TAXATION: Portuguese Presidency of the EU Council relaunches EU-27 discussions on design of FTT

Brussels, 15/02/2021 (Agence Europe) – The Portuguese Presidency of the Council of the EU has set itself a major challenge: to relaunch discussions between the 27 Member States over the Financial Transaction Tax (FTT), according to a note suggesting a “way forward”, which was dated 12 February and a copy of which was obtained by EUROPE.

The document is intended to guide discussions that will take place on 24 February in the EU Council's working group on tax issues.

So far, the discussions have been taking place between the ten Member States (Austria, Belgium, France, Germany, Greece, Italy, Portugal, Slovakia, Slovenia, Spain and Sweden) who are participating in the enhanced co-operation establishing the FTT; this is on the basis of a German proposal inspired by the French tax system (see EUROPE B12387A19).

However, since then, there has been the Covid-19 pandemic and the European institutions have agreed on an plan for economic recovery (see EUROPE B12599A2) as well as on the introduction of new individual resources, including an FTT, to reimburse it.

Within this context, the Portuguese Presidency is of the opinion that it is appropriate that all Member States are informed about the state of play of the ongoing negotiations; they think it right to hold a discussion on the design of the FTT in an inclusive format.

“The key objective of the Presidency is to explore avenues for a possible consensus on an efficient FTT design model, reassessing the views of participating and non-participating Member States in the light of the current context”, it said.

To this end, the Presidency raises several questions regarding the basis of the latest compromise text and is asking Member States to focus only on tax design issues at this stage and to leave more political aspects to one side, such as individual resources or possible mutualisation of revenues (see EUROPE B12278A17). which will be examined “at a later stage in the most appropriate fora”, she said.

A gradual approach...

According to Lisbon, all of these years of discussions on this issue have proved that the complexity of the design of this tax and its link to the broader regulatory framework requires a gradual approach to the implementation of the FTT in the EU.

“The step-by-step approach would permit Member States and Commission to methodically evaluate the economic impact of the tax, tax administrations to progressively develop efficient and effective collection procedures, and market structures and financial institutions to gradually build up the knowledge and infrastructure required to facilitate tax compliance”, it explained.

In line with this approach, any further extension of the fiscal scope would thus be preceded by an analysis of how it functions and the effects of the tax on each stage of implementation, backed up by in-depth economic and technical research.

The Portuguese Presidency of the EU Council is therefore advocating a minimum level of harmonisation. This step-by-step approach should not prevent the Member States that have already introduced an FTT with a broader tax base tobe able to preserve it, nor should it prevent Member States who would like to implement a more rapid evolution of the scope of application to do so, it clarified.

...based on French and Italian experiences

According to the Presidency, the most sensible approach would be to start testing the approaches developed by France and Italy at the European level “as early as possible”, building on their combined experience.

Other Member States have also experienced an FTT at national level, but Lisbon believes that the French and Italian models are particularly relevant.

“Both France and Italy have focused on taxing transactions in shares [...] Although their approaches to the taxation of shares differ with regard to some technical specificities, both countries based their FTTs on the two same tax design pillars”, the note explains.

The Italian tax goes a little further, since it also taxes equity derivatives. According to the Presidency, including these products could, moreover, be part of the first stage of the European FTT, which if necessary would be in the form of an ‘opt in’. This is particularly the case since the judgement of the Court of Justice of the European Union (CJEU) in April 2020 (case C-565/18), which confirmed that the Italian approach to taxing financial derivatives is indeed compatible with EU law.

As a bonus, the document contains an annex, which sets out a series of economic data on the application of the French and Italian taxes, provided by the two countries at the request of the Presidency.

What happens next? This will depend on the outcome of the debate to be held on 24 February, the Presidency told us. Any informal agreement, however, will have to be first approved by the members of the enhanced co-operation and then by all the Member States, since the final result will be a legislative proposal approved by the EU Council, it noted.

When asked about the possibility of other Member States joining the enhanced co-operation that is establishing the FTT, the Portuguese Presidency of the EU Council believed that it was still too early to answer this question.

See text: http://bit.ly/3pnXIKT