

## SUMMARY OF THE MINUTES OF THE MEETING INVESTMENT COUNCIL (IC)

### MEETING VIII

### ON VAT REFUND

Tirana, 23 November 2016, 15:00 – 17:00

The meeting was held at the Ministry of Economic Development, Tourism, Trade and Entrepreneurship and was chaired by Ms. Milva Ekonomi, Minister of Economic Development, Tourism, Trade and Entrepreneurship. Present in the meeting were representatives of business associations, international organizations in Albania, and as a special guest Deputy Minister of Finance, Mr. Ervin Mete.

#### **I. Opening of the meeting**

The Chair of the Investment Council, Minister Milva Ekonomi, opened the meeting extending thanks to the members for their participation in the meeting. Chair Ekonomi informed the Council on several measures undertaken by the Government on improving the business climate, such as easing tax procedures, preliminarily consulted with the business community and taking into consideration some of the Council's recommendations. The Chair also focused on the very positive evaluation for Albania in the World Bank Doing Business 2017 Report.

#### **II. Status of Previous Recommendations**

*Mr. Elvis Zerva, IC Secretariat* shared a presentation on the progress of recommendations approved by the Investment Council. The IC has approved a total of 45 recommendations so far, focusing on 7 topics that have been discussed during the Council's seven previous meetings. Some of the recommendations that have been applied by the Government so far are mostly related to the tax procedures and were made applicable with the recent adoption of some amendments to the Law on Tax Procedures, the adoption of the Bankruptcy Law and other actions of the Government in the context of food safety. Regarding recommendations that have not yet been addressed by the Government, the Secretariat explained that this pertains to the timeframe for the application of these recommendations, which commences in 2017.

#### **III. Presentation of (preliminary) Findings on the VAT Refund Process for Businesses**

*Ms. Diana Leka, Head of the IC Secretariat*, gave a presentation on the current situation regarding VAT refund, based on the Secretariat's work methodology. An online survey with the participation of 77 businesses was conducted in the context of this analysis, 55% of which have applied for VAT refund, 72% of which confirm to have received the VAT refund, whereas 54 % confirm ease of procedures. In the Survey, businesses have reported that deadlines were not met

in most VAT refund cases, especially for exporters. Most of taxpayers who have submitted a request for VAT refund have undergone a tax control procedure, including exporters who export above 70% of their total sales value, which are subject to automatic refund. Later on, Ms. Leka presented some other findings and recommendations for discussion, that focus on application of deadlines set forth in the current legal framework, ease of procedural burden for the tax administration (deadlines, controls) and businesses, transparency of internal procedures in addressing VAT refund applications, as well as improvement of the relation between businesses and the public administration.

#### **IV. Main comments addressed during the discussion are summarized below**

Ms. Miha Ekonomi, IC Chair, thanked Ms. Leka for the presentation and said that there have been major improvements in terms of VAT refund, if compared to the period prior to 2013 when VAT refund occurred at very low levels. Based on the Survey's findings, refunds are currently at 72% and even more ambitious objectives can be set in this regard. At the same time, Minister Ekonomi encouraged the administration to maintain high standards of reporting and to facilitate the businesses' access to information. In the meantime, public services have improved as a result of e-services use. Communication with businesses through platforms such as the Investment Council has enabled businesses to report on the situation and their real concerns. This communication with businesses resulted in the improvement of circa 37 tax procedures. At the same time, the Ministry of Economy, through assistance from the World Bank, has undertaken to reanalyse doing business procedures to find out what could be improved in the future, which is something that can also be brought before the Investment Council as a topic for 2017.

Mr. Luan Bregasi, BiznesAlbania, complimented the Council and the Secretariat for their excellent work. He also expressed appreciation to the Council, as a platform that brings forth proposals that are grounded on direct consultation with businesses. The VAT refund related issues have been of concern for both, private entrepreneurs and state institutions. According to Mr. Bregasi, VAT refund procedures were improved during 2014-2015. The Tax Directorate has performed better from this point of view. However, VAT refund remains a sensitive issue for businesses, especially for exporters that continue to encounter problems. The proposals set forth to address the issue, while concurrently considering some amendments to the Law on Tax Procedures, are some commendable steps of freedom extended to entrepreneurship. Mr. Bregasi stressed out that apparel (cut-and-trim) companies are the businesses mostly affected from VAT refund, because they have a very low margin of profit and are in need of money for investment. Mr. Bregasi suggested that apparel companies, as well as serious companies that have been in the market for years and that have not resulted problematic during tax inspections should receive automatic VAT refund.

Mr. Flobens Dilaveri, GTD, expressed appreciation that the Secretariat's Analysis has reviewed the work and procedures applied by the tax administration for VAT refund purposes. The tax administration's personnel has been limited in numbers for several years, circa 1,600 employees, of which 1,200 are inspectors who have to conduct controls in 124,000 businesses, increasing in number. As regards VAT refund before 2013, the refunded amount was extremely low; however comparison should not be made with that particular period of time. In the meantime, there have been some reporting from businesses stating that they have received VAT refund directly to their bank accounts, without any additional procedures. Later on, Mr. Dilaveri gave a brief overview

on refund timeframes during 2014-2016. During 2016, refunds increased from 137 to 204 within 31-60 days, while refunds executed above 90 days were considerably less, from 232 in 2014 (7.2 billion ALL) to 94 in 2016 (2.89 billion ALL). Refund requests submitted by businesses increased from 616 in 2014 to 644 in 2016 (January – October), as an indicator of increased trust. Refunded amounts were 8.9 billion ALL in 2014 and 8.5 billion ALL during January – October 2016. Lately, TAP has submitted a request for VAT refund of 2.3 billion ALL. This means that the refunded amount for 2016 is estimated to reach circa 10 billion ALL.

As relates to the GTD webpage, the Reform Committee to be convened on November 24, 2016, will soon approve the new website which will be of a better quality and more user-friendly to the taxpayers, in line with one of the recommendations of the Investment Council.

To conclude, Mr. Dilaveri mentioned that one of the 37 amendments to the Law on Tax Procedures introduced a major change in terms of refund. The risk analysis system, currently being consolidated with the IMF's assistance, is expected to perform much better in the future. Tax administration is working on the application of automatic refunds for certified and credible exporting companies. Mr. Dilaveri agreed with the Council's recommendation that if an entity has been subject to thorough controls for a year, then tax administration should proceed with simplified refund procedures.

Mr. Luan Leka, EHW, considers the amendments to the Law on Tax Procedures as positive, because they are in line with the requests of businesses and have resulted in a better climate for doing business. At the same time the relations with the tax administration have improved like never before. However, no changes have taken place with regards to customs procedures, as requested by businesses. There are cases when customs procedures related to the Customs Code are difficult to apply, therefore they should be reviewed. The current legislation on labour is rigid, in contrast with the much needed flexibility, as an essential element to boost employment. The current Labour Code foresees a range of fines. There are circa 58 articles that propose fines for incompliances. If there is room and good will to endorse changes in favour of the doing business climate, then the Government should review the above-mentioned laws.

Mr. Shkëlqim Bozgo, TAP, commends the Secretariat's analysis for being accurate while concurrently providing information from an impartial viewpoint. TAP has a substantial amount of VAT refund, which may amount up to 30% of the total refundable value. TAP understands that this is a considerable challenge and thanks the Ministry of Finance for the good will in addressing this. Mr. Bozgo agrees that the refund in the future should be grounded on the risk model. While taking into consideration the quantity and complexity of processes, TAP has taken the initiative to have the refund deadline extended from 30 days (according to the applicable legislation) to 180 days. Mr. Bozgo expressed TAP's commitment and good will to find suitable solutions, but underlined that timely refunds are extremely important for a project of such magnitude.

Mr. Ervin Mete, Deputy Minister of Finance, underlined that improvements are obvious and that there is an enhancing trend, even though not at the sought degree. If 72% of businesses, have responded on the Survey that they have received refund, this is very positive to the Government. Mr. Mete is appreciative of the fact that opinions of businesses were directly sought and recommends that this is done periodically to assist the Government in its actions. We are currently finalizing the risk analysis system, as a whole. The system will be operational at the beginning of 2017 and will certainly have an impact on audits. Even though 116 fraudulent

schemes have been reported to the Public Prosecutor's Office, others may be still unidentified and this brings us to controls. Amendments to the legislation on VAT refund were adopted in June 2016 and it will take a while for them to become fully applicable as regards the 70% and 50% exporters. The Survey's results coincide with the time of the adopted amendments. Currently, more applications for refunds have been processed and the amount of refunded VAT is higher than that executed during the entire past year.

Mr. Arben Shkodra, Producers' Association, commended the Secretariat for having held a focus group meeting one week prior to the Meeting, where Mr. Shkodra was also invited to validate the findings of the analysis presented during the IC Meeting. The tax system performance has improved considerably, but there is still need for further improvements, some of which will result from the risk system, which should be automatic and much more dynamic. On the other side, companies need to perform better. *Fiscal education* is extremely important and must begin with the Ministry of Finance, Ministry of Economy, Associations/Chambers of Commerce and the tax and customs system itself. 90% of the companies are not at the level of TAP or Balfin Group. Tax Directorate has a revenue plan to meet. Mr. Shkodra suggests that there should be no interruption of the VAT chain, in order for the VAT base to be increased, which would result in more revenues while reducing fiscal evasion.

Mr. Matteo Colangeli, EBRD, emphasized that fiscal education is very important in the context of the interface between businesses and the authorities, in particular with tax authorities. In this regards, EBRD is considering a technical assistance project for the development of a helpdesk platform, to be located at the National Business Centre, which shall provide the registering businesses, especially the small and medium enterprises, with all the relevant information necessary for the full compliance with the requirements of the fiscal legislation in the country. EBRD shall welcome any input from the IC Members on this technical assistance project.

Ms. Edlira Muka, Balfin Group, said that the business climate has noticeably improved because the cost of establishing relationships between businesses and authorities has been considerable. She also expressed appreciation on the analysis conducted by the Secretariat and agreed with the recommendations presented during the meeting. She emphasised problems resulting from informality, which impact VAT and VAT refund, directly and indirectly. The deadlines for the execution of VAT refunds have not always been met accordingly and we hope that the adopted amendments will bring about further progress in terms of respecting refund deadlines. Balfin has requested a consideration of the VAT escalation in the main VAT consumption basket, which would be of benefit not only to the country's economy, but also to those businesses that have to confront with informality. She expressed support to the abovementioned EBRD's potential technical assistance project, as indispensable to business.

Mr. Lorenc Gjoni, AmCham, on behalf of the Chamber, spoke of the reactions of businesses from various districts, first of all on the VAT consumption basket, which is seen as high when compared to neighbouring countries, making Albanian consumers to shop in these countries by bringing about VAT loss and decrease in the country's consumption. Therefore businesses request that the Government gives more attention to this aspect. Secondly, in relation with VAT refund, businesses have reacted to refund delays for export taxpayers, because this impedes businesses to export in neighbouring countries due to increased production cost and reduced liquidity.

Ms. Hilda Shijaku, World Bank, thanked for the organisation of this meeting and discussing such an important matter to the business climate, fiscal consolidation and revenue performance enhancement. Ms. Shijaku emphasized two of the recommendations saying that they should be accompanied by concrete measures to facilitate their implementation from competent bodies. She made reference to the discussion on challenges faced by the GTD in relation with lack of capacities and efficiency in the personnel's utilization, and encouraged concrete steps to be taken by relevant bodies. Ms. Shijaku considered the recommendation on increasing transparency on internal procedures of the administration and *vis-a-vis* third parties as beneficial, for it would ease the application of tax procedures and businesses would not be burdened with additional costs in order to understand and comply with.

Ms. Milva Ekonomi, Chair of the Council, underlined that the raised suggestion on differential VAT rates must be grounded on an extremely thorough analysis. The VAT on basket goods must be considered on a case - by - case basis while using the data available in Albania and while analysing the price of the product, as per companies that produce or export it and through the use of the Taxpayer's ID Number as a unique means to trace sales, entry to customs points, etc. Therefore a conclusion on differential VAT rates on the basket cannot be reached unless a proper study is conducted in this regard. The Chair provided information on matters pertaining to the Council's work and regarding the proposal to cooperate with universities, as well as topics to be considered during 2017. The Secretariat proposes that the Council signs agreements with several universities which can help with research. During the meeting, a suggestion was given to cooperate with the Faculty of Economics at the University of Tirana on taxes and informality, with the European University of Tirana on dispute resolution, investment incentives, with POLIS university on construction permits and territorial reforms and with EPOKA university on issues related to electronic applications, with Tirana Business University (TBU) and private University, Luarasi, on legal issues. Cooperation can be better delineated after information on the characteristics of each university and can be proposed later on to the Council to decide as to which universities agreements of cooperation will be signed with.

## **V. Discussion on IC's topic of work for 2017**

Ms. Ermelinda Xhaja, IC Secretariat, delivered a brief presentation on the IC's potential agenda items for 2017, as preliminarily voted online by the members of the Council. Topics were proposed on a database prepared by the Secretariat, in line with problems pointed out directly by businesses, but also as found by the Surveys, meetings and international reports. The voting results were made available at the meeting and attention was given to the first topic for 2017 (February/March) on analysing problems relating to workforce capacities from a sectorial viewpoint - the case of businesses in the Business Processing Outsourcing (BPO) (cooperation with RISI Albania project).

Mr. Luan Leka, EHW, given that the first topic proposed for 2017 is about Qualified Workforce, proposed this topic to be enriched by including as well flexibility of the legislation on labour and needed improvements to such legislation.

Mr. Arben Shkodra, Producers' Association, recommended to hold a discussion on inspection procedures also following a reform to on-line inspection. Inspection procedures should be reviewed in collaboration with the Central Inspectorate, which is leading this reform, as this will

allow for an instantaneous assessment of everything that relates to conducted inspections about which each IC member has something to say.

*Mr. Yngve Engstroem, EU Delegation*, pointed out that transparency on incentives is a very good topic to be included in 2017. In the context of the availability of the resources from International Community, there is clear underutilisation of Albania on the lot of funds available to businesses.

Corruption remains a problem, and informal fees paid by the business affect the cost of doing business. Therefore, it is deemed necessary to understand the level of corruption businesses are faced with in terms of paying for permits, licences etc. and what measures can be taken by the business to refuse paying informal fees for doing business. .

*Mr. Luan Bregasi, BiznesAlbania*, informed about the cooperation of BiznesAlbania with the OSCE Presence in Albania in conducting a tour of meetings with businesses in all regions of the country to raise awareness on a project about the fight against corruption, related with business ethics. Purpose was to educate businesses to become the driving force in this battle. He asked the Investment Council to support this project of interest for the Albanian entrepreneurs.

*Ms. Milva Ekonomi, IC Chair*, suggested that in prioritizing topics we should also consider those topics which focus on drafting laws and by-laws that are part of the Government's agenda. As to the topic of corruption, we should communicate with Mr. Çuçi, the National Coordinator on Anti-Corruption, considering that he is a member of the Council. In relation with the business anti-corruption code of conduct there is also an initiative of the International Chamber of Commerce (ICC) on a standard contract model, which focuses on the anti-corruption approach that businesses must embrace during their operations. Every contract that they sign with other businesses, or with the government, must include a standard wording on anti-corruption, that the ICC has already set as a norm of ethics. This has been largely discussed at the ICC and the OSCE's engagement in this process is positive as it will help promote this approach in Albania.

The Chair thanked all participants for their contribution and in the end emphasized that:

- All recommendations addressed are sent to the Council of Ministers and to the Ministry of Finance.
- Topics for 2017 are enriched based on the proposals made during the meeting for purposes of making a decision for next year.

**VI. End of the meeting** - The meeting concluded at 17h00.

## **List of Participants**

### Government representatives:

1. Ms. Milva Ekonomi, Chair of the Investment Council/Minister of Economic Development, Tourism, Trade and Entrepreneurship;
2. Mr. Flobens Dilaveri, Deputy Director, GTD, in the absence of Ms. Vasilika Vjero, General Director, GTD;
3. Ms. Arjana Dyrmishi, Advisor, General Customs Directorate, in the absence of Ms. Belinda Ekonomi, General Director GCD.
4. Ms. Blerina Gjoni, Advisor to Minister of State for Relationships with Parliament, Ms. Ermonela Felaj

### Business community:

1. Mr. Shkëlqim Bozgo, TAP Albania Country Manager
2. Mr. Luan Leka, CEO, EHW GmbH
3. Mr. Edlira Muka, CEO, Balfin Group
4. Mr. Arben Shkodra, Chair, Producers' Association
5. Mr. Luan Bregasi, Chair, BiznesAlbania
6. Mr. Mark Crawford, President, American Chamber of Commerce

### International partners:

1. Mr. Yngve Engstroem, Head of Cooperation, EU Delegation Albania
2. Mr. Matteo Colangeli, Director of EBRD Resident Office in Albania
3. Ms. Hilda Shijaku, Economist at the World Bank in the absence of Ms. Tahseen Sayed, Country Manager of the World Bank Office in Albania

### **Absent in the meeting:**

1. Mr. Bledi Çuçi, Minister of State for Local Issues/National Coordinator of the Anticorruption Strategy (attended IC meetings only once)
2. Ms. Natasha Ahmetaj, Deputy Governor of the Bank of Albania
3. Mr. Genti Beqiri, CEO, AIDA
4. Ms. Laura Qorlaze, Representative of the IFC Office in Tirana

### **Special guest:**

Mr. Ervin Mete, Deputy Minister of Finance