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MEETING DOCUMENT

From:	General Secretariat of the Council
To:	Code of Conduct Group (Business Taxation)
Subject:	(Draft) 6-month Progress Report by the Code of Conduct Group (business taxation) to the ECOFIN Council – BZ005

Delegations will find attached a document in view of the Code of Conduct Group (Business Taxation) on 14 November 2019.

Belize's Commercial free zone (BZ005)

Belize informed the COCG that the Commercial Free Zones Act was repealed and replaced by a Free Zones Act (Cap 278), revised edition 2011.

The following assessment was agreed by the Code of Conduct Group on 13 September 2019:

	1a	1b	2a	2b	3	4	5
Belize – Free Zones Act (Cap 278)	X	?	X	?	X	X	X

V = harmful

X = not harmful

Explanation:

Gateway criterion - Significantly lower level of taxation:

The general income tax rate in Belize is 25%.

A company in a Commercial Free Zone is exempt from business tax or any other corporate tax and any dividends paid shall be exempt from such tax for 10 years. At the end of the tax holiday, business tax is due at a rate of 2% with tax credit depending on the number of workers employed by the company.

The measure therefore provides for a significantly lower level of taxation and is potentially harmful under the Code.

Criterion 1 & 2

The previous version of the Free Zones Act contained a Section prohibiting business within the national customs territory. The current legislation does not prohibit companies from carrying out business in Belize. The companies that operate both in the national customs territory and in the free zone must maintain separate books and accounts in respect of each activity, and goods entering the customs territory are subject to customs duties. Whether the company carries out business in the domestic or foreign market is not a condition to benefit from the tax holiday.

The regime is open to all entities regardless of whether they are foreign or domestic and regardless of whether their income is foreign or domestic.

Information was requested from Belize in order to assess potential *de facto* ring-fencing. To date, Belize did not provide such data but committed to do so in the coming weeks.

Criterion 3

Under the previous version of the Free Zones Act, the following activities were allowed in Commercial Free Zones: trade and investment activities such as commercial office, warehouse, manufacturing, insurance services, financial services, banking services, offshore financial services and other professional or related activities.

The new legislation limits the activities allowed in the Commercial Free Zones to the following: services, trade and investment activities such as a commercial office, warehouse, manufacturing, tourism, temporary hotel accommodation within defined areas for guests and employees, and related international services or other professional or related activities.

Banks and financial institutions which are licensed under the laws of Belize shall be allowed to operate within a Commercial Free Zone but their transactions shall be limited to only Commercial Free Zone business.

According to Section 26, the following businesses should receive a licence or permission to operate:

(a) banking services; (b) financial business; (c) International Financial Services as defined in the International Financial Services Commission Act, Cap. 272; (d) internet or computer gaming services, including online gaming; (e) gaming; (f) foreign exchange business, including casa de cambio; (g) radio or telecommunication services.”

On 21 May, Belize provided information and data on the companies operating in the two Commercial Free Zones of Corozal and Benque Viejo:

- 228 companies in the Corozal Free Zone conducting the following activities: import/export, wholesale/retail of general merchandise including fragrances, clothing, accessories, watches, gift items, footwear, electronics, electrical item, household items, toys, beauty products, furniture, stationery, jewellery, grocery, hardware supplies, vehicle accessories and spare parts, bicycles, tires, nonalcoholic and alcoholic beverages.
- 17 companies in the Benque Viejo Free Zone conducting the following activities: import/export, wholesale/retail of general merchandise .

According to the 2018 guidance on criterion 3 of the Code of Conduct, when (i) a regime grants tax benefits to activities such as manufacturing or production, (ii) the qualifying activities necessary to benefit from the regime do not include any highly mobile activities or (iii) the benefits of the regime are directly linked to investment in tangible assets, the regime does not a priori raise concerns under criterion 3 of the Code of Conduct.

To date, according to the information provided by Belize, no companies are conducting highly mobile activities in the existing Commercial Free Zones - only retail and manufacturing activities,

together with ancillary services such as banking and telecommunications. However, in theory, banking and international financial services could qualify.

There are no specific substance requirements for such mobile services in the Free Zones Act in order to benefit from the 10 year tax holiday.

However, no companies in the Free Zones are carrying out mobile activities and the Act will be amended.

Criterion 4

The provisions of the Free Zones Act do not contain such elements that would be relevant from the point of view of internationally accepted principles as referred to in criterion 4 of paragraph B of the Code.

Criterion 5

All conditions for granting the benefits of the Free Zones Act regime are clearly laid in the legislation.

Overall Assessment (OA)

In the light of the additional information provided by Belize on the practical application of the legislation, as well as the supporting data on the type of activities carried out by the companies benefiting from the regime, this regime does not raise concerns. Moreover, the *de lege* provision allowing “services” in general to be allowed in the Free Zones is in the process of being amended, in order to link the services offered in the zones with the trade and investment activities allowed.

Therefore, the COCG agreed to consider the regime as “not harmful” and to monitor the adoption of the amendment of Section 18(3) of the Act to bring it in line with the practical application of the regime by Belize authorities.