



Brussels, 22 September 2021
(OR. en)

Interinstitutional File:
2016/0107(COD)

11832/21
ADD 1 REV 1

CODEC 1216
DRS 44
COMPET 632
ECOFIN 843
FISC 143

'I/A' ITEM NOTE

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

Subject: Draft DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2013/34/EU as regards disclosure of income tax information by certain undertakings and branches **(first reading)**
- Adoption of the Council's position at first reading and of the statement of the Council's reasons
= Statements

Statement by Croatia

Croatia fully supports tax transparency. Nevertheless, as some other Member States, Croatia is of the opinion that Article 115 of TFEU would be a more appropriate legal basis than Article 50(1) TFEU. Croatia fully shares the opinion of the Council Legal Service of 11 November 2016 (with reference to 2016/0107 (COD), FISC 194) stating that the proposal for a Directive amending Directive 2013/34/EU as regards disclosure of income tax information should be based on Article 115 of TFEU since both the aim and the content of the proposal relate to “fiscal provisions”, and is of the view that accordingly, the proposal should have been discussed at ECOFIN Council, taking due account of the relevant procedural rules.

Furthermore, Croatia is of the opinion that the agreed amending Directive should not become precedent for qualified majority voting in the future decision-making processes with regard to tax matters.

Statement by Cyprus, Czech Republic, Hungary, Ireland, Luxembourg, Malta and Sweden

Notwithstanding the general support expressed by all for tax transparency and the constructive discussions facilitated by the Presidency, Cyprus, Czech Republic, Hungary, Ireland, Luxembourg, Malta and Sweden have ongoing concerns regarding the legal basis of this Proposed Directive, and consider that the proposal for a Directive amending Directive 2013/34/EU as regards disclosure of income tax information must be based on Article 115 TFEU since both the aim and the content of the proposal relate to “fiscal provisions”, rejecting thereby the appropriateness of the legal basis of the initial proposal, i.e. Article 50(1) TFEU.
