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# **DRAFT REPORT**

on tax rulings and other measures similar in nature or effect  
(2016/2038(INI))

Special Committee on Tax Rulings and Other Measures Similar in Nature or  
Effect (TAXE 2)

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## MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

### on tax rulings and other measures similar in nature or effect (2016/2038(INI))

*The European Parliament,*

- having regard to Articles 4 and 13 of the Treaty on European Union (TEU),
- having regard to Articles 107, 108, 113, 115 and 116 of the Treaty on the Functioning of the European Union,
- having regard to its decision of 2 December 2015 on setting up a special committee on tax rulings and other measures similar in nature or effect (TAXE 2), its powers, numerical strength and term of office<sup>1</sup>,
- having regard to the revelations of the International Consortium of Investigative Journalists (ICIJ) on tax rulings and other harmful practices in Luxembourg, which have become known as the ‘LuxLeaks’,
- having regard to the revelations of the International Consortium of Investigative Journalists (ICIJ), on the use of offshore companies, which have become known as the ‘Panama Papers’, and in particular the documents published on 9 May 2016,
- having regard to the outcomes of the various G7, G8 and G20 summits held on international tax issues, in particular the Ise-Shima summit of 26 and 27 May 2016 and the outcome of the G20 Finance Ministers and Central Bank Governors’ meeting held on 14 and 15 April 2016 in Washington,
- having regard to the resolution adopted by the United Nations General Assembly on 27 July 2015 on the Addis Ababa Action Agenda,
- having regard to the Report of the Organisation for Economic Cooperation and Development (OECD) of 30 November 2015 entitled ‘G20/OECD Principles of Corporate Governance’,
- having regard to the ECOFIN conclusions on corporate tax avoidance of 8 March 2016, on corporate taxation, base erosion and profit shifting of 8 December 2015, and on taxation policy of 1 December 1997,
- having regard to the Council Directive of 8 December 2015<sup>2</sup> amending the Administrative Cooperation Directive<sup>3</sup>,

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<sup>1</sup> Texts adopted, P8\_TA(2015)0420.

<sup>2</sup> Council Directive (EU) 2015/2376 of 8 December 2015 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation (OJ L 332, 18.12.2015, p. 1).

<sup>3</sup> Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (OJ L 63, 11.3.2011, p. 1), concerning mutual assistance by the competent authorities of the Member States in the field of direct taxation.

- having regard to Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union<sup>1</sup>,
- having regard to Council Directive 77/799/EEC of 19 December 1977 concerning mutual assistance by the competent authorities of the Member States in the field of direct taxation and taxation of insurance premiums<sup>2</sup>,
- having regard to the Commission’s joint follow-up, as adopted by it on 16 March 2016, to the resolution of Parliament with recommendations to the Commission on bringing transparency, coordination and convergence to the corporate tax policies in the Union, and the resolution of Parliament on tax rulings and other measures similar in nature or effect,
- having regard to the Commission proposal for a Directive of the European Parliament and of the Council amending Directive 2013/34/EU as regards disclosure of income tax information by certain undertakings and branches (the CbCR proposal)<sup>3</sup>,
- having regard to the Commission proposal on the Anti-Tax Avoidance Package (ATAP) consisting of a ‘chapeau communication’<sup>4</sup>, a proposal for a Council directive on Anti-Tax Avoidance<sup>5</sup>, a proposal for a Council directive on the revision of the Administrative Cooperation Directive<sup>6</sup>, a recommendation on tax treaties<sup>7</sup>, and a study on aggressive tax planning<sup>8</sup>,
- having regard to the Commission proposal of 2011 for a Council directive on a Common Consolidated Corporate Tax Base (CCCTB) (COM(2011)0121), and to Parliament’s position of 19 April 2012 thereon,
- having regard to the resolution of the Council and the Representatives of the Governments of the Member States of 1 December 1997 on a code of conduct for business taxation<sup>9</sup>, and to the regular reports to the Council of the Code of Conduct on Business Taxation Group,
- having regard to the tax transparency agreement initialled between the EU and the Principality of Monaco on 22 February 2016,
- having regard to the agreement signed between the EU and the Principality of Andorra on 12 February 2016 aiming at improving tax compliance by private savers,

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<sup>1</sup> OJ L 83, 27.3.1999, p. 1.

<sup>2</sup> OJ L 336, 27.12.1977, p. 15.

<sup>3</sup> COM(2016)0198.

<sup>4</sup> COM(2016)0023, Communication from the Commission to the European Parliament and the Council, Anti-Tax Avoidance Package: Next steps towards delivering effective taxation and greater tax transparency in the EU

<sup>5</sup> COM(2016)0026, Proposal for a Council Directive laying down rules against tax avoidance practices that directly affect the functioning of the internal market.

<sup>6</sup> COM(2016)0025, Proposal for a Council Directive amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation.

<sup>7</sup> C(2016)0271, Commission Recommendation of 28 January 2016 on the implementation of measures against tax treaty abuse.

<sup>8</sup> Study on Structures of Aggressive Tax Planning and Indicators, European Union, 2016.

<sup>9</sup> OJ C 2, 6.1.1998, p. 2.

- having regard to the Agreement on taxation of savings income signed between the EU and the Republic of San Marino on 8 December 2015,
- having regard to the Agreement on the automatic exchange of financial account information signed between the EU and the Principality of Liechtenstein on 28 October 2015,
- having regard to the Agreement on taxation to improve tax compliance signed between the EU and the Swiss Confederation on 27 May 2015,
- having regard to the updated Agreement between Jersey and the United Kingdom of 30 November 2015 and the so-called ‘Change of view on the interpretation of paragraph 2 of the Jersey-UK Double Taxation Arrangement’,
- having regard to the Guernsey-UK Double Taxation Arrangement as amended by the 2009 Arrangement, signed 20 January 2019 and in force as from 27 November 2009, relating to exchange of information,
- having regard to the amendments adopted by Parliament on 8 July 2015 to the proposal for a directive of the European Parliament and of the Council amending Directive 2007/36/EC as regards the encouragement of long-term shareholder engagement and Directive 2013/34/EU as regards certain elements of the corporate governance statement,
- having regard to its resolution of 16 December 2015 with recommendations to the Commission on bringing transparency, coordination and convergence to corporate tax policies in the Union<sup>1</sup>,
- having regard to its resolution of 25 November 2015 on tax rulings and other measures similar in nature or effect<sup>2</sup>,
- having regard to its resolution of 8 July 2015 on tax avoidance and tax evasion as challenges for governance, social protection and development in developing countries<sup>3</sup>,
- having regard to the various parliamentary hearings and consecutive reports on tax avoidance and tax evasion held in national parliaments and in particular in the UK House of Commons, the US Senate and the French Assemblée Nationale,
- having regard to the Council of Europe’s Recommendation CM/Rec(2014)7 of 30 April 2014 on the protection of whistleblowers,
- having regard to the ongoing trial in Luxembourg of Antoine Deltour, Raphaël Halet and Édouard Perrin, indicted for their role in publishing the so-called ‘LuxLeaks’ documents,
- having regards to the state aid decisions of the Commission relating to Fiat<sup>4</sup>, Starbucks<sup>1</sup>,

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<sup>1</sup> Texts adopted, P8\_TA(2015)0457.

<sup>2</sup> Texts adopted, P8\_TA(2015)0408.

<sup>3</sup> Texts adopted, P8\_TA(2015)0265.

<sup>4</sup> SA.38375 - State aid which Luxembourg granted to Fiat.

- and the Belgian excess-profit rulings<sup>2</sup>,
- having regard to Rule 52 of its Rules of Procedure,
  - having regard to the report of the Special Committee on Tax Rulings and Other Measures Similar in Nature or Effect (TAXE 2) (A8-0000/2016),

### ***Overall considerations and establishment of facts***

- A. whereas the ‘Panama Papers’ and ‘LuxLeaks’ scandals, as revealed by the International Consortium of Investigative Journalists (ICIJ), have shown the urgent need for the EU and its Member States to fight tax evasion and avoidance and act for increased cooperation and transparency in order to re-establish tax justice;
- B. whereas the scale of tax evasion and avoidance is estimated by the Commission to be EUR 1 trillion<sup>3</sup> a year, while the OECD estimates<sup>4</sup> the revenue loss at global level to be between 4 % and 10 % of all corporate income tax revenue, representing between EUR 75 and EUR 180 billion annually, at 2014 levels; whereas these are only estimates and the actual figures might be even higher; whereas the costs to society of such practices are evident; whereas tax fraud, tax evasion and aggressive tax planning erode the tax base of Member States and thereby lead to loss of tax revenues;
- C. whereas small and medium-sized enterprises (SMEs) are the primary job creators in Europe, having created around 85 % of all new jobs in Europe<sup>5</sup> during the last five years; whereas the Commission has stated that SMEs pay on average 30 % more in tax than multinational enterprises (MNEs); whereas this seriously distorts competition, leads to loss of jobs in the Union and hinders sustainable growth;
- D. whereas one third of all corporate investments are channelled through offshore financial constructions;
- E. whereas convergence of tax policies should also be accompanied by greater controls and more investigations of harmful tax practices; whereas the Commission has started new formal investigations regarding tax treatment of MNEs; whereas a number of investigations by the Commission in matters of state aid were still ongoing at the time of adoption of this report; whereas certain Member States have initiated recovery procedures against some MNEs;

### ***Role of specific tax jurisdictions***

- F. whereas some specific tax jurisdictions actively contribute to designing aggressive tax policies on behalf of MNEs who thereby avoid taxation; whereas the corporate tax rate

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<sup>1</sup> SA.38374 State aid implemented by the Netherlands to Starbucks.

<sup>2</sup> C(2015)9837, Commission Decision of 11 January 2016 on the excess profit exemption state aid scheme SA.37667 (2015/C) (ex 2015/NN) implemented by Belgium.

<sup>3</sup> [http://ec.europa.eu/taxation\\_customs/taxation/tax\\_fraud\\_evasion/a\\_huge\\_problem/index\\_en.htm](http://ec.europa.eu/taxation_customs/taxation/tax_fraud_evasion/a_huge_problem/index_en.htm), European Commission, 10 May 2016.

<sup>4</sup> Measuring and Monitoring BEPS, Action 11 - 2015 Final Report, OECD/G20 Base Erosion and Profit Shifting Project.

<sup>5</sup> <http://ec.europa.eu/growth/smes/>, European Commission, 10 May 2016.

in some jurisdictions is close or equal to zero per cent; whereas the complexity of different tax systems create a lack of transparency which is globally harmful;

- G. whereas the lack of transparency and, more generally, non-compliance with control requirements, deficient knowledge of final beneficiaries and continued banking secrecy are obstacles to ending tax evasion and avoidance; whereas the opacity of such practices is used by some tax agents in the financial sector for aggressive tax practices; whereas there is no automatic exchange of information between countries, beyond the pre-existing bilateral tax conventions; whereas, without effective enforcement, the weaknesses of the systems will encourage tax evasion and avoidance;
- H. whereas some specific tax jurisdictions are not willing to reform their tax systems, despite the ongoing global initiatives and despite the fact that some of them are involved in the work of the OECD;
- I. whereas the hearings organised with Andorra, Guernsey, Jersey, Liechtenstein and Monaco (see Annex 1) showed that the conditions for registration of offshore companies and the information to be provided in this regard vary from one jurisdiction to another; whereas full information on the final beneficiaries of trusts, foundations and companies by official tax authorities of some of these jurisdictions is not known to exist or is never made public; whereas Andorra, Liechtenstein, Monaco, San Marino and Switzerland have signed agreements with the EU; whereas the Channel Islands have signed agreements with the UK and have declared their readiness to enter into similar agreements with other Member States; whereas the Cayman Islands have only appeared at a coordinators' meeting and not at a formal hearing of the Special Committee; whereas the Isle of Man declined to appear before the Special Committee but sent a written contribution instead;
- J. whereas the existing legislation of some jurisdictions does not ensure good governance or respect of international standards as regards final beneficiaries and transparency;
- K. whereas some Member States have prepared their own lists of uncooperative jurisdictions; whereas there are big differences between these lists as to how uncooperative jurisdictions or tax havens are defined or assessed; whereas the OECD's list of uncooperative jurisdictions has not proved effective; whereas a common Union-wide list of uncooperative jurisdictions is still lacking;

*Role of financial institutions in aggressive tax planning by multinational enterprises (MNEs)*

- L. whereas some financial institutions have played a role as intermediaries in setting up complex legal structures leading to aggressive tax planning schemes used by MNEs, as evidenced in 'LuxLeaks' and the 'Panama Papers'; whereas legal loopholes and lack of coordination, cooperation and transparency between countries create an environment that facilitates tax evasion; whereas banks could have played a positive role in combating the erosion of national tax bases by, for instance, using the means of exchange of information at their disposal in a more cooperative spirit;
- M. whereas major financial institutions have set up subsidiaries in special tax jurisdictions or in jurisdictions with low or very low corporate tax rates; whereas some financial institutions have recently closed down some of their branches in those jurisdictions;

- N. whereas the biggest European banks are already subject to public country-by-country reporting requirements; whereas none of the financial institutions which appeared in front of the Special Committee raised any significant objection with regard to the disclosure requirements; whereas some of them clearly said they were in favour of this requirement and would support it becoming a global standard;
- O. whereas public country-by-country reporting regarding certain financial institutions' documents has shown up remarkable discrepancies between their overall profit made in overseas jurisdictions, their activity, their amount of tax paid and their numbers of employees in those same jurisdictions; whereas the same reporting has also exposed a disconnect between the territories in which they operate and have staff and those from which they derive profits;
- P. whereas banks and MNEs which appeared before the Special Committee did not fully answer all the questions of its members, and some of the issues raised therefore remained unanswered or ill-defined; whereas some of them sent written contributions (see Annex 2) at a later stage;

*Patent, knowledge and R&D boxes*

- Q. whereas schemes linked to intellectual property, patents and research and development (R&D) are widely used across the Union; whereas these are used by MNEs to artificially reduce their overall tax contribution; whereas the Base Erosion and Profit Shifting (BEPS) action plan (action No 5) refers to the 'Modified Nexus Approach'; whereas the role of the Code of Conduct Group is also to analyse and effectively monitor such practices in Member States;
- R. whereas Member States could still grant patent boxes until June 2016; whereas they are obliged to implement the OECD BEPS proposal for the modified 'Nexus Approach' on patent boxes until 2021 as agreed at Code of Conduct Group level;
- S. whereas several studies from the Commission have clearly shown that the link between the patent box and R&D is in most cases arbitrary and/or artificial; whereas this inconsistency may lead to the assumption that these schemes are in most cases set up for tax avoidance reasons; whereas tax incentives for incomes generated by R&D, chiefly patent boxes, often result in large decreases in tax revenue for all governments, including those engaging in such a policy;
- T. whereas the central role of patent boxes in harmful tax practices schemes was initially observed in the fact-finding missions of Parliament's previous Special Committee (TAXE 1) in the Netherlands and the UK, and subsequently confirmed in its mission to Cyprus; whereas similar systems exist in other Member States;

*Code of Conduct Group documents*

- U. whereas the mandate of the Code of Conduct Group is defined in the conclusions of the ECOFIN Council of 1 December 1997; whereas the Code of Conduct Group documents constitute an essential source of information for the work of the Special Committee (as already outlined in Parliament's resolution of 25 November 2015);



- V. whereas it was only five months after the beginning of the term of its Special Committee that some Room documents and minutes of the Code of Conduct Group were made available to MEPs in camera on EP premises; whereas, while additional documents have been made available, some documents and minutes still remain undisclosed or missing; whereas the Commission stated at an informal meeting that it has made all the documents at its disposal available to the Special Committee and any further relevant meeting documents, should they ever have been in the Commission's possession, must therefore have been lost;
- W. whereas Member States have given unsatisfactory answers to Parliament's repeated requests for full disclosure of the documents concerned; whereas this practice has been going on for several months; whereas these documents have nonetheless recently been made available; whereas transparency and access to information are essential elements of parliamentary work;

*The external dimension: the G20, the OECD and the UN; involvement and consequences for developing countries*

- X. whereas the OECD, the UN and other international organisations are interested parties in the fight against corporate tax base erosion; whereas there is a need to ensure global harmonisation of practices and implementation of common standards such as those proposed by the OECD vis-à-vis the BEPS package; whereas the meeting of G20 finance ministers and central bank governors held in Washington on 14 and 15 April 2016 concluded in favour of initiating implementation of the BEPS measures, and has called for full financial transparency, especially as regards beneficial ownership;
- Y. whereas a Symposium on Taxation is planned for July 2016 with a view to achieving strong, sustainable and balanced economic growth; whereas the G20 has called on all international organisations, including the EU, to meet the challenges concerned;
- Z. whereas the G20 members have reaffirmed their commitment to ensure that efforts are made to strengthen the capacities of developing countries' economies and to encourage developed countries to abide by the principles of the Addis Tax Initiative as set out at the UN meeting of 27 July 2015; whereas developing countries' views are essential to effective global coordination;
- AA. whereas the Australian Government has announced plans to introduce a Diverted Profits Tax (DPT) on MNEs avoiding tax, to come into effect on 1 July 2017, as well as the creation of a new Tax Office taskforce;

*The work of Parliament's Special Committee (TAXE 2)*

- AB. whereas a number of measures proposed by the Commission are a direct follow-up of Parliament's resolutions of 16 December 2015 and 25 November 2015; whereas important initiatives included therein have thus now been put forward by the Commission, at least partially;
- AC. whereas the implications for the Union have been analysed and assessed in particular by Parliament's Special Committee on tax rulings and other measures similar in nature (TAXE 1), whose work resulted in a resolution being adopted with overwhelming

majority on 25 November 2015; whereas the Commission issued a joint reply to the resolutions of 16 December 2015 and 25 November 2015;

- AD. whereas Parliament's Special Committee TAXE 2, constituted on 2 December 2015, held 11 meetings, some of them jointly with the Committee on Economic and Monetary Affairs, the Committee on Legal Affairs and the Committee on Development, at which it heard the Commissioner for Competition, Margrethe Vestager, the Commissioner for Economic and Financial Affairs, Taxation and Customs, Pierre Moscovici, the Commissioner for Financial Stability, Financial Services and Capital Markets Union, Jonathan Hill, the Dutch State Secretary for Finance, Eric Wiebes (representing the Council Presidency), experts in the field of taxation, representatives of multinational companies (MNCs), representatives of banks, and members of national parliaments of the EU; whereas it also held meetings with representatives of the Governments of Andorra, Liechtenstein, Monaco, Guernsey and Jersey, and received a written contribution from the Government of the Isle of Man (see Annex 1); whereas it also organised fact-finding missions to the US (Washington), to look into specific aspects of the third-country dimension of its mandate, and to Cyprus; whereas members of the Special Committee were personally invited to take part in the work of the high-level interparliamentary group 'TAXE' of the OECD; whereas the Special Committee held in camera meetings at coordinators' level at which it heard representatives of the Government of the Cayman Islands, investigative journalists and Commission officials; whereas all these activities, which have provided a wealth of very useful information on practices and tax systems both inside and outside the Union, have helped to clarify some of the relevant issues, while others remain unanswered;
- AE. whereas the work of the Special Committee was hindered to some extent by the fact that out of 7 MNCs invited, only 4 agreed on first invitation to appear before its members (see Annex 2);

### *Conclusions and recommendations*

1. Reiterates the conclusions of its resolution of 25 November 2015;

#### *Follow-up by the Commission*

2. Welcomes the Anti-tax Avoidance Package (ATAP) published by the Commission on 28 January 2016, as well as all legislative proposals and communications already undertaken afterwards; calls on the Council to reach a unanimous position on the ATAP and keep the Anti-Tax Avoidance Directive as one single directive; welcomes the initiative to create a common Union list of uncooperative jurisdictions in the External Strategy for Effective Taxation;
3. Urges the Commission to come forward with a proposal for a common corporate consolidated tax base (CCCTB) which would provide a comprehensive solution to harmful tax practices within the Union; believes that the consolidation of the CCCTB is essential and is becoming increasingly urgent; calls on the Member States to promptly reach an agreement on this and to swiftly implement it;
4. Welcomes the Commission's adoption on 12 April 2016 of a proposal for a directive amending Directive 2013/34/EU as regards disclosure by companies, their subsidiaries

and branches, of information relating to income tax and to increased transparency in company tax; regrets, however, that the proposed scope, criteria and thresholds are not in line with the previous positions adopted by Parliament;

5. Welcomes the agreement in Council on 8 December 2015 on automatic exchange of information on tax rulings; stresses that the Commission should have full access to the new Union database of tax rulings; insists on the need for a comprehensive and efficient database of all rulings having potential cross-border effect;
6. Underlines that the automatic exchange of information will result in a large volume of data needing to be treated, and that the issues relating to computer processing of the data concerned must be coordinated, as must the necessary human resources for analysing the data; calls for the strengthening of the Commission's role in this work;
7. Notes that the Joint Transfer Pricing Forum has included in its work programme for 2014-2019 the development of good practices to ensure that the OECD guidelines on the subject correspond to the specificities of Member States; notes that the Commission is monitoring the progress of this work;
8. Insists that concrete legislative action needs to be taken on transfer pricing, since 70 % of profit shifting is done through transfer pricing;
9. Welcomes the fact that the Commissioner for Competition, Margrethe Vestager, has categorised transfer pricing as a particular focus area for state aid cases, as it is reported to be a common tool used by MNEs for tax evasion schemes such as inter-group loans;
10. Strongly emphasises that the work of whistleblowers is crucial for revealing scandals of tax evasion and avoidance, and that, therefore, protection for whistleblowers needs to be legally guaranteed and strengthened EU-wide; notes that the European Court of Human Rights and the Council of Europe have undertaken work on this issue; considers that courts and Member States should ensure the protection of legitimate business secrets while in no way hindering, hampering or stifling the capacity of whistleblowers and journalists to document and reveal illegal, wrongful and harmful practices where this is clearly and overwhelmingly in the public interest; regrets that the Commission has no plans for prompt action on the matter;
11. Notes that the Commission has launched a consultation on dispute settlement mechanisms to avoid double taxation;

*Blacklist and concrete sanctions for uncooperative jurisdictions and withholding tax*

12. Notes that so far, the only concrete initiative taken by the Commission regarding uncooperative jurisdictions, including overseas territories, has been the External Strategy for Effective Taxation; observes that until now the criteria for listing of uncooperative jurisdictions by the OECD have not proved efficient in tackling this issue and have not served as a deterrent;
13. Calls on the Commission to come up as soon as possible with a common Union list of uncooperative jurisdictions (i.e. a 'blacklist of tax havens'), based on sound and objective criteria, including full implementation of OECD recommendations, BEPS

actions and Automatic Exchange of Information standards, and welcomes the Commission's intention to reach an agreement on such a list within the next six months; calls on the Member States to endorse that agreement by the end of 2016;

14. Calls for a concrete Union regulatory framework for sanctions against the blacklisted non-cooperative jurisdictions, including, but not limited to, the possibility of reviewing and, in the last resort, suspending free trade agreements and prohibiting access to Union funds; calls for the sanctions also to apply to companies, banks, and accountancy and law firms, and to tax advisers proven to be involved with those jurisdictions;
15. Calls on the Member States to renegotiate their bilateral tax treaties with third countries in order to introduce anti-abuse clauses and thus prevent 'treaty shopping'; stresses furthermore that this process would be expedited considerably if the Commission were mandated by Member States to negotiate such tax treaties on behalf of the Union;
16. Recommends introducing an EU-wide withholding tax, in order to ensure that profits generated within the Union are taxed at least once before leaving it; notes that such a proposal should include a refund system to prevent double taxation;

#### *Patent, knowledge and R&D boxes*

17. Notes that until now, patent, knowledge and R&D boxes have not proven effective in fostering innovation in the Union, but are, rather, used by MNEs for profit-shifting through aggressive tax planning schemes, such as the well-known 'double Irish with a Dutch sandwich'; considers that patent boxes are an ill-suited tool for achieving economic objectives; insists that R&D can be promoted through subsidies which should be given preference over patent boxes, as subsidies are less at risk of being abused by tax avoidance schemes; observes that the link between patent boxes and R&D activities is often arbitrary and that current models lead to a race to the bottom with regard to the effective tax contribution of MNEs;
18. Observes that so far, Member States, in particular within the framework of the Code of Conduct Group, have been neglecting this issue and have yet to come up with a proper time-frame to tackle it;
19. Calls on the Commission to put forward proposals for binding Union legislation on patent boxes that goes beyond the OECD Modified Nexus Approach, so as to prohibit the misuse of patent boxes and to ensure that if and when used they are linked to genuine economic activity;
20. Calls on the Member States to integrate a Minimum Effective Taxation (MET) clause in the Interests and Royalties Directive and to ensure that no exemptions are granted;

#### *Banks, tax advisers and intermediaries*

21. Observes that some banks, tax advisers, law and accounting firms and other intermediaries have played a key role in designing aggressive tax planning schemes for their clients;
22. Is concerned about the lack of transparency and adequate documentation within

financial institutions and law firms pertaining to the specific models of company ownership and control recommended by tax and legal advisors, as confirmed by the recent ‘Panama Papers’ scandal;

23. Calls on the Commission to come forward with a Union Code of Conduct for all advisory services, including a Union incompatibility regime for tax advisers, in order to prevent them from advising both public and private sectors and to prevent other conflicts of interest;
24. Stresses the importance of clear separation between tax advising services and auditing services within accountancy firms; asks the Commission to study the possibility of revising the Accounting Directive and Regulation to this effect;
25. Stresses the need for concrete sanctions, including the possibility of revoking business licences for professionals and companies proved to be involved in designing, advising on the use of, or utilising aggressive tax planning and evasion schemes; requests that the Commission explore the feasibility of introducing proportional financial liability for tax advisers engaged in unlawful tax practices;
26. Calls on the Commission to analyse the possibility of introducing proportional financial liability for banks and financial institutions facilitating transfers to known tax havens, as defined by the future common Union list of tax havens and uncooperative tax jurisdictions;
27. Calls on the Commission to strengthen the requirements on banks to report to the Member States’ tax authorities transfers to and from jurisdictions included on the common Union list of tax havens and uncooperative tax jurisdictions;

#### *Whistleblowers*

28. Reiterates the crucial role of whistleblowers in revealing misconduct and illegal and wrongful practices; considers that such revelations, which shine a light on the magnitude of tax evasion and avoidance, are clearly in the public interest, as demonstrated in the recent ‘Panama papers’ leak;
29. Observes that the Commission is limiting its action to monitoring developments in different areas of Union competences, without planning to take any concrete steps to tackle the issue; notes that this lack of ambition could endanger the publication of new revelations, thereby potentially leading to European tax authorities losing legitimate tax revenue; regrets that the Commission has not provided a satisfactory response to the demands contained in paragraphs 144 and 145 of Parliament’s resolution of 25 November 2015;
30. Urges the Commission to propose as soon as possible a clear legal framework to guarantee the effective protection of whistleblowers, as well as of journalists and other persons connected with the press who aid and facilitate them; calls on the Member States to revise their current legislation with a view to preventing prosecution in such cases;

#### *Code of Conduct Group and interinstitutional issues*

31. Notes, that despite the fact that its first and second Special Committees (TAXE 1 and TAXE 2) have both on repeated occasions requested full access to Code of Conduct Group documents and minutes, only a limited number of new documents have been made available for in camera consultation by MEPS, and that this was only achieved five months after the beginning of the mandate of TAXE2; notes furthermore that the willingness of the Council to satisfy this request remains unsatisfactory;
32. Regrets that the Commission, despite having provided some internal minutes of the meetings of the Code of Conduct Group, was unable to keep all records of the documents distributed; considers that it is the duty of the Commission to keep all traces and records of all information and documents circulated within the remit of the Code of Conduct Group, in order to assess the compliance of the Member States' measures pursuant to the Treaty; calls on the Commission to take urgent action to improve this situation by retrieving all the documents; calls on the Council and the Member States to cooperate with the Commission on this matter;
33. Notes the continuing lack of transparency of the working methods of the Code of Conduct Group, which is preventing any concrete potential improvement in terms of tackling harmful tax practices;
34. Urges the Member States to reform, as soon as possible, the criteria and governance aspects of the Code of Conduct Group, in order to increase its transparency and accountability and ensure the strong involvement of Parliament;
35. Calls on the Commission, in case of an unsatisfactory response on the part of the Member States, to present a legislative proposal to incorporate the Code of Conduct Group into the Community method;
36. Calls on the Commission to include in the framework of the European Semester reporting of what measures the Member States take towards effective taxation and to enhance efforts against harmful cross-border tax practices and tax evasion, including recommendations for strengthening national tax administrations;
37. Calls for urgent action against tax fraud, tax evasion, tax havens and aggressive tax planning; regrets that the Council has for a number of years impeded decisive action on these issues, and reminds Member States of the possibility available to them of establishing systems of enhanced cooperation (between at least 9 Member States) in order to speed up action on harmful and illegal tax practices;
38. Calls for the creation of a new Union Tax Policy Coherence and Coordination Centre to guarantee the proper and coherent functioning of the single market and the implementation of international standards; believes that this new body should be in charge of monitoring Member States' tax policies at Union level, of ensuring that no new harmful tax measures are implemented by Member States, of monitoring compliance of Member States with the common Union list of uncooperative jurisdictions, of ensuring and fostering cooperation between national tax administrations (e.g. training and exchange of best practices), and of initiating academic programmes in the field; believes that by doing so this Centre could help prevent new tax loopholes emerging thanks to uncoordinated policy initiatives between Member States, and counteract tax practices and standards that would upset, obstruct or interfere in the

proper functioning and rationale of the single market; considers that the Centre could benefit from the pooling of expertise at Union and national level, so as to reduce the burden on the taxpayer;

#### *External dimension*

39. Welcomes the renewed focus at G8 and G20 level on tax issues, which should lead to new recommendations; calls on the Commission to maintain a coherent position on behalf of the Union at the upcoming G20 meetings and ad hoc symposia; requests the Commission to inform Parliament about all findings and possible consequences of G20 decisions on combating corporate tax base erosion and aggressive tax planning practices;
40. Calls on the Union, the G20, the OECD and the UN to cooperate further to promote global guidelines that will also be beneficial to developing countries;
41. Calls on the Commission to include in all trade and partnership agreements good governance clauses, including an effective and comprehensive implementation of BEPS measures and global automatic exchange of information standards;
42. Calls on the OECD to start work on an ambitious BEPS II, to be based primarily on minimum standards and concrete objectives for implementation;
43. Calls, in this regard, for the creation of a parliamentary monitoring group at OECD level to observe and scrutinise the formulation and implementation of this initiative;
44. Calls for the establishment of a Union register of beneficial ownership, which would form the basis of a global initiative in this regard; stresses the vital role of institutions such as the OECD and the UN in this connection;
45. Calls for a global assets register of all assets held by individuals, companies and all entities such as trusts and foundations, to which tax authorities would have full access;
46. Stresses the need for a comprehensive EU/US approach on the implementation of OECD standards and on beneficial ownership; stresses furthermore that good governance clauses and the full BEPS action plan should be included in the Transatlantic Trade Investment Partnership (TTIP) in order to ensure a level playing field, create more value for society as a whole and combat tax fraud and avoidance;

#### *Other recommendations*

47. Calls on all national parliaments to work together to ensure proper control and coherence of tax systems between Member States; calls for national parliaments to remain vigilant as to the decisions of their governments in this matter and to increase their own commitment to the work of interparliamentary forums on tax matters;
48. Regrets deeply that the timeframe for the present report has not allowed for a thorough examination of the 'Panama Papers' case; stresses the urgent need for a full and proper follow-up by Parliament in this regard; underlines the immense political importance of analysing the modus operandi of the companies and private citizens involved with the

Panama papers scandal with a view to tackling legislative loopholes;

49. Notes that the Panama Papers scandal has documented systematic use of shell companies by private citizens in order to conceal taxable assets, although this specific issue could not be dealt with sufficiently within the mandate or timeframe of the Special Committee; is of the firm conviction that this subject must be addressed swiftly by Parliament;
50. Notes, that further work is needed on access to documents of the Member States, the Commission and the Code of Conduct Group; reiterates that further analysis of the documents already made available to Parliament is needed in order to adequately gauge the need for further political action and policy initiatives;
51. Commits to continuing the work initiated by its Special Committee, addressing the obstacles that prevented it from completing its full mandate, and ensuring a proper follow-up of its recommendations; instructs its competent authorities to identify the best institutional set-up for achieving this;
52. Calls on its competent committee to follow up on these recommendations in its upcoming legislative initiative report on the same topic;

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53. Instructs its President to forward this resolution to the European Council, the Council, the Commission, the Member States, the national parliaments, the UN, the G20 and the OECD.



**ANNEX 1: LIST OF PERSONS MET  
(COMMITTEE MEETINGS, COORDINATORS AND MISSIONS)**

Date	Speakers
11.01.2016	<ul style="list-style-type: none"> <li>• Pierre Moscovici, Commissioner for Economic and Financial Affairs, Taxation and Customs</li> </ul>
17.02.2016	<ul style="list-style-type: none"> <li>• Pierre Moscovici, Commissioner for Economic and Financial Affairs, Taxation and Customs</li> </ul>
29.02.2016	<p><i>Exchange of views with Council Presidency</i> <i>In the presence of Eric Wiebes, Dutch State Secretary for Finance</i></p>
14-15.03.2016	<p><i>Exchange of views with Juridictions</i> Rob Gray, Director for Global Tax, Guernsey; Colin Powell, Adviser on international affairs to the Chief Minister , Jersey; Clàudia Cornella Durany, Secretary of State for International Financial Affairs, Andorra; Katja Gey, Director for International Financial Affairs, Liechtenstein; Jean Castellini, Minister of Finance and Economy, Monaco.</p> <p><i>Exchange of views with MNEs</i> Cathy Kearney, Vice President of European Operations, Apple Julia Macrae, Tax Direcof EMEIA, Apple; Adam Cohen, Head of Econmic Policy (EMEA), Google; Søren Hansen, Chief Executive Officer, Inter-Ikea Group; Anders Bylund, Head of Group Communications; Inter-Ikea Group; Irene Yates, Vice President Corporate Tax; McDonald's.</p> <p><i>Exchange of views with Investigative Journalists - in camera</i> Véronique Poujol, Paperjam; Markus Becker, Der Spiegel.</p>
21.03.2016	<p><i>Exchange of views with European Banks (Part I)</i> Jean-Charles Balat, Financial Director, Crédit Agricole SA; Rob Schipper, Global Head of Tax, ING; Eva Jigvall, Head of Tax, Nordea; Monica Lopez-Monís, Chief Compliance Officer and Senior Executive Vice-President, Banco Santander; Christopher St. Victor de Pinho, Managing Director, Global Head of Group Tax, UBS Group AG; Stefano Ceccacci, Head of Group Tax Affairs, Unicredit.</p>
04.04.2016	<ul style="list-style-type: none"> <li>• Margrethe Vestager, Commissioner for Competition</li> </ul> <p><i>Exchange of views with European Banks (Part II)</i> Brigitte Bomm, Managing Director, Global Head of Tax, Deutsche Bank</p>

	<p>AG  Grant Jamieson, Head of Tax, Royal Bank of Scotland  Graeme Johnston, Head of International Tax, Royal Bank of Scotland</p>
15.04.2016	<p><i>Mission to Cyprus</i>  Ioannis Kasoulides, Minister of Foreign Affairs;  Michael Kammas, Director General, Aristio Stylianou, Chairman and George Appios, Vice-Chairman of the Association of Cyprus Banks;  Christos Patsalides, Permanent Secretary of the Ministry of Finance;  George Panteli, Head of Tax policy, Ministry of Finance;  Yannakis Tsangaris, Tax Commissioner;  Alexander Apostolides, University of Cyprus;  Maria Krambia-Kapardis, Chair of the Executive Committee of Transparency International;  Costas Markides, Board Member, International Tax, KPMG Limited and the Cyprus Investment Funds Association;  Natasa Pilides, Director General, The Cyprus Investment Promotion Agency;  Kyriakos Iordanou, General Manager, Mr Pieris Marcou, Mr Panicos Kaouris, Mr George Markides, Institute of Certified Public Accountants of Cyprus  Christos Karidis, Head of Economics Research of the Confederation Department and the Secretary of the Association of Employed Consumers;  Nikos Grigoriou, Head of the Department of Economic and Social Policy of the Pan-Cyprian Federation of Labour.</p>
18.04.2016	<p><i>Interparliamentary meeting on “The Anti-Tax Avoidance Package and other EU and international developments: Scrutiny and democratic control by National Parliaments”</i></p> <p><i>Exchange of views with Jurisdictions (part II) - in camera</i>  Wayne Panton, Minister of Financial Services, Commerce and Environment, Cayman Islands</p>
20.04.2016	<p><i>Joint ECON/JURI/TAXE meeting</i></p> <ul style="list-style-type: none"> <li>Jonathan Hill, Commissioner for Financial Stability, Financial Services and Capital Markets Union</li> </ul>
2.05.2016	<p><i>High-level Meeting of the OECD Parliamentary Group on Tax in association with the European Parliament Special Committee on Tax Rulings, Paris</i></p>
17-20.05.2015	<p><i>Mission to the United States of America (Washington DC)</i></p>
24.05.2015	<p><i>Joint TAXE/DEVE Public Hearing on Consequences of aggressive fiscal practises for developing countries</i></p>

## ANNEX 2: MULTINATIONAL CORPORATIONS AND BANKS INVITED TO APPEAR IN COMMITTEE MEETINGS

### Annex 2.1: List of MNEs invited

Company	Invited/Representatives	Situation (11/03/2016)
Apple Inc.	Timothy D. Cook Chief Executive Officer	<i>Participating</i> Cathy Kearney, Vice President of European Operations Julia Macrae, Tax Director EMEIA
Google Inc.	Nicklas Lundblad Senior Director Public Policy and Government Relations (EMEA)	<i>Participating</i> Adam Cohen, Head of Economic Policy (EMEA)
Fiat Chrysler Automobiles	Sergio Marchionne Chief Executive Officer	Declined on 11/03/2015: <i>'As you may be aware, on 29 December 2015 we filed an appeal with the General Court of the EU contesting the Commission's decision which found that one of our companies in Luxembourg had received state aid. Luxembourg is also contesting this decision before the General Court. While we are highly confident that we have not received any state aid in Luxembourg in breach of EU law, it would, in the circumstances, not be appropriate for us to participate in the Special Committee meeting or comment further. Therefore, while our appreciation of the Committee's efforts and of its desire to hear the views of enterprises remains unchanged, we regret that we are not able to participate in this discussion until our legal case has been resolved.'</i>
Inter IKEA Group	Søren Hansen Chief Executive Officer	<i>Participating</i> Søren Hansen, CEO Anders Bylund, Head of Group Communications
McDonald's Corporation	Irene Yates Vice President, Corporate Tax	<i>Participating</i> Irene Yates, Vice President, Corporate Tax

<p>Starbucks Coffee Company</p>	<p>Kris Engskov President of Starbucks Europe, Middle East and Africa (EMEA)</p>	<p>Declined on 23/02/2015: <i>'As Starbucks is planning to appeal the decision of the European Commission, announced on 21st October 2015, that the Netherlands granted selected tax advantages to our Amsterdam coffee roasting plant (Starbucks Manufacturing EMEA BV), we are unable to accept the invitation of the European Parliament's Special Committee on Tax Rulings and Other Measures Similar in Nature or Effect.</i> <i>Once this matter has been resolved, and Starbucks is confident that the European Commission's decision will be overturned on appeal, we would be happy to meet.</i> <i>If it assists your information gathering it is worth noting that Starbucks complies with all OECD rules, guidelines and laws and supports its tax reform process, including the Base Erosion and Profit Shifting Action Plan.</i> <i>Starbucks has paid an average global effective tax rate of roughly 33 per cent, well above the 18.5 per cent average rate paid by other large US companies. '</i></p>
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Annex 2.2: List of Banks invited

Name	Invited/Representatives	Situation 4/04/2016
Crédit Agricole (FR)	Mr Dominique Lefebvre Chairman	<i>Accepted (15/03/2016)</i> <b>Jean-Charles Balat,</b> <i>Director of Finances, Groupe Crédit Agricole</i>
Deutsche Bank (DE)	Mr Paul Achleitner Chairman	<i>Accepted (16/03/2016)</i> <i>to participate in a meeting on</i> <b>4 April 2016</b> <i>Participating representative</i> <i>Brigitte Bomm, Managing Director,</i> <i>Global Head of Tax, Deutsche Bank</i>
ING Group (NL)	Mr Ralph Hamers CEO	<i>Accepted (08/03/2016)</i>  <b>Drs. R.N.J. Schipper</b> <i>ING Global Head of Tax</i>
Nordea (SW)	Mr Casper von Koskull President and CEO	<i>Accepted (09/03/2016)</i>  <b>Eva Jigvall</b> <i>Nordea's Head of Group Taxes</i>
Royal Bank of Scotland (UK)	Mr Ross McEwan CEO	<i>Accepted (16/03/2016)</i> <i>to participate in a meeting on</i> <b>4 April 2016</b> <i>Participating representative</i> <i>Grant Jamieson, Head of Tax, Royal Bank of Scotland</i> <i>Graeme Johnston, Head of International Tax, Royal Bank of Scotland</i>
Santander (ES)	<i>Mrs Ana Patricia Botín,</i> <i>Chairwoman</i>	<i>Accepted (11/03/2016)</i>  <b>Monica Lopez-Monis Gallego</b> <i>Chief Compliance Officer and Senior Executive Vice-President of Banco Santander</i> <b>Antonio H. Garcia del Riego</b> <i>Managing Director</i> <i>Director European Corporate Affairs</i>
UBS (CH)	Mr Axel A. Weber Chairman	<i>Accepted (14/03/2016)</i>  <b>Christopher Pinho,</b> <i>Managing Director, Global Head of Group Tax</i>
Unicredit (IT)	Mr. Giuseppe Vita Chairman	<i>Accepted (08/03/2016)</i>  <b>Stefano Ceccacci</b> <i>UC Head of Tax Affairs</i> <b>Costanza Bufalini</b> <i>Head of European and Regulatory Affairs</i>