Multinationals, pay your share!

TAX JUSTICE EUROPE

- MEMBER OF THE GLOBAL ALLIANCE FOR TAX JUSTICE

Mr Jean-Claude Juncker, President of the European Commission
Rue de la Loi 200
1049 Brussels, Belgium

9th March 2015

Dear Mr Juncker, President of the European Commission,

As European civil society organisations, we are writing to call on the European Commission to propose ambitious and broad-ranging action, starting with the forthcoming Tax Transparency Package, to ensure that large companies pay their fair share of tax where their real economic activity takes place, both in Europe and in developing countries.

LuxLeaks is only one of a string of scandals which make clear that large companies are able to legally avoid huge sums in tax. The damage to public trust in the fairness of the tax system has been incalculable and will escalate if the problem is not promptly and comprehensively addressed. To do so, Europe needs to abandon the self-harming assumption that ill-defined notions of "competitiveness" can justify the manipulation of tax rules by corporations, the deliberate creation of tax loopholes by certain Member States in order to undercut other countries and the free run given to accounting firms and other lobbyists to shape tax regimes in their own interests.

By allowing such practices to continue in Europe, we are not only harming ourselves. The International Monetary Fund has found that global tax competition has a disproportionately harmful effect on developing countries.[i] By failing to adequately reform Europe's tax system, we inflict financial damage on countries which we are trying to help out of poverty.

So we agree with Commissioners Moscovici and Vestager that 2015 is the year in which reform of corporate taxation needs to show concrete results.[ii] We also agree with the governments of France, Germany and Italy that Europe needs "common, binding rules on corporate taxation to curb tax competition and fight aggressive tax planning."[iii] These rules need to ensure:

1. Greater transparency towards the public as well as tax authorities, including full public disclosure by large companies of their tax payments and other key data on a country-by-country basis. The European Parliament has requested this reform several times and we urge the Commission to promptly present a legislative proposal for the public reporting of the types of information included in the OECD's proposed model template.[iv]

The Commission should also encourage all Member States to create public registries of the beneficial ownership of companies and trusts during the implementation of the Fourth Anti-Money Laundering Directive and promote the full public disclosure of cross-border tax rulings (not just their exchange between Member States). The Commission should promote developing countries' access to automatic exchange of tax information, on a non-reciprocal basis if necessary, as a deterrent to cross-border tax evasion of the kind revealed by the recent HSBC scandal.

2. Strong legislative measures against tax avoidance by large companies in the European Union, both within the Union itself and in third countries (particularly developing countries) These should include measures to curb the shifting of income *into* Member States to avoid tax elsewhere.

3. Limits **on Member States' adoption of tax policies whose effect is to undercut the tax bases of other countries,** whether in Europe or elsewhere, for instance by encouraging the shifting between jurisdictions of corporate assets such as intellectual property or financial assets. A Common Consolidated Corporate Tax Base, though potentially useful against profit-shifting, would not be enough in itself to prevent harmful competition between Member States based on tax rates.

4. Measures to ensure that European tax rules do not undermine the ability of developing countries to raise their own taxes from corporations. As a first step the Commission should undertake a "spillover analysis" of Member States' corporate tax regimes and bilateral taxation treaties with developing countries, as well as EU directives relating to international taxation. This analysis should be based on full access to the necessary data from Member States (on a confidential or anonymised basis if necessary). It should be published, and should include recommendations for concrete steps to enact the proposals listed here and any others that may be necessary.

The Commission should also **support greater international cooperation on tax matters, above and beyond the OECD's Base Erosion and Profit-Shifting (BEPS) initiative**, in a forum which enables developing and developed countries to participate on an equal footing. The Commission should support, and invite Member States to support, the creation of an intergovernmental body on tax cooperation under the auspices of the United Nations and call for a ministerial round table at the Financing for Development conference in Addis Ababa in July 2015 to discuss this issue.

We call on the European Commission to incorporate all these proposals into its forthcoming communications on tax transparency and fair and efficient corporate taxation, as announced on 18th February[v], and to set out in these communications the legislative and other means by which these proposals can be accomplished. We would welcome the opportunity to provide the Commission with more detailed input on these proposals.

Yours sincerely,

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Copied to: Vice Presidents Valdis Dombrovskis and Jyrki Katainen and Commissioners Pierre Moscovici, Margrethe Vestager, Jonathan Hill and Věra Jourová.

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[i] International Monetary Fund. Spillovers in International Corporate Taxation. 9th May 2014

[ii] Margrethe Vestager and Pierre Moscovici. This is the year for Europe to put its tax house in order. The Guardian (UK). 17th January 2015

[iii] Letter to Commissioner Pierre Moscovici from the Finance Ministers of Germany, France and Italy. 28th November 2014.

[iv] OECD/G20 Base Erosion and Profit-Shifting Project. Guidance on Transfer Pricing Documentation and Country-By-Country Reporting. Page 35.

[v] European Commission. European Commission lays the foundation for a fairer and more transparent approach to taxation in EU. (Press release). 18th February 2014.