

# DÁIL ÉIREANN

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## AN COMHCHOISTE UM AIRGEADAS, CAITEACHAS POIBLÍ AGUS ATHCHÓIRIÚ, AGUS AN TAOISEACH

### JOINT COMMITTEE ON FINANCE, PUBLIC EXPENDITURE AND REFORM, AND TAOISEACH

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*Déardaoin, 25 Eanáir 2018*

*Thursday, 25 January 2018*

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Tháinig an Comhchoiste le chéile ag 9 a.m.

The Joint Committee met at 9 a.m.

Comhaltaí a bhí i láthair / Members present:

Teachtaí Dála / Deputies	Seanadóirí / Senators
Peter Burke,	Paddy Burke,
Joan Burton,	Rose Conway-Walsh,
Pearse Doherty,	Kieran O'Donnell.
Paul Murphy.	

Seanadóir / Senator Gerry Horkan sa Chathaoir / in the Chair.

*The joint committee met in private session until 9.45 a.m.*

### **Business of Joint Committee**

**Vice Chairman:** As we have four members present, including one from each House, we have a quorum and the committee is now in public session. I remind members to ensure their mobile phones are switched off or turned to flight mode. It is important as it causes serious problems for broadcasting, editorial and sound staff.

I propose we go into private session to deal with some housekeeping matters. Is that agreed? Agreed.

*The joint committee went into private session at 9.45 a.m. and resumed in public session at 10.04 a.m.*

### **Scrutiny of EU Legislative Proposals**

**Vice Chairman:** The committee is resumed in public session. Item No. 8 is EU scrutiny for the public record. Before we proceed with the business listed, I wish to record the decision taken by the committee on EU legislative proposals. The committee agreed that COM (2017) 827 warrants further scrutiny. The committee also agreed that COM (2017) 593, COM (2017) 659, COM (2017) 666, COM (2017) 706, COM (2017) 724, COM (2017) 792 and COM (2017) 825 do not warrant further scrutiny. We will get further information on COM (2017) 826. Full details will be published on the committee's website.

### **Common Consolidated Corporate Tax Base: Discussion**

**Vice Chairman:** No. 5 is consideration of the draft report on the proposal for a Council directive on a common consolidated corporate tax base, CCCTB, with Mr. Alain Lamassoure, MEP, and No. 2 is consideration of the draft report on proposals for a Council directive on a common corporate tax base, CCTB, with Mr. Paul Tang, MEP. They are both very welcome to the meeting.

Before we begin, I am obliged to read the note on privilege. I advise the witnesses that by virtue of section 17(2)(l) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of their evidence to the committee. However, if they are directed by the committee to cease giving evidence on a particular matter and they continue to do so, they are entitled thereafter only to qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given and they are asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person, persons or entity by name or in such a way as to make him, her or it identifiable.

Members are reminded of the long-standing parliamentary practice to the effect they should not comment on, criticise or make charges against a person or body outside the House or an official either by name or in such a way as to make him or her identifiable.

I invite Mr. Tang to make his opening remarks. He is very welcome to our committee.

**Mr. Paul Tang:** I thank the committee for inviting us here. We are very glad to be here. It is not a coincidence that the committee sees two rapporteurs on two separate files, one with two Cs and one with three Cs, because Mr. Alain Lamassoure and I believe they belong together. It is a statement in itself that the two of us have come here together.

I will quickly outline the context. The European Parliament does not have competence in taxes but can advise on tax matters. We decided not to do it only in Brussels but to come out and tour member states. We are happy to be here. We started in Estonia and then went to Luxembourg, Brussels, The Hague, Berlin and Paris. We will move on to Vienna, Bucharest and Sofia. Our aim is twofold. First, it is to hear the concerns and put national parliaments in a better position. At the end of the day, it will be decided in the capitals, not in Brussels. We also want to hear the concerns and give better advice. We also wanted to put it on the public and political agenda because it is a change that needs to come. Why do we think that? If one looks at the corporate tax systems, as we have done, they are from a time when we had factories with chimneys and smoke. We knew where the location was and that has changed dramatically. One could say globalisation is meaningless. Part of the activity has become mobile and global. That does not mean that we relocate a headquarters or factory all of a sudden but on paper, one can do a lot. Any financial construction can be located anywhere in the world. One can locate one's intellectual property anywhere in the world. With a digital platform like Google or Facebook, it is unclear where one operates. This has given the corporates huge advantage in the systems from the 20th century by choosing where to locate part of their activity. That is the game that is going on. They can choose their location. What the CCTB does is change the rules of the game. One takes profit and allocates profit, meaning it is no longer firms that decide where the profits are being made and where the taxes are being paid. Now, it is the countries that say we consolidate the accrued profit and we allocate the profits; this changes the rules of the game dramatically. That is the reason we are together. We think the two files - one is on the tax base and one is on the consolidation - belong very much together. There is no benefit from this change unless the consolidation is introduced, which changes the rules of the game.

It is interesting. What we see here is a somewhat broad coalition and sometimes an awkward coalition. Mr. Lamassoure is a French republican. I am a lefty social democrat. We also work with a conservative CSU from Bavaria. People from Bavaria are, by nature, very conservative I think. However, we also work with a revolutionary from Belgium. These are the people who work together. This is not only true within the Parliament but also outside it. I can talk with activists, small and medium-sized enterprises and big corporates. They all seem to think the rules of the game need to be changed. I hope that the European Parliament will show that we have a broad coalition. We will have the first vote in committee in February. Later, it will go to plenary. I hope we will see a broad coalition driven by this simple notion that the rules of the game need to be changed. The consolidation part is essential and the second part, already highlighted, is that we need to tax the digital economy.

I know that in Ireland there will be a reference to base erosion and profit-shifting, BEPS. I think BEPS has done wonderful work within the OECD agreement. However, remember there are 15 action points. The first action point was taxing the digital economy. The first action point was no action. We will study it for five more years. Anyone who refers back to the OECD is just dragging their feet. It cannot be claimed that firms should pay a fair share, I think we all agree that they should, and at the same time refer back to the OECD. The OECD is stuck on taxing the digital economy. It is pretty obvious the US wants to have the right to tax or not to

tax the digital giants. That is a huge conflict of interest between the EU on the one hand and the US on the other.

We think we need a European initiative to break this deadlock. To do that properly, we can look at the turnover tax that has been put forward by, among others, Bruno Le Maire. However, it needs to be done in a proper way. Then look at profits. We think that the CCCTB is a fundamental approach for also taxing the digital platforms in this world. I am referring to Google and Facebook, for example, but also to Amazon, Airbnb, Uber, etc.

I will try to keep it short. I know the discussion. I am happy to have this discussion here but I can sort of feel what the discussion will be like because I am from the Netherlands. I have similar discussions in my country. If we do not compete we will lose jobs. That is a very general and important argument. I am from a social democratic family. Jobs are important. My point of view is what we have seen is, in effect, a lot of paperwork. Just look at the statistics. If we look at foreign direct investment, that is really strange. Luxembourg and the Netherlands together have more inward foreign direct investment than the US. Ireland has more inward foreign direct investment than Germany or France. It just shows the investment has no relation at all with the real economy. This is my point of illustration. I know that Ireland is like the Netherlands, a gateway to Europe. Ireland has an important role in the European economy and has been very successful in that. However, part of that is not necessary. That is the paperwork and rerouting through financial constructions and location of intellectual property. This is the claim. I understand the concerns and I encounter them in my own country. However, I do not think they are necessary. Ireland has a great economy and will still be able to compete in many ways. For example, the rates will always be lower in Ireland than in France and in Germany, there is no doubt about it.

Ireland needs to take away these constructions. On our tour, we picked up on the countries that play this game. In my country and also here I see them as pirates. It is the Netherlands, Luxembourg, Malta and Ireland, unfortunately. We play the game of going into another country and stealing tax bases. This should come to an end in the sense that now the paper constructions should be ended. That is why Ireland could embrace the CCCTB.

**Mr. Alain Lamassoure:** I apologise for the poor quality of my English. Please forgive me. My English is shaky.

**Vice Chairman:** It is better than most of our French though.

**Mr. Alain Lamassoure:** Too kind of you. As Mr. Tang has said, on this issue the European Parliament has no legal power. Our power is limited to giving an opinion and this opinion is not binding for the Council. The Council can only take a decision on the basis of unanimity and probably with ratification by national parliaments. That means the Oireachtas will have the final say. We work in close relationship with national parliaments to try to facilitate an exchange of views among members. We held an interparliamentary conference. Some members here took part and it was on that occasion that we were invited and decided to come to see the committee. Our role is to facilitate negotiations, discussions and exchanges of views between national parliaments and between governments - to be facilitators, as it were.

We also express the concerns of the European citizens we are accountable to, as the members here are accountable to their constituents and tax payers. We, as Mr. Tang mentioned, are in no position to teach lessons to anybody. My country, France, has always been a good friend of Ireland. We stand by Ireland on all issues, particularly those linked to Brexit. However,

France is a bad pupil on some major European issues, particularly all the criteria of good governance in the economic and monetary union. It is not a matter of national concern. It is a matter of European discussion.

Clearly, on the Continent, what triggered all these concerns on and calls for reforms of corporate tax issues were scandals when all our citizens discovered some member states among the European family had managed to rob tax bases and tax wealth from their partners. That is not acceptable. Corporate tax was considered highly technical and boring. Now, all European citizens understand that in our Union some multinationals can manage to pay no taxes at all while the ordinary citizen of the SME pays normal tax. It is unacceptable. We must put an end to that.

The second point is that there are political differences of course between the left wing and the right wing. It is the case in the Dáil and Seanad, and it is the case in the European Parliament. The European People's Party, EPP - of which Fine Gael is a member in the European Parliament - accepts the principle of tax competition. That is clear. We do not object to the choice by the Irish Government of a tax rate of 12.5% - a rate that seems to be part of the Irish identity and even the Irish Constitution. A former President of the French Republic realised that when he challenged this rate.

That is not the problem. Our concern is to ensure that all the rules and principles we all apply unanimously in all fields of economic issues throughout the Union apply to tax competition as well. It has not been the case so far because on tax our competition is obscure, disloyal and unfair. We must ensure from now on that it is transparent, loyal and fair.

To achieve that goal, it is necessary to have the same definition of the taxable profit. We do not hear a credible objection against the principle of the same definition of the taxable profit. We can disagree on the content of the definition, of course, and it is a matter for the negotiation on the CCCTB. Should we deduct or super-deduct research spending? Should we ensure that there is neutrality between financing investments by borrowing or by equity and so forth? The content of the definition is a matter for debate. In the context of the principle, however, I cannot understand any objection so far. We can compare it with the US. The US has corporate tax at state and federal level. It is far simpler for the US to have a single federal corporate tax at federal level. It would be simpler and more effective for the competitiveness of our companies and multinationals based in the member states if we have the same tax paid through the same system. This is, of course, along with enabling the member states, on the same basis, to apply their own rate to this, as has been the case with VAT for 40 years since the 1970s when Ireland joined the then Common Market.

The third point, as Paul Tang said, is that the same definition of tax base and the consolidation are closely related. All the multinationals we consult, be they American, European or French multinationals in my country, are quite definite on that. Either the reform comprises both elements - same definition and consolidation, CC and CCC - or it would bring about more complexity and would be less interesting for them.

On the digital platform, now is the time to find a way to tax these new business models which did not exist when we devised our national corporate tax. This is the digital economy and, particularly, the digital platform. I can give an example. Facebook has 30 million users in France, including me. Facebook pays no tax in France. How can we justify that? It is impossible. Now is the time to find a common definition of what is a digital permanent establishment and to find a common system to distribute the tax revenues of these digital platforms among the member states, for the multinationals that have operations and activities in several member

states. Of course, when we think of digital platforms today, it is the GAFAs - Google, Apple, Facebook and Amazon - and American multinationals, but when we establish a new tax system, we must not forget that it is not for the next few years but for the coming decades. We all hope that in ten, 20 or 30 years there will be some European digital multinationals, including French, Dutch and Irish multinationals. If we engage in taxing the multinational, it is not to punish the GAFAs, which would be ridiculous and counterproductive, but to settle a real issue. We were impressed in Tallinn, which we visited during the Estonian Presidency, to note that Estonia, which is the leader in the digital economy, is particularly keen to find a way not to kill the golden goose but to take fiscal tax revenues from the golden eggs.

The final point is that it is obvious and clearly laid down in the European treaties that tax matters pertain to national sovereignty. However, the EU, with the special procedure of unanimity of member states and national ratification, can step in or intervene whenever tax provisions could impair the fairness of competition in the great Single Market. We must also comply with the subsidiarity principle. The subsidiarity principle does not mean that all issues must be dealt with at the lowest level possible. It means that every issue must be tackled at the relevant level, the level where we are more efficient, and, depending on the issues, it might be a very low municipal or regional level, national level or the EU level. When it comes to taxing multinationals, negotiating with multinationals and negotiating with international partners such as the United States, the relevant level is the EU.

There are member states smaller than Ireland whose GNI is far lower than the turnover or even benefit of some multinationals. How can they negotiate on the same level with these multinationals? With regard to Google, Facebook and so forth, if some members tried to engage in taxing their profits or sales at national level, it would be ridiculous to have 27 different Google taxes in member states. We know that after agreeing among ourselves, hopefully, a common European system we will have to negotiate with our other international partners, starting with the US. None of our member states, be it Germany, France or another country, is able to negotiate on an equal level with the US Congress. If we want to ensure that the recent important overhaul of the US corporate tax achieved in the US Congress is compatible and amended to take on board our concerns and to find common rules, politically it will probably be in the framework of the OECD but if there is no direct contact and negotiation between the EU and the US Congress nothing will happen on these issues in the OECD. We risk endangering our work competitiveness and our future in the EU. We understand the role that tax attractiveness played in Ireland's economic model. The French admire the way the Irish have managed to have today an average income higher than the French average income given that when Ireland joined the EU at the beginning of my administrative career, Ireland was one of the poorer countries of the then Common Market. I say congratulations on that. We do not want to jeopardise the situation but we want to apply the principle of loyal co-operation within the European family, and among the member states. It is in that frame of mind that we appear before the joint committee.

**Vice Chairman:** I thank Mr. Lamassoure. Senator O'Donnell will speak first. When he was in Brussels in October, he met the committee.

**Senator Kieran O'Donnell:** I welcome Mr. Tang and Mr. Lamassoure. I attended the Committee on Economic and Monetary Affairs on 10 October when representatives from finance committees in Europe were brought into a forum. Both witnesses made presentations on the day. I felt that Mr. Tang in particular did not have a full perspective on what Ireland has to offer so I encouraged both witnesses to come before the committee, if invited.

We as a committee delivered a reasoned opinion on the CCCTB. It was very straightfor-

ward. We operated on the basis that the tax competency is a matter for the sovereign state. What was being proposed under the CCCTB was very much contrary to what the economic policy had been for Ireland over many years. It would narrow the tax base. No impact statement had been carried out. The witnesses might give us an update on whether an impact statement has been carried out and what the outcome would be for individual countries.

We are concerned about the arbitrary nature of the asset value in terms of apportionment. The issue in terms of individual countries retaining control over their corporation tax rate is a red herring. It will be about how profits are calculated and apportioned, because that will determine the effect.

Mr. Tang was on “Morning Ireland” this morning.

**Mr. Paul Tang:** Yes

**Senator Kieran O’Donnell:** In fact, I woke up to hear him.

**Mr. Paul Tang:** There have been better days.

**Senator Kieran O’Donnell:** I want to take him up on his use of the term “tax pirates”. I take major issue with it and I do not agree with it. The definition of a tax pirate is someone who is roaming effectively on the open seas. Our multinational sector is contributing more than 250,000 jobs in Ireland and many of them are people we represent. They are giving valuable jobs to families and contributing approximately 50% of our PAYE base and approximately 50% of our corporation tax base. Changes have been made. The double Irish is gone. We are looking at BEPS. My concern is that if the CCCTB came in, it would be a case of tax piracy by the larger countries such as France and Germany. Reference has been made to looking after small nations. One of the reasons we have such a large multinational sector here, which is providing such a large number of jobs, is that we have had a 10% manufacturing rate for years. This is not something new that we have dreamt up. Our industrial base is based on the country being English speaking. On our western border, we are the nearest point to America and we have a long-term association with that country. Our 12.5% rate, as well as our previous 10% rate, is utterly transparent. Our effective rate is more or less the same. Mr. Lamassoure will appreciate that in France while the rate might be higher, individual arrangements are arrived at with individual companies and that does not happen in Ireland.

**Mr. Alain Lamassoure:** What about Apple? The rate was zero. We do not question the 12.5% rate but we question zero.

**Senator Kieran O’Donnell:** Apple was a company dealing with the Revenue on the same basis as any other company. The point I make is that to state that Ireland is a tax pirate is grossly inaccurate. Mr. Tang was showboating a bit on the radio this morning. It is not an accurate picture of what we provide here in terms of jobs.

I wish to deal with a couple of points to which the witnesses might respond. If the CCCTB were to be introduced, which individual countries would benefit? I will deal specifically with Ireland because that is the country I represent. Will it narrow the tax base in Ireland as a country? Will it undermine our economic policy? Will it affect the large amount of jobs based on the multinational sector that have been built up over the past 30 to 40 years, if not longer?

Has an impact statement been carried out on the effect of CCCTB? The preliminary assessment by the European Commission has said it would be 0.4% of GDP. We are a small export

nation. To put it in context, multinational companies in Ireland employ about 250,000 people. That is outside of the indirect jobs in indigenous companies. Associated turnover is approximately €78 billion. Irish companies operating on a multinational basis have approximately the same number of jobs in companies around the world. The sectors are more or less comparable. We are a country that has both foreign direct investment in and we have a large amount of foreign direct investment out. We have some of the largest multinational companies such as CRH that operate globally. We are a small open economy. That is the basis of our economy. We are not like France and Germany that have large population bases whereby companies can operate within the local economy. Our population requires us to be an export nation. We also have to attract companies here that will export goods. The companies that come here operate in the European market. One of the aspects of Europe is that it has a Single Market and free trade within its borders. As a country we attract companies here to avail of that. The OECD BEPS project which has been looking at how transfer pricing would operate would afford a more equitable measure to deal with the issues raised in terms of taxes. I do not disagree with the witnesses that there are issues to be dealt with but it was grossly unfair of Mr. Tang to make a sweeping statement to the effect that we are tax pirates. I invite him to deal with that accusation.

Do the witnesses accept that our 12.5% rate is a transparent one? It is a rate that is easy to understand. We have a system that operates in a very effective manner in terms of companies coming in and knowing exactly what is involved. We are unique in that we are an island nation. The UK is currently dealing with Brexit. We are a small island nation on the periphery of Europe. We are boxing above our weight. I make no apology for that. We are bringing in companies from abroad that employ many thousands of people and they contribute in a major way. The witness referred to corporation tax. They contribute in terms of jobs, which provides PAYE and PRSI, paid for by the employees themselves. Employers' PRSI is paid on top of that. They make a major contribution. I welcome the witnesses, and I hope they get a chance to see Ireland. Perhaps they have seen it before. I presume they have been here before.

**Mr. Paul Tang:** No, this is my first time here.

**Senator Kieran O'Donnell:** Perhaps Mr. Tang should have taken a trip around Ireland before making his reference to tax piracy this morning.

*(Interruptions).*

**Mr. Paul Tang:** I am going to visit the house of Bono, the lead singer of U2. I grew up with U2, and I am going to bring a Dutch letter box for him because we do not want the letter box anymore. We do not want that anymore. I will see that part of Dublin anyway.

**Senator Kieran O'Donnell:** What connection does this have with the common consolidated corporate tax base, CCCTB?

**Mr. Paul Tang:** This involves piracy.

**Senator Kieran O'Donnell:** There is an ongoing discussion. The stakes are very high for Ireland. Many people are employed up and down the country, and they are a key part of our economic policy. There are issues in individual cases, but the general thrust of our policy is that we have a very open, transparent system. Our economic policy for many generations has been based around foreign direct investment coming in, providing very valuable jobs and contributing to our tax base. There are issues. The double Irish is gone. I believe that the solution lies



within base erosion and profit shifting, BEPS, and the OECD in terms of transfer pricing. It is not always necessary to use a sledgehammer to crack a nut.

**Mr. Paul Tang:** I appreciate the invitation to appear at this committee and also the Senator's contribution. I understand his position. I come from a relatively small country. The Netherlands sees itself as a small economy. Of course, we have a big tax avoidance industry, which we seem to forget, but we consider ourselves a small economy which is dependent on trade and investment. In that sense, there is a strong similarity with Ireland which I immediately recognise. Jobs and investments are important; that is crucial. In my introduction, I alluded to the fact that the thinking is changing slowly. We are Protestants and are very stubborn in that sense. It is changing, and we would like to think that it is all about jobs and investment. The question that must be asked is whether it is really about jobs and investment. When I try to make the distinction between paper constructions and real investment, it is a way of addressing fair taxation and economic growth and welfare. In my country there has been fierce debate as to how much this contributes at the moment.

I cited the numbers for inward foreign direct investment because it is obvious that the link with the real economy is lost. To take a simple example, Ireland's corporate tax rate is 12.5% and the effective rate is close to it, but Bulgaria has reduced the rate to 10%. Do I expect an influx of foreign direct investment into Bulgaria? Does anyone? I doubt it. I make that case about my country too. We have many assets. That is true for the Netherlands and for Ireland. Ireland is part of the transatlantic bridge, a gateway to Europe. This gives Ireland a unique position in the European economy. It makes it strong and thriving, and is the reason it has had success. Taxes may have been a part of that, but in my opinion, as an economist, it is not the most important location factor. It never is. It may have contributed, but I do not think the letter box and all of the legal juggling has really contributed to it. That is why I try to make a distinction between paper constructions and real investment. On paper constructions, I am very clear; it is piracy. If one looks at work by Gabriel Zucman, who is a French economist based, I believe, in Harvard, and has done a large amount of work, including his PhD, on this topic, it shows who the winners and loser are in this game.

**Senator Kieran O'Donnell:** Is it the case that Mr. Tang is qualifying his position on the comments he made this morning?

**Mr. Paul Tang:** I say the same in my country as I say here. There is no distinction. In my country, we steal tax base from other countries. I find this very disturbing. I do not understand this, because we are both part of a European Union. We can have our different political views, but the basis of European Union membership is that we are partners. One does not steal from one's partner. That has been the game up to now. That does not have to do with the 12.5% tax rate. That is not my main concern. My main concern is always that there is a possibility of constructions, and that the current corporate tax system is outdated. There are always opportunities to manipulate the location. The transfer pricing system is outdated. What is the transfer price or market price for intellectual property? What is the trademark of Coca-Cola worth? I do not know because there is no market, but that is the basis of transfer pricing. Ireland is working with a system that is outdated and refuses to have it repaired. That is why we came up with the European corporate tax system. It is not just that it is European. It is also the 21st century. It takes the system of apportionment, which deals with the transfer price.

**Senator Kieran O'Donnell:** Is it better to deal with the matters Mr. Tang has raised on a global level? BEPS and the OECD do that, in terms of the transfer pricing. This is purely an internal European solution. If a company comes to Ireland and is investing billions in terms of

assets, employing thousands of people, surely that is a normal commercial activity in a world economy? That is not tax piracy.

I agree that the transfer pricing model that exists at the moment is outdated. One of the reasons I do not want to see the UK leaving Europe is that I feel we have to operate on a global stage as a unit to take on areas such as America and Asia. Why would we do something that might weaken some element of our partners within a European context and at the same time not pursue a global solution to transfer pricing to bring about the fairness the witness is looking for, rather than merely operating in a European context?

**Mr. Paul Tang:** That is an excellent point. The CCCTB - I hate that acronym - has changed the rules of the game. It brings it back to a US or Switzerland-style system.

**Senator Kieran O'Donnell:** It could make us uncompetitive within Europe.

**Mr. Paul Tang:** It helps within Europe, but we already see a type of tax competition that I call piracy. In my country, we steal tax base from Germany and France. That is what is happening in the Netherlands. There is no doubt about it. If there is to be competition it should be fair, and there should be a level playing field for all. This is nothing to do with fair competition. This will create fair competition and a level playing field within the EU. It is right that this is not enough and we also need to come up to a global system. I absolutely agree with that. I know Ireland and the Netherlands on their own will not set a global standard for taxation. The only way we can set a global standard is through the European Union. That is one of the reasons when I think about the European Union, it is the future. This is the way we can still manage the global order. This is the first step; we have to set a European standard first to make it to a global standard later.

There is a flaw in the assessment by the European Commission. That is not due to the European Commission alone. We know pretty much the consequences of the proposal for Europe and the European Union as a whole but we do not know what they will be specifically for each member state. It is a flaw. In all fairness, the Commission is aware of that and cannot really correct it without co-operation from the member states. It needs the national tax administrations to see what are the consequences for firms and tax revenues. For every treasury in each country, this is a crucial issue. They need to know how much it will cost or bring in and it is not there yet. The European Parliament, with a proposal like this and especially when we think it is an important reform, needs to know the consequences. It would help very much if the Irish Parliament did not just point to the European Commission but rather to the Irish tax administration if it needs to know the consequences. There must be co-operation on the European level with the Irish tax administration and the same is true for the Netherlands and all the other countries if we are to find out the consequences. I absolutely agree that it is very unfortunate that we do not know them.

**Mr. Alain Lamassoure:** This project is not a plot from the bigger states against the smaller states. The question was asked as to what states will be the winners overall but we do not know. Today, for example, many French multinationals are fiscally based in Amsterdam. It is the case with Airbus, the pharmaceutical company Sanofi and Air France, although it has merged with KLM. Surprisingly, it also is the case with Renault, our state-owned car maker. It is based in Amsterdam because of the quality of life in the city and the charm of Dutch ladies.

**Senator Kieran O'Donnell:** Where does it make its cars?

**Mr. Alain Lamassoure:** If the principle of the common consolidated corporate tax base, CCCTB, of harmonising the definition of taxable profit is blanché, there will be a fall-back position that will be a race to the bottom. Members of the joint committee are accountable to Irish citizens and I am accountable to French citizens. If I am not able to find a way to settle this matter and prevent Renault and other French multinationals going elsewhere, such as Amsterdam, Dublin, Luxembourg or Berlin, I will manage to propose the same treatment and privileges. It would be detrimental to everybody.

On apportionment, we have taken the OECD formula, adding a fourth factor. It is a proposal and it is debatable. The fourth factor would take on board the case of digital economies and particularly digital platforms. This factor is the number of personal data collected and exploited for commercial purposes in a jurisdiction. It is fair to smaller, medium-sized and bigger countries.

It was argued that if we had to turn to CCCTB, it would be detrimental to Ireland but why would it be? It would depend on the content. Why is Ireland not making the case that its system is the best? It is transparent - apart from Apple - but the double Irish and Dutch sandwich are being phased out. It is very simple. Why do the Irish not propose their definition of tax on profits? The Irish system could then become the European system. It would not be detrimental to Ireland in that case but rather a triumph for Ireland. We could compete on tax issues on a transparent basis. My national system is creaky, old and completely outdated. When we went to Estonia, we were struck by the simplicity of its system, which was formulated far more recently than ours.

In France - it also is the case in the Netherlands and Germany - our personal and individual income tax system was devised and came into force before the First World War and our corporate tax system was devised immediately after the Second World War. That was 70 years ago. It did not take account of the existence of multinationals, the Internet or digital economies. We must update it.

**Senator Kieran O'Donnell:** I have a brief comment. I cannot let that go unchecked.

**Vice Chairman:** I will allow the Senator speak but the meeting must conclude by noon. I want to let other members in.

**Mr. Alain Lamassoure:** We must update the system and it would be smarter if, when overhauling the national system, to choose a common system with our European partners.

**Senator Kieran O'Donnell:** It was up to successive French Governments to change the tax law in France if they so wished. It is their sovereign right. The witness cleverly mentioned Apple but it employs 6,000 people in Cork and it is an enormous employer in Ireland. The case is under appeal. The throwaway remark from the witness is not necessarily correct. The digital tax platform is under discussion in Europe but how do the witnesses see that fitting into the common consolidated corporate tax base?

**Mr. Paul Tang:** We have a definition of permanent establishment that is not fit for purpose. We need to have a broader definition of permanent establishment that takes in digital presence. In the European Parliament when we work on these matters, we very much refer to the OECD. The work has been done but it did not lead to a political conclusion. I have explained why. As Mr. Lamassoure said, the work can still be debated and thought about. It is not fixed. We tried to use state-of-the-art elements in our advice but we are aware views might change on that, al-

beit hopefully not drastically. This is the first step that is needed. The question then becomes how it is incorporated. We contend that once the proposal of a common consolidated corporate tax base, CCCTB, is adopted, the system is really up to the task of the 21st century.

**Senator Rose Conway-Walsh:** I thank the witnesses for their presentations. They will be glad to know that I do not agree with my colleague, Senator Kieran O'Donnell.

**Vice Chairman:** That would not be the first time.

**Senator Rose Conway-Walsh:** It would not.

**Senator Kieran O'Donnell:** That is healthy for a political system.

**Senator Rose Conway-Walsh:** It is indeed. I share a lot of the witnesses' views on multinationals, taxation and the unfairness and injustice at work. All of this tax avoidance must be addressed. I acknowledge that some of it is being addressed through the base erosion and profit shifting, BEPS, process. However, I also agree with the witnesses' observations on the tardiness of the approach of BEPS, the need to examine it and find ways to escalate it. I agree with the witnesses' comments on avoidance. Many multinationals have sailed off into the sunset and left a trail of destruction behind them. I come from rural Ireland, and if the witnesses were to travel around Ireland they would see for themselves the lack of really basic infrastructure like broadband, telecommunications, roads and so on. Tax justice is hugely important, and it is certainly hugely important to Sinn Féin. However, there are points we really need to examine in respect of the proposals the witnesses have brought before the committee.

I have a few questions. The witnesses seek to use Article 48.7 of the Lisbon treaty because there seems to be unanimity at Council level about these proposals. Can they clarify whether the proposal is to use the mechanism after the CCCTB is enforced to make the changes or to use it to get the CCCTB passed in the first instance? This concerns Article 48.7.

**Mr. Paul Tang:** We are conferring. Article 48.7 concerns enhanced co-operation.

**Mr. Alain Lamassoure:** I will make two points. First, it is very important for us to apply the common corporate tax base, CCTB, and the CCCTB on the same day. We recommend that time is taken if, as is likely, it is needed to finalise the whole system. However, when we hear from multinationals, be they European or American, on this issue, they are definite that both elements of consolidation should apply. It represents progress for them, improving simplicity, fairness, etc. They are all for it. If the alternative is to only have CCTB as a first stage, then there will be a very complicated interim period with interim regulations and then several years of consolidation. This would cause more complexity, an outcome in which they are not interested.

Second, of course we hope to reach unanimity in spite of reservations expressed by some member states, including Ireland at this point. Negotiation is ongoing. If unanimity is not forthcoming, it is very likely that the procedure of enhanced co-operation will be launched. This is because there is a clear determination in many member states, starting with France and Germany, to find a solution. For instance, our German friends can no longer put up with a situation where part of their tax wealth is robbed by Luxembourg.

**Senator Rose Conway-Walsh:** I understand what Mr. Lamassoure is saying. I am trying to get to the question of whether he accepts that we as a parliament, or any other parliament, would have the right to veto such a proposal.

**Mr. Alain Lamassoure:** The Irish Parliament will have the final say and the right to veto ordinary EU regulation, as will all 27 member states. A simple majority is required to start enhanced co-operation. A qualified majority is needed in the European Council to rule out veto by either governments or parliaments.

**Senator Rose Conway-Walsh:** Do both of the witnesses believe in full tax harmonisation across the EU?

**Mr. Alain Lamassoure:** It is the case in the United States.

**Senator Rose Conway-Walsh:** Do the witnesses advocate full harmonisation?

**Mr. Alain Lamassoure:** Yes.

**Senator Rose Conway-Walsh:** I think that is what people find difficult.

**Mr. Alain Lamassoure:** On the tax base. We have different opinions on the rates, but on the tax base, our agreement is clear.

**Senator Rose Conway-Walsh:** Ours is a small country, and as the witnesses are aware, our economic development has been blighted by colonisation, our ongoing partition, a denial of industrialisation and the lack of iron and coal. They can see the way our gas has been given away. This is one of the reasons we reserve the right to make our own decisions about tax policy. Large countries with an industrial base call for what they say is equal treatment. However, that can mean less for small countries and that is what concerns us. Do the witnesses believe that the European Commission and the European Parliament proposals amount to a reduction in national sovereignty? Currently the State effectively operates with three different corporation tax rates. We all know about the 12.5% rate that was mentioned earlier. There is also a 25% tax on non-trading income, and a 33% rate of capital gains tax. Under the CCCTB, is it not the case that we would only be allowed to have one tax rate? That, surely, would mean a reduction of our economic sovereignty.

**Mr. Paul Tang:** I do not think that the proposal would only allow for one tax rate to start with. The proposal discussed in the Council applies to the large corporate concerns with €750 billion turnover. I think, and the European Parliament thinks, that this system should be extended. We think it is modern and simple, so why not let other, smaller corporations benefit from it as well?

**Vice Chairman:** For the benefit of the committee, it is important to point out that the reasoned opinion that we gave as a committee was on the draft proposal, which did suggest that there would only be one tax rate.

**Mr. Paul Tang:** In the proposal, there is one rate. Fair enough.

**Vice Chairman:** All we could do was produce a reasoned opinion on the proposal at the time. I accept that the draft proposal was a draft proposal, and could be amended or changed or altered as a result of other actors. However, I think the point that Senator Conway-Walsh is trying to make is that we have three different rates. We have a main headline rate but we also have a capital gains tax rate and a 25% rate on non-trading income. The proposal that we saw, upon which we are commenting, effectively said that there could only be one rate in each country. If one wanted it to be 12.5%, one was entitled to that but only one rate was possible. Is that right?

**Senator Rose Conway-Walsh:** Exactly. Has that changed now?

**Mr. Paul Tang:** That has not changed. In fact, that is why it is good to come to the member states. This is the first time we have had this point raised in this way. Allow us to look into that.

**Vice Chairman:** We did include that in our reasoned opinion.

**Mr. Paul Tang:** Fair enough.

**Mr. Alain Lamassoure:** If I may comment, we were told, and it was confirmed earlier this morning by the Minister of State at the Department of Finance, Deputy D'Arcy, that in the working group set up by the Council of Ministers to work on this issue, the Irish members never take the floor. They do not participate. They attend to express their opposition to the principle of the reform but they do not speak. This is a big mistake. For example, if the Irish representative argued that as has just been done, in the case of Ireland, we have three different rates, it is particularly interesting for us. It is a success. In the European system the possibility of having several rates could be maintained. The discussion will be open and in the end, we will end up with different rates as is the case with VAT. Forty years ago, we decided to harmonise the tax base but we have different tax rates and even in respect of an allocation of goods and services between the tax rates, we can differ according to the member states. It is personal opinion but it would be in the interest of Ireland even if the Irish authorities and the Irish Parliament are reluctant to take part in it. I am sure that being far better than most of us, the Irish influence could be very great. In the end, they will judge if it deserves-----

**Vice Chairman:** How many Irish MEPs are on the particular committees? Mr. Lamassoure is saying the Irish MEPs are not participating in the discussion.

**Mr. Alain Lamassoure:** No, it is not in the Parliament. It is in the working group of the Council.

**Vice Chairman:** And there are Irish MEPs on that group?

**Mr. Alain Lamassoure:** No, the Irish civil servant is silent. The Irish are mute.

**Vice Chairman:** Even though our reasoned opinion, which was not just produced by this committee but adopted by both Houses before it went off to-----

**Mr. Alain Lamassoure:** Yes.

**Vice Chairman:** Both Houses adopted it and Mr. Lamassoure is saying that our civil servants are not-----

**Mr. Alain Lamassoure:** We were told by the Minister of State, Deputy D'Arcy, that they were instructed by the Taoiseach not to take the floor.

**Senator Rose Conway-Walsh:** That is revealing in itself.

**Vice Chairman:** That is revealing because I do not think we were aware. Mr. Lamassoure is telling us this morning that the Minister of State, Deputy D'Arcy, said to him that the civil servants are silent because the Taoiseach had said that he did not want the civil servants raising the points.

**Mr. Alain Lamassoure:** Yes. It came as a surprise to us. It is up to Ireland. They are around the table of this working group of the Council of Ministers. It is not the European Parliament, which is legally competent on the issue. Some representatives of member states take the floor.

It is the case for the Germans, Dutch, French and Swedes. The Swedes have expressed a reasoned opinion and are rather reluctant as well but the Swedes take part and convince the French and the Germans to amend.

**Senator Rose Conway-Walsh:** This is very useful because it gives us great cause for concern. My colleague in the European Parliament, Matt Carthy MEP, has been very vocal on all of these issues. We have very genuine concerns about what people are attempting to do here. I do not know if Mr. Lamassoure has ever heard the expression “a pig in a poke” but we believe we are being sold this. He has not heard of it. I will explain it to him afterwards. We see that where we do not have the critical analysis where it should be on the table and the lack of a full and comprehensive impact assessment that would say we really have an awful lot of work to do here. We have a huge distance to travel and a real examination to make because we as legislators need to make sure that our top tax sovereignty is protected. We need to correct all of the unfairness and injustice we talked about earlier on and we try to do that on a daily basis here in holding the Government to account. Successive Governments have been almost brought kicking and screaming to the table to address all of these loopholes. We are very serious about doing all of that but we do not believe it will be done inside what Mr. Lamassoure is proposing here. I know my colleague, Deputy Doherty, must go off as well so I will finish my questioning. I will explain to Mr. Lamassoure what a pig in a poke is after the meeting.

**Vice Chairman:** I will let members back in again if there is time to do so.

**Deputy Pearse Doherty:** I will pick up on a couple of questions. How many meetings of the working group have taken place so far during which the Irish contributors have not contributed?

**Mr. Alain Lamassoure:** Sorry, I did not understand.

**Deputy Pearse Doherty:** How many meetings of the working group on CCCTB attended by our officials have taken place?

**Mr. Alain Lamassoure:** I understand it meets once a month. It has been meeting for one year. It has finished the review of all the provisions of the first directive on CCCTB this week.

**Deputy Pearse Doherty:** Is either Mr. Lamassoure or Mr. Tang aware of any other member state that has adopted the same position adopted by Ireland, namely, being instructed by their-----

**Mr. Alain Lamassoure:** Yes.

**Deputy Pearse Doherty:** So there are other member states in the same position?

**Mr. Alain Lamassoure:** Half of the members.

**Deputy Pearse Doherty:** Are they taking a position of just going as a listening brief?

**Mr. Alain Lamassoure:** Yes.

**Deputy Pearse Doherty:** I am no defender of the Government in this regard but I presume it is because they are opposed to the CCCTB, do not want to engage in it and are likely to oppose it at the end of this process.

**Mr. Alain Lamassoure:** What I am told is that there are two kinds of these mute people -

those who oppose for reasons of principle and those whose position is “wait and see what is going to happen”, particularly after the strong but not very precise comments by President Macron on taxing the digital economy. With regard to the directions given by the G20 chaired by Germany last June - it was a meeting of G20 finance Ministers chaired by Wolfgang Schäuble - to the OECD and the European Council to the European Commission to put forward concrete proposals to tax directly or indirectly the digital economy, the work for the OECD should be completed in March or April while the work for the European Commission should be completed later. They do not want to take a position. They are cautious.

**Deputy Pearse Doherty:** I want to go back over some ground. My colleague mentioned the Lisbon treaty and Article 48.7. This article does not involve enhanced co-operation; it involves qualified majority voting where unanimity can be achieved in the Council to allow it to move to a proposal in terms of qualified majority voting. I know Mr. Lamassoure answered in terms of enhanced co-operation and the number of states going ahead with this proposal and that is important information. With regard to qualified majority voting, President Juncker has suggested that we need to move a number of tax issues on and basically use a different method of voting, which meant that countries would not have a veto. What are Mr. Lamassoure and Mr. Tang’s views on that proposal?

**Mr. Alain Lamassoure:** I am in favour but I am completely sceptical about unanimity.

**Deputy Pearse Doherty:** You have a veto in deciding to go to qualified majority voting.

**Mr. Alain Lamassoure:** What is clear is that whenever unanimity is required, whatever the issue, it is almost impossible to attain because even if there were no objections on the issue, there is always the temptation for one member state for which the issue is not of paramount importance to retain its “yes” vote, to negotiate on some other completely different issue with other member states for which this issue is more important. Unanimity is very difficult to obtain when there are 28, or now 27, members around the table. It can be obtained on the issue of corporate taxation after all the scandals and under the pressure of public opinion. If we cannot obtain it in the framework of the 27 member states, the fallback position could be enhanced co-operation. The so-called Passarelle clause, if that is the clause to which the member referred, is somewhat theoretical. We introduced this clause in the treaty to take on board the concerns of some federalists who were disappointed not to have imposed qualified majority voting on all issues. I can imagine a situation where suddenly, a member state which opposes the content of a document would agree to drop its right to veto, so the question is somewhat theoretical.

**Deputy Pearse Doherty:** If a member state did agree to go to qualified majority voting, as Mr. Juncker wants, and as Mr. Lamassoure has just argued, once that decision was made, would there be any changes to the proposal at a future date be by qualified majority voting or would it revert back decision through unanimity?

**Mr. Paul Tang:** My understanding is that Mr. Juncker’s proposal was not that specific but my assumption is that it would be qualified majority by then. If it was not it would not provide the break with the situation where one member state can block it. In that sense the Deputy is correct. I am not a federalist in my approach to Europe but I think that where we have a shared common interest there should be more majority voting. Capital has become very mobile and is global. We cannot work on that alone. When I hear people speak of sovereignty I wonder how sovereign they are. Is that country able to raise corporate taxes? Is it so sovereign that it can do that or is it only able to change them one way, and that is down?



**Deputy Pearse Doherty:** Should we let Europe decide -----

**Mr. Paul Tang:** No, this is about sovereignty, okay? Does sovereignty go one way? When I think of sovereignty, it is about choice. When I entered politics it was about making choices. I want us to disagree about the choices that we make but the problem is that we have few choices left. And then there is also the currency situation.

**Deputy Pearse Doherty:** I strongly disagree with Mr. Tang and take a very strong position against where the Government is in terms of Ireland's corporate tax rate. It is a matter I have raised over many years. For instance, many years ago, I and another member of this committee had argued in favour of bringing Apple before the committee. The Government, and some Opposition parties, refused to do so. We are very critical of how Ireland has facilitated tax avoidance at a global scale and how issues such as Apple have been facilitated by the Irish tax code. However, to dismiss the idea of tax sovereignty as though it does not actually mean anything, and merely ask states "how sovereign are you?", is nearly an argument for allowing Europe to decide not only the common base and consolidation but also the rate. One cannot cherry-pick tax sovereignty. What we are looking at here is a tax grab. This is a grab. I agree that there have been major scandals and that is why I am very critical of the Government because it has facilitated people across Europe, MEPs with their own views to which they are entitled, to use this opportunity created by Ireland facilitating mass tax avoidance - for which it has suffered huge reputational damage on a global scale - to try to put pressure on states to give up their tax sovereignty. That is what is happening here. It has been on the agenda for many years. If I was in Mr. Tang's position, I would feel the time was opportune because Ireland is weak. We still have a veto but our credibility is weak on this issue because of how we have dealt with Apple, the double Irish, stateless companies, section 110 companies and how - as seen in the last Finance Bill - we continue to allow Apple and other multinational companies to avail of allowances that result in an annual €850 million in forgone tax because we decided not to tax them appropriately.

I agree with that but this is a tax grab. It is about those who have seen an opportunity to move ahead in terms of federalisation or taking tax at a European level and using the opportunity provided by the scandals. Is that not the case?

**Mr. Paul Tang:** I am a pragmatic idealist. For me, Europe is not an end in itself but a means to achieve something. If the world changes, we must change too. I pool sovereignty to gain sovereignty. As I said earlier, I am not a federalist. I do not see why I cannot be openminded and say that where we did not share sovereignty on some matters in the past, maybe we ought to now on certain issues, of which corporate tax is one. I am much in favour not only of harmonising the tax base and introducing an apportionment but also of a minimum effective tax rate. I do not think it is the type of competition that we would want and we cannot do it. I am concerned that we will compete with each other on this if we do not change the situation, which in this case means pooling sovereignty. For me it is not a matter of principle but it is pragmatic because I am neither a federalist nor a nationalist but am between the two. I want to have choices because that is what democracy is about.

**Deputy Pearse Doherty:** Given the mobility of the large companies, we are talking about companies with turnovers of some €750 million or more, how will it be that instead of Ireland, Luxembourg and the Netherlands competing with each other that it will be the EU versus those outside the EU, so that companies will use jurisdictions outside the EU? We will not see any greater tax base as a result, but the tax base on a European level will decline?

**Mr. Paul Tang:** As I told Senator O'Donnell earlier, this is a relevant point. We still have an outside border, even if there is a European tax base. The fact that there is a European tax base makes it more difficult to avoid taxes. One of the reasons the Netherlands has been pivotal in the tax avoidance industry is because we did not have any source taxes on royalties and interest so that companies would move from Portugal, through the Netherlands and then outside, because we were borderless. One cannot exploit differences between the tax system and make the best of it, it is more complicated. Nevertheless, one still needs a border. I think the proposal is not enough on its own to tackle tax avoidance. It is a crucial change to the rules of the game but one also must consider withdrawal taxes, source taxes, defining what the border of Europe is. Europe is now borderless for capital. If the Deputy or I want to go anywhere we will need a passport; capital does not. We do know who owns it, where it goes, or what the purpose is. We are talking about tax avoidance but it is also the case in terrorism finance or money laundering where we simply do not know. We are lagging behind.

**Deputy Pearse Doherty:** That adds to the argument that the OECD should be driving this. I hear Mr. Tang's points. I disagree with certain things but the OECD is dragging its feet on some of these issues. I have no doubt about that. What I cannot understand is that Ireland will veto these proposals and yet a huge amount of energy is being put into this. It has been ongoing for the past decade. A huge amount of energy is being put into this instead of focusing on where it needs to happen at a global level in order that we can deal with this at the OECD.

**Mr. Paul Tang:** Now the Deputy tells me it is impossible at European level and that we should work on a global level.

**Deputy Pearse Doherty:** I did not say it is impossible at European level.

**Mr. Paul Tang:** That is what the Deputy just said because Ireland will veto it.

**Deputy Pearse Doherty:** I did not say it is impossible at European level. Of course it is possible at European level but Ireland will use its veto in respect of this issue.

**Mr. Paul Tang:** Exactly.

**Deputy Pearse Doherty:** Therefore, it is not going to happen at that level.

**Mr. Paul Tang:** So it is not going to happen at European level.

**Deputy Pearse Doherty:** It is because that is about a European institution taking tax sovereignty to its heart. Mr. Tang may be coming at this matter for a genuine reason because of scandals such as, for example, that involving Apple. However, he will be familiar with the fact that before it arose more than ten years ago, it was a principle of many of the leaders of the European Union that they wanted to take tax sovereignty to the core. This is them now taking the opportunity to do that. I disagree with their approach. Taxation matters are best dealt with at national level. There needs to be co-operation in terms of how we tax people and ensuring that they cannot exploit the differences between individual states. In terms of the functions of being able to determine how many rates we have, what the rates are and how we apply them, however, it should be done at national level. It is difficult for me to say this because successive Governments have facilitated that which I have outlined.

Mr. Tang used the term "tax pirates". In the past, I have stated that they have pimped out our country to the multinationals and allowed them to use our tax code to avoid paying their due taxes, not only here but also across the rest of the world. Is the solution to this not at a global

level instead of at European level?

**Mr. Paul Tang:** In my view, the difference between us is clear. Every time Deputy Pearse Doherty states that he wants the tax competence to rest with the nation state, the companies - such as Google and Facebook - cheer. They are the ones which benefit in the end. We are talking about the differences within Europe, but the real winners from this are the large corporates. We see - this is part of a global trend - the share of labour falling worldwide and the share of capital growing. We see the number of people who have been lucky to turn wealthy grow. This is part of a trend that means globalisation versus the nation state. Every time one states it has to be the nation state, one is making one's politics powerless and to the benefit of capital and the capitalist. I am from the party that wants to save capitalism from the capitalists.

On this issue, I would very much like to have a global framework. No doubt this should be our aim. That is why the EU and the OECD are working together and trying not to contradict each other. There is a careful dance on digital taxation for that matter. Europe knows that it should take action on its own but it does not want to destroy or even disturb the OECD process. My opinion is that if we take a European lead, we have a better chance of arriving at a global framework. Sometimes one needs leading examples. Europe is an economic superpower. We can set standards and we do not. Our problem in Europe is that we are an economic superpower and a political dwarf. I would suggest we take this superpower and use it to set global standards.

**Deputy Pearse Doherty:** Both MEPs can come in on this issue. Why does the European Parliament not carry out a country-by-country analysis to show member states and EU citizens the impact of the proposal that the Parliament has before it? Our guests state that they were not aware that we have three taxation rates. Both of them are rapporteurs for two different reports on CCTB and CCCTB. This committee has analysis which shows, for example, that because of the two rates being condensed into one, we would lose €450 million per year. Why is there not a real analysis being carried out? Now that we have country-by-country reporting, the data is available. Is that not something on which we should have an informed debate regard how this would play out for different European jurisdictions?

**Mr. Alain Lamassoure:** For a very simple reason, we do not have the figures and the expertise. The figures are available only in the member states and the member states do not want to publish their figures, particularly those which do not want to participate in the CCCTB. They use the argument that as long as we do not have an impact study, it is impossible to take a decision. This is correct but neither the Parliament nor the Commission has the tax documents, the figures and the information enabling them and us to make an impact assessment and as which the Deputy ask rightly, produce an analysis, both country by country and big corporation by big corporation, of this reform.

Perhaps I could add a comment on sovereignty. I do not mind sovereignty - I apologise for being a bit provocative. I do not know what sovereignty means in a world at peace. One should beware of discussing at length the principle of sovereignty without taking into account what happened in the United Kingdom. On the principle of sovereignty, the British decided to leave the European Union. Now they realise that, in leaving the Union, they are leaving their real sovereignty. Theoretically, they will regain the power to decide, for instance, on financial regulations, in Westminster and no longer in the EU. If, however, they use this regained sovereignty to adopt financial regulations in Westminster applying only in the United Kingdom, the huge influence of the city of London in all the euro area will shrink to the size of the United Kingdom, and possibly only to England and no longer to the other nations of the United Kingdom. I am sovereign in France on tax issues but, being sovereign, I cannot prevent my neighbour's

country from stealing tax away from France for his country. Sovereignty does not mean anything anymore among ourselves. Personally, I leave sovereignty and the debate on sovereignty to the sovereignists. I am not interested at all.

I do not need a transfer of sovereignty to make the European Union function. What I need is a clear separation and distribution of competences between the member states and the Union. We have full competence on some issues for the Union. Most competences are full competences of the member states. It is the case for 90% of tax competences. There are shared competences. We must find the best way, and the best level according to the principle of subsidiarity, to tackle the issue and take up the challenges ahead of us but let us not waste too much time on discussing the sovereignty principle as I do not know what it means.

**Deputy Pearse Doherty:** I appreciate Mr. Alain Lamassoure's opinions on that.

I have one final question. I am interested in their views of the perception of Ireland among their peers in the European Parliament and the committees in which they operate. Mr. Tang mentioned, and repeated, Ireland being a tax pirate. Is that view shared by his peers across the political divide in the committees in which he works? How is Ireland viewed as a result of some of the issues that have unfolded?

From my perspective, I am rooting for the European Commission in its appeal. I rarely do so. I am not only looking forward to having €13 billion of tax that should have been paid to us but note the view of the economist and chair of the fiscal council, which has an interesting blog out today. He argues strongly that if the Court of Justice of the European Union finds in favour of the European Commission, not only will the €13 billion be due to us, there will be another €2.5 billion to €3 billion for every year since the structure that has been applied because it continues to be facilitated but should not be allowed under the Irish tax code. It is because the anti-avoidance measures within our tax code should have been used to prevent the creation of the structure in 2015 simply to reduce a tax liability which is black and white in the tax code. However, that is what Apple stated publicly after the Panama papers and the paradise papers came out. I go back to the original question. Is this a unique view that Mr. Tang holds or one he shares with his colleagues on Ireland's role in international tax affairs?

**Mr. Paul Tang:** I understand the question but I would have to guess what other people think. I can speak from my own experience as a Dutch person. When one is in Brussels and among the European community, one is sometimes very Dutch. I drink coffee all day for a start.

**Mr. Alain Lamassoure:** He is Protestant, by the way.

**Mr. Paul Tang:** People find one Dutch and one carries the reputation of one's country with one. I remember distinctly a Portuguese colleague coming up to me to say that of the 20 companies listed on the stock exchange in Lisbon, 19 had a subsidiary in the Netherlands. I did not know that but she did. That is how people look at my country. This is what I tell my voters my experience is. The situations of the Netherlands and Ireland are very similar. This is the reputation Ireland has invested in and one reaps what one has sown. In Parliament, I brought forward an amendment to a report on EU tax havens. It was to point out that not only do we have tax havens within the EU, we also have them within the EU. This was highly contested. In fact, the vote was equally balanced in the Parliament, with 327 for and 327 against, except that two members voted the wrong way and corrected. I should have won that one. It means that half of the European Parliament sees the Netherlands as a tax haven, no matter whether one wins. The same is true for Ireland.

**Vice Chairman:** I must conclude on this point as I need to bring in Deputies Burton and Paul Murphy and I am conscious, particularly for those who have just joined us, that we have to conclude proceedings by midday. I apologise and call Deputy Paul Murphy, who I ask to be as brief as possible.

**Deputy Paul Murphy:** I welcome the witnesses and I very much welcome Mr. Tang's comments on radio this morning. Mr. Tang comes from the Netherlands and it is important that he is being honest about that country's role in a global chain of tax avoidance. We need to be honest about Ireland's role in that chain. It is tax piracy not only against other European states but also against less developed countries. It is a huge robbery of resources. We must break with the whole model and philosophy of tax competition, which is a disaster. Ultimately, the only winners in the long run are the large corporations. Precisely as Mr. Tang said, the illusion is of choice but the choice is only ever downwards.

I will start with a question to Mr. Tang on the global picture in the context of something he described very accurately, particularly if one looks at the graphs over a period of decades regarding the share of wealth going to labour and the share going to capital. One can overlay on top of that graph a picture of global effective corporate tax rates which shows the decline - a key factor in that shift of wealth. How can that be reversed? I agree, in principle, with the CCTB, albeit there are some issues with the formula which we can address. However, no one will claim that it will be a very substantial contribution to reversing the trend. How does one do that?

**Mr. Paul Tang:** We know it is a long-term fight and we do not mind. As a politician, one sometimes starts but does not know where one will end up. One hopes one's successors will take on what one has started. My fight started in the national parliament in 2007 when I was a member. Over the years, I have learned that transparency is crucial. What one has seen with LuxLeaks, the Paradise Papers and the Panama Papers is that they cannot see the light of day. If one's voters see this, they get outraged. The driving force has not been economic concerns such as a level playing field, it is the sense of unfairness people feel as in the case of Apple. I do not suppose it sits well with the Irish people. Transparency can be very important. It is necessary in the context of the big corporates as to where they make profits and where they pay tax - both of which are crucial - but it is also about the wealthy who can hide their wealth in all sorts of tax havens. That is why the blacklist of tax havens is important. It can be an effective instrument to lead to transparency. There is then the proposal which Alain and I are discussing here today in respect of the need for fair rules of the game. I refer to the corporate tax system, wealth taxes and so on. These are the things one needs.

To bring us to the global level, we need to start at European level. I cannot see any other way. Europe has the ability to set standards, not only for itself but also globally. That is why the blacklist of tax havens is important. If it is a farce, we are not able to set a standard. However, we are able to do it because we are an economic superpower. Why do we allow our multinationals to work with tax havens which do not abide by the rules? There is no reason. That could start within this economic superpower. If countries could work together within the OECD, it would be even better as that would include the USA, Japan and China later on. Then, one could build a global order that is fair. This is the long term but let us go there.

**Deputy Paul Murphy:** I agree with that. Transparency is key. We have argued that public, country-by-country tax reporting is necessary so that we see exactly what the corporations are up to. The reaction of the Government on the Apple tax does not reflect the attitudes of ordinary people. Ordinary people see that there is €13 billion available and wonder why it cannot be

used in respect of the housing and health crises. We must also understand that the existence of this money points to the need for a different development model for Ireland. I would go further and suggest the timeframe for the shift in power and the share of wealth from labour to capital and in the area of corporation tax coincides with the rise of neoliberalism, globalisation and the free movement of capital. That poses very substantial challenges to any attempt to reverse the process. It means one should question the idea of saving capitalism from the capitalists. Perhaps we have to save the planet from capitalism and need a different developmental model based on public ownership, investment, global co-operation and planning. I do not believe that the French, Dutch or German Governments or the Commission are pursuing this in the interests of global justice and everyone paying tax. They have their own interests, which may partly coincide with the interests of corporations. I do not know if Mr. Tang has any more comments on the global picture. If not, I will move on to more specific questions.

**Mr. Paul Tang:** Can I suggest what would be very helpful for tax? That is important. It is in everyone's interests, regardless of his or her political colour, to try to work towards a global framework. Let us take, for example, the International Panel on Climate Change, IPCC, which works on the dispute issue of climate change. The IPCC is a scientific body that seeks to gather evidence and reach conclusions on climate change. This is what we are now doing in the European Union on the tax issue but we would also like to have it addressed at a global level. Perhaps the OECD could start this process. We must also include the developing countries because, as the Deputy stated, they are significant. Given that economics has turned global, we need a global framework and we should start working to achieve that. While it may not be effective and it may be for information exchange, it may be needed later on.

The less developed countries are the real victims of tax avoidance. I find it a little annoying that, on the one hand, Bono initiated *ONE.org*, which argues for debt redemption in Africa, an understandable and good objective, while, on the other hand, he uses structures that are detrimental to these countries. That is a case of doublespeak.

**Deputy Paul Murphy:** Again, I assure Mr. Tang that the attitude of many ordinary Irish people to Bono is that he should pay his taxes, which could then be used for necessary purposes.

The Government points to the OECD because it does not want any action to be taken. It points to the most global level possible in an effort to push this issue to the never-never. We should take action wherever it is possible, whether at the national or European level or elsewhere.

Mr. Lamassoure's report deals with the formula that would be used. A question mark hangs over the Commission's formula and the weighting allocated to sales, capital and labour, respectively. Given that labour is the source of wealth and profit, it would make sense to have a formula tilted in the direction of labour.

Mr. Lamassoure's proposal regarding data is interesting. How would this work? The formula puts data collected over data collected and data exploited over data exploited. How does one put a value on these data? This is one of the complications that will arise in terms of transfer pricing and everything else.

**Mr. Alain Lamassoure:** The idea, which the Deputy has correctly understood, is to take the digital data collected and exploited for commercial use as the fourth factor. There is a problem that is open to discussion, negotiation and amendment. By the way, this will be another issue that could be appropriately raised by the Irish representative on the working group of the Coun-

cil if Ireland believes the weighting of the different factors is not in its interests and it would prefer another weighting. Deputy Paul Murphy would recommend a stronger weighting for labour. My recommendation to our committee, which has not yet voted, is to have an equal weighting for the four factors. This is usual practice in the OECD and also simpler. However, some members or groups insisted on basing the formula on sales or a combination of sales and labour without capital. If we attach too much importance to labour, for instance, the risk is that this would be to the detriment of those who invest more in new technologies, robotisation, etc., which is progress. Conversely, if we base too much on capital, it would detrimentally affect enterprises with a large workforce. We are open on this matter.

On the digital factor, the first problem is to find a definition which enables us to link the digital economy to a geographical base or jurisdiction. Having listened to many tax and engineering experts specialising in the digital economy, we arrived at the idea that, by definition, everything is movable in the digital economy, apart from personal digital data. To take Facebook as an example, the company has 30 million users in France, of which I am one. Incidentally, Facebook does not pay any tax in France, which is unacceptable. Facebook can collect and exploit data from France everywhere in the world or even in the cloud but it cannot prevent my personal data from being based in France or, in my case, the 17th *arrondissement* in Paris. It is easy for the tax administration in France to check this and we proposed a definition. I do not know if it is the best or correct definition and the proposal is open to debate. If we were to take on board this factor, it is open to debate as to whether it should have the same weighting as labour. Given that the European Parliament is entitled only to give an opinion, we cannot make demands. Our political aim, however, is to oblige the Governments to discuss this matter. I hope that will be the case in respect of taxing the digital economy. That is the starting point.

**Deputy Joan Burton:** I profoundly disagree with Mr. Tang's description of Ireland as being some kind of pirate country. While I understand the language of diplomacy, I know that we also have the language of war. I am of the opinion that the debate on this issue is veering too much towards the language of war.

For the purposes of background, does the committee believe there is a genuine comparator for real tax rates in different European countries? For example, I understand M. Lamassoure is from the south west of France. Unlike Ireland, France has a federal, regional system of government. If I were to visit the different French regions, I would find that different aids would be available to me in different regions. This is also the case in Germany and many other countries. Taking into account all of the inputs that may be available to companies, does the committee have a real comparator at this point? What progress has it made on this matter?

It is vital that global companies pay tax. If we are honest, however, we will agree that the different countries and regions of Europe are in extreme competition with one another to secure key investment from critical industries and in areas that have a significant impact on the daily life of all citizens. Do the witnesses think there is a genuine comparator? One of the things that would go some way to addressing this would be to have real, effective minimum tax rates - if we could get genuine comparators.

I have done a lot of work with the OECD as a Labour Party spokesperson on taxation over the last decade. I was one of those who predicted we would have a crash. I am concerned about the future of young people, that they get jobs and employment both in Europe and globally. Could the witnesses explain briefly why the OECD's base erosion and profit shifting, BEPS, process not acceptable? One advantage it has is that it is more globalised. It can be used on a global basis. As someone who has lived and worked in and has been involved with Africa over

many decades, I am concerned not only about Europe and Ireland but also about the rest of the world. This conversation is really welcome but I would like-----

**Chairman:** We did actually cover some of that stuff already.

**Deputy Joan Burton:** I apologise but I had to be at something else and could not be here earlier. I would like to know what is the flaw with the BEPS process. Why can there not be some reconciliation between the two processes? The witnesses may criticise Ireland. However, the global investment competitors of Ireland and Europe may well be Singapore, Israel and other locations if we look at the very big IT and social media companies.

Another element which might be possible is a financial transactions tax or a variation on such a tax. This might address some of the issues Mr. Lamassoure has raised and would have a global reach. In a globalised economy, if one simply closes down in one region of the world, one may perhaps address just some of it. I just do not see the CCCTB. There is a lot of potential in respect of digital taxation. Does the committee have a feeling that the OECD process is not the mechanism? Going back to sovereignty, is the EU collectively sovereign? The OECD has global experience and instincts, which are very important as we are living in a globalised world. It is also important in terms of the employment capacity of these companies on a globalised basis.

Ireland has had a very difficult crash. All during that time, we continued to pay €600 million or so annually in overseas aid, mainly to countries in Africa, which is untied - not linked to military or other market contracts. That is something people do not appreciate in Europe sometimes. We do not have military industries in the way the Netherlands, France, the UK and all the other major European powers have. We probably do not spend enough on overseas aid but it is untied and it goes to some of the poorest countries in the world. We did that even in the context of an appalling financial crash and a rescue that cost our citizens quite a lot of money. I would like to hear a little bit of consideration towards the complexities in which Ireland finds itself as a non-colonial country that does not have a massive inherited capital base.

There is a reason that when Bono chose to minimise his tax, he chose the Netherlands. The Netherlands has a structure of countries to which it is related going back into its colonial history. The most efficient tax avoidance mechanism in the world is the City of London and its arrangements with former British dependencies and territories around the globe. I really welcome this discussion but I would like to open it out a little.

**Mr. Alain Lamassoure:** I will answer the first question and then Mr. Tang will take over. The Deputy is correct when she says we must not forecast only on the tax treatments if we want to ensure a level playing field in the European market but must also take into account the various grants and other financial assistance given in some member states and regions to investment, be it by multinationals or small and medium-sized enterprises, SMEs. This part of the problem is overseen and controlled very closely by the European Commission. For instance, France has made a step of devolution of power to the regions but their autonomy is relatively limited. It can happen that the French Government may give grants to big companies or take a public share in them. It is, however, under the close scrutiny of the Commission and France has been condemned several times by the Commissioner in charge of competition, when these aids were deemed unfair. There are other cases to be looked at closely. For instance, the Spanish Basque region was particularly generous towards foreign investments, both by tax privileges and in granting aids. It was condemned by the European Commission and now it is over. When we were discussing with our colleagues the content of CCCTB, our German colleagues ex-



plained to us that they do not need a super-deductibility on research because in Germany, they encourage research not by tax incentive but by grants. The Deputy is right and makes a good case. We must ensure that we take on board also the expenditure side. However, thus far, the expenditure side has been under very close scrutiny by the European institutions or regulators, which has not been the case for the tax side.

**Mr. Paul Tang:** We think the CCTB is one of the proposals that can make the change. It is not the only thing we need, however. The reason we think it is important is that it changes the rules of the game. Now it will be up to firms to decide the location of their profit through constructions, transfer pricing and so on. If one wants to have one's costs in a high-tax country and one's revenues in a low-tax country, this game should be changed. If the countries decide where profits are being made and where they are being taxed, one changes the game. While that is an important change, it is not enough. A global framework is needed. I have been arguing that we need Europe to help set the global standard. The OECD is still very welcome but it has its disadvantages. It is very much divided when it comes to taxing the digital economy. There is a conflict of interest there between the US and the EU; Google and Facebook are American-based, after all. Consequently, one cannot expect the OECD to move on that. More broadly speaking, not everyone is at the table in that regard and less-developed countries are not very well represented. A person from the IMF confided in me that African countries should not sign up to tax treaties, although I do not think that is official policy of the OECD or IMF, which usually say a country needs to sign up and become part of the global framework. However, the official said that because he does not believe that the tax administrations in such countries are a match for the lawyers of big corporations. That is why I do not think the OECD at this stage is ideal. There is clear conflict between the United States and the European Union, as well as the fact that it is not really global although, at the end, it is a very good framework. If one goes global, one goes global but that should be done through an active European Union. That is the way forward for which I would have most hope.

**Deputy Joan Burton:** I thank Mr. Tang for his answers. However, a genuine comparison of the real effective tax rates in different countries is an absolute *sine qua non* of this discussion. One might consider the histories of different countries and, for example, the historic accumulation of wealth by some countries - perhaps because they were significant world powers in earlier centuries and so on - and compare that with a country such as Ireland.

In the context of some of Mr. Tang's comments about Ireland, does he accept or understand that there are many reasons not exclusively and primarily to do with taxation why American or other global companies might choose to locate in Ireland? One such factor is that for the past century or so, Ireland has been an English-speaking country and my experience of working in America and other parts of the world has shown that culturally, that is extraordinarily attractive to the senior executives of such companies. I completely accept that the tax issue is also extremely critical but I am concerned that the common consolidated tax base is now quite old in terms of how capital formation now occurs and does not capture enough to meet the challenges that may arise if Europe is going to fall behind in regard to the creation of its own industries and the consequences of that for younger people or the implications of robotic development for future employment.

Mr. Tang made a very important point regarding regions. In the context of the rescue of Ireland, throughout Europe there are regions that do less well than, for example, those surrounding the capital of a country and it is very important for national politicians to try to develop such regions. Since Ireland joined the EU, it has made enormous investment in education so as to

increase our attractiveness as an investment base for younger people. I have a problem with what was said by Mr. Tang regarding states being able to invest capital because Ireland does not have a huge accumulation of capital and has had a significant amount of debt since the crash. The EUROSTAT rules and the various relevant deals do not allow the Irish State to invest as much in capital as can richer European member states. We are completely hobbled by the German rules on spending.

**Vice Chairman:** While I am reluctant to conclude the debate and am enjoying Deputy Burton's contribution, the committee was due to finish at 12 noon and it is now 12.15 p.m. There will be an opportunity after-----

**Deputy Joan Burton:** My main point is that if we are going to have this conversation we need to get a baseline whereby we can compare like with like.

**Vice Chairman:** Deputy Burton has made that point very well. We will now conclude. There will be an opportunity afterwards for further discussion.

It is very clear from the committee that Ireland has significant concerns about these proposals. The witnesses may need to refresh themselves in regard to our reasoned opinion because I am sure they have been bombarded with data from all 27 member states, although not all provided a reasoned opinion. Approximately 80% of our corporation tax base relates to foreign multinationals, with about 40% of the total coming from the top ten multinationals. Companies such as Apple and so on provide very significant employment in this country and generate wealth that is exported around the world and not just within the EU. We need to see a country-by-country impact analysis of who the winners and losers will be before we could go any further with this.

I, like most Irish people, am not against corporations paying tax. We want them to pay their fair share of tax in the appropriate location but it is often the case that this is not that location. Ireland should not receive €13 billion from Apple for a phone designed in America, manufactured in China and sold in Singapore. We do not believe we are entitled to those profits but are being told that we are. We are not saying nobody should get that €13 billion but we do not believe it should be us. However, there is a concern that companies are being advised that this is how they will now be treated, having experienced a different regime in the past. Ireland once had a 10% manufacturing tax rate and 43% corporation tax rate and was told it could not have a manufacturing rate, so merged the two into one. We want corporations to pay their fair share of tax in the appropriate locations but we need to see an analysis of the redistribution of the tax within Europe. There will be winners and losers and we need to be sure of what might be the impact on the Irish economy if this proposal were to go further.

I thank the witnesses for their attendance and members for their participation.

The joint committee adjourned at 12.17 p.m. until 7.15 p.m. on Tuesday, 30 January 2018