



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
TAXATION AND CUSTOMS UNION
Direct taxation, Tax Coordination, Economic Analysis and Evaluation
Company Taxation Initiatives

Brussels, 8 April 2015

Meeting Report Code of Conduct Group

7 April 2015

I. EXECUTIVE SUMMARY

- **The majority of Member States submitted their rollback and standstill notifications for the year ending 31 January 2015 before the meeting. However at the meeting FR, HU, LT, LV, UK, CZ, DE, ES, MT and NL all confirmed that they had not introduced any new measures that fell within the scope of the Code and that they were not affected by any rollback requirement.**
- **[REDACTED]**
- **UK explained the functioning of the shell companies and said it saw no real need for further work. ES disagreed saying that the shell company issue should be considered in detail. CHAIR asked COM to prepare a description. COM agreed but noted that at the moment there was a disagreement over the facts between ES and UK that the Group would have to resolve.**
- **CHAIR asked Member States to report on their progress in implementing the Model Instruction agreed by ECOFIN in June 2014. Only 11 MS could report that they had positively introduced procedures to implement the Model but the number of exchanges was very low. CHAIR said that he would send a short questionnaire to Member States on the subject.**
- **COM updated the Group on its meetings with Liechtenstein. It was agreed that a delegation from Liechtenstein should be invited to a future meeting.**
- **The Group discussed the future of the Code of Conduct. A variety of different views were expressed and it was agreed that CHAIR would report on the matter to the High Level Working Group when it met on 16 April 2015.**
- **UK briefly described a measure allowing for a separate rate of corporation tax to be set in Northern Ireland (coming into force in 2017). It was currently discussing state aid issues with COM and would report back to the Group when that issue had been settled.**

II. REPORT

1. Notification of Standstill and Rollback returns including administrative practices for the year ending 31 January 2015

- **CHAIR** introduced the room document and noted the lack of a response from some Member States.
- FR, HU, LT, LV, UK, CZ, DE, ES, MT and NL all confirmed that they had not introduced any new measures that fell within the scope of the Code and that they were not affected by any rollback requirement.

2. Standstill: patent boxes

- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]
- █ [REDACTED]

3. Rollback: Gibraltar Income Tax Act 2010

- **UK** said that GIB had supplied a lot of information on the “shell companies” issue which it had compiled in response to the state aid investigation. This showed that these companies did not have income in GIB or elsewhere. UK also noted that GIB complied with Directive 2011/16/EU on administrative cooperation and had exchange of information relations with many countries under double taxation and tax information exchange agreements. UK did not see a strong case for further work in this area.
- **ES** said it saw a problem with some aspects of the Income Tax Act and believed the regime should be described using detailed information.
- **COM** noted that it could provide a description if the Group requested it but noted that at the moment UK and ES had different factual interpretations. UK said that the companies did not have any income while ES said that they must have. COM could present this issue in a description but the Group would have to decide it.
- **CHAIR** asked COM to prepare a description. There were no objections.

4. Administrative practices – Model Instruction

- **CHAIR** asked Member States to report on progress in implementing the Model Instruction that had been agreed by ECOFIN in June 2014.

MS	Process put in place?	Rulings/unilateral APAs		Comments
		Sent	Received	
Austria	Yes	?	?	Can send further information on numbers.
Belgium	No	0	0	No current procedure in place.
Bulgaria	No	0	0	Have no rulings in place.
Cyprus	?	?	?	No information currently available.
Czech Republic	Yes	0	0	
Germany	No	0	0	Thinking about process to alert tax administration to ensure exchanges.
Denmark	Yes	0	0	Implemented as national instruction on 27 February 2015. No record of exchanges yet.
Estonia	Yes	0	0	Estonia does not issue transfer pricing rulings at all and only does about 20 rulings a year in total.
Greece	No	0	0	Do not give rulings although procedures for spontaneous exchange in general exist.
Spain	No	0	0	Thinking about procedures.
Finland	Yes	1	0	
France	Yes	0	0	
Croatia	No	0	0	Not issued any special instruction. Only recently changed national legislation to allow the giving of rulings.
Hungary	?	?	?	Unable to comment in detail.
Ireland	Yes	0	0	Put procedure in place; guidance note published on website.

MS	Process put in place?	Rulings/unilateral APAs		Comments
		Sent	Received	
Italy	No	0	0	Working on implementation; should be ready soon.
Lithuania	Yes	0	0	
Luxembourg	No	0	4	Reflecting on system for exchange; looking to future Directive.
Latvia	No	0	0	Only do “narrative rulings” published in anonymised form.
Malta	?	0	0	Awaiting response from relevant officials but unaware that anything has been sent or received.
Netherlands	Yes	15	0	Sent to FR, IT, ES and EL.
Poland	No	0	0	Anonymised rulings published.
Portugal	No	0	0	Right conditions in place for spontaneous exchange so can exchange.
Romania	No	0	0	
Sweden	?	?	?	Unable to comment.
Slovenia	No	0	0	Focusing on the proposed Directive on automatic exchange.
Slovak Republic	Yes	0	0	Set up a procedure and issued guidance for staff.
United Kingdom	Yes	0	0	Actively working to implement the Model. Pilot scheme in place for April/May 2015 with full system in place from June 2015.

[Note: Member States should have general procedures in place for the spontaneous exchange of information in order to comply with the existing Directive. The *tour de table* focussed on special procedures introduced as a result of the Model Instruction.]

- **CHAIR** said that he would send out a short questionnaire to confirm these results in written form and give Member States an opportunity to gather information.

5. Links to Third Countries - Liechtenstein

- █ [Redacted]
- █ [Redacted]
- █ [Redacted]
- █ [Redacted]

6. Future of the Code of Conduct

- █ [Redacted]
- █ [Redacted]

7. AOB

- **UK** briefly described the proposed regime for Northern Ireland under which the Northern Ireland Assembly would be given the power to set a separate rate of corporation tax in the Province. UK was unofficially notifying the regime to the Group even though the legislation would not come into force until 2017. It had recently started a pre-notification procedure with DG COMP on state aid issues. The Group will have an opportunity to look at the measure once the state aid discussions had concluded.

[Redacted]
