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'I/A' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee (Part 2)/Council
No. Cion doc.:	10977/16 FISC 119 - COM(2016) 451 final
Subject:	Commission Communication on further measures to enhance transparency and the fight against tax evasion and avoidance – Draft Council conclusions = Adoption

1. On 5 July 2016 the European Commission adopted the Communication on further measures to enhance transparency and the fight against tax evasion and avoidance.
2. The Communication notes the progress made so far and suggests the priority areas for action in the coming months, at EU and international level, to strengthen the fight against tax evasion, avoidance and illicit financial activity. According to the Commission, there are however still important gaps in the EU and international tax framework that need to be addressed to prevent cross-border tax abuse and illicit financial activity.
3. In order to do so, the Commission proposes actions in the Communication aimed at:
 - Harnessing the link between Anti Money Laundering and Tax Transparency rules;
 - Improving Information Exchange on Beneficial Ownership;

- Increasing Oversight of Enablers and Promoters of Aggressive Tax Planning;
 - Promoting higher tax good governance standards worldwide;
 - Improving the protection of whistle-blowers.
4. The Communication was discussed at the High Level Working Party on Tax Questions on 20 September 2016 and Member States agreed on the draft conclusions annexed, which set out the view of the Council on the Communication. The SE delegation expressed a parliamentary scrutiny reservation. Since then, this reservation has been lifted.
5. Against this background, the Permanent Representatives Committee is invited to suggest that the Council adopt the draft conclusions, as set out in the Annex, as an "A" item.
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**Communication from the Commission of 5 July 2016 on further measures to enhance
transparency and the fight against tax evasion and avoidance**

Draft Council conclusions

The Council:

1. RECOGNISES the progress made in pursuing the ambitious EU agenda for fairer, more transparent and more effective taxation and in strengthening the cooperation between fiscal authorities across the EU;
2. CONFIRMS the importance of improving further the EU and international tax framework to prevent cross-border tax abuse and illicit financial activity;
3. WELCOMES the Communication from the Commission of 5 July 2016 on further measures to enhance transparency and the fight against tax evasion and avoidance;
4. AGREES that recent EU legislation to automatically exchange information on tax rulings and on tax related country-by-country reports of multinationals between Member States' competent authorities is an important step forward;
5. CALLS for looking at options for enhancing the administrative cooperation between competent authorities within the EU even further, including through considering options inspired by the work of the OECD Joint International Taskforce on Shared Intelligence and Collaboration (JITSIC);
6. CONSIDERS the proposals by the Commission for revision of the Directive on Administrative Cooperation and of the Anti-Money Laundering Directive in view of the synergies between these two areas as timely and INTENDS to work towards their swift adoption in accordance with the EU legislative process;

7. CONFIRMS that there is a need for more effective and efficient cooperation between tax authorities and other agencies involved in the fight against tax evasion, money laundering and terrorist financing in line with the appropriate legal safeguards;
8. STRESSES the need to prevent the large-scale concealment of funds which hinders the effective fight against tax evasion, money laundering and terrorist financing, and to ensure that the identities of beneficial owners of companies, legal entities or legal arrangements are known;
9. WELCOMES the initiative for the automatic exchange of information on ultimate beneficial owners whereby many jurisdictions, including all Member States, have agreed to exchange information on the beneficial owners of companies, legal entities and legal arrangements and LOOKS FORWARD to rapid international progress;
10. INVITES the Commission to analyse the possibility for a proposal on improving the cross-border access to information on ultimate beneficial owners on the basis of the ongoing work at international level;
11. NOTES that at its October 2016 meeting the G20 heard initial proposals by OECD and FATF on ways to improve the implementation of the international standards on transparency, including on the availability of beneficial ownership information;
12. RECALLS the need to increase oversight of enablers and promoters of aggressive tax planning and to introduce more effective disincentives for such activities;
13. WELCOMES the intention of the Commission to launch in autumn 2016 a public consultation to gather feedback on the most appropriate approach to achieve greater transparency on the activities of intermediaries who assist in tax evasion or avoidance schemes;

14. NOTES the intention of the Commission to explore possibilities for Mandatory Disclosure Rules inspired by Action 12 of the OECD BEPS project, drawing on the experiences in this area of some EU Member States, and to possibly come forward with a legislative proposal in 2017;
 15. ENCOURAGES the Commission to start reflecting on the possibility for future exchange of such information between tax administrations in the EU;
 16. STRESSES the need to work closely with the OECD and other international partners on a possible global approach to greater transparency in this area;
 17. SUPPORTS the promotion of higher tax good governance standards worldwide and NOTES that technical work in the Council has already started within the Code of Conduct on Business Taxation Group on establishing an EU list of non-cooperative third country jurisdictions to be ready in 2017, including on defining the criteria for listing jurisdictions and on exploring possible countermeasures;
 18. AGREES that the protection of whistle blowers is important and ENCOURAGES the Commission to explore the possibility for future action at EU level while respecting the principle of subsidiarity;
 19. RECOGNISES that improving tax certainty in the EU can contribute to further increase the competitiveness of EU businesses and TAKES NOTE of the intention of the Commission to present proposals aimed at fighting BEPS and tax avoidance while also ensuring a stable and predictable tax environment and eliminating double taxation, namely on improving dispute resolution and the relaunch of the CCCTB.
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