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NOTE

From:	Presidency
To:	Council
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Subject:	Proposal for a Council Directive on the common system of a digital services tax on revenues resulting from the provision of certain digital services – General approach

I. INTRODUCTION

1. As follow-up to the debate at the Council (ECOFIN) on 6 November 2018¹ and in preparation of the discussions at the Council (ECOFIN) on 4 December 2018 the Presidency has prepared this note summarising the work undertaken since the last ministerial discussion on the proposal for a Council Directive on the common system of a digital services tax on revenues resulting from the provisions of certain digital services (further referred to as "DSTD").

¹ 13525/18 + COR 1 + COR 2.

2. The objective of the Presidency remains to invite ministers to reach a general approach on DSTD. The Presidency takes the view that an agreement on DSTD would avoid a fragmentation that is likely to be caused by the introduction of unilateral digital services taxes by individual Member States. In the same vein, the Presidency believes that an agreement on DSTD would pave the way for a more rapid progress on the global solution to the tax-related challenges of the digitalised economy at the level of G20/OECD.

II. TECHNICAL WORK

3. Following the political guidance from ministers, the Austrian Presidency continued discussions at technical level.
4. Four rounds of talks were held: the Working Party on Tax Questions (WPTQ) (Digital Taxation) on 12 and 21 November, Fiscal Attaches on 16 November and the High Level Working Party on Tax Questions (HLWP) on 22 November 2018.
5. As a result of these discussions the Presidency considers that all technical issues have been examined. The text as set out in 14886/18 enjoys broad support from many delegations. The Presidency is convinced that the text contains those elements, which have found most support, and that it can suggest the text to the Council as a compromise for agreement.
6. However, the Presidency acknowledges that at this stage a number of delegations cannot accept the text for political reasons as a matter of principle, irrespective of the technical adaptations made to the text.
7. The Presidency also notes that several other delegations have come forward with technical adaptations. Wherever possible, the Presidency has taken those suggestions on board, which were most likely to increase the support of the compromise by the Member States.

III. CONCLUSION

8. At the meeting of the Committee of Permanent Representatives on 28 November 2018, the majority of delegations, in the spirit of a compromise, could support the Presidency compromise text on the DSTD. However, some delegations continued to raise their principal objections to this Directive, indicating that there first needed to be an agreement on a global solution to the tax-related challenges of the digitalised economy at the level of G20/OECD. Some other delegations indicated that they would like further technical work with regard to certain aspects.
9. Despite the remaining reservations of a number of delegations the Presidency considers that technical work has reached a point where it is time for the ministers to take a clear stance on DSTD in the perspective of ensuring fair taxation of digital economy in the short-term.
10. Against this background, the Council is invited to reach a general approach on DSTD, on the basis of a compromise text set out in 14886/18, with a view to its later adoption subject to legal-linguistic revision.
