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'I/A' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee (Part 2)/Council
No. Cion doc.:	13729/16 FISC 169 - COM(2016) 682 final
Subject:	Commission Communication on building a fair, competitive and stable corporate tax system for the EU – Draft Council conclusions = Adoption

1. On 26 October 2016 the European Commission adopted the corporate tax reform package.

2. The package is composed of a communication on building a fair, competitive and stable corporate tax system for the EU and four legislative proposals.

3. The Communication presents the views of the Commission on the EU's priorities in taxation, which should be focussed on five goals:

   – reforming corporate taxation;

   – a positive, forward-looking agenda;

   – a better and more efficient tax environment for businesses;

   – a fairer taxation for all and

   – a modern tax system for a healthy economy.

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4. The Communication was discussed at the Working Party on Tax Questions and Fiscal Attachés meeting on 15 and 16 November 2016 and Member States agreed on the draft conclusions annexed, which set out the views of the Council on the Communication. The SE delegation entered a Parliamentary scrutiny reservation on the draft Conclusions.

5. Against this background, the Permanent Representatives Committee is invited to suggest that the Council adopt, once the SE reservation has been lifted, the draft conclusions, as set out in the Annex, as an "A" item.

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ANNEX

Communication from the Commission of 26 October 2016 on building a fair, competitive and stable corporate tax system for the EU

Draft Council conclusions

The Council:

1. WELCOMES the Commission Communication of 25 October 2016[1] on building a fair, competitive and stable corporate tax system for the Union (doc. 13729/16) and related legislative proposals;

2. RECALLS the European Council conclusions of 18 December 2014 stating the urgent need to advance efforts in the fight against tax avoidance and aggressive tax planning, both at the global and EU levels and REITERATES its commitment to principles of international taxation;

3. RECALLS its conclusions on Base Erosion and Profit Shifting (BEPS), adopted on 8 December 2015 (doc. 15150/15) and on the Communication from the Commission of 5 July 2016 on further measures to enhance transparency and the fight against tax evasion and avoidance of 11 October 2016 (doc. 13139/16);

4. RECOGNISES recent important achievements in the field of corporate taxation in the Union and in particular the legislation aimed at increasing tax transparency and ensuring that companies operating in the European Union pay taxes where profits are generated;

[1] Communication from the Commission to the European Parliament and the Council of 25 October 2016 on building a fair, competitive and stable corporate tax system for the EU (doc. 13729/16).

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5. REAFFIRMS the importance of continuing to promote tax good governance in the EU's relations with international partners to ensure an effective level-playing field between the Member States of the EU and third States;

6. ENDORSES the view that the EU tax environment could benefit from a forward-looking framework for corporate taxation that is growth-friendly and efficient, fair and effective in tackling aggressive tax planning practices, without prejudice to Member States' competence in these matters;

7. UNDERLINES the importance of having corporate tax rules which offer stability, legal certainty and administrative simplification to large companies as well as small and medium sized enterprises (SMEs) and, in the light of this, WELCOMES further discussion on the proposal on a Common Corporate Tax Base (CCTB) and on a Common Consolidated Corporate Tax Base (CCCTB);

8. NOTES the two step approach proposed by the Commission concerning the proposals on a Common Corporate Tax Base (CCTB) and on a Common Consolidated Corporate Tax Base (CCCTB) and SUPPORTS the view that work should focus as a priority on the elements of a common tax base;

9. TAKES NOTE of the incentives for research and development, and innovation as well as investment incentives at EU level proposed by the Commission and INVITES Member States to continue discussion on assessing the need and the added value of the elements proposed on this matter;

10. CONCURS that current international tax rules can, in some cases, lead to double taxation and double non-taxation that should be eliminated through coordinated EU measures and ACKNOWLEDGES that there is a need to review existing dispute resolution mechanisms to enhance tax certainty for business in the EU;

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11. Therefore LOOKS FORWARD to the examination of the proposal for a Double Taxation Dispute Resolution Mechanism in the European Union for businesses in the EU;

12. NOTES the ambitious timeline proposed by the Commission in the proposals on CCTB, CCCTB and Double Taxation Dispute Resolution Mechanism, and CALLS FOR swift progress on the examination of these legislative files;

13. INVITES incoming Presidencies to sequence the work on the CCTB and CCCTB proposals along the lines of the following:

    (a) As a start, Member States should concentrate their efforts on the rules for calculating the tax base and, in particular, on the new elements of the relaunched initiative (chapters I to V);

    (b) Member States should then concentrate on the remaining elements of the common base (chapters VI to XI), that is: i) those that have already been extensively discussed under the 2011 proposal for a CCCTB, and ii) those that are included in the recently adopted Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market;

    (c) Tax consolidation should be examined without delay once the discussion on these elements has been successfully concluded;

14. RECALLS its statement on hybrid mismatches at the Council (ECOFIN) meeting on 17 June 2016, and therefore WELCOMES the proposal amending Directive (EU) 2016/1164 as regards hybrid mismatches with third countries;

15. ACKNOWLEDGES that these initiatives may contribute to building a fair, competitive and stable corporate tax system for the EU.

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