



Council of the
European Union

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OUTCOME OF PROCEEDINGS

From: General Secretariat of the Council
To: Code of Conduct Group (business taxation meeting)
Subject: Code of Conduct Group (business taxation)
- Work Programme during the Bulgarian Presidency

Delegations will find attached the Work Programme during the Bulgarian Presidency as agreed by the Code of Conduct Group (business taxation) meeting of 14 February 2018.

CODE OF CONDUCT GROUP (BUSINESS TAXATION):

WORK PROGRAMME UNDER THE BULGARIAN PRESIDENCY

I. Introduction

1. In its conclusions of 5 December 2017 (doc. 15466/17), the Council welcomed the progress achieved by the Code of Conduct Group during the Estonian Presidency (doc. 14784/17), “asks the Group to continue monitoring standstill and the implementation of the rollback and invited the Group to continue its work under the work package 2015”, which was endorsed by ECOFIN in December 2015 (doc. 14302/15), and report back to the Council on its work during the Bulgarian Presidency.
2. In its conclusions of 5 December 2017 (docs. 15446/17 and 15429/17), the Council furthermore:
 - a. urges the Member State who did not take any action to start amending its patent box regime in order to comply with the modified nexus approach as soon as possible and, in any case, no later than end 2018;
 - b. notes with satisfaction the progress achieved by the Code of Conduct Group in the context of the EU list of non-cooperative jurisdictions for tax purposes, and asks the Code of Conduct Group to continue this work, as set out in the Council conclusions of 5 December 2017;
 - c. asks that the Code of Conduct Group continues the dialogue and starts the monitoring process of the commitments made by jurisdictions without delay, as of the beginning of 2018, to ensure their effective implementation according to the agreed timeline;

- d. calls upon the Code of Conduct Group to agree on procedures to carry out the monitoring process and to prepare a progress report on this matter before summer 2018;
 - e. invites the Code of Conduct Group to continue the dialogue on the application of the principles of the Code of Conduct to Liechtenstein, as set out in the report, and to explore the need to promote the adoption of the Code of Conduct principles in other third countries.
3. Against this background, this note sets out the proposed work programme under the Bulgarian Presidency of the Council (1st semester of 2018).

II. Monitoring of standstill and the implementation of rollback

4. The Group will monitor developments in administrative practices of Member States, and review the tax measures notified by Member States under the standstill and rollback process for the year ending on 31 December 2017, giving priority to the notional interest deduction regimes.
5. The Group will furthermore continue work on the application of the principles of the modified nexus approach to IP regimes and, in particular, monitor whether the Member State who did not take any action starts amending its patent box regime so that it complies with the modified nexus approach as soon as possible and, in any case, no later than end 2018.

III. Links with third countries

6. The Group will monitor the implementation by Liechtenstein of the amendments to its preferential regimes where the Group has identified deficiencies, i.e. the tax exempt corporate Income-dividends and capital gains regime (LIE001) and the interest deduction on equity (allowance for corporate equity – ACE) (LIE003).
7. The Group will continue work in the context of the Council conclusions of 5 December 2017 on the EU list of non-cooperative jurisdictions for tax purposes (doc. 15429/17).
8. It will in particular agree on procedures to carry out the monitoring process, start monitoring the implementation of commitments made by jurisdictions and prepare a progress report to the ECOFIN Council on this matter before summer 2018.
9. Further work will also be undertaken to monitor whether and how the defensive measures agreed on 5 December 2017 are applied and explore further coordinated defensive measures in the tax area.
10. The Group will furthermore aim at agreeing draft Council conclusions on the update of the existing EU standard provision on good governance in tax matters.

IV. Monitoring the implementation of agreed guidance

11. The Group will monitor the implementation of the 2000 Guidance on Rollback and standstill in respect of: 1) finance branches; 2) holding companies; 3) headquarter companies.

V. Procedural issues

12. In line with the Council conclusions of 8 March 2016 (doc. 69016/17), the Group will seek agreement on a guidance note on the interpretation of the third criterion of the Code.
13. Considering that its current 2015 Work Package (doc. 14302/15) is now substantially completed, the Group will seek endorsement of a multiannual new work package by the ECOFIN Council in June 2018.

VI. Organisation of work

14. It is proposed that there should be three one-day meetings (on 14 February, 12 April and 5 June 2018) to enable the Code of Conduct Group to provide a report before the end of this Presidency.
15. The Bulgarian Presidency of the Council will organise meetings of the subgroups on third countries and on the clarification of the third and fourth criteria of the Code to progress work on work items falling within their remit.