ECONOMIC AND SOCIAL COMMISSION

« Towards tax harmonisation in Europe? »

Paris – May 5th, 2015

RESOLUTION

Adopted by the ESC, proposed for adoption by the Central Council on June 5th, 015

I. The Economic and Social Commission of the European League for Economic Cooperation, which met in Paris on 5 May 2015, discussed the question "Towards tax harmonisation in Europe?" with a number of experts in the field: Robert BACONNIER, former Director-General for Taxation at the French Ministry of Finance; Jacques LE CACHEUX, Professor of Economics at the University of Pau, member of the French Economic Observatory (OFCE); Matias de SAINTE LORETTE, Head of Bureau E1 at the Tax Legislation Department, French Ministry of Finance, and Guillaume ROTY, member of the European Commission's permanent representation in Paris).

It reached the following **conclusions**:

1. The proper functioning of the single European market is hampered by widely varying levels of taxation in different Member States, in the areas of consumption (VAT),[1] income (especially corporate taxation) and savings. Such variations distort price levels across the European Union. Such levels should be established by free competition; the variations lead to a "race to the lowest tax rate", which gradually deprives States of resources and impinges on fairness without a lasting increase in their competitiveness. Excessive tax competition can be detrimental on a microeconomic scale as it introduces severe distortion between companies operating in the same market.

2. Such variations have a visible effect on tax *rates*; several European countries would benefit from a move towards the average rate for VAT, while vigorously tackling fraud. However the variations have an even more damaging effect on the tax *base*. The growth in special tax arrangements, exemptions and loopholes creates confusion for economic stakeholders and makes comparisons between countries problematical; it involves compliance-related costs for companies operating in several Member States and can impede the free movement of capital and people within the European Union. The opacity of a tax system undeniably impedes rational decision-making and the proper allocation of factors of production.

3. The growing number of ad hoc arrangements (tax rulings)[2] in favour of certain companies or individuals makes comparisons between countries very difficult. Besides statutory and effective tax rates, we also need to find out the rates actually applying based on these tax rulings, which are generally discreet and virtually impossible to pin down. Such practices encourage "avoidance" behaviour on the part of taxpayers and lead to less than optimal allocation of the factors of production; the European

[1] One country raising the VAT rate is tantamount to "competitive devaluation", which explains why many EU countries have increased this rate since the start of the crisis. The corporate tax rate works in the opposite way - lowering it boosts competitiveness – hence the general tendency to lower it in many EU countries.

[2] Such "tax rulings" should be distinguished from the "rescrits fiscaux" (tax "rescripts") applying in France, which have the advantage of informing a company in advance of the arrangements that will apply to it in case of an audit; however, they should not normally involve special arrangements regarding tax rates. On the other hand, tax agreements exist with major companies in all countries on the strategic matter of *transfer pricing* between subsidiaries and with the parent company.

Commission has also launched an initiative aimed at increasing transparency and identifying and tackling cases of "damaging competition".

4. Over and above the tax optimisation strategies pursued by major companies, the vast scale of VAT fraud in Europe also calls for consideration of the matter of limiting the number of special rates and authorised exceptions, accompanied by the implementation of more effective checks.

5. In view of this, many initiatives have been taken to further tax convergence between EU Member States, since harmonisation is not the enemy of competition, but on the contrary a prerequisite for healthy, transparent competition. Significant progress has been made in the area of taxation of savings. Initiatives taken by the European Commission have enabled a – still very wide – band of VAT rates to be defined. A draft Council Directive on a Common Consolidated[3] Corporate Tax Base (CCCTB) was proposed in 2011[4], based on article 115 of the TFEU "for the approximation of such laws, regulations or administrative provisions of the Member States as directly affect the establishment or functioning of the internal market". However, progress remains slow, particularly since this is an area in which a unanimous decision is required. A bilateral Franco-German initiative has therefore recently been launched and renewed in an attempt to speed up negotiations surrounding the CCCTB Directive, starting with the harmonisation of the corporate tax base[5].

6. Certain countries and stakeholders are reluctant to pursue harmonisation, believing that competitively seeking the lowest levels of corporate taxation is sure to benefit any economy by reducing the burden on the productive sector. However, this approach ignores the major economic contribution – often demanded by public opinion in democratic countries – made by high-quality public services, which obviously does not negate the need to seek to make them more cost-effective. Several studies (Cepii, Bruegel) have also shown that there is evidence of more blatant tax competition for corporate taxation than for individual taxation. More recently, in a joint communiqué issued on 31 March 2015, Germany and France "stress the importance of an ambitious agenda to combat abusive tax optimisation and damaging tax competition within the EU".

7. Since the emergence of the financial crisis in 2008, the G20 and the OECD have also affirmed their intention to halt the erosion of the tax base and profit shifting by companies operating in more than one country. To this end, they adopted the BEPS (*Base Erosion and Profit Shifting*) project, for which the 2014-2015 Action Plan has already led to the adoption of a number of provisions, including a *Common Reporting Standard* for confidential country-by-country reporting. At its meeting in Brisbane on 16 November 2014, the G20 adopted this standard and decided to begin to exchange information automatically between its members and, by 2017 or 2018, with other countries and financial centres. As members of the G20, Germany, France, Italy and the UK, along with the EU, are stakeholders in this declaration. Twenty-one EU Member States also participate in the BEPS project through the OECD. The EU has also managed to establish a uniform basis of assessment for VAT (6th Directive), which was intended to form the basis of an EU own resource, but has only been used as such to a very limited extent.

8. Significant progress has also been made in the area of taxation of savings, where uniform rules for taxation and exchange of information have been put in place to end

[3] An initial stage focussing on closer alignment of tax bases would be planned, prior to the complete consolidation of the system.
[4] The first draft legislation on the CCCTB actually dates from 2002.
[5] Progress has been made in these discussions surrounding matters such as the carrying forward of losses or taking into account financing costs.

"damaging competition". The second package of measures under the Savings Directive now requires the mutual exchange of information about the distribution of income within member countries[6] from 2017 (or 2018 for late adopters)[7].

II. With a view to the completion of the internal market and to further the aim of reducing structural differences between Member States which threaten the cohesion of the euro area, the League's Economic and Social Commission makes the following **recommendations**:

1. Tax harmonisation must progress in Europe, with the support of public opinion directly affected, on a number of parallel levels. It would be a mistake to neglect the approximation of corporate tax arrangements because progress is being made on the basis of assessment for VAT or the harmonisation of taxation of savings.

2. On the contrary, the erosion of the corporate tax base and profit shifting must be tackled as a priority. This involves the implementation between all Member States of an **automatic reporting system** compatible with the *Common Reporting Standard* produced jointly by the G20 and the OECD, as well as pressing ahead with **defining a common EU tax base**[8]; to this end, a group of experts duly authorised by the European Commission and by Member States should be charged on an ongoing basis with clarifying differences in treatment between countries, shedding light on the legal, economic and social reasons for this, and proposing solutions. In particular, it is important to advance towards the adoption of uniform European accounting standards, and the widespread establishment of companies incorporated under EU law.

3. The EU must set itself ambitious goals. The interesting concept of a **European "tax snake"** for tax rates (VAT and corporation tax), based on the model of the "currency snake" in the early days of the ECU, has been put forward by numerous experts and is mentioned in a recent book by Valéry GISCARD d'ESTAING, "Europa, la dernière chance" [*Europa, the last chance*]. Others have suggested the idea of a Business Plan or Roadmap setting out the steps in the process of gradual harmonisation. For tax rates, for instance, the approach of defining a band with upper and lower limits, then gradually tightening this band – over a period of 10 years for example – incorporating lower rates, would appear to be most logical. As regards the tax base, in view of the difficulty of harmonising tax systems whose basis of assessment is defined according to cultural factors and national objectives – as is the case for corporation tax in Germany and France – the idea has been suggested of unifying rather than harmonising the basis for the taxation of company profits, by introducing a single **European Corporate Income Tax** applying on top of current national taxes initially – offset by a reduction in national contributions to the EU budget – at a low rate and with a broad, uniform base.

4. Current tax policy in Europe appears to overlook environmental taxation: contrary to common belief, this is constantly declining as a percentage of GDP. The matter of a **European carbon-added tax** (own resource) must be taken further as, provided that it is accompanied by a rigorous system of controls, this appears to be the most effective mechanism for steering decentralised corporate decisions in an eco-friendly direction. As with corporation tax, this additional EU resource should be offset by a reduction in national contributions to the EU budget.

[6] This progress has been facilitated greatly by FATCA, a US federal law passed in 2010 requiring the reporting of information by countries which are not EU Member States, such as Switzerland, removing the excuse of reluctance based on the risk of an outflow of savings to such countries.
[7] This law will apply to income distributed to US taxpayers as from 2015.
[8] Progress in this area in terms of corporation tax will very probably also require progress on the matter of the approximation of company law within Europe.

5. The institutional obstacle of the requirement for a unanimous decision on tax matters requires addressing. To avoid deadlock, it would be advisable to initiate **enhanced cooperation** in this area (involving, for the record, at least 9 countries, but requiring the "nihil obstat" from the others), comprising only the most highly motivated countries initially[9]. Such cooperations should be opened up to other States participating in the single market at the earliest possible stage. Eventually, the issue of institutional reform to allow qualified majority voting, necessitating a revision of the Treaties, will have to be raised; public opinion must be prepared for this through a dedicated information campaign – bearing in mind that, in any case, States should still be able to adapt to economic changes. This reform should also lay the groundwork for making harmonised European taxation a major factor in financing the EU from its own resources.

6. Requiring **multinational corporations to publish the amount of tax they actually pay in each country** would appear to be a good idea. The OECD has already worked on setting up a system for reporting internal transactions within major groups[10], but this remains unpublished. The draft EU legislation in this area needs to be underpinned and finalised.

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[9] This enhanced cooperation approach has already been adopted with regard to the devising and future implementation of a financial transaction tax (inspired by the "Tobin tax").

[10] An EU directive already requires the banking sector to publish its results and taxation country by country. Another directive in the pipeline will cover the mining sector.