



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 Austrian Presidency

Delegations will find attached the Work Programme during the Austrian Presidency as agreed by the Code of Conduct Group (business taxation) meeting of 24 July 2018.

CODE OF CONDUCT GROUP (BUSINESS TAXATION):

WORK PROGRAMME UNDER THE AUSTRIAN PRESIDENCY

1. In its conclusions of 22 June 2018 (doc. 9638/18), the Council welcomed the progress achieved by the Code of Conduct Group during the Bulgarian Presidency (doc. 9637/18), endorsed a new multiannual work package (doc. 10420/18), and invited the Group to report back to the Council on its work during the Austrian Presidency.
2. In its conclusions of 5 December 2017 (docs. 15446/17 and 15429/17), the Council had furthermore:
 - a. urged 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. noted 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 asked the Code of Conduct Group to continue this work;
 - c. asked that the Group continues the dialogue and starts the monitoring process of the commitments made by jurisdictions without delay to ensure their effective implementation according to the agreed timeline.
3. Against this background, this note sets out the proposed work programme under the Austrian Presidency of the Council (2nd semester of 2018).

I. Transparency of the Code of Conduct Group work

4. The Group will discuss the publication of past documents on Member States' individual measures (agreed description and final assessment).
5. It will also discuss modalities for increasing transparency of the discussions held among Member States.

II. Monitoring of standstill and the implementation of rollback¹

6. The Group will continue reviewing the tax measures notified by Member States under the standstill and rollback process in 2017 and 2018, giving priority to the notional interest deduction regimes. In particular:
 - a. Agreed descriptions of the following regimes: BE018, HR011, HR012, LT006, LT007, RO008 and SK008;
 - b. Draft assessment of the following regimes: CY020, IT019, MT014, PL006, PT018 and SK007.
7. A new round of standstill and rollback notifications for the year ending on 31 December 2018 will be launched for review in 2019.
8. The Group will furthermore monitor the rollback of the following harmful regimes:
 - a. IP regimes that should comply with the modified nexus approach: ES021, ES022, ES023 and FR053.
 - b. Any other regimes, as appropriate.

III. Links with third countries

9. The Group will continue monitoring the implementation of the commitments made by other jurisdictions in the context of the EU list of non-cooperative jurisdictions for tax purposes.
10. The Group will also aim at agreeing:
 - a. a draft amendment to the 'Criteria for screening jurisdictions with a view to establishing an EU list of non-cooperative jurisdictions'² regarding future criterion 1.4 on beneficial ownership;
 - b. a draft guidance on criterion 3.2 on the implementation of anti-BEPS minimum standards.
11. Furthermore, a proposal to extend the geographical scope of the EU listing exercise will be examined, in line with the approach agreed at the COCG meeting of 31 May 2018.

¹ For a complete overview see doc. 9639/18 + COR 1 [REV 1]

² Annex I of the Council conclusions of 8 November 2016, doc. 14166/16.

IV. Anti-abuse and defensive measures

12. The Group will aim at agreeing a draft guidance on coordinated defensive measures in the tax area against listed jurisdictions.

V. Monitoring the implementation of agreed guidance

13. The Group will continue monitoring the implementation of the 2000 Guidance on Rollback and standstill in respect of: 1) finance branches; 2) holding companies; 3) headquarter companies by agreeing a questionnaire and collecting Member States' responses.

VI. Update/revision of the 1997 mandate

14. The Group will hold a discussion with the aim to provide an input to the HLWP on a possible revision/update of its December 1997 mandate.

VII. Organisation of work

15. It is proposed that there should be four one-day meetings (on 24 July, 21 September, 12 October and 15 November 2018) to enable the Code of Conduct Group to provide a report before the end of this Presidency.
16. The Austrian Presidency of the Council will furthermore organise three meetings of the subgroup on third countries to progress work on work items falling within its remit.