



Council of the
European Union

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LIMITE

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'I/A' ITEM NOTE

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

Subject: Conclusions on the progress achieved by the Code of Conduct (Business Taxation) Group during the Czech Presidency
- 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 14674/22 + ADD 1-10.
2. Draft Council conclusions on the progress achieved by the COCG during the Czech Presidency were examined within the Code of Conduct Group and at the meeting of the Code of Conduct (Business Taxation) Group on 23 November 2022. All delegations support the text set out in the Annex.
3. The Permanent Representatives Committee is therefore invited to recommend that the Council (Ecofin) approve these conclusions as an 'A' item on 6 December 2022.

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

The Council:

1. WELCOMES the progress achieved by the Code of Conduct Group during the Czech Presidency; in particular REAFFIRMS the importance of the recent reform the Code of Conduct (Business Taxation) as a strengthened political commitment of the Member States to continue addressing harmful tax practices and preferential tax measures with the objective to tackle harmful tax competition, tax avoidance and tax evasion in the EU and to promote tax good governance worldwide; in this regard RECALLS its conclusions of 8 November 2022 on the reform of the Code of Conduct (Business Taxation);
2. APPRECIATES the work of the Group and its Chair for their contribution to fulfilling the mandate and objectives as reflected in the Code of Conduct (Business Taxation) and INVITES the Group to continue its work with the indispensable assistance of the Commission;
3. APPROVES the Group's report as set out in doc. 14674/22 + ADD 1-10;

4. ENDORSES the standstill assessments agreed by the Group and ASKS the Group to continue monitoring standstill and the implementation of the rollback; ENDORSES the assessments agreed by the Group of actual effects of individual measures as agreed by the Group and ASKS the Group to continue monitoring the individual measures;
5. ENDORSES the assessment of Member States' compliance with the 2017 COCG Guidelines on tax privileges related to special economic zones and ASKS the Group to continue monitoring the implementation of its past guidance notes;
6. WELCOMES the progress achieved by the Code of Conduct Group with regard to the revision of the EU list of non-cooperative jurisdictions on 4 October 2022; 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;
7. WELCOMES in particular the ongoing progress by jurisdictions engaged in reforming their foreign-source income exemption regimes (FSIE) and ENDORSES the guidance on foreign-source income exemption regimes set out in the Annex to the Group's report;
8. WELCOMES the monitoring of no or only nominal tax jurisdictions with regard to the enforcement of economic substance requirements under criterion 2.2, as well as the ongoing work to extend the screening to trusts and fiduciaries in no or only nominal tax jurisdictions under criterion 2.2;
9. WELCOMES the screening of the implementation of the country-by-country reporting (CbCR) anti-BEPS minimum standard (criterion 3.2) by monitored jurisdictions and the extension of the application of criterion 3.2 to jurisdictions that joined the OECD/G20 Inclusive Framework on BEPS as of 1 January 2018;

10. TAKES NOTE of the results of the peer review process by the Global Forum on tax transparency and exchange of information (Global Forum) to assess the implementation of Automatic Exchange of Information on Financial Accounts according to the OECD Common Reporting Standard (CRS AEOI) for the purposes of criterion 1.1; SUPPORTS the dialogue with relevant jurisdictions with identified deficiencies on AEOI in 2022, with a view to recording their commitments on criterion 1.1 at the update of the EU list in the first quarter of 2023;
 11. CALLS on the Group to continue the work to incorporate beneficial ownership as a fourth transparency criterion;
 12. TAKES NOTE of further work on the assessment of application by Member States of defensive measures in the tax area provided by the Guidance on defensive measures;
 13. INVITES the Group to report back to the Council on its work during the Swedish Presidency.
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