

Summary of the opening statement

Exchange of views with the subcommittee on Tax Matters of the European Parliament (FISC) on the reform of the Code of Conduct Group

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Mr. Chair, Honourable Members of the Committee, it is my pleasure to join you in this virtual meeting on an informal basis in my capacity as the Chair of the Code of Conduct Group (COCG). I appreciate your invitation to participate in the meeting and accept it as an expression of very good administrative cooperation and in recognition of the important role that the Group plays in the implementation of the EU Code of Conduct on Business Taxation. I understand that information on the ongoing activities of the Group as well as its possible future reform are of particular interest to the sub-committee.

The intergovernmental work of the Code of Conduct is carried out in accordance with its mandate given by EU Finance Ministers, in the context of national tax systems, but also the EU tax policies and legislation, and against the wider background of international cooperation in tax matters.

The COCG was created in 1998 as part of the political commitment of the EU Member States with the objective to assess potentially harmful preferential tax regimes and to tackle harmful tax competition in the EU. Its activity has developed and expanded over time to promote tax good governance beyond the EU borders.

I would like to give you a brief update on the ongoing work of the Group. The detailed work programme during the Portuguese Presidency of the Council is available on the webpage of the Group.

Let me start with the EU list of non-cooperative jurisdictions for tax purposes. In 2016, the Council, in accordance with the Code mandate, agreed on the establishment of an 'EU list of third country non-cooperative jurisdictions' and entrusted the Code of Conduct Group with the technical work, screening and assessment of third country jurisdictions on the basis of the screening criteria and the agreed geographical scope.

The objective is to promote effective changes in respect of worldwide tax good governance through cooperation but not to name and shame. Fighting against tax fraud and tax avoidance cannot indeed be done effectively by the European Union alone.

The first EU list was published in 2017 and the process is ongoing since then on the basis of the dialogue with jurisdictions and the regular biannual update of the EU list.

The Council, most recently on 22 February 2021, agreed on the revision of the EU list (Annex I). Most of the jurisdictions co-operate with the EU as illustrated by Annex II, which contains the state of play with respect to commitments taken by cooperative jurisdictions to implement tax good governance principles.

The EU list - Annex I - outlines the specific reasons behind listing of jurisdictions. The Council, in its accompanying conclusions, provides a further political context. Background information about the listing, including the final assessments and reasons for de-listing of jurisdictions and the relevant legislative changes, are made available to the public.

The process established generally constructive cooperation with third countries and confirms a general positive impact on the majority of the jurisdictions concerned.

Since 2017, with 95 jurisdictions under the screening, more than 130 preferential tax regimes have been changed or abolished. 27 countries joined the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC) and 13 additional countries joined the OECD Inclusive Framework on BEPS. This shows that the positive approach chosen by the Council has led to a constructive engagement with many jurisdictions around the world and that this intergovernmental initiative has made a positive change.

The Group regularly informs the Council of the progress made and recommends to the Council updates and revisions to the list. It is therefore also my commitment as the Chair to ensure the continued credibility of the process.

The process involves extensive and often sensitive consultations with third country jurisdictions. As the Chair, I am personally involved, together with the General Secretariat of the Council and representatives of the Commission, in many bilateral talks with the third countries and I am always available for dialogue and possible clarifications.

Currently, the Group is discussing two other key issues related to the EU list that can contribute to tax good governance and increase the credibility of the EU list – defensive measures and the interaction between the EU list and the national lists of the Member States.

The Group indeed continues to be active in respect of potentially harmful tax measures in the EU. Even though the Code is not a legally binding instrument, by its adoption the Member States have undertaken to:

- rollback existing tax measures that constitute harmful tax competition and
- refrain from introducing any such measures in the future ("standstill").

The Group continues assessing preferential tax measures that may fall within the scope of the code and overseeing the provision of information on them. Since its creation 480 preferential regimes of the EU Member States and their dependent territories have been assessed, over 130 of which were deemed harmful and have been (or are being) rolled back.

The work of the group is very much a dynamic process that reflects the international developments and progress in tax cooperation. This year the Group in particular also:

- resumed the screening exercise of jurisdictions that have foreign source income exemption regimes (FSIE) in place to launch communications with the request for commitments,
- initiated a communication with relevant jurisdictions regarding the implementation of the country by country reporting (CbCR) anti-BEPS minimum standard (criterion 3.2)
- started the discussion on the review of the geographical scope of the screening exercise, and
- launched the assessment of the Guidance on defensive measures in the tax area towards non-cooperative jurisdictions.

In respect of the reform of the Group, the COCG continues the discussion which started in the second half of 2020 intending to extend its scope to better reflect the challenges and expectations from the code. It is a regular feature of our work to look at where we can improve and update our work.

The Group has also gradually enhanced its transparency, including publication of regular biannual reports to the Council and other documents and maintaining a dedicated webpage of the Group.

Thank you for your attention. I would be happy to answer any questions you may have.
