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COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

on Tax Good Governance in the EU and beyond

1. INTRODUCTION

Fair taxation is central to the EU's social and economic model and its sustainability. It is essential for sustainable revenues, a competitive business environment and overall taxpayer morale. It is crucial to meet some of the EU's core objectives, including a just society, a strong Single Market with sustainable revenues, a level-playing field for all companies, and a stable economy built on growth, jobs and investment. For those reasons, President von der Leyen has stressed that a fair tax system, where everybody pays their fair share, is one of the priorities for the Commission. In view of the global recovery, it is equally important for partner countries that the recovery is supported by domestic resource mobilization with a functioning taxation system at the heart of it. This will help in addressing the socio-economic consequences of the COVID-19 crisis.

The European Parliament[1] has also repeatedly called for EU action to clamp down on harmful tax competition and aggressive tax planning and to tackle tax havens, for fairer and more effective taxation and to reduce the risk of money laundering. The agenda for fair taxation will be all the more important in the months and years ahead, as the EU works to recover from the fallout of the COVID-19 crisis and to accelerate the green and digital transition. It will be crucial for stable public revenues, a healthy business environment and investment in public services, correcting market failures, and sending the right price signals for sustainable consumption, which will help to pave the way for a swift and sustainable recovery across the EU and beyond, as stressed in the recent Commission Communication 'Europe's moment: Repair and Prepare for the Next Generation'[2].

Tax good governance is the foundation on which fair taxation is built. Broadly, tax good governance encompasses tax transparency, fair tax competition, the absence of harmful tax measures and the application of internationally agreed standards. In recent years, there has been significant action – at EU and international level – to strengthen these principles and to ensure that they are upheld.

The Commission has pushed an ambitious agenda to improve tax good governance and clamp down hard on tax abuse, in the EU and beyond. As a result, Member States are now equipped with a robust tax transparency framework, common anti-tax avoidance measures and a new mechanism for resolving tax disputes. Enhanced transparency requirements for legal entities and arrangements have reduced risks of misuse for tax avoidance. Tax crimes have been added to the scope of predicate offences to money laundering and all professionals offering advice or assistance on tax matters are now subject to EU anti-money laundering/countering the financing of terrorism obligation to reduce criminals' avenues to launder their illicit proceeds. Through state aid cases and European Semester recommendations, the Commission has challenged harmful competition and called out unfair tax practices. In addition, Member

[1] TAXE committee resolution of 25 November 2015 on tax rulings and other measures similar in nature or effect; TAX2 committee resolution of 6 July 2016 on tax rulings and other measures similar in nature or effect, PANA committee recommendation of 13 December 2017 following the inquiry into money laundering, tax avoidance and tax evasion, TAX3 resolution of 26 March 2019 on financial crimes, tax evasion and tax avoidance.

[2] COM(2020)456 final.

States continue to peer review each others' tax regimes, under the Code of Conduct on Business Taxation ("Code"), to ensure that they comply with the principles of fair tax competition.

In parallel, the EU has worked to promote higher levels of tax good governance internationally too. It has strongly supported the OECD's work on tax transparency and Base Erosion and Profit Shifting (BEPS), and set an example globally by integrating the new global norms into EU law. Many of the new initiatives implemented at EU level have an external element – including Country-by-Country Reporting, the common hybrid mismatch rules and requirements for tax advisors to report tax-planning schemes. In addition, by launching the work on the fair taxation of the digital economy, the EU helped to provide new impetus into international discussions on this issue.

The Commission's 2016 External Strategy for Effective Taxation[3] provided a coherent and holistic approach for the EU to promote tax good governance globally and to engage with its international partners on tax matters. The primary focus of the External Strategy was to strengthen the cooperation with third countries on tax good governance issues, through clauses in bilateral agreements, support to developing countries on tax matters and measures to prevent negative spillovers from tax policies in the EU. However, the Strategy also launched a new tool to encourage the EU's international partners to adhere to agreed tax good governance standards, through the EU listing process.

All of these initiatives have contributed to creating a fairer tax environment in the EU and beyond. However, new challenges continue to emerge and the EU's instruments to regulate fair tax competition and deter harmful tax practices – inside and outside the EU - need to keep pace. Globalisation, digitalisation and modern business models are creating new limits for tax competition and new opportunities for aggressive tax planning. The EU's tax good governance agenda must continue to evolve, to prevent losses to national and EU budgets and to ensure that EU citizens and businesses can continue to rely on fair and effective taxation in the future.

The present Communication is part of a Tax Package for fair and simple taxation supporting the recovery of the EU, which includes a Communication for an Action Plan that presents a number of upcoming initiatives in the field of direct and indirect taxation concerning the fight against tax fraud and the simplification of tax regimes[4], as well as a legislative proposal[5] to revise the directive on administrative cooperation[6].

Further action will ensure that EU tax law is aligned with the modern economy and adapted to any international developments on corporate tax reform. To complement these measures, the Communication focusses primarily on the soft law measures and external actions, taking stock of the experience so far and identifying changes that are needed in this field. On this

[3] COM(2016) 24 final.
[4] COM(2020) 312 final.
[5] COM(2020) 314 final.
[6] Council Directive 2011/16/EU of 15 February 2011 on administrative co-operation in the field of taxation, OJ L 64, 11.3.2011, p. 1.

basis, it sets out the priority areas for action over the coming years, to enhance tax good governance standards and ensure fair taxation.

2. REFORM OF THE CODE OF CONDUCT ON BUSINESS TAXATION

The Code of Conduct for Business Taxation (the "Code") has been the EU's primary instrument to prevent harmful tax competition, since its creation in 1997. It works on the premise that, whilst tax competition among countries is not problematic *per se*, there need to be common principles on the extent to which they can use their tax regimes and policies to attract businesses and profits. This is particularly important in a Single Market, where the Treaty freedoms increase the mobility of profits and investment.

The Code is a soft law instrument, that operates on the basis of peer review and peer pressure between Member States. It sets out principles for fair tax competition and is used to determine whether a tax regime is harmful or not. The Code of Conduct Group, composed of high-level national representatives, oversees Member States' compliance with the Code. It assesses Member States' tax measures and determines whether they are harmful, based on a technical analysis from the Commission. If the tax measure is found to be harmful, the Member State in question must amend or abolish it. Since the Code was established, over 400 tax regimes have been assessed in the EU and around 100 of these were found to be harmful.

In addition to the Code's achievements within the EU, it has also had a remarkable impact on the global tax environment in recent years. This is because it has been the basis for assessing third countries in the context of the EU list of non-cooperative tax jurisdictions (see point 2 below). The central role of the Code for the EU listing process underlines its importance as a tool to combat harmful tax competition and promote tax good governance principles widely.

However, in spite of the Code's achievements, it is clear that it is in need of reform and modernisation. The nature and form of tax competition have changed substantially over the past two decades and the Code has not evolved to meet the new challenges. Globalisation, digitalisation, the growing role of multinationals in the world economy, the increased importance of intangible assets, and the reduction of barriers for business have all intensified the pressure on states to use taxation to compete for foreign investment. This has prompted tax competition to escalate and evolve, testing the very parameters of fairness. In this context, both Member States and the European Parliament have questioned the ability of the Code to tackle contemporary forms of harmful tax competition. The effectiveness of the Code should be substantially improved, in light of today's realities outlined above.

2 (a) Timing the reform for maximum effect

The timing of the Code reform must be carefully considered, to ensure that the result is as ambitious and effective as possible. The ongoing international discussions on the reform of corporate taxation, steered by the OECD, could have a major impact on the accepted limits of tax competition in the future. In particular, if minimum effective taxation becomes a global standard, there will be a new floor on how low countries can go in using their tax rates to attract foreign businesses and investment. This will clearly have to be integrated into the EU's actions on fair tax competition, within a reformed Code of Conduct. At the same time, if there is no consensus on minimum taxation at global level, this concept needs to be introduced in the Code as an EU standard, to modernize and clarify the concept of harmful tax competition and to ensure that all businesses pay their fair amount of tax when they generate profits in the Single Market.

2 (b) Reviewing the scope and criteria of the Code

In the meantime, however, there are a number of issues that can already be considered in the context of a future reform of the Code.

For a start, the scope of the Code should be widened, to cover all measures which pose a risk to fair tax competition. The definition of the scope should be amended to cover further types of regimes and general aspects of the national corporate tax systems as well as relevant taxes other than corporate tax. Under the current scope of the Code, there are too many types of harmful regimes that can escape assessment. For example, the Code only looks at specific tax measures and regimes. However, increasingly, countries are using the general structures of their tax systems to engage in tax competition, for instance by providing particular tax residency rules which can lead to double non-taxation or tax exemptions for foreign income, which may favour harmful tax practices without appropriate safeguards. In addition, the Code does not cover special citizenship schemes or measures to attract expatriates or wealthy individuals, even though these are often a back door to unfairly attracting business and investment from other countries. Recent studies by the OECD[7] also suggest that citizenship schemes may be used to avoid tax transparency rules. It is therefore important to examine the use of citizenship schemes such as Golden Visas when reforming the Code.

The Code should also be updated to ensure that all cases of very low taxation are examined – inside and outside the EU. The EU already requires third countries with zero or no taxation to implement strict economic substance and transparency standards, to avoid being put on the EU list. These requirements should be formally integrated into the Code, so that there is full coherence between the criteria applied within the EU and in relation to third countries.

2 (c) Improving the governance of the Code

The reform of the Code should also consider how it can be applied more transparently and effectively. While there have been some improvements to the governance of the Code of Conduct Group in recent years, there is scope to do more. The Code of Conduct Group could make more information publicly available on its dedicated website and inform the public and stakeholders of milestones in its work. The Group could also introduce qualified majority voting, to speed up decision-making, and consider effective consequences for Member States that do not comply with the Group's decisions on time.

[7] https://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/residence-citizenship-by-investment/

The Commission invites Member States to start discussing the proposals under 1 (a) –(c) for an ambitious reform of the Code, while awaiting the outcome of the international tax discussions (according to the OECD's work plan there should be sufficient clarity on the outcome of the international work on tax reform by the end of the year). The Commission will work with Member States to elaborate a concrete plan to reform the Code, so that it is better fit to tackle the modern challenges of tax competition – within the EU and externally.

3. REVIEW OF THE EU LIST OF NON-COOPERATIVE JURISDICTIONS

While the Code was initially developed as an instrument to regulate internal tax competition in the EU, its focus has more recently broadened to address the external dimension of this policy area, as well. Principles of fair tax competition, set out in the Code, are among the criteria used to assess third countries under the EU listing process. The aim is to improve the global tax governance context, ensure a level playing field at international level and support third countries governments in their effort to implement commitments and actions taken at global level (for instance in the framework of the G20 anti-Base Erosion and Profit Shifting initiatives or the Addis Ababa Action Agenda).

The EU list of non-cooperative tax jurisdictions was first proposed in the Commission's 2016 External Strategy, as a tool to deal with external risks of tax abuse and unfair tax competition. Since then, it has become a powerful tool to promote tax good governance internationally and has contributed to fighting tax avoidance and tax evasion worldwide. In the four years since the listing process started, 95 jurisdictions have been assessed against three key criteria: tax transparency, fair taxation and the implementation of the OECD Base Erosion and Profit Shifting (BEPS) minimum standards. If a jurisdiction is found to be deficient in one or more of these criteria, it is asked to commit to address the problems within a set deadline.

By the start of 2020, over 120 harmful tax regimes had been eliminated globally[8], in direct response to the EU listing process. Dozens of third countries had also taken concrete measures to improve their tax transparency standards, in line with EU requirements. This raises the level of tax good governance globally, creates a level playing field amongst international players and reduces the opportunities for tax abuse. As such, the EU list has benefits beyond the EU's borders, particularly for developing countries, who are disproportionately impacted by illicit financial flows.

The EU listing process has created a new basis for the EU to engage with partners countries, on tax issues of mutual interest, in line with its efforts to foster good global tax governance. Dialogue and outreach are a central part of the exercise. The Commission Services' regular discussions with the jurisdictions, in coordination with the European External Action Service, have assisted dozens of them to comply with the required standards. This new channel of engagement on tax issues has allowed for constructive dialogue with partner countries in today's fast-paced, globalised and digitalised economy, and should be continued.

[8] https://data.consilium.europa.eu/doc/document/ST-8603-2020-REV-1/en/pdf

Four years after the launch of this new listing exercise, the Commission believes that it is high time to take stock of the experience gained so far and to review how it can remain effective, fair and fit for new challenges as they continue to emerge.

3 (a) Reviewing the geographical scope of the EU list

When the EU listing process was launched in 2016, EU Member States selected the jurisdictions to bring into its scope, based on an objective scoreboard of indicators developed by the Commission. Member States used this scoreboard as a basis for deciding which jurisdictions to screen, also taking into account other relevant factors, such as the presence of a financial centre. Member States decided from the outset to exclude least developed countries from the EU listing process, given their limited capacity to comply with the criteria within the required deadlines. For similar reasons, some flexibility has been introduced for developing countries without a financial centre, when it comes to the criteria and timelines they must respect.

After several years of practical experience implementing the EU listing process with the selected jurisdictions, Member States have indicated a wish to review the geographical scope of the list. In particular, they are keen to ensure that all risk areas have been covered and that comparable jurisdictions are being treated in a fair and even manner under the EU process.

To facilitate this reflection, the Commission will update by the end of 2020 the original scoreboard used to select the most relevant jurisdictions to screen. The new scoreboard will reflect the most recent data, as well as developments in the global economy and tax policy. It will include additional sources of information to offer a comprehensive picture of the EU's economic and financial links with third countries. In addition, the Commission will take into account the new methodology to identify high-risk third countries for anti-money laundering and terrorist financing purposes[9], to ensure that the two listing processes are mutually reinforcing. The revision of the scoreboard will help EU Member States to identify additional countries they may wish to screen, based on objective criteria, and will make the process more stable and predictable for the EU partners.

3 (b) Reviewing EU listing criteria

A discussion on the geographical scope of the EU list will also need to consider the criteria that selected jurisdictions must comply with. Removing any jurisdiction that is currently in the scope of the EU list would impact on the level playing field and undermine the very positive work that most of these jurisdictions have already done. However, there should be a reflection on whether the EU listing criteria could be applied in a more targeted way for certain jurisdictions.

The experience with the EU listing process so far has shown that certain jurisdictions, in particular developing partners, face capacity constraints when implementing some of their

[9] https://ec.europa.eu/info/files/200507-anti-money-laundering-terrorism-financing-action-plan-methodology_en

commitments. There is a need to consider whether all criteria are relevant for all jurisdictions, based on the potential risk of their economic and tax environment. For low-risk developing countries, it could be an option to only apply the criteria that are most relevant. There is already a precedent for this in the listing process, as developing countries without a financial centre do not have to comply with the automatic exchange of information criterion. Alternatively, or in tandem, the EU list deadlines can be adapted for countries with severe capacity constraints or without financial centres, to reflect the particular situation of the jurisdictions concerned.

Beyond this, the tax good governance criteria used for the listing process should be examined more generally, to ensure that they are up-to-date and adequately ambitious. As a first step, they should be updated to reflect the latest international developments in the fight against tax avoidance and evasion, including in the area of beneficial ownership[10] and the implementation of OECD minimum standards on Base Erosion and Profit Shifting.

Discussions at international level on taxation of the digital economy and global tax reform will also need to be taken into account in the EU listing criteria. This is particularly important if there is a global consensus on minimum effective taxation. This issue should be looked at in tandem with the future reform of the Code, once the outcome of the international tax reform discussions are clearer.

In the same vein, the criteria should also be reviewed to ensure that they are being applied widely enough to capture all risks. Work has already started in this respect. For example, in 2019, Member States decided to look at certain broad tax exemptions, which could pose the same risk of preferential tax regimes. The Commission will continue to review the international tax landscape to identify any new business and tax planning practices that could be problematic.

Finally, it is important to closely monitor the jurisdictions that have already been cleared under the EU listing process. This will ensure that the reforms are effectively implemented and there is no backtracking. The Commission will conduct this monitoring and report to the Member States. It will also coordinate with the OECD to ensure that the EU and international monitoring processes are as aligned as possible.

3 (c) Boosting transparency and accountability

The EU listing process has created a new framework for regular discussion between the EU and its international partners on tax good governance issues. The Commission has always put strong emphasis on the need for dialogue and engagement with the third countries concerned.

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[10] With due regard to the work in this area at international level. In the context of the EU anti-money laundering/counter-terrorism financing listing process, which more broadly focuses on beneficial ownership aspects, additional requirements compared to international standards could be introduced, in line with the priorities highlighted by the Commission in the Action plan for a comprehensive Union policy on preventing money laundering and terrorism financing (See: https://ec.europa.eu/finance/docs/law/200507-anti-money-laundering-terrorism-financing-action-plan_en.pdf).

Over the past four years, there have been thousands of contacts and exchanges at technical, diplomatic and political level, both directly and through multilateral fora. This has helped to clarify the EU's expectations when it comes to tax good governance worldwide, while also allowing the EU to better understand the positions of its global partners on tax good governance issues. The Commission is committed to further strengthening this positive dialogue process, moving forward, in cooperation with the High Representative. In this respect, it will work to establish an annual gathering for representatives of the jurisdictions, to discuss EU listing issues and to share information and best practices.

The Commission will also draw on the dialogue with third countries to identify reasonable concerns, which it will relay to the Member States in an effort to find solutions. For example, the continued use of national tax lists of Member States, in parallel to the EU listing process, is a source of confusion and uncertainty for a large number of third countries. This is particularly the case when the national criteria and listing processes are not clearly communicated or when there are differences between the countries put on the EU list and national lists. There are strong arguments for aligning these to the EU listing process for countries, which have been screened under the latter, for coherence and to provide clarity for third countries and businesses. The Commission will launch a discussion on this issue with the Member States and explore how to further coordinate the approach to listing jurisdictions for tax purposes so as to ensure that third countries are treated in a consistent way by the EU and its Member States.

Finally, the Commission will continue to push for as much transparency and accountability as possible in the EU listing process. In this respect, the European Parliament should be regularly updated on developments in the EU listing process. The Commission will also keep civil society informed within the framework of the Platform for Tax Good Governance, which was also instrumental in launching the EU listing process.

3 *(d) Strengthening tax good governance in agreements with third countries and expanding the dialogue with third countries on environmental taxes.*

Another important way in which the EU promotes fairness in tax matters is through a tax good governance clause in relevant international agreements with third countries. The European Parliament considers the tax good governance clause to be one of the "core instruments of EU external policy"[11] and has repeatedly called for it to be systematically included in any relevant EU agreements with third countries and regions. In the 2016 External Strategy, the Commission suggested updating and strengthening the standard good governance clause, to align it with the latest international norms. Member States endorsed a new text in May 2018 and confirmed that such wording should be included in all relevant international agreements.

The Commission has since tabled the updated clause in all relevant new and ongoing negotiations, several of which are in the process of being successfully concluded. The

[11] TAXE 3 report, 26/03/2019

Commission will continue to insist on the inclusion of the tax good governance clause in all relevant future negotiations on international agreements. In the event that a third country refuses to accept the clause, or insists on changing it to the extent that it no longer serves the intended purpose, the Commission and Member States must consider the appropriate response. Such countries could be scrutinised under the EU listing exercise.

The Commission in its dialogue with third countries will also put emphasis on the ‘polluter-pays principle’, enshrined in the Treaty on the functioning of the European Union, which calls for pricing the negative externalities of polluting or other damaging activities. There is an under explored potential for environmental taxes to contribute to more progressive and sustainable tax systems and more equitable societies in developing countries. In many developing countries, increasing the amount of revenues raised through environmental taxation has also the potential to reduce state dependence on aid and debt financing, and to facilitate the mobilisation of domestic resources for public services. As environmental taxes are harder to evade than e.g. corporate or personal income taxes, they also have the potential to strengthen state accountability, improve tax morale and enhance fiscal governance.

4. IMPROVED MEASURES TO REINFORCE GOOD GOVERNANCE

Listing a jurisdiction should be a last resort option, reserved for those countries that refuse to adequately acknowledge or address the EU’s concerns with their tax systems. However, once a jurisdiction is listed, there should be consequences, to ensure that the EU list remains effective.

Since the EU list was established, countermeasures against listed jurisdictions have been developed on two aspects. First, the EU adopted stronger provisions in key EU funding legislation[12], to prevent EU funds from being indirectly invested in or channelled through EU listed jurisdictions. In addition, EU Member States have agreed to apply defensive measures against EU listed jurisdictions in a coordinated way. Countermeasures linked to the EU list should be reviewed on a regular basis, to ensure that they are as dissuasive and effective as possible.

4 (a) Promoting Tax Good Governance through EU funds

As announced in the 2016 External Strategy, the EU introduced a legally binding link between tax good governance standards and the use of EU funds. This is reflected in key legal instruments[13], which prevent EU funds from supporting projects that contribute to tax avoidance. Additionally, for financial instruments and budget guarantees, the legal

[12] These include the current EU Financial Regulation (FR), Regulation (EU) 2017/16013 on a European Fund for Sustainable Development (EFSD), Decision 466/2014/EU on the External Lending Mandate (ELM) and Regulation on a European Fund for Strategic Investments (EU) 2015/10175 (EFSI).

[13] Financial Regulation, European Fund for Sustainable Development (EFSD), the European Fund for Strategic Investment (EFSI) and the External Lending Mandate (ELM).

framework prevents from using jurisdictions on the EU blacklist for tax or on the EU list of high-risk third countries for anti-money laundering and counter-terrorism financing purposes. However, if the project is physically implemented in the jurisdiction, funding may still be allowed to preserve development and sustainability objectives.

The Commission has also provided guidance[14] to EU implementing partners and called them to ensure that their internal policies allowed them to implement EU funds in line with the new EU tax requirements. The European Bank for Reconstruction and Development (EBRD) and the European Investment Bank (EIB) Group have published internal policies, to take into account the recent international tax developments[15]. The actions at international level and tightened rules for the use of EU funds are also leading a number of international financial institutions and national agencies to enhance their due diligence checks. This is encouraging market operators, in turn, to move away from schemes in non-cooperative jurisdictions and to pay closer attention to the risks of tax avoidance.

Based on the application of these rules so far, the Commission considers that they could be used more widely, to reinforce tax good governance principles. EU Member States should mirror the EU efforts when it comes to the use of their own funds. The Commission urges Member States who have not already done so to reflect the EU requirements in their national funding policies and in the compliance rules of their promotional banks and development agencies. In that way, no funds from the EU or its Member States would be channelled through entities from listed jurisdictions or be involved in tax avoidance schemes. This would give the EU more weight and credibility when promoting tax good governance standards internationally.

In the same line of thought, the Commission put forward a Recommendation[16] pursuant to which Member States should make their financial support to undertakings conditional on the absence of links between those undertakings and jurisdictions that feature on the Union list of non-cooperative jurisdictions for tax purposes, so as to ensure that the considerable efforts made by Member States to support the recovery are implemented in a way that is consistent with the need to ensure international tax fairness.

The Commission will also launch, most probably by end of 2020, a discussion with Member States to consider how this alignment of EU and national funding policies can be achieved. It will also consider in this context whether the use of EU and Member States' funds and Member States' defensive measures can be better aligned, to concentrate the impact on non-cooperative jurisdictions.

[14] Commission Communication on new requirements against tax avoidance in EU legislation governing in particular financing and investment operations (C(2018)1756, 18.03.2018).
[15] See Domiciliation of EBRD clients and EIB Group policy towards weakly regulated, non-transparent and noon-cooperative jurisdictions and tax good governance (2019).
[16] C(2020) 4885 final.

As a second step, building on experience at EU level, the Commission will consider how to bring other international donors on board in preventing tax avoidance in the use of all public funds. The Commission will report on the internal EU coordination work by mid-2022, and then consider ways to promote best practices at a broader international level.

In parallel, the Commission will continue to engage in close dialogue with the international financial institutions and other implementing partners, to review how the new EU requirements have impacted their work and processes. In particular, it will consider whether the guidance needs to be clarified or updated. In order to smoothen implementation, identify best practices and promote a level playing field, the Commission will launch discussions with EU implementing partners on this issue before the end of 2020. On the basis of these discussions, it will present a report to the European Parliament and the Council, as of 2022, with clarifications and solutions for particular issues, as needed.

4 (b) Strengthening defensive measures against non-cooperative jurisdictions

In addition to having implemented the stronger provisions for EU funds, the Commission has consistently called on Member States to apply strong, dissuasive and coordinated defensive measures against EU listed countries. A common approach to defensive measures is important to ensure that the EU list has real impact, and also to provide clarity and certainty to third countries and investors. In December 2017, Member States took the initial steps towards coordination, by agreeing on certain administrative measures, such as increased audits, to apply to companies and investors in EU listed countries[17]. This was reinforced in December 2019, when Member States agreed on a toolbox of defensive measures to apply against EU listed countries[18]. Member States will start to apply these defensive measures in 2021 and agreed to assess the need for further coordination in 2022.

This coordinated approach goes in the right direction but it lacks ambition. In particular, the fact that Member States can choose which and how many measures to apply from the toolbox could result in a patchwork situation across the Single Market. This may not address businesses' concerns with regard to the legal uncertainty and administrative burdens. It may also enable certain taxpayers to exploit mismatches between Member States' measures, to continue to shift untaxed profits out of the Single Market.

The Commission will monitor the situation carefully, as Member States start to apply the agreed defensive measures, and conduct an evaluation of those measures. If the toolbox approach is not effective enough, on the basis of the abovementioned assessment in 2022, it will consider a legislative proposal for coordinated defensive measures. This would allow the

[17] See Annex III of the Council conclusions on the EU list of non-cooperative jurisdictions for tax purposes (https://www.consilium.europa.eu/media/31945/st15429en17.pdf)

[18] See Annex IV of the Report from the Code of Conduct Group (Business Taxation) to the Council (https://data.consilium.europa.eu/doc/document/ST-14114-2019-INIT/en/pdf)

EU to give real "teeth" to the EU list and would ensure a truly coordinated policy towards EU listed countries.

5. SUPPORTING PARTNER COUNTRIES IN TAX GOOD GOVERNANCE

The EU's tax good governance agenda extends beyond taxation policy concerns. As the world's largest donor of development aid and supporter of global governance, the EU is conscious of the importance of good governance for developing partners.

Raising sufficient revenues remains a challenge for many developing countries. Over a third of African countries have a tax to GDP ratio of under 15%[19], which is considered the minimum to allow for the provision of basic social services. Developing countries depend almost twice as much on corporate income tax for revenues as developed countries do[20]. As such, they are much harder hit by the problems of tax fraud, tax evasion and tax avoidance. Likewise, they are likely to benefit from EU and international efforts to raise global standards and curb aggressive tax planning worldwide.

The 2016 External Strategy underlined the need for greater coherence between EU tax policy and its international development objectives. The Commission, through its "Collect More – Spend Better" initiative[21], set out clear measures to help partner countries to improve and protect their tax bases, raise sustainable revenues and improve the efficiency of government spending. Since then, the EU has been supporting partner countries to improve their domestic resource mobilisation and to implement fair, transparent and effective tax systems. This is in keeping with the EU's commitments under the Addis Tax Initiative[22], where it pledged to increase both technical and financial support for domestic revenue mobilization in developing countries.

In line with its commitments, the EU is on track to double the support for developing countries in the area of domestic resource mobilisation. Since 2015, the Commission has steadily increased support in this area having reached approximately EUR 1000 million commitments in 2019 and has co-financed a tool[23] to assist with reforms in 94 tax administrations worldwide, amongst other things. Bilateral budget support operations increasingly include assistance to mobilise domestic revenues and implement tax good governance standards. This financial and technical support remains crucial in helping countries with limited administrative and financial capacities and the EU will continue to invest heavily in this area.

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[19] According to OECD revenue statistics

[20] Corporate income tax accounts for 16% of total tax revenues in low and middle-income economies, compared to 8% for developed countries.

[21] https://ec.europa.eu/international-partnerships/system/files/swd-collect-more-spend-better_en.pdf

[22] A specific initiative within in the framework of the Addis Ababa Action Agenda, focussed on increasing development assistance for tax capacity and promoting policy coherence for development. See: http://www.addistaxinitiative.net/.

[23] Tax Administration Diagnostic Assessment Tool (TADAT)

In addition, the Commission has also analysed possible spillover effects of double tax treaties signed by Member States with developing countries, in particular with the poorest countries. The Commission developed a toolbox[24] that the Member States could take into account when negotiating double tax treaties with developing countries to support their domestic revenue mobilisation. The issue of spillovers was looked at in detail by the Platform on Tax Good Governance and the Commission organised an expert-level seminar on the issue in 2018. Work will continue on this issue under the new mandate of the Platform on Tax Good Governance.

5 (a) Strengthening partnership and cooperation internationally

With the start of the Decade of Action to implement the Sustainable Development Goals[25], tax good governance remains a key issue on which all countries have to act. This is also in line with the principle of policy coherence for development. The Commission is therefore determined to give even greater impetus to tax good governance measures and initiatives to boost domestic revenue mobilisation amongst the EU's developing partners.

The Addis Tax Initiative was supposed to end in 2020. However, the signatories of this Initiative agreed to prolong the work, given the positive contribution it can make to countries' long-term sustainable development. The Commission is actively contributing to defining the plan for the next phase of work under the Addis Tax Initiative, post-2020. It firmly believes that the work in this area should be fully aligned to the Sustainable Development Goals, and that work on domestic revenue mobilisation at international level should be accelerated.

The EU cannot work in isolation on tax good governance and its implementation in developing countries. Strong collaboration with the OECD, the UN, the IMF and other international actors is essential, to coordinate effective assistance and support. For example, Integrated National Financing Frameworks (INFF) – which identify how each country's sustainable development strategy will be financed from all sources of finance (public/private, domestic/international) - would be an ideal framework to discuss how to best target funding. The Commission will also continue to encourage and support Member States in providing technical expertise on tax matters to the EU's developing country partners, via existing EU tools such as twinning and the technical assistance and information exchange instrument (TAIEX).

5 (b) Integrating developing countries into the global tax framework

EU efforts to help developing countries fight tax abuse and mobilise domestic revenues can only be effective if there is a strong sense of ownership in the jurisdictions themselves. The global work to improve good governance requires a fully inclusive and collaborative global approach. For that reason, the EU has actively supported the participation of developing countries in international tax fora, where standards are set and peer reviews are conducted.

[24] https://ec.europa.eu/taxation_customs/sites/taxation/files/toolbox_dtas_spill_overs_en.pdf
[25] https://www.un.org/sustainabledevelopment/decade-of-action/

Through the EU listing process, all countries were encouraged to join the OECD's Inclusive Framework for Base Erosion and Profit Shifting (BEPS) and the Global Forum on Transparency and Information Exchange. As participants in those fora or other organisations, developing countries have a voice around the table as new global standards are set and peer reviews are carried out. The EU also provided funding, through international organisations, for technical assistance to developing countries in implementing agreed tax good governance standards. This included, for example, EUR 2 million to the Global Forum in 2019, to help developing countries to improve their tax transparency measures. The Commission will continue to support the active participation of developing countries in these bodies, and will work to ensure more targeted assistance[26] and enhanced policy dialogue to support their domestic revenue mobilisation.

5 (c) Widening the policy agenda

The Commission, in cooperation with the High Representative, will also reflect on how to integrate wider tax priorities in the EU's relations with developing countries. Certain policy priorities, while not directly linked to tax good governance, are highly relevant in supporting more sustainable, robust and future-proof tax systems in developing countries. This is particularly the case for green taxation, the taxation of the digital economy and possible international corporate tax reforms. The countries should be encouraged to proceed in the sustainable tax shift, which has to be introduced within broader fiscal reform packages to avoid the risk of increasing the often already large societal inequalities.

The link between trade policies and revenue priorities in third countries and other policy areas also requires consideration. For example, developing countries should be supported in identifying alternative sustainable tax revenues, to compensate for decreasing customs revenues, which may arise due to their better integration into regional and international economy including corresponding tariff reductions. The EU should help those developing countries that want to reduce barriers for businesses and lower tariffs by identifying alternative sustainable revenues and improving administrative governance in the area of customs and taxation. This may include environmental taxes, many of which are in principle more difficult to evade and aim at supporting sustainable development. The EU has already provided support in these areas and will continue to contribute to countries' efforts to align their legal environment to international norms where third countries so request and in a way that best suits third countries.

The Commission will follow up to the proposal for a new Neighbourhood, Development and International Cooperation Instrument[27], which foresees that *"taxes, duties and charges imposed by partner countries may be eligible for financing"*.

[26] The Commission, together with several EU Member States and other international donors supports and streamlines the OECD Global Relation and development programme. See: https://www.oecd.org/ctp/tax-global/
[27] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2018%3A460%3AFIN

A holistic and cross-sector policy approach will be applied in taking forward the abovementioned actions, in accordance with the principle of Policy Coherence for Development.

6. CONCLUSION

Fair taxation and tax good governance – within the EU and beyond - remain core objectives of the Commission's work over the coming years. This Communication responds to demands from the European Parliament, Council and civil society for a review of the EU measures to ensure the proper good governance, fair competition and a level playing field in the Single Market and globally. It also acknowledges the important role that taxation has to play in delivering on the implementation of the 2030 Agenda for Sustainable Development.

The measures put forward in this Communication can help to step up the level of fair taxation within the EU and contribute to a fairer tax environment internationally. The Commission calls upon the Council to give high political priority and to contribute to their implementation.