



Brussels, 17 September 2015

**Meeting Report Code of Conduct Group**  
**17 September 2015**

**I. EXECUTIVE SUMMARY**

- **In the absence of the Chair, the meeting was chaired by the Vice-Chair (LU).**
- **Regarding rollback and standstill, UK said it would respond to the new information it had received from ES the previous week in respect of the Gibraltar regime. The issue could then be discussed at the October meeting.**
- **In the discussion of the draft work programme all MS supported the draft as it was a balanced and accurate reflection of the previous discussions. The ongoing discussions in the High Level Working Group on the Code Group's mandate were noted.**
- **[REDACTED]**
- **[REDACTED]**
- **[REDACTED]**
- **[REDACTED]**
- **It was agreed that COM would produce a revised document for the next meeting with the aim of it being agreed by the end of the year.**
- **It was noted that the monitoring of MS' implementation of the Model Instruction would be discussed at the first meeting in 2016. Before then the Chair would seek updated information on the progress in Member States.**
- **Under AOB, the correspondence between the Chair and the Parliament's TAXE Committee was discussed. COM explained that it had written to MS regarding documents which the Committee had requested from it but which it had not yet disclosed as MS had not given their permission. COM had proposed that the documents could be made available to the Committee under confidential conditions. It was now up to MS to consider COM's proposal.**

## II. REPORT

### 1. Rollback: Gibraltar Income Tax Act 2010

- [REDACTED]
- [REDACTED]

### 2. Future of the Code of Conduct: Draft Work Programme 2015

- **VICE-CHAIR** noted that the discussions on the future of the Code would be carried on in the High Level Working Group as well as the Code Group. The HLWG would discuss issues relating to the mandate whilst the Group would consider the draft work programme. Speaking for the Presidency, the Vice-Chair said that the aim was to get both agreed by the end of the year.
- All MS welcomed the draft work programme and supported it as a balanced and accurate reflection of the previous discussions in both the HLWG and the Code Group. Some MS made additional comments.
- [REDACTED]
- **IE** noted that the monitoring exercise covered the BEPS actions and this was a very wide area. The issue of outbound payments would be worthwhile discussing. [REDACTED]
- **HR** asked whether the guidance listed in the draft was final or whether it should be further developed and suggested that the monitoring of the exchange of information regarding rulings should also cover the use to which MS put such information.
- **BE** said its priorities in part 5 were (i) Model Instruction (ii) Inbound Profit Transfers and (iii) BEPS. BE agreed with the excluded items and hoped that any grey areas regarding patent boxes could be quickly resolved.
- **ES** said that the work on third countries should not concentrate on particular countries but on particular types of regime. [REDACTED]
- **FR** noted that rollback and work on third countries was very important [REDACTED]
- **SI** wanted to ensure that monitoring of the proposed Directive did not add another layer to the Commission's existing role under the EU Treaty. The Group should focus on the value of exchanges, not the mechanics. SI also noted that it was maybe too early to be specific about the BEPS issues.
- **DE** said that the non-taxation of outbound payments should be included along with effective taxation. [REDACTED]

[REDACTED]

- **AT** said that the [REDACTED] monitoring process should be improved [REDACTED]
- **EE** noted the Commission’s role in monitoring the implementation of EU legislation by MS.
- **UK** thought it might be useful to add some detail on what the Subgroup was going to do. Regarding the monitoring exercise **UK** thought the most relevant BEPS actions were those on interest restrictions, hybrids, transfer pricing (including the new definition of permanent establishment), CFCs and substance. It was also important to ensure that the allocation of responsibilities between the different bodies in the EU was clear.
- **MT** agreed with **IE**’s comments on the visibility of the Group’s work.
- **SK** asked for more information about the Subgroup’s proposed work and on the relevant BEPS actions. It was also in favour of adding outbound payments to the Work Programme.
- **NL** agreed that the Group needed to consider what it would look at under the heading of BEPS. It welcomed that outbound payments were not included in the Work Programme.

### 3. Administrative Practices: Implementation of the Model Instruction

- **VICE-CHAIR** said that all MS had now replied to the questionnaire. The political agreement was to implement the Model Instruction by the end of the year and this would be looked at in the first meeting of 2016.

[REDACTED]

### 4. AOB

- **VICE-CHAIR** noted the correspondence between the Chair and the European Parliament’s TAXE Committee.
- **COM** said that the Parliament had previously asked it for access to documents which contained information supplied by MS, which **COM** would only disclose with permission. Some MS gave that permission but others did not. **COM** noted that the three institutions, Council, Parliament and Commission, had different internal rules for classifying documents. Therefore the Parliament would not necessarily follow a “restricted” classification given by the Council or the Commission. **COM** had therefore suggested that access be given to Parliament in a secure environment. However, it was up to MS to consider this and **COM** had written to them accordingly.

[REDACTED]