

DÁIL ÉIREANN

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

SELECT COMMITTEE ON FINANCE, PUBLIC EXPENDITURE AND RE- FORM, AND TAOISEACH

Dé Céadaoin, 14 Iúil 2021

Wednesday, 14 July 2021

Tháinig an Romhchoiste le chéile ag 12.30 p.m.

The Select Committee met at 12.30 p.m.

Comhaltaí a bhí i láthair / Members present:

Teachtaí Dála / Deputies	
Mick Barry,	
Pearse Doherty,	
Paschal Donohoe (Minister for Finance),	
Bernard J. Durkan,	
Mairéad Farrell,	
Jim O'Callaghan.	

Teachta / Deputy John McGuinness sa Chathaoir / in the Chair.

Double Taxation Agreements: Minister for Finance

Chairman: Members are all welcome. I welcome the Minister to the meeting. Members will understand that people attending from Leinster House or the convention centre are covered by privilege. Those who are not at those locations may not be covered by full privilege.

Today we are dealing with doubly taxation agreements with Germany and Kosovo. I ask the Minister to give his opening statement.

Minister for Finance (Deputy Paschal Donohoe): I thank the Chairman. I am pleased to bring before the committee two draft Government agreements giving force of law in Ireland to a new double taxation agreement with Kosovo and separately, a new protocol to the existing double taxation agreement with Germany.

The new double taxation agreement with Kosovo was signed by ambassador O'Neill on behalf of Ireland and the acting head of mission, Ms Arrita Gjakova, on behalf of Kosovo on 25 June 2021 in London. The protocol to the double taxation agreement with Germany was signed on 19 January 2021 by the Minister for Foreign Affairs, Deputy Coveney, and the German ambassador to Ireland, Ms Deike Potzel.

As the committee will recall, arising from the OECD base erosion and profit shifting, BEPS, process, Ireland ratified the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting in 2018. The convention was discussed at this committee and in Dáil Éireann and was included in the Finance Act 2018.

The BEPS multilateral convention came into force for Ireland in 2019 and updates the majority of Ireland's existing double taxation agreements to make them BEPS compliant. As was previously indicated to the committee, however, our existing double taxation agreement with Germany was not updated by the multilateral convention but will instead be updated bilaterally to reflect BEPS changes. This is what the German agreement before the committee seeks to do. It is another important step in the implementation of the BEPS process and one which Ireland takes seriously in both signing and ratifying the multilateral convention.

Ireland has written to those partner jurisdictions that have not yet signed the convention to discuss options for implementing the BEPS recommendations. We are committed to ensuring that all our double taxation agreements meet the minimum standards agreed in the BEPS process.

A common feature of both the new agreement with Kosovo and the protocol with Germany is the incorporation of strong tools for tackling tax treaty abuse and anti-avoidance measures. Both contain the minimum standards committed to during the BEPS project, as well as several measures which are recommended best practices under BEPS, as agreed bilaterally.

Ireland first signed a double taxation agreement with Germany in Dublin in November 1962. That treaty was replaced in 2011 and there has been one protocol to the new treaty in place since 2014. In May 2017, the German Federal Ministry of Finance asked the Office of the Revenue Commissioners if the 2011 agreement between Ireland and Germany could be updated by protocol, instead of using the multilateral convention to implement tax treaty related measures to prevent BEPS. Ireland agreed to the request and negotiations successfully concluded in February 2020. That protocol was signed in January of this year and is before the committee today.

The new double taxation agreement with Kosovo is comprehensive in scope and while it generally follows the OECD model convention, it also includes some provisions that feature in the UN model convention. The agreement contains provisions to deal with BEPS and to make the new double tax agreements fully compliant with the minimum standards under the BEPS project. As well as the minimum standards, the double taxation agreement contains several measures which are recommended best practices under the BEPS project, as agreed between Ireland and Kosovo.

The treaty with Kosovo will enhance economic relations and co-operation in tax matters between both countries. Following an approach from Kosovo in 2017, the negotiations were successfully completed. The treaty is designed to eliminate double taxation without creating opportunities for non-taxation. The reduced rates of withholding tax on certain dividends, interest and royalties and the safeguards against discriminatory taxation in the agreement will support existing trade and facilitate further trade and investment between both states.

Our network of double taxation agreements is an important aspect of our competitiveness in attracting investment and facilitating Irish business in operating internationally. In addition, double tax agreements are a cornerstone of Ireland's trade policy and are a key element in stimulating trade and investment flows between countries. They provide greater certainty and fairness for taxpayers regarding their tax obligations in foreign jurisdictions and they 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 to 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 arrangements.

Ireland has been a strong supporter of the BEPS process since its inception and continues to engage positively at both EU and OECD level in addressing the tax challenges that arise from the digitalisation and globalisation of the economy. Proactively updating our double taxation agreements is a key example of that support.

As indicated in the update to our corporation tax roadmap that I published in January, it is my intention to publish a treaty policy statement at the end of this year or early in 2022. The proposals under discussion at the OECD have implications for the global network of tax treaties and it is important that any potential treaty outcomes agreed in that forum are reflected in the treaty policy statement. The rationale for this statement is to take stock of our existing network and formalise our treaty policy. As a small open economy, a robust treaty network is necessary to facilitate international trade.

We have come from a period of expansion of the network to the point where we have treaties with the vast majority of our international trading partners. It is my intention that the policy statement will have a particular emphasis on tax treaties with developing countries, having regard to Ireland's development commitments. We have an excellent reputation for our positive policies towards developing countries through Irish Aid and I want to ensure that our treaty policy is fully consistent with our development policy. This is also in line with the Government commitment to domestic resource mobilisation policy the aim of which is to strengthen developing countries' tax administrative capacity.

To inform the treaty policy statement, I launched a public consultation in April this year that

ran until May and received 15 submissions, all of which are available on our website. My officials have also held a series of stakeholder engagements to discuss the content of the submissions in detail and this will inform our future treaty policy.

If Dáil Éireann approves the making of these orders by Government, I will include the orders in the Taxes Consolidation Act 1997 by way of an amendment in the upcoming finance Bill. This will enable Ireland to complete the necessary notifications to finalise the ratifications of both agreements.

I commend these draft orders to the committee. I am happy to take questions on them. I am also aware that the members of the committee have expressed a desire to discuss the ongoing work on the international tax framework at the OECD and I am also open to discussing that matter with the committee.

Deputy Pearse Doherty: Cuirim fáilte roimh an Aire chuig an gcoiste le plé a dhéanamh ar na double taxation agreements idir Kosovo agus an Ghearmáin. In the orders for the double taxation agreements before us, in some cases we are replacing existing tax agreements with new agreements such as with the Netherlands, whereas in the case of Germany we are adding a protocol to the existing agreement. Why is that the case? The Minister told us that in 2017 Germany requested that the 2011 agreement be updated by way of protocol. Why was that request made? Why is that the preference in this case?

The Minister also said the Government had written to some other jurisdictions that have not yet signed up to the BEPS multilateral convention to discuss options for implementing the BEPS recommendations. Which jurisdictions are they?

The Minister said the agreement and protocol before us today both contain minimum standards. Does he not believe that we should not just advocate for a minimalist approach but for something that is more enhanced? I ask him to elaborate on the other measures which he described as recommended best practices under BEPS.

Deputy Paschal Donohoe: I will ask my colleagues to share with me the details of other countries we have written to. While they are doing that, I will deal with the Deputy's first question as to why we are dealing with our colleagues in Germany through a protocol. As he will be aware, most of our double tax agreements will be modified using a multilateral convention to implement tax treaty-related measures to prevent BEPS, which entered into force with respect to Ireland on 1 May 2019. However, in some cases a treaty must be updated bilaterally by protocol. This is generally where our treaty's partner's domestic law prevents it from implementing the BEPS changes through a multilateral instrument. This is the case for Germany. This is being done via a protocol as opposed to the broader multilateral instrument that we use elsewhere because of the compatibility of this issue with German domestic law.

The Deputy asked if I believed we should be adopting standards that are ahead of what is recommended in the OECD BEPS process. I would generally be cautious about that because my appreciation of these matters is that their force derives from the consistent implementation of the same standards elsewhere and in Ireland. If we were to develop or implement standards that are not consistent with the BEPS process, it might lead to issues of inconsistency with other jurisdictions. The countries with which we have not signed a multilateral instrument and which we have contacted are Belarus, Botswana, Ethiopia, Ghana, Moldova, Montenegro, Thailand, the United States of America, Uzbekistan, Vietnam and Zambia. We have written to all of these countries with regard to this process. We have received an indication from some of them that

they are willing to go ahead with a multilateral instrument. For example, Thailand has given this commitment. This is the status of the communication at present.

Deputy Pearse Doherty: I thank the Minister. The agreement with Kosovo that is before us will reduce the tax rates on withholding tax on dividends, interest and royalties. I have serious concerns about our tax architecture. Will the Minister outline to the committee the changes that will take place in this regard on foot of the agreement?

Deputy Paschal Donohoe: I may invite the Revenue Commissioners to come in as Mr. Eamon O’Dea is with me to give a more technical answer to the Deputy’s question if he so wishes. The change we are making with regard to the taxation of dividends refers to the minimum holding period. The change we are making is in line with the recommended best practice of the OECD in this area. If the Deputy would like a bit more information on it, I can invite Revenue to fill out the answer a bit more.

Deputy Pearse Doherty: If that is okay. If Revenue wants to supply a note to the committee, that will also be of benefit.

Deputy Paschal Donohoe: We can certainly do that.

Deputy Pearse Doherty: As we are speaking about taxation between ourselves and other jurisdictions, I understand the Minister for Finance has made commitments to the European Commission on a certain number of taxation measures as part of the recovery and resilience facility. None of these commitments have been relayed to us in the Parliament or in the finance committee. Will the Minister now take the opportunity to explain what are the commitments he gave to the European Commission?

Deputy Paschal Donohoe: The commitments I have given are all consistent with Ireland’s corporate tax roadmap which I published in January and which is publicly available. It refers to a number of areas. These include applying enhanced control foreign company rules to the list of non-co-operative jurisdictions, with effect from 1 January 2021. I am aiming to do this in the Finance Act 2020. I also committed to publishing external independent economic research on the impact of recent legislative changes domestically and internationally on outbound payments for Ireland. This has already been made available publicly. This was done on 14 June. I also committed to carrying out a public consultation on the introduction of measures to ensure outbound payments do not avail of a double non-taxation. The public consultation on this and the responses received will all be made available on the website of the Department of Finance. I also committed to introducing legislation to safeguard against the possibility of double non-taxation of outbound payments by the Finance Act 2023 at the latest. These are all different areas of policy action that were part of the broad pathway of change I indicated in the second edition of our corporate tax roadmap.

Deputy Pearse Doherty: As the Minister talks about changing the corporate tax landscape, big changes are afoot internationally in the base erosion and profit shifting, BEPS, process. The Minister has outlined to the committee, in response to questions I put to him, his determination to secure Ireland’s interest and the 12.5% tax rate. He committed to not having this rate increase in the foreseeable future. Looking from this position, the Minister is spectacularly failing on these negotiations with regard to defending Ireland’s interest. A situation emerged on 9 July whereby 132 of the 139 member jurisdictions of the OECD signed up to the pillar 2 solution to address the tax challenge arising from the digitalisation of the economy. Seven member states are holding out, including Kenya and Nigeria because, we understand, it does

not go far enough. Meanwhile, Sri Lanka, Barbados, Estonia, Hungary and we are in the situation of holding out because it has gone too far with a minimum effective tax rate of at least 15%.

I have outlined on the floor of the Dáil where Sinn Féin stands on this matter. We need to defend our national interest. What is the roadmap ahead for the Minister for Finance in these negotiations given the level of support for pillar 2? Does the Minister still believe our corporate tax rate for the applicable companies, which have a turnover of three quarters of a billion euro per annum, will not have to increase? What is his strategy? This is what we are trying to figure out. What is the Minister's strategy as the international community is pushing ahead with pillar 2? Yesterday, the US Secretary of the Treasury, Ms Yellen, commented that the hold-out countries are not needed, that the other countries can proceed without us and that the companies will pay the higher level of tax anyway. Will the Minister outline his strategy to the committee and reassure us we are not spectacularly failing, as it appears the Minister is at this time?

Deputy Paschal Donohoe: I am not sure how Deputy Doherty can derive the analysis of spectacularly failing in any way given that other finance ministers will make a decision regarding what is in the interests of their people and economies. That has what has happened with more than 130 countries. I can engage with them. If we are going to recognise that I have a prerogative here I also have to recognise that other finance ministers do also. I am making the case for our rate. I am making the case for the ability and role of small and medium-sized economies to be able to use a low rate as part of their competitive tax model. What I will do in the coming period is to continue to engage with the OECD. I will engage with a group of countries, including obviously our friends and partners in the United States of America. I will better understand what their own intent is as we approach October. We will continue to indicate that Ireland wants to be in the negotiations and in the process. For us to be part of a final agreement we have to have more certainty and more predictability about what that agreement will be than we do at present. This is the objective I am pursuing. I believed it was appropriate, with the level of certainty available to me approximately a week ago, that Ireland indicated we want to be part of this process and continue to be part of it but we could not for now be part of the consensus.

Deputy Pearse Doherty: I believe we shared the same objective on these negotiations. The reason I say it appears the Minister is failing is because this comes down to the level of countries and where they want to see it. There are big influencers, as the Minister mentioned, such as the United States. With 132 out of the 139 signing up to pillar 2, it appears the odds are very much against this country and against the Minister in succeeding to convince enough member states the 12.5% rate would be the appropriate effective tax rate that should be introduced in pillar 2.

We know the rate is one thing. We also know there is potential for carve-outs under pillar 2. The Minister has decided to maintain a hold-out position. Is the Minister concerned at all about the reputational damage this has caused? I made the point previously that the facilitation of some of the practices that went on in our tax code in the past and how our code interacted with others has reputationally damaged us. I do think this is helpful in the context of these negotiations. There is potential to provide for carve-outs. Is this what the Minister will look at? Does he envisage a situation in October whereby Ireland would still be outside the final agreement? When the negotiations are finished, does he envisage a situation whereby we could be one of a small number of countries that would be outside the agreement? As the US Secretary of the Treasury, Ms Yellen, said, the 15% corporate tax rate would apply. The Minister for Finance, if he is still in position at the time, may not increase the rate but it would apply anyway because

of what is contained in pillar 2. It would just be the case that we would not benefit. Does the Minister envisage a situation where we would still be holding out or does he believe that, having negotiated hard and put Ireland's interests forward, which he definitely should do, we will be part of this process in the end?

Deputy Paschal Donohoe: There will be an opportunity to form a view in October regarding where that process stands. If the Deputy is still where he is now at that point, he will be able to form a view on it as well when we get to October. Of course I am aware of the commentary about Ireland, as I have been for a number of years. I have always made the case that we have made far more positive and proactive change to our corporate tax code than we have got credit or recognition for. The final assessment of the reputational impact of the BEPS process will be on individual countries, not just who is in the agreement in October but, more particularly, who will be involved in actually implementing that agreement, what is the speed of that implementation and where countries stand with regard to it.

In terms of the different issues that are at play, I make the point respectfully to the committee that this is a negotiation we are involved in. I want to accept the good faith of others who are involved in it and, because of the sensitivity of the issues that are involved, not speculate too much on what outcomes could be. Having said that, I can still acknowledge that amidst the different issues that we need to have greater certainty on, such as what the base and the rate would be, the Deputy is right to say that there is a language in the current agreement in regard to the scope of carve-outs, but that language is, at the moment, still caveated. These are really important issues for us to understand.

In terms of where we could be at the end of October, there is a range of possible scenarios, involving lots of different countries, regarding where this process could be. Where I would like us to be at the end of October is in a positive place and position with regard to what the end point of this could be. However, we are not there at the moment and I have a lot of work and engagement to do, which I am currently carrying out with a number of countries and with the OECD to see where we could be by October. As the Deputy is aware, I am about to launch a public consultation in regard to the current BEPS text to draw attention to some of the details of that to stakeholders in our society and economy, including in the political system. I aim to have that consultation complete by the start of September and to have a synopsis of the views across our country on this sensitive issue.

Deputy Pearse Doherty: Last year, the Minister did not publish a summer economic statement and was criticised by the Irish Fiscal Advisory Council as a result. We expected this year's summer economic statement to be published yesterday. Another committee of the Oireachtas is to discuss it with the Minister tomorrow morning. We understand there are squabbles within Government, memorandums have been pulled from Cabinet and party leaders have to convene because they cannot agree on what they have called the priority of Government, namely, funding for housing. When is the Government going to get its act together on this? More importantly, when will we in the Opposition and the finance committee see the summer economic statement? Will it be published today?

Deputy Paschal Donohoe: I assure the Deputy that we very much have our act together, to use his language, with regard to what we are doing. That is seen, for example, in the number of homes that are being built directly by local authorities, through the Government, throughout the country. Given the importance of laying out our budgetary framework, there is a great deal of engagement going on at the moment in regard to it. I expect that engagement to conclude and I hope to be in a position to publish the summer economic statement very soon. I am aware

of the commitment I have with regard to the budget oversight committee tomorrow and I hope to be in a position to provide clarity on where we stand. I am working to publish the summer economic statement and I am hopeful it will happen.

Deputy Pearse Doherty: When the Minister says he will provide clarity to the budgetary oversight committee, does that mean we will actually see the summer economic statement before that committee is due to discuss it? Does the Minister expect Members of the Oireachtas to go to the committee meeting tomorrow and talk about something we have not seen?

Deputy Paschal Donohoe: I would love to be in a position such that members of the committee will be able to talk about something they have seen. Similarly, however, I have to ensure that the same right is afforded to members of Government. That is an equal imperative for me. I think the Deputy will understand that I have a duty to brief Government on an economic statement when it is concluded. As soon as I have done that, the members of the committee will, of course, be briefed. I will be in front of the committee on at least one more occasion before the budget process begins. I am aware of the need for Deputies to be briefed and I am equally aware of the need for members of Government to have the same expectation delivered. I am working to do both at the moment.

Deputy Mick Barry: I have questions for the Minister on three issues, namely, double taxation agreements, the OECD position on corporation tax rates and, briefly, the summer economic statement. On double tax agreements, many people are of the view that if someone is working in two countries, he or she cannot be paying tax in both and that there is a need for an arrangement to be put in place as a result. In practice down through the years, however, double tax arrangements, in essence, facilitated large corporations in reducing the amount of tax they paid to a particular state, opting to shift profits to the state where tax is paid at a lower rate and saving themselves considerable sums of money in so doing. I recognise that arrangements have been put in place to try to cut across that, but they have not succeeded 100% or anything like it. Will the Minister comment on the extent to which large corporations might be able to continue to shift profits and pay tax at the lower rate? Does he consider this still to be a major problem and is he of the view that the steps that have been taken are in any way mitigating against it? I ask him to reply to those questions before I move on to the other points.

Deputy Paschal Donohoe: I thank the Deputy for his questions. The measures we have brought forward aim to make progress against some of the issues he raised. In particular, on the issue of evasion or aggressive tax planning opportunities, there are two aims of the changes we are making that are relevant to his concern. The first is that double taxation agreements provide for the exchange of information between countries and facilitate Revenue investigations. That exchange of information is vital in dealing with concerns tax authorities may have in regard to tax evasion. In this context, double taxation agreements try to create a legal environment in which further progress can be made on the issue to which the Deputy referred. They also prevent what is deemed to be treaty abuse. This involves putting in place measures, such as a principal purpose test, to deny treaty benefits where one of the main purposes of a transaction is to obtain those benefits. I refer to transactions that are put in place with the main aim of trying to utilise some of the benefits that would be available through double taxation agreements. Overall, there are positive developments that provide further tools for allowing tax authorities to deal with issues of aggressive tax planning and evasion.

Deputy Mick Barry: I will move on to the issue of the OECD position on corporation tax rates. The Minister mentioned in his reply to Deputy Doherty that Ireland is not alone on this issue and is putting its case alongside other small and medium-sized economies. The reports

I read indicate eight states currently are strongly opposed to the 15% proposals. Those states are Estonia, Kenya, Nigeria, Peru, Sri Lanka, St. Vincent and the Grenadines, a tax haven, and Barbados, another tax haven. Would the Minister care to comment on the other small and medium sized economies, including these tax havens, and does he not believe that puts the State in an embarrassing position?

Deputy Paschal Donohoe: I thank the Deputy for his question. He is right in that I said there were other countries that had a similar view to Ireland on this issue but I did not say there was also a very large group of countries which share that view. I accept, and it is a matter of public record, that the majority of countries have indicated they will be part of the consensus. As to what that means for us, as I said in a response to Deputy Doherty, it is important to realise and recognise we are still in a political process that is due to conclude in October. The best time to evaluate where we stand, who our company might be and what could be the effect on our reputation would be well after that point if an agreement is reached and by the metric of who has implemented the agreement. It is early in the process to conclude who will be there at the end of it and what countries will be in or out of it.

Deputy Mick Barry: It is early in the process but at this early stage the Minister's Government and the State are standing alongside renowned tax havens like St. Vincent and the Grenadines and Barbados in arguing against these proposals. Does that make the Minister in any way uneasy or embarrassed?

Deputy Paschal Donohoe: I am focused on making our case and considering the different scenarios open to me. If, on the other hand, I had indicated last week we would go into this agreement, a whole range of issues and concerns would have been created by that, for which I would be held to account as well. I must be aware of that in the context of decisions I make. In assessing where we are currently, it is critical for me to emphasise we are still very much engaged in this process. It still has some way to run. We will do our part to try to get a balance between issues that are very much in our national interest while recognising the world is changing around us and changes that could happen in other jurisdictions inside the OECD could yet have a big impact on us.

Deputy Mick Barry: St. Vincent and the Grenadines and Barbados are tax havens. A comprehensive Zucman study in 2018 stated Ireland was the world's number one tax haven with an effective tax rate of 4%. What is the Minister's opinion as to what the effective corporation tax rate is in this State? Zucman stated it is 4%, Deloitte, Matheson and Grant Thornton have all marketed themselves as companies that pay an effective 2.5% tax rate in this State. We know in 2017 Apple, Google, Facebook and Oracle paid less than 1%. The galleries would collapse in laughter if the State was to try to keep a straight face while arguing the effective tax rate is 12.5%. We all know it is less than that. What does the Minister estimate the effective tax rate currently to be?

Deputy Paschal Donohoe: My recollection is the Revenue Commissioners regularly publish information in which they make available, on an anonymised basis, the effective tax rates available for groups of companies that are based in Ireland. I understand the last time they published this information they indicated our effective tax rate is just below the nominal tax rate of 12.5%. Publications from the Revenue Commissioners have indicated the effective tax rate is somewhere between 10% and 11%. That is information I base my views on. The Revenue Commissioners publish this information impartially and fairly. It is the organisation that should guide our view on what our effective tax rate is.

Deputy Mick Barry: I will leave it at that. Many observers would raise an eyebrow at it being claimed our effective tax is between 10% and 11% but in any case I will park that one.

On the issue of the summer economic statement, we are given to understand from press reports this morning that the issue at stake at Cabinet is the question of the public spend on housing. People are currently experiencing the sharpest housing crisis in the history of the State. To deal with that we need to start from the base of what are the needs of the people and what is needed to effectively tackle and end the crisis. I doubt whether Fianna Fail in government would go that far but yet there seems to be a real tension between Fine Gael and Fianna Fáil on this issue. I would like the Minister to comment not on the detail but on the broad issue of the public funding needed to tackle the housing crisis.

Deputy Paschal Donohoe: We are in the final phase of what has been a very good process in finalising the summer economic statement. There is debate and discussion but there is complete agreement on the need to make a higher level of funding available to the Department of Housing, Local Government and Heritage to deal with the many grave difficulties and challenges we have in housing. That is what I am doing. I am confident we will agree a summer economic statement, which in turn will lead to a credible and ambitious Housing for All plan.

Deputy Mick Barry: I hear what the Minister is saying. He is supportive of increasing public spending on housing but the reports we are hearing is there is a difference of opinion in Cabinet as to the extent of the increase that would be put into housing by the State. Is it not the case the Minister is arguing for a lesser amount than some of his Cabinet colleagues?

Deputy Paschal Donohoe: All I am doing is trying to ensure we have the right level of spending in place to make progress on a vital issue for our society, economy and all I serve, which is building more homes, making that money available at the right point and in the right way, and given that this is money we will be borrowing, having a careful plan for how that borrowing will be managed. We will get agreement on this. It will lead to a very clear summer economic statement. I am confident the needs the Government has to fund the development of more homes will be met.

Deputy Mick Barry: I will leave it there Chairman. I thank the Minister.

Deputy Bernard J. Durkan: To follow up on Deputy Barry's last point regarding the summer economic statement, as the Minister will well know, I have long promoted the view that we need a serious injection for delivery in the housing sector spanning a two to three-year period, the first year being the crucial one. The requirement is not 35,000 or 38,000 houses but in the region of 70,000 to 75,000 houses in the first year and the second year and then we would need to review the situation. This will become more acute as the country recovers from the pandemic, something we all expect and hope for. The demand will be greater and the need for housing provision will be far more than it has been in the past.

I am not asking the Minister to give a commitment today but I am asking that it be borne in mind. My experience and my humble knowledge of the housing situation and the manner in which I have had to deal with it over many years have long since led me to the conclusion that we should not do things over a five-year period or a ten-year period. If we go that route, the children who are being born now will be adults before we reach a situation where we can say a person will have a house within a reasonable time. It is all about affordability, availability and supply. The only way that can be done is by a dramatic upsurge in the delivery of houses by whatever means possible. Even if we have to appeal to building firms from abroad to do the

construction work, we need to do it soon.

Another point relates to the national summer report and the plan. In the United Kingdom there are indications of inflation above what was anticipated by the UK Government. How are we heading in that direction? How do we see it developing given that we have had to give, correctly, considerable incentives to employers and employees to maintain some semblance of support for the economy? Some economists have said in the past that where such incentives are given there may be a necessity to control prices as well. I can see where that is coming from. How do we deal with that? Do we ignore it? Do we introduce any measures to discourage inflation given inflation on housing will be an even greater catastrophe than we have seen before? They are my two questions. Do I let the Minister reply or will I go on to the other questions?

Chairman: I will ask the Minister to respond and then you can come back in again.

Deputy Paschal Donohoe: I will deal with the first question raised. Of course we are going to do all we can to try to deliver a significant increase in the building of homes as quickly as we can. I do not need to tell Deputy Durkan about the step back we have taken in home construction due to the impact of Covid-19. This is why trying to open construction in Ireland safely is so important and that is what we are trying to do. In the funding decisions we will make for the Department of Housing, Local Government and Heritage we will try to ensure we have the level of funding in place to allow those involved to build as many homes as quickly as they can and in the greatest number.

That leads on to a point the Deputy made with me. As much as we want to do this quickly, we have constraints in terms of the size of the construction sector as it rebuilds itself after Covid and in terms of the need to ensure we have sufficient planning permission available to be activated for building. These are all issues Deputy Durkan is well aware of. I would respond to the key point he is making by saying we are trying to put in place the funding and commitment to build as much as we can as quickly as we can.

The second issue raised related to inflation and price controls. Deputy Durkan will be aware of the real legal obstacles in place when it comes to the installation of price controls. He will know better than I do we operate within the Single Market and within the European Union. Price controls are legally difficult to do. Moreover, I am not sure they are always in the best interests of the consumer.

That being said, inflation is undoubtedly an issue we need to monitor closely in Ireland. The inflation outlook for the Irish economy is moderate, at between 0.7% and 1% for the economy overall. However, the inflation figures published in America yesterday were in excess of 5%. This demonstrates to us the pressures under way elsewhere in the global economy. What can we do to try to mitigate their effect in Ireland? It is about supply and taking measures to drive efficiency in the economy. Then it will be about safely opening in a sustainable way so that as higher demand for certain things materialises, fuelled by higher levels of savings within the economy, we have an economy that is operating as normally as possible to provide the goods and services to meet those demands. These are the avenues through which we will be better able to deliver rather than by imposing price controls within our economy, for the reasons I have touched on.

Deputy Bernard J. Durkan: I agree in general on the point that we are members of the European Union. Mind you, we do not always get the same benefits in terms of various issues as some of our colleagues across the European Union. That is why I raised the issue in the first

place.

In the 1980s the construction sector had what was called a certificate of reasonable value. That was dreaded by those in the construction industry on the basis that it was a big hold-up in the construction of houses. It was not actually as the houses were constructed but it prevented interventions. For instance, investment funds could not intervene unreasonably and impose an extra cost on the houses being built for consumers and the people. I would like that to be borne in mind. No one wanted it but it had an effect. The fact is it has not been introduced since. There was no need for it to be introduced as we were able to produce houses to meet the needs of people.

There is a double taxation agreement affecting Germany and other countries. Does it affect Ireland's competitive position *vis-à-vis* countries within the European Union and outside?

Deputy Paschal Donohoe: It does not but I wish to set out one example to flag one benefit of doing this. Kosovo has double tax agreements with other countries. By virtue of our moving into an agreement with Kosovo, we get consistency versus what is happening with other countries that have double tax agreements with Kosovo. The overall competitiveness benefits are negligible, if any. We are doing this for other reasons. Anyway, these double taxation agreements will not diminish our competitiveness in any way and certainly will not diminish the competitiveness of exporters to these economies.

Deputy Bernard J. Durkan: I have a further question arising from the discussions between the Minister and his colleagues in Europe during the past week. In the context of all issues discussed, can the Minister deduce from what happened that the relative position of Ireland is as near as possible to what it was heretofore given that any disadvantage arising therefrom would have serious consequences for Ireland? Is it generally acknowledged that Ireland is geographically on the periphery of Europe, even more so following Brexit? This is a distinct disadvantage as we now know. Notwithstanding the strong support we received from European colleagues, which we greatly appreciated, we should not allow ourselves to be lulled into a false sense of security or into the belief that we are through that. We are now going to be judged on a different level and this could have serious consequences for us because we still have to transport goods and services throughout or around the neighbouring state and into the European Union before we come into the area where we are at the centre of activity. Our hearts might be in Europe but our geographic location places us somewhat at a disadvantage. The Minister might respond to those two points.

Deputy Paschal Donohoe: I will address the point of geography, our size and where we are located. These are issues I regularly raise when I am involved in discussions regarding the competitive status of Ireland and, for example, the contribution that corporate tax has made to it. I assure Deputy Durkan that I regularly and forcefully make this particular argument. However, in the spirit of candour it is also important to acknowledge on the tax architecture across the world and in Europe, there is a lot of momentum behind the agreement the OECD is drafting. That is evident in the number of countries which have opted in to the consensus. I strongly make the points about the challenges we face because of size and our location on the geographical edge of Europe in the discussions on this topic.

Deputy Bernard J. Durkan: In the event of the revised thinking being agreed all around, will the level agreed be universally applied, that is, that there will not be issues around, say, writing off research and development, and we will not find ourselves at a disadvantage?

Will the Minister comment on the benefits accruing from one or other method of collection of taxes, whether in the country of manufacture or the provision of services or in the countries in which the goods or services has been sold? What has been done on the evaluation of the benefit for us? Like the Minister, we are all anxious that Ireland is not disadvantaged in any way. I know one of the people who spearheaded this, Mr. Guigold, an old adversary of mine. It was not intended to be an advantage to us. As time goes on, if we protect ourselves properly, which is the Minister's intention, it might be fine but if we cannot do that we may have a disadvantage. My two questions are on collection methodology and need to ensure universal application.

Deputy Paschal Donohoe: The universality of application is a very important question and one which I cannot answer at the moment. It will be an important issue later in the year. A key issue for all in the OECD process is if an agreement is reached, how will it be enforced and when will it be implemented? That is deeply important. If countries will move, they will do so in an expectation that others are doing so at roughly the same time. All I can do now is acknowledge that the Deputy's question does cut to the heart of where the process is now and is one which requires much further clarification as we approach October.

On the means of collection, I think the Deputy was referring to the importance of tax measures that recognise innovation and research. That is why an important feature of our tax code is the research and development tax credit. An important issue in the OECD engagement is the status of those different allowances. That would affect the Deputy's first question, in that were agreement reached, that would influence how that tax was collected.

Deputy Mairéad Farrell: Many of the questions have already been asked but I have two. The OECD's multilateral instrument, MLI, was obviously an attempt to provide common minimum standards for all existing and future double tax agreements. The minimum standards set out in the MLI have been designed to close tax avoidance loopholes. Article 12 of the MLI relates to defining when a multinational corporation has a taxable presence or a permanent establishment in a jurisdiction. When Ireland signed the MLI in June 2017, I understand that article 12 was not adopted, thereby missing the opportunity to close this loophole. Has this been closed since?

Deputy Paschal Donohoe: If the Deputy can put her second question to me now, by the time she finishes I might be in a position to answer her first question.

Deputy Mairéad Farrell: No problem. The UN, the World Bank, IMF and OECD all recommend the double tax treaties with developing countries should include anti-abuse provisions. This is to stop aggressive tax avoidance by multinationals through the use of double tax treaty provisions. What progress has Ireland made on this? Is such an anti-abuse provision included in the treaty with Kosovo, which the World Bank considers a developing or emerging economy?

I was also going to ask about the summer economic statement. As I had to pop out of the meeting to participate in Questions on Promised Legislation in the Dáil, I am not sure if that question has already been asked. The Minister will be before the joint committee to discuss that tomorrow morning. We will need time to digest all the information to ask the appropriate questions. Will we get that information soon?

Deputy Paschal Donohoe: The impact of double taxation agreements on developing countries is something we are considering at present. As I said earlier, we are engaged in a process of public consultation on this issue. We have engaged with stakeholders and NGOs, some of

which have advanced strong views on this. We are considering different submissions and I hope we will be in a position to be able to draw conclusions on the consultation and publish them by the start of next year. In the consultation, we specifically sought the views of the World Bank. We actively sought its views on this in order that we could understand it a bit more and feed it in to our thinking. I have a differing view on our standing on this issue but I am not blind to the debate which has developed and I know it is important that we have a policy statement in place that allows us to give a clear narrative and perspective on our position.

Article 12 of the multilateral instrument introduced a new test for when an agent can constitute a permanent establishment. As it is not a minimum standard under the multilateral instrument, signatories are free to opt out of the recommendation. We did not adopt this provision but we have committed to keeping the decision under review. It is open to us to lift our reservation in respect of Article 12 at a later date. We did not adopt Article 12 as there is significant uncertainty as to how the test would be applied in practice and this is still the case. Similar to Ireland, many signatories to the multilateral instrument are choosing not to adopt Article 12 due to this uncertainty. Some of our major trading partners such as the UK did not adopt Article 12 either as adopted by the final position deposited within the OECD. While we are not in it at present, once there is sufficient clarity as to how the test might be applied, we are open to including it in our tax treaties. This could potentially be done bilaterally case by case.

The summer economic statement was mentioned by earlier speakers. We are in the final phase of working on it at the moment. I need to brief Government first and, when that is done, I hope to be in a position to be able to present it and update the Oireachtas committee on it.

Deputy Mairéad Farrell: As the Minister will be aware, if we are discussing this tomorrow, we will need the time to take a look and have those questions ready. These things always takes time to examine properly. Obviously, we would like to see that as soon as possible. If the Minister wants to bring it to us first before he brings it to Government, that is no problem either.

Deputy Paschal Donohoe: I will bear in mind the Deputy's suggestion.

Chairman: I want to ask the Minister about Taiwan. I am chairman of the Ireland-Taiwan Parliamentary Friendship Society. I am also associated with and vice chairman of the European group in support of Taiwan and our engagement in terms of trade, culture and so forth.

Under Michael Noonan when he was Minister, efforts were made to put in place a taxation agreement. It was suggested at that time, to get over the politics of it, that the model adopted by the UK would, with some changes, facilitate the arrangement. Has that made any progress? Is there any hope that taxation agreement will be put in place sooner rather than later?

Deputy Paschal Donohoe: I thank the Chairman for his question. We have changed the Taxes Consolidation Act 1997 by amending sections 8 to 6 of that Act. This is to allow for agreements to be made with countries with non-governmental entities. This has paved the way legally for engagements with a view to seeing whether an engagement or a conclusion is possible with Taiwan. Those discussions are ongoing at the moment. Engagement is now possible because of the changes to the Taxes Consolidation Act. That engagement is now happening. They are, by their nature, confidential. I am not, therefore, able to tell the Chairman what the outcome of them will be or whether it will be successful. I can confirm to the Chairman that the engagement is now under way, however.

Chairman: Is that directly with the representatives of Taiwan?

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Deputy Paschal Donohoe: I assume it is, yes.

Chairman: As I said, this has been a campaign going back to the former Minister Noonan's time. We have a very strong connection with Taiwan. I believe a measure of this kind would be beneficial. I urge the Minister to look at it and try to bring it to fruition as quickly as possible. I am delighted to hear the engagement is ongoing. I thank the Minister for that.

Deputy Paschal Donohoe: I thank the Chairman. I am very much aware of his interest in the matter. He has raised it with me on a couple of occasions. As I said, that engagement is now happening.

Chairman: Does any other member wish to ask a question before I close the meeting? No other member wishes to pursue any of the other matters we were discussing. The committee has now completed its consideration of the motions, and the clerk to the committee, in accordance with Standing Order 101, will send a message to that effect to the Clerk of the Dáil.

Message to Dáil

Chairman: In accordance with Standing Order 101, 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 draft orders for double taxation agreements with Germany and Kosovo for the Department of Finance.

Under Standing Order 100(2), the message is deemed to be the report of the committee.

The select committee adjourned at 1.45 p.m. *sine die*.