BUSINESSEUROPE

THE DIRECTOR GENERAL

Doctor Luis Videgaray Caso
Hon´ble Minister of Finance
Government of Mexico
Mexico City

13 October 2013

Your Excellency,

The members of our Tax Policy Group, chaired by Mr. Krister Andersson, have over the years followed the Mexican developments with satisfaction and admiration. Substantial improvements have been made and trade and investment flows between European countries and Mexico have certainly improved considerably. Many of our members have however now expressed their concerns about some of the provisions in the proposed tax bill to the Mexican Congress on 8 September 2013.

BUSINESSEUROPE is the main horizontal business organization at the European level. Through its 41 member federations, BUSINESSEUROPE represents more than 20 million companies from 35 countries, working together to achieve growth and competitiveness in Europe and in the world. BUSINESSEUROPE represents small, medium and large companies.

Many of our members are engaged in business activities in your country. They are very concerned about the proposed tax legislation. We understand that the proposed tax measures are to be seen in the context of the discussion on Base Erosion and Profit Shifting (BEPS). We have officially welcomed the BEPS Action Plan by the OECD and G20. The 15 action points span over basically every aspect of international taxation that is perceived as not functioning properly in relation to BEPS.

It is essential for business investment, jobs and growth that tax rules are predictable and to the extent possible, do not distort economic decisions. Furthermore, one essential merit of the BEPS project is to follow a multilateral approach whereas the lack of coordination between countries on tax rules, definitions of economic instruments and legal entities as well as administrative procedures may result in international double taxation or unintended so called double non-taxation.

Our members believe that the recent proposals would have a strong negative impact on the investment climate in Mexico. Going into more detail, we are in particular concerned on the following proposals.

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In accordance with article 29 XXIII of the tax reform proposal for 2014 sent to the Congress, expenses paid by a Mexican company to a related party in Mexico or outside Mexico are non-tax deductible in case the company receiving the payment is taxed at less than 75 % of the Mexican tax rate i.e. with less than 22.5%.

If the proposal becomes law companies active in countries with comprehensive tax systems, far from being anything like a tax haven, would encounter substantial international double taxation. We are convinced that such a development is to the detriment of the investment, jobs and growth not only in Mexico but overall.

We are also concerned about the additional corporate-level tax on dividends at a rate of 10%; the repeal of the existing tax consolidation regime; the limitation of treaty benefits and the broad provision to re-characterize transactions in case there is no quantifiable economic benefit for the taxpayer.

Against this background and the very ambitious timetable of the BEPS project, we believe that it is premature to implement such far reaching measures. Instead, the BEPS process at OECD-G20 level should be awaited and the results should then be implemented on the grounds of a coordinated and multilateral consensus. Furthermore, rules such as making the deduction for related party payments abroad dependent on the effective tax rate in the receiving country automatically create double taxation. Such rules would be very damaging for cross border trade and for foreign direct investment. We therefore strongly suggest postponing any such measures.

We would very much like to engage in a constructive dialogue with you and your government on this very important issue.

Yours sincerely,

Markus J. Beyrer