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FICHE 4
FTT – FINANCIAL TRANSACTION TAX

1. CONTEXT

On 29 June 2011 the Commission submitted its legislative package for the 2014-2020 Multiannual Financial Framework announcing a proposal for a financial transaction tax (FTT) which could be used as a possible own resource for the EU budget. This FTT proposal followed a Communication on taxation of the financial sector (COM(2010)549) which recognized that the sector should make a fair and substantial contribution to public budgets and that such taxes had potential to become own resources of the EU Budget. In the following months the Commission then presented the necessary legislative instruments[1].

The overall objective was to ensure a more transparent, simple and fair system of own resources. Designating parts of the proceeds of a new FTT as a new own resource would also reduce Member States' national contributions based on GNI and thus help fiscal consolidation efforts.

The Commission had originally estimated the possible revenue from the FTT at above EUR 50 billion per year, two thirds of which would have accrued to the EU budget. It would constitute a new revenue stream which would reduce Member States' national contributions to the EU Budget accordingly. Moreover, the creation of an EU-wide FTT could be the first step towards promoting the application of an FTT at global level, which is ultimately the most effective and efficient level for the implementation of such tax.

Already in mid-2012, the ECOFIN Council concluded that a unanimous agreement between Member States could not be reached in the foreseeable future on the proposal for an EU-wide common FTT system. Therefore, a group of 11 Member States requested to engage in the procedure of "enhanced

1 On 28 September 2011, the Commission proposed a Council directive on an FTT to be levied on financial transactions in financial instruments when at least one party to the transaction is established in the EU and when a financial institution established in the EU is involved in the transaction (as a party or agent) The proposal was to harmonise the scope of the tax, tax base, the territorial application of the tax (or Member States' taxing rights) and set minimum rates. The transactions in shares and bonds (and other securities) would be taxed at a rate of minimum 0.1%, and derivative contracts at a rate of minimum 0.01% at each taxable side of a transaction. The number of exclusions from the scope of the proposed tax was very limited. The proposal had three main objectives: to prevent the fragmentation of the Single Market that could result from numerous uncoordinated national approaches to taxing financial transactions, to ensure that the financial sector made a fair and substantial contribution to public finances, and to discourage financial transactions which do not contribute to the efficiency of financial markets or the real economy.

According to the proposal . the tax should apply to all markets (such as regulated markets or over-the-counter transactions), all instruments (shares, bonds, derivatives) and all actors (banks, shadow banks, asset managers). This would minimize potential distortions across different market segments and reduce the risk of tax-planning/avoidance, substitution and relocation.

On 9 November 2011 the Commission tabled its proposal for a detailed regulation on creating a new own resource based on the FTT, and other proposals clarifying the possible interaction between the FTT directive and the own resources provisions.

cooperation" as provided for in the Treaties on a common FTT harmonised amongst them. After the Commission made a proposal in this respect, and the EP gave its consent, the EU Council adopted a decision authorising eleven Member States to go ahead with the enhanced cooperation on 22 January 2013. On 14 February 2013 the Commission tabled a proposal for a Council Directive implementing enhanced cooperation in the area of FTT (proposal on the substance). Discussions on this proposal are still ongoing in the Council. The detailed provisions which should govern the creation of the FTT are to be decided upon by unanimity by the 11 participating Member States. The proposal to use some of its proceeds as an own resource to the EU budget has for the moment been set aside.

2. Assessment in relation with the criteria identified by the Group

1. Equity/Fairness: the implementation of an FTT would have positive effects in terms of equity between economic actors, as it could at least partially compensate for the possible tax advantage of the financial sector due to the current VAT exemption on most financial services, which at the same time benefitted from state aid in times of crisis. From the perspective of horizontal equity however (between Member States), it could be perceived as unfair, since a high volume of financial transactions and a large number of financial institutions are concentrated in a limited number of Member States. However, the Commission considered in the past that in the context of the Single Market, the receipts would be best seen as regional proceeds rather than national ones.

2. Efficiency the introduction of a common system for the FTT would reduce the current possibilities of tax avoidance within the FTT jurisdiction (the jurisdiction of MS participating in the enhanced cooperation), would ensure a more coherent tax framework and eliminate a source of fragmentation of the current Internal Market, at least within the FTT jurisdiction. The action at EU level could prove both more effective and efficient than uncoordinated action by Member States given the level of cross-border activity and high mobility of the tax bases.

3. Sufficiency and Stability: the high volatility of financial transactions could generate unpredictability of income. Nevertheless, according to the Commission's initial estimations, despite some conservative assumptions, if two-thirds of the FTT revenues resulting from the application of the minimum rate set in the FTT proposals were to accrue to the EU budget (as proposed in 2011), around one-third of EU expenditure could be financed via the FTT. At the same time the GNI based contributions of Member States to the EU budget could be reduced by about 50% (see also below on revenue estimates). Point 5 below gives an updated estimate of such revenue in the light of the present enhanced cooperation procedure.

4. Transparency and Simplicity: the FTT will use a single harmonised tax in the FTT jurisdiction to the all financial sector. This will also be positive in the prevention of the fragmentation risk of introducing uncoordinated national FTTs.

5. Democratic accountability and budgetary discipline: the initial 2011 Commission proposal, taking into account the popularity of such a tax in the aftermath of the financial crisis, had several objectives in relation to budgetary discipline.. In as far as the FTT proceeds would accrue to the EU budget, the GNI-based national contributions to the EU budget would be lowered, giving extra room for manoeuvre within national budgets.
As regards democratic accountability, the initial Commission proposal foresaw that the minimum tax rates would have been defined in the implementing regulation decided under TFEU 311(4), i.e. under a consent procedure, thus involving the European Parliament in the decision making.

6. Focus on European added value and constrain narrow self-interest: the implementation of the FTT would be better achieved at EU level due to the high mobility of the tax base. However, because no agreement could be reached in the Council on an EU wide FTT for the foreseeable future, a group of 11

MS requested and were allowed to go ahead between themselves which would already improve the functioning of the Single Market once the common FTT would be implemented in their territory. In this perspective, and compared to a scenario of fragmented, heterogeneous national approaches to taxing the financial sector, its European added value would lie in its contribution to the strengthening of the Internal Market and to the harmonisation of the taxation landscape.

7. Subsidiarity principle and fiscal sovereignty of member states: Based on Treaty on the Functioning of the EU Article 113, the FTT is not as such a 'European Tax'. It is based on a Council directive and must be transposed by the MS into national legislation. The tax must be levied and collected by the Member States. Similarly, own resources potentially arising from such a configuration would constitute a revenue sharing arrangement rather than a new EU tax. The Own Resources Decision requires the ratification by national parliaments.

8. Limit political transactions costs: initially, given its multiple objectives in relation to financial discipline in particular, and the popularity of such tax in most Member States, the political transaction costs of the FTT were considered low. By now, a group of 11 MS is in the process of finding an agreement on a common FTT framework, where 4 out of the 11 already have a non-harmonised national FTT in place. It would thus constitute a new revenue stream for some of them which would not compete with other national revenue streams, but on the contrary give national governments extra room for manoeuvre.. Depending on how the GNI contribution is reduced and how the final FTT is designed smaller MS could be interested (with proportionally lower FTT revenue) in FTT as an own resource.

3. WEAKNESSES OF THE FTT-BASED OWN RESOURCE

The opposition to the FTT proposal was mainly geared towards the economic and market impact of the FTT. The designation of its proceeds as an own resource comes in the second instance.

In addition to what is mentioned in point 2.8 The FTT under enhanced cooperation could still be a viable basis for an own resources if its neutrality towards non-participating Member States –as well as the UK rebate- can be established. Any devised approach should also remain 'open' for new applicants. However, this would introduce another layer of complexity and opacity in the revenue system and would counteract the objective of simplicity.

4. OUTCOME OF THE NEGOTIATIONS/KNOWN POSITIONS OF STAKEHOLDERS (MS, INDUSTRY, OTHER)

As with any new resource that would replace parts of the GNI-based contributions, the uncertainty about the distributional impact on individual Member States resulted in hesitation and scepticism which certainly undermined the momentum.

The FTT as an Own Resource for the period 2014-2020 was rejected. At the moment,, eleven Member States (BE, DE, EE, EL, ES, FR, IT, AT, PT, SI, SK) are collaborating on the definition of a harmonised tax design for FTT to implement enhanced cooperation...

The European Council conclusions on the MFF allowed for the possibility of entering a part of the FTT proceeds as revenue for the EU Budget, although this is not the current approach and would certainly increase the complexity of the OR system as long as it would be applied to eleven Member States only.

5. ESTIMATE OF REVENUE FOR THE EU BUDGET

Based on 2010 data, the Commission had estimated the potential annual revenue of the FTT according to the 2011 Commission proposal at around EUR 57 billion of which two-thirds should accrue to the EU-budget. For 2010 this would have translated into revenues of around EUR 38 billion for the FTT-based own resource. Assuming that the taxable transaction volume would develop in proportion to the development of nominal GNI, about EUR 54 billion could have been raised to finance EU expenditures in 2020. This would have allowed reducing the GNI-based contributions by around 50%.

Revenue estimates were determined in function of, inter alia, the tax rates, the tax base laid down in the 2011 FTT proposal and assumptions on the market reactions. For the 11 participating Member States, preliminary Commission estimates indicated that depending on market reactions, the revenues of the tax could be between EUR 30 and 35 billion on a yearly basis, in case the original FTT proposal for EU27 had been applied to EU11. However, under the definitive new frame conditions of a Financial Transaction Tax to be agreed upon by EU11 and to be implemented under enhanced cooperation and possibly on a step-by-step basis, estimates would have to be adjusted – downwards in case of:

- A narrower tax base due to a different scope compared to the 2013 Commission proposal (e.g. exempting certain types of financial instruments or transactions or actors);
- The application of different taxable amounts or lower tax rates, for derivatives for example
- A gradual phasing-in resulting in time lags;
- Different criteria or a different order of criteria to be applied in respect of the territorial application of the tax (e.g. changing of the order of application of residence and issuance principle or changing of other principles.

It is not possible to precisely quantify these elements at this stage. The revenue estimates in the whole of the participating MS could be reassessed once the participating Member States and the text of the directive including its provisions on the scope/base and rates are known.