaves, of course, room for speculation. Their absence here, however, does not mean

that they will be absent from our discussion. The exchange of views during the first panel, notably with one of the journalists who wrote the Paradise Papers, can also very well focus on them.

A list of written questions was sent to our guest speakers ahead of the hearing. Some replies are still pending and will be distributed as and when they arrive. The written answers already received have been sent to all Members and will be made available on our committee's website subsequent to the hearing.

Let me now introduce the speakers of the first panel. Mr Achim Pross, Head of Division of the International Cooperation and Tax Administration Division at the OECD; Ms Juliette Garside from *The Guardian*, and reporter for the ICIJ on the Paradise Papers; and Ms Lucia Rossel Flores, researcher on the project 'Combating Fiscal Fraud and Empowering Regulators' (COFFERS), from the Netherlands.

Each speaker will have a maximum-five-minute slot for the introductory remarks and after that there will be an exchange of views with the Members of the Committee. I give the floor first to Mr Achim Pross.

1-005-0000

**Achim Pross**, *Head of the International Cooperation and Tax Administration Division, OECD*. – Thank you for having me. I apologise that I wasn't able to answer the question in writing, but I will certainly do so in the five minutes that I have. I guess there will be questions and I will try to answer as many as I can.

So, there are maybe four points that I want to cover and which are also in the questions. Firstly: corporate income taxes. Where are we, what is the environment and where is the revenue going? I think that was one of the questions. Secondly, BEPS, and are there structures left that we still need to address? Where are we in terms of aggressive tax planning? A comparison between OECD and EU lists, I think that's another question – what are some of the differences and what views do we have? And the last point, quickly in the five minutes if I can: the question of what, if anything, is left to be done at European level, potentially as a result of the Paradise Papers and the Panama Papers, but focusing on the Paradise Papers.

To start first with a couple of numbers: what does it mean to say that corporate income tax has fallen continuously in recent years? What is the OECD reaction to this? If you look at the numbers, then it is true that rates have come down significantly in OECD countries since 2000, from just over 32 to 23 in 2018, so that is a significant drop in the rate. We saw this particularly quickly in the run-up to the financial crisis, and, unsurprisingly, rates stabilised; and now we are again seeing momentum for a drop.

We see this in particular in the larger countries. We see it in France and in the US, so this isn't just a small economy – this is across the board. If you look across today, you have 22 OECD member countries that have a combined statutory CIT rate of 25 or below, whereas in 2000 we had only six, so you see the numbers. At the same time, the percentage of CIT to GDP is relatively stable, so while we see rates coming down as a percentage of GDP, we see relative stability, and our economists are now trying to work through what's called the CIT paradox of how you reconcile these two different shifts.

As a percentage of revenue to government revenue, CIT has come down, but it's still significant. Chile is 20%, and there are a couple of countries that still need CIT revenues as a significant contributor to government. I was at a panel last week, and people there sort of wondered why we even worry about BEPS: it's a relatively small contribution, and maybe we should be focusing on things other than corporate income tax, but that misses the point. If we look at

BEPS, we've said that about 10% of corporate income tax revenue is at risk and is lost, but that is still 240 billion globally, and it would give a total tax base of 2.4 trillion, which, I think, is worth fighting for. And in particular, if you go outside Europe, many of the developing countries rely more on CIT than others do, so this hits developing countries harder than might be the case in the OECD economy. That, I think, is the point on the data and where we are on CIT.

The second point, and this is a question about where we are on BEPS: are we done, is anything left, do we need to do more? Without going into the 15 action points and the four minimum standards and all of those things, what is important is that BEPS was a project that tried to stop tax planning on the basis of, one, a lack of transparency; two, a lack of substance; and three, incoherence loopholes between countries. Tremendous progress is, I think, being made, but I shall not take you through all of this in my five minutes.

This is not – and I think that this is important – a project about rates. One could have a project about rates, but that's not what BEPS was seeking to achieve. So if you now want to be in a low-tax environment you need to be in that low-tax environment and everybody, tax administrations included, will know about that through CBC. It's a bit early to judge in that the BEPS implementation process is ongoing. The first time that country-by-country reports are being exchanged amongst practically all OECD countries and a wider group of G20 countries is now, in June: so the tax administrations are now, for the first time, getting the information and they need to work it through. The judgment is out to some extent, but if you look ahead, there are questions that people ask. Did we ask for enough substance? Do we need to think about rates? Are there limitations in Europe as well? On CFC rules, for instance, we hear that we may have a lack of efficiency because certain decisions are inconsistent with the freedoms, so there is a debate. And, of course, we also need to balance compliance costs. Where do we go? How do we balance this out in the long run? So I think that's where we are on BEPS and where we left.

Maybe a quick word on OECD and EU lists. Our focus in the OECD G20 listing process is on transparency. There are lists that we have done for the G20: it's out there. The EU approach is wider, so they also pick up the stuff that we do in BEPS for which we do not have a list. The difference, you can say, is that when we do the review, for instance on harmful tax practices in the OECD, we look across all countries so that we don't have a distinction between members and non-members. We have also ascertained, for instance, that France at the moment still has a patent box that is inconsistent with the standard, so we do not draw a distinction between membership of the OECD inclusive framework of 116 countries and others.

I shall leave it there. Maybe one of the things that we can talk about is what is left to be done as a result of the Paradise Papers, and then I shall stop. There are certainly issues around transparency and how this can be further improved; there is a discussion on beneficial ownership, which is very active and ranges across cutting tax and beyond. We have also just introduced at the OECD and the EU mandatory disclosure rules whereby the adviser is obliged to tell its tax authorities. This is something that the UK has had for a long time and we now have it in Europe and more widely. There is a question whether it makes sense to apply this in the VAT space as well. So there are many things that we can perhaps discuss in the questions. I shall stop there.

1-006-0000

**Juliette Garside**, *Guardian correspondent and ICIJ Paradise Papers reporter*. – Good morning, thanks for inviting me to give evidence. I've been asked to come today because I led *The Guardian's* reporting on the Paradise Papers, and before that on the Panama Papers. I've also worked more recently on the Daphne Project, which was another collaboration, set up to

continue the work of the Maltese journalist Daphne Caruana Galizia, and so my evidence is going to draw from these three investigations.

For my introduction I plan to talk about the legal difficulties that exist for journalists working on these kinds of investigations, and then I think you have some questions for me about the kind of tax structures we saw and the kind of characters who appear in the Panama Papers and the role of firms like Appleby, which I would be happy to answer.

I was asked how do you assess the protection within the EU of journalists in the framework of investigations of aggressive tax planning? Our recent investigations are a strong reminder, actually, of just how vulnerable journalists who investigate corruption can be. The attacks have ranged from legal threats to prosecutions and, of course, as we all know, the killing of a very brave journalist in Malta last year. Our experience at *The Guardian* is that when we behave responsibly – before publication we seek responses from the people we want to write about – we can sometimes be threatened with legal action, quite often in fact. In the UK, there is a lot of use of pre-publication injunctions – they will go to court to try and stop you publishing – and also of legal threats before publication. The UK seems to be much more vulnerable to this than other jurisdictions, and I have found this when I've compared the responses that colleagues in France or Germany or Italy receive to identical questions and letters sent to individuals.

So I can give you two examples of our legal threats at *The Guardian*. One of the firms whose information was leaked in the Paradise Papers was an offshore law firm called Appleby, whose name will be familiar to you. They're not based in the UK. They have a big Bermuda office and another on the Isle of Man, and their managing partner is actually based in Jersey. The data wasn't obtained in the UK, it was obtained by *Süddeutsche Zeitung* in Germany. It was hosted by the ICIJ, which is headquartered in Washington, but Appleby decided to sue *The Guardian* and the BBC in London. They wanted financial compensation and, more importantly, they wanted us to hand over the Paradise Papers. So we were the only two UK partners in the consortium. None of the other partners received a threat of legal action from Appleby. We even came under pressure from our own Prime Minister to hand over the material. Theresa May stood up in Parliament and said she wanted us to hand this data to law enforcement agencies. Can you imagine the chilling effect this would have on other potential whistle-blowers? I don't think that she was asking for the data because she wanted her tax inspectors necessarily to bring evaders to justice. I'm afraid to say I think the Prime Minister was just trying to intimidate *The Guardian* to push back against our reporting, because it was politically inconvenient, and inconvenient for those who donate money to the party, and for Britain's relationship with its former colonies – the many tax havens whose companies appear in the Paradise Papers.

So we were under huge pressure for a while last November. I am glad to say we fought very hard to protect the material and to protect its source, and also to protect our right to continue reporting on the material. So the BBC and *The Guardian* have agreed a settlement with Appleby, and that settlement protects our journalistic integrity and our right to continue reporting.

If genuine whistle-blowers come to *The Guardian* with information they have to be reassured that they are not placing themselves in danger, and that applies to any other European publication. We will always fight to protect our sources.

So why did they come after the BBC and *The Guardian*? Why did Appleby seek action against us? For two reasons I think. *The Guardian* and the BBC are English language and we have no paywall. We were among the loudest voices in the project – nothing we can do about that. The second reason is that our laws are weak when it comes to protecting journalists. Our press has a fierce reputation, but we operate under some of the strictest libel laws in Europe, so in the UK, the newspaper has to prove that what they wrote was true, whereas in France, for example, the burden is on the plaintiff to prove that what the newspaper wrote was not true. I am

simplifying, but unlike America we have no First Amendment. We do have Article 10 of the European Convention on Human Rights, which enshrines press freedom. However, that freedom is worthless if states and courts do not properly protect journalists.

This leads to my second example of intimidation.

The UK has some very powerful libel lawyers. Many of the people we write about in offshore investigations have vast wealth acquired in countries where corruption is endemic. People from Russia, Ukraine, Libya Azerbaijan, China, many of these individuals now have a stake in Europe, and particularly in Britain. They have acquired property there, their kids go to school there, they have visas to live there, and they come to take advantage of tax breaks. They employ UK law firms to manage their reputation. It has become a real problem, because instead of opening a dialogue with us through a press officer, these individuals go straight to their lawyers. They just want to frighten the reporter. It doesn't frighten reporters from *The Guardian* because we have a strong newspaper with fantastic lawyers, but it does often frighten smaller media organisations and freelance reporters who don't have an experienced team behind them.

There are two British libel firms we seem to hear from very often. They are called Schillings, and Mishcon de Reya. I am particularly concerned because these firms have also started writing to reporters outside the UK. So Daphne Caruana Galizia was threatened by Mishcon de Reya on behalf of its client Henley & Partners. Henley markets Maltese passports to those with money to invest in Malta: golden passports. Daphne wrote things in her blog about Henley, some of which she did correct, but she was threatened by Mishcon on behalf of their clients with libel action not in Malta, but in the UK courts, and the cost of fighting such an action would have crippled her financially. There's a similar case in Angola, again with the Paradise Papers, with a reporter called Rafael Marques de Morais. He received a letter from Schillings which reserved its right to take legal action on behalf of its client in any jurisdiction. He was writing in Angola about the looting of Angola's sovereign wealth fund for an Angolan publication, so he was very surprised to hear from a British law firm. He said on his blog the person he was writing about was not a British citizen, did not reside in the UK. Why then did that person seek out an English law firm to make his complaint? The phrase 'libel tourism' comes to mind.

So I think the lesson from this, perhaps, is that a British law firm should not be able to threaten a Maltese journalist writing in Malta about corruption in her own country with legal action in the UK – fair enough to pursue them through the courts using their own laws, but it just feels wrong that they can threaten to sue in the UK courts.

I understand EU laws allow this to happen, but the way it is deployed can feel like intimidation, so perhaps the law needs changing and we might want to consider introducing some sort of anti-SLAPP legislation in Europe. SLAPP stands for strategic law suit against public participation. SLAPP can be defined as the making of – often baseless – claims which aim to silence free speech and debate about issues of public interest, forcing critics to spend money defending themselves. America has strong anti-SLAPP laws, but the concept does not exist in the UK. The European Union is being urged by some MEPs to introduce SLAPP laws here. I think they could be a very good defence in the fight against money laundering and corruption.

1-007-0000

**Chair.** – I can only reiterate my words of appreciation for the work of investigative journalists. This committee and this Parliament will always stand behind them for the sake of transparency, openness and the public interest.

1-008-0000

**Lucia Rossel Flores**, *Researcher, COFFERS project, Utrecht University.* – My name is Lucia Rossel Flores. I'm a political scientist and I'm currently a PhD candidate at Utrecht University

School of Economics, under the supervision of Professor Brigitte Unger. She is the leader of the EU Horizon 2020 project COFFERS – combating fiscal fraud and empowering regulators.

My main area of research is tax avoidance, tax evasion, money laundering and the gender and wealth inequalities that stem from it. My main part in the COFFERS project is related to the legal and policy aspect of tax evasion, avoidance and money laundering.

During my first statement, I would like to introduce you a bit to our project, COFFERS, to what we aim to do, our methods, and also how the Paradise Papers can help us to do this and why we should strive for more transparency.

Over the last 6 years, the European Union has confronted expanded inequalities across a range of areas from gender to generational wealth, mobility and opportunity. One underlying factor common to these expanded inequalities is the contribution of deficiencies in fiscal systems. Income inequality can be effectively traced to regressive tax systems that tax labour and consumption more than capital. A major reason for this is international mobility of capital, paired with financial secrecy and tax havens.

Conditioned by the twin financial crisis and fiscal crisis, the EU and Member States have not been slow to react to this with accelerated policy innovations at the national, regional and international levels. Those innovations constitute a sea of change in tax policy and the EU fiscal regime. A host of novel regulatory instruments are now hitting the ground and the combating fiscal fraud and empowering regulators project provides a novel framework to contribute to a better understanding of the current state of affairs.

By looking at both the side of those who are regulated, and also at the side of the regulators, we gauge the traction of regulatory innovation, we identify the trajectory of systems change, and we provide remedies for the EU fiscal regime going forward.

Our goal is to identify deficiencies and opportunities for upgrading the tax law, upgrading tax policy development, tax administration and enforcement at the EU level and across Member States. As a project, we aim to evaluate the utility and the problem-solving capability of new instruments to combat tax evasion and tax avoidance. For example, we want to evaluate automatic exchange of information, country-by-country reporting, the OECD BEPS and the concept of legal entity identifiers.

We want to do this by adding substantial empirical evidence into an already polarised debate. But for this empirical evidence we need more leaks and information. Instead of backward-looking approaches we want to understand the errors of the past and we would like to provide a springboard for the future and for the present, and this includes two analyses on EU-level and Member State policy adaptation, EU-level and Member State legal adaptation, adaptation and taxpayer behaviour, adaptation within expert networks and adaptations to administrative capacities.

For this we like to use innovative approaches. We use professional surveys. We use social legal analysis, econometrics and agent-based modelling in order to ...

*(The Chair interrupted the speaker to request that she speak more slowly in the interests of the interpreters)*

1-009-0000

**David Coburn (EFDD).** – Can I say also that I don't even understand you in English. This is so much gibberish. I really don't understand it. It's got nothing to do with reality. There is no such thing as political science. Politics is an art, not a science.

1-010-0000

**Chair.** – Ms Rossel, I can understand you very well, but let's try to slow down for the sake of the interpreters.

Also, I would ask Members to speak only when they are given the floor.

1-011-0000

**Lucia Rossel Flores, Researcher, COFFERS project, Utrecht University.** – One of our main goals is to look at the tax system as a tax ecosystem. We want to see how different actors such as corporations, regulators, tax experts, accountants and lawyers survive in this new regulatory regime and how they try to find niches and how they change.

We want to study the responses that these actors give to policy and the effect that these responses have on the overall system, and we believe that in the new regulatory systems there will also be loopholes and we need to adjust to the new regulations. For this we need more analysis and more research.

When it comes to the Paradise Papers, these provide invaluable empirical evidence of an issue that for us was already known – in academia and in research, tax havens were already a topic, but theory is nothing without evidence and that is what the Paradise Papers provide. They have put the topic of offshore investments and harmful tax planning in the public eye and this just increases transparency.

We also believe that the Paradise Papers have revealed that offshore investment was not an issue only of corporations, but also of individuals. This has increased the level of scrutiny on public figures, but also from our point of view of research it is very valuable as we do research on money laundering and this is very connected.

For COFFERS, the Paradise Papers provide valuable information that can be used in order to enhance the empirical knowledge that we want to give to the debate. Members of our project and other academics and activists have constantly said that transparency is the only way to combat fiscal fraud and the Paradise Papers provide that necessary transparency.

But we believe that this is not enough and that to really combat fiscal fraud and empower regulators, as our project aims, we need to enforce transparency through policy. We need to know where the missing money is and who owns it.

1-012-0000

**Chair.** – The discussion with the Members will now start. Questions will be asked in slots of five minutes – a question of maximum one minute, with the remaining four minutes devoted to the answer. If time allows, the Member will have the possibility to ask a follow-up question, without extending the overall five-minute slot.

1-013-0000

**Luděk Niedermayer (PPE).** – Thank you and thanks to all the guests for being here. The scope of the TAX3 Committee's work over the last year has been quite extensive. We focused on large companies, anti-money laundering, and recently on a VAT fraud issue.

There is one specific point that was not covered in great detail and that is the programme for taxing high-worth individuals, as was revealed partly in the Panama Papers and in the latest leaks only today.

So I have basically three questions. First of all, we know that the political and social costs of the fact that the very rich can achieve a very low marginal tax rate are substantial for the economy. This is exacerbating the deteriorating income distribution – making people very unhappy.



So I wonder especially – I would like to ask the OECD and COFFERS – how far you consider this to be not just a social and political issue, but also an economic issue.

The second question, again for the same guests: this issue combines the programme of individual taxation but mostly used via the corporate structures. So are there any kind of legislative measures that should be specially designed for that if we were to agree that it was something that should be changed or addressed?

And, last but not least – and this is especially for the OECD – how do you see the tax strategy of governments vis-à-vis the problem of rich people who are not deriving most of their income from salaries, but from capital, for instance grants, dividends and the profits of companies?

1-014-0000

**Achim Pross**, *Head of the International Cooperation and Tax Administration Division, OECD*.  
– A big question for one minute. I have four? OK, very good.

I have a few comments to make.

Firstly, there's a big point about transparency. It breaks down into a number of components, but it is important. So if you look at, for instance, the Panama Papers, if the common reporting standard had already been in place, many of these things wouldn't have happened. So policy-makers, including Europe, led the work on introducing automatic reporting on bank accounts and are now pushing it out to places like Panama, and that is why even Panama will now automatically exchange account information about accounts held in Panama. Importantly, this also covers accounts held through entities that are beneficially owned by individuals. That's a big push and it will make a difference.

Are we done? No, we're not done, because we now need also to make sure that this is being implemented fully, not just according to the letter but according to the spirit, which is why we, in the broad sense, namely the OECD and the EU, have also introduced rules for those that seek to get around disclosure rules, TAXE6 in EU-speak or mandatory disclosure rules in OECD-speak. That, I think, is important. There's more work that can be done so that those who need to know, and this is a wider community, know what's going on. That's a start on transparency.

There's also a question of beneficial ownership, making sure that information is there in the first place so that you can actually get it. There's work that we do through the global forum, and there's ongoing EU work on improving access to beneficial ownership, the questions being who is behind those entities and how you make this access possible. How do you make it possible in an electronic age? It's probably not terribly useful to have a register and a document in writing somewhere if you have to dig about in the cellar and that is open between 10.00 and 10.15 on a Wednesday.

If you look at the Paradise Papers, there are areas of VAT that we've seen. The Commission is now active in some of the schemes that we're seeing, and there is a question whether we can increase transparency in that segment too. We also see, partly, I think, as a policy reaction, that because it is now so difficult to separate your bank account from your residence, at least if the CRS is fully implemented, countries are competing for residency with a whole host of regimes for individuals. There are questions to ask in order to know whether there is something to think about.

There's a lot that can be done in order to prevent this from happening in the first place, since, as you fully agree, this isn't just a question of tax, it is question of equality, of society having confidence in society, a much larger question than the tax question, and that's why I think it so

important that we don't let go of transparency. We have 100 countries, we don't have all of them, but we need to make sure that they all implement it. We need to see whether there are deficiencies. If we need to do more, we will be doing more; if the standard doesn't hold up, we will tighten the standard. We need your support for that and that's not the only area. We need to see the implications so that we don't end up with a situation that we have tried to fight, namely a race to the bottom in which everybody gives a tax break to a company and as a result nobody gets anything at the end of the day and we all shift taxation to labour because we don't tax it.

And to add to your point, once you have information on all the financial holdings in some sense, it's a sovereign choice of a country to decide how much it wants to tax capital and how much it wants to tax labour, but it can do so. It is not driven to the point of being unable to tax capital because it doesn't have the information. Now we are creating a system that brings that information so that countries can decide how they want to tax within their sovereignty. Those, then, are some reflections.

1-015-0000

**Jeppe Kofod (S&D).** – I regret being late, but read your written statements so I know what was said at the beginning. Looking at the Paradise Papers, one frustration is that some of these schemes seem technically legal but, of course, are indefensible and immoral in nature – utilising loopholes and so on.

My first question to the panel would therefore be what is your view on public country-by-country reporting requirements in the EU? Could this serve as a template for global action that could make this international aggressive tax planning, tax evasion and avoidance substantially more difficult for multinationals?

Secondly, for Ms Garside, whose answers to the questions I have also read, I would ask on the matter of whistle-blower protection that you pointed to, what more could the EU do, speaking from your experience as a journalist? Could we do more towards an EU framework for whistle-blowers?

Finally, I read one of your answers to a question we asked about Appleby, which – as you wrote – does not do as much in terms of fiduciary services as other companies. One of those companies is STM Fidecs, which is owned by Arron Banks, the person who financed Mr Coburn's Brexit. So there is this link between this kind of big business in the UK and also fiduciary services and the offshore world. Do you think it would be feasible to invite persons like that to testify before this committee? I think it would be interesting to see the link between this type of fiduciary services and tax evasion and avoidance and these schemes which we are all investigating.

1-016-0000

**Achim Pross, Head of the International Cooperation and Tax Administration Division, OECD.** – I'm just going to take the first part of your question, and my co-panellist will probably take the second part.

So the question is the Paradise Papers show some avoidance structure that seems sort of borderline legal – they're sort of loopholes, they're not criminal, but they're pushing the law. So what do we do about that, including the possibility of public country-by-country reporting?

Two things: If you look at some of these structures they will no longer be possible – not in the EU and not more broadly. For instance, one of the structures that has come up is the reverse hybrid. We now have rules on hybrids. These will be implemented through ATAD2 in Europe and they're being implemented more broadly, including in the United States, through recent legislation.

So there's a lot of structuring elements that we did pick up on. They were possible, and if you look at the information released through the leaks you can see this, but that's in the past. If we project the same structure into the future, many of these structures don't work anymore. The second point is on country-by-country reporting, which are now being exchanged – this month, in June – for the first time in the whole world, practically.

So if you are Nike, or if you are any other large corporate that is covered in Europe and the US and Japan and Brazil and India – and I can go on but not within the minute allowed – then the tax administration where you are established will see your country-by-country reports. So all of these tax administrations – if you're in 120 countries, it's 120 tax administrations that for the first time see everything – not just what happens in their country, but what happens in between, what happens in low-tax entities, how much profit, etc.

I think that will make a huge difference and in fact it already is making a huge difference. Many corporates are already planning out of their low-tax structures because they don't want to have to explain to tax administrations why they have all of these entities in low-tax places.

I think in terms of behaviour we are already seeing a significant change.

And then in the remaining 30 seconds. The question on public country-by-country reporting – we've discussed this so you will not be surprised to hear me say this – we as the OECD have some reservations on public country-by-country reporting, not because we oppose transparency – we've done many, many things on transparency but because there are some technical issues that we have.

Firstly – and I'm going to be really fast – what we were asked to do at the OECD when we designed country-by-country reporting was to design something for tax administrations – for a particular purpose. So you have the local file, you have the master file, you have transfer pricing. It is for that purpose that we designed it and we said specifically that countries are not allowed to jump to conclusions because they don't know.

So if you now make that public you almost force the public to jump to conclusions – when you tell governments 'you can't' because you need to do it with the others, you need to investigate. So it's a question of whether this type of thing is fit for that purpose.

Secondly, there is a potential for double taxation that people have raised. We had a long discussion at the OECD on whether this should be given to every country. It should be exchanged under treaties because people were worried about double tax not about NGO's or the public, but double tax. Somebody could use it in some tax administration somewhere and make a tax adjustment – there is no treaty, there's nothing, so all of a sudden the company's exposed to double tax.

And thirdly – well, there is much more, but in the minute I have – there's a bit of a concern outside Europe that some people feel that we have a deal. We all exchange, we all give it, and we made a deal. We would perhaps have liked a different deal, but that's the deal for now, and that deal is not public. So it is a question of what this does in the international system.

Having said all of this, Europe is fully sovereign. So if you decide to go ahead, then absolutely you decide to go ahead. So these are sort of words of reflection from us.

1-017-0000

**Juliette Garside**, *Guardian correspondent and ICIJ Paradise Papers reporter.* – You asked about whistle-blowers. I think the EU is bringing forward legislation which would give

whistle-blowers special protection and potentially legal aid and possibly financial support. I think these are all the kinds of things that are very much needed.

I have had a case recently where somebody came forward to me and said, look, I was made to carry bags of cash on flights into dangerous countries to pay bribes. What happens if my company comes after me or, indeed, if the police come after me, because I was asked to do things that were illegal and I was told I would lose my job if I didn't do them? I had to say to them, well, if it came to court, *The Guardian's* lawyers wouldn't defend you, you would have to get your own legal defence and there is no special protection under UK law, so it makes these kinds of very important stories very difficult to bring forward.

The role of Appleby. Just to explain briefly, Appleby had a fiduciary business and that was the material that we mostly drew on in the Paradise Papers. It's a similar sort of business to Mossack Fonseca. It is controversial because it's a secrecy service, so Appleby's fiduciary division was incorporating shell companies, offshore companies, and then supplying nominee directors, straw directors, and nominee shareholders, in order to screen the real owners and directors of the companies. The firm knew who its clients were. Unlike Mossack Fonseca, I think they took good care to find out who they were acting on behalf of. What has happened since then is that a couple of years ago that business was sold and rebranded and sold to private equity. I think what is interesting is that business, which is now called Astera, still operates in all the same jurisdictions, and the new owners' plan is to grow the operation so they are buying other fiduciary businesses and consolidating, but they are under pressure to increase revenues. When you have a business like that which has got quite a sensitive role and is under pressure to take more clients, how thorough is the due diligence going to be? Very thorough, I hope!

Finally, Arron Banks runs a fiduciary, he owns a stake in a fiduciary business called STM Fidecs, which has offices in Gibraltar and on the Isle of Man. It does very similar work to Appleby and Mossack Fonseca and it has some interesting clients. I think he would make a very good witness, or somebody else from that business.

1-018-0000

**Siegfried Mureşan (PPE).** – Thank you, Chair. Firstly, thanks to all three speakers. I want to start with some questions for Juliette Garside.

Firstly, on the Daphne Project that you were speaking about before: if you could tell us about some of the topics that you are working on as part of the Daphne Project in order to continue the work of Daphne Caruana Galizia, is there anything encouraging that you're seeing there? Are you facing any difficulties? I'd appreciate some insights on that point.

Secondly, you also argue that we need anti-SLAPP legislation in Europe in order to protect journalists investigating aggressive tax planning and tax avoidance. The question is what other measures would you see as necessary to protect journalists when investigating cases which, as we can see, are so sensitive and also so dangerous for them?

And my third question relates to regulation. You have repeatedly mentioned the role of the UK's Crown dependencies and overseas territories in the offshore financing industry, so what would be the legal difficulties that you expect and the shortcomings to face after, unfortunately, the United Kingdom leaves the European Union?

1-019-0000

**Juliette Garside, Guardian correspondent and ICIJ Paradise Papers reporter.** – OK, so a range of topics. On the Daphne Project, I think that Malta was actually a very interesting way of surfacing big issues that affect the whole of the European Union. A big one is passports, golden passports. Malta took the decision to sell citizenship. The UK has done a similar thing, except that it sells residency. Portugal sells passports and residency. Austria sells residency. The question is at what

level source of funds checks are being made, given that most of the buyers of these visas and passports are from countries where there is a deficiency in the rule of law, so places like Russia, the former Soviet Union, China etc. We know that in the UK, for example, 3 000 individual families were allowed to purchase residency between 2008 and 2015, when no checks were being made on the source of funds, because the Government thought that the banks were doing it and the banks thought that the Government was doing it. We have a review at the moment, but the names of those individuals have not been published, and I think that, certainly in the case of politically exposed persons, the Government, which does not collect the data at the moment, should be aware how many came in under that scheme and are coming in under the scheme, even now that it's been tightened, and those names should be made public.

We're worse than Malta in that regard. Malta at least publishes the names of new citizens every year, and in Cyprus, when people apply for citizenship by investment, their names are published. So I think that there should be a big push at European level for this information to be disclosed, certainly when it relates to politically exposed persons. I also think Malta has surfaced the need for debate about a European-wide money laundering agency. We have countries, and I would say even including the UK. I spoke to someone from the Bank of England last week, who said that it's very difficult for us to police our own banks. You know that the UK almost relies on America to do it for us. A small state like Malta really doesn't have the experience and the resources to try and combat international money laundering, and we've seen this in the case of Pilates Bank, which Daphne Caruana Galizia was investigating. We've seen it with banks in Latvia, and I'm not talking about tax, which is probably more arguably a sovereign issue, but the policing.

Money laundering is a cross-border issue, and we're talking about people wanting to bring assets into Europe that are from dubious sources. I think that we need a strong enforcement agency that is cross-border because it is so difficult for national regulators to police this sort of thing.

So we're looking at that, we're looking at money laundering, we're looking at passports and obviously we're continuing to keep a close eye, as Parliament has, on any potential political interference with the police investigation into who may have ordered the bombing.

And secondly you're asking about SLAPP and other measures. I don't particularly have anything to propose other than that we need to be very careful that data protection legislation doesn't bleed into a weakening of the right of journalists to consult information like the Paradise Papers. I think that we've successfully fought off efforts to weaken our ability to do that in the UK, but we need to keep fighting and make sure that it doesn't happen elsewhere in Europe.

On the Crown dependencies: what was your question – sorry?

1-020-0000

**Siegfried Mureşan (PPE).** – Brexit, the consequences of Brexit, in legal terms.

1-021-0000

**Juliette Garside,** *Guardian correspondent and ICIJ Paradise Papers reporter.* – Luckily, Margaret Hodge, who is a campaigning MP in the UK, and Andrew Mitchell from the Conservatives have managed to pass a law which should enforce public registers of beneficial ownership in the Crown dependencies – sorry, in the overseas territories – by 2021. So that law is through, and I think that the UK is trying to put certain protections in place before we leave Europe so that we will not, as is the danger, be left very vulnerable to capture by dirty money and by those who wish to influence the political process from outside the UK. That is a really strong bulwark against that kind of pressure, and we need to make sure that those registers are like the one in the UK, so that they're free to consult and online.

1-022-0000

**Achim Pross,** *Head of the International Cooperation and Tax Administration Division, OECD.* – Just to take up the theme of passports and residence certificates, there is also a tax angle that

we're actively looking at. We have come across certain schemes whereby people who actually reside in countries in Europe, for instance, acquire a certificate of residence from another country which they then provide to the bank, so that the reporting doesn't go to the actual home but to the, so to speak, fictitious home. We are now working this out to see which ones are the higher risk sort of jurisdictions and schemes, and we will try to publish them as well so that financial institutions know and the wider community knows.

1-023-0000

**Ramón Jáuregui Atondo (S&D).** – I should like to thank the speakers. I have three questions for the OECD representative. The feeling we have here in the European Parliament, after three years of fighting against tax evasion, is that we are making very little progress.

I would like, first of all, to ask the OECD whether the country-by-country reporting is to be extended – that is to say, what instruments does the OECD have at its disposal to ensure that the majority of companies do so?

The second question is whether you think we should, politically speaking, move toward a minimum rate for corporation tax – is this the right path, even if it may be a long and difficult one? Would establishing a minimum corporate tax rate be an intelligent measure for the future, in political terms, to combat evasion or the reduction of corporate tax rates?

The third question relates to the black and grey lists – or the black and grey lists established by the European Union. Is this enough? Do they serve any purpose?

There is a fourth matter for Ms Garside, in view of the disclosures in her testimony, which is very important to me. In this Parliament, Ms Garside, we are currently working on the Directive on the protection of whistleblowers. There is something you suggested which I will certainly turn into an amendment, because I think we need to combat those law firms that are working with crime, bringing fake lawsuits. And this is an amendment that we will incorporate in the European directive.

1-024-0000

**Achim Pross, Head of the International Cooperation and Tax Administration Division, OECD.** – I'll try to answer the questions in sequence to the extent I have correctly understood. So on whether we are winning the war against tax evasion – is it making any difference – well, one, I think here we do need to distinguish between corporate tax planning and tax evasion. We need to distinguish between the individual that hides black money, tax evasion money, in a foreign bank account, and the company that pushes the law – not because we shouldn't address both, but we need to address them differently, like a doctor looks at different things in the body and there is a different treatment for this in order to get to the right end.

I think that in the fight against tax evasion, as I said, through the exchange of information on bank accounts, we are making a significant difference. If you look at the numbers, I think the latest is that a certain number of countries – not even all of them – have so far collected tax of about 95 billion, simply because people have given up, they've come in, they've disclosed and they've paid their tax. That is a big amount of money and it isn't even all the money.

The first exchanges of the remaining 50 countries that didn't do it last year is in September this year. Then 100 countries will be exchanging bank account information, for instance – because I'm sitting next to someone from the UK – with the UK, but also with other countries. So if you are a UK person and you have a bank account in Panama, in Switzerland, wherever you might have it, this information will be going to HMRC. I think that makes a huge difference. This is not all, there's much more to do to fight tax evasion, but just to pick one thing in the time that we have.

On country-by-country reporting, this is different. This is not a bank account of an individual; this is the accounting and financial information of large multinationals. They are typically not involved in tax evasion, but as we have seen they may well be involved in aggressive tax planning, and so this, for the first time, gives all tax administrations where they operate – whether they have a subsidiary or whether they have a branch but whatever they have – the information about the whole group, where they operate, where they pay tax, where they have their people, where they don't pay tax, etc.

This is coming in, as we said, and happening right now. It essentially covers all the companies that are meant to be covered. So in this system, you now have, if you wish, 99% of the global corporate income tax base of large multinationals. It is coming from US companies, it's coming from Germans, it's coming from Japanese, it's coming from Chinese, it's coming from Indians, Brazil – 99% of GDP is covered by this. I think, again, this is making a huge difference. We are sometimes a little impatient, I guess that at the European Parliament and at the OECD we want to see things going even faster, but we do recognise that this needs to be agreed, it needs to be implemented, it needs to be legislated, and it needs to be done. I think we need a little pause to see, now that we are working with tax administrations, that they make effective use of this. I think that is a challenge coming up.

The third point was about minimum rates and whether we should suggest some minimum rates. I think that is a very active discussion in Europe. There is also a broader discussion about minimum taxation. There is also a discussion about whether we should coordinate rate triggers, for instance, to apply defensive measures if you drop below a certain rate. I think that is an active discussion that has been had here, and it is being had at the OECD.

I think that on the whistle-blower point I might defer to the person my right.

1-025-0000

**Juliette Garside**, *Guardian correspondent and ICIJ Paradise Papers reporter*. – I welcome any further protection for whistle-blowers and also any further protection for journalists when confronted with libel threats. I think part of the problem is that those threats are a bit like the use of offshore. The use of libel law is only really available to the super rich or the rather rich, and so that's who we tend to come up against in our reporting. It is easier for *The Guardian* to defend itself, but very hard for bloggers, freelancers, to resist pressure from these kinds of lawyers.

These reporters are often the people who *are* uncovering corruption, as we saw in Malta with Daphne Caruana Galizia. She did so on her blog, and she didn't have an army of lawyers behind her.

1-026-0000

**Maite Pagazaurtundúa Ruiz (ALDE)**. – First of all, I would like to express my admiration and respect for Ms Garside and all the journalists you are representing. There is a group of us MEPs which has been very involved for some time now in pushing to have this proposal for a directive to strengthen the protection of whistleblowers, and we are now committed to avoiding this dirty game of strategic lawsuits, which can bring ruin to those who are doing their job, and that is of strategic importance in terms of the defence of our democracies. We will, therefore, persevere. You can rest assured.

But my question concerns the point raised by Mr Jáuregui. We know that tax evasion is taking place in countries that are not on the black or grey lists. Thanks to the Panama Papers, and other leaks, we have an estimate of the extraordinary sums being laundered and evaded – without mentioning tax avoidance. If this is the case, I, for one, should like to know whether we have estimates of how much is currently being laundered and evaded, despite the application of the measures referred to by the representative of the OECD, and whether it is enough to ratify the

Convention on mutual administrative assistance in tax matters without setting up an international coordination body under the auspices of the OECD.

I would also like to say that it is not that we in the European Parliament lack patience. It is just that we do not have any time to lose, given the cross-border tax evasion and money laundering structures.

1-027-0000

**Achim Pross**, *Head of the International Cooperation and Tax Administration Division, OECD*. – Thank you for the question. I fully share the sentiments. We estimated when we started the BEPS project that countries collectively are losing up to 10% of their corporate income tax base to BEPS behaviour. To put a number on this that is 240 billion annually – every year – so that’s the number that we had based on the economic analysis we did, and you see this in the report. So I think that is a big number.

We are now using aggregated country-by-country information – not individual firms but aggregated – and hope to come out in 2019 with the change. So it will take some time to see what difference we’re making in terms of numbers, but we’re studying this now. We started out from our estimate – which admittedly is an estimate but it’s as good as we could get it – of 240 billion that is being lost to avoidance. I’m not talking about tax evasion. This is not the money that’s being lost because people that owe tax don’t pay their tax. That’s a different story. It’s the avoidance part, the BEPS part. 240 billion – we are trying to get this down as much as we can.

Anecdotal evidence from all the corporates that we speak to say that BEPS has made a significant difference in their behaviour, and you see this by people planning out. It’s also to be seen that, for instance, the structures that you’ve seen in the Paradise Papers will now all be known to all tax administrations. So whatever others you might hear about may have done – that there is a little no-tax entity with a funny hybrid in between – that will be visible for the first time now, because that information is being exchanged, now, as we speak in June.

1-028-0000

**Lucía Rosel Flores**, *researcher, COFFERS project*. – I would like to say a little about the question you asked about the estimates of how much tax was being evaded and how much is being laundered. We do not, for the moment, have a fixed number, but we are working on what are called ‘attractiveness models’. We want to see which jurisdictions attract what sums of money, via econometric models using attractiveness models. We already have some preliminary estimates. I did not have a reply prepared for this question, that is as to the estimated level of money laundering, but I can send you the paper. We are now also working on estimates for tax evasion and tax avoidance. We want to know how much each country attracts and the aggregated sum of this, how much we are losing.

Thus, from the scientific point of view, we are trying to use more advanced models to make these assessments.

1-029-0000

**Molly Scott Cato (Verts/ALE)**. – I would also like to start by thanking Juliette and her colleagues at *The Guardian* for the really excellent work they are doing defending the rule of law and various other issues. I’m not feeling proud about everything about Britain at the moment, but she and her colleagues are making me feel very proud. I’d like to develop this theme of the link between Brexit and tax avoidance and the link between the so-called ‘bad boys’ of Brexit, in particular as evidenced by the Paradise Papers.

We know that many of the proponents of Brexit were found in the Paradise Papers and that they have strong offshore connections. Arron Banks, for example – I’m actually his MEP, that’s a rare honour! – favours tax havens including the Isle of Man, Gibraltar and the British Virgin



Islands. Jacob Rees-Mogg – I'm also his MEP – has an investment fund managed by subsidiaries in the Cayman Islands and Singapore. Meanwhile, Lord Ashcroft achieved notoriety through exploiting the UK's non-dom tax status and he also featured prominently in the Paradise Papers.

I'd like to ask you, Juliette: what's your assessment of the link between these 'bad boys' of Brexit and the Paradise Papers? Do you think there is a link between their interests in making sure that the UK leaves the European Union and their interests in tax havens, and is this what they really mean by 'taking back control'?

1-030-0000

**Juliette Garside**, *Guardian correspondent and ICIJ Paradise Papers reporter*. – Molly, I also wanted to say thank you for the work that you've been doing. You've been a very effective voice in the UK in terms of all these issues on money laundering and tax avoidance and evasion.

Yes, I think there is actually a link. These are the characters that keep cropping up when we're looking at the data and we're looking at UK personalities in the data. So we're talking about individuals who quite often have acted as treasurers for the Conservative Party. Lord Fink appeared in the Panama Papers. Lord Magan, an ex-treasurer, had a family trust – I think in Jersey – in the Paradise Papers. You mentioned Jacob Rees-Mogg. Arron Banks is there to a certain extent because we had information from the Isle of Man, where he has extensive operations. His business partner, Jim Mellon, who is also a tax exile and actually lives on the Isle of Man, was present. We had the Barclay brothers, who own *The Telegraph* newspaper, which has been one of the major newspapers cheerleading for Brexit, with structures in the Paradise Papers as well.

I think that there is a link and I am concerned. Jeremy Corbyn has said it. He's worried that there are elements pushing for the UK to become some kind of tax haven on the shores of Europe once we exit. I think that, once we leave Europe, Britain does become far more vulnerable to even more capture by the finance sector than it already is, but particularly by these rather aggressive offshore cheerleading elements from the finance sector. So I think it's very important, before we leave, to put in measures that would protect us against this, and transparency is one of the big ones. I also think that the publication of the names of those individuals buying residency in the UK might also be a useful protection.

So yes, I think there is a direct link. I think that people like Lord Ashcroft see Brexit as a fabulous opportunity for the industry in which they've made their money.

1-031-0000

**Molly Scott Cato (Verts/ALE)**. – Could I maybe ask a little bit more particularly about Arron Banks, because I think the way the money was raised for the Leave.EU campaign is a subject of particular concern and we know that he has interests in both the Isle of Man and Gibraltar. Could you say a little bit more about that maybe?

1-032-0000

**Juliette Garside**, *Guardian correspondent and ICIJ Paradise Papers reporter*. – Yes. Arron Banks, via a holding company, has had an interest in a fiduciary business called STM Fidecs for a long time. The role of that business is to incorporate offshore companies, and to act on behalf of the owners of those companies to screen their identities. So these sorts of fiduciary businesses are a route for all sorts of money into Europe, and they are means of hiding where money has come from and where it's going. I think we need greater scrutiny of these businesses, and we certainly need greater scrutiny of what may have been happening within STM Fidecs.

I think the reporting by *The Observer* and, in particular, Carole Cadwalladr, on this issue has been very interesting in recent weeks. We've now seen documentary evidence of very close ties between Banks' campaign and the Russian Embassy, and it seems to me that there's a great reluctance within our Parliament – on both sides of the House, both in the Labour Party and the

Conservative Party – to investigate these issues and to bring any further evidence to light of any potential collusion, but I think this needs to happen. It’s happening in America. Why isn’t it happening in Britain?

1-033-0000

**Matt Carthy (GUE/NGL).** – Thank you, Chair, and welcome to the speakers. I’d like to ask them for their views on the international use of tax write-offs for depreciation capital allowances for intangible assets. The question I have is fairly specific, so, hopefully, some of our speakers will have the answers.

This morning our political group is publishing a story on Apple’s tax arrangements and rates after its 2014 restructuring. Now, as the Chair has already said, Apple declined our request to be here, but our study finds that Apple is likely to be paying a tax rate of about 4% in the EU. That’s today. But this figure could actually be as low as 1%. And the use of capital allowances at a rate of 100% for the intergroup purchases of IP licences, which was introduced following a change in Ireland’s tax law back in 2015, appears to have allowed Apple to totally offset any tax due from sales profits.

So despite the onshoring of both IP and sales, Apple is still paying around the same amount of tax to Ireland as it was before the State aid ruling.

Now, whenever the issue is raised with the Irish Government, they tell us that the regime that they have in place is similar to the US, Britain and other jurisdictions. But what we want to know is whether and how the Irish regime compares with EU and international standards in relation to capital allowances for IP and your views on the potential for harm in such schemes. Can any of the speakers give us their views?

1-034-0000

**Chair.** – Who would like to take this easy question?

*(Laughter)*

1-035-0000

**Achim Pross, Head of the International Cooperation and Tax Administration Division, OECD.** – I have to say that I’m not keen on taking the question, but for want of alternatives I’ll try.

I cannot comment, as I don’t know what the Apple structure is in detail. I can’t comment on Apple – you have to speak to them – and I don’t know Irish law any better than you certainly do. So I can’t comment on the details of the Irish law.

One point that might be relevant is that both in the EU, in the Code of Conduct exercise, and at the OECD, under what we call the harmful tax practices exercise, we have looked at the taxation of intellectual property and we have, as we have sometimes termed it, ‘done a box around the box’. Typically it’s referred to as a patent box, an IP regime, and we’ve said, well, you know, if countries wish to incentivise research and development, that’s something that they may well be doing and the vast majority of countries are doing it. The vast majority of countries are doing it through the tax system – not all of them, some also do it outside the tax system, but many do it in the tax system in many different ways.

Take France and Spain and Italy. You go across the EU and outside the EU. If you look at the world map, this is happening mainly in the EU, interestingly enough, and less so outside the EU. The typical patent box is a largely European tax invention.

Now, we have not said that it is harmful to give a lower rate on IP. What we have said is that you need to ensure that the benefit which you give is commensurate with the research and

development. So if you're actually doing it, we determine how you translate this into technical tax; if you're actually doing it, then the country can decide what rate to apply.

Now, that was contentious, and some people would have simply preferred to have no lower rates at all on IP income, but that's where the international community ended up as regards BEPS. We are reviewing this. We are also reviewing the Irish regime. I think that it is consistent with the OECD standard. I'm not sure whether your allowance is part of this or whether it's separate, so I can't speak about the details, but it certainly is an ongoing challenge, speaking from where we sit in the OECD. On the one hand if you can in a way see the legitimate interests of countries trying to encourage R&D, you must at the same time stop spillover effects in which you end up not by encouraging R&D, but by encouraging aggressive tax planning by charging a fee for some paper transaction.

It's that sort of balance that we sought to achieve, without speaking in detail on the Irish law. That's as much as I can say.

1-036-0000

**David Coburn (EFDD).** – Well, I have never heard such a lot of socialist bilge in my life! Firstly, Ms Scott Cato, I don't think that what you said is very patriotic, but then again, I don't expect that from you. I wonder if the people who are voting for you realise how unpatriotic you are. She is not proud of Britain and she seems to want to have a go at Mr Banks, who gave money to a campaign out of his own pocket because he believed in something.

All I can say about Mr Soros, who seems to be backing the EU, is that nobody wants to ask questions about him. Well, perhaps it is time that you did because he has been backing the EU and all its madcap schemes and trying to undermine British democracy; and I believe that he has made great deal of money out of the collapse of the pound. Under British law, may I point out to the lady from the Guardian, British company directors are obliged to minimise the taxes of their shareholders. That is the way we do things in Britain and that is why our economy is successful.

Property rights and their protection are central to the purpose and function of the State. The EU seeks legitimacy by claiming to protect property with Byzantine rights: one recent example is the claiming to protect data and the General Data Protection Regulation and the protection of intellectual property – the link tax that was passed by the committee yesterday. You are not really interested in protecting property; the GDPR and the link tax are just ruses to hide the EU's desire to interfere in everyone's private life. We have proof here: rather than protecting property rights and the data collected in the Paradise Papers, you abuse them for political gain. From what I have heard, no crimes were committed – most interesting. This committee is more concerned with virtue signalling than with property.

I would like to know – most importantly from the lady from the Guardian – how she thinks that business could possibly survive if every employee went around blabbing about everything in the company. How, in the name of goodness! Obviously, you have never had any experience of business or you would realise that it would be impossible to conduct business or banking or anything else if there was no confidentiality. People must have to face the test of the law if they are going to make remarks and say things about companies; they must face the rigour of the law about this, as should journalists. If they are willing to say something, they should back it up, and there should be some risk. Otherwise, you just go around destroying people's characters with no effort whatsoever, and no risk to yourselves. Those are my questions, sir.

1-037-0000

**Juliette Garside, Guardian correspondent and ICIJ Paradise Papers reporter.** – I'm not sure which one to tackle first or what the questions were, but I might pick up your point about our right to information about what's going on inside companies and inside the structures set up by

private individuals to manage their wealth. I think that private information has to be private and guarded under the law. We all have a right to privacy in our affairs. But that also – and the law does this – has to be balanced with the public interest. You say that no illegality was exposed within the Paradise Papers. There were cases of tax avoidance that was challengeable in court. HM Revenue and Customs is currently scrutinising the scheme that was operating in the Isle of Man, which was used to import hundreds of private jets without paying import tax in Europe. So I think that there are examples in which tax avoidance was so aggressive for the benefit of already very wealthy individuals that it may even have overstepped the law. We don't know yet and are awaiting the outcome. But yes, certainly we have to be very careful when we're handling people's private data: we want to keep them safe.

We have all sorts of measures for doing that, to delete material that we don't think has any public interest, so we try not to hold on to that sort of material. But we also have a duty when we are presented with things that may not be illegal but that certainly go against what society thinks should happen, that maybe enhance inequality in our society, the implication being that the offshore system provides a system that benefits the very wealthy, and we would argue that this happens at the expense of those who can't afford to use it. It's not just a question whether was there any illegal behaviour, but was there behaviour that was morally wrong, unethical, and aggressive, and should we be pushing to reform the system? I think that the Paradise Papers have shown that we should be pushing for reforms and we were right to interrogate those data.

1-038-0000

**David Coburn (EFDD).** – May I just come back, as Ms Scott Cato was allowed to come back ...

*(Interjection from the Chair: Sorry, we have gone beyond the time-frame)*

Ms Scott Cato was allowed. May I ask, Madam, why don't you chase Mr Soros, why don't you find out what he was doing, and why don't you talk about how much money, the British Government's and taxpayers' money, was squandered in trying to keep us in the European Union?

1-039-0000

**Tom Vandenkendelaere (PPE).** – Thank you, Chair. I am happy to be able to restore a little calm to the proceedings. I have two questions about UBO registers for Dr Pross and Ms Garside.

In the aftermath of the Paradise Papers, reference has been made to the importance of intermediaries in setting up tax havens. The name of the intermediary who featured most in the Paradise Papers was Appleby. In the Panama Papers, the recurrent name was Mossack Fonseca. We tried to invite some of the intermediaries to the European Parliament, but regrettably they declined every such invitation.

Since yesterday's revelations, it has become even clearer why that is: the scandalous deficiencies in their knowledge about the ultimate beneficial owners (UBOs). In the recommendations made by the PANA Committee, we called for UBO registers to be established in order to make it easier to identify UBOs. The 4th Anti-Money Laundering Directive (AMLD 4) requires Member States to set up such UBO registers. In Belgium, for example, a register of this kind will be in operation from July 2018. In addition, the fifth Anti-Money Laundering Directive (AMLD 5) requires the UBO register also to be publicly accessible for those who can demonstrate a legitimate interest, such as investigative journalists.

My two questions concern this. Firstly, Dr Pross, do you regard these UBO registers as sufficient to address this problem, even if they are not yet in force? Yesterday's leaks show that, two months after Mossack Fonseca learned of the data leak, it still in fact had no idea who was genuinely behind the companies (or some of them) that it had set up in the British Virgin

Islands. Will the UBO register that we have instituted really be able to tackle this problem? Or do we need more?

My question to Ms Garside concerns AMLD 5, namely public access to UBO registers. Will this help you with your work? Will it be useful for you to have access to such UBO registers? Or should we go even further in this respect, and if so, how?

1-040-0000

**Achim Pross**, *Head of the International Cooperation and Tax Administration Division, OECD*. – Thank you for the question. I'll probably focus on the tax side. The tax person and my colleagues on AML would be slightly upset if I spoke a little out of line, but I have two observations. Firstly, partly as a result of the Paradise Papers, there was a big push in Europe, as well as in the OECD, and we both came up at the same time with what we call mandatory disclosure rules. They're now incorporated into European law. This still needs to be implemented, so it'll take some time, but it's agreed. That means in effect that if you are setting up an opaque offshore entity under certain circumstances as an intermediary, you need to disclose what you're doing, and when you're doing it, to the authorities in your country, and they will exchange that information with the other country where the beneficiary is a resident etc. So that's one point. That's part of European law. It's also something that we have worked on at the OECD. There is, of course, the question of making sure that everybody who needs to be covered by the rules is covered by those rules, for, as you know, there will be situations in which those people will not be based in Europe. That's one part of the answer which is being pushed by the G7, the OECD and the EU.

Then, on beneficial ownership and what needs to be available: we already have a standard in the tax area that requires information to be kept both on the owners and on the accounting records, and this needs to be available on request to tax authorities. We make sure that this happens in 149 countries around the world, which is all the countries that you would need to be concerned about. So that's a tool available for tax administrations. We are now implementing the beneficial ownership standard, having gone from legal to beneficial. There are reviews, which you can see on our website country by country, showing how countries are doing with respect to their ability to have not just legal but also beneficial ownership information.

So there's a lot happening. We've also standardised data capture because sometimes it's important, as I said before, that the information isn't just on a piece of paper. We are in an electronic age, so ideally there should be structured data, and there's thinking going on about this.

On the question whether such a register should be publicly available, I guess I'll leave the floor. There is a wider interest within society in pure tax that I'm speaking of here. We're concerned, as you know, with correct taxation, so for us it will be entirely sufficient if the information is readily available for tax authorities. However, it may well be – speaking of corruption and more broadly – that a wider interest will come into play, so I'll hold that point over.

1-041-0000

**Juliette Garside**, *Guardian correspondent and ICIJ Paradise Papers reporter*. – Well, let me pick up then on whether they should be publicly available. The UK's tax agency has had its budget halved over the last 5 years, the number of tax inspectors has gone down, not up, and meanwhile, the number of tax schemes and aggressive tax planning, the amount of those sort of schemes has increased. So, I think that the more eyes, the better, on these sort of structures; tax authorities can't investigate alone. Cases need to be brought to their attention, often by reporters and campaign groups, NGOs, those sort of outfits, so I think we need access to registers for all of the public; you know, local papers need to investigate what's happening in their communities.

And secondly, I think that – certainly in the UK – I’ve worked on three of these big tax investigations now, and what I see in other European countries is a political will to bring high-profile cases, to set an example, so with HSBC, I think the chairman of Santander was eventually prosecuted, and in France, – with the Paradise Papers, sorry with HSBC again actually, with her Swiss bank account – the heiress to the Nina Ricci empire. In the UK, I think we’ve had one prosecution of a very low profile property developer. There seems to be, in certain countries, a lack of political will to use the powers that are already available to the tax agency, and so I think if what is happening is happening in a way that can be checked publicly then that increases the political will to ensure that enforcement actually happens.

In terms of registers, I think one significant omission is trusts. At the moment, trusts are being used to screen ownership and avoid tax and they need to be caught in the register system or they will be used to undermine it.

1-042-0000

**Ana Gomes (S&D).** – First I would like, just to say, referring to Malta, that indeed in the SLAPP cases, what we saw, we have evidence – actually confirmed by Henley & Partners to us – that the SLAPP actions against Daphne Caruana Galizia by Henley & Partners actually got the okay from the Prime Minister. So, it’s even more than apparently Ms Garside referred to the action of the British prime minister. And of course what is particularly concerning are the implications of the fact that there are links between this Henley and Partners, Cambridge Analytica, and this SCL company, which has been used to make elections being won by certain parties, for instance in Saint Kitts and Nevis, which was the jurisdiction that provided the passport for a guy that is now arrested in US: the banker of the so-called Pilatus bank at the centre of the plot in Malta.

It is also very worrying the fact that the children and the widower of Daphne Caruana Galizia have inherited all the SLAPP cases. It’s outrageous they are going through all that.

In the case of Portugal, just let me highlight that in Portugal, the golden visas number are now approaching 5 800, but it must be multiplied by three because there is the family reunification that comes with the golden visa. So we’re talking about more than 20 000 people since 2012, 80% of them being Chinese. Of course, the Government explanation that has been given for non-publication, where I’m challenging all the time, is data protection, which is of course absolutely outrageous.

My questions to Mr Pross: The public registers of beneficial owners have been rejected by many tax havens, namely in the EU, with the argument that this is not yet international standard, so when will the OECD move to make that kind of transparency into indeed a global standard?

And then you have said that the OECD is preparing a consultation document on the misuse of resident investment schemes to circumvent the common reporting standards and you just highlighted this thing with a BEPS certificate, but what about when these assets are not bank accounts or similar assets, and are for instance hard goods or whatever, high-value goods stored in Freeport and there is no transparency at all?

To Miss Garside, could you elaborate a bit more on the resistance that we are seeing immediately from these overseas territories to this new law passed in Britain to indeed order public disclosure of beneficial ownership, because there’s a big lobbying against that and also on the US anti-libel legislation that you think could be particularly useful for the European action?

1-043-0000

**Achim Pross, Head of the International Cooperation and Tax Administration Division, OECD.**  
– Thank you very much and excellent questions.

On the first one, beneficial ownership – where are we? It's a big question. It's not just a question for the tax people, it's a question for the FATF, starting with money laundering, fighting drugs. So, that's where it starts.

We have had an FATF standard that the OECD also follows on beneficial ownership, the information that you have to have in the 40 recommendations – so that standard exists. You need to know the body at the end of the chain. That is the standard. It's a very ambitious standard. That's the standard.

The question with the standard, as the FATF will testify, is not the standard itself but the degree of its implementation. So we review, so does the FATF. We have the reports. They're public. They're being reported also to the G20 in our case and the FATF as well, in order to make sure that we have a consistent application of this.

There is work to be done, as everybody in the field will tell you. So we have a standard. I think the importance is on making sure it's effectively enforced and there is work to be done. The FATF and the OECD do not require any single particular form of where you hold and how you hold the information. If you're doing this globally, you need to leave some flexibility of how you implement a standard, you need to get to the same outcome because it may be a variation of how you do it. It can be a register. The FATF neither the OECD requires it. Is a register as long as it's effective

And then there is the separate question of does this need to be public? As I said, it doesn't need to be public for the tax community, it doesn't need to be public for the FATF community, so there isn't a standard that it needs to be public. I think that, as we've discussed here, is sort of a wider question.

On the question about financial accounts. What do you do if you take the money and you take it out of a bank account and you buy a yacht, you buy a painting, you buy jewellery. It is true that the exchange system that we're bringing in for the world only covers financial accounts. They're widely understood, so if you have a certificate, an investment fund, etc. It's not just like a small matter. An insurance policy has many financial assets covered but not all assets. So the question would be if we were to detect that there is significant leakage. I think we would need to think about, do we go further? At the moment, balancing, reporting etc. I think that's where we are and also, to speak frankly, we followed the lead of the US with FATCA and started and developed on that. I think we improved the system. We created this common reporting standard but it does cover a wide range of financial assets, but financial assets. So we do not have automatic reporting on other assets that's true. On request they're available, you can ask. But the automatic feature is specific to financial assets. That's where we are.

1-044-0000

**Juliette Garside**, *Guardian correspondent and ICIJ Paradise Papers reporter*. – Your first question was on overseas territories and where we go now. Yes, the law has been passed by Parliament and it's fair to say that the Government isn't particularly overjoyed about this. It was a rebellion by its own MPs.

What you would expect, if the Government was really serious about changing the regime, is that it would acknowledge that there will be a financial impact in places like the BVI and Bermuda, which rely very heavily on this business. I think that the change in the law should come in along with an aid package of some sort to help their economies. At the moment, the BVI has hired a UK law firm called Withers, which actually happens to represent a lot of high net worth individuals, to bring a constitutional challenge to the order to create public registers. The people I've spoken to think that this challenge has no great chance of succeeding, because

Parliament is sovereign, but the Government will need to defend the order. The concern is that the Government may not defend it as rigorously as it should, if it doesn't really back the policy. So we need to think about how it can be defended.

Regarding the US SLAPP, I'm not an expert, but I understand that in the US there are financial penalties for plaintiffs who bring vexatious lawsuits against the disclosure of information that is in the public interest. I think that those penalties themselves act as a deterrent. Obviously it can be very hard just to pay for a lawyer to go to court to argue that a given case is a SLAPP case and should be dismissed, so we need to think about how small publications and freelance bloggers can afford this sort of defence.

1-045-0000

**Chair.** – I am afraid there is no time for catch the eye as the next panel starts in one minute.

I would like to thank very much our guest speakers, Ms Garside, Ms Rossel Flores and Mr Pross. It was very interesting and we appreciate your presence here very much.

## ***Panel II: Alleged aggressive tax planning schemes within the EU***

1-047-0000

**Chair.** – The public hearing continues with the second panel, which is on alleged aggressive tax planning schemes within the European Union. I have already made a statement at the very beginning of the hearing on the multinationals which were invited to this hearing, and now I would like to welcome Ms Irene Yates, who is Vice-President of Corporate Tax at McDonald's, and Ms Patricia Johnson, who is Vice-President and Chief Tax Officer at Nike Inc.

Each speaker will have 10 minutes for her introductory statement. I now give the floor to Ms Yates for her introductory remarks.

1-048-0000

**Irene Yates, Vice-President, Corporate Tax, McDonald's Corporation.** – Thank you for inviting me here today. To help our discussions, let me give you some brief information on McDonald's. In Europe our franchises are present in 39 countries, including all EU Member States, with over 8 000 restaurants. We serve approximately 15 million customers in Europe every day and we employ more than 425 000 employees. We source close to 90% of our agricultural raw materials within Europe. We are a significant contributor to the European economy.

McDonald's is unusual among large corporations in that our operations are based on a system of franchising, with over 85% of our restaurants in Europe owned and operated by franchisees who are independent businessmen and businesswomen. This system provides strong benefits for our franchisees: they are able to start up and grow their business over the long term with a licence to use an established and dynamic brand and operating system in McDonald's.

McDonald's operates company restaurants and, as franchisor, provides its proprietary operating system and ongoing innovations in areas such as menu development, supply chain, food safety, restaurant design, digital and the customer experience. McDonald's independent franchisees and company-owned operations pay, and have always paid, a royalty for the right to use the proprietary operating system. This enables us to invest and to develop and share innovations and subsequently to grow the business. The level of royalty paid is given careful consideration in its benchmark external use, using OECD-approved methods. The percentage paid is fair and based on arms-length market principles.

A little bit about the tax contributions that we make: McDonald's pays significant amounts of corporate income tax across Europe as well as social, real estate and other taxes. In the European



Union from 2013 to 2017, we paid more than USD 3 billion in corporate taxes, with an average tax rate approaching 29%. We also pay social, real estate and other taxes. Our local operating companies in Europe are based in the countries where we do business. They are subject to the laws of these countries and they pay tax in these countries. Our franchisees also pay corporate and many other taxes. Net we pay, and expect to pay, very significant amounts of tax in Europe.

In 2015 we announced the reorganisation of our business, and following this we aligned our corporate structure in order to support the new business model. These changes resulted in the creation of a unified structure, located in the United Kingdom, with responsibility for licensing the majority of the company's global intellectual property rights outside the United States. The new structure supports the company's growth plans by streamlining decision-making, reducing expenses and supporting our franchising initiative. The change resulted in the closure of the company's operations in Geneva. The company's Switzerland office in Crissier remains open. The company's office in Luxembourg retains responsibility for the Luxembourg restaurants. We selected the UK for the new structure because of the existing significant number of staff based in London who worked on our international business, the availability of additional qualified staff, language and connections to other markets. Our decision to reorganise the business and to align our structure is independent from Brexit, OECD BEPS development and the Paradise Papers.

I know that you are interested in tax policy development, so allow me to make a couple of comments. Clarity and simplicity of regulation in all areas are important to our business. With regard to taxation, the introduction of a new set of international rules and guidelines could help create a clearer, simpler and more consistent international tax regime. With regard to BEPS, we favour holistic implementation rather than unilateral country approaches. Rulings are also an important process to give companies certainty with respect to their tax positions.

Above all, we value clarity, consistency and legal certainty with respect to any new legislation in the area. This will enable our company to continue to grow, to create new jobs and to pay tax in the places where we do business, throughout Europe and around the world. Thank you, and I look forward to the discussion.

1-049-0000

**Patricia Johnson**, *Vice-President and Chief Tax Officer, NIKE Inc.*. – Good morning, my name is Patricia Johnson, and I am the Chief Tax Officer for NIKE. NIKE appreciates this opportunity to share with the Special Committee how and why we organise our business as we do, and to contribute to a constructive discussion with the European Parliament.

Today, I want to highlight two aspects of NIKE's business. First, NIKE makes a significant contribution to the EU economy. We do this through our investments, the jobs we create, the innovation we promote and by fuelling Europe's passion for sport. Second, with regard to tax policy, NIKE follows developments for two principal reasons: to adapt our structures to follow EU and Global tax rules, notably changes to the OECD guidelines, and to ensure we remain compliant with laws of every country in which we operate.

As a company with complex global operations, we advocate for tax policy that preserves a strong business climate, that provides simplicity and consistency in global enforcement. This allows NIKE to continue to invest with confidence and to inspire today's and the next generation of athletes.

NIKE is a committed and a long-term investor in Europe. Of our 74 000 employees worldwide, we employ more than 14 000 people in 20 countries across Europe. We have been present in Europe since 1972, with major operations since 1987. Since 1998, our European headquarters have been based in Hilversum, the Netherlands, where we employ more than 2 500 people. We

chose the Netherlands for multiple factors, notably the country's central location to supply markets across Europe, its diverse and skilled workforce and a dynamic but consistent business environment to fully maximise growth opportunities in Europe. We also have a state of the art global distribution hub in Belgium, where we employ 3 500 people.

Our investments in people, marketing, real estate, logistics and our partnerships with over 7 500 small and medium sized European businesses, are proof of NIKE's long-term commitment to Europe, its citizens and economy.

NIKE is a global sports company based out of Beaverton, Oregon. NIKE's European business relies on two main channels: the wholesale channel and the Direct-to-Consumer retail channel. We reach our consumers across Europe through a network of 309 NIKE-owned stores, through partnerships with over 5 500 wholesale and NIKE partner stores, and increasingly through digital channels. Our innovation and product development resides predominantly in the US. Our intellectual property includes trademarks, copyrights and patents, which are important to our brand, our success, and our competitive position.

Our business structure reflects the realities and demands of the global economy, spanning multiple geographies, product lines, and supply and distribution channels.

NIKE's tax structure reflects our business structure. It is designed to facilitate the delivery of our products and services in the most efficient and cost-effective way to our consumers. Our tax structure complies with international tax laws and guidelines established by the OECD, as well as with EU laws and rules of the countries in which we operate.

To illustrate, I will share some key facts with the Special Committee. Our 2017 total tax expense across Europe, including pay-roll, duties, property and corporate tax, was in excess of USD 500 million. In February 2018, with changes in US tax law, NIKE recorded a provisional tax expense of approximately USD two billion on accumulated foreign earnings. As a result, at this time, all of NIKE global earnings have been subject to tax. NIKE recognises that international tax rules are in constant evolution. The company has always and will continue to adapt to any changes to ensure we remain compliant in each and every country in which we operate.

In closing, we hope these remarks help promote a constructive dialogue with the Special Committee about tax and the global economy. I am available to answer any questions you may have.

1-050-0000

**Chair.** – The discussion with TAX3 Members will now start. Again, questions will be asked in slots of five minutes, one minute for a question, the remaining time for the answer.

1-051-0000

**Luděk Niedermayer (PPE).** – Thank you very much. First of all let me say that I highly appreciate your presence here, both ladies, because I know that it's not an easy decision to come here and talk to us. Many companies have decided not to come and I wanted to convey my appreciation to you for coming here and that's why I actually don't have any intent to ask any specific question concerning your tax issues.

I want to talk more broadly and it seems to me that over past decades many firms have dedicated too many resources in optimisation of taxes compared to resources to develop the day-to-day product. And some of them were very successful I must say. And the consequence is that more and more people, and also economists and obviously politicians, don't consider the tax situation that evolved as sustainable because it was not fair. It could be easily said that the tax should be reflecting the way how and where companies were making a profit and we achieved complete

cut-off between the location of profit creation and the place where our firms paid or not paid taxes.

I don't want to anyhow under-estimate the issues related to the taxing of intellectual property franchises and things like that. There is a lot of manoeuvring space, but I guess we all feel that there is time to change the current practice.

Society clearly is requiring more transparency and also, at the end of the day, at the bottom line, to see the fairness. Fairness in the way I talk about – when you create, when you do business, when you make money, you should pay some taxes.

It should be assured by legislative measures but not only by them also by non-legislative, by some persuasion and more awareness of the social responsibility of companies.

So my question is to what extent did you feel in your business the need to change over the last 5 or 10 years and how much of this change has already taken place in your company and how you can demonstrate it, and at the same time, if this is across the companies, across the business where you are operating or whether it's very different from one firm to the other. Thank you.

1-052-0000

**Irene Yates**, *Vice-President, Corporate Tax, McDonald's Corporation*. – Thank you very much for the question. As I said in my opening remarks, McDonald's pays, and has paid, more than \$3 billion in taxes across Europe – corporate taxes – over the last five years. We as a company, similar to what Nike said in their opening statement, have our corporate structure and our tax structure follow our business model. Tax doesn't lead the business decisions. So for us, changes that we made and in fact the most recent change into a UK domiciled structure came about as a result of a new CEO who came in and changed from a geographic global structure to a segment structure. We aligned the corporate structure following that, it doesn't lead it. We are committed to employment, paying taxes in every country where we do business, we have restaurants and they operate locally in the communities and that's where we pay our taxes.

1-053-0000

**Patricia Johnson**, *Vice-President and Chief Tax Officer, Nike Inc.*. – Again, thank you for the question and thank you Irene for going first. I would also like to say that with my experience at Nike, we have not moved business operations to manufacture tax results. We also follow what the business is doing and make sure that our tax and operating structures facilitate the ease of doing business, so that we can grow as fast as possible and invest with confidence.

1-054-0000

**Jeppe Kofod (S&D)**. – I would like to thank both ladies for appearing before our committee to answer questions. I will limit my questions to Ms Yates.

From 2015 to 2018, McDonald's corporate structure concerning activities in Europe has changed dramatically. According to the 'Unhappier Meal' report – which you are probably aware of – by several unions, in 2015 McDonald's activities in Europe were mainly controlled by no less than six companies based in the US and in Luxembourg. However, today you apparently need 11 companies, based in the US, the UK, Singapore, Hong Kong and the Netherlands, to run your operations. You spoke of the need for clarity and simplicity, so my first question is: what is the specific reason – not changing the business model – or reasons for highly complex changes in your corporate structure concerning the European activities?

Secondly, besides access to qualified labour, is your decision to move from Luxembourg tied to the Commission's investigation into tax rulings granted by Luxembourg, or is it based on the UK announcement of the lowering of the corporate tax rate? So, besides access to qualified labour, what is the reason for this?

1-055-0000

**Irene Yates, Vice-President, Corporate Tax, McDonald's Corporation.** – I'll start in reverse order with the question. The decision for McDonald's to relocate from Luxembourg, which had a geographic area of the world structure, into the UK was made following the move to a segment structure by McDonald's. We set up what's called an international lead market structure with five countries who effectively control 40% of our operating income.

In looking at ways to streamline and make more centralised and efficient quick decisions for sharing of information, innovation, etc., we contemplated where the best place was to do that and the UK surfaced as having proximity to the other markets. It had language similarities, especially with the US parent company, and, as you said – and as I said – it did have access to talent. We also leveraged an employee base that was there. The analysis and the decision predated the Brexit vote. It predated the OECD pronouncements of June 2017 and, as I said, it predated the Paradise Papers. It did not rely on any aspect of state aid but, whereas you appreciate our participation, I very much appreciate that we are not being asked to comment on active investigations. I will just tell you that it didn't have any. That's not what it was driven by.

1-056-0000

**Chair.** – And a follow-up in the remaining time?

1-057-0000

**Irene Yates, Vice-President, Corporate Tax, McDonald's Corporation.** – With regard to the structure changes? I didn't forget. Okay, with regard to the structure changes, what we have in the UK is a result of a transition and in a number of cases, for complex legal reasons, we may have moved a company versus just a transition of assets. There can be administrative simplicity in that, having to redo fewer franchise agreements for example. Some of the country rules that we followed caused us just to choose one over another. I want to make sure that the relevant piece of the operation in the UK though is well understood. We did not ask for nor have we received any special incentives or rulings from the UK as a result of our decision to move there. We pay full tax on the net profit.

1-058-0000

**Jeppe Kofod (S&D).** – I think that maybe you didn't hear my question. The first one was actually the specific reason or reasons for the highly complex changes in your corporate governance structure concerning your European activities, not only the UK but the fact that you apparently today you need 11 companies based, as I said, in the US, in the UK, Singapore, Hong Kong, Netherlands, to run the operations. So this shift to very highly complex corporate structure, the specific reasons behind that I don't understand. Is it for tax reasons or is there any other reason?

1-059-0000

**Irene Yates, Vice-President, Corporate Tax, McDonald's Corporation.** – No, it's not for tax reasons, we don't have a headquarters operation at all in the Netherlands. We have 75 franchisees there who operate restaurants.

I'm not certain that every aspect of the 'Unhappier Meal' report is accurate and so what I'd like to focus on instead is the fact that if you think about where we were before we had this business transition – we had operations in regional headquarters in Singapore. Those were moved to the UK.

1-060-0000

**Jeppe Kofod (S&D).** – Ms Yates, you said that not all information in the report was accurate. Can you provide us with a written answer to the committee, what in the report is not accurate and correct it, so we can see, you know what's wrong and what's right in this report? Will you provide that to the committee?

1-061-0000

**Irene Yates, Vice-President, Corporate Tax, McDonald's Corporation.** – No, I don't see any benefit in providing that to the committee. What we are opting to do as a responsible company is come here to describe for you what actually happens.

1-062-0000

**Jeppe Kofod (S&D).** – Sure, but for clarity reason, you emphasised the need for clarity and simplicity, but for clarity reasons it would be nice for the committee to receive, you know, what you find inaccurate in the report, so we can see what the real figures are? Just asking for that. Is it possible for you? Because you commented yourself – I didn't – so you commented yourself.

1-063-0000

**Irene Yates, Vice-President, Corporate Tax, McDonald's Corporation.** – Oh I answered it. I don't see the benefit of providing that information. I'm happy to answer the questions that we're discussing today.

1-064-0000

**Tom Vandenkendelaere (PPE).** – Good morning, Ms Yates. Last night I had a wonderful dinner at one of your restaurants. So you will not be able to accuse me of being critical just for the sake of it. But I would like to pursue the point that Jeppe Kofod has mentioned.

In your written answers you refer to the reorganisation of the structure since 2015. It is striking that this reorganisation is being announced immediately after the European Commission has launched an investigation into State aid in Luxembourg (the famous tax rulings), just after the revision of the US-Luxembourg tax convention, which was announced in June 2016, and just after or at the same time as Brexit, on which the referendum was likewise held in 2016.

It seems something of a coincidence that all of this has been happening at the same time. That is the reason for my first question. Do you not think yourself that a problem of perception will arise if McDonald's actively begins to alter its corporate structure at a time when a European Commission investigation is underway?

My second question concerns the revision of the US-Luxembourg tax convention. Did that revision also influence the decision to start the reorganisation?

My third question is about your choice in favour of the UK. You stated in your introduction that the decision to go to the UK was taken because there were many staff there, as well as because of the language. I wonder whether it was the presence of staff and the availability of language skills that also prompted the company to go to Luxembourg? Thank you.

1-065-0000

**Irene Yates, Vice-President, Corporate Tax, McDonald's Corporation.** – Thank you for the questions. In my opening, I explained that McDonald's decision to restructure followed a change in our business model. That followed the arrival of a new CEO in March 2015. So I echo your comment that it is a coincidence. It is not driven by any ongoing or active investigations. The perception, I would expect, is clarified by virtue of my explanation. With regard to the UK as the home – or now the centre for the licensing – personnel, language, connections to our international lead markets and our high growth markets are considerations for that. The Luxembourg decision in 2008-9 was made under a different business model.

So what I will restate is that what we are doing today is operating a centralised – more of a global – model designed to get innovation, decisions and changes out to our restaurants quickly in the countries where we do business.

1-066-0000

**Tom Vandenkendelaere (PPE).** – Could I put a brief follow-up question? Innovation is important to you. Do you think that transparency can be an element in this innovation?

1-067-0000

**Irene Yates, Vice-President, Corporate Tax, McDonald's Corporation.** – I didn't hear the end of the question.

1-068-0000

**Tom Vandenkendelaere (PPE).** – The question was whether transparency should be also part of the innovation you are keen on.

1-069-0000

**Irene Yates, Vice-President, Corporate Tax, McDonald's Corporation.** – I thought there was something after that. Okay.

*(No, no –Vandenkendelaere).*

We have a desire as a company for transparency and also for innovation. Innovation for McDonald's focuses on the restaurant operations and our menu, restaurant design, technology and the customer experience. Transparency from a corporate and a tax perspective involves us adhering to the laws and paying the taxes in the places where we do business. We file reports that are required and we pay taxes, significant levels of taxes, in the communities where we operate.

1-070-0000

**Peter Simon (S&D).** – Chair, I will ask my questions in German. I should like to pick up on the questions by Mr Kofod from earlier on, and would ask you, Ms Yates, to look this way for a moment. I am here, behind you on the right. Further. Yes, that's it.

There is this report which was published and which was mentioned earlier – the 'Unhappier meal' report. It contains a diagram by the authors showing the company structures of McDonalds in terms of tax before and after its relocation to the UK. You can see a clear line before, whereas afterwards there is a whole series of interconnected and nested companies. Can you give any reason to explain to an ordinary person why you would do this other than to create a lack of transparency? What makes it necessary to go, as part of the restructuring, from a lean structure to a system that, I believe, no tax authority would be able to follow in its entirety?

1-071-0000

**Chair.** – We are trying to understand the reasons behind the huge change if they were not tax reasons.

1-072-0000

**Irene Yates, Vice-President, Corporate Tax, McDonald's Corporation.** – As I have said, there are a number of reasons for legal purposes that we have moved assets in different ways, or companies and shares in different ways, into the UK. What is relevant, I think, and what is most important is that we pay the tax that is owed in the UK; we pay it at the statutory rate and we have not asked, or nor have we received any special incentives or rulings.

We have a significant operational base in the UK and we have the license rights for more than half of the non-US intellectual property.

1-073-0000

**Peter Simon (S&D).** – Chair, let us leave this matter to one side – in view of the time – and turn to another question: in your written answer, you referred to the OECD criteria with regard to your licensing payments and pointed out that the OECD criteria are in line with, and are based on, the arm's length principle. So, this means that internal transfer prices are in line with market prices.

Can you explain to me how you apply the arm's length principle – even if McDonalds is, admittedly, a unique trade mark in the world? What level of discretion do you have – or make use of – when setting internal transfer prices for licences? How is this handled in your company?

1-074-0000

**Chair.** – Ms Yates, on the transfer prices.

1-075-0000

**Irene Yates, Vice-President, Corporate Tax, McDonald's Corporation.** – McDonald's complies with the transfer pricing rules and goes through an analysis of appropriate royalty rates that drive a benefit for our franchisees and enable their use of McDonald's system, trademarks, brand, operating structure, etc. There are different market dynamics at play, but we generally use comparable, uncontrolled pricing methods, where those are available, and McDonald's as a franchise organisation, I did say, is different than many other large multinational companies. But we have more than 85% of our operations in the US franchised, without company-owned restaurants. We are undergoing a re-franchising effort globally to attempt to get to 95%. That translates into about 3 500 restaurants today, owned and operated by McDonald's, because we are at about 90% globally. So, we have different transactions that we can compare royalty rates on, to ensure that we have transfer pricing that is appropriate and royalty rates that are appropriate.

1-076-0000

**Max Andersson (Verts/ALE).** – Thank you to NIKE and McDonald's for coming here, while others, such as Apple and Appleby, did not come, it is good to see you. As you know, the European Union is on the verge of adopting laws on public country-by-country reporting in order to facilitate the struggle against tax avoidance. This will happen as soon as some Member States in Council – among them, unfortunately, Sweden where the Social Democrats are being very difficult – stop blocking this, but it's going to happen. You have problems with your reputation because of tax matters, and I wonder whether you would be willing, in order to strengthen your reputation, already starting by implementing the public country-by-country reporting, so that people will know where you are making your profits and where you are paying your taxes, or not paying them?

When it comes to McDonald's, it is very good that you are paying those taxes that you cannot avoid, but my concern is that your very complex company structures makes it easy for you to avoid paying other taxes. I would specifically ask you about the move of McD Europe Franchising from Luxembourg to Delaware in the United States. Could you tell us if your company had been aware that Delaware is a jurisdiction of very limited disclosure requirements before this decision and did this affect the decision in any way?

To NIKE, according to the Paradise Papers, you moved a lot of money to Bermuda, a country with a zero corporate tax rate, to the Bermuda subsidiary NIKE International Ltd. Could you tell us how much tax has been paid on royalties transferred to Bermuda, and could you tell us how many employees you currently have in Bermuda?

1-077-0000

**Irene Yates, Vice-President, Corporate Tax, McDonald's Corporation.** – Delaware has a very well established and well respected court system for corporate rules in the US, and it produces an extensive database of corporate case law. In addition, the Delaware corporate law provides significant flexibility with respect to organising and managing a company. Over 50% of publicly-traded corporations in the United States are incorporated in Delaware, and this was not done to avoid taxes anywhere.

1-078-0000

**Patricia Johnson, Vice-President and Chief Tax Officer, Nike Inc.** – If I may, I will answer your question about NIKE's use of Bermuda. Under US tax law, we were allowed to defer tax on royalties collected from outside the United States until those profits were repatriated to the United States and, as I said in my opening remarks, we just recorded a USD two billion tax charge, reflecting all foreign earnings ever earned in NIKE's history, so taxes have been paid on all the earnings that were previously in Bermuda and unrepatriated.

We can also answer your question on country-by-country reporting. We responded in our written statements. These reports are disclosed to foreign taxing authorities under the procedures agreed to by the OECD and European policy makers and as adopted by US tax law. This governs our treatment of these reports. The OECD on multiple occasions confirmed that these reports should be used solely by taxing authorities, very prudently, and only as a tool for risk assessments.

1-079-0000

**Max Andersson (Verts/ALE).** – Thank you for the answers and I have a short follow-up to McDonald's. You are not denying that you were aware of the fact that Delaware has very limited disclosure requirements and your answers basically boils down to everybody else is doing it, too. If you could answer the question of public country-by-country reporting also?

1-080-0000

**Irene Yates, Vice-President, Corporate Tax, McDonald's Corporation.** – My answer with respect to Delaware was twofold and it was explaining that it was not an unusual thing for an American company to do, to move to Delaware, but it is largely because of the well-established and well-respected court system. Delaware has a state tax and companies that are incorporated there that meet nexus requirements pay in Delaware.

With respect to country-by-country, I echo Ms Johnson's comments that we are more than willing to abide by the law, but currently there are valid reasons and tested discussions about how country-by-country should be shared, and so currently it is required to be shared across tax authorities and that is what McDonald's will continue to do.

1-081-0000

**Chair.** – Thank you. I recall that a delegation from one of the predecessors of this committee, the PANA Committee, visited Delaware during its US mission so we saw the situation there ourselves.

1-082-0000

**Paloma López Bermejo (GUE/NGL).** – We all know that there is aggressive tax planning among States with the aim of attracting large firms to their territories. Three companies which are expert in this aggressive tax planning were invited to appear here today. It is clearly not illegal. Whether it is ethical is another matter.

Apple decided not to appear at this meeting. This is not the first time that major multinationals consider themselves to be above representatives of the citizens. McDonald's is an example of tax engineering aimed at not paying taxes in Europe, other than in the UK. Nike uses subsidiaries located in offshore jurisdictions coordinated from the Netherlands to reduce their fiscal burdens. Regrettably, we can observe the creativity of companies that pushes the limits of the law in pursuit of profit and which greatly exceeds the regulatory capabilities of the States.

In this Parliament, we have been working on anti-evasion rules. But what I would like to know is your view as a company of the effectiveness of these rules. With this in mind, my questions are: How will the European proposal to create a common consolidated corporate tax base affect your corporate structure and business strategy? Similarly, how will you be affected by the rules on controlled foreign undertakings?

Specifically for Ms Johnson: Is the decision by Nike to establish itself in the Netherlands based on the aggressive tax conditions in the Netherlands?

To conclude, you say that you have listened to the voice of the consumers. What exactly does this mean for you? Does it mean that your customers agree with these practices involving tax avoidance to the tune of billions?



1-083-0000

**Irene Yates**, *Vice-President, Corporate Tax, McDonald's Corporation*. – I would like to clarify something that may have been misconstrued, based on the nature of your question. McDonald's pays tax in every European country where we do business. The three billion that has been paid in corporate taxes over the last five years represents profits that are earned and taxes that are owed based on restaurant operations in every country. I do not expect that there would be any significant change in McDonald's business profile, tax profile, as a result of anti-avoidance provisions or anything similar because we expect to pay taxes and we do today.

With regard to the CCCTB, it'll be interesting to see how that plays out but, as I've said, the goal of encouraging transparency and simplicity is appropriate, and it's one that McDonald's supports. In looking at the details though, it's important that the system apply to a number of different business models, so that all businesses are held to the same standard. We adhere to the transparency requirements and will continue to do so.

1-084-0000

**Patricia Johnson**, *Vice-President and Chief Tax Officer, Nike Inc.*. – Thank you. With respect to the question on our consumers, we constantly monitor consumer preferences and consumer sentiment with respect to our brands. That changes day by day, issue by issue, so we do not measure our consumer preferences with respect to our tax planning or anything that was released by the Paradise Papers.

With respect to European tax reform and the consolidated results, we support tax reform that simplifies administrative procedures, improves dispute settlement procedures and provides clarity to the law, and we would support any move like that in Europe.

With respect to the question on the Netherlands and how Nike works with the Netherlands, we as a wholesaler and retailer and innovator ensure that we follow OECD guidelines, which have been in place for decades, so that we leave the appropriate amount of remuneration in each country, in accordance with the services provided and what that business is accomplishing in that community.

With respect to Bermuda, at this time our Bermudan entities are no longer active. We are in the process of liquidating those entities.

1-086-0000

**David Coburn (EFDD)**. – Well, well, well! All I can say is that, having listened to this committee of citizens' Robespierres, I am not in the least bit surprised that McDonald's has chosen to move its HQ to Great Britain. I would too. I'm sure that after Brexit you are going to see an awful lot more companies moving to the United Kingdom, which is good for us and so Brexit is going to be an absolute windfall. I can't blame them as there are good reasons for going to the UK – namely that, as I'm sure that the ladies know well, the tax and legal system is better, which is why most companies in the world, when they do a business deal say they want it judged by English law. There is a good reason for that. It is because it works, it is clear and it's not biased.

Dispute settlement, as the lady said, is very important which is the other reason why people set up Delaware companies. There are reasons for this, but the trouble is that most of the people on this committee have never run a business in their lives and haven't a clue how to run one. The whole thing is that business is not there simply to pay tax. Businesses are created to make profit and, incidentally, to employ people. These two companies may have complex tax structures, but at least they are employing a lot of people in Europe, which I may say is more than what most European companies are doing – or indeed the European Union, which seems to spend most of its time destroying jobs throughout Europe.

All I can say is that if this committee is an example, then I would ask whether it encourages these ladies – I hope – to put more business Britain’s way?

*(From the floor ‘What was the question’?)*

The question is ‘will you be putting more business Britain’s way’?

1-087-0000

**Chair.** – Thank you, but I would remark that people are not here only not to pay taxes, and they do.

1-088-0000

**David Coburn (EFDD).** – No, actually, that’s not true sir. The employees of the European Union pay minimal taxes, so that is the best tax wheeze in the world. It’s true sir, all our employees pay less taxes than our normal citizens.

1-089-0000

**Irene Yates, Vice-President, Corporate Tax, McDonald’s Corporation.** – McDonald’s has a stated objective to grow profitably around the world, and that includes in the UK.

1-090-0000

**David Coburn (EFDD).** – Very pleased to hear it.

1-091-0000

**Patricia Johnson, Vice-President and Chief Tax Officer, Nike Inc..** – With respect to Nike, we hope to grow our business in the UK and we hope that consumers continue to prefer our products.

1-092-0000

**Dariusz Rosati (PPE).** – Thanks to both ladies for being with us today. I’m also a fan of McDonald’s and also a fan of Nike shoes – I have at least three pairs at home, and I hope that I will enjoy them in future too.

Now let me start with you Ms Yates. You said that McDonald’s pays taxes in every EU Member State where it has operations, actually probably this is in all the Member States. My question is this: the McDonald’s business model is based on the franchise system in which the individual operator pays a franchise or royalty to whom? To the UK headquarters, European headquarters or – previously – to the Luxembourg headquarters?

This is question number one. How much profit remains after paying these royalties? In other words, what is the share of these royalty payments in individual Member States – McDonald’s profits? How much of those profits remain in Member States, with taxes then being paid, as you said, on this remaining part?

So that is my first question. The second question is, do you have any individual tax ruling with any Member State here in the European Union? Did you have one with Luxembourg? Do you have one with the UK or with any other Member State?

To Ms Johnson, if I may, the question is a similar one: what is the proportion of royalties related to the total turnover and to the gross profit before tax?

The second question to you is, what effective tax rate do you pay on your profits in Europe?

Finally, you said that you have paid taxes on all repatriated profits to the US, if I understood you correctly. Could you confirm that? That all your profits that have been transferred outside of the European Union have at the end of the day been taxed in the US?

1-093-0000

**Irene Yates**, *Vice-President, Corporate Tax, McDonald's Corporation*. –Thank you. The royalties that are paid by McDonald's companies and our third-party franchisees are paid into different companies, in either the US or the UK globally, and when I talk about the profits that remain from McDonald's, this is only 15% of the system-wide business, because we have an 85% franchise operation, as I explained. The franchisees also pay taxes, they adhere to the laws in the countries where they operate. I don't have exact profit numbers for Europe, but the USD 3 billion over five years equates to an average of a 29% statutory rate around those countries, and as you know, tax rates in Member States vary significantly.

With regard to individual tax rulings, I can restate that we do not have any tax rulings in the UK.

The question of a tax ruling in Luxembourg is one that's being addressed as part of the state aid investigation, and I will reiterate my appreciation for being told that I would not be discussing that.

1-094-0000

**Patricia Johnson**, *Vice-President and Chief Tax Officer, Nike Inc.*. – If I may, I'll start with your last question first, and please let me clarify: the new tax law in the US required us to pay tax – we call it the transition tax or some people call it the toll charge – it required us to pay tax on all un-repatriated earnings, earned anywhere in the globe. So at this time, if we had earnings in a jurisdiction that had not been repatriated to the US, those were subject to tax. The calculation is quite complicated, but the base of the calculation is your offshore earnings and profits, which I think of as tax-based retained earnings. So even the re-investments that we've made in these communities in the EU – for example our Belgian distribution hub – those earnings now have been taxed in the US, un-repatriated.

In my written comments we also received the question about measuring income obtained from royalties in relation to turnover, and in my written response I replied that that's not a ratio that we track or that we disclose. Yes, we have external royalties, we collect royalties from third parties, and we also have internal royalties, but that's not something that we track or disclose.

The effective tax rate in Europe, we also do not track that but we can come back and calculate that and follow up with the committee.

1-095-0000

**Ramón Jáuregui Atondo (S&D)**. – With regard to the last reply, I wonder: if I buy some trainers in Brussels, what percentage does Nike attribute to the intellectual property of that product? That is, that intellectual property which is listed in Oregon, not in Brussels. May we know what, on average, figure Nike attributes to intellectual property in their products?

Second question: you know that the European Union has drawn up a double list – black list/grey list – of so-called tax havens. Do you, McDonald's or Nike, have companies resident in these countries, do you have subsidiaries in these two countries?

Third question: What percentage of the total taxes paid by McDonald's and Nike were, in the case of each company, paid in Bermuda specifically? Could you tell us as a percentage of the total taxes paid?

And, my fourth question: it was not clear to me whether the two companies submit to each individual tax office in each country in the Union – as per the 'country-by-country' requirement – the national breakdown by country of their taxes, of their tax contributions.

1-096-0000

**Patricia Johnson**, *Vice-President and Chief Tax Officer, Nike Inc.*. – With respect to the question on the country-by-country report, I will take that one first. We supply that to the US Government. It is part of our tax return filing, so it is on file with the Internal Revenue Service of the United States, as is required by our law.

With respect to Brussels, that is a complicated question and I am going to break it apart just a little bit for you. We have several businesses in Belgium. One is the distribution business, which has global coverage. That distributor sees that the right service fees are taxed as appropriate for a distributor of like size, and we benchmark that against other third-party distributors and what they would charge us for those services.

With respect to the sale of a shoe, a shoe is sold by our wholesaler to our retailer in Brussels, in the same way as it is sold to a third-party retailer – and you will recall that we have over 5 500 retail partners in the EU as opposed to 309 Nike-owned stores, so we treat both of those units fairly. So for our retailers, if you buy a shoe from a Nike-owned store in Brussels, it will get the same as a third party would realise on a sale of a Nike shoe in a third-party store.

You also asked how much tax has been paid in Bermuda. Tax has been paid on all the earnings that were in Bermuda through the transition tax and the USD 2 billion charge that we recorded in our third quarter.

1-097-0000

**Irene Yates**, *Vice-President, Corporate Tax, McDonald's Corporation*. – I can echo Nike's answer to the question about the filing of a country-by-country report. Ours is also with the US and the Internal Revenue Service and was filed as part of our tax return for the year ended 31 December 2017.

McDonald's operates in 120 countries both as a corporation and through unrelated licensees or franchisees, so I anticipate that there are some companies located in a 'grey market' countries – I think that's how you described it? – but I would need a specific example to try to address that.

With respect to Bermuda, tax is paid on the activities that occur in Bermuda, which for McDonald's includes an insurance company.

1-098-0000

**Ramón Jáuregui Atondo (S&D)**. – Thus, if I have understood correctly, the country-by-country report is only submitted to the US, not to European countries. Can you confirm if this is the case? In other words, European countries do not receive information from your companies on a country-by-country basis, but the United States does.

1-099-0000

**Patricia Johnson**, *Vice-President and Chief Tax Officer, Nike Inc.*. – Under the rules and the guidelines established by the OECD and by the policies that were adopted with the taxing authorities in all of the EU countries, information sharing is between taxing authorities. So we are required to file it with our corporate tax return in our home country, and if another OECD country would like to see that country-by-country report they have to use the procedures to request that from the Internal Revenue Service.

1-100-0000

**Irene Yates**, *Vice-President, Corporate Tax, McDonald's Corporation*. – Nothing further. That's our understanding as well.

1-101-0000

*Catch-the-eye procedure*

1-102-0000

**Luděk Niedermayer (PPE).** – Thank you very much. Let me go back to my first question, and I must say I was a little bit disappointed that I received an answer to something very different than what I actually asked.

My question was: to what extent, due to legislative and non-legislative changes in the tax area, not only in the EU but globally, are companies like yours reassessing your approach to tax policy. And by that I don't mean that you never had the logic that business followed the tax. But even if the tax follows the business, there are several options on how to address the tax issue.

And here my feeling is that your shutting down of your Bermuda operation is a consequence of US tax reform. And also it's hard for me to understand that your Luxembourg operations previously were not actually dictated by the tax arrangement that you had from the Luxembourg Government.

So it would be really good for me and for my colleagues to really see and understand that big companies, like yours, have somehow reassessed this issue and want instead to obtain more transparency, more clarity in tax matters, and try to honour the principle that taxes should be at least partially paid in the areas where you do business. And by that I don't mean tax from property, that is inescapable; and I don't mean tax from the wages, that again you have to pay; but I am talking about the part of the corporate profit.

1-103-0000

**Patricia Johnson, Vice-President and Chief Tax Officer, Nike Inc..** – Under OECD guidelines we have to pay tax according to the value that is created in each jurisdiction where we do business.

We can't allocate profits to one jurisdiction without another jurisdiction thinking that they have lost some profits. So that's why we are very careful to ensure that we follow the 'arm's length' principle for recognising profits where the value is created.

The other item in terms of our total burden on tax also includes duties, which is very different from McDonald's, and I would like the Committee to understand that that's a significant burden for a company like Nike, in the EU and everywhere that we do business, and that's been lost in this conversation.

1-104-0000

**Irene Yates, Vice-President, Corporate Tax, McDonald's Corporation.** – Like many multinational companies around the globe and in Europe we do continuously review our corporate structure in light of business, legal, tax and other considerations, and we make adjustments if appropriate to maintain efficiency and competitiveness.

1-105-0000

**Jeppe Kofod (S&D).** – Thank you. I will just use the opportunity to follow up because, Ms Yates, when I asked about your structures and so on, I didn't get a really clear answer, so can you just maybe answer 'yes' or 'no' on this?

First of all, the new complex structure that you set up – has that structure also to do with tax issues or not? That's the first question.

And secondly, when I asked about the movement, you yourself alluded to the 'Unhappier Meal' report. It was not me, it was you who alluded to it, and you said there were inaccuracies in that report. And I think it would be great for the committee and Parliament to get your answer in writing on the inaccuracies you have identified so that we can see what's wrong and right in the

report. I mean, if you can state that there are inaccuracies, you can also, I think, express that in written form. If not, then I don't understand your comment.

And then, finally, to both of you – are you and your companies in favour of more transparency when it comes to taxation? For example, having public, country-by-country reporting of some key figures that can serve to give more transparency, for the public to see how your business operates. Will that be something you support, public country-by-country reporting?

1-106-0000

**Irene Yates, Vice-President, Corporate Tax, McDonald's Corporation.** – The current corporate structure for McDonald's in the UK is one that is set up and pays full UK statutory rates on all income that is earned in the United Kingdom. It is not subject to any special tax rulings.

With regard to a country-by-country public report, our preference is that this report be shared across tax authorities. There is competitively sensitive information in it for McDonald's and we operate in a very competitive environment: there are more than 950 000 informal eating-out establishments in Europe today, and a number of our competitors are local and would not be subject to the same requirements as McDonald's would be.

With respect to the 'Unhappier Meal' report, I am hopeful that I have answered the substantive questions, and again I'm not certain of the benefits of going through line-by-line, or taking anything up. What we're trying to do as a company is to explain that we pay our taxes, we employ people, we offer jobs we view as investments, and it's more important for me to get McDonald's message out and explain what we do versus starting to address other things.

1-107-0000

**Jeppe Kofod (S&D).** – I don't understand why it should be secret, the things you identify in this report as being inaccuracies. Why is it a secret that the public cannot know? I think it would be beneficial for the public to know if you identify something which is wrong in the report, then it should be clarified, for all purposes.

1-108-0000

**Irene Yates, Vice-President, Corporate Tax, McDonald's Corporation.** – I will consider the request.

1-109-0000

**Patricia Johnson, Vice-President and Chief Tax Officer, Nike Inc..** – Having just filed our first country-by-country report, I would say at this stage, with the way that the report comes together and the rules regarding the report, I don't think it's fit for public consumption. I think that we need to have more time to see how the taxing authorities utilise this report, and also whether all the countries respect the information in that report and treat it similarly. Again, there's only so much profit to be taxed by different countries and right now we pay tax on all our earnings globally.

1-110-0000

**Pirkko Ruohonen-Lerner (ECR).** – Chair, I should like to thank everybody for these interesting interventions that we have heard. The discussions that have taken place today make it possible to conclude that both companies are paying taxes. It was still not clear whether, proportionally, they pay the same level of taxes as SMEs competing with them on the same market do.

I would like to ask the representatives of both companies whether they participate in any ways in the funding of political parties or in funding the election campaigns of individual politicians in the various countries? If so, in which countries, and how much money do they donate for the purpose?

1-111-0000

**Patricia Johnson, Vice-President and Chief Tax Officer, Nike Inc.** – I'm sorry, how Nike participates in political campaigns is outside of my area of expertise, but I'd be happy to get a reply to the special committee.

1-112-0000

**Irene Yates, Vice-President, Corporate Tax, McDonald's Corporation.** – The same.

1-113-0000

**Chair.** – Well, it is also a bit outside the scope of the committee, but anyway...

1-114-0000

**Peter Simon (S&D).** – Chair, a question for Ms Yates. Ms Yates, you already mentioned – and it was also stated in the written reply – that you paid over \$3 billion in corporation tax between 2013 and 2017, based on an average corporate tax rate of almost 29 %.

Could you – for us to appreciate better what this means – give us some figures as to the level of corporate tax paid prior to and after your restructuring? And could you give us an overview of the amount of tax paid in the period before and the period after, as well as the profit and turnover figures on which this was based?

1-115-0000

**Irene Yates, Vice-President, Corporate Tax, McDonald's Corporation.** – In one of my prior appearances I outlined that the statutory rate for a previous five-year period for McDonald's was approaching 27%. So the rate currently is increasing. That, though, is also due to business growth for McDonald's.

So if you think about it, if a country with a higher tax rate grows faster than a country with a lower tax rate, it will raise your average.

There is additional tax paid in Europe also as a result of the move to the UK, because some Asian and certain US intellectual property, or property that was based there, is now in the UK, so we've also raised the UK tax collection through the structure.

1-116-0000

**Peter Simon (S&D).** Do you have the figures to hand, or could you send them to us later, as to how much tax exactly you paid – broken down by profit and turnover?

1-117-0000

**Irene Yates, Vice-President, Corporate Tax, McDonald's Corporation.** – I don't have the figures, we track it more as an aggregate. The turnover that is included and is public information is somewhat by segment now for McDonald's, rather than geographic. As I said, it follows the change in our business model.

1-118-0000

**Chair.** – You don't have the information at your disposal at the moment, or in general, or would you like to share it perhaps at a later stage in writing? Is it possible to some extent?

1-119-0000

**Irene Yates, Vice-President, Corporate Tax, McDonald's Corporation.** – We are obligated and willing to file every thing that is required, but country breakdowns of specific turnover and income or tax figures is not something that we generally would share, its proprietary.

1-120-0000

**Chair.** – OK, that is a clear answer.

1-121-0000

**Dariusz Rosati (PPE).** – Ms Yates, I'd like to come back to your answer to my first question in the first round. You said something very interesting. You said that the franchisees pay 85% – of what exactly? Is this a profit they make and does it mean that the average tax rate – you mentioned 29% on the European operations, is paid on the remaining 15%?

Could you clarify that?

1-122-0000

**Irene Yates, Vice-President, Corporate Tax, McDonald's Corporation.** – Yes, and please let me clarify that because that is not at all what I intended. McDonald's business today is run as follows: if you think about our number of restaurants, 15% of our restaurants are owned by McDonald's, 85% of our restaurants in Europe are owned by franchisees, they are independent businessmen and women and they run their operations with entrepreneurial freedom. They are also expected though to adhere to the laws in the countries. I don't have information on the third parties, around their tax affairs.

1-123-0000

**Dariusz Rosati (PPE).** – These are third parties, you call them third parties right?

1-124-0000

**Irene Yates, Vice-President, Corporate Tax, McDonald's Corporation.** – Yes, they are independent, they are entrepreneurs.

1-125-0000

**Dariusz Rosati (PPE).** – But you have agreements with them right? On the basis of which they operate under the franchise of McDonald's?

1-126-0000

**Irene Yates, Vice-President, Corporate Tax, McDonald's Corporation.** – Correct.

1-127-0000

**Dariusz Rosati (PPE).** – And they pay for that?

1-128-0000

**Irene Yates, Vice-President, Corporate Tax, McDonald's Corporation.** – Correct.

1-129-0000

**Dariusz Rosati (PPE).** – How much do they pay?

1-130-0000

**Irene Yates, Vice-President, Corporate Tax, McDonald's Corporation.** – The royalties vary. We spoke about how different royalties are collected. I think if your question is whether or not we have the information about the taxes that they pay, we don't. They are required under the franchise agreement to adhere to the laws in the countries where they do business, including the tax laws.

1-131-0000

**Dariusz Rosati (PPE).** – Okay, so speaking about the 29% effective tax rate you pay, that refers to what?

1-132-0000

**Irene Yates, Vice-President, Corporate Tax, McDonald's Corporation.** – That is for McDonald's corporate operations and any tax on the royalties that are received into the UK. So it's an aggregate European number.

1-133-0000

**Dariusz Rosati (PPE).** – OK, and you have no idea what proportion of the profit before tax is paid in the form of royalties, simply. To what extent do these royalties reduce the tax base in individual Member States? I would like to have this information.

1-134-0000

**Irene Yates, Vice-President, Corporate Tax, McDonald's Corporation.** – The information that is available for me to share with regard to payments from our third party DLs versus the company is that McDonald's in the last year, so for 2017, recorded revenues of almost USD 23 billion and that breakdown globally is USD 12 billion of company sales, 12 to 13, and just over USD 10 billion of payments in the form of royalties or rent from our franchisees.



The important thing to understand about a franchise business arrangement is that the payment of the royalties enables our franchisees to grow quickly and profitably. If you think about the 425 000 people who are employed, they are employed by both McDonald's and independent businessmen and women. You pay royalties to get the brand name, the know-how, the innovation, and the access to a lot of assets and benefits that you don't have to create yourself. It generally results in a higher level of profit for franchisees than if I had to start a business on my own and work without the McDonald's system and the 60 years of success behind it.

1-135-0000

**Paloma López Bermejo (GUE/NGL).** – A very specific question that has not been answered, as I understand it, from my first round of questions. I will reformulate it in case it was not well understood: I would like to know about how exactly the changes in EU law will affect the payment of your business taxes in relation to intellectual property; I would like you to tell us how it will affect you and how you will handle it, what have you planned exactly with regard to how these changes will affect you in terms of the payments for intellectual property.

1-136-0000

**Patricia Johnson, Vice-President and Chief Tax Officer, Nike Inc..** – I'm sorry, I don't understand the question about changes in payment on intellectual property. Perhaps the question refers to the new digital laws that people are talking about but I don't understand the question.

1-137-0000

**Irene Yates, Vice-President, Corporate Tax, McDonald's Corporation.** – Nor do I.

1-138-0000

**Chair.** – I think it's related to internal shifts within the companies when it comes to reduction related to intellectual property or selling, but would you like to specify the question more? Perhaps I am wrong.

1-139-0000

**Paloma López Bermejo (GUE/NGL).** – I must insist on this. I have asked this already and will put the same question to you again. There is legislation by Parliament on the common consolidated corporate tax base and on the control of foreign companies. And what I want to know exactly is how this change of legislation affects the payment of taxes for these two companies.

1-140-0000

**Patricia Johnson, Vice-President and Chief Tax Officer, Nike Inc..** – Because we pay tax in every country according to the laws of the country, and in accordance with the value that is created following OECD transfer pricing principles, I don't think that we can anticipate any change in the way that we pay tax in the EU at this time.

1-141-0000

**Irene Yates, Vice-President, Corporate Tax, McDonald's Corporation.** – We operate in every European country, and in every EU country, and we pay tax where we do business, so I am not aware of how those rules would change what we do.

1-142-0000

*(End of catch-the-eye procedure)*

1-143-0000

**Jeppe Kofod (S&D).** – I just want to say thank you for appearing before the committee. We appreciate that, and we look forward to continuing our cooperation and clarifying the things that were not answered. As I said, unfortunately not everyone we asked to come to Parliament to explain did so, but it is important that you came here and answered as well as you could, and I hope you will also follow up on our concrete questions afterwards.

1-144-0000

**Irene Yates, Vice-President, Corporate Tax, McDonald's Corporation.** – I did agree to consider it. Thank you.

1-145-0000

**Chair.** – I would like to ask our guest speakers whether they would like to make a final comment on the basis of what has been discussed, whether there is a statement they would like to leave with us at the end? It is not necessary of course.

1-146-0000

**Irene Yates, Vice-President, Corporate Tax, McDonald's Corporation.** – A short statement is fine, thank you. We appreciate the opportunity to have been invited and for McDonald's to be able to attend. As a measure of what we anticipate is transparent, continued cooperation with the European Parliament, I think it would be most appropriate for a concluding statement to focus again on the policy developments, so we appreciate the efforts of this committee and the European Parliament to seek clarity and simplification of regulations in all areas regarding tax. We value clarity, consistency and legal certainty in those areas, so thank you for your efforts.

1-147-0000

**Patricia Johnson, Vice-President and Chief Tax Officer, Nike Inc..** – Again I echo Ms Yates' comments. Thank you very much for the opportunity to appear today. Again, Nike advocates for a tax policy that preserves a strong business climate and provides simplicity and consistency and global enforcement, and I stress global enforcement. That is what we are here to discuss with you and we are happy to contribute to that conversation.

1-148-0000

**Chair.** – I will not make any detailed conclusions. I think that everyone can reflect on what he or she has heard today. We will reflect it in our final report. I think it is clear that a lot still needs to be explored and a lot needs to be done on the side of investigative journalists who came up again with new revelations, but mainly on our side and on the part of legislators and those who enforce the law.

I would like to thank Ms Johnson and Ms Yates for being here today with us, and with regard to those companies who declined our invitation, it was for different reasons but we will deal with it, as I said at the very beginning, at the level of coordinators of political groups, and we will come up with possible solutions or measures on how to address this issue.

Thank you very much for being at the hearing. Within the framework of the meeting of our committee I would like to announce that our two co-rapporteurs are co-organising a panel discussion on President Trump's tax reform which will take place on 27 June at 12.45 in Room JAN 6Q1. The topic could of course be of interest to our Members and others. As regards the next meetings, we will meet on Monday, 25 June and on Thursday, 28 June.

1-149-0000

*(The hearing closed at 12.06)*