SPECIAL COMMITTEE ON FINANCIAL CRIMES,

TAX EVASION AND TAX AVOIDANCE (TAX3)

WEDNESDAY 26 SEPTEMBER 2018

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PUBLIC HEARING

THE THIRD COUNTRY DIMENSION IN THE FIGHT AGAINST TAX CRIMES, TAX EVASION AND TAX AVOIDANCE

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Panel 1: Risks in the field of tax policy associated with Brexit

• How Brexit will affect issues that already exist with tax and financial policy of certain Crown Dependencies?

• Possible solutions to the EU-UK tax relations as a result of Brexit

Margaret Hodge, Member of UK Parliament

Tove Ryding, Policy and Advocacy Manager, Eurodad

Panel 2: Lessons to be taken from EU-third countries tax agreements

• How can bilateral tax treaties and trade agreements facilitate the fight against illicit financial flows and tax evasion?

• Impact of EU-third countries agreements on developing countries

Sandra Gallina, Deputy Director General of DG TRADE, European Commission

Hannah Brejnholt Tranberg, Tax Policy and Programme Manager, Action Aid Denmark

Eric Yarboi Mensah, UN Committee on Experts on International Cooperation in Tax Matters

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 15.06)

1-003-0000

Chair. – Good afternoon, I would like to welcome everyone to this, the second meeting of the TAX3 Committee after our summer recess. Today we will discuss 'The Third Country Dimension in the Fight against Tax Crimes, Tax Evasion and Tax Avoidance'.

The hearing will consist of two panels with a series of presentations by experts. The first panel will focus on the risks in the field of tax policy associated with Brexit. We will explore how Brexit could affect EU-UK relations in the areas of tax and anti-money laundering, notably taking into account the close links between the UK and its Overseas Territories and Crown Dependencies. We will also listen to possible solutions and recommendations in this area.

We have the honour of having Dame Margaret Hodge with us today. Dame Hodge is a Member of the House of Commons in the UK and a former Minister of State. She is very familiar with the European Parliament's work in the field of taxation and anti-money laundering. We have met several times in recent years on the occasion of delegation visits by the TAX and PANA Committees.

Dame Hodge, your work on tax and anti-money laundering issues as Chair of the Public Accounts Committee has been very impressive, I must say, and I am sure that today you will be able to give us a very good insight into the recent developments in the UK in this area, perhaps with specific attention to the register on the beneficial ownership of companies.

Closing the presentation in the first panel will be Ms Tove Ryding, from Eurodad, who will offer us a vision of how EU-UK relations regarding tax matters will be affected by Brexit. I would like to reiterate that we invited UK Government representatives, in particular Mr Hammond as Chancellor of the Exchequer. He unfortunately indicated that he was not available to attend this meeting and nor could he be represented by any other ministers. We also invited Michel Barnier, as representative of the Commission's Brexit task force, and given the interinstitutional agreement between the Council and Parliament we will hopefully talk to him in another format.

Each speaker will have 10 minutes for their introduction.

I can see that our co-rapporteur, Jeppe Kofod, is asking for the floor.

Panel 1: Risks in the field of tax policy associated with Brexit

• How Brexit will affect issues that already exist with tax and financial policy of certain Crown Dependencies?

• Possible solutions to the EU-UK tax relations as a result of Brexit

1-004-0000
Jeppe Kofod (S&D). – I am sorry to interrupt, but I just wanted to say that today the whistle-blower of the biggest money laundering scandal ongoing in Europe, Danske Bank, has just been revealed as a UK citizen, Howard Wilkinson, who worked at the bank. I think we should not only invite Danske Bank to a hearing here in Parliament as we agreed – the CEO and chairman of the board – but also, of course, the whistle-blower that revealed this scandal of up to EUR 200 billion money laundering through Danske Bank in Estonia. It is interesting that this person has now come forward publicly, and I think we should also invite him to the European Parliament.

1-005-0000
Chair. – Thank you very much, Jeppe. That is a very pertinent remark. I would think that, at political group coordinator level, we will be able to agree on that. As we did in the past, we will deal, as you implied, with Danske Bank in one of our future hearings – because it is a really big issue – hopefully with the whistle-blower present.

1-006-0000
Margaret Hodge, *Member of UK Parliament***.** – Chair, many thanks for inviting me here this afternoon. I am really delighted that you are doing this inquiry. I think it's very pertinent and timely, and I wish you well with it.

I am a backbench MP in the UK Parliament, and I am a Labour Member of Parliament, so I am not here in any way to talk on behalf of Philip Hammond and the government. I'm also a passionate supporter of the European project, so I'm spending my time fighting hard to ensure that as we Brexit we do so in a way that keeps us as closely linked to Europe as we can.

I am also a committed tax justice campaigner. I got involved in this issue by chance when I was chairing one of the UK Parliament's select committees – the select committee that looks after public expenditure. I didn't realise when we started the work, but it very quickly became clear to me, that the efficiency of our tax authorities in collecting the monies due was absolutely central to the good governance of public spending, and therefore that all tax avoidance or evasion that occurs in the UK was absolutely central to the argument about good public expenditure – economy and efficiency in public expenditure.

We lifted the lid on appalling behaviour, particularly among large corporations and rich individuals. I have to say that the tax professionals – I think people never thought that tax was an issue for them, it was always one for the tax professionals – hid behind technical jargon and technical expertise. I am firmly of the view that tax belongs to all of us, and it's their job to speak in a way that we understand so that the system is seen to be fair between everybody. That is the first thing I wanted to say.

The second thing I wanted to say is that we have been effective – and I'm going to talk a little bit about that – in the UK on tax justice issues and we've done that by creating a very strong coalition across the political tribes. Our recent success brought people from the extreme right of the Conservative Party together with people from the extreme left of the Labour Party, all to support a measure around transparency. I think it's important that wherever you stand in the political spectrum you share the horror at tax injustice, at everything that happens in it.
The final thing I want to say about it is that we started looking at just what our tax authorities were collecting, but there is a spectrum. There is a spectrum that goes from good tax planning

right through tax avoidance, through to tax evasion, through to money laundering and financial crime. As I've worked on these issues over the years, clearly I have focused more on the financial crime and money laundering, but it is a spectrum.

Finally, I am not proud of Britain's record. We are too often a jurisdiction of choice in the UK for every kelptocrat and money launderer in the world, because we have a very light regulation system, which is not good. We have very weak policing of that regulation which also encourages criminals to use us, and we are very secret. The other thing is that we ironically have a historical reputation of being trusted with the financial services sector and our legal infrastructure, and they play on that in the today's context.

I am going to talk about what we've done around transparency, and I realise I have very little time. Transparency for me is a very powerful tool to ensure tax justice. It's a necessary, if not sufficient, absolutely central tool. You can understand through transparency who owns what, where, and how the money flows. It was an American senator who said 'Sunlight is the best disinfectant' – something that David Cameron also said.

We came to start thinking about our Overseas Territories and Crown Dependencies after the Panama Papers, the revelations there, where over half of the entities that were revealed in the Panama Papers were entities that were located in just one of our overseas territories – the British Virgin Islands. So our tax havens in the UK play a huge, huge role in the global existence of jurisdictions where people hide their money or transfer their profits. The Paradise Papers also confirmed this when it was found that half of the offices of the lawyers from Appleby were located in tax havens. Ninety per cent of the biggest global companies have a presence in a UK tax haven. The World Bank Review of Corruption, which looked at corruption over a 30-year period found that 70% of the cases they looked at depended on anonymous shell companies – and the UK was second there – so all in all, we've got a big problem.

The second thing is that it impacts hugely on developing countries, and that was another issue that grabbed us. Because of time I will use just one fact. The OECD calculates that three times as much is lost in revenues to developing countries than they gain through the world aid budget, so if we could just tackle that, we would make a huge contribution to developing countries.

Finally, tax avoidance, tax evasion and financial crime are a big problem in the UK. The National Crime Agency reckons that GBP 90 billion a year – that's about 4% of our gross domestic product – is laundered into the UK. That is massive. Much comes from Russia. A recent study by Transparency International found that GBP 68 billion came out of Russia through the tax havens, much of it back into Britain, and that illegitimate route into Britain was seven times greater than the legitimate route bringing money straight into Britain. Many of the properties, particularly in London, are owned by shell companies and, again, four out of 10 of those are through Russian money, so it's a huge problem.

What we decided we wanted to do was to have transparency in our Overseas Territories. These are absolutely key and central to the tax haven industry and they have a disproportionate impact. Bermuda, the Cayman Islands, the British Virgin Islands – they all have a disproportionate impact. All we want is for them to have open registers of beneficial ownership, so that not only the tax authorities, but also business, civil society and the press, all of them can interrogate and watch where the money is, who owns what, and where the money flows.

This was very controversial among the government. The government did not want this, particularly in a Brexit scenario where they are concerned about upsetting anybody else they see as a trading partner, although I don't think these little countries are ever going to provide any substitute for the trade that we do with Europe. The way in which we achieved consensus for this was literally – and I worked with a leading member of the Conservative Party who also

sits on the back benches – to target Conservative voters. We spent hour upon hour, one to one, convincing them of the ethical and moral argument, of the important argument, particularly after Salisbury, of trying to stop dirty Russian money getting into Europe, and of the importance of Britain actually leading the way, rather than bringing up the rear. So in the end we won that through.

We're now moving on to our Crown Dependencies, which have a different legislative and constitutional base – that's Guernsey, Jersey, the Isle of Man – all of whom play a role in tax avoidance and money laundering. We saw that in the Paradise Papers most recently. At the moment, together with my colleague Andrew Mitchell, the Conservative with whom I've worked, we are visiting these jurisdictions to try and persuade them that they too should have open registers of beneficial ownership. If they don't, we will then look to legislate, which we think we can do, but we hope that we can reach a consensus.

Very briefly on the broader EU Brexit tax scenario, we've had a statement this morning from our Prime Minister saying that she hopes in the post-Brexit world that Britain will compete by having a low tax regime jurisdiction. To my mind that is not fake news, but it's a false promise, and I don't think it will ever actually ever come to pass. I say this for certain reasons. First of all, Europe will make sure that in any negotiated settlement, tax will be an element, and clearly, if we want to have a trade agreement with Europe, having harmful tax practices in the UK post-Brexit will not work, so I think the pressure from Europe and our need to have a trade agreement will stop that happening. That's the first thing.

The second thing is that Britain simply cannot afford to go down that Singapore-on-the-Thames road. Every percent we take off our corporation tax loses us GBP 2.3 billion sterling – and the pressure on public expenditure in the UK, as in so many of EU jurisdictions, is so great it cannot be substituted. I think this is more of a threat than a reality. I can understand why the Prime Minister is minded to make it, but I doubt whether she or any of her successors will ever actually implement it.

(Applause)

1-007-0000

Chair. – Thank you very much, Margaret Hodge, for the insight and for the effort you have been making in the UK. It also looks as if the UK Prime Minister is probably following this committee's agenda. That's good to know.

(Laughter)

1-008-0000

Tove Ryding, *Policy and Advocacy Manager, Eurodad***.** – Good afternoon everyone. First of all, a warm thanks for the invitation. I come from the European Network on Debt and Development (Eurodad). We are a coalition of development organisations across Europe. We work very much on the issue of tax avoidance and evasion for the simple reason that Ms Hodge also mentioned: that development doesn't make sense if developing countries can't collect taxes. So for us this is a central part of moving forward in achieving, for example, the sustainable development goals. But, at the same time, the problems – I mean that developing countries can't collect taxes – actually impact European countries as well, so in a sense we are all in this boat together. In this context, first of all a warm thanks for the very, very important work that you're doing here. It is absolutely crucial that we have a strong response to the international tax scandals.

I am going to talk about the impact of Brexit on the issues relating to the UK, on both tax avoidance and evasion. I am going to talk about two of the central problems that we have in relation to collecting taxes. The first is financial secrecy: it is a fact that you can hide money

from the tax authorities – we see this when private individuals want to evade taxes; they want to break the law and not pay the taxes that they should. The second problem is the corporate tax havens: this is basically countries that allow multinational corporations to move the profits they have made in other countries to this jurisdiction and pay only a very tiny amount of taxes. This basically means that all the other countries where the multinational operates are losing very large amounts of tax income. There is also a focus here on the overseas territories and the Crown Dependencies, but of course the most direct impact of Brexit in this context is in relation to the UK, because the UK has been directly subject to EU legislation. I cannot, of course, speak as to whatever agreement might come out of the Brexit negotiations, but it is likely that this is where we see the highest direct change. There are also some indirect changes that I'll touch upon later on.

But, first of all, on financial secrecy: one very important piece of EU legislation is the Anti-Money Laundering Directive. One of the things that was decided after the Paradise Papers was exactly to establish public registers of beneficial owners of companies. What are the implications in relation to Brexit? Well, actually, on this point the UK was ahead of everyone else, so in this sense I don't think we have to fear that as of the day after Brexit we will suddenly have a problem with the UK in terms of public registers of beneficial owners of companies. The UK has been excellent here and, as you can also hear, the wonderful work – not least thanks to Ms Hodge – is continuing in the UK. So on the issue of knowing who owns companies operating in our societies, I have a fairly good feeling.

It's different on the issue of trusts. One of the things we are afraid of is that now that we have found out who owns companies – making it difficult to use a company to hide money – we are afraid that the money is going to move into trusts. In the Paradise Papers, we started seeing something named 'mega-trusts', because there were so many billions in these trusts. I'm not here to give any dirty advice, but I fear that there are tax avoiders and evaders sitting and saying that maybe trusts would be the tool of the future. On this point, the Anti-Money Laundering Directive didn't say that we should have public registers, but they did say that trust owners need to be registered and that anyone with a legitimate interest should get access to that information. After Brexit, it is really, really important that the UK sticks to that commitment that was made in the Anti-Money Laundering Directive. Member of the EU or not, this is really important, because trusts are something that we see in common law countries especially, including in the United Kingdom. So this is the one I would really keep an eye on, regarding financial secrecy.

On corporate tax avoidance, as you can see in the EU, probably the most effective tool we have are the state aid rules. You've seen the state aid cases that the Commission has started against a number of Member States because they have been giving such good deals to large multinational corporations that it actually counts as an illegal state aid. But, as we also saw – for example, with McDonalds just recently – this is not a perfect tool. If you want to collect taxes from multinationals, you really should use your tax legislation, not your state aid legislation. Nonetheless, it is the best tool we have at the moment, and it is a problem if the UK is no longer committed to the EU rules on state aid because this means that we don't even have that tool anymore. So this is also one to keep an eye on.

When it comes to taxing multinational corporations, I also want to point out that we all lack good legislation on this. We are all stuck with the transfer pricing system, and the EU legislation is very much in line with the OECD legislation on this. This is also what is known – speaking of jargon – as, for example, the rules on base erosion and profit shifting (the BEPS rules), which is a nice word for corporations not paying taxes. But the OECD system and the transfer pricing rules are general problems that we have, so in that sense the issue is not so much whether you're a member of the EU or not as the fact that we just need better legislation. If the EU would go ahead and get a common consolidated corporate tax base, it would be a whole different story. If we get that piece of legislation adopted in the EU, we have a modern tax system that works.

So, once the EU moves forward and fixes the taxation of multinational corporations, it will mean a lot whether you are in or out. But until we're there, it is not going to make such a big difference.

I also – and this is perhaps a bit naughty – just wanted to point out that it can also work the other way around. I am not a fan of Brexit, but there are some possibilities that open up when the United Kingdom is not a Member State of the EU. For example, it is rule number one that, when the EU blacklists tax havens, they will never blacklist an EU Member State. If the UK is not an EU Member State anymore, it could actually become more difficult for the United Kingdom to be a tax haven as compared to – let's be honest – the very big and aggressive tax havens that we have inside the EU. What also goes for the Overseas Territories and Crown Dependencies is that, if it is true that the UK has in the past protected these territories from blacklisting once in a while, it can actually mean that the EU can crack down harder on them. But, in relation to the blacklisting, I think it's very, very important to notice one thing from the Paradise Papers: that the nature of tax havens is changing a bit. Whereas the EU tax havens were previously conduits and were leading the money on to small island states where it was then kept free of taxes, it's actually now being what they call 'on-shored'. They are finding solutions where the money never has to leave the Netherlands. You can get the full package within the EU. So, by blacklisting all the tax havens outside the EU but refusing to blacklist EU Member States, we can actually end up moving the problem from outside the EU to inside the EU. So the fact that we can blacklist countries that are not in the EU does not necessarily solve the problem.

The other thing the EU could do after Brexit is revisit the decision on trusts. We can ask for more transparency around who owns trusts, and we all know that the UK was one of the major reasons why we didn't get this decision last time. The last thing that we can do, which is really, really important, is to introduce public country-by-country reporting: to say that, if you are a multinational corporation and you want to do business in the European Union, we want the top-level numbers on where you have your business activity and where you pay your taxes. There is a negotiation ongoing in the EU on this, and it's really, really important that we get an outcome that can be used to stop corporate tax avoidance simply by exposing the corporations that are not paying taxes.

The very last comment in terms of what we need is that the EU can make some really, really important decisions on transparency and on fixing our tax system, and the EU should go forward on this. But it also needs to be complemented by global solutions, so whether the UK is in the EU or not should not be the determining factor. At the end of the day, we are going to need a global agreement that solves tax avoidance and evasion once and for all.

1-009-0000

Chair. – Thank you very much, Ms Ryding. It is clear that, in both interventions, transparency was the key principle which was mentioned, and when we look at the last review of the Anti-Money Laundering Directive, it depends on the point of view of beneficial ownership and accessibility of the register – it depends whether we look at it as a glass which is half empty or a glass which is half full. But, in the end, Parliament managed to have full accessibility of the register of beneficial owners of companies, and as you reminded us when it comes to trusts, it is open to those who can demonstrate legitimate interests. But the key will certainly be for the UK to adhere to the rules after Brexit.

We now open up the discussion. Each Member will have a five-minute slot: one minute for a question and four minutes for answers from the panel. We will start with our co-rapporteur, Jeppe Kofod.

1-010-0000
Jeppe Kofod (S&D). – Thank you, Chair, and thank you so much to both of our speakers today; very interesting. Just to say also to Ms Tove Ryding – but I think I have said it many times – that I believe a number of EU Member States could reasonably be deemed tax havens, which I think is one of the problems we have internally and which we have to resolve here.

I have a question for Dame Margaret Hodge. Brexit, of course, means a complete loss of influence for the UK within the EU in general, and the Council of Ministers in particular. This, of course, has consequences with regard to the EU list of tax havens for the UK proper, and especially for its Crown dependencies and overseas territories. So, in your view, has the UK Government put forward any credible solutions or initiatives that would ensure that the UK, its territories and its dependencies will not be deemed as tax havens after the exit from the EU? That is the first question. Secondly, do you sense any willingness to cooperate with the EU 27 – for instance, on tackling the 0% tax restrictions (that is one issue), public registers (we touched upon that, with official ownership), and closing loopholes in bilateral tax treaties, because that is also where we see a lot of loopholes?

1-011-0000
Margaret Hodge, *Member of UK Parliament***.** – I have to keep reiterating that I can't talk for the British Government, but I think one of the ways in which you can support global tax justice policies is through the threat of blacklisting. I was quite disappointed to see that the UK Government managed to get so many of our Overseas Territories off the blacklist into the grey list a couple of years ago, and I look forward to you using your strong powers, your strong influence, through blacklisting to encourage good behaviour. That is the first thing.

The second thing is that we have to wait and see. We have now passed this law in Britain, which will mean that the Overseas Territories have to have public registers of beneficial ownership. We are very clear that having just passed the law doesn't mean that it is enacted in practice. Indeed, country-by-country reporting was passed by law. It was a weak amendment, but it was passed in 2016 and has yet to be implemented in the UK. We are being very careful at monitoring how the UK Government, working with the Overseas Territories, who are furious with us, are going to set about implementing that and that is a very important bit of work. But if that happens, I think then it becomes more difficult to name them on your blacklist.

As for the Crown Dependencies, so far Andrew Mitchell and I have visited two. We are going to visit Jersey before Christmas. We are hoping to persuade them of the strength of our arguments, that they can't be outside the UK family both in terms of sharing our values and also in terms of stopping global crime and endangering national security by money laundering. They can't be outside that; they should come on board. But we are also pretty confident that we could put an amendment to an appropriate bill before our parliament, to bring the Crown Dependencies into that jurisdiction.

Will Britain itself be deemed to go onto the blacklist? The most important harmful tax practice currently around is the one about new patents – the patent box – and I think, again, that the pressure from the EU in terms of its willingness to enter into trade agreements with the UK will, I hope, be sufficient to ensure that harmful tax practices are not used. I am a glass-half-full person, and I really do believe that the pressure that you can give and the need for Britain to retain free trade with such a key market will mean that harmful tax practices won't work.

In the end, concerning a race to the bottom, I could just give you the Starbucks example. In Britain we have lowered our corporation tax rates massively, and having had a very bruising experience appearing before as Starbucks, the Chief Executive – I think it was of Starbuck's EU – rang me up to tell me they were going to relocate their company to Britain. I said: that's fine and great, but tell me how many people you are going to bring into Britain. How many extra jobs will you create? There was silence on the other end of the phone, so I said, go on, is

it a hundred, is it fifty? Eventually the truth came out that it was eight. Eight additional jobs came about, so that was purely an artificial financial structure to shift activity and profits to the UK because they wanted a lower tax rate.
In the long run what Britain must care about is growth in the real economy, jobs in the real economy and getting sufficient revenues to fund our public services. So these artificial mechanisms that may seem attractive don't actually help the real economy in Britain, and I hope that most sensible people see that.

1-012-0000
Werner Langen (PPE). –Vielen Dank! Ich bewundere Ihren Mut, zu sagen, dass das alles unbefriedigend ist in Großbritannien und dass das die konservative Regierung noch verschärft hat.

Ich habe hier die Liste der Gruppe „Verhaltenskodex" vom 20. Juli 2018. Darin sind alle schädlichen Steuermaßnahmen enthalten. Da kommt – ich habe es mir gerade aufgeschrieben – Gibraltar mit sechs schädlichen Steuermaßnahmen seit der Regierungszeit von Tony Blair vor. Der war ja, wenn ich mich richtig erinnere, von 1997 bis 2007 zehn Jahre lang Premierminister. Seitdem hat sich nichts getan, auch nicht in seiner Regierungszeit. Dann kommen wir auf die Kanalinseln zu sprechen. Sechs schädliche Steuermaßnahmen, fünf – alle in die gleiche Richtung.

Seit über zwanzig Jahren geschieht nichts in Großbritannien. Ich frage, was hat die Kommission gemacht? Hat die zwanzig Jahre lang gepennt? Ich frage: Was hat die Regierung in Großbritannien, egal welche Farbe sie hat, gemacht? Sie hat sich einem fairen Steuerwettbewerb verweigert. Großbritannien ist das einzige Land in der EU, das als eines der größten Länder das aggressiv betreibt.

Ich erinnere mich an unsere Reise mit dem Untersuchungsausschuss nach London. Da haben wir die Beamten im Finanzministerium gefragt: Wie ist das denn mit dem Recht auf den Kanalinseln und in den Kronkolonien? Die Antwort lautete: Die müssen sich alle an britisches Recht halten. Auf die Zusatzfrage, wer das denn kontrolliert, kam die Antwort: Niemand. Gibraltar ist ja Teil von Großbritannien, da ist es besonders eklatant. Aber auch auf den Kanalinseln ist gar nichts geschehen. Wenn irgendjemand hier in diesem Raum glaubt, die EU könnte ein Freihandelsabkommen mit Großbritannien schließen, in dem Großbritannien den unfairen Steuerwettbewerb weiter verschärft: Das wird dieses Parlament, das bei allen Verträgen mitredet, nicht mitmachen.

Und deshalb meine Frage – sie haben das ja selbstkritisch geschildert – an Sie: Wer hat in Großbritannien bei dem Brexit-Durcheinander im Augenblick überhaupt die politische Kraft, endlich einmal auf die Forderungen zu reagieren?

1-013-0000
Margaret Hodge, *Member of UK Parliament***.** – I have not come here to excuse some of the poor behaviour of the British Government, but let me just put back to you that we are not alone. When we were doing many of our inquiries we found: the 'Dutch Sandwich' and the Netherlands; Luxembourg; Ireland; some of the territories belonging to Denmark even; Aruba, which belongs to the Netherlands; the Faroe Islands; Greenland; New Caledonia, France. So this is a European-wide problem. Now I am going to do what I can to sort out the UK, whether we are in or out of Europe, but you too here have got to sort out your act because if we don't do this collectively...

(Interruption)

I do think that the issues that were raised: getting a common consolidated corporate tax base, which is stalling here – and I know that the UK wasn't keen on it – is a hugely important issue;

and getting the OECD – I am going from the meeting here to the OECD – with rather more teeth than proved to be the case with the BEPS project are all very important. It doesn't stop with us, but what I am trying to assure you of is that on the Crown Dependencies we are beginning to take action. We have to separate the two. They have a different constitutional settlement in the UK, so we have been successful on the Overseas Territories, which makes the argument on the Crown Dependencies even weaker, and we are confident about that. Let me just say something general: the more you close the net, the more difficult you make it for tax havens to exist – whether they exist in Europe or elsewhere – the easier it is to stamp it out. So what I hope our work on the Overseas Territories has done is that if we can close down the British Virgin Islands as a tax haven it's a massive contribution to closing the worldwide tapestry of tax havens.

So if you can take action here, I promise you I will continue to fight in the UK with others, as a team, and then we just close the net. We have to look at America and we have to look elsewhere as well.

1-014-0000
Werner Langen (PPE). – Herr Vorsitzender! Sie haben es nicht verteidigt, deshalb geht der Vorwurf auch nicht an Sie persönlich. Aber heute steht der Brexit auf der Tagesordnung und nicht die Niederlande oder Irland. Wir kennen die Fälle alle. Wir waren mit dem Untersuchungsausschuss in acht unterschiedlichen Staaten – in der Europäischen Union, in den USA in Delaware, überall –, und wir kennen die Fälle.

Aber heute steht nur der Brexit auf der Tagesordnung, und das war für mich besonders enttäuschend: die Behandlung des unfairen Steuerwettbewerbs durch die britische Regierung und durch die britischen Kolonien und die britischen Staatsgebiete. Das wollte ich nur zum Ausdruck bringen.

1-015-0000
Margaret Hodge, *Member of UK Parliament***.** – My answer to you is that you should use your power, both in trying to get a trade deal with us and in other ways, to try to ensure that we raise our game.

1-016-0000
Ramón Jáuregui Atondo (S&D). – Una conclusión que a mí me parece evidente de sus intervenciones, señoras, es que el *Brexit* nos va a dar oportunidades y preocupaciones en la relación con el Reino Unido. Oportunidades, porque podemos tratar al Reino Unido como estamos tratando a otros países fuera de la Unión, que no son colaboradores, que no son jurisdicciones cooperativas en materia fiscal —lo ha dicho muy bien la señora Ryding—, pero al mismo tiempo preocupaciones porque se abren unas expectativas de juego desleal.

Yo creo que la clave va a estar en que negociemos el acuerdo con el Reino Unido después de que el Reino Unido se vaya, post *Brexit* desde marzo del 2019 hasta finales del 2020. El capítulo fiscal va a ser muy importante. Esta sería mi primera conclusión, pero tengo dos preguntas para ustedes. En ese marco, la primera, ¿cuál es el efecto post *Brexit* del impuesto sobre el valor añadido, del IVA? La colaboración en materia fiscal en el impuesto sobre el valor añadido, ¿qué efectos puede tener? Y la segunda pregunta es, ¿qué se dice en el Reino Unido respecto del impuesto que Europa quiere poner a las empresas tecnológicas? Es decir, la idea de gravar sobrefacturación a aquellas compañías que tecnológicamente no son localizables en un Estado desde el punto de vista de sus beneficios. Esas dos preguntas sobre la relación con el Reino Unido las dejo para después.

1-017-0000
Margaret Hodge, *Member of UK Parliament***.** – Thank you very much for those questions. I agree with you entirely about the threats and the opportunities. The sad thing for me is the patent box, which was a harmful tax practice. As a member of the EU, I think it rather more swiftly

led to changes in the way that it was designed so that it could not be exploited as a tax avoidance measure.

VAT is a very good point. VAT is a huge problem for the UK; it's 20% of our revenue. There's massive fraud already. There's GBP 12.6 billion a year on VAT fraud, so it is actually, ironically, a bigger issue than corporate tax avoidance. It's going to be a nightmare unless we come to some agreement as to who is responsible for collecting VAT and where the VAT falls – who is also eligible for that VAT. We have a clear system now, and my advice – if they were to listen to it – would be to stick as closely as we can to the present arrangements that we have. The other thing with VAT is that we then suddenly have the freedom to vary the VAT rates; again, I think that is more of a myth than a reality. We will get huge pressure on us – I can think of a zillion areas where there will be pressure to try to deal with anomalies or try to give a particular advantage to particular industries by lowering VAT rates – but our public finances are in such a mess that I think that the idea that you can use that extensively is for the birds. I just don't think it will happen. So that's the answer on VAT.

The second question was about digital tax. I think that digital tax is a really interesting area, where finally we are all beginning to wake up to the massive tax loss and the dreadful tax avoidance that digital companies are entering into. We have the US minimum offshore income tax. The European Commissioner for Economic Affairs has suggested a percentage on revenue, and we ourselves are beginning to think about whether we should not do a revenue-based tax. Sadly, the OECD has failed to come together with a report on that. I would love to see action at the European level, because I think it is a large enough market that, if one took action, it would be very difficult for these global digital-based entities to avoid the tax in the way they are now. They are paying minimal amounts. If you look at Apple – Apple in Jersey, actually; Apple has gone to Jersey now – I think it is paying less than one percent on its profits in tax.

So I think this is an interesting area. I am really pleased that the UK Government is beginning to think about how it should tax these entities. I am delighted that Europe is doing the work. I am actually rather pleased that Trump's America is also doing some work around this. And again, it is through cooperating – goodness knows where that happens post-Brexit – it is through co-operating globally that we can really effectively tax these global companies. But then, the idea that they operate within national jurisdictions is ridiculous: they don't. They operate globally. It is not Google UK, Google France or Google Spain, or whatever. It is Google global that is avoiding tax.

1-018-0000

Maite Pagazaurtundúa Ruiz (ALDE). – En primer lugar, felicidades a las dos. Es extraordinariamente útil lo que ustedes nos cuentan. Tomamos buena nota, especialmente en lo que se refiere a las debilidades y las necesidades de mejorar todo aquello que se refiere a la lista negra y a la lista gris. Podemos ir muchísimo más allá. En segundo lugar, cuando —si no le he entendido mal, señora Hodge—, cuando hablaba del modelo de Singapur y de la incoherencia de invocar el modelo de Singapur cuando hay un gasto público, digamos históricamente consolidado, sin embargo, las mentiras funcionan extraordinariamente bien cuando hay una transmisión muy bien realizada en redes sociales, etcétera, sobre gente que tiene ganas de escuchar cosas mágicas. Y la invocación del modelo de Singapur de una manera mágica puede generar bastantes problemas a la hora de buscar ese equilibrio de intereses en esa negociación que, como bien ha dicho Ramón Jáuregui, se abre también como una oportunidad en ese periodo posterior al *Brexit.*

Y hay una pregunta que quisiera hacerles a las dos. Y se refiere a los papeles de Panamá. Ambas nos han dado muchas apreciaciones muy útiles sobre la explotación y el análisis de levantar la tapa y mirar toda esa industria, esa parte que sí pudimos ver de la elusión, de la evasión y del ocultamiento de los capitales y de los patrimonios. ¿Ustedes han terminado de extraer, de

explotar todas las enseñanzas de los papeles de Panamá? ¿Hay todavía cosas que quisieran recomendar, sugerencias que quisieran que nosotros realizáramos? Es que es muy muy importante para todos nosotros, para los intereses comunes que tenemos de transparencia en este desafío mundial, recoger recomendaciones que acaso nosotros todavía no hemos tenido en consideración.

1-019-0000
Tove Ryding, *Policy and Advocacy Manager, Eurodad***.** – Is there anything we might have missed?

(Interjection from the floor: 'Lots!')

I think one thing we learned by looking at the different tax scandals is how quickly the nature of this problem can change; how quickly it can move. So we've been through everything from LuxLeaks and offshore leaks to Panama Papers and Paradise Papers and they keep coming, but we see that the structures also change very, very rapidly. One of the advantages with having public country-by-country reporting would be that you can see it as it happens. The problem is that we get the information delayed and we tend to solve the last problem we had, whereas Apple moving to Jersey is an excellent example, or Nike changing their structures so that they don't need Bermuda or Bahamas – they can do it all inside the EU. This is a very, very important problem. By having real transparency instead of having to sit and wait for leaks, we could actually follow the effects of our measures.

One problem with the OECD's BEPS agreement and their solution is that the rules are still very unclear. It is one of these very, very strange things: it's very unclear what the 'arm's length principle' is. It is more a principle than a real piece of legislation. That is also why the Commission state aid cases are taking years: it's because it is a principle, and so it's very hard to use to tax.

Also, on the patent boxes, the OECD – instead of saying that we shouldn't have patent boxes, but that we should support research and development through direct subsidies instead of having holes in the tax system – they chose a new type of patent box. And after that patent box came, suddenly more and more countries in Europe got patent boxes. Half of all the Member States in Europe have now introduced pattern boxes. So there is an 'if you can't beat them join them' thing going on, and more and more countries are becoming a little bit 'tax haven'. And as soon as you crack down hard on one tax haven, we're not seeing the problem go away; we're seeing it move, and this is a very, very important part of the problem.

1-020-0000
Margaret Hodge, *Member of UK Parliament***.** – I said transparency is one tool, and I'll just mention others. Simplicity in our tax systems, because every time you introduce a new complexity, it becomes an opportunity for tax avoidance and bad practice. I think the aggressive pursuit of large companies and high net worth individuals by our tax authorities was too weak. We don't challenge enough, any of us. Again, the EU is doing good stuff here; I think that's worth it. Pursuing the advisers: these big corporations don't dream up these new loopholes themselves, and you could make advisers more culpable and accountable for the advice they give – very often the tax authorities are 10 years down the line catching up with them. I think that's important. Using public procurement: here in the EU, you spend – we spend, we're still part of it – a lot of money, a huge amount of money, investing. Why on earth are we giving public contracts to companies that then aggressively pursue tax avoidance and don't pay the contribution that would fund the contracts they then receive? Those are just some of the ideas beyond the important country-by-country reporting and transparency.

1-021-0000
Molly Scott Cato (Verts/ALE). – I would like to take a slightly different angle on this – mostly to Margaret Hodge, but I'd also be interested in Tove Ryding's reflections – and question

whether in fact part of the point of Brexit was precisely to make tax avoidance easier. If you look at some of the key players – we've obviously got: Jacob Rees-Mogg and Somerset Capital Asset Management, based in the Caymans and Singapore; Arron Banks, who favours the Isle of Man and the British Virgin Islands; and Lord Ashcroft, who favours Belize – the worry for me, and I'm not sure people here are quite worried enough about what might happen after Brexit, is that although statements are made and – as you say – they're not followed through, and perhaps it's all bluff, we now look like we're moving towards a situation of a blind Brexit where the EU is going to sign off with very little detail about the future trade agreement. Personally, I see that as a considerable risk, particularly when we heard Michael Gove saying that we can just change all that straight away afterwards anyway.

I would like to stress that Parliament put in its resolution that we should have very high standards and should not sign off on the exit deal unless we know there are going to be high standards on environmental and social issues, but also on tax matters in the final trade agreement before we give our permission to the exit agreement, and there were statements along those lines in Barnier's negotiating guidelines. But I would like to ask whether you think it is important that we use our power as Parliament to do what we can to prevent the Brexit bad boys using this as an opportunity to have their wicked tax way with everybody?

1-022-0000
Margaret Hodge, *Member of UK Parliament***.** – I must say, I hadn't thought about that link between people who abuse the tax system and Brexit, so that is a new thought for me which I will take away. Secondly, if you know how Brexit is going to end up, you're wiser than me; I haven't a clue as to where we are going to be by March 2019. Having been a Minister and having done business in Europe, I also know that a lot always happens at the eleventh hour.

Michel Barnier did talk about having a 'tax good governance' clause as part of the deal. I think that is hugely important, and I would urge Parliament to try to do that. Michel Barnier also talked about looking at corporation tax levels and to ensure that Britain didn't bring them right down. I just don't think Britain will; I just don't think we can afford to, but that is my judgement and I may be proved wrong. I think, again, that keeping that in your sights as we come to negotiate the deal so that there isn't a race to the bottom, is hugely important. I think the patent box example is a really good example of where a race to the bottom doesn't benefit anybody. One of the bits of work I want to do in my group in parliament is to look at whether tax is in effect a competitive issue. People always claim that it is, but I would like to look at the evidence and the literature to see whether in fact that is true. My instinct is that it isn't, and that it's an abused issue, but it isn't really an effective way of ensuring competition between jurisdictions.

1-023-0000
Tove Ryding, *Policy and Advocacy Manager, Eurodad***.** – Indeed, the literature and even the IMF suggest that the competition to attract corporations is not … the corporations move where they would have moved anyway, but they would love not to pay taxes.

1-024-0000
Molly Scott Cato (Verts/ALE). – Can I just quickly say that we're talking about rich selfish people, here rather than corporations?

1-025-0000
Tove Ryding, *Policy and Advocacy Manager, Eurodad***.** – Both of them are unfortunately skating around from jurisdiction to jurisdiction to dodge taxes. I'm not going to comment on the details of Brexit, but I am going to highlight that this is an issue of multilateralism. This is an issue about the belief in the fact that nation states, being independent, need to cooperate and need to have a coherent global system. In a way, what we're seeing on taxation is a deterioration of multilateralism. Of course Brexit is one example, but one thing that sometimes bothers me even more is that I am not seeing the coalition of the countries that are willing to cooperate. I am not seeing the coalition of non-tax havens. I am seeing the EU, and I'm seeing the OECD. They have very secret negotiations; the countries are in locked rooms; we're not allowed to see

what's going on; and out comes another piece of legislation full of holes. This is why we ended up in this mess: it is because we do not have a coalition that spans across the EU, across the OECD.

In the United Nations, for the last 10 years we've had over 100 developing countries sit there every year and say that they want a global negotiation to stop tax dodging, both for wealthy individuals and corporations. They want to solve it: just like we negotiated a global climate agreement, they want a global agreement to stop tax dodging. The EU has said no. The EU wants to stick with the OECD and the secret negotiations there. But one thing that bothers me is: why not have a global coalition of all the countries that are not tax havens? When you have that many countries, you could really start to change the global agenda. Unfortunately, we are still stuck in this race to the bottom instead, and this is hugely problematic, but it's a failure of multilateralism.

1-026-0000

Matt Carthy (GUE/NGL). – I want to revert back to Brexit a little bit. I have two questions, and hopefully will have time to get answers. Margaret, you mentioned a phone call from Starbucks, but I am wondering: is this part of a more general trend in the post-Brexit scenario? McDonald's is a very clear example. After the state investigation began, McDonald's moved its non-US tax base to Britain, transferred its Luxembourg-based subsidiaries to Delaware, and opened new subsidiaries in Britain to hold intellectual property. The timing obviously came almost immediately after the Brexit vote. This would make it hard to avoid the conclusion that Brexit did not have any implication in the company's decision.

We have also seen other companies that have faced scrutiny in the past, whether it be Fiat Chrysler, Starbucks, Amazon or Apple. We are hearing a lot about financial institutions deciding to relocate their base from the City of London to other EU centres, but when it actually comes to multinational corporations, it appears to be the other way around – all in cases where there have been questions in relation to tax avoidance. So, to both speakers, I wonder if you see a conscious move by some of these multinational corporations to relocate and expand their presence in Britain since the Brexit move.

Secondly, in relation to the Common Purse and the Isle of Man, tax campaigners – as you know – have been saying that the Common Purse system between the British Government and the Isle of Man basically amounts to London subsidising the Isle of Man to be a tax haven. The Isle of Man is receiving tens of millions of pounds more from London than it collects in VAT, for example, and the way in which the money is allocated seems to be very much shrouded in secrecy. So I am just wondering if you could expand and explain how the Common Purse system actually works.

1-027-0000

Margaret Hodge, *Member of UK Parliament***.** – I think the issues you raise are nothing to do with Brexit, in an odd way; they are issues that are there anyway, whether or not Britain remains in the EU. The way we have to go forward – the ways we always go back to – is through transparency, country-by-country reporting, and trying to tax global companies as an entity and divide the profits up on the basis of either turnover, workforce, capital, or whatever. So if Britain remained in the EU, I think you would still face the problems of companies choosing to locate themselves there in the same way as they choose to locate themselves in Luxembourg, Ireland and the Netherlands. I'm not sure that will make a difference; it is the other solutions we need to look at.

On the Isle of Man, you are quite right. The Isle of Man is a tiny, tiny jurisdiction with 80 000 people, that's all. I've been to visit it, and as you come out of the airplane – has anyone been to the Isle of Man? – the first thing that you see is the Jet Centre, and that's where one of the big tax scams takes place. You can literally walk out of your airplane. Lewis Hamilton was one of the people who

was exposed in the Paradise Papers on this: he bought a plane for goodness knows how much, put it into a company in the Isle of Man, and in that way avoided GBP three million in VAT. He claimed it was used for business purposes, although the evidence suggested that it was being used for personal purposes and not commercial purposes.

So, the Isle of Man is a tiny country; it cannot collect its own VAT, so Britain collects the VAT on behalf of the Isle of Man, and then on a formula gives it back what it thinks it ought to be earning through VAT charges. It manipulates that formula to ensure that the Isle of Man gets a disproportionate amount back in VAT. By getting more than it otherwise should – and remember it has only 80 000 people, it's tiny – the Isle of Man can actually run a zero-rate corporation tax and a very low income tax regime, because they don't have to raise the income through other sources of taxation because the UK subsidises them through the VAT. So that Common Purse in effect becomes a way of the UK subsidising the tax haven activities of this very small, but very beautiful, jurisdiction.

1-028-0000

Tove Ryding, *Policy and Advocacy Manager, Eurodad***.** – In terms of where we see multinational corporations moving, I think it is a bit more complex than that. One of the things the Member States and the EU keep saying is not the case, but of which we see more and more examples, is related to something that is called advanced pricing agreements, also known as 'sweetheart deals'. The Commission's state aid cases are about these deals and they are secret, they are bilateral. It is because the law is so unclear. For example with McDonald's, it is not clear what McDonald's should pay in tax. This is where the secret deal comes in: it explains how a country will interpret the transfer pricing rules. What we're seeing is that when a corporation says 'I want to settle in your country, what kind of advance pricing agreement will you give me?', the negotiations start bilaterally, and when there is a good deal that's when we see the multinational corporation move its headquarters.

So these deals, and the fact that we cannot see them, are a huge problem. In LuxLeaks, these were the types of deals that were exposed, and suddenly we could see that corporations were paying less than 1% in tax. But we're seeing these negotiations become part of the relocation discussion. Brexit might mean that there is a lot more bargaining going on and there's a lot more pressure on governments to try to issue good deals, but I suspect that before any corporation chooses to move to the UK, for example, they would ask this question on whether they can get this deal that shows how the country is going to interpret the transfer pricing law. Part of the solution here would be to have a law that is not as open for negotiation as it currently is, or at the very minimum – as Parliament has suggested – that we should have public information about what is in these deals. We're even struggling to find out how many of these deals there are.

The other thing that we are seeing is also the discussion about lowering the corporate tax rate. That has also been escalating. We calculated that, at the global level, if the drop in the corporate income tax rate continues as it does now, the average global corporate tax rate will hit zero in the year 2052. Since then it has picked up speed, to be honest, so we need to do a new calculation now.

1-029-0000

Chair. – I think you may now get the answer to your question on tax competitiveness.

1-030-0000

David Coburn (EFDD). – It's nice to see you, Dame Margaret. I haven't seen you since the Barking and Dagenham election a long time ago. Well, it's 'Get Britain Day' again on the Tax Committee, and of course Dame Margaret, as a rampant, old-fashioned socialist – and a euro fanatic to boot – does not represent the majority of Brits, so as the EU's resident capitalist on the Tax Committee, it is up to me to put the committee right.

Britain will be more competitive, ladies and gentlemen, in taxes after Brexit than she is now. That is the whole reason we are leaving the EU, and that's whether Dame Margaret likes it or

not. Instead of whining about Britain and her Overseas Territories' tax competitiveness, why don't you join in and try to be more competitive yourselves? You're going to have to, whether you like it or not in the end, because the world will run ahead of you. The whole European Union is a protection system for the French, because their command economy cannot compete. The European Union is a larger model of the French command economy. It simply doesn't work for France, and it's not working for Europe. Europe is over-taxed, over-governed, and is going bust. Italy's banks are on the brink. Deutsche Bank, the bank of Goethe, is also on the brink, sir, so you should worry about that.

As for putting Britain on the blacklist, this is most unadvisable, as the City of London is essential for Italian banks – and Deutsche Bank, one assumes – and others getting credit. So it's not going to do you any good – it will do you an awful lot more harm and probably bring the whole house down on your heads. Unadvisable.

The EU sells more to UK than you do to us, so Berlin and Paris will soon come under major pressure from German and French businesses to do deals with Britain. I hope we leave without a deal, because that's the best thing for Britain, and then you will soon have to come with your begging bowl trying to get a deal – and that's just a fact of life. Also – as I explained to Mr Barnier in a private meeting, so I can't tell you what he said, but I can tell you what I said – in the British Constitution, no Parliament can bind its successor. So whatever you put in your divorce agreement, you cannot hold us to it, because the next parliament could just turn it over. When you say we are going to make sure we are not competitive in tax against the European Union, you are away in another world. You do not understand the British Constitution, and neither does Mr Barnier, but then he's French. Perhaps you should send someone who does understand the British Constitution to deal with Britain. You might do better. You cannot force us to do this, so there it is.

Dame Margaret will know this: it is also the duty in British law that company directors are obliged by law to minimise shareholders' tax exposure. We are a free enterprise economy, whether she likes it or not. That's the way it is, and that's the way British law is framed, so there's nothing wrong with that. Reducing taxes is a good thing. Governments waste money, governments throw money away, and if you want to know anything about that, you should see some of the governments that Dame Margaret was part of, that bankrupted Britain. So, I assure you, governments are not the be all and end all. It is much better that people spend the money they keep in their pockets and governments don't get to spend it on the very large salaries that all you lovely ladies and gentlemen – and your staff who do not pay tax or very little tax – also receive. Let's keep people's money in their pockets, let's minimise taxes if you want Europe to be successful, but then you don't.

1-031-0000

Chair. – Dame Hodge, you may consider some of the remarks unflattering and I am sorry for that. We are glad you are here as an expert, and I reiterate that we invited a representative from the UK Government, but they refused to come.

1-032-0000

Margaret Hodge, *Member of UK Parliament***.** – I am reminded that the last time I saw this gentleman was when I had an election victory against the British fascists in the British National Party – the leader of the British National Party – in 2010. Not only did we beat Nick Griffin into third place in Barking and Dagenham, but we also defeated him in the local authority elections and they lost every seat they had. So I'm delighted that was our interaction and that we won.

The only other thing I would say, if you want something serious, is that the argument about whether tax is an effective competitive tool is much more sophisticated than has been suggested. People will always want to be in a market if it's a big market. Whatever the levels of tax, people

will decide to locate to a particular area because of the market, because of the language spoken, because they like to live there or because of where it is in the global time zones, etc.: there is a huge range of factors that determine where a company actually locates itself and locates its HQ, of which tax is just one component. The only thing I would question is whether that is as strong and effective a component as those who think that the race to the bottom is the right strategy believe.

1-033-0000

Werner Langen (PPE). – Herr Vorsitzender! Ich habe zwei Fragen. Die erste Frage ist: Der größte Förderer der Brexit-Kampagne, Lord Edmiston, ist in den Panama-Papieren mit zwei Firmen in Malta, mit denen er den britischen Steuerzahlern Steuern vorenthält und damit auch indirekt die falsche und schädliche Steuergesetzgebung in Malta ausnutzt – zulasten der britischen Steuerzahler. Er hat Hunderttausende Pfund gespendet, und meine Frage ist: Was halten Sie davon?

Und die zweite Frage in dem Zusammenhang: Was hat denn Ihrer Meinung nach die britische Regierung in den letzten Jahren überhaupt getan, um diese Mängel, diese Probleme zu lösen? Ich sehe keine wirklichen Aktivitäten; Großbritannien hat sich so gut wie nicht beteiligt.

Und die dritte Frage ist: Natürlich kann man sagen, das Singapur-Modell ist gut. 2016 hat der Finanzminister von Singapur mir und den Kollegen bei einem ASEAN-Meeting gesagt: Ja, in Singapur mit 5,5 Millionen Einwohnern gibt es 223 000 Einkommensmillionäre in Singapur-Dollar, das sind 700 000 EUR. Ist das das Modell der Zukunft, dass sich die Reichen der Welt auf Inseln, in Stadtstaaten zusammenziehen und Herr Corbyn sagt, das Geld muss in die Tasche der Bürger und damit hier Stimmung macht? Und die letzte Frage an ihn: Was machen Sie denn, Herr Kollege, wenn der Exit vom Brexit kommt? Gehen Sie dann aus der Politik raus, oder was machen Sie dann?

1-034-0000

Chair. – You can answer that in the corridors. You can do it bilaterally, since we are running out of time anyway.

1-035-0000

Margaret Hodge, *Member of UK Parliament***.** – I think the issue of money involved in political campaigning is a really topical issue, and it's not just about dirty money being used in an inappropriate way, but Russian money, so much so that I think this is an issue for another day.

I just want to come back to you on one thing. The UK was, as Ms Ryding suggested, an early supporter of public registers of beneficial ownership, so we do have one. It's not very well run and it's not brilliantly policed, but at least it's there so it's something that we can build on. The UK Government recently said in response to a written parliamentary question that it will be implementing the Fifth European Anti-Money Laundering Directive, so we do participate.

I think my argument has been that what we have reached for now, with the Overseas Territories and the Crown dependencies, is transparency. This is a brilliant move, and I think this should be copied elsewhere, amongst all the colonies or territories that are attached to European jurisdictions. What we too often face is that we are not prepared to lead the way. David Cameron was not a member of my political party, but when we first started on this journey on tax justice David Cameron did show strong leadership in the G8 and the G20 in stimulating the work of the OECD and I salute him for that. I think a lot of where we are today comes from that original drive that he gave the whole issue.

Catch-the-eye procedure

1-036-0000

Neena Gill (S&D). – Welcome, Margaret, to the European Parliament. You can see how patient and tolerant my colleagues are, in that they have to put up with these kinds of interventions day in day out, and it's quite embarrassing to be a Brit sometimes.

I think you've addressed very many issues relating to Brexit, and we know that the UK Government presently is not serious about confronting tax avoidance schemes. The work of your committee has started that ball rolling, and the worry – as you rightly mentioned – is that it might start to go backwards with Brexit. That's a real concern, so Parliament has got a job of work to do to try to continue to push this forward, because as everybody said, it's in all our interests that we deal with this.

I wanted to move away slightly and ask you about something you said – that about 4% of the GDP is laundered money in the UK; that something like GDP 68 billion is from Russia. That is an incredible figure, and you've had the government saying that they are very robustly attacking after the Skripal case, and that we are going to take some action, but what we see is that President Putin and his cronies have been able to do business as usual and there are a lot of corrupt assets in London. I just wondered whether there is something you are doing – or are able to do – to address this, because they are eroding a rules-based system across the world: it's not just having an impact in the UK. Is there any appetite for having greater sanctions against this money? In a way, there have been powers in the anti-money laundering bill, but I'm not sure it's really targeting the individuals responsible for these. Also, will the government look at working with the EU, US and G7 to tighten the loopholes that are here and with respect to the issuing of Russian sovereign debt? Just moving away from Brexit slightly, if that's OK, but I would like your thoughts on that.

1-037-0000

Margaret Hodge, *Member of UK Parliament***.** – Thank you for that question. I will just get the figures right, because I was rushing through that bit of my presentation. The National Crime Agency claims that GBP 90 billion a year is laundered – I bet that's a conservative figure – and that's about 4% of GDP. The GBP 68 billion is money that has come out of Russia and gone to our Overseas Territories. It has not come to Britain. That figure is seven times greater than the amount of money that has come directly from Russia into the UK. I was using that to demonstrate the important role that the secrecy jurisdictions play in supporting money laundering.

I said at the beginning that this started around tax avoidance. I now spend much more of my time around financial crime, money laundering and those issues. It is a sort of a spectrum, and it's difficult to draw the line between them. On Russia itself, we have done some work recently about properties owned in the UK. There are 85 000 properties owned in the UK by companies registered in tax havens. Transparency International showed that, in their sample, four out of ten were owned by Russians. It's a way in which you buy a property in a company and register it in the British Virgin Isles. It is a way of getting the money you have got out of Russia illegally into the UK, and then you can put it into the legitimate system. So it is massive. If I take Westminster: one in ten of the properties now in Westminster is owned by a company located in a tax haven. That is extraordinary. That is 10%, and that is in the centre of London. In Kensington and Chelsea, the interesting statistic there is that everywhere else in London the population and the electorate has gone up by about 3% in the last ten years or so. In Kensington and Chelsea, it has gone down by 10%, and we think one of the reasons for that is that people are buying properties as a way of bringing money in.

Good moves are actually being made around that. Encouraged by Transparency International – they are a very effective lobbying organisation on these issues – the Government introduced unexplained wealth orders so that they can seize the money. If people buy a property, or if they spend money on something and can't explain their wealth, it can be seized, and until they can justify that is legitimate

money, their asset is seized from them. That has only just come in; it has hardly been used, but we want it to be more greatly used. We want it to be more open. The Cameron Government promised a public register – again, transparency – of ownership of properties so that you couldn't hide behind a company. That was promised in 2015-2016, and has yet to be implemented. That's very important. Regarding visas, you can buy your golden visa to get access to the UK, and again it's another way in which Russian money comes in. So there is a whole raft of tools that we are looking at to try to bear down on dirty money.

It isn't just Russia; I did a lot of work in Azerbaijan, and Europe doesn't come out well. The Council of Europe was involved there. An Estonian branch of a Danish bank was how they killed off the national bank in Azerbaijan and laundered money into it for bribery and other reasons. Ukraine is a very big player; it's dirty money coming from everywhere, although Russia is one of the major players.

1-038-0000

Neena Gill (S&D). – Just one very quick supplementary question: I forgot to ask you whether you think there are enough resources in the UK to tackle this. There are a lot of cuts in the UK, and I meant to ask about this.

1-039-0000

Margaret Hodge, *Member of UK Parliament***.** – No. It is ridiculous. I can't remember the figure off the top of my head, but for every additional tax inspector, it is about one in twenty or one in thirty, so for every pound spent you get twenty back. And yet, because they are cutting the headcount, they cut tax inspectors. I said to you that the regulatory system is very weak. For example, in Companies House – and again, I haven't got the figures off the top of my head – for millions of new companies there are only six people vetting that information to see whether or not incorporating a new company in the UK is done in a legitimate way. Right the way through all the police agencies – not just the tax authorities, but the Serious Fraud Agency, the National Crime Office, the police themselves – all those are under-resourced, and it is done secretly. All the time we ask for annual reports of successes so that you can see in a way how well the existing legislation is being used or not used.

1-040-0000

(End of catch-the-eye procedure)

Chair. – That concludes our first panel. I would like to thank Ms Hodge and Ms Ryding, and thank them for their insight. Life after Brexit is still loaded with uncertainties, and we can only hope that the UK Government will not downgrade the level of commitment to transparency that it adopted within the EU and that it will follow, in the future, EU and international development. As we have our co-rapporteur from Denmark and other Danish present, I would perhaps quote in this respect Søren Kierkegaard, who famously noted that life can only be understood backwards, but it must be lived forwards. So hopefully we will understand everything at least backwards – but we will see.

(End of Panel 1)

1-041-0000

Chair. – We will now start the second panel. The second panel will focus on the lessons to be taken from EU-third country tax agreements. Firstly, this panel will focus on how EU trade policy can improve the fight against money laundering and tax evasion. In addition, tax treaties signed by EU Member States with third countries, in particular developing ones, will be discussed.

I would like to welcome Ms Sandra Gallina, Deputy Director General of DG TRADE at the European Commission, Ms Hannah Brejnholt Tranberg, Tax Policy and Programme Manager at Action Aid Denmark – thank you very much for coming – and I hope we are connected via videoconference with Mr Eric Nii Yarboi Mensah, from the UN Committee of Experts on International Cooperation in Tax.

Each speaker will again have 10 minutes for the introduction, and I would now like to ask Ms Gallina to take the floor.

Panel 2: Lessons to be taken from EU-third countries tax agreements

• How can bilateral tax treaties and trade agreements facilitate the fight against illicit financial flows and tax evasion?

• Impact of EU-third countries agreements on developing countries

1-042-0000

Sandra Gallina, *Deputy Director-General, DG TRADE***.** – I am very honoured to be here this afternoon and to have witnessed this interesting exchange just now. I think I will possibly be shorter than ten minutes because I think the question and answer session is much more important for all of us here.

First of all, just let me reiterate that the fight against tax evasion, tax avoidance and money laundering is very high on the Commission agenda. I was very happy to see in the newsletter that the first picture, apart from the picture on the front, is the picture of Commissioner Moscovici who is really driving this. In fact, as regards good governance it is my colleagues in DG TAXUD and I would say in DG JUST that lead. But it is interesting to be here and to try to cast some light on what trade policies are also doing to support this agenda.

The first concept that I think we need to really take into account when we talk about trade is that this issue is global, and therefore I must very candidly admit that solutions need to be global too, which means that even if we were to embark on a big bilateral crusade with individual countries, at the end of the day, there will always be scope for something bad to happen somewhere else. So in a sense, let us always be reminded of the fact that it is global. It is also important to be reminded of that because many of the instruments that are actually at work at the moment are multilateral and global and therefore the margin of ability to move in a bilateral dimension is quite limited. I think that it's important that I mention that. In any case, since 2008 in the agreements, in FTAs, there has also been a part which belongs more to the political part of the agreement, so we have framework agreements and association agreements that accompany the FTA; we have provisions.

Now, in the case of the FTA proper, I would like to zoom onto those clauses that accompany the financial services commitments. When we are dealing with those we have here, I would have the clear expression that 'the parties will endeavour to implement the international standards on the fight against tax evasion and tax avoidance'. So at least in the FTA, we have a reflection of what may be more amply expressed in the association part of the agreement. I would also like to say simply that these international standards may be very well known to you. They go under the aegis of the OECD, but I think that it is very important that we bear in mind that they may be of a multifarious nature, and it is good that we have someone from the United Nations actually taking the floor later.
It is a global issue so it needs global solutions.

The second concept I want to put very clearly up front and which I really care about, because it is really the most prominent fact in the FTAs is that in a sense we need policy space for this in all our FTAs so it's not just in the general part, but it is really inscribed in the FTA that we have provisions that keep an exception that leaves our hands totally free on what we can do on this topic. I think in that respect, perhaps today you are seeking what can be actively done, but I may say to you that it is extremely important that we are not lured into negotiating this policy space. In a sense, by negotiating it with a partner in a bilateral agreement, you may end up with

less: the policy space to make your choices, the endogenous choices of Europe, the choices of where we want to go with partners – it is very important that we keep that free. In a sense, those two concepts are very important to me and now there is a third element I want to put on the table in view of what I have been reading about this committee. There is a perception which is not necessarily correct that more trade means more corruption. Well, perhaps so if it were not regulated by an FTA. With an FTA we are offering you more transparency, more accountability; there are provisions. Trade that happens under an FTA is more closely monitored so let us fight against that syllogism that is not necessarily true. So, with these three elements I would like to leave the floor because, as I said, I think it is much more important for me to give you clear answers on the different questions rather than give these very woolly explanations on what we do.

We are fully committed, in the FTAs, where we try to have those provisions that are within the competences and the remit of the Member States and the Commission, and in the political part of the agreements we definitely find more expanded versions that go even into the realm of cooperation on tax avoidance and tax evasion.

1-043-0000

Hannah Brejnholt Tranberg, *Tax Policy and Programme Manager, ActionAid Denmark* **.** – I shall be taking a slightly different direction but, first of all, thank you very much for inviting me here. I am from ActionAid Denmark, as you said.

First of all, thank you for the invitation to be part of this exciting hearing. At ActionAid, we have been following the work of the European Parliament and this committee with great interest and appreciation, as well as for the work done in previous committees. We have always appreciated the attention given to the important topic of the impact of European taxation policies on developing countries, which obviously is our main area of interest.

Today, I would like talk more specifically about the impact of double taxation treaties or agreements and the impact that they can have on developing countries and their capacity to mobilise domestic resources, especially through taxing foreign companies. What tax treaties do is to ultimately limit the taxing rights of both sides. The idea, at least in theory, is to prevent double taxation. The problem is that tax treaties currently tend to severely limit the taxing rights of developing countries. They are also often used in tax avoidance schemes by multinational companies, which was also touched upon a bit in the previous panel.

Recently, we did a report called ‘Mistreated’, which was based on an original piece of research where we looked at over 500 tax treaties between high income and lower income countries. It identified treaties that are more restrictive than most in the way in which they limit taxing rights, especially of lower income countries. The research identified three main areas for concern: first, permanent establishment definitions, which decide whether a country can tax the company and its profits at all; second, capital gains tax limitations; and, third, the limitations on withholding tax, especially on dividends and interest payments. As a consequence, lower income countries lose millions of dollars each year in tax foregone on interest payments and dividends alone. We estimated – and that’s what you can see on the slide here – that Bangladesh is losing approximately USD 85 million every single year just from one single clause in its tax treaties that severely restricts its right to tax dividends. We are about to publish a new report on this that gives more insight into the scale of revenue forgone through these types of clauses. What is important to note is that tax treaties limit the taxing rights of both sides but, according to our research, it has a bigger consequence for lower income countries and their taxing rights than on the higher income countries, which is basically what can be seen on this graph, except I see that the print is extremely small so maybe don’t pay too much attention.

It becomes very crucial as to which model is used when negotiating tax treaties. There is the UN one and the OECD one. The UN model tends to favour 'source taxation', whereas the OECD model tends to grant more taxing rights to the country of residence of the multinational group, which in most cases are the rich countries. As a consequence – and I have put up a slightly provocative slide here – a number of tax treaties with the OECD countries, which I have put up here as the club of the rich countries, are actually at the end of the day preventing poorer countries from taxing multinational companies. The tendency is that it's getting worse over time, which was also part of what you could see on the previous slide, which was not so clear. What is interesting, though, is that in the discussion of taxing rights – which has so far been a topic that has been discussed very much in relation to developing countries – it's now gaining quite a bit of attention in Europe as well, especially with regard to digital taxation.

Another problem with tax treaties arises when they are used by companies from countries other than the ones who have signed the tax treaty for what we call 'treaty shopping'. One example that we have looked into in ActionAid is that of Uganda. Just a few years after the Netherlands signed a tax treaty with Uganda, which completely removed Uganda's right to tax certain types of dividend payments to shareholders in the Netherlands, we found that as much as half of foreign investments in Uganda turned Dutch – on paper, that is. The treaty has since been renegotiated, so there is a plus there, but we have also highlighted other cases. There was one case of treaty shopping, which we looked at in another report called 'An extractive affair', which analysed the case of an Australian mining company which routed its payments via a Dutch subsidiary to take advantage of the provision in the Malawi-Netherlands double taxation treaty in order to lower their tax liability in Malawi. There are various models of anti-abuse clauses that might help in preventing such tax treaty abuses. The one proposed under the OECD Multilateral Instrument is a positive development, which I will talk a little more about in a moment.

As I was saying before, a number of EU Member States have in fact been renegotiating tax treaties with developing countries, and sometimes we'd like to believe that this is – at least partially – due to the pressure of civil society. Some of them have also been based on, or linked to, the spillover analyses that have been done by Ireland and also by the Netherlands. Following some of the conclusions of the spillover analyses, the Netherlands have included anti-abuse clauses in a number of their tax treaties with developing countries, so there is also some progression there.

In ActionAid, we believe that spillover analyses are crucial and that they should be undertaken by all Member States. We recently published this report here, which we called 'Stemming the spills', that discusses the possible scope and approaches of such analysis. We have also been pleased to contribute to the toolkit published by the European Commission's Platform for Tax Good Governance, which covers some useful questions in relation to tax treaties.
Today, we are discussing primarily tax treaties, but it is crucial to remember that spillovers of tax policies of the European Member States go far beyond tax treaties. There are transparency rules, controlled foreign corporation (CFC) rules, and regimes allowing letterbox companies, as well as patent boxes – which we also talked about in the last session – and they can all have impacts well beyond the countries in question. Therefore, they should also be subject to spillover analyses in line with the Policy Coherence for Development principle, which is enshrined in the Lisbon Treaty.
In light of that, we believe that, at the EU level, sound impact assessments – taking into account the potential impact on developing countries – are key. So we were disheartened to read over 100 pages of the Commission's impact assessment on the CCCTB proposals and not see any mention of developing countries. In that sense, the impact assessment on the public country-by-country reporting (CBCR) directive was a better case, even if we do not think it was perfect. We still believe that the adoption of a public country-by-country reporting directive, covering all countries in the world and adopting an appropriate threshold, would be one of the

best immediate actions that the EU could take to support developing countries in order to ensure more transparency.

Turning back to the multilateral instrument, which also presents some progress – or at least some opportunities. While the proposed arbitration mechanisms are definitely risky for developing countries, other measures –and especially the general anti-abuse clause – can help make the tax treaties less prone to abuse, although let's not forget that the Multilateral Instrument (MLI) does not address the question of taxing rights, which need to be addressed separately. Developing countries should carefully consider whether they might want to join, and there should be no pressure from the EU on this. We find it unacceptable – and this was what we talked about before as well – that the EU tax list of non-cooperative jurisdictions, known as the 'black haven' list, effectively pressures developing countries into committing to the BEPS reform, which many of them have not really been part of negotiating and which does not necessarily match their needs.

In summary, what should EU Member States do in relation to their tax treaties? We would say that they should undertake a spillover analysis and should revise and renegotiate tax treaties where there is a need for this. They should adopt a UN model treaty as a minimum standard, rather than the OECD, and they should ensure proper democratic and public scrutiny of the process. This means governments publishing policy objectives, making public draft versions of tax treaties before signing, and making sure tax treaties are debated formally and ratified by national legislatures. Before signing a tax treaty, an impact assessment should be published as well, in order to discuss it. Finally, an analysis of revenue losses and other impacts should be published, and we would suggest every five years. If there are any indications that changes need to be made, these should of course be followed up. On the MLI, EU Member States signing on to the MLI should sign on without reservations and let developing countries make up their own minds without pressure. EU Member States should support better global tax governance, and we would strongly encourage a stronger UN tax committee or a global tax commission. We urge Member States to support unrestricted access for developing countries to information exchange frameworks and agreements and, finally, to adopt public country-by-country reporting.

1-044-0000

Eric Yarboi Mensah, *UN Committee of Experts on International Cooperation in Tax Matters***.** – Good afternoon, I wish to thank the Chair and the TAX3 Committee for this opportunity to share my views on the lessons learnt from EU-third country tax agreements and their effects on money laundering, tax evasion and avoidance. Due to time, I will be speaking from the lessons learnt from the African perspective. In this presentation, I am presuming that 'tax agreements' basically refers to bilateral and, in some particular instances, to multilateral tax treaties.

Tax agreements, which basically take the form of double taxation agreements, have a long history and have had a tremendous effect on international trade and investments and led to the development of international treaty practice all over the world. However, many developing countries – especially from Africa – are now developing rules, procedures and capacity in this area. As I go on, I realise that Africa has a serious capacity issue with respect to international taxation and double tax treaty agreements.

As a result of the increasing importance of tax treaties and recognition by African countries of their handicap, a model tax treaty has been developed by the African Tax Administration Forum as an alternative to the two main international model tax treaties: the UN Model Tax Treaty, of which I have played a major part, and then the OECD tax treaty model. There are wide areas of convergence among these models, as the aim of all three models is to encourage investments in source countries, but at the same time eliminate double taxation and prevent tax evasion and abuse. However, significant differences exist between them, especially between the UN and the OECD models.

The original aim of tax treaties was to eliminate double taxation and address tax avoidance and evasion. The 2003 updated commentary to Article 1 of the OECD Model provides that 'the principal purpose of double taxation conventions is to promote, by eliminating international double taxation, exchanges of goods and services, and the movement of capital and persons. It is also a purpose of tax conventions to prevent tax avoidance and evasion.' That is a quote from the updated 2003 commentary on the OECD Model, Article 1. However, it is pertinent to know that the world of international tax has moved on beyond its original purpose, and the current OECD Model again, because of the inclusion of the BEPS provisions, has radically changed the completion of tax treaties.

The question I ask is whether these early tax agreements between the EU and third countries did achieve their aim of avoiding double taxation and prevented tax evasion and avoidance. My experience with implementing some of these treaties in Ghana (Ghana has nine treaties currently in force, and apart from the Treaty with the Republic of South Africa, all the treaties are with EU countries), and I presume it is the same in most African countries, is that these tax treaties substantially achieved their aim of eliminating double taxation, but it did so especially for the residents of EU countries.

Research and practice, however, have shown that these treaties did not adequately address the issue of tax evasion and avoidance, and possibly may have facilitated money laundering in some cases. Some of the old treaties, and especially some of the treaties that Ghana and some other developing countries have, have enabled big multinational enterprises to develop tax avoidance strategies that exploited the gaps and mismatches in tax rules of developing countries to artificially shift profits to low- or no-tax jurisdictions. The net effect of some of these arrangements was a reduction in viable tax revenues available to low-income governments, and therefore a lack of revenue for investments in physical and social infrastructure, which would obviously have aided in economic growth and development and less reliance on aid.

Developing countries' lack of capacity in negotiating and administering tax agreements was exploited to the maximum by actors in the international tax arena with the requisite expertise and financial muscle. An example can be found from the research study by the international charity ActionAid – and I am happy to present our ActionAid Director – which detailed the elaborate tax planning that multinational enterprises employed to pay low or no taxes in the countries they operated through the exploitation of the provisions of tax treaties in five different countries.

It has been noted that advances in technology and communication, which made physical presence no longer a relevant consideration in the operations of multinational enterprises, created scenarios where an enterprise could have substantial economic presence in a developing country without that country having a legally recognised taxing right. Such a situation created fertile grounds for tax avoidance schemes. Especially with the rise in the use of online mobile operating platforms in the digital economy, the problem has become even worse, and unfortunately no international rules have been developed to tackle this.

The development of the OECD BEPS Action Plan and its implementation is a clear admission of the failure of tax treaties in combating tax evasion, avoidance and money laundering. In fact, previous UN Tax Committees, in discussing updates to the UN Model Tax Treaty, had raised concerns at the erosion of the tax base of developing countries with the prevailing OECD and UN models at the time, and sought – albeit not too successfully – to put it on the international tax agenda. The UN has been dealing with, talking about and raising issues of base erosion for the past 20 years, but unfortunately it was not able to bring it to the forefront of international tax discussions.

So, now, the world has a new global tax outlook with the advent of the BEPS project. This project was developed to tackle multinational enterprises' ability to use the existing international tax rules to generate non-taxed or low-taxed economy. These new international tax rules have been developed and are being implemented in perhaps most developed countries and other countries across the world. The question I ask is: are these sufficient to tackle the issues of tax evasion, avoidance and money laundering? For developed countries, and by extension EU countries, the answer may be yes. The BEPS may help with tackling tax avoidance and evasion. But I do not believe that third countries, developing countries and African countries not originally part of the development of the new rules would have their problems with the old tax rules sufficiently addressed.

Why am I not convinced that BEPS will address African countries' problems with tax evasion and avoidance? First, developing countries, and I believe other developed countries, are grappling with the architecture of the BEPS project, and what it entails for a country's tax system. Secondly, what I find very important is that the BEPS Action Plan states unequivocally, and I quote, that: 'while actions to address BEPS will restore both source and residence taxation in a number of cases where cross-border income would otherwise go untaxed or would be taxed at very low rates, these actions are not aimed at changing the existing international standards on the allocation of taxing rights on cross-border income.' If the existing rules of international tax do not change on the allocation of taxing rights, then source countries –which comprise most developing and African countries – have been short-changed, because they are expected to join in the implementation of the new rules – which is not designed to help them directly, it is more like collateral. The rules have not changed significantly, but you need to implement it.

According to the *United Nations Handbook on Protecting the Tax Base of Developing Countries, 2nd Edition*: '[...] developing countries are primarily (though not exclusively) concerned with the reduction in source-based taxation, rather than the shifting of the domestic income of locally-owned companies to low or no tax jurisdictions.' And the UN Model Tax Convention generally favours the retention of greater 'source country' rights under a treaty, as compared to those of the 'residence country' of the investor. This position of greater source-country taxing rights is crucial to developing country in their treaty negotiations. So we have this interesting situation where developing countries are faced with a new international tax order developed by developed countries for developed countries, with indirect benefits for developing countries if they have the capacity to assess the benefits – which, I can assure you, they do not have, but which unfortunately is being implemented as a new global standard applicable to all countries.

The UN identified the following issues as of particular importance or concern to developing countries and which were not directly addressed in the BEPS project. One, the taxation of capital gains by source countries on the indirect transfer of assets located in their countries. Two, the taxation of fees for technical services by source countries. Three, the taxation of rents and royalties (payments for the right to use tangible or intangible property) by source countries. Four, the use of statutory general anti-avoidance rules in domestic law to stop taxpayers from using abusive tax avoidance arrangements and their relationship with the provisions of tax treaties. Five, tax incentives (the availability of harmful preferential tax regimes) identified as a BEPS issue but not considered in the action plans.

Why were these issues not made action plans, if truly we want a global approach to BEPS? I dare say it is because these are developing country issues, but then if we adequately want to address BEPS issues and deal with tax evasion and avoidance, we need to seriously consider these concerns of developing countries.

In seeking to implement the new international rules to combat base erosion…

(*The speaker was interrupted by the Chair*)

To conclude, what lessons do we take from the EU third party agreements? The Addis Agenda calls for improving the fairness, transparency, efficiency and effectiveness of tax systems, including through broadening the tax base and fighting tax evasion and avoidance. This cannot be achieved unilaterally, given the globalised nature of trade and investment, so there is a need to emphasise the importance of international tax cooperation, which should be universal in approach and take into account the different needs and capacities of all countries. I will be the first to admit that developing countries have, in the past, been unable or incapable of engagement and effective participation in international tax policy discussions. But to effectively tackle these issues of tax evasion, avoidance and money laundering, not only must their capacity be enhanced, but they must be equal participants in the development of the rules of international taxation and not mere consumers whose views are sought merely for the appearance of broad consultation. I will end here.

1-045-0000

Jeppe Kofod (S&D). – I would like to thank the panel very much for the presentations. I just want to say to Eric from the outset that I think that it would be very interesting to receive in writing to the committee the analysis he made from Ghana on how tax treaties are facilitating money laundering, because we are collecting facts and figures. It would be interesting for us if you could provide these analyses to us – that is just a request, because you mentioned it.

My question concerns a key take-away from all of our hearings, investigations and missions: that the complexity of tax structures, law agreements and treaties is in itself a driver of tax evasion, avoidance and aggressive tax planning, because this mix of different things leads to loopholes, mismatches and opaque money flows, as we have heard. So I would like to ask the panel whether, in your view, it is realistic to curb tax evasion, avoidance and aggressive tax planning targeting developing countries with the current framework of agreements, treaties and conventions, or do we need – as you have already mentioned – a holistic approach involving renegotiating bilateral tax treaties? If we have to do that – and we can of course use another model, an OECD model – but how do we do that in practical terms? I would love to hear how the Commission is thinking around that issue.

On a technical level as well – maybe to the Commission, but also to the two other panellists – do you believe that the EU and its Member States are currently doing enough to help developing countries in particular to build the capacity to effectively uncover, investigate and prosecute these illicit tax structures? We have programmes to help building capacity, but I think we have just heard examples as to why this is really insufficient.

1-046-0000

Sandra Gallina, *Deputy Director-General, DG TRADE***.** – It's interesting that you asked the question about capacity, because in fact in my past I dealt with Africa. I think we do quite a lot and I would definitely defend what we doing – both as the Commission and the Member States, because when we talk about cooperation, it is also the Member States. But, as you said, capacity is not something that you create instantly just because you are taking a few actions that may get a certain number of people up to speed. In these types of issues – and I also benefit from my experience of the corporate social responsibility agenda, and I would say that we do not have to call it by that name – it is an issue that percolates through the population.

Therefore, I don't think that there are shortcuts in this. I think we are trying our utmost to do our best, but the final sovereignty and responsibility remains with the governments of these countries, if you allow me to say that. On these issues, from what I heard from Hannah – and I dealt with Bangladesh for a long while – we cannot substitute ourselves for the will of those governments. I will stop here and not go into too many details, but the building of capacity

exogenously, if you allow me this word, is not enough. There needs to be an internal movement and an internal recognition that these are issues for them. So, fully cognisant of the fact that we also have our limitations and that we could be doing more, there is a limit to how much you can sprinkle money and solve a problem. I lived that in my Africa files.

For the rest, I think it's Hannah's domain from what I can see, but I have understood that these tax treaties are very complex beasts so I suspect that the devil is in the detail. How can you create instant capacity for these people to deal with these tax treaties? Perhaps a few do. But do they stay in the country and work for the country or for the government? That is a series of questions I don't want to unleash here. We try to do it, but I think it's a holistic approach in the real sense of the word. We need to go much deeper.

1-047-0000

Hannah Brejnholt Tranberg, *Tax Policy and Programme Manager, ActionAid Denmark* **.** – Thanks for the question. On capacity, I think that Member States are doing a lot. There is always more to do, as you were also saying, but it's not the only thing. I think that is also one of the things I want to bring out around using the UN model or the OECD model, which Eric also alluded to. There are other models that can be used instead of just using the OECD one at the outset.

What I wanted to say on that is that they are bilateral treaties and they are negotiated at a bilateral level. I now speak on behalf of my own country, Denmark. I believe that Eric has some experience with negotiating a Ghana treaty with Denmark, but on that particular one, Denmark could have gone ahead and said that it did not need to use the OECD model; we could have used the UN one as a starting point. So that is up to EU Member States – that is a choice that we can all make. We don't have to go with the OECD one. We could choose to go with the UN one. So that would be my appeal.

The other thing is ensuring that we also do actual spillover analysis before signing a treaty. At the moment, treaties are negotiated behind closed doors in order to assure that private sector, CSOs, etc., don't meddle in the negotiations. There can be arguments for it – I would argue that transparency is always much better – but the problem is that at the moment treaties are signed without a spillover analysis. That means that we sign the treaties without having done a proper analysis of what the consequences might be. There will be economic consequences, but there are also social consequences, etc. If you look at it, less taxes in a country at the end of the day means less hospitals, less nurses – you name it.

So there are lots of consequences. If we narrow a tax base or the taxing rights of a country it has consequences, and at the moment we don't actually analyse this properly. So that would definitely be another one of our arguments – to make sure we do the analysis before we sign it, and then we have to keep going back to them. Even if we sign a treaty now, things change in five years, so then we have to revisit our treaties or the consequences of our treaties: are they still where they should be? Has something changed, meaning that we should maybe revisit the tax treaties? This should obviously be done at a bilateral level as well. So it is not only the responsibility of the EU Member States; this is obviously a dialogue that you would have with the countries that you have a treaty with.

1-048-0000

Eric Yarboi Mensah, *UN Committee of Experts on International Cooperation in Tax Matters***.** – I think I agree with the issue of capacity. I must also agree that the EU and some other international bodies are helping to build capacity with respect to treaty negotiations for the technical people in the developing countries.

A major problem is the capacity of their political leaders. You find that, a lot of the time, treaties are negotiated not as a technical choice, but as a political choice. So you find that

the political leaders decide who to negotiate a treaty with, and then the technical people go ahead and do it without any analysis of its effect or importance for the countries. I find from experience that ratifying a tax treaty in a parliament is one of the easiest things to do because of the technical nature. You get it through easily without any interrogation by the parliamentarians as to the effects and consequences. So, whilst building technical capacity for the technical people, maybe some kind of awareness on the part of the political leaders who are supposed to understand – especially parliamentarians – what are the effects of these treaties, may also be important.

1-049-0000

Ramón Jáuregui Atondo (S&D). –Yo quería hacer tres preguntas y empiezo por pedir que la intervención del representante de las Naciones Unidas nos la envíen por escrito, como pedía Jeppe, porque no hemos podido recibir la interpretación de su intervención. Y las preguntas son, en primer lugar, a la señora Tranberg. Le he entendido que la lista negra de la Unión Europea influye negativamente en los países en desarrollo. Eso es lo que he querido entender. Que cuando la Unión Europea publicó la lista, eso pudo perjudicar a algunos de esos países. No entiendo bien la razón. Esa es mi primera pregunta. La segunda es a la Comisión. Cuando negocian acuerdos con países, digamos, en desarrollo, pongamos países africanos, pongamos Centroamérica, ¿qué cláusulas de colaboración fiscal mantenemos? ¿Las de OCDE o las de las Naciones Unidas? Y, en su caso, si esos países son débiles para negociar, ¿cuál es la razón por la que nosotros —en nuestros acuerdos—, los europeos, concretamente, no establecemos cláusulas que les eviten los perjuicios que está señalando la señora Tranberg a propósito de lo que pierden esos países en sus acuerdos con Europa. ¿Por qué nosotros no hacemos las cláusulas que permitan evitar o que eviten esa pérdida de ingresos fiscales en esos países? Y la tercera, y termino. Cuando hacemos acuerdos comerciales con los países en desarrollo, perdón, con los países desarrollados, por ejemplo, Japón, por ejemplo, Canadá, por ejemplo, México —estos son de los últimos dos años—, ¿nuestras cláusulas fiscales son suficientemente colaborativas? ¿Aseguramos que realmente haya espacios opacos en la colaboración fiscal con esos países? ¿Avanzamos hasta una transparencia plena que evite el fraude fiscal a unos o a otros?

1-050-0000

Eric Yarboi Mensah, *UN Committee of Experts on International Cooperation in Tax Matters***.** – I will provide the copy of the presentation to the office here in Paris, and I think that with respect to the issue of negotiation between EU countries and African or South American countries, the problem is with respect to the bargaining positions, because treaty negotiations are negotiations. The more skilled and better prepared a negotiator is, the better deal that country gets. I think earlier questions and answers were in respect to capacity, and you find that an EU country negotiating a treaty will bring its best provisions forward, and it is for the other countries to also attempt to get the best deal for their countries. Unfortunately, as we have stated, their capacity to be able to negotiate a good treaty is not available. It is being built, but it still hasn't been to the standard of that of most EU countries. So you would find in most of the treaties that we have that there is a small, one-sided advantage to developed countries over developing countries. I like the provision that if you want to give the developing countries the required resources, then maybe the UN model should be the starting point. I know that is a debatable point, but I will agree with that suggestion.

1-051-0000

Sandra Gallina, *directora general adjunta, DG TRADE***.** – Muchas gracias por esta pregunta, porque quiero, en cierto sentido, volver a aclarar este tema. Digamos que, para lo que atañe a este tipo de cláusulas de cooperación, el instrumento no es necesariamente el ALC propiamente dicho, o sea, el acuerdo comercial. Es el marco político, que puede llamarse *framework agreement*. Por ejemplo, en Mercosur hablamos de *association agreement*, porque hay esta parte política. En la parte política yo diría que la respuesta más correcta es que no es que hay una elección, hay, digamos, estándares que son estándares de las Naciones Unidas y estándares que son de la OCDE. No, no. Hay, digamos, una mezcla. En cierto sentido, esto es para lo que

concierne a la lucha contra la evasión y la elusión fiscales. Cuando venimos al blanqueo de capitales hemos tenido, digamos, la osadía, en el Acuerdo con México, de poner en la parte ALC algo que ya era más cercano. Lo digo para explicar que no es que nos inspiremos solo en una fórmula, nos inspiramos en fórmulas que son mucho más, digamos, complicadas.

Yo creo que lo que es útil también saber es que, aparte de esas cláusulas y dispositivos que están negociados, no necesariamente, ni siquiera por la DG TRADE, porque son mucho más importantes, son una artillería más pesada en un acuerdo de asociación, en la parte comercial lo que tenemos, y es por eso que yo cuando hice mi primera intervención dije, aun indirectamente, la parte comercial contribuye. Porque tenemos siempre un capítulo que se llama transparencia. Y en ese capítulo hay muchas cosas que se pueden utilizar. Entonces, yo quisiera hacer un llamamiento. Muchas de las cosas que Jana acaba de decir —que, por ejemplo, no se sabe o hay oscuridad—, siempre tenemos una forma para poder llegar con transparencia. Ahora volvemos a lo que se estaba diciendo antes —y decía Eric muy bien—, es el gobierno el que tiene que estar al tanto de esto y, muchas veces, el que no quiere mucho esa transparencia puede que esté allí, puede que sea un funcionario. No digo, no digo más. Entonces, en cierto sentido, los acuerdos comerciales son una agenda que permite, que facilita esto, no necesariamente dando la disposición específica de cooperación en materia fiscal, que eso se encuentra siempre en la parte más política. Espero haber sido un poco clara, con acento sudamericano, pero bueno.

1-052-0000

Hannah Brejnholt Tranberg, *Tax Policy and Programme Manager, ActionAid Denmark* **.** – The question that you directed to me was about the tax haven blacklist. I guess I was a bit fast in explaining it, but there are certain criteria which land a country on the blacklist, and one of them is living up to the BEPS criteria. That's the problem: that you're forced to sign up to the BEPS. If not, you end up on the blacklist, and of course no country wants to end up on the blacklist, so it's kind of through the back door.

1-053-0000

Matt Carthy (GUE/NGL). – My thanks to the speakers for their presentations, and I would just like to mention to the committee that our Group, GUE/NGL, have launched a new study today that deals with the impact of the EU's tax treaties on developing countries. I would encourage people to read Martin Hearson's report, which we will circulate following the meeting. A key finding is that the EU Member States' tax treaties are even more restrictive on the tax and rights of developing countries than the average OECD members' treaties with developing states, so I would ask Members to read it and to note the recommendations.

My questions for the speakers relate to the OECD's Multilateral Instrument (MLI). I have repeatedly raised the issue here at this committee and in the PANA Committee. However, the Double Irish is in fact still in place through Ireland's tax treaties with certain countries, including Malta. A new report from Christian Aid this week has shown how US multinational Teleflex has set up a so-called 'single malt' structure as recently as July this year, which was well after the Trump administration's reforms to US tax laws. I had hoped – and I think we all did – that by implementing the multilateral instrument and the anti-tax avoidance directives, multinationals would no longer be able to use tax avoidance techniques like the 'single malt', but according to this report that is far from certain and a key remaining problem for my own country is that Ireland has actually opted out of Article 12 of the MLI on permanent establishment. I was wondering if the speakers could outline their views on the significance of Article 12, which countries are actually opting out of it, and what is the significance of that?

1-054-0000

Hannah Brejnholt Tranberg, *Tax Policy and Programme Manager, ActionAid Denmark* **.** – Thank you for the question on the permanent establishment issue. This is one of the key issues in the tax treaties and one of the problems at the moment is also the mismatch between them. We have different definitions of permanent establishment, which is what we saw last week in the McDonald's case. Different countries have different definitions of what permanent

establishment is and what it requires, so that's one of the problems: there is a mismatch on the opting out of things. The more things you opt out of, the less clear it becomes and the more options there are for mismatches. On the other hand, there also certain clauses that you want to be careful of signing up to, especially for developing countries.

On Article 12, I am not exactly sure what you are getting at. I don't remember off the top of my head.

1-055-0000

Eric Yarboi Mensah, *UN Committee of Experts on International Cooperation in Tax Matters***.** – My brief answer with respect to the multilateral instrument (MLI) for developing countries would be to go slow with respect to entering into such agreements, because clearly – even though they were at the table – the agreements were developed without input from developing countries, because the capacity to be able to understand and input was not available. I would prefer that most developing countries understand the issues and the consequences of entering into a multilateral instrument that has wide-ranging effects, because there are certain minimum standards that all those who enter into those agreements must abide by. If I am right – and you may correct me – one of the minimum standards would be the reference to international arbitration of tax issues, and that is a very sensitive matter for most developing countries. Normally, I hold the view that developing countries should be very slow and be sure they understand what they are getting into before they enter into an MLI.

1-056-0000

Ana Gomes (S&D). – I find interesting the explanation you gave, Ms Galina, because I have often put this question to Commissioner Malmström with regard to the FTAs that she has been negotiating – with TTIP, the 'I' is for 'investment', so why wasn't regulating investment via taxation there? It was totally absent, as it is absent in CETA and is absent in the agreement with Japan. OK, we can say that third-world people don't have enough capacity, but we do have enough capacity and we choose not to use it, because we have captured this industry that is fuelling tax evasion, tax fraud and money laundering. The Big Four – as have been mentioned by Mr Mensah – are advising the Commission and our national governments, drafting the laws, drafting the double taxation treaties. We need to wake up – serious citizens, serious governments, serious MPs and serious officers – not to continue with this outrageous system.

I would just like to recall that yesterday was a good day for a country that I know somewhat: Angola. The son of the former kleptocrat, dos Santos, was arrested over a scheme to take USD 500 million out of the country via a sovereign fund with a partner in Switzerland. It was actually with the Swiss authorities collaborating, with KPMG very much enabling the fraud scheme, and with the British SFO (Serious Fraud Office) apparently not cooperating so much – or at least not the SFO, but a court blocking the repatriation.

My question to Mr Mensah is: is the UN, through the UNDP, World Bank and the IMF – which is now supposed to be assisting the Government of Angola – helping to recover these assets? For instance, there is EUR 8 billion here in Brussels from the trade in diamonds of the sister of that guy who was arrested yesterday: Isabel dos Santos. Is someone advising the Government of Angola, enabling it to recover the money? And ensuring that the system is not going to be reproduced again?

Could I ask if the UN has any views on the repatriation law that they adopted in Angola recently, which some people say might work, but which might as well be a scheme for laundering money back money to Angola? Why does the UN just do it at the level of experts, so that nobody knows that it even exists? Why isn't the UN pushing for a big conference with politicians, with MPs and with governments on the question of a global action on taxation? I can tell you that I put a letter with that proposal into the hands of Mr Guterres the last time he came to this Parliament, but I haven't seen any action. Can you explain? You are working in that field – and

I very much appreciate what you said, Mr Mensah – so what is your perception? Why isn't there at UN level the political will to push this forward when citizens – especially after the financial crisis of 2008 – have been demanding that, and so are our national budgets?

1-057-0000
Eric Yarboi Mensah, *UN Committee of Experts on International Cooperation in Tax Matters***.** – With respect to the repatriation law in Angola, I must confess that I am unaware of any collaboration with the UN on that law, or even with respect to the provisions of the law. But on the second question of the UN pushing for a global tax body, I think the UN Tax Committee and some international civil societies have attempted to do that. If you recall the Addis Ababa Action Agenda and Action Plan in 2015, there was a massive push to have a global tax body to set global tax norms. Unfortunately that was not successful and I think the ….

(*The speaker was interrupted by Ms Gomes*)

1-058-0000
Ana Gomes (S&D). – You should say that it was actually blocked by the EU. Please say it – some of our people need to hear that.

1-059-0000
Eric Yarboi Mensah, *UN Committee of Experts on International Cooperation in Tax Matters***.** – I think a group of services in the UN have also attempted over the years to push for a global tax body for the world, spearheaded by the UN, but it has not been very successful. My personal views – even though they do not matter – would be for something like that, but I think it's for the world to decide.

1-060-0000
Chair. – I would like to thank all the guest speakers. Thank you very much for giving us answers to our questions.

The next meeting will take place on Monday, 1 October 2018 in the afternoon in Strasbourg.

(The meeting closed at 17.41)