



Brussels, 28 September 2017
(OR. en)

12545/17

Interinstitutional File:
2016/0338 (CNS)

FISC 200
ECOFIN 748

'I/A' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee (Part 2)/Council
No. Cion doc.:	13732/16 FISC 172 IA 100 + ADD 1-3 - COM(2016) 686 final
Subject:	Draft COUNCIL DIRECTIVE on Tax Dispute Resolution Mechanisms in the European Union - Adoption

1. On 26 October 2016 the Commission transmitted to the Council a proposal for a Council Directive on double taxation dispute resolution mechanisms in the European Union. The objective of the Directive is to provide for rules on mechanisms to resolve disputes between Member States when these arise from the interpretation and application of agreements and conventions that provide for the elimination of double taxation.
2. When adopting conclusions at its meeting on 6 December 2016, the ECOFIN Council called for swift examination of the proposal.
3. The proposed Directive was discussed under the Maltese Presidency at the meetings of the Working Party on Tax Questions (WPTQ) on 18 January 2017, 1 February 2017, 3 March 2017, 14 March 2017, 27 March 2017, 12 April 2017 and 27 April 2017, at the meetings of the Fiscal Attachés on 2 May 2017, 5 May 2017 and 10 May 2017 and at the meeting of the High Level Working Party (Taxation) on 11 May 2017.

4. The draft Directive builds on the necessity identified by the Council of enhancing tax certainty, thereby allowing for the promotion of investment and stimulation of growth. In doing so, it also focuses on creating a more favourable tax environment for businesses, and reducing compliance costs and administrative burden. The Directive sets up an effective dispute resolution mechanism that is mandatory and binding, through a mutual agreement procedure combined with an arbitration phase, with a clear time limit and an obligation to achieve a result for all Member States.
5. On 23 May 2017, the Council reached a General Approach on the Directive, on the basis of the compromise text set out in doc. 9420/17 FISC 111 ECOFIN 429.
6. The opinion of the European Economic and Social Committee and the opinion of the European Parliament having been issued, and the text having been subject to the revision of the lawyer-linguists, the proposal for a Council Directive on Tax Dispute resolution in the EU is ready for adoption by the Council.
7. The Permanent Representatives Committee is therefore invited to suggest that the Council adopt the abovementioned Directive as finalised by the legal/linguistic experts in doc. 9806/17 FISC 118 ECOFIN 472 as an "A" item on the agenda of a forthcoming meeting.
