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NOTE

From: General Secretariat of the Council
To: Delegations

Subject: Report by Finance Ministers on Tax issues in the framework of the Euro Plus Pact

1. The **European Council** conclusions of 9 December 2011 concerning the Euro Plus Pact request that structured discussions of tax policy issues are being pursued.
2. A draft Report by Finance Ministers in the framework of the Euro Plus Pact, covering progress made, was agreed in the context of the Council **High Level Working Party** on Tax issues, following discussions on 19 November 2015.
3. Subsequently the Report was forwarded, via Coreper, to the Council (ECOFIN) on 8 December 2015, and endorsed by Finance Ministers of the Pact with a view to its submission to the **European Council** on 17/18 December 2015.

**REPORT BY FINANCE MINISTERS ON TAX ISSUES
IN THE FRAMEWORK OF THE EURO PLUS PACT**

1. As set out in the EC conclusions of 9 December 2011¹, this report by participant Finance Ministers of the Euro Plus Pact covers progress made in structured discussions on the coordination of tax policies.
2. The Luxembourg Presidency approach to coordination of tax policies in accordance with the Euro Plus Pact built on the work undertaken by previous Presidencies.

As done during the Latvian Presidency, the Luxembourg Presidency gave Member States the opportunity to exchange views with a particular focus on the fight against fraud, evasion, tax avoidance and aggressive tax planning in the framework of the Council HLWP. International developments in the G7/20 and OECD (e.g. related to Base Erosion and Profit Shifting - BEPS) were assessed against the background of their potential impact on work at EU level and national tax legislation.

3. The following progress was noted on a number of files which were considered particularly relevant under the Euro Plus Pact.

a) Cross-border tax rulings

The Commission proposal for a Council Directive amending Directive 2011/16/EU (DAC) as regards mandatory automatic exchange of information in the field of taxation was submitted to the Council in March 2015. The state of play of this file was submitted under the Latvian Presidency to the Council on 19 June 2015. Under the Luxembourg Presidency, the ECOFIN Council of 6 October 2015 has reached a political agreement on a compromise text. The ECOFIN Council of 8 December has adopted the amending Directive formally.

¹ EUCO 139/1/11 REV 1 (item 6).

b) Interest and Royalties Directive (IRD)

Following the debate at the informal ECOFIN meeting on 11 September 2015, the Luxembourg Presidency devoted two meetings of the Council Working Party on Tax Questions to the IRD proposal; both focussed on the possible inclusion into the IRD of a minimum effective taxation (MET) clause.

The Presidency advanced technical work on three main areas:

- the major elements of a MET clause (calculation on an “all income” basis or on an “isolated income” basis) and procedural aspects (i.e. the potential need for changes to procedural provisions in the Directive);
- the determination of a level of tax to be considered as low taxation in order to set a benchmark (in relative or absolute terms); and
- the drafting of a potential MET - clause (with MET as sole criterion or in combination with an additional test on economic substance).

c) Savings Negotiations with Third Countries

Following the adoption of the Decision on the signing of the agreement with Switzerland and the signature of the agreement on behalf of the European Union on 27 May 2015, the decision on the conclusion of the agreement was adopted on 8 December 2015.

Negotiations aiming at revising the existing EU savings agreements with the four remaining European third countries (Andorra, Liechtenstein, Monaco and San Marino) to bring them into line with the global standard went on under the Luxembourg Presidency. The decision on the signing of the agreement with Liechtenstein was adopted on 26 October 2015 and the signing ceremony took place on 28 October 2015. The decision on the conclusion of the agreement was adopted on 8 December 2015. The decision on the signing of the agreement with San Marino was adopted on 8 December 2015 and the signing ceremony took place on xx December 2015.

d) Common Consolidated Corporate Tax Base (CCCTB)

The Presidency launched a discussion on the opportunity to split the CCCTB proposal with a first legislative step focusing on international anti-BEPS aspects. It wrapped up the technical examination of these aspects in the light of OECD BEPS Action Plan conclusions and reflected the issues discussed in a consolidated text. On this basis, the state of play on this dossier was submitted to the Council on 8 December 2015 for discussion.

e) VAT files

- i) Concerning the VAT treatment of vouchers, technical work has been undertaken. However, divergences of views on a compromise still remain.
- ii) With regard to the standard VAT return proposal, the Commission announced in September 2015 that it will withdraw this proposal in 2016.

- 4. A comprehensive ECOFIN report highlighting progress made during the last six months provides additional detail on the work carried out at the EU level.²
- 5. The incoming Presidencies are invited to pursue work in these fields, taking into account the specific aims pursued under the Euro Plus Pact, and to continue monitoring results in the context of the Council HLWP. As requested by the European Council, "particular attention should be paid to how tax policy can support economic policy coordination and contribute to fiscal consolidation and growth".³ On the basis of these discussions, the European Council should continue to be informed on issues relevant to the Pact, as appropriate.

² Doc. 15187/15 FISC 187 ECOFIN 968 CO EUR-PREP 50.

³ EUCO 139/1/11 REV 1, item 6, third sentence.