



Plenary sitting

B8-0000/2016

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EUROPEAN PARLIAMENT DRAFT RECOMMENDATION TO THE COUNCIL AND THE COMMISSION

pursuant to the third subparagraph of Rule 198(10) of the Rules of Procedure

following the inquiry on Money Laundering, Tax Avoidance and Tax Evasion
(2016/3044(RSP))

Jeppe Kofod, Petr Ježek

on behalf of the Committee of Inquiry to investigate alleged contraventions and maladministration in the application of Union law in relation to money laundering, tax avoidance and tax evasion

European Parliament draft recommendation to the Council and the Commission following the inquiry on Money Laundering, Tax Avoidance and Tax Evasion (2016/3044(RSP))

The European Parliament,

- having regard to Article 226 of the Treaty on the Functioning of the European Union,
- having regard to Article 116 of the Treaty on the Functioning of the European Union (TFEU),
- having regard to Decision 95/167/EC, Euratom, ECSC of the European Parliament, the Council and the Commission of 19 April 1995 on the detailed provisions governing the exercise of the European Parliament’s right of inquiry¹,
- having regard to its decision of 8 June 2016 on setting up a Committee of Inquiry to investigate alleged contraventions and maladministration in the application of Union law in relation to money laundering, tax avoidance and tax evasion²,
- having regard to the European Parliament reports of the Special Committees TAXE1 and TAXE2 on “Tax rulings and other measures similar in nature or effect”
- having regard to the European Parliament report on “Bringing transparency, coordination and convergence to corporate tax policies in the Union”
- having regard to the European Commission report on the assessment of the risks of money laundering and terrorist financing affecting the internal market and relating to cross-border activities³;
- having regard to the EU FIU Platform mapping exercise and gap analysis on EU FIUs’ powers and obstacles for obtaining and exchanging information, 15 December 2016,
- having regard to the draft recommendation of the Committee of Inquiry on Money Laundering, Tax Avoidance and Tax Evasion,
- having regard to the final report of the Committee of Inquiry on Money Laundering, Tax Avoidance and Tax Evasion (A8-XXXX/2017),
- having regard to the third subparagraph of Rule 198(10) of its Rules of Procedure,

¹ OJ L 113, 19.5.1995, p. 1

² *Texts adopted*, P8_TA(2016)0253.

³ COM(2017) 340, 26 June 2017

1. General

1. Notes with concern that the Panama Papers have shaken citizens' trust in our financial and tax system; recalls how crucial it is to restore public confidence and ensure fair and transparent tax systems and tax- and social justice; Calls to this end on the EU and its Member States to properly implement and reinforce its legal tools to shift from secrecy to transparency and mutual cooperation and exchange of information, counter money laundering more effectively and for Member States to simplify their tax systems, in order to ensure more fairness in taxation and to invest in the real economy;
2. Emphasizes the urgent need to redefine the European taxation model in order to limit unfair competition between Member States;
3. Deplores the number of cases of maladministration regarding the implementation of EU legislation and raises serious concerns of breaches of AMLD3 related to FIU cooperation this committee has uncovered; Urges both the Commission and the Member States to step up their efforts, commitments, cooperation, and investments in financial and human resources to improve supervision and enforcement not only to prevent and fight more effectively illegal practices such as money laundering, tax evasion and tax fraud but also to prevent and combat tax avoidance and aggressive tax planning, which can be legal yet contrary to the spirit of the law; Recalls the principle of predictability of charges being brought. Calls on the Commission and the Member States to ensure that any breach of law is duly punished; Insists on the cost-effectiveness of this investment;
4. Asks Member States to refrain from pursuing supply-side aggressive tax planning through the advertising and offering of tax rulings and advantages or ad hoc rules;
5. Regrets that many loopholes still exist in the current legislation on tax evasion and anti-money laundering at the EU and national levels and considers that thorough implementation and further strengthening of the existing legislation is urgently needed; Welcomes the increased efforts and progress made in coming up with new legislative proposals to introduce inclusive strategies since the Panama Papers have been published but regrets the lack of political will among some Member States to advance on reforms and enforcement that would bring effective change;
6. Regrets that tax policy issues at Council level are often blocked by individual Member States. Reiterates warnings made by the TAXE1 Committee by which granting each Member State a veto right in tax matters, the unanimity rule within the Council reduces the incentive to move from the status quo towards a more cooperative solution; Reiterates its call on the Commission to use the procedure laid down in Article 116 TFEU which makes it possible to change the unanimity requirement in case 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;
7. Notes with concern that the Treaties and EU legislation, such as the Parent-Subsidiary and Interest and Royalties Directives, create a problematic asymmetry by prioritising the free movement of capital and business establishment over fair and effective taxation; Whereas this is exemplified by ECJ judgements which have prevented Member States from applying robust defence measures (e.g. CFC rules or exit taxation) against aggressive tax planning on the grounds of the fundamental freedoms of the

internal market¹. Notes that this type of integration enshrines a structural bias to the benefit of investors and corporations operating across borders; Calls in this context for a wider review of EU legislation and the application and interpretation of the fundamental freedoms of the internal market with a view to systematically preventing instances of double non-taxation and harmful tax competition which arise as unintended consequences of the facilitation of intra-Union capital movement;

8. Notes that tax avoidance, tax evasion and money laundering continue to be global phenomena and therefore require a comprehensive, clear and coherent response based on mutual support and increased cooperation at EU and global level; Urges the Commission to take a leading role in the global fight against tax avoidance, tax evasion and money laundering;
9. Stresses that for taking the digitalisation of the business environment fully into account, it is necessary to define a concept of digital business establishments to ensure that companies which raise revenues in one Member State without having a physical establishment in that Member State are treated the same way as companies with a physical business establishment; Calls therefore on the Commission to cover digital businesses in all European anti-tax avoidance and tax-related measures;
10. Calls on the Commission and the Member States to be proactive and not wait for media revelations to address these issues as a matter of priority; Recalls that transparency cannot be merely sectoral;
11. Stresses that there is a need to be vigilant that the Brexit would favour neither tax competition between the 27 remaining Member States to attract certain industries and services located in the United Kingdom, nor a relaxation of efforts to fight tax evasion on the UK's side - and its overseas and related territories; Draws the Commission's attention to the fact that this dimension should be duly taken into account during the second phase of the Brexit while negotiating any partnership or trade agreement with the United Kingdom;
12. Deplores the decision by the European Commission to end its commitment to a biennial anti-corruption report on all Member States; Notes that the anti-corruption monitoring by the Commission will be pursued through the European Semester process; Takes the view that anti-corruption might be overshadowed by other economic and financial matters in this process; Calls on the Commission to lead by example and resume the publication of the report and commit to a much more credible and comprehensive anti-corruption strategy;
13. Calls on Member States to prohibit the opening of financial accounts and the owning of shell companies in tax havens by non-residing nationals, and to impose financial penalties in case of non-compliance, including, in the case of companies, the exclusion from EU and Member States public procurement calls;

¹ For instance, judgement of the Court (Grand Chamber) of 12 September 2006. Cadbury Schweppes plc and Cadbury Schweppes Overseas Ltd v Commissioners of Inland Revenue. and case C-9/02 Hughes de Lasteyrie du Saillant v. Ministère de l'Économie, des Finances et de l'Industrie, OJ C 94, 17.04.2004

2. Tax evasion and tax avoidance

2.1 Offshore structures

14. Stresses the urgent need for common international definitions of what constitutes an Offshore Financial Centre (OFC), tax haven, secrecy jurisdiction, a non-cooperative tax jurisdictions and a high-risk country in terms of money laundering; Calls for these definitions to be internationally agreed, without prejudice of the immediate publication of the EU common black list; Stresses that these definitions presuppose the establishment of clear and objective criteria;
15. Recommends that any entity creating an offshore structure shall provide the competent authorities with the legitimate reasons behind such a decision, in order to guarantee that offshore accounts are not used for money laundering or tax evasion purposes;
16. In seeking to promote greater international cooperation, believes that it is also crucial to retain the legal objectivity of these definitions and their enforcement, since some jurisdictions could sign up to internationally agreed standards but without applying them in practice; Stresses that the said definitions should not be subject to political bias and should motivate listed jurisdictions to adopt measures leading to their removal from the list;
17. Recalls that formal commitment to internationally agreed standards is the first step, but only proper implementation of these standards and real and genuine effort will mitigate risk factors and lead successful fight against money laundering, tax fraud and tax evasion;
18. Recalls that free zones and free ports must not be abused with the aim of achieving the same effects as tax havens or circumventing international transparency rules in order to launder money; Calls on the Commission to tackle this issue of freeports in the European Union;
19. Calls on the Commission to present a legislative proposal to ensure that offshore structures with beneficial owner(s) in the Member States are subject to similar auditing and account disclosure requirements as in the European jurisdiction where the beneficial owner is located;
20. Considers that the EU should make it illegal to maintain commercial relations with legal structures established in tax havens if the ultimate beneficiary cannot be identified;
21. Calls on the Commission to publish an annual public report on the use of EU funds as well as EIB and EBRD money transfers to offshore structures, including the number and nature of projects blocked, explanatory comments on the rationale for blocking projects and follow-up actions taken to ensure no EU funds directly or indirectly help tax avoidance and tax fraud;

2.1.1. A common EU list of non-cooperative tax jurisdictions

22. Welcomes the leading role of the Commission in setting up criteria for a common EU list of non-cooperative tax jurisdictions; Regrets the excessive amount of time taken by

this process; Calls on the Council not to dilute but rather to increase the ambition of the criteria of said list. Insists that all the criteria proposed by the Commission are taken into consideration including, but not limited to, the absence of corporate tax or a close to zero corporate tax rate, and stresses their importance for the list to be effective and non-arbitrary; Considers that the transparency criteria should be fully applied and that the criteria should take adequately into consideration also implementation and enforcement. In order for this list to be effective and credible, calls on the Council to put in place strong, proportionate and deterrent common sanctions against listed countries and underlines that the assessments of individual countries should be carried out in a transparent manner; Calls on the Council and Commission to put in place a transparent and objective review mechanism, including the European Parliament, to update the list in the future; Recalls that the goal of such a list is to change behaviour of such a jurisdiction with respect to money laundering and facilitation of tax fraud;

23. Takes the view that when the EU list of non-cooperative tax jurisdictions is in place, the Commission should propose accompanying legislation determining harmonised obligations for tax authorities in every Member State to annually disclose data containing the total value and destination of the money transfers each Member State to each jurisdiction in that list;
24. Calls for concerted actions of Member States against low or non-taxation of outbound payments to effectively and systematically combat base erosion and profit shifting (BEPS); Reiterates its position that more action is needed than provided for in the Anti-Tax Avoidance Package (ATAP) and that action should be binding; Calls therefore for introducing a harmonised withholding tax by Member States on all interest payments and dividend, licence and royalty fees to low tax third countries, independent of whether these countries are on the EU's list of non-cooperative tax jurisdictions; Underlines that such a general withholding tax system based on the credit method has the advantage of preventing double non-taxation and BEPS without creating instances of double taxation and without relying on a selective blacklisting approach which entails significant diplomatic challenges. Calls on Member States to agree on strong, comprehensive and enforceable controlled foreign corporation (CFC) rules and to discard rules which are limited to somehow defined non-genuine arrangements, the burden of proof for which is put on tax authorities;
25. Regrets that several EU citizens, entities and politically exposed persons were featured in the Panama Papers; Encourages Member States to clarify whether such appearance have been duly investigated and constituted breach of national law; underlines, unfortunately, in the same way, that requested to cooperate with this Inquiry Committee, many citizens, entities, and politically exposed persons refused to provide information that would be useful to the object of this Committee;
26. Calls upon the Council to establish by the end of 2017 a similar list with the EU Member States where Non-Cooperative Tax Jurisdictions exist even if in regions or in other administrative structures of those Member States;

2.1.2. An EU anti-money laundering list of high risk third countries

27. Deplores the fact that that the Commission has not carried out to date its own and independent assessment identifying high risk third countries with strategic deficiencies

as foreseen by the AMLD provisions but relies solely on the FATF list of which the Commission is a member; Deplores that the Commission did not answer satisfactorily to the demands of the European Parliament in this regard;

28. Urges the Commission to speed up work on its own list and to report to the European Parliament on the implementation of its roadmap and in particular its commitment to increase all necessary resources for the taskforce on preventing financial crimes;
29. Believes that it is of primary importance that the EU goals are more ambitious than those of the FATF on this issue; Highlights in this regard the need for more investment into human and financial resources or optimise their allocation within the European Commission to strengthen the screening procedure;
30. Believes that the aim of this list is to encourage change of behaviour of jurisdictions in cases of money laundering and terrorism financing and to discourage other states to implement similar potentially harmful policies;
31. Calls on the Commission to be the central institution for both the anti-money laundering list of high-risk third countries and the review of the European list of tax havens to ensure consistency and complementarity;

2.2 Other tax legislation

32. Welcomes the new legislation adopted in the past two years as a reaction to LuxLeaks. Welcomes dedication of the EU to OECD BEPS project; Calls on Member States to swiftly implement EU legislation into its legal system and ensure its enforcement;
33. Calls for the need of an ambitious public country-by-country reporting (CCBR) in order to enhance tax transparency and public scrutiny of multinational enterprises (MNE's) as it would allow the wider public to have access to information about the profits made, subsidies received and the taxes they pay in the jurisdictions where they operate; Urges the Council to reach a common agreement on the proposal to enter into negotiations with the other EU institutions in order to adopt a public CBCR, one of the key measures to find greater transparency on tax information of companies for all citizens;
34. Underscores that public CBCR will allow investors and shareholders to take into account companies' tax policies when intervening in the shareholders meetings and taking investment decisions;
35. Calls on the Member States to reach a political agreement on applying a minimum effective tax rate in Europe, at least in a revised Interest & Royalty Directive;
36. Reminds that tax information should become an essential component of financial reporting from corporations;
37. Urges the Council to reach a rapid and ambitious agreement on both steps of the Common Corporate Consolidated Tax Base (CCTB); Recalls that in addition to cost reduction for firms and for tax administration of Member states, it would solve the issue of transfer pricing and ensure fairer competition within the Single Market; Stresses that harmonisation of tax bases is the best solution with a view to putting an end to tax

optimisation and aggressive tax planning by legal means; Recalls that a new binding definition of 'permanent establishment' is needed to ensure that taxation takes place where economic activity takes place and value is created; Whereas this should be accompanied by minimum binding criteria to determine whether economic activity has sufficient substance to be taxed in a Member State in order to avoid the problem of 'letterbox companies', in particular regarding the challenges posed by the digital economy;

38. Encourages the Commission and Member States to move towards far more ambitious reforms in the field of taxation, so as to remove tax competition among Member States; Urges the Commission and Member States to follow the recommendations of the Independent Commission for the Reform of International Corporate Taxation and agree on a minimum effective corporate tax rate, as well as on a policy of granting tax breaks sparingly and only on local costs to support new productive investment; Further recommends that all Member States end special tax treatment for foreign and/or large companies and individuals, and publish agreements already in place;
39. Stresses that for unitary taxation to work as a means to end profit-shifting it needs to be global, and that implementing the CCCTB at an EU level runs the risk that current losses from EU members to the rest of world could be locked in, as could the exploitation of the rest of the world by some Member States; Notes that an EU-only approach could eliminate the incentives to shift profit within the EU, but exacerbate the incentives and opportunity to shift profit out of the EU;
40. Recalls its recommendations to ensure automatic exchange of information on tax rulings to be extended to all rulings and for the Commission to get access to all relevant information, in order to respect for European competition rules ¹;
41. Calls on the Commission to present as soon as possible a legislative proposal to revise the DAC in order to enhance greater tax cooperation between European Member States through an obligation to answer group requests in tax matters so that one European country can provide all information necessary to others to prosecute cross-border tax evaders; Recalls the European Parliament proposal to amend the DAC to improve Member States' coordination on tax audits ²;
42. Takes the view that tax reforms shall always enable citizen scrutiny and provide civil society access, information and training to productively engage in the framing of those policies, which is not current practice;
43. Stresses, in addition, that tax legislation, at the national or European level, must be simplified and drafted in a way to make it accessible to any citizen to avoid the complexity that serves the tax-dodging industry;
44. Calls on the Commission to put forward a revision of Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement

¹ European Parliament report on "Bringing transparency, coordination and convergence to corporate tax policies in the Union", A4

² European Parliament report on "Bringing transparency, coordination and convergence to corporate tax policies in the Union" B5

which takes into account measures to prevent public administrations to work with companies that use tax havens;

45. Believes that in proceeding with the CCTB and CCCTB proposals, it is vital that the accounting base is consistent in calculating the tax base within a group – otherwise accounting arbitrage will just replace existing tax tricks;
46. Calls on the Commission to initiate a comprehensive evaluation of the 19 years of work of the Code of Conduct Group for Business Taxation focusing on the results achieved regarding the prevention of cross-border harmful corporate tax regimes in the form of a public report. Based on the findings, calls for a reform of the Code of Conduct Group leading to greater transparency and efficiency of their work as the Group must play the central role in EU efforts to improve this area. Calls the European Parliament to acquire competences of control and accountability;
47. Calls on the Commission to compile the harmful regimes on which the Code of Conduct Group has not been able to agree to take action to date and publish this list; Calls on the Commission by 2020 to assess the impact of the nexus approach compliant patent box regimes and to quantify if possible their impact on innovation and loss of tax collection;
48. Regrets that several EU Member States featured in the Panama Papers; Calls on the Commission in cooperation with tax authorities, to launch a broad evaluation of potentially harmful tax measures in the Member States that distort competition and the counter measures in place, as well as on the spill over effects of these measures on other jurisdictions; Calls for an effective scrutiny mechanism established for EU Member States with regard to the possible new harmful tax measures they introduce;
49. Calls on the Commission to present a legislative proposal to address the issue of cross-border conversions and transfer of seats and provide clear rules on the transfer of a company's headquarter in the EU, including rules to counter letterbox companies;
50. Underscores the need to provide special attention to harmful tax practices ever more used, such the abuse of patent boxes, derivatives, SWAPs, etc. deployed with the objective of tax avoidance;
51. Calls on the Commission to ban the possibility to create shell companies, the so-called „letterbox companies“, which play a crucial role in the creation of corporate structures used for tax evasion and forum shopping; Calls therefore on the Commission to withdraw the proposal of the directive on Single-Member Private Limited Liability Companies (SUP) which enables to register letterbox companies online without verifying the identity of the company founder, to safeguard that any comparable proposal on online registration for companies bans any possibility to create letterbox companies; Calls on the Commission to present a proposal for a 14th Company Law Directive, which would set clear rules for the cross-border transfer of a company's seat in order to prevent any misuse or creation of letterbox companies by cross-border conventions, mergers or divisions; In this respect calls, inter alia, for an obligation for each legal entity to annually pay an adequate fee and file a report with information on its activities and beneficiaries;

52. Welcomes the Commission's state aid findings in August 2016 that Ireland illegally granted €13 billion in undue tax relief to Apple; Questions the Irish government's decision to appeal against this decision in an attempt not to collect the owed sum;
53. Calls on the Commission to withdraw its legislative proposal for a Directive on single-member private limited liability companies;
54. Calls on Member States to identify and stop any use of any form of tax amnesties that can lead to money laundering and tax evasion or that can prevent national authorities from using the data provided to pursue financial crime investigations;
55. Calls on Member States to enact legislation requiring the tax payer to prove that taxes have been paid, otherwise funds are declared as black money and confiscated;
56. Shows its concern regarding the US administration's intentions to promote tax breaks for large corporations and financial deregulation; Calls on the Commission to closely monitor the proposed tax reform in the US, known as Blue Print, and the possibility of the implementation in this country of a tax amnesty in order to allow the repatriation of profits by large technological companies at a very low tax rate;
57. Calls on Member States to reinforce their tax administrations with adequate staff capacity in order to ensure the effective collection of tax revenues and address harmful tax practices, given that lack of resources and staff cuts, in addition to lack of adequate training, technical tools and investigative powers, have seriously hampered tax administrations in some Member States;
58. Notes with concern that one of the most harmful and notorious tax avoidance schemes in the EU, the so-called Double Irish structure, can still remain in place beyond its phase-out date of 2020 by provisions within many double taxation treaties between Ireland and other countries including tax havens; Calls on the Irish government to review its network of DTTs in order to remove this provision;
59. Deplores the lack of reliable and unbiased statistics on the magnitude of tax avoidance and tax evasion; Stresses the importance of developing appropriate and transparent methodologies to quantify the scale of these phenomena, as well as the impact of these activities on countries' public finances, economic activities and public investments;
60. Calls on the Commission to issue guidance to make a clear distinction on what is illegal and what is legal even if against the spirit of the law in the framework of tax evasion and tax avoidance practices in order to ensure legal certainty for all parties concerned; Calls on the Member States and third countries to ensure that fines and pecuniary sanctions imposed on tax evaders and intermediaries are not tax-base deductible;
61. Stresses that carrying out a responsible tax strategy is to be considered a pillar of Corporate Social Responsibility (CSR) and that tax evasion, tax avoidance and aggressive tax planning practices are incompatible with CSR; reiterates its call on the Commission to include this element in an updated Corporate Social Responsibility EU strategy;
62. Calls on companies to make the full fulfilment of tax obligations without any kind of

tax avoidance an integral part of their Corporate Social Responsibility;

63. Reiterates the call from the TAXE2 Committee for the creation of a new Union Tax Policy Coherence and Coordination Centre (TPCCC) within the structure of the Commission that can assess and monitor Member States' tax policies at Union level and ensure that no new harmful tax measures are implemented by Member States; Suggests that such TPCCC would be able to monitor compliance of Member States with the common Union list of uncooperative jurisdictions in addition to ensuring and fostering cooperation between national tax administrations (e.g. training and exchange of best practises);
64. Reiterates the recommendations from the Parliament ¹ for the creation of a catalogue of counter-measures the Union and Member States should apply as shareholders and financers of public bodies, banks and funding programmes, to be applied to companies which use tax havens in order to put in place aggressive tax planning schemes and therefore do not comply with Union tax good governance standards;
65. Reiterates its call to the Commission to amend European legislation, including those concerning the European Investment Bank (EIB) Statute, the European Fund for Strategic Investment (EFSI) regulation, the four Common Agricultural Policy (CAP) Regulations, and the five European Structural and Investment Funds (European Regional Development Fund, European Social Fund, Cohesion Fund, European Agricultural Fund for Rural Development, European Maritime and Fisheries Fund) to prohibit the use of EU funding going to ultimate beneficiaries or financial intermediaries proven to be involved in tax evasion or aggressive tax planning;
66. Calls on the Commission and the Council to create a mandatory standardised public European Business Register in order to gain up-to-date and trustworthy information on companies and to achieve transparency via cross-border access to comparable and reliable information of companies in the EU;
67. Calls on the Commission to refrain from concluding trade agreements with jurisdictions defined by the EU as tax havens;

2.3. Exchange of information

68. Regrets that the Directive for administrative cooperation (DAC) provisions, which were in force during the time covered by Panama Papers revelations, were not implemented effectively and that the amount of information and rulings exchanged was low; Recalls that automatic exchange of information between tax authorities is key for the Member States to ensure mutual assistance in collecting tax revenues and to create a level-playing field; Calls on the European Commission to put forward proposals to enhance greater tax cooperation between European Member States through an obligation to answer group requests in tax matters so that one European country can provide all information necessary to others to prosecute cross-border tax evaders;
69. Is very concerned that the number of tax rulings granted by Member States to

¹ European Parliament report on "Bringing transparency, coordination and convergence to corporate tax policies in the Union"

multinationals has increased in recent years, notwithstanding the social alarm created by the LuxLeaks scandal;

70. Insists that the Commission should have access, following the data protection rules, to all the information exchanged under DAC in order to properly monitor and enforce the implementation thereof; This information should be stored in a central registry managed by the Commission, given its exclusive competence in the competition field;
71. Calls for a more effective global exchange treatment and use of information and urges for efficient and consistent implementation of the Common Reporting Standards (CRS) provisions moving from the name and shame policy under the peer review system to a sanctions regime; Calls on the need for reciprocity in the exchange of information between OECD and participating Members; Calls on the Member States to support participating developing countries in the implementation of these standards; Underlines the need for not just a commitment of countries to CRS, but also implementation of the system and assurance of high quality of data provided; Points out that the current CRS has weaknesses and welcomes that the OECD is working on refining the standard to make it more effective; Calls on the Commission to contribute to closing identified loopholes;
72. Calls for enhanced public commercial registries, public country - by-country reporting, and public beneficial ownership registries in order to overcome the limitations imposed by the exchange of information under the OECD's 'Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS' of June 2017 which gives countries the choice of selecting partners, permitting in practice a bilateralism;
73. Stresses that the mandatory automatic exchange of information in relation to potentially aggressive tax planning arrangements of a cross-border dimension (DAC6) should not only be accessible for tax authorities but also for the general public;
74. Calls on the EU to use the appropriate means to set up a sound cooperation and exchange of information for tax purposes among Member States' beneficial ownership, land and commercial registers -which should centralize public information - and the creation of an EU Register that will allow for a better coordination at an EU and international scale ;
75. Calls on the Commission to ensure reciprocity regarding exchange of information between the EU and third countries who did not sign up to internationally agreed standards; Underlines the need for effective sanctions on financial institutions having European clients and not complying with automatic information exchange standards; Considers that a dispute resolution mechanism should be included in such a proposal in order to solve potential conflicts between the EU and third countries; Recalls its recommendation to introduce a withholding tax or measures with similar effect to avoid profits leaving the EU untaxed;
76. Considers that the entities obliged to provide information to the tax authorities must be the same as those in the Anti-Money Laundering Directive, and more particularly: 1) credit institutions;2) financial institutions;3) the following legal or natural persons, in the performance of their professional activities: a) auditors, external accountants and tax advisers;(b) notaries and other independent legal professionals, where they participate,

whether acting on behalf of and for their client in any financial or property transaction, or assisting in the planning or execution of transactions for their client concerning:(i) the purchase and sale of property or business entities; (ii) the management of funds, securities or other assets belonging to the client; (iii) the opening or managing of bank, savings or securities accounts; (iv) the organisation of the contributions needed to create, operate or manage undertakings; (v) the creation, operation or management of trusts, companies, foundations, or similar structures; c) providers of trust and corporate services not already covered under points (a) or (b);d) real estate agents; e) other persons trading in goods, only to the extent that payments are made or received in cash and for amounts of EUR 10 000 or more, whether in a single transaction or in a series of apparently-linked transactions; f) providers of gaming services;

3. Money laundering

3.1. Anti-Money Laundering legislation

77. Stresses that all AMLD provisions should be effectively and consistently implemented by the Member States; Calls on the Commission and the Member States to ensure proper law enforcement; Calls on the Commission to enhance and properly resource existing monitoring systems; Calls on the Commission to allocate more resources to its taskforce to prevent financial crimes;
78. Stresses that the EU AMLD legal framework should also fully ban bearer shares given the fact that bearer shares are instrumental for receiving, owning and transferring illicit money anonymously and are a very useful tool for creating international schemes for money laundering; They allow a system which is more opaque than those in notorious tax havens such as, inter alia, Panama, Cayman Islands, Dominican Republic or Lichtenstein;
79. Calls on the Commission to start infringement procedures against Member States for non-compliance with Union law evidenced by the Panama Papers and other leaks; Calls on the Commission to report on the necessity to replace the Anti-Money Laundering Directive by a Regulation so as to create a single legal area and to eliminate any enforcement deficits in Member States;
80. Calls upon the Commission to put in place a mechanism of penalties against those Member States which allow “bearer shares” with or without restrictions before the EU prohibition of bearer shares enters into force;
81. Stresses the need for regularly updated, standardised, interconnected and publicly accessible beneficial ownership (BO) registers of companies, foundations, trusts and similar legal arrangements to prevent anonymity of ultimate beneficial owners (UBOs); Calls for a lowering of the current threshold for shareholding in the definition of a BO; Takes the view that the EU and Member States must take the lead in promoting UBO standards of transparency in the international fora;
82. Underlines the demand made by the representatives of the French FIU in this committee according to which, in accordance with the GAFI 26 recommendation on financial supervision, at the European level it should be expressly provided that the application of the supervision by the competent supervisory authority can date back to the parent

entity of the group;

83. Calls on the European Commission to supervise the creation of publicly accessible land registers;
84. Calls for an identification of beneficial ownership that includes all the natural person(s) who ultimately own(s) or control(s) a legal entity, other than a company listed on a regulated market that is subject to disclosure requirements consistent with Union law or subject to equivalent international standards which ensure adequate transparency of ownership information, through direct or indirect ownership of at least one share or equivalent minimum unit of interest in that entity, including through bearer shareholdings, or through control via other means;
85. Calls furthermore for the creation of a global register of legal entities, including companies, trusts and foundations and of a global central register of bank accounts, financial instruments, real estate property, life insurance contracts and other relevant assets abused for money laundering and tax avoidance purposes accessible to FIUs and national law enforcement bodies; Calls, in the absence of global agreements, on the EU Member States to go ahead by harmonising the information required by national company registers and by publicly disclosing at least the balance sheet, the profit and loss statement, the names of qualified shareholders, supervisory board members, management board members and general managers;
86. Observes that the illicit money deposited through the redemption of these transactions is transformed into legitimate funds deriving from legitimate transactions, urges therefore that the anti-money laundering rules will also be extended to the real estate market in the goal of preventing new illicit phenomena;
87. Underlines the need to improve the enforcement of customer due diligence (CDD) checks to make sure that a proper assessment of the risks linked to the client profile is carried out; Stresses that even when outsourced, CDD obligation always should fall under the responsibility of the obliged entities; Calls for this responsibility to be clear and for provision to be made for penalties in the event of negligence or conflicts of interest in cases of outsourcing; Believes furthermore that the scope for obliged entities should be extended to amongst others, real estate agents to ensure that CDD provisions apply equally to regulated and currently non-regulated actors; Calls for the harmonization of CDD at EU level, providing an appropriate shape to these procedures in order to guarantee its compliance;
88. Believes that sanctions in answer to money laundering, tax evasion and tax fraud should be more severe and deterrent and that Member States should use the risk-based approach when directing resources towards fighting these illegal practices; Welcomes in this respect the proposal for a directive of the European Parliament and of the Council on countering money laundering by criminal law ¹; Calls on the Member States to consider the desirability of banning settlement without charges in very serious tax fraud cases; Notes however that in parallel, the EU and its Member States should develop incentives for each category of obliged entities to discourage them and make it unprofitable to engage in such activities; Calls on the Member States to review

¹ COM(2016)826 final

prescription periods for money laundering so as to avoid time-bar as a consequence of competent authorities' failure to act;

89. Calls on the Commission to launch an initiative at international level to ban shell companies where full transparency regarding their actual owner is not guaranteed and ensure that no more than ten shell companies are assigned to any one director;
90. Demands an effective controlling mechanism to be implemented at the European level, and with outreach into connected jurisdictions, since the FATF peer reviews and regular mutual evaluations can easily be frustrated by political or other connivance;
91. Stresses the need to agree on a common understanding and definition at the EU level of a Politically Exposed Person;
92. Calls for a harmonised definition of tax crimes at the EU level and the creation of a distinct criminal law instrument to be adopted under Article 83(2) TFEU or ultimately under Article 116 TFEU if Member States are unable to agree on eliminating distortion of the conditions of competition in the internal market; Calls for the definition of money-laundering predicate offences to be harmonised within the EU and for narrowing down exemptions Member States can use to refuse collaboration and exchange of information; Recalls the position of the European Parliament on the revision of the fourth and fifth Anti-Money Laundering Directive to decouple tax crimes from the requirement of being punishable by deprivation of liberty or a detention order;
93. Is concerned by the issuance of citizenship programmes for non-EU residents, the so-called 'Golden Visa' or Investor's Programmes to third country nationals in exchange of financial investments without any or proper CDD carried out; Calls on the Commission to assess Member State compliance with AMLD and other related EU legislation when citizenship is granted under such Programmes;
94. Calls on the Commission and the Council to take seriously Parliament's ambitious revision of the 4th AMLD which it voted on 28 February 2017 and which would close many existing loopholes and considerably strengthen current anti-money laundering legislation by, for example, sharpening the definition of who is a beneficial owner, by disallowing senior managers, nominee directors and other proxy agents to be identified as beneficial owners unless they fulfil the criteria, by granting full public access to beneficial ownership registers of companies and trusts and by implementing a more effective sanction mechanism for breaches of the AMLD; Therefore urges the Commission and the Council not to water down Parliament's strong proposal during the on-going trilogue negotiations;
95. Calls for increased political and regulatory focus on emerging risks related to new technologies and financial products, such as derivatives, SWAPS and virtual currencies¹;
96. Calls on the Commission to assess the possibility to use the potential of new technologies such as unique digital identities to facilitate the identification of serious cases of financial crime, while ensuring whether it will respect fundamental rights,

¹ PANA Committee hearing with Brooke Harrington and other experts on 24 January 2017

including the right to privacy;

97. Calls for an urgent assessment by the Commission on the implications for money laundering and tax criminality deriving from e-gaming activities, virtual currencies, crypto currencies, blockchain and fintech technologies; Calls furthermore on the Commission to consider possible action including legislation to create a regulatory framework for these activities in order to limit the tools for money laundering;
98. Urges that assets generated by criminal activities be confiscated; Calls to this end for a swift adoption of the regulation on the mutual recognition of freezing and confiscation orders to facilitate cross-border recovery of criminal assets; Stresses that the legal instrument proposed by the Commission will allow better cooperation and easier recognition of such orders, while respecting the principle of subsidiarity; Calls on the Commission to launch a legislative proposal introducing a restriction of cash payments, in order to foster the fight against money laundering, tax fraud and organised crime;
99. Highlights that steps are also needed in order to align national strategies with those of European agencies and bodies such as Europol, Eurojust and OLAF. In order to facilitate this collaboration, legal obstacles preventing information exchanges should be removed;
100. Welcomes the recent decision by the government of Portugal to ban the issuing of bearer shares and determine the conversion of the current ones into nominal securities, and urges the Commission to propose EU-wide legislation for the same effect;
101. Calls for much tighter scrutiny by competent authorities on assessing the fitness and propriety of members of the management board and shareholders of credit institutions in the EU; Believes that conditions must allow for competent authorities to perform continuous supervision of the assessment criteria of both shareholders and member of the management board, which, currently, make it very difficult to revoke the approval once it has been granted; Further believes that timetables and flexibility for objecting to acquisitions should be broadened, particularly where it is necessary for competent authorities to carry out their own investigations of information provided in relation to events in third countries and in relation to politically exposed persons;

3.2. Financial Intelligence Units (FIU)

102. Believes that by harmonising the status and functioning of European FIUs, exchange of information would be strengthened; Calls on the Commission to start a project within the FIU platform to identify the information sources to which FIUs currently have access; Calls on the Commission to issue guidance on how to ensure greater convergence of functions and powers of European FIUs, identifying a minimum common scope and content of financial, administrative and law enforcement information that FIUs should obtain and be able to exchange among themselves; Believes that such guidance should also include explanations for a common understanding of the strategic analysis functions of FIUs;
103. Believes that to be more efficient, all European FIUs should have unlimited and direct

access to all the information relating to their functions from obliged entities and registries; FIUs should also be able to obtain such information on a request made by another Union FIU and to exchange the information with the requesting FIU;

104. Suggests to Member States when implementing AMLD to remove the requirement for FIUs to obtain a clearance from a third party to share information with another FIU for intelligence purposes, in order to foster exchange of information between FIUs; Calls on the Commission to issue guidance on general provisions in the AMLD, especially on the need to “spontaneously and promptly” exchange information with other FIUs;
105. Stresses the need for more effective communication between relevant competent authorities at national level but also between FIUs in different Member States; Calls on the Commission to set up an EU benchmarking system as a tool to standardise the information to be collected and exchanged and to enhance cooperation between FIUs; This should include the strengthening of FIU.net under Europol, but also Europol especially to extract information and statistics on flows of information, activities and outcome of analysis performed by FIUs, and Eurojust competences and resources to deal with money laundering and tax evasion; Calls furthermore on the Member States to increase human, financial and technical resources in FIUs to strengthen the investigation and cooperation capacities in order to properly process and make use of the increased number of STRs;
106. Notes that the purpose limitation for the use of the information exchanged by FIUs should be reviewed and unified at the EU and global level, in order to allow for information to be used for tackling tax crimes and for evidence purpose;
107. Insists that the appointment of managerial positions in FIUs needs to be independent and free from political bias, based on professional qualification and the selection-process transparent and supervised; Stresses the need for common rules on the independence of institutions in charge of enforcing rules as regards tax fraud and money laundering as well as the need for full independence of law enforcement bodies in the follow-up of FIU reports;
108. Calls on the Commission to verify whether this obligation is duly respected in all Member States;
109. Recalls Parliament’s position on AMLD5 regarding the creation of a European FIU and the need to ensure an effective and coordinated system of exchange of information as well as centralised databases; Stresses the need to support the Member States’ FIUs, particularly in cross-border cases;
110. Insists on the fact that the competent authorities should not wait to be overwhelmed by the increasing use of digital technologies by tax advisers and taxpayers; Believes competent authorities should develop accordingly their own tools and investigating capacities; Believes it could offer new opportunities for competent authorities with regard to the recurrent issue of resources’ allocation or to improve cooperation amongst them;

4. Intermediaries

111. Regrets that intermediaries currently are regulated in a non-homogenous manner across the EU; Calls on the Council to swiftly examine and adopt the Commission proposal on mandatory automatic exchange of information in the field of taxation in relation to reportable cross-border arrangements with the aim of strengthening the reporting obligations of intermediaries; Encourages Member States to consider potential benefits of extending the scope of the Directive to purely domestic cases;
112. Urges the need for this proposal to close the loopholes potentially allowing for aggressive tax planning by designing new rules for intermediaries involved in such practices;
113. Notes that wealth management is conducted in a largely unregulated manner and that binding international rules and standards should be established to level the playing field and to better regulate and define this profession; Calls in this respect on the European Commission to take the initiative in all relevant international fora for the creation of such standards and rules;
114. Acknowledges that oversight should be carried out in the context of self-organisation and self-regulation; Calls on the Commission to assess the need for targeted EU action, including the possibility of legislation, to appropriately oversee the self-regulation of obliged entities, i.e. via a separate and independent national regulator/supervisor;
115. Calls on the Commission to present a legislative proposal in 2018 to prohibit the self-regulation of obliged entities according to the AMLD;
116. Calls on the Commission - in collaboration with Member States and supervisors to issue guidance in order to standardise reporting formats for obliged entities in order to ease the processing and exchanging of information by FIUs;
117. Calls for regulation for tax intermediaries with incentives to refrain from engaging in tax evasion and tax avoidance and shielding beneficial owners;
118. Stresses, if the intermediary is based outside the EU, that the taxpayer concerned must be required to send potentially aggressive tax plans directly, before those plans are put into place, to the tax authorities in that taxpayer's country, so that the authorities can respond to tax risks by taking appropriate steps;
119. Believes that more rigorous rules on the role of intermediaries would benefit the industry as a whole as sincere intermediaries will no longer be placed at a disadvantage by unfair competition and thus separating the wheat from the chaff;
120. Calls for more efficient, dissuasive and proportionate sanctions at both EU and MS level against banks and intermediaries that are knowingly, wilfully and systematically involved in illegal tax or money laundering schemes; The sanctions should be targeted towards the companies themselves as well as responsible management level employees and board members; Recalls that substantial penalties are essential and believes that the use of a public shaming regime for confirmed cases could discourage intermediaries to circumvent their obligations and to encourage compliance;
121. Calls on Member States to ensure that sectors most exposed to risks from opaque

beneficial ownership schemes (as identified in the Commission assessment of the risks of money laundering) are effectively monitored and supervised; Calls on Member States to provide guidance on risk factors arising from transactions involving tax advisors, auditors, external accountants, notaries and other independent legal professionals;

122. Calls for the creation of an EU framework for compulsory codes of conduct for intermediaries, which includes at least a general ban on the use of contracts that impose secrecy of the tax scheme by the client or the use of a premium fee; Calls for these codes of conduct to include an obligation for intermediaries to act in the public interest and not to go against the letter and spirit of tax legislation;
123. Calls for better enforcement of rules related to money laundering, tax avoidance and tax evasion and its deterrent effect by increasing public visibility, particularly through improved published statistics on enforcement measures regarding professionals advising on tax and money laundering;
124. Underlines the need for greater scrutiny, supervision and coordination of national certification of intermediaries practicing as tax professionals in the EU; Calls on the Member States to withdraw licences if intermediaries are proved to actively promote or enable cross-border tax evasion, illegal tax planning and money laundering;
125. Calls on the Commission to assess whether competent authorities in Member States have complied with the licensing procedures of intermediaries foreseen already in Union law, e.g. in the Capital Requirements Directive IV;
126. Calls for the law profession to adopt or improve a methodology whereby lawyers' professional confidentiality does not impede adequate STR or reporting of other potentially illegal activities without prejudice to the rights guaranteed by the Charter of Fundamental Rights of the European Union and the general principles of criminal law;
127. Calls for a ban on intermediaries based in the EU to be directly or indirectly active in countries that are included in the European blacklists as tax havens or posing a high risk of being money laundering countries;
128. Stresses that with a view to improve international cooperation, audit and accounting requirements should be coordinated at the global level, so as to discourage accounting and auditing firms from participating in illegal tax structures; Believes in this respect that a better implementation of international accounting standards should be regarded as an efficient tool;

Banks

129. Encourages all Member States to put in place, as recommended in AMLD 4, systems of bank account registries or electronic data retrieval systems which would provide FIUs and competent authorities with access to information on bank accounts; Recommends considering the introduction of standardisation and interconnection of national bank account registers containing all accounts linked to legal or natural persons with the purpose of easy access to competent authorities and FIUs;
130. Recommends that such an account register should register and publish statistics on

transactions with tax havens and high-risk countries, both within and outside the EU, and disaggregate the information between transactions with related parties and non-related parties, and per Member State;

131. Recognises that banks were involved in four broad activities, namely providing and managing offshore structures, delivering bank accounts to offshore entities, providing other financial products and correspondence banking¹ ; Stresses the importance to make legislation on correspondence banking clearer and stricter regarding remittance of funds to offshore and non-cooperative jurisdictions, with the obligation to cease activities if beneficial ownership information is not provided;
132. Underlines the importance of better coordination between bank headquarters and subsidiaries both within the EU and with third countries so as to ensure full compliance with internal codes of conduct and AML legislation;
133. Stresses that national banking supervision checks should have a systematic as well as random checks level to ensure the full implementation of anti-money laundering rules in all banks;
134. Calls for increased powers to the European Central Bank and the European Banking authority (EBA) to carry out regular compliance checks (both by announcement and without warning) across the EU banking sector instead of the current system of checks carried out only when a specific case is under investigation or has become public;
135. Calls for an analysis of the feasibility of authorising the supervisory authority to carry out a banking investigation in situations where an account holder is not known by name;
136. Welcomes the existing analysis of risks and vulnerabilities to the EU financial system; Underlines the importance of identifying new technologies and financial products which could be potentially used as a vehicle for money laundering; Based on this analysis, calls for money laundering provisions to be included in all new proposals addressing such new technologies, including FinTech;
137. Calls on the creation of a bankers' oath, following the Dutch example, in the form of a voluntary commitment of the sector to not deal with tax havens;

Lawyers

138. Points out that professional secrecy cannot be used for the purpose of protection, covering up illegal practices or violating the spirit of the law; Urges that the client-attorney privilege principle should not impede adequate STR or reporting of other potentially illegal activities without prejudice to the rights guaranteed by the Charter of Fundamental Rights of the European Union and the general principles of criminal law; Calls on Member States to issue guidance on the interpretation and application of the legal privilege principle for professionals and to introduce a clear demarcation line between traditional judicial advice and lawyers acting as financial operators;
139. Stresses that lawyers carrying out an activity that falls outside their specific duties of

¹ Obermayer & Obermaier, 2016.

defence, legal representation or legal advice can, under certain circumstances relating to the protection of public order, be required to inform the authorities of certain information they are aware of;

140. Underlines that lawyers advising clients should be held legally co-responsible when designing tax evasion and aggressive tax plans punishable by law and money laundering schemes; Points out that when they take part in fraud, they shall systematically be liable to both penal sanctions and disciplinary measures;

Accounting

141. Stresses that with a view to improve international cooperation, audit and accounting requirements should be better coordinated at the global level, while respecting European standards of democratic legitimacy, transparency, accountability and integrity, so as to discourage accounting and auditing firms as well as individual advisors from designing tax evasion, aggressive tax planning or money laundering structures; Calls for proper enforcement of the recently adopted Audit package¹ and establishment of Committee of European Auditing Oversight Bodies (CEAOB) as a new framework for cooperation between national audit oversight bodies at EU level with the aim of strengthening EU wide audit oversight; Believes in this respect that a better implementation of international accounting standards should be regarded as an efficient tool to respect EU standards of transparency and accountability;
142. Notes that the EU's existing definition of the control required to create a group of companies should be applied to accountancy firms that are member of a network of firms associated by legally enforceable contractual arrangements that provide for the sharing of a name or marketing, professional standards, clients, support services, finance or professional indemnity insurance arrangements, as anticipated by the 2013 Directive 2013/34/EU on annual financial statements;
143. Calls on the Commission to come forward with a legislative proposal for the separation of accounting firms and financial or tax service providers as well as for all advisory services, including a Union incompatibility regime for tax advisers, in order to prevent them from advising both public revenue authorities and taxpayers and to prevent other conflicts of interest;
144. Calls for a revision of Directive 2014/56/EU in order to implement stricter EU-wide standards for the auditing profession, a rotation of auditors every 7 years to prevent conflicts of interests and the limitation of the provision of non-audit services to a minimum;
145. Calls on the Commission to launch an inquiry in order to assess the state of concentration in the sector; Recommends the elimination of payment of accounting firms on success which incentivises the set-up of risky schemes;

¹ 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 Text with EEA relevance and Regulation (EU) No 537/2014 of the European Parliament and of the Council of 16 April 2014 on specific requirements regarding statutory audit of public-interest entities and repealing Commission Decision 2005/909/EC Text with EEA relevance

146. Notes that professional networks subject to these arrangements should be required to file full country-by-country reports, adapted to meet the particular needs of this sector, on public record;

Trusts, fiduciaries and similar legal arrangements

147. Strongly condemns the misuse of trusts, fiduciaries and similar legal arrangements as vehicles to launder money; Calls therefore for clear rules facilitating a straightforward identification of the BO, including an obligation for trusts to exist in a written form and to be registered in the Member State where the trust is created, administered or operated;
148. Calls for a standardised, regularly updated publicly accessible and interconnected beneficial ownership (BO) registers at EU level, on all parties of commercial and non-commercial trusts, fiduciaries, foundations and similar legal arrangements to form the basis of a global register;
149. The EU registry on trusts shall include: a) the trustees, including names, addresses and name and addresses of all those on whose instructions they act; b) the trust deed; c) all letters of wishes; d) the name and address of the settlor; e) the name of any enforcer and the instructions they hold; f) the annual accounts of the trust; g) details of all trust distributions and allocations with names and addresses of all beneficiaries; h) nominee intermediaries, including their names and addresses;
150. Calls for EU legislation prohibiting companies operating in the single market to engage in any transaction with off-shore legal entities based in tax havens in which the beneficial owner cannot be identified;

5. Third countries dimension

151. Underlines the need for enhanced global cooperation with regards to taxation and money laundering matters due to the international nature of these; under the auspices of the UN; Highlights that only cooperative, coordinated and global responses will provide efficient solutions and calls for the EU to be a driving force to work towards a fair global tax system; Stresses that any EU action at international level will be effective and credible only if no European Member State or overseas country or territory (OCT) acts as a corporate tax haven or secrecy jurisdiction;
152. Notes with concern the high correlation between number of shell companies and tax rulings between certain third tax jurisdictions and EU Member States; Welcomes the automatic exchange of information between EU Member States on their tax rulings, however expressed its concern that some Member States or some of its “tax havens” territories are giving “oral tax rulings” to circumvent this obligation; Calls on the Commission to investigate further on this practice;
153. Calls on the EU to impose measures through sanctions to other countries belonging to the European Economic Area (e.g. Liechtenstein) and to the European Free Trade Association (e.g. Switzerland) that allow for tax practices that damage public finance and tolerate illicit and unlawful behaviour;

154. Believes that the EU should speak with one voice through the Commission when negotiating tax agreements with third countries instead of continuing the practice of bilateral negotiations producing sub-optimal results; Believes that the same approach should be adopted by the EU when negotiating future free trade partnership and cooperation agreements, by including tax good governance clauses, transparency requirements and including anti-money laundering provisions;
155. Stresses the importance of strengthening the anti-tax avoidance provisions of the CCCTB to eliminate transfer pricing to third country jurisdictions leading to a reduction in the taxable base of companies in the Union;
156. Considers, in particular, that future trade or partnership agreements to be negotiated, or the revision of existing agreements, should contain a binding clause of tax conditionality, including compliance with the international standards of the OECD BEPS Action plan, and the FATF recommendations;
157. Requests that the “Investment” or “Financial Services” chapters of future trade or partnership agreements be negotiated on the basis of the positive lists principle, so that only the financial sectors necessary for commercial development, the real economy and households benefit from the facilitation and liberalization of the agreement between the Union and the third party;
158. Calls for strong enforcement measures in all international agreements to exchange information between tax authorities to ensure the proper implementation by all jurisdictions and effective, dissuasive and proportionate automatic procedures on sanctions to apply in the case of non-implementation;
159. Underlines the importance of full effective reciprocity in frameworks like the Foreign Account Tax Compliance Act (FATCA) agreement and other similar agreements;
160. Calls on relevant Member States to use the opportunity of their direct relations with the relevant countries and to take the necessary actions in order to put pressure on their overseas countries and territories (OCTs)¹ and outermost regions² that do not respect international standards of tax cooperation, transparency and anti-money laundering; Takes the view that the EU transparency and due diligence requirements should be effectively enforced in these territories;
161. Believes that the misuse of privacy and data protection laws cannot be used to shield those engaged in wrongdoing from the full force of the law;
162. Calls for a Global Summit on the fight against money laundering, tax fraud and tax evasion, to end secrecy in the financial sector and to enhance international cooperation and put pressure on all countries, and in particular their financial centres, to comply

¹ Greenland, New Caledonia and Dependencies, French Polynesia, French Southern and Antarctic Territories, Wallis and Futuna Islands, Mayotte, Saint Pierre and Miquelon, Aruba, Netherlands Antilles (Bonaire, Curacao, Saba, Sint Eustatius, Sint Maarten), Anguilla, Cayman Islands, Falkland Islands, South Georgia and South Sandwich Islands, Montserrat, Pitcairn, Saint Helena and Dependencies, British Antarctic Territory, British Indian Ocean Territory, Turks and Caicos Islands, British Virgin Islands and Bermuda

² ORs - the Canary Islands, La Réunion, French Guiana, Martinique, Guadeloupe, Mayotte, Saint Martin, the Azores and Madeira

with global standards and for the European Commission to take the initiative for such a summit;

163. Invites the Commission to conduct an assessment of the overall cost-benefit and potential impact of high levels of taxation on the repatriation of capital from low-taxation third countries; Calls on the Commission and Council to assess the rules on the deferred payment of tax in the United States, the potential tax amnesty announced by the new administration and the possible undermining of international cooperation;
164. Stresses the importance of a better bilateral exchange of information between third countries and EU FIUs;
165. Recalls that the amount of aid in support of domestic resource mobilisation is still low, and urges the Commission to support developing countries in the fight against tax dodging and to increase financial and technical assistance to their national tax administration, in line with the commitments of the Addis Ababa Action Agenda;

Developing countries

166. Calls on the EU to take into account specific legal features and corresponding vulnerabilities of developing countries, for example the lack of capacities available to authorities tasked with combatting tax fraud, tax evasion and money laundering; Stresses the need for adequate transition periods for those developing countries that do not have the capacity to collect, manage and share the required information in the context of automatic exchange of information;
167. 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;
168. Calls on the Commission to work with the African Union to ensure that measures to combat illegal financial flows are highlighted in the African Union Convention on Preventing and Combatting Corruption;
169. Calls on the EU and its Member States to strengthen Policy Coherence for Development in this field and reiterates its call for a spill-over analysis of national and EU tax policies in order to assess their impact on developing countries regarding agreed tax treaties and economic partnership agreements (EPAs);
170. Calls on the Member States to properly ensure a fair treatment of developing countries when negotiating tax treaties, taking into account their particular situation and ensuring a fair distribution of taxing rights between source and residence countries; Calls, in this regard, to adhere to the UN model tax convention and to ensure transparency around treaty negotiations;
171. Calls for more international support to developing countries to fight corruption and

secrecy which facilitates Illicit Financial Flows (IFFs); Stresses that the fight against illegal financial flows requires close international cooperation and the coordinated efforts of developed and developing countries, in partnership with the private sector and civil society; Highlights the need to help boost the capacities of tax administrations and the transfer of knowledge in partner countries;

172. Calls for public development aid to be directed further towards the implementation of an appropriate regulatory framework and the bolstering of tax administration and the institutions responsible for fighting illegal financial flows; Call for this aid to be provided in the form of technical expertise regarding resource management, financial information and anti-corruption rules;
173. Regrets that the current OECD tax committee is not sufficiently inclusive; Recalls the Parliament's position¹ regarding the creation of a global body within the UN framework, well-equipped and with sufficient additional resources, to ensure that all countries can participate on an equal footing in the formulation and reform of global tax policies;
174. Regrets that in order not to be branded as non-cooperative jurisdictions, developing countries must pay to be considered a participant in the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes, where countries are subjected to an evaluation of their practices, against benchmarks they have not been full participants in determining;
175. Stresses the essential role that regional organisations and regional cooperation must play in the carrying out of a transnational tax audit, taking account of the principles of subsidiarity and complementarity; Calls for the joint development of a model tax convention that will help to eliminate double taxation and thereby prevent abuses; Points out that cooperation and information exchange between the various information services will be essential for that purpose;
176. Points out that tax havens plunder global natural resources, in particular those of developing countries; Urges the EU to support developing countries in the fight against corruption, criminal activities, tax fraud and money laundering; Calls on the Commission to help these countries, by means of cooperation and information exchange, to fight erosion of the tax base and the transfer of profits to tax havens and banks practising banking secrecy; Stresses that all these countries must comply with global standards governing the automatic exchange of information on bank accounts;
177. Calls on the Commission to include provisions on the fight against tax evasion, tax fraud and money laundering in the future agreement on post-2020 EU-ACP relations;
178. Calls on the Commission to establish, without delay, additional measures to reinforce EU law on conflict minerals; These measures must establish an integrated approach which will strengthen the ongoing dialogue with mineral-rich countries and thereby promote international due-diligence and transparency standards such as those defined in the OECD Guidelines;

¹ Report on Tax rulings and other measures similar in nature or effect (TAXE 2)

179. Takes the view that the international community, including parliaments, should take all the necessary steps to establish effective, transparent tax and trade policies; Calls for more coherence and better coordination in the international action taken by the OECD, the G20, the G8, the G77, the AU, the World Bank, the IMF and the ADB;

Whistle-blowers

180. Fears that the prosecution of whistle-blowers to maintain secrecy can discourage the revelation of malpractices; Underlines that protection should be designed to protect those acting in the public interest and avoid the silencing of whistle-blowers while also taking into account the legal rights of firms;

181. Calls on the Commission to finalise as soon as possible a thorough assessment of the possible legal basis for further action at the EU level and, if appropriate, to submit comprehensive legislation covering both the public and private sectors, including tools to support whistle-blowers to ensure their effective protection and adequate financial assistance as soon as possible; Argues that whistle-blowers should be free to report anonymously, or to lodge complaints, as a matter of priority, to the internal reporting mechanisms of the organisation concerned or to the competent authorities, and, further, that they should be protected, regardless of their choice of reporting channel;

182. Recommends that the Commission studies best practises from whistle-blowers' programmes already in place in other countries around the world and carries public consultation to seek the view of stakeholders on reporting mechanisms;

183. Stresses the role of investigative journalism and calls on the Commission to ensure that its proposal provides the same protection to investigative journalists as it does to whistle-blowers;

184. Believes that employers should be encouraged to introduce internal reporting procedures and that one person should be responsible for collecting reports in each organisation; Considers that employee representatives should be involved in the assignment of that role, Recommends that the EU institutions lead by example by swiftly installing an internal whistle-blowing protection framework;

185. Underlines the importance of awareness-raising amongst employees and other individuals of the positive role that whistle-blowers play and the already existing whistle-blowing legal frameworks, Encourages the Member States to implement awareness-raising campaigns; Believes that it is necessary to introduce protective measures against any retaliatory and destabilising practices against whistle-blowers as well as full compensation for the damage incurred by them;

186. Calls on the Commission to develop instruments focusing on providing protection against unjustified legal prosecutions, economic sanctions and discrimination of whistle-blowers, and calls in this connection for a general fund to be set up, financed in part from money recovered or proceeds from fines, to give appropriate financial support to whistle-blowers whose livelihood is put at risk as a result of disclosures of relevant facts;

187. Calls for the establishment of an independent information-gathering, advisory and

referral EU body, with offices in Member States which are in a position to receive reports of irregularities, in order to help internal and external whistle-blowers in using the right channels to disclose their information, while protecting their confidentiality and offering needed support and advice;

188. Calls for the establishment of a special unit with a reporting line as well as dedicated facilities within the European Parliament, and within the National Parliaments of the Member States, for receiving information from whistle-blowers until an independent EU body has been established;

Interinstitutional cooperation

Cooperation with PANA

189. Reiterates the importance of respecting the principle of sincere cooperation between the EU institutions;
190. Believes that the exchange of information between the EU institutions should be enhanced, in particular regarding the provision of relevant information to be made available to inquiry committees;
191. Regrets that the Council, its Code of Conduct Group on Business Taxation and some Member States showed little commitment towards the PANA Committee requests for cooperation; Believes that a stronger commitment by the Member States is key in order to join efforts and achieve better results; Calls on the European Parliament to monitor the activities and progress of the Code of Conduct Group on Business Taxation through regular hearings; Calls on the Commission to present a legislative proposal under Article 116 TFEU by mid-2018 if Member States have not adopted a reform of the Code of Conduct Group's mandate by then and in 2018 new tax proposals under Article 116 of the TFEU, for example on unfinished business under the Code of Conduct Group on Business Taxation;
192. Voices its objection to the fact that even documents that have since become public were only partly made available to Parliament's committee of inquiry;
193. Recalls that in December 2015, the ECOFIN Council invited the High Level Working Party to conclude on the need to enhance the overall governance, transparency and working methods and to finalise the reform of the Code of Conduct Group during the Dutch Presidency; Recalls that in March 2016, the ECOFIN Council invited the High Level Working Party to review the new governance, transparency and working methods, especially on the efficiency of the decision making process also in relation to the use of the broad consensus rule in 2017; awaits with interest the results of these efforts;
194. Calls on the Commission to present in 2018 new tax proposals under Article 116 of the TFEU, for example on unfinished business under the Code of Conduct Group on Business Taxation;

European Parliament right of inquiry

195. Stresses that the current legal framework for the operation of committees of inquiry in the European Parliament is outdated and falls short of providing the necessary conditions under which the exercise of Parliament's right of inquiry can effectively take place;
196. Stresses that the lack of powers and the limited access to documents significantly hampered and delayed the work of the inquiry in view of the temporary nature of its investigation and precluded a full assessment of alleged breaches of EU law;
197. Notes that in several recent committees of inquiry and special committees (including PANA), the Commission and Council have in some cases failed to provide the documents requested and in other cases provided the requested documents only after long delays; Calls for the introduction of an accountability mechanism in order to ensure the immediate and guaranteed transfer of documents to the Parliament that the committee of inquiry or special committee requests and is entitled to access;
198. Considers that the right of inquiry is an important competence of Parliament; Calls on the EU institutions to strengthen the Parliament's rights of inquiry on the basis of Art. 226 of the Treaty; Is of the firm opinion that the ability to subpoena persons of interest and to have access to relevant documents is vital for the proper functioning of parliamentary inquiry committees;
199. Stresses that it is vital for exercise of democratic control over the executive for the Parliament to be empowered with powers of inquiry that match those of national parliaments of the EU; Believes that in order to exercise this role of democratic oversight the Parliament must have the power to summon and compel witnesses to appear and compel the production of documents; Believes that in order for these rights to be exercised the Member States must agree to implement sanctions against individuals for failure to appear or produce documents in line with national law governing national parliamentary inquiries; Reiterates the Parliament's support for the position outlined in the 2012 report on this issue;
200. Considers that the 12-month time limit on committees of inquiry is arbitrary and often insufficient; Believes the members of the inquiry committee are best placed to determine if an inquiry should be extended and if so, for what period; Calls for the only pre-existing binding time limit on an inquiry committee to be linked to the Parliamentary term;
201. Calls on the European Parliament to establish a permanent Committee of inquiry, on the model of the US Congress;
202. Requests, without prejudice to any other appropriate measure, that, in accordance with Rule 116 bis § 3 of the Rules of Procedure of Parliament, the Secretary-General withdraws long-term access titles from any undertaking which has refused to give following to an official convocation of the Commission of Inquiry;

203. Calls on the Member States to urgently improve the transparency, accountability and effectiveness of the working methods of the Code of Conduct Group;
204. Asks the Code of Conduct Group to produce an annual report identifying and describing the most harmful tax measures used in the Member States, and stating what counter-measures were taken;
205. Calls for the necessary reform of the Code of Conduct for Business Taxation Group to be finalised, in a manner ensuring full transparency and the involvement of all the institutions and of civil society; Calls for that reform to radically redefine the governance structure and transparency of the Code of Conduct Group, including its mandate and rules of procedure, as well as its decision-making processes and criteria for identifying harmful tax measures adopted by Member States;

Other institutions

206. Welcomes, as a first step, the establishment of a single independent European Public Prosecutor's Office (EPPO); and calls on all EU Member States to join the initiative;
207. Calls for stronger enforcement powers for the Commission to ensure efficient and consistent implementation of Union legislation in Member States and stronger scrutiny by the European parliament;
208. Calls for the creation of a new Union Tax Policy Coherence and Coordination Centre (TPCCC) within the structure of the Commission to address systemic weaknesses in cooperation among competent authorities across the EU;
209. Calls for a significant strengthening of the FIU.net cooperation within the framework of Europol and suggest linking the activities with the proposed TPCCC in the hopes of creating a 'Tax Europol' capable of both coordinating MS tax policies and strengthening Member States' authorities in investigating and uncovering illegal international tax schemes;
210. Calls on the Member States with a view on reforming the Treaties, to support the adoption of decisions in the field of tax policy by a qualified majority in the Council and within the framework of the ordinary legislative procedure;
211. Instructs its President to forward this recommendation and the final report of the Committee of Inquiry to the Council and the Commission and to the parliaments of the Member States.

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