



TAXE COMMITTEE

**Special Committee on tax rulings
and other measures similar in nature or effect**

Delegation visit to Luxembourg - Monday 18 May

Mission report

Draft agenda

08:30 - 09:30 Preparatory meeting

Venue: Hemicycle of the European Parliament, Schuman Building (Kirchberg)

09:30 - 11.30 Experts Panel with the participation of:

- Wim Piot, Tax Leader PWC
- Nicolas Mackel, CEO Luxembourg for Finance
- Mike Mathias
- Christine Dahm, Directrice du Cercle de Coopération des ONG du développement

Venue: Hemicycle of the European Parliament, Schuman Building (Kirchberg)

12.00 - 13.30 Meeting with members of the Luxembourg Parliament

Delegation of members from the Finance Committee: Chair : Mr Eugène Berger

Venue: Chambre des députés du Grand-Duché de Luxembourg

13.40 - 14.20 Lunch

EP Offices - 7, rue Marché-aux-Herbes, L-1728 Luxembourg

14.45 - 16.15 Meeting with Minister of Finance (Pierre Gramegna) together with Head of tax ruling office

*Venue: European Convention Center Luxembourg (ECCL), Entrée VIP
Rue du Fort Thüngen, Kirchberg, Luxembourg*

Programme ends.

16.15- 16.45 Joint press conference with Minister

Interpretation : EN, FR

TAXE COMMITTEE
ad hoc Delegation to Luxembourg
18 May 2015
Final list of participants

Members

Alain LAMASSOURE, Chair	PPE
Danuta HUBNER	PPE
Elisa FERREIRA	S-D
Morten MESSERSCHMIDT	ECR
Michael THEURER	ALDE
Fabio DE MASI	GUE
Sven GIEGOLD	Verts/ALE
Marco VALLI	EFDD

Accompanying Members

Burkhard BALZ	PPE
Frank ENGEL	PPE
Peter SIMON	S-D
Hugues BAYET	S-D
Anneliese DODDS	S-D
Paul TANG	S-D

Political advisers

Erik DAUKSTS	PPE
Stine LARSEN	S-D
Jami ARVOLA	ECR
Petra SOLLI	ALDE
Sinead NI TREABHAIR	GUE
Michael SCHMITT	Verts/ALE
Andrea CURRI	EFDD

Secretariat

Massimo PALUMBO	Head of Unit
Benoît WETS	Administrator

Interpreters/Technician

Samuel DIZIERE (team leader)
Vanessa EGGENBERGER
Rosy SNELL
Peter STRAUSS
Edgar KISS (Tech Lux)

Press Officer

Ronnie KORVER

1. Meeting with stakeholders

Experts participating in the discussion:

- Wim Piot, Tax Leader PWC
- Nicolas Mackel, CEO Luxembourg for Finance
- Mike Mathias, Member of the Council of State but speaking as a Luxembourgish citizen.
- Christine Dahm, Directrice du Cercle de Coopération des ONG du développement

Questions addressed to experts mainly focused on transparency of the Luxembourgish tax ruling system, Country by country Reporting (CBCR), current and past tax ruling practices in Luxembourg, role of tax consultancies and tax administration, tax competition and the effects of the Luxembourgish system on double non taxation and tax base erosion of others EU Member States and Developing countries.

Main findings:

Mr Mackel (Luxembourg for Finance) explained the main strengths of Luxembourg for its development as main financial actor in the world. According to him, taxation is not the main element, although tax rulings play a role in the stability that companies look for when deciding to implement in a country. Mr Mackel said that Luxembourg could easily further develop without tax rulings.

PwC is in favour of transparency in general and in particular on all (not limited to cross border) tax rulings on the condition that business plan are not made public. PwC also supports CBCR but payroll taxes should also be included. It agrees that the international tax system does not work well and that a review should take place at global level (OECD BEPS). As regards tax rulings, PwC highlighted that there has never been any political intervention in their requests.

Christine Dahm and Mr Mathias acknowledged that things are moving in the right direction in Luxembourg. However they do not see any change as regards the openness of the government to discuss with them. They pointed out the (lack of uniform) definition of economic substance to anchor a taxable activity in a country as the weakest point of the international tax system.

2. Meeting with the Finance and Budgetary Committee and the European Affairs Committee

The meeting (held in camera at the request of the Luxembourg Parliament) was opened by the Chair of the Finance Committee Mr Berger.

Questions addressed to the Committee focused on the position of Luxembourg towards more transparency, the Luxembourgish freeport, the importance of tax competition for small countries, the definition of healthy competition and of economic substance, the publication of tax rulings, the CCCTB, the Krecké report, protection of whistleblowers and freedom of the press and the compatibility of state aid rules and tax rulings.

Main messages from the Committee:

- Luxembourg introduced at the end of 2014 a new law on tax rulings which includes anonymised publication;

- Luxembourg spontaneously shared some tax rulings with other Members States in the past but never received any from other MS; it therefore stopped exchanging spontaneously tax rulings; according to Luxembourg, the European Commission was aware that no tax rulings were exchanged.
- Luxembourg moves towards more transparency, is ready to move against aggressive tax planning and agrees that fairer taxation is needed; it however highlights that the EU cannot move alone, agreements should be reached at more global level.
- It was added that tax competition is a reality but that a change of direction towards equality across the board is needed and that only healthy competition should remain
- The Finance Committee is in favour of an EU CCCTB;
- There is a national law on protection of whistleblowers but the Committee acknowledges that it is not sufficient as it only tackles corruption cases and does not protect bespoken LuxLeaks journalists and other similar cases.
- the foreseen vote on free port regulation is currently pending because of LuxLeaks

The Chair of the Finance Committee confirmed that Members of the Luxembourgish Parliament will be happy to attend the TAXE interparliamentary session of 17 June.

3. Meeting with Mr Gramegna and his tax administration

Participants for Luxembourg:

Monsieur Gramegna was accompanied by its tax administration.

- Mme Pascale Toussing, Directeur de la Fiscalité, Ministère des Finances
- M. Etienne Reuter, Secrétaire Général, Ministère des Finances
- M. Guy Heintz, Directeur, Administration des contributions directes
- Mme Monique Adams, Directeur adjoint, Administration des Contributions directes
- M. Luc Schmit, Directeur adjoint, Administration des Contributions directes
- M. Frédéric Batardy, Conseiller, Direction de la Fiscalité, Ministère des Finances
- M. Bob Kieffer, Conseiller en Communications, Ministères des Finances
- M. Lucien Michels, Relations publiques, Ministère des Finances

Questions addressed to the Minister mainly focused on CBCR, publication of tax rulings, network of bilateral treaties for double taxation, the minimum criteria for economic substance to be taxed in Luxembourg, the letterbox companies, the Lux Freeport, current and past tax ruling practices and measures to combat aggressive tax avoidance, double non taxation and the erosion of tax base of others Member States.

Main messages from the Minister:

- Luxembourg is changing and moving towards more transparency. Several laws have recently been introduced (and were already decided by the previous government). Luxembourg agrees that the EU should be pioneer in introducing measures to tackle aggressive tax planning. However, main economic partners should commit in the medium term to move in the same direction.
- Luxembourg is in favour of CBCR but it should not be public (only available to tax authorities).
- All double tax treaties follow the OECD format. The Minister acknowledges that this format could be updated and would be ready to modify the bilateral agreements in line with a new OECD format.

- Luxembourg is in favour of automatic exchange of ALL tax rulings (not limited to cross-border). Luxembourg is furthermore in favour of a public registry, and is keen to advance on these issues under its Presidency. Likewise for the CCCTB (pending Commission proposal) and the Interest and Royalties Directive.
- Luxembourg has defined in its loi general des import article 6 criteria to determine whether there is sufficient economic substance created in Luxembourg to be taxed in the country. These criteria are developed in an administrative vade-mecum which, for issues of confidentiality, was not annexed to the follow-up letter sent by Mr Gramegna to Mr Lamassoure, despite the specific request for it and the fact that the Minister said orally that it would be at the disposal of the delegation. [Neither Mr Gramegna nor the heads of administration were able to give proof for the robustness of the criteria not of the application of an anti-abuse clause.] Recent reforms did not introduce changes to the notion and application of economic substance requirements
- Luxembourg has concluded a very high number of tax rulings in the past but lots of them were simply a confirmation in written of recurrent, clear and not disputable positions of the tax administration.
- Luxembourg contacted/ informed tax authorities of other EU MS (he explicitly mentioned Germany and France) on abnormal profit reporting in Luxembourg of companies established in those MS. Mr Gramegna said however that they did not follow up on this.
- [When confronted with Mr Kohls Interview in the WSJ and with the observation that Mr Kohl confirmed transfer prices in record time, neither the minister nor the tax administration felt capable of verifying that tax rulings and confirmed transfer pricing arrangements were applied according to unitary and non discriminatory standards, arms length principle etc. Indeed, the Minister referred to his tax administration but the chair of the Ruling Commission merely stated that she was not in charge during Mr Kohls period of responsibility.
- The Minister confirmed in the press conference he would not deliver on the documents requested (e.g. all rulings since 1991).

The Minister promised to send in written additional information to the TAXE Committee.