



Brussels, 12 June 2017
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10048/17

FISC 134
ECOFIN 508

'I/A' ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

Subject: Code of Conduct (Business Taxation)
– Report to the Council
– Draft Council Conclusions

1. At its meeting on 8 June 2017, the Code of Conduct Group discussed the report from the Group to the Council.
2. As usual, this report should be accompanied by the draft Council Conclusions as set out below:

"With regard to the Code of Conduct (Business Taxation), the Council:

- welcomes the progress achieved by the Code of Conduct Group during the Maltese Presidency as set out in its report (doc. 10047/17 FISC 133 ECOFIN 507);
- asks the Group to continue monitoring standstill and the implementation of the rollback and invites the Group to continue its work under the Work Package 2015;

- takes note of the progress made on the alignment of the patent box regimes with the agreed nexus approach and invites the Group to continue to monitor and report on this process;
- asks Member States whose patent box regimes do not comply with the modified nexus approach to align these regimes as soon as possible;
- invites the Code of Conduct Group to continue to work on the application of the principles of the modified nexus approach to non-IP regimes, taking into account relevant international developments on this matter;
- takes note of the progress achieved by the Code of Conduct Group in its ongoing work in the context of Council conclusions of 8 November 2016 on the criteria and process leading to the establishment of the EU list of non-cooperative jurisdictions for tax purposes, and asks the Code of Conduct Group to continue this work;
- reiterates that the Code of Conduct Group should continue exploring defensive measures that could be taken, and notes that if certain legislative files under negotiation (without prejudice to the outcome thereof) contain a link to the future list of non-cooperative jurisdictions, such provisions could also constitute a set of effective and dissuasive defensive measures at EU level in non-tax area; subject both to the agreement on the list and the objective and aim of the relevant legislative files;
- endorses the 'Guidance Note on tax privileges related to special economic zones' annexed to the report by the Code of Conduct Group;
- asks the Code of Conduct Group to continue its work on a draft guidance note on the interpretation of the fourth criterion;
- invites the Commission to continue the dialogue with Liechtenstein on the application of the principles of the Code of Conduct, as set out in the report;
- invites the Group to report back to the Council on its work during the Estonian Presidency."

3. The Permanent Representatives Committee is invited:

- to forward to the Council the report (doc. 10047/17 FISC 133 ECOFIN 507), together with the draft Council conclusions as set out above;
 - to suggest that it endorses both as "A" items on its agenda.
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