



Special Committee on Tax Rulings and Other Measures Similar in Nature or Effect

23/09/2015

AMENDMENTS 1 - 159

Elisa Ferreira, Michael Theurer

Report of the special committee on tax rulings and other measures similar in nature or effect

Motion for a resolution PE564.938 - 2015/2066(INI)

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Special Committee on Tax Rulings and Other Measures Similar in Nature or Effect

23/09/2015

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Motion for a resolution PE564.938 - 2015/2066(INI)

Amendment 1

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Citation 2

Motion for a resolution

— having regard to Articles 107, 108, 113, 115 *and 116* of the Treaty on the Functioning of the European Union,

Amendment

— having regard to Articles 107, 108, 113, 115, *116 and 208* of the Treaty on the Functioning of the European Union,

Or. en

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Motion for a resolution PE564.938 - 2015/2066(INI)

Amendment 2

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Citation 5 a (new)

Motion for a resolution

Amendment

- having regard to the Report 'Harmful Tax Competition. An emerging global issue' of the Organisation for Economic Cooperation and Development (OECD) of 1998

Or. en

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Amendment 3

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Citation 7

Motion for a resolution

— having regard to recent European Council conclusions on the Common Consolidated Corporate Tax Base (14 March 2013), on the automatic exchange of information (18 December 2014), on Base Erosion and Profit Shifting (BEPS), the automatic exchange of information at global level and harmful tax measures (18 December 2014) and on Tax Evasion (27 June 2014),

Amendment

— having regard to recent European Council conclusions on the Common Consolidated Corporate Tax Base (14 March 2013), on **taxation (22 May 2013)**, **on** the automatic exchange of information (18 December 2014), on Base Erosion and Profit Shifting (BEPS), the automatic exchange of information at global level and harmful tax measures (18 December 2014) and on Tax Evasion (27 June 2014),

Or. en

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Amendment 4

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Citation 9

Motion for a resolution

— having regard to the *report* from the Code of Conduct Group to the Council on the Code of Conduct (Business Taxation) *of 11 June 2015*,

Amendment

— having regard to the *six-monthly reports* from the Code of Conduct Group to the Council on the Code of Conduct (Business Taxation),

Or. en

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Amendment 5

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Citation 14 a (new)

Motion for a resolution

Amendment

- having regard to the Communication of 26 February 2007 from the Commission to the Council, the European Parliament and the European Economic and Social Committee on the work of the EU Joint Transfer Pricing Forum in the field of dispute avoidance and resolution procedures and on Guidelines for Advance Pricing Agreements within the EU (COM(2007) 71)

Or. en

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Amendment 6

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Citation 14 b (new)

Motion for a resolution

Amendment

- having regard to the Commission Notice of 10 December 1998 on the application of the State aid rules to measures relating to direct business taxation (98/C 384/03)

Or. en

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Amendment 7

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Citation 16

Motion for a resolution

— having regard to the Commission's Tax
Transparency *Package of 18 March 2015*,

Amendment

— having regard to the Commission
*Communication of 18 March 2015 on tax
transparency to fight tax evasion and
avoidance (COM(2015) 136)*,

Or. en

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Amendment 8

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Citation 27 a (new)

Motion for a resolution

Amendment

**- - having regard to its resolution of 23 October 2013 on organised crime, corruption and money laundering[1],
[1] Texts adopted, P7_TA(2013)0444.**

Or. en

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Amendment 9

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Recital A

Motion for a resolution

A. whereas the LuxLeaks scandal, which erupted on 5 November 2014 thanks to the International Consortium of Investigative Journalists with the release of some 28 000 pages of confidential documents setting out more than 500 private tax arrangements between the Luxembourg tax administration and more than 300 multinational corporations (MNCs) between 2002 and 2010, revealed the extent of the use of secret deals featuring complex financial structures designed to obtain drastic tax reductions; whereas in many cases Luxembourg subsidiaries handling hundreds of millions of euros in business maintain little presence and conduct little economic activity in Luxembourg;

Amendment

A. whereas the LuxLeaks scandal, which erupted on 5 November 2014 thanks to the ***courageous actions of whistle-blowers and the*** International Consortium of Investigative Journalists with the release of some 28 000 pages of confidential documents setting out more than 500 private tax arrangements between the Luxembourg tax administration and more than 300 multinational corporations (MNCs) between 2002 and 2010, revealed ***to the public*** the extent of the use of secret deals featuring complex financial structures designed to obtain drastic tax reductions ***and unfair tax advantages; whereas the scandal triggered unprecedented public outrage in Europe and beyond to which the European institutions must adequately respond; whereas this scandal demonstrated the***

importance of having public information on tax matters in the EU; whereas in many cases Luxembourg subsidiaries handling hundreds of millions of euros in business maintain little *or no physical* presence and conduct little economic activity in Luxembourg;

Or. en

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Amendment 10

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Recital B

Motion for a resolution

B. whereas issues related to corporate tax base erosion and aggressive tax planning practices have been known and analysed at international level at least ***since the end of the years 1990***; whereas Luxleaks brought public and media attention to those issues, disclosing questionable tax practices promoted by ***one specific*** accountancy ***firm*** in one specific Member State; whereas the ***Commission's*** investigations and the work carried out by Parliament through its special committee have shown that this is not the only case but a practice that is widespread within Europe and beyond, and one which consists in taking tax measures to reduce some corporations' overall tax liabilities so as to artificially increase the national tax base at the expense of other countries;

Amendment

B. whereas issues related to corporate tax base erosion and aggressive tax planning practices have been known and analysed at international level at least ***for several decades***; whereas Luxleaks brought public and media attention to those issues, disclosing questionable tax practices promoted by accountancy ***firms*** in one specific Member State; whereas the ***Commission's*** investigations and the work carried out by Parliament through its special committee have shown that this is not the only case but a practice that is widespread within Europe and beyond, and one which consists in taking tax measures to reduce some ***large*** corporations' overall tax liabilities so as to artificially increase the national tax base at the expense of other countries;

Or. en

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Amendment 11

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Recital C a (new)

Motion for a resolution

Amendment

C a. whereas estimations of the cost of tax evasion, tax avoidance and tax fraud are often underestimated and difficult to calculate given the nature of the problem; whereas the European Commission estimated that evasion and avoidance costs the European Union €1 trillion a year; whereas the UN Commission for Trade and Development calculated that developing countries lose around \$100 billion per year in revenues due to tax avoidance by multinational enterprises;

Or. en

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Amendment 12

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Recital D

Motion for a resolution

D. whereas subjecting these practices to public scrutiny is part of democratic control; whereas, given their negative impact on society as a whole, they can only persist as long as they remain undisclosed, or are tolerated; whereas investigative journalists, the non-governmental sector and the academic community have been instrumental in exposing cases of tax avoidance and informing the public thereof; whereas, as long as they cannot be prevented, their disclosure should not depend on the courage and ethical sense of individual whistleblowers, but rather be part of more systematic reporting and information-exchange mechanisms;

Amendment

D. whereas subjecting these practices to public scrutiny is part of democratic control; whereas, given their negative impact on society as a whole, they can only persist as long as they remain undisclosed, or are tolerated; whereas *whistle-blowers*, investigative journalists, the non-governmental sector and the academic community have been instrumental in exposing cases of tax avoidance and informing the public thereof; whereas, as long as they cannot be prevented, their disclosure should not depend on the courage and ethical sense of individual whistleblowers, *often prosecuted and facing jail sentences when many large multinationals involved in the Luxleaks scandal have not been prosecuted*, but rather be part of more systematic *public* reporting and *automatic* information-

exchange mechanisms;

Or. en

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Amendment 13

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Recital E

Motion for a resolution

E. whereas direct taxation is a competence of Member States and is thus subject to the unanimity requirement within the Council; whereas this has resulted in no significant **decision** being taken yet at EU level in the area of corporate taxation despite recent developments in EU integration in connection with the internal market and other areas covered by the EU Treaties such as international trade agreements, the single currency and economic and fiscal governance; whereas, by giving each Member State a veto right, the unanimity rule within the Council **reduces the incentive** to move from the status quo towards a more cooperative solution;

Amendment

E. whereas direct taxation is **mainly** a competence of Member States and is thus **usually** subject to the unanimity requirement within the Council; whereas this has resulted in no significant **decisions** being taken yet at EU level in the area of corporate taxation despite recent developments in EU integration in connection with the internal market and other areas covered by the EU Treaties such as international trade agreements, the single currency and economic and fiscal governance; whereas **Member States must comply with European competition law and ensure their tax legislation is compatible with the principles of the internal market and does not create distortion of competition**; whereas, by giving each Member State a veto right, the unanimity rule within the Council

annihilates all attempt to move from the status quo towards a more cooperative solution;

Or. en

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Amendment 14

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Recital E a (new)

Motion for a resolution

Amendment

E a. Whereas in the European internal market capital flows freely and large companies report their activities on a consolidated basis but tax is collected nationally by tax authorities exchanging very little information among them; ,

Or. en

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Amendment 15

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Recital F

Motion for a resolution

F. whereas, in a completed internal market, no distortion should affect investment decisions and business location; whereas, however, globalisation, digitalisation and free movement of capital create the conditions for more intense tax competition between Member States, and with third countries, to attract investments and businesses; whereas this can take the form of potentially harmful tax schemes, which are aimed at fostering investments and attract additional economic activity in the first place, reacting to similar measures launched in neighbouring countries or to correct what is considered as pre-existing imbalances by Member States, in terms of relative wealth, size or peripheral location; whereas, incidentally, in some jurisdictions there seems to be a correlation between attractive corporate tax systems and a high

Amendment

F. whereas, in a completed internal market, no distortion should affect investment decisions and business location; whereas, however, globalisation, digitalisation and free movement of capital create the conditions for more intense tax competition between Member States, and with third countries, to attract investments and businesses; whereas ***in many Member States, the average effective tax rate on SMEs is higher than for large companies because of international tax planning opportunities available to the latter***^{1a}; ***whereas*** this can take the form of potentially harmful tax schemes, which are aimed at fostering investments and attract additional economic activity in the first place, reacting to similar measures launched in neighbouring countries or to correct what is considered as pre-existing

level of national wealth; whereas the optimal design for tax systems depends on numerous factors and therefore differs from one country to another;

imbalances by Member States, in terms of relative wealth, size or peripheral location; whereas, incidentally, in some *smaller* jurisdictions there seems to be a correlation between attractive corporate tax systems and a high level of national wealth; whereas the optimal design for tax systems depends on numerous factors and therefore differs from one country to another;

^{1 a} [1] http://ec.europa.eu/growth/tools-databases/newsroom/cf/itemdetail.cfm?item_id=8377

Or. en

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Amendment 16

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Recital G

Motion for a resolution

G. whereas, in its role as a player in the tax competition game, each country uses its national legislation in conjunction with its tax treaty network to promote itself as a country to invest in, thereby attracting businesses at the expense of partner countries; whereas, taken in isolation, each Member State has a clear interest in adopting a 'free rider' behaviour, i.e. in being the first to design and implement specific tax schemes and provisions to attract tax base, and the last to participate in any cooperative and coordinated action to tackle tax avoidance;

Amendment

G. whereas, in its role as a player in the tax competition game, each country uses its national legislation in conjunction with its tax treaty network to promote itself as a country to invest in ***or to book profits in, thereby attracting businesses or letter box companies*** at the expense of partner countries ***and creating unfair practices between them***; whereas, taken in isolation, each Member State has a clear interest in adopting a 'free rider' behaviour, i.e. in being the first to design and implement specific tax schemes and provisions to attract tax base, and the last to participate in any cooperative and coordinated action to tackle tax avoidance; ***whereas such a game becomes a negative sum one, once all members develop similar strategy, and creates a very unfair situation for corporations with colossal aggregate***

public losses; whereas, tax evasion and tax avoidance helped create the current sovereign debt crisis;

Or. en

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Amendment 17

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Recital H

Motion for a resolution

H. whereas, as a result, some Member States ***tend to have*** an ambivalent position regarding tax avoidance, complaining on the one hand about their national tax base erosion while at the same time being responsible for the design of the current national and international tax systems which made it possible, and still impeding any development of their tax systems towards a more coordinated solution; whereas, in a framework of full capital mobility within the EU, the interdependence and mutual effects of national tax systems and revenue should be fully taken into account, bearing in mind the extensive positive and negative cross-border spillovers from individual Member States' tax decisions, since one ***country's*** tax incentive is ***another's*** base erosion;

Amendment

H. whereas, as a result, some Member States ***adopt*** an ambivalent position regarding tax avoidance, complaining on the one hand about their national tax base erosion while at the same time being responsible for the design of the current national and international tax systems which made it possible, and still impeding any development of their tax systems towards a more coordinated solution; whereas, in a framework of full capital mobility within the EU, the interdependence and mutual effects of national tax systems and revenue should be fully taken into account, bearing in mind the extensive positive and negative cross-border spillovers from individual Member States' tax decisions, since one ***country's*** tax incentive is ***another's*** base erosion;

Or. en

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Amendment 18

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Recital I

Motion for a resolution

I. whereas the legislator and tax administrations cannot anticipate but only react, sometimes with great delay, to the innovative tax avoidance schemes which are designed and promoted by some tax advisers, lawyers and intermediary companies; whereas, in particular, experience shows that EU bodies which should prevent the introduction of harmful tax measures (such as the Code of Conduct Group set up by Member States in 1998), often react too little, and that a mass of new and often aggressive tax avoidance measures or agreements have been introduced in the EU; whereas MNCs are relying, in the EU and worldwide, on the expertise of a well-organised and skilled sector of tax advisers for the development of their tax avoidance schemes; whereas this sector is represented at the same time

Amendment

I. whereas the legislator and tax administrations cannot anticipate but only react, sometimes with great delay, to the innovative tax avoidance schemes which are designed and promoted by some tax advisers, lawyers and intermediary companies; whereas, in particular, experience shows that EU bodies which should prevent the introduction of **new** harmful tax measures (such as the Code of Conduct Group set up by Member States in 1998), often react too little **and on the basis of a too limited mandate**, and that a mass of new and often aggressive tax avoidance measures or agreements have been introduced in the EU; whereas MNCs are relying, in the EU and worldwide, on the expertise of a well-organised and skilled sector of tax advisers for the development of their tax avoidance

in bodies advising governments and public institutions on tax matters, such as the EU Platform for Tax Good Governance;

schemes; whereas this sector is represented at the same time in bodies advising governments and public institutions on tax matters, such as the EU Platform for Tax Good Governance *raising concerns as regards to potential conflicts of interest*;

Or. en

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Amendment 19

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Recital L

Motion for a resolution

L. whereas the practice of rulings developed, in the framework of a closer and more cooperative relationship between tax administrations and taxpayers, as a tool to tackle the increasing complexity of the tax treatment of certain transactions in an increasingly complex, global and digitalised economy; whereas, ***as undisclosed and potentially discretionary/negotiated arrangements, rulings could at the same time be used as a means of obtaining derogations and more favourable tax treatments;***

Amendment

L. whereas the practice of rulings developed, in the framework of a closer and more cooperative relationship between tax administrations and taxpayers, as a tool to tackle the increasing complexity of the tax treatment of certain transactions in an increasingly complex, global and digitalised economy; whereas, ***tax rulings can be issued without any legal framework through informal or discretionary arrangements, supporting tax-driven structures which rely on tax planning tools typically used by MNCs in order to reduce their tax contribution instead of being a tool to clarify the existing tax legislation; whereas in certain countries, rulings are at the heart of the tax avoidance schemes offered by countries to attract investments;***

Or. en

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Amendment 20

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Recital L a (new)

Motion for a resolution

Amendment

L a. whereas in certain member states the practice of tax rulings is not clearly and precisely defined by law and can be perceived as granted by a few officials within the tax administrations, playing de facto a political role and leading to the politisation of tax administrations;

Or. en

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Amendment 21

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Recital M

Motion for a resolution

M. whereas advanced tax rulings are not supposed to affect in any manner the tax treatment of any transaction but should rather have, everything being equal, the same effect as the ex post application of the underlying tax provisions; whereas, accordingly, the focus of this report is not strictly limited to tax rulings but includes, in line with the mandate given to its special committee (TAXE), any tax measure similar in nature or in effect, under the generic term of 'harmful tax practices', i.e. measures aimed at attracting non-resident firms or transactions at the expense of other tax jurisdictions in which these transactions should normally be taxed;

Amendment

M. whereas advanced tax rulings are not supposed to affect in any manner the tax treatment of any transaction but should rather have, everything being equal, the same effect as the ex post application of the underlying tax provisions; whereas, accordingly, the focus of this report is not strictly limited to tax rulings but includes, in line with the mandate given to its special committee (TAXE), any tax measure similar in nature or in effect, under the generic term of 'harmful tax practices', i.e. measures aimed at attracting non-resident firms or transactions at the expense of other tax jurisdictions in which these transactions should normally be taxed **and or measures aimed to privilege only some companies, distorting competition;**

Or. en

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Amendment 22

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Recital N

Motion for a resolution

N. whereas harmful tax practices can, to some extent, be connected to one or several of the following non desirable effects: lack of transparency, distortions of competition and an uneven playing field within and outside the internal market, the fairness and legitimacy of the tax system affected, more taxation on less mobile economic factors, unfair competition between states, tax base erosion, social dissatisfaction, mistrust *or* a democratic deficit;

Amendment

N. whereas harmful tax practices can, to some extent, be connected to one or several of the following non desirable effects: lack of transparency, distortions of competition and an uneven playing field within and outside the internal market, the fairness and legitimacy of the tax system affected, more taxation on less mobile economic factors, unfair ***and increased*** competition between states, tax base erosion, social dissatisfaction, ***increasing inequalities,*** mistrust ***and*** a democratic deficit; ***whereas the establishment of a European mandatory automatic exchange of rulings should be considered as just a step further towards a common European tax rulings system increasing the level of certainty, consistency, uniformity and transparency so to reduce harmful competition,***

including illegal state aids;

Or. en

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Amendment 23

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Recital N a (new)

Motion for a resolution

Amendment

N a. whereas an inquiry committee was first suggested to the Conference of Presidents which agreed for the creation of a special committee only;

Or. en

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Amendment 24

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Recital O

Motion for a resolution

O. whereas its competent special committee, constituted on 26 February 2015, held xx meetings, during which it heard Commissioners Vestager and Moscovici, OECD representatives, as well as whistleblowers, investigative journalists, experts, academics, representatives of MNCs, professional associations, trade unions, non-governmental organisations and members of EU national parliaments (see Annex 1); whereas delegations from the TAXE Committee visited Switzerland, to look into specific aspects of the third-country dimension of its mandate, and the following Member States, to conduct fact-finding missions: Belgium, Luxembourg, Ireland, the Netherlands and the United Kingdom;

Amendment

O. whereas its competent special committee, constituted on 26 February 2015, held xx meetings, during which it heard Commissioners Vestager and Moscovici, OECD representatives, as well as whistleblowers, investigative journalists, experts, academics, representatives of MNCs, professional associations, trade unions, non-governmental organisations and members of EU national parliaments (see Annex 1); whereas delegations from the TAXE Committee visited Switzerland, to look into specific aspects of the third-country dimension of its mandate, and the following Member States, to conduct fact-finding missions: Belgium, Luxembourg, Ireland, the Netherlands and the United Kingdom; *whereas meetings with Government representatives of Gibraltar*

and Bermuda were also organised;

Or. en

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Amendment 25

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Recital P

Motion for a resolution

P. whereas *some of the committee's* work was hindered by the fact that a number of the Member States and the Council did not reply in due time and, in the end, did not forward all the documents requested; whereas, in particular, out of 18 MNCs invited, only 4 agreed to appear before the committee; whereas the *exchanges of views planned with the Commission President and the Finance Ministers had to be postponed due to external events beyond their control*; whereas the *committee's* term of office therefore had to be extended;

Amendment

P. whereas *the committee's* work was *seriously* hindered by the fact that a number of the Member States and the Council did not reply in due time and, in the end, did not forward all the documents requested; whereas, in particular, *three member states didn't reply at all to our letters when several other states did not reply to our questions, sometimes refusing to provide statistical information, such as on Advanced Pricing Agreements, which they already sent to the European Commission; whereas* out of 18 MNCs invited, only 4 agreed to appear before the committee; whereas the *European Commission decided not to provide 25 missing room documents and informal notes of Code of Conduct group meetings and only offered a very unsatisfactory consultation process, delaying the work of*

the committee; whereas the *committee's*
term of office therefore had to be extended;

Or. en

EUROPEAN PARLIAMENT

Special Committee on Tax Rulings and Other Measures Similar in Nature or Effect

23/09/2015

Report of the special committee on tax rulings and other measures similar in nature or effect

Motion for a resolution PE564.938 - 2015/2066(INI)

Amendment 26

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Recital Q

Motion for a resolution

Q. whereas a number of state aid investigations by the Commission were still in progress at the time of the drafting / adoption of this report, in relation to transfer pricing arrangements, validated by tax rulings, which affect the taxable profit allocated to certain MNC subsidiaries;

Amendment

Q. whereas a number of state aid investigations by the Commission were still in progress at the time of the drafting / adoption of this report, in relation to transfer pricing arrangements, validated by tax rulings ***and other measures similar in nature or effect*** which affect the taxable profit allocated to certain MNC subsidiaries;

Or. en

EUROPEAN PARLIAMENT

Special Committee on Tax Rulings and Other Measures Similar in Nature or Effect

23/09/2015

Report of the special committee on tax rulings and other measures similar in nature or effect

Motion for a resolution PE564.938 - 2015/2066(INI)

Amendment 27

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Subheading 4 a (new)

Motion for a resolution

Amendment

***Relations with EU institutions and
principle of sincere cooperation***

Or. en

EUROPEAN PARLIAMENT

Special Committee on Tax Rulings and Other Measures Similar in Nature or Effect

23/09/2015

Report of the special committee on tax rulings and other measures similar in nature or effect

Motion for a resolution PE564.938 - 2015/2066(INI)

Amendment 28

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph -1 (new)

Motion for a resolution

Amendment

-1. Deeply regrets that to date three Member States - Bulgaria, Denmark and Slovenia - haven't replied to the European Parliament's request for information;

Or. en

EUROPEAN PARLIAMENT

Special Committee on Tax Rulings and Other Measures Similar in Nature or Effect

23/09/2015

Report of the special committee on tax rulings and other measures similar in nature or effect

Motion for a resolution PE564.938 - 2015/2066(INI)

Amendment 29

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph -1 a (new)

Motion for a resolution

Amendment

-1 a. Notes with concern that some Member States, including Germany, France, Luxembourg, Sweden, United Kingdom, Slovakia, Malta and Hungary, did not fully reply to our questions, denying the committee access to key documents to fulfil its mandate;

Or. en

EUROPEAN PARLIAMENT

Special Committee on Tax Rulings and Other Measures Similar in Nature or Effect

23/09/2015

Report of the special committee on tax rulings and other measures similar in nature or effect

Motion for a resolution PE564.938 - 2015/2066(INI)

Amendment 30

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph -1 b (new)

Motion for a resolution

Amendment

-1 b. Condemns the refusal by the Council of the European Union to provide relevant documents related to the Code of Conduct on business taxation and the Council Working Party on Tax Questions, in breach of the sincere cooperation principle included in the Lisbon treaty;

Or. en

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Special Committee on Tax Rulings and Other Measures Similar in Nature or Effect

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Motion for a resolution PE564.938 - 2015/2066(INI)

Amendment 31

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph -1 c (new)

Motion for a resolution

Amendment

-1 c. Regrets that the European Commission did not fully cooperate and send all room documents and informal meeting notes from the Code of Conduct meetings and only offered a limited consultation procedure;

Or. en

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Special Committee on Tax Rulings and Other Measures Similar in Nature or Effect

23/09/2015

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Motion for a resolution PE564.938 - 2015/2066(INI)

Amendment 32

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 1

Motion for a resolution

1. Recalls that the models of corporate taxation existing in industrialised countries were designed in the first half of the 20th century, a period in which cross-border activity was limited; notes that globalisation and digitalisation of the economy have radically altered the global value chain and the way markets operate; stresses that national and international rules in the field of taxation have not kept pace with the evolution of the business environment;

Amendment

1. Recalls that the models of corporate taxation existing in industrialised countries were designed in the first half of the 20th century, a period in which cross-border activity was limited; notes that globalisation and digitalisation of the economy have radically altered the global value chain and the way markets operate ***and that most large companies now have a transnational structure which necessitates to go beyond national tax rules***; stresses that national and international rules in the field of taxation have not kept pace with the evolution of the business environment;

Or. en

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Special Committee on Tax Rulings and Other Measures Similar in Nature or Effect

23/09/2015

Report of the special committee on tax rulings and other measures similar in nature or effect

Motion for a resolution PE564.938 - 2015/2066(INI)

Amendment 33

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 2

Motion for a resolution

2. Notes that, while compliance with various tax systems has become increasingly complex for firms operating across borders, globalisation and digitalisation have made it easier for them to organise their activities through off-shore financial centres, and to create sophisticated structures in order to reduce their global tax **burden**; is concerned that, due to the economic crisis and budget consolidation, most Member States have significantly reduced their tax administration staff, thereby impacting their potential capacity to prevent, detect and fight aggressive tax planning, which generates substantial erosion of their tax base;

Amendment

2. Notes that, while compliance with various tax systems has become increasingly complex for firms operating across borders, globalisation and digitalisation have made it easier for them to organise their activities through off-shore financial centres, and to create sophisticated structures in order to reduce their global tax **contribution; stresses that the current opacity in the international tax system allows MNCs to avoid taxes, circumvent national tax laws and shift their profits to tax havens**; is concerned that, due to the economic crisis and budget consolidation, most Member States have significantly reduced their tax administration staff, thereby impacting their potential capacity to prevent, detect and fight aggressive tax planning, which generates substantial erosion of their tax

base; *stresses that each tax inspector collects a multiple of his labour cost as additional tax revenue; emphasizes that for reasons of avoidance, identification and control beneficial owners should be identified already at the establishment of a company as well as at the time of sell of shares and other fundamental transactions in order to provide relevant information to the tax authority;*

Or. en

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Special Committee on Tax Rulings and Other Measures Similar in Nature or Effect

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Report of the special committee on tax rulings and other measures similar in nature or effect

Motion for a resolution PE564.938 - 2015/2066(INI)

Amendment 34

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 3

Motion for a resolution

3. Stresses that the Treaty, ***in line with the subsidiarity principle***, allows Member States to determine their own corporate tax rates; stresses also, ***however***, that the over-complex rules of national tax systems, together with the differences between these systems, create loopholes that are used by MNCs for aggressive tax planning purposes, thus leading to base erosion, profit shifting, a race to the bottom and, ultimately, to a suboptimal economic outcome; underlines the fact that this kind of tax avoidance is a negative sum game for all national budgets taken together, as the increases in tax revenues resulting from harmful practices in one Member State (thanks to derogations, specific deductions or loopholes) do not compensate for the reductions in tax revenues in others; points out that only a more coordinated, joint

Amendment

3. Stresses that the Treaty allows Member States to determine their own corporate tax rates ***until stronger tax harmonization measures have been agreed in line with the treaty***; stresses also, ***that revisions of the Parent Subsidiary and Interest and Royalties Directives to remove withholding taxes to build the internal market and avoid double taxation have actually led to exacerbated opportunities for double non-taxation and increased tax competition***, , that the over-complex rules of national tax systems, together with the differences between these systems, create loopholes that are used by MNCs for aggressive tax planning purposes, thus leading to base erosion, profit shifting, a race to the bottom and, ultimately, to a suboptimal economic outcome; underlines the fact that this kind of tax avoidance is a

approach by Member States, which should result in a common framework within which Member States set their tax rates, can prevent further base erosion;

negative sum game for all national budgets taken together, as the increases in tax revenues resulting from harmful practices in one Member State (thanks to derogations, specific deductions or loopholes) do not compensate for the reductions in tax revenues in others; ***is concerned that some Member States continue their aggressive tax competition strategy by implementing new favourable tax regimes and new tax breaks for MNCs***; points out that only a more coordinated, joint approach by Member States, which should result in a common framework within which Member States set their tax rates, can prevent further base erosion; ***warns against the need to ensure that European tax policies do not lead to a two-speed Europe trap with carve-outs for non-Euro countries***

Or. en

EUROPEAN PARLIAMENT

Special Committee on Tax Rulings and Other Measures Similar in Nature or Effect

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Motion for a resolution PE564.938 - 2015/2066(INI)

Amendment 35

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 4

Motion for a resolution

4. Notes that, according to the Commission¹⁵, statutory corporate income tax rates in the EU fell by 12 percentage points, from 35 % to 23 %, between 1995 and 2014; stresses that this decrease in tax rates is accompanied by a broadening of the tax base to mitigate revenue losses and that the relatively stable revenue stemming from corporate taxation in the same timeframe can also be explained by a substantial ‘incorporation’ trend, i.e. a shift from certain legal forms of doing business, such as (sole) proprietorship, to corporation status, which results in a similar shift from a personal to a corporate tax base;

¹⁵ Taxation trends in the European Union,

Amendment

4. Notes that, according to the Commission¹⁵, statutory corporate income tax rates in the EU fell by 12 percentage points, from 35 % to 23 %, between 1995 and 2014 ***while effective tax rates can be much lower in certain EU member states***; stresses that this decrease in tax rates is accompanied by a broadening of the tax base to mitigate revenue losses and that the relatively stable revenue stemming from corporate taxation in the same timeframe can also be explained by a substantial ‘incorporation’ trend, i.e. a shift from certain legal forms of doing business, such as (sole) proprietorship, to corporation status, which results in a similar shift from a personal to a corporate tax base;

¹⁵ Taxation trends in the European Union,

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Special Committee on Tax Rulings and Other Measures Similar in Nature or Effect

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Amendment 36

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 6

Motion for a resolution

6. Notes the large diversity of the 28 tax systems in the EU, as regards both the definition of the tax base and the level of the tax rate, which is even greater if one takes into account the special jurisdictions with autonomous tax systems within the EU (overseas territories and Crown dependencies); deplores that basic notions and elements, such as the balance between source and residence taxation, permanent establishment and taxable entities, economic substance and anti-abuse rules, not to speak of what can or cannot be deducted from the tax base, are currently not subject to any joint definition or guidelines in the EU, leaving Member States with uncoordinated tax systems;

Amendment

6. Notes the large diversity of the 28 tax systems in the EU, as regards both the definition of the tax base and the level of the tax rate, which is even greater if one takes into account the special jurisdictions with autonomous tax systems within the EU (overseas territories and Crown dependencies); deplores that basic notions and elements, such as the balance between source and residence taxation, permanent establishment and taxable entities, economic substance and anti-abuse rules, not to speak of what can or cannot be deducted from the tax base, are currently not subject to any joint definition or guidelines in the EU, leaving Member States with uncoordinated tax systems ***therefore fuelling tax avoidance and loss of national tax revenue;***

Or. en

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Amendment 37

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 8

Motion for a resolution

8. Notes that this uncoordinated tax framework within the EU also suffers from a blatant lack of cooperation between Member States; stresses, in this connection, that Member States do not necessarily take into consideration the impact of their tax measures on other Member States, not only when they design their tax measures but also when they share information on the implementation of such measures, leading to a de facto beggar-thy-neighbour policy in tax matters; points out that a systematic and efficient exchange of information between Member States would make it possible to take account of the tax treatment of specific income flows or transactions in other Member States; stresses that this also contributes to creating an unacceptable situation in which the profits generated by MNCs in a

Amendment

8. Notes that this uncoordinated tax framework within the EU also suffers from a blatant lack of cooperation between Member States **and with other countries**; stresses, in this connection, that Member States do not necessarily take into consideration the impact of their tax measures on other Member States **or on developing countries**, not only when they design their tax measures but also when they share information on the implementation of such measures, leading to a de facto beggar-thy-neighbour policy in tax matters; points out that a systematic and efficient exchange of information between Member States **and with third countries** would make it possible to take account of the tax treatment of specific income flows or transactions in other Member States; stresses that this also

Member State are often taxed at very low rates or not at all in the EU;

contributes to creating an unacceptable situation in which the profits generated by MNCs in a Member State are often taxed at very low rates or not at all in the EU;

Or. en

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Special Committee on Tax Rulings and Other Measures Similar in Nature or Effect

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Report of the special committee on tax rulings and other measures similar in nature or effect

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Amendment 38

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 10

Motion for a resolution

10. Stresses that tax avoidance by some MNCs can result in close-to-zero effective tax rates for the profits generated in European jurisdictions, highlighting the fact that such MNCs, while benefiting from various public goods and services where they operate, do not pay their fair share, thereby contributing to national tax base erosion;

Amendment

10. Stresses that tax avoidance by some MNCs can result in close-to-zero effective tax rates for the profits generated in European jurisdictions, highlighting the fact that such MNCs, while benefiting from various public goods and services where they operate, do not pay their fair share, thereby contributing to national tax base erosion ***and greater inequalities; stresses also that the possibility to shift profits is only available to companies undertaking cross-border activities which penalises competitors only active in one country;***

Or. en

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Amendment 39

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 11

Motion for a resolution

11. Notes with great concern that corporate tax avoidance has a direct impact on national budgets and on the breakdown of the tax effort between categories of taxpayers as well as between economic factors (to the benefit of most mobile factors such as capital in the form of foreign direct investment – FDI); deplors the fact that, in addition to competition distortions, this results in an unacceptable situation where, in a context of severe consolidation efforts, some of those taxpayers with the highest ability to pay contribute incommensurately less than those most affected by the economic and financial crisis, such as ordinary citizens and small and medium-sized enterprises (SMEs); stresses that this situation risks feeding democratic mistrust and affecting overall tax compliance; **notes** that

Amendment

11. Notes with great concern that corporate tax avoidance has a direct impact on national budgets and on the breakdown of the tax effort between categories of taxpayers - **leading to increased economic inequality** - as well as between economic factors (to the benefit of most mobile factors such as capital in the form of foreign direct investment – FDI); deplors **that some multinational companies are using tax rules and their close relationships with governments to control markets and undermine the competition that allows business to thrive rather than compete on innovation and efficiency**; **deplors** the fact that, in addition to competition distortions, this results in an unacceptable situation where, in a context of severe consolidation efforts, some of those taxpayers with the highest ability to

whistleblowers, who provide national authorities, in the public interest, with crucial information about illegal or illegitimate practices, can be subject to legal prosecution;

pay contribute incommensurately less than those most affected by the economic and financial crisis, such as ordinary citizens and small and medium-sized enterprises (SMEs); stresses *the links between aggressive tax avoidance practices by corporations and the European economic crisis and financial difficulties of certain European countries*; stresses that this situation risks feeding democratic mistrust and affecting overall tax compliance; *deplores* that whistleblowers, who provide national authorities, in the public interest, with crucial information about illegal or illegitimate practices, can be subject to legal prosecution;

Or. en

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Amendment 40

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 12

Motion for a resolution

12. Notes that research by the IMF¹⁶ **covering 51 countries concludes** that profit shifting between tax jurisdictions results in an average revenue loss of about 5 % of current corporate income tax revenue – but **of almost 13 % in non-OECD countries**; notes also that, according to the Commission, econometric evidence shows that **FDI's** sensitivity to corporate taxation has increased over time; **underlines the fact that, each year, an estimated EUR 1 trillion of potential tax revenue is lost** due to the combined effect of tax fraud, tax evasion and tax avoidance **in the EU**¹⁷ and that the most conservative estimates point to global yearly losses for national budgets due to tax avoidance of at least some EUR 50 billion¹⁸; stresses that these figures should be considered with caution and may underestimate the actual losses for national

Amendment

12. Notes that research by the IMF **conclude** that profit shifting between tax jurisdictions results in an average revenue loss of about 5 % of current corporate income tax revenue – but **that loss of revenue from base erosion and profit shifting is substantially larger for developing countries**; notes also that, according to the Commission, econometric evidence shows that **FDI's** sensitivity to corporate taxation has increased over time **but that taxation is only one of the many factors taken into account to invest in a country**; **underlines the fact that**, potential tax revenue lost **in the EU per year** due to the combined effect of tax fraud, tax evasion and tax avoidance **is by nature hard to estimate but amounts to hundreds of billions** and that the most conservative estimates point to global yearly losses for

budgets, given the limited transparency and different accounting and conceptual frameworks around the globe, which affect the availability of comparable and meaningful data and the reliability of any estimation;

national budgets due to tax avoidance of at least some EUR 50 billion^[1]; stresses that these figures should be considered with caution and may underestimate the actual losses for national budgets, given the limited transparency and different accounting and conceptual frameworks around the globe, which affect the availability of comparable and meaningful data and the reliability of any estimation; ***calls on greater transparency of data and information in order to obtain more reliable figures in the future;***

[1] 'European added value of legislative report on bringing Transparency, coordination and convergence to corporate tax policies in the European Union', Dr Benjamin Ferrett, Daniel Gravino and Silvia Merler – To be published.

¹⁸ 'European added value of legislative report on bringing Transparency, coordination and convergence to corporate tax policies in the European Union', Dr Benjamin Ferrett, Daniel Gravino and Silvia Merler – To be published.

¹⁸ 'European added value of legislative report on bringing Transparency, coordination and convergence to corporate tax policies in the European Union', Dr Benjamin Ferrett, Daniel Gravino and Silvia Merler – To be published.

Or. en

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Amendment 41

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 13

Motion for a resolution

13. Notes that tax planning strategies can be based on the structuring of corporations, financing arrangements for their branches or transfer *pricing*, allowing the artificial shifting of profit across jurisdictions with the objective of reducing the global tax *burden* for companies;

Amendment

13. Notes that tax planning strategies can be based on the structuring of corporations, financing arrangements for their branches or transfer *mispricing, in disconnection with real economic activities*, allowing the artificial shifting of profit across jurisdictions with the objective of reducing the global tax *yield* for companies; *Note with great concern that a growing number of letterbox companies are used in the EU but are "companies" just by name and are only used for tax evasion purposes and increasingly used to avoid paying workers' wages and social security contributions; flags the specific role of the Netherlands on this issue, hosting around 20.000 "letter box" companies which are set up for tax purposes only;*

Or. en

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Report of the special committee on tax rulings and other measures similar in nature or effect

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Amendment 42

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 14

Motion for a resolution

14. Takes the view that national preferential regimes and the poor level of coordination or convergence between the Member States' tax systems, despite the effective economic interconnections and interplay within the internal market, result in a number of mismatches allowing aggressive tax planning, double deductions and double non taxation, for instance through one or a combination of the following practices: abusive transfer pricing, locating deductions in high-tax jurisdictions, passing on funds raised by loans through conduit companies, risk transfer, exploiting mismatches, tax arbitrage, treaty shopping, and locating asset sales in low-tax jurisdictions;

Amendment

14. Takes the view that national preferential regimes and the poor level of coordination or convergence between the Member States' tax systems, despite the effective economic interconnections and interplay within the internal market, result in a number of mismatches allowing aggressive tax planning, double deductions and double non taxation, for instance through one or a combination of the following practices: abusive transfer pricing, locating deductions in high-tax jurisdictions, passing on funds raised by loans through conduit companies, **royalty agreements**, risk transfer, exploiting mismatches, tax arbitrage, treaty shopping, and locating asset sales in low-tax jurisdictions, **among others**;

Or. en

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Amendment 43

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 15 – introductory part

Motion for a resolution

15. Stresses that, during its fact-finding missions in five Member States and Switzerland, its special committee observed that a number of national tax measures had the potential to be harmful tax practices, in particular the following, which should only be considered as a non-exhaustive list:

Amendment

15. Stresses that, during its fact-finding missions in five Member States and Switzerland, its special committee observed that a number of national tax measures, ***often used in combination by MNCs***, had the potential to be harmful tax practices, in particular the following, which should only be considered as a non-exhaustive list:

Or. en

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Amendment 44

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 15 – indent -1 (new)

Motion for a resolution

Amendment

-1 Abusive use of tax rulings or settlement agreements to go beyond simple clarification of the existing legislation and get preferential tax treatment;

Or. en

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Amendment 45

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 15 – indent 1

Motion for a resolution

– diverging definitions of permanent establishment and tax residence, ***and relationship with economic substance (sometimes allowing taxation in the absence of economic substance or, conversely, no taxation of revenue stemming from real economic activity),***

Amendment

– diverging definitions of permanent establishment and tax residence,

Or. en

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Amendment 46

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 15 – indent 1 a (new)

Motion for a resolution

Amendment

- little or no consideration for economic substance which allow the creation of special purpose entities (e.g. letterbox companies, shell companies...) with a lower tax treatment,

Or. en

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Amendment 47

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 15 – indent 8

Motion for a resolution

– and, in the case of Switzerland, special tax regimes at cantonal level for foreign-controlled companies which are not granted to nationally controlled companies;

Amendment

– and, in the case of Switzerland, special tax regimes at cantonal level for foreign-controlled companies which are not granted to nationally controlled companies (*so-called ring-fencing regimes*);

Or. en

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Amendment 48

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 16

Motion for a resolution

16. Takes note that, according to the Commission¹⁹, 72 % of profit shifting takes place in the EU through the channels of transfer pricing and location of intellectual property;

¹⁹ Commission staff working document of 17 June 2015 on Corporate Income Taxation in the European Union (SWD(2015)0121).

Amendment

16. Takes note that, according to the Commission¹⁹, 72 % of profit shifting takes place in the EU through the channels of transfer pricing and location of intellectual property ***reflecting the growing necessity to look for alternatives to the arm's length principle and address issues arising from the digitalisation of the economy;***

¹⁹ Commission staff working document of 17 June 2015 on Corporate Income Taxation in the European Union (SWD(2015)0121).

Or. en

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Motion for a resolution PE564.938 - 2015/2066(INI)

Amendment 49

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 17

Motion for a resolution

17. Stresses that a number of Member States have in recent years developed specific corporate tax reduction schemes to attract companies' mobile intangible assets, such as income resulting from intellectual property; notes the variety in the tax rate reductions and allowances and in the scope of the schemes proposed (innovation boxes, intellectual property boxes, knowledge boxes, patent boxes, etc.); stresses that, in some Member States, taxpayers do not need to produce intellectual property within the country in order to access tax benefits, but merely to acquire it through a company which has its residence within the jurisdiction;

Amendment

17. Stresses that a number of Member States have in recent years developed specific corporate tax reduction schemes to attract companies' mobile intangible assets, such as income resulting from intellectual property; notes the variety in the tax rate reductions and allowances and in the scope of the schemes proposed (innovation boxes, intellectual property boxes, knowledge boxes, patent boxes, etc.); stresses that, in some Member States, taxpayers do not need to produce intellectual property within the country in order to access tax benefits, but merely to acquire it through a company which has its residence within the jurisdiction; ***notes the European Commission's findings that patent boxes seem more likely to relocate corporate income than to stimulate innovation[1]; believes a much stronger***

definition of economic substance is required to ensure profits are declared where the real economic activities of MNCs take place;

[1]

http://ec.europa.eu/taxation_customs/resources/documents/taxation/gen_info/economic_analysis/tax_papers/taxation_paper_52.pdf

Or. en

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Amendment 50

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 18

Motion for a resolution

18. Considers such schemes to be typical examples of harmful tax competition between states, because while their connection with and impact on the real economy is *not evident*, they have the effect of reducing the tax revenue of other countries, including Member States;

Amendment

18. Considers such schemes to be typical examples of harmful tax competition between states, because while their connection with and impact on the real economy is, *in most cases, non-existent*, they have the effect of reducing the tax revenue of other countries, including Member States *and thereby jeopardizing the functioning of the Single Market*;

Or. en

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Amendment 51

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 18 a (new)

Motion for a resolution

Amendment

18 a. Recalls that separate accounting and the recognition of contracts between related parties for tax purposes are central prerequisites for intra-group profit shifting, by means of intra-group licensing arrangement; stresses that the implementation of a CCCTB, which implies that separate accounting be replaced by formula apportionment of the profits of a group of companies, could help to remedy this significant structural flaw in the current transfer pricing rules;

Or. en

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Amendment 52

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 19

Motion for a resolution

19. Stresses that, in an economic environment characterised by more intangible assets, transfer pricing is often affected by the lack of comparable transactions and benchmarks, ***which casts doubts on the sound application and relevance of the arm's length principle, according to which the pricing of transactions between entities belonging to the same corporate group should be valued in the same way as between independent entities;***

Amendment

19. Stresses that, in an economic environment characterised by more intangible assets, transfer pricing is often affected by the lack of comparable transactions and benchmarks, ***supports research to alternative methods than the arm's length principle such as unitary taxation or other transfer pricing methods such as profit split;***

Or. en

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Amendment 53

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 19 a (new)

Motion for a resolution

Amendment

19 a. Recalls that the European Court of Justice (ECJ) – through its 'Cadbury Schweppes' case – has significantly limited the scope for operating controlled foreign company (CFC) rules vis-à-vis CFCs resident in EU member states to 'wholly artificial arrangements'; stresses that CFC rules which only apply to artificial arrangements do not probably cover most of the IP tax planning structures today;

Or. en

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Amendment 54

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 19 b (new)

Motion for a resolution

Amendment

19 b. Deplores that the EU interest & Royalty Directive as well as bilateral tax treaties significantly limit the scope of withholding taxes on royalty income;

Or. en

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Amendment 55

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 20

Motion for a resolution

20. Notes that the existing guidelines **for transfer pricing** leave MNCs a significant margin of discretion in the choice and implementation of evaluation methods; stresses that the lack of any effective common standard for transfer pricing and the various derogations, exceptions and alternatives provided for are being exploited by MNCs, in contradiction with the spirit of those guidelines, to calibrate their taxable profits by jurisdiction and reduce their overall tax liability through, for instance, abusive cost-plus, arbitrary setting of profit margins or the questionable exclusion of certain expenditure from their calculation;

Amendment

20. Notes that the existing **transfer pricing** guidelines **from the OECD and the UN** leave MNCs a significant margin of discretion in the choice and implementation of evaluation methods; stresses that the lack of any effective common standard for transfer pricing and the various derogations, exceptions and alternatives provided for are being exploited by MNCs, in contradiction with the spirit of those guidelines, to calibrate their taxable profits by jurisdiction and reduce their overall tax liability through, for instance, abusive cost-plus, arbitrary setting of profit margins or the questionable exclusion of certain expenditure from their calculation;

Or. en

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Amendment 56

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 24

Motion for a resolution

24. Stresses the crucial role of the four biggest accounting firms (*the 'Big Four'*) in the design and marketing of rulings and tax avoidance schemes exploiting mismatches between national legislations; stresses that those firms, which seem to derive a considerable amount of their revenue from tax services, to dominate most Member States' auditing markets and to prevail in the global tax advising services, constitute a narrow oligopoly; draws attention to the conflict of interest resulting from the juxtaposition, within the same firms, of tax advice and consulting activities intended, on the one hand, for tax administrations and, on the other, for MNCs' tax planning services, which exploit the weaknesses of national tax laws; questions the effectiveness of any corporate code of conduct in tackling this

Amendment

24. Stresses the crucial role of the four biggest accounting firms (*PricewaterhouseCoopers, EY, Deloitte and KPMG*) in the design and marketing of rulings and tax avoidance schemes exploiting mismatches between national legislations; stresses that those firms, which seem to derive a considerable amount of their revenue from tax services, to dominate most Member States' auditing markets and to prevail in the global tax advising services, constitute a narrow oligopoly; draws attention to the conflict of interest resulting from the juxtaposition, within the same firms, of tax advice and consulting activities intended, on the one hand, for tax administrations and, on the other, for MNCs' tax planning services, which exploit the weaknesses of national tax laws; questions the effectiveness of any

issue; underlines the fact that tax rulings have become, in the EU and worldwide, a common business practice, not only to obtain legal certainty or advantageous tax deals, but also in cases where legislative provisions do not allow any room for interpretation;

corporate code of conduct in tackling this issue; underlines the fact that tax rulings ***and settlement agreements*** have become, in the EU and worldwide, a common business practice, not only to obtain legal certainty or advantageous tax deals, but also in cases where legislative provisions do not allow any room for interpretation;

Or. en

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Amendment 57

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 25

Motion for a resolution

25. Recognises that, following the economic crisis and, in addition, the LuxLeaks scandal, addressing aggressive tax planning by MNCs has been high on the political agenda of Member States, the EU, the OECD and the G20, but regrets that, so far, no significant progress has been made in practical terms;

Amendment

25. Recognises that, following the economic crisis and, in addition, the LuxLeaks scandal, addressing aggressive tax planning by MNCs has been high on the political agenda of Member States, the EU, the OECD and the G20, ***the IMF and the UN***, but regrets that, so far, no significant progress has been made in practical terms ***and that some Member States continue implementing new favourable tax regimes, for example in the form of special economic zones with lower corporate tax rate and several tax exemptions***;

Or. en

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Amendment 58

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 26

Motion for a resolution

26. Notes, against this background, that many Member States have introduced or intend to adopt measures to tackle tax avoidance, in particular in connection with the limitation of the deductibility of interests, anti-abuse rules, a better definition of the notion of permanent establishment (including the development of economic substance tests to determine the taxable presence of firms more effectively), the possible exclusion of misbehaving firms from public tenders, or the publication of tax planning schemes that can be instrumental in reducing the time gap between the establishment of specific schemes and the adoption of corrective action, including at legislative level;

Amendment

26. Notes, against this background, that many Member States have introduced or intend to adopt measures to tackle tax avoidance, in particular in connection with the limitation of the deductibility of interests, anti-abuse rules, a better definition of the notion of permanent establishment (including the development of economic substance tests to determine the taxable presence of firms more effectively), the possible exclusion of misbehaving firms from public tenders, or the publication of tax planning schemes that can be instrumental in reducing the time gap between the establishment of specific schemes and the adoption of corrective action, including at legislative level; ***deplores that rulings of the European Court of Justice have limited excessively the possibility of anti-abuse***

measures by member states.

Or. en

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Amendment 59

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 28

Motion for a resolution

28. Welcomes the various initiatives and legislative proposals of the Commission over the **last 20** years, including the most recent, to move towards stronger coordination of Member States' corporate tax systems, with a view to reinforcing the internal market, addressing double taxation or double non-taxation issues or preserving the right of Member States to tax effectively; deplores nevertheless the fact that, to date, only a small number of these have been adopted by Council, due to the unanimity requirement and the fact that certain Member States **are convinced** that they have more to gain individually from loopholes in the uncoordinated tax system;

Amendment

28. Welcomes the various initiatives and legislative proposals of the Commission over the **at least last 30** years, including the most recent, to move towards stronger coordination of Member States' corporate tax systems, with a view to reinforcing the internal market, addressing double taxation or double non-taxation issues or preserving the right of Member States to tax effectively; deplores nevertheless the fact that, to date, only a small number of these have been adopted by Council, due to the unanimity requirement and the fact that certain Member States **persist in thinking** that they have more to gain individually from loopholes in the uncoordinated tax system;

Or. en

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Amendment 60

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 29

Motion for a resolution

29. Stresses that the Code of Conduct Group on Business Taxation (the 'Group'), set up in 1998 by Member States, made it possible in the late 1990s and the early 2000s to eliminate what constituted the most harmful individual tax practices through the double-track soft law approach of 'rolling back' existing tax measures that constituted harmful tax competition and refraining from introducing any such measures in the future ('standstill');

Amendment

29. Stresses that the Code of Conduct Group on Business Taxation (the 'Group'), set up in 1998 by Member States, made it possible in the late 1990s and the early 2000s to eliminate what constituted the most harmful individual tax practices ***at the time*** through the double-track soft law approach of 'rolling back' existing tax measures that constituted harmful tax competition and refraining from introducing any such measures in the future ('standstill');

Or. en

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Amendment 61

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 30

Motion for a resolution

30. Deplores the fact that the ***Group's work seems to have lost momentum***; notes that some of the more than 100 measures which have been rolled back as a result of its activity have been replaced in Member States by tax measures with similar harmful effects; notes that tax authorities have countered the ***Group's*** recommendations by creating new structures with the same harmful effects as those rolled back by the Group; deplores the fact that past attempts to strengthen its governance and mandate, and to adjust and broaden the working methods and criteria set in the Code, with the aim of combating new forms of harmful tax practices within the current economic environment, have not been successful; supports the ***Commission's latest proposals on this matter, as set out in its action plan of 17***

Amendment

30. Deplores the fact that the ***Group's has lost momentum for more than a decade now and is used as a reason to prevent further legislative proposals by the Commission***; notes that some of the more than 100 measures which have been rolled back as a result of its activity have been replaced in Member States by tax measures with similar harmful effects; notes that tax authorities have countered the ***Group's*** recommendations by creating new structures with the same harmful effects as those rolled back by the Group; deplores the fact that past attempts to strengthen its governance and mandate, and to adjust and broaden the working methods and criteria set in the Code, with the aim of combating new forms of harmful tax practices within the current economic environment, have not been successful; ***deplores the general***

June 2015 for fair and efficient corporate taxation in the EU;

lack of transparency and accountability of the Group's activities; supports the reform of the criteria to define harmful tax competition in the Code of Conduct's mandate but requests to condition it to increased transparency and accountability on the Group's activities;

Or. en

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Amendment 62

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 31

Motion for a resolution

31. Deplores also the fact that the **Group's** original status and governance arrangements left too much room for political negotiations and compromises in seeking to reach 'broad consensus' (i.e. quasi-unanimity effectively, with the possibility to express disagreement in footnotes) on the assessment of harmful practices, thus affecting the reliability and completeness of its work; considers it regrettable that the rollback of existing measures suffered from political delays and, in some cases, allowed the inclusion of new beneficiaries after the deadline, which is also related to the **Group's** very weak accountability and monitoring mechanisms;

Amendment

31. Deplores also the fact that the **Group's** original status and governance arrangements left too much room for political negotiations and compromises in seeking to reach 'broad consensus' (i.e. quasi-unanimity effectively, with the possibility to express disagreement in footnotes) on the assessment of harmful practices, thus affecting the reliability and completeness of its work; ***deplores that the Group's decision are only soft law relying only on member states' political will to withdraw the harmful measures***, considers it regrettable that the rollback of existing measures suffered from political delays and, in some cases, allowed the inclusion of new beneficiaries after the deadline, which is also related to the **Group's** very weak accountability and monitoring

mechanisms;

Or. en

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Amendment 63

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 33

Motion for a resolution

33. Notes also the efforts made through the creation of the Platform for Tax Good Governance, which brings around the same table various stakeholders with the aim of creating consensus around the issue of tax avoidance, in particular in an international context, and the Joint Transfer Pricing Forum, which issues a number of guidelines on the technical issues surrounding transfer pricing; stresses that, to date, these bodies have contributed to making limited corrections to the corporate tax framework; strongly deplores the fact that the Joint Transfer Pricing Forum is composed, in particular, of representatives from the Big Four accountancy firms, which contribute to the work on guidelines of transfer pricing while, at the same time, advising corporations on how to avoid

Amendment

33. Notes also the efforts made through the creation of the Platform for Tax Good Governance, which brings around the same table various stakeholders with the aim of creating consensus around the issue of tax avoidance, in particular in an international context, and the Joint Transfer Pricing Forum, which issues a number of guidelines on the technical issues surrounding transfer pricing; stresses that, to date, these bodies have contributed to making limited corrections to the corporate tax framework; ***regrets that the guidelines issued by the Joint Transfer Pricing Forum so far did not sufficiently tackle the issue of tax avoidance***; strongly deplores the fact that the Joint Transfer Pricing Forum is composed, in particular, of representatives from the Big Four accountancy firms, which contribute to the

taxes through the use of transfer pricing;

work on guidelines of transfer pricing while, at the same time, advising corporations on how to avoid taxes through the use of transfer pricing; ***more generally strongly deplores that all Commission's expert groups on taxation are dominated by members of the business or accounting sectors (with some involved in past tax scandals) contrary to previous commitments made by the Commission to the European Parliament; stresses that until the start of the new mandate on 1 April 2015 not a single civil society organisation or public interest organisation was represented in the Joint Transfer Pricing Forum;***

Or. en

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Amendment 64

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 34

Motion for a resolution

34. Stresses that EU legislation (the Parent-Subsidiary, Interest and Royalties, Mergers and Administrative Cooperation Directives) though covering limited aspects linked to corporate taxation, has been able to tackle specific issues faced by Member States and firms operating in several countries; highlights the fact that these measures, originally designed to eliminate double taxation, are having some unintended counter-productive effects on tax avoidance; welcomes the recent adoption by the Council of amendments to the Parent-Subsidiary Directive aimed at introducing a general anti-abuse clause and tackling hybrid loan mismatches, which will be entering into force at the end of 2015, hoping that this will help remove some of the opportunities for tax avoidance

Amendment

34. Stresses that EU legislation (the Parent-Subsidiary, Interest and Royalties, Mergers and Administrative Cooperation Directives) though covering limited aspects linked to corporate taxation, has been able to tackle specific issues faced by Member States and firms operating in several countries; highlights the fact that these measures, originally designed to eliminate double taxation, are having some unintended counter-productive effects on tax avoidance ***and sometimes lead to double non-taxation***; welcomes the recent adoption by the Council of amendments to the Parent-Subsidiary Directive aimed at introducing a general anti-abuse clause and tackling hybrid loan mismatches, which will be entering into force at the end of 2015, hoping that this will help remove some of the opportunities for tax avoidance

in the EU;

in the EU; *recalls the need for similar reform of the Interest and Royalties Directive; notes that both directives continue to serve as the legal infrastructure European corporate tax avoidance as against the recommendations from the European Parliament protection from double taxation is granted even without any effective minimum rate of taxation;*

Or. en

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Amendment 65

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 35

Motion for a resolution

35. Recalls, in the field of **transparency**, the provisions of the Administrative Cooperation **Directive** aimed at **fostering** the exchange of all relevant **tax** information; takes the view that an efficient exchange and processing of tax information would have a strong deterrent effect against **the introduction of harmful tax practices** and would allow Member States and the Commission to have **all the** relevant information at their disposal in order to react against them;

Amendment

35. Recalls, in the field of **cooperation**, the provisions of the **Directive on** Administrative Cooperation aimed at **implementing** the exchange of all relevant **financial** information; takes the view that an efficient exchange and processing of tax information would have a strong deterrent effect against **tax evasion and bank secrecy** and would allow Member States and the Commission to have relevant information at their disposal in order to react against them, **should Member States have the adequate capacity within their tax administrations; notes that greater exchange of tax information cannot be considered - in certain cases - a substitute for public transparency and disclosure of basic financial information from MNCs, which is urgently needed; stresses that public transparency would greatly**

*strengthen the fight against tax dodging
by allowing journalists, civil society
organisations, parliamentarians and the
broader public to scrutinise and debate
the tax payments of MNCs;*

Or. en

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Amendment 66

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 36

Motion for a resolution

36. Deplores the fact that the current legislative and monitoring framework for the exchange of information about tax measures is not effective, given that evidence has demonstrated that the existing requirements for spontaneous or on-demand exchanges of information are not being complied with; deplores the fact that practically no Member State exchanges any information which may have an effect on partner countries of the EU;

Amendment

36. Deplores the fact that the current legislative and monitoring framework for the exchange of information about tax measures is not effective, given that evidence has demonstrated that the existing requirements for spontaneous or on-demand exchanges of information are not being complied with; deplores the fact that practically no Member State exchanges any information which may have an effect on partner countries of the EU; ***considers this situation as a breach of the treaty principle of loyal cooperation between Member-States;***

Or. en

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Amendment 67

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 38

Motion for a resolution

38. Welcomes the *Commission's* commitment to promoting the automatic exchange of tax information as the future European and international standard for transparency; urges it, as a first step, to fulfil its duty as guardian of the Treaties and take all the necessary action to ensure that existing EU law and the principle of loyal cooperation between Member States laid down in the Treaties are duly complied with;

Amendment

38. Welcomes the *Commission's* commitment to promoting the automatic exchange of tax information as the future European and international standard for transparency; urges it, as a first step, to fulfil its duty as guardian of the Treaties and take all the necessary action to ensure that existing EU law and the principle of loyal cooperation between Member States laid down in the Treaties are duly complied with; *welcomes the proposal by the expert group on automatic exchange of financial account information to look at possibilities to support developing countries with automatic information exchange by granting non-reciprocal exchange agreements;*

Or. en

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Amendment 68

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 39 a (new)

Motion for a resolution

Amendment

39 a. Highlights that the Parliament's Special Committee^[1] on organised crime, corruption and money laundering noted a close connection between money laundering and tax evasion and therefore supports the shift to use the AMLD Framework to also pursue tax crimes and welcomes the commitments of some Member States to create fully public centralised registers of beneficial owners;

[1]

<http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P7-TA-2013-0444&language=EN>

Or. en

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Amendment 69

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 40

Motion for a resolution

40. Welcomes the Commission communication on tax transparency of March 2015 and the action plan for a fair and efficient corporate tax system in the EU of June 2015; stresses, however, that these texts can only be considered as steps in the right direction and that a consistent framework of legislative provisions and administrative coordination is needed as a matter of urgency also for the benefit of SMEs and those MNCs which are helping to create genuine economic growth and are paying their fair share of taxes within the internal market;

Amendment

40. Welcomes the Commission communication on tax transparency of March 2015 and the action plan for a fair and efficient corporate tax system in the EU of June 2015; stresses, however, that these texts can only be considered as *first* steps in the right direction and that a consistent framework of legislative provisions and administrative coordination is needed as a matter of urgency also for the benefit of SMEs and those MNCs which are helping to create genuine economic growth and are paying their fair share of taxes within the internal market;

Or. en

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Amendment 70

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 41

Motion for a resolution

41. Welcomes the **good** progress of the OECD BEPS action plan which, following successive calls for action at the G7 and G20 summits, **goes far beyond addressing** the individual issues affecting the functioning of the international corporate tax system by putting forward global and systematic action to tackle them; deplores the late and still unequal inclusion of developing countries in the OECD BEPS process;

Amendment

41. Welcomes the progress of the OECD BEPS action plan which, following successive calls for action at the G7 and G20 summits, **attempting to address** the individual issues affecting the functioning of the international corporate tax system by putting forward global and systematic action to tackle them; deplores the late and still unequal inclusion of developing countries in the OECD BEPS process; **deplores the fact that in all public consultations, more than 90% of contributions came from the business sector leading to the risk of overhearing only one point of view; deplores the lack of ambition of some outcomes of the BEPS action plan, especially on harmful tax regimes, digital economy and transparency; notes with concern the risk of a 'pick-and-choose' approach by**

OECD members in the implementation of the future actions; recalls that the OECD BEPS work is just one among several international negotiations to modernise international corporate tax rules;

Or. en

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Amendment 71

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 42

Motion for a resolution

42. Notes that, following a systematic analysis of the 'pressure points' of the international tax system, the BEPS action plan was delineated into 15 action points, of which seven were ***endorsed by the G20 in November 2014***, and the others ***are expected to be agreed by the end of 2015***; ***stresses that, against the background of an evolving business environment, those actions seek to address transparency issues, e.g. by issuing guidelines on country-by-country reporting, the lack of substance in certain tax avoidance arrangements and greater consistency in international rules***;

Amendment

42. Notes that, following a systematic analysis of the 'pressure points' of the international tax system, the BEPS action plan was delineated into 15 action points, of which seven were ***worked on in 2014***, and the others ***in 2015 with a final endorsement expected to be agreed by the end of 2015***;

Or. en

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Amendment 72

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 43

Motion for a resolution

43. Warns, nevertheless, against compromises which could fall short of the initial ambitions or lead to diverging interpretations at national level; stresses, moreover, that until now, there has been hardly any effective monitoring of the implementation of OECD guidelines in the countries which endorsed them, and that even the best designed solutions cannot be effective if they are not monitored and implemented appropriately;

Amendment

43. Warns, nevertheless, against compromises which could fall short of the initial ambitions or lead to diverging interpretations at national level; ***deplores that several of the BEPS recommendations will most likely fail to address the challenges of corporate tax avoidance***; stresses, moreover, that until now, there has been hardly any effective monitoring of the implementation of OECD guidelines in the countries which endorsed them, and that even the best designed solutions cannot be effective if they are not monitored and implemented appropriately;

Or. en

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Amendment 73

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 44

Motion for a resolution

44. Stresses the complementary nature of EU and OECD activity in this field; takes the view that, given its degree of integration, the EU must go further than the BEPS proposals in terms of coordination and convergence aimed at avoiding all forms of harmful tax competition within the internal market; is convinced that, while ensuring that its competitiveness is not adversely affected, the EU could put in place more effective tools to ensure fair *tax* competition and the right of Member States to operate effective taxation on profits generated in their territories;

Amendment

44. Stresses the complementary nature of EU and OECD activity in this field; takes the view that, given its degree of integration, the EU must go further than the BEPS proposals in terms of coordination, *public transparency* and convergence aimed at avoiding all forms of harmful tax competition within the internal market; is convinced that, while ensuring that its competitiveness is not adversely affected, the EU could put in place more effective tools to ensure fair competition and the right of Member States to operate effective taxation on profits generated in their territories;

Or. en

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Amendment 74

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 45

Motion for a resolution

45. Stresses that, within the internal market, new entrants and SMEs are penalised as compared to MNCs, which can shift profits or implement other forms of aggressive tax planning through a variety of decisions and instruments, available to them only; notes with concern that, everything being equal, the resulting lower tax liabilities leave the latter with a higher post-tax profit and create an uneven playing field with their competitors on the single market, which do not have recourse to aggressive tax planning and keep the connection between where they generate profit and their place of taxation;

Amendment

45. Stresses that, within the internal market, new entrants and SMEs ***doing business only in one country*** are penalised as compared to MNCs, which can shift profits or implement other forms of aggressive tax planning through a variety of decisions and instruments, available to them only; notes with concern that, everything being equal, the resulting lower tax liabilities leave the latter with a higher post-tax profit and create an uneven playing field with their competitors on the single market, which do not have recourse to aggressive tax planning and keep the connection between where they generate profit and their place of taxation; ***stresses that promoting harmful tax practices through the creation of a European one-person-entity (SUP) which explicitly allows for having two different residences,***

a registered office in one place and an administrative headquarter is the wrong approach for the EU;

Or. en

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Amendment 75

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 46

Motion for a resolution

46. Stresses that the OECD²¹ points to the use by some MNCs of strategies that allow them to pay as little as 5 % in corporate taxes when smaller businesses are paying up to 30 %, and that furthermore some studies²² also point to the fact that, on average, the corporate tax **burden** of cross-border companies is up to 30 % lower than that of domestic companies operating in only one country;

²¹ OECD Press release, 'OECD urges stronger international co-operation on corporate tax', 12.02.2013.

²² P.Egger, W. Eggert and H. Winner (2010), 'Saving taxes through foreign plant ownership', Journal of International Economics 81, pp. 99-108.

Amendment

46. Stresses that the OECD²¹ points to the use by some MNCs of strategies that allow them to pay as little as 5 % in corporate taxes when smaller businesses are paying up to 30 %, and that furthermore some studies²² also point to the fact that, on average, the corporate tax **contribution** of cross-border companies is up to 30 % lower than that of domestic companies operating in only one country;

²¹ OECD Press release, 'OECD urges stronger international co-operation on corporate tax', 12.02.2013.

²² P.Egger, W. Eggert and H. Winner (2010), 'Saving taxes through foreign plant ownership', Journal of International Economics 81, pp. 99-108.

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Amendment 76

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 48

Motion for a resolution

48. Underlines the fact that some harmful tax practices may fall within the scope of tax-related state aid rules, in particular in so far as that they can, in the same way, grant 'selective' advantage and entail distortions of competition within the internal market; notes that, in the past, the State Aid and Code of Conduct Group processes have mutually supported each other, notably in 1999 and in the first *half* of the 2000s; stresses that the enforcement of EU competition rules has added legal pressure as a complement to the soft-law decision-making process in the Group, partially compensating for the lack of any other effective tool to remedy the issue of tax avoidance at EU level;

Amendment

48. Underlines the fact that some harmful tax practices may fall within the scope of tax-related state aid rules, in particular in so far as that they can, in the same way, grant 'selective' advantage and entail distortions of competition within the internal market; notes that, in the past, the State Aid and Code of Conduct Group processes have mutually supported each other, notably in 1999 and in the first *years* of the 2000s; stresses that the enforcement of EU competition rules has added legal pressure as a complement to the soft-law decision-making process in the Group, partially compensating for the lack of any other effective tool to remedy the issue of tax avoidance at EU level;

Or. en

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Amendment 77

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 51

Motion for a resolution

51. Notes that, according to the data provided to its competent special committee²⁴ by the Commission, only 65 tax-related state aid cases have, since 1991, been formally examined by the Commission, of which 7 were tax rulings and only 10 originated in formal notifications by Member States;

²⁴ Note sent by Commissioner Vestager to the TAXE Committee on 29 April 2015.

Amendment

51. Notes that, according to the data provided to its competent special committee²⁴ by the Commission, only 65 tax-related state aid cases have, since 1991, been formally examined by the Commission, of which 7 were tax rulings and only 10 originated in formal notifications by Member States, ***demonstrating the importance of having publically available tax information in order to trigger more investigations on suspicious cases;***

²⁴ Note sent by Commissioner Vestager to the TAXE Committee on 29 April 2015.

Or. en

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Amendment 78

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 52 – introductory part

Motion for a resolution

52. Stresses that the Commission only handled a small number of cases in the field of tax-related state aid in the second half of the 2000s, and that recent state aid proceedings include:

Amendment

52. Regrets that during the period 2002-2012, the Commission did not actively pursue or close several tax-related state aid investigations while information were available on suspicious cases; welcomes the recent state aid proceedings including

Or. en

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Amendment 79

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 52 – indent 3 a (new)

Motion for a resolution

Amendment

- the opening in October 2014 of in-depth investigations into Gibraltar's corporate tax regime,

Or. en

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Amendment 80

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 54

Motion for a resolution

54. Stresses that these investigations shed light on only a very limited sample of some typical practices, potentially the most abusive and distortive, which affect the taxable profit allocated to some MNCs' subsidiaries through transfer pricing; is concerned that the current resources of Commission's competent services may limit its ability to handle a significantly larger number of cases;

Amendment

54. Stresses that these investigations shed light on only a very limited sample of some typical practices, potentially the most abusive and distortive, which affect the taxable profit allocated to some MNCs' subsidiaries through transfer pricing; ***strongly recommends to investigate further and check beyond transfer pricing issues***; is concerned that the current resources of Commission's competent services may limit its ability to handle a significantly larger number of cases;

Or. en

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Amendment 81

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 55

Motion for a resolution

55. Strongly supports the Commission in its approach, which consist in taking the time needed to consider ongoing cases thoroughly and with all due diligence; believes that the outcome of the investigations will contribute to establish more precise and effective guidelines on tax-related state aids and ***transfer pricing and*** to adjust Member States' practices accordingly;

Amendment

55. Strongly supports the Commission in its approach, which consist in taking the time needed to consider ongoing cases thoroughly and with all due diligence; believes that the outcome of the investigations will contribute to establish more precise and effective guidelines on tax-related state aids and to adjust Member States' practices accordingly; ***calls on the Commission to request for the recovery of every Euro missing in case of confirmation of illegal state aid in the ongoing investigations;***

Or. en

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Amendment 82

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 56

Motion for a resolution

56. Stresses that ongoing investigations could lead, in the event of infringement of EU rules, to the recovery, by the Member State which approved the considered tax measure, of the amount corresponding to the illegal State aid granted to the beneficiary undertakings; stresses that, although this may have a significant negative effect on that specific Member **State's** reputation, it constitutes de facto a bonus for non-compliance, which is unlikely to discourage Member States, in case of doubt, from granting abusive tax benefits, rather the contrary;

Amendment

56. Stresses that ongoing investigations could lead, in the event of infringement of EU rules, to the recovery, by the Member State which approved the considered tax measure, of the amount corresponding to the illegal State aid granted to the beneficiary undertakings; stresses that, although this may have a significant negative effect on that specific Member **State's** reputation, it constitutes de facto a bonus for non-compliance, which is unlikely to discourage Member States, in case of doubt, from granting abusive tax benefits, rather the contrary; **more generally stresses that state aid rules do not allow for punitive sanctions, either against the state or the company involved, to be adopted and that this instrument is therefore weaker than anti-trust rules;**

Or. en

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Amendment 83

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 58

Motion for a resolution

58. Recalls that tax rulings should be aimed at providing legal certainty and create legitimate expectations for their beneficiaries; ***stresses, against a background where national rulings can be challenged by state aid rules at EU level, that a risk exists of mass notifications of individual rulings requests from Member States for advance clearance by the Commission with a view to avoiding legal uncertainties for tax administrations and undertakings;***

Amendment

58. Recalls that tax rulings should be ***strictly*** aimed at providing legal certainty and create legitimate expectations for their beneficiaries;

Or. en

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Amendment 84

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 59 a (new)

Motion for a resolution

Amendment

59 a. Stresses that harmful tax practices affecting developing countries fall within the scope of illicit financial flows that covers not only artificial capital flows such as aggressive tax planning schemes but also financial crimes such as money-laundering and terrorism financing; notes the importance to pay special attention to developing countries when establishing new corporate tax rules as they are the most affected by corporate tax dodging; highlights that while around 6% of EU assets are estimated to be held offshore, over 30% of African assets are, representing a huge potential source of tax revenues.

Or. en

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Amendment 85

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 60

Motion for a resolution

60. Stresses that tax competition is far from being limited to the Member States, including their dependent or associated territories, and that most practices under consideration have an international dimension, through the shifting of profits to low- or no-tax or secrecy jurisdictions where, often, no substantial economic activity takes place; deplores the lack of a coordinated approach on the part of the Member States vis-à-vis all those jurisdictions, not only in terms of joint action or reaction against their harmful practices, but also, despite the **Commission's** efforts, regarding their identification and the relevant criteria; strongly supports, therefore, the **Commission's** 2012 proposal, which includes substantial criteria for ensuring fair competition in addition to transparency

Amendment

60. Stresses that tax competition is far from being limited to the Member States, including their dependent or associated territories, and that most practices under consideration have an international dimension, through the shifting of profits to low- or no-tax or secrecy jurisdictions where, often, no substantial economic activity takes place; deplores the lack of a coordinated approach on the part of the Member States vis-à-vis all those jurisdictions, not only in terms of joint action or reaction against their harmful practices, but also, despite the **Commission's** efforts, regarding their identification and the relevant criteria; strongly supports, therefore, the **Commission's** 2012 proposal, which includes substantial criteria for ensuring fair competition in addition to transparency

and the exchange of information, as well as the recent publication, in the **Commission's** tax package of 17 June 2015, of a list of non-cooperative tax jurisdictions, established following a 'common denominator' approach on the basis of lists existing at national level; stresses that the establishment of such a list is a prerequisite for taking appropriate action against such jurisdictions;

and the exchange of information, as well as the recent publication, in the **Commission's** tax package of 17 June 2015, of a list of non-cooperative tax jurisdictions, established following a 'common denominator' approach on the basis of lists existing at national level; ***deplores the pressure imposed on some member states or the European Commission to withdraw their respective lists***; stresses that the establishment of such a list is a prerequisite for taking appropriate action against such jurisdictions ***and should soon be followed by a common definition of tax havens and a common approach regarding sanctions against these listed jurisdictions***; ***encourages the European Commission to go further with this list and assess whether European countries also respect good governance principles in tax matters***;

Or. en

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Amendment 86

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 61

Motion for a resolution

61. Stresses that the **OECD's** work in ***this regard achieved some significant results*** in terms of transparency and the exchange of information; welcomes in particular the signature, by close to 100 countries as of June 2015, of the OECD Multilateral Convention of Administrative Assistance in Tax Matters (the 'Joint Convention'), which provides for administrative cooperation between states in the assessment and collection of taxes, in particular with a view to combating tax avoidance and evasion;

Amendment

61. Stresses that the **OECD's** work in terms of transparency and the exchange of information ***is progressing at the global level but bears significant limits***; welcomes in particular the signature, by close to 100 countries as of June 2015, of the OECD Multilateral Convention of Administrative Assistance in Tax Matters (the 'Joint Convention'), which provides for administrative cooperation between states in the assessment and collection of taxes, in particular with a view to combating tax avoidance and evasion;

Or. en

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Amendment 87

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 64

Motion for a resolution

64. Is convinced that ensuring fair competition in the internal market and protecting Member States' tax bases depends very much on addressing the weakest link regarding interactions with low- or no-tax and secrecy jurisdictions since the existence of a tax gateway (e.g. no withholding tax) to third countries, irrespective of their tax practices, considerably increases tax avoidance opportunities within the EU;

Amendment

64. Is convinced that ensuring fair competition in the internal market and protecting Member States' tax bases depends very much on addressing the weakest link regarding interactions with low- or no-tax and secrecy jurisdictions since the existence of a tax gateway (e.g. no withholding tax) to third countries, irrespective of their tax practices, considerably increases tax avoidance opportunities within the EU; ***highlights that, taking into account the BEPS proposals[1], Member States can prevent treaty shopping and other perceived forms of treaty abuse by changing their tax treaties with third countries which too often transfer taxing rights away and lower withholding tax payments for developing countries; suggests to set up a European model of tax treaty which could***

*replace for all or for a number EU states
to start with the thousands of bilateral
treaty and therefore reduce red tape and
loopholes;*

[1]

*[http://www.oecd.org/tax/treaties/revised-
discussion-draft-beps-action-6-prevent-
treaty-abuse.pdf](http://www.oecd.org/tax/treaties/revised-discussion-draft-beps-action-6-prevent-treaty-abuse.pdf)*

Or. en

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Amendment 88

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 66

Motion for a resolution

66. Stresses that, in response to pressure from both the EU and the G20 on the issue of tax transparency and in the context of the financial and economic crisis, some third countries have finally signed tax information exchange agreements (TIEAs) with the EU, which should improve cooperation with those countries; points out that, in the case of Switzerland, an agreement was signed in May 2015, after a long 'transitional' period during which this important commercial partner of the EU, because of its long-term candidate country status, benefited from privileged access to the single market, but, at the same time, did not cooperate in other areas, in particular taxation;

Amendment

66. Stresses that, in response to pressure from both the EU and the G20 on the issue of tax transparency and in the context of the financial and economic crisis, some third countries have finally signed tax information exchange agreements (TIEAs) with the EU, which should improve cooperation with those countries; points out that, in the case of Switzerland, an agreement was signed in May 2015, after a long 'transitional' period during which this important commercial partner of the EU, because of its long-term candidate country status, benefited from privileged access to the single market, but, at the same time, did not cooperate in other areas, in particular taxation; ***highlights the risk that Switzerland, while committing to automatic exchange of information, simultaneously implements other***

potentially damaging tax measures in the future; hopes the Swiss authorities will ratify and implement into national law the new agreement as soon as possible to make automatic information exchange a reality;

Or. en

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Amendment 89

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 66 a (new)

Motion for a resolution

Amendment

66 a. Notes that despite ongoing negotiations, progress remain slow for signing similar cooperation agreements with San Marino, Monaco, Liechtenstein and Andorra; regrets that the European Commission does not have a similar European mandate to negotiate automatic information exchange agreements with overseas territories currently covered by the EU Savings Tax Directive;

Or. en

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Amendment 90

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 66 b (new)

Motion for a resolution

Amendment

66 b. Welcomes that the United States have been at the forefront in the fight against tax fraud and tax evasion, particularly against banks and other financial institutions facilitating tax dodging but deplores that US measures to collect information on beneficial ownership are mainly unilateral and that some states in the US like Delaware offer a high degree of corporate secrecy;

Or. en

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Amendment 91

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 67

Motion for a resolution

67. Notes with concern that many developing countries find themselves particularly vulnerable to tax avoidance activities by corporations, and that the main cause of missed revenue for developing countries' national budgets lies in the transfer pricing practices of MNCs²⁷; stresses, furthermore, that these countries find themselves in a very weak bargaining position in relation to certain MNCs or foreign direct investors 'shopping around' the world in search of tax subsidies and exemptions; denounces the fact that, according to some estimates²⁸, these losses suffered by national budgets amount to around EUR **125** billion in tax revenues annually;

²⁷ Study 'Tax revenue mobilisation in

Amendment

67. Notes with concern that many developing countries find themselves particularly vulnerable to tax avoidance activities by corporations, and that the main cause of missed revenue for developing countries' national budgets lies in the transfer pricing practices of MNCs²⁷; stresses, furthermore, that these countries find themselves in a very weak bargaining position in relation to certain MNCs or foreign direct investors 'shopping around' the world in search of tax subsidies and exemptions; denounces the fact that, according to some *UN* estimates²⁸, these losses suffered by national budgets amount to around EUR **91** billion in tax revenues annually;

²⁷ Study 'Tax revenue mobilisation in

developing countries: issues and challenges', European Parliament, April 2014.

²⁸ *Christian Aid report, 2008.*

developing countries: issues and challenges', European Parliament, April 2014.

Or. en

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Amendment 92

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 67 a (new)

Motion for a resolution

Amendment

67 a. Reminds member states that they are bound under the EU treaty by the principle of policy coherence for development and must ensure their tax policies do not undermine the EU objectives on development; encourages EU member states to conduct spillover analysis of their tax policies and their impacts on developing countries as suggested by the IMF;

Or. en

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Amendment 93

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 67 b (new)

Motion for a resolution

Amendment

67 b. Concludes that by not providing essential document requested by the Committee, the Council and the Commission did not respect the principle of sincere cooperation under the Lisbon treaty, impeding the European Parliament from fulfilling its mandate;

Or. en

EUROPEAN PARLIAMENT

Special Committee on Tax Rulings and Other Measures Similar in Nature or Effect

23/09/2015

Report of the special committee on tax rulings and other measures similar in nature or effect

Motion for a resolution PE564.938 - 2015/2066(INI)

Amendment 94

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 67 c (new)

Motion for a resolution

Amendment

67 c. Calls upon clarifying in the revision of the inter-institutional agreement between EU institutions the obligations to cooperate from the Commission and the Council and from other stakeholders interacting with the European Parliament, namely about sharing documents and testifying in committee debates;

Or. en

EUROPEAN PARLIAMENT

Special Committee on Tax Rulings and Other Measures Similar in Nature or Effect

23/09/2015

Report of the special committee on tax rulings and other measures similar in nature or effect

Motion for a resolution PE564.938 - 2015/2066(INI)

Amendment 95

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 67 d (new)

Motion for a resolution

Amendment

67 d. Considers necessary to extend the current mandate of the special committee at least until February 2016 to obtain and analyse the full documentation requested and organise additional hearings based on the new evidence obtained;

Or. en

EUROPEAN PARLIAMENT

Special Committee on Tax Rulings and Other Measures Similar in Nature or Effect

23/09/2015

Report of the special committee on tax rulings and other measures similar in nature or effect

Motion for a resolution PE564.938 - 2015/2066(INI)

Amendment 96

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 67 e (new)

Motion for a resolution

Amendment

67 e. Recalls that an inquiry committee would have had additional powers to request documents and depending on progress made for accessing information in the coming weeks, calls on continuing to discuss the possibility of creating an inquiry committee;

Or. en

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Special Committee on Tax Rulings and Other Measures Similar in Nature or Effect

23/09/2015

Report of the special committee on tax rulings and other measures similar in nature or effect

Motion for a resolution PE564.938 - 2015/2066(INI)

Amendment 97

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 68 – introductory part

Motion for a resolution

68. Concludes, looking back to the mandate which it conferred on its special committee and despite the various limitations and obstacles encountered in carrying out its fact-finding missions, that:

Amendment

68. Concludes, looking back to the mandate which it conferred on its special committee and despite the various limitations and obstacles ***from other EU institutions, some Member-States and MNCs*** encountered in carrying out its fact-finding missions, that:

Or. en

EUROPEAN PARLIAMENT

Special Committee on Tax Rulings and Other Measures Similar in Nature or Effect

23/09/2015

Report of the special committee on tax rulings and other measures similar in nature or effect

Motion for a resolution PE564.938 - 2015/2066(INI)

Amendment 98

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 68 – indent 3

Motion for a resolution

– Member States did not comply with the obligations set out in Council Directives 77/799/EEC and 2011/16/EU since they did not spontaneously exchange tax information, even in cases where there were clear grounds, despite the margin of discretion left by those directives, for supposing that there may be tax losses in other Member States, or that tax savings may result from artificial transfers of profits within groups,

Amendment

– Member States did not comply with the obligations set out in Council Directives 77/799/EEC and 2011/16/EU since they did not **and continue not to** spontaneously exchange tax information, even in cases where there were clear grounds, despite the margin of discretion left by those directives, for supposing that there may be tax losses in other Member States, or that tax savings may result from artificial transfers of profits within groups,

Or. en

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Special Committee on Tax Rulings and Other Measures Similar in Nature or Effect

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Report of the special committee on tax rulings and other measures similar in nature or effect

Motion for a resolution PE564.938 - 2015/2066(INI)

Amendment 99

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 68 – indent 4

Motion for a resolution

– *finally*, Member States did not comply with the principle of sincere cooperation enshrined in Article 4(3) of the Treaty on European Union, since they did not take all appropriate measures, general or particular, to ensure the fulfilment of their obligations;

Amendment

– Member States did not comply with the principle of sincere cooperation enshrined in Article 4(3) of the Treaty on European Union, since they did not take all appropriate measures, general or particular, to ensure the fulfilment of their obligations;

Or. en

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Special Committee on Tax Rulings and Other Measures Similar in Nature or Effect

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Report of the special committee on tax rulings and other measures similar in nature or effect

Motion for a resolution PE564.938 - 2015/2066(INI)

Amendment 100

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 68 – indent 4 a (new)

Motion for a resolution

Amendment

- finally, the Commission failed in its role of guardian of the Treaty by not acting in this matter and taking all necessary steps to notify Member States and force them to comply with their obligations; the Commission has breached its obligations under article 108 of the Lisbon Treaty on the functioning of the internal market by not launching state aid investigations in the past;

Or. en

EUROPEAN PARLIAMENT

Special Committee on Tax Rulings and Other Measures Similar in Nature or Effect

23/09/2015

Report of the special committee on tax rulings and other measures similar in nature or effect

Motion for a resolution PE564.938 - 2015/2066(INI)

Amendment 101

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 69

Motion for a resolution

69. Calls, on this basis, on the Member States and the EU institutions, which share the political responsibility for the current situation, to fully cooperate in order to eliminate mismatches – and refrain from creating further mismatches – ***between tax systems and harmful tax measures which create the conditions for massive tax avoidance by MNCs and tax base erosion within the internal market;***

Amendment

69. Calls, on this basis, on the Member States and the EU institutions, which share the political responsibility for the current situation, to ***put an end to harmful tax competition and*** fully cooperate in order to eliminate mismatches – and/or refrain from creating further mismatches ***for example through the COM draft directive (2014) 212 on SUP– between tax systems and harmful tax measures which create the conditions***

Or. en

EUROPEAN PARLIAMENT

Special Committee on Tax Rulings and Other Measures Similar in Nature or Effect

23/09/2015

Report of the special committee on tax rulings and other measures similar in nature or effect

Motion for a resolution PE564.938 - 2015/2066(INI)

Amendment 102

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 70

Motion for a resolution

70. Calls on the EU Heads of State and Government to make clear political commitments to taking urgent action to tackle this situation, which can no longer be tolerated, not least because of its impact on national budgets, already subjected to fiscal consolidation measures, and on the tax **burden** of other taxpayers, including SMEs and citizens; stresses, against this background, that it intends to fully play its role and is ready to put in place more effective political scrutiny, in close cooperation with national parliaments;

Amendment

70. Calls on the EU Heads of State and Government to make **new** clear political commitments to taking urgent action to tackle this situation, which can no longer be tolerated, not least because of its impact on national budgets, already subjected to fiscal consolidation measures, and on the tax **contribution** of other taxpayers, including SMEs and citizens; stresses, against this background, that it intends to fully play its role and is ready to put in place more effective political scrutiny, in close cooperation with national parliaments;

Or. en

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Special Committee on Tax Rulings and Other Measures Similar in Nature or Effect

23/09/2015

Report of the special committee on tax rulings and other measures similar in nature or effect

Motion for a resolution PE564.938 - 2015/2066(INI)

Amendment 103

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 70 a (new)

Motion for a resolution

Amendment

70 a. Calls on the Member States – which intend to establish enhanced cooperation between themselves in the tax area – to explore the opportunity of entrusting the European Commission with the responsibility for resolving tax disputes between them, in much the same way as does the Multistate Tax Compact (MTC) in the US. Under this mandate, the European Commission could act as an information-gathering body and propose a Transfer Price Program, which would conduct audits. This would ensure that the participating Member States are using fair and appropriate apportionment methods to determine tax liability and avoid harmful tax competition;

Or. en

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Special Committee on Tax Rulings and Other Measures Similar in Nature or Effect

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Report of the special committee on tax rulings and other measures similar in nature or effect

Motion for a resolution PE564.938 - 2015/2066(INI)

Amendment 104

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 71

Motion for a resolution

71. Calls on the Commission to fulfil its duty as guardian of the Treaties by ensuring that EU law and the principle of sincere cooperation between Member States are fully complied with;

Amendment

71. Calls on the Commission to fulfil its duty as guardian of the Treaties by ensuring that EU law and the principle of sincere cooperation between Member States are fully complied with; ***urges to take systematic further legal actions in accordance with the powers conferred upon it by the Treaty;***

Or. en

EUROPEAN PARLIAMENT

Special Committee on Tax Rulings and Other Measures Similar in Nature or Effect

23/09/2015

Report of the special committee on tax rulings and other measures similar in nature or effect

Motion for a resolution PE564.938 - 2015/2066(INI)

Amendment 105

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 72

Motion for a resolution

72. Underlines the fact that Member States remain **fully** competent to set their respective corporate tax rates; insists, nevertheless, that tax competition **in the EU and vis-à-vis third countries should take place within a clear framework of rules in order to guarantee fair competition between firms in the internal market**; given their crucial role in ensuring fiscal sustainability, calls **for** corporate taxation issues, including harmful tax practices and their impact, to be **more thoroughly addressed** in the framework of the European Semester and for relevant indicators to be included in the macroeconomic imbalance procedure scoreboard;

Amendment

72. Underlines the fact that Member States remain competent to set their respective corporate tax rates **but act within the rules of a common market, which implies the need for rules ensuring fair competition between companies**; insists, nevertheless, that tax competition **between states is a harmful concept and will end up in a race to the bottom while the Union needs to move towards a common EU corporation tax system**; given their crucial role in ensuring fiscal sustainability, calls **on the Commission to more thoroughly address** corporate taxation issues, including harmful tax practices and their impact, to be in the framework of the European Semester and for relevant indicators to be included in the macroeconomic imbalance procedure scoreboard;

Or. en

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Special Committee on Tax Rulings and Other Measures Similar in Nature or Effect

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Report of the special committee on tax rulings and other measures similar in nature or effect

Motion for a resolution PE564.938 - 2015/2066(INI)

Amendment 106

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 73

Motion for a resolution

73. Takes the view that **a** comprehensive, transparent and effective exchange of tax information and a common consolidated corporate tax base are essential preconditions for achieving a tax system at EU level that complies with and preserves the basic principles of the internal market;

Amendment

73. Takes the view that, **among other things, a multilateral** comprehensive, transparent and effective **automatic** exchange of tax information, **public country-by-country reporting** and a **mandatory** common consolidated corporate tax base **for MNCs** are essential preconditions for achieving a tax system at EU level that complies with and preserves the basic principles of the internal market;

Or. en

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Motion for a resolution PE564.938 - 2015/2066(INI)

Amendment 107

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 74 a (new)

Motion for a resolution

Amendment

74 a. Calls upon the European Commission to withdraw the draft proposal for directive of 9 April 2014 ((2014) 212) which is intended to make it easier to set up letterbox companies through online registration;

Or. en

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Special Committee on Tax Rulings and Other Measures Similar in Nature or Effect

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Report of the special committee on tax rulings and other measures similar in nature or effect

Motion for a resolution PE564.938 - 2015/2066(INI)

Amendment 108

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 74 b (new)

Motion for a resolution

Amendment

74 b. Calls for an urgent reform of the Interest & Royalty Directive that allows for the broadening of the scope of withholding taxes on royalty income as well as the introduction of subject-to-tax clause and minimum-tax clauses, in order to ensure that multinational groups of companies do not face an incentive to relocate IP to subsidiaries resident in low-tax countries;

Or. en

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Motion for a resolution PE564.938 - 2015/2066(INI)

Amendment 109

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 74 c (new)

Motion for a resolution

Amendment

74 c. Calls on the Commission to further investigate empirically the opportunity of restricting the deduction of royalty payments to related corporations from the corporate income tax base payments as a way to counteract intra-group profit shifting;

Or. en

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Report of the special committee on tax rulings and other measures similar in nature or effect

Motion for a resolution PE564.938 - 2015/2066(INI)

Amendment 110

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 74 d (new)

Motion for a resolution

Amendment

74 d. Calls on the Commission to further assess the opportunity for tax legislators to introduce retroactive price adjustment clauses in order to address the issues raised by the uncertainties associated with the valuation of intangible assets;

Or. en

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Special Committee on Tax Rulings and Other Measures Similar in Nature or Effect

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Report of the special committee on tax rulings and other measures similar in nature or effect

Motion for a resolution PE564.938 - 2015/2066(INI)

Amendment 111

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 75

Motion for a resolution

75. Regrets the fact that, despite repeated invitations, several MNCs did not take the opportunity to discuss international tax planning matters with the committee; recommends, ***therefore, that serious consideration be given to banning*** these firms from the Transparency Register;

Amendment

75. Regrets the fact that, despite repeated invitations, several MNCs did not take the opportunity to discuss international tax planning matters with the committee; ***welcomes the Parliament's decision to withdraw the access badges of their representatives to the Parliament;*** recommends ***to take all the necessary steps to also ban*** these firms from the Transparency Register;

Or. en

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Special Committee on Tax Rulings and Other Measures Similar in Nature or Effect

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Report of the special committee on tax rulings and other measures similar in nature or effect

Motion for a resolution PE564.938 - 2015/2066(INI)

Amendment 112

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 76

Motion for a resolution

76. Calls on the Council to adopt, by the end of 2015, the *legislative proposal of March 2015 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation, which provides for a common framework for the registration and automatic exchange of information on rulings, and provisions allowing the Commission to effectively monitor its implementation by Member States;*

Amendment

76. Calls on the Council to adopt, by the end of 2015, the *position of the European Parliament as voted in the shareholders right directive in July 2015 that Member States shall require each issuing authority to publicly disclose essential elements of and information regarding tax rulings, providing a break-down by Member State and by third country in which it has a subsidiary; calls on the Council to empower the Commission to set out, by means of delegated acts the format and content of publication; . calls on the Commission and Member States to avoid creating new loopholes by repealing the EU Savings Tax Directive;*

Or. en

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Motion for a resolution PE564.938 - 2015/2066(INI)

Amendment 113

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 77

Motion for a resolution

77. *Invites* the Member States to support, in all international fora, the automatic exchange of information (AEOI) between tax administrations as the new global standard; invites in particular the Commission, the OECD and the G20 to promote this through the most adequate and effective instruments within an inclusive global process;

Amendment

77. ***Calls on*** the Member States to support, in all international fora, the automatic exchange of information (AEOI) between tax administrations as the new global standard; invites in particular the Commission, the OECD and the G20 to promote this through the most adequate and effective instruments within an inclusive global process ***and with flexibilities such as non-reciprocity periods to ensure developing countries will be able to participate in the implementation of this new standard from the very beginning; urges the Member States to ensure in their national implementing laws that deliberate breaches of reporting obligations or deliberate misreporting under AEOI will be a criminal offense; urges Member States to oblige their domestic financial***

institutions to identify the place of residence for all account holders from the beginning, in order to enhance efficiency of the information gathering process and in order not to insert undue and counterproductive ambiguity in the implementation of AEOI; urges Members States and the Commission to insert and specify the requirement for comprehensive, public statistics on AEOI broken down by Member States from the first year of operation, and including a summary statistics for the years 2013 till 2015, to prevent avoidance schemes, into the implementing regulation the Commission is currently working on under the comitology procedure;

Or. en

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Report of the special committee on tax rulings and other measures similar in nature or effect

Motion for a resolution PE564.938 - 2015/2066(INI)

Amendment 114

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 78

Motion for a resolution

78. *Invites* the Member States to consider that any tax ruling of a cross-border nature should, in particular when involving transfer pricing, be established in cooperation with all involved countries, that the relevant information should be automatically exchanged between them and that any national action aimed at reducing tax avoidance and tax base erosion within the EU, including audits, should be carried out jointly, giving due consideration to the experience gained through the FISCALIS 2020 programme; reiterates its view that the basic elements of all rulings that have an impact on other Member States should be not only shared between tax administrations and the Commission, but also presented in the country-by-country reporting by MNCs;

Amendment

78. *Calls on* the Member States to consider that any tax ruling of a cross-border nature should, in particular when involving transfer pricing, be established in cooperation with all involved countries' **tax administrations**, that the relevant information should be automatically exchanged between them and that any national action aimed at reducing tax avoidance and tax base erosion within the EU, including audits, should be carried out jointly, giving due consideration to the experience gained through the FISCALIS 2020 programme; reiterates its view that the basic elements of all rulings that have an impact on other Member States should be not only shared between tax administrations and the Commission, but also presented in the **public** country-by-

country reporting by MNCs;

Or. en

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Report of the special committee on tax rulings and other measures similar in nature or effect

Motion for a resolution PE564.938 - 2015/2066(INI)

Amendment 115

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 79

Motion for a resolution

79. Highlights, in this connection, the fact that not only cross-border but also national rulings can impact other Member States, and calls, *therefore*, for an extension of the automatic exchange of information to all rulings; calls, *furthermore, for* a framework which effectively controls the implementation of the automatic exchange of information and, in the longer term, for a clearing house system, through which tax rulings will be screened at EU level to check whether they have a harmful effect on other Member States;

Amendment

79. Highlights, in this connection, the fact that not only cross-border but also national rulings can impact other Member States, and calls *on the Commission to prepare a proposal*, for an extension of the automatic exchange of information to all rulings; Calls *on Member States to provide for a periodical review of their rulings that are perpetual or valid for a long-time period, to check in particular whether appropriate benchmarks are being used regarding transfer pricing calculations; calls on the Commission to provide* a framework which effectively controls the implementation of the automatic exchange of information and, in the longer term, for a clearing house system, through which tax rulings will be screened at EU level *by the Commission* to check whether they have a harmful effect

on other Member States;

Or. en

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Report of the special committee on tax rulings and other measures similar in nature or effect

Motion for a resolution PE564.938 - 2015/2066(INI)

Amendment 116

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 80 – introductory part

Motion for a resolution

80. Calls on the Commission to consider the establishment of a common framework at EU level for tax rulings, **including** common criteria, **in particular**:

Amendment

80. ***Calls on the Commission to use all the tools at its disposal to foster tax rulings practices that are based on a legal or administrative framework that is known by the taxpayers as well as to deter any kinds of informal tax arrangements; Calls on the Commission to consider the establishment of a common framework at EU level for tax rulings - or equivalent measures however they are called in Member States - and its relevant procedures. Such framework should be accompanied by the establishment of a European Ruling Committee, entrusted with powers of guidance and coordination, that would be competent to rule as a second instance on any tax rulings request. Common criteria as regards tax rulings should include:***

Or. en

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Motion for a resolution PE564.938 - 2015/2066(INI)

Amendment 117

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 81

Motion for a resolution

81. Expresses its **full** support for the action plan proposed by the Commission on 17 June 2015 to address tax avoidance and promote fair and efficient corporate taxation in the EU; calls on the Commission to speed up the presentation of legislative modifications for the prompt establishment of a compulsory EU-wide Common Consolidated Corporate Tax Base (CCCTB), which would solve not only the issue of preferential regimes and mismatches between national tax systems, but also most of the issues leading to tax base erosion at European level (in particular transfer pricing issues);

Amendment

81. Expresses its support for the action plan proposed by the Commission on 17 June 2015 to address tax avoidance and promote fair and efficient corporate taxation in the EU; calls on the Commission to speed up the presentation of legislative modifications for the prompt establishment of a compulsory EU-wide Common Consolidated Corporate Tax Base (CCCTB), ***based on the European Parliament's position in 2012***, which would solve not only the issue of preferential regimes and mismatches between national tax systems, but also most of the issues leading to tax base erosion at European level (in particular transfer pricing issues); ***calls on the Commission to refrain from presenting an interim solution on offshoring profits and losses which may divert the political and***

*technical discussions away from the
CCCTB;*

Or. en

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Motion for a resolution PE564.938 - 2015/2066(INI)

Amendment 118

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 82

Motion for a resolution

82. Calls on the Commission to ***include in its proposals provisions aimed at clarifying*** the definition of R&D investments and of permanent establishment in line with economic substance, covering also the digital economy; points to the importance of R&D investments and the need to facilitate rather than hamper investment and growth in the digital economy, giving the European emergent economy in the digital sector a competitive edge vis-à-vis other actors in the United States and elsewhere; stresses, at the same time, that abuse or exploitation of such systems must be ***minimised*** through coordinated action by the Member States ***and*** common standards and definitions on what qualifies as R&D promotion and what does not;

Amendment

82. Calls on the Commission to ***make*** proposals ***to clarify*** the definition of R&D investments and of permanent establishment in line with economic substance, covering also the digital economy; points to the importance of R&D investments and the need to facilitate rather than hamper investment and growth in the digital economy, giving the European emergent economy in the digital sector a competitive edge vis-à-vis other actors in the United States and elsewhere; stresses, at the same time, that abuse or exploitation of such systems must be ***eliminated*** through coordinated action by the Member States; ***stresses that the OECD-led BEPS initiative does not go far enough to limit sufficiently the problems associated with patent and innovation boxes and calls on the European Commission to present a***

*proposal for common **European** standards and definitions on what qualifies as R&D promotion and what does not **and for harmonising the use of patent and innovation boxes;***

Or. en

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Report of the special committee on tax rulings and other measures similar in nature or effect

Motion for a resolution PE564.938 - 2015/2066(INI)

Amendment 119

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 83

Motion for a resolution

83. Stresses that, to restore the link between taxation and economic substance, and to correct existing mismatches, 'formula apportionment' could differentiate between sectors, to take into account their specific features, in particular with regard to digital businesses; calls on the Commission to continue its work on concrete options for the design of this allocation key, in particular with a view to anticipating, for each sector, the impact on the tax revenue of each Member State, according to the structure of its economy; stresses, furthermore, that the CCCTB is a useful means of combating BEPS and creating European added value regardless of whether or not the tax revenue might be partially used as a new own resource for the EU budget;

Amendment

83. Stresses that, to restore the link between taxation and economic substance, and to correct existing mismatches, 'formula apportionment' could differentiate between sectors, to take into account their specific features, in particular with regard to digital businesses; ***calls on the Commission to carefully consider the European Parliament's position on CCCBT and to adopt a formula apportionment which reflects the real economic activities of companies and does not unduly advantage certain Member States***; calls on the Commission to continue its work on concrete options for the design of this allocation key, in particular with a view to anticipating, for each sector, the impact on the tax revenue of each Member State, according to the structure of its economy; stresses,

furthermore, that the CCCTB is a useful means of combating BEPS and creating European added value regardless of whether or not the tax revenue might be partially used as a new own resource for the EU budget;

Or. en

EUROPEAN PARLIAMENT

Special Committee on Tax Rulings and Other Measures Similar in Nature or Effect

23/09/2015

Report of the special committee on tax rulings and other measures similar in nature or effect

Motion for a resolution PE564.938 - 2015/2066(INI)

Amendment 120

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 84

Motion for a resolution

84. Supports the introduction of a full CCCTB as soon as possible, with the definition of a minimum effective taxation rate ***and, for reasons of competitiveness, a maximum effective taxation rate; acknowledges the Commission's*** approach of putting forward a simple CCTB (without consolidation) as a first step in its action plan of June 2015, ***but*** points out that this will leave many issues open, especially for businesses operating in the single market, given that a CCTB would not provide for the compensation of losses through consolidation, nor address the red tape and uncertainty associated with transfer pricing, which is also one of the main tax avoidance tools used by MNCs; calls on the Commission to dispense with any additional impact assessment of this measure, which has been on the EU agenda

Amendment

84. Supports the introduction of a full CCCTB as soon as possible, with the definition of a minimum effective taxation rate ***opening a path towards a Europeanised corporate taxation system regrets the Commission's*** approach of putting forward a simple CCTB (without consolidation) as a first step in its action plan of June 2015 ***as consolidation is a key aspect of this reform, and*** points out that this will leave many issues open, especially for businesses operating in the single market, given that a CCTB would not provide for the compensation of losses through consolidation, nor address the red tape and uncertainty associated with transfer pricing, which is also one of the main tax avoidance tools used by MNCs; calls on the Commission to dispense with any additional impact assessment of this

for decades, has already been the subject of extensive preparatory work and is now blocked in the Council since its formal submission in 2011;

measure, which has been on the EU agenda for decades, has already been the subject of extensive preparatory work and is now blocked in the Council since its formal submission in 2011; ***calls on the Commission, as a possible prerequisite for a robust CCCTB, to research further the suitability of IFRS and/or of individual Member State accounting rules, and to explore an alternative framework for a European-wide tax accounting standard;***

Or. en

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Special Committee on Tax Rulings and Other Measures Similar in Nature or Effect

23/09/2015

Report of the special committee on tax rulings and other measures similar in nature or effect

Motion for a resolution PE564.938 - 2015/2066(INI)

Amendment 121

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 85

Motion for a resolution

85. Calls on the Commission, pending the adoption of a full CCCTB and its full implementation at EU level, to take immediate action in order to ensure effective taxation, reduce profit shifting (mainly transfer pricing), ***prepare a regime offsetting cross-border profits and losses and further introduce anti-abuse rules in all relevant directives***; calls on the Council to prepare for the prompt adoption of these provisions;

Amendment

85. Calls on the Commission, pending the adoption of a full CCCTB and its full implementation at EU level, to take immediate action in order to ensure effective taxation, reduce profit shifting (mainly transfer pricing), ***and further introduce anti-abuse rules in all relevant directives; calls on the Commission to check the existing directives and draft directives in the field of tax and company law on their appropriateness to enforce effective taxation***; calls on the Council to prepare for the prompt adoption of these provisions;

Or. en

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Special Committee on Tax Rulings and Other Measures Similar in Nature or Effect

23/09/2015

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Motion for a resolution PE564.938 - 2015/2066(INI)

Amendment 122

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 86

Motion for a resolution

86. Calls on the Commission to issue clear **guidelines** on the definition of economic substance and permanent establishment, with a view to tackling, in particular, the issue of letter box companies, and to develop EU criteria and **guidelines** for the treatment of R&D, compatible with, but not limited to, the work of the OECD on the matter, since Member States are currently reforming their strategy in that regard, often cumulatively with subsidies;

Amendment

86. Calls on the Commission to issue clear **legislation** on the definition of economic substance and permanent establishment, with a view to tackling, in particular, the issue of letter box companies, and to develop EU criteria and **legislation** for the treatment of R&D, compatible with, but not limited to, the work of the OECD on the matter, since Member States are currently reforming their strategy in that regard, often cumulatively with subsidies; ***calls on the Commission to revise European legislation on controlled foreign companies and its application according to the Cadbury Schweppes judgment of the European Court of Justice (C-196/04) in order to ensure full use of controlled foreign companies beyond situations of wholly artificial arrangements; Calls on the Commission***

*to make proposals for harmonising
controlled foreign companies rules in
Europe;*

Or. en

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Amendment 123

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 87

Motion for a resolution

87. Calls also on the Commission, in the absence of any generally accepted definition, to conduct further analyses and studies in order to define harmful tax practices, taking into account the various negative impacts they can have on society, ensure their monitoring and identify more precisely the impact of tax avoidance in the EU and in developing countries; asks the Commission to take the necessary action to clarify the exact status of all the Member States' 'dependent jurisdictions' and what leverage could be used to change their practices with a view to avoiding tax base erosion within the EU;

Amendment

87. Calls also on the Commission, in the absence of any generally accepted definition, to conduct further analyses and studies in order to define harmful tax practices, ***especially double tax treaties and hybrid mismatch arrangements***, taking into account the various negative impacts they can have on society, ensure their monitoring and identify more precisely the impact of tax avoidance in the EU and in developing countries; asks the Commission to take the necessary action to clarify the exact status of all the Member States' 'dependent jurisdictions' and what leverage could be used to change their practices with a view to avoiding tax base erosion within the EU;

Or. en

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Special Committee on Tax Rulings and Other Measures Similar in Nature or Effect

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Motion for a resolution PE564.938 - 2015/2066(INI)

Amendment 124

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 88

Motion for a resolution

88. Calls for an urgent reform of the Code of Conduct on business taxation and of the Group charged with its enforcement, with a view to addressing the obstacles currently in the way of effectively tackling harmful tax practices;

Amendment

88. Calls for an urgent reform of the Code of Conduct on business taxation and of the Group charged with its enforcement ***as well as the criteria to assess harmful tax measures and strengthen them with provisions for greater transparency and accountability on its activities***, with a view to addressing the obstacles currently in the way of effectively tackling harmful tax practices;

Or. en

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Special Committee on Tax Rulings and Other Measures Similar in Nature or Effect

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Report of the special committee on tax rulings and other measures similar in nature or effect

Motion for a resolution PE564.938 - 2015/2066(INI)

Amendment 125

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 89

Motion for a resolution

89. *Invites* the Member States to endorse the proposals included in the Commission's action plan of 17 June 2015 for fair and efficient corporate taxation in the EU; advocates that the Group's governance and mandate be reshaped, including the appointment of a permanent, politically accountable Chair, the improvement of its working methods including a possible enforcement mechanism and enhanced information exchange within the Group with a view to effectively addressing BEPS issues; calls also for the criteria set in the Code to be updated and broadened, in order to cover new forms of harmful tax practices, including in third countries;

Amendment

89. *Calls on* the Member States to endorse the proposals included in the Commission's action plan of 17 June 2015 for fair and efficient corporate taxation in the EU; advocates that the Group's governance and mandate be reshaped, including the appointment of a permanent, politically accountable Chair, the improvement of its working methods including a possible enforcement mechanism and enhanced information exchange within the Group with a view to effectively addressing BEPS issues; calls also for the criteria set in the Code to be updated and broadened *in consultation with the Commission and the Parliament*, in order to cover new forms of harmful tax practices, including in third countries;

Or. en

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Special Committee on Tax Rulings and Other Measures Similar in Nature or Effect

23/09/2015

Report of the special committee on tax rulings and other measures similar in nature or effect

Motion for a resolution PE564.938 - 2015/2066(INI)

Amendment 126

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 90

Motion for a resolution

90. Calls on the Council to report to its competent committee on a regular basis on the activities of the Group, in particular with regard to the presentation of its bi-annual reports to ECOFIN; more generally, invites the Council to support the promotion of genuine democratic scrutiny in cross-border tax matters at EU level, along the lines of what is already in place in other areas where Member States or other independent institutions, such as the European Central Bank and the Board of the Single Supervisory Mechanism, have exclusive competence; invites the Council and the Member States to consider the possibility of setting up a high-level group on taxation policy encompassing the Council, the Commission and independent experts, *after the model of the Economic and Financial Committee*, that would

Amendment

90. Calls on the Council to report to its competent committee on a regular basis on the activities of the Group, in particular with regard to the presentation of its bi-annual reports to ECOFIN; more generally, invites the Council to support the promotion of genuine democratic scrutiny in cross-border tax matters at EU level, along the lines of what is already in place in other areas where Member States or other independent institutions, such as the European Central Bank and the Board of the Single Supervisory Mechanism, have exclusive competence; invites the Council and the Member States to consider the possibility of setting up a high-level group on taxation policy encompassing the Council, the Commission and independent experts *fully accountable to the European Parliament* that would more generally

more generally exercise oversight of legislative and non-legislative tax policy *and would report to ECOFIN*;

exercise oversight of legislative and non-legislative tax policy ; ***calls on greater accountability and transparency of the Code of Conduct group's activities towards the European Parliament and the public in general; Requests for the European Parliament to have a right of initiative to denounce to the Code of Conduct group any national measure it deems to be fitting the criteria for harmful tax competition included in the code of conduct,***

Or. en

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Special Committee on Tax Rulings and Other Measures Similar in Nature or Effect

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Report of the special committee on tax rulings and other measures similar in nature or effect

Motion for a resolution PE564.938 - 2015/2066(INI)

Amendment 127

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 91

Motion for a resolution

91. Urges the Council and the Member states, with due respect for the Treaties and the competence of the Member States in direct tax matters, to improve the transparency, accountability and monitoring work of the Group and calls on the Commission to consider *whether* framework legislation, under the Community method, *would not* constitute a more workable solution;

Amendment

91. Urges the Council and the Member states, with due respect for the Treaties and the competence of the Member States in direct tax matters, to improve the transparency, accountability and monitoring work of the Group and calls on the Commission to consider framework legislation, under the Community method, *any time it would* constitute a more workable solution; *calls on the Commission to urgently enact changes to its horizontal rules for expert groups with a view to ensure policy making in the public interest by effectively shielding law making processes from the influence of specific private interests;*

Or. en

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Amendment 128

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 92

Motion for a resolution

92. Strongly welcomes and supports the key role of the Commission as the competent competition authority in the ongoing state aid inquiries dealing with tax rulings; encourages the Commission to make full use of its powers under EU competition rules to tackle harmful tax practices;

Amendment

92. Strongly welcomes and supports the key role of the Commission as the competent competition authority in the ongoing state aid inquiries dealing with tax rulings; encourages the Commission to make full use of its powers under EU competition rules to tackle harmful tax practices ***and request the reimbursement of every Euro due in case of illegal state aid;***

Or. en

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Report of the special committee on tax rulings and other measures similar in nature or effect

Motion for a resolution PE564.938 - 2015/2066(INI)

Amendment 129

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 93

Motion for a resolution

93. Calls on the Commission to adopt new guidelines, in the framework of its State Aid Modernisation (SAM) initiative, clarifying what constitutes tax-related state aid and 'appropriate' transfer pricing, with a view to removing legal uncertainties for both compliant taxpayers and tax administrations, providing a framework for Member States' tax practices accordingly, and not discouraging the recourse to legitimate tax rulings; ***strongly questions*** the usefulness of the arbitration convention, which ***addresses*** disputes, in particular on transfer pricing issues; considers that this instrument should be reshaped and be made more efficient, or replaced by an EU dispute mechanism with more effective mutual agreement procedures;

Amendment

93. Calls on the Commission to adopt new guidelines, in the framework of its State Aid Modernisation (SAM) initiative, clarifying what constitutes tax-related state aid and 'appropriate' transfer pricing, with a view to removing legal uncertainties for both compliant taxpayers and tax administrations, providing a framework for Member States' tax practices accordingly, and not discouraging the recourse to legitimate tax rulings; ***contests*** the usefulness of the arbitration convention, which ***is not efficient to address*** disputes, in particular on transfer pricing issues; considers that this instrument should be reshaped and be made more efficient, or replaced by an EU dispute mechanism with more effective mutual agreement procedures;

Or. en

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Motion for a resolution PE564.938 - 2015/2066(INI)

Amendment 130

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 93 a (new)

Motion for a resolution

Amendment

93 a. Calls on the Commission to extend its investigations to other MNCs mentioned in the Luxleaks scandal and to measures similar in nature or effect as transfer pricing;

Or. en

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Amendment 131

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 95

Motion for a resolution

95. Calls on the Commission to assess the possibility of modifying the existing rules in order to allow the amounts recovered following an infringement of EU state aid rules to be **returned** to the Member States which have suffered from an erosion of their tax bases **or to the EU budget**, and not to the Member State which granted the illegal tax-related aid, as is currently the case;

Amendment

95. Calls on the Commission to assess the possibility of modifying the existing rules in order to allow the amounts recovered following an infringement of EU state aid rules to be **allocated preferably** to the **EU budget or returned, to the** Member States which have suffered from an erosion of their tax bases and not to the Member State which granted the illegal tax-related aid, as is currently the case; **calls on the Commission to modify the existing rules to ensure punitive sanctions can be adopted against the relevant countries and companies in case of breach of state aid rules;**

Or. en

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Amendment 132

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 95 a (new)

Motion for a resolution

Amendment

95 a. Calls on the Commission to present as soon as possible its research – as announced in its proposal in March 2015 – on the tax gap in Europe in order to better evaluate the damages done by base erosion and profit shifting on the EU budget;

Or. en

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Amendment 133

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 96

Motion for a resolution

96. Underlines the crucial importance of transparency with a view to increasing the public accountability of MNCs; stresses that it can have a strong deterrent effect and change behaviours, through both the reputational risk for non-compliant firms and the provision of information to the competent authorities, which can then adopt appropriate corrective measures and sanctions;

Amendment

96. Underlines the crucial importance of **public** transparency with a view to increasing the public accountability of MNCs **and supporting tax administrations in their investigations**; stresses that it can have a strong deterrent effect and change behaviours, through both the reputational risk for non-compliant firms and the provision of information to the competent authorities, which can then adopt appropriate corrective measures and sanctions; **recalls that tax information of MNCs cannot be considered a business or commercial secret as defined by the OECD and can therefore be automatically exchanged, or in the case of country by country reporting, be made publicly available without leading to serious damage for the MNCs concerned;**

Or. en

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Amendment 134

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 97

Motion for a resolution

97. Reiterates its position that MNCs should disclose in their financial statements, by Member State and by third country in which they have an establishment, a range of aggregated information, including their profit or loss before tax, taxes on profit or loss, number of employees, assets held, etc. (country-by-country reporting); underlines the importance of making this information available to the public, possibly in the form of a central EU register;

Amendment

97. Reiterates its position that MNCs should **publicly** disclose in their financial statements, by Member State and by third country in which they have an establishment, a range of aggregated information, including their profit or loss before tax, taxes **paid and accrued** on profit or **received on** loss, number of employees, assets held, etc. (**public** country-by-country reporting); ***calls on the Commission in its future country-by-country proposal to ensure that accounting firms have to confirm in the Group Audit Report that the figures in respect of taxes, turnovers, number of employees and profit made are also in line with the "true and fair view" particularly allocated/shown per country;*** underlines the importance of making this information available to the public, possibly in the form

of a central EU register; ***suggests that tax planning strategies should be duly communicate and approved by shareholders of the company;***

Or. en

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Amendment 135

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 98

Motion for a resolution

98. Calls, **moreover, for** more extensive country-by-country reporting **to be made** available to tax authorities, building on the OECD standard and including more detailed information, such as tax returns and intra-group transactions; calls also for harmonised accounting standards to be developed;

Amendment

98. Calls **on the Member States in addition to public reporting, to implement a** more extensive country-by-country reporting **system** available to **their** tax authorities, building on the OECD standard and including more detailed information, such as tax returns and intra-group transactions; calls also for harmonised accounting standards to be developed; **recommends the IFRS to foresee adequate granularity of disclosure of royalties as required already by the SEC in the US.**

Or. en

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Amendment 136

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 99 a (new)

Motion for a resolution

Amendment

99 a. Calls on the Commission to examine possibilities for implementing within the EU similar provisions as the U.S. Governmental Accounting Standards Board (GASB) rule[1]requiring state and local governments to report how much revenue they lose to corporate tax breaks given for economic development;

[1]
<http://www.taxjustice.net/2015/08/17/tracking-corporate-tax-breaks-a-welcome-new-form-of-transparency-emerges-in-the-u-s/>

Or. en

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Amendment 137

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 99 b (new)

Motion for a resolution

Amendment

99 b. Strongly encourages all Member States, following commitments from France, Denmark and the UK, to create publicly available centralised registers of beneficial owners when implementing the Anti-money laundering directive and to refrain from restricting their access to only those with a "legitimate interest";

Or. en

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Amendment 138

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 100

Motion for a resolution

100. Calls on the Commission to propose establishing an EU legislative framework for the effective protection of whistleblowers and the like, since it is not acceptable that citizens, or journalists, disclosing information about misconduct, wrongdoing, fraud or illegal activity, in particular on cases of tax avoidance, tax evasion and money laundering, can be subject to prosecution rather than legal protection; calls on the Commission to consider a range of tools to ensure such protection against unjustified legal prosecutions, economic sanctions or discriminations, ***while also ensuring the protection of confidentiality and trade secrets***; draws attention, in this connection, to the example of the US Dodd-Frank Act, which both remunerates whistleblowers for providing the authorities with original

Amendment

100. Calls on the Commission to propose establishing an EU legislative framework for the effective protection of whistleblowers and the like, since it is not acceptable that citizens, or journalists, disclosing information about misconduct, wrongdoing, fraud or illegal activity, in particular on cases of tax avoidance, tax evasion and money laundering, can be subject to prosecution rather than legal protection; calls on the ***European Commission to setup a pan-European whistleblower common fund, financed by recovered money, to ensure whistleblowers receive an adequate financial assistance for public-interest revelations that often have a catastrophic impact on their lives and careers while at the same time guaranteeing the confidentiality of their identity, should***

information and protects them from legal prosecution and job loss;

they wish to remain anonymous; calls on the Commission to consider a range of tools to ensure such protection against unjustified legal prosecutions, economic sanctions or discriminations; draws attention, in this connection, to the example of the US Dodd-Frank Act, which both remunerates whistleblowers for providing the authorities with original information and protects them from legal prosecution and job loss

Or. en

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Amendment 139

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 101

Motion for a resolution

101. **Strongly** supports the OECD BEPS action plan; calls for its **ambitious** scope and calendar to be fully complied with and for the OECD, its Member States and all the other countries involved to set up a strong monitoring tool to assess progress in the implementation of those guidelines and possibly take corrective action;

Amendment

101. Supports the OECD BEPS action plan **while recognising it is the result of a compromise which is not going far enough to address the scale of the tax avoidance problem**; calls for its scope and calendar to be fully complied with and for the OECD, its Member States and all the other countries involved to set up a strong monitoring tool to assess progress in the implementation of those guidelines and possibly take corrective action;

Or. en

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Motion for a resolution PE564.938 - 2015/2066(INI)

Amendment 140

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 102

Motion for a resolution

102. Recommends that institutional links and cooperation between the OECD and the Commission be strengthened in order to continue to ensure the compatibility of the two processes and avoid double standards; stresses that the OECD approach is still based on soft law and that its action should be complemented by a proper legislative framework at EU level, e.g. in the form of an anti-BEPS directive, since such voluntary agreements are not sufficient for an integrated area like the EU, with a single market, a common currency and common sets of rules in most areas of government;

Amendment

102. Recommends that institutional links and cooperation between the OECD and the Commission be strengthened in order to continue to ensure the compatibility of the two processes and avoid double standards; stresses that the OECD approach is still based on soft law and that its action should be complemented by a proper legislative framework at EU level, e.g. in the form of an anti-BEPS directive ***going further than the OECD BEPS outcomes***, since such voluntary agreements are not sufficient for an integrated area like the EU, with a single market, a common currency and common sets of rules in most areas of government;

Or. en

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Amendment 141

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 103

Motion for a resolution

103. Calls for a common EU approach to tax havens; calls on the Commission, in particular, to ***continue its work on*** a clear definition, a common set of criteria to identify tax havens and appropriate sanctions for countries cooperating with them, on the basis of its December 2012 Recommendation regarding measures intended to encourage third countries to apply minimum standards of good governance in tax matters (i.e. going beyond the exchange of information and transparency to include fair tax competition and effective taxation), and on defining appropriate common measures applying to those jurisdictions; refers to its resolution of 21 May 2013 on ‘the fight against tax fraud, tax evasion and tax havens’ for a non-exhaustive list of such possible measures²⁹ ; reiterates that genuinely

Amendment

103. Calls for a common EU approach to tax havens; calls on the Commission, in particular, to ***provide*** a clear definition, a common set of criteria to identify tax havens and appropriate sanctions for countries cooperating with them, on the basis of its December 2012 Recommendation regarding measures intended to encourage third countries to apply minimum standards of good governance in tax matters (i.e. going beyond the exchange of information and transparency to include fair tax competition and effective taxation), and on defining appropriate common measures applying to those jurisdictions; refers to its resolution of 21 May 2013 on ‘the fight against tax fraud, tax evasion and tax havens’ for a non-exhaustive list of such possible measures²⁹ ; reiterates that genuinely

European lists, regularly updated, would be more effective as a means of promoting good tax governance and changing tax behaviours towards and within those jurisdictions;

²⁹ These include, to quote but a few:– to suspend or terminate existing Double Tax Conventions with jurisdictions that are on the blacklist,– to prohibit access to EU public procurement of goods and services and refuse to grant state aid to companies based in blacklisted jurisdictions,– to prohibit EU financial institutions and financial advisors from establishing or maintaining subsidiaries and branches in blacklisted jurisdictions and to consider revoking licences for European financial institutions and financial advisors which maintain branches and continue operating in blacklisted jurisdictions,– to introduce a special levy on all transactions to or from blacklisted jurisdictions,– to examine a range of options for the non-recognition, within the EU, of the legal status of companies set up in blacklisted jurisdictions,– to apply tariff barriers in cases of trade with blacklisted third countries.

European lists, regularly updated, would be more effective as a means of promoting good tax governance and changing tax behaviours towards and within those jurisdictions;

²⁹ These include, to quote but a few:– to suspend or terminate existing Double Tax Conventions with jurisdictions that are on the blacklist,– to prohibit access to EU public procurement of goods and services and refuse to grant state aid to companies based in blacklisted jurisdictions,– to prohibit EU financial institutions and financial advisors from establishing or maintaining subsidiaries and branches in blacklisted jurisdictions and to consider revoking licences for European financial institutions and financial advisors which maintain branches and continue operating in blacklisted jurisdictions,– to introduce a special levy on all transactions to or from blacklisted jurisdictions,– to examine a range of options for the non-recognition, within the EU, of the legal status of companies set up in blacklisted jurisdictions,– to apply tariff barriers in cases of trade with blacklisted third countries.

Or. en

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Amendment 142

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 104

Motion for a resolution

104. Stresses, in particular, the need to ensure that outgoing financial flows are at least taxed once, for instance by imposing a withholding tax, in order to avoid profits leaving the EU untaxed; insists that a system should be put in place to ensure that a confirmation document has to be presented to the tax authorities in order to certify this operation, thereby protecting the single market and maintaining the connection between where profits and economic value are generated and where these are taxed; calls on the Commission, while supporting the promotion by the OECD of a multilateral approach to tax issues aimed at streamlining international tax arrangements and ensuring that profits are taxed in the place where the value is created, to enhance the *EU's* role on the international stage by speaking with one

Amendment

104. Stresses, in particular, the need to ensure that outgoing financial flows are at least taxed once *with a minimum tax rate*, for instance by imposing a withholding tax, in order to avoid profits leaving the EU untaxed *and calls on the Commission to present a legislative proposal in that sense*; insists that a system should be put in place to ensure that a confirmation document has to be presented to the tax authorities in order to certify this operation, thereby protecting the single market and maintaining the connection between where profits and economic value are generated and where these are taxed; calls on the Commission, while supporting the promotion by the OECD of a multilateral approach to tax issues aimed at streamlining international tax arrangements and ensuring that profits are taxed in the

voice and to work on the development of a common EU framework for bilateral treaties in tax matters and a progressive substitution of the huge number of bilateral individual tax treaties by EU/third jurisdiction treaties; stresses that this would be the most immediate way to tackle treaty-shopping practices;

place where the value is created, to enhance the *EU's* role on the international stage by speaking with one voice ***to call for reforming the OECD guidelines on tax treaties, currently promoting low taxation of royalties*** and to work on the development of a common EU framework for bilateral treaties in tax matters and a progressive substitution of the huge number of bilateral individual tax treaties by EU/third jurisdiction treaties; stresses that this would be the most immediate way to tackle treaty-shopping practices; ***calls on the Member States to insert anti-abuse clauses into their tax treaties in accordance with the BEPS proposals[1] to effectively tackle treaty-shopping and to implement the 2012 recommendation regarding measures intended to encourage third countries to apply minimum standards of good governance in tax matters, particularly on the aspect of not-signing or denouncing tax treaties with such countries not respecting minimum standards;***

[1]
<http://www.oecd.org/tax/treaties/revised-discussion-draft-beps-action-6-prevent-treaty-abuse.pdf>

Or. en

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Amendment 143

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 105

Motion for a resolution

105. Considers that the setting-up of free trade agreements needs to be accompanied by enhanced tax cooperation, preventing tax avoidance by firms competing on the same markets and ensuring a level playing field; asks the Commission, therefore, to introduce tax provisions in all EU free trade agreements, which would bind partner countries to apply good tax governance and ensure reciprocity in tax matters; stresses that the work undertaken by the Platform for Tax Good Governance forms a good basis on which to implement this concept; underlines the fact that the same could apply to EU cooperation agreements;

Amendment

105. Considers that the setting-up of free trade agreements needs to be accompanied by enhanced tax cooperation, preventing tax avoidance by firms competing on the same markets and ensuring a level playing field; asks the Commission, therefore, to ***systematically*** introduce tax provisions in all EU free trade agreements, which would bind partner countries to apply good tax governance and ensure reciprocity in tax matters ***and would ensure such agreements do not undermine countries' capacity to raise domestic resources***; stresses that the work undertaken by the Platform for Tax Good Governance forms a good basis on which to implement this concept; underlines the fact that the same could apply to EU cooperation agreements;

Or. en

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Amendment 144

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 106

Motion for a resolution

106. Calls on the Commission to use all the tools at its disposal to foster a more coordinated approach vis-à-vis developed countries in order to promote greater reciprocity in tax matters, in particular with regard to the exchange of information with the United States of America following the entry into force of the Foreign Account Tax Compliance Act; calls also on the Commission, against the background of the agreement of 27 May 2015 between the EU and Switzerland on the automatic exchange of financial account information, to carefully monitor, with a view to preserving the single market, the agreed phasing out of some harmful tax practices in Switzerland, in line with BEPS guidelines;

Amendment

106. Calls on the Commission to use all the tools at its disposal to foster a more coordinated approach vis-à-vis developed countries in order to promote greater reciprocity in tax matters, in particular with regard to the exchange of information with the United States of America following the entry into force of the Foreign Account Tax Compliance Act; calls also on the Commission, against the background of the agreement of 27 May 2015 between the EU and Switzerland on the automatic exchange of financial account information, to carefully monitor, with a view to preserving the single market, the agreed phasing out of some harmful tax practices in Switzerland, in line with BEPS guidelines ***as well as no introduction of new harmful tax measures in the future; calls on the Commission in its ongoing***

*negotiations with Switzerland to suggest
the introduction of controlled foreign
companies rules in Swiss law;*

Or. en

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Amendment 145

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 107

Motion for a resolution

107. Highlights the fact that specific attention should be paid at national, EU or international level to the situation of developing countries and, in particular, least developed countries, which usually have very narrow tax bases and low tax-to-GDP ratios, when devising actions and policies to tackle tax avoidance; stresses that those actions and policies should contribute to generating public revenues commensurate with the value added generated on their territory, so as to appropriately finance their development strategies, the achievement of Millennium Development Goals and the post-2015 development agenda; welcomes, against this background, the work of the UN Committee of Experts on International Cooperation in Tax Matters; asks the Commission to support the interests of

Amendment

107. Highlights the fact that specific attention should be paid at national, EU or international level to the situation of developing countries and, in particular, least developed countries, which usually ***are the most affected by corporate tax avoidance and*** have very narrow tax bases and low tax-to-GDP ratios, when devising actions and policies to tackle tax avoidance; stresses that those actions and policies should contribute to generating public revenues commensurate with the value added generated on their territory, so as to appropriately finance their development strategies, the achievement of Millennium Development Goals and the post-2015 development agenda; welcomes, against this background, the work of the UN Committee of Experts on International Cooperation in Tax Matters; asks the

developing countries in existing international initiatives and to include representatives from developing countries on its Platform for Tax Good Governance;

Commission to support the interests of developing countries in existing international initiatives and to include representatives from developing countries on its Platform for Tax Good Governance;

Or. en

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Amendment 146

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 108

Motion for a resolution

108. Calls on the Commission to propose further measures to help enhance administrative capacities in developing countries, in particular in tax matters, to allow an effective exchange of tax information with their administrations; calls for the establishment of a platform for developing countries by implementing pilot projects on AEOI; calls on developing countries to promote regional agreements or other forms of cooperation on tax matters in order to improve their negotiating position vis-à-vis foreign direct investors and MNCs and tackle issues of common interest;

Amendment

108. Calls on the Commission to propose further measures to help enhance administrative capacities in developing countries, in particular in tax matters, to allow an effective exchange of tax information with their administrations; calls for the establishment of a platform for developing countries by implementing pilot projects on AEOI ***without condition of reciprocity***; calls on developing countries to promote regional agreements or other forms of cooperation on tax matters in order to improve their negotiating position vis-à-vis foreign direct investors and MNCs and tackle issues of common interest; ***calls on the Commission to develop an EU approach for tax treaties, according to the UN guidelines, for discussion with developing countries;***

Or. en

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Amendment 147

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 108 a (new)

Motion for a resolution

Amendment

108 a. Calls on the Commission to increase EU aid allocated to strengthen developing countries' tax administrations' capacity but ensure that this aid is not 'tied' to the condition of implementing OECD tax guidelines, which may not be the most suitable rules for developing countries' tax systems;

Or. en

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Amendment 148

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 109

Motion for a resolution

109. Refers to the action plan presented in its resolution of 8 July 2015 on tax avoidance and tax evasion as challenges for governance, social protection and development in developing countries; encourages all countries and international organisations, such as the UN, to be part of an inclusive process and contribute to the G20/OECD tax agenda, addressing BEPS, promoting international tax transparency and the global sharing of tax information, for example through the development of a single common reporting standard in the AEOI or the public disclosure of beneficial ownership;

Amendment

109. Refers to the action plan presented in its resolution of 8 July 2015 on tax avoidance and tax evasion as challenges for governance, social protection and development in developing countries; encourages all countries and international organisations, such as the UN, to be part of an inclusive process and contribute to the G20/OECD tax agenda, addressing BEPS, promoting international tax transparency and the global sharing of tax information, for example through the development of a single common reporting standard in the AEOI or the public disclosure of beneficial ownership; ***calls on the European Commission and member states to support a greater role for the UN in future international tax discussions, for instance by supporting the creation of a global tax body under the auspices of the United***

Nations;

Or. en

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Amendment 149

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 111

Motion for a resolution

111. Calls on the Commission to come forward with proposals for **guidelines for** the tax advising service industry and for the setting-up of an EU incompatibility regime for advisors in tax matters and, as appropriate, for banks, in order to ensure that conflicts of interest between services to the public and private sectors are avoided; calls on the Commission to launch an inquiry in order to assess the state of concentration in the sector;

Amendment

111. Calls on the Commission to come forward with proposals for **regulating** the tax advising service industry, **namely ensuring the separation of audit and consulting activities of accounting firms or financial and tax services providers, requiring them to register new tax avoidance schemes to the member state concerned and to the EU commission** and for the setting-up of an EU incompatibility regime for advisors in tax matters and, as appropriate, for banks, in order to ensure that conflicts of interest between services to the public and private sectors are avoided; calls on the Commission to launch an inquiry in order to assess the state of concentration in the sector; **recommends the elimination of payment of accounting firms on success which**

incentivises the set-up of risky schemes;

Or. en

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Amendment 150

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 112

Motion for a resolution

112. Requests that the Commission assess the possibility of introducing sanctions for firms implementing or promoting tax dodging and aggressive tax planning, in particular with regard to access to funding from the EU budget and any advisory role in EU institutions;

Amendment

112. Requests that the Commission assess the possibility of introducing sanctions for firms implementing or promoting tax dodging and aggressive tax planning, in particular with regard to access to funding from the EU budget and any advisory role in EU institutions; ***requests the Commission in its upcoming proposal on country-by-country reporting to include measures of liability of accounting firms in case of misreporting or false representation of the figures, such liability should also be extended to audit partners and apply to the highest person in charge in the firm in case of deliberate sign off of false figures;***

Or. en

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Amendment 151

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 112 a (new)

Motion for a resolution

Amendment

112 a. Calls on the Commission to fully implement the EU Ombudsman's recommendations regarding the composition of expert groups and to adopt a roadmap to ensure expert groups will be composed of members fully independent of private economic interests only; insists that, while working towards this goal, reforms of the current structure and composition should start immediately; calls on the Commission to adopt a clear definition of conflict of interests and robust policies to prevent actors at risk of such conflicts of interest of being active members of any expert or advisory body; calls on the Commission to consider rebalancing its group membership through smaller groups and to exclude representatives of organisations convicted of tax evasion or any other criminal

wrongdoing or involved in tax avoidance schemes;

Or. en

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Amendment 152

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 112 b (new)

Motion for a resolution

Amendment

112 b. Calls on the accounting firms and other financial and tax services providers to seriously strengthen their internal code of conduct in order to avoid supporting harmful tax planning schemes by MNCs;

Or. en

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Amendment 153

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 113

Motion for a resolution

113. Encourages further action at national level to tackle tax avoidance, within the EU and OECD frameworks since uncoordinated reactions can create further mismatches and tax dodging opportunities; stresses that the best tool for fighting tax base erosion is cooperation, rather than unilaterally introducing preferential regimes to attract investments; calls also on the Commission to establish guidelines in respect of any tax amnesties by Member States;

Amendment

113. Encourages further ***coordinated*** action at national level to tackle tax avoidance, within the EU and OECD frameworks since uncoordinated reactions can create further mismatches and tax dodging opportunities; stresses that the best tool for fighting tax base erosion is cooperation, rather than unilaterally introducing preferential regimes to attract investments; calls also on the Commission to establish guidelines in respect of any tax amnesties by Member States ***and recall the need to use such practice with extreme caution in order not to incentivise tax dodgers to wait for the next amnesty***;

Or. en

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Amendment 154

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 113 a (new)

Motion for a resolution

Amendment

113 a. Calls upon member states to have mechanisms in place to verify that companies set up in their respective countries have a genuine activity e.g. by setting up a public business register of all EU-companies including relevant information such as the company's founders, the company's legal representatives and the company's address or by forbidding the setup of anonymous companies either via middlemen or websites;

Or. en

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Amendment 155

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 113 b (new)

Motion for a resolution

Amendment

113 b. Without prejudice to stronger cooperation on tax at the European level, calls upon the member states to implement unilaterally defensive measures such as unconditioned withholding taxes on all interest and license fee payments and conditioned limitations of the allowed tax deduction for interest and license fee payments going directly or indirectly to tax havens.

Or. en

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Amendment 156

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 113 c (new)

Motion for a resolution

Amendment

113 c. Invites the Member States to build safeguards in their bilateral tax treaties and their tax exemption systems in order to make an exemption conditional upon income being taxed abroad;

Or. en

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Amendment 157

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 114

Motion for a resolution

114. Urges each Member State to carry out, where necessary with the technical support of the Commission, impact assessments that cover spillover effects in other countries, before introducing any tax measures that may have an impact abroad; calls for a strong involvement of national parliaments on the issue of tax avoidance since no tax regime or tax treatment should escape proper assessment and democratic control by the legislator;

Amendment

114. Urges each Member State to carry out, where necessary with the technical support of the Commission, **public** impact assessments that cover spillover effects in other countries, before introducing any tax measures that may have an impact abroad; calls for a strong involvement of national parliaments on the issue of tax avoidance since no tax regime or tax treatment should escape proper assessment and democratic control by the legislator; ***recommends to grant tax rulings and other preferential tax regimes only for a limited period of time, preferably under a multilateral set-up;***

Or. en

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Amendment 158

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 116

Motion for a resolution

116. Stresses, finally, that the unanimity rule within the Council, by giving each Member State a veto right, reduces the incentive to move from the status quo towards a more cooperative solution; calls on the Commission not to refrain from making use, where appropriate, of Article 116 of the *TFUE* which stipulates the following: ‘Where the Commission finds that a difference between the provisions laid down by law, regulation or administrative action in Member States is distorting the conditions of competition in the internal market and that the resultant distortion needs to be eliminated, it shall consult the Member States concerned. If such consultation does not result in an agreement eliminating the distortion in question, the European Parliament and the Council, acting in accordance with the

Amendment

116. Stresses, finally, that the unanimity rule within the Council, by giving each Member State a veto right, reduces the incentive to move from the status quo towards a more cooperative solution; calls on the Commission not to refrain from making use, where appropriate, of Article 116 of the *TFEU* which stipulates the following: ‘Where the Commission finds that a difference between the provisions laid down by law, regulation or administrative action in Member States is distorting the conditions of competition in the internal market and that the resultant distortion needs to be eliminated, it shall consult the Member States concerned. If such consultation does not result in an agreement eliminating the distortion in question, the European Parliament and the Council, acting in accordance with the

ordinary legislative procedure, shall issue
the necessary directives (...);

ordinary legislative procedure, shall issue
the necessary directives (...);

Or. en

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Amendment 159

Philippe Lamberts, Eva Joly, Sven Giegold, Ernest Maragall, Molly Scott Cato, Ernest Urtasun

on behalf of the Verts/ALE Group

Motion for a resolution

Paragraph 117

Motion for a resolution

117. Commits to continuing its work in-house to examine the option of setting up a permanent *committee* on taxation policies in the EU;

Amendment

117. Commits to continuing its work in-house to examine the option of setting up a permanent *sub-committee* on taxation policies in the EU;

Or. en