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NOTE

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

Subject: Code of Conduct Group (Business Taxation)
- Council conclusions
= Approval

1. In accordance with its mandate, the Code of Conduct Group (COCG) reports regularly to the Council on the progress of its work. The latest 6-monthly report of the COCG to the Council is set out in document 14230/21 + ADD 1-9.

Draft Council conclusions on the progress achieved by the COCG during the Slovenian Presidency were examined within the Code of Conduct Group and at the informal videoconference of the Working Party on Tax Questions (High level) on 25 November. The Presidency considers that the text, including the compromise wording of paragraph 7 on transparency, should be acceptable to all delegations. Paragraph 7 will remain in the text only if there is an agreement on the revised Code of Conduct.

2. The Permanent Representatives Committee is therefore invited to recommend that the Council (ECOFIN) approve these conclusions on 7 December 2021.

Draft Council conclusions
on the progress achieved by the Code of Conduct (Business Taxation) Group
during the Slovenian Presidency

The Council:

1. WELCOMES the progress achieved by the Code of Conduct Group during the Slovenian Presidency, in particular with regard to the revision of the EU list of non-cooperative jurisdictions in October 2021 and the reform of the Code of Conduct; APPROVES the Group's report as set out in document 14230/21 + ADD 1-9;
2. INVITES the Group to continue an effective dialogue with jurisdictions and monitoring, so that jurisdictions continue to fulfil their respective commitments and comply with the EU listing criteria in accordance with the agreed deadlines; SUPPORTS the preparatory work done with a view to assessment of relevant jurisdictions for compliance with criterion 3.2 on country-by-country reporting (CbCR) in view of the update of the EU list in the first quarter of 2022; INVITES the Group to request commitments from jurisdictions where appropriate and according to a timeline agreed by the Group;
3. WELCOMES the positive effect of the Code of Conduct and the work of the Group on reducing harmful tax practices and the decrease of preferential tax regimes both at the EU level and globally; INVITES, the Group to reflect on possible ways forward to enhance the current criteria and processes for third country jurisdictions, where appropriate;

4. ENDORSES the progress reached in the assessment of standstill and rollback notifications by the Group and ASKS the Group to continue monitoring standstill and the implementation of the rollback; WELCOMES the ongoing monitoring of actual effects of individual measures;
5. WELCOMES 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 Guidelines on tax privileges related to special economic zones;
6. APPRECIATES the report on the implementation by the Member States of defensive measures in the tax area towards non-cooperative jurisdictions; CALLS on the Group to keep on working in this area, in accordance with the agreed Guidance, and report to the Council on further progress in these matters;
7. [WELCOMES the reform of the Code of Conduct; in this regard NOTES that the works of the Group are framed by its mandate as reflected in the Code of Conduct; RECALLS that the Code of Conduct is a political commitment and does not affect the Member States rights and obligations or the respective spheres of competence of the Member States and the Union resulting from the Treaties and INVITES the Group to continue its work on developing or, where appropriate, revising the agreed guidance to enhance clarity and present its outcomes to the Council; NOTES that the revised Code of Conduct also includes provisions enhancing the transparency of the Group and INVITES the Group to explore further steps and propose guidance in this direction by the end of June 2022; In this context - amongst others - options could be explored to publish more of the administrative documents organizing the work of the Group taking also into account the confidentiality of discussions in the Group;]

8. TAKES NOTE of the discussion on the interaction between the EU list of non-cooperative jurisdictions for tax purposes and Member States' national lists, as well as the work of the Global Forum, including new ratings and determinations by the Global Forum; INVITES the Group to take this work forward by further exploring how to enhance the EU listing process based on progress at the international level;
 9. INVITES the Group to report back to the Council on its work during the French Presidency.
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