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**CFE Opinion Statement FC 17/2014 (follow-up to Opinion
Statement FC 7/2014):
Comments on the OECD 2014 Report: Addressing the tax challenges
of the digital economy (BEPS Action 1)**

**Prepared by the CFE Fiscal Committee
Submitted to the OECD in December 2014**

CFE (Confédération Fiscale Européenne) is the umbrella organisation representing the tax profession in Europe. Our members are 32 professional organisations from 25 European countries (21 EU member states) with 180,000 individual members. Our functions are to safeguard the professional interests of tax advisers, to assure the quality of tax services provided by tax advisers, to exchange information about national tax laws and professional law and to contribute to the coordination of tax law in Europe. CFE is registered in the EU Transparency Register (no. 3543183647-05).

Introduction:

The following comments relate to the OECD document “Addressing the tax challenges of the digital economy, Action 1: 2014 Deliverable¹”, published on 16 September 2014, which is a follow-up to the OECD Discussion Draft of 24 March 2014². The CFE has commented on that Discussion Draft in its Opinion Statement FC 7/2014³ of April 2014. The following comments are thus to be considered a follow-up to the CFE Opinion Statement FC 7/2014.

We will be pleased to answer any questions you may have concerning CFE’s comments. For further information, please contact Mr. Piergiorgio Valente, Chairman of the CFE Fiscal Committee, or Rudolf Reibel, Fiscal and Professional Affairs Officer of the CFE, at brusseloffice@cfe-eutax.org.

Statement:

The CFE welcomes the framework agreed upon to address and evaluate potential options, “*based on the overarching tax principles of neutrality, efficiency, certainty and simplicity, effectiveness and fairness, flexibility and sustainability, in light of the proportionality of the changes in relation to the tax challenges they are intended to address in the context of the existing international tax framework*” (Executive Summary, OECD, 2014, p. 18). We agree with the conclusion that it is not possible to ring-fence the digital economy. While it is clear that there should not be a separate set of rules that would solely apply to enterprises considered to be part of “the digital economy”, digital economy aspects will have to be taken into account in the necessary general overhaul of the international tax treaty framework.

We note that the “Report” on BEPS Action 1 delivered in September 2014 does not provide final conclusions as this will be dependent on the continuing 2014-15 work on the other Actions and a Supplementary Report is to be published in December 2015 at the conclusion of the BEPS Action Plan (Executive Summary, OECD, 2014, p. 21).

As a matter of fact, the current Report builds on the previous Discussion Paper. The document is quite similar to the Discussion Draft released in March 2014, except for two new chapters. The first (number 2) explains the fundamental principles of taxation and its origins. It is quite comprehensive but CFE believes it could have been included in the Discussion Draft and some of it even as a preamble to the whole BEPS exercise.

The second addition, which comes after Chapter 8, contains the Conclusions.

However, when it comes to solutions or recommendations to tackle the tax problems exacerbated by the digital economy, the Report limits itself to identifying the next steps. It is clear that the digital economy is affected by issues deeply interconnected with other actions and that, for this reason, OECD is to wait until future Actions are delivered before finalising a final, Supplementary, Report on Action 1.

The Foreword to the Report says that the 2014 deliverables “*do reflect consensus, as of July 2014, on a number of solutions to put an end to BEPS*”. Certainly the Report shows consensus on the list of possible solutions but one would have expected something more concrete in the direct field.

¹ <http://www.oecd.org/tax/addressing-the-tax-challenges-of-the-digital-economy-9789264218789-en.htm>

² <http://www.oecd.org/ctp/tax-challenges-digital-economy-discussion-draft-march-2014.pdf>

³ <http://www.cfe-eutax.org/node/3671>

We would recommend that the Supplementary (December 2015) Report should also address concerns about the practical problems in collecting VAT, both in the case of imports of low valued goods (physical goods ordered electronically) and in the case of digitised goods in B2C transactions, which have been mentioned only briefly in the Report of 16 September 2014.

Any CFE comments on interactions between Action 1 and other BEPS Actions will be provided in due course within the context on these Actions.

Finally, the CFE welcomes the decision of the OECD to include the comments made by the CFE in its Opinion Statement FC 7/2014.