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EU Court Delivers Fiscal State Aid Judgments

The General Court of the EU delivered the long-anticipated first instance judgments in the fiscal State aid cases of Starbucks and Fiat. In the case [*Netherlands v Commission*](#) (Starbucks), the Court annulled the Commission decision, which had originally established that the Netherlands had awarded State aid to Starbucks by way of selective fiscal benefits. In [*Luxembourg v Commission*](#) (Fiat), the Court dismissed the action for annulment and upheld the Commission decision establishing State aid to Fiat Finance and Trade (now Fiat Chrysler Finance Europe).

As an upshot, the Court confirmed Commission's competence to scrutinise individual tax rulings (including transfer-pricing rulings, Advance Pricing Agreements - APAs) that national tax administrations conclude with taxpayers. The judgments further indicate that the General Court accepts Commission's interpretation of the 'arm's length' principle as a 'yardstick' for assessment of the EU law compliance of individual tax rulings with Article 107(1) of the Treaty. The Court also set limits to the Commission's powers in the review of national fiscal State aid measures, by stating that at this stage of development of EU law, the Commission does not have 'autonomous competence' to define 'normal taxation of a company', outside the scope of national taxation rules of each Member state.

Commenting on behalf of the European Commission, Commissioner Margrethe Vestager [said](#) of the judgments: *"The judgments confirm that, while Member States have exclusive competence in determining their laws concerning direct taxation, they must do so in respect of EU law, including State aid rules. Furthermore, the General Court has also confirmed the Commission's approach to assess whether a measure is selective and if transactions between group companies give rise to an advantage under EU State aid rules based on the so-called "arm's length principle". The Commission will continue to look at aggressive tax planning measures under EU State aid rules to assess if they result in illegal State aid."*, stated Commissioner Vestager.

The cases will likely be appealed to the Court of Justice of the European Union, the final instance arbiter in EU law litigations.

Tax Administration European Union Summit



The heads of the tax administrations of EU Member States and the Director General of the European Commission, DG TAXUD met in Helsinki last week for the first plenary meeting of the Tax Administration EU Summit (TADEUS). The meeting aimed to explore ways in which to improve the administrative cooperation and support the level playing field in the Single Market from a tax administration perspective. An [Outcome Statement](#) on the meeting has been published to highlight the scope of the activities.



Tax Inspectors Without Borders Publish Annual Report

The Tax Inspectors Without Borders (TIWB), a joint initiative of the OECD and the United Nations Development Programme (UNDP) published the [bi-annual report](#) for 2018/2019. TWIB is a capacity-building initiative that brings together tax experts from tax administrations in developing countries.

The report highlights that as of April 2019, TIWB audit assistance, including anonymised casework has yielded USD 480 million in additional tax revenue for governments. The bi-annual report was presented by Angel Gurría, Secretary-General of the OECD and Achim Steiner, Administrator of UNDP at the ministerial panel in the margins of the United Nations' General Assembly that took place on 24 September 2019 in New York.



Iceland Deposits MLI Ratification Instrument

Iceland deposited the legal instruments for ratification of the OECD Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting on 26 September. The MLI will enter into force on 1 January 2020 concerning Iceland.

This [OECD document](#) contains a list of signatories and parties to the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting.



Global Tax Advisers Platform Conference - Torino, 3 October 2019

The Global Tax Advisers Platform (GTAP) [inaugural conference](#) will take place on 3 October 2019 in Torino on the topic “*Tax & The Future*”. GTAP was formed in 2014 by CFE, AOTCA and WAUTI as a global response of tax advisers to international tax initiatives, with the aim of forging closer links among tax advisers throughout the world. The platform provides the proper framework for a more dynamic, more inclusive cooperation among tax advisers, on the basis of enhanced dialogue, more effective collaboration and openness.

The GTAP conference will examine issues that are of interest to all tax advisers in a borderless, increasingly globalizing and automated society, driven by new technologies. To that end, four panels of expert speakers will consider the evolution and future of the topics of global tax policy, corporate income tax and VAT, the global tax profession and business models and tax sustainability. More details of the event and programme are available [here](#). [Register now](#) before it's too late!