



Brussels, 11 February 2025  
(OR. en)

6044/25

LIMITE

FISC 17  
ECOFIN 129

**NOTE**

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From: General Secretariat of the Council  
To: Delegations  
Subject: Code of Conduct Group report to the Council on the update of the EU list

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## Code of Conduct Group report to the Council on the update of the EU list

### I. INTRODUCTION

1. On 8 October 2024, the Council updated the EU list of non-cooperative jurisdictions for tax purposes (Annex I) and the state of play with respect to commitments taken by cooperative jurisdictions to implement tax good governance principles (Annex II)<sup>1</sup> initially endorsed by the Ecofin Council on 5 December 2017<sup>2</sup> and subsequently revised by the Council on 23 January 2018,<sup>3</sup> 13 March 2018,<sup>4</sup> 25 May 2018<sup>5</sup>, 2 October 2018,<sup>6</sup> 6 November 2018,<sup>7</sup> 4 December 2018,<sup>8</sup> 12 March 2019,<sup>9</sup> 22 May 2019,<sup>10</sup> 14 June 2019,<sup>11</sup> 17 October 2019,<sup>12</sup> 8 November 2019<sup>13</sup>, 5 December 2019<sup>14</sup>, 18 February 2020<sup>15</sup>, 6 October 2020<sup>16</sup>, 22 February 2021<sup>17</sup>, 5 October 2021<sup>18</sup>, 24 February 2022<sup>19</sup>, 4 October 2022<sup>20</sup>, 14 February 2023<sup>21</sup>, 17 October 2023<sup>22</sup> and 20 February 2024<sup>23</sup>.
2. As agreed by the Ecofin Council in its conclusions of 12 March 2019, as from 2020 onwards, updates of the EU list should be done no more than twice a year.

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<sup>1</sup> OJ C, C/2024/6322, 18.10.2024.

<sup>2</sup> OJ C 438 2017, p. 5-24.

<sup>3</sup> OJ C 29 2018, p. 2.

<sup>4</sup> OJ C 100 2018, p. 4-5.

<sup>5</sup> OJ C 191 2018, p. 1-3.

<sup>6</sup> OJ C 359 2018, p. 3-5.

<sup>7</sup> OJ C 403 2018, p. 4-6.

<sup>8</sup> OJ C 441 2018, p. 3-4.

<sup>9</sup> OJ C 114 2019, p. 2-8.

<sup>10</sup> OJ C 176, 22.5.2019, p.2.

<sup>11</sup> OJ C 210, 21.6.2019, p.8.

<sup>12</sup> OJ C 351, 17.10.2019, p. 7.

<sup>13</sup> OJ C 386, 14.11.2019, p.2.

<sup>14</sup> OJ C 416, 11.12.2019, p.10.

<sup>15</sup> OJ C 64 2020, p. 8-14.

<sup>16</sup> OJ C 331 2020, p. 3-5.

<sup>17</sup> OJ C 66, 26.2.2021, p. 40-45.

<sup>18</sup> OJ C 413I, 12.10.2021, p. 1-4.

<sup>19</sup> OJ C 103, 3.3.2022, p. 1-4.

<sup>20</sup> OJ C 391, 12.10.2022, p. 2-5.

<sup>21</sup> OJ C 64, 21.2.2023, p. 17-22.

<sup>22</sup> OJ C, C/2023/437, 23.10.2023.

<sup>23</sup> OJ C, C/2024/1804, 26.2.2024.

3. In its conclusions of October 2024<sup>24</sup> the Ecofin Council underlined the importance of promoting and strengthening tax good governance standards, including in the area of fair taxation and tax transparency, and of fighting against tax fraud, evasion and avoidance, both at the EU level and globally. The Council appreciated the continuous productive cooperation on tax matters between the Code of Conduct Group on Business Taxation and most jurisdictions around the world.
4. In its conclusions of 10 December 2024<sup>25</sup> the Ecofin Council encouraged the Code of Conduct Group to maintain an effective dialogue with jurisdictions, and to continue monitoring and screening, to support their compliance with the EU listing criteria and the fulfilment of any remaining commitments within the agreed deadlines. The Council also welcomed the adaptation by the Group of its future monitoring for criterion 1.2 in the context of the new Global Forum monitoring and review framework on tax transparency. It acknowledged the extension of the application of criterion 3.2 to jurisdictions that joined the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting (BEPS) as of 1 January 2018. The Council also welcomed the work on the appropriate selection indicators for future modifications of the geographical scope of the EU list.
5. In that spirit, the Code of Conduct Group ('the Group') continued interactions and dialogues with the relevant jurisdictions through its elected Chair (Ms María José Garde Garde), supported by the General Secretariat of the Council and with technical assistance of the Commission services. The Subgroup on external issues met on 14 and 23 January and the Code of Conduct Group met on 29 January 2025 to prepare the planned revision of the list.

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<sup>24</sup> Ibid.

<sup>25</sup> Doc. 16325/24.

6. In the light of the above, and based on an objective assessment of the most recent developments, the February 2025 update of the EU list should, as appropriate, allow the Council to:
- list in Annex I jurisdictions which do not comply with the requirements of the EU listing criteria for jurisdictions which are under screening, or have declined to undertake appropriate commitments to comply with the EU listing criteria;
  - remove from Annex I jurisdictions that addressed pending issues;
  - include in Annex II jurisdictions which have undertaken commitments to cooperate with the EU and to take the necessary steps towards complying with one or more EU listing criteria that their systems have been found to be inconsistent with;
  - remove from Annex II jurisdictions that fulfilled their commitments.

## II. UPDATES OF ANNEX I

### Listing

### Delisting

### Other changes

7. Following the adaptation by the Group of its monitoring for criterion 1.2 in the context of the new Global Forum monitoring and review framework on tax transparency, jurisdictions receiving an overall rating by the Global Forum of “partially compliant” will be asked to address the identified deficiencies and to request within 18 months a so-called “in-depth review” by the Global Forum to obtain a new rating. Jurisdictions that make a commitment to the Group at a high political level to request an in-depth review from the Global Forum on time will be placed in Annex II pending the outcome of the in-depth review. To ensure a level playing field, jurisdictions that were directly included in the list after a partially compliant rating in the past, namely Anguilla and Panama, were in a similar fashion asked to make a commitment at a high political level to requesting an in-depth review from the Global Forum within 18 months.

8. By letter of 24 January 2025, Anguilla made a commitment to this effect. The reference to criterion 1.2 in its entry in Annex I should therefore be amended accordingly.
9. By letter of 21 January 2025, Panama also made such a commitment. The reference to criterion 1.2 in its entry in Annex I should therefore also be amended accordingly.
10. On 19 December 2024, the US Department of the Treasury submitted to the Code of Conduct Group Chair three letters presenting the latest developments with respect to tax transparency and anti-BEPS measures in each of the US territories listed in Annex I - American Samoa, Guam and US Virgin Islands. American Samoa and Guam were included in Annex I on 5 December 2017 and the US Virgin Islands on 13 March 2018 for having failed to make commitments to meeting the criteria they were found to be non-compliant with: (i) tax transparency for all three jurisdictions (criteria 1.1 and 1.3), (ii) the existence of three harmful preferential tax regimes in US Virgin Islands (criterion 2.1), and (iii) the implementation of anti-BEPS minimum standards for all three jurisdictions (criterion 3). The letters elaborate on the latest and forthcoming steps by the three jurisdictions in meeting criteria 1.1, 1.3 and 3.
- ~~11.~~ The Group discussed the submissions by the US Department of the Treasury at its meetings on 23 and 29 January 2025. With regard to criterion 1.1 and 1.3, the Group welcomed the engagement of the US Department of the Treasury and will continue the dialogue with it on the pending issues.
- ~~12.~~ On criterion 3, the Group agreed that the information provided by the US Treasury in the letters demonstrates sufficiently that the four BEPS minimum standards are at present not relevant for the three US territories. The Group therefore decided to remove the reference to this criterion from the entries on these jurisdictions in Annex I, but will continue to monitor any new developments.

13. Fiji was included in Annex I in March 2019 after failing to fulfil its commitments under several criteria, including criterion 2.1 (existence of harmful tax regimes). One of the regimes identified as harmful by the Code of Conduct Group in 2017, the “Income Communication Technology (ICT) Incentive” regime, was revised in 2024 and was subsequently assessed in December 2024 by the FHTP as “not harmful”. However, the “Original ICT” regime identified as harmful remains in force due to an extended grandfathering period and was kept “under review” by the FHTP. The entry on Fiji in Annex I should therefore be amended in order to reflect both the non-harmful nature of the new ICT regime and the persistent deficiencies regarding the original ICT regime, for which Fiji should remain in Annex I until the FHTP reaches a final conclusion that the Group will consider in due time. It should be noted that there remains one harmful regime (‘Exporting Companies’), which also falls within the scope of the FHTP as far as geographically mobile activities are concerned. Fiji committed to amending or abolishing this regime by the end of 2018, which it has not yet done to date.
14. On 7 November 2024, Trinidad and Tobago signed the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MCMAA). Its entry in Annex I should therefore be amended accordingly.
15. On 17 November 2022, Trinidad and Tobago made a commitment at a high political level to addressing the Global Forum determinations on the implementation of the required domestic and international legal framework for automatic exchange of information so as to achieve determinations of at least “In place, but needs improvement” on core requirements 1 and 2 in the Global Forum peer review report in the autumn of 2024. The Group acknowledges and welcomes the progress made by Trinidad and Tobago by enacting new legislation on automatic exchange of information. However, this legislation came long after the set deadline and the Global Forum was not in a position to confirm in its peer review report for 2024 that the domestic and international legal framework for automatic exchange of information is in place. Therefore, the Group recommends to add a reference to criterion 1.1 to its entry in Annex I, while looking forward to reflect the improvement of the legal framework of Trinidad and Tobago in the EU list after the publication of the Global Forum peer review report in the autumn of 2025.

16. Trinidad and Tobago was included in the EU list of non-cooperative jurisdictions for tax purposes in December 2017 after failing to fulfil its commitments under several criteria, including criterion 2.1 (existence of harmful tax regimes). One of the regimes identified as harmful by the Code of Conduct Group in 2017, was the “Free Trade Zones” regime. At its meeting on 17-18 December 2024, the FHTP concluded that this regime was abolished as of 1 January 2022, with grandfathering ending on 31 December 2024. The entry on Trinidad and Tobago in Annex I should therefore be amended accordingly. The “Free Trade Zones” regime has been replaced with the “Special Economic Zones” (SEZ) regime, and the FHTP concluded that this SEZ regime was deemed “not harmful” for the non-IP part and “not operational” for the IP part at the same meeting in December. In this regard, the Group decided to take stock of the conclusions of the FHTP, but to monitor closely the developments regarding the IP part of the SEZ regime.

### III. UPDATES OF ANNEX II

a) Automatic exchange of information (criterion 1.1)

– *Commitment to implement the automatic exchange of information, either by signing the Multilateral Competent Authority agreement or through bilateral agreements*

17. In accordance with the Council conclusions agreed by Ecofin on 18 February 2020, Türkiye was given a deadline until 31 December 2020 to comply with the requirements for effective exchanges of information under the OECD Common Reporting Standard (which corresponds to criterion 1.1 under the EU list).

18. This deadline extension followed the engagement of Türkiye with the Code of Conduct Group for business taxation in 2019 and their reassurances that progress would be made by end of 2020. In its Conclusions of 22 February 2021, the Council took note of the state of play and regretted that Türkiye had not made material progress in the effective implementation of the automatic exchange of information with all EU Member States. The Council reiterated that the effective exchange of information with all Member States is a condition for Türkiye to comply with criterion 1.1 of the EU list in accordance with the Council conclusions of February 2020. In its conclusions of February 2021, the Council called on Türkiye to fully commit at a high political level by 31 May 2021 to effectively activate automatic information exchange relationships with the 6 remaining Member States by 30 June 2021. The Council also called on Türkiye to send to all Member States information for fiscal year 2019 no later than by 1 September 2021. Finally, the Council conclusions called on Türkiye to send such information for fiscal years 2020 and 2021 in accordance with the OECD calendar for the automatic exchange of information with all Member States and no later than by, respectively, 30 September 2021 and 30 September 2022.
19. In its conclusions of 5 October 2021, the Council took note of the commitment that Türkiye undertook on 19 May 2021 to effectively activate automatic information exchange relationships by 30 June 2021 with all Member States with which Türkiye has diplomatic relations and underlined that further engagement and technical work on effective exchange of data from Türkiye towards all Member States will be required to meet the agreed international standard and fully comply with the conclusions of the Ecofin Council of 22 February 2021.
20. In its conclusions of 24 February 2022, the Council considered that the progress made by Türkiye is still not fully in line with the Conclusions of the Ecofin Councils of 22 February 2021 and 5 October 2021 and called on Türkiye to begin or continue the technical work on the effective exchange of data from Türkiye with all Member States to meet the agreed international standards and fully comply with the requirements set in the above mentioned conclusions of the Ecofin Councils. The Council reiterated that the effective automatic exchange of information with all Member States according to the OECD calendar and standard is a condition to fulfil criterion 1.1 of the EU list and to fully comply with the requirements set out in the above-mentioned Council conclusions.

21. In its conclusions of 4 October 2022, the Council took note of the effective automatic information exchange relationships between Türkiye and the Member States, regretted that Türkiye had not made any progress with one Member State, reiterated its call on Türkiye to begin or continue the effective exchange with all Member States and to fully comply with the requirements set in the Conclusions of the Ecofin Council of 22 February 2021, 5 October 2021 and 24 February 2022. The Council reiterated that the effective automatic exchange of information with all Member States in accordance with the OECD calendar and international standards and as set in the relevant Ecofin Council conclusions is a condition for Türkiye to fulfil criterion 1.1 of the EU list.
22. In its conclusions of 14 February 2023, subsequently reiterated in its conclusions of 17 October 2023, 26 February 2024 and 8 October 2024, the Council regretted that Türkiye did not make any progress with one Member State on the effective exchange of information, reiterated its call on Türkiye to begin the outstanding automatic information exchange relationships with one Member State and to fully comply with the requirements set in the conclusions of the Ecofin Council of 22 February 2021, 5 October 2021, 24 February 2022 and 4 October 2022. The Council reiterated that the effective automatic exchange of information with all Member States is a condition for Türkiye to fulfil criterion 1.1 of the EU list.
23. The Group notes that Türkiye is still not in line with the commitments required under the above-mentioned Council conclusions with regard to the exchange of information with all Member States. Therefore, the reference to Türkiye should be maintained in section 1.1 of Annex II.

*– Implementation of automatic exchange of information (AEOI) according to the OECD common reporting standard (CRS)*

24. In the results of the 2022 Global Forum peer review report on AEOI, approved in November 2022, six jurisdictions (Aruba, Belize, Costa Rica, Curaçao, Israel and Trinidad and Tobago) failed to achieve the minimum compliance level in terms of the determination on the legal framework (“In place, but needs improvement”) and consequently made a commitment to the Group in January 2023 to improving their legal framework, so that this could be reflected in the Global Forum peer review report to be issued in the autumn of 2024. Aruba, Belize and Israel achieved the minimum compliance level in 2023 and their commitments were subsequently removed from Annex II at the beginning of 2024.

25. In the 2024 peer review AEOI update report, that was published by the Global Forum on 26 November 2024<sup>26</sup>, the determinations for Costa Rica and Curacao were changed from “Not in place” to “In place.”. The reference to the commitment these jurisdictions made should therefore be removed from the relevant section in Annex II.
26. The 2024 Global Forum peer review report on AEOI also included for the first time peer reviews of Jordan and Montenegro. Both of the respective peer reviews contain negative legal determinations (“Not in place”) on both core requirements regarding the legal framework on AEOI. The Group therefore decided to ask Jordan and Montenegro to make a commitment at a high political level, by 30 April 2025, to addressing the identified deficiencies and to achieving positive legal determinations in the Global Forum peer review report on AEOI in 2026. Any commitment received should be recorded at the update of the EU list in October 2025.
27. Kuwait entered the geographical scope of the EU listing process on 8 December 2023 and is currently being screened by the Group. The 2024 Global Forum peer review report on AEOI identified deficiencies with respect to the implementation of the international standard by Kuwait, in particular on core requirement 1. However, the Global Forum also acknowledged in the report that shortly after the cut-off date for jurisdictions to report relevant developments to the Global Forum, Kuwait undertook the required steps to address the identified deficiencies by adopting a decree and executive regulations to this end, which came into effect on 29 September 2024. In the light of these specific circumstances, and based on the 2024 Global Forum peer review report on AEOI, the Group recommends postponing the evaluation of Kuwait under criterion 1.1 until after the 2025 Global Forum peer review report is published.

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<sup>26</sup> [https://www.oecd.org/en/publications/peer-review-of-the-automatic-exchange-of-financial-account-information-2024-update\\_1aa02413-en/full-report.html](https://www.oecd.org/en/publications/peer-review-of-the-automatic-exchange-of-financial-account-information-2024-update_1aa02413-en/full-report.html)

b) Exchange of information on request (criterion 1.2)

28. In the Global Forum peer review on exchange of information on request (EOIR) that was published on 21 November 2024, Montenegro was rated as “partially compliant” on EOIR, which is not sufficient to be deemed compliant with criterion 1.2. The Group therefore decided to ask Montenegro to make a commitment at a high political level, by 30 April 2025, to requesting and being granted by the Global Forum an in-depth review on EOIR within 18 months, with the aim of achieving a positive overall rating (‘Largely compliant’ or ‘Compliant’). Any commitment received should be recorded in the update of the EU list in October 2025.

c) Existence of harmful tax regimes (criterion 2.1)

– *Harmful tax regimes in the scope of the FHTP*

29. In 2022, Eswatini made a commitment to the FHTP and the Group to addressing by the end of 2023 the harmful features of its “Special Economic Zones” regime in the scope of the FHTP. After assessing the draft amendments to the regime, the FHTP concluded in May 2024 that the regime is “amended (not harmful)” subject to the adoption of the final legislation. The SEZ Amendment Bill was published in the government gazette on 8 November 2024 following approval by the cabinet. It is set to be passed swiftly by Eswatini’s Parliament in the beginning of 2025. Eswatini should remain in Annex II pending the formal adoption of the legislation.

– *Foreign source income exemption (FSIE) regimes*

30. After a screening of the tax system of Brunei Darussalam, the Group found Brunei’s Foreign Source Income Exemption (FSIE) regime harmful, due to a lack of economic substance requirements and robust anti-abuse rules, and therefore, by letter dated 27 November 2024, asked the jurisdiction to make a commitment to abolish or amend the regime in line with the Guidance on FSIE. On 15 January and 24 January, Brunei Darussalam replied with such a commitment at a high political level. Against this background, the commitment should be recorded under the relevant section in Annex II.

*d) Implementation of country-by-country reporting (criterion 3.2)*

31. On 28 January 2022, Viet Nam made a commitment to sign the MCMAA by 31 August 2022, to ratify it by 31 August 2023, and to activate CbCR relationships with all EU Member States by 31 August 2024. By 31 August 2023, Viet Nam had fulfilled the first part of its commitment by signing and ratifying the MAAC, within the agreed deadline.
  32. Following a letter from Viet Nam with a detailed roadmap for the next steps to sign the Multilateral Competent Authority Agreement (MCAA) for country-by-country reporting (CbCR) and to activate CbCR relationships with all EU Member States, the Council granted Viet Nam until 31 December 2024 to sign the MCAA for CbCR and until 31 January 2025 to take the necessary steps to activate CbCR relationships with all EU Member States. On 3 January 2025, Viet Nam signed the Multilateral Competent Authority Agreement (MCAA) for CbCR. Its notification of intended exchange partners pursuant to section 8 (1)(e)(i) of the MCAA on the exchange of CbCR reports, in which all EU Member States are indicated as intended exchange partners, is in the process of being submitted. The reference to Viet Nam in Annex II should therefore be maintained until this step is completed.
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