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European Union

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OUTCOME OF PROCEEDINGS

From: General Secretariat of the Council
To: Delegations
Subject: The EU list of non-cooperative jurisdictions for tax purposes

- Compilation of commitment letters received from jurisdictions

= Armenia

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MINISTRY OF FINANCE OF THE
REPUBLIC OF ARMENIA
MINISTER

МИНИСТЕРСТВО ФИНАНСОВ
РЕСПУБЛИКИ АРМЕНИЯ
МИНИСТР

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1 Melik-Adamyan str., Yerevan, 0010
Էլ. փոստ/ՉՎ. почта/E-mail: [REDACTED]

№ _____

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To: Ms. Fabrizia Lapecorella
Chair of the Code of Conduct Group
General Secretariat of the Council
Rue de la Loi/Wetsstraat 175-B-1048
Brussels, Belgium

Re: Request for commitment by the Chair of the Code of Conduct Group

Dear Ms. Lapecorella,

Let me take this opportunity to extend my sincere appreciation to your esteemed institution for the invitation to assess the Armenia's compliance with criteria agreed by the Council of the EU.

Referring to your letter № SGS17/09160, dated October 24, 2017, I would like to reiterate Armenia's commitment to implement international best practice in the area of tax cooperation. It is worth to mention that the Government of the Republic of Armenia undertakes subsequent steps towards fulfillment of all obligations emanating from the membership of various international organizations. In this context, it is worth highlighting that despite the fact that Armenia is not an Associate to the BEPS project, some of the BEPS Actions, especially Actions connected to the transfer pricing rules (Actions 8-10, 13) are prioritized. Also, according to the Government Action Plan for 2017-2022 it is intended to have in place all necessary legal arrangements and regulations for the implementation of Global Forum Standards and the mentioned BEPS Actions by the year of 2020 (Please see attached the response to the request for commitment by the Chair of the Code of Conduct Group).

Nevertheless, I strongly express my confidence that mutually joint efforts and endeavors will effectively tackle tax avoidance issues, improve the coherence of international tax rules and ensure a more transparent tax environment.

Thank you for your consideration and looking forward to further productive cooperation.

Please accept the assurance of my highest consideration.

Yours sincerely,

Vardan Aramyan

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№ 02/2-5/1193039-1

« 29 » November 2018

To: Ms. Fabrizia Lapecorella
Chair of the Code of Conduct Group
General Secretariat of the Council
Rue de la Loi/Wetsstraat 175-B-1048
Brussels, Belgium

Dear Ms. Lapecorella,

I would like to extend my sincere appreciation to you and your team for the effective cooperation and exchange of ideas on the issues raised in your letters dated 15 June, 2017 and 24 October, 2017. I do believe that the clarifications and explanations provided to you by the letter of the Minister of Finance of the Republic of Armenia, dated 17 November, 2017, sheds a light on the issue that is of crucial importance for Armenia. Yet, the fact that Armenia is put on the list of potential countries for "non-cooperative jurisdictions for tax purposes" arouses deep concerns, as the policy of Government of the Republic of Armenia is in the opposite direction, i.e. (i) to demonstrate strong efforts towards staying in line with the OECD principles of global taxation and (ii) to do actions including reviewing internal procedures and legislations for blocking the opportunity of tax base erosion and profit shifting.

At the same time, in view of making sure that we have the same view on the current situation, as well as for the purpose of presenting relevant information to your esteemed team which will form the basis to withdraw Armenia from the list of potential non cooperative countries, let me once again draw your attention on some additional facts:

Re: Criterion 1.3 – Signing and ratification OECD and Council of Europe joint Convention on Mutual Administrative Assistance in Tax Matters as amended by the 2010 Protocol (hereinafter Convention) by the end of 2019

Obviously, conducting an international tax policy in accordance with existing international approaches and developments is highly prioritized by the Government of the Republic of Armenia which is reflected in the Government Program (Action Plan) for 2017-2022 approved by the National Assembly of the Republic of Armenia (See` <http://www.gov.am/files/docs/2219.pdf> Section 3.2).

At the same time, by having become an OECD Global Forum member (since 2015) Armenia has taken responsibility for implementation of international standards on Exchange of information and transparency for tax purposes. Currently, we are in the induction process of the Global forum and preparing for the first Peer Review. In this regard, as you know, one of the key requirements of the Global forum is the membership to the Convention. The requirement was fully committed by the Government of the Republic of Armenia and all necessary internal procedures were accomplished. Thus,

the Convention is ready to be signed, however, as it was mentioned in our previous correspondence the signing process of the Convention was extended due to the amendments to the Constitution of the Republic of Armenia, but we strongly express our confidence and commitment that by the end of 2019 the Convention will be signed and ratified (as mentioned in the group request). Also, you may find GOA's commitment fixed on page 58 of the Government Program (Action Plan) for 2017-2022 approved by the National Assembly of the Republic of Armenia (See` <http://www.gov.am/files/docs/2219.pdf> , Sub-clause 2, Clause 2, Section 3.2)

Criterion 2.1 – Abolishment of reduced rate for Large Exporters and Governmentally Approved projects outside Armenia by 2021

The reduction of tax exemptions and broadening of tax base are considered as a priority for the tax policy conducted by the Government of the Republic of Armenia. Therefore, the Government of the Republic of Armenia treats very carefully in granting tax exemptions or reduced rates of any type of taxes in order to prevent base erosion and profit shifting. As it was clarified the reduced corporate income tax exemption was a temporary and exceptional tool and the main propose was to boost economic activities and exportable sector. The peculiarity of this regime is that the procedure to receive reduced corporate tax rates is very strict and the company must comply with all requirements stipulated by the Law of the Republic of Armenia "On Profit tax". In other words, the Government of the Republic of Armenia strongly keeps its finger on the pulse not to allow any divergence from its policies and international tax principles of OECD. The procedures for receiving status of approved program by government are regulated by the RA Government Decree 387-N, dated April 2, 2015 (the translated version of the document has been sent to the Group). The second peculiarity is that the companies which are engaged in key exporting sectors in Armenia such as mining, export of precious and semi-precious metals, excisable goods, etc. cannot exercise this opportunity. Therefore, we consider that application of this exemption emanates from the current economic situation in Armenia and does not lead to any harmful tax practice.

Nevertheless, the Republic of Armenia accepts the proposal to abolish the referred exemption beyond 2021 (as mentioned in the group request).

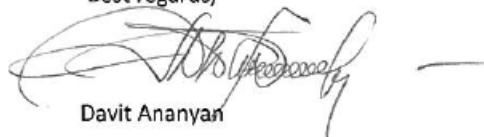
Criterion 3 – Membership to the Inclusive Framework of BEPS

Association to the BEPS Inclusive Framework is one of the important directions of the international tax cooperation for the Government of the Republic of Armenia. BEPS actions are guidelines for tax policy elaboration in Armenia and implementation some of them are one of the priorities onthe agenda of the Government of the Republic of Armenia. You may find this statement on page 58 of the Government Program (Action Plan) for 2017-2022 approved by the National Assembly of the Republic of Armenia (See` <http://www.gov.am/files/docs/2219.pdf> , Sub-clause 3, Clause 2, Section 3.2). Particularly, BEPS Action 1 (Digital Economy), BEPS Actions 8-10 (Transfer Pricing) and BEPS Action 15 are included in the above mentioned Program's Action Plan. It should be highlighted that the Republic of Armenia has already fulfilled the BEPS Action 15, i.e. has become a member of Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting which was signed by the Minister of Finance of the Republic of Armenia on June 7, 2017 in Paris. It's also worth to mention that our MLI position is very tough and our only reservation concerns to the Arbitrary regulations. Hence we commit all minimum standards of BEPS. Having regard all the above mentioned, I can assure and stress our commitment that Armenia will be a member of the BEPS Inclusive Framework at least by the end of 2019, (as mentioned in the group request).

To sum up, I will be grateful if you and your team consider the above mentioned additional comments/statements. We are confident that Armenia is in line with the minimum necessary requirements for classifying as cooperative country for tax matters. If some aspects of our information needs further clarification, we are committed and stand ready to conduct a conference call with the team today any time between 13:00-16:00/Brussels time (please indicate the exact time, if needed).

Thank you for your kind cooperation and looking forward to receiving positive feedback on withdrawing Armenia from the "Black" list.

Best regards,

A handwritten signature in black ink, appearing to read 'Davit Ananyan', with a horizontal line extending to the right.

Davit Ananyan

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№ 2-5/21926-17

«29» November 2017թ.

To: Ms. Fabrizia Lapecorella
Chair of the Code of Conduct Group
General Secretariat of the Council
Rue de la Loi/Wetsstraat 175-B-1048
Brussels, Belgium

Dear Ms. Lapecorella,

In addition to my letter № 02/2-5/1193039-17, dated 29 November, 2017, as well as further to the conference phone call held 29 November, 2017 I would like to strongly express the confidence and commitment of the Government of the Republic of Armenia on making amendment in the existing profit tax legislation by the 31 December, 2018 on the following:

- a) As of 31 December, 2021, the application of reduced profit tax rates for all large exporters/resident taxpayers implementing a program approved by the Government of the Republic of Armenia will be abolished;
- b) The grandfathering rule for the existing companies or group of companies which are enjoying the referred tax privilege as of 31 December, 2018 will be extended till 31 December, 2021.

We strongly believe that the above mentioned commitments will serve as a basis for the Code of Conduct Group for not recommending to the Council of EU to include The Republic of Armenia in the list of non-cooperative jurisdictions for tax purposes.

Thank you for your kind cooperation.

Best regards,

Davit Ananyan

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№ 2-5/22081-17

« 30 » November 2018 թ.

To: Ms. Fabrizia Lapecorella
Chair of the Code of Conduct Group
General Secretariat of the Council
Rue de la Loi/Wetsstraat 175-B-1048
Brussels, Belgium

Dear Ms. Lapecorella,

The willingness and commitment of the Government of Armenia to amend the legislation by 31 December, 2018 in relation to the Criterion 2.1 was strictly expressed in my letter No. 2-5/21986-17, dated of 29 November, 2018.

However, for the purpose to clarify the possible misunderstanding, I would like to stress to your attention the following:

We do confirm that the tax regime named *Reduced Rate for Large Exporters and Governmentally Approved Projects Outside Armenia* will be abolished by the deadline indicated in your letter (i.e. 31 December 2018), as requested in your letter SGS17/09160, dated 24 October 2017. Any grandfathering mechanisms, as we have already mentioned, for existing companies or group companies, will not extend beyond 2021.

Best regards,

Davit Ananyan