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NOTE

From:	General Secretariat of the Council
To:	Council
Subject:	EU list of non-cooperative tax jurisdictions - Presentation by the Danish delegation

Delegations will find in Annex a Note by the Danish delegation on the EU list of non-cooperative tax jurisdictions. This delegation will provide information to ECOFIN on 5 December 2019 (under non-legislative AOB) on this issue.

The EU list of non-cooperative tax jurisdictions

In recent years, we have taken many important steps to fight tax evasion and tax avoidance. We have significantly strengthened our tax standards, transparency and information sharing globally and within the EU.

The EU list of non-cooperative tax jurisdictions marks an important milestone in this work. Since its launch in 2017, more than 60 jurisdictions have committed to comply with the agreed criteria and by now half of these jurisdictions have delivered on their commitments. This demonstrates the leverage of the list. The ongoing discussions in the Code of Conduct Group contribute to a positive gradual improvement of the criteria, the defensive measures, and the scope of the list and its leverage. This includes the latest agreement in the Group on strengthening the commitment to defensive measures towards jurisdictions on the list, as well as the plans to screen additional jurisdictions and to include a future criteria on beneficial ownership.

Nevertheless, our citizens call for us to continue and intensify our efforts to fight tax evasion. It is therefore necessary to consider at our political level whether and how – within the current framework and rules applying within the EU - we can set an even higher level of ambition for the work in the Code of Conduct Group on the list, its criteria and its defensive measures. It is crucial to clearly signal that we are committed to continuously develop and refine our methods to target those jurisdictions that profit from enabling tax evasion and avoidance.

We therefore invite the incoming Presidencies of the Council to facilitate political discussions of the EU list of non-cooperative tax jurisdictions and its criteria as well as the processes applied to make sure they are as effective and ambitious as possible. This will be a useful opportunity to ensure the appropriate political guidance for the important technical work in the Code of Conduct Group. We suggest having a political discussion in the ECOFIN in one of our next meetings where a more comprehensive update is expected on the basis of lapsing deadlines for a number of jurisdictions. As a basis for the discussion we invite the Code of Conduct Group to evaluate the effectiveness of the list and to make concrete suggestion on how the criteria and the defensive measures could best be strengthened.

A possible theme for such discussions should be to consider whether the current criteria provide sufficient protection against tax avoidance and evasion. And what possible improvements could be feasible and desirable. Furthermore we could take stock of our commitments to the defensive measures.

At some point, we also need to reflect on whether the standards we apply to ourselves internally within the EU are as ambitious as our citizens should rightly expect. Do we internally have sufficient safeguards against tax avoidance and evasion? This is of course another broader and wider discussions than the EU list of non-cooperative tax jurisdictions but an important point to be made here is that we should continue our work to ensure that any progress within the EU is transformed into new requirements and criteria for third countries.
