Cámara Oficial de Comercio de España en Bélgica y Luxemburgo

SFF spanish financial forum in Luxembourg

The Magazine of the Spanish Financial Forum in Luxembourg

June 2023 | Number 8

» **Interview**

Pedro Guerrero Meseguer
Economic and Financial Counsellor
Permanent Representation of Spain to the European Union

» **Dossier**

Finance and the European Space Industry

» **Meet the team**

TMF Group

» **Flash News**

Lastest news and events

» **Articles**

» Lastest trends in EU Sustainable Finance and the challenge ahead

» Some current transfer pricing and VAT hot topics for businesses in Luxembourg

» MiCA Approved: the EU Parliament Clears the Path for the New Regulation on Cryto-Assets Markets

Read and share the Digital version of the SFF Magazine

The first publication connecting professionals of the financial sector from Spain and Luxembourg

Contents

About the **SFF**

The **Spanish Financial Forum in Luxembourg** (SFF) is a Committee of the **Official Spanish Chamber of Commerce in Belgium and Luxembourg.** It was launched in 2019 at the initiative of professionals linked to the Luxembourg financial services industry.

Through the SFF, the Chamber aims **to create both in Luxembourg and in Spain, a space for opinion and debate on economic and financial issues**, where professionals working in companies related to the provision of financial services can share experiences, establish collaborations, exchange information on sector trends and develop business opportunities.

Organizational structure

More than **50 companies and over 100 professionals** are involved in the SFF. Its organizational structure is composed of **a President and four coordinators** who lead respectively the following sub-sectors:

- Banking
- Asset Management
- Tax
- Insurance

Join the SFF

All financial services providers that are members of the Official Spanish Chamber of Commerce in Belgium and Luxembourg can apply for free to join the SFF.

Access **HERE** for more information about membership application and benefits offered by the Chamber to its members.

SFF Magazine

THE OFFICIAL PUBLICATION OF THE
SPANISH FINANCIAL FORUM IN LUXEMBOURG

Subscribe to the
SFF Magazine

View last issues
of the SFF Magazine

https://sff-camara.com

The SFF Magazine is a **quarterly and digital publication** addressed to financial professionals linked to the Spanish, Luxembourg and Latin American markets. It is published in **bilingual**, Spanish and English edition.

Most of the content is provided by SFF members and financial stakeholders. If you are interested in participating in the next future editions providing contents, do not hesitate to contact us by sending an email to publicacioneslux.ext@e-camara.com. The Chamber also offers the possibility of advertising and sponsoring contents.

Interview

Pedro Guerrero Meseguer

Economic and Financial Counsellor
Permanent Representation of Spain to the European Union

In this edition of SFF Magazine, we have the pleasure of interviewing Pedro Guerrero Meseguer, Economic and Financial Counsellor at the Permanent Representation of Spain to the European Union (Representación Permanente de España ante la Unión Europea – REPER). A timely conversation as the Spanish Presidency of the Council of the EU starts in July.

Pedro studied Economics at Buckingham University, England and has been a Trade Expert and Spanish State Economist since 2009. Most of his career has been linked with the Ministry of Economy in Spain, principally in economic policy, as well as financial matters and macroeconomics.

He has been based at REPER in Brussels for 5 years. Most of his work is focused on negotiating European regulations relating to the financial sector, in particular banking, insurance, payment services and digital finance.

"The job at REPER is possibly one of the most interesting that the General State Administration has to offer. One must have a good technical knowledge of the subject matter, but it is also essential to know the dynamics of the different institutions and how they work. The Council, the Parliament and the European Commission all have their own operating rules, in both formal procedures and informal practices."

REPER is a key organisation that protects Spain's interests within the European Union framework. To paint a clearer picture for our readers, can you briefly describe its internal organisation and the functions that are attributed to it?

REPER is akin to the 'Spanish Embassy' to the European Union. The only nuance is that the term "Permanent Representation" is used when the representation is from an international organisation rather than a country. REPER is headed by the Ambassador Permanent Representative, Marcos Alonso, and is staffed by officials from various ministries.

REPER protects Spanish interests within European institutions and carries out its Government's instructions in this regard. Daily activity is focused on the Council of the European Union which, via 10 different groups, brings together the ministers of each Member State. For example, in economic and financial matters, the ECOFIN Council, where Economy and Finance ministers meet monthly, is the competent body. To prepare ECOFIN matters, there are multiple working groups at various levels, with ambassadors and advisors representing their ministries.

But REPER's work must have a holistic approach and Spanish interests in the other institutions, especially in the Commission and the European Parliament, should also be clarified. The Commission presents proposals for laws and other actions of European scope, but it is the Council and the Parliament, as co-legislators, which decide the final outcome. Hence the well-known saying "the Commission proposes and the Council (and the Parliament) disposes".

"REPER protects Spanish interests within European institutions and carries out its Government's instructions in this regard."

In the second half of this year, Spain will take over the Presidency of the Council of the European Union. What are the current priorities on the European economic/financial agenda?

The Spanish presidency will undoubtedly be marked by the international economic scenario, the invasion of Ukraine and trade tensions between major powers. And all this in the context of high inflation and interest rate increases by several central banks. It will also be a closing presidency, given that in June next year the current legislative cycle will end, and a new Parliament and a new Commission will be elected. Therefore, we will have to finalise a significant number of ongoing negotiations, as well as new proposals yet to be published by the Commission. All these factors make it a challenge, but also a great opportunity to give our all and do our bit in the development of the European project.

Regarding Spain's priorities in the economic and financial area, I understand that this is an important issue and one that arouses interest in the media but, in accordance with protocol, they will be presented in due time by Vice-President Calviño. Generically, the priority will be to create new economic governance to promote strategic autonomy as well as green transition and digital transformation.

We will have important dossiers on the table, such as the financial support package for Ukraine, the review of the Stability and Growth Pact and various budgetary and fiscal measures. On the purely financial side, there are multiple initiatives to strengthen the Capital Markets Union, as well as a Commission agenda for sustainable finance, the implementation of Basel III standards in the banking sector, the review of the regulatory framework for bank crisis management, a package on the prevention of anti-money laundering and terrorist financing, and the digital euro proposal, just to list a few. Major non-legislative issues will also need to be addressed, such as those related to the war in Ukraine or recovery and resilience plans. We are also likely to face unexpected situations that we will need to resolve quickly and efficiently.

"We will have important dossiers on the table, such as the financial support package for Ukraine, the review of the Stability and Growth Pact and various budgetary and fiscal measures."

Uncertainty has spread in the financial sector following the recent events at international level triggered by several U.S. banks and Credit Suisse in Europe. Do you consider that Spanish banks, and the European financial sector in general, have shown a high resilience to these instability events?

The collapse of Silicon Valley Bank in March was the first of the recent banking crises in the US and possibly the most representative. It is a case of poor management of interest rate and liquidity risks, as well as poor corporate governance because the bank's management did not know how to detect these risks. Moreover, in the U.S. these types of institutions do not have to comply with Basel international prudential banking standards, an issue that is being analysed by the International Monetary Fund under its Financial Sector Assessment Program. The lax supervision of these types of entities is another reason why it was not possible to identify the accumulation of risks. On a positive note, both the Federal Reserve and the FDIC (Federal Deposit Insurance Corporation) took strong measures to alleviate the crisis of confidence and protect depositors, given that deposit leakage and financial contagion are nowadays much faster than in the past. There is no doubt that digitalisation allows innumerable efficiencies which can be very positive, but it also facilitates, with a click of a button, the massive movement of deposits without the need to queue at the door of the branches. And today, social networks can accelerate and intensify volatility and uncertainty.

The case of Credit Suisse raises different questions. It is a large bank considered "globally systemic" by the Financial Stability Board (FSB). The bank had been experiencing significant business model and corporate governance problems for years. It carried out risky asset operations and made important mistakes in the management of its clients' assets. In addition, the entity has faced serious money laundering scandals, corruption, tax evasion and even corporate espionage. Although on paper it complied with all capital and liquidity ratios, there had been negative signals in the market for some time, so the uncertainty derived from the failures of SVB and Signature Bank, led to a significant outflow of deposits that, in just one week, forced the sale of portfolios at a loss and the merger with UBS. It should be noted that this merger had to be accompanied by some 9 billion Swiss francs (€1 = approx. CHF 0.97) in public guarantees against possible legal risks, as well as a liquidity line of more than 100 billion from the central bank. Although the amortisation of CoCos in the merger is being highly questioned and the granting of public guarantees is being strongly criticised by parliament and the public, the significant liquidity provision by the Swiss central bank through the establishment of a public backstop is also of interest.

These events are very different from the situation with European banks, which are well capitalised, well supervised and mostly comply with strict accounting standards. All this helps to explain why, despite some volatility in the European Union markets, the sector is proving resilient and there is no loss of confidence in the institutions.

Regarding Spanish banks, I would highlight two things. Firstly, that they are among those that cope best with the adverse scenario contemplated in the European Banking Authority's stress tests. Secondly, that the appointments of executive directors and board members must be submitted to one of the most rigorous selection processes for suitability within the European Union, both by the institutions themselves and by the overseers.

All this is a guarantee and is the result of the intense regulatory and supervisory reforms that have taken place since the financial crisis, as well as better risk management by institutions. There is no doubt that we in the European Union have learned the lessons of the financial crisis. Prudential and accounting standards have been strengthened. Banking supervision has been improved and a single supervisor for the main eurozone institutions, the Single Supervisory Mechanism, has been created. A Single Bank Resolution Mechanism has been created which, although it can be improved, obliges institutions to considerably increase their capacity to cope with losses without requiring public aid.

But we must not become complacent and think that all the work has been done. For example, we are currently finalising negotiations on the banking package that will implement the Basel III prudential standards, strengthen bank governance criteria (Fit and Proper) and more strictly regulate branches of third country entities. In my opinion, it is desirable to regulate these third country branches in a harmonised manner to ensure that banking problems in other parts of the world do not directly harm European citizens.

Regarding Spanish banks, I would highlight two things. Firstly, that they are among those that cope best with the adverse scenario contemplated in the European Banking Authority's stress tests. Secondly, that the appointments of executive directors and board members must be submitted to one of the most rigorous selection processes for suitability within the European Union, both by the institutions themselves and by the overseers.

In your opinion, what are the main challenges facing the European financial sector in the medium and long term?

From the regulator's point of view, it is essential to complete the Banking Union. It would be a serious mistake to trip over the same stone twice and not complete this important project until we are once more faced with a major financial crisis.

Therefore, we must improve banking crisis management, so that resolution procedures with sufficient industry funding are the norm. This would avoid having to use public money, which is costly for the taxpayer, has poor social acceptance and its use can be questioned and hindered by national parliaments. Moreover, experience shows that in resolution processes, especially for institutions of a certain size, it is essential to have strong liquidity lines from the central bank. A scheme should be created so that the ECB can provide liquidity in resolution with a public backstop, either the guarantee of the European Stability Mechanism or the guarantee of the Member States through joint debt issuance by the Commission.

The Eurozone should also have a European Deposit Guarantee Fund, EDIS, as soon as possible, which would cover all depositors equally. In times of financial volatility and uncertainty, EDIS would help to maintain greater depositor confidence. As mentioned above, the SVB and Credit Suisse cases show that deposit withdrawals in the face of bank panics are very rapid today, making this issue more important.

We must improve banking crisis management, so that resolution procedures with sufficient industry funding are the norm.

It is also necessary to achieve a greater degree of financial integration that will effectively allow us to speak of a European Financial Sector. Currently, levels of financial fragmentation are very high, both in banking and in capital markets, leading to an inefficient allocation of savings and investment. There is little incentive for cross-border bank mergers, as current regulations limit the synergies and efficiencies that could be achieved. And non-bank financing needs to be further developed, to introduce competition in financial markets, to reduce dependence on bank financing and to enable better financing of projects with a highly intangible component. In other words, the Capital Markets Union must be deepened faster and more intensively.

One last point on the regulatory side. There are countries in the Union that could make greater efforts to improve their banking systems. Although this is not an issue that should be of concern from the point of view of confidence and credibility in banks in general at the present time, it would result in better financing for families and companies, as well as greater solidity in the system. The reforms carried out in Spain after the financial crisis, such as the reform of the savings banks, improvements in corporate governance or the appropriate reorganisation of institutions, are clear examples of the type of measures that could be adopted in some countries.

The sector is facing increasing competitive pressure from new players, highly digitised and with a high capacity to exploit the data economy. Increasing competition from large internet platforms and the emergence of new business models in areas previously considered to be mature, such as payments and lending, are undoubtedly positive for the banking customer and for society. But they present a growing challenge for the banking sector, which must better digitise, gain efficiency and improve its products and services to ensure customer loyalty.

Another important structural challenge is that Europe should achieve higher and more sustainable GDP growth rates in the medium and long term. A stronger, more innovative economy, creating jobs with higher added value, will result in a more dynamic and robust financial sector. The green transition and the digital transformation must be important axes for the revival of the European economy, but they should not be the only ones.

And we should not forget that the strength of public finances also has an impact on the funding costs of banks, especially those medium-sized and small institutions that are less internationalised. For example, the placement of subordinated debt or MREL-eligible instruments for medium-sized banks will be more expensive, which will reduce their profitability and, consequently, their ability to strengthen their top-quality capital base.

From a conjunctural point of view, the main challenge will be the new economic and geopolitical environment. We have come from a decade of zero or negative rates and that was an exception that is now being corrected. Inflation and interest rates have increased significantly in recent times. This is a consequence of a context marked by the breakdown of value chains following the pandemic, various changes in the labour market and Russia's invasion of Ukraine and its impact on the price of raw materials and energy. With respect to Spain, we must be prepared for the moment when the new fiscal rules come into force, foreseeably in 2025, given that we will surely be required to make certain structural fiscal adjustments in a context of higher interest rates.

Undoubtedly, understanding these vulnerabilities and taking decisions to correct them will be essential to achieve a sounder, more efficient financial system that contributes more to the economic and social development of Spain and Europe.

MEET THE TEAM
TMF Group

We talk with Joel Cardenas and David Burgos, Executive Director and Commercial Director, respectively, at TMF Group, a leading provider of critical administrative services, helping clients invest and operate safely around the world. They tell us about TMF Group's global activity and the specificities of its Luxembourg office.

Joel Cardenas, Executive Director & Market Head of Business Development and **David Burgos,** Commercial Director at TMF Group.

TMF Group is today a major international player with recognized prestige. Can you introduce your firm in a few words?

(Joel) Sure! TMF Group, was founded in 1988 in the Netherlands and is **a leading provider of critical administrative services**. We have been building our reputation for almost 50 years and this reputation is key for us, our clients, our business partners and of course, our investors.

Our Luxembourg office employs **more than 350 professionals** whose expertise serves a wide range of clients such as private equity, real estate, capital markets, private clients and large corporations.

(David) At TMF Group, we are proud of the levels of **governance and quality** that inspire trust and confidence today. We provide the administrative services our clients need to run legal entities compliantly and efficiently. Our offer comprises **a full scope of services** from fund administration, domiciliation, directorship, corporate secretarial, accounting to tax compliance, HR & payroll, regulatory services (FATCA/CRS, MDR (Mandatory Disclosure Requirements) /DAC6, Beneficial Owner Register …), AIFM, depositary services and shareholder services, among others.

We can read "Global Reach, Local Knowledge" as part of the TMF Group brand, what does this mean to TMF, its clients, its business partners…?

(Joel) We have a presence in **86 jurisdictions** with 121 offices fully operated by TMF Group and **more than 10,000 employees**; in a complex world, in continuous evolution, our highly qualified professionals are ready to help our clients to operate safely and stay fully compliant.

(David) Indeed, this global footprint combined with the **local expertise** is a key differentiator of our Group. We have global training modules, adapted locally for each market, that are followed by our colleagues worldwide to ensure this expertise. We are proud of our comprehensive training policy.

(Joel) Also, we have, for example, in our Luxembourg office, more than 50 different nationalities **to serve our clients of different jurisdictions worldwide**, with some dedicated teams, as we believe that this cultural approach can make a difference, like for Spanish, Portuguese and Chinese speaking countries.

(David) Indeed, we have colleagues from Argentina, Colombia, Portugal, Brazil or Spain, to serve our clients from Iberia and Latam.

You mentioned a complex world in continue evolution: how can this affect the day-to-day business?

(Joel) We moved into **a more regulated and sophisticated business environment** where regulatory compliance processes are fully integrated into our general client services. In the last decade anti money laundering/countering the financing of terrorism directives, laws and regulations, or the action plan on base erosion and profit shifting, defined by the OECD (and its impact in regulations) have changed the way we see and do business.

(David) In addition, we established (alongside our core services departments), a Regulatory Services Department which took charge of the implementation of new provisions and regulations. **TMF Group actively facilitates communication and exchange between local offices**, aligning approaches, providing shared training, and launching shared projects, while ensuring that local offices create their own expertise and remain informed on domestic developments, working together for shared multinational clients.
The approach of linking local to global is typified by TMF's continued commitment to producing its annual **Global Business Complexity** (GBCI) Index further assisting our clients in negotiating complexity worldwide.

(Joel) Actually, on 24 May we released the 10th edition!

Already ten editions!

(David) Indeed, we are very proud of it and ready for, at least, another ten years!

You are part of the Luxembourg office of TMF Group, what particularities have this office?

(Joel) As you know Luxembourg is leader in global fund distribution and the second largest investment fund centre in the World, with around EUR 5.2 trillion of assets under administration, beating records every year. **Our jurisdiction is known internationally for its stability, from a political and economic point of view**, offering the perfect framework for investors and business in general.

(David) In this context, **TMF Group Luxembourg office is one of the largest where we serve Funds**, Capital Markets, Corporates and Private Wealth clients. Moreover, TMF Fund Management, our Fund Management

Company serving both alternative investment funds (AIFs) and Undertakings for the Collective Investment in Transferable Securities (UCITS), is key in our fund strategy, helping to develop our fund administration business. **We are licensed to provide external AIFM services through client-centric fund structures**. This includes the necessary portfolio and risk management, with our experts establishing the risk profile for each AIF and ensuring that you meet all regulatory requirements. We also cover distribution and marketing support, Annex IV reporting and other ancillary services, so you can be confident that everything is in hand.

(Joel) If we add to this element its exceptional team, our position as a leading provider of integrated solutions for fund managers is outstanding. A good example is that **we have been recognized as best ManCo solution at the Private Equity Wire European Awards 2023**.

Congratulations, you must feel very proud of this recognition as best ManCo solution.
Fintech, Digitalization, AI… are becoming more and more common terms during our days, how TMF Group see the future of the business relations and the applied technology?

(Joel) Making a complex world simple for our clients is one of our objectives, while our clients want to focus on their core business. We are keen to have our clients recognize us for our flawless service and our strategy for the future is to continue investing in technology and innovation. We aim **to keep offering our exceptional services while enhancing our unique combination of experts and delivery capabilities** in every and each jurisdiction we operate.

(David) Yes, we want our clients to focus on what really matters to them. We recognize that **innovation and technology is one of the pillars of the future** and we will keep making the difference, in our extremely competitive business world. Our digital strategy brings transformative technology capabilities to create new digital delivery models, enhance the client experience and provide valuable insights and analytics.

(Joel) We want TMF Group to be famous not only for its exceptional services but also for the solutions offered to our clients…

(David) …as our **next generation digital client platform** or a **global payroll intelligence solution**.

Articles

- Lastest trends in EU Sustainable Finance and the challenge ahead

- Some current transfer pricing and VAT hot topics for businesses in Luxembourg

- MiCA Approved: The EU Parliament Clears the Path for the New Regulation on Crypto-Assets Markets

Pérez-Llorca

Sonsoles Centeno
Managing Partner
Pérez Llorca's Brussels office

Josefina García Pedroviejo
Financial Services Partner
Pérez Llorca

Lastest trends in EU Sustainable Finance and the challenge ahead

In 2018, the European Union established the first **Sustainable Finance Strategy**. It provided a roadmap to enhance the role of finance as a driver for change in Europe's productive fabric, with the aim of achieving a more sustainable economic model that is consistent with the objectives of the **European Green Deal**. The Sustainable Finance Strategy was updated in July 2021.

The weight of sustainable finance in Europe is moving in parallel with progress towards achieving the UN's Sustainable Development Goals, the Paris Agreement and the Glasgow Climate Pact. Investor confidence in the profitability of sustainable investments in Europe has already been felt, for example, in the **growth of investment funds operating on the continent under ESG criteria**. Indeed, according to the European Fund and Asset Management Association, the volume of assets under management has increased by 197% since 2016.

In this context, the financial sector, driven by potential demand and upcoming regulation, has been developing more and more products integrating **ESG factors**, mobilising part of its portfolio in this direction. In addition, more and more studies argue that companies rated as sustainable are more resilient, and that this reduced volatility enables them to reduce risk and outperform the market on average.

Despite unprecedented events such as the pandemic and the war in Ukraine, sustainable finance legislation has continued to make progress, with milestones such as the entry into force of the Delegated Regulation known as **Green MiFID II** in August last year. However, emerging concerns about the veracity of sustainable products have made it necessary **to control green-, social- and impact-washing practices**, as well as the general constraints of the markets, to which sustainable investment is not immune.

As for the regulatory framework, centred on the EU Sustainable Finance Strategy, developments are still pending that affect key directives and regulations, such as the environmental and social taxonomy (which is in draft form), sustainability labels, the rules on sustainability reporting by financial intermediaries, the **Sustainable Finance Disclosure Regulation** (SFDR), and the operational criteria that allow for its interpretation. We can not ignore that Green MiFID II requires the inclusion of questions related to sustainability in the mandatory survey given to investors to define their level of information and choice of sustainable products.

Another important milestone will be the "Green Claims Directive". The aim of this directive is to add to the European regulatory framework for protecting consumers by establishing rules to deal with false environmental claims made by traders in their dealings with consumers, and to enable consumers to easily initiate claims against these traders.

Another important milestone will be the "Green Claims Directive". The aim of this directive is to add to the European regulatory framework for protecting consumers by establishing rules to deal with false environmental claims made by traders in their dealings with consumers, and to enable consumers to easily initiate claims against these traders.

Elsewhere, the update to the EU Non-Financial Reporting Directive, which was transposed into Spanish legislation in 2018, will also be key for environmental, social and governance (ESG) issues, as in 2024 it will be replaced by the **Corporate Sustainability Reporting Directive**. It will be essential for the markets and their operators to adapt to a realistic vision of the times.

Along the same lines, another of the key aspects mentioned above is **the control and sanctioning of bad practices in the area of sustainability**, including green-, social- and impact-washing. In this respect, it is important to highlight the latest indications and guidelines issued by the European Securities and Markets Authority (ESMA), which seek to curb the abuse of the terms "green" or "sustainable" in the naming of investment products. In parallel, the various national regulators are making a major effort to monitor and prevent sustainability labels being fraudulently applied to different financial products (bonds, investment funds, etc).

Lastly, with regard to sustainability factors being incorporated into the financial markets, it is worth highlighting the recent approval of the **EU Green Bond Standard**, which establishes voluntary standards for public and private issuers to provide a common legal framework for the issuance of green bonds in the EU and boost the market for these bonds, which must invest at least 85% of the capital raised in sustainability-related projects.

From this brief description, it is apparent that the major challenges for sustainable investment at the EU level are linked to the development and implementation of the regulatory framework at a European and a national level. However, one might ask, is all this regulation positive and necessary?

It is still too early to judge, bearing in mind that the ultimate objective of this legislation is to combat climate change, and in many cases the legislation is still being processed or is at a very preliminary stage of implementation. However, **caution should be exercised against over-regulation**, which can hamper companies' competitiveness and lead to investment finding its way to other regions of the world.

Indeed, the European Union must bear in mind that we are facing a global problem, which means that global solutions based on international standards must be sought in order to achieve the goal of a climate-neutral continent. Furthermore, it should be taken into account that **results are not short-term**, and transcend political cycles. Therefore, realistic transitional periods should be included, as well as obligations that can be fulfilled according to the specific circumstances of each sector and type of company, ensuring they are always in line with other public policies and maintaining an adequate dialogue with the private sector.

Ultimately, all regulation of what has been defined as "sustainable finance" should not be seen as a goal in itself, but as a means **to transform the economic and social model to respond to the challenges of climate change and environmental degradation**, thereby improving the quality of life for present and future generations. Will we achieve it?

Antonio A. Weffer
Principal,
Transfer Pricing Country
Baker McKenzie

Antonio Merino
Avocat à la Cour, Head of VAT,
Senior Tax Associate
Baker McKenzie

Some current transfer pricing and VAT hot topics for businesses in Luxembourg

Baker McKenzie.

VAT is a major source of revenue in all EU Member States. It is also **a key source of financing for the EU budget** since 0.3% of VAT collected at national level is transferred to the EU as own resources, representing 12% of the total EU budget[1].

Businesses nowadays hesitate to expand to smaller markets due to the VAT compliance costs. In addition, the current EU VAT system seems not totally aligned with today's ways of doing business digitally.

Interactions between transfer pricing and VAT in Luxembourg

On the one hand, **transfer pricing** is more and more relevant for Luxembourg taxpayers when entering into business transactions. In fact, transfer prices are significant for both taxpayers and tax authorities because they determine to a large extent the income and expenses, and therefore the taxable profits, of associated companies in different tax jurisdictions.

According to the OECD[2], "*transfer prices are the prices at which an enterprise transfers physical goods and intangible property or provides services to associated enterprises. Two enterprises are associated if one of the enterprises participates directly or indirectly in the management, control, or capital of the other or if the same persons participate directly or indirectly in the management, control, or capital of both enterprises.*"

[1] Explanatory Memorandum to the Proposal for a Council Directive amending Directive 2006/112/EC as regards VAT rules for the digital age.
[2] OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations, Preface, January 2022.

On the other hand, Value Added Tax ("VAT") is a general tax that generally applies to **commercial activities** involving the production and distribution of goods and the provision of services, and is borne ultimately by the end consumer. This tax is levied at each stage in the production and distribution chain and aims neutrality independently of the number of transactions involved. For the sake of clarity, VAT is namely due on the following transactions: (1) deliveries of goods and services made by taxable persons in the course of their business, (2) Intra-Community acquisitions of goods made by taxable persons and private individuals and (3) imports of goods made by taxable persons and private individuals.

In Luxembourg the direct tax[3] and indirect tax[4] authorities are increasing their scrutiny on transfer pricing and VAT files. This is reflected in the **greater number of cases ruled on by the Luxembourg administrative and judicial courts**. In this respect, companies typically consider transfer prices as a corporate income tax issue, whereas in reality transfer pricing adjustments may trigger a VAT impact. More precisely, a transfer pricing adjustment can give rise to a supply of goods or services for VAT purposes, impacting downwards or upward the initial consideration.

Interactions between transfer pricing and VAT are even more relevant since 31 July 2018. At that date, article 80 of the VAT Directive[5] was implemented in Luxembourg: the arm's length principle went beyond a single statement through the introduction of a new paragraph 3 inserted in article 28 of the Luxembourg VAT Law[6]. Before, the sole reference to transfer pricing in the field of VAT was the arm's length principle under article 32 of the Luxembourg VAT Law regarding the exchange of goods/services without cash consideration as foreseen by article 31 of the Luxembourg VAT Law.

Therefore, the **Luxembourg VAT Law** already covers the following specific scenarios:

- consideration received by the supplier is below the open market value and the recipient has a limited input VAT recovery right in Luxembourg;
- consideration received by the supplier is below the open market value and the supplier has a limited input VAT recovery right, when the supply is exempt according to article 44 of the Luxembourg input VAT (i.e., exemptions not entitling to recover input VAT); and
- consideration paid by the recipient exceeds the open market value and the supplier benefits from a limited input VAT recovery right.

In a nutshell, the Luxembourg VAT authorities want to tackle situations where a taxpayer artificially mitigates the amount of VAT as a final cost or increases its input VAT recovery right.

There is no definition of «consideration» in either the VAT Directive or the Luxembourg VAT Law. Nevertheless, «**consideration**» shall mean **everything received in return for the supply of goods or the provision of services**, including incidental expenses, public subsidies or taxes other than VAT, and in the event of a barter transaction, the value of the goods and/or services received in exchange.

Interactions between transfer pricing and VAT are even more relevant since 31 July 2018. At that date, article 80 of the VAT Directive[5] was implemented in Luxembourg: the arm's length principle went beyond a single statement through the introduction of a new paragraph 3 inserted in article 28 of the Luxembourg VAT Law[6].

[3] *Administration des Contributions Directes*
[4] *Administration de l'Enregistrement, des Domaines et de la TVA*
[5] Council Directive of 28 November 2006 on the common system of value added tax
[6] Law on Value Added Tax dated 12 February 1979, as amended

These anti-avoidance provisions will soon celebrate their fifth anniversary and without any doubt they contributed towards an increased and more complex litigation. The Luxembourg VAT authorities can perform their checks when carrying out a VAT audit or, also likely, when checking cross-border transactions by using the VAT Information Exchange System (VIES).

Based on the above, **Luxembourg taxpayers should anticipate the transfer pricing aspects of all their intra-group transactions established on market-based approach**, by providing coherent, relevant and comprehensive transfer pricing documentation, in compliance with the Luxembourg legal framework and international transfer pricing standards.

The "VAT in the Digital Age" initiative. What is it about and what are the expected changes?

The EU Commission launched[7] the VAT in the Digital Age ("**ViDA**") initiative, an ambitious action plan to achieve fair taxation of both online and traditional economic transactions in the digital age. At the same time, the aim of the EU Commission is to make the **VAT system more resilient to fraud** by embracing and promoting digitalization.

The reforms would gradually enter into force between 1st January 2024 and 1st January 2028. In essence, the proposal can be divided into three main actions as depicted :

(1) modernization of the VAT reporting obligations (e-invoicing),

(2) address the challenges of the platform economy (introduction of tax collection obligation for platforms), and

(3) avoid VAT compliance obligations in more than one EU Member State (extension of the One Stop Shop ("OSS") + simplification measure for the transfer of own goods).

1 - E-invoicing (as of 2024)

E-invoicing would be the general rule for the issuance of invoices for transactions where the recipient is established in another EU Member State.

The invoices would have to include additional mentions (e.g., bank account information) and certain information would have to be shortly shared with the VAT authorities. It means that **it would not be necessary anymore to file European Sales Lists of goods/services** since the information reported will be shared between EU Member States.

The aim of this measure is not to harmonize procedures at EU level, since **e-invoicing and digital reporting would be mandatory only for EU cross-border transactions** (optional for domestic transactions).

Nevertheless, there is a risk this measure is burdensome for some taxable persons since it will trigger more administrative obligations.

2 - Introduction of a tax collection obligation for platforms (as of 2025)

This measure has been very likely motivated by the "VAT gap", i.e. the estimated difference between expected revenues in EU Member States and the revenues actually collected.

[7] Proposal - COM (2022)701 – published by the EU Commission on 8 December 2022

The rise of the **platform economy business model** has triggered new problems for the VAT system (e.g. VAT inequality[8]). A platform economy can be defined as a multi-sided model of transactions where there are three or more parties involved and an online platform facilitates the transactions.

As a consequence, a deemed supplier regime for online platforms will be put in place when they facilitate the supply of passenger transport and short-term accommodation services (≤ 45 days). The online platforms would become liable for collecting and remitting VAT to the competent authorities. The place of supply should be the place where the underlying transaction is rendered based on the VAT Directive.

The scope of the current deemed supplier regime for online marketplaces facilitating sales of goods would be extended: the marketplace would be always considered to be a deemed reseller. It means that all the sales of goods located within the EU and facilitated by online marketplaces would fall under the extended deemed supplier regime (regardless of the location of the seller).

The scope of the current deemed supplier regime for online marketplaces facilitating sales of goods would be extended: **the marketplace would be always considered to be a deemed reseller**. It means that all the sales of goods located within the EU and facilitated by online marketplaces would fall under the extended deemed supplier regime (regardless of the location of the seller). However, the extended deemed supplier regime would not apply to service providers that provide their VAT registration number to the platform operator.

As a consequence, the supply of accommodation and passenger transport services would be split into two deemed supplies: one between the service supplier and the platform (exempt or falling outside the scope of VAT) and another one between the platform and the end consumer (taxable at the applicable rate).

3 - Extension of the OSS and simplification measure for the transfer of own goods (as of 2025)

Another groundbreaking measure would be **the single VAT registration across the EU**: deemed supplies of goods within the EU could be reported in the OSS VAT return. Hence, it would eliminate a VAT registration obligation in the EU Member States where the own goods are shipped to since it would not be necessary anymore to declare an intra-Community acquisition of goods.

In addition, the **reverse charge mechanism** would become mandatory for domestic supplies carried out by a foreign supplier to a local customer (currently it is an option given to the EU Member States). As such, a local VAT registration of the foreign supplier would be avoided.

To be noted as well the end of the call-off stock simplification measure: thus, one of the “quick fixes” in foce since 1st January 2020 would be disabled (i.e., the harmonization of the call-off stock rules across the EU) on 31 December 2025.

[8] Private individuals and small businesses can provide their services without charging VAT through a platform and with the economies of scale and network effect be in direct competition with traditional VAT registered businesses.

Takeaways

It would be no exaggeration to say that **VAT and transfer pricing are more connected than ever in Luxembourg**. Consequently, it is highly recommended that Luxembourg taxpayers monitor transactions carried out with related parties in order to avoid adverse Luxembourg tax consequences. Transfer pricing documentation may now also be sought by the Luxembourg VAT authorities for investigation purposes.
The VAT Directive has more than fifty years (despite several amendments) and, as such, the default reporting requirements are not digital. Thus, **the measures included in ViDA would in general be more than welcomed by companies carrying out cross-border transactions**.

The ViDA initiative announced by the EU Commission in its 2020 Action Plan seems quite ambitious but is, in any case, **necessary to embrace the digitalisation era**. It is not clear at this stage whether ViDA becomes effective as of 1st January 2024 in its current shape and/or proposed calendar. In fact, this initiative needs consent from all 27 EU Member States…

Enric Comabasosa-i-Esqué
Supervising Associate
Arendt & Medernach SA

Marc Mouton
Partner
Arendt & Medernach SA

MiCA Approved: The EU Parliament Clears the Path for the New Regulation on Crypto-Assets Markets

The first EU-wide comprehensive regulation on **crypto-assets** will soon be a reality. The EU regulation on markets in crypto-assets ("MiCA"), a key component of the EU Commission's Digital Finance Package, was adopted by the EU Parliament on 20 April 2023, and has been endorsed by the Council of the EU on 16 May 2023.

Although the both the Luxembourg legislator and regulator have recently worked together to give a response to the fast-paced developments in the markets in crypto-assets (for example, by creating registration requirements for virtual assets service providers, or by providing guidance on virtual assets for credit institutions and investment funds), **MiCA is expected to constitute a paradigm shift in the rules that are currently applicable to the crypto-assets markets**.

Such a change will be beneficial to service providers because it will create a clear legal framework while ensuring a fair playing field for all market players. Additionally, it will benefit service users by introducing various protective measures, making it a significant and well-received piece of legislation.

The categories of crypto-assets and services falling within the scope of MiCA

MiCA will apply to a broad set of crypto-assets and services on these crypto-assets. In this regard, MiCA will of course apply to the most well-known cryptocurrencies such as Bitcoin, as well as to less known assets such as utility tokens (i.e., crypto-assets intended to give access to goods or services), and certain crypto-assets which purport to retain a stable value, such as e-money tokens and asset referenced tokens (ARTs).

The services on the abovementioned crypto-assets that will be regulated under MiCA will include (i) the custody and administration of crypto-assets, (ii), the operation of a trading platform for crypto-assets, (iii) the reception and transmission of orders for crypto-assets on behalf of clients, as well as (iv) advice and (v) portfolio management of these crypto-assets, amongst others.

It is important to note that **it will be possible for existing types of licensed entities** (such as banks, investment firms and e-money institutions) **to provide the above services.** To that end, they will only need to complete a notification procedure with the CSSF. The notification needs to contain a comprehensive set of information and documents and must be submitted at least forty working days in advance of the offer being launched.

Newly created entities (the CASPs) will need to follow a fully-fledged licensing procedure and will be subject to specific prudential and organisational requirements.

A new set of rules of conduct of services providers in crypto-assets

Both existing types of licensed entities and CASPs will be subject to a comprehensive set of rules of conduct specifically designed to protect clients' assets when custody services are provided, and which are to certain extent similar to those of the regulatory framework of MiFID II. These obligations include, amongst others, the requirement for services providers to keep a register of positions in the name of each client, to adopt a custody policy (including rules and procedures to ensure safekeeping and minimise risks of loss due to fraud, cyber-threats, and negligence), to facilitate the exercise of clients' rights, as well as to segregate clients' assets from own assets.

In addition, **MiCA requires that crypto-assets held in custody are insulated from the estate of the service provider**, with no recourse from creditors of the service provider including in the case of its own insolvency. These last requirements, when considered together with the last corporate scandals in the crypto-assets that we have seen in the news (for example, concerning the collapse of FTX), demonstrate how important the new regulatory framework will be for the market.

"Both existing types of licensed entities and CASPs will be subject to a comprehensive set of rules of conduct specifically designed to protect clients' assets when custody services are provided, and which are to certain extent similar to those of the regulatory framework of MiFID II"

A set of provisions regarding the issuance of crypto-assets

The services providers in crypto-assets wishing to issue crypto-assets will be required to issue a white paper describing the features and risks of the relevant crypto-assets, similarly as to what already exists with regard to the prospectus regime for the issuance of financial instruments.

It is worth noting that depending on the type of issuance (including when the crypto-asset is issued for free, or to less than 150 persons) **or the type of crypto-asset** (including utility tokens), **these requirements may be fully or partially disapplied.**

Also, considering the risks stemming from ARTs and e-money tokens, MiCA imposes additional requirements, including on authorisation, governance, reserve assets and detailed conduct of business rules, including redemption requirements). ARTs may only be used by authorised issuers of ARTs or by credit institutions.

In addition, some of the requirements may be partially disapplied if the issue is only offered to qualified investors, who must satisfy the conditions for professionals per se under MiFID II, or if the issued assets are below a certain threshold.

As to the e-money-tokens, these are subject to very specific rules under MiCA such as, for example, regarding the contents of the white paper and valorisation. Also, e-money tokens may only be issued by credit institutions or by e-money institutions.

Timeline and next steps

The regulation is expected to be published in the EU Official Journal in June and enter into force in July 2023.

MiCA is intended to apply as from 18 months after its entry into force, which will take place on the twentieth day following its publication in the EU Official Journal. Certain provisions will, however, **apply earlier**, such as the requirements for ARTs and e-money tokens, which will apply 12 months after entry into force.

As the date of application is approaching, it is important to:

- Prepare to obtain the required licences or make the necessary notifications;
- Start drafting white papers, policies and procedures; and
- Revise contracts and arrangements with external providers.

Do not hesitate to contact us and be ready for the entering into application of MiCA!

Dossier
Finance and the European Space Industry

The space industry: a paradigm shift on a global scale

The space sector is at an **inflection point** similar to what commercial air travel experienced after World War II and the internet saw in the 1990s.

According to a recent study by McKinsey & Company, the current estimate of the industry's value is $425 billion, an amount **25% higher than five years ago**, and is expected to reach $1.4 trillion by 2030.

The emergence of **new private players** in the sector, such as venture capital funds and high net worth individuals, has injected dynamism and a commitment to reinvention. It can be said that the liberalization of the private sector has fostered a more active environment for **innovation and development**.

If the current momentum continues, commercial funding for space ventures could surpass government funding in the next 20 years. This scenario represents a paradigm shift for the industry.

Thus, private sector funding in space-related companies exceeded $10 billion in 2021, almost ten times more than in the last decade. And in 2022, the second largest inflow in history was registered. If the current momentum continues, **commercial funding for space ventures could surpass government funding in the next 20 year**s. This scenario represents a paradigm shift for the industry.

These new private players tolerate **very high degrees of risk**, which allows companies financing projects in the sector to achieve more important and transformative objectives for the industry. Massive technological innovation is creating the opportunity for **more capabilities to be deployed** above Earth for the benefit of those on Earth. These capabilities—and the prices at which they can be delivered—could provide the linchpin in solving hard problems not only for businesses but also for civilization and the health of the planet. To give just one example, there has recently been a **significant acceleration of the cost curve**: launch costs have fallen by 95% (and another massive reduction is expected in the coming years) thanks to reuse, improved engineering and increased volumes. Also, the physical size of space assets is shrinking. Smaller satellites mean less weight to orbit and more capability when the satellites get there.

On the other hand, it should not be forgotten that, in this new global scenario, the private sector pursues its own interests, which do not necessarily coincide with the values expected of nations and their respective public sectors. The key lies in **finding a balance for both parties**, which requires good supervision by the public sector, a good regulatory framework and a certain flexibility for each of the industry players to focus on their specialty.

There is a real issue with **space junk**, both from legitimate uses of space and from bad actors who intentionally cause space collisions that result in debris. Although innovation must be preserved, it is also necessary to **promote adequate regulation** in this regard.

One thing that has not changed since the first space age is the **hegemony of the United States**. For now, the rest of the international players are far from being able to catch up with its leadership. Their budget is the highest and companies such as SpaceX or Blue Origin have not yet found competition in the international sphere. The European Space Agency (ESA), for example, has a budget three times smaller than that of NASA. However, despite accounting for only around 16% of global spending in the sector, Europe retains around 30% of satellite manufacturing revenues and is the world's second largest exporter.

Key stakeholders and regulatory framework in the European Union

At the European level, **ESA**, with an annual budget of more than 7 billion euros, is the main pillar on which the sector is based through the development of technology and space missions of all kinds. ESA is composed of **22 Member States**. Since its foundation in 1975, ESA has successfully carried out more than a hundred space missions and its Ariane launcher has performed more than 200 missions. Its activity is grouped into 10 areas, which are structured into mandatory and optional programs. All Member States participate in the mandatory programs, their contribution being proportional to their GDP. In the optional programs, Member States are free to decide their level of participation.

The **European Commission**, for its part, defines the space sector as **strategic for Europe** and **indispensable for its economy and for the well-being of its citizens.** The European Commission's interest is focused through the development of its own space programs, complementary to those of ESA. At the same time, the technological capacity developed in the space sector and access to its own space infrastructures have proven to be powerful tools for foreign policy and international relations. In terms of defense and security, a solid space sector guarantees access to state-of-the-art technologies and gives international prominence to the countries that have it.

In **April 2021**, the Council and European Parliament adopted a regulation establishing the **new EU space programme for the years 2021 to 2027.** The programme entered into force retroactively on 1 January 2021.

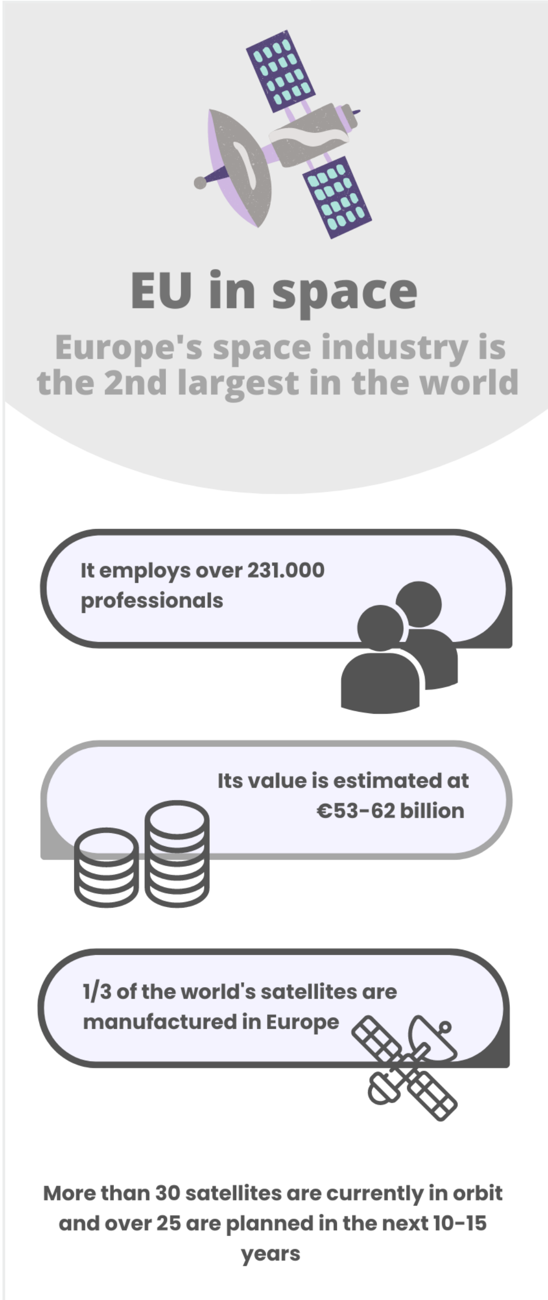
It will ensure:

- high-quality, up-to-date and secure space-related data and services
- greater socio-economic benefits from the use of such data and services, aimed at increased growth and job creation in the EU
- enhanced EU security and autonomy
- a stronger role for the EU as a leading actor in the space sector

The regulation **simplifies the existing EU legal framework** and governance system and standardises the security framework. It improves and brings together existing EU programmes such as **Copernicus, Galileo and EGNOS** under one umbrella.

The programme also introduces new security components, such as the **Space and Situational Awareness** (SSA) programme or the new **Governmental Satellite Communication** (GOVSATCOM) initiative to monitor space hazards and provide national authorities with access to secure satellite communications.

In February 2022, the European Commission proposed two new flagship initiatives to boost satellite-based secure connectivity and Space Traffic Management:



- EU space-based secure connectivity system will ensure worldwide access to secure and cost-effective satellite communications services, for governmental communications and commercial use. It aims to protect critical infrastructures, support surveillance and crisis management, as well as enable high-speed broadband everywhere in Europe to best anticipate future challenges of our economy.

- Space Traffic Management: The exponential applications of space services involve more and more satellites, thus more traffic in space. As the congestion of satellites and debris threaten the viability of space infrastructure, the European Commission and the High Representative of the Union for Foreign Affairs and Security Policy have presented an EU approach on Space Traffic Management (STM). This would further strengthen the Union's space surveillance and tracking capabilities (already providing collision avoidance services to more than 260 European spacecraft), and set clear standards and regulation for a safe, sustainable and secure use of space.

The new EU space programme 2021-2027

€ 14.880 billion

- **€ 9.02 billion** – Satellite navigation systems
- **€5.42 billion** – Earth observation
- **€0.44 billion** – Security components

ESA is working on a **transformation of the space sector in Europe in the coming years.**

ESA will rely more on industry as a true "partner", according to recent statements by ESA Director General Josef Aschbacher. This is the same strategy adopted by NASA, which plans, for example, to send its astronauts to private commercial space stations once the International Space Station (ISS) is retired.

Thus, Europe's major space directives are to be discussed at the second European space summit, which will take place in November this year in Seville (Spain) during the S**panish Presidency of the Council of the EU**. **Seville** was designated in December 2022 as the headquarters of the Spanish Space Agency (ESA), and in 2024 it will once again be **European space capital**, a title it already held in 2019.

EU flagship programs in the field of space:

COPERNICUS

Copernicus is the Earth observation component of the European Union's Space programme, looking at our planet and its environment to benefit all European citizens. It offers information services that draw from satellite Earth Observation and in-situ (non-space) data. The European Commission manages the Programme. It is implemented in partnership with the Member States, the European Space Agency (ESA), the European Organisation for the Exploitation of Meteorological Satellites (EUMETSAT), the European Centre for Medium-Range Weather Forecasts (ECMWF), EU Agencies and Mercator Océan. Vast amounts of global data from satellites and ground-based, airborne, and seaborne measurement systems provide information to help service providers, public authorities, and other international organisations improve European citizens' quality of life and beyond. The information services provided are free and openly accessible to users.

Source: https://www.copernicus.eu/

GALILEO

It is the EU's global navigation and positioning satellite system. It is the first satellite navigation system for civilian management, compatible with the American and Russian systems, but independent of them. The system will have a network of 30 satellites, to be completed by 2020, with multiple applications, including traffic management, rescue, civil protection, agriculture, fisheries, civil engineering, etc.

The European Commission is responsible for the management and full financing of the program, ESA for its design and development, and the European GNSS Agency (GSA) for its operation, as soon as it is operational.

Source: https://www.euspa.europa.eu/european-space/galileo/What-Galileo

EGNOS

It is a European satellite-based augmentation system that improves the accuracy and safety of GPS from the 10 meters that this system usually provides to about 2 meters (95%), and allows the system to be used in safety-of-life applications such as air navigation. Unlike Galileo, EGNOS is a pan-European (not global) system and depends on the GPS system.

Source: https://www.euspa.europa.eu/european-space/egnos/what-egnos

Luxembourg: a hub in the space industry

Since the creation of SES in 1985, the space industry has **grown exponentially** in Luxembourg. Luxembourg has been a member of the ESA since 2005, and is **one of the largest financial contributors per capita**, evidence of the government's willingness to invest strategically in the development of the space industry.

In 2016, Luxembourg developed the **SpaceResources.lu**. The initiative was aimed at the creation of a favourable legal and judicial environment for private businesses. In 2017, it has established an efficient legal and regulatory framework with the **law on the exploitation and use of space resources** that ensures stability and guarantees a high level of protection for investors, explorers and miners. The Grand Duchy was the first European country, and the second worldwide, to offer a **legal framework** on the exploration and use of space resources, ensuring that private operators can be confident about their rights on resources they extract in space.

In 2017, it has established an efficient legal and regulatory framework with the law on the exploitation and use of space resources that ensures stability and guarantees a high level of protection for investors, explorers and miners. The Grand Duchy was the first European country, and the second worldwide, to offer a legal framework on the exploration and use of space resources, ensuring that private operators can be confident about their rights on resources they extract in space.

T

he law does not have an objective, purpose or effect of paving the way for any national appropriation of outer space, including the Moon and other celestial bodies themselves. The law clarifies **Luxembourg's national position** on the status of the resources that can be extracted from those celestial bodies and in space in general. The Luxembourg law also lays down the **regulations for the authorization and the supervision of private space exploration missions**, including both exploration and utilization of space resources.

The legal framework created by Luxembourg at that time had important differences with that of the United States. The latter required companies to have more than 50% of their capital backed in that country, while the former did not provide for such a limitation. This law provided clarity at the national level, as a first step towards allowing space-related activities.

This entry of Luxembourg into the space resources race had the effect of *attracting large U.S. companies into the sector*, including **Deep Space Industries** and **Planetary Resources.** For example Planetary Resources, one of the first companies in the space mining sector, sold a stake for about $28 million to the Grand Duchy.

Thus, Luxembourg's Space Resources Act opened the floodgates to a **huge flow of investment** to the point that the space industry now accounts for about 4% of the country's Gross Domestic Product (GDP), the highest in the European Union.

In summary, the current legal framework for space activities at national level is composed of:

- the Law of 15 December 2020 on Space Activities, and
- the Law of 2017 on the Exploration and Use of Space Resources.
- the Law of 1991 on Electronic Media, as modified,

On 10 December 2020, the Chamber of Deputies voted the **Law of 15 December 2020 on Space Activities.** This new legislation, effective as of 1st January 2021, marks an important milestone in enhancing the Luxembourg legal framework for both space activities authorization and supervision. It will further allow the growth and diversification of activities carried out by space players, especially from the private industry, in Luxembourg.

It contributes to providing a safe and attractive environment for operators, investors and entrepreneurs and will, as such, be a valuable tool for the **economic development of the dynamic and competitive space sector** in Luxembourg.

In this framework, the authorization and supervision of space activities have been tasked to the Ministry of the Economy and the LSA along with the registration of space objects launched into outer space.

Among other provisions, the Law on Space Activities includes the **tax exemption of insurance contracts** covering the space objects registered by Luxembourg and an adaptation of the rules regarding the tax credit for investments in order to allow operators of space objects to benefit from tax credit.

The Law on Space Activities does not apply to missions involving the exploration and use of space resources falling under the Law of 20 July 2017 on the Exploration and Use of Space Resources, except for what concerns the registration of launched space objects and tax related provisions.
The Law of 27 July 1991 on Electronic Media remains in effect and will serve as a legal basis for the frequency's allocation.

Under this legal and regulatory framework, **Luxembourg has managed to position itself as a key player in the industry at the international level.** The sector is home to just over 7**0 public and private players**, up from twenty in 2016. In terms of employment, the latest statistics show that t**he sector employs just over 1,400 people** (companies and public research bodies), representing almost a doubling in the size of the ecosystem since 2016. In 2026, the opening of the so-called "S**pace Campus**" is planned, an infrastructure project that aims to facilitate the installation and bring together national and international space ecosystem players already present in Luxembourg or wishing to set up in the country.

This project is part of the **"Space Strategy 2023- 2027"**, which aims to continue the efforts made in recent decades to develop the Luxembourg space sector as a vector of diversification and long-term future of the Luxembourg economy, and also as an important driver **to contribute to the sustainability** of activities on Earth and to favor a responsible approach to activities in Space.

Under this legal and regulatory framework, Luxembourg has managed to position itself as a key player in the industry at the international level. The sector is home to just over 70 public and private players, up from twenty in 2016. In terms of employment, the latest statistics show that the sector employs just over 1,400 people (companies and public research bodies), representing almost a doubling in the size of the ecosystem since 2016.

The 2023-2027 strategy focuses on 4 main areas:

- Sustainability of economic activities;
- Sustainability of activities on Earth;
- The sustainability of activities in space;
- The sustainable use of space resources.

The public investment required to implement the space strategy through participation in ESA programs and the national LuxIMPULSE program amounts to a total of about 256 million euros for the period 2023-2027, an increase of 21.6% compared to the budget for the period 2020-2024.

To conclude, it can be stated that Luxembourg will continue to work to position its space industry at the international level, with increasing public sector support and a regulatory framework adapted to the new challenges ahead.

Aistech Space Lux S.à r.l., the Luxembourg subsidiary of the Spanish company Aistech Space SL.

Since the creation of Aistech in 2015, the company has focused its efforts on the development of technology to provide society with a **new vision of the Planet** that will contribute to face the **new challenges**, either in the fight against climate change and the preservation of the environment, or in the protection of territories and critical areas of interest.

To do so, Aistech works globally to address critical threats to society and the environment, and to contribute to building a better and more sustainable future for the next generation.

Since the beginning, Aistech has been developing into a **global geospatial intelligence company** that uses space to understand the past, monitor the present and predict the future, with a mission to provide a new level of space-generated information that contributes to improving decision-making processes and the quality of life on Earth.

Just as fever can warn of possible health problems and potential illnesses before other symptoms arise, understanding thermal changes on the Earth's surface can alert us to impending or increasing risks, generating warning signs so that we can work to mitigate their effects and impact, their expansion and systematization.

Temperature is a unique source of data that is key to understanding activity on the Earth's surface and the changes that may occur. To this end, Aistech is deploying its space infrastructure to monitor these changes continuously, recurrently and accurately. The technology developed by the company allows the observation of the Earth by means of high-resolution thermal images through its own constellation of satellites, which makes Aistech one of the few companies in the world with the capacity to generate and offer this exclusive space data.

Thanks to **Aistech's satellite constellation** and the Earth observation technology it develops, it will be able to **provide greater accuracy in the data generated**, providing the ability to generate a better estimate of changes than can be generated by currently available systems; greater frequency in the provision of data on critical areas, being able to provide on-demand monitoring models anywhere in the world; greater accessibility, being able to cover large areas on a recurring basis at a much lower cost and in a more efficient manner compared to the options available to date; and high scalability, allowing customization of data on a recurring basis at a much lower cost and in a more efficient manner compared to the options available to date; greater accessibility, being able to cover large areas on a recurring basis at a much lower cost level and in a more efficient manner compared to the options available to date; and high scalability, allowing the spatial data generated to be customized in terms of quantity, recurrence, frequency and timing, being able to respond in a personalized manner to the requirements and needs of each type of user.

Main applications include the **Aistech constellation** to detect fires and provide information on fuel type and moisture content over large areas to model and predict the risk and spread of fires. Or **better understand water dynamics and behavior to manage risks such as flash floods** and provide more accurate and recurrent information on water quality, efficiency of irrigation systems... In the field of security and defense, Aistech satellites will be able to contribute to **detect and track potential assets** and threats regardless of light conditions, ground infrastructure and topography.

Flash News

Lastest news and events

17

OCTOBER 2023

Luncheon-debate

Luncheon-debate with Paschal Donohoe

President of the Eurogroup and Irish Minister for Public Expenditure, National Development Plan Delivery and Reform

A luncheon-debate with Paschal Donohoe, President of the Eurogroup and Irish Minister for Public Expenditure, National Development Plan Delivery and Reform, will take place on Tuesday 17th October between 12:30 and 14:30 organised by Official Spanish Chamber of Commerce in Belgium and Luxembourg in the framework of its "Business Circle" tribune.

The event will be held in person in Cercle Munster (5-7 Rue Münster, 2160 Luxembourg). More information on the theme of the luncheon-debate will be available soon.

The presentation will be in English.

More information and registration :
luxemburgo@e-camara.com
www.e-camara.com

Event sponsored by:

With the collaboration of our sponsor and benefactor members that are part of the SFF :

Official Spanish Chamber of Commerce in Belgium and Luxembourg ASBL

+352 661 404 399

luxemburgo@e-camara.com

www.e-camara.com

Contributors

- **Pedro Guerrero Meseguer**, Economic and Financial Counsellor, Permanent Representation of Spain to the European Union.
- **Joel Cardenas**, Executive Director & Market Head of Business Development, TMF Group.
- **David Burgos,** Commercial Director, TMF Group.
- **Sonsoles Centeno**, Managing Partner, Pérez Llorca's Brussels office
- **Josefina García Pedroviejo**, Financial Services Partner, Pérez Llorca
- **Antonio A. Weffer**, Principal, Transfer Pricing Country, Baker McKenzie
- **Antonio Merino**, *Avocat à la Cour*, Senior Tax Associate, Baker McKenzie
- **Enric Comabasosa-i-Esqué**, Supervising Associate, Arendt & Medernach SA
- **Marc Mouton**, Partner, Arendt & Medernach SA

Conception and production: Official Spanish Chamber of Commerce in Belgium and Luxembourg

Date of publication: June 2023

Coordination, editorial development and design: Planinlux Sarls

Photography: Unsplash, ADOBE