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WORKING PAPER

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MEETING DOCUMENT

From:	Chair
To:	Code of Conduct Group (Business Taxation)
Subject:	Code of Conduct Group (Business Taxation) - Work programme under the Maltese Presidency

WORK PROGRAMME UNDER THE MALTESE PRESIDENCY

I. Introduction

1. In December 2016, the Council received the report on the progress of the work of the Code of Conduct Group during the Slovak Presidency (14750/16 FISC 202) and encouraged the Group to continue the work on the basis of the work package 2015, which was approved in the course of the ECOFIN Council in December 2015 (14302/15 FISC 159).
2. This note sets out the proposed work programme under the Maltese Presidency to enable the Group to report to the Council.

II. Organisation of work

Standstill:

3. In 2016 two Member States notified measures which potentially fall within the scope of the Code. Croatia notified to have enacted a new Act on Investment Promotion which replaced the previous Act on Investment Promotion and Improving the Investment Climate. The Netherlands notified the Group of some amendments made by Aruba (one of the fiscal autonomous countries within the Kingdom of the Netherlands) to its Imputation Payment Company (IPC) regime.
4. It was agreed that Commission Services would prepare an agreed description on a bilateral basis with Croatia. Regarding the Imputation Payment Company regime it was agreed that Commission Services would further analyse the regime together with The Netherlands.

Rollback and Standstill of Patent Boxes:

Patent Boxes

5. Member States were asked to submit a report on this issue with their annual notifications of rollback at the Group's first meeting in 2016.

6. During the Netherlands Presidency, all Member States which currently have patent box regimes, except France, have notified the Group of the steps taken to comply with their commitments.
7. At the meeting of 19 October 2016, the Group agreed to report to the ECOFIN that France is in contravention of the ECOFIN Council conclusions of 9 December 2014 (doc. 16846/14) and 8 December 2015 (doc. 14303/15). The Code of Conduct Group confirmed that the French Patent box regime, like all the other Member States patent box regimes will be examined against all criteria of the Code of Conduct in order to assess their potential harmfulness.
8. In the Group's meeting of 24 November, it was agreed to split the process into rollback and standstill aspects. For the standstill procedure the OECD descriptions will be used and the measures will be assessed on the basis of the modified nexus approach and against all Code criteria.
9. The Group agreed that all Member States with the exception of France and Italy were broadly in compliance with the rollback commitment of the modified nexus approach, but acknowledged that some technical issues remained to be resolved.

III. Work Package 2015

10. On 8 December 2015 a new Work Package was approved by the Council (ECOFIN) (14302/15 FISC 159). In line with that, the Chair proposes to focus work during the Maltese Presidency on the following items:
 - Continue the work on outbound payments.
 - Links with Third Countries: With regard to Liechtenstein, the dialogue should be continued.
 - Links with third countries: Continue monitoring the outcome of the dialogue with Switzerland, especially regarding the various measures that are recommended to replace existing regimes, once they have been adopted.
 - Continue the work on the establishment of the EU list of non-cooperative jurisdictions.

- Regarding the clarifications of the third and fourth criteria the Code of Conduct Group will continue to work on guidance concerning other international agreed principles.
- Monitoring developments in administrative practices of Member States.
- Monitoring of Member States' compliance with existing guidance or other standards agreed by the group.

11. It is proposed that there should be three one-day meetings to enable the Code of Conduct Group to provide a report before the end of this Presidency:

- **25 January 2017:** one-day meeting to:
 - appoint the Chair of the Code of Conduct Group;
 - confirm the appointment of the Vice-Chairs;
 - agree the work programme under the Maltese Presidency;
 - continue the work on rollback and standstill;
 - continue work on taking forward the Work package 2015.
 - **5 April 2017:** one-day meeting to:
 - continue the work on rollback and standstill;
 - continue work on taking forward the Work package 2015.
 - **6 June 2017:** one-day meeting to:
 - continue the work on rollback and standstill;
 - continue work on taking forward the Work package 2015;
 - agree the Group's report to the ECOFIN Council.
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