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MEETING DOCUMENT

From: General Secretariat of the Council
To: High Level Working Party
Subject: Tax and Digitalization - OECD update
        - Presentation by the OECD

Delegations will find attached a powerpoint presentation given by the OECD at the meeting of the High Level Working Party on 31 January 2019.
Background

- **October 2015**: BEPS Action 1 report
- **March 2018**: Tax Challenges arising from Digitalisation: Interim report
- **July/December 2018**: Task Force on the Digital Economy meetings
- **January 2019**: Policy Note agreed by the Inclusive Framework
Interim Report – March 2018

• Key features of the digitalising economy:
  – Scale without Mass
  – Higher reliance on IP
  – Role of users in value creation
• 3 groups emerged
  – BEPS Actions working, no need for major changes
  – Change needed, but target highly digitalised businesses
  – Change needed to address broader challenges
• Agreement to work towards a consensus-based, long-term solution
Work since March

- TFDE held meetings in July and December
- Members brought **concrete proposals under 2 pillars:**
  - Pillar 1 dealing with **nexus and profit allocation** and
  - Pillar 2 relating to **remaining BEPS issues**
Pillar 1 – User contribution

- Revise the existing rules on profit allocation and nexus by reference to “active user contribution”
- Would apply to highly digitalised businesses
- Would recognise the value created by users of digital services
Pillar 1 – Marketing intangibles

• Revise the existing rules on profit allocation and nexus by reference to “marketing intangibles”
• Applies broadly to all types of businesses
• Would recognise the value created by the market jurisdiction
Pillar 1 – Significant economic presence

• Grounded in the 2015 BEPS Action 1 report
• Nexus based on a significant economic presence
• Aims for simplified, easy to administer solutions
Pillar 2 proposal

• **Address ongoing profit shifting** that arise due to significant disparities in tax rates

• **Provide residence and source countries a right to “tax back” profits** subject to no or very low rates of taxation in jurisdictions where those profits are derived
Pillar 2 proposal

• Proposed rules
  – **Income inclusion rule** that would include such profits as income in the hands of related party investor.
  – **Tax on base eroding payments** that would allow the source country to deny a deduction (or impose withholding tax) on under-taxed payments
  – **Co-ordination rule** to mitigate the risk of double taxation
Policy Note – January 2019

“Addressing the Tax Challenges of the Digitalisation of the Economy – Policy Note”

• Agreement to examine proposals involving two pillars which could form the basis for consensus
• Proposals going beyond the arm’s length principle
• Should not result in taxation when there is no economic profit nor should they result in double taxation
• Stresses the importance of tax certainty and effective dispute prevention and dispute resolution tools
Policy Note – January 2019

• Mandates the elaboration of a detailed programme of work which the Inclusive Framework could agree at its May meeting

• With a view to reporting progress to the G20 Finance Ministers in June 2019 and deliver the solution in 2020
Next steps in 2019

- **February**: Release of public consultation document
- **March**: TFDE public consultation
- **May**: Inclusive Framework meeting, elaboration of a detailed programme of work
- **June**: OECD Secretary-General update to G20 Finance Ministers
THANK YOU