COUNCIL OF
THE EUROPEAN UNION

Brussels, 20 February 2014

6785/14

PE 105
ECO 25
ECOFIN 173
EF 56
FIN 136
FISC 37
INST 123
JUR 100
SOC 150

NOTE

from:	General Secretariat of the Council
to:	Delegations
Subject:	Summary record of the meeting of the European Parliament **Committee on Economic and Monetary Affairs (ECON** held in Brussels on 17 February 2014 Chair: Ms Bowles (ALDE, UK))

Controversial half-day meeting at which ECON decided to postpone the scheduled votes on three codecision files on benchmarks, money market and long-term investment funds. Additionally, and as foreseen, it discussed two related taxation files: the Common system of taxation applicable in the case of parent companies and subsidiaries of different Member States, and the accession of Croatia to the Convention of 23 July 1990 on the elimination of double taxation in connection with the adjustment of profits of associated enterprises.

Item 1 on the agenda
Adoption of the agenda

The agenda was adopted.

Item 2 on the agenda
Chair's announcements

Ms BOWLES (ALDE, UK) informed the Committee that it had been decided to hold a meeting in Strasbourg on 24 February.

Mr MITCHELL (EPP, IE) asked the floor for a point of order to request the postponement of the votes on the report on the Indices used as benchmarks in financial instruments and financial contracts and on Money Market Funds (MMFs) to have more time to consider more thoroughly all the implications of both legislative proposals.

Whereas several MEPs, including the rapporteur, seconded Mr MITCHELL's proposal to postpone the vote on benchmarks, Mr EL KHADRAOUI (S&D, BE), rapporteur on the MMF text, did not see any valid reasons to postpone the vote on his report for a second time. He acknowledged the existence of diverging views on how to deal with Constant Net Asset Values (CNAVs) but remained convinced that there would be enough time between the votes in the Committee and in the Plenary to find a broader compromise on CNAVs before the start of discussions with the Council.
Ms BOWLES, rapporteur on the benchmark report, told the Committee that several political groups had also requested the postponement of the vote to ensure more legal clarity (i.e. the EPP group). She then explained that it would be for the next European Parliament (EP) to decide on the way to proceed with all unfinished codecision files from the current legislature: i.e. either reopen the files, send them back to the Commission and/or continue with the work. She noted that she had always viewed her file on benchmarks as 'unfinished business' and referred to the slow progress in the EP and the Council. She referred to the substantial differences between political groups on the scope of the proposal to justify her decision and wondered if it would not have been more appropriate to deal with benchmarks through a Directive rather than a Regulation. In her opinion, it would have been preferable to deal with critical benchmarks through a Regulation and with the remaining benchmarks through a Directive. Moreover, she considered it wiser to have the next EP decide on proposals that currently lacked broad support.
Ms TURUNEN (S&D, DK), shadow rapporteur on benchmarks, called for a swift agreement with the Council. Nevertheless, she acknowledged the existence of several inconsistencies and legal uncertainty in the proposal in terms of scope, and warned against delegating critical parts of the scope to the European Securities and Markets Authority (ESMA).

Ms McCARTHY (S&D, UK) considered the rapporteur's approach on benchmarks to be sensible in the light of current frictions between those who called for more flexibility and those who advocated legal certainty. She felt that that it was key to choose the right option: i.e. a Regulation or a Directive. She was also convinced that the role of ESMA had to be clarified and legally defined since, in her opinion, it could not be responsible for both making the rules and implementing them. Mr GAUZÈS (EPP, FR) and Ms GOULARD (ALDE, FR) also agreed that it was not wise to hand out substantial powers on benchmarks to ESMA without securing the necessary resources, whereas Mr LANGEN (EPP, DE) reiterated his belief that all stock exchange transactions should be left outside the Regulation. Ms FERREIRA (S&D, PT) also agreed with postponing the vote to ensure a broad majority. Mr LAMBERTS (Greens/EFA, BE) believed that it was still possible to reach a broad majority on benchmarks and claimed that some MEPs were not negotiating in good faith on MMFs and, in particular, on CNAVs.
Mr MITCHELL (EPP, IE) reiterated his opposition to the abolition of CNAVs. He did not see them as a systemic risk and said that if that were to be the case then liquidity fees and redemption gates should be enough. Mr LAMBERTS disagreed and pointed out that the European Systemic Risk Board had proposed the mandatory conversion from CNAVs to Variable Net Asset Values. Moreover, he warned against the 'bullying' of the industry, though Ms BOWLES reminded him that it was not just the industry that was advocating CNAVs and that the International Organization of Securities Commissions and the Securities and Exchange Commission also had different views.

In the end, the Committee decided to postpone the vote on MMFs by 23 votes in favour and 15 votes against.

Item 3 on the agenda
Common system of taxation applicable in the case of parent companies and subsidiaries of different Member States
ECON/7/14639 2013/0400(CNS)
Rapporteur: Ms Mojca Kleva Kekuš (S&D)

- Consideration of draft report

Mr CUTAŞ (S&D, RO), on behalf of Ms KLEVA KEKUŠ (S&D, SI), referred to the problem of hybrid mismatches between the different tax systems used in Member States and to the proposal on parent companies and subsidiaries (PSD) to revise the anti-abuse law clause and to eliminate double non-taxation in the EU.

On hybrid mismatches, Mr CUTAŞ explained that the existence of different tax qualifications for hybrid loans in the EU resulted in double non-taxation since they were treated as tax deductible expenses and as tax exempted distributions of profits. He said that the current solution followed the proposal made by the Code of Conduct Group in 2010 and prevented tax exemptions for hybrid loan payments that were deductible in the source Member State. He added that this would require the update of the PSD legislation.

On the general anti-abuse rule, he said that the EP wanted to stop 'directive shopping', through which companies sought to invest through intermediaries in Member States where anti-abusive provisions were less stringent or where there were no rules. He therefore agreed with the introduction of an obligatory rule under which all Member States would have to disregard any tax benefits arising from artificial arrangements or those lacking commercial substance or not reflecting economic reality.

He explained that the rapporteur had, apart from amending Articles 1 and 4 in the PSD, proposed to enhance the definition of a parent company, where an extra extension of time and the share of minimal capital to be held in another Member State by a parent company would prevent multinational companies from benefitting illicitly and distorting competition. She also introduced a proposal for the statutory corporate tax rate of a Member State not to be lower than 75% of the average rate applicable in all Member States. With base erosion being high on the international agenda, she hoped that the proposal would obtain the support of Member States.

There was broad support for the Commission proposal. However, some suggested more could be done and some differences emerged over the level of the effective tax rate.

Ms GOULARD (ALDE, FR) proposed focusing more on the level of capital participation, on the level of corporate taxes and on the creation of checks and balances.

Mr LAMBERTS (Greens/EFA, BE) and Mr KLUTE (GUE/NGL, DE) claimed that much remained to be done in the fight against aggressive tax planning and that Member States had little incentive to act. Both agreed with the suggestion that the effective tax rate should not be lower than 75% of the average statutory tax rate and that there should be identical treatment for SMEs and large corporations. Additionally, Mr KLUTE said that the fight against tax evasion could be improved if there was a Common Consolidated Corporate Tax Base (CCCTB).

Ms LULLING (EPP, LU), on behalf of Mr STOLOJAN (EPP, RO), asked the Commission if it was possible to calculate the 75% figure for the legal corporate tax rates imposed on companies given the complexity of corporate tax systems.

The Commission representative explained that, owing to differences in the current national tax systems, it was nearly impossible to calculate an effective tax rate and that it was necessary to have a common tax base to do so.

Deadline for amendments: 25 February 2014. Consideration of amendments: 17 March 2014. Vote in ECON: 18 March 2014. Vote in plenary: April 2014.

Item 4 on the agenda
Accession of Croatia to the Convention of 23 July 1990 on the elimination of double taxation in connection with the adjustment of profits of associated enterprises
ECON/7/14494 2013/0308(CNS)
Rapporteur: Mr Sławomir Nitras (PPE)

- Consideration of draft report

Mr NITRAS (EPP, PL) explained that the current proposal simplified the functioning of the Single Market and facilitated transnational operations by EU companies. He noted that neither the Council nor Croatia had objected to the Commission proposal and that the Convention would be binding as from the date indicated by the Council decision. He said that he had proposed one amendment in order for the Convention to be binding from the date of its publication in the Official Journal in order to avoid a retroactive application of the law and therefore to give Croatia the necessary time to adapt to the new legal system. He expected the adoption of the proposal in the last session of the EP.

Mr LUDVIGSSON (S&D, SE), Mr TREMOSA I BALCELLS (ALDE, ES) and Mr BALDINI (S&D, HR) agreed with the amendment proposed by the rapporteur.

Deadline for amendments: 25 February 2014. Consideration of amendments: 17 March 2014. Vote in ECON: 18 March 2014. Vote in plenary: April 2014.

****** Voting time ******

Item 5 on the agenda

Indices used as benchmarks in financial instruments and financial contracts

ECON/7/14051 2013/0314(COD)

Rapporteur: Ms Sharon BOWLES (ALDE)

- Adoption of draft report

The vote was postponed.

Item 6 on the agenda

European Long-term Investment Funds

ECON/7/13277 2013/0214(COD)

Rapporteur: Ms Rodi KRATSA-TSAGAROPOULOU (EPP)

- Adoption of draft report

The vote was postponed.

Item 7 on the agenda

Money market funds

ECON/7/13748 2013/0306(COD)

Rapporteur: Mr Saïd El KHADRAOUI (S&D)

- Adoption of draft report

The vote was postponed.

****** End of vote ******

Item 8 on the agenda

Any other business

There was no other business.

Item 10 on the agenda

Date of next meeting

The next meeting will be held in Brussels on 20 February 2014.