Future relationship with the EU: Parliamentary Committee Inquiry

General Features

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The CIOT submitted evidence to the House of Commons Committee on the Future Relationship with the European Union's inquiry into progress of the negotiations on the UK's future relationship with the EU. We set out our thoughts on how the level playing field provisions which are being discussed by the UK with the EU might apply, or be relevant, to taxation.

In May 2020, the House of Commons Committee on the Future Relationship with the European Union requested input from the CIOT into their inquiry and its current focus on the 'level playing field provisions' and how these might apply, or be relevant, to taxation in the future relationship between the UK and the EU. The level playing field provisions are those set out in the Political Declaration agreed between the UK and the EU (at para 77). These provisions include state aid, competition, social and employment standards, environment, climate change and relevant tax matters. Our comments were limited to tax matters.

The Withdrawal Agreement does not contain level playing field provisions in relation to tax. As mentioned above, the Political Declaration refers to 'relevant tax matters', but these are not defined. There is a statement in the Political Declaration that the parties should 'commit to principles of good governance in the area of taxation and to curbing of harmful tax practices'.

Looking to the future agreement, the UK and EU draft texts of an agreement for the future relationship, in relation to tax, contain common ground in relation to adopting best practice in relation to harmful tax practices, to promoting good governance and to improving international cooperation in areas such as exchange of information. However, the EU's draft refers to 'rules against tax avoidance practices' and to common high standards at the end of the transition period, stating that the joint UK-EU 'Partnership Council' might include additional areas or lay down higher standards

in the future.

Some EU parliamentarians and other commentators have cited concerns about the UK pursuing a policy of aggressive tax competition. In our comments, we noted that all governments pursue tax competition to a degree and membership of the EU has not particularly constrained this, for the UK or any other member state. Indeed, because EU member states that seek to retaliate against another member state's tax competition initiatives can be impeded in some respects from doing so by rules protecting the EU's 'fundamental freedoms', it might be more difficult to pursue an aggressive tax competition policy outside, rather than inside, the EU.

Our comments to the Committee concluded that there seems to be a possible route to an agreement between the UK and the EU in relation to the tax aspects of the level playing field provisions, given that:

- the EU mandate does not identify particular tax measures that should be prohibited or implemented, beyond those relating to harmful tax practices and rules against tax avoidance practices; and
- the UK position accepts that an agreement could include commitments to principles of tax good governance as reflected in international standards (including on tax transparency, exchange of information, fair taxation) without it constraining UK tax sovereignty.

We envisaged that under such an agreement the parties would not be prevented from taking such legislative measures as each sees fit in the future, subject to general international tax law constraints and practices.

We also said that clarity around the application of existing cross border anti-avoidance and administrative Directives after the end of the transition period would be welcome as soon as possible.

Our full comments can be read at: www.tax.org.uk/ref676.