

Brussels, 27 November 2024
(OR. en)

16328/24

LIMITE

FISC 252
ECOFIN 1451

REPORT

From: General Secretariat of the Council
To: Delegations
Subject: Code of Conduct Group (Business Taxation)
- Report to the Council

I. BACKGROUND

1. On 1 December 1997, the Council and the representatives of the Governments of the Member States, meeting within the Council, adopted a resolution on a Code of Conduct for business taxation. This resolution provides for the establishment of a group within the framework of the Council to assess tax measures that may fall within the Code, which was established on 9 March 1998¹. On 8 November 2008 the Council reformed the Code of Conduct. The resolution provides that the Code of Conduct Group (hereafter "COCG" or "Group") "*will report regularly on the measures assessed*" and that "*These reports will be forwarded to the Council for deliberation. They will include the agreed descriptions and final assessments of the tax measures it has examined. Final documents, as approved by the Council, will be made public, as appropriate, in accordance with relevant rules.*" (paragraph H).
2. In its conclusions of 8 December 2015², the Council expressed the wish to improve the visibility of the work of the COCG and agreed "*that its results, in particular its 6-monthly reports, are systematically made available to the public*" (paragraph 16).

¹ ST 6619/98.

² ST 15148/15.

3. In its conclusions of 8 March 2016,³ the Council furthermore called "for having more substantial 6-monthly Group reports to ECOFIN, reflecting the main elements and views, which were discussed under specific items and reporting also on the monitoring concerning (non-) compliance with agreed guidance" (paragraph 16).
4. This report from the COCG encompasses the work of the Group in the second half of 2024 during the term of the Hungarian Presidency of the Council. The previous reports, guidelines and other documents can be found on the website of the Council of the EU (Code of Conduct Group)⁴.

II. GENERAL ASPECTS

A. Organisation of work

5. In the first half of 2024, the COCG, chaired by Ms Maria José Garde Garde, Director-General for Taxation at the Ministry of Finance of Spain, has continued to fulfil its mandate in accordance with the agreed multiannual work package and the work programme and the guidance from the 2024 Ecofin Council, in particular from June 2024⁵ and October 2024⁶.
6. Meetings of the COCG were held on 25 September and 20 November 2024, and the subgroup meetings were held on 5 July, 11 September, and 8 November 2024.
7. At the COCG meeting on 25 September Ms. Bernadett Gubacsi (Hungary) and Ms. Dorota Wiszniewska were appointed as the Vice-Chairs.

III. STANDSTILL AND ROLLBACK REVIEW PROCESS

8. A call for standstill and rollback notifications of new preferential tax measures enacted by the end of 2023 was launched in mid-November 2023, and the results were presented at the COCG meeting of 7 February 2024. The following new regimes were notified⁷:

³ ST 6900/16.

⁴ <https://www.consilium.europa.eu/en/council-eu/preparatory-bodies/code-conduct-group>.

⁵ 11465/24

⁶ 14269/24

⁷ See updated compilation in doc. 8602/8/20 REV 8.

- Italy: Tax credit for investments in the Single Economic Zone for the year 2024 (IT025)
- Italy: Tax credit for research and development in the microelectronics sector (IT026);
- Italy: Additional income tax deduction to encourage an increase in the employment base and open-ended employment contracts (IT027);
- Lithuania: Amendments to the CIT tax for companies implementing large-scale projects (LT010);
- Portugal: Tax Regime to Incentivize the Capitalization of Companies (PT019);
- Portugal: Madeira Free Trade Zone – IV (PT020).

A. Standstill review process

9. The following decisions were reached by the Group:

Portugal's Tax Incentive Scheme for the Capitalisation of Companies (PT019) – the COCG agreed with the draft agreed description of the measure⁸ and also agreed that the measure should be assessed; [the GOCCG agreed with the assessment that the measure should be considered not harmful].⁹

10. The standstill review of Romania's profit tax exemption for companies with innovation and R&D activities (RO008) is kept on hold until the relevant national legislation is adopted: this regime is currently not applied because the subsequent administrative acts have so far not been adopted.

B. Rollback review process

11. Regarding the rollback notification on Croatia's Act on Investment Promotion (HR019), the Group agreed in 2023 that the roll-back is still pending and that it should be extended to the New Investment Promotion Act (HR020)¹⁰. The Group took note of the analysis of the rollback measure to eliminate the potentially harmful features of HR019 and HR020. The

⁸ See ADD 1.

⁹ See ADD 2.

¹⁰ 15757/23.

Group agreed that the further rollback assessment of measures HR019 and HR020 should await the final FHTP review and the formal adoption of the rollback measure in Croatia.

IV. MONITORING OF THE ACTUAL EFFECTS OF INDIVIDUAL MEASURES

12. During recent years, some of the measures subject to scrutiny were put under annual monitoring. In accordance with past practice, the concerned Member States are expected to communicate to the Group the relevant data (i.e. for year 2022) by the end of June. The Group has looked into the actual effects of the relevant measures in the second semester of 2024. At the same time and once relevant data is made available to it, the Group will also look into the effects of the remaining measures from the 2023 monitoring cycle, which were not dealt with due to lack of data: measure CY020, and the use of the safe-harbour rules in Cyprus and Poland.
13. The following decisions were reached by the Group:
 1. The Group agreed that, as a matter of principle, the monitoring of any measure should last five tax years after the decision to monitor has been taken and that this period should be shortened or prolonged only on a case-by case basis.
 2. Italy's Cooperative Compliance Programme (CCP) - tacit rulings (IT CCP) – the Group agreed with the preliminary conclusion that for 2023, Italy's measure IT CCP does not seem to have affected in a significant way the business location among the Member States but the monitoring should continue.¹¹
 3. Lithuania's Tax relief from CIT for investments in large projects (LT009) – the Group agreed with the preliminary conclusion that the LT009 regime does not seem to have affected in a significant way the business location among the Member States. The Group also agreed that monitoring should continue and include the additional data on the number of investment projects approved within the context of the preferential measure, so that the Group can anticipate whether any beneficiaries are to be expected.¹²
 4. Poland's Notional interest deduction regime (PL011) – the Group agreed with the preliminary conclusion that the PL011 NID regime does not seem to have affected in a

¹¹ See ADD 3.

¹² See ADD 4.

significant way the business location among the Member States. The Group agree that the monitoring should continue for one more year.¹³

5. Poland's Co-operative Compliance Programme for large taxpayers (PL014) – [the Group agreed with the preliminary conclusion that the PL014 CCP does not seem to have affected the business location among the Member States in a significant way. The Group agreed that the monitoring should continue.¹⁴

6. Romania's Reduction of income tax for maintaining or increasing own capital (RO011) – the Group agreed with the preliminary conclusion that Romania's regime RO011 does not seem to have affected in a significant way the business location among the Member States but the Group should continue looking into the effects of it in the next year's monitoring exercise.¹⁵

V. THE EU LIST OF NON-COOPERATIVE JURISDICTIONS FOR TAX PURPOSES

A. Update of the EU list of non-cooperative jurisdictions for tax purposes

14. In its conclusions of 21 June 2024¹⁶, the Ecofin Council welcomed the positive effect of the Code of Conduct and the work of the Group on reducing harmful tax practices and the decrease in preferential tax regimes both at the EU level and globally. The Council appreciated the revision of the EU list of non-cooperative jurisdictions in February 2024 and invited the Group to continue an effective dialogue with jurisdictions and monitoring, so that jurisdictions continue to fulfil their respective commitments and comply with the EU listing criteria in accordance with the agreed deadlines.

15. The Council notes the progress in three jurisdictions with respect to the implementation of the AEOI standard (criterion 1.1) and two jurisdictions with respect to the standard for exchange information on request (criterion 1.2). The Council welcomed the reforms of preferential tax regimes in jurisdictions and the progress made by jurisdictions that completed the reform of their foreign-source income exemption (FSIE) regimes within the suggested deadline and the ongoing dialogue with other jurisdictions that are in the process of reforming their FSIE regime. The Council acknowledged the progress made with no or only nominal tax jurisdictions in the context of monitoring the implementation of economic substance

¹³ See ADD 5.

¹⁴ See ADD 6.

¹⁵ See ADD 7.

¹⁶ 11465/24.

requirements under criterion 2.2 and welcomed the progress with relevant jurisdictions regarding the implementation of the anti-BEPS minimum standard on country-by-country reporting (CbCR) under criterion 3.2;

16. The Council recognised the work of the Group on the past and future evaluation of the application by the Member States of defensive measures in the tax area towards non-cooperative jurisdictions and endorsed the Guidance for monitoring the implementation of tax defensive measures and the relevant questionnaire set out in Annex II to the report from June 2024. The Council called on the Group to keep working on this monitoring exercise, in accordance with the agreed Guidance, and report to the Council on further progress in this area.
17. The Council appreciated the progress concerning future criterion 1.4 on beneficial ownership information and called on the Group to continue the work to incorporate beneficial ownership as a fourth criterion on tax transparency.
18. The Council welcomed the beginning of the screening of new jurisdictions in scope of the EU list.
19. The COCG continued interactions and dialogue with the relevant jurisdictions to assess recent developments and the implementation of their commitments, with a view to the periodical update of the EU list.
20. The preparation of the latest revision of the list took place at the subgroup meeting on 5 July and 11 September and was finalised at the COCG meeting on 25 September 2024. The updated EU list of non-cooperative jurisdictions was approved by the Council on 8 October 2024¹⁷ and published in the Official Journal on 18 October 2024¹⁸.
21. There are 11 jurisdictions on the EU list of non-cooperative jurisdictions for tax purposes (Annex I) after the update: American Samoa, Anguilla, Fiji, Guam, Palau, Panama, Russia, Samoa, Trinidad and Tobago, US Virgin Islands and Vanuatu.
22. One jurisdiction – Antigua and Barbuda – was removed from Annex I. This jurisdiction was included in the EU list of non-cooperative jurisdictions for tax purposes after a negative assessment from the OECD Global Forum with regard to exchange of information on request.

¹⁷ 14269/24.

¹⁸ OJ C 2024/6322, 18.10.2024, pages 1-4.

Following changes to the applicable rules in Antigua and Barbuda, the Global Forum has granted it a supplementary review, which will be undertaken in the near future. Pending the outcome of this review, Antigua and Barbuda has been included in the relevant section of Annex II.

23. Two jurisdictions that have been listed for an extended period of time, namely Fiji and Palau, have made promising steps towards compliance with the listing criteria, and this has been reflected in their entries in the list.
24. Positive developments can also be noted in the state of play of commitments (Annex II of the relevant conclusions). Armenia and Malaysia fulfilled their commitments under criterion 2.1 by amending the harmful features of their regimes, and were removed from Annex II.
25. Türkiye remains on Annex II for criterion 1.1 (automatic exchange of information) as it is still not fully in line with the commitments as per the conclusions of the Ecofin Council of 22 February 2021, 5 October 2021, 24 February 2022, 4 October 2022, 14 February 2023, 17 October 2023, 20 February 2024 and 8 October 2024. Türkiye is expected to begin or continue the technical work on the effective exchange of data with all Member States to meet the agreed international standards and fully comply with the requirements mentioned in the conclusions of the Ecofin Council above.

B. Monitoring of the implementation of commitments taken by jurisdictions

General overview

26. As of October 2024, the implementation of a total of 10 commitments¹⁹ taken at a high political level by 9 jurisdictions²⁰ remains to be monitored by the Group. These are recorded in Annex II of the Council conclusions:

Criterion	Number of jurisdictions committed
1.1	3
1.2	4

¹⁹ This figure adds up the number of commitments by jurisdictions under each criterion (see table).

²⁰ Antigua and Barbuda, Belize, British Virgin Islands, Costa Rica, Curaçao, Eswatini, Türkiye, and Vietnam.

2.1	1
3.2	1

27. Pending commitments on automatic exchange of information, exchange of information on request and implementation of the CbCR minimum standards are detailed under dedicated sections to criteria 1.1, 1.2, and 3.2 respectively and in the respective entries for jurisdictions listed in Annex I.
28. Moreover, one harmful tax regimes remain to be rolled back by one jurisdiction under criterion 2.1²¹. A detailed overview can be found in the compilation²² of preferential regimes and measures examined by the COCG under criteria 2.1 and 2.2.

Political and procedural dialogue

29. The Chair of the COCG continued to conduct political and procedural dialogues with relevant international organisations and jurisdictions, where necessary.
30. The Chair received a number of letters from jurisdictions and also held in-person meetings and videoconferences at a high political level with a number of them. Delegations were kept informed about these interactions, and response letters signed by the Chair were agreed by the Group.

C. Screening and scoping issues

Criterion 1.2 (peer reviews by the Global Forum on tax transparency and exchange of information with respect to the standard on Exchange of Information on request (EOIR))

31. From 1 January 2025, the Global Forum will enter a new phase in monitoring the implementation of the international standard on EOIR. Accordingly, a new framework for the future peer reviews has already been agreed by the Global Forum. The Group considered the changes in the Global Forum peer review processes for EOIR in June and September and

²¹ “Eswatini’s ”Special economic zones”.

²² ST 6430/23.

agreed that the future monitoring of EU list criterion 1.2 on EOIR should remain clear and consistent with the Global Forum approach.

32. The Group will continue to assess compliance with criterion 1.2 on the basis of the overall ratings on EOIR issued by the Global Forum to jurisdictions. In line with the current practice, positive overall ratings ('Largely compliant' or 'Compliant') will remain sufficient to fulfil criterion 1.2. Jurisdictions receiving an overall rating by the Global Forum of 'Partially Compliant' will be asked to address the identified deficiencies and request within 18 months an In-depth review by the Global Forum to obtain a new rating. Jurisdictions committing to the COCG at a high political level to request on time an In-depth review from the Global Forum will be placed in Annex II pending the outcome of the In-depth review. Jurisdictions rated as 'Non-compliant' by the Global Forum will continue to be included automatically in Annex I.
33. In addition to its continued regular assessments based on newly published Global Forum overall ratings, the COCG will focus from 2025 also on recommendations addressed to jurisdictions in Enhanced Monitoring reports under the new framework, in cases of persistent lack of progress or backsliding. The Group will continue to seek pro-active engagement, similarly to the current practice, and encourage jurisdictions to take the necessary steps to address the points of concern identified by the Global Forum, so that they can avoid a possible negative rating on EOIR at a later stage. The modalities of the engagement with relevant jurisdictions will be fine-tuned by the Group at a later stage, i.e. after the Global Forum will publish the first Enhanced Monitoring reports in the autumn of 2025.

New criterion 1.4 on beneficial ownership information

34. In its conclusions of 21 June 2024, the Ecofin Council appreciated the progress concerning future criterion 1.4 on beneficial ownership information and called on the Group to continue the work to incorporate beneficial ownership as a fourth criterion on tax transparency.

Criterion 2.1 Regimes under FHTP monitoring

35. The FHTP decided at its meeting on 26 and 27 October 2023 to maintain its conclusion that Armenia's "Free economic zones" and Eswatini's "Special economic zones" are in the

process of being amended/eliminated. Subsequently, the FHTP at its meeting on 14 and 15 May 2024 found that both regimes are not harmful, as amended, subject to the adoption of the relevant legislations. Armenia adopted the final legislation in June 2024 and was subsequently removed from Annex II. Since Eswatini has not yet adopted the final legislation, the commitment has not yet been removed from Annex II. Trinidad & Tobago has replaced its harmful tax regime (Free Zones) with a new Special economic Zones regime. The entry of the jurisdiction in Annex I for criterion 2.1 stays unchanged until the FHTP draws a conclusion and a decision by the Group is taken.

Criterion 2.1 (Foreign source income exemption regimes)

36. In October 2019, the Ecofin Council approved guidance on foreign source income exemption (FSIE) regimes in the framework of the EU listing exercise (criterion 2.1). This guidance acknowledges that FSIE regimes are a legitimate approach to prevent double taxation, but identifies potentially harmful elements that could be present in such regimes.
37. In December 2019, the COCG Chair wrote to thirteen jurisdictions to inform them that a regime of this kind was identified in their jurisdiction. The Commission Services followed up with a questionnaire to nine jurisdictions in February 2020 with a deadline of 20 March 2020 to reply. It was agreed to screen four jurisdictions at a later stage.
38. All the jurisdictions that were contacted responded to the questionnaire. The Commission Services analysed the replies and followed up where necessary. On this basis, the Commission prepared an overview of the work carried out so far, as well as country-specific progress reports.
39. On 19 May 2021, the COCG agreed to send letters to six jurisdictions from which the COCG would seek commitments to repeal or amend their harmful FSIE regimes. Five jurisdictions responded and confirmed their commitment to abolish or amend their regimes²³. One jurisdiction did not express the requested commitment²⁴. The remaining three jurisdictions²⁵ were deemed compliant under the EU listing criteria. One jurisdiction²⁶ reformed its FSIE regime before the end of 2022, with effect from 1 January 2023.

²³ Costa Rica, Hong Kong, Malaysia, Qatar and Uruguay.

²⁴ Panama.

²⁵ Maldives, Nauru and Singapore.

²⁶ Uruguay.

40. During the technical examinations of FSIE reforms, there was a need to clarify the language of the Guidance on FSIE on certain aspects, notably on the tax treatment of capital gains. Following this clarification of the Guidance on FSIE regimes in December 2022²⁷, the Group decided to grant the two concerned jurisdictions²⁸ additional time to amend their legislation concerning the tax treatment of capital gains, i.e. by the end of 2023, with effect from 1 January 2024.
41. At its meeting on 7 February 2024, the COCG agreed to grant additional time to Malaysia until 31 March 2024 to complete the reform of its FSIE regime, considering the substantial progress made by the jurisdiction. Primary legislation was adopted by Malaysia in December 2023 with effect on 1 January 2024, introducing a tax on foreign sourced capital gains. Secondary legislation and guidelines exempting from tax foreign sourced capital gains for entities meeting economic substance requirements were adopted by Malaysia in March 2024 and positively assessed by the subgroup at its meeting on 24 April 2024, subject to the adoption of two amendments. The jurisdiction adopted these two amendments on 26 April 2024 in line with the COCG requirements. Since the reform of the FSIE regime was completed, the reference to Malaysia was removed from Annex II during the update of the EU list in October 2024.

Process for the Monitoring of Economic Substance Requirements for Collective Investment Funds (CIVs) under criterion 2.2

42. In May 2018, the COCG agreed on Technical Guidance on Substance Requirements for Collective Investment Funds (CIVs) giving effect to a distinctive treatment for CIVs, in terms of economic substance requirements, in the Scoping Paper on criterion 2.2.
43. In September 2018, the COCG found that four jurisdictions (The Bahamas, Bermuda, British Virgin Islands and Cayman Islands) in the scope of the EU listing process had a “relevant” fund sector. Subsequently, the COCG asked these jurisdictions to reform their funds’ framework in line with the Technical Guidance²⁹. The reforms, approved by the COCG, entered into effect in these jurisdictions in 2020, i.e. one year later than other economic substance requirements (general substance requirements).

²⁷ Doc. 14674/22.

²⁸ Hong Kong and Malaysia.

²⁹ The Bahamas, Bermuda, British Virgin Islands and Cayman Islands.

44. In May 2022 the COCG kicked off a targeted annual monitoring of the implementation of the enhanced framework on CIVs by the four jurisdictions concerned on the basis of a specific questionnaire. Given that CIVs are out of the scope of the FHTP standard, such monitoring would be led entirely by the Group with the technical assistance of the Commission.
45. For the first relevant period of CIVs monitoring, for years 2020, 2021 and partly 2022, the Group acknowledged the substantial efforts made by all jurisdictions concerned. Soft recommendations were addressed to three out of four jurisdictions.
46. Furthermore, in August 2023 the Group agreed on an updated questionnaire for the second monitoring year (2023). The findings were discussed at the meeting of 22 November 2023 with a view to addressing updated soft recommendations to the jurisdictions concerned.
47. At the meeting on 8 November 2024, the subgroup supported the Commission proposal to communicate to three jurisdictions³⁰ the need to address the soft recommendations in the concerned areas, which will be reviewed by the COCG in the context of the fourth (2025) monitoring year.

Process for the Monitoring of Economic Substance Requirements for partnerships under criterion 2.2

48. In May 2020, the COCG assessed how different 2.2 jurisdictions treat partnerships in their legislation on economic substance. The results confirmed that only five 2.2 jurisdictions included all relevant partnerships in the scope of their legislation on economic substance³¹. The COCG asked the 2.2 jurisdictions for which this was not the case³² to extend the scope of their legislation on economic substance to relevant partnerships by June 2021, with effect from 1 July 2021.
49. In May 2023, the COCG agreed on a yearly monitoring process to ensure a proper enforcement of economic substance requirement for partnerships over time. The first year of monitoring (2023) concerned information/data and compliance actions taken by 2.2 jurisdictions from 1 July 2021 to 31 December 2022.

³⁰ The Bahamas, British Virgin Islands and Cayman Islands,

³¹ The Bahamas, Bahrain, the Republic of Marshall Islands, Turks and Caicos Islands, and United Arab Emirates.

³² Anguilla, Barbados, Bermuda, British Virgin Islands, Cayman Islands, Guernsey, Isle of Man, and Jersey.

50. Following coordination with the FHTP Secretariat and with a view to facilitating the process for relevant jurisdictions, a questionnaire targeting partnerships was agreed to be circulated as an annex to the questionnaire on the implementation of economic substance requirements for companies circulated by the FHTP and set to follow the same timeline.
51. The results of the first year of monitoring revealed that the majority of relevant jurisdictions was still not in a position to provide concrete data on the application of the economic substance requirements to partnerships. In its meeting of 7 February, the COCG agreed to address only soft recommendations where deficiencies have been identified³³. It is expected that the second year of monitoring will allow Member States to better adapt and assess the implementation of the requirements in this area. Conclusions drawn by the COCG will be reflected in the context of the update of the EU list in February 2025.

Implementation of criterion 3.2

52. In 2019, the COCG agreed on a general approach for assessing compliance with criterion 3.2 on country-by-country reporting (CbCR), in particular for early adopters of the minimum standard on CbCR, i.e. jurisdictions that joined the Inclusive Framework before the end of 2017.
53. In October and November 2021, the Code of Conduct Group discussed and agreed on the assessment of the relevant jurisdictions for compliance with criterion 3.2, based on the 2021 Peer Review Report by the BEPS Inclusive Framework (IF) on CbCR and additional assessments of bilateral exchange relations for CbCR with EU Member States. Eleven jurisdictions with identified deficiencies on CbCR were asked to undertake commitments to address these deficiencies in time to be reflected in the 2023 IF peer review report on CbCR. These commitments were recorded at the update of the EU list in February 2022.
54. Following the release of the IF peer review report on CbCR on 4 October 2022, the Code of Conduct Group decided at its meeting on 24 October 2022 to remove Barbados, British Virgin Islands and Tunisia from Annex II for criterion 3.2 and to delete the reference to criterion 3.2 in the entry of the Bahamas in Annex I, at the update of the EU list in February 2023.
55. On 25 September 2023, the IF published its 2023 peer review report on CbCR. At its meeting on 3 October 2023, the Code of Conduct Group assessed the results of the IF peer reviews for

³³ Anguilla, the Bahamas, Barbados, Bermuda, the British Virgin islands, the Cayman Islands, Guernsey, Jersey, the Isle of Man, and the Turks and Caicos Islands.

the remaining jurisdictions with pending commitments on criterion 3.2. In 2023, the IF no longer addressed any general recommendations to Belize, Israel, Montserrat, Panama and Thailand. These jurisdictions had also taken the necessary steps to be able to exchange effectively CbC reports with all EU Member States. As a result, the COCG deemed their commitments on criterion 3.2 fulfilled and recommended to remove the references to these jurisdictions with regard to criterion 3.2 from the relevant Annexes. Trinidad and Tobago did not fulfil its commitment on CbCR within the agreed deadline. Accordingly, the Group recommended to update the entry on Trinidad and Tobago in Annex I to include a reference to criterion 3.2 at the update in October 2023.

56. At its meetings on 23 November 2022, 3 October 2023 and 22 November 2023 the Code of Conduct Group considered the implementation of the CbCR standard by other jurisdictions within the scope of criterion 3.2, which were not deemed deficient in 2021, as well as the state of play in relation to relevant jurisdictions to which criterion 3.2 has not been applied so far, as they have joined the BEPS IF on or after 1 January 2018. The COCG agreed to extend the scope of criterion 3.2 to relevant jurisdictions in this group.
57. At its meeting on 22 November 2023, the COCG decided to start the process by asking jurisdictions within the scope of the EU list that have joined the BEPS Inclusive Framework since 1 January 2018, except those who have fully implemented the global standard on CbCR or opted out in 2023 from the BEPS Action 13 Peer Review Process, for information about resident UPEs of multinational enterprise groups with a consolidated group revenue above the CbCR reporting threshold.
58. On 24 April 2024 the subgroup was informed about the replies provided by the 18 jurisdictions, which received information letters regarding the future application of criterion 3.2.
59. After the publication of the Inclusive Framework peer reviews on country-by-country reporting (CbCR) in September 2024, the Group took stock of the peer review outcomes for jurisdictions which have joined the BEPS Inclusive Framework on or after 1 January 2018. The Group also assessed the state of bilateral exchange relations for CbCR of these jurisdictions with EU Member States and the presence of resident UPEs of MNE groups above the reporting threshold of 750 million EUR in them.

On this basis, the COCG decided on 20 November 2024 to request commitments on criterion 3.2 from jurisdictions with one or more outstanding general recommendations in the 2024 Inclusive Framework report and one or more resident UPE in 2022 or 2023. Jurisdictions in this category which have not yet activated relationships for CbCR exchanges with all EU Member States will be asked to commit to address this issue as well. Commitments will be recorded in Annex II at the update of the EU list in October 2025. The deficiencies should be addressed in time to be reflected in the 2026 Inclusive Framework peer review report on CbCR.

In addition, the COCG decided to start monitoring, as of 2025, on an annual basis all Inclusive Framework jurisdictions which have not yet been asked for commitments on criterion 3.2 by the COCG due to non-relevance or opt-outs from the peer review process in either 2024 or preceding years, in order to check if exemptions previously granted remain justified.

Geographical scope

60. In March 2019 the Ecofin Council recalled “the extensions of the geographical scope of the EU screening exercise to other jurisdictions agreed in 2018”³⁴. This invitation was reiterated in February 2020 with a view “to focus on the most relevant jurisdictions, having regard to the agreed work on the extended geographical scope as identified in 2018”.
61. The COCG at its meetings of 1 February, 26 April, 2 June, 3 October and 22 November 2023 had an exchange of views on a possible extension of the geographical scope ³⁵ and agreed to include the following jurisdictions in the geographical scope of the EU listing exercise: Brunei Darussalam, Kuwait and New Zealand. In December 2023, the Chair sent letters to the jurisdictions, announcing that the screening process for implementing the EU list criteria had

³⁴ ST 14364/21.

³⁵ In this context, the Group recollected of the annual dialogue foreseen in the Joint Declaration on Countering Harmful Tax Regimes under the EU-UK Trade and Cooperation Agreement (TCA). Horizontal arrangements for structured dialogues under the TCA are under discussion in the Working Party on the United Kingdom. The first EU-UK dialogue on Countering Harmful Tax Regimes was held on 10 October 2024. As confirmed by the Joint Statement of the Council and the Commission regarding the EU-UK Joint Political Declaration on Countering Harmful Tax Regimes, the dialogue is without prejudice to the competence of the Code of Conduct Group.

begun. On 25 September 2024, the Group found New Zealand compliant with all the criteria of the EU list after technical discussions at the meeting in on 5 July and a comfort letter signed by the Chair was sent to the jurisdiction on 1 October 2024, whilst the screening process for Brunei Darussalam and Kuwait is still on-going.

62. In parallel, the COCG initiated a reflection on the most appropriate selection indicators for future modification of the geographical scope of the EU list during the meetings on 25 September 2024, 8 November 2024 and 20 November 2024.