

Opening Statement, 16th June 2022

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There are many US multinational companies (MNCs) with significant operations in Ireland. These subsidiaries generate their revenues from the sales of products and services that are the result of research and development that is primarily undertaken in the United States. These include pharmaceutical medicines and computer chips which are manufactured at Irish facilities and advertising and other services sold on online platforms by information and communication technology (ICT) companies that have their international headquarters in Ireland.

Recent years have seen significant changes introduced that impact on the taxation of these companies. These changes include those brought about through the Organisation for Economic Cooperation and Development's original Action Plan under the Base Erosion and Profit Shifting (BEPS) project, the Tax Cuts and Jobs Act signed into US law in 2017 and changes to corporate tax residency rules in Ireland. These changes have been significant and have triggered significant responses.

As a result of this activity there are large outbound payments from Ireland. These primarily take the form of royalties and dividends, with relatively smaller amounts of interest.

Large outbound royalty payments are made from Ireland as license fees for intellectual property developed elsewhere. These outbound payments were €112 billion in 2021, which is in excess of 25 per cent of GDP, with the majority of the payments arising from the operations of US multinational companies in Ireland.

An analysis of the geographic breakdown of these flows from Balance of Payments data published by Eurostat shows a very significant change in 2020. Up to 2020, the majority of the outbound royalty payments from Ireland were directed to offshore financial centres such as Bermuda and the Cayman Islands. In 2020, a number of US MNCs, particularly in the ICT sector, announced changes to the licensing arrangements for the use of their intellectual property by their international operations. Several US ICT MNCs began licensing their intellectual property from the United States during 2020. After averaging €8 billion a year in

the five previous years, royalty payments from Ireland to the US jumped to €53 billion in 2020 with a further increase to €90 billion in 2021.

In time, the impact of these revised structures which is already evident in balance of payments data will also be evident in other datasets including the aggregate statistics published by the IRS and the OECD from the country-by-country reports filed by multinational companies. The changes will also have a significant impact on the data on the Activities of US Multinational Enterprises published by the Bureau of Economic Analysis which have historically overstated the level of profits earned by the subsidiaries of US multinational companies in Ireland.

The changes illustrate that the use of “double irish” type structures is ending. It is non-controversial that the Irish operations of US companies have to pay for the use of technology that is developed elsewhere and, in many cases, these payments will continue to be made in form of outbound royalties. However, it is not clear that the scale of these payments is a signal of aggressive tax planning as a greater and greater share of these payments, particularly from the ICT sector, will flow directly and in full to the United States where they are subject to immediate taxation. The changed pattern of royalty flows from Ireland is now more in line with the economic substance of these companies and the reporting of their profits is better aligned with the function, assets and risks that generate those profits.

As well as outbound royalties, the activities of the subsidiaries of US multinationals operating in Ireland generate significant profits, particularly in manufacturing. A consequence of this is large outbound amounts of profit-related flows linked to foreign direct investment in the current account of Ireland’s balance of payments. Eurostat data shows that in 2020, outbound income flows related to equity FDI in Ireland amounted to €88 billion which is equivalent to around 20 per cent of Irish GDP in that year. Separate figures on taxation from Ireland’s Central Statistics Office show foreign companies paid €10.1 billion of Irish Corporation Tax in 2020 giving an indicative effective tax rate of 11.5 per cent on those profits.

The abolition of deferral provisions in the US tax code means that, as well as immediate taxation in source countries, the foreign income of US MNEs is subject to immediate US taxation with a credit allowed for any eligible non-US corporate income taxes paid.

There are many issues to discuss such as the impact of the legislative changes referred to earlier and the revised structures that many US MNCs have put in place. I look forward to your questions and am sure we will have an interesting discussion.