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WORKING PAPER

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MEETING DOCUMENT

From:	Presidency
To:	Working Party on Tax Questions (Digital Taxation)
Subject:	Exploring the possible ways forward on the issue of Pillar 2 and its compatibility with EU law

Delegations will find attached a document in view of the meeting of the Working Party on Tax Questions (Direct Taxation - Digital) on 18 July 2019.

15.7.2019

Presidency Discussion Document

EXPLORING THE POSSIBLE WAYS FORWARD ON THE ISSUE OF PILLAR 2 AND ITS COMPATIBILITY WITH EU LAW

Background

1. The work in the OECD under Pillar 2 (the GloBE proposal) would provide jurisdictions with a right to 'tax back' where other jurisdictions have not exercised their primary taxing rights or the income or payment is otherwise subject to low levels of effective taxation. The GloBE proposal under Pillar 2 includes two main rules:
 - a) The income inclusion rule, which would operate as a minimum tax by requiring a significant or controlling shareholder to bring into account a proportionate share of the income of a subsidiary if that subsidiary was not subject to a minimum effective tax on that income.
 - b) The undertaxed payments rule, which would deny a deduction or impose source-based taxation (including withholding tax) for a payment to a related party if that payment was not subject to a minimum effective tax.
2. According to the OECD Programme of Work, compatibility with international obligations (and, where appropriate, the EU fundamental freedoms) will be addressed during the work.

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