



Brussels, 24 November 2017  
(OR. en)

14789/17

FISC 301  
ECOFIN 1000

#### 'I/A' ITEM NOTE

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From: General Secretariat of the Council  
To: Permanent Representatives Committee/Council

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Subject: Code of Conduct Group (Business Taxation)

- Draft Council conclusions

= Adoption

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1. At its meeting on 22 November 2017, the Code of Conduct Group discussed the report from the Group to the Council and the draft Council Conclusions accompanying the report. All delegations were in a position to support the report as set out in doc. 14784/17 FISC 300 ECOFIN 999 but not the draft Conclusions.
2. Unanimous support on the draft Council Conclusions, as set out below, was found at the High Level Working Party meeting on 23 November 2017:

"With regard to the Code of Conduct (Business Taxation), the Council:

- welcomes the progress achieved by the Code of Conduct Group during the Estonian Presidency as set out in its report (doc. 14784/17 FISC 300 ECOFIN 999);
- asks the Group to continue monitoring standstill and the implementation of the rollback and invites the Group to continue its work under the Work Package 2015;

- takes note of the progress made on the alignment of the patent box regimes with the agreed nexus approach and invites the Group to continue to monitor and report on this process;
- 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;
- notes with satisfaction the progress achieved by the Code of Conduct Group in its ongoing work in the context of Council conclusions of 8 November 2016 on the criteria and process leading to the establishment 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];
- endorses the 'Guidance on the interpretation of the fourth criterion' annexed to the report by the Code of Conduct Group;
- endorses the Guidelines setting working methods for an effective monitoring of Member States' compliance with agreed guidance, annexed to the report by the Code of Conduct Group, and invites the Code of Conduct group to swiftly implement them;
- reiterates its invitation to the European Commission to investigate the need to revise past EU guidelines on transfer pricing issues in the light of the OECD BEPS report on Actions 8-9-10 and to report to and advise the Code of Conduct Group as appropriate;
- 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;
- invites the Group to report back to the Council on its work during the Bulgarian Presidency."

3. The Permanent Representatives Committee is invited:

- to forward to the Council the report (doc. 14784/17 FISC 300 ECOFIN 999), together with the draft Council conclusions as set out above;
  - to suggest that it endorses the report and adopts the Conclusions, both as "A" items on its agenda.
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