P8_TA(2015)0408

Tax rulings and other measures similar in nature or effect

European Parliament resolution of 25 November 2015 on tax rulings and other measures similar in nature or effect (2015/2066(INI))

(2017/C 366/06)

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, 116, 175 and 208 of the Treaty on the Functioning of the European Union (TFEU),

— having regard to its decision of 12 February 2015 on setting up a special committee on tax rulings and other measures similar in nature or effect, its powers, numerical strength and term of office [1],

— 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 'LuxLeaks',

— having regard to the outcome of the G7, G8 and G20 Summits on international tax issues, in particular the Elmau Summit of 7-8 June 2015, the Brisbane Summit of 15-16 November 2014, the St Petersburg Summit of 5-6 September 2013, the Lough Erne Summit of 17-18 June 2013 and the Pittsburgh Summit of 24-25 September 2009,

— having regard to the Organisation for Economic Cooperation and Development (OECD) Report 'Harmful Tax Competition: An Emerging Global Issue' of 1998,

— having regard to the OECD Report 'Addressing Base Erosion and Profit Shifting' (BEPS) of 2013, the OECD's action plan on BEPS and its subsequent publications,

— having regard to the 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),

— having regard to the Economic and Financial Affairs Council (ECOFIN) conclusions and its report to the European Council on tax issues of 22 June 2015,

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

[1] Texts adopted, P8_TA(2015)0039.

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— having regard to the Administrative Cooperation Directive ([1]), the Interest and Royalties Directive ([2]) and the latest Commission legislative proposals to amend them,

— having regard to Council Directive 90/435/EEC of 23 July 1990 on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States ([3]) (the 'Parent-Subsidiary Directive'), as last amended in 2015,

— having regard to Directive 2014/56/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts ([4]),

— having regard to Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 108 TFEU ([5]),

— 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 ([6]),

— having regard to Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC ([7]),

— having regard to the Commission communication of 26 February 2007 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)0071),

— 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 ([8]),

— having regard to the Commission communication of 17 June 2015 entitled 'A fair and efficient corporate tax system in the European Union: 5 key areas for action' (COM(2015)0302),

— having regard to the Commission communication of 18 March 2015 on tax transparency to fight tax evasion and avoidance (COM(2015)0136),

— having regard to the Commission communication of 6 December 2012 entitled 'An Action Plan to strengthen the fight against tax fraud and tax evasion' (COM(2012)0722),

— having regard to the Commission recommendation of 6 December 2012 on aggressive tax planning (C(2012)8806),

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([1]) 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 64, 11.3.2011, p. 1), concerning mutual assistance by the competent authorities of the Member States in the field of direct taxation.
([2]) Council Directive 2003/49/EC of 3 June 2003 on a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States (OJ L 157, 26.6.2003, p. 49).
([3]) OJ L 225, 20.8.1990, p. 6.
([4]) OJ L 158, 27.5.2014, p. 196.
([5]) OJ L 83, 27.3.1999, p. 1.
([6]) OJ L 336, 27.12.1977, p. 15.
([7]) OJ L 141, 5.6.2015, p. 73.
([8]) OJ C 384, 10.12.1998, p. 3

— having regard to the Commission recommendation of 6 December 2012 regarding measures intended to encourage third countries to apply minimum standards of good governance in tax matters (C(2012)8805),

— having regard to the Commission communication of 27 June 2012 on concrete ways to reinforce the fight against tax fraud and tax evasion, including in relation to third countries (COM(2012)0351),

— having regard to the Commission's 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 ([1]),

— having regard to the Commission communication of 25 October 2011 on 'A renewed EU strategy 2011-14 for Corporate Social Responsibility' (COM(2011)0681),

— 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 ([2]) and to the regular Code of Conduct Group (Business Taxation) reports to the Council,

— having regard to the Recommendation of 30 April 2014 adopted by the Committee of Ministers of the Council of Europe on the protection of whistleblowers,

— having regard to the 1999 Simmons & Simmons report on administrative practices mentioned in paragraph 26 of the 1999 Code of Conduct Group report, the Primarolo report (SN 4901/99) and the update of this report in 2009,

— 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 ([3]),

— 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 ([4]),

— having regard to its resolution of 25 March 2015 on the Annual Tax Report ([5]),

— having regard to its resolution of 11 March 2015 on the Annual Report 2013 on the Protection of the EU's Financial Interests — Fight against fraud ([6]),

— having regard to its resolution of 23 October 2013 on organised crime, corruption and money laundering ([7]),

— having regard to its resolution of 21 May 2013 on the fight against tax fraud, tax evasion and tax havens ([8]),

([1]) OJ C 258 E, 7.9.2013, p. 134.
([2]) OJ C 2, 6.1.1998, p. 2.
([3]) Texts adopted, P8_TA(2015)0257.
([4]) Texts adopted, P8_TA(2015)0265.
([5]) Texts adopted, P8_TA(2015)0089.
([6]) Texts adopted, P8_TA(2015)0062.
([7]) Texts adopted, P7_TA(2013)0444.
([8]) Texts adopted, P7_TA(2013)0205.

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— having regard to its resolution of 19 April 2012 on the call for concrete ways to combat tax fraud and tax evasion ([1]),

— having regard to its resolution of 8 March 2011 on Tax and Development — Cooperating with Developing Countries on Promoting Good Governance in Tax Matters ([2]),

— having regard to its resolution of 10 February 2010 on promoting good governance in tax matters ([3]),

— having regard to the various parliamentary hearings and consecutive reports on the same topic held in national parliaments and in particular in the UK House of Commons, the US Senate and the French Assemblée nationale,

— 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 (A8-0317/2015),

LuxLeaks: facts and figures

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;

B. whereas issues related to corporate tax base erosion and aggressive tax planning practices have been known and analysed at international level for several decades at least; 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 that 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, some of which are subject to austerity measures, is a practice that is widespread within Europe and beyond;

C. whereas such behaviours, often resulting in disconnection between where value is created and where profits are taxed, is not limited to tax rulings, but encompasses a wide range of harmful tax practices, which are implemented by national tax administrations within and outside the EU;

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;

([1]) OJ C 258 E, 7.9.2013, p. 53.
([2]) OJ C 199 E, 7.7.2012, p. 37.
([3]) OJ C 341 E, 16.12.2010, p. 29.

Member States' approach to corporate taxation

E. whereas corporate income tax revenue for the 28 Member States of the Union amounts to an average 2,6 % of GDP in 2012 ([1]);

F. whereas, according to the Treaty, direct taxation is mainly a competence of the Member States; whereas, to the extent that the EU has competence in taxation, the exercise of that competence is 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, economic and fiscal governance and anti-money-laundering principles and legislation; whereas the Member States must comply with European competition law and ensure that 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 reduces the incentive to move from the status quo towards a more cooperative solution; whereas, unless he procedure laid down in Article 116 TFEU is used, Treaty change would be required to change the unanimity requirement in matters of direct taxation;

G. whereas the current situation of each Member State having a veto right implies that all Member States have to act decisively and cooperatively in tackling the pan-European problem of tax evasion and avoidance;

H. whereas, with some laudable exceptions, national political representatives have not been sufficiently forthcoming up until now in addressing the problem of tax avoidance, including tax rulings;

I. 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;

J. whereas, in a completed internal market, no artificial 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, in order to attract investment and businesses; whereas it is important to keep and attract companies in Europe, but this should not take the form of potentially harmful tax schemes which are aimed at fostering investment and attracting additional economic activity in the first place, reacting to similar measures launched in neighbouring countries, or are intended to correct what are regarded as pre-existing imbalances between the 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 level of national wealth; whereas the optimal design for tax systems depends on numerous factors and therefore differs from one country to another; whereas harmful tax competition between Member States limits the potential of the single market;

K. whereas, instead of merely concentrating on the promotion of an attractive business climate with, for example, good infrastructure and a high-quality workforce, including through productivity-enhancing expenditure, and of ensuring the stability and predictability of the tax system, countries, in their role as players in the tax competition game, use their national legislation in conjunction with their tax treaty networks to promote themselves as countries to invest in, as hubs through which to channel financial flows or in which to book profits, thereby attracting businesses or letterbox companies at the expense of partner countries and creating unfair practices between them; whereas, taken in isolation,

(1) 'Taxation trends in the European Union', 2014 edition, Eurostat.

each country has a clear interest in adopting '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;

L. whereas tax competition exists between Member States; whereas the principle of sincere cooperation between the Union Member States is outlined in Article 4 TEU; whereas Member States should fully apply the principle of sincere cooperation in matters of tax competition;

M. whereas 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 and with the Commission's stated aim of introducing a Capital Markets Union, 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;

N. whereas we are observing a paradox whereby free competition between Member States in tax matters has resulted in anti-competitive behaviours and distortions of competition;

O. whereas the introduction of the European single market has proved highly beneficial to national economies, making them more competitive and attractive in a globalised economy, and whereas tax convergence between Member States will ultimately have the same effect;

P. whereas the legislator and often insufficiently resourced 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, in particular from very large accountancy firms, by lawyers and by 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 or the Commission, as guardian of the Treaties) have proved incapable of countering these undesirable developments, sometimes reacting in an ineffective way or on the basis of too a limited mandate, and that many new and often aggressive tax avoidance measures or agreements, such as patent boxes, 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, as well as banks and other financial service providers, for the development of their tax avoidance schemes; whereas this sector is at the same time represented in bodies advising governments and public institutions on tax matters, such as, for instance, the EU Platform for Tax Good Governance; whereas there are concerns over the conflicts of interest that might arise from the provision by the same firms of advice to both public authorities and private MNCs;

Q. whereas all tax planning should take place within the boundaries of the law and the applicable treaties; whereas, consequently, the most appropriate answer to aggressive tax planning is good legislation and international coordination as to desired outcomes;

R. whereas implementation of legislation is decisive for the achievement of the intended objectives; whereas such implementation is matter for national administrations which have often few incentives to cooperate with each other at European level; whereas this situation adds to and worsens the divergences already arising from differences in legislations across the Union;

S. whereas the Troika of institutions (European Commission, European Central Bank and the International Monetary Fund) overseeing financial and fiscal adjustment programs in Member States such as Portugal and Greece did not attempt to prevent tax amnesties, tax rulings, tax benefits and tax exemption schemes which were and are unfairly discriminatory, favouring tax dodging corporations and individuals, causing high bleeding of State revenues and increasing the burden on already overtaxed small and medium-sized enterprises (SMEs) and citizens;

T. whereas the investigation and prosecution of tax crimes and money laundering, often involving financial operations and legal persons in several jurisdictions, is extremely challenging; whereas Member States' personnel in charge of investigating and conducting judicial prosecutions against offenders of tax crimes and other financial crimes are often under-trained and under-equipped;

U. whereas policies of austerity and budget containment in the past few years have significantly reduced the tax administrations' ability to investigate tax crimes and harmful tax practices; whereas these cuts were particularly harmful in countries under programs of financial assistance led by the Troika, where the increase of state revenues was achieved at the expense of overtaxed SMEs and citizens, while big corporations and wealthy tax dodgers often benefitted from tax amnesties, tax rulings and other tax exemptions and benefit schemes, as was the case in Portugal and Greece;

Tax rulings and harmful tax practices

V. whereas tax rulings cover a wide range of practices in Member States, ranging from ad-hoc policy to a clearly framed application of the law, in terms of possible scope and topics covered, binding nature, frequency of use, publicity, length and payment of fees; whereas there is no commonly agreed definition of tax rulings at international level except for the Commission's reference to them as 'any communication or any other instrument or action with similar effects, by or on behalf of the Member State regarding the interpretation or application of tax laws';

W. whereas tax rulings are not intrinsically problematic since they can, as is their original purpose, provide legal certainty for the taxpayer and reduce the financial risk for honest firms in cases where the tax laws or their particular application in certain circumstances are unclear or subject to diverging interpretations, in particular with regard to complex transactions, and thereby avoid future disputes between the taxpayer and the tax authority;

X. 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 — despite Member States' asserting that rulings are not discretionary, but merely a tool to clarify existing tax legislation, while keeping them secret — its special committee's work has confirmed that tax rulings can be issued without any legal framework through informal or discretionary arrangements, that support tax-driven structures which rely on tax planning tools typically used by MNCs to reduce their tax contribution; whereas this seems to be an issue particularly — although not exclusively — with rulings related to pricing of intra-company transfers (so-called Advance Pricing Agreements); whereas, in providing legal certainty only to some selected actors, they might create inequality between companies to which they have been granted and companies in the same sector which have no access to them;

Y. whereas neither the OECD nor the European Commission have called for an end to the practice of tax rulings as such;

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Z. whereas advanced tax rulings are not supposed to affect in any way the tax treatment of any transaction, nor benefit one taxpayer over another, but rather should 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 at privileging only some companies, thus distorting competition;

AA. whereas harmful tax practices can, to some extent, be connected to one or several of the following undesirable effects: lack of transparency, arbitrary discrimination, distortions of competition and an uneven playing field within and outside the internal market, an impact on the integrity of the single market, and on the fairness, stability and legitimacy of the tax system, more taxation on less mobile economic factors, increased economic inequalities, unfair competition between states, tax base erosion, social dissatisfaction, mistrust and a democratic deficit;

AB. whereas it should be acknowledged that, while SMEs remain the driving force of the economy and of employment in Europe, multinational companies also play a key role in generating investment, economic growth and jobs; whereas paying their fair share of tax in the countries where the actual economic activity and value creation takes place remains a key contribution by those companies to the welfare and sustainability of European societies;

The work of the Special Committee

AC. whereas its competent special committee, constituted on 26 February 2015, held 14 meetings, during which it heard Commission President Jean-Claude Juncker, Competition Commissioner Margrethe Vestager, Economic and Financial Affairs, Taxation and Customs Commissioner Pierre Moscovici, the President-in-office of the Council Pierre Gramegna, the Ministers of Finance of France, Michel Sapin, Germany, Wolfgang Schäuble, Italy, Pier Carlo Padoan, and Spain, Luis de Guindos, 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; whereas all these activities, while yielding diverse and invaluable insights into the tax systems and practices across the EU, did not clarify all pertinent questions, including remaining inconsistencies in the statements made by Commission President Jean-Claude Juncker with respect to the long-time secret page of the Krecké report;

AD. 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 (see Annex 2) and, in the end, did not forward all the documents requested or simply made courtesy replies that hardly touched upon the substance of the requests made; whereas out of 17 MNCs invited, only four agreed to appear before the committee in June and July 2015 at the first invitation; whereas a further 11 MNCs agreed to appear before the committee only after the report was voted in the TAXE Committee and after repeated invitations, such that a new extraordinary meeting had to be convened shortly before the vote in plenary (see Annex 3); whereas the Commission did not fully cooperate either and send all room documents and informal meeting notes from the Code of Conduct meetings, only offering, because of some Member States' intransigence, a limited consultation procedure; whereas the committee's term of office therefore had to be extended;

AE. whereas a number of state aid investigations by the Commission, 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, were still in progress at the time of the adoption of this report;

Overview of corporate tax practices in the Member States

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;

2. Stresses the need to formulate a balanced and fair tax policy as an integral part of structural reform in the Member States;

3. 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; is concerned that, owing to the economic and debt crisis and to budget consolidation, most Member States have significantly reduced their tax administration staff; stresses that national tax administrations should have sufficient resources, including human resources, to operate effectively in the prevention and detection of, and the fight against, aggressive tax planning, tax evasion and tax avoidance, which generate substantial erosion of their tax base, and ensure better and fairer tax collection and the credibility of the tax system; notes that studies have shown that skilled staff in tax administrations bring in significantly more revenue to the state than related expenditures, as the effectiveness of tax administrations has a direct positive impact on tax revenues;

4. Stresses the difference between, on the one hand, harmful practices of certain tax and national administrations allowing MNCs to shift profits in order to avoid taxation on the territories where profits were generated and, on the other hand, governments' competition in attracting foreign direct investment (FDI) or keeping economic activities within the country in full compliance with the EU legislation;

5. Stresses that the Treaty, in line with the subsidiarity principle, allows Member States to determine their own corporate tax rates and tax base until stronger tax convergence measures have been agreed in line with the Treaty; 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, 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 approach by Member States, which should result in a common framework within which Member States set their tax rates, can prevent further base erosion, harmful tax competition and a tax rate race to the bottom;

6. Recalls that some Member States have formally higher company taxes than others, but, in reality, owing to deductions and loopholes which favour domestic business, rates are substantially lower, making the effective tax rate lower than in Member States with a formally low rate;

7. Points to the fact that lower company tax in some Member States can provide for a relative higher tax income than what higher tax rates provide for;

8. Notes that, according to the Commission ([1]), 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;

9. Notes that most Member States spend large amounts on tax incentives meant to give SMEs a competitive advantage but that, according to the Commission ([2]), these attempts are undermined by the effect of international tax planning in three out of four Member States surveyed in a recent study; notes that such effects put SMEs at a competitive disadvantage despite the large costs associated with tax expenditures to support these and that such results undermine the intention of national policy makers;

10. Highlights the growing gap between statutory and effective tax rates, in particular for firms operating at global level, which reflects at least in part various derogations and exemptions from the general tax regime, whether intended by the legislator to reach specific objectives or resulting from aggressive tax planning, i.e. from creating purely artificial arrangements for taxation purposes only;

11. Emphasises that mismatches between tax systems at a global level contribute to significant tax base erosion and tax evasion, but that action at EU level only will not deal with these issues;

12. Notes the great 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 those special jurisdictions with autonomous tax systems that are connected to EU Member States (overseas territories and Crown dependencies); deplores the fact 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, the definition of interest and royalties, the treatment of intangibles, the treatment of debt and equity, let alone 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; stresses that it is necessary to harmonise these definitions;

13. Stresses that national preferential regimes and mismatches between the different tax systems within the single market create opportunities for tax avoidance; notes that these undesirable effects are further aggravated by the interaction with a great number of bilateral tax treaties between Member States and third countries, and insufficient anti-abuse provisions therein;

14. 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, which is contrary to the very foundations of the European project; points out that an automatic, 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 Member State are often taxed at very low rates or not at all in the EU;

([1]) 'Taxation trends in the European Union', Eurostat statistical books, 2014 edition.
([2]) European Commission (2015), 'SME taxation in Europe — an empirical study of applied corporate income taxation for SMEs compared to large enterprises'.

15. Believes that fiscal policy and competition policy should be seen as two sides of the same coin in the internal market and calls on the Commission to reassess and enhance available instruments and resources for competition policy and state aid;

16. Emphasises that convergence between national tax systems in the EU has been very limited despite an unprecedented deepening of the EU integration process over the last 30 years, particularly in connection with the single market and the Economic and Monetary Union; deplores the fact that coordination of national tax systems lags far behind when compared with coordination efforts in other areas at EU level, in particular in the framework of the European Semester, although, apart from the relevance of measures on the expenditure side, a significant part of the policy mix to ensure fiscal consolidation concerns the revenue side; takes the view that this aspect should have been mentioned in the Five Presidents' report on 'Completing Europe's Economic and Monetary Union' of June 2015;

17. Stresses that the lack of political will to bring about convergence between national fiscal policies induces Member States to opt for a bilateral approach, whereas a common approach would be more effective; recalls the option of working towards fiscal convergence using enhanced cooperation; welcomes, in this light, the desire of certain Member States to institute a financial transaction tax;

Aggressive tax planning instruments and their impact

18. 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;

19. 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 the most mobile factors such as capital in the form of FDI); deplores the fact that, in addition to competition distortions and an uneven playing field, this results in an extremely worrying situation where, in a context of intense fiscal consolidation and structural reform efforts, some of those taxpayers with the highest ability to pay contribute significantly less than those most affected by the economic, financial and debt crisis, such as ordinary citizens and firms not using aggressive tax planning, which often belong to the SME category and are often unable to compete with MNCs because of this comparative tax disadvantage; stresses that this situation risks feeding democratic mistrust and affecting overall tax compliance, particularly in those countries subject to adjustment programmes; deplores the fact that whistleblowers, who provide national authorities, in the public interest, with crucial information about misconduct, wrongdoing, fraud or illegal activities or practices, can be subject to legal prosecution, as well as to personal and economic repercussions; notes with great concern that even journalists uncovering illegal or illegitimate practices have at times faced similar consequences;

20. Notes that research by the IMF ([1]) 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, according to a study, an estimated EUR 1 trillion of potential tax revenue is lost each year through the combined effect of tax fraud, tax evasion, including the shadow economy, and tax avoidance in the EU ([2]), and that estimates point to yearly losses to national budgets of around EUR 50-70 billion as a result of tax avoidance, but that these revenue losses across the EU could in reality amount to around EUR 160-

([1]) IMF policy papers 'Spillovers in international corporate taxation', 9 May 2014 and 'Base Erosion, Profit Shifting and Developing Countries', 29 May 2015.

([2]) Report of 10 February 2012 by Richard Murphy FCA on 'Closing the European Tax Gap'.

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190 billion if special tax arrangements, inefficiencies in collection and other such activities were taken into account [1]; whereas the UN Commission for Trade and Development has calculated that developing countries lose around USD 100 billion per year in revenues through tax avoidance by MNCs; stresses that these figures should be considered with caution and may underestimate the actual losses to 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 estimate;

21. Notes that tax planning strategies can be based on the structuring of corporations, financing arrangements for their branches or transfer pricing disconnected from real economic activities, allowing artificial shifting of profit across jurisdictions with the objective of reducing the global tax contribution of companies; notes with great concern that a growing number of letterbox companies are used in the EU but are companies only in name and are used exclusively for tax evasion purposes; notes the specific example of McDonalds, whose tax practices were shown in a report by a coalition of trade unions to have cost European countries over EUR one billion in lost taxes between 2009 and 2013 [2];

22. 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 that allow 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, hybrid financial products, exploiting mismatches, tax arbitrage, royalty agreements, treaty shopping, and locating asset sales in low-tax jurisdictions;

23. 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:

— abusive use of tax rulings or settlement agreements to go beyond simple clarification of the existing legislation and get preferential tax treatment,

— diverging definitions of permanent establishment and tax residence,

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

— deduction of notional interests (enabling companies to deduct from their taxable income a fictitious interest calculated on the basis of their shareholders' equity),

— excess profit ruling practices (through which a company may obtain written confirmation from the tax administration that its taxable income does not include those profits that would not have been realised in a 'stand-alone' situation),

— unclear or uncoordinated transfer pricing provisions,

— a number of preferential regimes, in particular in relation to intangibles (patent, knowledge or IP boxes),

— refund or exemption of withholding tax on interest, dividends and royalties through bilateral tax treaties and/or as laid down in national legislation,

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(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, European Parliament.
(2) 'Unhappy meal — €1 Billion in Tax Avoidance on the Menu at McDonald's', EPSU et al., February 2015.

— differences in legal designations between Member States (hybrid entities or hybrid loans, where interest expenses change to exempted dividends),

— 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),

— a lack of effective General or Specific Anti-Abuse Rules or a weak enforcement or interpretation of such rules,

— and structures that can obscure the beneficial owner of assets and may not be subject to information exchange regimes, such as trusts and so-called 'freeports';

24. Takes note that, according to the Commission [1], 72 % of profit shifting takes place in the EU through the channels of transfer pricing and location of intellectual property;

25. 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 themselves and/or within the country in order to access tax benefits, but merely to acquire it through a company which has its residence within the jurisdiction; stresses, therefore, that any fiscal benefits for R&D must be linked to real expenditures in the said jurisdiction;

26. Stresses furthermore that the costs of research and development can be already claimed against tax under the national tax systems even without patent boxes, and that patent boxes thus contribute to tax avoidance in a way that runs counter to the system;

27. Considers such schemes to be 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; notes that in a review of R&D tax incentives the Commission [2] finds that 'Patent boxes seem more likely to relocate corporate income than to stimulate innovation';

28. 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 makes the sound application 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, a challenging exercise;

29. 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; stresses that the best way to address the issue of transfer pricing at EU level is through common tax base consolidation, which does away with the need for these prices;

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(1) Commission staff working document of 17 June 2015 on Corporate Income Taxation in the European Union (SWD(2015)0121).
(2) A study on R&D Tax incentives, Taxation paper No 52-2014, European Commission.

30. Underlines the fact that transfer pricing files submitted by MNCs or their representatives cannot be properly monitored by tax administrations, which are often not sufficiently equipped and staffed to critically and thoroughly examine those analyses and their outcome or impact;

31. Deplores the fact that, in an economic context where 60 % of world trade is intra-group ([1]), guidelines for the application of this purely economic concept are fragmented at national level and therefore subject to inconsistencies between Member States and legal disputes;

32. Underlines, moreover, the fact that, despite the significant number of legal disputes in the EU stemming from differing interpretations of the same transfer pricing principles, no efficient dispute resolution mechanism is in place at European level; notes that the settlement of cases put forward to the EU arbitration convention on transfer pricing can take up to eight years, contributing to legal uncertainty for companies and tax administrations;

33. Stresses the crucial role of large accounting firms, including the 'Big Four', in the design and marketing of rulings and tax avoidance schemes that exploit 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 global tax advising services, constitute a narrow oligopoly; considers that such a situation cannot continue without damaging the functioning of the single market in the fields of activity of the 'Big Four'; 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; takes the view that good practices in this respect must be promoted and that existing codes of conduct should be improved; questions, nevertheless, the effectiveness of corporate codes of conduct and corporate social responsibility policies in tackling this issue; underlines the fact that tax rulings have become, in the EU and worldwide, a common business practice, not only in order to obtain legal certainty or advantageous tax deals, but also in cases where legislative provisions do not allow any room for interpretation; is concerned by estimations from the tax advice industry that a mere 50 % chance of being lawful is sufficient for a tax planning scheme to be recommended to clients ([2]);

34. Calls on tax authorities to improve and diversify their sources of know-how and to substantially improve the process of impact assessment in order to reduce the risks of unexpected consequences of new tax measures; reminds Member States that not only differences between tax systems, but also excessively high complexity of national tax systems and low stability, with too frequent changes, are important contributors to the creation of tax gaps, unfairness of tax systems and low credibility of tax policy; underlines in this respect the obstacle that tax fragmentation poses for the creation of a European Capital Market Union;

State of play and assessment of EU, international and national actions

35. 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, with exemption of G20 sponsored BEPS project of OECD that has just been completed and is not implemented by countries yet, no significant progress has been made in practical terms;

36. 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 regaining credibility of the tax system and in reducing the time gap between the establishment of specific schemes and the adoption of corrective action, including at legislative level;

([1]) 'Transfer pricing: Keeping it at arm's length', OECD Observer 230, January 2002 (corrected 2008).
([2]) House of Commons, oral evidence taken before the Public Accounts Committee, 31 January 2013.

37. Is concerned, nonetheless, that in the absence of a cooperative approach, unilateral measures taken by Member States against tax base erosion may contribute to increasing complexity, generating new mismatches and, as a result, more opportunities for tax avoidance within the internal market; stresses that any divergent implementation by Member States of international or EU guidelines can have the same effect;

38. Welcomes the various initiatives and legislative proposals by the Commission over the last 20 years, including the most recent, aimed at moving 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 and 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 the Council, due to the unanimity requirement and the fact that certain Member States persist in considering that they have more to gain individually from loopholes in the uncoordinated tax system than they would collectively in a coordinated one;

39. Welcomes the publication of a new set of fiscal policies and calls on the Commission to seek to ensure a fair tax system based on the principle of taxation in the Member State where profits are generated, thus avoiding internal market distortion and unfair competition;

40. 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');

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

42. Deplores the fact that, despite ambitious objectives which have been proclaimed since 1997, tax competition has persisted between Member States, arising less from differences in tax rates than from the heterogeneity of national rules for establishing what constitutes taxable profits, invariably illustrated for several decades by the disparities between the nominal and the actual corporate tax rates applied by the Member States;

43. 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 and sometimes leading to the deliberate non-publication or the non-following up of reports, such as the 1999 report by Simmons & Simmons on administrative practices; 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;

44. Stresses more fundamentally that the Code's case-by-case approach, while having resulted in Member States now competing more with general measures, does not address the systemic weaknesses of a fragmented corporate tax framework in the EU, which requires a more substantial overhaul;

45. Notes also the efforts made through the creation of the Platform for Tax Good Governance, which brings various stakeholders around the same table 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 have not sufficiently tackled the issue of tax avoidance; deplores the fact that the composition of the Joint Transfer Pricing Forum, despite a recent update of its membership, is still unbalanced; objects, moreover, to the fact that tax experts contribute to the work on guidelines on transfer pricing while, at the same time, they may be advising their clients on aggressive tax planning strategies based on transfer pricing, and thus be in a position of conflict of interest;

46. 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, have 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, expecting that this will help remove some of the opportunities for tax avoidance in the EU;

47. Recalls the provisions of Council Directive 2011/16/EU on administrative cooperation aimed at implementing the exchange of all relevant financial information; takes the view that an automatic, immediate and comprehensive exchange, and efficient processing, of tax information would have a strong deterrent effect against tax evasion and 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 to them;

48. 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; regrets the lack of coordination between the Commission and the competent authorities of the Member States;

49. Regrets that tax information is hardly ever exchanged spontaneously between Member States; welcomes automatic exchange of information that is no longer based on reciprocity; draws attention to the structural design problems of a system based on discretion as to what should be communicated or not and accompanied by weak monitoring systems, which make any violation of the exchange information requirement very difficult to identify;

50. 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;

51. Notes that state aid rules and sanctions are useful as a means of addressing the most abusive and distortive harmful tax practices and can have a significant deterrent effect;

52. Welcomes the Commission's Tax Transparency Package on automatic exchange of information between Member States on their tax rulings, 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 seen 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, including for the benefit of SMEs

and those MNCs that are helping to create genuine economic growth and are paying their fair share of taxes within the internal market;

53. Welcomes the recent agreement on the OECD BEPS action plan which, following successive calls for action at the G7 and G20 summits, attempts to address the individual issues affecting the functioning of the international corporate tax system by putting forward global and systematic action to tackle them; regrets the late and unequal inclusion of developing countries in the OECD BEPS process, in which they should have participated fairly; also regrets that some outcomes of the BEPS action plan do not go further in areas such as harmful tax regimes, digital economy and transparency;

54. 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 delivered upon in October 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;

55. 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;

56. 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;

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57. Stresses that, within the internal market, new entrants and firms, including SMEs, that do not use aggressive tax practices are penalised as compared with MNCs, which are able to shift profits or implement other forms of aggressive tax planning through a variety of decisions and instruments, available to them only by virtue of their size and their ability to arrange business internationally; notes with concern that, all other things being equal, the resulting lower tax liabilities leave MNCs with a higher post-tax profit and thereby create an uneven playing field with their competitors on the single market who do not have recourse to aggressive tax planning and keep the connection between where they generate profit and their place of taxation; points out that this distortion of a level playing field in favour of multinationals contradicts the fundamental principle of the single market;

58. Stresses that the OECD ([1]) 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 is deeply concerned that, according to some studies ([2]), the corporate tax contribution of cross-border companies is up to 30 % lower, on average, than that of domestic companies operating in only one country; finds it unacceptable that, as a result of those strategies, some MNCs can pay a very low effective corporate tax rate while some SMEs have to pay their full share of tax;

([1]) OECD Press release, 'OECD urges stronger international co-operation on corporate tax', 12.2.2013.

([2]) SME taxation in Europe — An empirical study of applied corporate income taxation for SMEs compared to large enterprises — European Commission, May 2015, and 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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59. Stresses that this distortion of economic operators' decisions, taken on the basis of expected post-tax returns, results in a sub-optimal allocation of resources within the EU and tends to lower the level of competition, thereby affecting growth and employment;

60. 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;

61. Acknowledges the important developments that have taken place in the last 20 years with respect to the Commission's analytical framework for tax-related state aid, which have made it possible to move towards more clarity in the definition and analysis of state aid through tax measures, as well as more systematic action against such measures; notes, in particular, the Commission's 1998 guidelines on the application of state aid rules to measures relating to direct business taxation, the 2004 report thereon and various important case law decisions in the 2000s; welcomes, within the State Aid Modernisation process promoted by the Commission, the launch in 2014 of a public consultation on draft guidelines aimed at clarifying the notion of state aid pursuant to Article 107 TFEU, which includes elements on tax-related state aid and, in particular, tax rulings;

62. Notes that, in recent decades, an increasingly settled European Court of Justice (ECJ) case law has emerged on the application of state aid law to the Member States' tax measures, most recently in the Gibraltar case in 2011 ([1]);

63. Notes that the ECJ stressed the principle of 'substance over form' and hence that the economic impact of a measure is the reference criterion for its evaluation;

64. Notes, therefore, that the ECJ has derived from the ban on state aid far-reaching requirements for the Member States' legislative responsibility in tax matters;

65. Notes that the concept of 'nature and general scheme of the national system' is a central reference in assessing whether direct or indirect tax measures are selective or not, and thus compatible or not with the internal market, and that any state aid should be assessed in relation to the pre-existing equilibrium; stresses that, as the EU benchmark for assessing potential distortions is the national system of reference ([2]), not all distortions of competition and harmful tax practices within the internal market can be covered by current competition rules; notes, therefore, that the full enforcement of these rules alone would not enable the issue of corporate tax avoidance in the EU to be solved;

66. Notes that, according to the data provided to its competent special committee ([3]) 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;

([1]) C-106/09 P and C-107/09 P, *Commission* v *Government of Gibraltar and United Kingdom*, judgment of 15 November 2011.
([2]) If the measures adopted by the Member States concern the entire tax system, they constitute adjustments to general fiscal policy and not state aid.
([3]) Note sent by Commissioner Vestager to the TAXE Committee on 29 April 2015.

67. 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:

— the initiation, in June 2013, of an inquiry into tax rulings practices in seven Member states, extended to all Member States in December 2014,

— the opening, in October 2013, of an investigation on whether Gibraltar's corporate tax regime favours certain companies, which in October 2014 was extended to also examine tax rulings in the said territory,

— in parallel, the initiation of a separate inquiry on intellectual property taxation regimes ('patent boxes'),

— the opening, in June 2014, of formal investigations into three cases: Apple in Ireland, Fiat Finance and Trade in Luxembourg and Starbucks in the Netherlands, concluded in October 2015, followed, in October 2014, by Amazon in Luxembourg,

— the opening, in February 2015, of a formal investigation into a tax scheme in Belgium (excess profit ruling system);

68. Stresses that ongoing and completed Commission investigations and the cases revealed by LuxLeaks indicate that some Member States fell short of their legal obligation ([1]) to communicate all potential state aid files to the Commission;

69. Stresses that these investigations shed light on only a very limited sample of some typical practices which affect the taxable profit allocated to some MNCs' subsidiaries through transfer pricing; is concerned that the current resources of the Commission's competent services may limit its ability to handle a significantly larger number of cases and to carry out systematic checks in order to ascertain whether further practices, other than those based on transfer pricing, in the area of corporate taxation might be in conflict with state aid law;

70. Strongly supports the Commission in its approach, which consists 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 establishing more precise and effective guidelines on tax-related state aids and transfer pricing and to compelling Member States to adjust their practices accordingly; invites the Commission, nevertheless, to conclude these ongoing tax-related state aid investigations as soon as it is practically possible without prejudice to their quality and credibility and awaits their results with great interest; invites the Commission to report regularly to the European Parliament on these investigations; calls on the Commission to request the recovery of every euro missing in the event of confirmation of illegal state aid in the ongoing investigations;

71. Stresses that ongoing investigations could lead, in the event of infringement of EU rules, to the recovery, by the Member State which approved the tax measure concerned, 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 reward for non-compliance, which is unlikely to discourage Member States, in case of doubt, from engaging in illegal state aid practices and granting abusive tax benefits but, instead, relieves them of their responsibility to comply with EU state aid rules and does not mitigate the financial loss to the budgets of the Member States affected; in more general terms, considers that state aid rules should provide for sanctions that constitute an effective deterrent against illegal state aid;

([1]) As laid down in Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 108 TFEU, regarding the obligation to cooperate and provide all necessary documents.

72. Points also to the possibility, in the event of abusive transfer pricing between cross-border subsidiaries, that not only the Member State at the origin of the advantageous tax treatment sees its tax revenues adjusted (recovery of aid) but that the same happens to other countries in which the transaction took place (ex post adjustment of transfer pricing and thus of taxable income); stresses that, in some cases, this could lead to double taxation;

73. 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; stresses that an increased capacity within the Commission and improved processes for transmitting information are the appropriate ways to handle an increased flow of notifications as well as the greater transparency required from Member States in tax matters;

Third countries

74. Is concerned that the negative spillover effects of harmful tax practices by some MNCs seem to be far more significant on developing countries than on developed countries [1], as the former derive a greater proportion of their revenue from corporate tax and have weaker public finance systems, regulatory environments and administrative capacity to ensure tax compliance and tackle these harmful tax practices; notes that the IMF [2] suggests that developing countries lose in relative terms three times as much revenue to aggressive tax planning as developed countries; stresses that Article 208 of the Lisbon Treaty obligates Member States to adjust their policies to support development in developing countries; points out that comprehensive ex post spillover analyses of Member States' tax practices, the findings of which should be made public, would help guide policy-making to ensure that such practices do not erode the tax base of other Member States or third countries;

75. Stresses that, at the same time, the few 'winners' of global tax competition, which are those countries with very attractive corporate tax policies inside and outside the EU, present some disproportionate economic fundamentals as compared with their size and real economic activity, especially when looking at, for instance, the number of resident companies per inhabitant, the amount of foreign profits booked, FDI or outgoing financial flows as compared to GDP, etc.; notes that this demonstrates the artificial nature of their tax base and incoming financial flows and the disconnection allowed under the current tax systems between where value is generated and where taxation is operated;

76. 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; believes that this list should be the first iteration of a process that results in a rigorous, objective definition of 'tax havens' which can then inform future lists, established on the basis of clear criteria that should be known in advance; encourages the Commission to assess whether European jurisdictions comply with these criteria;

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(1) IMF policy paper, 'Spillovers in international corporate taxation', 9 May 2014.
(2) IMF working paper 'Base erosion, profit shifting and developing countries', May 2015.

77. 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 signing, 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;

78. Stresses, however, that the OECD's work on its former list of uncooperative tax havens was based on a political process which led to arbitrary compromises already when setting the criteria for the lists, such as the requirement to conclude tax agreements with 12 other countries, and resulted in no jurisdiction being listed as an uncooperative tax haven; stresses that its current approach is still based on criteria which refer to tax transparency and the exchange of information, and are not comprehensive enough to address the harmfulness of certain tax practices; notes that, whatever its merits, this limits the relevance of the OECD's approach to identifying those tax jurisdictions which are pillars of tax avoidance practices and harmful tax competition worldwide; stresses, in particular, that this approach does not refer to any qualitative indicators for an objective assessment of compliance with good governance practices or consider quantitative data such as book profits, incoming and outgoing financial flows and their (dis)connection from the economic reality in a given jurisdiction;

79. Underlines, moreover, the fact that these lists can be used at national level to implement national protection and anti-avoidance rules vis-à-vis third countries (such as a limitation on benefits, the application of a principal purpose test, rules on controlled foreign corporations, etc.), and that the limitations of such lists can therefore also limit the scope and effectiveness of national measures aimed at tackling harmful tax practices;

80. 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, bearing in mind that tax rates are the competence of Member States, 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;

81. Stresses that a coordinated approach by Member States vis-à-vis both developing and developed countries could prove much more effective in tackling harmful tax practices and promoting greater reciprocity in tax matters;

82. 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, economic and debt 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 benefited from privileged access to the single market, but, at the same time, did not cooperate in other areas, in particular taxation;

83. Notes that, despite ongoing negotiations, progress remains slow for signing similar cooperation agreements with San Marino, Monaco, Liechtenstein and Andorra; regrets that the 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;

84. Notes with concern that many developing countries find themselves particularly vulnerable to tax avoidance activities by MNCs, and that the main cause of missed revenue for developing countries' national budgets lies in the transfer pricing practices of MNCs ([1]); 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 annual losses suffered by national budgets in tax revenues are estimated to range

([1]) Study 'Tax revenue mobilisation in developing countries: issues and challenges', European Parliament, April 2014.

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between around EUR 91 [1] and EUR 125 billion [2];

85. Reminds Member States that they are bound under the Lisbon Treaty by the principle of policy coherence for development and must ensure that their tax policies do not undermine the EU objectives on development; encourages the Member States to conduct spillover analyses of their tax policies and their impacts on developing countries, as suggested by the IMF;

Conclusions and recommendations

86. Concludes, looking back to the mandate which it conferred on its special committee, and despite the various limitations and obstacles encountered during its fact-finding missions as well as by other EU institutions, some Member States and MNCs:

— without prejudice to the outcome of the Commission's ongoing state aid investigations, the information gathered indicates that, in several cases, Member States did not comply with Article 107(1) TFEU, since they introduced tax rulings and other measures similar in nature or effect which, by favouring certain undertakings, have distorted competition within the internal market,

— some Member States did not fully enforce Article 108 TFEU since they failed to formally notify the Commission of all their plans to grant tax-related aid, thereby also infringing the corresponding provisions of Council Regulation (EC) No 659/1999; stresses that, as a result, the Commission could not keep under constant review all systems of aid, as provided for in Article 108 TFEU, since it did not have access to all the relevant information, at least before 2010, which is the period not covered by its ongoing investigations,

— 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 expecting that there may be tax losses in other Member States, or that tax savings may result from artificial transfers of profits within groups,

— some Member States did not comply with the principle of sincere cooperation enshrined in Article 4(3) TEU, since they did not take all appropriate measures, general or particular, to ensure the fulfilment of their obligations,

— an analysis of individual cases of breaches in community law concerning the aforementioned paragraphs was not possible owing to a lack of detailed information provided by Member States, the Council and the Commission,

— finally, the Commission did not fulfil its role of guardian of the Treaties, as established in Article 17(1) TEU, by not acting in this matter and taking all necessary steps to ensure that they comply with their obligations, in particular those set out in Council Directives 77/799/EEC and 2011/16/EU, despite evidence to the contrary; 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;

87. Condemns the fact that several tax documents from the Code of Conduct group meetings that were requested have not been disclosed at all or have only been partially disclosed to the committee, although some of them have already been provided to individual citizens who requested them through the access to documents procedure, thus leading to the European Parliament being less well informed than European citizens about the position of the Member States on tax matters; deplores, in addition, the fact that the Commission has only released less than 5 % of the total number of documents requested, which appeared to be some 5 500; regrets the lack of cooperation with the committee by the Commission and Council, impeding the fulfilment of its mandate;

[1] World Investment Report 2015, United Nations Conference on Trade and Development.
[2] Christian Aid report, 2008.

88. Given Parliament's current lack of parliamentary inquiry powers, calls on the Council and the Commission to urgently consent to the pending proposal for a regulation of the European Parliament on the detailed provisions governing the exercise of Parliament's right of inquiry [1], in order to confer genuine investigative powers needed to exercise its parliamentary right of inquiry;

89. Calls on the Commission to examine whether the abovementioned infringements could still be brought to the Court of Justice;

90. Calls on the Member States to respect the principle of profits taxation in the place they are generated;

91. Calls 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 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; calls, in this connection, on the Member States to notify the Commission and other Member States about any relevant changes to their corporate taxation law that could have an impact on their effective tax rates or on any other Member State's tax revenue; stresses that the Member States that play a pivotal role in facilitating tax avoidance should take responsibility and lead the efforts to improve tax cooperation within the EU;

92. 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, which are already subjected to fiscal consolidation measures, and on the tax contributions of other taxpayers, including SMEs and citizens; stresses, in this context, that it intends to play its role fully and is ready to put in place more effective political scrutiny, in close cooperation with national parliaments;

93. 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 the Commission to take further legal action as a matter of course in accordance with the powers conferred upon it by the Treaty; calls therefore on the Commission to reinforce its internal capacity, possibly through the creation of a specific tax department in its services, to deal both with an increasing flow of state aid notifications in the field of competition policy and with its reinforced responsibility for coordinating new measures relating to tax transparency;

94. Calls on the Member States to provide the Commission with all necessary information so that, without hindrance, it can carry out its role as guardian of the Treaties;

95. Calls on the Commission to promote good practices on transfer pricing and the pricing of loans and finance fees in intragroup transactions, to bring them in line with prevailing market prices;

96. 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; calls on the Member States to first and foremost ensure a business-friendly environment, characterised by, inter alia, economic, financial and political stability, as well as legal certainty and the simplicity of tax rules; 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, in the framework of the European Semester and for relevant indicators, including estimates of the tax gap arising from tax evasion and tax avoidance, to be included in the macroeconomic imbalance procedure;

97. Calls on the Member States, especially those that receive financial assistance, to implement structural reforms, combat tax fraud and enforce action against aggressive tax planning;

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[1] OJ C 264 E, 13.9.2013, p. 41.

98. Calls on the Commission in this respect to strike the right balance between fiscal and economic convergence, and calls on the Commission to ensure that actions are in support of growth, investment and jobs;

99. Takes the view that, among other things, a comprehensive, transparent and effective automatic exchange of tax information and a mandatory 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;

100. Invites the Member States and the EU institutions, given the complexity of the issue, to implement various sets of complementary actions in order to improve the current situation, bearing in mind the need to reduce complexity for all stakeholders and to minimise compliance costs for businesses and tax administrations; stresses, therefore, that simplification of tax schemes should be the first step in seeking to bring clarity not only to Member States but also to citizens, who are at present excluded from the exchange of information;

101. 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;

102. Stresses the fact that, despite repeated invitations, only four MNCs ([1]) initially agreed to appear before the committee to discuss international tax planning matters, out of a total of 17; considers that the initial refusal of 13 of them — some with high public visibility — to cooperate with a parliamentary committee is unacceptable and highly damaging to the dignity of the European Parliament and the citizens it represents; notes, however, that 11 MNCs ([2]) finally agreed to come to the committee only after the report had been voted on in the TAXE Committee and shortly before the vote in plenary, while two MNCs ([3]) persisted in their refusal; recommends, therefore, that its competent authorities consider depriving these companies from their access to Parliament's premises and that serious consideration be given to setting up a clear framework and upgrading the duties set out in the Code of Conduct for organisations included in the Transparency Register ([4]), in terms of cooperation with Parliament's committees and other political bodies;

103. Calls for an investigation into the role of the financial institutions in aiding harmful tax practices;

Cooperation and coordination on advance tax rulings

104. Deplores the content of the political agreement of 6 October 2015 within the Council, which falls short of the Commission's legislative proposal of March 2015 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation; stresses that the latter provided, on top of a common framework for the registration and automatic exchange of information on rulings, provisions allowing the Commission to effectively monitor its implementation by Member States and ensure that rulings do not have a negative impact on the internal market; stresses that the adoption of the Council's position would prevent drawing all benefits from the automatic exchange of rulings, in particular in terms of effective implementation, and calls on the Council, therefore, to stick to the Commission's proposal and take due account of the Parliament's opinion thereon, in particular as regards the scope of the directive (all tax rulings instead of cross-border only), the retroactivity period (all tax rulings still valid should be exchanged) and the information provided to the Commission, which should have access to the tax rulings;

105. 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; insists that concrete

([1]) Airbus, BNP Paribas, SSE plc and Total S.A.
([2]) Amazon, Anheuser-Busch InBev, Barclays Bank Group, Coca-Cola Company, Facebook, Google, HSBC Bank plc, IKEA, McDonald's Corporation, Philip Morris, Walt Disney Company.
([3]) Fiat Chrysler Automobiles, Walmart.
([4]) Code of Conduct set out in Annex 3 of the 2014 Interinstitutional Agreement on the Transparency Register.

steps should be taken to ensure that AEOI becomes truly global, and thereby effective, while respecting confidentiality requirements, by supporting developing countries' efforts to build their capacity for full participation in the AEOI; stresses that, within the EU, automatic information exchange could take place in the form of a central EU-wide register which would be accessible by the Commission and the competent national authorities;

106. Invites the Member States to consider that any tax ruling should, in particular when involving transfer pricing, be established in cooperation with all involved countries, that the relevant information should be exchanged between them automatically, comprehensively and without delay 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;

107. 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 issued by, or on behalf of, the government or the tax authority of a Member State, or any territorial or administrative subdivisions thereof, which are still active at the date of entry into force of the directive; strongly insists on the key role of the Commission's involvement in the process of data collection and analysis concerning rulings;

108. Calls, furthermore, for a framework which effectively controls the implementation of the automatic exchange of information, for the collection and publication of statistics on the information exchanged, and, in particular, for the establishment, by the Commission, before 31 December 2016, of a secure central directory to facilitate the exchange of information between the participating tax authorities; recalls that the establishment of a system for the automatic exchange of information on tax rulings will result in a very large quantity of information being collected, which might make it difficult to detect the truly problematic cases; stresses that this situation, in addition to the existence of 28 Member States with different languages and administrative practices, makes it necessary for the Commission and the Member States to reflect on smart ways, including by means of information technology, of dealing with the amount and diversity of the data obtained, in order to make automatic exchange of information in the Union genuinely effective and helpful;

109. Calls on the Commission to study the conditions for setting up, in the longer term, an EU-wide clearing house system, through which tax rulings would be systematically screened by the Commission so as to increase the system's level of certainty, consistency, uniformity and transparency and check whether such rulings have a harmful effect on other Member States;

110. Stresses that, in order to enhance transparency for citizens, the Commission should publish an annual report summarising the main cases contained in the secure central directory, and that, in doing so, the Commission should take into account the provisions of the Mutual Assistance Directive relating to confidentiality;

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

— the requirement to establish them on the basis of a comprehensive spillover analysis, including the tax rulings' effect on other countries' tax bases, with the involvement of all the parties and countries concerned,

— their public disclosure, either fully or in simplified form, but fully respecting confidentiality requirements,

— the obligation to publish the criteria for granting, refusing and revoking tax rulings,

— equal treatment and availability to all taxpayers,

— absence of discretion and full compliance with underlying tax provisions;

112. Asks the Commission to define common EU guidelines for the application of the OECD's arm's length principle aimed at harmonising EU Member States' practices for fixing transfer pricing in such a way that, when establishing transfer pricing agreements, national administrations have the tools to compare similar undertakings and not only similar transactions;

113. Believes that a fair and efficient tax system requires an adequate level of transparency and confidentiality; is convinced therefore that Member States' tax administrations and, where relevant, the Commission, should have access to information regarding the ultimate beneficiaries of any legal vehicle and/or tax rulings;

114. Calls on the Commission to make use, inter alia, of Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, which includes 'tax crime' in the broad definition of 'criminal activity', in order to determine the ultimate beneficiaries of certain legal vehicles;

115. Calls on the Commission to introduce, in-house, a central public register of all legal corporate-tax exemptions, deductions and credits, together with a quantitative budget impact assessment for each Member State;

Common Consolidated Corporate Tax Base (CCCTB)

116. Welcomes 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 address 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 resume, without delay, the work concluded in 2011 on the proposal for a Council directive establishing the CCCTB, taking account of Parliament's position thereon and of new factors which have emerged since then and incorporating the most recent conclusions from the work carried out by the OECD, in particular standards resulting from the Action Plan on Base Erosion and Profit Shifting (BEPS), so that a consolidated text can be produced in 2016;

117. 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 EU's emerging economy in this sector a competitive edge vis-à-vis other actors in the United States and elsewhere; stresses that the existing evidence shows that patent boxes do not help in spurring innovation and can lead to major base erosion through profit shifting; 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 as regards what qualifies as R&D promotion and what does not; stresses that the so-called modified nexus approach for patent boxes recommended by the BEPS initiative will not be enough to sufficiently limit the problems associated with patent boxes;

118. Stresses that, to restore the link between taxation and economic substance and to ensure that taxes are paid in the countries where actual economic activity and value creation take place, as well as to correct existing mismatches, 'formula apportionment' should differentiate between sectors, to take into account their specific features, in particular with regard to digital businesses since the digital economy makes it more difficult for tax authorities to determine where value is created; calls on the Commission to consider carefully Parliament's position on CCCBT and to adopt a formula apportionment which reflects the real economic activities of companies; 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;

119. Strongly supports the introduction of a full, mandatory CCCTB as soon as possible; 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, nor put an effective end to tax base shifting within the Union; urges the Commission, therefore, to set a concrete and short deadline to include the 'consolidation element' in the CCCTB initiative; calls on the Commission to dispense with any additional impact assessment of this 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;

120. 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 through transfer pricing), prepare, pending consolidation, an interim regime offsetting cross-border profits and losses, which should be temporary in nature and with sufficient guarantees that it will not create any further opportunity for aggressive tax planning, and further introduce appropriate and effective 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 as regards their adequacy for enforcing effective taxation; calls on the Council to prepare for the prompt adoption of these provisions; emphasises that, if it is to achieve one of its goals, i.e. reducing red tape, the application of a common consolidated tax base should be accompanied by the implementation of common accounting rules and appropriate harmonisation of administrative practices in tax matters;

121. Calls on the Commission to issue clear legislation on the definition of economic substance, value creation and permanent establishment, with a view to tackling, in particular, the issue of letterbox 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; stresses that such legislation should clearly indicate that there must be a direct link between the preferential regimes granted by the tax administration and the underlying R&D activities; calls on the Commission to revise EU legislation on controlled foreign companies and its application in accordance with 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 to avoid cases of double non-taxation; calls on the Commission to make proposals for harmonising rules on controlled foreign companies in the EU;

122. Calls also on the Commission, in the absence of any generally accepted definition, to conduct further analyses and studies in order to define aggressive tax planning and harmful tax practices, and in particular on double taxation treaties abuses 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; calls on the Commission also to define a methodology for measuring the tax gap arising from tax avoidance and tax evasion — as announced in its proposal of March 2015 — and to ensure that this measurement takes place regularly in order to monitor progress and to design appropriate policy responses; 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;

123. Recalls that, in addition to corporate taxation fraud, there is sizable fraud in cross-border VAT, a tax that is fundamental for all national treasuries; calls on the Commission to develop measures to tackle this problem, including better coordination on this matter among national tax agencies;

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Code of Conduct on business taxation

124. Calls for an urgent reform of the Code of Conduct on business taxation and of the Group responsible for its enforcement, given that, to date it has proved to be of questionable value, with a view to both addressing real obstacles currently in the way of effectively tackling harmful tax practices and to aiding EU-wide coordination and cooperation on tax policy;

125. Calls on the Member States, in a spirit of good cooperation, to endorse the proposals included in the Commission's action plan of 17 June 2015 for fair and efficient corporate taxation in the EU; believes that the Group's legitimacy would benefit from increased transparency and accountability; advocates therefore that the Group's governance and mandate be reshaped, including through the appointment of a permanent, politically accountable Chair, the improvement of its working methods, including a possible enforcement mechanism, the regular participation in the Group by finance ministers or senior officials, in order to raise its profile, 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; calls on the Chair of the Group and on the Council to regularly report to and exchange with its competent committee on the activities of the Group, in particular with regard to the presentation of its biannual reports to ECOFIN;

126. Invites the Council, more generally, 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; calls on the Council and the Member States to consider the possibility of setting up a high-level group on taxation policy, as also suggested by the Commission President; stresses that such a 'tax committee', accountable to Parliament, would encompass the Council and the Commission, following the model of Economic and Financial Committee, as well as independent experts, and would more generally exercise oversight of legislative and non-legislative tax policy and would report to ECOFIN; requests that Parliament be given a right of initiative to denounce to the Code of Conduct Group any national measure it deems to fit the criteria of harmful tax competition included in the Code of Conduct;

127. Calls on the Commission to give a second update to the 1999 Simmons & Simmons report on administrative practices mentioned in paragraph 26 of the 1999 Code of Conduct Group report, the Primarolo report (SN 4901/99);

128. 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 initiate framework legislation, under the Community method; considers it essential that the wider public be granted more information on the work of the Group;

129. 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 that expert groups will be composed in a balanced manner; insists that, while working towards this goal, reforms of the current structure and composition should start immediately; stresses that such reforms would not result in a lack of available technical expertise for law-making, as those could be submitted via public consultations or public expert hearings open to representatives of all interests; 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, as well as representatives of organisations convicted of tax evasion or any other criminal wrongdoing, from being active members of any expert or advisory body;

State aid

130. 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; considers inappropriate the recurrent practice, engaged in by several Member States, of secrecy in the case of projects that have been in receipt of state aid; encourages the Commission to make full use of its powers under EU competition rules to tackle harmful tax practices and to sanction Member States and companies found to be involved in such practices; stresses the need for the Commission to commit more resources — in terms of finance and staff — to strengthening its ability to pursue all necessary fiscal state aid investigations at once; stresses the need for Member States to comply fully with the investigations and with information requests from the Commission;

131. Calls on the Commission to adopt new guidelines, at the latest by mid-2017, 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 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;

132. Calls on the Commission to extend its investigations to other MNCs mentioned in the LuxLeaks scandal and to measures similar in nature or effect to transfer pricing;

133. Calls on the Commission, in line with the broader responsibility assigned to Member States by the SAM, to consider setting up a network of national tax administrations to exchange best practices and more consistently contribute to preventing the introduction of any tax measures that might constitute illegal state aid; invites the Commission to enhance strategic synergies between the activities of the (reformed) Code of Conduct Group and the Commission's enforcement of competition rules in the field of tax-related aid;

134. Takes note that current state aid control rules seek to address anti-competitive practices by recovering undue advantages granted to companies; 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 and not to the Member State which granted the illegal tax-related aid, as is currently the case, or be allocated to the EU budget; calls on the Commission to modify the existing rules to ensure that sanctions can be adopted against the relevant countries and companies in case of breach of state aid rules;

Transparency

135. Takes the view that the Union has the potential to become a model and a global leader in terms of tax transparency;

136. Underlines the crucial importance of 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; stresses that the need for transparency should be balanced against the need to protect sensitive commercial interests and respect data protection rules;

137. Considers that increased transparency regarding the activities of multinational companies is essential for ensuring that tax administrations are able to efficiently combat BEPS; reiterates accordingly its position that MNCs in all sectors should disclose clearly and comprehensibly in their financial statements, broken down by Member State and by third country in which they have an establishment, a range of aggregate information, including their profit or loss before tax, taxes on profit or loss, number of employees, assets held, basic information about tax rulings (country-by-country reporting); underlines the importance of making this information available to the public, possibly in the form of a central EU register; stresses furthermore that SMEs and mid-caps which are not MNCs should be exempt from such an obligation; calls on the Council to adopt, by the end of 2015, Parliament's position as voted in the Shareholder Rights Directive in July 2015; stresses that transparency requirements should be designed and implemented in such a way that they do not result in EU firms being put at a competitive disadvantage;

138. Calls also on the Member States to implement a more extensive country-by-country reporting system available to tax authorities, building on the OECD standard and including more detailed information, such as tax returns and intra-group transactions; highlights that the provision of tax information by firms to other tax administrations needs to be accompanied by an improvement in the framework for resolving disputes in order to clarify the respective rights of each party and avoid any negative side effects; stresses that, vis-à-vis tax administrations of third countries, information should be transmitted only to the authorities of those countries that have in place arrangements equivalent to those provided by the EU Arbitration Convention; calls also for harmonised accounting standards to be developed, permitting, in particular, more granular disclosure regarding royalties;

139. Asks the Commission to support this position, in line with its past assessments and positions, and to undertake all the necessary steps in order to ensure the extension of its application to all MNCs operating on the internal market, and calls on the OECD to support its extension worldwide in order to ensure that similar obligations apply to all firms engaging in cross-border operations; underlines the fact that action aimed at improving transparency, though necessary, is not a sufficient means of tackling the issue comprehensively and that national, EU and international tax systems also need to be substantially reformed;

140. 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; calls on the Commission and the Member States to ensure that the competent authorities have full access to central registers of beneficial ownership for both companies and trusts, in accordance with the fourth Anti-Money-Laundering Directive; calls on the Member States to swiftly transpose the fourth Anti-Money-Laundering Directive, ensuring broad and simplified access to information contained in central registers of beneficial owners; reiterates its position that these registers should be public;

141. Recognises the work undertaken by the Commission for the creation of a European Taxpayer Identification Number (TIN); calls on the Commission to put forward a proposal for a European TIN, based on the outline for a European TIN in the Commission's Action Plan on the fight against tax fraud and tax evasion of 2012 (action 22); recalls that TINs are considered to provide the best means of identifying taxpayers and urges, therefore, for this project to be accelerated; calls on the Commission, by the same token, to actively work for the creation of a similar identification number on a global level, such as the Regulatory Oversight Committee's global Legal Entities Identifier (LEI);

142. Stresses, furthermore, that transparency is also important in ongoing state aid investigations into tax rulings;

143. Calls on the Commission to examine possibilities for implementing within the EU similar provisions as the US 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;

Protection of whistleblowers

144. Calls on the Commission to propose, by June 2016, an EU legislative framework for the effective protection of whistleblowers and the like; stresses that it is not acceptable that citizens and journalists can be subject to prosecution rather than legal protection when, acting in the public interest, they disclose information or report suspected misconduct, wrongdoing, fraud or illegal activity, in particular in cases of tax avoidance, tax evasion and money laundering, or any other conduct infringing the fundamental principles of the EU, such as the principle of sincere cooperation;

145. Calls on the Commission to consider a range of tools for ensuring such protection against unjustified legal prosecution, economic sanctions and discrimination, 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

(1) 'Tracking corporate tax breaks: a welcome new form of transparency emerges in the US', Tax Justice Network.

providing the authorities with original information and protects them from legal prosecution and job loss, bearing in mind that such remuneration should not be a stimulus for publishing business-sensitive information; proposes the creation of an independent European body responsible for collecting this information and carrying out investigations, as well as a pan-European whistleblower common fund, to ensure that whistleblowers receive adequate financial assistance, both funded through a levy on a proportion of the funds recovered or fines imposed; takes the view that protection should also be granted to whistleblowers in case they inform the public after the competent authorities at national or EU level were notified, after no reaction within one month;

Corporate Social Responsibility

146. Believes that carrying out a responsible tax strategy is to be considered a pillar of Corporate Social Responsibility (CSR), in particular in accordance with the updated definition of CSR as 'the responsibility of enterprises for their impacts on society' ([1]); regrets that most firms do not include this in their CSR report; underlines the fact that aggressive tax planning is incompatible with CSR; calls on the Commission to include this element and to properly define its content in an updated Corporate Social Responsibility EU strategy;

Third-country dimension

OECD

147. Supports the OECD BEPS action plan, while recognising that it is the result of a compromise which is not going far enough to address the scale of the tax avoidance problem and that these proposals should be the basis for further action at EU and global level; calls for the OECD, its member countries and all other countries involved to set up a strong monitoring tool in order to assess progress in the implementation of those guidelines, obtain evidence of their effectiveness and possibly take corrective action;

148. 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; calls on the Member States to promptly transpose all the EU legislation based on the OECD guidelines into national legislation, thereby making the EU a frontrunner in the implementation of the OECD's recommendations; stresses, however, that the OECD approach is still based on soft law and that its action must be complemented by a proper legislative framework at EU level to address the needs of the single market, e.g. in the form of an anti-BEPS directive going beyond the OECD BEPS initiative in areas that are not sufficiently covered;

Tax havens

149. Calls for a common EU approach to tax havens; calls on the Commission, in particular, to continue its work on the development and adoption of a European definition, a common set of criteria to identify tax havens, independently of their location, 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 for companies using them for the purpose of aggressive tax planning, and on defining appropriate common measures applying to those jurisdictions; refers to its above mentioned resolution of 21 May 2013 on 'the fight against tax fraud, tax evasion and tax havens' for a non-exhaustive list of such possible measures ([2]); reiterates that genuinely European lists, regularly updated and based on comprehensive, transparent, robust, objectively verifiable and commonly accepted indicators, would be more effective as a means of promoting good tax governance and changing tax behaviours towards and within those jurisdictions;

([1]) Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 'A renewed EU strategy 2011-14 for Corporate Social Responsibility'(COM(2011)0681), p. 6.

([2]) 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 advisers from establishing or maintaining subsidiaries and branches in blacklisted jurisdictions and to consider revoking licences for European financial institutions and financial advisers 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.

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150. Calls on the Commission to include in the European black list those territories that grant fiscal advantages to entities without requiring substantial economic activity in the country, provide significantly low effective taxation and do not guarantee automatic exchange of tax information with other jurisdictions;

151. Stresses, in particular, the need to ensure that outgoing financial flows are taxed at least once, for instance by imposing a withholding tax or equivalent measures, in order to avoid profits leaving the EU untaxed, and calls on the Commission to present a legislative proposal to that effect, for instance through the revision of the Parent-Subsidiary and Interest and Royalties Directives; insists that a system should be put in place to ensure that a confirmation document has to be presented to the national tax authorities and communicated to the Commission 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; stresses that such a system should be carefully designed in order to avoid double taxation and disputes; calls on the Commission, while supporting the OECD's promotion 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 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; calls, in the interim, on the Member States to immediately insert anti-abuse clauses into their tax treaties in accordance with the BEPS proposals;

152. 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;

153. Calls on EU bodies not to cooperate with those jurisdictions deemed to be uncooperative on tax matters, nor with companies convicted of tax fraud, tax evasion or aggressive tax planning; asks that institutions such as the European Investment Bank (EIB) and the European Bank for Reconstruction and Development (EBRD) no longer cooperate, through their financial intermediaries, with non-cooperative tax jurisdictions; asks, moreover, EU bodies to commit to not granting EU funding to companies convicted of tax fraud, tax evasion or aggressive tax planning;

154. 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 monitor carefully, with a view to preserving the single market, the agreed phasing out of some harmful tax practices in Switzerland, in line with BEPS guidelines, and that no new harmful tax measures are introduced 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; insists that the Commission must ensure that Switzerland follows the EU approach on taxation and report to Parliament;

155. Recalls that all Member States have chosen a multilateral approach of automatic exchange of information, through the Convention on Administrative Assistance in Tax Matters and through the 2014 review of the relevant EU directives ([1]); stresses that these two initiatives are key elements for tackling tax evasion and bank secrecy, as they entail the obligation of financial institutions to report to tax administrations a wide range of information regarding residents with income generated by foreign-held assets;

([1]) The EU Savings Tax Directive and the Directive on Administrative Cooperation.

Developing countries

156. Highlights the fact that specific attention should be paid at national, EU and 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 the 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 developing countries in existing international initiatives and to include representatives from developing countries in its Platform for Tax Good Governance;

157. Calls on the EU and the OECD BEPS members to ensure that the new OECD-developed 'Global Standard on Automatic Information Exchange' includes a transition period for developing countries that cannot currently meet reciprocal automatic information exchange requirements owing to a lack of administrative capacity;

158. 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;

159. Calls on the Member States to ensure, that their development aid agencies have sufficient technical expertise at their disposal for addressing tax issues in their development policies, especially from ministries of finance and tax administrations;

160. 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 Commission and the 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;

Tax advisers

161. Points to the problematic and questionable juxtaposition, within the same firms, of tax advice, auditing and consulting activities intended on the one hand to service tax administrations, e.g. for designing tax systems or improving tax collection, and, on the other hand, to provide tax planning services for MNCs, which may be exploiting the weaknesses of national tax laws;

162. Points out the existence of a European legal framework, which includes the most recent package of reforms to the audit market, approved by Parliament on 3 April 2014 ([1]); calls on the Commission to ensure that the relevant legislative provisions are applied in the Member States within the appropriate time frame and in line with the objectives pursued;

163. Calls on the Commission to come forward with proposals for guidelines for the tax consulting industry and for the setting up of an EU incompatibility regime for advisers in tax matters and, where appropriate, for banks, establishing a framework effectively preventing conflicts of interest between services provided to the public and private sectors;

([1]) Texts adopted, P7_TA(2014)0283 and P7_TA(2014)0284.

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164. Calls, furthermore, on the Commission to launch an inquiry in order to assess the state of concentration in the sector and any resulting distortion of competition; recommends that this inquiry also consider specifically whether the combination of tax advice and auditing functions within the same firms can lead to conflicts of interest, and to propose measures accordingly, including by introducing mechanisms to keep departments within consultancy firms separate;

165. Requests that the Commission urgently assess the possibility of introducing a legislative framework providing for sufficient sanctions for firms, banks, accountancy firms and financial advisers proved to be involved in implementing or promoting illegal tax avoidance and aggressive tax planning; stresses that these sanctions should have a deterrent effect and may include, among others, fines, barring access to funding from the EU budget, prohibition of any advisory role in the EU institutions and, in extreme and repeated cases, the revoking of business licences;

Further action at national level

166. 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, instead of unilaterally introducing preferential regimes to attract investments;

167. Calls on the Commission to establish guidelines for tax amnesties granted by Member States aimed at defining the circumstances in which such amnesties would comply with the provisions of the EU Treaties relating to the free circulation of capital, freedom to provide services, state aid and money laundering rules, and the EU common approach against tax havens; recalls the need to use such practice with extreme caution in order not to incentivise tax avoiders to wait for the next amnesty;

168. Calls on the Member States to introduce a system of withholding taxes on royalties, to ensure that royalties paid to third countries not covered by bilateral tax agreements are also taxed;

169. 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 by 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;

170. Strongly urges Member States to stop and reconsider cuts in the resources of their tax administrations, to step up investment and increase the efficiency of their tax administrations and to ensure effective redeployment of staff and technology and expertise upgrades, with a view to tackling the development and impact of harmful tax practices, which have become increasingly sophisticated; calls on the Commission to provide technical support for such efforts, in particular in the context of the FISCALIS 2020 Programme; calls also on the Member States to work towards more simple, effective and transparent taxation regimes in the interest of Member States, citizens and businesses;

171. Recalls that public procurement accounts for 16 % of GDP in the EU area; requests an assessment of the possibility of introducing tax, transparency or cooperation-related criteria into the public procurement tenders during the next amendment round of the Public Procurement Directive; calls also on the Member States to consider excluding from participating in public procurement companies that have been proved to have engaged in aggressive tax planning and tax avoidance schemes;

172. 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 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 […]';

173. Commits to continuing the work initiated by its Special Committee, addressing the obstacles that prevented its Special Committee 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 to achieve this;

174. Reiterates its demand for access to all relevant EU documents; calls on its President to forward this request to the Commission and the Council and makes clear that Parliament is determined to use all possible means at its disposal to achieve this goal;

175. Calls on its competent committee to follow up on these recommendations in its upcoming legislative initiative report on the same topic;

176. Calls on its competent committee responsible for constitutional affairs to follow up on these recommendations, in particular regarding the insertion of binding cooperation clauses in the Code of Conduct for organisations included in the Transparency Register, and changes to the rules for access to documents between EU institutions, with a view to better aligning them with the principle of sincere cooperation set out in the TEU;

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

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ANNEX 1

LIST OF PERSONS MET

(COMMITTEE MEETINGS AND DELEGATIONS)

Date	Speakers
30.3.2015	— Pierre Moscovici, Commissioner for Economic and Financial Affairs, Taxation and Customs
16.4.2015	— Serge Colin, President of UFE (Union of Finance Personnel) — Fernand Müller, Chairman of UFE fiscal committee — Paulo Ralha, President of Portuguese Tax Workers Union — François Goris (President UNSP-NUOD) for the European Confederation of Independent Trade Unions (CESI) — Nadja Salson, European Federation of Public Service Unions — Henk Koller, President of the European Federation of tax advisers (CFE) — Olivier Boutellis-Taft, Chief Executive of the Federation of European Accountants (FEE) — Ravi Bhatiani, Director Legal Affairs of Independent Retail Europe
5.5.2015	— Margrethe Vestager, Commissioner for Competition — Wolfgang Nolz, Chair of Code of Conduct Group — Jane McCormick, Senior Tax Partner, Head of EMA Tax, KPMG — Chris Sanger, Partner, Global Head of Tax Policy, Ernst&Young — Stef van Weeghel, PwC Partner, Global Tax Policy Leader — Bill Dodwell, Head of Tax Policy of Deloitte UK
11.5.2015	*Public Hearing on Tax Rulings and Harmful Tax Practices* — Stephanie Gibaud, whistle-blower and former UBS employee — Lutz Otte, whistle-blower and former information — technology contractor at Julius Baer — Kristof Clerix, International Consortium of Investigative Journalists (ICIJ) — Edouard Perrin, ICIJ member

Date	Speakers
	— Richard Brooks, ICIJ member — Lars Bové, ICIJ member — Xavier Counasse, journalist 'Le Soir' — Dominique Berlin, Collège européen de Paris, Université Panthéon-Assas (Paris 2) — Gabriel Zucman, Assistant Professor, London School of Economics and Political Sciences — Achim Doerfer, Attorney in the field of taxation, author and legal philosopher
12.5.2015	*Delegation to Belgium* — Jacques Malherbe, University of Louvain (UCL) — Axel Haelterman, University of Leuven (KUL) — Werner Heyvaert, tax expert, Jones Day — Wim Wuyts, Head of Tax — President of tax committee FEB-VBO and Hilde Wampers, Vice President Tax — Group Finance FEB-VBO — Christophe Quintard (expert of FGTB, former tax auditor) — Eric van Rompuy (Chair) and others Members of Finance and Budget Committee of the Federal Parliament — Steven Van den Berghe, Head of the tax ruling service — Johan Van Overtveld — Minister of Finance (meeting held on 17 June 2015)
18.5.2015	*Delegation to Luxembourg* — Wim Piot, Tax Leader PWC Luxembourg — Nicolas Mackel, CEO Luxembourg for Finance — Christine Dahm, Director, and Mike Mathias, member of Cercle de Coopération des ONG du développement — Eugène Berger (Chair) and others Members of Finance Committee of the Parliament — Pierre Gramegna, Minister of Finance — Pascale Toussing, Director of Tax matters, Ministry of Finance and members of the tax administration

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Date	Speakers
22.5.2015	*Delegation to Bern, Switzerland* — Markus R. Neuhaus, Chairman of the Board of PwC Switzerland, Member of the office of the Global Chairman of PwC — Frank Marty, Member of the executive board, Head Financial Services & Taxes, Economie Suisse — François Baur, Permanent Delegate in Brussels, Head European Affairs Economie Suisse — Martin Zogg, Member of the Executive Committee, Head Domestic and International Taxation, Swiss Holdings — Urs Kapalle, Director Financial Policy and Taxes, Swiss Bankers Association — Mark Herkenrath, Alliance Sud, Member of Global Alliance for Tax Justice — Olivier Longchamp, Declaration of Berne (DoB) — Jacques de Watteville, State Secretary for International Financial matters (SIF) — Ambassador Christoph Schelling, Head of Tax Policy Division — Adrian Hug, Director of the Swiss Federal Tax Administration — Ruedi Noser, Member of the National Council, Head of the Committee for Economic Affairs and Taxation — Urs Schwaller Member of the Council of States — Ulrich Trautmann, Head of Sector Trade and Economic Affairs, Delegation of the European Union to Switzerland and Liechtenstein — Marco Salvi, Senior researcher, Avenir Suisse
27.5.2015	*Meeting with HM Government of Gibraltar (with TAXE coordinators)* — Fabian Picardo, Chief Minister — Joseph Garcia, Deputy Chief Minister
28.5.2015	*Delegation to Dublin, Ireland* — Martin Lambe, Chief Executive, Irish Tax Institute — Michael Noonan, Minister of Finance — Niall Cody, Chairman of Revenue Commission — Liam Twomy (Chair) and others Members of Finance Committee of Parliament (Oireachtas) + Joint House-Senate European Affairs Committee

Date	Speakers
	— Frank Barry, Trinity College Dublin (TCD) — Seamus Coffey, University College Cork (UCC) — Feargal O'Rourke, Head of Tax, PWC — Conor O'Brien, Head of Tax, KPMG — Jim Clarken, CEO of Oxfam Ireland — Micheál Collins, Nevin Economic Research Institute (NERI).
29.5.2015	*Delegation to Den Haag, the Netherlands* — Sjoera Dikkers, MP and others Members of Committee of Finance of Dutch Parliament — Bartjan Zoetmulder, Dutch Association for Tax Advisors — Hans Van den Hurk, University of Maastricht — Indra Römgens, SOMO, independent, not-for-profit research and network organisation — Francis Weyzig, Oxfam — Pieterbas Plasman, Head of Tax Ruling Office — Eric Wiebes, Dutch State Secretary for Tax Affairs
1.6.2015	*Public Hearing on International Dimension of Tax Rulings and Other Measures* — Senator Mario Monti, former Commissioner for Competition and for Customs, Taxation and the Internal market — Tove Maria Ryding, Policy and Advocacy Manager of European Network on Debt and Development (EURODAD) — Antoine Deltour, whistle-blower, former Auditor, Pwc Luxembourg
17.6.2015	*Interparliamentary meeting on 'Aggressive tax planning and democratic control Role of Parliaments'* Thirty-seven Members from eighteen national Parliaments: AT, BE, CY, CZ, FR, DE, GR, HU, IE, IT, LT, LU, MT, PL, PT, RO, ES, SV — Heinz Zourek, Director General of DG TAXUD — Pascal Saint-Amans, Director of OECD Centre for Tax Policy and Administration

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Date	Speakers
18.6.2015	*Delegation to London, UK* — David Gauke, MP, Financial Secretary to the Treasury, — Jim Harra, Director General, Business Tax, HM Revenue & Customs — Fergus Harradence, Dep. Director, Corporate Tax Team, Business and International Tax Group, HM Treasury — Andrew Dawson, Head of Tax Treaty Team, Lead negotiator for UK tax Treaties — Maura Parsons, Deputy Director, Head of Transfer Pricing in HMRC Business International and Chair of HMRC's Transfer Pricing Board. — Meg Hillier (Chair), Margaret Hodge (former Chair) and Guto Bebb, member of the Public Accounts Committee of the House of Commons — Prem Sikka, Professor of Accounting, Essex Business School, University of Essex — Frank Haskew, Head of the ICAEW (Institute of Chartered Accountants in England and Wales) Tax Faculty; and Ian Young, International Tax Manager — Will Morris, Chair of the Tax Committee and the BIAC Tax Committee Confederation of British industry (CBI) — Richard Collier, Senior tax partner at PwC — Joseph Stead, Christian Aid — Meesha Nehru, Programme Director, Fair Tax Mark
23.6.2015	*Exchange of views with Multinational Corporations* — Nathalie Mognetti, Chief Tax Officer, Total S.A. — Martin McEwen, Head of Tax, SSE plc — Christian Comolet-Tirman, Director, Fiscal Affairs, BNP Paribas Group
25.6.2015	*Meeting with Government representative of Bermuda (with TAXE coordinators)* — Everard Bob Richards, Deputy Premier Minister & Minister of Finance — Alastair Sutton, EU legal adviser to the Government of Bermuda
2.7.2015	— Richard Murphy, Tax Research LLP and founding member of the Tax Justice Network — Guillaume de La Villeguérin, Vice President Tax & Customs Airbus

Date	Speakers
17.9.2015	— Jean-Claude Juncker, President of the European Commission — Pierre Moscovici, European Commissioner for Economic and Financial Affairs, Taxation and Customs — Margrethe Vestager, European Commissioner for Competition
22.9.2015	— Pierre Gramegna, President of the ECOFIN council, Minister of Finance, Luxembourg — Dr. Wolfgang Schäuble, Federal Minister of Finance, Germany — Luis de Guindos, Minister of Economy and Competitiveness, Spain — Michel Sapin, Minister of Finance and Public Accounts, France — Pier Carlo Padoan, Minister of Economy and Finance, Italy
16.11.2015	*Exchange of views with Multinational Corporations* — Monique Meche, Vice President, Global Public Policy, Amazon — Malte Lohan, Global Corporate Affairs Director, Anheuser-Busch InBev SA — Mark Hubbard, Global Head of Tax, Barclays Bank Group — Delphine Reyre, Director of Public Policy Southern Europe, Facebook — Iain McKinnon, Head of Group Tax, HSBC — Krister Mattsson, Head of Corporate Finance, Insurance, Tax & Treasury, IKEA Group — Irene Yates, Vice President, Corporate Tax, McDonald's Europe — Werner Schuster, Vice President Tax, Philip Morris International — Nicklas Lundblad, Senior Director, Public Policy and Government Relations, Google — John Stowell, Senior Vice President, Corporate Taxes, The Walt Disney Company — Robert Jordan, Vice President, General Tax Counsel, Coca-Cola Company

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ANNEX 2

LIST OF ANSWERS BY COUNTRY/INSTITUTION

(situation as of 16 November 2015)

Country	Reply
1st request on 23.4.2015 — Deadline 31.5.2015	
Sweden	29.5.2015
Jersey	29.5.2015
Guernsey	31.5.2015
Luxembourg	1.6.2015
Finland	2.6.2015
Slovakia	3.6.2015
Ireland	5.6.2015
Netherlands	8.6.2015
United Kingdom	8.6.2015
France	10.6.2015
Czech Republic	11.6.2015
Latvia	16.6.2015
Belgium	16.6.2015
Malta	18.6.2015
1st Reminder on 29.6.2015 — Deadline 9.7.2015	
Portugal	30.6.2015
Poland	2.7.2015
Lithuania	3.7.2015
Hungary	7.7.2015
Croatia	8.7.2015
Estonia	10.7.2015

Country	Reply
Greece	10.7.2015
Spain	10.7.2015
Gibraltar	13.8.2015
Denmark	26.8.2015
Germany	2.9.2015
Romania	3.9.2015
Italy	17.9.2015
Last reminder on 21.9.2015	
Austria	21.9.2015
Cyprus	22.9.2015
Bulgaria	28.9.2015
Slovenia	28.9.2015

INSTITUTIONS	Reply
Commission	29.4.2015 3.6.2015 31.8.2015 23.10.2015 9.11.2015
Council	29.5.2015 15.6.2015 27.7.2015

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ANNEX 3

MULTINATIONAL CORPORATIONS INVITED TO

APPEAR IN COMMITTEE MEETINGS

Name	Invited/Representatives	Situation 16 November 2015
Airbus	Guillaume de La Villeguérin, Vice President Tax & Customs	Participated — 2.7.2015
BNP Paribas	Christian Comolet-Tirman, Director, Fiscal Affairs	Participated — 23.6.2015
SSE plc	Martin McEwen, Head of Tax	Participated — 23.6.2015
Total S.A.	Nathalie Mognetti, Chief Tax Officer	Participated — 23.6.2015
Amazon	Monique Meche, Vice President, Global Public Policy	Participated — 16.11.2015
Anheuser-Busch InBev	Malte Lohan, Global Corporate Affairs Director	Participated — 16.11.2015
Barclays Bank Group	Mark Hubbard, Global Head of Tax	Participated — 16.11.2015
Coca-Cola Company	Robert Jordan, Vice President, General Tax Counsel	Participated — 16.11.2015
Facebook	Delphine Reyre, Director of Public Policy Southern Europe	Participated — 16.11.2015
Google	Nicklas Lundblad, Senior Director, Public Policy and Government Relations	Participated — 16.11.2015’
HSBC Bank plc	Iain McKinnon, Head of Group Tax	Participated — 16.11.2015
IKEA Group	Krister Mattsson, Head of Corporate Finance, Insurance, Tax & Treasury	Participated — 16.11.2015

Name	Invited/Representatives	Situation 16 November 2015
McDonald's Europe	Irene Yates, Vice President, Corporate Tax	Participated — 16.11.2015
Philip Morris International	Werner Schuster, Vice President Tax	Participated — 16.11.2015
The Walt Disney Company	John Stowell, Senior Vice President, Corporate Taxes	Participated — 16.11.2015
Fiat Chrysler Automobiles	Sergio Marchionne, Chief Executive Officer	Declined, due to ongoing investigation
Walmart	Shelley Broader, President and Chief Executive Officer, EMEA Region	Declined