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NOTE

from: General Secretariat
to: Delegations

Subject: Euro Plus Pact
 - Report by Finance Ministers on Tax Policy Coordination

The European Council conclusions of 23/24 June 2011 concerning the Euro Plus Pact invite Finance Ministers of the participating Member States to report back by December 2011 on progress made in their structured discussions of tax policy issues.

Delegations will find attached the draft Report by Finance Ministers of the Euro Plus Pact on Tax Policy Coordination, as agreed in the context of the Council High Level Working Party on Tax issues, following discussions on 26 October and 9 November 2011.

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REPORT BY FINANCE MINISTERS OF THE EURO PLUS PACT
ON TAX POLICY COORDINATION

I. Background

The Euro Plus Pact (EC conclusions of 24/25 March, 23/24 June 2011) includes a specific and separate part for tax policy coordination and, in particular, that "structured" discussions should take place. It is also foreseen that Finance Ministers of the Member States participating in the Euro Plus Pact (and the Commission) should report back by December 2011 on progress made in their structured discussions on tax policy issues, notably to ensure the exchange of best practices, avoidance of harmful practices and proposals to fight fraud and tax evasion.

As announced by the Polish Presidency at the Ecofin Council on 12 July 2011, discussions on this issue took place on 26 October and 9 November 2011, back-to-back with meetings of the Council High Level Working Party (HLWP).

The Commission has been asked to make a substantial input into these discussions. The main features of the report under preparation were presented to the HLWP.

The report by Finance Ministers contained in this document reflects the main elements discussed among Participants to the Pact and addresses both substance and procedure.

On the basis of comments received at the HLWP, this report outlines elements for a roadmap for future work in the field of tax policy coordination under the Pact.

II. Tax Policy Coordination: Elements for a pragmatic way forward

1. Structured dialogue

Participants welcomed the opportunity offered by the Euro Plus Pact to promote coordination between Member States on tax issues through a structured dialogue and to give a new impetus to activities in the field of taxation. It was recognized that Member States, which remain responsible for designing national tax policies, should be the main beneficiaries of such a dialogue. Therefore any activity in the field of tax coordination should ensure "ownership" by Member States. It was also highlighted that this work should build on and reinforce already existing tax policy coordination activities in relevant Council bodies, such as the Code of Conduct Group (Business Taxation) and the HLWP.

Participants welcomed the approach chosen by the Polish Presidency to identify the Council HLWP as a focal point for the structured dialogue, while allowing for participation of Member States in an inclusive manner. The HLWP would be well placed to identify priority issues for coordination and to monitor progress which has been made. It should also assess specific recommendations in relation to tax policy, when put forward by other relevant bodies and by the Commission. Member States could identify a set of concrete actions to be achieved within 12 months, as required by the Pact.

Participants underlined the importance of pursuing the ongoing work on tax issues including on tax legislation in competent Council Working Parties. It was noted that the structured dialogue in the context of the HLWP could play a constructive role and promote possible solutions, in order to facilitate in a pragmatic manner the adoption of EU legislation by the Council.

2. Issues to be addressed in the dialogue

Participants underlined the need to identify concrete and practically relevant areas to be covered by structured discussions on tax policy. It would be important to assess the whole range of already existing activities, to identify priorities and potential new areas of activity, where necessary. It was recalled that certain issues to be dealt with in the dialogue are already covered by the work of existing Council fora. Therefore the aim should be to avoid duplication with work already under way. Participants agreed that the dialogue should focus on identifying areas where more ambitious activities could be envisaged, as requested under the Euro Plus Pact. Particular attention should be paid to how tax policy can support economic policy coordination and contribute to fiscal consolidation and growth. Tax policy coordination should also take into account the functioning of the Internal Market of the EU, pay attention to quality of legislation and competitiveness of the EU in a global context.

The following issues and priorities should be addressed in the dialogue, while taking into account the aspects set out above:

a) Avoidance of harmful practices

Participants agreed that avoidance of harmful practices remains a key priority in the area of taxation. They recognized that ongoing work in the Code of Conduct Group (Business Taxation) of the Council over the last years had substantially contributed to the avoidance of such practices. The Group reports every six months to Ecofin Ministers on progress achieved. This successful work should therefore be carried forward on the basis of the work programme approved by the Council in 2008. Discussions on developing the work programme further should continue.

Without prejudging the work in the Code of Conduct Group (Business Taxation), the following ideas were presented by individual Participants for further reflection, with the aim of strengthening efficient action in the field of avoidance of harmful practices:

- further and in-depth evaluation of the overall situation regarding tax-mismatches between Member States with the result of double non-taxation; studying the possibilities for strengthening anti-abuse measures without prejudice to the competences of Member States;
- considering the need for extension of the mandate of the Code of Conduct Group;
- application of the Code Principles by third countries should be promoted. Specific attention could be given to potentially harmful tax schemes established by Switzerland;
- assessment of cases of non-compliance by third countries with the principles of good governance; examination of possible counter-measures, while maintaining a certain degree of flexibility for Member States.

b) Fight against fraud and tax evasion

Participants also assessed possibilities for a more ambitious and coordinated approach to combating fraud and tax evasion.

A number of delegations noted that considerable progress had been made, including by the Hungarian Presidency, on two key files which would make a difference in combating tax fraud and evasion:

- the draft Council Directive amending Directive 2003/48/EC on taxation of savings income in the form of interest payments;
- the draft Mandate for negotiations with five third countries (Switzerland, Liechtenstein, Andorra, Monaco, San Marino) on equivalent measures concerning savings interests.

A number of Participants highlighted that efficiency in the fight against fraud and tax evasion, both within the EU and in respect to third countries, could benefit from rapid progress on these files in the Council.

In order to facilitate work, some Participants suggested discussing the following issues in more general terms within the structured dialogue:

- the role of automatic exchange of information (within the EU and with third countries) as a tool in the fight against tax fraud and tax evasion; equivalent measures; two participants suggested to discuss possible alternatives;
- the possibilities of bringing forward, on a voluntary basis, the timetable for implementing the procedures for automatic exchange laid down in the existing Directive on administrative cooperation in tax matters, for those Member States, which are ready to do so;
- the benefits of an early start of negotiations with the five third countries, as mentioned above.

It was noted that such discussions should contribute to facilitating an early adoption of the draft savings directive and the draft mandate for negotiations.

c) Exchange of best practices

Participants acknowledged that the exchange of best practices in the field of taxation could be an important tool to support economic policy coordination, fiscal consolidation and growth. The importance of learning from achievements and experiences of individual countries in resolving tax problems was recognized by Participants. Synergies with work undertaken in relevant international organisations could be explored.

The following areas for possible exchange of best practices were identified:

- experiences in tax reforms (including information on planned reforms);
- quality and effectiveness of taxation, design of taxes;
- green taxation and energy taxation;
- taxation in the field of transport;
- experiences in fostering competitiveness by promoting balanced growth through appropriate tax instruments in support of regions lagging behind;
- practical experience in dealing with tax evasion and tax avoidance, including in relation to third countries;
- exchange of best practices in the field of tax administration.

d) International Coordination

Participants underlined the importance of ongoing work in the relevant multilateral fora, such as the OECD and G 20, for the EU and individual Member States. As is the case for areas other than taxation, the EU and Member States could benefit from more coordinated positions in these fora, in particular where this would increase their leverage.

Fora which were mentioned more specifically are:

- Treaty Relief and Compliance Enhancement Group (TRACE);
- Forum on Harmful Tax Practices;
- International Tax and Development Agenda;
- Global Forum on Transparency and Exchange of Information for Tax Purposes.

Coordination could also be useful in the context of discussions of tax issues with individual third countries. One example is the US Foreign Account Tax Compliance Act (FATCA), for which an EU-US dialogue has been launched after discussion in the HLWP.

Although it was considered to be difficult to reach common views on certain tax issues, it was noted that coordination could focus initially on areas in which common denominators can be identified. As far as modalities for coordination are concerned, the view was taken that efficiency would be important. Existing Council bodies and coordination on the spot could be used as necessary in a pragmatic manner.

e) Other potential issues to be discussed within the Pact

Participants mentioned a number of other issues which could be addressed in the context of Tax Policy Coordination under the Pact:

- challenges for taxation related to digital economy;
- discussion on possible common measure performance indicators of special categories of taxes;
- stronger alignment of national tax systems in specific areas, e. g. through discussions on a possible common tax base in the field of corporate taxation;
- analysis of the results of empirical studies (including OECD studies) on correlation of taxes and growth;
- comparison of various structures of tax systems;
- stability and sustainability of tax systems as far as tax revenues are concerned;
- environmental taxation and more specifically taxation of energy products;
- taxation of the financial sector, including the use of revenue from such taxation.

3. Future activities under the structured dialogue (beyond December 2011)

The possible way forward, beyond the European Council in December 2011, for structured tax policy coordination was discussed.

It was noted that elements contained in this report could serve as a starting point for further work to be undertaken in the future under the Pact. These elements could be updated and adapted as necessary. Many Participants took the view that a certain regularity in the dialogue and programming of work by the rotating Presidency would help to ensure efficiency in the field of tax coordination. Monitoring and reporting to the political level on the following issues should be ensured: progress within the structured dialogue, concrete results in the field of tax coordination, avenues explored and specific issues on which agreement could be reached.

In order to achieve these goals, incoming Presidencies should foresee meetings in the context of the HLWP in advance of European Council meetings.
