COUNCIL OF
THE EUROPEAN UNION

Brussels, 23 November 2012

16489/12

LIMITE

FISC 174

"I/A" ITEM NOTE

from:	General Secretariat
to:	Coreper/Council
Subject:	Code of Conduct (Business Taxation) - Draft Council Conclusions

1. At the meeting of the Code of Conduct Group (Business Taxation) on 8 November 2012 delegations agreed the Group's report to the Council as set out in doc. 16488/12 FISC 173.

2. The following draft Council conclusions were subsequently put forward by the Group's Chair and agreed by all Member States:

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

- welcomes the progress achieved by the Code Group during the Cyprus Presidency as set out in its report (doc. 16488/12 FISC 173);

- asks the Group to continue monitoring standstill and the implementation of the rollback as well as its work under the Work Package 2011;

- encourages the Commission to continue discussions with Switzerland as set out in the Group's Report and to keep the Group regularly informed of the progress;
- invites the Group to report back on its work to the Council by the end of the Irish Presidency."

3. Spain has requested to enter the statement in Annex in the Minutes of the Council at which the above Conclusions will be formally adopted.

4. The Permanent Representatives Committee is invited:

   - to forward the report (doc. 16488/12 FISC 173) together with the draft Council conclusions above and the statement in Annex to the Council;

   - to suggest that the Council adopt these draft conclusions as an "A" item on its agenda and that the statement is entered in the Minutes of the Council;

STATEMENT BY SPAIN

The Kingdom of Spain fully endorses the conclusions of the ECOFIN Council, the outcome of the review by the Code of Conduct Group (Business Taxation) and the assessment made by the Commission on the harmfulness of the Gibraltarian regime "Income Tax Act 2010".

However, Spain wishes to highlight that, as reflected in the report prepared by the Group, the outcome of the review and the assessment made are based on the analysis of a very specific type of income: interests, without having evaluated other potentially harmful elements of the regime. Therefore, the Kingdom of Spain reserves its right to request to continue in the future with the analysis and assessment of elements not analysed now.