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NOTE

From:	Presidency
To:	High Level Working Party (Taxation)
Subject:	Tax challenges arising from digitalisation - Presidency discussion paper

1. Introduction

1. Following up on the work undertaken by the Finnish Presidency, the Croatian Presidency has prepared this note which sets out the state of play and prepares the scene for the work ahead at EU level as negotiations progress in the OECD regarding tax challenges arising from the digitalization of the economy.
2. Delegations are invited to exchange views on the basis of this note at the meeting of the High Level Working Party on Taxation on 15 January 2020.

2. Overview of the work of the OECD

3. Following several preparatory meetings (Working Party 1, Working Party 11, Task Force on Digital Economy) and two public consultations, the OECD published in December 2019:
 - the Outline of an Agreement on Pillar One Issues;
 - the Progress Note on Pillar Two; and
 - the Statement by the Inclusive Framework on the Two-Pillar approach to Address the Tax Challenges arising from the Digitalization of the Economy.
4. The two notes are for discussion and approval at the next meeting of the Inclusive Framework in January 2020, whereas the statement is intended to serve as a "chapeau" document *"to bring the notes on the two pillars together for purposes of submitting the note to the February G20 Finance Ministers meeting and for public release prior to that meeting."*

3. Discussion within the EU

5. In line with the approach taken by the previous Presidencies, the Croatian Presidency intends to continue participating actively in the OECD negotiations and to intervene, where necessary, in its capacity of the Presidency of the Council of the EU.
6. Notably with regard to the next meeting of the Inclusive Framework at the end of January 2020, the Presidency has planned a meeting of the Working Party on Tax Questions (digital taxation) on 23 January 2020 in order to exchange views amongst EU Member States on the OECD papers.
7. The Presidency has asked for written comments by 10 January 2020 on these three documents. The comments of delegations will serve to inform the preparations of the Croatian Presidency in the field of digital taxation and the participation in the meeting of the Inclusive Framework.

8. In the coming months the Presidency plans to organize regular technical meetings at EU level as well as preparatory discussions in the HLWP in order to continue offering a platform to the Member States to exchange views on matters of relevance for the EU and its Member States in line with the approach of ECOFIN of May 2019 and November 2019.
9. The timetable of OECD is very ambitious and different elements of the options are becoming clearer only gradually. The coming weeks would be an opportune point in time to identify and further define the issues and/or concerns that are common to EU Member States. Even issues where the views of Member States are divergent would benefit from preparatory discussions at EU level in order to devise an appropriate negotiating strategy that would benefit the EU as a whole and facilitate the subsequent implementation of the global solution agreed.
10. Delegations are invited to present their initial views on the OECD papers and on the way forward in the HLWP meeting on 15 January 2020, keeping in mind that a more technical discussion is envisaged to take place in the Working Party on Tax Questions (digital taxation) on 23 January 2020. In particular the Presidency would ask delegations to focus on the following two questions:
 - a. What are your views regarding the achieving of a possible common EU standpoint that could be addressed during the negotiations at the OECD?
 - b. In which direction do you see the technical work should focus as regards the compatibility of OECD proposals with the EU law?

4. ECOFIN Council of 21 January 2020

11. The Presidency notes that the Luxembourg delegation has requested digital taxation to be discussed at the ECOFIN Council on 21 January 2020.
12. The understanding of the Presidency is that Luxembourg wishes to discuss elements of the GLoBE proposal that might raise issues of EU law compatibility, EU competitiveness and level playing field.
13. The Presidency invites HLWP to discuss this ahead of the ECOFIN Council.

5. Other issues

14. In the light of recent developments, the Presidency invites delegations to also exchange views about the wider context and implications (such as on trade, for example) of OECD negotiations.

6. Conclusion

15. On the basis of the above, the HLWP is invited to exchange views on the state of play and to give an indication of points that Ministers may wish to make at the ECOFIN Council.
