I. BACKGROUND

1. The purpose of this paper is to present a number of policy considerations that the Portuguese Presidency considers important for an inclusive discussion among all Member States regarding the way forward on the financial transaction tax in the EU in line with Article 330 TFEU.

2. The proposal for a Directive on a common system of financial transaction tax (FTT) was submitted by the Commission to the Council on 28 September 2011. Given that unanimous agreement by all Member States could not be attained, on the basis of the request of eleven Member States, and in accordance with the authorization of the Council of 22 January 2013¹, and consent of the European Parliament of 12 December 2012, the Commission on 14 February 2013 submitted a proposal for a Council Directive implementing enhanced cooperation in the area of financial transaction tax.

¹ OJ L 22, 25.1.2013, p. 11.
3. At this stage, 10 Member States are participating in the enhanced co-operation in the area of FTT: Austria, Belgium, France, Germany, Greece, Italy, Portugal, Slovakia, Slovenia and Spain (hereafter referred to as "participating Member States").

4. Following the preparatory work by the WPTQ, and, where relevant, by the HLWP, the state of play on this dossier has been discussed at the following meetings of ECOFIN Council:
   - 6 May 2014\(^2\), 7 November 2014\(^3\), 9 December 2014\(^4\), and 8 December 2015\(^5\);
   - 17 June 2016\(^6\), where, as a follow-up to the statement of ten participating Member States that was inserted into the minutes of the 8 December 2015 ECOFIN\(^7\), the Council took note of the state of play on this dossier regarding a number of selected issues (application of "issuance" and "residence" principles and the territorial scope for the FTT\(^8\); exemption from FTT of market making activities\(^9\); scope of transactions in derivatives contracts to be subject to the FTT\(^10\));
   - 6 December 2016\(^11\), where the Council took note of the ongoing discussion on the constitutive parts (the "building blocks")\(^12\) of the FTT and the assembly of those "building blocks" into possible FTT models. The Council also took note of the discussions on issues relating to cost efficiency of possible FTT collection models;

- ECOFIN on 14 June 2019 was informed of the state of play of this file.

\(^2\) Doc. 9399/14 and doc. 9576/14.

\(^3\) Doc. 14949/14.

\(^4\) Doc. 16498/14 and doc. 16753/14, points 36 to 46.

\(^5\) Doc. 14942/15.

\(^6\) Doc. 9602/16.

\(^7\) Doc. 15112/15 ADD 1.

\(^8\) Doc. 9602/16, points 6 to 8, and doc. 14942/15, points 7 to 11.

\(^9\) Doc. 9602/16, points 9 to 12, and doc. 14942/15, points 15 to 17.

\(^10\) Doc. 9602/16, points 13 to 15, and doc. 14942/15, points 18 to 19.

\(^11\) Doc. 13608/16.

\(^12\) Doc. 14942/15, point 3.
5. At the HLWP meeting of 18 April 2018, participating Member States indicated that they were evaluating the impact of the latest international developments and possible options, in particular as far as FTT revenue expectations are concerned.

6. At the HLWP meeting of 7 May 2019, participating Member States indicated that they were discussing about an option of an FTT based on the French model of the tax and about the possible mutualisation of the revenues among the participating Member States as a contribution to the EU budget. An exchange of views on the state of play on this file took place at WPTQ level on 20 September 2019.

7. In these negotiations a large number of important considerations have to be taken into account in the discussions among the participating Member States. It has already been clarified (also at ECOFIN level in June 2019) that should an informal agreement among Member States participating in the enhanced co-operation be reached, it would only be a preliminary step in the legislative process. This requires that a draft text of a Directive is tabled for examination in the Council preparatory bodies.

8. Any decision in the Council should be preceded by an inclusive and substantial debate among all Member States. In the light of the foregoing, as already indicated in the December 2016 ECOFIN report to the European Council on tax issues, further work of the Council and its preparatory bodies will be required, before a final agreement on this dossier can be reached among the Member States participating in the enhanced co-operation, that respects the competences, rights and obligations of the Member States not participating in the enhanced co-operation on FTT.

9. To be noted, the European Council in its conclusions of 17-21 July 2020 (point A29) indicated that "The Union will over the coming years work towards reforming the own resources system and introduce new own resources. [...] the Union will, in the course of the next MFF, work towards the introduction of other own resources, which may include a

13 Broadly, the FTT in FR applies to acquisitions of equity securities issued by a company whose headquarters are located in FR and whose market capitalisation exceeds 1 billion EUR on 1 December of the year prior to the year when the tax is assessed. The transfer of ownership is taxed, and acquisition of FR shares is taxed wherever the transaction occurs. Certain operations are exempt, such as primary emissions, market-making and intraday operations. This tax is applicable at the rate of 0.3% on the price of acquisition.

14 15254/16, point 45.
“Financial Transaction Tax.” In this regard, the Commission has recently clarified that
discussions on the Financial Transaction Tax under enhanced cooperation are ongoing
with a view of their finalisation by the end of 2022. Should there be an agreement on this
Financial Transaction Tax, the Commission will make a proposal in order to transfer
revenues from this Financial Transaction Tax to the EU budget as an own resource. If there
is no agreement by end of 2022, the Commission will, based on impact assessments, propose
a new own resource, based on a new Financial Transaction Tax. The Commission shall
endeavour to make these proposals by June 2024 in view of its introduction by 1 January
2026.”

11. These latest developments underline FTT’s technical potential. First, it enjoys a relative
technical and political maturity, in the light of a decade-long effort in comprehensive research
and discussion at EU level. Second, it benefits from the valuable learning experience of
several Member States, which have applied different forms of this tax for several years and
had the opportunity to gradually evaluate its impact.16

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15 See European Parliament legislative resolution of 16 December 2020 on the draft Council
regulation laying down the multiannual financial framework for the years 2021 to 2027
(09970/2020 – C9-0409/2020 – 2018/0166(APP)), Commission Declaration on establishing a
Financial Transaction Tax based Own Resource.

16 This includes Belgium, France, Greece, Italy and, most recently, Spain.