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European Union

Brussels, 28 September 2020
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FISC 369

DECLASSIFICATION

of document:	15913/17 RESTREINT UE/EU RESTRICTED
dated:	19 December 2017
new status:	Public
Subject:	Note to the Code of Conduct Group (Business Taxation)

Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.



Council of the
European Union

Brussels, 19 December 2017
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15913/17

RESTREINT UE/EU RESTRICTED

FISC 369

NOTE

From:	Chair of the Code of Conduct Group
To:	Delegations / Code of Conduct Group
Subject:	Note to the Code of Conduct Group (Business Taxation)

As a follow-up to the ECOFIN on 5 December 2017, delegations will find attached the draft letters to the 17 jurisdictions included in Annex 1 of the Council conclusions (doc. 15429/17).

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AMERICAN SAMOA and GUAM

[Addressee and contact details]

Brussels, [date]

Subject: Letter for the attention of the authorities of United States of America
- The EU list of non-cooperative jurisdictions for tax purposes

Dear Madam, dear Sir,

By a letter dated 30 October 2017 from the Chair of the Code of Conduct Group (Business Taxation) the United States of America were informed that some deficiencies were identified as regards the screening criteria used by the EU, as set out in the Annex to that letter, in relation to its territories of American Samoa and Guam and were invited to provide a commitment at a high political level to address the deficiencies.

Unfortunately we have not received any letter from the United States of America, concerning American Samoa and Guam, as a reaction to this request. The Council of the EU (ECOFIN) therefore decided on 5 December 2017 to include American Samoa and Guam in the EU list of non-cooperative jurisdictions for tax purposes.

More details on the reasons underpinning this decision can be found in Annex 1 to this letter.

As you know, the EU has long been committed to pursuing the global implementation of tax good governance standards. It is in this context that the recent exercise of engagement with jurisdictions around the world was conducted.

We would like to emphasise the aim to continue a constructive dialogue with the jurisdictions concerned, so that the identified issues can be addressed in an effective and mutually satisfactory manner. Therefore the EU list of non-cooperative jurisdictions for tax purposes will be regularly updated by the Council of the EU.

The Code of Conduct Group will continue the dialogue and monitor the actual implementation of the commitments made by the jurisdictions. Based on any new commitment taken and on the implementation of these commitments, the Code of Conduct Group can recommend to the Council of the EU to update the list of non-cooperative jurisdictions for tax purposes.

To this end, our experts stand ready to continue the discussions with the jurisdictions concerned, to assist them, as necessary, in meeting the tax good governance criteria of the EU.

We remain at your disposal, and look forward to hearing from you on this matter, through our usual contact point.

Sincerely,

[COCG chair signature]

c.c. General Secretariat of the Council

Unit DG G 2B – Tax Policy, Export Credits and Regional Policy

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In the letter of 30 October 2017, the United States of America was informed that deficiencies were identified for American Samoa and Guam as regards the following screening criteria.

Criterion 1.1

American Samoa and Guam do not apply any automatic exchange of financial information.

Criterion 1.3

American Samoa and Guam have not signed and ratified, including through the jurisdiction they are dependent on, the OECD Multilateral Convention on Mutual Administrative Assistance in tax matters as amended.

Criterion 3

American Samoa and Guam do not apply the BEPS minimum standards.

The Code of Conduct Group will be in a position to consider at any time to recommend to the Council of the EU to update the list of non-cooperative jurisdictions on the basis of any new commitment taken to address the deficiencies identified and on the implementation of these commitments by American Samoa and Guam, including through the jurisdiction they are dependent on. The Code of Conduct Group will be informed of any commitment or action taken to address the deficiencies identified.

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BAHREIN

[Addressee and contact details]

Brussels, [date]

Subject: Letter for the attention of the authorities of the Kingdom of Bahrain

- The EU list of non-cooperative jurisdictions for tax purposes

Dear Madam, dear Sir,

By a letter dated 6 November 2017 from the Chair of the Code of Conduct Group (Business Taxation) Bahrain was informed that some deficiencies were identified as regards the screening criteria used by the EU, as set out in the Annex to that letter, and was invited to provide a commitment at a high political level to address the deficiencies.

Unfortunately we have not received any letter from Bahrain as a reaction to this request. The Council of the EU (ECOFIN) therefore decided on 5 December 2017 to include Bahrain in the EU list of non-cooperative jurisdictions for tax purposes.

More details on the reasons underpinning this decision can be found in Annex 1 to this letter.

As you know, the EU has long been committed to pursuing the global implementation of tax good governance standards. It is in this context that the recent exercise of engagement with jurisdictions around the world was conducted.

We would like to emphasise the aim to continue a constructive dialogue with the jurisdictions concerned, so that the identified issues can be addressed in an effective and mutually satisfactory manner. Therefore the EU list of non-cooperative jurisdictions for tax purposes will be regularly updated by the Council of the EU.

The Code of Conduct Group will continue the dialogue and monitor the actual implementation of the commitments made by the jurisdictions. Based on any new commitment taken and on the implementation of these commitments, the Code of Conduct Group can recommend to the Council of the EU to update the list of non-cooperative jurisdictions for tax purposes.

To this end, our experts stand ready to continue the discussions with the jurisdictions concerned, to assist them, as necessary, in meeting the tax good governance criteria of the EU.

We remain at your disposal, and look forward to hearing from you on this matter, through our usual contact point.

Sincerely,

[COCG chair signature]

c.c. General Secretariat of the Council

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In the letter of 6 November 2017, Bahrain was informed that deficiencies were identified as regards the following screening criteria.

Criterion 1.1

Bahrain does not cover all EU Member States for the purpose of automatic exchange of information. Third country jurisdictions are invited to include all EU Member States in their notification to the OECD Coordinating body, irrespectively of the steps taken by the EU Member States.

Criterion 1.3

Bahrain has not signed and ratified the OECD Multilateral Convention on Mutual Administrative Assistance in tax matters as amended. You have provided indication that the process has been initiated but there was no clear timetable to guarantee that the signature and the ratification would be completed by the end of 2018.

Criterion 2.2

Bahrain facilitates offshore structures and arrangements aimed at attracting profits without real economic substance. We have not received any information from your side as regards your willingness to address this concern.

Criterion 3

Bahrain does not apply the BEPS minimum standards and you indicated that Bahrain has no specific timetable for joining the BEPS inclusive framework.

The Code of Conduct Group will be in a position to consider at any time to recommend to the Council of the EU to update the list of non-cooperative jurisdictions on the basis of any new commitment taken to address the deficiencies identified and on the implementation of these commitments by your jurisdiction. The Code of Conduct Group will be informed of any commitment or action taken to address the deficiencies identified.

BARBADOS

[Addressee and contact details]

Brussels, [date]

Subject: Letter for the attention of the authorities of Barbados

- The EU list of non-cooperative jurisdictions for tax purposes

Dear Madam, dear Sir,

By a letter dated 23 October 2017 from the Chair of the Code of Conduct Group (Business Taxation) Barbados was informed that some deficiencies were identified as regards the screening criteria used by the EU, as set out in the Annex to that letter, and was invited to provide a commitment at a high political level to address the deficiencies.

Your response (letters of 9 November 2017, 27 November 2017, 28 November 2017 and 1 December 2017) was assessed by the Code of Conduct Group, in order to ascertain whether the relevant commitment was made at the appropriate political level, sufficiently clearly addressing all the issues and whether a clear timeline was provided for relevant actions.

All jurisdictions concerned were invited to reply by 17 November 2017. Nevertheless, the Council of the EU took into account all letters that arrived in time for the Ministers to take an informed decision at their meeting on 5 December 2017.

On the basis of this analysis, the Council of the EU deemed the commitment set out in the abovementioned correspondence not sufficient, and, consequently, decided, by consensus, on 5 December 2017, to include Barbados in the EU list of non-cooperative jurisdictions for tax purposes¹.

More details on the reasons underpinning this decision can be found in Annex 1 to this letter.

As you know, the EU has long been committed to pursuing the global implementation of tax good governance standards. It is in this context that the recent exercise of engagement with jurisdictions around the world was conducted.

We would like to emphasise the aim to continue a constructive dialogue with the jurisdictions concerned, so that the identified issues can be addressed in an effective and mutually satisfactory manner. Therefore the EU list of non-cooperative jurisdictions for tax purposes will be regularly updated by the Council of the EU.

The Code of Conduct Group will continue the dialogue and monitor the actual implementation of the commitments made by the jurisdictions. Based on any new commitment taken and on the implementation of these commitments, the Code of Conduct Group can recommend to the Council of the EU to update the list of non-cooperative jurisdictions for tax purposes.

¹ <http://www.consilium.europa.eu/media/31945/st15429en17.pdf>

To this end, our experts stand ready to continue the discussions with the jurisdictions concerned, to assist them, as necessary, in meeting the tax good governance criteria of the EU.

We remain at your disposal, and look forward to hearing from you on this matter, through our usual contact point.

Sincerely,

[COCG chair signature]

c.c. General Secretariat of the Council

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In the letter of 23 October 2017, Barbados was informed that deficiencies were identified as regards the following screening criterion.

Criterion 2.1

Barbados has several harmful preferential tax regimes. We took into due consideration your commitment to amend the following regimes by 31 December 2018 with the aim of removing harmful features:

- International Business Companies
- Exempt Insurance Companies
- Qualifying Insurance Companies
- International Societies with Restricted Liability
- International Trusts
- International Financial Services
- Foreign Credit for Qualifying Overseas Projects/Services

On the Fiscal Incentive Act the commitment was not sufficient to guarantee that Barbados will abolish or amend the regime in line with the request by the end of 2018. In particular, in your letters there was no indication of possible grandfathering mechanisms that cannot extend beyond the end of 2021.

Barbados' commitment to amend or abolish the other seven harmful tax regimes in line with criterion 2.1 will be monitored.

The Code of Conduct Group will be in a position to consider at any time to recommend to the Council of the EU to update the list of non-cooperative jurisdictions on the basis of any new commitment taken to address the deficiencies identified and on the implementation of these commitments by your jurisdiction. The Code of Conduct Group will be informed of any commitment or action taken to address the deficiencies identified.

GRENADA

[Addressee and contact details]

Brussels, [date]

Subject: Letter for the attention of the authorities of Grenada

- The EU list of non-cooperative jurisdictions for tax purposes

Dear Madam, dear Sir,

By a letter dated 23 October from the Chair of the Code of Conduct Group (Business Taxation) Grenada was informed that some deficiencies were identified as regards the screening criteria used by the EU, as set out in the Annex to that letter, and was invited to provide a commitment at a high political level to address the deficiencies.

Your response (letters of 17 November 2017 and 28 November 2017) was assessed by the Code of Conduct Group, in order to ascertain whether the relevant commitment was made at the appropriate political level, sufficiently clearly addressing all the issues and whether a clear timeline was provided for relevant actions.

All jurisdictions concerned were invited to reply by 17 November 2017. Nevertheless, the Council of the EU took into account all letters that arrived in time for the Ministers to take an informed decision at their meeting on 5 December 2017.

On the basis of this analysis, the Council of the EU deemed the commitment set out in the abovementioned correspondence not sufficient, and, consequently, decided, by consensus, on 5 December 2017, to include Grenada in the EU list of non-cooperative jurisdictions for tax purposes².

More details on the reasons underpinning this decision can be found in Annex 1 to this letter.

Please be informed that the letter sent on 5 December 2017 could not be taken into account by the Council of the EU during its meeting on 5 December 2017 due to the very short delay.

As you know, the EU has long been committed to pursuing the global implementation of tax good governance standards. It is in this context that the recent exercise of engagement with jurisdictions around the world was conducted.

We would like to emphasise the aim to continue a constructive dialogue with the jurisdictions concerned, so that the identified issues can be addressed in an effective and mutually satisfactory manner. Therefore the EU list of non-cooperative jurisdictions for tax purposes will be regularly updated by the Council of the EU.

² <http://www.consilium.europa.eu/media/31945/st15429en17.pdf>

The Code of Conduct Group will continue the dialogue and monitor the actual implementation of the commitments made by the jurisdictions. Based on any new commitment taken and on the implementation of these commitments, the Code of Conduct Group can recommend to the Council of the EU to update the list of non-cooperative jurisdictions for tax purposes.

To this end, our experts stand ready to continue the discussions with the jurisdictions concerned, to assist them, as necessary, in meeting the tax good governance criteria of the EU.

We remain at your disposal, and look forward to hearing from you on this matter, through our usual contact point.

Sincerely,

[COCG chair signature]

c.c. General Secretariat of the Council

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In the letter of 23 October 2017, Grenada was informed that deficiencies were identified as regards four screening criteria. For one of them the commitment was not assessed as being sufficient.

Criterion 1.3

Grenada has not signed and ratified the OECD Multilateral Convention on Mutual Administrative Assistance in tax matters as amended and did not clearly commit to addressing these issues by 31 December 2018. In particular, there was no clear indication of the timeline for the actual implementation of this requirement.

The letter sent on 5 December 2017, signed by Prime Minister Keith C. Mitchel, could not be taken into account by the Council of the EU during its meeting on 5 December 2017 due to the very short delay. This letter has in the meantime been sent to the Code of Conduct Group for its assessment.

The Code of Conduct Group will be in a position to consider at any time to recommend to the Council of the EU to update the list of non-cooperative jurisdictions on the basis of any new commitment taken to address the deficiencies identified and on the implementation of these commitments by your jurisdiction. The Code of Conduct Group will be informed of any commitment or action taken to address the deficiencies identified.

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KOREA

[Addressee and contact details]

Brussels, [date]

Subject: Letter for the attention of the authorities of Republic of Korea

- The EU list of non-cooperative jurisdictions for tax purposes

Dear Madam, dear Sir,

By a letter dated 23 October from the Chair of the Code of Conduct Group (Business Taxation) Korea was informed that some deficiencies were identified as regards the screening criteria used by the EU, as set out in the Annex to that letter, and was invited to provide a commitment at a high political level to address the deficiencies.

Your response (letters of 1 December 2017 and 3 December 2017) was assessed by the Code of Conduct Group, in order to ascertain whether the relevant commitment was made at the appropriate political level, sufficiently clearly addressing all the issues and whether a clear timeline was provided for relevant actions.

All jurisdictions concerned were invited to reply by 17 November 2017. Nevertheless, the Council of the EU took into account all letters that arrived in time for the Ministers to take an informed decision at their meeting on 5 December 2017.

On the basis of this analysis, the Council of the EU deemed the commitment set out in the abovementioned correspondence not sufficient, and, consequently, decided, by consensus, on 5 December 2017, to include Korea in the EU list of non-cooperative jurisdictions for tax purposes³.

More details on the reasons underpinning this decision can be found in Annex 1 to this letter.

Please be informed that the letter sent on 5 December 2017 could not be taken into account by the Council of the EU during its meeting on 5 December 2017 due to the very short delay.

As you know, the EU has long been committed to pursuing the global implementation of tax good governance standards. It is in this context that the recent exercise of engagement with jurisdictions around the world was conducted.

We would like to emphasise the aim to continue a constructive dialogue with the jurisdictions concerned, so that the identified issues can be addressed in an effective and mutually satisfactory manner. Therefore the EU list of non-cooperative jurisdictions for tax purposes will be regularly updated by the Council of the EU.

The Code of Conduct Group will continue the dialogue and monitor the actual implementation of the commitments made by the jurisdictions. Based on any new commitment taken and on the implementation of these commitments, the Code of Conduct Group can recommend to the Council of the EU to update the list of non-cooperative jurisdictions for tax purposes.

³ <http://www.consilium.europa.eu/media/31945/st15429en17.pdf>

RESTREINT UE/EU RESTRICTED

To this end, our experts stand ready to continue the discussions with the jurisdictions concerned, to assist them, as necessary, in meeting the tax good governance criteria of the EU.

We remain at your disposal, and look forward to hearing from you on this matter, through our usual contact point.

Sincerely,

[COCG chair signature]

c.c. General Secretariat of the Council

Unit DG G 2B – Tax Policy, Export Credits and Regional Policy

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In the letter of 23 October 2017, the Republic of Korea was informed that deficiencies were identified as regards the following screening criterion.

Criterion 2.1

Korea has harmful preferential tax regimes and did not commit to amending or abolishing them by 31 December 2018. After further information provided by your authorities, some elements have been clarified but the overall assessment remains that the two preferential regimes have harmful elements, in particular when it comes to the ring-fencing aspects of the two regimes (Foreign Investment Zone and Free Trade/Economic Zone).

The letters sent by Korea did not contain a clear commitment to amend or abolish the above mentioned regimes.

The letter sent on 5 December 2017 could not be taken into account by the Council of the EU during its meeting on 5 December 2017 due to the very short delay. This letter has in the meantime been sent to the Code of Conduct Group for its assessment. Any additional letter from your side aimed at addressing the deficiencies identified will also be sent to the Code of Conduct Group for its assessment.

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MACAO SAR

[Addressee and contact details]

Brussels, [date]

Subject: Letter for the attention of the authorities of Macao SAR

- The EU list of non-cooperative jurisdictions for tax purposes

Dear Madam, dear Sir,

By a letter dated 23 October 2017 from the Chair of the Code of Conduct Group (Business Taxation) Macao SAR was informed that some deficiencies were identified as regards the screening criteria used by the EU, as set out in the Annex to that letter, and was invited to provide a commitment at a high political level to address the deficiencies.

Your response, that is the letter of 30 November 2017, was assessed by the Code of Conduct Group, in order to ascertain whether the relevant commitment was made at the appropriate political level, sufficiently clearly addressing all the issues and whether a clear timeline was provided for relevant actions.

All jurisdictions concerned were invited to reply by 17 November 2017. Nevertheless, the Council of the EU took into account all letters that arrived in time for the Ministers to take an informed decision at their meeting on 5 December 2017.

On the basis of this analysis, the Council of the EU deemed the commitment set out in the abovementioned correspondence not sufficient, and, consequently, decided, by consensus, on 5 December 2017, to include Macao SAR in the EU list of non-cooperative jurisdictions for tax purposes⁴.

More details on the reasons underpinning this decision can be found in Annex 1 to this letter.

Please be aware that letter sent on 18 December 2017 has been transmitted to the Code of Conduct Group for its assessment and will be taken into account in our future dialogue.

As you know, the EU has long been committed to pursuing the global implementation of tax good governance standards. It is in this context that the recent exercise of engagement with jurisdictions around the world was conducted.

We would like to emphasise the aim to continue a constructive dialogue with the jurisdictions concerned, so that the identified issues can be addressed in an effective and mutually satisfactory manner. Therefore the EU list of non-cooperative jurisdictions for tax purposes will be regularly updated by the Council of the EU.

⁴ <http://www.consilium.europa.eu/media/31945/st15429en17.pdf>

The Code of Conduct Group will continue the dialogue and monitor the actual implementation of the commitments made by the jurisdictions. Based on any new commitment taken and on the implementation of these commitments, the Code of Conduct Group can recommend to the Council of the EU to update the list of non-cooperative jurisdictions for tax purposes.

To this end, our experts stand ready to continue the discussions with the jurisdictions concerned, to assist them, as necessary, in meeting the tax good governance criteria of the EU.

We remain at your disposal, and look forward to hearing from you on this matter, through our usual contact point.

Sincerely,

[COCG chair signature]

c.c. General Secretariat of the Council

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In the letter of 23 October 2017 Macao SAR was informed that deficiencies were identified as regards three screening criteria. For one of them the commitment was not assessed as being sufficient.

Criterion 1.3

Macao SAR has not signed and ratified, including through the jurisdiction you are dependent on, the OECD Multilateral Convention on Mutual Administrative Assistance in tax matters (the MAC) as amended. The commitment was not sufficient to guarantee that Macao SAR will be participating in the MAC as amended by 31 December 2018. In particular Macao did not provide any timeline nor implementation plan to guarantee that this standard would be met.

The letter sent on 18 December 2017 signed by the Secretary for Economy and Finance Leong Vai Tac has been sent to the Code of Conduct Group for its assessment.

The Code of Conduct Group will be in a position to consider at any time to recommend to the Council of the EU to update the list of non-cooperative jurisdictions on the basis of any new commitment taken to address the deficiencies identified and on the implementation of these commitments by your jurisdiction. The Code of Conduct Group will be informed of any commitment or action taken to address the deficiencies identified.

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MARSHALL ISLANDS

[Addressee and contact details]

Brussels, [date]

Subject: Letter for the attention of the authorities of the Republic of the Marshall Islands

- The EU list of non-cooperative jurisdictions for tax purposes

Dear Madam, dear Sir,

By a letter dated 6 November 2017 from the Chair of the Code of Conduct Group (Business Taxation) the Marshall Islands was informed that some deficiencies were identified as regards the screening criteria used by the EU, as set out in the Annex to that letter, and was invited to provide a commitment at a high political level to address the deficiencies.

Your response (letters of 17 November 2017 and 30 November 2017) was assessed by the Code of Conduct Group, in order to ascertain whether the relevant commitment was made at the appropriate political level, sufficiently clearly addressing all the issues and whether a clear timeline was provided for relevant actions.

All jurisdictions concerned were invited to reply by 17 November 2017. Nevertheless, the Council of the EU took into account all letters that arrived in time for the Ministers to take an informed decision at their meeting on 5 December 2017.

On the basis of this analysis, the Council of the EU deemed the commitment set out in the abovementioned correspondence not sufficient, and, consequently, decided, by consensus, on 5 December 2017, to include the Marshall Islands in the EU list of non-cooperative jurisdictions for tax purposes⁵.

More details on the reasons underpinning this decision can be found in Annex 1 to this letter.

Please be informed that the letter sent on 5 December 2017 could not be taken into account by the Council of the EU during its meeting on 5 December due to the very short delay.

As you know, the EU has long been committed to pursuing the global implementation of tax good governance standards. It is in this context that the recent exercise of engagement with jurisdictions around the world was conducted.

We would like to emphasise the aim to continue a constructive dialogue with the jurisdictions concerned, so that the identified issues can be addressed in an effective and mutually satisfactory manner. Therefore the EU list of non-cooperative jurisdictions for tax purposes will be regularly updated by the Council of the EU.

⁵ <http://www.consilium.europa.eu/media/31945/st15429en17.pdf>

The Code of Conduct Group will continue the dialogue and monitor the actual implementation of the commitments made by the jurisdictions. Based on any new commitment taken and on the implementation of these commitments, the Code of Conduct Group can recommend to the Council of the EU to update the list of non-cooperative jurisdictions for tax purposes.

To this end, our experts stand ready to continue the discussions with the jurisdictions concerned, to assist them, as necessary, in meeting the tax good governance criteria of the EU.

We remain at your disposal, and look forward to hearing from you on this matter, through our usual contact point.

Sincerely,

[COCG chair signature]

c.c. General Secretariat of the Council

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In the letter of 6 November 2017, the Marshall Islands was informed that deficiencies were identified as regards three screening criteria. For two of them the commitment was not assessed as being sufficient.

Criterion 2.2

Marshall Islands facilitates offshore structures and arrangements aimed at attracting profits without real economic substance. The commitment was not sufficient to guarantee that the Marshall Islands will implement the substance requirements requested by the end of 2018 in line with the Terms of Reference attached to the above mentioned letter.

Criterion 3

Marshall Islands does not apply the BEPS minimum standards. Since Marshall Islands only committed to undertake an analysis of those standards to assess their relevance, the commitment was not sufficient to guarantee that Marshall Islands will implement the four BEPS minimum standards by the end of 2018.

The letter sent on 5 December 2017, signed by the Minister of Foreign Affairs and Trade John M. Silk, could not be taken into account by the Council of the EU during its meeting on 5 December 2017 due to the very short delay. This letter has in the meantime been sent to the Code of Conduct Group for its assessment.

The Code of Conduct Group will be in a position to consider at any time to recommend to the Council of the EU to update the list of non-cooperative jurisdictions on the basis of any new commitment taken to address the deficiencies identified and on the implementation of these commitments by your jurisdiction. The Code of Conduct Group will be informed of any commitment or action taken to address the deficiencies identified.

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MONGOLIA

[Addressee and contact details]

Brussels, [date]

Subject: Letter for the attention of the authorities of Mongolia

- The EU list of non-cooperative jurisdictions for tax purposes

Dear Madam, dear Sir,

By a letter dated 23 October 2017 from the Chair of the Code of Conduct Group (Business Taxation) Mongolia was informed that some deficiencies were identified as regards the screening criteria used by the EU, as set out in the Annex to that letter, and was invited to provide a commitment at a high political level to address the deficiencies.

Your response, that is the letter of 29 November 2017, was assessed by the Code of Conduct Group, in order to ascertain whether the relevant commitment was made at the appropriate political level, sufficiently clearly addressing all the issues and whether a clear timeline was provided for relevant actions.

All jurisdictions concerned were invited to reply by 17 November 2017. Nevertheless, the Council of the EU took into account all letters that arrived in time for the Ministers to take an informed decision at their meeting on 5 December 2017.

On the basis of this analysis, the Council of the EU deemed the commitment set out in the abovementioned correspondence not sufficient, and, consequently, decided, by consensus, on 5 December 2017, to include Mongolia in the EU list of non-cooperative jurisdictions for tax purposes⁶.

More details on the reasons underpinning this decision can be found in Annex 1 to this letter.

As you know, the EU has long been committed to pursuing the global implementation of tax good governance standards. It is in this context that the recent exercise of engagement with jurisdictions around the world was conducted.

We would like to emphasise the aim to continue a constructive dialogue with the jurisdictions concerned, so that the identified issues can be addressed in an effective and mutually satisfactory manner. Therefore the EU list of non-cooperative jurisdictions for tax purposes will be regularly updated by the Council of the EU.

The Code of Conduct Group will continue the dialogue and monitor the actual implementation of the commitments made by the jurisdictions. Based on any new commitment taken and on the implementation of these commitments, the Code of Conduct Group can recommend to the Council of the EU to update the list of non-cooperative jurisdictions for tax purposes.

⁶ <http://www.consilium.europa.eu/media/31945/st15429en17.pdf>

RESTREINT UE/EU RESTRICTED

To this end, our experts stand ready to continue the discussions with the jurisdictions concerned, to assist them, as necessary, in meeting the tax good governance criteria of the EU.

We remain at your disposal, and look forward to hearing from you on this matter, through our usual contact point.

Sincerely,

[COCG chair signature]

c.c. General Secretariat of the Council

Unit DG G 2B – Tax Policy, Export Credits and Regional Policy

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In the letter of 23 October 2017, Mongolia was informed that deficiencies were identified as regards three screening criteria.

Criterion 1.2

Mongolia is not a member of the Global Forum on Transparency and Exchange of Information for Tax Purposes.

Criterion 1.3

Mongolia has not signed and ratified the OECD Multilateral Convention on Mutual Administrative Assistance in tax matters as amended.

Criterion 3

Mongolia does not apply the BEPS minimum standards.

In the letter of 29 November 2017 you provide useful information on the state of play of Mongolia as regards the international tax standards but the letter did not contain any indication that would guarantee that the deficiencies would be addressed by the end of 2019.

The Code of Conduct Group will be in a position to consider at any time to recommend to the Council of the EU to update the list of non-cooperative jurisdictions on the basis of any new commitment taken to address the deficiencies identified and on the implementation of these commitments by your jurisdiction. The Code of Conduct Group will be informed of any commitment or action taken to address the deficiencies identified.

DECLASSIFIED

NAMIBIA

[Addressee and contact details]

Brussels, [date]

Subject: Letter for the attention of the authorities of Republic of Namibia

- The EU list of non-cooperative jurisdictions for tax purposes

Dear Madam, dear Sir,

By a letter dated 23 October 2017 from the Chair of the Code of Conduct Group (Business Taxation) Namibia was informed that some deficiencies were identified as regards the screening criteria used by the EU, as set out in the Annex to that letter, and was invited to provide a commitment at a high political level to address the deficiencies.

Unfortunately we have not received any official letter from your jurisdiction as a reaction to this request in time for consideration by the Council of the EU (ECOFIN) at its meeting of 5 December 2017. The Council of the EU (ECOFIN) therefore decided at its meeting of 5 December 2017 to include Namibia in the EU list of non-cooperative jurisdictions for tax purposes. More details on the reasons underpinning this decision can be found in Annex 1 to this letter. Please be aware that letter sent on 8 December 2017 has been transmitted to the Code of Conduct Group for its assessment and will be taken into account in the future dialogue that we are looking to establish.

As you know, the EU has long been committed to pursuing the global implementation of tax good governance standards. It is in this context that the recent exercise of engagement with jurisdictions around the world was conducted.

We would like to emphasise the aim to continue a constructive dialogue with the jurisdictions concerned, so that the identified issues can be addressed in an effective and mutually satisfactory manner. Therefore the EU list of non-cooperative jurisdictions for tax purposes will be regularly updated by the Council of the EU.

The Code of Conduct Group will continue the dialogue and monitor the actual implementation of the commitments made by the jurisdictions. Based on any new commitment taken and on the implementation of these commitments, the Code of Conduct Group can recommend to the Council of the EU to update the list of non-cooperative jurisdictions for tax purposes.

To this end, our experts stand ready to continue the discussions with the jurisdictions concerned, to assist them, as necessary, in meeting the tax good governance criteria of the EU.

We remain at your disposal, and look forward to hearing from you on this matter, through our usual contact point.

Sincerely,

[COCG chair signature]

c.c. General Secretariat of the Council

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In the letter of 23 October 2017, Namibia was informed that deficiencies were identified as regards four screening criteria.

Criterion 1.2

Namibia is not a Member of the Global Forum on Transparency and Exchange of Information for Tax Purposes.

Criterion 1.3

Namibia has not signed and ratified the OECD Multilateral Convention on Mutual Administrative Assistance in tax matters as amended.

Criterion 2.1

Namibia has harmful preferential tax regimes and did not commit to amending or abolishing them by 31 December 2018.

Criterion 3

Namibia does not apply the BEPS minimum standards.

The new information included in the letter of 8 December 2017 signed by the Minister of Finance Calle Schlettwein has been transmitted to the Code of Conduct Group for assessment and will be taken into account in the future dialogue that we are looking to establish.

The Code of Conduct Group will be in a position to recommend to the Council of the EU to update the list of non-cooperative jurisdictions on the basis of ant new commitment taken to address the deficiencies identified and on the implementation of these commitments by your jurisdiction. The Code of Conduct Group will be informed of any commitment or action taken to address the deficiencies identified.

PALAU

[Addressee and contact details]

Brussels, [date]

Subject: Letter for the attention of the authorities of Republic of Palau

- The EU list of non-cooperative jurisdictions for tax purposes

Dear Madam, dear Sir,

By a letter dated 6 November 2017 from the Chair of the Code of Conduct Group (Business Taxation) Palau was informed that some deficiencies were identified as regards the screening criteria used by the EU, as set out in the Annex to that letter, and was invited to provide a commitment at a high political level to address the deficiencies.

Your response (letters of 16 November 2017 and 1 December 2017) was assessed by the Code of Conduct Group, in order to ascertain whether the relevant commitment was made at the appropriate political level, sufficiently clearly addressing all the issues and whether a clear timeline was provided for relevant actions.

All jurisdictions concerned were invited to reply by 17 November 2017. Nevertheless, the Council of the EU took into account all letters that arrived in time for the Ministers to take an informed decision at their meeting on 5 December 2017.

On the basis of this analysis, the Council of the EU deemed the commitment set out in the abovementioned correspondence not sufficient, and, consequently, decided, by consensus, on 5 December 2017, to include Palau in the EU list of non-cooperative jurisdictions for tax purposes⁷.

More details on the reasons underpinning this decision can be found in Annex 1 to this letter.

As you know, the EU has long been committed to pursuing the global implementation of tax good governance standards. It is in this context that the recent exercise of engagement with jurisdictions around the world was conducted.

We would like to emphasise the aim to continue a constructive dialogue with the jurisdictions concerned, so that the identified issues can be addressed in an effective and mutually satisfactory manner. Therefore the EU list of non-cooperative jurisdictions for tax purposes will be regularly updated by the Council of the EU.

The Code of Conduct Group will continue the dialogue and monitor the actual implementation of the commitments made by the jurisdictions. Based on any new commitment taken and on the implementation of these commitments, the Code of Conduct Group can recommend to the Council of the EU to update the list of non-cooperative jurisdictions for tax purposes.

⁷ <http://www.consilium.europa.eu/media/31945/st15429en17.pdf>

To this end, our experts stand ready to continue the discussions with the jurisdictions concerned, to assist them, as necessary, in meeting the tax good governance criteria of the EU.

We remain at your disposal, and look forward to hearing from you on this matter, through our usual contact point.

Sincerely,

[COCG chair signature]

c.c. General Secretariat of the Council

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In the letter of 9 June 2017 Palau was requested to answer a questionnaire sent by the experts of the EU Member States asking for information on the legislative framework and practices in your jurisdiction. Unfortunately we did not receive any answer to this questionnaire. Since this questionnaire included information needed for assessing your jurisdiction under criterion 2.2. ("offshore structures and arrangements"), as specified in Appendix II of the Annex II to that letter, Palau has been considered as non-compliant with this criterion due to the absence of reply from your side.

You are invited to respond to the questionnaire related to criterion 2.2 by the end of January 2018, at the latest.

With the letter dated 6 November 2017, Palau was informed of the other deficiencies identified as regards the following screening criteria: 1.1, 1.2, 1.3 and 3. Palau's commitment to comply with these criteria will be monitored.

The Code of Conduct Group will be in a position to consider at any time to recommend to the Council of the EU to update the list of non-cooperative jurisdictions on the basis of any new commitment taken to address the deficiencies identified and on the implementation of these commitments by your jurisdiction. The Code of Conduct Group will be informed of any commitment or action taken to address the deficiencies identified.

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PANAMA

[Addressee and contact details]

Brussels, [date]

Subject: Letter for the attention of the authorities of Republic of Panama

- The EU list of non-cooperative jurisdictions for tax purposes

Dear Madam, dear Sir,

By a letter dated 23 October 2017 from the Chair of the Code of Conduct Group (Business Taxation) Panama was informed that some deficiencies were identified as regards the screening criteria used by the EU, as set out in the Annex to that letter, and was invited to provide a commitment at a high political level to address the deficiencies.

Your response (letters of 16 November 2017 and 1 December 2017) was assessed by the Code of Conduct Group, in order to ascertain whether the relevant commitment was made at the appropriate political level, sufficiently clearly addressing all the issues and whether a clear timeline was provided for relevant actions.

All jurisdictions concerned were invited to reply by 17 November 2017. Nevertheless, the Council of the EU took into account all letters that arrived in time for the Ministers to take an informed decision at their meeting on 5 December 2017.

On the basis of this analysis, the Council of the EU deemed the commitment set out in the abovementioned correspondence not sufficient, and, consequently, decided, by consensus, on 5 December 2017, to include Panama in the EU list of non-cooperative jurisdictions for tax purposes⁸.

More details on the reasons underpinning this decision can be found in Annex 1 to this letter.

As you know, the EU has long been committed to pursuing the global implementation of tax good governance standards. It is in this context that the recent exercise of engagement with jurisdictions around the world was conducted.

We would like to emphasise the aim to continue a constructive dialogue with the jurisdictions concerned, so that the identified issues can be addressed in an effective and mutually satisfactory manner. Therefore the EU list of non-cooperative jurisdictions for tax purposes will be regularly updated by the Council of the EU.

The Code of Conduct Group will continue the dialogue and monitor the actual implementation of the commitments made by the jurisdictions. Based on any new commitment taken and on the implementation of these commitments, the Code of Conduct Group can recommend to the Council of the EU to update the list of non-cooperative jurisdictions for tax purposes.

⁸ <http://www.consilium.europa.eu/media/31945/st15429en17.pdf>

To this end, our experts stand ready to continue the discussions with the jurisdictions concerned, to assist them, as necessary, in meeting the tax good governance criteria of the EU.

We remain at your disposal, and look forward to hearing from you on this matter, through our usual contact point.

Sincerely,

[COCG chair signature]

c.c. General Secretariat of the Council

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In the letter of 23 October 2017, Panama was informed that deficiencies were identified as regards the following screening criterion.

Criterion 2.1

Panama has several harmful preferential tax regimes. We took into due consideration your commitment to amend the following regimes by 31 December 2018 with the aim of removing harmful features:

- Regional Headquarters Regime
- Panama Pacific Special Regime
- City of Knowledge-IP Regime

On the Call Centers Regime the commitment was not sufficient to guarantee that Panama will abolish or amend the regime in line with the request by the end of 2018. In particular, in your letters there was no clear indication of possible grandfathering mechanisms that cannot extend beyond the end of 2021.

The Code of Conduct Group will be in a position to consider at any time to recommend to the Council of the EU to update the list of non-cooperative jurisdictions on the basis of any new commitment taken and on the implementation of these commitments by your jurisdiction. The Code of Conduct Group will be informed of any commitment or action taken to address the deficiencies identified.

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SAINT LUCIA

[Addressee and contact details]

Brussels, [date]

Subject: Letter for the attention of the authorities of Saint Lucia

- The EU list of non-cooperative jurisdictions for tax purposes

Dear Madam, dear Sir,

by a letter dated 30 October 2017 from the Chair of the Code of Conduct Group (Business Taxation) Saint Lucia was informed that some deficiencies were identified as regards the screening criteria used by the EU, as set out in the Annex to that letter, and was invited to provide a commitment at a high political level to address the deficiencies.

Your response, that is the letter of 1 December 2017, was assessed by the Code of Conduct Group, in order to ascertain whether the relevant commitment was made at the appropriate political level, sufficiently clearly addressing all the issues and whether a clear timeline was provided for relevant actions.

All jurisdictions concerned were invited to reply by 17 November 2017. Nevertheless, the Council of the EU took into account all letters that arrived in time for the Ministers to take an informed decision at their meeting on 5 December 2017.

On the basis of this analysis, the Council of the EU deemed the commitment set out in the abovementioned correspondence not sufficient, and, consequently, decided, by consensus, on 5 December 2017, to include Saint Lucia in the EU list of non-cooperative jurisdictions for tax purposes⁹.

More details on the reasons underpinning this decision can be found in Annex 1 to this letter.

As you know, the EU has long been committed to pursuing the global implementation of tax good governance standards. It is in this context that the recent exercise of engagement with jurisdictions around the world was conducted.

We would like to emphasise the aim to continue a constructive dialogue with the jurisdictions concerned, so that the identified issues can be addressed in an effective and mutually satisfactory manner. Therefore the EU list of non-cooperative jurisdictions for tax purposes will be regularly updated by the Council of the EU.

The Code of Conduct Group will continue the dialogue and monitor the actual implementation of the commitments made by the jurisdictions. Based on any new commitment taken and on the implementation of these commitments, the Code of Conduct Group can recommend to the Council of the EU to update the list of non-cooperative jurisdictions for tax purposes.

⁹ <http://www.consilium.europa.eu/media/31945/st15429en17.pdf>

To this end, our experts stand ready to continue the discussions with the jurisdictions concerned, to assist them, as necessary, in meeting the tax good governance criteria of the EU.

We remain at your disposal, and look forward to hearing from you on this matter, through our usual contact point.

Sincerely,

[COCG chair signature]

c.c. General Secretariat of the Council

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In the letter of 30 October 2017, Saint Lucia was informed that deficiencies were identified as regards the following screening criteria.

Criterion 2.1

Saint Lucia has harmful preferential tax regimes.

The commitment made by Saint Lucia was not sufficient to guarantee that Saint Lucia will abolish or amend the following regimes in line with the request from the Code of Conduct Group until the end of 2018:

- International Business Companies
- International Trusts
- Free Trade Zones

Criterion 3

Saint Lucia does not apply the BEPS minimum standards.

In the commitment made by Saint Lucia there was no guarantee that Saint Lucia will implement the four BEPS minimum standards by the end of 2018. In particular, for both the issues identified there is no reference to a clear timeline for implementing the commitment.

In addition to this, we would like to clarify that the request to amend or abolish the harmful tax regime at stake is not dependent on your possible future membership of the Inclusive Framework on BEPS, which is neither a precondition nor an alternative to abolishing or amending preferential regimes that are found to be harmful.

The Code of Conduct Group will be in a position to recommend to the Council of the EU to update the list of non-cooperative jurisdictions on the basis of any new commitment taken to address the deficiencies identified and on the implementation of these commitments by your jurisdiction. The Code of Conduct Group will be informed of any commitment or action taken to address the deficiencies identified.

SAMOA

[Addressee and contact details]

Brussels, [date]

Subject: Letter for the attention of the authorities of Independent State of Samoa

- The EU list of non-cooperative jurisdictions for tax purposes

Dear Madam, dear Sir,

By a letter dated 23 October 2017 from the Chair of the Code of Conduct Group (Business Taxation) Samoa was informed that some deficiencies were identified as regards the screening criteria used by the EU, as set out in the Annex to that letter, and was invited to provide a commitment at a high political level to address the deficiencies.

Your response (letters of 2 November 2017, 10 November 2017 and 23 November 2017) was assessed by the Code of Conduct Group, in order to ascertain whether the relevant commitment was made at the appropriate political level, sufficiently clearly addressing all the issues and whether a clear timeline was provided for relevant actions.

All jurisdictions concerned were invited to reply by 17 November 2017. Nevertheless, the Council of the EU took into account all letters that arrived in time for the Ministers to take an informed decision at their meeting on 5 December 2017.

On the basis of this analysis, the Council of the EU deemed the commitment set out in the abovementioned correspondence not sufficient, and, consequently, decided, by consensus, on 5 December 2017, to include Samoa in the EU list of non-cooperative jurisdictions for tax purposes¹⁰.

More details on the reasons underpinning this decision can be found in Annex 1 to this letter.

As you know, the EU has long been committed to pursuing the global implementation of tax good governance standards. It is in this context that the recent exercise of engagement with jurisdictions around the world was conducted.

We would like to emphasise the aim to continue a constructive dialogue with the jurisdictions concerned, so that the identified issues can be addressed in an effective and mutually satisfactory manner. Therefore the EU list of non-cooperative jurisdictions for tax purposes will be regularly updated by the Council of the EU.

The Code of Conduct Group will continue the dialogue and monitor the actual implementation of the commitments made by the jurisdictions. Based on any new commitment taken and on the implementation of these commitments, the Code of Conduct Group can recommend to the Council of the EU to update the list of non-cooperative jurisdictions for tax purposes.

¹⁰ <http://www.consilium.europa.eu/media/31945/st15429en17.pdf>

To this end, our experts stand ready to continue the discussions with the jurisdictions concerned, to assist them, as necessary, in meeting the tax good governance criteria of the EU.

We remain at your disposal, and look forward to hearing from you on this matter, through our usual contact point.

Sincerely,

[COCG chair signature]

c.c. General Secretariat of the Council

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In the letter of 23 October 2017, Samoa was informed that deficiencies were identified as regards three screening criteria. For two of them the commitment was not assessed as being sufficient.

Criterion 2.1

Samoa has one harmful preferential tax regime (Offshore business regime).

Criterion 3

Samoa does not apply the BEPS minimum standards.

The commitment was not sufficient to guarantee that Samoa will amend or abolish the harmful tax regime as requested and will implement the four BEPS minimum standards by the end of 2018. In particular, while your letters are not signed at high political level, for both the issues identified there is no reference to a clear timeline for implementing the steps promised. In addition to this, we would like to clarify that the request to amend or abolish the harmful tax regime at stake is not dependent on the possible future membership of the Inclusive Framework on BEPS, which is neither a precondition nor an alternative to abolishing or amending preferential regimes that are found to be harmful.

The Code of Conduct Group will be in a position to consider at any time to recommend to the Council of the EU to update the list of non-cooperative jurisdictions on the basis of any new commitment taken to address the deficiencies identified and on the implementation of these commitments by your jurisdiction. The Code of Conduct Group will be informed of any commitment or action taken to address the deficiencies identified.

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TRINIDAD AND TOBAGO

[Addressee and contact details]

Brussels, [date]

Subject: Letter for the attention of the authorities of Republic of Trinidad and Tobago
- The EU list of non-cooperative jurisdictions for tax purposes

Dear Madam, dear Sir,

by a letter dated 23 October from the Chair of the Code of Conduct Group (Business Taxation) Trinidad and Tobago was informed that some deficiencies were identified as regards the screening criteria used by the EU, as set out in the Annex to that letter, and was invited to provide a commitment at a high political level to address the deficiencies.

Your response, that is the letter of 21 November 2017, was assessed by the Code of Conduct Group, in order to ascertain whether the relevant commitment was made at the appropriate political level, sufficiently clearly addressing all the issues and whether a clear timeline was provided for relevant actions.

All jurisdictions concerned were invited to reply by 17 November 2017. Nevertheless, the Council of the EU took into account all letters that arrived in time for the Ministers to take an informed decision at their meeting on 5 December 2017.

On the basis of this analysis, the Council of the EU deemed the commitment set out in the abovementioned correspondence not sufficient, and, consequently, decided, by consensus, on 5 December 2017, to include Trinidad and Tobago in the EU list of non-cooperative jurisdictions for tax purposes¹¹.

More details on the reasons underpinning this decision can be found in Annex 1 to this letter.

As you know, the EU has long been committed to pursuing the global implementation of tax good governance standards. It is in this context that the recent exercise of engagement with jurisdictions around the world was conducted.

We would like to emphasise the aim to continue a constructive dialogue with the jurisdictions concerned, so that the identified issues can be addressed in an effective and mutually satisfactory manner. Therefore the EU list of non-cooperative jurisdictions for tax purposes will be regularly updated by the Council of the EU.

The Code of Conduct Group will continue the dialogue and monitor the actual implementation of the commitments made by the jurisdictions. Based on any new commitment taken and on the implementation of these commitments, the Code of Conduct Group can recommend to the Council of the EU to update the list of non-cooperative jurisdictions for tax purposes.

¹¹ <http://www.consilium.europa.eu/media/31945/st15429en17.pdf>

To this end, our experts stand ready to continue the discussions with the jurisdictions concerned, to assist them, as necessary, in meeting the tax good governance criteria of the EU.

We remain at your disposal, and look forward to hearing from you on this matter, through our usual contact point.

Sincerely,

[COCG chair signature]

c.c. General Secretariat of the Council

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In the letter of 23 October 2017, Trinidad and Tobago was informed that deficiencies were identified as regards five screening criteria. For three of them the commitment made by Trinidad and Tobago was assessed as not being sufficient.

Criterion 1.2

Trinidad and Tobago has been attributed a rating of “Non Complaint” by the Global Forum on Transparency and Exchange of Information for Tax Purposes.

Criterion 1.3

Trinidad and Tobago has not signed and ratified the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters as amended.

Criterion 2.1

Trinidad and Tobago has one harmful preferential tax regime (Free Zones).

The commitment made by Trinidad and Tobago to address the above mentioned issues has been considered not sufficient since the timelines provided were found not to be in line with the deadlines provided in the letter of 23 October 2017 and since the commitment to amend or abolish the Free Zones regime was not reiterated to the EU Code of Conduct Group.

The Code of Conduct Group will be in a position to consider at any time to recommend to the Council of the EU to update the list of non-cooperative jurisdictions on the basis of any new commitment taken to address the deficiencies identified and on the implementation of these commitment by your jurisdiction. The Code of Conduct Group will be informed of any commitment or action taken to address the deficiencies identified.

TUNISIA

[Addressee and contact details]

Brussels, [date]

Subject: Letter for the attention of the authorities of Republic of Tunisia

- The EU list of non-cooperative jurisdictions for tax purposes

Dear Madam, dear Sir,

By a letter dated 23 October 2017 from the Chair of the Code of Conduct Group (Business Taxation) Tunisia was informed that some deficiencies were identified as regards the screening criteria used by the EU, as set out in the Annex to that letter, and was invited to provide a commitment at a high political level to address the deficiencies.

Your response (letters of 15 November 2017, 30 November 2017 and 2 December 2017) was assessed by the Code of Conduct Group, in order to ascertain whether the relevant commitment was made at the appropriate political level, sufficiently clearly addressing all the issues and whether a clear timeline was provided for relevant actions.

All jurisdictions concerned were invited to reply by 17 November 2017. Nevertheless, the Council of the EU took into account all letters that arrived in time for the Ministers to take an informed decision at their meeting on 5 December 2017.

On the basis of this analysis, the Council of the EU deemed the commitment set out in the abovementioned correspondence not sufficient, and, consequently, decided, by consensus, on 5 December 2017, to include Tunisia in the EU list of non-cooperative jurisdictions for tax purposes¹².

More details on the reasons underpinning this decision can be found in Annex 1 to this letter.

Please be informed that the letter sent on 4 December 2017 could not be taken into account by the Council of the EU during its meeting on 5 December 2017 due to the very short delay.

As you know, the EU has long been committed to pursuing the global implementation of tax good governance standards. It is in this context that the recent exercise of engagement with jurisdictions around the world was conducted.

We would like to emphasise the aim to continue a constructive dialogue with the jurisdictions concerned, so that the identified issues can be addressed in an effective and mutually satisfactory manner. Therefore the EU list of non-cooperative jurisdictions for tax purposes will be regularly updated by the Council of the EU.

The Code of Conduct Group will continue the dialogue and monitor the actual implementation of the commitments made by the jurisdictions. Based on any new commitment taken and on the implementation of these commitments, the Code of Conduct Group can recommend to the Council of the EU to update the list of non-cooperative jurisdictions for tax purposes.

¹² <http://www.consilium.europa.eu/media/31945/st15429en17.pdf>

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To this end, our experts stand ready to continue the discussions with the jurisdictions concerned, to assist them, as necessary, in meeting the tax good governance criteria of the EU.

We remain at your disposal, and look forward to hearing from you on this matter, through our usual contact point.

Sincerely,

[COCG chair signature]

c.c. General Secretariat of the Council

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In the letter of 23 October 2017, Tunisia was informed that deficiencies were identified as regards two screening criteria. For one of them the commitment was not assessed as being sufficient.

Criterion 2.1

Tunisia has two harmful preferential tax regimes:

- "Régime des exportations"
- "Régime des prestataires de services financiers"

The letters sent by Tunisia did not contain a clear commitment to amend or abolish the above mentioned regimes.

The letter sent on 4 December 2017, signed by the Minister of Finance Mohamed Ridha Chalhoun, could not be taken into account by the Council of the EU during its meeting on 5 December 2017 due to the very short delay. This letter has in the meantime been sent to the Code of Conduct Group for assessment. This development will be taken into consideration and submitted to the Council of the EU for the possible update of the EU list of non-cooperative jurisdictions. Any additional letter from your side will also be considered by the Code of Conduct Group.

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UNITED ARAB EMIRATES

[Addressee and contact details]

Brussels, [date]

Subject: Letter for the attention of the authorities of United Arab Emirates

- The EU list of non-cooperative jurisdictions for tax purposes

Dear Madam, dear Sir,

By a letter dated 23 October 2017 from the Chair of the Code of Conduct Group (Business Taxation) the United Arab Emirates was informed that some deficiencies were identified as regards the screening criteria used by the EU, as set out in the Annex to that letter, and was invited to provide a commitment at a high political level to address the deficiencies.

Your response (letters of 16 November 2017, 28 November 2017 and 4 December 2017) was assessed by the Code of Conduct Group, in order to ascertain whether the relevant commitment was made at the appropriate political level, sufficiently clearly addressing all the issues and whether a clear timeline was provided for relevant actions.

All jurisdictions concerned were invited to reply by 17 November 2017. Nevertheless, the Council of the EU took into account all letters that arrived in time for the Ministers to take an informed decision at their meeting on 5 December 2017.

On the basis of this analysis, the Council of the EU deemed the commitment set out in the abovementioned correspondence not sufficient, and, consequently, decided, by consensus, on 5 December 2017, to include the United Arab Emirates in the EU list of non-cooperative jurisdictions for tax purposes¹³.

More details on the reasons underpinning this decision can be found in Annex 1 to this letter.

As you know, the EU has long been committed to pursuing the global implementation of tax good governance standards. It is in this context that the recent exercise of engagement with jurisdictions around the world was conducted.

We would like to emphasise the aim to continue a constructive dialogue with the jurisdictions concerned, so that the identified issues can be addressed in an effective and mutually satisfactory manner. Therefore the EU list of non-cooperative jurisdictions for tax purposes will be regularly updated by the Council of the EU.

The Code of Conduct Group will continue the dialogue and monitor the actual implementation of the commitments made by the jurisdictions. Based on any new commitment taken and on the implementation of these commitments, the Code of Conduct Group can recommend to the Council of the EU to update the list of non-cooperative jurisdictions for tax purposes.

¹³ <http://www.consilium.europa.eu/media/31945/st15429en17.pdf>

To this end, our experts stand ready to continue the discussions with the jurisdictions concerned, to assist them, as necessary, in meeting the tax good governance criteria of the EU.

We remain at your disposal, and look forward to hearing from you on this matter, through our usual contact point.

Sincerely,

[COCG chair signature]

c.c. General Secretariat of the Council

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In the letter of 23 October 2017, the United Arab Emirates was informed that deficiencies were identified as regards four screening criteria. For one of them the commitment was not assessed as being sufficient.

Criterion 3

The commitment was not sufficient to guarantee that the United Arab Emirates will implement the four BEPS minimum standards by the end of 2018.

Moreover, concerning the deficiencies identified in relation to criterion 2.1, on the basis of the new information that was provided, the experts of the Code of Conduct Group were able to determine that the United Arab Emirates were no longer relevant for an assessment under this criterion. The experts of the Code of Conduct Group nevertheless concluded that there are sufficient elements indicating that your jurisdiction could be considered relevant under criterion 2.2 – facilitation of offshore structures. For this reason, you will find attached a specific questionnaire on criterion 2.2 (annex II). We would be grateful to receive a response to the questionnaire by the end of January 2018, at the latest, so that the assessment can be finalised.

The Code of Conduct Group will be in a position to consider at any time to recommend to the Council of the EU to update the list of non-cooperative jurisdictions on the basis of any new commitment taken to address the deficiencies identified and on the implementation of these commitments by your jurisdiction. The Code of Conduct Group will be informed of any commitment or action taken to address the deficiencies identified.

Please be informed that, in case your reply to the questionnaire on criterion 2.2 raises concerns with respect to this standard, you will also be asked to take actions to address these concerns.
