



Council of the  
European Union

**Brussels, 25 January 2022  
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### **OUTCOME OF PROCEEDINGS**

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

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Delegations will find attached the work programme under the French Presidency as agreed by the Code of Conduct Group (Business Taxation) informal videoconference of 24 January 2022.

**CODE OF CONDUCT GROUP (BUSINESS TAXATION):**

**WORK PROGRAMME UNDER THE FRENCH PRESIDENCY**

1. In its conclusions of 7 December 2021 (doc. 14814/21), the Ecofin Council welcomed 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.
  
2. Furthermore, the ECOFIN Council notably:
  - a. welcomed 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, invited the Group to reflect on possible ways forward to enhance the current criteria and processes for third country jurisdictions, where appropriate,
  - b. endorsed the progress reached in the assessment of standstill and rollback notifications by the Group, asked the Group to continue monitoring standstill and the implementation of the rollback and welcomed the ongoing monitoring of actual effects of individual measures,
  - 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 Guidelines on tax privileges related to special economic zones,
  - d. appreciated the report on the implementation by the Member States of defensive measures in the tax area towards non-cooperative jurisdictions and called 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,

- e. took 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 and invited the Group to take this work forward by further exploring how to enhance the EU listing process based on progress at the international level,
- f. invited the Group to report back to the Council on its work during the French Presidency.

3. Against this background, this note sets out the proposed COCG work programme for the duration of the French Presidency of the Council (first semester of 2022).

#### **I. Monitoring of standstill and the implementation of rollback**

4. The COCG will monitor developments in administrative practices of Member States, start the review of the tax measures notified by Member States under the standstill and rollback process for the year ending on 31 December 2021 and continue the monitoring of actual effects of some regimes for which regular monitoring was decided.

#### **II. Monitoring the implementation of agreed guidance**

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

#### **III. Links with third countries**

6. The COCG will continue monitoring jurisdictions covered by the current geographical scope.

7. The EU list of non-cooperative jurisdictions for tax purposes will be updated by the ECOFIN Council foreseeably in February 2022 with the following objectives:
- remove jurisdictions that addressed pending issues 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:

- FHTP assessments under criterion 2 - jurisdictions with preferential tax regimes in the scope of the FHTP (criterion 2.1) and application of Substantial Activities to No or only Nominal Tax Jurisdictions (criterion 2.2.);
- responses by jurisdictions with regard to the application of the country by country reporting (CbCR) anti-BEPS minimum standard (criterion 3.2);
- removal of jurisdictions that completed their commitments from Annex II.

8. The Group will work on:

- a. the coordination of defensive measures towards non-cooperative jurisdictions;
- b. the future criterion 1.4 on the exchange of beneficial ownership information;
- c. follow-up actions to the Pandora Papers;
- d. updating criterion 1.1 in line with the evolution in the Global Forum peer review process for the Automatic Exchange of Financial Account information (AEOI);
- e. the monitoring of jurisdictions concerned by criterion 2.2.

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

#### **IV. Other**

10. The Group will start discussing possible impacts of the international agreement that was reached on a minimum effective taxation (OECD Pillar 2) on its work, including on the EU listing criteria.

#### **V. Organisation of work**

11. Physical meetings of the Group with national delegates will resume. If the circumstances does not allow for physical meetings, the Group can also continue working via videoconferences.
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