Fight against tax fraud, tax evasion and tax havens

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PURPOSE : to propose an Action Plan to strengthen the fight against tax fraud and tax evasion.

BACKGROUND : tax fraud and tax evasion is a multi-facetted problem which requires a coordinated and multi-pronged response. Aggressive tax planning is also a problem which requires urgent attention. These are **global challenges which no single Member State can face alone**.

On 2 March 2012, the European Council called on the Council and the Commission to rapidly develop concrete ways to improve the fight against tax fraud and tax evasion, including in relation to third countries and to report by June 2012. In April the European Parliament adopted a resolution echoing the urgent need for action in this area.

In response to these requests, the Commission adopted a Communication on 27 June 2012 which outlined how tax compliance can be improved and fraud and evasion reduced. It also identified areas where further legislative action or coordination would benefit the EU and Member States and demonstrated the added value of working together against the increasing challenge posed by tax fraud and evasion.

In its Communication, the Commission announced the preparation, before the end of 2012, of an action plan setting out concrete steps to enhance administrative cooperation and to support the development of the existing good governance policy, the wider issues of interaction with tax havens and of tackling aggressive tax planning and other aspects, including tax-related crimes.

CONTENT : this **action plan** identifies a series of specific measures which can be developed now and in years to come. It also represents a general contribution to the wider international debate on taxation and is aimed at assisting the G20 and the G8 in its on-going work in this field.

In essence, this action plan contains practical actions which can deliver **concrete results** to all Member States and lend support in particular to the ten Member States - Bulgaria, Cyprus, Czech Republic, Estonia, Hungary, Italy, Lithuania, Malta, Poland and Slovakia - to whom Country Specific Recommendations on the need to strengthen tax collection have been addressed, in the context of the 2012 European Semester exercise.

(1) Commission initiatives to be progressed: the Commission recalls that a certain number of important measures have already been taken and suggests the better use of existing instruments. These concern in particular :

- the implementation of a new framework for administrative cooperation adopted by the Council;
- closing savings taxation loopholes;
- the signature and conclusion of the draft antifraud and tax cooperation agreement between the EU and its Member States and Liechtenstein as well as the adoption the draft mandate for opening similar negotiations with four other neighbouring third countries;
- the adoption of Commission proposals on Quick Reaction Mechanism against VAT fraud and the optional application of the VAT reverse charge mechanism;
- participate as widely as possible, for the EU VAT forum to attain its objectives.

(2) New Commission initiatives: as an **immediate response** to the identified needs to ensure a coherent policy vis-à-vis third countries, to enhance exchange of information and to tackle certain fraud trends, the Commission has presented two recommendations.

- Recommendation No 1 regarding measures intended to encourage third countries to apply minimum standards of good governance in tax matters: the Commission recommends the adoption by Member States of a **set of criteria to identify third countries not meeting minimum standards of good governance** in tax matters and a 'toolbox' of measures in regard to

third countries according to whether or not they comply with those standards, or are committed to comply with them. Those measures comprise the possible **blacklisting** of non-compliant jurisdictions and the renegotiation, suspension or conclusion of Double Tax Conventions (DTCs).

Furthermore, Member States should consider ad hoc detachments of experts to assist tax administrations in third countries that commit to complying with minimum standards but are in need of technical assistance.

- Recommendation No 2 on aggressive tax planning: currently, some taxpayers may use complex, sometimes artificial, arrangements which have the effect of relocating their tax base to other jurisdictions within or outside the Union. In doing this, taxpayers take advantage of mismatches in national laws to ensure that certain items of income remain untaxed anywhere or to exploit differences in tax rates.

Concrete action by all Member States intended to remedy such problems would also improve the operation of the internal market. In the light of this, the Commission recommends that Member States take common effective action in this field. Specifically, Member States are encouraged to include **a clause in Double Tax Conventions (DTCs)** concluded with other EU Member States and with third countries to resolve a specifically identified type of double non-taxation. The Commission also recommends the use of a **common general anti-abuse rule**.

The Commission plans to establish a **Platform for Tax Good Governance** composed of experts from Member States and stakeholders representatives to provide assistance in preparing its report on the application of the two Recommendations.

(3) Future initiatives: actions to be undertaken in the short term consist of the following :

- a revision of the parent subsidiary directive (2011/96/EU) so as to ensure that the application of the directive does not inadvertently prevent effective action against double non-taxation in the area of hybrid loan structures;
- **review of anti-abuse provision** in EU legislation;
- promote the standard of **automatic exchange of information** in international fora and the EU IT tools;
- establish a **European taxpayer's code**;
- **reinforced cooperation** with other law enforcement bodies;
- promote the use of **simultaneous controls** and the presence of foreign officials for audits;
- use of an **EU Tax Identification Number** (TIN)
- guidelines for tracing money flows;
- develop motivational incentives including **voluntary disclosure programmes**;
- develop a **tax web portal** in order to improve access to reliable tax information in cross-border situations;
- develop an **EU Standard Audit File** for Tax (SAF-T).

Beyond 2014 : the Commission shall examine the possibility to : (i) develop a methodology for joint audits by dedicated teams of trained auditors ; (ii) develop mutual direct access to national databases ; (iii) elaborate a single legal instrument for administrative cooperation for all taxes.

Follow-up : in order to ensure that the actions described in this action plan will be duly implemented, the Commission will put in place appropriate monitoring and scoreboards, which includes in particular regular exchanges of views in relevant committees and working groups on the basis of detailed questionnaires.