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PLATFORM FOR TAX GOOD GOVERNANCE

Draft Work Programme 2015-2019

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On 17 June 2015, the Commission adopted a Decision¹ to prolong the mandate of the Platform of Tax Good Governance, extend its scope and enhance its working methods. This Decision was directly linked to the new Action Plan for Fair and Effective Taxation, adopted on the same day.

Together with the Tax Transparency Package of 18 March 2015, the Action Plan provides a comprehensive agenda for corporate tax reform in the EU over the coming years. The Platform for Tax Good Governance will have an important role in advancing this ambitious new agenda, using the cross-cutting expertise of its members from business, civil society and national tax administrations.

The Action Plan sets out a series of initiatives for the short, medium and long-term, to tackle corporate tax avoidance, ensure sustainable revenues and create a pro-business, pro-growth tax environment in the Single Market.

On one hand, the Action Plan creates the basis for an EU approach to implementing the OECD BEPS measures, which are due to be finalised this year. It is crucial that these new international standards are implemented in a coherent and consistent way within the EU. This will prevent divergent national approaches from fragmenting the Single Market, reducing the Member States' overall competitiveness and exposing the EU to external risks to its tax base.

At the same time, the Action Plan underlines that the EU needs its own corporate tax agenda, aligned with the international reforms but also addressing specific internal challenges and responding to external threats. In this respect, many initiatives focus on building a more coordinated EU approach on corporate taxation through a balanced mix of hard and soft law, improvements to current instruments and the development of new ones.

The Platform for Tax Good Governance can provide valuable input into the development and implementation of the various initiatives set out in the Action Plan. It also has an important monitoring role, to ensure that corporate tax measures agreed at EU level are effectively implemented at national level.

The Platform's work programme will focus on key areas of the Action Plan where it can provide real added value, either by actively contributing to certain initiatives, advising on the development of policy and legislation, or monitoring the follow-up on agreed actions.

The new Platform mandate runs from 17 June 2015 to 16 June 2019. Its work will be conducted through a mix of Plenary sessions and sub-group sessions, as appropriate. The following document sets out the broad framework of the Platform's Work Programme during this mandate. This will be elaborated in more detail following feedback from the members. The Work Programme will also remain flexible enough to integrate new corporate tax developments or policy issues, as they arise.

¹ Commission Decision C(2015) 4095 establishing the Commission Expert Group "Platform for Tax Good Governance, Aggressive Tax Planning and Double Taxation" and replacing Decision C(2013)2236

I. WORK PROGRAMME 2015-2019

The new work programme of the Platform is aligned to the 5 key areas of action in the Action Plan for Fair and Effective Taxation. Within each of these headings, the Commission has identified issues on which the input of the Platform would be particularly useful.

1. EFFECTIVE TAXATION

Pan-EU list of non-cooperative tax jurisdictions

In order to tax profits generated in the EU effectively, common measures are needed to stop profit shifting out of the EU. This requires a common approach to non-cooperative tax jurisdictions.

As discussed and agreed with the Platform in 2014, the Commission published a pan-EU list of third country non-cooperative tax jurisdictions, as part of the Action Plan. Although the list is purely a consolidation of Member States' national lists, it is nonetheless an important move towards a more coordinated approach to protecting the Single Market from profit shifting towards third countries.

A common EU approach to listing non-cooperative jurisdictions would be a vast improvement on the patchwork of national approaches that exist today. Not only would it serve as a greater deterrent for non-cooperative jurisdictions, but it would also create more clarity and legal certainty for businesses and the EU's international partners.

The Platform will be the primary forum for the evolution of the pan-EU list and for the development of a more coordinated EU approach to listing. Given the strong attention that the list has received since its publication, there are high expectations for a timely and high-quality update before the end of the year. The Platform should also consider the approach for EU screening of non-cooperative jurisdictions, in order to focus work on those territories whose tax systems have the greatest impact on the EU.

The Action Plan also lays the ground for a wider political discussion on how to ensure that profits generated in the EU are taxed in the EU, and at the right level. Tackling double non-taxation is central to this debate. While the work of the Platform should not duplicate ongoing discussions in Council, there are certain key issues which should be explored, such as how to ensure that profits made in the EU cannot be shifted to no/low tax third countries, untaxed.

Issues to be discussed include:

- Understanding and improving the consistency of Member States' criteria/assessments
- Updating national lists and the pan-EU list
- Interaction with jurisdictions that feature on the pan-EU list
- Determining criteria for EU assessment of third countries' good governance standards
- Considering possible counter-measures against non-cooperative jurisdictions
- Ensuring minimum taxation in relation to low tax third countries

2. CCCTB

The Action Plan announced the Commission's intention to re-launch the Common Consolidated Corporate Tax Base (CCCTB), with a new proposal in 2016. This proposal will make the CCCTB mandatory, at least for multinationals. It will also create a staged approach for agreeing and implementing the CCCTB. In the first step, consolidation will be postponed, as the most difficult element in negotiations so far. Member States should be able to progress more quickly on other aspects of the CCCTB, particularly the common base and international elements to prevent base erosion and profit shifting. Once the common base is secured, consolidation will be introduced as the second step.

The Commission has already started preparatory work for the revised (C)CCTB proposal, which will include a public consultation and impact assessment work. The Commission is also keen to gather input from informed stakeholders and national experts during this preparatory phase, and the Platform provides the ideal forum to do this.

In particular, the following issues could be discussed:

- How a mandatory CCCTB for multinationals could apply to other companies, if at all.
- How best to implement cross-border loss offset as a temporary measure to support companies until consolidation is introduced.
- Possible discussion on other subjects such as corporate debt bias or R&D schemes.

3. TRANSPARENCY

The Commission has launched an ambitious agenda to improve tax transparency in the EU, through both the Tax Transparency Package and the Action Plan. Key measures include a proposal for the automatic exchange of information on tax rulings, and work to explore further transparency measures for companies (such as Country-by-Country Reporting).

While work on the tax rulings proposal is already well advanced in the Council, there may be scope for further initiatives related to tax rulings at a later stage – particularly in view of the state aid cases currently underway.

The Commission has launched a public consultation on various options for further transparency measures, which will feed into the impact assessment work in this area. This impact assessment is due to be concluded in the first half of 2016.

Issues that could be discussed include:

- The scope and necessity for possible further tax ruling initiatives, such as the publication of rulings or guidelines for Member States in issuing rulings.
- The scope and necessity for further transparency measures in corporate taxation, including possible requirements for companies to disclose certain tax information.

4. ARBITRATION

In the Action Plan, the Commission announced that it will propose improvements to the current mechanisms to resolve double taxation disputes in the EU. The aim is to create a coordinated EU approach to dispute resolution, with clearer rules and more stringent timelines, building on the systems already in place. This Platform can give important insight into the current arbitration problems and assist in shaping an EU response.

Issues to be discussed include:

- Whether the scope of the Arbitration Convention should be extended within the EU.
- Whether turning it into an EU instrument would be more efficient in resolving double taxation disputes for companies in the Single Market.

5. COORDINATION OF TAX AUDITS BY MEMBER STATES

The Action Plan sets out measures to improve coordination between Member States on corporate tax issues, to better address the common challenges they face in this area by maximising the potential of current coordination instruments.

The Decision on the Platform on Tax Good Governance was one such coordination initiative. Another is to launch a discussion on how the provisions in the Directive on Administrative Cooperation on tax inspections and audits could be better implemented.

Issues to be discussed include:

- Ways of creating a more strategic approach to auditing cross-border companies.
- Options for enhancing information exchange between Member States on their controls.

OTHER ISSUES

The Platform can also discuss other issues in the field of tax good governance and corporate taxation, in line with new or latest developments. The Commission will also keep members updated on the latest state of play in the work to advance the Action Plan initiatives.