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