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NOTE

From:	Presidency
To:	Council
Subject:	Tax challenges arising from digitalisation - Exchange of views

I. DIGITAL TAXATION: INTERNATIONAL CONTEXT

1. The international negotiations on finding a solution to tax challenges arising from digitalization are progressing and are about to reach a crucial phase.
2. On 18 December 2019 the OECD published to its delegations three documents:
 - Outline of an Agreement on Pillar One Issues;
 - Progress Note on Pillar Two; and
 - Statement by the Inclusive Framework on the Two -Pillar approach to Address the Tax Challenges arising from the Digitalization of the Economy.

3. The two notes are for discussion and approval at the next meeting of the Inclusive Framework on 29-30 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."*
4. OECD is working on a two-pillar approach, both of which are considered essential for a comprehensive global solution. Pillar 1 focuses on the allocation of taxing rights, including nexus ("taxable presence without the traditional physical presence") issues. Pillar 2 (also called GloBE proposal "Global Anti-Base Erosion Proposal") deals with risks of profit shifting to entities subject to no or very low taxation and introduces as a novelty the possibility of a minimum top-up tax ("MET" - Minimum Effective Taxation).

II. PRESIDENCY APPROACH TO EU ACTIVITIES

5. In line with the approach taken by the previous Presidencies, the Croatian Presidency intends to continue participating in the OECD work.
6. In the coming months the Presidency plans to organize regular technical meetings at EU level as well as preparatory discussions in the High Level Working Party on Taxation ("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 17 May 2019 and 8 November 2019.
7. The HLWP at its meeting on 15 January 2020 exchanged initial views on OECD papers and on the way forward.
8. The Presidency noted that all Member States share the view that it is important to actively engage in the OECD negotiations as a matter of priority. An international solution is considered the preferred way forward as opposed to fragmentation and unilateral measures. Whilst delegations acknowledge that the deadline of 2020 is tight for reaching global consensus, most would like to make good use of the political momentum.

9. The Presidency also noted that there is readiness to explore the options put forward by the OECD Secretariat, even if substantive views on the two pillars vary. Member States also highlighted other elements of importance to them, such as tax certainty, compatibility with EU law, ensuring a level playing field and the need to assess the economic impact of the new measures. Delegations showed openness to identifying common elements for EU Member States to address in the OECD negotiations to the extent possible.
10. In the light of the above and building on the ECOFIN discussions of 17 May and 8 November 2019, the Presidency intends to proceed as follows:
- Discussions will continue at technical level in the Council preparatory bodies in order to prepare to the extent possible the negotiations in the OECD and to address concerns Member States have;
 - The Presidency will endeavour to identify common elements which may be relevant for the EU Member States in relation to the ongoing work in Paris.

III. WAY FORWARD

11. In the light of the above the Presidency invites the ECOFIN Council to exchange views on tax challenges arising from digitalization on the basis of the Presidency's way forward.
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