

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

TUESDAY 27 NOVEMBER 2018

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“REPORT ON FINANCIAL CRIMES, TAX EVASION AND TAX AVOIDANCE”

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“EXCHANGE OF VIEWS WITH COMMISSIONER PIERRE MOSCOVICI”

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**PUBLIC HEARING ON “AGGRESSIVE TAX PLANNING SCHEMES WITHIN THE
EUROPEAN UNION”**

Sophie Maddaloni, Tax Director, Kering Group

Adam Cohen, Head of Economic Policy, EMEA region, Google

Alan Lee, Head of Global Tax Policy, Facebook

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 15.03*)

1-003-0000

Chair. – Good afternoon, dear colleagues. We have quite a busy agenda today, so let us start this meeting of the TAX3 Committee.

After having heard experts, EU Commissioners and Ministers during the first eight months of the TAX3 mandate, the co-rapporteurs will today present their findings and recommendations on how to improve the EU framework in the area of anti-money laundering and taxation. The English version of the draft report was circulated to Members on 14 November. All linguistic versions are available on the TAX3 website.

The timetable is as follows. The deadline for tabling amendments is 17.00 on 17 December 2018 and for the consideration of amendments, 29 January 2019. The vote in the committee will be on 27 February 2019, and the vote and debate in plenary will be at the March II session in Strasbourg next year.

Both co-rapporteurs will have seven minutes each for their introductions, followed by interventions of four minutes by the shadow rapporteurs, and then by other speakers. So PPE rapporteur, Luděk Niedermayer, the floor is yours for seven minutes.

“Report on financial crimes, tax evasion and tax avoidance”

1-004-0000

Luděk Niedermayer (PPE), Co-rapporteur. – First of all I am pleased that I have less minutes than members of the committee represented here. I will not necessarily use all seven minutes. Let me say that, many years ago actually, we started with one scandal, and established one special committee, and this situation has developed into the consecutive work of four special committees and the ECON Committee as well.

It seems that the fight against money laundering, tax fraud, tax evasion and the fight for more transparency and fairness in taxation is not yet over by far. That is also illustrated by recent scandals like cum-ex. Our report on the one hand summarises the progress made since the first scandal and the first committee, which was LuxLeaks in 2015, through to the work of other committees – TAXE, TAXE2 and PANA – and also looks into the remaining loopholes and weaknesses in the system uncovered by the recent revelation of problems in the banking sector and also the cum-ex scandal.

I would say that we are progressing actually in many areas and we should be proud of our achievements, where Parliament has obviously played an important role. We have new legislation, we enhanced transparency in many areas, and there is, I guess, an increasing will to address the issues.

In many areas, we are still missing the common approach and courage to solve the issues in a better way, together. I’m talking about the CCCTB and VAT reform. It is also rather clear that in some other aspects we don’t lack a solid legislative framework, for example in the case of money laundering, but weak implementation or improper enforcement and a lack of cooperation is undermining the result. Also, I would say, overall – and I say it with some kind of pity – there

is an unwillingness on the part of Member States to give up a small piece of sovereignty, even to be able to fight efficiently the existing problem. This is missing, and without change in this area we will likely not move forward.

In the report we have addressed a large range of issues. I must emphasise that we were limited by the scope, and that's why Jeppe and I prepared many amendments that will be filed later on, because we want to make sure that all the important things are covered.

So I want to say what I see as the focus – the issues which are covered in the report and which maybe were not the centre of attention in the past: money laundering, VAT fraud and some special issues, like golden visas. I would say that we are also stressing – and this is very important – that tax and other authorities now have powerful tools available, as well as large amounts of data, and the focus should be on efficient use and sharing of this information. We do not need more power or to demand more data, but should learn how to efficiently use what we have. Also, I would say that a big focus in the past was to eliminate double taxation, but we should also be aware of the problem of double taxation for taxpayers. The problems of increasing cost, the burden of fulfilling the tax obligation and uncertainty surrounding the obligation to pay taxes should be highlighted also, because we want to make sure that fair and decent tax payers are rewarded for their responsibility, while we are trying to go especially after the bad guys.

In the area of anti-money laundering, we must make sure that the system is really robust. If Member States fail to ensure proper implementation and enforcement, we should consider whether the Anti-Money Laundering Directive shouldn't be transformed into a regulation in order to enhance the clarity and make sure that there is better enforcement.

I could talk longer, but I am sure Jeppe would also like to stress his points. I would like to thank him for the constructive cooperation, which I hope will continue. We want to make sure that the message that comes from this Parliament in this area is clear. The work will not stop and will continue. Let me also express my appreciation of your work, Chair, and that of the secretariat and other members of committee. They were of great help.

1-005-0000

Jeppe Kofod (S&D), Co-rapporteur. – Thank you so much Chair. Dear colleagues, allow me also first to thank my co-rapporteur Luděk Niedermayer for his constructive attitude and good cooperation on this draft report. I have enjoyed very much the frank discussion. It is no secret that we do not agree on a specific number of proposals, but we have managed to find, I think, workable compromises on most things and a gentleman's agreement on agreeing to disagree on others, which is I think the right format in a parliament. I would also like to take this opportunity to thank the secretariat, of course, and also Luděk's team and the S&D team for the tremendous work you have done.

This has been a mountain of work under an extreme tight timeline, and it demanded an extraordinary effort from all of us. On the positive side, I feel very confident that this dedicated hard work is now showing a result. We have before us, I think, and Luděk alluded to this, a draft report which is both thorough in its findings, strong in its recommendations and hopefully also clear in its language. We do not shy away from naming and shaming countries, authorities, companies and financial institutions which have failed to live up to their responsibilities. I think it's important when we see our findings that we report them to the committee and to the public.

At the same time we only do so where there is a clear and well-documented basis for doing so, and it's important to us that it be based on documentation when we do this kind of mentioning names. We do go into the specifics of the largest cases of money laundering uncovered during the mandate of this committee – again based on facts that we can see out there.

We propose clear actions on free ports, special economic zones, patent boxes, strengthening EU-level supervision of banking and finance institutions, strengthening coordination and cooperation between Member States' authorities and global action led by the EU to ensure developing countries are part of the conversation on achieving global tax justice.

We call for a phasing-out of all golden visa schemes and deplore the fact that a large number of Member States have failed to transpose AMLD4 in time. We call on the Commission to assist establishment of an EU-level anti-money laundering and terrorist finance mechanism, either as a new, or in an existing, EU body.

This is just a brief example of what we've already achieved with the draft report. It is vital to recognise that Europe has achieved much in the last five years in combating tax fraud and financial crime, as also alluded to. At the same time, we must also acknowledge that we still have a lot left to do. Some Member States' authorities have failed in their responsibility to supervise, failed in their responsibility to cooperate and failed in their responsibility to act. A number of specific European banks have failed in their legal requirements to conduct even the most basic know-your-customer requirements. And the regulatory and supervisory framework in place in Europe has proven completely inadequate in detecting, stopping, investigating and prosecuting these illegal activities.

This is the harsh judgment we have no choice but to make, and we have done so in our report. Now a few points of practical information. There is a hard limit on the length of the draft report that we could submit and we therefore had to limit ourselves. This also means that we have, I think, about five extra A4 pages of additional agreed text that we will present as amendments by the co-rapporteurs, and which cover all the thematic aspects of the report you already see before you.

Dear colleagues, as you know, we are far from finished with our work in the special committee. We will continue having hearings and missions of the special committee, and the findings and outcomes of these activities will, of course, be reflected in the report. We as co-rapporteurs will continue working on the report right until its final adoption in plenary, through joint amendments. These will, of course, come in addition to – no doubt – numerous amendments put forward by you, colleagues, and by the political groups. We have, of course, also a number of specific cases and topics which deserve special attention in our continued work.

Allow me to highlight a few examples that are very near to my heart as co-rapporteur.

First and foremost, we still have a lot to do on the proper, effective and strong protection of whistle-blowers in Europe. Last week's hearing with Howard Wilkinson, the whistle-blower from the Danske Bank case, and his lawyer Stephen Kohn, I think laid bare the sore state of whistle-blower protection in Europe.

Here we have to take a long and hard look at the present legislative framework both in Member States and at the EU level. We are already well underway with the current negotiations on the whistle-blower directive, which promises to be a landmark achievement for Parliament in our fight to protect whistle-blowers. However, we must also take heed of the expert advice we have received and look into sector-specific legislation and protection of whistle-blowers. Moreover, we have to focus especially on the use of this non-disclosure agreement, which we know for a fact can be used to silence and pressure would-be whistle-blowers – and that is, of course, not acceptable.

We also have a lot more work to do on the cum-ex files. In many respects, this is the worst case of tax fraud we have seen – at least in my eyes – not least due to the fact that this was outright theft of the taxpayers' money – money that was supposed to pay for schools, hospitals, care for

the elderly and so on, but instead was stolen by a small corrupt elite of bankers to finance their lives in luxury in Dubai and Switzerland. This theft was at least in part made possible due to the shocking lack of cooperation, communication and control by Member State authorities. In short, the perpetrators of this crime did all the things that Member State authorities failed to do. They cooperated closely, shared information and worked systematically to achieve their aims. We, as the responsible committee, have to get to the bottom of this scandal and come forward with clear workable solutions to ensure that such theft cannot happen again.

Dear colleagues, I look forward very much to our discussion on the draft and our continued good cooperation and ensuring a strong report. Having worked on all four special inquiry committees and having had the honour to serve as co-rapporteur for three of them, I would just like to add a final remark, if I may, very briefly. Work in this committee has been marked by a high degree of cooperation and integrity, allowing our work to be conducted in a constructive atmosphere and delivering real results in this very important area. I want to thank colleagues for this, and I look forward to a constructive approach to the end of this mandate as well.

1-006-0000

Wolf Klinz (ALDE), Schattenberichterstatter. – Herr Vorsitzender! Ich möchte den beiden Ko-Berichterstatttern auch herzlich für ihre Arbeit danken. Wir haben einen sehr ausgewogenen Bericht, der eines deutlich macht: Der Ausschuss ist relativ fleißig gewesen, er hat viele Untersuchungen angestellt, Anhörungen gehabt etc.

Wo ich noch nicht ganz zufrieden bin, ist bei der Frage der konkreten Vorschläge. Wir müssen am Ende des Tages, damit wir wirklich einen Effekt erzielen, tatsächlich ganz konkrete Vorschläge unterbreiten, was sich zu ändern hat. Denn wir dürfen eines nicht vergessen: Wir reden hier über wahnsinnig viel Geld. Wenn es uns gelingt, auch nur einen großen Teil dieser betrügerischen Machenschaften im Steuerwesen auszumerzen, dann hätten wir überhaupt keine Sorge, den nächsten Mehrjährigen Finanzrahmen zu dotieren, dann bräuchten wir uns nicht zu streiten, ob er 1,1 oder 1,3 Prozent des Bruttosozialprodukts beträgt.

Es ist völlig klar, dass wir Steuervermeidung und sogenannte Steueroptimierung in der bisherigen Form nicht akzeptieren können und dass hier eingeschritten werden muss. Die Frage ist nur, ob wir den richtigen Weg einschlagen. Wenn ich zum Beispiel an die Steuervermeidung denke und hier an den Vorschlag, bei den Digitalunternehmen die Digitalsteuer einzuführen, um auf diese Weise für Gerechtigkeit zu sorgen, dann glaube ich, dass wir hier einem Trugschluss unterliegen. Die Zahlen, die hier herangezogen werden, sind reine Simulationszahlen, die der Wirklichkeit nicht entsprechen. Derjenige vom ZEW in Mannheim, der diese Zahlen zuerst entwickelt hat, hat sich inzwischen von der Art und Weise, wie die Zahlen genutzt werden, zurückgezogen und verbietet die Nennung seines Namens in diesem Zusammenhang, weil er sagt: Das sind falsche Zahlen, in Wirklichkeit ist der Unterschied zwischen dem, was die digitalen Unternehmen zahlen und dem, was normale Unternehmen – sogenannte normale – zahlen, sehr, sehr, sehr viel kleiner, wenn er überhaupt besteht. Also hier müssen wir aufpassen, dass wir nicht etwas machen, was auch steuersystematisch schwierig ist, indem wir nämlich versuchen, einen Gewinn über den Umsatz zu besteuern.

Das Zweite ist: Wir wissen, dass es drei große Bereiche gibt, wo, sagen wir mal, schlechte Zustände herrschen. Der eine ist die Mehrwertsteuer. Seit 14 Jahren reden wir über den Mehrwertsteuerbetrug. Wir wissen eigentlich, wie wir ihn in den Griff bekommen können, und trotzdem schaffen wir es nicht. Das heißt: Hier müssen die Mitgliedstaaten sehr viel mehr als bisher auch tatsächlich Ernst machen, und es nützt uns gar nichts, wenn wir eine Untersuchung, eine Analyse nach der anderen haben.

Bezüglich der Cum-Ex- und der Cum-Cum-Geschäfte oder auch der ADR-Geschäfte, die jetzt vor zwei Wochen herausgekommen sind, kann es – glaube ich – nicht angehen, dass sich die

nationalen Aufsichtsbehörden darauf berufen, dass sie ja für Steuerfragen nicht zuständig sind, sondern nur für Aufsichtsfragen. Hier muss das geklärt werden, die Kompetenzen müssen sauber neu zugeschnitten werden. Wir brauchen meiner Meinung nach eine Verpflichtungserklärung der Banken, die international tätig sind, dass sie solche Geschäfte nicht unterstützen. Wenn sie dagegen verstößen, muss das auch staatsanwaltliche Folgen haben. Wir brauchen für die, die einer Missetat überführt werden, für meine Begriffe ein lebenslanges Berufsverbot. Das gilt vor allem für die Freiberufler – Rechtsanwälte, Wirtschaftsprüfer, Steuerberater –, die hier die Hand für solche Dienstleistungen reichen. Wir brauchen einen lückenlosen Austausch zwischen den FIUs in den Mitgliedstaaten, wir brauchen vielleicht – wir sollten das zumindest überprüfen – eine Art europäisches FBI, und wir müssen einen intensiven Austausch mit den USA machen, denn wir haben gestern in der Anhörung mit den Experten zum Cum-Cum- und Cum-Ex-Geschäft gehört, dass so etwas in Amerika heute nicht mehr möglich wäre.

Der Schutz der Whistleblower ist ganz entscheidend, da stimme ich den Vorrednern zu. Den müssen wir verbessern, aber nicht nur den der Whistleblower: Wir haben gestern auch gehört, in welchen Schwierigkeiten sich die investigativen Journalisten befinden, die von reichen Milliardären einfach verklagt werden und die es sich eben nicht leisten können, ruckzuck einmal 200 000 oder 300 000 Euro in die Hand zu nehmen, um einen entsprechenden Anwalt an ihrer Seite zu haben.

1-007-0000

Miguel Urbán Crespo (GUE/NGL), ponente alternativo. – Señor presidente, intentaré ceñirme, más o menos, al tiempo que se me ha dado.

La verdad es que la estructura del informe nos parece buena. Creemos que es, o puede ser, un buen espacio y una buena metodología sobre la que trabajar. Nos preocupa más que los ponentes estén abiertos a negociar con otros grupos políticos el contenido del informe; que no funcione, al final, lo que vemos demasiadas veces en este Parlamento, que es la dinámica de la gran coalición, que utiliza su mayoría para intentar que al final no se pueda negociar.

De hecho, nos hubiera gustado tener algunas reuniones de ponentes alternativos previas para la elaboración, por ejemplo, de este borrador. O, incluso, que esa dinámica de exclusión y de gran coalición de mayorías que se aplicó al inicio de esta comisión, que impidió que nuestro Grupo tuviera una vicepresidencia, no se mantenga en estas negociaciones en el informe final.

Yo creo que, como tampoco tenemos mucho tiempo, hay un elemento que para nosotros es fundamental, que es que la realidad es demasiado tozuda. La realidad pesa demasiado. Al final estamos viendo cómo vamos siempre por detrás de los escándalos y de lo que nos muestra realmente la realidad. Y es que la realidad es que no hemos conseguido atajar los problemas estructurales que hacen de la Unión Europea un coladero para la evasión y la elusión fiscales.

Coladeros como la libertad de circulación de capitales, el secreto bancario, la pervivencia de paraísos fiscales en el seno de la Unión Europea y en su periferia. Son como temas tabú que nunca queremos tocar, pero al final esto es como una piscina. En la piscina, con que haya un pequeño agujero, se cuela toda el agua. Y el problema es que no hay un pequeño agujero, es que está lleno de agujeros que son estructurales y que no los abordamos.

Además, nos parece preocupante que temas que se han planteado y se han aprobado en informes anteriores, como los de las Comisiones PANA y TAX 1 y TAX 2, que han sido aprobados y refrendados por el Pleno del Parlamento Europeo, temas consolidados de las Comisiones PANA y TAX no estén en este informe, no estén en esta propuesta de informe. Nos parece que no es aceptable que el informe de la Comisión TAX 3 retroceda respecto a puntos que han sido acordados por el Parlamento. Y yo creo que esto es importante tenerlo encima de la mesa.

¿Cuáles? ¿En qué puntos creemos que se ha retrocedido? Por ejemplo, en el tema de que se vuelva a hablar de intermediarios en vez de facilitadores. Yo creo que esto no es aceptable, y entendemos que el informe tiene que tener una sección específica sobre esta cuestión, sobre los facilitadores.

No es admisible que solo se hable de los bancos en la parte sobre el lavado de dinero cuando los sucesivos escándalos han mostrado que son partícipes y facilitadores de todo tipo de acciones fraudulentas en la evasión y en la elusión fiscales. El informe de la Comisión PANA era más claro, justamente, respecto a elementos como las sanciones a estos facilitadores, que se han caído también de esta propuesta de informe.

La parte sobre las amnistías fiscales, que el informe no condena claramente, cosa que sí hacía el informe de la Comisión PANA, y nos parece preocupante que demos retrocesos en estos puntos. Sobre las empresas pantalla, creemos que es problemático que el informe simplemente señale que su volumen de negocio no puede atribuirse a actividad económica real en países como Luxemburgo, Chipre, Países Bajos, etcétera, sin decir claramente que esto es un indicador de operaciones de evasión fiscal. Entendemos que el informe de la Comisión PANA era mucho más claro, también, sobre este punto.

El informe de la Comisión PANA también era más claro respecto a la cooperación de unidades de investigación financiera. Y el informe realizado por el servicio de investigación del Parlamento también tenía muchos elementos útiles, que entendemos no se han incluido en este informe. De hecho, la Comisión INTA también realizó un informe en 2016 sobre este tema, que podría ser recogido.

Creemos que hay, además, otros aspectos que sí se señalan, pero que se podría ser más crítico. Por ejemplo, la lista de paraísos fiscales. En cuanto a la lista de paraísos fiscales, nosotros entendemos que es una tomadura de pelo que no solo no se reconozca ningún paraíso fiscal dentro de la Unión Europea, sino que solo se reconozca a seis países, y todos en temas de desarrollo.

Creemos que es fundamental —y voy terminando—, también, que no solo se mencione el proyecto BEPS impulsado por la OCDE, cuyos principios básicos se ha demostrado que son insuficientes, y que deberíamos apoyar, en principio, una imposición unitaria global y la renegociación de tratados fiscales que reconozcan la realidad económica de las multinacionales y el uso de retenciones por Estados miembros.

Una última cosa. Simplemente entendemos que esto se debería hacer en el marco de las Naciones Unidas y no en el marco de la OCDE.

(El presidente retira la palabra al orador)

1-008-0000

Sven Giegold (Verts/ALE), Shadow-rapporteur substitute. – First, thanks a lot to the co-rapporteurs for their draft. I have to say I haven't seen much grand coalition logic in this committee so far, and I don't think I see any signs materialising now. I'm looking forward to continuing the good cooperation on that issue, beyond the political landscape.

Second, is that in the report there's lots of good language. I think it would be important that we make a comparison of what we achieved in the former committees and not forget about some of the important calls we had in the past, even if they are not yet implemented, and also to take note of those which have been implemented. In particular, we would like to have much clearer wording on the fact that some proposals of the Commission are still being blocked in Council.

So this concerns country-by-country reporting, and this concerns in particular the common consolidated corporate tax base. This is really at the origin of many of the problems, and Parliament should play its role to put pressure on the Member States to come forward with the respective legislative changes.

We should also be very outspoken about the lack of cooperation by the Council to share with us documents and also with the Bulgarian Presidency that repeatedly refused to come to the committee, which is a violation of the principle of sincere cooperation. We should not shy away saying that clearly.

When it comes to the part on corporate taxation, it seems important for us to note that we still have loopholes in the DAC3 Directive concerning tax rulings, and in some parts of corporation tax we have a continued race to the bottom. For instance, when it comes to patent boxes, but also when it comes to the tax rates. We also see the need to be outspoken about the proliferation of the race to the bottom in corporation tax to individual taxation. We are seeing more and more Member States which sell passports that allow you to move your residency under favourable tax treatment to some Member States and which even offer their one of taxation regimes for rich individuals – like Italy. That is totally unacceptable and Europe should take action here as it did on the corporate side.

Furthermore, we see important loopholes in the Directive on administrative cooperation which we voted. For instance that income which derives from hard assets like property is not included and as we see in money laundering we have the same here on the tax side – that there are some areas where people feel that there's a lot of pressure in everyday life on the level of rent, and that information on this is not automatically exchanged.

We should also include a call for EU-level regulation of crypto currencies. I think that is a very important issue; we have discussed it here several times. We also feel that we should be more outspoken on the negative effects on developing countries, where we can do better.

I would also like to suggest that we introduce strong language on anti-SLAPP legislation, as was mentioned by Wolf Klinz.

Lastly, it's important as a consequence of the cum-ex scandal that we clearly demand a European financial police force or a European FBI, to be able to act on the same level for the security of our citizens against financial crime as they act against organised crime. On a European level, we need European institutions which can chase these criminals.

1-009-0000

Tom Vandenkendelaere (PPE). – Dank u wel, meneer de Voorzitter. Ik wil ook van mijn kant beide rapporteurs bedanken voor hun ontwerpverslag. Ik vind het een zeer volledig verslag dat ingaat op de belangrijkste zaken die via de *Paradise Papers* aan het licht gekomen zijn. Daarnaast, uitermate belangrijk, gaat het verslag uit van feiten en is het gebaseerd op data. Dat is voor de beide rapporteurs waarschijnlijk een enorm werk, maar ik vind echt wel dat het de discussies stukken eenvoudiger maakt en dat het ook de geloofwaardigheid van onze commissie ten goede zal komen. Als er aan de uiterste zijden van dit Parlement geschreeuwd wordt dat het niet genoeg is, dan kan je ervan uitgaan dat het met de kwaliteit wel goed zit. Ik wil drie punten aankaarten en drie opmerkingen maken.

Ten eerste btw-fraude. Ik denk dat we ten zeerste moeten waarderen hoezeer die hoofdstukken uitgebreid aan bod komen, hoofdstukken over modernisering van het btw-stelsel. Dankzij de commissie hebben we een duidelijk beeld gekregen van die btw-kloof die aanzienlijk is. Voor mijn land België bijvoorbeeld werd die wat betreft 2016 berekend op 3,1 miljard. Als we weten dat ons begrotingstekort voor 2019 geraamd wordt op 3,2 miljard van ons bbp, dan kunnen we

ervan uitgaan dat we onze begroting in evenwicht hadden kunnen hebben, als we die btw-fraude hadden kunnen voorkomen. Ik vind het cruciaal dat die hervormingen er komen en we moeten daar in ons verslag echt wel de nadruk op blijven leggen. Btw-fraude is het voorbeeld bij uitstek waar we Europese actie moeten ondernemen. Het zijn precies die regels rond intracommunautaire handelingen die ervoor zorgen dat men die btw-constructies kan opzetten. Opvallend vaak zijn dat niet eens illegale constructies. Daarom is het dus heel erg belangrijk dat dit in het verslag prominent aan bod komt.

Gouden visa, een tweede punt. Ik denk dat het cruciaal is dat we daarover ook sterk communiceren en dat we daarover een sterke tekst in het verslag opnemen. Er is gewoon niets dat hiervoor pleit en de risico's op het binnenbrengen van criminelen en het toelaten van witwaszaken is te groot. De baten zijn veel te klein, als die er eigenlijk al zijn. Ze wekken vooral enorme verontwaardiging op bij onze burgers en daarom moeten we op gouden visa absoluut doorgaan.

Tot slot over cryptovaluta. In het ontwerpverslag vragen wij om een beoordeling door de Commissie van cryptovaluta. Ik zou daar echt wel ambitieuzer durven te zijn en de Commissie vragen om ook effectief voorstellen te doen, ten eerste om een Europees kader te creëren om de beleggers te beschermen en financiële innovatie mogelijk te maken, en ten tweede om regels op te stellen om witwaspraktijken en belastingontduiking met cryptovaluta te voorkomen.

Alles samen vind ik het een erg positief verslag. Ik kijk ook uit naar de verdere besprekingen en naar de verdere reacties.

1-010-0000

Elly Schlein (S&D). – I would like to thank the two co-rapporteurs, Mr Kofod and Mr Niedermeyer for the job they have done. The resolution as a whole is quite advanced. In fact, I think that the members of this committee have developed good expertise on the tax issue, and this is quite well reflected in the quality of the text.

I would like to reinforce further the resolution on some issues regarding development and the development perspective of tax issues. The overall effect of taxes should be considered, and also the potential side effects of VAT – in particular on developing countries. It is true that the tax on added value is one of the most efficient tools for governments to gather resources, but it is also true that we should fight against models of regressive taxation and foster models of progressive taxation, especially in these countries because this could bring us to a vicious circle of cuts on resources for services for citizens and welfare.

I would also propose a different wording for the UN tax body. When we voted on the resolution in 2015 on how to help developing countries in fighting tax evasion and avoidance we used the word ‘intergovernmental’, because saying it should be global would be open to interpretation that could water it down. I think we also need the European Commission and the Member States to undertake what we were asking in that resolution – a spill-over analysis of the impact of our European tax policies and the tax policies of our Member States on developing countries. Only with this measure we can identify and avoid harmful effects on those countries. Therefore I would propose to add this to the text.

In addition, I will stand for a rebalancing of the allocation of taxing rights between developing and developed countries, according to the good example – and building on the good example – of the UN model tax convention. This has been one of the most valuable insights of our public hearings.

I will also present some bold amendments on the role of the EU institutions in negotiating tax treaties. I think that speaking with one voice could be effective for the whole European Union

and fairer for our partner countries. I hope that my contribution can strengthen this already excellent report.

1-011-0000

Chair. – May I perhaps make a remark which is not that much on substance, but rather on the approach, or further approach.

I will recall what we all realise, which is that this is not to be a routine committee report. There was a committee set up in order to produce this one report and, of course, there were and will be a number of hearings, missions. A lot of efforts were involved, costs were involved. So that's one point. The other is that the report should in a way underline the work of all four committees in this area that we've had during this mandate. Also, the very beginning of our mandate says that we should focus on the effective implementation and the impact of the recommendations of previous committees.

So all in all I think that this report should be a sort of Rolls Royce among reports. We should be very clear on how the implementation of recommendations looks, and very clear on the further new recommendations and findings.

That was my remark, so now Sven Giegold for the Greens for four minutes, if the need arises. There are no other speakers?

Okay, so that means that we have been working very efficiently, and I will now open the catch the eye procedure, beginning with Paul Tang.

Catch the eye procedure

1-012-0000

Paul Tang (S&D). – I would like to thank the co-rapporteurs for a very interesting and constructive report. I will be brief and try to be concise.

First, what I find very difficult working on several tax files is the lack of data and the impossibility to analyse data. We work sometimes in the dark, and I think the report should address this – that we need also, let's say, a research infrastructure in Europe in which data become available, made available by the national tax administration so we can improve decision-making. That's my first point. An example is the digital service tax that we are discussing also in these weeks.

The second point I would like to make, what I find missing in the report, is that the interaction among the Member States is still left out, whereas we are well aware that there are important flows among the Member States, to the detriment of countries, usually, with a high tariff, with high rates and going to countries with a low rate. I come from the Netherlands so I'm perfectly able to say that, yes, I think that a lot of the money goes from Germany, France, Italy, Spain and it flows to the Netherlands. I think it should be addressed if we want to be a European Union. We can't have one Member State having a detrimental effect on the other Member States.

That shows that we need a European approach. I think that we can find support in this House, and I very much like to see that for example when it comes to anti-money laundering we find stronger words than a possible centralisation of anti-money laundering. I think it's inevitable that we have some sort of centralisation, and the same goes for the plea from Sven Gielgold for a European FBI. Yes. It's impossible if crimes go across borders that we don't have cross-border prosecution. I think we should work on that and I think we can find not only political support in this House, but also public support for that.

1-013-0000

Pirkko Ruuhonen-Lerner (ECR). – Arvoisa puheenjohtaja, kiitos mietintöluonnoksen valmisteluun osallistuneille kollegoille ja virkamiehille hyvin valmistellusta mietintöluonnoksesta. Valiokunta ja sitä edeltävät verotukseen keskityneet valiokunnat ovat tehneet hyvää ja tärkeää työtä veronkiertoon ja talousrikollisuuteen puuttumiseksi. Lukuisat tutkivien journalistien ja väärinkäytösten ilmoittajien tekemät paljastukset –viimeisimpänä CumEx-skandaali – osoittavat, että työtä on meillä vielä paljon edessä.

Nostaisin mietintöluonnoksesta esiin kultaiset viisumit. Nämä järjestelyt ja niiden tuomat ongelmat, myös turvallisuusuhat, vaikuttavat vapaan liikkuvuuden johdosta kaikkiin jäsenvaltioihin, myös niihin, joilla tällaisia järjestelmiä ei ole käytössä. On kestämätöntä, että unionin kansalaiseksi voi päästä rahaa ja investointeja vastaan. Ongelma on myös monien maiden täysi avoimuuden puute hakijoiden lukumäärästä ja alkuperästä sekä puutteelliset taustatarkastukset ja -selvitykset.

Olen tyytyväinen mietinnön kehotukseen siitä, että jäsenvaltiot lakkauttaisivat tällaiset järjestelmät mahdollisimman nopeasti. Odotan mielenkiinnolla myös komission tutkimusta kultaisista viisumeista ja sen suosituksista.

Toivoisin, että tulevaisuudessa meidän viranomaisemme olisivat aloitteellisempia siinä, kun näitä paljastuksia tulee julkisuuteen. On jotenkin käsittämätöntä, että nämä suuret paljastukset tulevat tutkivien toimittajien kautta tietoisuuteen. Toivoisin, että myös viranomaiset olisivat aktiivisempia näissä selvittelytöissä.

1-014-0000

Wolf Klinz (ALDE). – I just want to add a point. I think the order of magnitude of this tax fraud that we are talking about here is by now pretty much known to a large majority of the population, because it's been talked about in the media and written about in the media and, in my opinion, increasingly the population is asking itself whether or not it can still have confidence in the EU as a Union where the rule of law is strictly being applied. In fact, if the doubts are growing, then we risk that citizens even starting to have doubts about whether or not democracy is the right system of governing a country.

So we should not take the situation too lightly. It's not just a matter of getting back cash that has been stolen by criminals from the taxpayer, it is really something that risks, if we do not find a solution, to undermine the foundation of the EU and of our democracy. Therefore I can only ask that we be as precise in our recommendations as possible so that we can prove to the citizens, particularly now when the European elections are forthcoming, that we are really trying to get at the criminals, because we do know whenever we are getting closer then they are one step ahead again. So it is a tough, tough battle but we have to win it; otherwise we lose a lot.

(End of catch-the-eye procedure)

1-015-0000

Chair. – I can't see any other request for the floor within catch-the-eye, so I would join those who thanked the co-rapporteurs for their work so far. I will give the floor to them for concluding remarks.

1-016-0000

Luděk Niedermayer (PPE), Co-rapporteur. – Thank you for the kind words. Just a few points I want to say. Jeppe and I will obviously try to accommodate findings from hearings that are going on, so obviously our intention is to include the facts we learned yesterday at the cum-ex files and the others. So I would encourage others to think about those subjects. I very much welcome the call for more specific recommendations, and I would be very happy to see them in the form of amendments; it would be good to discuss them. It's not intentional that we are not so specific, but sometimes it's not easy to find what the solution is. I just want to stress that

the creation of new institutions does not always solve problems on its own, but I very much look forward to seeing the suggestions.

Last but not least, obviously we are interested in the previous recommendations of Parliament, and obviously we understand that some proposals, like the CCCTB, are vital for solving a lot of problems in the tax area, so I hope that's stressed in the amendments. Last but not least, I would very much like to thank Paul for mentioning the problem of missing the data. In our report we are trying to be as much based on data and facts as possible and I guess this is the way to do it. Obviously, better data means that we can have better findings, better conclusions and better recommendations, so I guess this is vital.

Just to sum up, I very much look forward to working on compromises because I guess that good ideas should be included in the reports and we are not only able to work with the Jeppe to find compromises, but I hope also with other members of other groups.

1-017-0000

Jeppe Kofod (S&D), Co-rapporteur. – I wish to thank all colleagues for their very constructive comments. Just to Mr Klinz, first, I think you're absolutely right in your last remark that applying the rule of law strictly in the European Union should be a priority for all of us in this House. When it comes to taxation and also financial crimes we definitely have a huge gap between the law that is there and the way it's applied by Member States, by authorities. We need to come up with a solution to bridge that gap very effectively.

Just one comment on the length of the report. We are limited – and I emphasise this – in space. We would like to have taken much more on board in the report, but we need in a way to prioritise. Also, with the previous reports from the other committees – TAX1, TAX2, PANA – recommendations and actions, and calls for action there, still stand. These are Parliament policies, so we if we had to repeat everything we would have no space to add any of our own findings, of this TAX3 report. So we are limited in space. Just to clarify that.

So we are building on the work of all four committees, as the Chair rightly said before. Also, I agree very much with Mr Giegold on CCCTB and also on public country-by-country reporting. This is something we need really to state clearly, and something we need to deliver before the end of the mandate. This committee should make that call and put pressure on Member States, the Council, to deal with it. We also, on sincere cooperation, again highlight that we don't find the Council to be showing sincere cooperation, and in a way they are violating the Treaty on that point, because they're not sharing a document with us, as has been said many times. We also write that again in our report and it's very important. It's really hard for a special committee, an inquiry committee, to do its work if we cannot access the report and information on the Council side that we need to study to do our work in a proper way.

I will not go into all the details; we have noted all the comments. It was also mentioned by others that VAT fraud is also a big chapter we took on here, also in the light of the Paradise Papers, which you will all recall from last year. There we see clearly cross-border VAT fraud schemes on yachts and so on and private jets and so on, just to name some examples. But the magnitude of this problem is, as mentioned by others, huge.

I agree with Ms Schlein on developing countries. All we are doing should be in compliance with the coherence for development policy. So our tax policies in the EU should comply with our development policy objectives. Policy coherence is fundamental also in this context and we need to look thoroughly at what we're suggesting to see that it complies with this over-arching and horizontal principle. Then I would also like to say that on implementation – because we have adopted a lot of good new legislation – we also call for a subcommittee on taxation in the next mandate, exactly because we see that a lot of what

we will recommend and what we will already have adopted in this Parliament, in this mandate, needs to be implemented and we will need a structure in Parliament to continue the work. So this a strong call we have for that.

Finally, I want to say also to Paul that I agree with you that the lack of data and the sometimes rough estimates that we have to rely on is not really making our job easier. So on that we should also strengthen our capacities as a union. Then we will have better solutions and better actions to deal with tax fraud, VAT fraud and financial crimes.

Thank you so much, I look forward to the process. We are not anything like a grand coalition, or anything like that, Miguel. I think it's wrong to say that. I think we will work, as we have done, closely with everybody to improve the report based on what we have done, the evidence, the findings of this committee. That's the way we should do things in a special inquiry committee.

1-018-0000

Chair. – Thank you very much Jeppe. I'd like to use this opportunity to welcome the Alliance of Danish Journalism trainees who are attending today's meeting. They are sitting back there.

I would like to thank again both co-rapporteurs and the shadows for their work. I'd also like to thank everyone who spoke today for a very efficient and productive debate, which we managed to finish a bit earlier. So we will have a short break and will start at 16.00 sharp with Commissioner Moscovici.

(The meeting was suspended for ten minutes)

1-019-0000

Chair. – Colleagues, let us resume the work of our TAX3 meeting.

Let me warmly welcome Commissioner Moscovici, who has visited us today to speak about the implementation of recommendations made by previous EP committees within this mandate. The meeting of Ecofin Ministers in December should hopefully make important decisions on digital taxation, and again there is again the pressing issue of the grey list of tax havens. So there are plenty of topics which should be discussed with the Commissioner. I appreciate that he is visiting the committee already for the second time and his flexible and forthcoming approach and cooperation with Parliament.

Welcome Commissioner. I will now ask you to give us your opening remarks, for up to 15 minutes.

“Exchange of views with Commissioner Pierre Moscovici”

1-020-0000

Pierre Moscovici, commissaire pour les affaires économiques et financières, la fiscalité et les douanes. – Monsieur le Président, Mesdames et Messieurs les Vice-présidents, Mesdames et Messieurs les députés, merci de cette invitation que j'ai comme toujours acceptée avec grand plaisir. Plus de huit mois après la constitution de la commission TAX3 et quatre mois avant la fin de sa mission, je crois que c'est le bon moment pour évaluer les progrès réalisés dans notre combat commun contre la fraude et l'évasion fiscales – et j'insiste sur le «commun», parce que je crois que, depuis le début de cette législature, la Commission et le Parlement européen ont évolué main dans la main.

Je tiens à souligner la mission déterminante remplie par les commissions spéciales du Parlement sur les pratiques fiscales en Europe. La création de TAXE, puis de TAXE2 et de PANA, suite à la succession des scandales fiscaux que nous connaissons (les Lux Leaks, les Panama Papers, les Football Leaks, les Paradise Papers et plus récemment CumEx) démontre que le Parlement européen s'est emparé avec force de ce sujet et s'est imposé comme un acteur absolument incontournable de la lutte contre la fraude et l'évasion fiscale.

Nos deux institutions sont devenues des alliés naturels dans ce combat. Je crois que nous avons collaboré très efficacement et je vous remercie pour votre soutien, comme vous avez pu compter sur le mien. Nous nous devions de répondre aux attentes de nos concitoyens. 75 % d'entre eux estiment que l'Union européenne devrait faire plus en matière de lutte contre la fraude fiscale; ils en font une de leurs priorités. Il fallait agir et il faut aujourd'hui continuer à pousser jusqu'aux élections européennes pour que le futur Parlement et la future Commission – nous devons penser aussi à ceux qui vont nous succéder – poursuivent les travaux engagés pour une fiscalité juste et transparente dans l'Union.

Trois ans après la création de la première commission spéciale dédiée à la fiscalité, et à six mois des élections européennes, l'heure est venue de dresser un premier bilan de notre action. Je crois que nous pouvons être fiers des progrès qui ont été réalisés durant ce mandat. Plus a été fait durant ces quatre années que dans les 20 ans qui ont précédé, et nous avons prouvé ensemble qu'il était possible de réaliser des progrès déterminant malgré le verrou de l'unanimité qui nous a, par le passé, si souvent bloqués. Depuis 2014, nous sommes parvenus à faire adopter 13 propositions à l'unanimité. Je pense que cela est sans précédent et témoigne bien du changement de mentalité des États membres. Ce changement n'a pas été spontané, il s'est fait sous la pression de l'opinion publique, sous la pression des scandales, sous la pression des institutions internationales et sous la pression du Parlement européen. À l'ère des grands scandales fiscaux, le statu quo et l'immobilisme n'étaient plus des options. Je pense que nous avons très clairement changé de climat et d'air.

Durant ces quatre années, deux principes ont guidé mon action et la vôtre: la transparence et la justice fiscales. En matière de transparence fiscale, la proposition la plus emblématique est sans doute celle qui vise à faire la transparence sur les activités des intermédiaires fiscaux – les banques, les cabinets d'avocats ou de conseil – qui vendent à leurs clients des schémas de planification fiscale agressive, d'optimisation fiscale. Il me paraissait déterminant de remonter encore la filière de l'optimisation fiscale pour imposer des règles du jeu à tous ceux qui l'organisent, parfois aux frontières de la légalité.

Cette directive va obliger les intermédiaires fiscaux, à partir de 2020, à transmettre leurs schémas de planification fiscale à leurs administrations nationales. L'objectif n'est pas de surveiller pour punir, il est d'abord de donner aux administrations fiscales les moyens de corriger leur propre législation, si elles estiment que certains schémas diminuent trop leur base

taxable. Il est ensuite utile de fixer des règles du jeu claires aux conseillers fiscaux, pour éviter les zones grises, car on joue en général moins avec les limites quand on est sous l'œil du fisc.

Nous avons étendu les principes de la transparence aux intermédiaires, mais pas seulement: nous avons aussi généralisé l'échange d'informations en Europe – et l'échange d'informations, c'est vraiment la mère de toutes les réformes en la matière. Les dernières révélations autour des CumEx Files témoignent des failles importantes qui existaient il y a encore quelques années dans l'échange d'informations entre les administrations fiscales nationales. Ces échanges étaient volontaires ou spontanés, donc faillibles – car quand il n'y a pas d'incitation à agir ensemble, il y a toujours des limites à la spontanéité et à la volonté. Il fallait y remédier.

C'est pourquoi, à partir de 2014, j'ai proposé de changer les règles du jeu au niveau européen. D'une situation où les échanges d'informations étaient le plus souvent aléatoires car volontaires, ils sont devenus obligatoires et automatiques dans la plupart des cas. Aujourd'hui, chaque État membre doit transmettre à tous les autres États membres les informations indispensables sur les comptes, sur les accords fiscaux entre États et entreprises, et sur les impôts payés par les multinationales dans chaque pays.

La coopération entre États membres passe par l'échange d'informations, mais aussi pas plus de fair-play fiscal entre les États membres. Nous savons bien que certains États membres défendent un cadre fiscal européen dans lequel la concurrence est un outil au service de leur propre compétitivité – il y a en quelque sorte un *business model* particulier à certains États membres. Nous savons aussi que ces systèmes fiscaux avantageux sont exploités par des contribuables ou des entreprises qui mettent en place des stratégies de planification fiscale agressive pour éviter de payer leur juste part d'impôts. La concurrence fiscale est légale; la concurrence fiscale déloyale, au détriment de ses partenaires européens, ne doit pas l'être.

La Commission européenne s'est donc attaquée frontalement à ce problème. En mars dernier, nous avons pour la première fois identifié sept États membres dont les systèmes fiscaux sont très souvent utilisés, d'après nous, dans le cadre de montages d'optimisation fiscale agressive.

Je veux être clair sur un point: l'objectif n'était pas de les pointer du doigt ni de les stigmatiser. Il était de contribuer à la création d'un cadre fiscal commun, qui va assurer la compétitivité de l'Europe au niveau mondial et qui va servir toutes les entreprises de notre territoire commun et ses 500 millions de citoyens. J'ai déjà vu plusieurs des ministres concernés. Je note qu'ils ont présenté des mesures concrètes, encore récemment. C'est un pas dans la bonne direction. Il reste beaucoup à faire, mais c'est un instrument de dialogue et d'incitation qui fonctionne.

Nous avons aussi mené le combat pour la transparence fiscale au-delà des frontières européennes. Nous savons depuis longtemps que les paradis fiscaux sont les relais de la fraude et de l'optimisation fiscales. Face à ce constat, l'Union européenne a pris ses responsabilités. En décembre 2017, à notre instigation, les 28 ministres des finances ont adopté pour la première fois une liste noire des paradis fiscaux dans le monde. Je sais qu'il y a toujours des discussions sur le fait de savoir si cette liste est suffisamment longue ou pas, si les bons États membres y figurent ou non. J'attache plus d'importance, je l'avoue, à la liste grise qu'à la liste noire, c'est-à-dire aux 65 pays qui sont sommés de prendre des mesures, à défaut de quoi ils seront hissés sur la liste noire. Ce n'est pas à moi de donner le détail de ce que chacun a fait, mais je peux vous dire que c'est extraordinairement efficace. Un certain nombre de pays, que je ne vais pas nommer ici, ont déjà pris des mesures qui seront ensuite enregistrées par les États membres quand nous reverrons tout cela au début de l'année prochaine. Un seul exemple: dernièrement, c'est la Namibie qui, suite à ses efforts, sortait de la liste noire. Aujourd'hui, cinq pays sur 17 restent sur la liste. Ce n'est pas une mauvaise nouvelle: les 12 autres ont fait ce qu'il fallait pour en sortir.

Au-delà de la transparence, la justice fiscale était le second pilier de l'action que j'ai voulu mener en matière fiscale. Je voudrais insister sur une initiative phare de la Commission européenne: celle sur la fiscalité du numérique.

Pourquoi était-il impératif de formuler des propositions dans ce domaine? Parce que, en quelques années seulement, le numérique a transformé nos économies et parce que nos règles sur la fiscalité internationale des entreprises, elles, n'ont pas beaucoup évolué depuis presque un siècle. Comment taxer les activités du numérique, qui sont par essence immatérielles, quand l'imposition repose encore sur le principe unique d'une présence physique? Nous avons des règles désuètes et la conséquence de cette désuétude est claire: les bénéfices numériques sont aujourd'hui à peine taxés dans l'Union européenne, voire pas du tout. Et cette situation est évidemment inacceptable, elle est devenue totalement inacceptable pour nos concitoyens. Il fallait donc y remédier. Cette situation menace aussi à long terme la viabilité de nos finances publiques: les pertes de revenus sont tout à fait substantielles et seront de plus en plus importantes au fur et à mesure que l'économie numérique va continuer à voir son rôle et sa place augmenter. Cette situation perturbe également les conditions de concurrence pour les entreprises au sein du marché unique – observez que, entre les entreprises du numérique et les entreprises des autres secteurs, il y a un différentiel de taux d'imposition considérable: 23 % pour les unes, 9 % pour les autres. Enfin, cette situation sape les principes les plus fondamentaux de la justice fiscale.

En conséquence, j'ai présenté au nom de la Commission deux propositions pour garantir une fiscalité juste et équitable de l'économie numérique. La première, et c'est la principale, consiste à moderniser les règles relatives à l'impôt sur les sociétés en introduisant le concept de «présence numérique». La seconde, vous la connaissez, c'est celle qui est discutée – et nous sommes vraiment dans le *money time* puisque c'est le conseil Ecofin de la semaine prochaine qui doit décider –, vise à instaurer une taxe temporaire sur le chiffre d'affaires généré par certaines activités numériques dans l'Union.

Je ne vous apprends pas qu'à l'heure où je parle, il n'y a toujours pas d'accord entre les États membres sur le sujet, mais je veux aussi dire que la base de soutien à la proposition a considérablement augmenté. Je continuerai à travailler jusqu'au bout pour que les États membres parviennent à surmonter leurs réticences avant la fin de l'année. Je sais qu'un consensus sera difficile le 4 décembre, mais il n'est pas impossible, donc continuons à pousser dans cette direction.

Toutefois, je voudrais faire une réflexion plus large, que, je crois, beaucoup d'entre vous partageront: nous touchons là aux limites imposées par l'unanimité. Celle-ci est surmontable quand il s'agit de répondre à des scandales fiscaux, mais elle peut nous paralyser lorsqu'il s'agit de réformes structurelles. Quand je fais le bilan lucide de ma propre action, il y a des choses dont je suis très fier, on a énormément avancé dans la lutte contre la fraude et l'évasion fiscales. Il y a d'autres domaines – TVA, CCCTB, taxe sur les transactions financières, énergie, numérique – dans lesquels nous avons fait beaucoup de progrès, mais sans parvenir à conclure, et cela est dû à la règle de l'unanimité.

C'est pourquoi je proposerai le passage du vote à la majorité qualifiée en matière de fiscalité, en début d'année prochaine, comme annoncé par Jean-Claude Juncker dans son discours sur l'état de l'Union. Cette réforme, si elle est acceptée par les États membres, serait un gain considérable de manœuvrabilité pour l'Union, puisqu'elle nous permettrait d'aller plus loin sur ces chantiers lourds, structurels et prioritaires, qui sont ce que nos concitoyens attendent en réalité. Cela sera aussi un progrès démocratique, car il n'est pas normal que la volonté d'un seul puisse primer sur la volonté de tous et les empêcher d'avancer. J'aurais besoin d'un soutien politique puissant du Parlement européen.

Le passage à la majorité qualifiée permettrait à la fois de faire avancer des propositions nécessaires pour le marché intérieur et d'élargir le champ de la politique fiscale en Europe. Je pense à un domaine sur lequel on n'a pas du tout pu avancer, qui est celui de la protection de l'environnement, avec une taxe sur les activités polluantes et la promotion d'une politique énergétique européenne commune à travers une fiscalité de l'énergie mieux harmonisée qu'elle ne l'est aujourd'hui. En outre, cela permettrait d'approfondir encore la coordination entre États membres. À ce titre, je suis convaincu que le groupe Code de conduite a un rôle important à jouer. D'abord parce que la pression des pairs est souvent complémentaire de celle de la Commission, ensuite parce qu'il est techniquement difficile pour les services de la Commission de vérifier seuls, en toute hypothèse, les mesures fiscales de 28 ou 27 États membres. Mais si le groupe Code de conduite est très utile, son mode de fonctionnement actuel ne lui permet pas d'être aussi efficace qu'il le devrait. C'est pourquoi la Commission travaille en ce moment sur un rapport pour améliorer son efficacité. Une fois réformé, je suis persuadé que ce groupe pourrait être un allié de la Commission européenne et du Parlement dans notre combat pour la transparence et la justice fiscale en Europe.

Il est indéniable que l'Europe a pris une forme de leadership mondial en la matière et qu'elle défend désormais un modèle de bonne gouvernance fiscale. Sous ce mandat, l'Union européenne a commencé à se faire entendre, nous avons été les premiers à adopter les actions de l'OCDE (BEPS). Je me souviens comme ministre des finances que, aussitôt après la proposition américaine et l'approbation allemande et britannique, sont venus les Français, les Italiens, les Espagnols... À un moment donné, dans le premier lancement aux côtés de l'OCDE, il y avait la plupart des grands pays de l'Union européenne, puis l'Union européenne elle-même tout entière. Nous participons également aux travaux du G20 sur la fiscalité numérique, nous avons entamé un processus de dialogue inédit avec les États tiers, nous avons été les premiers à aller au-delà de BEPS avec les directives ATAD, grâce aussi à votre impulsion. Il faudra aller encore plus loin pour que l'Europe devienne la représentante d'une fiscalité juste et moderne dans le monde. C'est ce que je m'efforce de faire entendre à chaque fois au G20 – et puisque j'en parle, vous savez qu'une réunion du G20 au niveau des leaders se tiendra à partir de jeudi à Buenos Aires.

Mesdames et Messieurs les députés, j'ai à peu près tenu 15 minutes. Il reste encore beaucoup à faire. Tirons profit du temps qu'il nous reste pour continuer à mener ces combats ensemble. Nous sommes à six mois d'un débat politique crucial pour l'avenir de l'Union européenne, il faut démontrer la plus-value de l'action européenne et je suis persuadé que le domaine fiscal est un excellent domaine, car voilà un sujet sur lequel nous avons beaucoup fait et sur lequel on ne peut rien faire sans l'Union européenne.

À ceux qui s'imaginent qu'on peut résoudre ces problèmes chacun dans son coin, je pense que l'histoire a apporté un démenti absolument cinglant. La Commission et le Parlement, dans ce contexte, devront continuer à collaborer, à échanger, à pousser ces chantiers ensemble. La prochaine Commission doit pouvoir compter sur le prochain Parlement, comme cela a été le cas depuis le début de mon mandat, et je vous en remercie encore. Je pense même qu'il serait peut-être efficace que soit créée une commission ou une sous-commission qui s'occupe de la fiscalité à plein temps, mais ce n'est pas à moi de le décider, c'est au Parlement de s'organiser. En tout cas, c'est ensemble que nous pouvons faire évoluer la fiscalité dans l'Union et dans le monde vers plus de justice et d'efficacité, et c'est ce à quoi je m'emploierai jusqu'au dernier jour de ma présence à la Commission européenne, dans un an, en principe.

1-021-0000

Chair. – Thank you very much, Commissioner, for outlining the broad range of issues we have in common.

We will now open the discussion. As usual, there will be five minutes for the question and answer. The question shouldn't extend over one minute, if possible. We will start with our co-rapporteurs. The first one, for the PPE, is Luděk Niedermayer.

1-022-0000

Luděk Niedermayer (PPE), Co-rapporteur. – Thank you, Mr Commissioner, for being here and being dedicated to this task. I have three simple questions.

The first is that in November 2017 you released your paper on aggressive tax planning and later on included a recommendation in the country specific recommendations. I wonder what the follow-up has been and if you have seen some signs of reaction or improvement.

The second is that when we were debating – several times – US tax reform, the opinion was sometimes expressed that some of the provisions actually contradict WTO rules. I wonder if there is progress on that.

Last but not least, in our discussions on the TAX3 report, many colleagues stressed the importance of measures like CCCTB and VAT reform, digital tax, etc. You just said a few minutes ago that the plan is to ask the Member States to actually adopt these by qualified majority voting. I wonder, if this plan failed, then what the other option would be – is it enhanced cooperation or just a debate before people change their mind.

1-023-0000

Pierre Moscovici, commissaire pour les affaires économiques et financières, la fiscalité et les douanes. – Monsieur le député, comme vous le savez, nous avons fait beaucoup au niveau législatif ces dernières années pour lutter contre la planification fiscale agressive. Nous avons utilisé tous les outils à notre disposition, notamment le Semestre européen. J'ai été confronté à des débats avec des ONG notamment, qui disaient qu'il n'était pas normal que nous ne voyions pas de paradis fiscaux dans l'Union européenne et je le maintiens, car tous les pays de l'Union européenne pratiquent l'échange automatique d'informations et tous ont adopté BEPS. Mais, néanmoins, il y a un certain nombre de pratiques qui devaient être soulignées et cela va rester, cette année encore, un enjeu important. Notre approche est faite d'encouragement et de dialogue.

Dans le cadre du Semestre européen mes services rencontrent les administrations nationales – les autres parties prenantes. Le dialogue est d'ailleurs renforcé avec les autorités nationales, puisque la question de la planification fiscale agressive reste au cœur du Semestre européen.

What has changed? Looking in detail into aggressive tax planning within the European semester is a way to engage and exchange with Member States. I want to give just one single example, which is the fact that the Netherlands was one of the countries with the recommendation regarding aggressive tax planning. Yesterday, at a meeting, a group of Dutch senators presented the changes introduced by their country, which may be made public today, which are quite spectacular to ensure that the specificities of their tax system are not abused by businesses to unduly reduce their tax bills in the Netherlands or elsewhere. I'm quite sure that this wouldn't have really been the case without the peer pressure and without our common action, and this is just one example.

As for US tax reforms, we are still working on this. We still have concerns about some issues: the base erosion and anti-abuse tax provision, known as BEAT, and about the provision of the tax treatment of intellectual property, IP, including the tax bill. We believe that the former penalises cross-border transactions, including those with the EU, and raises the question of coherence with WTO rules. The latter could constitute an export subsidy, which is prohibited by the WTO.

So we're still in the expertise phase and also in dialogue with our American friends and counterparts. I had a meeting with the US Secretary of the Treasury, Steven Mnuchin. This was in New York at the end of September. We are still working on it; we are pursuing this dialogue.

On CCCTB and other matters, I know that we won't conclude on that. Obviously, I was at the Commission a few minutes ago and they are disappointed by the fact that we cannot conclude this business. But when I came into office there was a proposal which was dead and we had to withdraw it and to have another one. I think the technical work is quite positive. What I expect and hope is that I will leave to my successor a better legacy, which is a dossier which can be concluded in a few months. And this is the case for CCCTB, for digital. Hopefully we can succeed, but if we don't, let's not abandon the combat. It's also the case of VAT. We made some progress, but not all the progress needed.

But, one thing should be clear, which is that the qualified majority voting proposal that we make must not slow us to work on the proposals which are already on the table. We must try to conclude them as swiftly as possible.

1-025-0000

Jeppe Kofod (S&D), Co-rapporteur. – Thank you, Commissioner, for joining us today. Let me start by expressing my sincere appreciation for the good cooperation and your determined actions to combat tax fraud in Europe. I think these have been very important years in that fight. A lot has been achieved during your mandate and a lot needs to be achieved before the end of the mandate, as you rightly know.

One issue that I want to raise with you is the continued race to the bottom on corporate tax rates. If you look over the past 20 years, the average corporate tax rate in the present EU-28 has dropped from 35% to 22%, and the trend is continuing.

So what do you think as Commissioner? What solutions do you believe need to be found to find a minimum effective taxation rate of corporations within the EU given – as you said before – the limited competences of the EU in this regard? Is there any discussion with the Council? Are there any deliberations with the Code of Conduct Group or others?

That's my first question. My second is that you mentioned the cum-ex files and the need for real cooperation between authorities within the EU. So are you confident now, with the new Directive on Administrative Cooperation that has been in place now for a few years, that we have the sufficient structure in place? Do we not need to centralise that type of fraud detection and warnings much better? In what way should we look to do that because this scandal – as we heard yesterday in the hearing – is ongoing. There are similar fraud schemes in place in some Member States today, according to experts, so we need to do something more to stop this.

1-026-0000

Pierre Moscovici, Commissioner for Economic and Financial Affairs, Taxation and Customs. – Well, I think that on the first point you raised, on a proposal for CCCTBs (Common Consolidated Corporate Tax Base) is the best approach for fair corporate taxation. Although the CCCTB is not about tax rates it is an essential step to create more transparency with regard to the effective corporate tax rates in Member States, thereby creating fair tax competition within the EU.

Beyond CCCTB, ATAD (Anti Tax Avoidance Directive) includes a number of anti-abuse rules to ensure that businesses do not unduly reduce their taxes. A minimum tax rate is not part of our proposals since we don't have competences here, but minimum effective taxation certainly has to be discussed further with Member States.

Minimum effective taxation is the concept that all companies should pay a basic minimum level of tax within the EU, regardless of the different statutory rates and tax incentives they can avail of. This issue has become increasingly relevant in recent years. In light of the EU agenda for effective taxation, and international developments in this field, the Commission proposed, already in 2011, to introduce an effective taxation clause in the Interest and Royalties Directive, but Member States have yet to reach agreement on this.

The Ecofin conclusions of 8 December 2015 in respect of the Code of Conduct called for discussions on a revision to the mandate in relation to the concept that profits are subject, as appropriate, to an effective level of tax within the EU. However, no agreement could be found due to divergent views, and the Commission, as I said, is preparing a report on the Code of Conduct that will look into this issue and formulate recommendations.

On cum-ex and ATAD, well ...

J'ai agi pour que les règles du jeu changent au niveau européen. Et, par rapport à l'époque où ce scandale a commencé, je pense qu'il y a deux modifications essentielles. La première est que l'échange automatique d'informations est devenu la règle et non pas l'échange spontané ou à la demande. La deuxième est que la coopération administrative a été étendue et renforcée puisqu'elle inclut précisément l'échange automatique obligatoire d'informations sur les comptes financiers, sur les décisions fiscales rendues par les États membres, le rесrict fiscal sur les informations pays par pays – même si j'aimerais, comme vous, qu'elles soient publiques concernant les impôts payés par les multinationales – et sur le partage d'informations entre autorités fiscales nationales et autorités anti-blanchiment. Et, plus récemment, cette directive a été complétée par de nouvelles obligations en matière de déclaration pour les intermédiaires fiscaux qui offrent des conseils susceptibles d'entraîner une fraude ou une évasion fiscale. Donc, je ne peux pas dire qu'un tel scandale serait impossible aujourd'hui. Les fraudeurs ont toujours des grandes facultés d'imagination mais je pense que ce serait beaucoup plus difficile et ensuite vous parlez de mesures qui sont très récentes, je ne peux pas les évaluer. Mon sentiment, c'est qu'elles marquent déjà un progrès important, mais que ce progrès n'est pas la fin de l'histoire et qu'on doit sans doute – mais c'est à vous de le décider – faire des propositions complémentaires en matière d'amélioration de la coopération administrative sur la fiscalité des entreprises.

1-028-0000

Dariusz Rosati (PPE). – Commissioner, my first question concerns VAT fraud and possible counter-measures. We have been making quite a lot of effort in order to reduce the scope for VAT fraud, especially in the form of carousel schemes. There are a number of specific technical proposals on how to deal with these issues. I'd like to ask you to comment. What's your opinion on the possibility of applying these technical solutions and what is the current state of thinking on these issues in the Commission?

The techniques I have in mind are: first, split payments – that is the payment goes partly to the bank, partly to the receiver of the payment; second, an electronic register of all transactions in real time; and third an idea floated by a group of experts to use virtual currencies to pay VAT taxes. This is something quite exotic, I must say. I would like to ask your opinion on that.

My second question is about the general anti-abuse rule for the purpose of corporate tax calculations, which has been included in the ATAD I (Anti Tax Avoidance Directive) and I welcome this provision. I would like to ask you whether you have some early assessment of how this anti-abuse rule has been implemented and what are the results?

1-029-0000

Pierre Moscovici, Commissioner for Economic and Financial Affairs, Taxation and Customs. – On VAT fraud, I certainly welcome those technical proposals that you mentioned, but the

Commission believes that there is a more systemic and massive answer to combating cross-border VAT fraud and carousel fraud, which represents something like a EUR 50 billion loss each year for our treasury. This would be to adopt the proposals we've made on trans-border operations that should be, in our view, considered exactly like domestic transactions. This is a point which we are now discussing and we see that there is no sufficient progress.

My real conviction is that we need to have a definite regime for VAT. We have been living for too long with a temporary regime. A temporary regime which is already 25 years old – and which is entering its 26th – is not something that is correct.

So I urge the Member States to make further progress in that direction, regardless of this or that experiment on the reverse charge, as this is not the way of history.

On the second question, as ATAD I is a recent implementation, I must say we don't have yet an appreciation or evaluation of its implementation. But if my services have something more up-to-date than what I'm saying then we will send it to you.

1-030-0000

Chair. – Thank you. The ‘temporary’ VAT regime has lasted even longer than did the ‘temporary’ stationing of Soviet troops in my country!

(*Laughter*)

1-031-0000

Elly Schlein (S&D). – Signor Presidente, onorevoli colleghi, ringrazio il Commissario Moscovici per essere di nuovo con noi in questa commissione.

Questi anni e gli scandali che si sono susseguiti hanno reso evidente che in questa folle concorrenza fiscale tra Stati membri siamo tutti perdenti, perdono tutti gli Stati membri e vincono solo quelli che riescono a pagare aliquote fiscali vicine allo 0 %.

Su due strumenti si è già espresso, ma vorrei chiederle ancora maggior chiarezza. A che punto siamo allora sulla CCCTB, quali sono gli ostacoli a una pronta approvazione di questa importante misura? Anche sulla rendicontazione pubblica Stato per Stato, la CCR, che è un altro tassello fondamentale per assicurare di scardinare gli schemi elusivi che utilizzano le multinazionali per eludere il fisco europeo.

Insisterei sull'importanza – perché mi pare che la Commissione avesse già avviato un lavoro su questo – delle analisi di impatto delle politiche fiscali europee e degli Stati membri sui paesi in via di sviluppo, che sono ancora più penalizzati dall'evasione e dall'elusione fiscale dei grandi gruppi e delle grandi aziende.

Vorrei avere delle risposte su questo, perché su questo credo che i cittadini si aspettino una dimostrazione chiara su cosa serve l'Unione europea, fuori dall'Unione europea non si può convincere nessuno degli Stati membri di smettere, diciamo, di fregare gli altri Stati membri e di fregare risorse fondamentali per il futuro dei nostri cittadini.

1-032-0000

Pierre Moscovici, commissaire pour les affaires économiques et financières, la fiscalité et les douanes. – Je pense comme vous, Madame la députée, qu'en effet c'est un sujet sur lequel tout le monde est perdant.

Il y a des interdépendances très fortes entre nos différentes économies et la fraude et l'évasion fiscales agissent à la fois sur le plan de la morale publique, du défaut de transparence, des pertes

de revenus et créent de la défiance à l'égard de chaque État membre, d'abord, et de l'ensemble de l'Union européenne ensuite.

Voilà un terrain sur lequel, en effet, nous avons une preuve d'Europe parce que nous avons beaucoup fait ces dernières années. Il est évident que nous ne pouvions pas faire autrement, que personne ne pouvait agir seul ou isolé pour résoudre ces problèmes et que, a contrario, quand nous ne sommes pas capables d'avancer, alors à ce moment-là, nous avons une déception forte des opinions publiques. Cela vaut notamment pour les deux sujets que vous avez évoqués, sur l'ACCIS-CCCTB, l'Europe doit enfin avoir une approche collective et construire un modèle européen de fiscalité des entreprises, c'est indispensable si on veut un vrai marché unique en matière fiscale. Je suis persuadé que nos propositions permettront aux entreprises d'exercer leurs activités plus facilement, à moindre coût, au sein du marché unique, et contribueront en même temps à lutter contre l'évasion fiscale.

Je vous le disais, j'étais tout à l'heure avec les représentants des entreprises européennes ou des entreprises qui agissent en Europe, ils étaient très en soutien de l'ACCIS mais la balle est maintenant dans le camp des États membres.

Je sais maintenant que nous ne parviendrons pas à conclure durant ce mandat, mais ce que j'espère c'est, avec le soutien du Parlement, un accord sur les principaux points de l'assiette commune avant la fin du mandat pour laisser ce dossier à mon successeur et aux vôtres, pour que nous puissions conclure rapidement, qu'il n'y ait pas un nouveau retrait parce que ce n'est plus possible maintenant. Alors on connaît un des points sur lequel il y a une discussion serrée, c'est sur la consolidation. C'est la raison pour laquelle la Commission a fait une démarche en deux temps, d'abord l'assiette commune puis la conciliation, mais je n'oublie pas qu'il y a trois «C» à CCCTB, pas deux.

Sur le reporting public pays par pays – auquel, je le sais, ce Parlement est très attaché et la Commission aussi –, la transparence est un élément central de notre stratégie pour ce qui était plus juste au plan mondial. Chez certaines multinationales, parmi les entreprises que je voyais, je n'ai pas senti honnêtement, pour le coup, un enthousiasme extraordinaire pour la transparence, elles avaient des réserves – dirais-je – : certaines estiment que dans un contexte de concurrence, elles ne peuvent pas ne pas mettre en œuvre certaines stratégies de planification fiscale employées par leurs concurrents, même si elles sont éthiquement discutables. Et au-delà de cela, sans faire de procès d'intention, il y a l'idée que dévoiler des informations stratégiques, c'est s'affaiblir. Ce sont deux points différents.

La transparence, je crois, aujourd'hui s'impose à tous: les ONG, l'opinion publique, le Parlement poussent les entreprises à attacher leur image publique dans la direction de la transparence. Il ne faut pas opposer transparence et compétitivité. C'est la raison pour laquelle, après une étude d'impact, après une consultation publique, après les débats internes, la Commission – j'y ai poussé fortement – a formulé une proposition qui est en cours de discussion au Conseil et au Parlement européen. J'aimerais là encore qu'elle avance plus vite parce que notre responsabilité, c'est de savoir terminer ce qu'on a entrepris, là encore, cela fait peut-être partie de votre propre héritage que de pousser les États membres à avancer fortement. Ce dossier n'est pas conclu au niveau du Conseil, ce n'est pas faute d'énergie de la part de la Commission.

1-033-0000

Wolf Klinz (ALDE). – Commissioner, you are fighting tax fraud and you are fighting against fiscal criminal activities. That's great. I congratulate you.

Now when it comes to fair taxes you pursue the introduction of the digital services tax. I think there you are mistaken. You base it on – as I see it – on wrong numbers. You base it on a simulation made by the ZEW Institute of the University of Mannheim ...

(Interruption: 'it's a very good university')

Yes, I know. It came to the conclusion that digital companies pay only 9.5% tax whereas so-called 'traditional' companies pay almost 30%.

Now in reality, this was only a simulation, and the lead author of this study has, in the meantime, distanced himself from the results. He is no longer in agreement that his name be used in the context of this study, and he even published against it. He says clearly the Commission publishes fake news. He says the real numbers are much closer to each other – namely 26 or 27% to 28 or 29%.

If you pursue now the introduction of the digital services tax on that wrong basis, I think you run a great risk, because for one, you change the systematic that we have so far applied for decades, namely that profits are being taxed at where the production takes place and sales are being taxed where the sale takes place, and that is where we have VAT. So that is the first thing.

The second is that more than 50% of those companies that will be taxed are US companies. Now the US, as I see it, will consider this to be a de facto tariff and they will not accept it easily, and they will probably retaliate. So sooner or later we will have a difficult situation between the US and EU and, therefore, I am wondering why you are really pursuing this avenue before you can really be absolutely sure that the numbers are right?

It's not just the ZEW that says the numbers are wrong. It's also the Copenhagen Institute for Economics. It's the Ifo Institute in Munich and it's the foundation of a social market economy. So there are several scientific institutes which are saying those numbers that the Commission is basing its plan on are wrong.

So therefore I can only ask for you to be careful and not go too fast in a direction that may prove to be wrong.

1-034-0000

Pierre Moscovici, Commissioner for Economic and Financial Affairs, Taxation and Customs.

– Well, the figures can be disputed in one way – and that was your approach – or another way. When my colleague Margrethe Vestager led some investigations and came to conclusions on this or that firm – I don't have to name the main name here, you are all aware of it – it was not because the effective rate was 9% but because it was zero-point-something percent. So we have a very clear example of how major companies are paying little or no tax where they create value and profit. That is why we believe that this taxation is legitimate: it's then up to the Member States to discuss it.

As I said, at this stage today, a week before the Ecofin intergovernmental council, I do not yet see agreement between the Member States. I can also understand that there is a preference for taxing profits rather than revenues, but we need to show a symbol of our political will here because we are clearly expected to do so on this issue. We'll see what happens next week and we'll see what kind of conclusions we will have to follow up.

One point on which I think we can both agree is the risk. The risk is that, if we don't have a common approach, there will be national approaches and that's the worst thing for the internal market and for European business.

On the second point mentioned, with regard to the USA, that is also a point I discussed with Steven Mnuchin and with Wilbur Ross when I was in Washington six months ago for the previous International Monetary Fund (IMF) meetings. The US Secretary of the Treasury agrees with us that we have a global problem there. So there is a problem and we need to act globally, and we need to do that within the framework of the Organisation for Economic Cooperation and Development (OECD). The question is whether the EU will show leadership or not. We think the EU should show leadership and that's why there are two proposals on the table, not just one.

With Wilbur Ross it was a bit more difficult because he is the Secretary of Commerce. There are two things I want to say here. I never say that this is a proposal for a GAFA (Google, Apple, Facebook and Amazon) tax because it's not about GAFA. It's not about four companies. It's about much more than that: it's about those companies which have a revenue of over EUR 750 million worldwide and EUR 50 million in the EU. This is not a GAFA tax and neither is it an anti-US tax. Of course, we can see that some 150 companies might be involved and that, among those, probably half would be American simply because they have leadership in that sector, but one third would be European and the rest from the rest of the world. This is not protectionist, it is not anti-GAFA and it is not anti-US. So I don't believe that any retaliation would be legitimate. That's a point we discussed with our American friends and we will go on discussing it, especially in the G20 meetings. On that point, when I speak with the Treasury representatives in the OECD and G20 we have quite harmonious cooperation, and that's for the best.

1-035-0000

Sven Giegold (Verts/ALE). – Chair, I would like to begin by reiterating the thanks to the Commissioner for what he has achieved. I think we can honestly say that in no other field of EU legislation has there been so much progress in the past five years as in the field of taxation and combating money laundering. Tackling money laundering is not technically your responsibility, Commissioner, but you do it together with Commissioner Jourová.

Nevertheless, we have to be open and blunt, and we have to recognise that citizens are not happy. What we had here yesterday, Commissioner, was a truly shocking hearing: I think everybody present agreed on that, regardless of political affiliations. The cum-ex hearing revealed, as the journalists have revealed, that despite our common efforts cum-ex/cum-cum is continuing. They said very clearly that it is a European scandal: it involves lots of cross-border activity. And there was common agreement that we need to move towards having a European financial police and European tax administrative capacities, which we do not have yet.

Therefore, Commissioner, I think it is shocking that most European Finance Ministers have not even commented on the matter. You have made some cautious comments now, and you have done so in the past, but what I would like to know is this: can you commit to taking firm action on cum-ex and cum-cum?

You could trigger an investigation by the European financial authorities by using Article 22(4) of the Regulations establishing European Supervisory Authorities, and you could, in your own capacity, commit to investigating this scandal, as you have investigated other things, and to making appropriate proposals. I think we cannot wait for the next Commission to take office. Citizens want to see a clear and strong response before the European elections, and I am counting on you.

1-036-0000

Pierre Moscovici, commissaire pour les affaires économiques et financières, la fiscalité et les douanes. – Merci M. Giegold, je suis très sensible à vos félicitations car je me souviens, quand on aborde la fin du mandat, du début et des discussions qu'on a pu avoir au moment où la question était de me confirmer ou pas comme commissaire. Je me souviens de votre soutien à

l'époque et je suis heureux de voir que vous le considérez comme fondé. Je pense que depuis lors nous avons très bien travaillé avec le Parlement européen et je vous fais des remerciements en retour parce que, franchement, cela a été un travail d'équipe entre nous.

En ce qui concerne ce scandale, j'ai agi pour que les règles du jeu changent au niveau européen et vous avez noté, entre autres, que la directive sur la coopération administrative a été considérablement étendue et renforcée puisque – je l'ai dit – elle inclut désormais l'échange automatique d'informations sur les comptes financiers et, plus récemment, elle a été complétée par de nouvelles dispositions en matière de déclaration pour les intermédiaires fiscaux qui offrent des conseils susceptibles d'entraîner une fraude ou une évasion fiscale.

Pour ce qui est du suivi des échanges, il appartient aux États membres d'administrer et d'imposer leurs impôts et leur législation fiscale. La Commission suit de près les règles relatives à la coopération en matière d'informations fiscales entre États membres de l'Union européenne, elle en fait une priorité sous mon impulsion. Au-delà de l'échange automatique d'informations qui a été largement étendu, les États membres doivent échanger spontanément des informations quand ils supposent qu'il peut exister une perte d'impôts dans d'autres États membres. Je les encourage à le faire et à le faire vite, dès qu'ils détectent une fraude potentielle. Ils fournissent également régulièrement des données statistiques et mes services évaluent actuellement la mise en œuvre des règles sur la coopération administrative. Une fois conclu ce travail d'analyse au premier trimestre 2019 – je dis bien au premier trimestre, donc avant les élections européennes – cela pourrait conduire à proposer des améliorations pour l'avenir, si nous convenions que c'est nécessaire.

En ce qui concerne le volet bancaire, il ne m'appartient pas de répondre à la place des autorités de supervision bancaire.

Pour ce qui est du volet fiscal – je parle de l'enquête européenne –, ce scandale vient s'ajouter à une longue liste de scandales fiscaux, il illustre une fois de plus les nombreuses facettes de la fraude et de l'évasion fiscales, la cupidité de certains acteurs économiques, l'irresponsabilité de certains conseillers, l'ignorance délibérée de la loi, les failles de certaines législations, les insuffisances du cadre de coopération administrative en matière fiscale, avant que nous la réformions, on verra ce qu'il en est après. Nous sommes en train d'évaluer le cadre de notre coopération administrative dont les nouvelles règles se mettent en place petit à petit, et ce scandale, même s'il est antérieur à la plupart de ces changements, devra guider notre évaluation.

Donc, je peux vous dire deux choses: la première, c'est que nous allons tenir compte, de près, des conclusions de votre propre enquête, et la deuxième, c'est que, compte tenu de l'ampleur du scandale, une enquête approfondie pourrait s'avérer nécessaire et pourrait procéder à la fois de vos propres travaux et de nos propres investigations.

1-037-0000

Piernicola Pedicini (EFDD). – Signor Presidente, onorevoli colleghi, ringrazio il Commissario per essere qui.

Commissario, vorrei tornare sui paradisi fiscali nell'Unione europea, paradisi fiscali in casa nostra, perché Lei lo ha appena detto prima ma lo ha anche ricordato nella sua valutazione economica e sociale dell'Unione dello scorso marzo, dove scrive che Belgio, Cipro, Ungheria, Irlanda, Lussemburgo, Malta e Paesi Bassi utilizzano strumenti di pianificazione fiscale, per così dire, aggressiva.

Grazie a questa aggressività questi paesi, più furbi, lo possiamo dire, distruggono l'equità del nostro mercato interno perché, da una parte, attraggono società di altri paesi che vedono fuggire

i capitali e, dall'altra, fanno anche concorrenza sleale a quelle società che invece eroicamente pagano tasse più alte all'interno dei loro paesi di appartenenza.

Ora, Lei ha detto anche che non si intende puntare il dito contro questi paesi, ma qui sembra di vivere un po' una realtà sovvertita, una realtà ribaltata, perché da una parte questi paesi sono premiati in effetti, perché non vengono sanzionati, mentre indirettamente a pagare sono quei paesi che rispettano rigorosamente le regole europee.

Ora sembra che tutto sia impossibile per via dell'unanimità dei trattati che solo adesso, però, a fine mandato, viene messa in discussione. Bene, meglio tardi che mai.

La domanda che le faccio e che si fanno molti cittadini è: che cosa è stato fatto concretamente, non cosa si farà, non parlo dei buoni propositi, ma cosa è stato fatto concretamente per eliminare questa profonda ingiustizia e per imporre una tassazione equa senza eccezione all'interno dell'Unione europea? E a che punto è lo stato di attuazione di questi provvedimenti?

1-038-0000

Pierre Moscovici, *commissaire pour les affaires économiques et financières, la fiscalité et les douanes*. – Voilà une question qui est hautement controversée et il ne m'a pas échappé que d'autres instances, des ONG, avaient élaboré une liste de paradis fiscaux sur laquelle figuraient des pays de l'Union européenne, parfois même en bonne place, et je suis aussi au courant de littératures académiques qui vont dans ce sens-là.

Il se trouve que quand on est dans un cadre politique, et nous sommes dans un cadre politique, et quand on veut mener des actions qui ont du sens, on doit partir de définitions qui sont précises. Qu'est-ce que c'est qu'un paradis fiscal? Et à cet égard, nous avons défini nos propres approches quand nous avons élaboré avec le code de conduite, la liste noire, grise ou – pour les autres, rose – de paradis fiscaux ou de territoires coopératifs. Et parmi ces critères, il y en a deux qui l'ont emporté. Le premier: est-ce que les pays adoptent ou pas les règles de BEPS? Et le second: est-ce qu'ils pratiquent entre eux ou pas l'échange automatique d'informations?

Il se trouve que si on suit cette définition-là qui est loin de concerner l'ensemble de la planète, puisqu'il y a tout de même 65 pays sur la liste grise – maintenant un petit peu plus – et encore cinq sur la liste noire – donc ce n'est pas négligeable –, il n'y avait pas de pays de l'Union européenne qui puisse être considéré comme un paradis fiscal. C'est la raison pour laquelle, au point de départ, quand nous avons fait le *screening*, comme on dit, – l'analyse détaillée de pays – pour voir quelle était la liste possible, on n'avait pas de pays de l'Union européenne. Et donc au regard de cette définition précise, il n'y a pas de paradis fiscaux dans l'Union européenne.

Alors, comme je suis quand même conscient qu'il y a tout de même des pratiques qui, elles, ne peuvent pas être acceptées, nous avons tourné la chose un peu différemment et nous nous sommes saisis du Semestre européen pour faire une pression amicale, dialoguée, mais néanmoins ferme avec un certain nombre de pays, dont nous disons qu'ils ont des pratiques de planification fiscale agressive ou des pratiques qui encouragent la planification fiscale aggressive, et sept pays ont été nommés.

Je n'ai pas passé mon meilleur Ecofin, ce jour-là, ce n'était pas la réunion la plus sympathique de toutes celles que j'ai eues. J'ai répondu d'ailleurs avec beaucoup de fermeté et de tranquillité, et nous allons continuer dans cette voie. J'ai noté tout à l'heure, notamment au sujet des Pays-Bas, mais il y a d'autres exemples, que cette pression n'était pas inutile parce qu'elle conduisait à modifier des comportements et je continue de penser que cet outil du Semestre européen doit être utilisé de manière puissante mais aussi intelligente.

Et, dans le cadre de l'exercice du Semestre européen, – pour la première fois, à mon instigation – la partie fiscale a été introduite et maintenant mes services de TAXUD rencontrent les administrations nationales, les autres parties prenantes. C'est la première fois qu'on mèle les deux dimensions. L'objectif est d'avoir une analyse partagée des enjeux. Et à partir du moment où on partage l'analyse et les conclusions de faire bouger les pratiques.

1-039-0000

Mario Borghezio (ENF). – Signor Presidente, onorevoli colleghi, Commissario, nelle Sue risposte ho colto come un'eccessiva prudenza nell'individuare i protagonisti negativi di questo enorme scandalo del Cum Ex.

Lei è stato molto generico ma ha omesso, a mio avviso intenzionalmente, pensando ai venditori di tappeti siamo molto sospettosi, di ricordare che i protagonisti sono le grandi banche, il *gotha* delle banche europee e mondiali, a quanto ci dicono i risultati delle indagini della magistratura tedesca e anche il lavoro cospicuo svolto dai giornalisti investigativi, i quali, sottolineo, hanno ieri sostenuto, in questa stessa Aula, che lo scandalo è ben al di là dall'essere stato efficacemente contrastato, se noi teniamo anche conto dell'enormità dello scandalo e del danno che alcuni paesi, enorme per altri paesi ma rilevante anche per un paese piccolo, come l'Italia, quattro miliardi e mezzo, e soprattutto la preoccupazione, ci dicevano questi esperti, che in paesi, per esempio come in Italia, lo scandalo continua. Quindi il danno continua.

Io Le voglio chiedere se non ritenga che sia stata debole, sia perché Lei era già ministro delle Finanze quando lo scandalo operava, sia come in questi mesi come Commissario europeo, non si è sentita una voce forte, autorevole e chiara.

Lei è chiaro soltanto quando bisogna bacchettare, deve bacchettare la povera Italia e lo fa anche infrangendo una regola che è sempre stata – vedasi il caso della Spagna e della Francia, della Commissione europea – quella di non pubblicizzare le questioni più delicate riguardanti le procedure d'infrazione eccetera.

Lei invece è molto riservato quando si tratta di indicare le responsabilità dei potenti dell'alta finanza mondiale, e di questo ci dovrebbe dare spiegazione perché Lei, come Commissario europeo, deve difendere anche i risparmiatori e gli Stati membri, a cominciare dal nostro paese che non deve essere criminalizzato per aver deciso di cambiare politica, di non sottostare supinamente a delle regole che, come diceva Giovanni Giolitti, un grande statista del mio paese e non certo affine alla mia cultura ideologica ma che è stato un grande politico, che le regole per gli altri si applicano e per gli amici si interpretano.

Io ho la netta impressione che su questi temi le regole l'Unione europea tenda un po' ad interpretarle, quando conviene.

1-040-0000

Pierre Moscovici, commissaire pour les affaires économiques et financières, la fiscalité et les douanes. – Je pense que vous avez aussi fait allusion à d'autres sujets que les sujets fiscaux, et cela me permet d'ailleurs d'apporter une précision: je ne me serais jamais permis de qualifier de «marchands de tapis» mes amis italiens, surtout dans un sens péjoratif. J'ai voulu utiliser une expression française qui signifie que, en réalité – pour le dire différemment et de façon plus populaire –, on ne peut pas couper la poire en deux quand il s'agit de règles. Avec les règles, on peut avancer dans un sens...

1-041-0000

Mario Borghezio (ENF). – Non si preoccupi Commissario, io lo ritengo un complimento, perché sono bravissimi commercianti. Io vengo da una famiglia di commercianti, anche.

1-042-0000

Pierre Moscovici, commissaire pour les affaires économiques et financières, la fiscalité et les douanes. – J'approuve cela aussi. Moi aussi je suis d'une famille de commerçants, mes grands-

parents l'étaient, ils ne vendaient pas des tapis, ils vendaient des tricots. J'adore le commerce mais avec les règles on ne peut pas commerçer, c'est ce que je voulais dire, et je ne me mettais pas dans la peau d'un commerçant non plus, donc soyons dans une approche sérieuse de responsables politiques.

Pour le reste, sur le scandale CumEx, je ne veux pas m'exprimer avec prudence et je veux rebondir sur ce que je disais il y a quelques secondes à Sven Giegold, la Commission européenne n'a pas toutes les informations, elle n'a pas les moyens de les avoir aujourd'hui, donc nous allons continuer à travailler avec les ONG, avec les informations des médias, avec vos propres conclusions. Et je redis ici de la manière la plus précise que, s'il y a besoin de faire des adaptations en matière de coopération administrative ou s'il y a besoin de lancer des investigations, nous le ferons.

Pour le reste, vous évoquez un passé qui est le mien de ministre des finances, il ne m'a pas semblé que le pays dont j'étais le ministre était celui qui était le plus coupable d'échanges ou plutôt d'absence d'échanges d'informations. D'après les médias, c'est plutôt d'un autre grand pays dont il s'agit, mais en attendant, faites votre travail et nous ferons le nôtre. Je pense encore une fois que c'est une bonne articulation entre le Parlement et la Commission qui doit nous permettre, grâce à ce que vous allez encore mettre à jour, d'agir de manière plus efficace et croyez que nous sommes tout à fait à votre écoute et prêts à bouger.

Pour le reste, Monsieur le député, je vous le redis, non nous n'agissons jamais avec des œillères idéologiques à la Commission, nous nous efforçons d'être objectifs et constructifs. Une chose à laquelle vous devriez penser, c'est qu'il n'y a pas les bons et les méchants – vous l'avez dit au début –, il n'y a pas la Commission contre Rome, cela n'a pas de sens. La Commission n'est pas seule, la Commission agit au nom de règles et dans un écosystème. Croyez que celui qui vous parle a toujours été l'homme de la flexibilité au sein de la Commission, toujours, mais je sais aussi qu'il y a à côté de cela 18 ministres des finances dans la zone euro qui, eux, ont fait beaucoup d'efforts pendant la crise, au nom du pacte et pour qui ce pacte est une règle commune qui doit être respectée. Donc, moi je suis prêt à être très flexible, je suis prêt à être à l'écoute, je suis dans le dialogue et quand je dis le dialogue, ce n'est pas une forme, c'est une réalité, mais dans le cadre des règles. On peut utiliser les règles de la manière la plus flexible, la plus intelligente, la plus subtile et on va essayer, dans ce cas comme dans d'autres, on ne peut pas les ignorer. En tout cas moi, commissaire européen, je ne suis pas là pour ignorer les règles, je suis là pour les faire appliquer mais dans l'intérêt commun: celui de trouver des solutions.

1-043-0000

José Ignacio Salafranca Sánchez-Neyra (PPE). – Señor presidente. Gracias, señor comisario, por su disposición permanente para cooperar con los trabajos de este Parlamento. Mis preguntas van dirigidas más bien hacia el ámbito de la cooperación internacional. Coincidí el viernes pasado con el secretario general de la OCDE —una persona que usted conoce bien, Ángel Gurría— y me gustaría saber cómo articula, desde la Comisión, la cooperación con esta organización. Se ha referido usted en su intervención al G-20, sabe que esta misma semana habrá una reunión en Buenos Aires, y me gustaría saber, también, cómo trabajan en el ámbito del Grupo de Acción Financiera Internacional.

Le felicito, señor comisario, porque veo que está usted muy bien informado de los trabajos de este Parlamento. Antes de su comparecencia hemos debatido sobre el informe de los componentes y, efectivamente, una de las propuestas que se hacen en el informe es la de constituir una subcomisión, dentro de la Comisión de Asuntos Económicos y Monetarios, para abordar este tema.

Pero mi pregunta se refiere, también, a un hecho que se menciona en este informe. Me gustaría saber si la Comisión está estudiando los acuerdos bilaterales fiscales que algunos Estados

miembros celebran con países terceros al objeto de armonizar, de alguna manera, el marco fiscal.

Última pregunta, señor comisario. Se acaba usted de referir al comercio. Bueno, la Unión Europea está en estos momentos en una dinámica exitosa de acuerdos comerciales. Hemos celebrado acuerdos con Canadá, Japón, Vietnam, Singapur y México. Estamos negociando con Australia y Nueva Zelanda. ¿Qué importancia concede usted, en el marco de estos acuerdos comerciales y de asociación, a una buena gobernanza fiscal como elemento clave y cláusula de cumplimiento recíproco entre ambas partes?

1-044-0000

Pierre Moscovici, *commissaire pour les affaires économiques et financières, la fiscalité et les douanes.* – Merci pour votre question, comme toujours, précise et aiguë de votre part, cher député.

D'abord, nous coopérons avec l'OCDE sous l'ombrelle du G20, depuis l'origine – je l'ai dit – les Européens sont en BEPS, depuis le départ, et je me souviens que le ministre espagnol des finances, mon ami Luis de Guindos Jurado, était là aussi lors de la première conférence de lancement, aux côtés du secrétaire général de l'OCDE, avec lequel nous avons des relations extrêmement fluides et constantes. Je prends trois exemples de BEPS même, de lutte contre la fraude et l'évasion fiscales, donc, mais aussi de la fiscalité du numérique parce que nous sommes investis dans ces travaux, ou encore du processus de listing des paradis fiscaux.

J'ai envie de dire que, au fond, nous sommes totalement dans l'OCDE, mais nous voulons toujours aller un peu plus loin parce que nous avons cette qualité ou cette capacité d'être un marché intérieur, d'être une union politique. Donc, l'OCDE, forcément agissant à l'échelle internationale, doit tenir compte d'acteurs qui sont sans doute plus différents les uns des autres et c'est la raison pour laquelle, par exemple sur les deux directives ATAD – *anti-tax-avoidance directives* – nous avons été un cran plus loin, nous avons fait du BEPS+, j'ai envie de dire ou de l'OCDE+, mais nous travaillons très clairement dans cette direction-là. Donc, nous avons été les premiers à adopter les actions de l'OCDE, nous avons été les premiers à les traduire dans la directive anti-évasion fiscale et nous participons aux travaux du G20 sur la fiscalité du numérique, donc nous voulons être les leaders en la matière dans le cadre international.

Vous m'avez interrogé aussi sur des recommandations que nous pouvons faire pour les traités bilatéraux. Oui, quand c'est nécessaire, nous le faisons, par exemple pour la présence numérique, c'est un sujet sur lequel nous sommes très insitants. Cela dit, comme vous le savez aussi, les traités bilatéraux sont de la compétence des États membres parce que c'est à eux qu'ils sont attachés.

En matière de commerce international, vous avez souligné que cette Commission était engagée dans le libre-échange, elle l'est. Nous allons à Buenos Aires avec le président Juncker – puisque je suis à ses côtés dans cette réunion – pour porter un message: le protectionnisme n'est pas la réponse, le multilatéralisme doit être promu. On peut penser à réformer l'OMC, il ne faut pas détruire l'OMC, donc il faut aller dans ce sens-là et nous continuons à proposer des échanges, mais là-dedans les critères de bonne gouvernance fiscale sont tout à fait décisifs et la réciprocité est très importante, nous l'attendons de tous nos partenaires et c'est un principe de base que nous inscrivons désormais dans tous les projets d'accords que nous négocions.

De la même façon, je veux le dire, on ne s'en est peut-être pas aperçus, ce principe est présent dans les accords futurs avec le Royaume-Uni, pas d'accord de libre-échange pour le moment, mais nous sommes très attachés à ce que demain, le Royaume-Uni, s'il choisit finalement le Brexit, continue d'appliquer les critères de bonne gouvernance fiscale. Nous ne voulons pas avoir à nos frontières un État qui puisse y déroger. Cela n'est d'ailleurs pas la volonté du

Royaume-Uni qui a toujours été également présent pour les travaux du BEPS, de l'OCDE et dans les travaux de l'Union européenne comme un partenaire proactif et je suis sûr qu'il le restera demain.

1-045-0000

Paul Tang (S&D). – Thank you, Commissioner, for being here. Looking back at this period, we have seen some major changes and I think yours was a good and strong contribution to making those changes. More has changed in the past five years than in the 50 years before. For the first time, we have seen some form of international European cooperation on taxation, and that is much needed. Many initiatives have been put forward, including by you. Not every initiative has borne fruit so a lot still remains to be done, but we are off to a good start, so that's something.

Taking the point made by Wolf Klinz, which was also discussed in an earlier sub session, I will address it in a very different way. What we lack in this House, and also at the Commission now and then, is data or the possibility of good data analysis. We are now discussing the Digital Services Tax (DST) and, when we try to analyse varieties of the DST, we are in the dark. We have to make estimates – sometimes maybe wild estimates – because we really don't know. Would it be part of your legacy to consider an infrastructure whereby, at European level, we could have data collection and analysis to enable policymaking and tax policies in the European Union? I think we really should consider that, and it would be very helpful for the next Commission. Why do we have a Fiscal Board and not a tax board, for example? So that's one point I would like you to consider.

The second thing – and this has also been addressed, of course – is that, while the idea of a blacklist for non-cooperative tax jurisdictions is very powerful, at the end of the day we have only five on the list. What does that tell us? We are excluding the tax havens within the European Union. You have tried to address this. How can we address better the fact that Member States, too, can have negative effects on each other through their policies?

1-046-0000

Pierre Moscovici, Commissioner for Economic and Financial Affairs, Taxation and Customs. – Thank you Mr Tang. I would also like to thank you personally for the huge amount of work – to explore and convince – that you have done on the Common Consolidated Corporate Tax Base (CCCTB). I hope it will be part of your legacy that, if not concluded, the proposal is at least ready for conclusion. I am sure that, whatever happens, you will remain one of those who fight for that. On the day we achieve CCCTB, we must also pay tribute to you. This is a fight that it is worthwhile continuing.

On the two questions you mentioned, on data, I agree with you. The difficulty with data is that we are talking about a recent field and, by definition, we don't have the data available because we don't have the right tools, so it's the 'chicken and egg' problem. But the idea of a European tax board is a good one. It would help to have those debates because, as Mr Klinz said, he has his own information and his own analyses, you've got yours and we've got ours. So, of course, it is worthwhile having objective data in order to give our proposals a stronger basis, and I think that is certainly very relevant.

On the blacklist, I would be less critical because, again, the fact that we have five can be seen in two ways. One thesis might be: 'You've got five so it's a poor list.' The other might be: 'You've got only five, starting from 17, so you've been efficient.' I would rather be on that side. Why? Again it is the Code of Conduct Group which decides and I cannot comment too much on individual cases, but, if you look at my agenda, which is public, and see all the Finance Ministers, from this or that country which is on the grey list, who come to visit me in order to correct their own legislation to avoid being blacklisted, you'd be surprised. These are sometimes important partners for spectacular reforms.

What does this mean? The goal of a blacklist – this is the case for the OECD, and, as far as I know, there is 0.1 on the OECD list – and why the process is there is to make sure that countries are not blacklisted and that they act decisively to avoid being blacklisted.

That is why I always insist on two facts. The first is that this is not just about the blacklist, it is mostly about the grey list. The second is that it's not something we do only once: it's a process. The most important thing is the process. So it will be important to see what the Code of Conduct Group decides in early 2019 when they have to examine all the commitments that were asked for of some countries on the blacklist. If some do not have a correct approach, they must be blacklisted. On the contrary, if some have done their homework, they must be taken out of the listing process. So it's something that needs to be alive. It's not 'once and for all'. It's a process, and I believe in that process.

1-047-0000

Chair. – Thank you very much, Commissioner, for today's contribution. As some colleagues have said, there has been a lot of progress in the area of our common interests during this term of office of Parliament and the Commission. Especially if there is agreement on digital taxation and some other remaining issues, your shoes, at the Commission, will be hard to fill – and we appreciate that.

Secondly, I realise that, at your confirmation hearing in the Committee on Economic and Monetary Affairs, I asked you about your attitude to cooperation with Parliament, and I must say that, in reality, you have fulfilled your promises from that time. I'd like to show my appreciation of this as well. Let it perhaps be a message to other Commissioners, too, that the road to success is through cooperation with Parliament. Thank you very much for your efforts.

1-048-0000

Pierre Moscovici, Commissioner for Economic and Financial Affairs, Taxation and Customs. – The fact that I have twice been a Member of this Parliament may have helped me to know its importance.

1-049-0000

Chair. – Thank you very much Commissioner. We will continue in a minute.

(*The exchange of views closed at 17.19*)

1-050-0000

Chair. – Let us resume the public hearing of the TAX3 Committee. This part is on aggressive tax planning schemes within the European Union. You will recall that a first hearing on this issue was on 21 June this year with the participation of representatives of McDonald's and Nike.

Today we appreciate the presence of representatives of the Kering Group, Google and Facebook. Let me therefore welcome Ms Sophie Maddaloni, Tax Director at the Kering Group, Mr Adam Cohen, Head of Economic Policy in the relevant geographical division of Google, and Mr Alan Lee, Head of Global Tax Policy at Facebook.

We will start right away with the introductory speeches of a maximum of seven minutes. Ms Maddaloni, let us start with you. The floor is yours.

Public hearing on “Aggressive tax planning schemes within the European Union”

1-051-0000

Sophie Maddaloni, directrice fiscale du groupe Kering. – Monsieur le Président, Mesdames, Messieurs les députés et membres de la Commission, bonjour, merci d'avoir invité le groupe Kering à s'exprimer devant votre commission. Je m'appelle Sophie Maddaloni, je suis directrice fiscale du groupe.

Je souhaiterais commencer mon exposé par une présentation du groupe Kering.

Kering est un groupe de luxe mondial, il regroupe et fait grandir un ensemble de maisons emblématiques des secteurs de la mode, de l'horlogerie et de la joaillerie: Gucci, Saint Laurent, Bottega Veneta, Balenciaga, Alexander McQueen, Brioni, Boucheron, Pomellato, Dodo, Qeelin, Ulysse Nardin et Girard-Perregaux.

En 2017, le groupe Kering a réalisé un chiffre d'affaires de 15,2 milliards d'euros. Depuis sa création en 1963, le groupe n'a cessé de se transformer. Il emploie aujourd'hui plus de 30 000 salariés, dont à peu près 16 000 en Europe et est présent dans 46 pays au travers d'un réseau de 1 500 boutiques.

Afin de vous présenter le groupe Kering, il est important de revenir sur la chronologie des étapes qui l'ont amené à devenir un groupe de luxe à gestion intégrée, ce depuis quelques années, avec une structure juridique qui répond toujours à une logique opérationnelle.

Fondée par François Pinault autour des métiers du bois et des matériaux de construction, le groupe s'est positionné sur le secteur de la distribution à partir des années 90 avec entre autres le Printemps, la Redoute, Conforama et la Fnac. La prise d'une participation de contrôle dans Gucci Group NV, alors côté aux Pays-Bas et aux États-Unis, en 1999, à hauteur de 42 % a marqué une nouvelle étape dans le développement du groupe avec la constitution d'un ensemble cohérent et complémentaire de grandes maisons du luxe. Le début des années 2000 a ainsi été marqué par les acquisitions des maisons Yves Saint Laurent, Sergio Rossi, Boucheron, Bottega Veneta et Balenciaga par Gucci Group NV. PPR opère dès 2005 un premier recentrage sur le luxe, en commençant à sortir de la distribution grand public en France et en Europe. C'est seulement à partir de 2011 que PPR et Gucci Group fusionnent leurs organisations, puis en 2012, PPR devient actionnaire à 100 % de Gucci Group. En 2013, le groupe PPR change de nom et devient Kering, premier signal extérieur de ces transformations. Il ne regroupe ainsi jusqu'en 2017 plus que deux activités, une activité luxe et une activité sport *and life style* dont Puma. En 2018, le groupe acte la sortie de Puma, d'une part, et entame, d'autre part, des négociations avec Stella McCartney, Christopher Kane et Thomas Maier pour mettre fin à nos collaborations. Le groupe vient d'achever sa transformation en pur *player* du luxe alors que le luxe représentait moins de 20 % du chiffre d'affaires du groupe en 2008.

Ces changements stratégiques réussis n'ont pu se faire que grâce au support d'une organisation opérationnelle efficace. Kering a mené de nombreuses réflexions pour continuer à adapter son modèle opérationnel afin de demeurer moderne, agile, flexible et pertinent face à un marché en totale explosion. Par ailleurs, il a dû intégrer de nouvelles habitudes de consommation, notamment au travers des réseaux sociaux, de la part croissante des ventes en e-commerce et les exigences du *time to market* ou de l'*omnichannel*. Une réflexion de modernisation a été initiée au premier semestre 2017 afin de revoir le mode de fonctionnement de l'approvisionnement, de la logistique et de la distribution, celui-ci étant basé sur un modèle de plus de 20 ans. La complexité du sujet a nécessité l'intervention de consultants en stratégies, en organisations, en systèmes d'information. Cela a abouti à un projet de transformation qui a été officialisé en octobre 2017.

Après cette phase préliminaire, une nouvelle organisation a été dessinée, celle-ci a pu voir le jour grâce à la maturité de notre portefeuille de maisons et aussi leur volonté de se recentrer sur

leur métier. Avec cette nouvelle organisation, le développement de produits, la coordination et la production seront sous la responsabilité et la gestion directe de chaque marque et de leur centre d'expertise.

Notre décision de réorganisation est strictement basée sur des besoins opérationnels et non pas sur des considérations fiscales. Kering mène ce projet comme l'ensemble de ses projets dans le strict respect des lois fiscales nationales et des normes internationales et intègre, par ailleurs, comme il se doit, dans sa réflexion, les recommandations de l'OCDE et les réformes de l'Union européenne. Nous avons mis en place depuis 2 ans, une nouvelle organisation fiscale au sein de la direction financière. Les missions qui m'ont été confiées, tant au niveau *corporate*, qu'au niveau des marques sont les suivantes: consolider l'information fiscale au niveau du groupe, suivre en interne les enjeux fiscaux locaux et internationaux en totale conformité avec les réglementations, assurer le respect des obligations en matière de documentation de nos transactions intra-groupes, apporter notre contribution technique en matière d'informations fiscales dans les comptes consolidés. L'équipe fiscale met tout en œuvre pour assurer les missions qui lui ont été confiées par la direction générale du groupe.

Le groupe Kering a été invité à cette audition pour vous donner des éléments sur sa gouvernance fiscale qui exclut toute planification fiscale agressive. Au nom du groupe Kering, je vais illustrer mes propos en vous présentant la manière dont nous intégrons les travaux BEPS dans la gestion et les enjeux fiscaux du groupe.

Le projet BEPS a pour ambition d'harmoniser et d'organiser les principes en matière d'imposition directe existant au sein de chaque juridiction. BEPS mais aussi les réformes fiscales de l'Union européenne tendent ainsi à réduire la concurrence fiscale entre États.

Pour ce qui est du groupe Kering, nous allons par des exemples concrets, sans reprendre les actions de BEPS, une à une, vous montrez comment nous avons mis en œuvre les recommandations de BEPS, que celles-ci soient déjà intégrées dans le corpus législatif ou encore à l'état de *soft law*.

Nous avons refondu notre politique de *management fees* afin de répondre aux standards internationaux, inspirés par l'action sur les prix de transfert. De même, nous nous sommes assurés que les redevances appliquées au sein de nos maisons sont en ligne avec les règles applicables en matière de prix de transfert, là aussi. Nous menons des *benchmark* et des analyses de fonction et de risque systématiques pour toutes les entités du groupe. L'illustration de l'exigence déployée par la direction fiscale en ce domaine est la volonté d'avoir la granularité la plus fine en matière de documentation. En effet, il a été décidé de réaliser, en plus des *local file* et du *master file*, des documentations prix de transfert, entité par entité.

S'agissant de la lutte contre l'utilisation abusive des conventions fiscales, nous tenons à préciser que, chaque fois qu'une entité du groupe souhaite bénéficier d'une stipulation conventionnelle, elle est toujours la bénéficiaire effective du revenu en cause et résidente fiscale au sens de la convention.

En ce qui concerne la définition élargie de la notion d'établissement stable, nous intégrons dès à présent cette définition dans notre réflexion d'internalisation de nos activités de e-commerce. La question de la qualification d'établissement stable du fait de la présence de stocks dans un pays ainsi que la détermination du caractère auxiliaire et préparatoire au sens de la nouvelle définition est prise en compte.

Enfin, le groupe Kering n'utilise aucun instrument, ni ne possède aucune entité hybride.

J'espère que mon introduction, un peu longue, j'en suis désolée, va contribuer à la discussion et je suis à votre disposition pour répondre à vos questions.

1-052-0000

Adam Cohen, Head of Economic Policy, EMEA region, Google. – Chair and members of the Committee, thank you for inviting me to be here.

I lead Google's work on economic policy matters in Europe, the Middle East and Africa. My responsibilities include tax policy and over the past six years I have participated in a range of discussions with the OECD, the European Commission, national governments and various industry groups. I have also contributed to this Committee's work during a hearing in March 2016.

Corporate taxation remains a subject of intense debate in the EU, the US and other regions. It has been a subject of extensive OECD and EU studies.

Many governments, including those of EU Member States, are now considering how to implement a range of policy changes. Google, for its part, has long advocated a simpler, more coherent international tax system.

As I described to this Committee two years ago, international tax reform will succeed if companies have clear rules of the road and consistency across multiple jurisdictions.

We support a multilateral approach to any new tax rules carried out in fora like the OECD and the G20. A patchwork of legal changes could create uncertainty for all companies operating across borders, increasing the risk of double taxation and protracted tax disputes among various countries.

It is vital for companies operating around the world to have clear rules and to ensure they aren't subject to discriminatory tax policies. We've had international treaties in place for a century to ensure countries tax foreign firms equitably. This framework has always attributed more profits to the countries where products and services are produced, rather than where they are consumed.

Over the past ten years, Google's effective tax rate has been 26%, well above the 23.7% average statutory rate across the OECD's member countries.

Around 86% of that tax was due in the United States, where our business originated and our products and services are developed. The rest went to roughly 50 countries around the world where we have a range of subsidiaries.

This distribution of our taxes isn't unique to Google; it's a feature of a globalised economy and long-standing rules about how corporate profits should be split among various countries. American companies pay most of their taxes in the US, just as German, British, French and Japanese firms pay the majority of their corporate taxes in their home markets.

In Europe, Google is headquartered in Ireland where our 8 000-strong team serves customers across Europe, Middle East and Africa. For the sake of a scale comparison we have close to 40 000 engineers in the United States who are designing and building Google's products and services. By contrast, we employ around 3 000 engineers in the EU.

There continues to be a debate about whether corporate income tax should be apportioned differently, including whether tax payments should shift from countries where value is created to those where goods and services are consumed.

This is a matter for governments to decide. Hopefully, any changes will be based on broad international consensus, with clarity that ensures companies and citizens alike have confidence in the global tax system. Thank you very much.

1-053-0000

Alan Lee, Head of Global Tax Policy, Facebook. – Good afternoon, Chair and honourable Members of the European Parliament. Thank you for the opportunity to represent Facebook at this hearing. My name is Alan Lee and I head the global tax policy function for Facebook. I'm based out of our Washington DC office. I've flown here to Brussels out of respect for the important work that the committee is undertaking and to provide you with the best possible information relevant to this hearing.

Today, I'd like to discuss Facebook's business model, our investment, and contributions to the European economy and our approach to international tax policy. I thought it would be helpful to begin with a brief overview of our business model. Our business is first and foremost dependent on creating a highly useful and relevant experience. More than 2.6 billion people, including 375 million Europeans, connect and share on Facebook and our family of apps. Roughly 98% of our revenue is generated through advertising.

While tax discussions often focus on business profits, I'd like to provide the committee with some background and context about the investments that Facebook makes to ensure a useful and relevant experience for the people that use our services.

We think about Facebook as an ecosystem where the products created by our engineering teams are used to enhance a person's overall experience through sharing, liking friends' posts, connecting with old friends, joining groups and interacting with businesses and other organisations. Providing relevant advertising is just one piece of ensuring that people have a useful experience when using our service.

Providing a relevant and useful experience for 2.6 billion people is a significant undertaking. As such, capital investment and innovation are priorities for Facebook. Last year, Facebook made – and this is converting from our public filings – EUR 5.9 billion in capital investments. This includes our investments in servers, data centres, office buildings and network infrastructure. This year our capital investment has already exceeded our investments made in 2017, at 8.42 billion.

In addition, Facebook would not be able to provide a relevant user experience without continued innovation. As such, our investment in R&D has consistently increased year over year. In 2017 Facebook's investment in R&D totalled EUR 6.8 billion, up from 5.2 billion in 2016. But continued innovation not only provides users with a relevant experience but businesses as well, who use Facebook to reach new audiences and broaden their customer base.

In fact, Facebook has made significant investments in Europe. In addition to our 17 offices across the EU employing more than 7 000 people, we have also invested in four data centres, two research centres on AI, in Paris and Berlin, and we enable 18 million European SMEs through our platform to grow their business and unlock new markets across borders. This is the direct result of Facebook's investments, which to date have totalled more than EUR 4.5 billion in Europe.

Moving on to tax policy. Broadly, we support tax policies that are simple for businesses to administer and provide long-term certainty and stability for businesses to operate and grow. We've been following the ongoing international tax policy discussions and believe that collaborative efforts between governments and businesses make for the most effective policy outcomes. As you may recall, we joined a panel of companies to testify before this committee in 2015 and have since participated in industry discussions hosted by the OECD. Significant

changes to tax policy have been made since the initial OECD report in 2014, which concluded that it would not be feasible to ring-fence the digital economy from the rest of the economy for tax purposes. The digital economy is increasingly becoming the economy itself.

Since then, a number of countries have changed their domestic laws, including the United States, which eliminated its system of taxation with deferral and move to a territorial-like system, closer to what we see in Europe and other large economies. The US has also adopted a number of OECD BEPS recommendations, along with the global minimum taxes anti-base erosion measure. Last December we announced that we would be moving to a local selling model in countries where we have a local sales support office and where local laws allow. In our discussions with policymakers in the OECD, we consistently heard that policymakers wanted increased visibility over the revenues generated in country, so that's what we did. We made this announcement proactively not only to reflect ongoing policy discussions, but just as importantly, to show commitment through action.

As you can see, significant change has occurred since we met with this committee just three years ago. Our ability to continue to invest in Europe and innovate relies on an international tax system that is simple to administer and provides long-term certainty and stability for all businesses, particularly as all businesses are moving to digitalise. We are encouraged by the collaborative work currently being undertaken at the OECD and look forward to engaging in that process. Thank you again for the opportunity to speak to you today. I appreciate your time and welcome your questions.

1-054-0000

Luděk Niedermayer (PPE), Co-rapporteur. – It will be hard to make it in 60 seconds, but still I will try.

You talk about the desire of businesses to have a simple, stable, transparent tax system – also, I would add that it must be sustainable, and it should be fair, to some certain extent.

So my first question is that you know that the OECD works on the framework of the Digital Permanent Establishment, so I wonder – especially in the case of Google and Facebook – how in your view is it feasible to allocate not only the revenues but also expenditure to the Digital Permanent Establishment in the future?

And the second, more simple question: let's assume that my friends just paid for an advertisement made by Google or Facebook. He's in the Czech Republic and he's targeting Czech clients. In your view, how should the profits that are generated this way by your company – and the tax that is due – be allocated into different countries, and how is it allocated now?

1-055-0000

Adam Cohen, Head of Economic Policy, EMEA region, Google. – Sure, happy to start. Thank you for the question.

Companies absolutely do want a simple and clear and easy-to-administer system of taxation, of corporate income taxation.

I think when it comes to how the current system works, the vast majority of our corporate profits are attributed to our home market, and the same would be true for any European headquartered company – the majority of their profits would be due in their home market. In our case that split – 86% is due in the United States – that's been true over the last 10 years – and 14% in the rest of the world.

I think if there is to be a reallocation of where these profits are allocated and which taxing rights are allocated to which jurisdictions, it has to be agreed multilaterally. Governments have to get

together and figure out where these profits should rest. The methodologies for doing this historically have relied on the functions and risks borne in various entities.

In our case, those are fundamentally in the United States. A large share of that, at least relative to Europe. And to your question about a Czech advertiser – the majority of those functions are in Ireland. And the Czech advertiser: many of our advertisers bid on keywords through our search service in an automated fashion. They enter prices in an auction, using technology that is created in California and developed in California fundamentally.

As I described, we have around 40 000 engineers in the United States and a relatively smaller presence – around 3 000 – in Europe.

1-056-0000

Alan Lee, Head of Global Tax Policy, Facebook. – I have a similar answer.

Under the existing rules, profit is allocated based on the functions, assets and risks under existing transfer pricing rules. I think that those rules are changing – that's part of this ongoing discussion that we're having at the OECD, we're having at the EU and we're having with the US.

These are broader questions about profit allocation. You're getting to what is at the heart of the discussion and at the heart of the debate, and that's why we think that there should be a collaborative, consensus-based approach that involves all stakeholders, because this really is about governments having this conversation about where that profit should be allocated.

1-057-0000

Jeppe Kofod (S&D), Co-rapporteur. – Thank you to everyone for coming to this hearing.

I will address my questions specifically to the representatives of Google and Facebook.

You represent some of the world's largest and richest and most profitable companies. You come into contact, I dare to say, with almost every single citizen of Europe on a daily basis and you make profit off of them – not by charging them, but in essence by selling access to them via ads and by selling personal information.

You are extremely good at this. Facebook alone has a higher market value than the gross national income of my own country, Denmark, for example. Despite all of this wealth and all of this profit, you still pay only a fraction of the taxes that other companies do in Europe.

Facebook last year had record sales in the UK of nearly EUR 1.5 billion and yet your tax contribution was less than EUR 18 million. At the same time you paid more than EUR 500 million in 'administrative expenses'. I would ask you how on earth can your administrative expenses be more than 27 times what you pay in tax? Can you explain that the Facebook representative?

We see the same with Google. Last year you paid only EUR 55 million in tax on UK sales of nearly EUR 6.5 billion. So quite simply I ask how can this be? And how do you expect these figures to develop in the future? Will you make sure that you contribute directly to the countries and communities you make a profit off – not with charity, not with well-meaning initiatives, but by paying the nominal tax rate in the countries you are digitally present in?

1-058-0000

Alan Lee, Head of Global Tax Policy, Facebook. – Our effective tax rate globally is 23%. We paid last year, in 2017, USD 4.6 billion in tax. Again, there are broader questions about transfer pricing and where functions, assets and risks are, and so we follow those rules.

We fully engage with the OECD and policy-makers like yourselves to make sure that these rules make sense moving forward and provide certainty for businesses.

To clarify a point that you made on selling personal information: we do not sell data – just to make that absolutely clear – and we are happy to have an ongoing conversation about what the right profit allocation rules are. But we do have most of our workforce in California. Our product is made in Menlo Park and designed and largely engineered in California.

1-059-0000

Adam Cohen, Head of Economic Policy, EMEA region, Google. – Well, I'll just add that for our part, Google's tax charge last year was USD 14.5 billion. The apportionment of that profit – where the majority of that tax was due, was largely in the United States. I cited that 86% number over the last 10 years.

I think fundamentally we have a system that currently allocates the majority of these taxing rights to where products and services are created rather than where they are consumed.

I think it's perfectly legitimate to shift that system, but it has to be done in concert with global governments. Frankly, if one government says 'well, we want a system that is based on where consumption happens' and the other wants a system that is based on where products and services are actually created, there will be conflict in the international system.

1-060-0000

Jeppe Kofod (S&D), Co-rapporteur. – You say 'only where consumption is made', but it's also value created by the users that sign up for your businesses. I mean that's really clear. So it's not only consumption, it's also value creating. That's the first point.

Secondly, I asked Facebook about the EUR 500 million paid in administrative expenses in the UK – that is 27 times the amount of tax that Facebook paid in the UK. So what type of expenses is that? If you can clarify.

1-061-0000

Alan Lee, Head of Global Tax Policy, Facebook. – Sure, those are costs of sales, essentially. So they are costs that are involved with running our offices and administrative expenses.

1-062-0000

Jeppe Kofod (S&D) Co-rapporteur. – So they are not creating profits?

1-063-0000

Alan Lee, Head of Global Tax Policy, Facebook. – They are creating profit and that's why we do pay tax and so tax is applied based on the profit.

1-064-0000

Jeppe Kofod (S&D) Co-rapporteur. – But very small profit?

1-065-0000

Alan Lee, Head of Global Tax Policy, Facebook. – Those are routine returns that are subject to normal transfer pricing rules. I think if, ultimately, countries come together and have a conversation about how we should be allocating those profits then we're happy to engage in that conversation. As I mentioned previously, we paid 4.6 billion in tax globally, and so if there is a shifting of that then we are happy to have that conversation.

1-066-0000

Adam Cohen, Head of Economic Policy, EMEA region, Google. – In terms of the principles around value creation, we do not sell user data as you described.

Principally our services are developed and created in the United States and the value added by those operations in the US means that more profits are attributed to those operations in the United States. Also, more losses would be attributed to those operations, if we were loss-making company.

Our subsidiaries in various EU countries, including Denmark, enjoy a regular rate of return, based on the functions and risk carried out within those relatively small entities – even if there was a year where we weren't profitable those entities would be remunerated on the same basis and have the same base of taxation, whereas our parent company, in the United States – for better or for worse – enjoys both the upside profits and the ability to tax those, and also the downside, of risk, when there are losses made.

1-067-0000

Jeppe Kofod (S&D). – So you dispute that the users – not only in their consumption, but also by the way they use your product – are creating value, and that in a way they are also value-creators, but thereby the value they create is not taxed?

1-068-0000

Adam Cohen, Head of Economic Policy, EMEA region, Google. – The user data is useful in determining how to serve an advertisement in the right context to a user. To give you an example, our search algorithms – the most valuable part of our business going back over 20 years – were developed and created in Mountain View. Small sets of data are used in order to build a working algorithm. Really, the largest data set that is relevant to serving the search results is the index of the whole of the internet, not actually the user data.

The only data relevant in that context that is provided by the user is actually a query, which in many senses could be compared and is similar to any type of consumption activity – a user or a customer walking into a store saying ‘I'd like to buy this pair of shoes’, for example, is fundamentally what we get. It is a demand for a service. And the service that is provided, the underlying technology and know-how and knowledge, is developed elsewhere.

1-069-0000

Dariusz Rosati (PPE). – I would like to welcome all the members of the panel to this public hearing.

Let me follow up on the previous question, asked by my colleague here, about value creation. This is the key thing, I think, in determining proper taxation burdens. Do I understand rightly, Mr Cohen, that Google has 86% of revenues, or taxes, paid in the USA? Could you clarify that?

1-070-0000

Adam Cohen, Head of Economic Policy, EMEA region, Google. – Eighty-six per cent of the corporate income tax that we paid over the past 10 years – that was due over the past 10 years – was due in the United States.

1-071-0000

Dariusz Rosati (PPE). – Does that correspond – is there a similar proportion – in terms of revenues?

1-072-0000

Adam Cohen, Head of Economic Policy, EMEA region, Google. – So, tax is paid on profit rather than on revenue, and I think there is no multinational company that would have a direct correlation between the percentage of revenue made in a country and the percentage, the dispersion, of global taxation.

There has been, over the years, a discussion about using the approach that you're describing. It's known as formulary apportionment. But the way that our international tax system works at the moment is not based on those rules.

1-073-0000

Dariusz Rosati (PPE). – I am not describing any system: I am just asking a question.

Eight-six per cent of all taxes are paid in the USA ...

(*The speaker was interrupted*)

1-074-0000

Adam Cohen, Head of Economic Policy, EMEA region, Google. – Not all taxes. Corporate taxes.

1-075-0000

Dariusz Rosati (PPE). – Corporate taxes, yes. Fourteen per cent is paid in other countries.

Now, from some sources we know that the number of users of Google digital services in Europe is at least the same as in the USA. Could you explain why the difference in these tax dues, or in tax paid, is so huge? What kind of costs are incurred, or somehow charged, in the sales of digital services in Europe that make the profits made by your company in Europe so tiny that the tax on profits is so minuscule vis-a-vis the profit tax you pay in the USA?

1-076-0000

Adam Cohen, Head of Economic Policy, EMEA region, Google. – I think that the distribution of corporate taxing rights, where profits are taxed, is normal for any multinational company. As I said in my opening remarks, a German or French firm would pay the majority of their corporate income tax in their home market. Taxes are not paid on revenue or where customers are based. The corporate profit tax system that we currently employ globally is based on functions and risks in various entities, and in these entities which we have in Europe – I described that we have about 3 000 engineers across Europe – there is corporate income tax associated with those activities; it is substantially less than what we have in the United States.

1-077-0000

Dariusz Rosati (PPE). – Some of my colleagues raised the issue that we understand value creation as being generated by the end user. You seem to have a different definition of value creation. So how come, could you tell us, that you create value if you don't have customers? If you don't have users?

1-078-0000

Adam Cohen, Head of Economic Policy, EMEA region, Google. – I think we would struggle to find any business that doesn't generate revenue without customers.

1-079-0000

Dariusz Rosati (PPE). – Yes, this is what I'm saying.

1-080-0000

Adam Cohen, Head of Economic Policy, EMEA region, Google. – Yes, but like any business, the question for corporate profit taxation is where the value is created. There are other taxes, indirect taxes and consumption taxes that apply taxation.

1-081-0000

Dariusz Rosati (PPE). – But that is a different story. We are now talking about taxation of revenues.

1-082-0000

Adam Cohen, Head of Economic Policy, EMEA region, Google. – Correct, and when I talk about corporate profit taxation, that is allocated to different entities ...

1-083-0000

Dariusz Rosati (PPE). – This is exactly what we want to know. What is the mechanism of allocation which makes such a huge difference between the taxes paid in the US and taxes paid in Europe, given the fact that the number of users is more or less the same – or even higher – in Europe than the number of users in the US?

1-084-0000

Adam Cohen, Head of Economic Policy, EMEA region, Google. – The mechanism is a well-established principle known as ‘transfer pricing’ that is enshrined in the international tax treaty system and that determines the right allocation of profit – and let me give you an example from the offline world once I have described this.

The right allocation of profit is based on the functions and risk carried out by a firm or a subsidiary entity in a specific market. Now, why do you use this principle? Because it should be neutral from a tax perspective how a company chooses to conduct its operations in a subsidiary market. You can hire an independent firm to provide these services, you can build your own structure and hire internally and that should be neutral from a tax perspective. So that is how you allocate profits. It's known as the 'arm's length principle', where you determine a rate of profitability based on benchmarks from similar firms in that local market who are providing similar services or could provide similar services to a parent company.

1-085-0000

Dariusz Rosati (PPE). – Okay, thank you very much, Mr Cohen. I have just one more question to Mr Lee, if I may. It is similar to the one I put to Mr Cohen.

You said that you pay USD 4.6 billion in the US as profit taxes, having 300 million customers – no, not 300 million, as not everybody uses Facebook, but okay maybe 250 million, right?

On the other hand you pay EUR 18 million taxes in the UK, having – I don't know – 50 million customers – so six times less. According to my calculation your tax per capita in the US is EUR 15 per user, whereas in the UK it is EUR 0.3 per user.

In other words, in a similar situation, your costs in the UK are – well – much, much higher than in the US because in the US you are making quite handsome profits whereas you practically don't make profits in the UK.

I don't have figures for the rest of Europe, but I'm just trying to compare these two cases and ask for a full explanation of that.

1-086-0000

Alan Lee, Head of Global Tax Policy, Facebook. – Sure, and I think that this is a good point to clarify, just about our business model. Our customers are our advertisers. That's where we generate our revenue. So our offices and our entities around the world are typically sales-support functions. So they sell advertising to local advertisers to advertise on our platform.

1-087-0000

Dariusz Rosati (PPE). – There is no problem with that. This I understand. But what puzzles me is this huge difference of profits you're making on users in the US, compared to the users in the UK. I understand you have exceptionally high administrative expenses in the UK for running offices, right? This is what you said. Why don't you have similar costs in the US?

1-088-0000

Alan Lee, Head of Global Tax Policy, Facebook. – Just to clarify, our revenue comes from advertisers. That's where we generate our revenue and that's where the tax is applied. That's the base. We don't generate, we don't make a product that we sell to consumers like users. We provide a free service for users; the revenue that we generate is from advertising and advertisers.

1-089-0000

Paul Tang (S&D). – Thank you to the representatives of the companies for being here.

I have three questions. Taking up on this allocation of profits again, but now from a slightly different angle, what you see when you look at the revenue – and this is mainly directed at Google and Facebook – is that most of the revenue is booked in Ireland, for both your companies. So, let's forget for a moment about the distribution between Europe and the US. Look inside Europe – you have less than 5 million users in Ireland, because that's the number of inhabitants. You have something like 70 million users in Germany. Still, all your revenue is booked in Ireland, and you may pay corporate taxes there, but you don't have any revenues booked in Germany or in France, and you don't pay corporate taxes there. Do you think that's

a fair share to pay in Germany and France, given the fact that users are important to your business model and you can't do without users, that's for sure. That's my first question.

The second question is just an obvious one. I have a sort of suspicion as to what you will say, but what do you think of the digital services tax (DST)? Just for the record.

Then one question directly for Facebook: there is an SEC filing in which you give a sort of warning about profits related to tax revenues. 'These investigations may result in changes to the tax treatment of our foreign operations', you write to the SEC. Does this refer to the tax rulings you have in countries in Europe? I know that Facebook has subsidiaries in Denmark, Sweden and Ireland. Oh! those are the countries that are against the DST – well that's a coincidence! Is that a coincidence?

Anyway, do you have tax rulings in those countries? And are you sure that they will stand given that we have the state-aid cases led by Ms Vestager?

1-090-0000

Alan Lee, Head of Global Tax Policy, Facebook. – Sure. I'm not totally familiar with the passage that you're referring to in the SEC filing, but what I think you're referring to is essentially a reserve.

So as a result of audit and other normal tax administration, the amount of tax that you pay may go up or down, just in a given year or in a given quarter.

As for tax rulings, tax rulings are also a natural part of tax administration. We do not have special tax rulings. Tax rulings, in my mind, actually provides certainty for users; they are based on a certain specific set of facts. They allow a tax administration to have a conversation with a taxpayer and provide that certainty moving forward.

1-091-0000

Paul Tang (S&D). – Just for the record, you don't have tax rulings? Because in the SEC filing you give the warning that 'the European Commission has conducted investigations in multiple countries focusing on whether local country tax rulings or tax legislation provide preferential tax treatment'. This suggests that you do have tax rulings in European countries.

1-092-0000

Alan Lee, Head of Global Tax Policy, Facebook. – We do have tax rulings as a regular part of tax administration, yes.

1-093-0000

Paul Tang (S&D). – OK. But you are afraid they will come under investigation. Is that how I should read the SEC filing?

1-094-0000

Alan Lee, Head of Global Tax Policy, Facebook. – No, I think that's just a standard disclosure.

1-095-0000

Paul Tang (S&D). – Standard disclosure – so a warning that they might not hold up when put under scrutiny?

1-096-0000

Alan Lee, Head of Global Tax Policy, Facebook. – How do you want me to answer that? The second and then the first?

So, on the DST issue what we also look for is certainty. We think that these are fundamental changes in the tax code. We think that any major change – for instance gross revenue taxation, which is a major change from profit taxation, it's a change from years of policy and practice – should be well thought out and should be done on a consensus-based approach.

1-097-0000

Paul Tang (S&D). – And the distribution of revenue across Europe? Do you think it's fair to book all the revenue in Ireland, where there are below 5 million users – whereas most of the users are located in, let's say, Germany and France and which are countries where the revenue is not booked?

1-098-0000

Alan Lee, Head of Global Tax Policy, Facebook. – So again, our revenue is generated from advertisers and we have moved actually, as a result of the OECD discussions and discussions with policymakers like yourself, to a local selling model. What that means is that we would book our revenue that we've generated locally, that's supported locally, in-country. We did this to provide more visibility over the revenue that's being generated, which is what we heard from policymakers and what we thought was the direction in which tax policy was moving.

1-099-0000

Matt Carthy (GUE/NGL). – I would like to ask the Google representative some questions relating to the infamous 'Double Irish' structure. The latest annual tax return filed by Google Ireland Holdings with the Companies Register in Dublin seems to show that Google's Double Irish structure with Bermuda remains in place. I wonder if it can be confirmed if Google Ireland Holdings is still tax resident in Bermuda?

We heard the Vice-President of Google (now Alphabet) Tom Hutchinson's comments to the British Public Accounts Committee back in 2016 to the effect that Google did not have a single employee in Bermuda. I wonder if it could be confirmed whether or not this is the case?

If the answer to the above questions are 'yes', could we receive an explanation in relation to the benefit that Google obtains from their continuing use of this structure, following the US tax reform?

I also have a question relating to intellectual property and Bermuda. The question is whether or not Google has relocated any intellectual property from Bermuda to one of its Irish subsidiaries in the past two years, and if it hasn't, whether or not it intends to do so, and further to ask what jurisdiction Google intends to hold its intellectual property in after 2020.

1-100-0000

Adam Cohen, Head of Economic Policy, EMEA region, Google. – There are a range of questions in there. Let me answer the first and last ones at the same time.

Our structure has not changed, but what has happened in the world of international tax policy is that the US Tax Cuts and Jobs Act, which was implemented at the end of last year, has basically imposed tax on all historical earnings for US companies. US firms, unlike most other multinational companies, have been taxed historically on a global basis rather than the territorial basis used in most other major economies. What that system enabled was deferred taxation on international profits. As I explained to this committee in 2016 when I was here, our tax structure fundamentally reflected those unique features of the US tax system. Because of the Tax Cuts and Jobs Act of last year, those historical profits have all been taxed. It increased our US tax liability by USD 10 billion in 2017. It was a tax on both overseas cash and overseas assets.

To conclude on this, our IP fundamentally is owned by our American parent company. There is a cost-sharing arrangement with Google Ireland Holdings for the development of that intellectual property on an international basis. But, just to be very clear, this was designed to reflect the unique features of the US tax system and that system has fundamentally changed.

1-101-0000

Matt Carthy (GUE/NGL). – Am I right in saying, just in relation to the intellectual property then, that you have no intellectual property registered in Bermuda?

1-102-0000

Adam Cohen, Head of Economic Policy, EMEA region, Google. – As I described, there is a cost-sharing arrangement for the development of intellectual property that ultimately is owned by Alphabet Incorporated, which is the parent company of Google LLC and all other subsidiaries.

1-103-0000

Matt Carthy (GUE/NGL). – OK so are you planning on moving that – or have you moved any of that – arrangement from Bermuda to other jurisdictions, including Ireland?

1-104-0000

Adam Cohen, Head of Economic Policy, EMEA region, Google. – I think there are two major factors at play here. One is the US Tax Cuts and Jobs Act from last year, which, as I described, has changed the way that US headquarters companies are taxed.

There are also the OECD BEPS (base erosion and profit shifting) conclusions from 2015, which basically said that companies now need to match the substance and the structure of their operations. So the kind of international structure that we have had, involving Bermuda and Ireland, will be phased out. I don't have anything to report about how it will be phased out, but it will be phased out in the next couple of years due to changes brought in by the BEPS rules and changes that BEPS brought into Irish legislation.

1-105-0000

Max Andersson (Verts/ALE). – I would like to ask the Kering Group representative a couple of questions.

Ms Maddaloni, you have some pretty well-known brand names, such as Gucci and Yves Saint Laurent, and you also have a subsidiary in Switzerland called Luxury Goods International (LGI). This Luxury Goods International imports luxury goods to Switzerland, it does an amount of repackaging in its warehouse and then it re-sells, at a higher price, to other countries. According to investigative reporting, LGI pays only 8% tax, which is a lot less than the tax in the countries where the people who ultimately buy the products live. This is quite profitable. I understand that LGI makes 70% of Kering's profits even though it employs only 3% of the employees working in the luxury section.

You said that your group does not have any form of aggressive tax planning. But what do you call LGI, if not aggressive tax planning? Is it a happy accident of logistics? You made a net profit in LGI of EUR 900 million in 2016. I have looked at the figures on your website and your average profit per employee in the Kering Group is around EUR 13 000. That's quite good, but the average profit per employee in LGI is EUR 1.5 million. Now that is impressive. So, if this is not a profit-shifting scheme – whereby you avoid taxes by making sure that the profit falls in a place where the taxes are very low – what is it?

And I wonder, if this is not tax profit shifting, where have you found such productive employees?

1-106-0000

Sophie Maddaloni, directrice fiscale du groupe Kering. – Cette société LGI est un hub central au sein de l'activité de Kering, c'est un hub qui a été créé il y a plus de 20 ans et qui regroupe un certain nombre d'activités qui a, à la fois, des activités de suivi de toute la production – ce qui est quand même très central dans notre groupe –, suivi de la production, également de la logistique, mais aussi de toute la distribution et c'est là que sont concentrés tous les risques que nous avons autour de la distribution.

LGI, c'est le *wholesaler* du groupe, LGI c'est une société qui a 850 salariés, c'est une véritable société qui a une activité opérationnelle incontestable et qui a permis justement le développement de nos marques. LGI c'est un outil partagé, je pense que sans cet outil partagé,

nos marques n'auraient pas pu avoir le développement qu'elles ont et il n'est pas possible de dire que LGI est un système qui a été mis en place pour faire de l'évasion fiscale. Toutes les marques du groupe, qu'elles soient bénéficiaires ou qu'elles soient déficitaires, sont des sociétés qui utilisent le savoir-faire très puissant que nous avons au cœur de cette société.

1-108-0000

Tom Vandenkendelaere (PPE). – Dank u wel, voorzitter. Ik zit net achter jullie. Ik zal eerst mijn vraag stellen aan mevrouw Maddaloni van Kering. U heeft in de verklaringen aan Reuters gezegd dat het gaat om tastbare zakelijke activiteiten in Zwitserland. Welnu, ik wil heel graag van u weten wat u precies begrijpt onder tastbare zakelijke activiteiten. U heeft ook niet op de vraag van mijn collega Andersson geantwoord. Waarom precies in Zwitserland? Wat maakt Zwitserland zo goed? Ik vermoed dat het niet de loonkost is, maar wat dan wel?

Wat betreft Facebook had ik graag nog een vraag gesteld over uw *local selling model*, want u had daar in uw schriftelijke antwoorden op aangestuurd. Dit *local selling model* ziet er erg veelbelovend uit, maar ik had daar graag wat meer info over gekregen. In welke lidstaten van de Europese Unie, bijvoorbeeld, zal dit *local selling model* toegepast worden en hoe kiest u die lidstaten? Het Verenigd Koninkrijk zal haar belastingtarief verlagen. Heeft uw beslissing om naar het Verenigd Koninkrijk te verhuizen deels ook te maken met die verlaagde tarieven?

Verder zal een meerderheid van de advertentie-inkomsten die worden gegenereerd in landen waar het bedrijf een verkoopkantoor heeft nu, als ik het goed begrijp, lokaal belast worden. Kunt u preciseren over welke percentages dat zal gaan? Tot slot had ik ook graag de tijdlijn gekregen van het tempo waarin jullie dit *local selling model* zullen implementeren.

1-109-0000

Sophie Maddaloni, directrice fiscale du groupe Kering. – Le groupe est allé en Suisse pour des raisons opérationnelles. La Suisse, au sein de l'Europe plus exactement, a une localisation géographique qui est stratégique pour les marques du luxe. Nous fabriquons nos produits en France, en Italie – donc proches de la Suisse – et nous avons un marché européen, surtout quand LGI a été créé dans les années 90, un marché qui était essentiellement européen. Donc, c'est pour une localisation géographique et, par ailleurs, c'est aussi pour des raisons de sécurité. Nous avons des stocks qui sont extrêmement coûteux et la Suisse apportait au groupe une grande sécurité pour ses stocks.

1-110-0000

Alan Lee, Head of Global Tax Policy, Facebook. – Our commitment in the public statement that we made was that we would move to a local selling model everywhere we have an office, around the globe. This is a global change and we have prioritised how we would do this, based essentially on starting in Europe and moving around the globe.

We expect that this process – which is a very complex process and we want to make sure that we get it right, and that we are complying with all legal requirements locally – will take at least two years to accomplish, around the globe.

As for the amount of taxes, I can't predict the amount of tax that we will pay. Changes in domestic law occur regularly. We've seen a significant amount of change in tax policy over time – over just the past few years. What I can say is that this model will result in more risk being attributed to the market jurisdiction, as our local entities will be contracting with our local advertisers and, as a result, more profit will be put into those market jurisdictions.

1-111-0000

Tom Vandenkendelaere (PPE). – Dank u wel. Ik heb nog wat tijd voor follow-upvragen. Ik wil eerst vooral benadrukken dat ik dankbaar ben dat jullie hier zijn, dat ik jullie aanwezigheid waardeer. Het zou veel gemakkelijker geweest zijn om een brief te sturen en te bedanken voor de uitnodiging, dus ik waardeer het wel zeker.

Voor de mevrouw van Kering heb ik enkel nog een vraag over dat veiligheidsaspect. Ik vind het inderdaad belangrijk dat uw stocks veilig kunnen gewaarborgd worden. Maar betekent dat ook dat u vindt dat in geen enkele andere Europese lidstaat een veilige opslagruimte kan gebouwd worden?

In verband met Facebook vroeg ik me nog af in welke lidstaten van de Europese Unie jullie precies een kantoor hebben.

1-112-0000

Alan Lee, Head of Global Tax Policy, Facebook. – I can provide that information to you. I don't actually have the list in my head right now, but we have 17 offices in Europe. If you would like me to list them, I can try. We have offices in London, Paris, Berlin, Italy and Spain ... I can provide you with a list if you would like me to. This is public information and we are happy to provide it.

1-113-0000

Sophie Maddaloni, directrice fiscale du groupe Kering. – En effet, la sécurité des stocks est quelque chose de fondamental dans le groupe. Les stocks sont notre richesse, ce sont nos actifs. Je vous rappelle que LGI a été créé par Gucci Group ; est-ce que dans les années 90, il y avait un pays aussi proche que la Suisse l'est de l'Italie géographiquement qui pouvait apporter cette sécurité? Je ne sais pas. Le fait est que c'est une certitude et une évidence que la Suisse est un pays qui apporte cette sécurité. Nous savons que toutes les grandes maisons, les maisons de joaillerie, ont leurs stocks d'or et leurs stocks de pierres précieuses, également en Suisse, pour cette même raison. Ce n'est pas le groupe qui pense que la Suisse est un pays sécurisé. La Suisse est un pays sécurisé pour les marques de luxe ayant des stocks coûteux.

1-114-0000

Luděk Niedermayer (PPE), Co-rapporteur. – First of all, let me say to our panel that I appreciate your presence here and the way you have tried to answer our questions. I fully understand that you are not enthusiastic about unilateral changes but we must find a reasonable trade-off. That is why I appreciate especially the statements by Facebook about local distribution. That, I guess, is the minimum required. Then, together, we should work out the right solution because I guess there is no way to defend the status quo.

I very much appreciate your being here and I hope we will continue with the debate and find some good solutions, together with the different governments, because only global solutions will be good solutions.

1-115-0000

Chair. – Thank you. I'd also like to thank all three speakers for being here and providing us with their answers, which we will of course digest and analyse. We will then continue our work on this issue.

This concludes our meeting today. The next meetings of the committee will be on 10 December 2018 in Strasbourg and on 24 January 2019 in Brussels.

(*The meeting closed at 18.26*)