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SGD

Dear President,

I would like to thank you for the opinion of the Camera dei Deputati on the Commission proposal for a Directive on a Common Consolidated Corporate Tax Base (CCCTB){COM(2011) 121}, in which you support the Commission's efforts for improving the functioning and the competitiveness of the EU single market.

In responding to the Opinion, I will begin with some general remarks on the political context of this proposal and its compliance with the principles of subsidiarity and proportionality, before returning to the specific points raised in the Opinion in greater detail.

National corporate tax systems operate within a context of globalisation, international tax competition and companies which increasingly look beyond borders for market opportunities. However, the co-existence of 27 highly disparate sets of tax rules in the single market means that companies are faced with significant tax obstacles which may discourage and impede their cross-border activities. This divergence in national tax rules reduces the transparency of tax systems and creates obstacles in the internal market which give rise to significant distortions and compliance costs for businesses.

The situation is particularly acute for small and medium sized enterprises (SMEs), which often lack the resources to overcome these inefficiencies and therefore face strong disincentives to expand across borders. Without further action, there is a real risk that this situation will persist, creating unnecessary compliance costs in the single market.

In this context, the CCCTB proposal offers Member States the opportunity to consider corporate taxation from a more sustainable and transparent perspective, whilst allowing businesses to enjoy easier access to the single market. The Commission is convinced that only concerted action at the level of the European Union can address the challenges of corporate taxation in a single market in a systematic manner and thereby secure benefits for businesses and national public finances.

The Commission has taken great care to ensure that this proposal respects fully the principles of subsidiarity and proportionality. The reasoning is set out in the

Mr Gianfranco FINI
President
Camera dei Deputati
Piazza Montecitorio
IT - 00100 ROMA

explanatory memorandum and recitals to the Directive [COM(2011) 21 final], as well as in the accompanying impact assessment report (IAR) [SEC(2011) 315 final].

In the view of the Commission, the objectives which the proposed Directive seeks to achieve could not be attained by Member States acting alone. Given that the aim of the legislation is to tackle fiscal impediments to efficient cross-border operations resulting mainly from the fragmentation created by 27 disparate tax systems, further uncoordinated action by Member States would not address the fundamental problems and would risk perpetuating or exacerbating them.

The proposal sets out an option for companies of choosing a single set of rules for computing, consolidating and sharing the tax bases of associated enterprises across the Union. Considering the scale and effects of the proposed action, its objectives, to attenuate the distortions resulting from the current interaction of 27 national tax regimes and create more favourable conditions for cross-border investment in the single market, would be better achieved at Union level.

The rules set out in the proposal, such as relief for cross-border losses, tax-free internal group restructurings and the elimination of complex intra-group transfer pricing, address issues that are intrinsically cross-border in nature and could only be resolved within a context of common regulation. National initiatives are unlikely to be as effective at tackling these issues and may create further distortions in the market, notably double taxation or non-taxation. Common rules are also a prerequisite for creating a 'one-stop shop' for companies or groups of companies operating across the EU.

According to the IAR, the CCCTB is indeed expected to create more favourable conditions for cross-border investment in the internal market. It is estimated that it would allow substantial tax-related savings connected with the costs of establishing abroad through a medium sized subsidiary. A representative large parent would save around 62% of the estimated costs incurred in the current situation. The savings would reach 67% in the case of a medium-sized parent. Further, companies would be likely to derive considerable benefits from the reduction in compliance time and costs. Current costs are to be reduced by 7%, which is equivalent to up to EUR 0.7 billion across the EU. The possibility to offset losses across national borders within the same group could also lead to annual savings of EUR 1.3 billion for companies in the EU.

I would like to emphasise that the proposal is proportionate to what is necessary to achieve the objectives of the Treaties.

It does not affect the Member States' sovereignty over the setting of their own corporate tax rates. The CCCTB proposal deals with harmonising the corporate tax base, which is a prerequisite for curbing the identified tax obstacles and rectifying the elements that distort the concept of a single market; it does not entail harmonisation of tax rates.

The CCCTB proposal is also designed as an optional system. It does not oblige companies that do not intend to operate across borders to implement the common rules and bear the associated costs. Naturally, national tax authorities will have to meet certain one-off financial and administrative costs for the purpose of switching to

the new system. It is also true that administrations may choose to maintain their domestic corporate tax rules alongside the CCCTB, which would add to the current cost of running their tax systems. However, in both cases, it is expected that the mid-term positive impact of the CCCTB will outweigh the additional costs.

It is clear that these benefits could not be realised through an approach based on tax coordination alone. While the Commission has consistently promoted the coordination of national tax practices, experience has shown that this approach is slow and the results have hitherto been modest. Moreover, tax coordination typically addresses only specific, targeted issues and is not sufficient to address the wide variety of problems faced by companies in the single market.

The Commission is therefore convinced that the proposed CCCTB Directive represents the most proportionate response to the serious problems identified and is fully in line with the principle of subsidiarity.

Turning to the other specific points raised in the Opinion, the Camera dei Deputati considers that 'the common system provided by this proposal for a directive is extremely limited in scope'. Specifically, the Opinion criticises the fact that the common rules deal with the tax base exclusively. In that regard, the opinion addresses the need to set common tax rates or a minimum and maximum rate range.

The Commission is convinced that the possibility of diverging rates across the EU can contribute to its overall competitiveness. The CCCTB framework does not involve any harmonisation of tax rates (or the setting of a minimum tax rate). The CCCTB aims to enhance fair tax competition within the EU by making it more transparent. To this end, it provides for a set of common rules for the tax base and leaves the rates to be determined by the Member States.

The Camera dei Deputati also expresses its concern about the CCCTB being proposed only as an optional system.

The Commission believes that the optional feature of the CCCTB could decisively contribute to its success. Under an optional CCCTB, the companies which estimate that they could benefit from this new system would opt-in, whilst those that do not would continue to operate according to national rules. Consequently, companies with no intention of expanding beyond their national borders would remain under national rules and would not incur costs of switching to a new tax system.

As far as the fear that the CCCTB 'would give rise to the risk of encouraging more tax shopping' is concerned, the Commission wishes to reassure the Camera dei Deputati that the CCCTB proposal contains a set of anti-avoidance rules which are designed to protect the (consolidated) base against erosion. Additional provisions are laid down to ensure that Member States' historic taxing rights are preserved where appropriate (e.g. if a company has uncrystallised gains which have been built up in a Member State before the company joined a CCCTB group, when the gains are realised, they shall not be shared for tax purposes amongst all participating Member States but instead be allocated to the Member State of 'origin' for a number of years).

The Camera dei Deputati also doubts whether the proposal takes 'adequate account of the needs of medium, small and very small businesses' due to the fact that, in its view, the CCCTB 'seems to be designed more to meet the features of large enterprises, transnational corporations and groups of companies'.

The Commission believes that the CCCTB can prove particularly beneficial to SMEs. The current fragmentation of the single market represents a bigger hurdle to SMEs wishing to trade cross-border than to multinational enterprises (MNEs). The latter often possess the resources to resolve some of the obstacles that impede their commercial activity in the EU. Under the CCCTB, SMEs should be expected to incur significantly lower compliance costs if they decide to expand commercially to another Member State.

As explained in the IAR, tax-related costs of a medium-sized enterprise expanding within the EU are expected to be reduced by 67% under the CCCTB. The Commission has worked to ensure that the proposed new rules are sufficiently accessible to SMEs and indeed they are significantly simpler than the existing rules in most, if not all, Member States. Last but not least, the proposed system being optional, it does not place any burden on to SMEs if they perceive no advantage to opt in.

Finally, let me underline that the Directive limits the discretion on the part of Member States each time that this is necessary in order to preserve its useful effect (but not beyond what is necessary). Furthermore, the Commission's intention is to support and assist, as necessary, all Member States' tax authorities in the implementation phase so that consistent approaches will be guaranteed.

I would like to thank you again for the Opinion of the Camera dei Deputati and I hope that these explanations serve to clarify the points raised in the Opinion. I look forward to continuing our political dialogue in the future.

Yours faithfully,

*Maroš Šefčovič
Vice-President*