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WORKING PAPER

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MEETING DOCUMENT

From:	Presidency
To:	Working Party on Tax Questions (Digital Taxation)
Subject:	International tax reform: way forward for the EU

Delegations will hereby find attached a document in view of the Working Party on Tax Questions (Digital Taxation) on 20 June 2019.

1. International context

In March 2018, the Inclusive Framework of the Organisation for Economic Cooperation and Development (OECD), delivered an interim report in which it committed to reach a **long-term consensus-based solution** on the tax challenges arising from the digitalization of the economy and the remaining BEPS issues for its final report in 2020.

The OECD's "Programme of Work to Develop a Consensus Solution to the Tax Challenges Arising from the Digitalisation of the Economy"¹ was adopted at the Inclusive Framework on BEPS session of 28-29 May 2019 and endorsed by the G20 Ministers at their meeting on 9 June 2019.²

Work will be organised under two central pillars:

Pillar 1: Revised nexus and profit allocation rules

This pillar groups together three different proposals [REDACTED], which are aimed at developing a consensus based solution on how new taxing rights on income generated from cross-border activities in the digital age should be allocated among countries.

Although further work will be conducted in parallel to reach a political agreement on the objective and scope of a unified approach, the existing commonalities suggest that there is sufficient scope to establish a programme of work considering together some key design features of a consensus-based solution under pillar 1. The technical issues that need to be resolved under the programme of work may be grouped into **three building blocks**, namely:

- a) different approaches to determine the amount of profits subject to the new taxing right and the allocation of those profits among the jurisdictions;
- b) the design of a new nexus rule that would capture a novel concept of business presence in a market jurisdiction reflecting the transformation of the economy, and not constrained by physical presence requirement; and
- c) different instruments to ensure full implementation and efficient administration of the new taxing right, including the effective elimination of double taxation and resolution of tax disputes.

Pillar 2: Global anti-base erosion proposal

This work stream will aim at addressing unresolved issues regarding base erosion and profit shifting (BEPS). [REDACTED]

[REDACTED] The members of the Inclusive Framework have agreed to explore an approach that leaves jurisdictions free to determine their own tax system, including whether they have a corporate income tax and where they set their tax rates, but consider the right of other jurisdictions to apply the rules explored further below where income is taxed at an effective rate below a minimum rate.

¹ <https://www.oecd.org/tax/beps/programme-of-work-to-develop-a-consensus-solution-to-the-tax-challenges-arising-from-the-digitalisation-of-the-economy.pdf>

² https://www.mof.go.jp/english/international_policy/convention/g20/communique.htm

Within this context, and on a without prejudice basis, the members of the Inclusive Framework have agreed a programme of work that contains exploration of an inclusion rule, a switch-over rule, an undertaxed payment rule, and a subject to tax rule. They have further agreed to explore, as part of this programme of work, issues related to rule co-ordination, simplification, thresholds, compatibility with international obligations and any other issues that may emerge in the course of the work.

Technical discussions within the various OECD working groups will take place throughout 2019, in order to present recommendations on the core elements of a long-term solution to the Inclusive Framework for **agreement at the start of 2020**. Work would then continue on policy and technical details, with a final report to be delivered by the end of 2020.

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