Delegation visit to Ireland - Thursday 28 May

Mission report

Agenda

8.30-9.45 **Meeting with stakeholders**
Irish Tax Institute, **Martin Lambe**, Chief Executive
Revenue Commissioners*:* **Niall Cody**, Chairman of Revenue

10.00 - 11.00 **Meeting with Michael Noonan TD, Minister of Finance**

11.15 - 12.30 **Meeting with members of Finance Committee of Irish Parliament (Oireachtas)**
Joint House-Senate Finance Committee:
Dr Liam Twomey TD, Chair
Brian Walsh TD
Pat Rabbitte TD
Richard Boyd Barrett TD

Joint House-Senate European Affairs Committee
Mr. Seán Kyne TD
Ms. Kathryn Reilly, Senator

12.30 - 13.30 **Working lunch**
Professor Frank Barry of Trinity College Dublin (TCD)
Seamus Coffey of University College Cork (UCC)

13.30- 15.00 **Further meetings with stakeholders**
Feargal O'Rourke, Head of Tax PWC
Conor O'Brien, Head of Tax, KPMG
Jim Clarken, CEO of Oxfam Ireland
-Dr Micheál Collins, Nevin Economic Research Institute (NERI).

Programme ends around 15.30

Interpretation : EN, FR

TAXE COMMITTEE
ad hoc Delegation to Dublin (Ireland)
28 May 2015
Final list of participants

Members

Alain LAMASSOURE, Chair	
Burkhard BALZ	PPE
Elisa FERREIRA	S-D
Michael THEURER	ALDE
Sven GIEGOLD	Verts/ALE
Marco VALLI	EFDD

Accompanying Members

Brian HAYES	PPE
Marian HARKIN	ALDE
Peter SIMON	S-D
Hugues BAYET	S-D
Matt CARTHY	GUE

Political advisers

Daniel KÖSTER	PPE
Stine LARSEN	S-D
Jami ARVOLA	ECR
Petra SOLLI	ALDE
Sinead NI TREABHAIR	GUE
Michael SCHMITT	Verts/ALE
Andrea CURRI	EFDD

Secretariat

Massimo PALUMBO	Head of Unit
Marcus SCHEUREN	Administrator

EP Office in Ireland

Francis JACOBS, Head of Office

Press Officer

Ronnie KORVER

Interpreters

Aoife KENNEDY (Team Leader)
Lila GUHA
Alexandra HAMBLING
Zoran SARADJIC (technician)

1. Meeting with stakeholders

Irish Tax Institute, Martin Lambe, Chief Executive
Revenue Commissioners: Niall Cody, Chairman of Revenue
(opening remarks attached)

Main findings:

The Chairman of Revenue pointed out that the Irish tax administration is a fully independent body, accountable to Parliament. The term "Tax rulings" do not exist in Ireland, but non-binding advisory opinions are used on unclear or uncertain tax laws/ rules. The tax administration has no discretion on the interpretation of the laws and can only assess the facts provided by the tax payer, which can be reassessed.
He rejected that multi-national companies (MNCs) pay no or little tax in Ireland; profits were fully taxed in Ireland if accrued inside the scope of Ireland.
A multilateral/ global approach was needed to tax global profits. Ireland is committed to the OECD BEPS project and dedicates significant resources to it, and considers itself a frontrunner in fighting offshore jurisdictions.

Members raised questions with regard to the requirements of national tax administrations to assess global profits, the need for joint audits, whether exchange of information would provide information whether profits were taxed elsewhere, the interpretation of 'arm's length principle' in transfer pricing, and the numbers of advisory opinions and their underlying economic value.

The RC replied that joint audits regularly occur mainly in the area of indirect tax/ VAT within the Fiscalis programme, and that advisory opinions are relatively rare (2010: 99; 2011: +/- 100; 2012: 108) compared to the 120.000 tax declarations submitted by companies every year, and that this illustrates that this is not a main feature of the Irish tax system.
He stated that information on the underlying economic substance was not available.

2. Meeting with Michael Noonan TD, Minister of Finance

Main messages from the Minister:

- *Ireland was one of the first signers of the US-FATCA agreement and of the OECD standard on automatic exchange of information, and one of the 18 countries with the highest standard of tax transparency according to OECD, therefore committed to tax transparency;*
- *Ireland supports the EU Code of Conduct Group (CoCG), calls for a reform to enhance its functioning and to strengthen the role of its chair;*
- *Ireland has a low(-er) headline (nominal) corporate income tax (CIT) rate of 12.5%, but less exemptions than other MS, leading to relatively high(er) effective CIT rate of around 11%; which Ireland considers a more transparent and efficient system also leading to lower levels of tax evasion and tax avoidance;*
- *Ireland has an international tax strategy (attached), with a focus of the effects of the Irish tax system on developing countries; Ireland is currently undertaking a review of the spill-over effects of the Irish tax system on developing countries;*
- *Ireland supports the OECD BEPS work, however this should also focus on developing countries. Ireland would support an international forum including developing countries;*

- *Ireland is open to discuss a revised CC(C)TB proposal, if the Commission takes into account the objections from many/ most MS;*
- *Ireland's 'red lines' are no harmonisation of the CIT rate, and continuity of the unanimity principle in tax matters and respect of subsidiarity;*
- *the Commission should follow Ireland's proposed 'roadmap' on CCCTB (put forward under the Irish presidency), focus on a common tax base plus include the relevant BEPS recommendations - and an agreement could be envisaged within 12-18 months;*
- *on the Apple case (without discussing specifics of the case): Ireland fully cooperates with the COM on the case, and does not see any risk of cross-contagion in its relation with the EU on tax matters. Ireland considers the case more political than legally motivated, and ther postponement of the COM decision on the Apple case shows the legal reasoning is probably weak. it does not concern Apple earnings in Ireland, but profits accrued elsewhere and channelled through Ireland;*
- *on the 'Double Irish': not part/ feature of the Irish tax code, but a mismatch with the US tax code, which is not Ireland-specific. Even though Ireland intends to close this arrangement on the Irish side, the loophole remains with other jurisdictions. Mismatches could not be solved nationally/ in isolation, but only at global/ international level;*
- *Ireland considers phasing out the double Irish by 2021, and considers thus standard practice;*
- *on exchange of information (EOI) of tax rulings: Ireland supports the EOI on TR as proposed by the COM, but only within bilateral tax treaties?*
- *on transfer pricing arrangements: in 80% of cases of disputes with other MS on transfer pricing arrangements, Ireland was successful;*
- *Ireland has concerns over the 'Nexus approach' of patent boxes, as agreed between Germany and UK and then at OECD level, as this approach would favour larger over smaller countries;*
- *Ireland intends to introduce a 'knowledge box' in 2015, in line with the OECD standard.*

3. Meeting with members of Finance Committee of Irish Parliament (Oireachtas) - Joint House-Senate Finance Committee and Joint House-Senate European Affairs Committee

From Joint Finance Committee

Chair: Dr Liam Twomey TD
Mr. Brian Walsh TD
Mr. Pat Rabbitte TD
Mr. Richard Boyd Barrett TD

From Joint House-Senate European Affairs Committee
Mr. Seán Kyne TD
Ms. Kathryn Reilly, Senator

Members pointed out that the discussion was not about harmonising CIT <u>rates</u> but CIT <u>base</u>, the definition of taxable income and the place of taxation.
They raised questions with regard to taxation in the digital economy, and healthy vs. harmful tax competition, and its role to attract FDI, the possibility of joint audits, the non-functioning of 'spontaneous' exchange of information on tax rulings, and on the design of the future 'knowledge'/IP-box.

<u>Main messages from the Irish Parliamentarians</u>:

- *the 12.5% CIT headline / nominal rate is legitimate; Ireland will not discuss this;*
- *although there are different estimates on the average effective CIT rate, it is probably not much lower due to few exemptions;*
- *taxation remains a national competence in the EU; tax competition should be considered healthy, as long as it is fair and transparent;*
- *Ireland as a small, peripheral MS needs tax policy to attract FDI; success of the Irish economy post WW2 (as a former UK colony with little infrastructure and small population) largely due to tax policy;*
- *two Irish referenda on EU matters were largely decided on the issue of tax policy remaining national competence;*
- *however a minority of the parliament (and probably of the population) disagrees with the general Irish consensus on its tax policies and tax competition, and consider that the Irish (and European) taxpayers pay the bill of tax avoidance;*
- *on CCCTB: concerns exist and remain, but Ireland will actively and constructively engage in the discussions;*
- *on BEPS: Ireland supports the BEPS project, but OECD countries will need to act and implement jointly;*
- *on place of taxation: generally agree that revenues/ profits shall be taxed where value added is created; probably agree that the future Irish IP/ knowledge box should apply to research & development activities in Ireland only.*

4. Working lunch

Professor Frank Barry of Trinity College Dublin (TCD)
Seamus Coffey of University College Cork (UCC)

Members questioned the argument of 'small countries' as this would apply to many MS (BeNeLux, Baltics, CY, MT, PT, and Eastern European MS), and asked questions on the functioning of the US-IRL/NL- Bermudas triangle, the appropriate stimulus needed to implement tax reforms rapidly (as FATCA seemed to have been implemented rapidly thanks to US pressure).

<u>Main messages from academia</u>:

- *Ireland has high FDI, 80&% of Irish exports stem from multinational companies (MNCs) based in IRL MNCs easily switch the target of their exports, hence more resistant to crises. MNCs are key to the Irish economic recovery;*
- *there is no evidence of an international race to the bottom on CIT. The share of CIT revenue in relation to GDP and overall tax income remains relatively constant over decades. Small, poorer and peripheral countries usually tend to have lower CIT rates than larger, richer and more centrally located countries;*
- *most FDI in Ireland stems from US. 'Double Irish' and other tax practices stem from mismatches between US and Irish tax system. The potential losses of CIT revenues concern the US, not other EU MS;*
- *the 'Double Irish' works in combination with the 'Dutch sandwich'. Ireland cannot charge withholding tax on interests & royalties channelled through NL (due to interests & royalties directive), these are then channelled to 3rd country (such as Bermudas) since NL does not tax interests & royalties;*

- *theoretically, the EU could introduce a minimum tax rate on interests and royalties deriving from IPRs/ patents/ licences.*

5. Further meetings with stakeholders

Feargal O'Rourke, Head of Tax PWC
Conor O'Brien, Head of Tax, KPMG
Jim Clarken, CEO of Oxfam Ireland
Dr Micheál Collins, Nevin Economic Research Institute (NERI).

Main messages from stakeholders:

- *Ireland tax system dates back to UK tax residence principle, confirmed in a court case of 1905 (House of Lords), i.e. > 100 years tradition;*
- *the main issue of criticism are Irish incorporated companies.*

NGOS:

- *tax policy is key for the fight against poverty: Developing Countries (DCs) receive too little tax revenue, tax gap of $91 bn/ year;*
- *OECD does not include DCs. Call for automatic exchange of information with DCs, even without reciprocity, transparency of beneficial owners (BOs) as laid down in the 4th AMLD, public CbCR (as laid down partially in Accounting Directive and CRD IV), and for an international body on tax cooperation;*
- *Adam Smith's canon of taxation simplicity - equity -efficiency is no longer applied by the international tax system, as it has become over-complex, unfair, and inefficient due to distortions of competition;*
- *the BEPS project should lead to more fairness, transparency and efficiency of the tax system.*