Subject: Proposals for European Union Anti-Tax Avoidance Directive and public Country by Country Reporting

ICC Sweden would like to express our views concerning the proposals put forward in the European Union Anti-Tax Avoidance Directive, and most recently the proposals regarding public Country-by-Country reporting.

ICC recognizes the European Commission's aim to improve the functioning of the Internal Market and implement uniformly the internationally agreed OECD/G20 Base Erosion and Profit Shifting (BEPS) recommendations within the EU. **However, ICC is concerned that the measures proposed in the EU's Anti-Tax Avoidance Package go well beyond internationally agreed guidelines. To this end, ICC strongly recommends an alignment of the measures proposed by the Commission with already existing guidelines that would facilitate greater consistency internationally and incentivise cross-border trade, investment and economic growth.**

ICC was extensively involved in the G20 mandated OECD Based Erosion and Profit Shifting (BEPS) process. Through its 18 submissions, ICC represented global business views – from major multinational firms through to SMEs in every region of the world. ICC welcomed the conclusion of the BEPS project in October 2015 and continues to underscore the importance of coordinated implementation of the combined deliverables of the G20/BEPS project on a multilateral basis with a consensus approach in order for the solutions to be consistent and uniformly applied at the international level.

In order to establish a level playing field, implementation of the OECD BEPS recommendations would need to be consistent across global markets. **The measures currently proposed in the EU Anti-Tax Avoidance Directive diverge quite significantly from these international guidelines and risk setting a precedent that could potentially undermine global efforts to establish a consistent international landscape.**

Of particular concern, is the latest version of the Commission's proposal on country-by-country (CbC) reporting that would require multinational companies to publically disclose their tax data for every EU jurisdiction in which they operate. ICC fully acknowledges the importance of ensuring adequate access to information for tax authorities in order to determine the correct amount of tax for businesses. However, **ICC believes that the reports should not be made public and that disclosure would be counterproductive to efficient tax administration. It would furthermore be harmful to the relationship between taxpayers and tax authorities.** ICC therefore urges the European Commission to implement measures that are consistent with international guidelines that support the confidentiality of commercially sensitive information.

Other measures that deviate from the OECD BEPS recommendations include those related to the switch-over clause, the exit tax provision and the general anti-abuse rule (GAAR). Moreover there are significant differences with respect to hybrid mismatches, interest deductibility and controlled foreign companies (CFCs). It should be noted that the internationally agreed upon guidelines set out by the OECD were established through a comprehensive consultation process over a two-year period in order to achieve consensus. The measures proposed in the EU Directive, particularly those that go beyond the scope of the OECD recommendations, would therefore benefit from a broader consultation and impact assessment process as with other legislation within the EU.

By implementing a directive that goes beyond internationally agreed guidelines, the EU will introduce double or multiple standards undermining the consistency of the international tax system and increasing the risk of double taxation. In addition to this, the proposed measures would put the EU at a competitive disadvantage in attracting global investment. ICC is concerned that these new EU measures will reduce rather than stimulate trade in the EU and negatively impact international trade by creating new tax barriers. ICC remains concerned about the broader economic impact of this proposal and fears that the diverging measures could have knock-on effects for international trade and businesses of all sizes.

ICC believes that coherent and co-ordinated implementation of the internationally agreed guidelines, in close cooperation with business, is imperative to aligning tax systems, protecting government revenues and to safeguard cross-border trade and investment. ICC, therefore, respectfully encourages the European Commission to implement measures that fall within the scope of these guidelines.

Finally, as a consequence of these double or multiple standards, ICC fears that some national tax authorities will claim a bigger share of the tax base by using the information provided in the country by country reports. This could be a first move away from the arm's length principle and towards a formulary system. In order to mitigate the inevitably resulting double taxation issues, ICC strongly encourages the European Commission to improve dispute resolution mechanisms such as the arbitration convention and rules on mandatory arbitration in bilateral double tax treaties.

It is our understanding that proposals included in the Directive will need to be approved by EU member states and the European Parliament, by a qualified majority vote at the end of this month, before they can be adopted into law. As such, the ICC urges local government representatives to seriously consider the implications of these proposals before making any concrete decisions.

We would welcome any opportunity for further discussion and input.

Yours sincerely,

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ICC Sweden