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REPORT

on promoting good governance in tax matters
(2009/2174(INI))

Committee on Economic and Monetary Affairs

Rapporteur: Leonardo Domenici

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United in diversity

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on promoting good governance in tax matters (2009/2174(INI))

The European Parliament,

- having regard to the Commission communication of 28 April 2009 on Promoting Good Governance in Tax Matters (COM(2009)0201),
- having regard to the Commission communication of 31 May 2006 concerning the need to develop a co-ordinated strategy to improve the fight against fiscal fraud (COM(2006)0254),
- having regard to its resolution of 2 September 2008 on a coordinated strategy to improve the fight against fiscal fraud¹,
- having regard to the Commission communication of 25 October 2005 on the Contribution of Taxation and Customs Policies to the Lisbon Strategy (COM(2005)0532),
- having regard to the judgment of the Court of Justice of the European Communities in Case C-255/02 on 21 February 2006 (Halifax and others v. Commissioners of Customs and Excise), in which the Court held that the Sixth VAT Directive (Directive 77/388/EEC) precludes a taxable person from deducting input VAT where the transactions from which that right derives constitute an abusive practice,
- having regard to the judgment of the Court of Justice of the European Communities in Case C-524/04 on 13 March 2007 (Test Claimants in the Thin Cap Group Litigation v. Commissioners of Inland Revenue), in which the Court ruled that Article 43 of the EC Treaty does not preclude the enactment by a Member State of legislation restricting the right of establishment of a wholly artificial corporate arrangement entered into for tax reasons alone,
- having regard to the recommendations contained in the Council conclusions of 14 May 2008 on tax issues related to agreements to be concluded by the Community and its Member States with third countries,
- having regard to the Commission proposal of 13 November 2008 for a Council directive amending Directive 2003/48/EC on taxation of savings income in the form of interest payments (COM(2008)0727),
- having regard to the Commission proposal of 2 February 2009 for a Council directive on administrative cooperation in the field of taxation (COM(2009)0029),
- having regard to the Commission proposal of 2 February 2009 for a Council directive concerning mutual assistance for the recovery of claims relating to taxes, duties and other

¹ Texts adopted, P6_TA(2008)0387.

measures (COM(2009)0028),

- having regard to the Commission proposal of 30 April 2009 for a directive of the European Parliament and of the Council on Alternative Investment Fund Managers and amending Directives 2004/39/EC and 2009/.../EC (COM(2009)0207),
- having regard to the Recommendation from the Commission to the Council to authorise the Commission to open negotiations for Agreements between the European Community and its Member States, of the one part, and the Principality of Andorra, the Principality of Monaco and the Republic of San Marino, of the other part, to combat fraud and other illegal activity to the detriment of their financial interests and to ensure administrative cooperation through exchange of information on tax matters and in order to authorise the Commission to open negotiations for an Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other part, to combat direct tax fraud and direct tax evasion and to ensure administrative cooperation through exchange of information on tax matters (SEC(2009)0899),
- having regard to the G-20 declaration issued following its Summit on Financial Markets and the World Economy, held in Washington on 15 November 2008,
- having regard to the Presidency conclusions issued following the European Council meeting on 19 and 20 March 2009,
- having regard to the G-20 declaration issued following its Summit on the Global Plan for Recovery and Reform, held in London on 2 April 2009,
- having regard to the Council conclusions issued following its meetings on 9 June 2009 and 20 October 2009,
- having regard to the Presidency conclusions issued following the European Council meeting on 18 and 19 June 2009,
- having regard to the statement issued by the G-8 Finance Ministers in Lecce, Italy, on 13 July 2009,
- having regard to the G-20 Leaders' Statement issued at the meeting held in Pittsburgh on 24 and 25 September 2009,
- having regard to Article 8 of the Charter of Fundamental Rights of the European Union,
- having regard to the report by the US Government Accountability Office (2007), the report by the British National Audit Office (2008) and the report by the *Conseil des Prélèvements Obligatoires* (2009), which point out, inter alia, that about a third of the 700 biggest UK corporations did not pay any tax in 2005 and 2006, that 25% of those US companies with assets worth more than USD 250 million, or income of more than USD 50 million a year, also failed to pay any tax between 1998 and 2005, and that France's biggest corporations currently pay 8% tax on real average benefits, whereas the official tax rate is 33%,

- having regard to Rule 48 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs (A7-0007/2010),
- A. whereas there is a global consensus at EU and international level that good governance in the field of taxation means transparency, exchange of information and fair tax competition,
- B. whereas a lack of good governance in tax matters encourages tax fraud and tax evasion and has serious consequences for national budgets and the European Union's resource systems, with the cost in the EU estimated to amount to 2.5 % of GDP per annum; whereas honest businesses are at a competitive disadvantage because of tax fraud; whereas good governance in tax matters should result in more resources being made available to the EU Member States and to developing countries in order to achieve the Millennium Development Goals,
- C. whereas globalisation has made it increasingly difficult to combat fiscal fraud at international level, and the 27 EU Member States with their major differences are particularly affected; whereas these factors militate strongly in favour of improving international cooperation within the EU and at international level in order to ensure that it is effective,
- D. whereas tax avoidance and tax evasion at international level constitute a serious obstacle to the achievement of the Millennium Development Goals,
- E. whereas a significant number of multinational companies have been structured so as to take advantage of tax avoidance in the different jurisdictions in which they operate; whereas differential tax treatment in different jurisdictions favours undertakings that are large, international or well-established over those that are small, domestic or new (start-ups),
- F. whereas multinational companies' ability to make extensive use of tax havens and offshore centres as part of their tax avoidance strategies conflicts with the principle of fair competition and corporate responsibility,
- G. whereas tax havens conflict with the principles of solidarity, justice and redistribution; whereas, in a globalised economy, a significant number of multinational companies use their power to put pressure on governments, particularly those of developing countries, to lower tax rates and provide tax incentives to attract investment; whereas in practice this has shifted the tax burden onto workers and low-income households and forced damaging cutbacks in public services,
- H. whereas the Council is currently dealing with a number of important legislative proposals on the taxation of savings, administrative cooperation and mutual assistance for the recovery of taxes; whereas strengthening good tax governance within the EU will provide a political and moral basis from which to demand good tax governance of third countries,

- I. whereas the adoption of the General Anti-Avoidance Principles (GAAP) gives tax authorities the power to consider whether the main purpose of a particular transaction is the avoidance or reduction of tax liability and, if so, to levy additional tax in order to counteract such avoidance or reduction,
- J. whereas developing countries frequently do not have the legitimacy or authority to tax their own citizens, precisely because of poor tax governance; whereas in formulating its tax governance policy, the EU must take into account the specific problems faced by developing countries and provide support to overcome them,
- K. whereas the combined efforts of the G-20 and the UN, together with the efforts made as part of OECD-led initiatives, have produced some promising results in the area of tax governance; whereas those results remain insufficient to cope with the challenges presented by tax havens and offshore centres and must be followed by decisive, effective and consistent action,
- L. whereas the OECD currently values private capital accumulated in tax havens at almost USD 1 000 000 000 000 (one billion), a figure five times higher than two decades ago; whereas more than one million companies, particularly in the United States and the EU Member States, have their registered offices in countries in which such tax havens are located,
- M. whereas there is evidence that the financial crisis was driven partly by new types of complex financial instrument and derivative placed, to a large extent, in funds domiciled in secrecy jurisdictions; whereas tax havens host, for example, complex financial products that cause financial instability, and many financial institutions had off-balance-sheet liabilities located in tax havens; whereas overall the financial crisis has shed new light on the consequences of a lack of good governance, highlighting the risks associated with opaque jurisdictions,
- N. whereas only 5% of cross-border tax claims are recovered in the European Union,

An opportunity that must be seized

1. Strongly condemns the role played by tax havens in encouraging and profiteering from tax avoidance, tax evasion and capital flight; urges the Member States, therefore, to make the fight against tax havens, tax evasion and illicit capital flight a priority; calls on the EU to step up its action and to take immediate concrete measures – such as sanctions – against tax havens, tax evasion and illicit capital flight;
2. Considers good tax governance – understood to mean transparency, exchange of information at all levels, effective cross-border cooperation and fair tax competition – to be a key element in rebuilding the global economy after the 2008 financial collapse;
3. Recalls in this context that it is of primary importance to put an end to the use of artificial legal persons as a way to avoid taxation; stresses also that instead of bank secrecy, automatic information exchange should take place in all circumstances, including in all the Member States and dependent territories; welcomes in this respect the Commission's proposal on administrative cooperation in the field of taxation because, inter alia, it

extends cooperation between the Member States to cover taxes of any kind, abolishes bank secrecy and establishes the automatic exchange of information as a general rule;

At EU level

4. Recalls that Parliament has delivered its position to the Council on amendments to Directive 2003/48/EC, asking, inter alia, that it end the temporary derogation that allows Austria, Belgium and Luxembourg to avoid exchanging information by applying a withholding tax; urges the Council to adopt the directive amending Directive 2003/48/EC in accordance with Parliament's position;
5. Welcomes as a first step, in relation to EU savings taxation, the withdrawal by Austria, Belgium, Luxembourg and Switzerland of their reservations to Article 26 of the OECD Model Tax Convention, and the endorsement of the OECD standards by Andorra, Monaco, Liechtenstein and San Marino; welcomes Belgium's decision to switch from a system of withholding tax to one of automatic exchange of information from 1 January 2010;
6. Stresses Parliament's request, in its position of 24 April 2009, to extend substantially the scope of Directive 2003/48/EC, in particular to cover legal entities (especially private companies and trusts) and various forms of investment income; recalls that the provisions of Directive 2003/48/EC should be extended to Singapore, Hong Kong, Macao and other jurisdictions such as Dubai, New Zealand, Ghana and certain states of the United States, which are not bound by the Directive 2003/48/EC and are therefore a favoured location for tax evaders;
7. Considers that the marketing in the EU of alternative funds domiciled in a third country must be conditional on that third country complying with good tax governance standards, including the effective implementation, on the basis of legally binding rules, of the principle of automatic exchange of information; stresses in particular that progress made on tax governance standards within international forums such as the OECD and the G-20 should not prevent the European Union from applying higher standards;
8. Emphasises that more efficient implementation of existing EU and national tax legislation would facilitate better recovery of taxes; also highlights, however, the urgent need for further efforts and measures aimed at improving good governance in tax matters;
9. Recalls that VAT-related tax fraud is a matter of particular concern for the functioning of the internal market insofar as it has a direct cross-border impact, involves substantial amounts of lost revenue and directly affects the EU budget; urges the Council to adopt the new directive on administrative cooperation in the field of taxation and to fight fraud in the area of VAT, taking due account of Parliament's position;

At international level

10. Urges all parties concerned to accelerate the conclusion of the anti-fraud agreement with Liechtenstein; urges the Council to agree on a mandate for the Commission to negotiate similar agreements with Andorra, Monaco, San Marino and Switzerland; calls, in this respect, on the Member States to review their bilateral tax agreements with third

countries;

11. Calls for increased cooperation, such as the automatic exchange of information between countries, with a view to facilitating the recovery of capital moved abroad via illegal activity to the detriment of the internal market;
12. Asks the Commission to report quickly on the Council's recommendation of 14 May 2008 that a good tax governance clause be included in relevant agreements to be concluded with third countries by the European Union and its Member States; in particular, stresses the need for provisions on good governance to be negotiated in the context of general or specific agreements with third countries and the need to ensure an effective process for monitoring their implementation;
13. Recalls, as regards the work on harmful tax competition under the Code of Conduct for Business Taxation, the need to ensure that the Member States implement the Code in their relations with third countries in a manner consistent with their efforts to promote transparency and exchange of information in tax matters;
14. Welcomes, as a first step, the advances made in the area of good tax governance as a result of the initiatives in other international fora such as the G-20, the G-8, the UN and, notably, the OECD; considers, nevertheless, that the commitments made by the G-20 to date are not sufficient to address the challenges posed by tax evasion, tax havens and off-shore centres;
15. Recalls that efforts to combat tax havens and tax evasion will be successful only if the same rules apply to all, so as to avoid the creation of further legal loopholes open to abuse; in this context, takes the view that Directive 2003/48/EC, which established the principle of automatic multilateral information exchange between countries, is a welcome step towards the establishment of a global framework for automatic information exchange; welcomes, accordingly, the Commission's proposal to promote cooperation with third countries in the framework of Directive 2003/48/EC;
16. Calls on the OECD and its Member States to involve the Commission fully in the Global Forum peer review exercise, in particular as regards the identification of non-cooperative jurisdictions, the development of a process for evaluating compliance and the implementation of dissuasive counter-measures to promote adherence to the standards in question; considers, furthermore, that the OECD framework for combating tax havens is unsatisfactory; highlights the need to improve the indicator for achieving the status of a cooperating jurisdiction by, for example, giving it a qualitative value; is critical of the fact that this indicator requires the conclusion of a mere 12 tax information exchange agreements; regrets, in this context, that the exchange of information takes place only on request rather than being a compulsory and binding requirement, and, furthermore, that the OECD allows governments to escape its blacklist merely by promising to comply with the information exchange principles, without ensuring that those principles are actually put into practice;

Towards a genuine EU policy of good tax governance

17. Considers that there is a need for consistency and for a genuine EU policy of good tax

governance; believes that the European Union's credibility depends, inter alia, on its willingness to clamp down on tax havens on its own territory first as an example of good governance; asks the Commission to monitor closely, in this context, the swift and thorough implementation of the actions set out in its communication on promoting good governance in tax matters;

18. Considers, without prejudice to the competence of the Member States, that the Commission should be asked to design and formulate such an EU approach and be given the necessary resources;
19. Recommends setting up an appropriate incentive system for the recovery of cross-border tax claims in order to increase the current low recovery rate of 5% by distributing a fair proportion of the unpaid tax income collected to both the administration recovering the tax claims on behalf of the requesting Member State, on the one hand, and the administration of the requesting Member State, on the other;
20. In regard to mutual assistance for the recovery of tax claims, duties and other measures, invites the Commission to estimate the number of cross-border tax claims by the Member States to be recovered within the territory of the European Union and to introduce quantifiable indicators for measuring progress in cross-border recovery over time;
21. Considers that the EU should actively promote the improvement of the OECD standards, with the aim of making the automatic, multilateral exchange of information the global standard; urges the EU, furthermore, to adopt measures that prevent abuse of the 'residence principle' through artificial domicile and ownership schemes allowing holding companies with no activity or shell companies to shield beneficial owners from paying taxes in their country of domicile; urges the EU also to adopt a common approach to the application of anti-abuse measures, which should be effective, fair and aligned with the concept of wholly artificial arrangements as established by the Court of Justice;
22. Urges the EU to implement a consistent approach to good tax governance in the context of the European Neighbourhood Policy, the enlargement policy and the development cooperation policy; stresses that the tax governance policy should actively contribute to building sustainable and transparent tax systems in developing countries, in particular with a view to eradicating tax fraud, which leads to an annual loss of tax revenue corresponding to 10 times the amount of development aid injected by developed countries; considers that an appropriate level of resources must be allocated to achieving that objective; recalls that tax governance will ultimately attract investment insofar as it contributes to legal tax certainty, transparency and stability;
23. Stresses the need to revise current international accounting standards with the aim of increasing transparency; calls in this regard for a requirement for the disclosure in companies' annual accounts, on a country-by-country basis, of accounting information relating to tax havens, and suggests an EU public register listing the names of individuals and undertakings having set up companies and accounts in tax havens, with a view to unveiling the true beneficiaries shielded by offshore companies;
24. Emphasises the need for the Member States to coordinate their policies in order to

enhance the implementation of anti-avoidance rules;

25. Recalls that the introduction of a common corporate consolidated tax base would help to tackle – within the EU – double taxation and transfer price issues within consolidated groups; looks forward in this regard to receiving the Commission’s impact assessment by the end of this year at the latest;
 26. Suggests that, in order better to identify inaccurate transaction pricing and the most frequently applied tax evasion techniques, the Commission prioritise the wider application of the comparable profits method, thus shifting the scope of the transfer-pricing inspection from transaction to company level; points out that the comparable profits method focuses on comparing earnings between companies in each industrial sector and that a fall in the profits of a multinational company’s subsidiary which is significantly lower than the sector-wide average over time may be evidence of massive transfer pricing;
 27. Urges the EU to examine a range of options for sanctions and incentives to promote good tax governance, such as a special levy on movements to or from non-cooperative jurisdictions, non-recognition within the EU of the legal status of companies set up in non-cooperative jurisdictions and a prohibition on EU financial institutions establishing or maintaining subsidiaries and branches in non-cooperative jurisdictions;
 28. Considers that the EU should also ensure consistency in the implementation at EU and international level of standards in the areas of prudential supervision, taxation and money laundering and counterterrorism;
 29. Asks the Commission to report to Parliament annually on the implementation of the EU tax governance policy, starting in October 2010;
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30. Instructs its President to forward this resolution to the Council, the Commission and the governments and parliaments of the Member States.

EXPLANATORY STATEMENT

1. Background

There is overall agreement to note that the financial and economic crisis has promoted tax governance to a most prominent and visible position on the global agenda. This comes as no surprise at a moment where millions of citizens are struggling to fare through the troubled waters of economic distress and are asked to shoulder an additional tax burden, whereas others do not pay what they owe.

EU Member States (within the EU and through bilateral international agreements) as well as international organisations such as the OECD emphasise that transparency and exchange of information in tax matters are the basis for a fair competition in a global economy and an equitable tax burden weighing on honest taxpayers. They also recognise that tax governance is an important pre-condition for preserving the integrity of financial markets. According to an OECD estimate at the end of 2008, the world's tax havens have attracted between USD 5 trillion and USD 7 trillion in assets, although the degree of secrecy surrounding these accounts makes it difficult to determine exactly just how much is located in these individual jurisdictions. Although there are no undisputable figures on the amount of tax fraud in the EU, the economic literature estimates, however, the amount to be between 2 and 2.5% of GDP at EU level, i.e. between 200 and 250 billion euro.

2. What is tax governance and how it is currently promoted

Tax governance has been defined by the Council (ECOFIN) for the first time at its 14 May 2008 Conclusions as meaning the principles of transparency, exchange of information and fair tax competition.

There are different instances and levels where the tax governance principles are applied.

At the EU level, Commissioner Kovács stated in his intervention at the 6 October 2009 ECON Committee meeting that strengthening tax governance within the European Union *'will provide for a political and moral base to demand good governance in tax matters from third countries, from our partners outside the Community'*. Tax governance within the Community is currently the subject of three important legislative proposals, namely:

- the Savings Taxation Directive,
- the two directives on Administrative cooperation and Mutual Assistance in Recovery.

The purpose of these three proposals is to ensure transparency and effective exchange of tax information between Member States as well as good cooperation in the recovery of tax claims.

The **Savings Tax Directive** lays down a specific type of automatic exchange of information, limited to a certain type of savings. The Savings Directive is a specific application of the principles laid down in the current Mutual Assistance Directive but, contrary to the latter, the

Savings Tax Directive ensures, with some temporary derogation over a transitional period,¹ that Member States automatically exchange information held by banks. The Commission submitted in November 2008 a proposal to reform the Savings Directive. The aim of the reform is to close existing loopholes and to better prevent tax evasion. It also aims to abolish market distortions between equivalent financial products and to limit the administrative burden on paying agents. In its Opinion of 24 April 2009, the European Parliament supported the Commission's approach and called for the transitional period to be ended, so that **by 1 July 2014** all Member States automatically exchange information on savings other equivalent products.

The proposal is now [*October 2009*] on the Council's table. In the meantime, a number of developments have occurred:

- Concerning the application of the Savings Taxation Directive, Belgium has decided to switch from the withholding tax to the automatic exchange of information as of 1 January 2010.
- The Isle of Man has also declared to apply automatic information exchange as of 1 July 2011.
- Initial consultations are starting with the 5 non-EU member European countries (Switzerland, Liechtenstein, Monaco, San Marino, Andorra) to improve their bilateral agreements on the taxation of savings income with the European Union.
- Negotiations have started with Norway which wants to join the Savings Taxation arrangements.
- The Commission has started talks with Hong Kong, Macao and Singapore on their possible accession to the savings taxation arrangements.

As regards the **Administrative cooperation** and the **Mutual Assistance in Recovery** proposals, the European Parliament is currently examining them with a view to adopt an opinion early 2010. One of the proposals' amendments explicitly proposes to abolish **bank secrecy** being used to prevent information exchange for tax purposes between the tax administrations of the Member States.

Apart from these three proposals, the Council is also pursuing its work on the basis of a revised Work Package on the **Code of Conduct (Business Taxation)** adopted in November 2008. The Working Group has agreed to continue its work in the areas of anti-abuse; transparency and exchange of information in the area of transfer pricing and relations with 3rd countries.

At the international level, one of the instruments that the EU can use to promote good governance in tax matters in third countries is to negotiate **tax fraud agreements** with them which include a clause on an exchange of information. The Commission has started negotiations for such an agreement with **Liechtenstein** which has moved from a position of complete non-cooperation to a cooperative attitude. Liechtenstein is now expected to agree to exchange of information in cases of tax evasion and to abolish bank secrecy as a reason to refuse cooperation. The Commission should now receive a mandate from ECOFIN to start

¹ Austria, Belgium and Luxembourg may apply a withholding tax instead of exchanging information.

similar talks with **Switzerland, Monaco, San Marino and Andorra**, the four other States that apply, together with Liechtenstein, arrangements similar to those of the Savings Tax Directive. The Commission is actively working to encourage the inclusion of **similar commitments in other bilateral agreements** between the Member States and third countries.

Financial incentives, which are available under the 10th European Development Fund to a number of Caribbean and Pacific countries, are also effective instruments to encourage the adoption of the principles of good governance. The Commission has stated that it will report in 2010 on progress on implementing these policies.

Furthermore, the EU and its Member States are involved in the OECD-sponsored strategy on countering international tax evasion. This work is carried out within the recently expanded **Global Forum on Transparency and Exchange of Information (GFTEI)**, which recently announced that all 87 countries in the GFTEI have agreed to adopt the OECD standard on tax information sharing on request (Article 26 of the 2002 model Convention). OECD experts have suggested that a good indicator of progress is whether a jurisdiction has signed 12 agreements on exchange of information that meet the OECD standard. There are an important number of countries that have made commitments (some of them even before 2004) that have not signed a single agreement yet meeting the OECD standard. Hong Kong, Macao and Singapore announced that they would propose changes to their legislation in order to bring it in line with the OECD standard. Austria, Belgium, Luxembourg and Switzerland have withdrawn their reservations to Article 26 of the OECD Model Convention. Liechtenstein announced on 12 March 2009 that it would enter into formal negotiations to conclude transparency and information agreements with United Kingdom, France and Germany. Andorra and Monaco have also endorsed the OECD standards.

Although no concrete **incentives** to ensure compliance with the standard have been proposed so far, the G-20 listed a number of possible **counter measures** at the 2 April 2009 summit: increased disclosure requirements on the part of taxpayers and financial institutions; withholding taxes; denying deductions in respect of expense payments; reviewing tax treaty policy; to review by international financial institutions of their investment policies; review of bilateral aid programs. G-20 leaders stated in Pittsburg (24/25 September 2009) that counter measures against tax havens should be used as from March 2010.

3. Options for further action and messages from the drafts person

Your drafts person considers that the European Union should promote the automatic exchange of information as a universal standard. In order to reach such level of good governance, a certain number of actions both at the EU level and on the international level should be pursued.

At the EU level, your drafts person notes that the statements by the 5 countries with which the EU has a savings agreement (Monaco Switzerland, Liechtenstein, Andorra and San Marino) are an important step towards the end of the transitional period of the **savings directive** which allows Austria, Belgium¹ and Luxembourg to apply a withholding tax instead of exchanging

¹ Belgium will start exchanging information as from 1 January 2010.

information. It should be noted, however, that these statements must be followed by the conclusion of legally-binding agreements. Your draftsman calls, therefore, for these agreements to be signed quickly and for the Council to assess whether the United States is committed to exchange information with all Member States. Furthermore, negotiations should be launched quickly to make sure that Hong-Kong, Macao and Singapore also apply similar tax rules to savings.

Your draftsman also considers that these announcements should also have a positive effect on the status of the Commission's proposal for a directive on **administrative cooperation in the field of taxation**, particularly with regard to the withdrawal of the bank secrecy obstacle for the tax residents of another Member States. Your draftsman believes that countries that have made the commitment to exchange information on the basis of the OECD standard should not be able, in principle, to block the adoption of the administrative cooperation proposal.

At the international level,

Your rapporteur considers that all parties concerned should accelerate the conclusion of the anti-fraud agreement with Liechtenstein; urges the Council to agree on a mandate for the Commission to negotiate similar agreements with Andorra, Monaco, San Marino and Switzerland.

As regards the **Code of Conduct (Business Taxation)**, your rapporteur considers that Member States should implement the Code in their relations with third countries in way consistent with their efforts to promote transparency and exchange of information in tax matters.

The same consistency requirement should apply to the **European Neighbourhood Policy**, the **Enlargement policy** and the **Development Cooperation policy**.

As regards the **OECD-sponsored peer review**, the EU, as such, must play an active role within the forum through the participation and input from the European Commission. Time has come for the EU -together with its fellow partners- to show its global leadership and determination by ensuring that the necessary incentives, including sanctions.

In this context, **the EU must be equipped to assess progress in the context of the OECD peer review**. Without prejudice to the competences of Member States, the European Commission should be fully associated to the Global Forum peer review exercise and should report back to the Council and to the Parliament, **in order to ensure that the EU dimension of this global issue is properly assessed** in particular as regards the identification of non-cooperative jurisdictions, the evaluation of compliance and the implementation of dissuasive counter-measures.

Your draftsman fears that exchange of information "on request" and on a bilateral basis opens the door for a restrictive interpretation of the OECD standard. For example, it is against the spirit of the OECD standards to supply information only when a requesting jurisdiction has the name of a specific, suspect tax payer. Your draftsman therefore suggests that **the EU actively promotes the improvement of the OECD standard, to include automatic,**

multilateral exchange of information as a goal to be achieved by 2014 (end of the current legislature). This also implies stricter reporting requirements for the ultimate beneficial owners of trusts and corporate accounts and appropriate sanctions.

4. Other issues

Finally, the Commission should be provided the necessary resources in order to ensure that a full-fledged **EU Tax Governance Policy** is in place.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	27.1.2010
Result of final vote	+: 25 -: 6 0: 10
Members present for the final vote	Burkhard Balz, Sharon Bowles, Udo Bullmann, Pascal Canfin, Nikolaos Chountis, George Sabin Cutaş, Rachida Dati, Leonardo Domenici, Derk Jan Eppink, Diogo Feio, Markus Ferber, Elisa Ferreira, Vicky Ford, José Manuel García-Margallo y Marfil, Jean-Paul Gauzès, Sylvie Goulard, Enikő Győri, Liem Hoang Ngoc, Eva Joly, Othmar Karas, Wolf Klinz, Jürgen Klute, Werner Langen, Astrid Lulling, Arlene McCarthy, Íñigo Méndez de Vigo, Ivari Padar, Alfredo Pallone, Antolín Sánchez Presedo, Olle Schmidt, Edward Scicluna, Peter Skinner, Theodor Dumitru Stolojan, Ivo Strejček, Kay Swinburne, Marianne Thyssen, Ramon Tremosa i Balcells
Substitute(s) present for the final vote	Marta Andreasen, Danuta Jazłowiecka, Arturs Krišjānis Kariņš, Philippe Lamberts