



Council of the
European Union

Brussels, 7 July 2021
(OR. en)

10589/21

FISC 118
ECOFIN 701

OUTCOME OF PROCEEDINGS

From: General Secretariat of the Council
To: Code of Conduct Group (Business Taxation)
Subject: Code of Conduct Group (Business Taxation)
- Work programme under the Slovenian Presidency

Delegations will find attached the work programme under the Slovenian Presidency as agreed by the Code of Conduct Group (Business Taxation) informal videoconference of 5 July 2021.

CODE OF CONDUCT GROUP (BUSINESS TAXATION):

WORK PROGRAMME UNDER THE SLOVENIAN PRESIDENCY

1. In its conclusions of 18 June 2021 (doc. 9896/21), the Ecofin Council welcomed the progress achieved by the Code of Conduct Group during the Portuguese Presidency as set out in its report (doc. 9994/21), in particular with regard to the revision of the EU list of non-cooperative jurisdictions in February 2021 and the ongoing discussion on the proposed reform of the scope of the mandate that should also cover features of tax systems that have general application and that may have harmful effects, including the discussion on an effects-based approach for the assessment of such features and in light of the good progress made so far, invited the Group to pursue the work;
2. Furthermore, the ECOFIN Council notably:
 - a. reiterated its readiness to continue to discuss the proposed revision of the scope of the mandate as soon as there are relevant developments at international level but no later than by the beginning of 2022;
 - b. endorsed the progress reached in the assessment of standstill and rollback notifications by the Group and asked the Group to continue monitoring standstill and the implementation of the rollback;
 - c. welcomed the ongoing monitoring by the Group of the implementation of its past guidance notes and the progress achieved with regard to the monitoring of the implementation of the 2017 Guidance on tax privileges related to special economic zones;

- d. invited the Group to continue an effective dialogue with jurisdictions and monitoring, so that jurisdictions fulfil their respective commitments and comply with the EU listing criteria in accordance with the agreed deadlines; invited the Group to request commitments from jurisdictions where appropriate and according to a timeline agreed by the Group;
 - e. noted that the Group intends to continue its work on the revision of the geographical scope of the EU listing exercise and to continue with the implementation of the listing criteria on compliance with anti-BEPS measures, while continuing work to incorporate beneficial ownership as a fourth transparency criterion;
 - f. called on the Group to continue its work concerning defensive measures in the tax area towards non-cooperative jurisdictions, in accordance with the agreed Guidance, and regularly report to the Council on further progress in these matters;
 - g. took note of the discussion on the work on comparison between the EU list of non-cooperative jurisdictions for tax purposes and Member States' national lists and invited the Group to continue its work by further exploring the interaction between the EU and national lists;
 - h. invited the Group to report back to the Council on its work during the Slovenian Presidency.
3. Against this background, this note sets out the proposed COCG work programme for the duration of the Slovenian Presidency of the Council (second semester of 2021).

I. Update and revision of the mandate of the Code of Conduct Group

4. The COCG will continue work on the revision of its mandate on the basis of the progress achieved during the German and Portuguese Presidencies. It will in particular focus on the concept of features that have general application within the meaning of the Code of Conduct.

II. Monitoring of standstill and the implementation of rollback

5. The COCG will monitor developments in administrative practices of Member States, complete the review of the tax measures notified by Member States under the standstill and rollback process for the year ending on 31 December 2020 and continue the monitoring of actual effects of some regimes for which regular monitoring was decided.

III. Monitoring the implementation of agreed guidance

6. In line with its agreed priority list (doc. 6603/18), the COCG will assess Member States' compliance with the 2017 Guidance on tax privileges related to special economic zones.

IV. Links with third countries

7. The COCG will continue monitoring jurisdictions covered by the current geographical scope.
8. The EU list of non-cooperative jurisdictions for tax purposes and Annex II will be revised by the ECOFIN Council in October 2021 with the following objectives:
 - taking necessary decisions in the context of the upcoming listing;
 - remove jurisdictions that completed their commitments from Annex I;
 - list in Annex I jurisdictions which do not comply with the requirements of the EU list criteria for jurisdictions which are under screening;
 - include in Annex II jurisdictions which have undertaken commitments to cooperate with the EU and to take the necessary steps towards complying with one or more EU list criteria that their systems have been found to be inconsistent with;

For this purpose, consideration should be given to:

- the treatment of Partnerships under criterion 2.2;
- the recent FHTP commitment requests;
- the new Global Forum peer review assessments under criterion 1.2, if available;
- responses by jurisdictions that have foreign source income exemption regimes (FSIE) in place;
- removal of jurisdictions that completed their commitments from Annex II.

9. The Group will continue the work on:

- a. coordination of defensive measures towards non-cooperative jurisdictions;
- b. the interaction between the EU list of non-cooperative jurisdictions for tax purposes and Member States' national lists;
- c. the monitoring of the implementation of the country by country (CbCR) anti-BEPS minimum standard (criterion 3.2);
- d. the future criterion 1.4 on the exchange of beneficial ownership information;
- e. the review of the geographical scope of the EU listing exercise;
- f. the monitoring of jurisdictions concerned by criterion 2.2.

10. The Chair will continue the procedural/political dialogue with jurisdictions, as necessary, and schedule, as soon as circumstances allow, a coordination meeting with the Chairs and Secretariats of the OECD Global Forum, Forum on Harmful Tax Practices (FHTP) and of the Inclusive Framework on BEPS.

V. Organisation of work

11. It is not yet clear when the first physical meeting of the Group with national delegates could take place, but as soon as the circumstances allow, it will be organised. Until this happens the Group will continue working via videoconferences and tasking fiscal attachés to examine urgent questions.