



Council of the European Union  
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**WORKING PAPER**

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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.

# Tax and Digitalization

## OECD Update

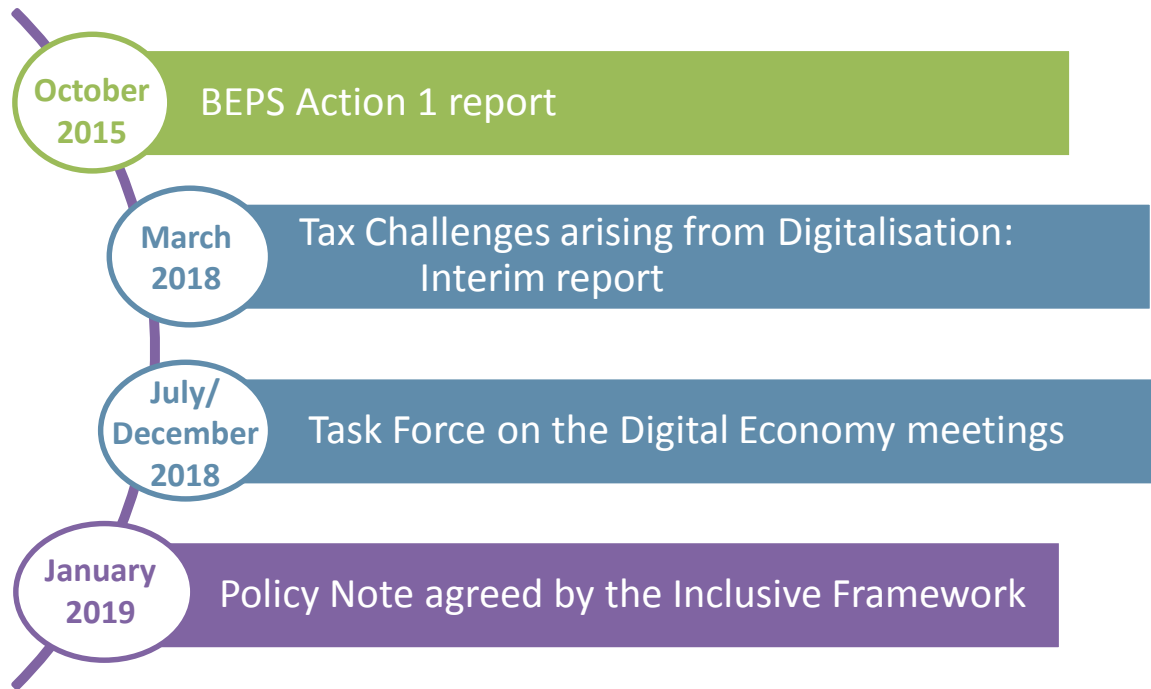
**Pascal Saint-Amans**

Director, OECD Centre for Tax Policy and  
Administration

31 January 2019

# Background

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# Interim Report – March 2018

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- **Key features of the digitalising economy:**
  - Scale without Mass
  - Higher reliance on IP
  - Role of users in value creation



# Interim Report – March 2018

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- **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

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- 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

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- 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

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- 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

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- 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

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- **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

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- 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

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## *“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

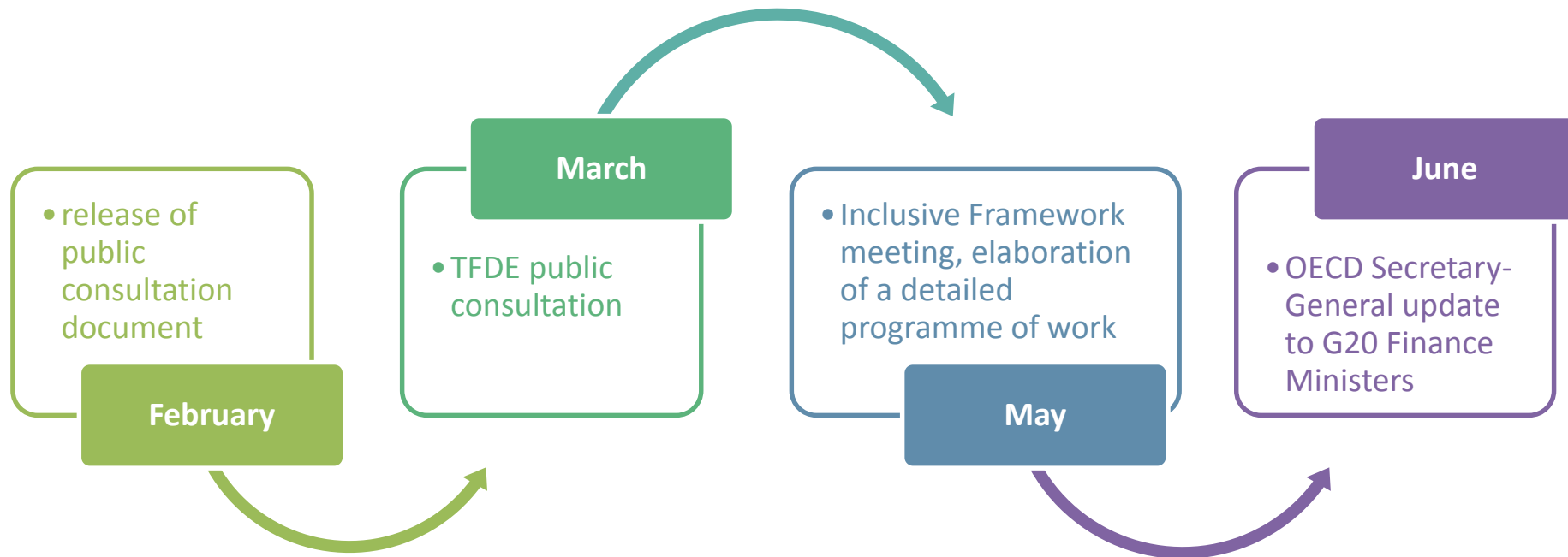
# Policy Note – January 2019

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- 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

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**THANK YOU**