REPORT

on tax rulings and other measures similar in nature or effect
(2016/2038(INI))

Special Committee on Tax Rulings and Other Measures Similar in Nature or Effect (TAXE 2)

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on tax rulings and other measures similar in nature or effect
(2016/2038(INI))

The European Parliament,

– having regard to Articles 4 and 13 of the Treaty on European Union (TEU),

– having regard to Articles 107, 108, 113, 115 and 116 of the Treaty on the Functioning of the European Union (TFEU),

– having regard to its decision of 2 December 2015 on setting up a special committee on tax rulings and other measures similar in nature or effect (TAXE 2), its powers, numerical strength and term of office¹,

– having regard to the revelations of the International Consortium of Investigative Journalists (ICIJ) on tax rulings and other harmful practices in Luxembourg, which have become known as the ‘LuxLeaks’,

– having regard to the revelations of the International Consortium of Investigative Journalists (ICIJ), on the use of offshore companies, which have become known as the ‘Panama Papers’, and in particular the documents published on 9 May 2016,

– having regard to the outcomes of the various G7, G8 and G20 summits held on international tax issues, in particular the Ise-Shima summit of 26 and 27 May 2016 and the outcome of the G20 Finance Ministers and Central Bank Governors’ meeting held on 14 and 15 April 2016 in Washington,

– having regard to the resolution adopted by the United Nations General Assembly on 27 July 2015 on the Addis Ababa Action Agenda,


– having regard to the ECOFIN conclusions on the exchange of tax-related information on the activities of multinational companies and on the code of conduct on business taxation of 8 March 2016, on corporate taxation, base erosion and profit shifting of 8 December 2015, on business taxation of 9 December 2014, and on taxation policy of 1 December 1997, as well as the note of the informal ECOFIN discussion of the Panama Papers on 22 April 2016;

– having regard to the Council Directive of 8 December 2015² amending the

Administrative Cooperation Directive\(^1\),


– having regard to Council Directive 77/799/EEC of 19 December 1977 concerning mutual assistance by the competent authorities of the Member States in the field of direct taxation and taxation of insurance premiums\(^3\);


– having regard to the Commission's joint follow-up, as adopted on 16 March 2016, to the recommendations of Parliament's resolutions on bringing transparency, coordination and convergence to the corporate tax policies in the Union, and on tax rulings and other measures similar in nature or effect,

– having regard to the Commission proposal for a Directive of the European Parliament and of the Council amending Directive 2013/34/EU as regards disclosure of income tax information by certain undertakings and branches (the CbCR proposal)\(^5\),

– having regard to the Commission proposal on the Anti-Tax Avoidance Package (ATAP) consisting of a ‘chapeau communication’\(^6\), a proposal for a Council directive on Anti-Tax Avoidance\(^7\), a proposal for a Council directive on the revision of the Administrative Cooperation Directive\(^8\), a recommendation on tax treaties\(^9\), and a study on aggressive tax planning\(^10\),

– having regard to the Commission proposal of 2011 for a Council directive on a Common Consolidated Corporate Tax Base (CCCTB) (COM(2011)0121), and to Parliament’s position of 19 April 2012 thereon,

– having regard to the resolution of the Council and the Representatives of the Governments of the Member States of 1 December 1997 on a code of conduct for

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\(^5\) COM(2016)0023, Communication from the Commission to the European Parliament and the Council, Anti-Tax Avoidance Package: Next steps towards delivering effective taxation and greater tax transparency in the EU

\(^6\) COM(2016)0026, Proposal for a Council Directive laying down rules against tax avoidance practices that directly affect the functioning of the internal market.


\(^8\) C(2016)0271, Commission Recommendation of 28 January 2016 on the implementation of measures against tax treaty abuse.

business taxation\(^1\), and to the regular reports to the Council of the Code of Conduct Group on Business Taxation,

– having regard to the tax transparency agreement initialled between the EU and the Principality of Monaco on 22 February 2016,

– having regard to the agreement signed between the EU and the Principality of Andorra on 12 February 2016,

– having regard to the Agreement on taxation of savings income signed between the EU and the Republic of San Marino on 8 December 2015,

– having regard to the Agreement on the automatic exchange of financial account information signed between the EU and the Principality of Liechtenstein on 28 October 2015,

– having regard to the Agreement on taxation to improve tax compliance signed between the EU and the Swiss Confederation on 27 May 2015,

– having regard to the updated Agreement between Jersey and the United Kingdom of 30 November 2015 and the so-called ‘Change of view on the interpretation of paragraph 2 of the Jersey-UK Double Taxation Arrangement’,

– having regard to the Guernsey-UK Double Taxation Arrangement as amended by the 2009 Arrangement, signed 20 January 2009 and in force as from 27 November 2009, relating to exchange of information,


– having regard to its resolution of 16 December 2015 with recommendations to the Commission on bringing transparency, coordination and convergence to corporate tax policies in the Union\(^2\),

– having regard to its resolution of 25 November 2015 on tax rulings and other measures similar in nature or effect\(^3\),

– having regard to its resolution of 8 July 2015 on tax avoidance and tax evasion as challenges for governance, social protection and development in developing countries\(^4\),

– having regard to the various parliamentary hearings and consecutive reports on tax avoidance and tax evasion held in national parliaments and in particular in the UK House of Commons, the US Senate, the Australian Senate and the French National


Assembly and Senate,

– having regard to the Council of Europe’s Recommendation CM/Rec(2014)7 of 30 April 2014 on the protection of whistleblowers,

– having regard to the ongoing trial in Luxembourg of Antoine Deltour, Raphaël Halet and Édouard Perrin, indicted for their role in publishing the so-called ‘LuxLeaks’ documents,

– having regards to the state aid decisions of the Commission relating to Fiat\(^1\), Starbucks\(^2\), and the Belgian excess-profit rulings\(^3\), and decisions to open state aid investigations on McDonalds, Apple and Amazon;

– having regard to Rule 52 of its Rules of Procedure,

– having regard to the report of the Special Committee on Tax Rulings and Other Measures Similar in Nature or Effect (TAXE 2) (A8-0223/2016),

Overall considerations, facts and figures

A. whereas the ‘Panama Papers’ and ‘LuxLeaks’ revelations, as made public by the International Consortium of Investigative Journalists (ICIJ), have shown the urgent need for the EU and its Member States to fight tax evasion, tax avoidance and aggressive tax planning, and to act for increased cooperation and transparency in order to re-establish tax justice, by making our tax systems fairer and ensuring that corporate taxes are paid where value is created, not only among Member States, but also globally;

B. whereas the scale of tax evasion and avoidance is estimated by the Commission to be up to EUR 1 trillion\(^4\) a year, while the OECD estimates\(^5\) the revenue loss at global level to be between 4 % and 10 % of all corporate income tax revenue, representing between EUR 75 and EUR 180 billion annually, at 2014 levels; whereas these are only conservative estimates; whereas the negative impacts of such practices on Member States’ budgets and on citizens are evident and could undermine trust in democracy; whereas tax fraud, tax evasion and aggressive tax planning erode the tax base of Member States and thereby lead to loss of tax revenues, weakening the economies, governments’ capacity in terms of public services, investments and social security;

C. whereas, within a budgetary framework of mutual control, it is unacceptable for resources that should be generated by taxes due in one Member State actually to be generated in another Member State through unfair and aggressive tax planning;

1 SA.38375 - State aid which Luxembourg granted to Fiat.
2 SA.38374 State aid implemented by the Netherlands to Starbucks.
D. whereas developing countries are disproportionately affected by corporate tax avoidance, which is responsible for an estimated USD 100 billion\(^1\) of annual tax revenue losses, depriving them of the essential resources to fund the most basic services and harming EU development cooperation policies;

E. whereas the “Panama Papers” revelations reminded us that the issue of tax avoidance goes beyond multi-national companies and is strongly liked to criminal activities, and that offshore wealth is estimated to be approximately USD 10 trillion; whereas offshore wealth to a value of more than USD 2.5 trillion is held in Switzerland;

F. whereas G20 Leaders took action in April 2009, especially requesting offshore jurisdictions to sign at least 12 information exchange treaties, with the objective to end the era of bank secrecy; whereas economists seriously questioned the effectiveness of these measures explaining that treaties have led to the relocation of bank deposits between tax havens, but have not triggered significant repatriation of funds\(^2\); whereas there is no evidence that portfolio investments in offshore jurisdictions were on the decline before, at least, 2014, despite recent international efforts to increase financial transparency; whereas it is too early to assess whether the adoption of automatic exchange of tax information (Common Reporting Standard) will bring changes to this trend;

G. whereas, according to information provided by the Bank for International Settlements, cross-border deposits in offshore centres between 2008 and 2015 have, on average, grown by 2.81\% annually, while they have grown by 1.24\% only in the rest of the world\(^3\); whereas the most important financial offshore centres in terms of foreign deposits are the Cayman Islands (USD 663 billion), Luxembourg (USD 360 billion), Switzerland (USD 137 billion), Hong Kong (USD 125 billion), Singapore (USD 95 billion), Bermuda (USD 77 billion), Panama (USD 67 billion), Jersey (USD 58 billion) and Bahamas (USD 55 billion); whereas cross-border deposits in European havens such as Andorra, Gibraltar, Liechtenstein and Switzerland have been declining or stagnating in the past few years, leading to the supposition of a shift of the offshore activities to other jurisdictions and a restructuring of the offshore industry as a consequence of an increasing number of bilateral tax information agreements;

H. whereas investment flows to offshore financial centres are estimated to be USD 72 billion in 2015\(^4\) and have risen in recent years by the growing flows from multinational enterprises located in developing and transition economies, sometimes in the form of investment round-tripping; whereas investment flows to special purpose entities represent the majority of offshore investment flows; whereas Luxembourg was the primary recipient of special purpose entities-related investment flows in 2015, whereas special purpose entities related inflows to the Netherlands were also especially high in 2015; whereas the persistence of financial flows routed through offshore financial mechanisms highlights the need to create greater coherence among tax and investment policies at the European and global level;

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\(^3\) [3] BIS 2016 - locational banking statistics
I. whereas in April 2016 the OECD was again given a mandate to create a blacklist of non-cooperative jurisdictions; whereas criteria for identifying tax havens are being defined by the Commission, which has acknowledged the importance not only of looking at transparency and cooperation criteria but also of considering harmful tax regimes;

J. whereas small and medium-sized enterprises (SMEs) are the primary job creators in Europe, having created around 85% of all new jobs in the EU\(^1\) in the past five years; whereas studies\(^2\) have shown that a cross-border company pays on average 30% less tax than a company active in only one country; whereas this seriously distorts competition, leads to loss of jobs and equality in the Union and hinders sustainable growth;

K. whereas aggressive tax planning is defined by the Commission as taking advantage of the technicalities of a tax system or of mismatches between two or more tax systems for the purpose of reducing tax liability; whereas the Commission recognises that aggressive tax planning can take a multitude of forms, leading to a situation in which tax law is not applied as intended by law makers; whereas the main forms of aggressive tax planning include debt shifting, location of intangible assets and intellectual property, strategic transfer pricing, hybrid mismatches and offshore loan structures; whereas companies heard by its Special Committee have mostly reiterated that they pay a lot of taxes and that their behaviour is legal; whereas only a small percentage of companies have so far publicly admitted that corporate tax avoidance is a priority to be addressed;

L. whereas close to one third of cross-border corporate investments are channelled through offshore financial constructions; whereas the Commission notes that 72% of profit shifting in the European Union makes use of transfer pricing and tax-effective location of intellectual property, and that the remaining profit-shifting schemes involve debt shifting\(^3\);

M. whereas bilateral tax treaties allocate taxing rights between source and residence countries; whereas source countries often are allocated the right to tax active business income, provided that a permanent establishment exists in the source countries and that residence countries obtain taxing rights over passive income such as dividends, royalties and interest; whereas such division of taxing rights is essential to understanding aggressive tax planning schemes;

N. whereas accounting practices consist in portraying the corporation's financial state by matching revenues and expenses, and gains and losses to the calendar period in which they arise, rather than to the period in which the cash flows actually take place; whereas if taxable income passes from one jurisdiction to another, and both treat it in a different fashion, it can give rise to aggressive tax planning.

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\(^1\) http://ec.europa.eu/growth/smes/, European Commission, 10 May 2016.


\(^3\) https://polcms.secure.europarl.europa.eu/cmsdata/upload/a0cf64ee-8e0d-4b5f-b145-6ffbaa940e10/TheRoleFinancialSectorTaxPlanning_Draft_210316.pdf
manner, the opportunity to exploit mismatches arises; whereas though royalty payments can be justified for business purposes, without proper fiscal coordination, and whereas they can receive favourable tax treatment in one country, leading to an erosion of the tax base in other countries;

O. whereas 60% of all world trade is intragroup, and therefore subject to transfer pricing methodologies; whereas 70% of all profit shifting is done through transfer pricing;

P. whereas convergence of tax policies should also be accompanied by greater controls and more investigations of harmful tax practices; whereas the Commission has started new formal investigations regarding the tax treatment of multinational enterprises (MNEs); whereas the assessment of tax policy measures from a state aid point of view is an approach that has recently gained in importance; whereas further reflection and measures in order to better understand and address the interplay between taxation and competition are necessary; whereas the Commission has the option of investigating all cases suspected to be illegal state aid by means of preferential tax treatments in a non-selective and unbiased way; whereas a number of investigations by the Commission in matters of state aid were still ongoing at the time of adoption of this report; whereas certain Member States have initiated recovery procedures against some MNEs; whereas certain Member States have carried out spill-over analyses of their domestic tax policies to assess the negative impacts on developing countries;

Q. whereas aggressive tax planning is indivisible from aggressive social planning, as confirmed by the work of its Special Committee (TAXE 2), in particular the hearing of MNEs, which clearly demonstrates that the tax schemes of firms such as McDonald's are also used as a means to diminish employees pay;

R. whereas the best tool to combat aggressive tax planning is well-designed legislation, implemented in a proper and coordinated way;

Role of specific tax jurisdictions

S. whereas Parliament has held meetings with representatives of the Governments of Andorra, Liechtenstein, Monaco, Guernsey and Jersey; whereas the Cayman Islands have only appeared at a coordinators' meeting and not at a formal hearing of the Special Committee; whereas the Isle of Man has declined to appear before the Special Committee and has sent a written contribution instead;

T. whereas some tax jurisdictions actively contribute to designing aggressive tax policies for MNEs, which can thereby use these opportunities to avoid taxation; whereas despite commitments by these jurisdictions automatically to exchange tax information with other countries, the statutory or effective corporate tax rate in some jurisdictions is close or equal to 0%; whereas some of these jurisdictions are included in blacklists of several Member States; whereas specific tax regimes of some jurisdictions have been assessed by the Code of Conduct Group on business taxation, leading to reforms in these countries;

U whereas these jurisdictions have all committed to introducing automatic information exchange by 2017, except Andorra and Monaco which are to do so in 2018; whereas it is important to monitor whether effective legislative changes are already being
introduced, to ensure effective automatic information exchange starting in 2017;

V. whereas loopholes in legislation, ineffective information exchanges and, more generally, non-compliance with control requirements, lack of information on final beneficiaries, and bank and corporate secrecy despite the gradual lifting of bank secrecy laws, are obstacles to ending tax evasion and avoidance; whereas the opacity of such practices is used by some tax agents in the financial sector for aggressive tax practice purposes; whereas initiatives towards automatic exchange of information between countries, beyond the pre-existing bilateral tax conventions, have only recently been introduced; whereas, without effective enforcement, the weaknesses of the systems will encourage tax evasion and avoidance;

W. whereas some specific tax jurisdictions inside and outside of the EU are not willing to reform their tax systems, despite the ongoing global initiatives and despite the fact that some of them are involved in the work of the OECD;

X. whereas the hearings organised with Andorra, Guernsey, Jersey, Liechtenstein and Monaco (see Annex 1) showed that the conditions for registration of offshore companies, and the information to be provided in this regard, vary from one jurisdiction to another; whereas full information on the final beneficiaries of trusts, foundations and companies by official tax authorities of some of these jurisdictions is not known or collected, nor is it made publicly available; whereas Andorra, Liechtenstein, Monaco, San Marino and Switzerland have signed agreements to exchange information with the EU; whereas the Channel Islands have signed agreements with the UK and have declared their readiness to enter into similar agreements with other Member States;

Y. whereas the legislation in force in some jurisdictions does not ensure good governance, nor does it guarantee respect for international standards as regards final beneficiaries, transparency and cooperation;

Z. whereas some of these jurisdictions are dependent or associate territories of Members States and, even if self-governing, are thereby partially subject to national and European laws; whereas Member States should therefore consider introducing legislation to ensure that their associate and dependent territories comply with the highest standards;

AA. whereas some Member States have prepared their own lists of uncooperative jurisdictions and/or substantive definitions of "tax havens" or "privileged tax jurisdictions"; whereas there are big differences between these lists as to how uncooperative jurisdictions or tax havens are defined or assessed; whereas the OECD’s list of uncooperative jurisdictions does not serve its purpose; whereas the Commission, in the taxation package of 17 June 2015, published a list of uncooperative tax jurisdictions, established following a ‘common denominator’ approach on the basis of lists existing at national level; whereas a common Union-wide definition and list of uncooperative jurisdictions, though urgently needed, are still lacking; whereas none of these lists contain clear, measurable and exhaustive criteria on how secretive particular jurisdictions are;

Role of financial institutions in aggressive tax planning by MNEs

AB. whereas some financial institutions, and accounting or law firms, have played a role as
intermediaries in setting up complex legal structures leading to aggressive tax planning schemes used by MNEs, as evidenced in “LuxLeaks” and the “Panama Papers”; whereas legal loopholes, mismatches and lack of coordination, cooperation and transparency between countries create an environment that facilitates tax evasion; whereas financial institutions are nevertheless key and indispensable auxiliaries in the fight against tax fraud, given the financial account and beneficial ownership information they have at their disposal, and whereas it is therefore crucial that they fully and effectively cooperate in the exchange of such information;

AC. whereas several tax scandals involving banks became public during the timeframe of this investigation; whereas financial institutions can use several aggressive tax planning schemes to support their clients to evade or avoid taxes; whereas banks can act on the market on behalf of their clients and claim to be the beneficial owner of these transactions towards tax authorities, leading to clients unduly benefiting from tax advantages granted to banks by reason of their banking status or of their residence; whereas, in designing and implementing aggressive tax planning, banks (particularly those with investment banking operations) should be seen as playing a dual role: first, in providing aggressive tax planning for use by clients, often using financial products such as loans, derivatives, repos or any equity-linked instruments; and second, in the use of aggressive tax planning themselves, through their own inter-bank and proprietary structured finance transactions;

AD. whereas all banks appearing in front of the Special Committee officially denied advising their clients to evade or avoid taxes in any form whatsoever, and denied having relations with accounting and law firms for that purpose; whereas, however, banks often seek legal opinions from accounting or consultancy firms to validate contracts they offer to their clients; whereas these paid legal opinions can be used to cover tax evasion operations and to avoid allegations of intentional fraud by the banks;

AE. whereas some major financial institutions have set up an important number of subsidiaries in special tax jurisdictions, or in jurisdictions with low or very low corporate tax rates, in order to avoid taxes on behalf of their corporate and private clients or for their own benefit; whereas a number of financial institutions have recently closed down some of their branches in those jurisdictions; whereas several financial institutions have been prosecuted for tax fraud or money laundering in the United States, leading to the payments of substantial fines, but very few prosecutions have been started in the European Union;

AF. whereas banks are operating in a competitive market and are incentivised to promote attractive tax schemes in order to attract new clients and serve existing ones; whereas bank employees are often under enormous pressure to validate clients' contracts, allowing for tax evasion and avoidance at the risk of being fired if they do not; whereas there are conflicts of interest between, and revolving door cases involving, bank and consultancy firm top employees and representatives of tax administrations; whereas tax administrations do not always have sufficient access to information or means to investigate banks and detect cases of tax evasion;

AG. whereas many of the banks and financial institutions involved in tax evasion were rescued during the 2008 financial crisis with the use of taxpayer money, making their
conduct in tax matters even more despicable;

AH. whereas it is important to acknowledge that not all complex structured finance transactions (CSFTs) have a dominant tax motivation, and that predominantly tax-driven products are only a small part of overall CSFT business; whereas the amounts involved in aggressive tax planning transactions can, however, be very large, with single deals sometimes involving funding of billions of euros and tax advantages worth hundreds of millions; whereas revenue authorities are concerned over the lack of transparency of CSFTs used for aggressive tax planning purposes, particularly where separate legs of these arrangements are executed in different jurisdictions;

AI. whereas EU credit institutions are already subject to public, country-by-country reporting requirements under the Capital Requirements Directive (CRD IV); whereas it should be noted that there have been some gaps in these country-by-country reports and that these gaps should be addressed; whereas none of the financial institutions which appeared in front of the Special Committee raised any significant objection with regard to the disclosure requirements; whereas some of them clearly said they were in favour of this requirement and would support it becoming a global standard;

AJ. whereas public, country-by-country reporting regarding certain financial institutions’ documents has shown up remarkable discrepancies between the overall profit made in overseas jurisdictions and the activity, the amount of tax paid and the number of employees in those same jurisdictions; whereas the same reporting has also exposed a discordance between the territories in which they operate and have staff and those from which they derive profits;

AK. whereas those banks and MNEs that appeared before the Special Committee did not answer fully all the questions of its members, and some of the issues raised therefore remained unanswered or ill defined; whereas some of these banks and MNEs sent written contributions (see Annex 2) at a later stage;

*Patent, knowledge and R&D boxes*

AL. whereas schemes linked to intellectual property, patents, and research and development (R&D) are widely used across the Union; whereas these are used by MNEs to reduce artificially their overall tax contribution; whereas Action 5 of the OECD Action Plan on Base Erosion and Profit Shifting (BEPS) refers to the 'Modified Nexus Approach'; whereas the role of the Code of Conduct Group is also to analyse and effectively monitor such practices in Member States;

AM. whereas the Code of Conduct Group has analysed European patent boxes regimes, but has not concluded its analysis of specific regimes; whereas, in the meantime, Action 5 of the OECD BEPS Action Plan refers to the 'Modified Nexus Approach' as the new standard for granting R&D incentives; whereas Member States agreed in the Code of Conduct Group to implement the Modified Nexus Approach in their national legislation as of 2015; whereas they also agree that existing patent box schemes should be phased out by 2021; whereas Member States are seriously delayed in the implementation of the

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Modified Nexus Approach at national level;

AN. whereas several studies from the Commission have clearly shown that the link between the patent box and R&D is often arbitrary and/or artificial; whereas this inconsistency may lead to the assumption that these schemes are in most cases set up and used for tax avoidance purposes; whereas tax incentives for incomes generated by R&D, chiefly patent boxes, often result in large decreases in tax revenue for all governments, including those engaging in such a policy; whereas it should be better analysed how best to stimulate much needed R&D and innovation in the EU without creating harmful tax practices; whereas the OECD and the International Monetary Fund(IMF)\(^1\) have also, on several occasions, confirmed that they do not believe patent boxes to be the right tool to promote R&D;

AO. whereas the central role of patent boxes in harmful tax practices schemes was initially observed in the fact-finding missions of Parliament’s previous Special Committee (TAXE 1) in the Netherlands and the UK, and subsequently confirmed in its mission to Cyprus; whereas similar systems exist in other Member States;

AP. whereas a particularly pressing problem arises through the outright lack of any harmonised approach among Member States on the issue of outbound payments; whereas in this current, uncoordinated framework, the combination of a removal of source taxation under the Interest and Royalties and Parent-Subsidiary Directives, with a lack of withholding taxes on dividend, licence and royalty fee and interest outbound payments in some Member States, creates loopholes whereby profits can effectively flow from any Member State out of the Union without being subject to tax at least once;

Documents from the Code of Conduct Group on business taxation, the High Level Working Group on taxation and the Working Party on tax questions

AQ. whereas the mandate of the Code of Conduct Group is defined in the conclusions of the ECOFIN Council of 1 December 1997; whereas the Code of Conduct Group documents constitute an essential source of information for the work of the Special Committee (as already outlined in Parliament’s resolution of 25 November 2015);

AR. whereas it was only five months after the beginning of the term of its Special Committee that some room documents and minutes of the Code of Conduct Group were made available to MEPs in camera on Parliament’s premises; whereas, while additional documents have been made available, some documents and minutes still remain undisclosed, unavailable or missing; whereas the Commission has stated at an informal meeting that it has made all documents originating from the Commission and at its disposal available to the Special Committee, and that any further relevant meeting documents originating from the Commission, should they ever have been in the Commission’s possession, must therefore have been lost;

AS. whereas Member States have given unsatisfactory answers to Parliament’s repeated requests for full disclosure of the documents concerned; whereas this practice has been ongoing for several months; whereas these documents have been provided to

\(^1\) Reference to be checked and added accordingly
researchers of the University of Amsterdam after a request based on the Transparency Directive; whereas these documents have, nonetheless, recently been made available, though only on a confidential basis, and cannot be used in public debate; whereas transparency and access to information are essential elements of parliamentary work;

AT. whereas specific issues have been examined within the Code of Conduct Group without leading to concrete reforms; whereas, for example, discussions on rulings have been ongoing since at least 1999, and there are still difficulties in implementing the recommendations agreed, even after the ‘LuxLeaks’ revelations; whereas examination of patent box regimes was never fully concluded in 2014 and no other examination has been launched, despite the fact that Member States are late in implementing the new Modified Nexus Approach;

The external dimension: the G20, the OECD and the UN; involvement and consequences for developing countries

AU. whereas the OECD, the United Nations and other international organisations are interested parties in the fight against corporate tax base erosion; whereas there is a need to ensure global harmonisation of practices and implementation of common standards such as those proposed by the OECD in the BEPS package; whereas an intergovernmental forum at UN level, with less selective membership than the OECD or the G20, should be set up so as to allow all countries, including developing countries, to take part on an equal footing; whereas the meeting of G20 finance ministers and central bank governors held in Washington on 14-15 April 2016 reiterated its calls for all countries and jurisdictions to implement the Financial Action Task Force (FATF) standards on transparency and beneficial ownership of legal persons and legal arrangements; whereas some G20 members have called for automatic exchange of information with respect to beneficial ownership, and have requested that the FATF and the Global Forum on Transparency and Exchange of Information for Tax Purposes make initial proposals to that effect by October 2016;

AV. whereas, as observed during the fact finding mission in the US, there is a lack of transparency, and of a common definition of beneficial ownership, at global level; whereas this lack of transparency has been particularly evident with regard to shell companies and law firms; whereas the United States is currently preparing the implementation of the OECD BEPS Action Plan;

AW. whereas the BEPS process does not include developing countries as equal negotiating partners and has failed to deliver effective solutions to the tax problems of the poorest countries, as exemplified by the global network of tax treaties that often impedes developing countries from taxing profits generated in their territory;

AX. whereas cooperation on common tax issues already exists between relevant EU and US authorities, similar cooperation is lacking at the political level, especially as regards parliamentary cooperation;

AY. whereas a Symposium on Taxation is planned for July 2016 with a view to achieving strong, sustainable and balanced economic growth; whereas the G20 has called on all international organisations, including the EU, to meet the challenges concerned;
AZ. whereas the joint Special Committee (TAXE 2) and Committee on Development hearing "Consequences for developing countries of aggressive fiscal practices" has shown that developing countries face similar problems of base erosion, profit shifting, lack of transparency, globally diverging tax systems and lack of coherent and effective international legislation; whereas developing countries suffer from aggressive tax planning; whereas developing countries' tax administrations lack resources and expertise to fight tax evasion and avoidance effectively;

BA. whereas the G20 members have reaffirmed their commitment to ensure that efforts are made to strengthen the capacities of developing countries’ economies and to encourage developed countries to abide by the principles of the Addis Tax Initiative as set out at the UN meeting of 27 July 2015; whereas developing countries’ views and priorities are essential to effective global coordination;

BB. whereas the IMF and the World Bank provide technical assistance, including tools for developing countries’ tax administrations regarding international tax issues, in order to improve developing countries’ capabilities of tackling tax evasion, tax avoidance and money-laundering issues, in particular in relation to transfer pricing;

BC. whereas the Australian Government has announced plans to introduce a Diverted Profits Tax (DPT) on MNEs avoiding tax, to come into effect on 1 July 2017, as well as the creation of a new Tax Office task force;

The work of Parliament’s Special Committee (TAXE 2)

BD. whereas a number of measures proposed by the Commission are a direct follow-up to Parliament’s resolutions of 16 December 2015 and 25 November 2015; whereas important initiatives included therein have thus now been put forward by the Commission, at least partially; whereas other critical measures called for in those resolutions are still lacking, such as, for example, reform of the fiscal state aid framework, effective legal provisions for the protection of whistleblowers, and measures to curb assistance to and promotion of aggressive tax planning by advisors or by the financial sector;

BE. whereas the implications for the Union have been analysed and assessed, in particular by Parliament’s Special Committee on tax rulings and other measures similar in nature (TAXE 1), whose work resulted in a resolution being adopted by an overwhelming majority on 25 November 2015; whereas Parliament's resolution of 16 December 2015 was adopted by a similarly overwhelming majority; whereas the Commission issued a joint reply to the resolutions of 16 December 2015 and 25 November 2015;

BF. whereas Parliament’s Special Committee TAXE 2, constituted on 2 December 2015, held 11 meetings, some of them jointly with the Committee on Economic and Monetary Affairs, the Committee on Legal Affairs and the Committee on Development, at which it heard the Commissioner for Competition, Margrethe Vestager, the Commissioner for Economic and Financial Affairs, Taxation and Customs, Pierre Moscovici, the Commissioner for Financial Stability, Financial Services and Capital Markets Union, Jonathan Hill, the Dutch State Secretary for Finance, Eric Wiebes (representing the Council Presidency), experts in the field of taxation and development, representatives of MNEs, representatives of banks, and members of national parliaments of the EU;
whereas it also held meetings with representatives of the Governments of Andorra, Liechtenstein, Monaco, Guernsey and Jersey, and received a written contribution from the Government of the Isle of Man (see Annex 1); whereas it also organised fact-finding missions to the US (see Annex 6), to look into specific aspects of the third-country dimension of its mandate, and to Cyprus (see Annex 5); whereas members of the Special Committee were personally invited to take part in the work of the high-level interparliamentary group ‘TAXE’ of the OECD; whereas the Special Committee held in camera meetings at coordinators’ level at which it heard representatives of the Government of the Cayman Islands, investigative journalists and Commission officials; whereas all these activities, which have provided a wealth of very useful information on practices and tax systems both inside and outside the Union, have helped to clarify some of the relevant issues, while others remain unanswered;

BG. whereas the work of the Special Committee was hindered by the fact that out of 7 MNEs invited, only 4 agreed on first invitation to appear before its members (see Annex 2);

BH. whereas, due to the continued refusal of the Commission and Council to consent to the proposal for a regulation of the European Parliament on the detailed provisions governing the exercise of Parliament's right of inquiry, Parliament's special committees and committees of inquiry still enjoy insufficient competences - lacking, for instance, as the right to summon witnesses and enforce document access - when compared to similar committees of Member State parliaments or the US Congress;

BI. whereas with regard to tax issues the Council has on numerous recent occasions adopted comprehensive prior political positions without taking into account or even awaiting the positions of Parliament;

Conclusions and recommendations

1. Reiterates the conclusions of its resolution of 25 November 2015 and of its resolution of 16 December 2015;

Follow-up by the Commission and Member States

2. Regrets the fact that 13 Member States do not have proper rules to counter aggressive tax planning based on tax-free flowthrough of dividends; also regrets the fact that 13 Member States do not apply any beneficial owner test when accepting a claim for a reduction of or exemption from withholding tax; further regrets the fact that to date 14 Member States still have no controlled foreign company rules to prevent aggressive tax planning and that 25 have no rules to counter the mismatching tax qualification of a local company by another state; deplores the fact that to date not one Member State has called for a ban on aggressive tax planning structures;

3. Calls on the Member States and the Commission to adopt further legislative proposals on corporate tax avoidance, since scope exists for Member States to tighten their anti-abuse rules in order to counter base erosion; strongly regrets the fact that Member States did not discuss Parliament's recommendations in any Council working group and did not reflect on the breach of their obligation of sincere cooperation under the Treaty by enabling aggressive tax avoidance and tax evasion in other Member States;
4. Welcomes the Anti-tax Avoidance Package (ATAP) published by the Commission on 28 January 2016, as well as all legislative proposals and communications made since (see Annex 4); welcomes the adoption by the Council of the Directive amending the Directive on Administrative Cooperation in order to establish Country-by-Country Reporting to tax authorities, while regretting that the Council did not wait to know and consider the position of Parliament before agreeing on its own position, and did not provide for the involvement of the Commission in the exchange of information; calls on the Council to reach a unanimous and ambitious position on the ATAP and to keep the Anti-Tax Avoidance Directive as one single directive, in order to effectively implement the OECD recommendations and go beyond them so as to achieve the EU’s ambitions and ensure the proper functioning of the single market rather than weakening it; strongly regrets the fact that the current Council draft position has been weakened, notably by a grandfathering clause on interest deduction and a narrower approach to the controlled foreign company rule; welcomes the initiative to create a common Union definition and list of uncooperative jurisdictions in the External Strategy for Effective Taxation; stresses that this list should be based on objective, exhaustive and quantifiable criteria; reiterates that in the future, more and binding action will be needed to effectively and systematically combat BEPS;

5. Considers that the Directive on Administrative Cooperation, having undergone two consecutive ad hoc modifications, on automatic exchange on tax rulings and on Country-by-Country Reporting, should now be reviewed in its entirety, particularly but not only in order to reduce and eventually eliminate the current exceptions to the principle of exchange of information;

6. Urges the Commission to come forward with a proposal for a common corporate consolidated tax base (CCCTB) before the end of 2016, to be accompanied by an appropriate and fair distribution key which would provide a comprehensive solution for dealing with harmful tax practices within the Union, bring clarity and simplicity for businesses, and facilitate cross-border economic activities within the Union; believes that consolidation is the essential element of the CCCTB; takes the view that consolidation should be introduced as soon as possible and that any intermediate system including only tax base harmonisation with a loss offset mechanism can only be temporary; believes that the introduction of a full mandatory CCCTB is becoming increasingly urgent; calls on the Member States to promptly reach an agreement on the CCCTB proposal when it is submitted and to swiftly implement the legislation thereafter; reminds the Member States that differences between corporate taxation systems can create an unlevel playing field and unfair tax competition within the EU as well;

7. Welcomes the Commission’s adoption on 12 April 2016 of a proposal for a directive amending Directive 2013/34/EU as regards disclosure by companies, their subsidiaries and branches, of information relating to income tax and to increased transparency in corporate taxation; regrets, however, that the Commission’s proposed scope, criteria and thresholds are not in line with the previous positions adopted by Parliament and would therefore not deliver;

8. Welcomes the agreement reached in Council on 8 December 2015 on automatic exchange of information on tax rulings; regrets, however, that the Council did not take
on board the recommendations made by Parliament in its report of 20 October 2015 on the Commission’s original proposal for such a measure; stresses that the Commission must be granted full access to the new Union database of tax rulings; insists on the need for a comprehensive and efficient database of all rulings having potential cross-border effect; urges the Member States to put in place swiftly the necessary legislative framework to start automatic exchange of information on tax rulings;

9. Underlines that the automatic exchange of information will result in a large volume of data needing to be treated, and insists that the issues relating to computer processing of the data concerned must be coordinated, as must the necessary human resources for analysing the data; calls for the strengthening of the Commission’s role in this work; calls on the Commission and the Member States to carefully monitor and fully comply with the implementation of the Directive on Administrative Cooperation at national level, especially with the objective of verifying how many Member States request tax information through bilateral tax treaties rather than on that legal basis; calls on the Member States to reinforce their tax administrations with adequate staff capacity in order to ensure the effective collection of tax revenues and address harmful tax practices, given that lack of resources and staff cuts, in addition to lack of adequate training, technical tools and investigative powers, have seriously hampered tax administrations in some Member States; calls on the Member States to integrate the information exchanged with fiscal authorities and that exchanged with financial supervisors and regulators;

10. Welcomes the announcement by France, the Netherlands and the UK on 12 May 2016 that they will put in place public registers of beneficial owners of companies; applauds France for committing to create a public register for trusts; supports the UK’s commitment to make any company from outside the UK either buying property in the country or entering into a contract with the state declare its beneficial owner; calls on all Member States to adopt similar initiatives;

11. Regrets that the new OECD Global Standard on Automatic Exchange of Information does not include a transition period for developing countries, and that by making this standard reciprocal, those countries that still have low capacity to set up the necessary infrastructure to collect, manage and share the required information may effectively be excluded;

12. Notes that the Joint Transfer Pricing Forum has included in its work programme for 2014-2019 the development of good practices to ensure that the OECD guidelines on the subject correspond to the specificities of Member States; notes that the Commission is monitoring the progress of this work;

13. Underlines that 70% of profit shifting is done through transfer pricing and that the best way to tackle this issue is the adoption of a full CCCTB; calls on the Commission, notwithstanding, to present a concrete legislative proposal on transfer pricing, taking into account the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administration 2010; further underlines that additional efforts may be needed to curb BEPS risks between EU Member States and third countries arising from the transfer pricing framework, particularly the pricing of intangibles, and that global alternatives to the current ‘arm's-length’ principle should be actively investigated and
tested for their potential to ensure a fairer and more effective global tax system;

14. Welcomes the fact that the Commissioner for competition, Margrethe Vestager, has categorised transfer pricing as a particular focus area for state aid cases, as it is reported to be a common tool used by MNEs for tax evasion or avoidance schemes such as intra-group loans; notes that guidelines for identifying and regulating tax-related state aid do not currently exist, while this type of state aid has proved to be a worrying tax avoidance tool; calls on the Commission to create guidelines and set up clear criteria to better define what are the limits on transfer pricing in order to better assess state aid cases; supports the conclusions of the investigations of the Commission in the case of Starbucks, Fiat and Amazon; stresses the need for the Commission to access all relevant data;

15. Regrets that many multinational enterprises heard have not strongly condemned tax avoidance practices and aggressive tax planning; stresses that MNEs can easily grant artificial inter-group loans for aggressive tax planning purposes; stresses that the preference for such debt financing is to the detriment of the taxpayers as well as financial stability; calls, therefore, on the Member States to eliminate the debt-equity bias in their respective tax laws;

16. Strongly emphasises that the work of whistleblowers is crucial for revealing the dimension of tax evasion and tax avoidance, and that, therefore, protection for whistleblowers needs to be legally guaranteed and strengthened in the EU; notes that the European Court of Human Rights and the Council of Europe have undertaken work on this issue; considers that courts and Member States should ensure the protection of legitimate business secrets while in no way hindering, hampering or stifling the capacity of whistleblowers and journalists to document and reveal illegal, wrongful or harmful practices where this is clearly and overwhelmingly in the public interest; regrets that the Commission has no plans for prompt action on the matter given the very recent and significant whistleblower revelations commonly referred to as, respectively, ‘LuxLeaks’ and ‘the Panama Papers’;

17. Welcomes the fact that the Commission has launched a public consultation on improving double taxation dispute resolution mechanisms; stresses that the setting of a clear timeframe for dispute resolution procedures is key to enhancing the effectiveness of the systems;

18. Welcomes the communication ‘External Strategy for Effective Taxation’, which called on the European Investment Bank (EIB) to transpose good governance requirements in its contracts with all selected financial intermediaries; calls on the EIB to establish a new responsible tax policy, starting from the review of its non-cooperative jurisdictions policy carried out in 2016 in close dialogue with civil society; calls on the EIB to make both direct funding and funding via intermediaries contingent upon disclosure of both country-by-country tax-relevant data along the lines of the CRD IV provision for credit institutions, and beneficial ownership information; reiterates that the EIB should reinforce its due diligence activities so as to improve the quality of information on ultimate beneficiaries and to more effectively prevent transactions with financial intermediaries having a negative record in terms of transparency, fraud, corruption, organised crime, money laundering and harmful social and environmental
impacts or registered in offshore financial centres or tax havens which resort to aggressive tax planning;

19. Calls on the Commission to issue clear legislation on the definition of ‘economic substance’, ‘value creation’ and ‘permanent establishment’, with a view to tackling, in particular, the issue of letterbox companies; calls on Member the States to reverse the burden of proof when it comes to the re-collection of assets obtained through criminal activities or recovery of unlawful profits;

20. Considers that a common Union list of cross-border tax evaders and avoiders should be established by the Commission on a basis of full access for all;

**Blacklist and concrete sanctions for uncooperative jurisdictions and withholding tax**

21. Notes that so far the only concrete initiative taken by the Commission regarding uncooperative jurisdictions, including overseas territories, has been the External Strategy for Effective Taxation; observes that until now the criteria for listing of uncooperative jurisdictions by the OECD have not proved efficient in tackling this issue and have not served as a deterrent; stresses that there are still third countries that protect illegally-obtained assets, making recovery by the EU authorities impossible;

22. Calls on the Commission to come up as soon as possible with a common Union definition and list of uncooperative jurisdictions (i.e. a 'blacklist of tax havens'), based on sound, transparent and objective criteria and including implementation of OECD recommendations, tax transparency measures, BEPS actions and Automatic Exchange of Information standards, the existence of active harmful tax practices, advantages granted to non-resident individuals or legal entities, lack of requirement of economic substance and non-disclosure of the corporate structure of legal entities (including trusts, charities, foundations, etc) or the ownership of assets or rights, and welcomes the Commission's intention to reach an agreement on such a list within the next six months; calls on the Member States to endorse that agreement by the end of 2016; believes that an escalation procedure, starting with a constructive dialogue with the jurisdiction where shortcomings have been identified, needs to be foreseen prior to the listing in order to also achieve a preventive effect of the process; believes that a mechanism should be established in order to allow for the de-listing of the jurisdictions if and once compliance has been successfully achieved or restored; considers that this assessment should also extend to OECD members;

23. Calls for a concrete Union regulatory framework for sanctions against the blacklisted uncooperative jurisdictions, including the possibility of reviewing and, in the last resort, suspending free trade agreements, suspending double taxation agreements and prohibiting access to Union funds; notes that the purpose of sanctions is to bring about changes in the legislation of the jurisdictions concerned; calls for sanctions also to apply to companies, banks, and accountancy and law firms and to tax advisers proven to be involved in illegal, harmful or wrongful activities with those jurisdictions or proven to have facilitated illegal, harmful or wrongful corporate tax arrangements involving legal vehicles in those jurisdictions;

24. Calls on the Commission to prepare binding legislation banning all EU institutions from opening accounts or operating in the jurisdictions included in the common Union list of
uncooperative jurisdictions;

25. Calls on the Member States to renegotiate their bilateral tax treaties with third countries by means of a multilateral instrument, in order to introduce sufficiently robust anti-abuse clauses and thus prevent ‘treaty shopping’, including a distribution of taxation rights between source and resident countries reflective of economic substance and an appropriate definition of permanent establishment; stresses furthermore that this process would be expedited considerably if the Commission were mandated by Member States to negotiate such tax treaties on behalf of the Union; calls on the Member States to ensure fair treatment of developing countries when negotiating such treaties;

26. Calls on the Commission to present a legislative proposal for an EU-wide withholding tax, to be operated by the Member States, in order to ensure that profits generated within the Union are taxed at least once before leaving it; notes that such a proposal should include a refund system to prevent double taxation; underlines that such a general withholding tax system based on the credit method has the advantage of preventing double non-taxation and BEPS without creating instances of double taxation;

27. Regrets that Andorra and Monaco have committed to automatic information exchange by 2018 instead of 2017; points out that some non-cooperative jurisdictions such as Andorra comply with exchange of information standards but are moving towards becoming low-tax jurisdictions; is concerned that the double taxation agreement between Andorra and Spain does not currently ensure effective automatic exchange of information; calls on the Commission to closely monitor the effective application of the automatic exchange of information included in the Member States’ agreements signed with former or present non-cooperative jurisdictions;

28. Considers that the hybrid mismatch between EU Member States and third countries in the designation of entities, for example the CV/BV construction in the Netherlands used by many American firms, leading to double non-taxation, should be effectively dealt with in European legislation, as an addition to the Commission's ATAP proposals;

Patent, knowledge and R&D boxes

29. Notes that to date patent, knowledge and R&D boxes have not proven as effective in fostering innovation in the Union as they should have; regrets that they are, instead, used by MNEs for profit-shifting through aggressive tax planning schemes, such as the well-known ‘double Irish with a Dutch sandwich’; is of the opinion that patent boxes are an ill-suited and ineffective tool for achieving economic objectives; insists that R&D can be promoted using broader policy measures that promote long-term innovation and independent research and through subsidies which should be given preference over patent boxes, as subsidies are less at risk of being abused by tax avoidance schemes; observes that the link between patent boxes and R&D activities is often arbitrary and that current models lead to a race to the bottom with regard to the effective tax contribution of MNEs; calls on the Member States to phase out existing patent boxes and prohibit new ones by 2021 at the latest;

30. Deplores the fact that certain Member States, in particular within the framework of the Code of Conduct Group, have so far been neglecting this issue and have yet to come up with a proper timeframe to tackle it;
31. Calls on the Commission, in order to prohibit the misuse of patent boxes for tax avoidance purposes and ensure that if and when used they are linked to genuine economic activity, to put forward proposals for binding Union legislation on patent boxes, building on and addressing the weaknesses of the OECD Modified Nexus Approach; stresses that the Commission proposal should apply to all patent boxes issued by Member States; calls in the meantime on all Member States to publicly disclose which companies benefit from a patent box regime in their country;

32. Calls on the Member States to integrate a Minimum Effective Taxation (MET) clause in the Interests and Royalties Directive as well as in the Parent-Subsidiary Directive, and to ensure that no exemptions are granted by the Council;

Banks, tax advisers and intermediaries

33. Regrets deeply that some banks, tax advisers, law and accounting firms and other intermediaries have been instrumental and have played a key role in designing aggressive tax planning schemes for their clients, and have also assisted national governments in designing their tax codes and laws, creating a significant conflict of interest;

34. Is concerned at the lack of transparency and adequate documentation within financial institutions and among advisors and law firms pertaining to the specific models of company ownership and control recommended by tax, financial and legal advisors, as confirmed by the recent ‘Panama Papers’ revelations; recommends, in order to tackle the problem of shell companies, the strengthening of transparency requirements for setting up private companies;

35. Is concerned at the lack of transparency and adequate documentation within national tax administrations pertaining to the effects on competition of transfer price decisions, patent box settings, tax rulings and other elements of discretionary corporate taxation;

36. Calls for the existing codes of conduct for the tax advice industry to be strengthened, in particular in order to take account of potential conflicts of interest in such a way that they are clearly and understandably disclosed; calls on the Commission to come forward with a Union Code of Conduct for all advising services to provide for situations of potential conflicts of interest to be clearly disclosed; believes this should include a Union incompatibility regime for tax advisers, in order to prevent them from advising both public and private sectors and to prevent other conflicts of interest; in this respect, urges the Commission to come forward with a proposal amending Regulation No 573/2014 and Directive No 2014/56;

37. Draws attention to the risks of conflicts of interest stemming from the provision within of legal, tax advising and auditing services within the same accountancy firms; stresses, therefore, the importance of clear separation between these services; asks the Commission to ensure the proper monitoring and implementation of the legislation aimed at preventing such conflicts, and to study the need to revise the Audit Directive, in particular the provisions of its Article 22, as well as the Audit Regulation, in particular the provisions of its Article 5 and the definition of the ‘material effect’ of non-audit service therein;
38. Notes that the tax law and tax research departments of public universities are clearly interwoven with the big tax firms, leading to conflict of interest and a lack of the independence that should be expected from academics; points out that in the current situation tax advisers are trained to facilitate tax evasion with the use of public taxpayer money; asks the Commission to undertake an investigation into the interconnectedness of academia and the tax advisory world, addressing as a minimum the issues of conflicts of interest and the use of publicly funded educational institutions to facilitate corporate tax evasion;

39. Calls on the Member States to establish effective, proportionate and dissuasive sanctions, including criminal sanctions, on company managers involved in tax evasion, as well as the possibility of revoking business licences for professionals and companies proved to be involved in designing, advising on the use of, or utilising illegal tax planning and evasion schemes; requests that the Commission explore the feasibility of introducing proportional financial liability for tax advisers engaged in unlawful tax practices;

40. Calls on the Commission to analyse the possibility of introducing proportional financial liability for banks and financial institutions facilitating transfers to known tax havens, as defined by the future common Union list of tax havens and uncooperative tax jurisdictions;

41. Calls on the Commission to strengthen the requirements on banks to report to the Member States’ tax authorities transfers to and from jurisdictions included on the common Union list of tax havens and uncooperative tax jurisdictions; calls on Member States to ensure that banks and other financial institutions provide similar information to regulating and tax authorities; calls on Member States to strengthen the capacity of their tax administrations to investigate cases of tax evasion and avoidance;

42. Calls on the Commission to come forward with a legislative proposal introducing a mandatory disclosure requirement for banks, tax advisers and other intermediaries concerning complex structures and special services that are linked to jurisdictions included on the common EU list of tax havens and non-cooperative jurisdictions which are designed for and being used by clients to facilitate tax evasion, tax fraud, money laundering or terrorist financing;

43. Calls on the Commission to conduct constant screening and monitoring of derivatives and securities financing transactions - using data held in trade repositories (TRs) in accordance with the provisions of the Regulation (EU) No 648/2012 and Regulation (EU) 2015/2365 - with the aim of identifying transactions structured to potentially produce significant tax benefits; insists that the Commission automatically provides the Member State tax authorities concerned with all information, including data1;

44. Calls on the Commission to put forward a legislative proposal to ensure that both credit institutions established in a Member State and undertakings admitted to trading on a regulated market or on a multilateral trading facility within the Union include in their

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annual financial reports a description of their use of securities financing transactions (SFTs) and of their re-use of collateral, as well as comprehensive and detailed data on the contribution of SFTs to their earnings before interest, taxes, depreciation and amortization (EBITDA) and earnings after taxes (EAT);

45. Calls on the Commission\(^1\) to introduce specific common minimum anti-abuse rules aimed at denying benefits arising from certain hybrid asset transfers\(^2\) whose effect is often the deduction of the income in one state without inclusion in the tax base of the other or the generation of abusive foreign tax credit transactions;

46. Calls on the Commission to explore the possibility of introducing common rules aimed at curbing tax avoidance on EU-source income achieved through interposition; stresses furthermore that such rules could be similar to those applied in the US\(^3\);

**Whistleblowers**

47. Reiterates the crucial role of whistleblowers in revealing misconduct, including illegal or wrongful practices; considers that such revelations, which shine a light on the magnitude of tax evasion, tax avoidance and money-laundering, are clearly in the public interest, as demonstrated in the recent ‘LuxLeaks’ and ‘Panama Papers’ revelations that showed the magnitude of the phenomenon of transferring assets to low-tax jurisdictions; recalls that the possibility of detecting and prosecuting tax violators is crucially dependent on data availability and data quality;

48. Regrets that the Commission is limiting its action to monitoring developments in different areas of Union competences, without planning to take any concrete steps to tackle the issue; is concerned that this lack of protection could endanger the publication of new revelations, thereby potentially leading to Member States losing legitimate tax revenue; deeply regrets that the Commission has not provided a satisfactory response to the demands contained in paragraphs 144 and 145 of Parliament’s resolution of 25 November 2015, or to the recommendations of Parliament's resolution of 16 December 2015\(^4\), and in particular to the request to come up with a clear legal framework on the protection of whistleblowers and the like by the end of June 2016;

49. Reiterates its call on the Commission to propose as soon as possible a clear legal

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\(^1\) The Commission’s services have confirmed indeed that Article 10 (‘Hybrid mismatches’) of its proposal of 28 January 2016 on the ATAD ‘was based on a mutual recognition approach aimed at resolving differences in the legal qualification of hybrid entities and hybrid financial instruments but did not cover hybrid asset transfers which do not concern legal qualification mismatches’.

\(^2\) The OECD defines ‘hybrid transfers’ as ‘arrangements that are treated as transfer of ownership of an asset for one country's tax purposes but not for tax purposes of another country, which generally sees a collateralised loan’. See OECD, March 2012, ‘Hybrid Mismatch Arrangements: Tax Policy and Compliance Issues’, http://www.oecd.org/

\(^3\) See, for example, the ‘qualified intermediaries’ (QI) and ‘qualified derivatives dealers’ (QDD) regimes, as well as the rules laid down in Section 871(m) of the US Internal Revenue Code, which impose US withholding tax on certain amounts arising in derivative transactions over US equities when those amounts are paid to a non-US person.

\(^4\) Texts adopted, P8_TA(2015)0457
framework to guarantee the effective protection of whistleblowers, as well as of journalists and other persons connected with the press who aid and facilitate them; calls on the Member States to revise their current legislation on the protection of whistleblowers by including the possibility of abstention from prosecution in cases in which whistleblowers have acted in the public interest; invites it to consider as a model the best examples of legislation in terms of protection of whistleblowers already in force in some Member States;

**Code of Conduct Group and interinstitutional issues**

50. Regrets, that despite the fact that its first and second Special Committees (TAXE 1 and TAXE 2) have both on repeated occasions requested full access to Code of Conduct Group documents and minutes, only a limited number of new documents have been made available for in camera consultation by MEPs, and that this was only achieved five months after the beginning of the mandate of TAXE 2; notes that some of these documents should have been made public to allow for public scrutiny and an open political debate on their content; notes furthermore that the willingness of the Council to satisfy this request remains unsatisfactory;

51. Deplores the fact that the Commission, despite having provided some internal minutes of the meetings of the Code of Conduct Group, was unable to keep all records of the documents distributed; considers that it is the duty of the Commission to keep all traces and records of all information and documents circulated within the remit of the Code of Conduct Group, in order to assess the compliance of the Member States' measures pursuant to the Treaty; calls on the Commission to take urgent action to improve this situation by retrieving all the documents; calls on the Council and the Member States to cooperate with the Commission on this matter;

52. Urges Member States to improve the transparency and effectiveness of the working methods of the Code of Conduct Group, as they are one of the factors hampering concrete potential improvement in terms of tackling harmful tax practices; regrets not having received several room documents from the Code of Conduct Group emanating from the Council or the Member States which are critical to the good implementation of the Special Committee's mandate; calls for the regular publication of the results of its supervision as regards the degree of compliance of Member States with the recommendations made; asks the Code of Conduct Group to produce a publicly accessible annual report identifying and describing the most harmful tax practices used by Member States during the year; reiterates its request to the Council in 2015 to set up a ‘tax committee’ at political level;

53. Determines from public information that the Code of Conduct Group looked at 421 measures between 1998 and 2014 and considered 111 of them harmful (26 %), but that two thirds of those measures were examined during the first five years of existence of the Group; notes that the scrutiny of measures by Member States has decreased over the years, with only 5 % of total measures having been examined in 2014, and regrets that no harmful tax measures have been found by the Group since November 2012; concludes that the Code of Conduct Group has not been operational in full working over the past decade and that its governance and mandate need urgent revision;

54. Reiterates its call of 2015 on the Commission to provide an update to the 1999
Simmons & Simmons report on administrative practices mentioned in paragraph 26 of the 1999 Code of Conduct Group report (the Primarolo report (SN 4901/99));

55. Stresses that even if the Code of Conduct has enabled some improvements, the self-notification of potentially harmful measures by Member States is not efficient, the criteria for identifying harmful measures are outdated and the unanimity principle for reaching decisions on harmfulness has not proven effective; regrets that several Member States are opposing a necessary reform of the Code of Conduct Group; urges the Commission and the Member States, therefore, to take the necessary steps to reform, as soon as possible, the criteria for identifying harmful measures and governance aspects of the Code of Conduct Group (including decision-making structure and monitoring of agreed rollback and standstill, avoidance of potential procrastination, sanctions in case of non-compliance), in order to increase its public transparency and accountability and ensure the strong involvement and access to information of Parliament; points out the shortcomings and other relevant information mentioned in Annex 3 (new); notes further that if one compares the Commission list of all tax regimes formally assessed by the Code Group with the respective meeting documents at the point of decision and thereafter, it is firstly in many cases unclear how a decision has been reached, e.g. why regimes for which there were grounds to suppose that they would be harmful were declared non-harmful in the end, and also, secondly, concerning those cases where attested harmfulness was the outcome of the assessment, whether the ensuing rollback procedures have been concluded satisfactorily by Member States; highlights that, therefore, Member States did not comply with the obligations set out in Council Directives 77/799/EEC and 2011/16/EU since they did not spontaneously exchange tax information, even in cases where there were clear grounds, despite the margin of discretion left by those directives for expecting that there may be tax losses in other Member States or that tax savings may result from artificial transfers of profits within groups; stresses that the Commission did not fulfil its role of guardian of the Treaties, as established in Article 17(1) TEU, by not acting in this matter and taking all necessary steps to ensure that Member States comply with their obligations, in particular those set out in Council Directives 77/799/EEC and 2011/16/EU, despite evidence to the contrary;

56. Notes that a pattern of systematic obstruction by some Member States to achieving any progress on fighting tax avoidance became clear to the Special Committee; notes that discussions on administrative practices (rulings) were going on in the Code of Conduct for nearly two decades; condemns the fact that several Member States were reluctant to agree on exchanging information about their ruling practices before LuxLeaks and are still reluctant to implement in national law the model instruction developed in the Code of Conduct Group despite their commitments after the LuxLeaks revelations;

57. Concludes that, therefore, Member States violated their obligation of sincere cooperation as enshrined in Article 4(3) TEU, and that the Commission was aware of the non-compliance of certain Member States with the principle of sincere cooperation; stresses that the violation of Union law by Member States as well as non-action of the Commission against the violation of Union law by Member States need a follow-up;

58. Calls on the Commission to grant Parliament permanent, timely and regular access to the room documents and minutes of the Council groups working on tax matters,
including the Code of Conduct on Business Taxation, the High Level Working Group and the Working Party on Tax Questions; suggests to the Commission that it use the agreement reached with Parliament on access to SSM/ECB minutes as an example for that purpose;

59. Calls on the Commission, in case of an unsatisfactory response on the part of the Member States, to present a legislative proposal, preferably under Article 116 of TFEU or Article 352 TFEU or under enhanced cooperation in order to improve the effectiveness of the Code of Conduct Group;

60. Notes further that from the documents retrieved a pattern of systematic obstruction by some Member States in achieving material progress on fighting tax avoidance becomes clear; highlights that those documents show that political obstruction by Member States prevented in particular progress on harmful tax practices in the areas of patent boxes, inbound and outbound profit transfers, hybrid mismatches including profit participating loan agreements, the role of investment funds, administrative practices (in particular tax rulings), and minimum effective taxation clauses;

61. Stresses, with respect to the above-mentioned categories and the documents retrieved by its Special Committee, the following requests and observations in particular; underlines, however, that the list that follows remains non-exhaustive, owing in particular to the unwillingness of Member States and the Commission to grant full transparency on the workings of the Code Group and other relevant working groups of the Council by making a large number of documents, including the most recent and most politically relevant, available only in a restricted reading room and hence precluding their content from any public debate and assessment such as in this report;

62. Calls on the Commission to include in the framework of the European Semester reporting of what measures the Member States take towards effective taxation and to enhance efforts against harmful cross-border tax practices and tax evasion, including recommendations for strengthening national tax administrations;

63. Calls on the EU institutions and the Member States to take urgent action against tax fraud, tax evasion, tax havens and aggressive tax planning, from both demand and supply sides; regrets that the Council and in particular some Member States have for a number of years not taken any decisive action on these issues, and reminds Member States of the possibility available to them of establishing systems of enhanced cooperation (between at least 9 Member States) in order to speed up action on harmful and illegal tax practices;

64. Calls for the creation of a new Union Tax Policy Coherence and Coordination Centre within the structure of the Commission, to safeguard the proper and coherent functioning of the single market and the implementation of international standards; believes that this new Centre should be in charge of assessing and monitoring Member States’ tax policies at Union level, ensuring that no new harmful tax measures are implemented by Member States, monitoring compliance of Member States with the common Union list of uncooperative jurisdictions, ensuring and fostering cooperation between national tax administrations (e.g. training and exchange of best practices), and initiating academic programmes in the field; believes that by doing so this Centre could help prevent new tax loopholes emerging thanks to uncoordinated policy initiatives.
between Member States, and counteract tax practices and standards that would upset, obstruct or interfere in the proper functioning and rationale of the single market; believes that this Centre could also serve as a point of contact for whistleblowers, in case Member States and national tax administrations do not act upon the revelation of tax evasion and avoidance or do not carry out appropriate investigations on the matter; considers that the Centre could benefit from the pooling of expertise at Union and national level, so as to reduce the burden on the taxpayer;

**External dimension**

65. Welcomes the renewed focus at G8 and G20 level on tax issues, which should lead to new recommendations; calls on the Commission to maintain a coherent position on behalf of the Union at the upcoming G20 meetings and ad hoc symposia; requests the Commission to regularly inform Parliament about the findings and possible consequences of G20 decisions on combating corporate tax base erosion, aggressive tax planning practices and any illicit financial flows;

66. Calls on the Union, the G20, the OECD and the UN to cooperate further to promote global guidelines that will also be beneficial to developing countries;

67. Supports the creation of a global body within the UN framework, well-equipped and with sufficient additional resources, to ensure that all countries can participate on an equal footing in the formulation and reform of global tax policies; calls on the EU and the Member States to start working on an ambitious Global Tax Summit and to aim to create such an intergovernmental body;

68. Calls on international fora to agree on a more stringent and precise definition of beneficial ownership in order to ensure increased transparency;

69. Reiterates its call on the Commission and the Member States to conduct spill-over analysis of national and EU tax policies, in order to assess the impact on developing countries and remove policies and practices which negatively affect them;

70. Points out that illicit outflows are a major explanation for developing country debt, while aggressive tax planning is contrary to the principles of corporate social responsibility;

71. Calls on the Commission to include in all trade and partnership agreements good governance clauses, including efforts to effectively implement BEPS measures and global automatic exchange of information standards, and to ensure that trade and partnership agreements cannot be misused by companies or intermediaries to avoid or evade taxes or launder revenues from illegal activities;

72. Calls on the OECD and other international bodies to start working on an ambitious BEPS II, to be based primarily on minimum standards and concrete objectives for implementation;

73. Stresses that the coordination between the Commission and the Member States which are members of the FATF should be improved in order for the EU to make its voice heard; stresses the need for detailed implementation guidelines, for developing countries
in particular, as well as the monitoring of the development of new harmful taxation measures;

74. Calls, in this regard, for the creation of a parliamentary monitoring group at OECD level to observe and scrutinise the formulation and implementation of this initiative;

75. Calls for the establishment of a structured dialogue between the European Parliament and the US Congress on international tax issues; suggests setting up formal interparliamentary fora to deal with these issues and also utilising the existing Transatlantic Legislators’ Dialogue framework in this regard; encourages the EU and the US to cooperate on the implementation of the OECD BEPS project; takes notes of a significant lack of reciprocity between the US and the EU in the framework of the FATCA agreement; encourages enhanced cooperation between the US and the EU in the framework of the FATCA agreement in order to ensure reciprocity, and invites all parties involved to take part proactively in its implementation;

76. Welcomes the pilot project for the automatic exchange of beneficial ownership information between tax authorities launched last April by the five largest EU Member States; calls, in line with the stated intention of these countries, for this initiative to be extended and to constitute the basis for a global standard of information exchange similar to the one existing for financial account information;

77. Calls, as the next step in the process of enhancing the availability of beneficial ownership information and the effectiveness of the exchange of such information, for the establishment of a public Union register of beneficial ownership, including harmonised standards of access to beneficial ownership information and presenting all necessary data protection safeguards, which would form the basis of a global initiative in this regard; stresses the vital role of institutions such as the OECD and the UN in this connection;

78. Calls for a global assets register of all assets held by individuals, companies and all entities such as trusts and foundations, to which tax authorities would have full access and which would include appropriate safeguards to protect the confidentiality of the information retained therein;

79. Stresses the need for a common and comprehensive EU/US approach on the implementation of OECD standards and on beneficial ownership; stresses furthermore that good governance clauses and implementation of the BEPS measures should be included in any future trade treaties in order to ensure a level playing field, create more value for society as a whole, combat tax fraud and avoidance, and achieve leadership on the part of the transatlantic partners in the promotion of good tax governance;

Other recommendations

80. Calls on all national parliaments to work together to ensure proper control and coherence of tax systems between Member States; calls for national parliaments to remain vigilant as to the decisions of their governments in this matter and to increase their own commitment to the work of interparliamentary forums on tax matters;

81. Calls on the Commission to investigate all cases of illegal state aid brought to its
attention in order to ensure equality before the law in the Union; calls on the Commission to respond on a “decision with recovery” basis in all cases where the alleged tax advantage is considered illegal state aid; is concerned at the allegations that Luxembourg could be granting oral rulings in order to circumvent its obligation to share information under the directive on administrative cooperation; calls on the Commission to monitor and report whether Member States are replacing one harmful practice by another after legislative progress has been achieved at Union level; calls on the Commission to monitor and report any case of market distortion due to the granting of specific tax advantage;

82. Stresses the potential of digital solutions for effective tax collection in gathering tax data directly from operations in the sharing economy and in lowering the overall workload of tax authorities in Member States;

83. Takes note of the revelations in the ‘Panama Papers’ that documented systematic use of shell companies by companies as well as private citizens in order to conceal taxable assets and the proceeds of corruption and organised crime; welcomes Parliament’s decision to set up a committee of inquiry in this regard and to continue working on tax evasion, tax avoidance and money laundering; underlines the immense political importance of analysing the modus operandi of the tax authorities and the companies involved in the practices described with a view to tackling legislative loopholes;

84. Notes that further work is needed on access to documents of the Member States, the Commission and the Code of Conduct Group; reiterates that further analysis of the documents already made available to Parliament is needed in order to adequately gauge the need for further political action and policy initiatives; calls on the upcoming committee of inquiry to continue this work and adopt a different format from that of the Special Committee, following more closely the model of an interrogative committee such as the Public Accounts Committee in the UK;

85. Calls on the Council to fully take advantage of the consultation procedure with Parliament, which in particular means waiting for input from Parliament before reaching a political agreement and striving to take on board Parliament’s position;

86. Commits to continuing the work initiated by its Special Committee, addressing the obstacles encountered in the fulfilment of its mandate, and ensuring a proper follow-up of its recommendations; instructs its competent authorities to identify the best institutional set-up for achieving this;

87. Calls on its competent committee to follow up on these recommendations in its upcoming legislative initiative report on the same topic;

88. Instructs its President to forward this resolution to the European Council, the Council, the Commission, the Member States, the national parliaments, the UN, the G20 and the OECD.
## ANNEX 1: LIST OF PERSONS MET
### (COMMITTEE MEETINGS, COORDINATORS AND MISSIONS)

<table>
<thead>
<tr>
<th>Date</th>
<th>Speakers</th>
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<tbody>
<tr>
<td>11.01.2016</td>
<td>Pierre Moscovici, Commissioner for Economic and Financial Affairs, Taxation and Customs</td>
</tr>
<tr>
<td>17.02.2016</td>
<td>Pierre Moscovici, Commissioner for Economic and Financial Affairs, Taxation and Customs</td>
</tr>
</tbody>
</table>
| 29.02.2016 | *Exchange of views with Council Presidency*  
*In the presence of Eric Wiebes, Dutch State Secretary for Finance* |
| 14-15.03.2016 | Exchange of views with Jurisdictions  
Rob Gray, Director of Income Tax, Guernsey;  
Colin Powell, Adviser on international affairs to the Chief Minister, Jersey;  
Clàudia Cornella Durany, Secretary of State for International Financial Affairs, Andorra;  
Katja Gey, Director for International Financial Affairs, Liechtenstein;  
Jean Castellini, Minister of Finance and Economy, Monaco. |
|            | Exchange of views with MNEs  
Cathy Kearney, Vice President of European Operations, Apple  
Julia Macrae, Tax Director EMEA, Apple;  
Adam Cohen, Head of Economic Policy (EMEA), Google;  
Søren Hansen, Chief Executive Officer, Inter-Ikea Group;  
Anders Bylund, Head of Group Communications; Inter-Ikea Group;  
Irene Yates, Vice President Corporate Tax; McDonald's. |
|            | *Exchange of views with Investigative Journalists - in camera*  
Véronique Poujol, Paperjam;  
Markus Becker, Der Spiegel. |
| 21.03.2016 | Exchange of views with European Banks (Part I)  
Jean-Charles Balat, Financial Director, Crédit Agricole SA;  
Rob Schipper, Global Head of Tax, ING;  
Eva Jigvall, Head of Tax, Nordea;  
Monica Lopez-Monís, Chief Compliance Officer and Senior Executive Vice-President, Banco Santander;  
Christopher St. Victor de Pinho, Managing Director, Global Head of Group Tax, UBS Group AG;  
Stefano Ceccacci, Head of Group Tax Affairs, Unicredit. |
| 04.04.2016 | Margrethe Vestager, Commissioner for Competition  
Exchange of views with European Banks (Part II)  
Brigitte Bomm, Managing Director, Global Head of Tax, Deutsche Bank |
<table>
<thead>
<tr>
<th>Date</th>
<th>Event Description</th>
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<tbody>
<tr>
<td>15.04.2016</td>
<td><strong>Mission to Cyprus</strong></td>
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<tr>
<td></td>
<td>Ioannis Kasoulides, Minister of Foreign Affairs;</td>
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<td></td>
<td>Michael Kammas, Director General, Aristio Stylianou, Chairman and George Appios,</td>
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<td></td>
<td>Vice-Chairman of the Association of Cyprus Banks;</td>
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<td></td>
<td>Christos Patsalides, Permanent Secretary of the Ministry of Finance;</td>
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<td></td>
<td>George Panteli, Head of Tax policy, Ministry of Finance;</td>
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<td>Yannakis Tsangaris, Tax Commissioner;</td>
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<td></td>
<td>Alexander Apostolides, University of Cyprus;</td>
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<td></td>
<td>Maria Krambia-Kapardis, Chair of the Executive Committee of Transparency International;</td>
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<td></td>
<td>Costas Markides, Board Member, International Tax, KPMG Limited and the Cyprus</td>
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<td>Investment Funds Association;</td>
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<td></td>
<td>Natasa Pilides, Director General, The Cyprus Investment Promotion Agency;</td>
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<td></td>
<td>Kyriakos Iordanou, General Manager, Mr Pieris Marcou, Mr Panicos Kaouris, Mr George</td>
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<td>Markides, Institute of Certified Public Accountants of Cyprus;</td>
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<td></td>
<td>Christos Karidis, Head of Economics Research of the Confederation Department and</td>
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<td></td>
<td>the Secretary of the Association of Employed Consumers;</td>
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<td></td>
<td>Nikos Grigoriou, Head of the Department of Economic and Social Policy of the Pan-</td>
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<td></td>
<td>Cypriot Federation of Labour.</td>
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<tr>
<td>18.04.2016</td>
<td>**Interparliamentary meeting on “The Anti-Tax Avoidance Package and other EU and</td>
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<td>international developments: Scrutiny and democratic control by National Parliaments**</td>
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<td></td>
<td>Exchange of views with Jurisdictions (part II) - in camera</td>
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<td></td>
<td>Wayne Panton, Minister of Financial Services, Commerce and Environment, Cayman</td>
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<td>Islands</td>
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<td>20.04.2016</td>
<td><strong>Joint ECON/JURI/TAXE meeting</strong></td>
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<td></td>
<td>• Jonathan Hill, Commissioner for Financial Stability, Financial Services and Capital</td>
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<td>Markets Union</td>
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<td>2.05.2016</td>
<td>**High-level Meeting of the OECD Parliamentary Group on Tax in association with the</td>
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<tr>
<td></td>
<td>European Parliament Special Committee on Tax Rulings, Paris</td>
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<tr>
<td></td>
<td>Pascal Saint-Amans, Director, OECD Centre for Tax Policy and Administration</td>
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<td></td>
<td>Valère Moutarlier, Director, Directorate General for Taxation and Customs at the</td>
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<td></td>
<td>European Commission</td>
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<td></td>
<td>Michèle André, Chair of the Senate Finance Committee</td>
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<td>Meg Hillier, Chair of the Public Accounts Committee</td>
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<tr>
<td>17-20.05.2015</td>
<td><strong>Mission to the United States of America (Washington DC)</strong></td>
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<tr>
<td></td>
<td>David O’Sullivan, EU Ambassador</td>
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<tr>
<td>Elise Bean, former Director and Chief Counsel of the Permanent Subcommittee on Investigations</td>
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<td>Orrin Grant Hatch, Chairman of the Senate Committee on Finance, President Pro Tempore of the Senate</td>
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<td>Dr Charles Boustany, Chairman of the Tax Policy Subcommittee</td>
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<tr>
<td>Sander Levin, Congressman, Ranking Member of the House Ways and Means Committee</td>
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<tr>
<td>Richard Neal, Ranking Member of the Subcommittee on Tax Policy</td>
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<td>Earl Blumenauer, Member of the House Committee on Ways and Means</td>
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<tr>
<td>Lloyd Doggett, Member of Ways and Means Committee, Ranking Member of Subcommittee on Human Resources (and possibly other Democratic Members)</td>
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<tr>
<td>Anders Aslund, Resident Senior Fellow, Dinu Patriciu Eurasia Center, Atlantic Council</td>
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<td>Gianni Di Giovanni, Chairman of Eni USA R&amp;M, Eni</td>
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<tr>
<td>The Hon. Boyden Gray, Founding Partner, Boyden Gray&amp; Associates</td>
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<tr>
<td>Jillian Fitzpatrick, Director, Government Affairs and Public Policy, S&amp;P Global</td>
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<tr>
<td>Marie Kasparek, Assistant Director, Global Business and Economics Program, Atlantic Council</td>
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<tr>
<td>Benjamin Knudsen, Intern, Global Business and Economics Program, Atlantic Council</td>
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<td>Jennifer McCloskey, Director, Government Affairs, Information Technology Industry Council</td>
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<td>Susan Molinari, Vice President, Public Policy and Government Affairs, Google</td>
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<tr>
<td>Andrea Montanino, Director, Global Business and Economics Program, Atlantic Council</td>
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<tr>
<td>Álvaro Morales Salto-Weis, Intern, Global Business and Economics Program, Atlantic Council</td>
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<tr>
<td>The Hon. Earl Anthony Wayne, Non-resident Fellow, Atlantic Council</td>
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<tr>
<td>Alexander Privitera, Senior Fellow, Johns Hopkins University</td>
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<tr>
<td>Bill Rys, Director, Federal Government Affairs, Citigroup</td>
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<tr>
<td>Pete Scheschuk, Senior Vice President, Taxes, S&amp;P Global</td>
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<tr>
<td>Garret Workman, Director, European Affairs, US Chamber of Commerce</td>
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<tr>
<td>Caroline D. Ciraolo, Acting Assistant Attorney General in charge of the Tax Division, Department of Justice</td>
<td></td>
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<tr>
<td>Thomas Sawyer, Senior Litigation Counsel For International Tax Matters</td>
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<tr>
<td>Todd Kostyshak, Counsel to the Deputy Assistant Attorney-General for Criminal Tax Matters, Department of Justice (DoJ)</td>
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<tr>
<td>Mark J. Mazur, Assistant Secretary (Tax Policy)- US Department of the Treasury</td>
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<tr>
<td>Robert Stack, Deputy Assistant Secretary (International Tax Affairs)- US Department of the Treasury</td>
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<tr>
<td>Scott A. Hodge, President of the Tax Foundation - Tax Foundation</td>
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<tr>
<td>Gavin Ekins, Research Economist - Tax Foundation</td>
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<tr>
<td>Stephen J. Entin, Senior Fellow - Tax Foundation</td>
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<tr>
<td>Scott Greenberg, Analyst - Tax Foundation</td>
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<tr>
<td>John C. Fortier, Director of the Democracy Project, Bipartisan Policy</td>
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</tbody>
</table>
Center - Shai Akabas, Associate Director of Bipartisan Policy Center, Economic Policy Project
Eric Toder, Co-director, Urban-Brookings Tax Policy Center - Gawain Kripke, Director of Policy and Research - OXFAM America
Didier Jacobs, Senior Economist - OXFAM America
Nick Galass, leads on the Oxfam's economic inequality research OXFAM America
Robbie Silverman, Senior Advisor OXFAM America
Vicki Perry, Assistant Director in the Fiscal Affairs Department and Division Chief of the Tax Policy Division, (IMF)
Ruud De Mooij, Deputy Division Chief in the Tax Policy Division, (IMF)
Hamish Boland-Rudder, ICIJ’s online editor
Jim Brumby, Director, Public Service and Performance, Governance Global Practice
Marijn Verhoeven, Economist in the Global Practice on Governance
Guggi Laryea, European Civil Society and European Parliament Relations Lead External and Corporate Relations
Rajul Awasthi, Senior Public Sector Specialist in the Governance Global Practice
Xavier Becerra, Congressman, Chairman of the House Democratic Conference
Ron Kind, Congressman, Member of the House Committee on Ways and Means

24.05.2015 Joint TAXE/DEVE Public Hearing on Consequences of aggressive fiscal practises for developing countries
Dr Attiya Waris, Senior Lecturer, Law School, University of Nairobi
Dr Manuel Montes, Senior Advisor on Finance and Development, The South Centre
Mrs Aurore Chardonnet, OXFAM Tax and Inequality EU Policy Advisor
Mr Savior Mwambwa, ActionAid International, Tax Power Campaign Manager
Ms Tove Ryding, EUROMAD, Policy and Advocacy Manager, Tax Justice
Mr Sol Picciotto, Professor, Lancaster University
# Annex 2: Multinational Corporations and Banks Invited to Appear in Committee Meetings

## Annex 2.1: List of MNEs invited

<table>
<thead>
<tr>
<th>Company</th>
<th>Invited/Representatives</th>
<th>Situation (11/03/2016)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Apple Inc.</td>
<td>Timothy D. Cook&lt;br&gt;Chief Executive Officer&lt;br&gt;Cathy Kearney, Vice President of European Operations&lt;br&gt;Julia Macrae, Tax Director EMEIA</td>
<td>Participating&lt;br&gt;Cathy Kearney, Vice President of European Operations&lt;br&gt;Julia Macrae, Tax Director EMEIA</td>
</tr>
<tr>
<td>Google Inc.</td>
<td>Nicklas Lundblad&lt;br&gt;Senior Director Public Policy and Government Relations (EMEA)</td>
<td>Participating&lt;br&gt;Adam Cohen, Head of Economic Policy (EMEA)</td>
</tr>
<tr>
<td>Fiat Chrysler Automobiles</td>
<td>Sergio Marchionne&lt;br&gt;Chief Executive Officer</td>
<td>Declined on 11/03/2015: &lt;br&gt;&quot;As you may be aware, on 29 December 2015 we filed an appeal with the General Court of the EU contesting the Commission's decision which found that one of our companies in Luxembourg had received state aid. Luxembourg is also contesting this decision before the General Court. While we are highly confident that we have not received any state aid in Luxembourg in breach of EU law, it would, in the circumstances, not be appropriate for us to participate in the Special Committee meeting or comment further. Therefore, while our appreciation of the Committee's efforts and of its desire to hear the views of enterprises remains unchanged, we regret that we are not able to participate in this discussion until our legal case has been resolved.&quot;</td>
</tr>
<tr>
<td>Inter IKEA Group</td>
<td>Søren Hansen&lt;br&gt;Chief Executive Officer</td>
<td>Participating&lt;br&gt;Søren Hansen, CEO&lt;br&gt;Anders Bylund, Head of Group Communications</td>
</tr>
<tr>
<td>McDonald's Corporation</td>
<td>Irene Yates&lt;br&gt;Vice President, Corporate Tax</td>
<td>Participating&lt;br&gt;Irene Yates, Vice President, Corporate Tax</td>
</tr>
</tbody>
</table>
| Starbucks Coffee Company | Kris Engskov  
President of Starbucks Europe, Middle East and Africa (EMEA) | Declined on 23/02/2015:  
'As Starbucks is planning to appeal the decision of the European Commission, announced on 21st October 2015, that the Netherlands granted selected tax advantages to our Amsterdam coffee roasting plant (Starbucks Manufacturing EMEA BV), we are unable to accept the invitation of the European Parliament's Special Committee on Tax Rulings and Other Measures Similar in Nature or Effect.  
Once this matter has been resolved, and Starbucks is confident that the European Commission's decision will be overturned on appeal, we would be happy to meet.  
If it assists your information gathering it is worth noting that Starbucks complies with all OECD rules, guidelines and laws and supports its tax reform process, including the Base Erosion and Profit Shifting Action Plan.  
Starbucks has paid an average global effective tax rate of roughly 33 per cent, well above the 18.5 per cent average rate paid by other large US companies. ' |
Annex 2.2: List of Banks invited

<table>
<thead>
<tr>
<th>Name</th>
<th>Invited/Representatives</th>
<th>Situation 4/04/2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Crédit Agricole (FR)</td>
<td>Mr Dominique Lefebvre Chairman</td>
<td>Accepted (15/03/2016)</td>
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<tr>
<td></td>
<td><strong>Jean-Charles Balat,</strong> Director of Finances, Groupe Crédit Agricole</td>
<td></td>
</tr>
<tr>
<td>Deutsche Bank (DE)</td>
<td>Mr Paul Achleitner Chairman</td>
<td>Accepted (16/03/2016) to participate in a meeting on 4 April 2016</td>
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<tr>
<td></td>
<td><strong>Brigitte Bomm,</strong> Managing Director, Global Head of Tax, Deutsche Bank</td>
<td></td>
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<tr>
<td>ING Group (NL)</td>
<td>Mr Ralph Hamers CEO</td>
<td>Accepted (08/03/2016)</td>
</tr>
<tr>
<td></td>
<td><strong>Drs. R.N.J. Schipper,</strong> ING Global Head of Tax</td>
<td></td>
</tr>
<tr>
<td>Nordea (SW)</td>
<td>Mr Casper von Koskull President and CEO</td>
<td>Accepted (09/03/2016)</td>
</tr>
<tr>
<td></td>
<td><strong>Eva Jigvall,</strong> Nordea’s Head of Group Taxes</td>
<td></td>
</tr>
<tr>
<td>Royal Bank of Scotland (UK)</td>
<td>Mr Ross McEwan CEO</td>
<td>Accepted (16/03/2016) to participate in a meeting on 4 April 2016</td>
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<tr>
<td></td>
<td><strong>Grant Jamieson,</strong> Head of Tax, Royal Bank of Scotland</td>
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<tr>
<td></td>
<td><strong>Graeme Johnston,</strong> Head of International Tax, Royal Bank of Scotland</td>
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</tr>
<tr>
<td>Santander (ES)</td>
<td><strong>Mrs Ana Patricia Botín,</strong> Chairwoman</td>
<td>Accepted (11/03/2016)</td>
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<td></td>
<td><strong>Monica Lopez-Monis Gallego,</strong> Chief Compliance Officer and Senior Executive Vice-President of Banco Santander</td>
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<td></td>
<td><strong>Antonio H. García del Riego,</strong> Managing Director, Director European Corporate Affairs</td>
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<tr>
<td>UBS (CH)</td>
<td>Mr Axel A. Weber Chairman</td>
<td>Accepted (14/03/2016)</td>
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<td></td>
<td><strong>Christopher Pinho,</strong> Managing Director, Global Head of Group Tax</td>
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<tr>
<td>Unicredit (IT)</td>
<td>Mr. Giuseppe Vita Chairman</td>
<td>Accepted (08/03/2016)</td>
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<tr>
<td></td>
<td><strong>Stefano Ceccacci,</strong> UC Head of Tax Affairs, Costanza Bufalini, Head of European and Regulatory Affairs</td>
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### ANNEX 3: CODE OF CONDUCT DOCUMENTS

<table>
<thead>
<tr>
<th>Document (1)</th>
<th>Date</th>
<th>Finding</th>
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<tbody>
<tr>
<td>Room Document No 1</td>
<td>Code of Conduct Group</td>
<td>Commission noted that especially in some dependent and associated territories the proposed rollback included the introduction of a 0% rate or the complete abolition of corporate income tax and thus not every part of the work of the Code Group has resulted in a consistent or satisfactory outcome</td>
</tr>
<tr>
<td>Annex 1</td>
<td>Meeting of April 2006</td>
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<tr>
<td>Room Document No 1</td>
<td>Code of Conduct Group</td>
<td>Commission noted that due to political compromises the Code Group has considered some rollback proposals adequate which could easily be considered as insufficient according to the principles of the Code</td>
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<td>Annex 1</td>
<td>Meeting of April 2006</td>
<td></td>
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<tr>
<td>Report from the Code</td>
<td>7 June 2005</td>
<td>It was explicitly stated that in one case Luxembourg had failed to implement the rollback as agreed</td>
</tr>
<tr>
<td>Group to the Council</td>
<td></td>
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</tr>
<tr>
<td>Room Document No 1</td>
<td>Code of Conduct Group</td>
<td>Despite this clear non-compliance the Council failed to take any action and Luxembourg was not politically challenged or urged to comply with the Code principles and agreements</td>
</tr>
<tr>
<td>Annex 1</td>
<td>Meeting of April 2006</td>
<td></td>
</tr>
<tr>
<td>Room Document No 1</td>
<td>Code of Conduct Group</td>
<td>The Code Group agreed in 1999 to leave out regimes favouring the shipping sector</td>
</tr>
<tr>
<td>Annex 1</td>
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Annex 1  Meeting of April 2006  as well as the assessment of collective investment vehicles

Room Document No 1  Code of Conduct Group  Annex 1  Meeting of April 2006  Several Member States refused to disclose their views on the future of the Code Group as regards transparency, mandate, scope and criteria of future work; Hungary and Lithuania expressed reservations against amendments to the Code criteria; Ireland and Poland opposed any extension of the scope of the Code on other areas of taxation

Room Document No 2 and Minutes  Code of Conduct Group  Meeting of 11 April 2011  The Commission made several proposals for new areas of work such as expanding the work on mismatches, taxation of expatriates, taxation of wealthy individuals, review of REIT's and collective investment vehicles. The Netherlands and Luxembourg opposed expanding the work on mismatches, France expressed reserves against work on expats, wealthy individuals and investment funds, the United Kingdom supported a focus on business tax rather than an extension

Minutes  Code of Conduct Group  Meeting of 22 October 2013 and May 2013  Significant elements of Gibraltar's tax code which has been under discussion since at least 11 April 2011 and is still not concluded;

Minutes  Code of Conduct Group  Meeting of 8 November 2013  The Isle of Man's retail tax scheme was not judged harmful despite serious doubts of its non-harmfulness expressed by several Member States;

Minutes  Code of Conduct Group  Meeting of 29 May, 22 October and 20 November 2013  As regards patent boxes, the Netherlands, Luxembourg and, to a lesser extent, Belgium have opposed an encompassing assessment of all EU patent box regimes despite grounds to suppose the harmfulness of existing regimes against the Code criteria
Spain, the Netherlands, Luxembourg and the United Kingdom have further delayed the process of reforming patent box regimes by repeatedly introducing additional demands in the decision-making progress.

Despite commitments to fully adapt national legal provisions by 30 June 2016, very limited progress has been made by Member States in implementing into national law the modified nexus approach agreed by Ministers already in December 2014 and that some countries, such as Italy, have even introduced new patent box measures, incompatible with the modified nexus approach, after agreement on the latter was found, in order to benefit from the overly generous grandfathering provisions until 2021;

During the elaboration phase of the agreed guidance on inbound profit transfers, the United Kingdom opposed any coordinated approach.

Failure to agree on any follow-up to the work of the anti-abuse sub group.

Statements of Belgium and the Netherlands according to which they object to any initiative aimed at coordinating defence measures against untaxed outbound profit transfers.

Member States agreed on guidance on hybrid mismatches in September 2014, despite repeated and systematic initiatives by certain Member States which prevented a much earlier agreement on these harmful practices, under active debate in the Code Group since at least 2008, thereby significantly increasing the on-going fiscal damage created by the recurrent use of those schemes for aggressive tax.
planning purposes;

On hybrid mismatches, the Netherlands, Luxembourg and Belgium, as well as Malta and Estonia to a lesser extent, have for long delayed swift collective action by asserting that hybrids should not dealt with under the Code at all.

Minutes Code of Conduct Group meeting of 15 May and 29 June 2009 and 25 May 2010 Meeting of the anti-abuse sub group of 25 March and 22 April 2010

Minutes Code of Conduct Group meeting of 13 September 2011

As regards investment funds, Member States agreed to discontinue the discussion about these schemes’ alleged and potential harmfulness;

Code of Conduct Group meeting of 11 April and 26 May 2011

Initiatives taken by the United Kingdom, Luxembourg and the Netherlands which effectively pushed the group to not pursue this field of action further

Room Document No. 2 Code of Conduct Group Meeting of 4 March 2010

As regards administrative practices, no Member State had spontaneously and systematically exchanged information about its rulings in the past

Room Document No 4 Code of Conduct Group Meeting of 10 September 2012

In practice no information on rulings had been exchanged on a spontaneous basis

Council Conclusions ECOFIN meeting of December 2015

As regards minimum effective taxation clauses, Member States did not agree on a revision of the Interest and Royalties Directive ensuring that privileges granted in the single market with the aim of preventing double taxation do not in reality lead to
zero or almost zero taxation despite the release of the respective Commission proposal in 2011; Member States only invited the High Level Working Party on Tax Questions to look into the matter further, instead of committing to prompt and effective action;

Council Conclusions ECOFIN meeting of March 2016 Member States did not agree on urgently needed reforms of the Code Group and postponed any decision on reforms to 2017

(1) Based on publicly available documents and sources
## ANNEX 4: FOLLOW UP ECON/TAXE

**ECON/ TAXE JOINT SCOREBOARD - FOLLOW-UP ON ECON/TAXE RECOMMENDATIONS ON CORPORATE TAX POLICIES AND TAX RULINGS**

<table>
<thead>
<tr>
<th>Recommendation</th>
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<tbody>
<tr>
<td>Mandatory, public country-by-country reporting for all sectors by MNEs</td>
</tr>
<tr>
<td>&quot;Fair Tax Payer&quot; / CSR</td>
</tr>
<tr>
<td>Mandatory notification by Member States of new tax measures</td>
</tr>
<tr>
<td>Automatic exchange of information on tax rulings to be extended to all tax rulings, to be shared with COM, and made public to a</td>
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<tr>
<td>Area</td>
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<td>-----------------------------------------</td>
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<tr>
<td>Transparency of customs-free ports</td>
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<td>Develop a harmonised methodology to</td>
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<tr>
<td>estimate the corporate tax gap -</td>
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<tr>
<td>Transfer pricing</td>
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<tr>
<td>Protection of whistleblowers</td>
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<tr>
<td>Proposal fora Common Consolidated</td>
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<tr>
<td>Consolidated Corporate Tax Base (CCCTB)</td>
</tr>
<tr>
<td>Reform of Code of Conduct Group (CoCG)</td>
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<tr>
<td>CoCG- Second update to the 1999</td>
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<tr>
<td>Simmons and Simmons report</td>
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<tr>
<td>Guidance/ future legislative proposal</td>
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<td>on</td>
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<td>Topic</td>
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<tr>
<td>Patent boxes and other preferential regimes</td>
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<tr>
<td>Proposal on Controlled Foreign Corporation (CFC) rules</td>
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<tr>
<td>Proposal to amend the Directive 2011/16/EU in order to improve Member States’ coordination on tax audits</td>
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<tr>
<td>Introduction of a common European Tax Identification Number (TIN)</td>
</tr>
<tr>
<td>Proposal to allow the Union to speak with one voice in relation to international tax arrangements</td>
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<tr>
<td>Proposal to establish cogent criteria to define tax havens</td>
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<tr>
<td>Proposal for a catalogue of Countermeasures towards companies which make use of tax havens</td>
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<td>Proposal</td>
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<tr>
<td>Proposal on a permanent establishment</td>
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<tr>
<td>EU guidelines on transfer pricing</td>
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<tr>
<td>Proposal on hybrid mismatches and conduct further analyses and studies</td>
</tr>
<tr>
<td>Proposal to change the EU State Aid regime as it relates to tax</td>
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<tr>
<td>Proposal on improving cross-border taxation dispute resolution</td>
</tr>
<tr>
<td>Mechanisms</td>
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<td>---------------------------------------------------------------------------</td>
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<tr>
<td>Introduce a withholding tax or a measure of similar effect to avoid</td>
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<tr>
<td>profits leaving the Union untaxed</td>
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<tr>
<td>Additional measures to close tax gap</td>
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<tr>
<td>Setting principles for tax amnesties/ transparency of “tax forgiveness”</td>
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<tr>
<td>Beneficial ownership for both companies and trusts</td>
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RESULT OF FINAL VOTE IN COMMITTEE RESPONSIBLE

<table>
<thead>
<tr>
<th>Date adopted</th>
<th>21.6.2016</th>
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| Result of final vote | +: 25  
|                     | −: 6  
<p>|                     | 0: 9  |
| Members present for the final vote | Hugues Bayet, Fabio De Masi, Frank Engel, Markus Ferber, Ashley Fox, Ildikó Gáll-Pelcz, Sven Giegold, Neena Gill, Danuta Maria Hübner, Ramón Jáuregui Atondo, Othmar Karas, Jeppe Kofod, Zdzisław Krasnodębski, Georgios Kyrtos, Alain Lamassoure, Philippe Lamberts, Fulvio Martusciello, Marisa Matias, Emmanuel Maurel, Bernard Monot, Evelyn Regner, Peter Simon, Theodor Dumitru Stolojan, Paul Tang, Michael Theurer, Cora van Nieuwenhuizen, Marco Zanni |
| Substitutes present for the final vote | Pervenche Berès, David Casa, Ana Gomes, Cătălin Sorin Ivan, Danuta Jazłowiecka, Barbara Kappel, Krisjānis Kariņš, Paloma López Bermejo, Olle Ludvigsson, Thomas Mann, Pirkko Ruohonen-Lerner, Nils Torvalds |
| Substitutes under Rule 200(2) present for the final vote | Laura Ferrara |</p>
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<thead>
<tr>
<th>Task</th>
<th>Page(s)</th>
<th>Description</th>
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<tbody>
<tr>
<td>Breach of Art. 17(1) TUE</td>
<td>86, 89, 93</td>
<td>EC promoted a Model Instruction for spontaneous exchange of cross border rulings. Monitoring the implementation by MS of Directive 2015/2376.</td>
</tr>
<tr>
<td>Breach of Art. 108 TFEU</td>
<td>86</td>
<td>Scope of information requested by TAXE is narrower than information that EC did. Statement that the EC not failed its duties to apply State Aids Rules.</td>
</tr>
<tr>
<td>Parliament’s right of inquiry</td>
<td>88</td>
<td>Legal and Institutional concerns from EC and Council sent to Parliament.</td>
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<td>Automatic exchange of information (AEOI)</td>
<td>105, 157</td>
<td>EC will promote AEOI and support developing countries’ capacity building.</td>
</tr>
<tr>
<td>Implementation of Ombudsman’s recommendations on expert groups</td>
<td>129</td>
<td>Ready to apply Ombudsman and EP requests.</td>
</tr>
<tr>
<td>Developing Countries</td>
<td>156, 158, 160</td>
<td>External Strategy to define EU support to developing countries.</td>
</tr>
<tr>
<td>Tax advisors</td>
<td>162-164</td>
<td>Regulation 537/2014 shall fix the problem raised.</td>
</tr>
<tr>
<td>Support to tax administrations</td>
<td>170</td>
<td>See European Semester and the 2016 Fiscalis work programme.</td>
</tr>
<tr>
<td>Access to documents</td>
<td>174</td>
<td>EC will continue to send document - See letters from the Chair to EC.</td>
</tr>
<tr>
<td>Topic</td>
<td>Recommendation</td>
<td>Status</td>
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<td>----------------------------------------------------------------------</td>
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<tr>
<td>CoCG’s access of document</td>
<td>87</td>
<td>Addressed to EC - No answers from EC - TAXE 2 mandate takes over this request and there are ongoing negotiations to access documents</td>
</tr>
<tr>
<td>Profits taxation in the pace they are generated</td>
<td>90</td>
<td>Addressed to MS</td>
</tr>
<tr>
<td>End of harmful tax competition</td>
<td>91</td>
<td>Addressed to MS and the EU as a whole</td>
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<td>Political commitment from MS</td>
<td>92</td>
<td>Addressed to MS</td>
</tr>
<tr>
<td>Principle of sincere cooperation (internal re-organisation of the EC)</td>
<td>93</td>
<td>Addressed to EC - No answers from EC</td>
</tr>
<tr>
<td>Tax competition and Third Countries</td>
<td>96</td>
<td>See comments on recommendations 156, 158 and160</td>
</tr>
<tr>
<td>Combating tax fraud</td>
<td>97</td>
<td>Addressed to MS</td>
</tr>
<tr>
<td>Support for growth, investment and job</td>
<td>98</td>
<td>See EU Structural funds and Europe 2020 Strategy</td>
</tr>
<tr>
<td>AEOI</td>
<td>99</td>
<td>See comments on recommendations 105, 157</td>
</tr>
<tr>
<td>Royalty payments</td>
<td>101</td>
<td>Addressed to EC - No answers from EC</td>
</tr>
<tr>
<td>MNEs</td>
<td>102</td>
<td>N/A</td>
</tr>
<tr>
<td>Call for investigation</td>
<td>103</td>
<td>N/A</td>
</tr>
<tr>
<td>Cooperation and coordination on advance tax rulings</td>
<td>104, 106, 115</td>
<td>Call for an EU definition on aggressive tax planning</td>
</tr>
<tr>
<td>CCCTB</td>
<td>122</td>
<td>Call for an EU definition on aggressive tax planning</td>
</tr>
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<td>CoCG</td>
<td>125</td>
<td>Increased transparency and accountability</td>
</tr>
<tr>
<td>Tax heavens</td>
<td>155</td>
<td>Recall for the chosen unilateral approach</td>
</tr>
<tr>
<td>Developing Countries</td>
<td>159</td>
<td>Call for MS to work within their developing aid agencies</td>
</tr>
<tr>
<td>Tax Advisors</td>
<td>161, 165</td>
<td>See comments on recommendations 162-164</td>
</tr>
</tbody>
</table>
Further actions

<table>
<thead>
<tr>
<th></th>
<th>Specific comments addressed to MS</th>
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<td>166, 168, 169, 171, 172, 173</td>
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</tbody>
</table>

CbCR: Country by Country Report  
DAC/DAC4: (4th) Directive on Administrative Cooperation  
CSR: Corporate Social Responsibility  
UCITS: Undertakings for the Collective Investment in Transferable Securities  
CoCG: Code of Conduct Group  
CCCTB: Proposal for Common Consolidated Corporate Tax Base  
TIN: Tax Identification Number  
GAAR: General Anti-Avoidance Rules  
JTPF: Joint Transfer Pricing Forum  
ATAD: Anti-Tax Avoidance Directive
ANNEX 5: REPORT AD HOC DELEGATION NICOSIA

Report Ad hoc Delegation
to Nicosia (Cyprus)

Friday, 15 April 2016
09.00 - 17.30

Disclaimer: This report reproduces a short, non-exhaustive summary of the different meetings held during the visit of the TAXE 2 Special Committee Delegation to Nicosia, Cyprus, 15 April 2016. It is intended for internal European Parliament use only. It does not represent the position of the European Parliament and it was not agreed with the third parties involved in the programme of the visit.
09.20 - 09.50  Meeting with Mr Ioannis KASOULIDES, Minister of Foreign Affairs of the Republic of Cyprus

10.00 - 11.00  Meeting with the Association of Cyprus Banks (ACB)

11.00 - 11.30  Meeting with Mr Christos PATSALIDES, Permanent Secretary, Ministry of Finance

11.30 - 12.30  Meeting with Mr Yiannakis TSANGARIS, Tax Commissioner and Mr George PANTELI, Head of Tax Policy Department, Ministry of Finance

13.00 - 14.30  Meeting with
   – the European University Cyprus
   – the Transparency International Cyprus

15.00 - 16.00  Meeting with
   – the Cyprus Investment Funds Association (CIFA)
   – the Cyprus Investment Promotion Agency (CIPA)
   – the Institute of Certified Public Accountants of Cyprus

16.00 - 17.30  Meeting with trade unions
   – the Cyprus Workers' Confederation (SEK)
   – the Pan-Cyprian Federation of Labour (PEO)
TAXE 2 COMMITTEE
Delegation to Nicosia, Cyprus
15 April 2016

Members
Alain LAMASSOURE, Chair  EPP
Burkhard BALZ  EPP
Danuta Maria HÜBNER  EPP
Jeppe KOFOD  S&D
Anna GOMES  S&D
Bernd LUCKE  ECR
Michael THEURER  ALDE
Miguel VIEGAS  GUE/NGL
Eva JOLY  Greens/EFA

Accompanying Members
Costas MAVRIDES
Lefteris CHRISTOFOROU

+ Accompanying staff
Mr Kasoulides started his introduction by stating that corporate taxation does not fall under his competence, but that of Mr Georgiades, Finance Minister who at the time was in Washington attending the Spring IMF-World Bank meetings.

He referred to the bail out in March 2013, and highlighted the economic results achieved since then under the economic adjustment programme. He noted that Cyprus’ economy is based on (financial) services and hence proper measures against money laundering and corruption are in place in order not to risk Cyprus’ reputation as a credible financial centre. Regarding the fight against tax avoidance and evasion, he noted that Cyprus is working together with the EU by implementing all EU Directives and although not an OECD member¹, Cyprus is committed to implementing BEPS recommendations as a member of the OECD Global Forum. Cyprus is also an early adopter of the new automatic exchange of information standard agreed at the OECD level. He also mentioned a bilateral FATCA Intergovernmental Agreement with the US that entered into force on 31 August 2015 and is implemented as of 1 January 2016.

As for Members questions, Mr Kasoulides replied that Cyprus has political relations as well as close economic connections with Russia. He added that Russian banks (and other enterprises) prefer Cyprus because of the Russian speaking community, the viable legal system and availability of services. Many Russian companies repatriate earnings to Russia and take advantage of the corporate tax rate (12.5%) of Cyprus. Regarding Ukraine, Mr Kasoulides explained that the Double Tax Treaty, based on the OECD Model Tax Convention, has been amended.

Mr Kasoulides insisted that Cyprus is not giving any preferential treatment to any foreign companies, but follows the OECD line particularly on tax avoidance. He continued that Cyprus is largely compliant on transparency according to the Global Forum and BEPS legislations are being prepared. About Panama Papers, he noted that it was too early to speculate, but it seems from media that only about six intermediaries were operating from Cyprus, and relevant authorities are investigating if they acted outside the law. The bank RCB, mentioned in the news in relation to Panama Papers, is currently being investigated by the Cyprus Central Bank.

At the end Mr Kasoulides expressed Cyprus’ willingness to work constructively on a European common consolidated corporate tax base (CCCTB), but added that a common corporate tax rate remains a sovereign competence of the EU Member States. Cyprus’ economy is based on services (as it is an international financial centre) and low tax rates offer certain economic advantages.

¹ List of OECD Member countries - Ratification of the Convention on the OECD : [http://www.oecd.org/about/membersandpartners/list-oecd-member-countries.htm](http://www.oecd.org/about/membersandpartners/list-oecd-member-countries.htm)
Members of the Global Forum : [https://www.oecd.org/tax/transparency/membersoftheglobalforum.htm](https://www.oecd.org/tax/transparency/membersoftheglobalforum.htm)
10.00 - 11.00  Meeting with the Association of Cyprus Banks (ACB)
   – Mr Michael KAMMAS, Director General
   – Mr Aristos STYLIANOU, Chairman
   – Mr George APPIOS, Vice-Chairman

In the introduction, Michael Kammas, Director General of the Association of Cyprus Banks (ACB) explained that a distinction should be made on how enterprises are taxed and how taxation affects the whole economy. He noted that banks’ profitability suffered due to a very high ratio of non-performing loans (around 55% on loans to households and non-financial corporations) and that debt-to-asset swaps have been issued in order to speed up loan restructurings.

As to the Members question on the cooperation between the banking sector and tax advisory industry (Big4), Mr Kammas underlined that the tax advisory services were outside the scope of banks’ operations, and that, although clients may use such consultants, banks do not form part of such operations. Moreover, he emphasised that banks do not provide tax advice to their clients for aggressive tax planning, nor do they have contacts with accountants and lawyers to discuss tax planning.

He explained that Ultimate Beneficial Owner (UBO) is required according to the legislation, so every operation has to lead up to a person that has to be identified. Tax crime is also a predicate offence in Cyprus. Banks are required to check if there is some substance behind the bank transaction/operation and banks are checking e.g. sanction lists and that there are no criminal activities. Most banks are local and have no significant subsidiaries abroad. It is, however, still more difficult to check/monitor non-Cypriot customers/banks than local ones. Following the changes of 2015 when bank supervision was redesigned and strengthened, the Central Bank is currently checking, for example, certain transactions made in USD - given that the monitoring system in the US is even stricter. He continued that the US authorities may, if they have any doubts, start an enquiry and that they can even close the account as a sanction if Cypriot banks do not respond that enquiry.

He clarified that there was no money laundering in Cyprus, but because of the complex structures of companies in the country, there has been a need to upgrade due diligence processes.\footnote{\url{http://taxinsights.ey.com/archive/archive-pdfs/2016g-00762-161gbl-cyprus-enacts-legislation-on-mandatory-exchange-of-information.pdf}}

Mr Kammas added that since the banking crisis of 2013 non-performing loan rations have dropped, while lending practices have not fully shifted away from an overreliance on collateral towards a more systematic use of risk-assessment tools. The new insolvency legislation of 2015 restricts the liability of guarantors to the amount exceeding the value of the collateral could affect the extent of the increase in provisions.

Mr Kammas complained that implementing the anti-avoidance measures, such as FACTA
and CRS, means a lot of costs for banks but as he could not provide a specific number when asked by Members, he agreed to provide a **written reply** on this matter.

For the question on what is the added value of a low tax rate and what are the positive tax advantages in Cyprus, Mr Kammas explained that in the past 'offshore' companies were taxed at 4.25% and other companies at about 30%. Since the EU accession, every company in Cyprus is taxed at the same rate of 12.5%. He added that the matter is not so much about tax rate, but about stability; this means that it is the latter that preserves Cyprus' competitive advantage as a credible international financial centre.

In reply to a Member's question on the large Russian FDI stocks in Cyprus, and on access to offshore ownership envelopes that enabled Russian owners to avoid the post-Crimea sanctions, Mr Kammas explained that a large proportion of Russian companies are related to a Russian owner and many of them are trading companies having assets in Russia. They get dividends in Cyprus, which they repatriate to Russia as an investment. He continued that Cyprus represents a significant gateway for EU inbound and outbound investments, which is complemented by the traditional links that Cyprus has with central and eastern Europe, Russia and Middle East.

Regarding the question on 'Panama papers', he reassured that the documents are being investigated by the Central Bank of Cyprus and other relevant authorities.

11.00 - 12.30  **Meeting with**
- Mr Christos PATSALIDES, Permanent Secretary of the Ministry of Finance
- Mr Yiannakis TSANGARIS, Tax Commissioner
- Mr George PANTELI, Head of Tax Policy Department, Ministry of Finance

Christos Patsalides, Permanent Secretary of the Ministry of Finance, indicated that after enormous financial efforts, Cyprus has finally overcome a difficult period, and it has managed to outperform every major indicator and restore its current account balance. Moreover, he emphasised that Cyprus’ tax system is in full compliance with the EU and the OECD requirements against harmful tax practices. He also explained that in July 2014, the merger of the Department of Inland Revenue (Direct Taxes) and the Department of Value Added Tax (Indirect Tax) created a Single Tax Department which further strengthened the position of the Cyprus tax authorities.

The Chair complimented the way Cyprus implemented its adjustment plan and welcomed the country’s successful economic recovery and exit from its three-year international bailout programme. He also indicated that fair(er) tax competition requires new rules and more transparency, both at the EU and global level.

Mr Patsalides presented a stocktaking of activities that Cyprus has taken in the context of improving international tax compliance, which is based on the standard for automatic exchange of financial account information, Common Reporting Standard (CRS), developed by the OECD. Cyprus had also signed the Multilateral Competent Authority Agreement in 2014 and Cyprus, as part of the Early Adopters Group of the OECD, has committed to the
implement the Automatic Exchange of Information (AEOI) by 2017\(^1\). On 2 December 2014, Cyprus and the US signed an intergovernmental agreement to implement the Foreign Account Tax Compliance Act (FATCA).

Yiannakis Tsangaris explained his role as Tax Commissioner mentioning notably that he had been nominated in February 2016, and that his services were looking after tax implementation not initiating legislations. He also referred to the merger of two tax departments in July 2014 into a single department for all tax affairs.

Members' questions were related to incentives and tax exemptions relating to investment in IP rights, commonly known as the 'IP box' that is used in Cyprus. Under the G20/OECD base erosion and profit-shifting project, new entries to such schemes will not be permitted after mid-2016. However, companies that joined the Cyprus scheme before that deadline can benefit from substantial savings until mid-2021. The Cypriot 'IP Box' system (a maximum tax rate of 2.5% on income earned from IP assets and wider scope) regime applies to a wider range of income than any other European scheme.

Regarding the new 'IP box' regime, Mr Pantelis insisted that it was in line with the discussions within the EU Code of Contact Group and the intention was to follow the modified nexus approach (of the OECD). He noted that there was only a limited time to enter into the Cyprus scheme, since it will be closed to new entrants as from June 2016. Companies that qualify under the existing IP regime should be able to have access to the existing benefits until 2021, but new entrants (i.e. joining an IP Regime after June 2016) should follow the new 'IP box' regime rules. He concluded, however, that if there was a new guidance on IP regimes, they would be ready to comply with it.

Mr Panteli undertook to provide a written reply regarding statistics of the new registrations in the 'IP box' regime, and he indicated that about 10-15 companies are getting Rulings on their IP regimes. He pointed out that companies need time to reorganise themselves, referring to need of a transitional period.

He indicated that following the changes made to the definition of permanent establishment in the OECD Model Tax Convention that addresses strategies used to avoid having a taxable presence in a country under tax treaties, bilateral treaties may need to be modified or to be included within a multilateral agreement (under the OECD framework). The majority of the treaties concluded by Cyprus follow the OECD Model Treaty.

Moreover, there is no 'exit tax', and Cyprus does not impose any withholding tax on dividend, interest and royalty payments made to non-Cypriot resident recipients. Regarding transfer pricing, i.e. allocation of profits for tax and other purposes between parts of a multinational corporate group, the 'arm's length' principle is used for transactions in Cyprus. Mr Panteli did not reply to the question about Cyprus' position to include minimum effective taxation as part of the Interest & Royalty directive (currently being discussed in the Council), but explained that if a minimum effective taxation (rate) clause was agreed at EU level, Cyprus would

\(^1\) [https://www.oecd.org/tax/transparency/AEOI-commitments.pdf](https://www.oecd.org/tax/transparency/AEOI-commitments.pdf)
comply with it.

Regarding tax rulings in Cyprus, Mr Panteli explained that the tax department has a long-established practice of providing written replies to requests for guidance on the interpretation of Cyprus tax law. This practice is under the control of Tax Commissioner and applications are addressed to him. He clarified the Tax Rulings Division of the tax department (about 5-6 staff members) will, on application, issue advance tax rulings (estimated about 20-25/week) regarding actual transactions proposed to be undertaken by existing or new entities. In the event of any discrepancy between the scenario presented in a tax ruling request and the actual transactions undertaken, the relevant District Tax Office may decline to apply the tax ruling, or inform the Tax Rulings Division of the actual facts, asking it to confirm or modify the initial ruling. However, he was not able to give an estimation on the tax losses that occurred due to such rulings granted to companies.

Regarding (ultimate) beneficial owners of companies, tax transparency, including transparency of trust/fiduciary arrangements and banking details, Mr Panteli indicated that at least one owner has to be a resident in Cyprus, and the details of (ultimate) beneficial owners are confidential and may only be disclosed by court order or as part of a verified tax investigation. Cyprus complies with Prevention of Money Laundering and Terrorist Financing directives, and all companies as well as trusts have an obligation to be registered, but confidential information in both registers are maintained for tax authorities and other supervisory authorities purposes. When implementing the fourth anti-money laundering directive, Cyprus would go through the implementation the creation of registries for (ultimate) beneficial owners and for trusts. Most FATF recommendations are already in place in Cyprus, except the creation of UBO registers. Cyprus, however, is against making these registers public, arguing of the importance of confidentiality, especially for trusts.

Mr Patsalides underlined that Cypriot authorities were ready to study all documents that Panama authorities would provide them officially. He continued that the Cypriot RCB Bank that has been identified by media in the context of 'Panama leaks' had immediately denied that they have granted any such 'unsecured' loans to Russia.

Mr Panteli continued that Cyprus (tax) authorities are doing the same that other countries are doing, i.e. assessing information that is available to the public, and the Central Bank of Cyprus is assessing the information to the extent that it may concern the Cypriot banking system or any suspicious-looking transactions. Moreover, in line Transparency and Anti Money Laundering laws, the Cyprus Securities and Exchange Commission have requested by April 20 all regulated entities to report if they maintain/maintained any relationship with the Panama firm or a third party representing it. He insisted that competent authorities have a power to investigate the leak of Panama papers, but he did not want to reply to a question on if a separate legal/juridical enquiry would be conducted. He was not responding to a Member's question about the potentially harmful effect of the 'notional interest' deduction scheme in Cyprus.

Mr Panteli, however, undertook to provide a written reply regarding how many accounts have registered (ultimate) beneficial owner in Cypriot banks.

Mr Patsalides, in reply to a question on the CCCTB and a criterion to be used for allocation of tax rebates, indicated that it was not an easy process (to agree amongst sovereign states) and
that it would be better to leave it to markets to respond. They also favour the application of the "arm's-length principle" of transfer pricing, rather than a requirement of a permanent establishment or a common and consolidated corporate tax base. Mr Panteli noted that it was premature to start discussions on consequences of the reunification on (corporate) taxation.

13.00 - 14.30 Meeting with
- The University of Cyprus
- The Transparency International Cyprus

In his introductory presentation Alexander Apostolides, from the European University Cyprus, explained that Cyprus' economy is largely focused on professional services and on the financial sector. He referred to Eurostat statistics, stating that employment in accounting/auditing sector used mainly for tax planning purposes, increased during the crisis and currently employs around 20 000 persons in Cyprus. This represents a significant part of Cyprus' GDP (estimated up to 10%).

He indicated that there were no 'tax rulings' as such, but acknowledged that it depends on the interpretation/definition of tax rulings. (He added that no tax rulings were revealed in the 'Luxleaks' scandal). He explained that the Cypriot Inland Revenue Department merger with the VAT Service in 2014 had not been easy and that the merged Tax Department is only now starting to work efficiently. In his view, one of the weaknesses in this area (referring to fraud prevention and fight against tax evasion) was a lack of coordination between different authorities in Cyprus.

On the 'Panama papers' he explained the Cyprus Securities and Exchange Commission has noted in public that, at first sight, companies under its authority do not seem to be involved, although there is speculation on the Cypriot RCB Bank. He further emphasised that Cyprus was not an off-shore tax haven, and in recent years Cyprus has taken major steps in adopting all EU jurisdiction and international best practices for combating tax evasion and money laundering. In this context, he referred to the recent Audit Transparency report 2015 by Deloitte, as well as to the EU reports on anti-money laundering. He underlined as well that regulatory supervision is carried out by banking authorities and the ECB. Hence, regarding the Panama papers, he insisted that the date of transactions should be looked at, given that after 2013/2014 Cyprus was forced to change some part of its legislation.

Maria Konstantinou from Transparency International Cyprus (TIC) explained that currently they do not have a programme on money laundering (or tax evasion), but that TIC could consider launching one. She continued that these issues are not very high on the agenda for the (ongoing) election campaigns due to lack of interest. She referred to the new legislation on tax rulings (since October 2015) and highlighted the need for more cooperation between tax administration services.

Members noted the strengthening of the legal framework relating to corporate taxation seemed not be driven by the EU, but more for other purposes, although acknowledging the implications of the accession to the EU. Both panellists mentioned that before 2013, the impact of tax avoidance wasn't a subject of public discussion but most of the population welcomed the favourable tax treatments granted by Cyprus. Since 2013, there seems to be a change of mentality and a greater understanding of how tax avoidance impacts citizen's
daily life.

Members also questioned that companies might not be interested to become domiciled in Cyprus, given that, e.g. non-residents are not subject to the Special Contribution for Defence, which is a tax which is levied on interests at a rate of 30% and on dividends at a rate of 17%. A company which is not tax resident in Cyprus is taxed on income accruing or arising only from sources in Cyprus.

Trusts are available in Cyprus, and the law is similar to the English law on trusts, but recent amendments to the Cyprus International Trust law have made Cyprus a favourable jurisdiction for the creation of a trust that are used for, amongst others, inheritance planning as well as tax planning.

On the concept of tax planning in Cyprus, Mr Apostolides explained that Cyprus has a competitive advantage through highly educated, qualified and multilingual workforce (i.e. certified accountants/auditors) for accounting firms, legal practices and the banking sector, but due to lower salary levels in Cyprus (compared to other EU MSs), 'brain drain' is an issue. This competitive advantage is complemented by good infrastructure available for such activities, as well as appropriate government regulations and a general policy of non-intervention in business operations.

He continued that registration of companies was one of the biggest weak points that the authorities need to tackle. He insisted, moreover, that sovereign states should have right to determine their corporate tax rate. He acknowledged nevertheless that harmonisation of legislation at the EU level would be welcomed, as for example, there are complications on the reporting of legitimate profit. He also called for more transparency on how much revenue is generated in Cyprus or in abroad. He acknowledged that in terms of banking regulation, Cyprus has progressed but this is less certain in terms of tax legislation.

Regarding FDIs related to Russia, Mr Apostolides indicated that double tax treaties are not meant for money laundering and round-trip investment, but that Russian owned companies use Cyprus financial centre as there is no withholding tax on profits remitted abroad, if their tax liabilities have been fulfilled in Cyprus. Double tax treaties also determine the ways in which profits are remitted abroad. He explained further that Cyprus offers an extensive network of favourable double tax treaties (not only with Russia), has no withholding taxes on dividends and interest paid, no capital gains on profits from the sale of shares and securities and exemption of taxes on foreign dividends and interest received.

Mr Apostolides undertook to share with the delegation, notably, a report of MoneyVAL on the “Special Assessment of the Effectiveness of Customer Due Diligence Measures in the Banking Sector in Cyprus” and a report by Deloitte on the Third Party Anti-Money Laundering Assessment of the Effective Implementation of Customer Due Diligence Measures with Regard to Cyprus’ Deposits and Loans.
15.00 - 16.00 Meeting with
The Cyprus Investment Promotion Agency (CIPA)
The Cyprus Investment Promotion Agency (CIPA) was established as a registered not-for-profit company limited by guarantee, funded by the Cyprus government. "Invest Cyprus" is the brand under which CIPA takes the lead in promoting Cyprus as an attractive FDI destination. [http://www.investcyprus.org.cy/](http://www.investcyprus.org.cy/)

The Cyprus Investment Funds Association (CIFA)
The Cyprus Investment Funds Association (CIFA) was established in February 2013 with the purpose to become the collective voice and the reference point for all professionals and legal entities, offering services or engaged in the Investment Funds Industry in Cyprus. [http://www.cifacyprus.org/english/cyprus-investment-funds/about-cifa/](http://www.cifacyprus.org/english/cyprus-investment-funds/about-cifa/)

The Institute of Certified Public Accountants of Cyprus (ICPAC)
The Institute of Certified Public Accountants of Cyprus, established in 1961, is the competent authority for regulating the accounting/auditing profession in Cyprus. [http://www.icpac.org.cy/selk/default.aspx](http://www.icpac.org.cy/selk/default.aspx)

List of Participants:
Mr Costas Markides, Board Member, International Tax, KPMG Limited (CIFA)
Mrs Natasa Pilides, Director General (CIPA)
Mr Kyriakos Iordanou, General Manager, Mr Pieris Marcou, Mr Panicos Kaouris, Mr George Markides (ICPAC)

Mr Markides, Cyprus Investment Funds Association (CIFA) explained that it is making recommendations on tax measures, such as BEPS recommendations. Mr Iordanou, ICPAC indicated that, although it is the competent authority for regulating the accounting/auditing profession in Cyprus, it is working in parallel with the government, which is taking significant efforts to maintain Cyprus as a credible financial centre. Tax legislation changes are being initiated by Cyprus along the line of BEPS, country-by-country reporting requirements, tax rulings, as well as specific legislative proposals from the EC.

Mr Markides, CIFA also mentioned that CIFA supports transparent country-by-country reporting, including public disclosure (with the current threshold of €750 million turnover). However, Mr Iordanou, from ICPAC believed that information should be kept with tax authorities only, and that it should be first seen how it works before public disclosure. He continued that disclosure of the country-by-country reporting should be decided at the EU level and concerns on data protection need to be assessed. There is a working group within the tax administration department dealing with the implementation of country-by-country legislation and accountants can bring expertise to the government on this issue.

Mrs Natasa Pilides agreed with Mr Markides, explaining that CIFA works closely with the CIPA, which first took the initiative for the establishment of CIFA, as a part of the progress made in promoting Cyprus as a competitive investment funds jurisdiction.

Two years after the banking crisis and the rescue package coming into play, Cyprus not only survived, but also managed to surpass all expectations, according to the panellists. According to Mr Marcou, ICFPA was looking forward as Cyprus now concentrates on remaining a fully compliant and transparent jurisdiction, as to all related EU and international regulations. He
mentioned, notably, the Foreign Account Tax Compliance Agreement (FATCA) with the United States, OECD’s Convention on Mutual Administrative Assistance in Tax Matters and the OECD’s BEPS Action Plan. He highlighted that Cyprus continues to enhance its competitiveness as an attractive international business centre. Mr Iordanou agreed that profit should be taxed where it is generated, but added that new realities such as e-commerce need to be taken into account. Regarding the question on notional profit, he confirmed that the 'arm's length principle' is used. Regarding transfer pricing, no regulatory framework is yet in place, but it is one of the top priorities and in a process of being developed on the basis of an Irish model (working group includes network of Big4). For a questions regarding whether Cyprus was looking for an opportunity for tax avoidance (by using measures like 'notional profit' deduction, tax rulings, 'IP box' regime and a policy of 'no exit' taxation), ICPA explained that they were looking for certainty and a simple tax regime.

Regarding hybrid mismatch arrangements, Mr Markides indicated that it is anticipated that Cyprus legislation will be amended to reflect the EU Parent-Subsidiary Directive provisions tackling hybrid loan arrangements (e.g. profit participating loans). With respect to hybrid loans, receipts from other EU Member States shall be taxable, when such payments are treated as tax deductible at the level of the payer company.

Regarding FDIs related to Russia, according to Mr Iordanou it is based on economic and financial (as well as historical) relations with Russia, and is not directly related to taxation, acknowledging, however, that relations with Russia could be dealt with more transparent manner.

Mr Marcou replied to the question on the sustainability of developments in Cyprus from the macroeconomic point of view, given that deposits were 5 times over GDP in 2013, and since decreased, but only to a level of 3 times over GDP, that deposit level (around 75 billion, ½ belongs to foreign entities) is above GDP but it was not crucial to the economy, nor 'unhealthy' given that Cyprus is an international financial centre. And, following the crisis, substantial amounts were converted to stocks. From CIPA point of view, for high portion of non-performing loans in the banking system necessitated practical measures (selling property or other collaterals) to complement legislative measures.

Mr Iordanou explained that Cyprus is not offering tax accommodation, but helps to interpret the law, and there are no problems with tax rulings as administration is careful interpretation state aid. ICPAC added that companies providing administrative services have the responsibility to register other companies in Cyprus and law firms that provide such administrative services are supervised by the Bar Association, as are audit/accounting firms that provide administrative services supervised by the ICPAC.

16.00 - 17.30  
Meeting with trade unions
- the Cyprus Workers' Confederation (SEK)
  Christos Karidis, Head of Economics Research of the Confederation Department and the Secretary of the Association of Employed Consumers
- the Pan-Cyprian Federation of Labour (PEO)
  Nikos Grigoriou, Head of the Department of Economic and Social
Policy of PEO

Both representatives explained that it would be difficult to have a single tax policy in the EU, as taxation is left to sovereign states, according to them. They are against tax evasion and called for more tax transparency including businesses and shipping industry. They indicated that, due to economic specificities of Cyprus, (corporate) taxation is comparatively low. Amongst these specificities, they indicated the ongoing Turkish occupation and the purpose of the Special Contribution for Defence (tax) and that Cyprus did not receive any pre-accession assistance from the EU. Both trade unions were in favour of an enhanced tax transparency and tax justice, but indicated that a single taxation system at pan-EU level would not be easy to achieve, as each EU MS has created its own model and hence it would be difficult to draw a line at which all companies should be taxed, e.g. at the rate of 20%.

In their replies to 'Panama papers' related questions, both trade unions were satisfied with stricter rules that allow thorough investigations and more transparency and emphasised that they were strongly against tax evasion. Moreover, they complained that there was (still) a lot of bureaucracy and too slow movement from the government side. Cyprus has lost 10% of its GDP over the past few years and is among the top countries in non-performing loans. Unemployment is higher than 15% and long-term unemployment has seen the highest rise compared to all other European Member States. One young person out of three is currently unemployed and Cyprus has one of the highest emigration rates in the EU. Mr Grigoriou (PEO) stated that workers are obliged to pay their taxes, whilst companies can hide their income and have lower tax rates than 12.5%.

Mr Karidis (SEK) explained that social inequality was increasing in Cyprus, which was now in the 3rd worst position in the EU. Those involved in tax evasion were, according to SEK, stealing money from the group of people (normal citizens) that pay taxes; hence SEK is in favour of a fairer tax system and the distribution of the tax burden amongst workers and companies. He added that, although public finances are in a better shape, a broader tax reform would be key to development. Trade unions are asking the government and the parliament proceed with a tax reform, the last reform being in 2002. He moreover highlighted that the economic model of Cyprus needs to be diversified, because it is now heavily reliant on financial services, meaning that both manufacturing and agriculture sectors need to be developed.

Regarding contacts with trade unions in the occupied part of Cyprus, Mr Grigoriou (PEO) confirmed on-going collaboration and joint actions with the Turkish-Cypriots trade unions, mentioned e.g. a publication on a (possible) solution of the settlement and introduction of one currency. Mr Karidis (SEK) further added that they are also collaborating, and providing recommendations, such as on the social insurance schemes.
ANNEX 6: REPORT AD HOC DELEGATION WASHINGTON

TAXE 2 COMMITTEE
ad hoc Delegation
to the United States of America (Washington)
17-20 May 2016

Final Programme

Wednesday 18 May 2016

08.30 - 09.30 Meeting with Elise Bean, former Director and Chief Counsel of the Permanent Subcommittee on Investigations (ICRICT and the Levin Centre)

10.15 - 11.15 Briefing by the Congressional Research Service
Donald J. Marples, Specialist in Public Finance
Jane G. Gravelle, Senior Specialist in Economic Policy

11.45 - 12.15 Meeting with Orrin Grant Hatch, Chairman of the Senate Committee on Finance, President Pro Tempore of the Senate

12.45 - 14.15 Working lunch (finger food) with stakeholders co-organised with the Atlantic Council

16.00 - 17.00 Meeting with Sander Levin, Congressman, Ranking Member of the House Committee on Ways and Means, Richard Neal, Ranking Member of the Subcommittee on Tax Policy, Earl Blumenauer, Member of the House Committee on Ways and Means, Lloyd Doggett, Member of the House Committee on Ways and Means, Ranking Member of Subcommittee on Human Resources, Xavier Becerra, Congressman, Chairman of the House Democratic Conference and Ron Kind, Congressman, Member of the House Committee on Ways and Means

17.30 - 19.00 Meeting with Caroline D. Ciraolo, Acting Assistant Attorney General in charge of the Tax Division, Department of Justice (DoJ)
Thomas Sawyer, Senior Litigation Counsel for International Tax Matters and Todd Kostyshak, Counsel to the Deputy Assistant Attorney General for Criminal Tax Matters
Thursday 19 May 2016

9.30 - 10.45  Meeting with the US Department of the Treasury
Mark J. Mazur, Assistant Secretary (Tax Policy)
Robert Stack, Deputy Assistant Secretary (International Tax Affairs)

11.30 - 12.30  Meeting with the Tax Foundation
Scott A. Hodge, President of the Tax Foundation
Gavin Ekins, Research Economist
Stephen J. Entin, Senior Fellow
Scott Greenberg, Analyst

12.30 - 13.30  Working lunch (finger food) with academics/think tanks
John C. Fortier, Director of the Democracy Project, Bipartisan Policy Center
Shai Akabas, Associate Director of Bipartisan Policy Center, Economic Policy Project
Eric Toder, Co-director, Urban-Brookings Tax Policy Centre

14.00 - 15.00  Meeting with OXFAM America
Gawain Kripke, Director of Policy and Research
Didier Jacobs, Senior Economist
Nick Galass, leads on the Oxfam’s economic inequality research
Robbie Silverman, Senior Advisor

15.00 - 16.00  Meeting with International Monetary Fund (IMF)
Vicki Perry, Assistant Director in the Fiscal Affairs Department and Division Chief of the Tax Policy Division
Ruud De Mooij, Deputy Division Chief in the Tax Policy Division

16.00 - 17.00  Meeting with the International Consortium of Investigative Journalists (ICIJ)
Hamish Boland-Rudder, ICIJ’s online editor

17.30 - 18.30  Meeting with the World Bank
Jim Brumby, Director, Public Service and Performance, Governance Global Practice
Marijn Verhoeven, Economist, Governance Global Practice
Rajul Awasthi, Senior Public Sector Specialist in the Governance Global Practice (leads the tax policy and revenue administration workstream, primarily in the Europe and Central Asia (ECA) region)
Guggi Laryea, European Civil Society and European Parliament Relations Lead
List of Participants

Members

Alain LAMASSOURE, Chair  EPP
Danuta Maria HÜBNER        EPP
Markus FERBER               EPP
Pablo ZALBA BIDEGAIN        EPP
Jeppe KOFOD                S&D
Neena GILL                  S&D
Cătălin Sorin IVAN          S&D
Bernd LUCKE                 ECR
Cora VAN NIEUWENHUIZEN     ALDE
Fabio DE MASI               GUE/NGL
Eva JOLY                   Greens/EFA

+ Accompanying Staff
08.30 - 09.30  Meeting with Elise Bean, former Director and Chief Counsel of the Permanent Subcommittee on Investigations (ICRICT and the Levin Centre)

In her introduction, Elise Bean noted that Senator Carl Levin first hired her in 1985, to serve as an attorney on the US Senate Homeland Security and Governmental Affairs Committee. In 2003, she was appointed as Staff Director and Chief Counsel of the Permanent Subcommittee on Investigations. Ms Bean referred to investigations of the Subcommittee, notably: inquiries into offshore tax avoidance by Apple, Microsoft, and Caterpillar; undeclared UBS, LGT, and Credit Suisse accounts for wealthy US clients; and tax shelter sales by professional firms, including KPMG.

Ms Bean mentioned the recent hearing on business tax reform held by the Senate Finance Committee, which demonstrated politicians' willingness to engage in the reform of the US corporate tax system even before elections. In this context, Ms Bean explained that the Treasury Department had finalised its ‘customer due diligence’ rule, which requires, as of 2018, financial institutions – banks, mutual funds and others – to ascertain and verify who actually owns and profits from the companies that make use of their services, in other words the ‘beneficial owner’. She emphasised, however, that the Obama Administration’s new ‘customer due diligence’ rule appears to permit new loopholes for shell companies created for purposes of tax dodging, given that the rule allows financial institutions to identify a manager as the company’s ‘beneficial owner’ even when that manager has no true ownership role in the company. The definition of ‘beneficial owner’ as any individual who owns 25% or more of the equity interests, and the possibility that a single individual with ‘significant responsibility’ can control the entity, may allow the real owners to hide behind an executive who can serve as a 'figurehead'. This definition, she said, may undo the work that some banks have already completed by developing systems to verify owners of shell companies seeking to open accounts. In fact, according to her, the rule weakens US anti-money laundering safeguards and makes it easier for terrorists, money launderers, tax evaders, and other wrongdoers to open US accounts without revealing their identity. Moreover, Ms Bean explained that the definition in the rule differs from that in the Proposed Incorporation Transparency & Law Enforcement Assistance Act (that requires the Treasury and the states to collect, maintain and update beneficial ownership information on legal entities for law enforcement purposes), thus causing further confusion. The rule does not extend the same due diligence requirements on accounts opened before its implementation as of 2018 (no retroactivity), creating what she called ‘a major gap’ in the information collected. Apart from drawing attention to certain US states, such as Delaware, Nevada or Wyoming, as being havens for shell companies, Ms Bean also mentioned South Dakota as a state hosting a vast number of trusts. She also explained that the Obama Administration was implementing the OECD BEPS action No 13 on country-by-country reporting, and was hoping to complete it before the end of the presidential term.

Regarding the Foreign Account Tax Compliance Act (FATCA), which requires financial institutions to disclose data to the Inland Revenue Service (IRS) on any large financial

1 The Permanent Subcommittee on Investigations was originally authorised by Senate Resolution 189 of 28 January 1948. Website: https://www.hsgac.senate.gov/subcommittees/investigations/media/permanent-subcommittee-on-investigations-historical-background
accounts held by US taxpayers or by foreign entities in which US taxpayers hold a substantial ownership interest, Ms Bean shed some light on the problems regarding reciprocity, i.e. the US would not share as much data as it requires from its FATCA partners. For example, the US will not be providing account balances and will not give information on all US source income - just on certain kinds within the limits of US law. The FATCA law does not lay down threshold amounts for the accounts, as it requires all accounts belonging to US persons to be disclosed to the IRS. However, the regulations and intergovernmental agreements implementing the FATCA created thresholds. Hence, according to Ms Bean, the highest threshold – USD 400 000 for a couple living outside the US\textsuperscript{1} – should be lowered.

In reply to criticisms from certain US politicians suggesting that endorsement of the EU state aid rules would focus particularly on US companies, Ms Bean stated unequivocally that all have the right to enforce their laws, and went on to say that such investigations seem to be based on factual matters, referring to the ‘Apple case’ that she had been involved in on the Permanent Subcommittee on Investigations.

She further stated that corporate tax avoidance should be tackled by putting an end to the deferral and inversion loopholes in the US corporate tax system, as active earnings/profits are generally not taxed until repatriated to the US. Thus, active foreign earnings are deferred from taxation until the earnings are remitted back to the US, at which point in time US corporate tax must be paid. However, taxes are reduced thanks to credits claimed for foreign taxes paid to other countries as well as other tax benefits, such as operating losses that the corporation may carry forward into future tax years or backward into prior tax years. The United States taxes the ‘worldwide’ income of domestic corporations, regardless of where the income is earned: this differs from the ‘territorial’ taxation system in which only the source country has jurisdiction over tax profits deemed to arise there.

In reply to questions by Members, Ms Bean explained that corporate rules in the US are set mainly at the state level, and many states do not require companies to disclose beneficial owners. As a result, the administration could only use existing bank secrecy regulations to go after shell companies.

She further explained in response to Members’ comments that the ‘Luxleaks’ scandal had not been ‘heard’ in the US. However, she acknowledged that the ‘Panama papers’ scandal represented another wake-up call regarding the need to put an end to corporations with hidden owners. She referred to a Global Witness undercover investigation broadcast recently (by the US news programme ‘60 Minutes’ - see link in footnote\textsuperscript{2}) that demonstrated that US lawyers often suggest using anonymously-owned American companies in order to channel suspect (taxes) funds into the country.

She also said that the Levin Center (at Wayne State University Law School in Detroit) is organising training courses in the area of better parliamentary oversight and inquiry. Ms Bean added that she is very much in favour of public country-by-country reporting, taking the view

\textsuperscript{1} Reporting by U.S. Taxpayers Holding Foreign Financial Assets :  

\textsuperscript{2} http://www.cbsnews.com/news/anonymous-inc-60-minutes-steve-kroft-investigation/
that the impact on banks and financial institutions had been positive and that the same kind of reporting would be needed for multinational companies.

10.15 - 11.15  Briefing by the Congressional Research Service
Donald J. Marples, Specialist in Public Finance
Jane G. Gravelle, Senior Specialist in Economic Policy

The Congressional Research Service (CRS) works exclusively for the United States Congress, providing policy and legal analysis to committees and members of both the House and the Senate, regardless of party affiliation.

Ms Gravelle explained that reducing profit shifting and reforming the international tax system in the US and worldwide may involve a number of policy considerations and tradeoffs in the US. Some tax reform proposals have focused on broadening the tax base and lowering the rates of both individual and corporate income taxes. As regards efficiency, the current tax system favours the non-corporate sector overall. The corporate statutory tax rate of 35% tends to be higher than the average marginal statutory rate for non-corporate business, which is estimated to average around 27%. For example, of the USD 1.2 trillion in overseas profits reported by US companies in 2012, USD 600 billion was attributed to so-called tax havens: Bermuda, Ireland, Luxembourg, the Netherlands, Singapore, Switzerland, and the Caribbean islands dependent on the UK.

Ms Gravelle argued that it is the current US corporate tax rate and the general approach to taxing US multinational corporations (MNCs) that are encouraging companies to shift profits and keep money abroad.

In reply to the question related to 'stateless income/tax avoidance', Mr Marples explained that an important reason behind MNCs being able to pay such low rates is that they are allowed to avoid an estimated USD 695 billion in taxes on the USD 2.4 trillion that they hold offshore. In other words, the real problem with the tax code is not that US multinationals are paying too much, but rather the fact that they are allowed to avoid so much in taxes.

Ms Gravelle in her reply explained that despite of the real differences between the tax systems of the EU (territorial) and the US (worldwide), no major economy has a pure worldwide or a pure territorial tax system. The US system, in theory, taxes American corporations on their worldwide (or resident-based) income. She emphasised that transfer pricing manipulation can also theoretically be used to shift what is actually US source income to subsidiary corporations based in offshore tax havens. To avoid potential transfer pricing penalties, one avenue available to companies may be to obtain an advance pricing agreement (APA), either with the IRS (unilaterally) or with the IRS and another tax authority (bilaterally), covering inter-company pricing. While the US generally follows a ‘worldwide’ approach, corporations are typically allowed to defer paying taxes on income earned abroad until that income is brought home, or repatriated, in the form of a dividend payment to the US parent. Countries that have territorial tax systems generally also have some type of anti-abuse provision to protect their tax bases. Mr Marples noted that while it is true that the US statutory tax rate is 35%, the wide swath of loopholes and breaks allow large profitable US companies to pay closer to 19.4% on average, with many companies paying nothing at all. Statutory tax rates
only tell part of the story. There is, however, an unsettled debate over whether and by how much the effective corporate tax rate in the US is higher than effective tax rates outside the US. Effective tax rates measure how much businesses really pay after all deductions and credits have been considered.

Ms Gravelle estimated that a total in profits to the sum of USD 2.6 billion remains to be repatriated eventually. She raised some concerns regarding intangible assets (such as those of Starbucks or Google), noting that if a ‘true’ arm’s length policy were adopted, most of the profit would be due in the US. In the case of Google, she was of the view that the UK decision was based on confusion over profits.

Ms Gravelle further noted that there are eight US states that could be considered as tax havens (but a federal level taxation remains). She highlighted the difference from, for example, Bermuda, where the problem is non-taxation, and went on to explain that the factors that make a country a successful tax haven include: low or non-existent tax rates applicable to foreigners; strict banking and financial secrecy laws; and a highly developed financial, legal and communications infrastructure. She argued that at the heart of the tax haven issue is the discrepancy between real economic activity and economic activity that is only apparent. She further stressed that the US is widely recognised as a leading source of offshore money: it emerged from the Union Bank of Switzerland tax evasion scandal that, at that bank alone, US clients had almost 20,000 Swiss-based accounts.

Ms Gravelle also explained that current law allows taxes to be deferred on income earned abroad until that income is repatriated to the US. Along with deferral, another basic feature of the US system is the foreign tax credit. The US taxes worldwide income on either a current or deferred basis, but it also allows credits for foreign taxes paid on a dollar-for-dollar basis against US taxes otherwise owed. Under the current US system, taxes on corporate profits at the individual level (dividends and capital gains) tend to be collected (thanks to tax treaties) on a residence basis. Deferral benefits US corporations because delayed taxes are reduced due to the time value of money. In the extreme, deferral could allow an American corporation to completely avoid US taxation on foreign source income if it never repatriates its overseas income, either because the income is being held abroad in financial assets or because it has been permanently reinvested (for example in plant and equipment). The income earned by foreign branches of US corporations, however, cannot be deferred. The credit is generally limited to the amount of taxes a corporation would pay in the credit’s absence, which is effectively just the US corporate tax rate multiplied by the amount of income earned abroad. In other words, a US corporation may claim foreign tax credit up to the point that reduces its US tax on foreign-earned income to zero, but no further. Concerning beneficial ownership, Ms Gravelle noted that eight US states do not require beneficial ownership information.

Finally, Ms Gravelle stated that it is unlikely that any major overhaul would happen before the US elections, but that reform needs to be budget-neutral, as the same level of revenue needs to be raised somehow. The principle of tax neutrality – that a tax system should neither encourage nor discourage specific economic decisions – prevails across the political spectrum. However, regardless of whether the US reforms its international tax system by following the territorial trend or by strengthening its worldwide system, all parties need to recognise more fully the importance of the high corporate tax rate, as tax reform proposals that do not reduce it will not substantially improve the position of US-based firms.
11.45 - 12.15 Meeting with Orrin Grant Hatch, Chairman of the Senate Committee on Finance, President Pro Tempore of the Senate

Orrin Grant Hatch, the most senior Republican member of the US Senate, was first elected to the Senate in 1976 and was most recently re-elected in 2012. He became the President Pro Tempore of the Senate on 6 January, 2015, and is also the longest-tenured Republican on the Senate Judiciary Committee. In the US Senate 2015-2016, Senator Hatch is a member of the Joint Committee on Taxation.

In his introductory remarks, Mr Hatch referred to the ongoing work of five separate bipartisan Finance Committee Tax Working Groups aimed at spurring comprehensive congressional tax reform efforts in the 114th Congress.

Mr Hatch was of the opinion that both Europeans and the US face the same situation, i.e. corporate taxation rules are outdated worldwide. An exchange of views with Mr Hatch, amongst others, was held on the OECD’s Base Erosion and Profit Shifting (BEPS) process, and included country-by-country reporting, the increased importance of transparency with a view to ensuring that profits are taxed where they are created, and ‘tax havens’ (also with reference to some US states).

Moreover, Mr Hatch had some concerns over the European Commission’s recent efforts on enforcement of state aid rules, stating that there was a general view in the US that all investigations were, in fact, focused on US firms. He further stated that of the five cases, 4.5 concerned US companies (the remaining 0.5 being Chrysler’s share in the Fiat case).

Mr Hatch was interested in the discussions related to TTIP and the possibility of including certain references to good governance on taxation (the chapter on investment protection was indicated by Members in this context as a possible way forward). In this context, the debate on the Trade Promotion Authority (TPA), which aims to ensure partnership between Congress and the administration in terms of bringing greater transparency to the negotiating process and ensuring that the US secures the most effective trade agreements possible.

Mr Hatch welcomed a proposal to engage in exchanges of views on these matters with MEPs on a regular basis.
12.45 - 14.15 Working lunch (finger food) with stakeholders co-organised with the Atlantic Council

Source: http://www.atlanticcouncil.org/

The Atlantic Council promotes constructive leadership and engagement in international affairs, based on the Atlantic Community’s central role in meeting global challenges. The Council provides an essential forum for navigating the dramatic economic and political changes defining the twenty-first century, by informing and galvanising its uniquely influential network of global leaders. The Council has administered programmes to examine political, economic as well as security issues to cover Asia, the Americas and other regions in addition to Europe. All its programmes are, however, based on the conviction that a healthy transatlantic relationship is fundamental to progress in organising a strong international system.

Participants invited by the Atlantic Council:

- Anders Aslund, Resident Senior Fellow, Dinu Patriciu Eurasia Center, Atlantic Council
- Gianni Di Giovanni, Chairman of Eni USA R&M, Eni
- The Hon. Boyden Gray, Founding Partner, Boyden Gray& Associates
- Jillian Fitzpatrick, Director, Government Affairs and Public Policy, S&P Global
- Marie Kasparek, Assistant Director, Global Business and Economics Program, Atlantic Council
- Benjamin Knudsen, Intern, Global Business and Economics Program, Atlantic Council
- Jennifer McCloskey, Director, Government Affairs, Information Technology Industry Council
- Susan Molinari, Vice President, Public Policy and Government Affairs, Google
- Andrea Montanino, Director, Global Business and Economics Program, Atlantic Council
- Álvaro Morales Salto-Weis, Intern, Global Business and Economics Program, Atlantic Council
- The Hon. Earl Anthony Wayne, Non-resident Fellow, Atlantic Council
- Alexander Privitera, Senior Fellow, Johns Hopkins University
- Bill Rys, Director, Federal Government Affairs, Citigroup
- Pete Scheschuk, Senior Vice President, Taxes, S&P Global
- Garret Workman, Director, European Affairs, US Chamber of Commerce

During the working lunch, delegation members shortly presented the work and the objectives of TAXE2 Special Committee, as well as the European Parliament’s initiatives vis-à-vis the fight against corporate tax avoidance.
Meeting with Sander Levin, Congressman, Ranking Member of the House Committee on Ways and Means, Richard Neal, Ranking Member of the Subcommittee on Tax Policy, Earl Blumenauer, Member of the House Committee on Ways and Means, and Lloyd Doggett, Member of the House Committee on Ways and Means, Ranking Member of the Subcommittee on Human Resources, Xavier Becerra, Congressman, Chairman of the House Democratic Conference, and Ron Kind, Congressman, Member of the House Committee on Ways and Means

Mr Levin said that the US has made progress in some areas of tax reform, but just like the Europeans, the US lags behind the international community in the fight to ensure transparent corporate ownership. He acknowledged that there is a need for more discussion among the partners, as there is no way Europe or the US can solve this issue on their own. In this context, he referred to tax competition and stressed that some corporate income is not taxed anywhere. However, he was of the view that singling out US companies would certainly not increase appetites for closer cooperation. He stated that several US companies were leaders in tax evasion, and considered the OECD recommendations to be very modest. However, he insisted that if tax competition to have the lowest tax rates and wages continues, both the EU and the US would be losers in this game. He recognised that the EU has been somewhat more flexible over the past years, as it is not a territorial issue as such. In this context, he referred to beneficial ownership, and stated that a recently announced US banking regulation requires US banks to obtain the identity of the beneficial owner of any legal entity holding an account.

There is also a need for overall international tax reform in the face of rising income inequality, Mr Levin said, referring to the opinion of the citizens, as US multinationals are estimated to hold USD 2.4 trillion offshore, deferring payment of taxes totalling USD 700 billion. He went on to stress that no country can keep cutting taxes and still provide the infrastructure and the government services its citizens need.

During the exchange of views, the discussion touched upon the bilateral tax treaties between the US and the EU (Member States), the investment chapter of the TTIP negotiations (with a view to adding text on corporate taxation), the ‘Panama papers’, and the possibility of facilitating cooperation between the parties.

International tax reform poses a number of difficult questions about how profits should be allocated among subsidiaries of multinational corporations that manufacture and sell goods in a number of jurisdictions: Mr Levin stressed that at all events those profits should be taxed somewhere. He cited the case of Apple as an example of tax planning abuse which he had witnessed during his time in the Senate. Mr Levin gave the example of a 2013 investigation by the US Senate Permanent Subcommittee that discovered that Apple had three subsidiaries in Ireland, each of which claimed it had no tax residency anywhere. Having no tax residency anywhere is the holy grail of tax dodging. Moreover, he referred to the need to work together against manipulation of currencies, signalling out China in this context.

He concluded that if combating tax avoidance cannot be done through international cooperation, countries such as the US should take unilateral action to address the problem. Regarding the G7/G20 and the OECD, Mr Levin agreed that it is time to implement what has been agreed within the G20 framework. Hence, he suggested that both sides should continue
to be in touch on a regular basis on these issues.

Mr Becerra referred to Hollywood (his congressional district is in Los Angeles), and specified the need to collect public revenues from MNCs that are ‘stateless corporations’ and do not contribute to the US economy. These companies’ corporate income is not taxed anywhere, and such tax advantages limited to certain big companies harm business in general, as they do not operate in a level playing field. Mr Kind referred to the perceptions of citizens in both the EU and the US regarding MNCs using tax havens and creating unfair tax competition.

17.30 - 18.30  Meeting with Caroline D. Ciraolo, Acting Assistant Attorney General in charge of the Tax Division, Thomas Sawyer, Senior Litigation Counsel For International Tax Matters, and Todd Kostyshak, Counsel to the Deputy Assistant Attorney-General for Criminal Tax Matters, Department of Justice (DoJ)

Ms Ciraolo introduced the Tax Division, which represents the US in virtually all litigation - civil and criminal, trial and appellate - arising under the internal revenue laws, in all states and federal courts except the United States Tax Court. It authorises, and either conducts or supervises, almost all prosecutions arising under the federal tax laws. It assists the Internal Revenue Service (IRS) in effectively enforcing the tax laws, as well as its investigations (the IRS is the investigative agency). The Tax Division also prosecutes criminal violations of the revenue laws. In this context, Ms Ciraolo mentioned the Memo of September 2015¹, which guides attorneys on corporate settlements and includes eligibility criteria for any credit when it comes to cooperation relating to a case of corporate misconduct. In settlement negotiations, companies will not be able to obtain credit for cooperating with the government unless they identify employees and turn over evidence against them, ‘regardless of their position, status or seniority’.

By law, the IRS cannot disclose IRS audit results, but, despite this, according to the speaker, the Tax Division’s tax litigation receives wide media coverage, leading to a significant multiplier effect on voluntary compliance.

Ms Ciraolo argued that the Tax Division has a role in improving legislation by submitting to Congress proposals for legislative amendments to ensure that the government’s litigating positions are consistent with applicable law and policy. The measures that are currently taken include prosecutions of taxpayers who seek to conceal foreign accounts and money-laundering prosecutions. On the issue of beneficial ownership, she referred to the recent Treasury’s Customer Due Diligence (CDD) Final Rule for financial institutions. The US Treasury has announced measures to address critical vulnerabilities in the US financial system, following actions taken by other countries in response to the ‘Panama papers’ disclosures. Moreover, she indicated that, in parallel, the Administration has announced that it will propose legislation that would require beneficial ownership information to be reported to

¹ https://www.justice.gov/dag/file/769036/download
FinCEN,1 effectively creating a registry of such information, which would enhance AML and anti-corruption enforcement.

With respect to the question whether certain US states share information with the IRS, Mr Sawyer referred to information-sharing programmes in place between the IRS and federal, state and municipal governmental agencies that are aimed at enhancing voluntary compliance with tax laws. In this context, Mr Kostyshak referred to the need to ensure the protection of taxpayer confidentiality (privacy) rights.

In reply to Members’ questions on the ‘Panama papers’ leak, Mr Kostyshak noted that the US Department of Justice has launched a criminal investigation into international tax avoidance schemes uncovered by this leak.

The Tax Division continues to play a lead role in investigations and prosecutions involving the use of foreign tax havens. In this context, Ms Ciraolo referred to, for example, UBS AG, Switzerland’s largest bank, which was providing banking services to US customers with undeclared accounts. A prosecution agreement amounting to USD 780 million in fines, penalties, interest and restitution was reached with this economic operator. The Tax Division continues to prosecute UBS clients, using information obtained through the deferred prosecution agreement. She also explained that the Voluntary Disclosure Initiative, concerning unreported offshore accounts, resulted in an unprecedented number of taxpayers, almost 15 000, attempting to ‘return to the fold’ and paying back taxes, interest and penalties due, probably totalling at least some hundreds of millions of dollars.

Ms Ciraolo clarified that the Treasury/IRS (or anyone else) may draft regulations, but the introduction of new legislation is ultimately a matter for Congress. Regarding tax law, the Treasury/IRS can issue a regulation (which has the force of law). Recently the Treasury and the IRS proposed regulations to further reduce the benefits and limit the number of corporate tax inversions, including by addressing earnings stripping.

With respect to a question on Delaware, Ms Ciraolo replied that both the Tax Division and the IRS seek whatever information is available, but there is not much at the state level, as many states do not generally have/collect much information of this kind. Some states are very cooperative, others less. With regard to Nevada, she considered that it was ‘an active jurisdiction for a lot of investigations’.

Ms Ciraolo explained that the IRS Whistleblower Office pays money to people who blow the whistle on persons who fail to pay the tax that they owe. If the IRS uses information provided by the whistleblower, it can award the latter up to 30 % of the additional tax, penalty and other amounts it collects. Given that proceedings may take years - this includes appeal rights, which are prerequisites for the payout of a whistleblower award - there is now a proposal that the IRS Whistleblower Office should send annual letters to whistleblowers to notify them that the IRS still has their claim under consideration. She also noted that such a programme is expensive and requires many resources, given that the IRS office receives thousands of claims.

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1 A United States person that has a financial interest in or signature authority over foreign financial accounts must file an FBAR (Report of Foreign Bank and Financial Accounts) if the aggregate value of the foreign financial accounts exceeds USD 10 000 at any time during the calendar year.
each year, many of which are not actionable because the information is not specific or credible or is already known by the IRS. However, she also highlighted the successes of the programme in tax collection, noting that since 2007 it has enabled the IRS to collect over USD 3 billion in tax revenue. As the IRS is preparing a new study on the tax gap1 (the last study, in 2006, estimated the average annual tax gap for 2008-2010 to be USD 458 billion), Ms Ciraolo wondered whether it will show any evolution, and if so of what kind.

Thursday 19 May 2016

9.30 - 10.45 Meeting with the US Department of the Treasury
Mark J. Mazur, Assistant Secretary (Tax Policy)
Robert Stack, Deputy Assistant Secretary (International Tax Affairs)

Mr Stack started the meeting by acknowledging that the work done by the EP was excellent and that he was working in close cooperation with the European Commission (EC). He also stated that within the OECD/G20 BEPS process, the EC and the US have an agreement on the main lines, but also have some differences. The US is committed to complying with the four minimum standards, notably on 'country-by-country reporting' (CbCR), 'Treaty shopping', 'patent boxes' and 'hybrid mismatch arrangements'.

As regards the Deductibility of Interest, which certain MNCs use for tax avoidance by lending within the group more than their entities earn, Mr Stack noted that the US has proposed 10 % (although, the OECD/BEPS allow countries to fix their cap in a ‘corridor’ between 10 % and 30 % of the earnings before interest, taxes, depreciation and amortisation (EBITDA)).

As regards country-by-country Reporting, the Obama Administration was currently implementing BEPS Action 13. All multinationals will be required to file their CbCR. He insisted that the US Administration was also working with the EU and the OECD to match the timelines (January 2016 data would be made available).

Regarding effective anti-abuse provisions in all tax treaties, he indicated that the US is following the new OECD model in bilateral treaties, but inclusion of such provisions from the existing treaties in the proposed Multilateral Convention (MC) would require approval by the Senate. He insisted that the US has the strongest anti-treaty shopping provisions and that the US cannot be used as a way to treaty-shop. According to him, a strong and effective CbCR programme would provide the IRS with an important tool to identify situations involving not only potential transfer pricing issues, but also the potential application of judicial concepts, such as determining whether income is effectively connected with business activities conducted in the US. The CbCR would be provided with the Foreign Account Tax Compliance Act (FATCA) partners.

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1 https://www.irs.gov/uac/the-tax-gap
Mr Stack was of the view that the EU does not have effective CFC rules, because of the ECJ Cadbury Schweppes Ruling,1 and that developing countries were in some way 'victims' of it.

Furthermore, in reply to Members, Mr Stack explained the difference between regulation and bills etc., saying that the holes in legislation are filled by rules, which build up around legislation, and added that tax laws (due revenue impact) have to go through both Houses.

Mr Mazur stated that the President's proposals may be part of the Budget proposal (which may cover several legislative proposals that have an impact on, for example, budget appropriations) or a single, stand-alone proposal for tax legislation. Generally, such legislative proposals cannot be made retroactively, as they are part of the budget proposal, which is annual or otherwise timelined.

In answer to questions from Members, Mr Stack indicated that big MNCs are 'permanently investing' their profits, so they do not need to declare them as taxable earnings in the US tax declaration. According to him, this treatment gives them an incentive to keep money 'offshore', and not to repatriate profit to the US. The US system is 'quasi territorial', as the system is based in part on a residence principle, applying US taxes on a worldwide basis to US firms while granting foreign tax credits to alleviate double taxation. The system, however, also permits US firms to defer foreign-source income indefinitely—a feature that approaches a territorial tax jurisdiction.

Mr Stack indicated that the problem of tax havens such as Bermuda was 'solved' by exchange of information, and continued that there was an enormous variety of tax rates, referring to certain EU Member States, such as Ireland, Luxembourg and the Netherlands.

Regarding disclosure of country-by-country reporting to the public, Mr Stack underlined that within the OECD framework, the information was meant for the tax administrations only. Hence, the EU's proposal would create a disadvantage and remove all incentives for the US to cooperate. He also emphasised that the problem is future cooperation with other OECD members, and that this would give them an excuse to do whatever they wished, not necessarily going beyond BEPS, but certainly harming comprehensive implementation. He was 'laughing' about the EU proposal to include tax havens in the proposal, as exchange of information would not help. He stated that the US is drafting rules to prohibit keeping earned income in those tax havens. Mr Stack also questioned whether a policy change only two days after the Panama Papers leak was the right thing, since it did not follow the line of the US Administration.

Mr Stack emphasised that the US was not against public reporting, but that business criticised it without making a strong case against it, and that the US could block it in the OECD – but that the EU's proposal harmed the 'consensus' method as, even if a 'consensus was achieved,

Judgment - 12/09/2006 - Cadbury Schweppes and Cadbury Schweppes Overseas
Case C-196/04
the EU later on decided to go its own way’. The information is meant for the tax administrations as a risk assessment tool and should be kept confidential (referring to China and some other countries that would be using it for their own purposes).

Mr Stack, in reply to a question related to Delaware, explained that state law regulates Limited Liability Companies (LLCs) and determines whether single-member LLCs are allowed, and that depending on choices made by the LLC and the number of members, the IRS will treat an LLC as either a corporation, a partnership, or part of the owner's tax return (a ‘disregarded entity’). Specifically, if a single-member LLC does not choose to be treated as a corporation, the LLC is a ‘disregarded entity,’ and the LLC's activities should be reflected in its owner's federal tax return. Moreover, Mr Stack noted that ‘trusts are different for federal tax purposes, for reasons not quite understood by the Treasury’.

Mr Mazur, on the subject of inversion – the practice of re-incorporation in low-tax countries – hinted at various MNCs trying to break up business entities such as Pfizer. The new rules, the government’s third wave of administrative action against inversions, would, according to him, make it harder for companies to move their tax addresses out of the US and then shift profits to low-tax countries using a manoeuvre known as 'earnings stripping'. Moreover, Mr Mazur added that the misuse of companies to hide beneficial ownership is a significant weakness in the US anti-money laundering/counter financing of terrorism regime that could only be resolved by legislative action, and that a proposal is now under the consideration of Congress.

Last but not least, Mr Mazur complained that the state aid investigations carried out recently by the European Commission were focused on US companies, stating that even the FIAT case was largely American (Chrysler part).

11.30 - 12.30 Meeting with the Tax Foundation
Scott A. Hodge, President of the Tax Foundation
Gavin Ekins, Research Economist
Stephen J. Entin, Senior Fellow
Scott Greenberg, Analyst

Mr Hodge introduced the Tax Foundation, stating that it was oldest NGO in the US working on tax policy advocacy both at the federal and state levels. Corporate taxation is a highly competitive tool, when MNCs are seeking opportunities to reduce taxes; however, he indicated that more tax competition is needed between countries. He explained the differences as regards the effective tax rate and the statutory tax rates in the US. He was of the view that Congress was not focused enough to create a US tax system for the 21st century, as over the years the federal tax code has expanded dramatically in size and scope and tax complexity creates big costs for American households and businesses. He stated that the TAXE Committee’s work is valuable, as it brings more transparency and public debate.

Mr Entin explained that it is now well known that the US has the highest corporate income tax among the leading industrialised nations – economists have determined that the US has the third highest corporate income tax among the 165 nations surveyed. Only Chad and the United Arab Emirates levy a higher corporate tax rate than the US. He stated that the US taxes foreign-source income at a much lower effective rate than it taxes domestic source income of US multinationals. Regarding tax rates, Mr Hodge referred to the OECD study and compared US effective tax rates with those of France and Germany, demonstrating that US tax rates
were much higher.

Regarding the question on Delaware, he indicated that there are many companies but they are not only there for tax purposes. Moreover, Delaware is not the only US state offering easy access to those looking to create an anonymous corporate entity, with Wyoming, Nevada, California and others also being implicated in such practices. Mr Ekins explained that the US tax code treats corporations differently from other forms of business. Specifically, corporate income is subject to two levels of taxation: once at the entity level, through corporate income tax, and once at the individual level, through individual income tax. However, income earned by pass-through businesses, such as partnerships, is not subject to any entity-level taxes, and is only taxed through individual income tax. He clarified further that, for example, 'S-corporations' are taxed in a different way from corporations. He also pointed to the problem of it being difficult to define where corporate income is generated if production is in one country, but components are made in several other countries and the final product could be consumed in other counties.

With reference to the presidential election process, some of ideas of the candidates were criticised by the Tax Foundation, in that it would bring in revenue, but not necessarily economic growth. Mr Entin referred also to the recent proposal from Senator Hatch regarding a move from corporate tax to the shareholder. However, he added that the US has a highly progressive income taxation system in comparison with other OECD countries. According to him, deferral creates an additional problem, however, because it encourages US multinationals to retain foreign profits overseas instead of repatriating them to the US parent company. The result is that US multinationals in recent years have accrued an estimate of over USD 2 trillion in overseas assets.

Mr Entin explained inversion used by MNCs by acquiring a very small foreign company, then moving the joint headquarters abroad. He indicated that the Treasury is changing the interpretation of the so-called 80/20 rule and is discouraging inversions by tightening the rules governing intra-company loans to prevent what is known as ‘earning stripping’.

Mr Hodge summed up and stated that a corporate tax reform that reduces the corporate tax rate and moves toward a competitive territorial tax system would not only discourage inversions, but also would encourage investment and create jobs. He was also of the view that definitions should be harmonised and that the 'Arm’s length' principle on transfer pricing was not a correct measure.

12.30 - 13.30 Working lunch (finger food) with academics/think tanks
John C. Fortier, Director of the Democracy Project, Bipartisan Policy Center
Shai Akabas, Associate Director of Bipartisan Policy Center Economic Policy Project
Eric Toder, Co-director, Urban-Brookings Tax Policy Center

Source: http://bipartisanpolicy.org/about/who-we-are/

The Bipartisan Policy Center is a non-profit organisation that combines the best ideas from both parties to promote health, security and opportunity for all Americans. BPC drives principled and politically viable policy solutions through the power of rigorous analysis, painstaking negotiation and aggressive advocacy.
The Tax Policy Center is a joint venture of the Urban Institute and Brookings Institution. The centre is made up of nationally recognised experts in tax, budget, and social policy who have served at the highest levels of government. TPC provides timely, accessible analysis and facts about tax policy to policymakers, journalists, citizens and researchers.

During the discussion, Members learned about the views of the invited experts on the ongoing elections and on how the US corporate tax system may be reshaped on the basis of the proposals of the candidates.

14.00 - 15.00 Meeting with OXFAM America
Gawain Kripke, Director of Policy and Research
Didier Jacobs, Senior Economist
Nick Galass, leads on the Oxfam's economic inequality research
Robbie Silverman, Senior Advisor

Mr Silverman introduced Oxfam America actions regarding corporate taxation, notably stating that it is examining why and how approaching tax responsibility beyond legal compliance benefits companies and the developing countries in which they operate. He referred to their research study that concluded that the 50 biggest US businesses have USD 1.4 trillion held offshore, while overall the use of tax havens allowed US firms to reduce their effective tax rate on profits from the US headline rate of 35% to an average of 26.5% between 2008 and 2014. He stated that for every USD 1 spent on lobbying, these 50 companies collectively received USD 130 in tax breaks, although noting that it was difficult to obtain facts on federal lobbying. Moreover, he stated that Oxfam estimates that tax avoidance by US corporations costs the economy some USD 111 billion a year, but it was also fuelling the global wealth divide by draining USD 100 billion from the poorest countries.

Mr Silverman explained the dysfunction of the corporate taxation system with multiple levels, referring to two sets of rules for MNCs and others for SMEs. He stated that almost no company pays the US headline rate of 35% but on average only 26.5%. He called therefore for increased transparency and mentioned country-by-country reporting. He was of the view that the EU's threshold of a turnover above EUR 750 million was too high. He noted that 'beneficial ownership' was a key priority and explained that the Obama Administration has proposed legislation in this regard with some shortcomings, for example, concerning the control test.

Mr Jacobs also singled out some African countries and loopholes in corporate taxation systems worldwide that allow US firms to seek to reduce their tax bill by 'profit-shifting'. He was also of the view that, regarding 'beneficial ownership', there should be a test to check who is the person responsible for controlling the money, and the proposal of the Obama Administration does not include trusts. Moreover, he stated that US companies report to the US Treasury, and the US Treasury provides information to those countries that have signed up to the FATCA. However, a problem arises regarding the exchanged information, as there is no (full) reciprocity from the US side.

Mr Silverman called for the EU to push forward and eventually get the US on board. He
therefore agreed that it is important to have a joint agenda between the US and the EU. Regarding the Panama Papers, he indicated that it was difficult to determine what was legitimate and what was not, hence transparency would be a key priority also for legitimate uses of tax havens, referring to Delaware, which offers certain benefits to businesses. He emphasised the need for further efforts to engage developing countries in the OECD framework.

15.00 - 16.00 Meeting with the International Monetary Fund (IMF)

Vicki Perry, Assistant Director in the Fiscal Affairs Department and Division Chief of the Tax Policy Division

Ruud De Mooij, Deputy Division Chief in the Tax Policy Division

According to Ms Perry, changes and behaviours mirror those of other countries and hence it is likely that the US will make a shift to direct tax on investments. She mentioned the tax incentives, such as tax holidays for foreign direct investments, that need to be examined at both ends. Regarding tax evasion and tax planning, Ms Perry indicated that they require skills. Taxes should be paid where value is created, and there should be a balance between the right of sovereign states to decide on corporate taxation and tax competition between countries.

Mr De Mooij explained that the BEPS process is relevant to developing countries and that there is a platform for elaborating a ‘tax toolkit’ for BEPS implementation in developing countries in compliance with the OECD framework. International organisations are collaborating on a full range of issues and providing technical assistance to developing countries. As for developing economies, strengthening domestic tax systems is urgent owing to declining development assistance. While public revenues would need to be recovered from domestic sources, strengthening tax compliance is necessary with due consideration to countries’ differing circumstances. He explained that some of the strategies that multinationals use to reduce their tax liabilities – notably base erosion and profit shifting – would be likely to have a big impact if they could, somehow, be quantified. He added that Google, Starbucks and other household names have famously managed to pay very little corporate tax. This issue is not just a concern for advanced economies, however, and it is likely to represent an even greater concern for developing countries.

Ms Perry indicated that the OECD has set the standards, but it is not clear how they will be implemented, as they are very technical. She condemned the fact that the negotiations at the OECD were among the developed countries. She noted differences in corporate taxation policies and tax competition, in whether taxation is at the corporate level or based on income from capital. Rates of corporate income taxation, however, have been reduced more often than increased. She noted that taxation is rarely far from the news, but it has seldom been so central to public debate, in so many countries, as it is now.

16.00 - 17.00 Meeting with the International Consortium of Investigative Journalists

Hamish Boland-Rudder, ICIJ’s online editor

Mr Boland-Rudder explained the investigations carried out by the International Consortium of Investigative Journalists (ICIJ), referring to the ‘LuxLeaks’ case and to the Panama Papers, a case in which the German-based newspaper Süddeutsche Zeitung oversaw the probe. The
Panama Papers investigation has had a massive global impact as, for example, it led to the resignation of Iceland’s prime minister, official investigations were opened worldwide and an immediate censorship drive was instituted in China. He mentioned also that the OECD had started a tax investigation in France. Following the Panama Papers, OECD countries seem to have strengthened their collaboration, and some governments are now even meeting bilaterally.

Mr Boland-Rudder explained the difference between the ICIJ’s work and WikiLeaks, notably mentioning that the ICIJ does not publish anything of a private nature. The ICIJ is looking after public interests and exercising 'group' pressure. Tax investigations would be carried out using all sources of information, both public and non-public, or through better cooperation with tax jurisdictions or tax administrations in the country concerned.

Regarding the 'LuxLeaks' case, Luxembourg prosecutors are now seeking jail time for whistleblowers. He therefore underlined the need to protect whistleblowers, as some countries/jurisdictions already do, as they are individuals who are acting in the public interest.

Mr Boland-Rudder noted the importance of follow-up, with certain whistleblowers becoming victims even though they are serving the general public. He praised the TAXE Committee for having helped to keep the public debate alive since 'LuxLeaks' in 2014. He indicated that there is a lot of work to be done, as the Panama Papers leak includes more than 11.5 million financial and legal records and since it exposes a system that enables crime, corruption and wrongdoing, hidden by secretive offshore companies. There is no doubt that there is a problem of global tax avoidance generally. According to him, the ICIJ will, as a next step, be focusing on Africa, since the continent is faced with a major problem of illicit financial flows.

17.30 - 18.30  Meeting with the World Bank
Jim Brumby, Director, Public Service and Performance, Governance Global Practice
Marijn Verhoeven, Economist in the Global Practice on Governance
Rajul Awasthi, Senior Public Sector Specialist in the Governance Global Practice (leads the tax policy and revenue administration workstream, primarily in the ECA region)
Guggi Laryea, European Civil Society and European Parliament Relations Lead

Mr Brumby explained that the Bank is strengthening cooperation with other international organisations through a platform with the OECD, the IMF and the UN, as there are enormous expectations globally on corporate taxation. In this context, he referred to offshore financial centres, to the Panama Papers, and to illicit financial flows. He explained that the Bank has changed its policy regarding funding to private sector support by the International Finance Corporation (IFC)\(^1\), a member of the World Bank Group. This was due to the fact that 75 %

of investments went to firms using offshore financial centres, according to research undertaken by Oxfam. He noted that loan operations are development-policy friendly, notably based on budget support, for example a reform of fiscal systems on both sides, public spending and revenue collection/taxation, as was the case with a project in Indonesia. He added that the Bank would not engage with countries that do not apply certain standards, such as the internationally recognised tax governance criteria, and that the IFC lending policy has been reviewed accordingly.

In response to questions, Mr Brumby explained that the Bank has a reasonably strong role to play, while admitting that the OECD/G20 process has stronger legitimacy. The Bank covers 165 countries – a large number (maybe most) of which are developing countries. The Bank has country offices that have an ‘insight' into developing countries, and in this context, he explained that Pakistan, for example, might turn to them to reform their tax system/policy. He also indicated that technical assistance is provided through projects, for example on better definitions as regards tax law, such as on 'beneficial ownership'.

As for the questions related to the Panama Papers, Mr Brumby noted that the capacity of a tax system is a choice and that many of them have certain peculiar aspects that were likely created on purpose. He added that addressing key aspects of base erosion and profit shifting is an important exercise – and a difficult one, both technically and politically. He pointed out that the BEPS process brings new challenges to developing countries, which is why the platform of the international organisations is creating a toolkit for international taxation issues. Moreover, he noted that transfer pricing rules and transferring assets were complex issues and that there were many different ways of conducting them. For example, he indicated that the pricing of commodities was a straightforward way for tax administrations to value transactions. However, the OECD’s arm’s length principle on transfer pricing would leave other means to value transactions and would be difficult to accept, as 'one model' would not fit all countries. According to Mr Brumby, it would not be the best way for certain transactions and certain countries, and such rules would require an effective dispute resolution procedure.

Mr Verhoeven explained that a threshold of a turnover in excess of EUR 750 million is so high that many developing countries do not need to comply with the transparency requirements. Regarding the public disclosure of the country-by-country reports, he indicated that such information is intended for tax authorities. However, if it were disclosed (by everyone), it might change the way in which it would be conducted, as it would leave a ‘footprint’ of the operations. He gave the example of the Bahamas, which would report no operations or 0 %, whereas India would report all company operations but probably report no (profit) taxes.

Mr Brumby emphasised that the OECD Global Forum was very successful, for example for the exchange of information, but the process was not perfect. He noted, for example, that country-by-country reporting was not a global solution for developing countries, as there might not necessarily be a lot of confidentiality and the information sharing with developed countries would not be on an equal footing. He further praised the OECD Peer Review process, mentioning the recent report on Cyprus.
MINORITY OPINION

pursuant to Rule 56(3) of the Rules of Procedure

Paloma López Bermejo

Multinational companies have been using legal instruments that allow them to evade from paying the appropriate taxes absolving themselves, in terms of taxation, from their obligations towards society. Base erosion and profit shifting schemes have been triggered by capitalistic globalisation and within the EU by the free movement of capital.

The recent scandals highlighted the failure of the current economic system and its inability to solve the problem.

We welcome many recommendations of TAX2 particularly the withdrawal of banking licences for financial institutions aiding tax fraud and the call for a global wealth registry. However, TAX2 failed to get to the bottom of the issue. After all, the report ends by exonerating the real causes and the real responsible for the current situation, neglecting solutions genuinely capable to tackle the problem.

Thus, we stress the need for:

- Public control of the banking and financial system;

- Restrictions on movements of capital;

- A summit at UN level to define a road map and a Joint Action Plan to end with tax havens.
RESULT OF FINAL VOTE IN COMMITTEE RESPONSIBLE

<table>
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<th>Date adopted</th>
<th>21.6.2016</th>
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| Result of final vote | +: 25  
|                     | −: 6  
|                     | 0: 9  |
| Members present for the final vote | Hugues Bayet, Fabio De Masi, Frank Engel, Markus Ferber, Ashley Fox, Ildikó Gáll-Pelcz, Sven Giegel, Neena Gill, Danuta Maria Hübner, Ramón Jáuregui Atondo, Othmar Karas, Jeppe Kofod, Zdzisław Krasnodębski, Georgios Kyrtos, Alain Lamassoure, Philippe Lamberts, Fulvio Martusciello, Marisa Matias, Emmanuel Maurel, Bernard Monot, Evelyn Regner, Peter Simon, Theodor Dumitru Stolojan, Paul Tang, Michael Theurer, Cora van Nieuwenhuizen, Marco Zanni |
| Substitutes present for the final vote | Pervenche Berès, David Casa, Ana Gomes, Cătălin Sorin Ivan, Danuta Jazłowiecka, Barbara Kappel, Krišjānis Kariņš, Paloma López Bermejo, Olle Ludvigsson, Thomas Mann, Pirkko Ruohonen-Lerner, Nils Torvalds |
| Substitutes under Rule 200(2) present for the final vote | Laura Ferrara |
### FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

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<tr>
<td>ALDE</td>
<td>Michael Theurer, Nils Torvalds</td>
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<td>ECR</td>
<td>Ruohonen-Lerner</td>
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<td>ENF</td>
<td>Bernard Monot</td>
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<td>GUE</td>
<td>Fabio De Masi, Marisa Matias</td>
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<td>PPE</td>
<td>Ildikó Gáll-Pelcz, Danuta Maria Hübner, Alain Lamassoure, Fulvio Martusciello, Theodor Dumitru Stolojan</td>
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<td>S&amp;D</td>
<td>Hugues Bayet, Pervenche Berès, Neena Gill, Ana Gomes, Cătălin Sorin Ivan, Ramón Jáuregui Atondo, Jeppe Kofod, Olle Ludvigsson, Emmanuel Maurel, Evelyn Regner, Peter Simon, Paul Tang</td>
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<tr>
<td>VERTS/ALE</td>
<td>Sven Giegold, Philippe Lamberts</td>
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| **6** | **-** |   |
| ALDE | Cora van Nieuwenhuizen |   |
| PPE | David Casa, Markus Ferber, Danuta Jazłowiecka, Krišjānis Kariņš, Georgios Kyrtos |   |

| **9** | **0** |   |
| ECR | Ashley Fox, Zdzisław Krasnodębski |   |
| EFDD | Laura Ferrara, Marco Zanni |   |
| ENF | Barbara Kappel |   |
| GUE/NGL | Paloma López Bermejo |   |
| PPE | Frank Engel, Othmar Karas, Thomas Mann |   |

Key to symbols:
+ : in favour
- : against
0 : abstention