DÁIL ÉIREANN

AN ROGHCHOISTE UM AIRGEADAS, CAITEACHAS POIBLÍ AGUS ATHCHÓIRIÚ, AGUS AN TAOISEACH

SELECT COMMITTEE ON FINANCE, PUBLIC EXPENDITURE AND REFORM, AND TAOISEACH

Dé Máirt, 2 Iúil 2019

Tuesday, 2 July 2019

The Select Committee met at 2 p.m.

Comhaltaí a bhí i láthair/Members present:

Peter Burke,	
Joan Burton,	
Pearse Doherty,	
Paschal Donohoe (Minister for Finance),	
Michael McGrath,	
Paul Murphy.	

Teachta/Deputy John McGuinness sa Chathaoir/in the Chair

Double Taxation Relief Orders 2019, Swiss Confederation and Kingdom of the Netherlands

Chairman: We are now in public session. I welcome the Minister for Finance and his officials to the meeting. We are dealing with the double taxation agreement and protocol with the Netherlands and a protocol to the Ireland-Switzerland double taxation convention. I understand that we will also deal with some matters relating to credit unions. We will proceed to the Minister's opening statement.

Minister for Finance (Deputy Paschal Donohoe): I am pleased to be here to bring two draft Government orders before the committee giving force of law in Ireland to a new replacement double taxation agreement with the Netherlands and a new protocol to the existing double taxation agreement with Switzerland. The new double taxation agreement with the Netherlands was signed by the Minister of State, Deputy O'Donovan, on behalf of Ireland and Foreign Minister Stef Blok on behalf of the Netherlands on 13 June 2019 as part of the state visit to Ireland of Their Majesties, the King and Queen of The Netherlands. The protocol to the double taxation agreement with Switzerland was also signed on 13 June 2019 by the Minister of State, Deputy D'Arcy, and the Swiss ambassador to Ireland.

As the committee will recall, arising from the OECD BEPS process, Ireland ratified the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting, BEPS, last year. The convention was discussed at this committee and in Dáil Eireann and was included in the Finance Act 2018. The BEPS multilateral convention updates the majority of Ireland's existing double taxation agreements. However, as was indicated to the committee last year, our existing double tax agreements with the Netherlands and Switzerland were not updated by the convention but will instead be updated bilaterally to reflect the BEPS changes. That is what these two agreements before the committee now seek to do.

We also indicated last year that the double taxation agreement with Germany will be updated bilaterally in due course. Discussions are at an advanced stage with Germany in that regard. As for those partner jurisdictions that have not yet signed the BEPS multilateral convention, Ireland has written to them to discuss options for implementing the BEPS recommendations. We are committed to ensuring that all of our double taxation agreements meet the minimum standards agreed in the BEPS process.

A common feature of both the agreement with the Netherlands and the protocol with Switzerland is the incorporation of strong tools for tackling tax treaty abuse and anti-avoidance measures. Both contain the minimum standards committed to during the OECD BEPS project as well as a number of measures that are recommended best practices under BEPS, as agreed bilaterally. The effectiveness of the anti-avoidance tools contained in the BEPS multilateral convention has already been demonstrated with the shutting down of the so-called "single malt" structure. The Maltese and Irish tax authorities signed a competent authority agreement at the end of 2018 that will achieve this by outlining the common understanding of both tax authorities as to how the changes introduced by the convention to the Ireland-Malta double taxation agreement will impact this structure. Ireland first signed a double taxation agreement, DTA, with the Kingdom of the Netherlands on 11 February 1969. It is one of Ireland's oldest such agreements. Throughout the past nine years Irish and Dutch authorities have been discussing replacing the existing agreement. In February 2017 discussions were held in Dublin to agree on how best to incorporate the BEPS-related measures into the replacement agreement, as agreed to bilaterally between the two countries. The negotiations were successfully concluded and that

agreement is now before the committee.

The new DTA with the Netherlands performs two primary functions. First, the original DTA was agreed to 50 years ago in 1969 and the new agreement which is based on the OECD model tax convention modernises the double taxation relationship between Ireland and the Netherlands. Second, the replacement agreement contains a number of provisions to deal with BEPS which makes the new agreement fully compliant with the standards under the BEPS project. The primary changes in the agreement are, therefore, of an anti-avoidance nature. In particular, the new agreement includes a principal purposes test as agreed to under BEPS action 6. The test ensures any benefit under the double taxation agreement is denied if one of the main purposes of any arrangement is the avoidance of tax.

Similar to the agreement with the Netherlands, the primary purpose of the Ireland-Switzerland protocol before the committee is to update the existing Ireland-Switzerland double taxation agreement to incorporate on a bilateral basis BEPS-related measures. Ireland signed an agreement with the Swiss Confederation on 8 November 1966. It was updated in two protocols, signed in 1980 and 2014. Owing to procedural and legal issues in Switzerland which prevented it from modifying its double taxation agreements through the BEPS multilateral convention, it was agreed that the BEPS measures contained in the convention would be introduced bilaterally. The protocol contains the minimum standards to combat treaty abuse and improve dispute resolution. It also provides for arbitration when the two treaty partners are unable to reach a solution. As with the double taxation agreement with the Netherlands, the principal purposes test is incorporated in the agreement. In effect, the protocol changes the double taxation agreement in the same manner as if the agreement had been modified by the multilateral convention.

The DTA network is an important aspect of our competitiveness in attracting investment. In addition, the agreements are a cornerstone of Ireland's trade policy and stimulate trade and investment flows between countries. They provide for greater predictability and fairness for taxpayers in meeting their tax obligations and are key to the prevention of double taxation.

The benefits of double taxation agreements are well known, but concerns have been expressed that treaties may inadvertently facilitate aggressive tax planning. This concern was central to the BEPS project and the BEPS multilateral convention. Updating our existing double taxation agreements, whether via the multilateral convention or bilaterally, helps to ensure they cannot be used for aggressive tax planning. As has been shown in the competent authority agreement with Malta, the Revenue Commissioners will use the new provisions, where appropriate, to prevent aggressive tax planning. Ireland has been a strong supporter of the OECD BEPS process since its inception and continues to engage positively at EU and OECD level. Proactively updating double taxation agreements is a key example of that work.

If Dáil Éireann approves the making of the orders by the Government, I will include them in the Taxes Consolidation Act 1997 by way of an amendment in the upcoming Finance Bill. That will enable Ireland to complete the necessary notifications to finalise the ratification of both agreements. I commend the draft orders to the committee. I am happy to answer questions from the Chairman or members.

Deputy Michael McGrath: I welcome the Minister and his officials. I thank him for his opening statement. I only have a few brief questions because we have already approved and ratified the multilateral convention which, as the Minister stated, was included in the Finance Act last year. Why is there a replacement DTA in the case of the Netherlands but a protocol in the case of Switzerland? Both seem to achieve the same objective, namely, giving recognition

to the multilateral convention. The Minister referred to particular issues in the Swiss system.

Deputy Paschal Donohoe: As our negotiations with the Netherlands were so well advanced before the OECD's work was concluded, it was felt it would be more prompt to conclude the agreement by way of ratifying the OECD changes in the agreement, whereas the work with the Swiss authorities took place at a later stage. Therefore, we believe the best way to progress it is via a protocol.

Deputy Michael McGrath: It is a timing issue.

Deputy Paschal Donohoe: Yes.

Deputy Michael McGrath: Is it the case that the majority of double taxation agreements were updated automatically as a result of the multilateral convention but these particular agreements were not? The Minister has flagged that the DTA with Germany will need to be updated in due course. Why is it that most were updated automatically but a small number were not?

Deputy Paschal Donohoe: The answer to the Deputy's first question is "Yes". On the DTA with Germany, it requested that we conclude our negotiations with it bilaterally and then make the changes in a manner similar to that employed in the Dutch model. We will include the changes in the treaty rather than via a multilateral convention.

Deputy Michael McGrath: Apart from giving effect to the multilateral convention, are there other changes being given effect through the new DTA or protocol? The committee dealt with the multilateral convention in the context of BEPS. Are there other changes as a result of this agreement that should be highlighted and brought to the attention of the committee?

Deputy Paschal Donohoe: The only other change that should be highlighted is that the new double tax agreement now encompasses modern OECD provisions, as well as reflecting Irish or Dutch measures that were agreed to bilaterally. The new double tax agreement is fully compliant with the minimum standards under the OECD base erosion project, as well as incorporating a number of other measures recommended under the BEPS project and agreed to bilaterally between Ireland and the Netherlands. The updates include provisions related to the adjustment of profits of associated companies, more extensive exchange of information provisions and a separate provision on assistance in the collection of taxes.

Deputy Joan Burton: I am glad that the country is proceeding, albeit slowly, in signing up to the BEPS process to an ever greater extent. It has long been known that the Netherlands tax regime in areas such as copyright earnings from music, etc., is far more favourable to taxpayers such as music groups which might have very significant earnings from royalties. It has been well known for many years that U2 transferred a significant portion of its activities to the Netherlands because of the favourable tax regime. Has this situation been mitigated through the agreement? Is it still advantageous for groups such as U2 to use the Netherlands extensively?

On countries which may have avoidance or reduction mechanisms built into their systems to attract investment and so on, a great deal of material published online via Wikileaks and the Panama papers which was published by an international consortium of journalists disclosed significant international tax avoidance by very wealthy individuals, banks and so on in various countries. What has Revenue done to examine the situation of persons or corporations of significant wealth who may have been identified or related to some of these information dumps about tax avoidance?

Does the Minister have a view on how our tax structures compare with those of Switzerland and the Netherlands? There is obviously significant competition for international investment and such but I think that most people, including in Ireland, want to see corporations and wealthy individuals paying their fair share of tax. I do not think that is happening in a complete way yet. How are tax authorities in different jurisdictions co-operating? Much of the base erosion and profit shifting, BEPS, process is the publication and sharing of information and data. Will the Minister share what has happened in this field that may mean that very wealthy individuals and corporations do not have the same arrangements available to cancel their tax payments entirely? We saw one case mentioned prominently in the papers today about arrangements related to Luxembourg, although we are not talking about it today. Effectively, by off-shoring property and other assets from Ireland, those involved could reduce their tax bill significantly, especially corporate tax bills, though I do not know about personal tax liabilities. Much worrying information came through in the disclosures about tax avoidance. What have Revenue and the Department of Finance done to stop the Irish taxpayer from being taken for a ride?

Deputy Paschal Donohoe: I thank the Deputy, who will appreciate why I will not comment on the affairs of any particular taxpayer or commentary about them. The Deputy asked if the ratification of this treaty would change tax laws for copyright or any earnings from music. I do not believe they will although I do not have information in front of me about how the Netherlands taxes copyright or income from music.

With regard to how the ratification of this treaty will deal with the issues to which the Deputy referred, much of the answer is contained in Article 22 of the treaty, which is also referenced in the protocol for Switzerland. In Article 22, we are introducing what is referred to as a principal purpose test, PPT. This will deny treaty benefits to taxpayers when one of the principal purposes of any arrangement or transaction carried out by the taxpayer is to obtain a treaty benefit unless it is established that granting the benefit would be in accordance with the provisions of the double taxation agreement, DTA. This seeks to give more power to tax authorities to ensure that the interaction and engagement between different tax jurisdictions does not create an opportunity for highly aggressive tax planning or some of the issues the Deputy has mentioned. Revenue's investigation division has reviewed the material that has come from the various leaks the Deputy has referred to and information that has come into the public domain. I am always willing to make available any resource or additional power that the investigations division of the revenue needs to pursue this work because I know how important it is.

There are two significant changes in dealing with the issues the Deputy referred to but we are only in the early part of them. The first is the exchange of information between different tax authorities that is now enabled by more countries ratifying the OECD convention. I believe it will be a substantial development in ensuring that taxpayers meet the commitments that they have in different countries. It is too early to put a figure on the additional revenue that it has brought to us but I am confident that, over time, that change will make a significant difference to the issues the Deputy raised. The other thing that will accompany that is the global intangible low-taxed income, GILTI, provision under President Trump's corporate tax reforms and the requirement that it now has for American companies to have a minimum tax rate of 13.125%. If one combines that change with the work of the BEPS process, I believe there will be a significant change in the coming period in the ability to evade tax commitments and a consequent increase in tax revenue in different jurisdictions across the world.

Deputy Paul Murphy: A concern that tax justice activists and academics have about double taxation agreements is that they often do not function to avoid double taxation but instead

function to, in effect, enable double non-taxation, for corporations to avoid paying tax here when they would have to but also to avoid paying tax in another country because that country does not tax that activity in that way. Does the Minister agree that that is a danger with double taxation agreements in general?

Deputy Paschal Donohoe: I do not believe that the use of double taxation agreements in the past was a key reason the behaviour that the Deputy refers to happened. This agreement is important with regard to how we will deal with this kind of issue in the future. I draw the Deputy's attention to a number of elements of the agreement that I believe will be important in how we deal with this issue in the future. The preamble is now different to the texts that the Deputy would have seen in the past. It is clear that not only is its purpose to eliminate the risk of double taxation and it is also clear that it does not want to create opportunities for non-taxation or reduced taxation through tax evasion or avoidance, including through treaty shopping arrangements. As I mentioned in my opening statement, that preamble was the text that the Revenue Commissioners then used in dealing with some issues that were identified with the use of the so-called and alleged "Single Malt". Article 1 about how hybrids will be treated and Article 22 about the principal purpose test will make an important and positive difference in ensuring that global companies pay a fair level of tax and that this is more transparent.

Deputy Paul Murphy: Does the Minister think that there were problems, potential flaws or loopholes in the generation of double taxation agreements that were signed in the late 1960s and early 1970s? The agreement with Switzerland was signed in 1966 and the agreement with the Netherlands was signed in 1969. The Minister is attempting to rectify some of those issues here. Are similar issues present in other double taxation agreements with other countries?

Deputy Paschal Donohoe: Regarding whether there are issues in other treaties, there are better standards that all treaties need to implement and if we do not do it bilaterally, where we involve both countries, such as with Germany, the ratification of the multilateral instrument will bring everybody into line. I do not believe these treaties were the cause of the problem in the past. I believe the bigger issue was the mismatch between different national tax jurisdictions and the opportunities that created for arrangements and for actions to be taken to facilitate highly aggressive tax planning. I believe part of the way we respond to that is by using the agreements to deal with the so-called "single malt", as we have done, and by ensuring that all our treaties with all countries, whether bilateral or through the multilateral convention, meet higher standards.

Deputy Paul Murphy: The mismatch to which the Minister refers is only operable where there is a double taxation agreement as it is the agreement that enables the mismatch to be abused. Can the Minister comment on that?

I appreciate that the Minister will not comment on specific cases but he might comment on the country. As Deputy Bruton said, the Goodman Group is reported in the papers today as having made a profit of €170 million last year but having paid, effectively, zero in taxes by filing accounts in Luxembourg. The double taxation agreement that appears to be still operative with Luxembourg is from 1972 and was agreed a couple of years after the agreement with the Netherlands. Is the Minister looking at revising or adjusting that agreement? From my vantage point, it is a problem when a corporation can make such profits but is enabled to effectively pay zero in tax.

Deputy Paschal Donohoe: As I said in answer to an earlier question, I will not comment on the tax affairs of a particular company or individual. We will update the double taxation agree-

ment, DTA, between Ireland and Luxembourg via the multilateral convention.

Deputy Paul Murphy: It is interesting that the four countries we are discussing, namely, Luxembourg, Ireland, the Netherlands and Switzerland, are all in the top seven of what Oxfam described as corporate tax havens. Luxembourg was at No. 7 and Ireland at No. 6, while the Netherlands were third and Switzerland fourth. We have spoken on a number of occasions about whether Ireland is or is not a tax haven. The Minister does not think it is so we will not pursue that ground now. Would the Minister agree that the Netherlands is a tax haven? It uses an innovation box, similar to our own knowledge box, which costs the state €1.2 billion annually and accounts for 7.6% of the country's total income from corporation tax. It facilitates so-called mailbox companies, with 12,000 companies channelling €4 trillion annually through the Netherlands. It does not extensively tax income in the form of dividends and royalties and it has a record of negotiating special tax agreements with multinationals, which Ireland also does. Does the Minister agree that the Netherlands is a tax haven?

Deputy Paschal Donohoe: No, I do not. I have had engagement with the Dutch finance Minister and I have heard him speak about these issues. Like me, he is a finance Minister in a small open economy and he is very familiar with the need for domestic tax law and corporate tax policy to meet new and different standards. Along with Ireland, he is involved in the work of the OECD in this regard.

Deputy Paul Murphy: It sounds like he gives a similar kind of speech to the ones given by the Government in Ireland, by saying that this needs to be tackled internationally and so on. Would the Minister agree that Switzerland is a corporate tax haven? Some 30% of Fortune 500 companies have operations in Switzerland. It is a relatively small country and one can presume the companies are there to avail of a favourable tax situation. There have also been sweetheart deals in Switzerland with particular multinationals. Like the latest model for tax avoidance in Ireland, it uses patent boxes and knowledge boxes to facilitate corporations extensively getting away with paying extremely low rates of tax.

Deputy Paschal Donohoe: It is not a description of Switzerland that I would share or use. The other feature that all the economies to which the Deputy refers have is that they are small. I do not believe that competitiveness in the use of tax policy is only the prerogative of large countries but, I as I have argued in this committee in the past, I accept that big and small economies alike need to adjust policies to meet new international standards and respond to issues such as have been raised both here and abroad. I have made the point that not enough recognition is given to Ireland for the change that it has made, in the person of myself and the former Minister, Deputy Noonan, in response to these issues whether through the OECD or with changes we have made ourselves. I am sure that finance Ministers of the countries in question would make a similar point about the changes they have made. For example, the Swiss finance Minister would draw attention to the fact that Swiss authorities now automatically provide very significant amounts of information to other tax authorities relating to the use of bank accounts within the jurisdiction. This allows progress to be made in ensuring that taxes are levied fairly on both big companies and individuals. The progress that has been made in recent years does not get the recognition it merits but we need to continue to make progress.

Deputy Paul Murphy: Does the Minister believe a place must be a tropical island to be a corporate tax haven? Does he accept that any European country is a tax haven?

Deputy Paschal Donohoe: The Deputy may be about to take me on a tour of the world. The Commissioner, Mr. Moscovici, would say that no country in the European Union meets the

global criteria for a tax haven.

Deputy Pearse Doherty: I have a question about the two proposals before us. In the case of the Netherlands we are talking about replacing an existing agreement while, in the case of Switzerland, we are dealing with a protocol, which is what we have done in other areas such as when we added a protocol to the Denmark and Luxembourg agreements four or five years ago. Why do we replace an agreement in one case but add a protocol in others?

Deputy Paschal Donohoe: In the case of Switzerland, neither side has identified the need to renegotiate the double taxation agreement. The existing treaty with Switzerland is one of Ireland's oldest but the protocol to it, signed in 2012, implemented key provisions in respect of OECD standards. Furthermore, it made important amendments to reflect changes in our respective laws. Given the fact that the treaty was recently updated via a protocol, it was judged that the most expedient way to do the work again was via a further protocol, as opposed to a new double taxation agreement. That is not the case with the Netherlands and it was decided that the best course of action with the Netherlands was a new agreement.

Deputy Pearse Doherty: What other agreements or protocols are coming down the track?

Deputy Paschal Donohoe: The work currently under way branches out into three different areas. The next significant bilateral change will be the work we are doing with Germany. The vast majority, if not all, of the other work will be made via the multilateral convention, rather than treaty by treaty. As regards new treaties with other countries, our focus will be on Latin America, Africa and the Far East.

Deputy Pearse Doherty: Was 2014 the last time we updated the double taxation agreement with Luxembourg?

Deputy Paschal Donohoe: It was 2014.

Deputy Pearse Doherty: Are there any plans now?

Deputy Paschal Donohoe: That would be done through the multilateral convention as opposed to a further bilateral treaty.

Deputy Pearse Doherty: The Minister says the primary change in the agreement is the anti-avoidance issues. In particular, the new double taxation agreement includes the principal purpose test under base erosion and profit shifting, BEPS, under action 6. He goes on to state that the test ensures that any benefits under the double taxation agreement are denied if the main purpose of the arrangement is the avoidance of tax. Is the Minister happy that the test is present in existing double taxation agreements and particularly with reference to the agreement we have with Luxembourg?

Deputy Paschal Donohoe: This is a change that has been developed through the Organisation for Economic Co-operation and Development, OECD, work. I feel this change is needed and will be a big improvement.

Deputy Pearse Doherty: It is needed and will be a big improvement in these two taxation agreements, but does it exist in the Luxembourg agreement?

Deputy Paschal Donohoe: It will come in when ratified through the multilateral convention. It is not there at the moment but will take place through the broad OECD change.

Deputy Pearse Doherty: When is that likely to take place?

Deputy Paschal Donohoe: It will be in effect for us from November.

Deputy Pearse Doherty: November of this year?

Deputy Paschal Donohoe: November of this year.

Deputy Pearse Doherty: The general anti-avoidance rule, GAAR, has been on our Statute Book for many years and has been updated in different Finance Acts. It is very clear that where an arrangement's primary or main purpose is avoidance of tax, the benefits will not accrue. Is that correct?

Deputy Paschal Donohoe: That is correct, but the benefit of the OECD work is that an equivalent of that has to be implemented in any other jurisdiction participating in the work. While we may have strong recognition of this in our existing tax law, the benefit of the OECD approach is that it encourages everybody else to do the same.

Deputy Pearse Doherty: If, for example, a business were to change its residency from Ireland to Luxembourg and the main purpose of that was tax avoidance, that would be deemed tax evasion under our existing law and the GAAR because it would be illegal and therefore the benefits would not apply. Would that be correct?

Deputy Paschal Donohoe: That is the purpose of a change like this, but I know that-----

Deputy Pearse Doherty: I am not asking about a change like this. I am asking about our existing law because this does not apply to all other agreements. Under the GAAR if a company were to transfer or change its residency from here to another jurisdiction, for example, Luxembourg, for tax purposes, it would not benefit from-----

Deputy Paschal Donohoe: This is an especially technical question, so if the Deputy is agreeable, I will ask Mr. O'Dea to answer directly.

Mr. Eamonn O'Dea: The distinction here would be that for the purposes of the treaty, the multilateral convention is necessary to put in the principal purposes test which will then govern the operation of the treaty in determining where a company is deemed to be resident, whether in Ireland or the treaty partner country. As the Deputy correctly points out, however, we also have a general anti-avoidance provision in our domestic legislation and to the extent that there was any effort through artificial arrangements to get a benefit in respect of Irish corporation or income tax by reference to residence provisions of Irish law, that would be governed by our general anti-avoidance provisions as well as the residence provisions in our domestic law. To the extent that the residence is for the purpose of the operation of our domestic law, that will be governed by Irish domestic provisions, including our general anti-avoidance provision. Where it comes to the determination of the residence of a company for the purposes of a bilateral agreement, the governing provisions would be bilateral provisions and the multilateral convention, which Luxembourg and we are ratifying, will provide for a principal purpose test to apply in the application of that treaty. If that treaty were to be used in a way that would wholly and artificially gain the benefits of that treaty for the purposes of reducing tax, it would be possible to limit, prevent and challenge those purposes.

Deputy Pearse Doherty: Until that is signed it is our law that would apply and therefore it would not get that benefit. If a company, for example, transferred assets to another jurisdiction

and then supplied loans to this country that allowed it to write down its profits but that transfer arrangement was made, without any treaty or bilateral agreement, to reduce its tax liability to zero or next to zero, our law under the general anti-avoidance rule could nullify that.

Mr. Eamonn O'Dea: I would not wish to give the impression that our domestic provisions would not have effect. They would, but if any planning arrangement of the sort the Deputy mentions were relying on protection of the treaty, an anti-avoidance provision would have to be put into the treaty to prevent that. If a taxpayer appeals to the provisions of a treaty, he or she can rely on a bilateral agreement effectively to override domestic law on either side. Across our network of treaties, and in some exceptional instances bilaterally, we are putting in anti-avoidance provisions, the principal purpose test, which prevents the treaty being used simply to gain a tax benefit without any underlying substance. If the arrangement the Deputy refers to were relying on a treaty provision for protection that is being addressed now with the multi-lateral convention and bilateral negotiations. In many instances such arrangements will not be relying on the treaty and can be attacked using a considerable range of domestic anti-avoidance legislation that has been strengthened over recent years.

Chairman: We have a half an hour left in this meeting, and we had agreed that we would move to the credit union issue to finish at 3.15 p.m., because the Minister is with us only until then.

Deputy Pearse Doherty: I will be very quick on the rest of this. There is a nuance in our existing law. When this agreement is signed and ratified with the Netherlands and Switzerland and with the others, including Luxembourg, later this year, will it then consider the permanent establishment of existing companies or will it just apply to new establishments that are changes in residence applied after that date?

Among the changes we made in the Finance Act 2018, we introduced measures which would tax assets that were transferred from a permanent establishment, PE, to another subsidiary of the company, from the parent company, or one part of it, to the other, if they were moved off-shore. Do any of these arrangements impact on that?

I am teasing out some of these issues because of the case that is mentioned in the newspapers. Is there anything in these double taxation agreements that allows or disallows companies to carry on this type of practice where assets are signed over to another country and then loans are sent back to Ireland to build apartment blocks or whatever? Therefore, these companies in Ireland pay no tax on profits whatever. The Revenue Commissioners are silent on this and there are no questions about measures to combat tax avoidance.

I got a call from a local shopkeeper who employs many people in a certain village. The Revenue Commissioners were down on the shop like a tonne of bricks because it was facilitating the sale of mass cards for the local church. The shop was not benefitting at all but the Revenue Commissioners argued this could have increased throughput into the shop as somebody might come in for a mass card but get a loaf of bread at the same time. The arrangements I am talking about are not about paying €5 to show sympathy and respect for somebody who has passed away but the hundreds of millions of euro in convoluted schemes that allow assets to be transferred offshore, with loans generated on the back of those assets to allow for profits to be completely neutralised in tax terms here. It means some of the largest businesses on this island are not paying their fair share of tax, if they are paying any tax at all. Will those practices still be allowed under this agreement and the agreement to be signed in November this year?

Deputy Paschal Donohoe: This will apply to existing companies, as opposed to companies due to be set up. The Deputy asked if this has any impact on changes we made in last year's Finance Bill and it does not. The Deputy also asked about a matter covered in a newspaper today. The Deputy has not commented on the individual company and I will not do so either as it would not be appropriate. My experience is that the Revenue Commissioners take people evading their legal tax responsibilities every bit as seriously if the companies in question are large as if they are small. They are exceptionally serious about ensuring that existing law and policy is enforced to deal with that kind of issue.

Deputy Pearse Doherty: We have seen in the newspapers today that a company can be established with no employees but which provides loans to a company in Ireland - the location of the parent company - and this facilitates a write-down of tax. It will be deemed as permanently established in another jurisdiction despite the fact it has no operation or employees there. How can a company be run without employees? Those four companies have no employees. This rule means we will turn a blind eye to what was done in the past and it will only apply to companies established in future, no matter how blatant it is that this was for tax purposes in the first place.

Deputy Paschal Donohoe: The changes will refer to existing companies as opposed to those that are being set up. That is what I aimed to say a few moments ago. The ratification of the OECD changes will make it significantly harder for tax avoidance to happen in the way it has in the past. If I go any further than that, my comments will be associated with the company being discussed today, which would not be appropriate.

Deputy Joan Burton: The Minister did not answer my question. I asked the Minister about the amount of information that had become available in recent years through a variety of sources indicating there are people in Ireland avoiding paying their fair share of tax either through personal or company structures. There is a very detailed article in today's *The Irish Times* by Mr. Colm Keena, a very reputable journalist. It indicates there are complex tax arrangements concerning companies and the establishment of what I can only describe as brass plate companies in Luxembourg in particular reflecting on four or five other jurisdictions because these are complex arrangements.

I repeat what I asked the Minister. Is this of concern to him? Currently beef farmers in Ireland are entering a very difficult period.

Chairman: I have given the Deputy some leeway so she should just put the question please.

Deputy Joan Burton: We have a very elaborate and complex description in one of our major newspapers today by a very reputable journalist indicating a complex tax arrangement that appears to have resulted in the mitigation of this company's overall tax burden in Ireland to a very high degree. Is the Minister concerned about that? As I said, the beef producers in Ireland are entering a very difficult phase.

Chairman: We know that. The Deputy should ask her question.

Deputy Joan Burton: I asked the Minister a second question but he did not reference it. I asked what were the Revenue Commissioners doing about high net worth individuals. I am open to whatever kind of structure they have, whether it is based on income, company structures or trading businesses. The Revenue Commissioners have told us and various other committees, including the Committee of Public Accounts, over the past couple of years that

they were targeting approximately 350 so-called high net worth individuals. This is all about properly advancing structures-----

Chairman: The Deputy has asked her question.

Deputy Joan Burton: The Minister did not answer so I am just explaining it to a slightly greater extent.

Chairman: If the Minister can answer that directly, we will conclude the matter and move to the credit union discussion.

Deputy Paschal Donohoe: The Deputy is referring to a particular company that is covered in a major newspaper today. I can understand entirely why she wants to raise the matter, given some of issues raised by the newspaper today. It is simply not appropriate for me to comment on it. Any comments I make will be interpreted as applying to the affairs of a taxpayer and that is not something I believe is appropriate for me to do as Minister for Finance. Representatives of the Revenue Commissioners have been before this committee on many occasions and they rigorously follow up any issues relating to a breach of tax law. I am not going to make a comment that could be interpreted as applying to any individual or company as it would not be appropriate.

The Deputy asked about the work done by the Revenue Commissioners relating to high net worth individuals and I am happy to supply to the committee a note on recent progress made in this area, particularly across 2019. I thought I answered this when the Deputy raised the matter earlier but I know that some of the issues that have emerged from some of the data coming to the public domain relevant to Ireland have been investigated and followed up by the Revenue Commissioners.

Message to Dáil

Chairman: In accordance with Standing Orders 90 and 89(2), the following message will be sent to the Dáil:

The Select Committee on Finance, Public Expenditure and Reform, and Taoiseach has completed its consideration of the following Orders in draft:

Double Taxation Relief (Taxes on Income and on Capital) (Swiss Confederation) Order 2019, and

Double Taxation Relief (Taxes on Income and Capital Gains) (Kingdom of the Netherlands) Order 2019. copies of which were laid before Dáil Éireann on 19 June 2019.

Credit Union Sector: Discussion

Minister for Finance (Deputy Paschal Donohoe): I thank the committee for inviting me to discuss this important matter. It is important to recognise that credit unions, as volunteer-run financial co-operatives, provide an invaluable service to both rural and urban areas in Ireland. As Minister for Finance, I am keen to continue to support the sector, and this is reflected in the regular engagement I have had with it. In February, I invited a number of credit union stake-

holders to an engagement session in the Department and it is my intention to continue this active engagement with credit union representatives. I hope to hold more of these sessions in future.

In terms of regulation, the committee is aware that credit unions are regulated and supervised by the registrar of credit unions at the Central Bank. Within his independent regulatory discretion, the registrar acts to support the prudential soundness of individual credit unions to maintain sector stability and protect the savings of credit union members. Section 32(d) of the Central Bank Act of 1942, as amended, provides that the Central Bank of Ireland may, with the approval of the Minister for Finance, make regulations prescribing an annual industry funding levy to be paid by regulated financial service providers to the Central Bank of Ireland. The industry funding levy is not specific to credit unions and there is no statutory requirement under the legislation for the Central Bank to consult the credit union advisory committee, CUAC, or any third party other than the Minister for Finance. However, it is worth noting that the final report of the CUAC implementation group, published in January 2019, makes specific reference to the Central Bank's intention to increase the industry funding levy for credit unions to 50% on a phased basis.

Since 2004, the amount of the industry funding levy payable by each credit union has been capped at a rate of 0.01%. Consultation paper No. 95, a joint paper of the Department of Finance and the Central Bank of Ireland entitled "Funding the Cost of Financial Regulation", was published in 2015. It set out proposals to move from partial to full industry funding, noting a proposal set out in an earlier consultation conducted by the Central Bank, which was entitled "Consultation on Impact Based Levies and Other Levy Related Matters", or CP61. This proposal was to move credit unions to fund 50% of the cost of regulating the credit union sector. Importantly, the Central Bank's feedback statement on the consultation process for CP61 noted the feedback received from the credit union representative bodies. In its "Funding Strategy and 2018 Guide to the Industry Funding Levy", the Central Bank set out its intention to increase the proportion of financial regulation costs for industry, to increase the overall recovery rate and address funding gaps in specific areas of the Central Bank's regulatory activities, with a view to achieving full industry funding in the medium term. In terms of credit unions, the Central Bank set out an initial target of 50% to be implemented on a phased basis by 2021 to 2022.

Having taken into consideration the unique and important role that credit unions play, I recommended to the Central Bank that credit unions be provided with a specific exemption from the 100% target - the only part of the financial services sector to have such an exemption. Instead, credit unions will be set a target of 50% by 2021 to 2022. It is projected that this will be recovered from credit unions on a phased basis, with recovery rates to increase to 20% of the costs of regulating the credit union sector for the 2019 levy, moving to 35% for 2020 and to 50% for 2021. Credit union recovery rates from 2022 onwards will be subject to review and a public consultation to guide strategy once 50% recovery rates have been achieved. In contrast, the banks have been subject to 100% of financial regulation costs since 2012.

The committee members may also be interested to note that the Department of Finance, in collaboration with the Central Bank, has now issued a public consultation paper on potential changes to the credit institutions resolution fund levy, which is expected to reduce materially from 2020. This paper is open for consultation. The deadline for submissions is Friday, 9 August 2019. I am grateful for the opportunity to address the committee and look forward to responding to any points.

Chairman: To clarify, the Minister said that in February of this year, he invited a number of credit union stakeholders to an engagement session. Was that session about the funding levy or

was it just general engagement?

Deputy Paschal Donohoe: It was just general engagement.

Deputy Michael McGrath: I think there is another page to the Minister's statement, if he wishes to read it.

Deputy Paschal Donohoe: The version of it that I have left out a concluding page. I might just go on to my concluding page.

Once the deadline for submissions has closed, the Department, in collaboration with the Central Bank, will consider the feedback received as part of the consultation process. It is worth noting that as Minister for Finance, I have reduced the stabilisation scheme levy as a percentage of assets materially; that since 2017 no further levies have been charged; and that from 2019 the Financial Services Ombudsman levy will be reduced materially for credit unions, in some cases by 81%. I recognise strongly the role of our credit unions. I recognise, for example, the €2 billion of new lending they have made available every year. In the work that we are doing with the credit union movement and the general work I am doing in respect of levies that the sector is dealing with, I am conscious of the issues they face and will look to respond to different issues that they have raised with me over time.

Deputy Michael McGrath: I thank the Minister for agreeing to take this issue today. I raised it at the committee last week and suggested that he be given notice that we intended to use this opportunity to raise the issue. I also acknowledge the agreement of the Senators, who are not members of the select committee, to allow us as Deputies to raise this issue today. If I could have an exchange with the Minister for a few moments, on the question of consultation, he said the CUAC implementation group report published in January 2019 made specific reference to this increase in the levy. Did the Minister directly seek the advice of CUAC on this issue before signing off on the Central Bank's proposal?

Deputy Paschal Donohoe: No, I did not; nor am I required to seek its input. I consulted my officials and looked at the recommendation that was made to me from the Central Bank.

Deputy Michael McGrath: In the Dáil on 20 June when this was raised with the Tánaiste, he referred to the changes as having "been outlined following a consultation with the credit union movement, which was more than aware of the proposed changes and was involved in seeking them in most cases." That strikes me as being wholly inaccurate. There was not any direct consultation with the sector and it certainly did not seek this change.

Deputy Paschal Donohoe: No. I am glad to have the opportunity to clear that matter up. What the Tánaiste was referring to was the changes I am looking to make in respect of the interest rate cap for lending from the credit union movement. When the issue was raised with him, he assumed it was a reference to the interest rate change while in fact the Deputy who was raising the issue with him was referring to the levy.

Deputy Michael McGrath: He may wish to correct the record of the Dáil on that because the question he was asked was very directly about the annual industry funding levy. It seems pretty clear from reading the Official Report. As the Minister well knows, credit unions are under a lot of pressure because of the very low investment returns and loan to deposit ratios in the region of 27% which, I think the Minister will agree, is not sustainable in the long term. The representative bodies, including the league which is represented here today, have pointed out to us and, I am sure, to the Minister, that they really should not be treated like banks. They are

not banks; they are not-for-profit organisations. They believe and I agree that the Minister has not placed sufficient value on the social capital, the work of their volunteers, their community base or their democratic structure.

It is evident from the Central Bank paper, "Funding the Cost of Financial Regulation", that it is its intention to move to 100% beyond 2022. The paper states that credit union recovery rates from 2022 onwards will be subject to review and a public consultation to guide strategy once 50% recovery rates have been achieved. The Central Bank is very clear that this is its intention. Why did the Minister not push back against the Central Bank and say this is completely the wrong time to impose these extra costs on credit unions? Other levies are winding down but the big one, the credit institutions resolution fund levy, is still at a very elevated level at about €7.5 million a year. Why did the Minister not make these points to the Central Bank and seek at least to defer or, ideally, to make an actual separation in structural terms between the treatment of credit unions and for-profit financial institutions?

Deputy Paschal Donohoe: The treatment of for-profit financial institutions and the credit unions is different as a result of these changes. Our banks, correctly, will have to cover the full 100% cost. For credit unions, at the highest point the cost will move up to 50%. It will be a matter for the Minister for Finance of the day to decide when this period comes to an end and to decide the appropriate threshold for the next phase of the levy. I have a clear sense that the appropriate threshold should be and is lower than what our banks are paying at the moment - they pay 100%. I urge the committee to see this change in light of what will be happening with total levies in 2020. Our judgment and analysis indicate that in 2020 there will be a reduction in the levies due to be paid compared to where we are in 2019. While it is correct to say that the industry funding levy will be going up, it will take place at a point when the resolution levy will be coming down significantly. As I mentioned earlier, there will be an open opportunity for the Minister for Finance in 2021 to review the future of the stabilisation levy. My argument and contention to the committee is that, in the round and in light of all the levies that the credit union movement is paying or is due to pay, there is an appreciation of the challenges and pressures the movement faces and of the value the movement has for our economy and society.

Deputy Michael McGrath: The resolution fund currently holds €268 million. As the Minister is aware, this is €18 million in excess of the amount he contributed in 2017. The fund is currently costing credit unions €7.5 million per annum. The Minister is stating that, taking into account the changes that are likely with the resolution fund levy, the net position for 2020 will amount to a reduction in the overall burden of levies that credit unions are carrying. Will the Minister clarify that this is what he is saying? He reiterated the point on the consultation phase for the review of the resolution fund levy. Submissions can be made up to a date in August. Is that the direction of the Minister's thinking? It is questionable whether credit unions should be required to pay into the fund at all given the level of funding already built up. The rescues that had to be carried out across the sector were essentially funded by the movement to date.

Deputy Paschal Donohoe: I am seeking to place the change in the funding levy in the context of what will be happening to other levies that the credit union movement is due to pay. My key point on the industry funding levy is that I believe I have given recognition of the particular needs of the credit union movement by ensuring that it pays 50% of the cost as opposed to all of it. That is a proportionate recognition by the Government of the value of the credit union movement and some of the particular challenges that it is facing.

Deputy Michael McGrath: Will the Minister clarify what he said about the net position next year? Is he stating that it will be a net reduction in terms of the liability of levies?

Deputy Paschal Donohoe: Our analysis indicates that for next year there will be a reduction in the total levies that the credit union movement will be paying.

Deputy Michael McGrath: What about the following year, when the industry funding levy will increase further?

Deputy Paschal Donohoe: It will. However, when we move into 2021 the stabilisation levy will be open for review.

Deputy Michael McGrath: It will continue to be a net reduction. Is that accurate?

Deputy Paschal Donohoe: That depends on the outcome of the review of the stabilisation levy.

Deputy Joan Burton: Like other Deputies, I have received a great deal of information from credit unions on their concerns about the changes in the levy. Significantly, the credit union movement is operated by volunteers. Admittedly, there are professional staff in credit union offices, but the overall management structure is on a voluntary basis. Credit unions offer banking facilities on a community basis not only for individuals in local communities but also for voluntary and sports organisations. Will the Minister re-examine this until such time as there is a clearer pathway as to the impact? The material I received from the credit unions indicates that they could be severely affected. The Minister is now stating that the impact may not be as negative as feared. If that is correct, then it is welcome. Is my understanding of what the Minister said correct?

Comparing credit unions to banks is rather unfair, particularly in light of the credit unions' voluntary and community nature. Moreover, they are heavily constrained, as the Minister is aware, in where they can invest because of their particular community and voluntary nature. On the other hand, they represent vital financial infrastructure especially to the many communities where there are no longer banks or where, in future, there may well be far fewer ATMs.

The Minister should bear in mind the role credit unions play and the significance and importance of that role. Is he stating that on account of other payments the credit unions are making for stabilisation, the levy will be mitigated? Is he stating that he believes credit unions will pay less overall? What if credit unions end up paying far more or, as the note before us indicates, are compared like for like with commercial banks? I do not believe that is an entirely appropriate comparison.

The Minister needs to provide more information. I am not sure whether the Department has carried out an impact assessment of the likely changes in the levy. If the Minister has the details set out, can he supply the impact assessment to the committee? That would be helpful.

Deputy Paschal Donohoe: I reiterate the key point. We have approached this by putting in place a 50% recovery rate. This means that credit unions are treated strikingly differently, as should be the case, from the other bodies to which Deputy Burton has referred. This is precisely in recognition of the point the Deputy made about the capital or funding needs that credit unions have and the nature of the organisations. That is why they are subject to a 50% recovery rate compared to the banks, which are subject to a 100%. Those involved in insurance are subject to a 100% rate while moneylenders and bureaux de change will be levied at 75% in 2020. We are looking to treat the credit union movement in a different way to other bodies regulated in recognition of the points Deputy Burton has made.

A point was made regarding the impact of the industry funding levy. It would be fair and accurate to say that the increase in the funding levy is of course going to have an impact on credit unions - I acknowledge that. Our analysis indicates that over a three-year period when the rate moves up to 50%, the figure will be a little under 3% of the current overheads that a credit union may be dealing with. It will have an impact and I have no wish to create an impression otherwise, but I call on the committee to evaluate the decision I have made in the light of recognising the reduction in the resolution levy. Notwithstanding the point Deputy Michael McGrath made, there is still a reduction in that levy and the stabilisation levy will be up for review in 2021.

Deputy Pearse Doherty: The Minister is aware that I have already raised the issue of the credit union levy in parliamentary questions. He is also aware that for several years, I have argued that there should be 100% recovery in the banking industry. I am glad that this is now taking place.

In his opening statement, the Minister said he recognised the unique nature of the credit unions. It is important to define that unique nature. The stand-out difference between a credit union and a bank, a moneylender or a fund, is that the credit union is not-for-profit, community-run and volunteer-led with no big bonuses for board members. Rightly so, the cost of regulating banks, funds, major insurance companies and moneylenders should be paid by the industry itself as opposed to from the public purse.

However, as a society, we have recognised there are important sectors whose regulation should be paid from the public purse. We do not ask charities to pay for their regulation. Accordingly, the State pays for the Charities Regulator. Likewise, Sport Ireland regulates sporting bodies and organisations. This is all paid for from the public purse because it would be wrong to ask local sports teams to pay for it.

While they are involved in lending money, the fact is that credit unions are not-for-profit, community-run and volunteer-led, which distinguishes them from the rest of the sector. Outside of talking about rates and so forth, there is a question as to why we are applying this additional burden on them and putting a figure on their worth for society, as opposed to accepting they are unique in that they are not banks, moneylenders, funds or insurance companies. Instead, they are credit unions which are locally run, responding to local needs and, key of all, are not for profit.

Deputy Paschal Donohoe: I agree. This is why I am not sitting in front of the committee with a proposal for a 100% industry funding of the levy. I agree with the Deputy's point. All Deputies share his view that this sector is uniquely different to other parts of the broad financial sector in our economy. That is why we have a target of the credit unions being levied at half the rate of some of the sectors to which the Deputy compared them. I know there is a difference and that is a reason for the difference in how the levy will be funded. I have recognised that in what I have done. The impending arrival of this change has been well flagged. If it would be helpful, I can go through how this has been flagged again. This change was well flagged to the sector. In recognition of their nature, it is why they are moving to a 50% model and not a 100% model.

Deputy Pearse Doherty: First, it is not 50% full stop. It is 50% and then there will be a consultation to see what happens after the 50% levy is raised. There is no guarantee, unless the Minister wants to give one here, that it will be only 50%. Will the Minister give that guarantee first, as it would clear up some of the other issues I have?

Deputy Paschal Donohoe: The Deputy knows I cannot because this is guided by recommendations made by the Central Bank. It is a fair horizon within which to plan one's affairs. The credit union movement will now know where it stands across 2021 and 2022. This is after the significant work done to flag that this change was due.

Deputy Pearse Doherty: The Minister said he agrees with me but really he does not. I am arguing a different point. The Minister has stated he agrees with me and that is why he has asked the Central Bank to phase in the increase. All that is happening is that it is being done at a slower rate. The levy will go to 50% and then there will be a consultation with, as the Minister just outlined, no guarantee that it will not go up to 100% just like the levy for the main street banks.

Outside all of that, if this is a sector which stands on its own and is regulated like the rest of the other industries by the Central Bank, why are we raising the levy to 50% in the first place? From the figures we have been given, the impact on a large credit union would mean that in a four-year period, the levy would be an extra €115,000. We have already placed many additional responsibilities and burdens on credit union boards through legislation on skills bases, qualifications and so forth. If we really value the work done by these credit unions, their not-for-profit nature where they lend money, as opposed to banks which are trying to suck the blood out of people, and their response to community needs, why would we even put them in the same category as the other banks? Why can we not adopt the same principle that we did with charities? Charities do good work for society but they need to be regulated. However, we do not ask them to pay for their regulation.

Deputy Paschal Donohoe: That is completely different. There is a significant difference between the charity sector and any sector involved in the lending of money. That is the reason the regulatory needs we have for organisations involved in providing billions of euro worth of credit into our economy every year are completely different to the needs we have to regulate the charity sector.

The Deputy made the point that the credit unions are in the same category or group as our banks. That is not the case. The contribution they will have to make to the funding of their regulation is half of what the banks must give. It is a well-established principle across all of our economy that sectors which need regulation make a contribution, mostly in full, to the cost of it, whether it is the energy regulator or the Pensions Ombudsman. They are all fully funded by their respective industries. In this case, we are recognising the difference of the credit union movement with this lower rate of contribution.

Deputy Pearse Doherty: Prior to 2012, what did the high street banks pay for regulation costs?

Deputy Paschal Donohoe: I do not have that information.

Deputy Pearse Doherty: It was 50%. The banks paid 50% towards the cost of regulation. The Government phased in a process over time to recover 100% of these costs. Seven years ago, Bank of Ireland, AIB, Ulster Bank and the rest, some of which crashed the economy, paid 50% towards the costs of regulation. Now, we will ask the local credit union, which is volunteer-led, responds to the needs of the community and is a not-for-profit entity, to pay the same percentage as the Bank of Ireland.

Deputy Paschal Donohoe: That is wrong.

Deputy Pearse Doherty: Seven years ago, Bank of Ireland paid 50% towards regulation costs.

Deputy Paschal Donohoe: That bit is correct, after the Deputy qualified the line.

Deputy Pearse Doherty: The Minister cannot give a guarantee that in seven years' time, the credit unions will not be paying the full 100%. Even after the crash, the banks were paying 50%. I always argued that was wrong and they should have paid 100%.

The point is that the Minister is now putting credit unions on such a trajectory. He is not recognising their unique value and nature. He can argue that he is by slowing the introduction and having consultation. The credit unions will tell him that the Central Bank did not listen to the feedback from the consultation, however. The Central Bank said it was going up to a 50% industry levy. It asked what were the credit unions' views on that but that it was still doing it. That is not proper consultation.

Chairman: We have run over time.

Deputy Pearse Doherty: I have one further question.

Deputy Paschal Donohoe: I take a very different view from the Deputy on the matter. He said I was refusing to give him a guarantee. He knows that is because I cannot do so. That is the difference.

Deputy Pearse Doherty: Can we not introduce it in the Finance Bill?

Deputy Paschal Donohoe: He knows I cannot do that.

Deputy Pearse Doherty: Can the Minister not introduce it in the Finance Bill?

Deputy Paschal Donohoe: No. He knows it is the role of the Central Bank-----

Deputy Pearse Doherty: Not at all.

Deputy Paschal Donohoe: -----under the legislation that I referred to earlier on-----

Deputy Pearse Doherty: Exactly.

Deputy Paschal Donohoe: -----to make a decision on the appropriate rate and I accepted its recommendation.

Deputy Pearse Doherty: Can the Minister-----

Deputy Paschal Donohoe: I ask the Deputy to allow me to finish. He was well able to make his point; I will make mine in response. He is asking me to give a guarantee as to what I or a future Minister for Finance might do in a few years, while not acknowledging that the rate of industry funding in place now is significantly lower than that for the banks the Deputy just quoted to me. He should be giving me recognition for the decision I have made as opposed to a decision that is not due to be made for a number of years.

Deputy Pearse Doherty: I am supposed to give him recognition for a decision he has made, which was to cap the recovery of regulation costs at 50% at the moment, but to understand and not to blame him for not being able to give a guarantee for a decision he cannot make. On the one hand, he can cap the recovery rate at 50% but, on the other hand, he has no role in

this because of the Central Bank. The reality is that the Minister has a role and can take a role if he wants. We can introduce a provision in the Finance Bill placing a cap on the amount the Central Bank can apply in terms of regulation of credit unions. I know that, as does the Minister, the Chairman and every other member of the committee. Of course, the Minister could give a guarantee if he so wished. However, I want to move on to my final two questions and the Minister can respond to that. I recognised that there is a difference between 50% and 100%. He should not try to suggest I did not.

The Minister mentioned that we are likely to see reductions in the credit institutions resolution fund levy. However, as consultation is ongoing we have not seen the outcome of that. Would it not be more appropriate to wait until that consultation has ended, unless the Minister knows the outcome of the consultation? Perhaps he could inform the committee what that reduction will be. The credit unions might be able to sleep easier tonight if they knew that levy was to be significantly reduced. I understand they have been engaging with the Minister and wrote to him in April, but he has not responded to them.

In his opening statement, the Minister mentioned he proposed to introduce a credit unions and loans Bill in 2019. He will be mindful of the moneylenders Bill that I introduced to reduce the APR that moneylenders can charge. Some of them are licensed to charge up to 180% at the moment. That Bill has passed Second Stage and is before the committee. It was also signalled, because it is part of the same report, that it should be accompanied by an increase in the levy from 1% to 2%. As I signalled on Second Stage, would it not be appropriate for that to be included as a Committee Stage amendment as opposed to introducing a different Bill to address it?

Deputy Paschal Donohoe: I did not say that the Deputy did not make recognition of the fact that the industry rate is half of that which the banks are paying. I am contending that he did not give sufficient recognition of it, which I am as entitled to assess as he is allowed to assess what I am doing in this issue.

On the consultation that is due to take place on the future of the stabilisation levy, these matters are best dealt with separately. We need to make a decision on the future of each levy based on the right thing for each of them individually. However, if they are assessed in the round, the levy contribution for next year is lower than it is this year.

Before answering the Deputy's final point, I seek clarification. Is he suggesting that the change he is seeking be a Committee Stage amendment to the legislation I am due to introduce?

Deputy Pearse Doherty: No. I introduced a Bill which has passed Second Stage and has gone through scrutiny here. I believe the committee secretariat will write to the Minister about it. During Second Stage, it was signalled that the levy would be increased from 1% to 2%. This would be the appropriate thing to do. On the one hand, the Minister is trying to reduce the APR on moneylenders but, on the other hand, he wants to make sure that credit unions are the avenue for people who want access to that type of finance. I presume the Minister introduced his own legislation because he is opposed to my moneylender Bill and that he will not table a very simple amendment, as I signalled on Second Stage, to that Bill, which is now progressing.

Deputy Paschal Donohoe: I am still unclear.

Deputy Pearse Doherty: There is a piece of legislation-----

Deputy Paschal Donohoe: I am aware of all of that, but I wish to double-check. Is the

Deputy proposing to amend the legislation I am introducing regarding the higher interest rate cap?

Deputy Pearse Doherty: No, I already signalled on Second Stage that we would bring an amendment to my legislation to increase the credit union cap from 1% to 2%. The report by University College Cork, which supports reducing the APR for moneylenders, suggested that this be done hand in hand with an increase in the cap for credit unions. My concern is that the Government has introduced its own Bill that only deals with one aspect of this, namely, the increase from 1% to 2% for credit unions. Obviously, it is using up Oireachtas time because now we have two Bills that could do the same thing. I also read into it that this may be because of the Government's reluctance to deal with the extortionate APRs being charged by moneylenders.

Deputy Paschal Donohoe: The Bill we are introducing with the cap is a better way of dealing with the issue in the credit union movement. I will consider the Deputy's question and give a considered answer back-----

Deputy Pearse Doherty: I thank the Minister.

Deputy Paschal Donohoe: ----- now that I fully understand the point he is making. Rather than responding now, I will revert to the Deputy with a response.

Deputy Pearse Doherty: That is fair enough.

Chairman: I thank the Minister and his officials.

The select committee adjourned at 3.37 p.m. until 10 a.m. on Thursday, 11 July 2019.