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### OUTCOME OF PROCEEDINGS

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From: General Secretariat of the Council

To: Delegations

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

- Compilation of commitment letters received from jurisdictions
- = Aruba
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GOBIERNO DI ARUBA

Minister di Finanzas y  
Organisacion Gubernamental

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Oranjestad, Aruba  
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Ms. Fabrizia Lapecorella  
Chair of the Code of Conduct Group (Business Taxation)  
Rue de la Loi/Wetstraat 175  
B-1048 Brussel  
België

Aruba, 28 November 2017

Subject: Letter for the attention of the authorities of Aruba  
Taxation: follow-up to the screening process

Dear Ms. Lapecorella,

With reference to your letter of October 23, 2017 in connection with the assessment of Aruba on the criteria agreed by the Council of the EU, concerning the areas of tax transparency, fair taxation and implementation of anti-base erosion and profit shifting measures, as set out in the Council "Conclusions on criteria and process leading to the establishment of the EU list of non-cooperative jurisdictions for tax purposes of November 8, 2016, I would like to inform you as follows.

Aruba initiated in 2001 a process of partially changing its legislation and tax practice that had caused Aruba to be on the list of November 29, 1999 of the Code of Conduct Group / Primarolo Group with four tax regimes, in order to meet the requirements of the EU and OECD concerning harmful tax competition. Aruba voluntarily committed to abolish or to remove their harmful elements by the end of 2005. This commitment has been implemented in the two major tax reforms that took place in 2002 and 2005.

More recently Aruba also abolished the IP elements of the new Imputation Payment Company regime, after receiving feedback of the Code of Conduct Group on a draft assessment by the European Commission (CIE) of this regime.

The Government of Aruba welcomes and supports the international approach to tackle offshore tax evasion and tax avoidance in order to create a more transparent and fair taxation system.

I am therefore pleased to inform you that the Government of Aruba commits to the elimination of the features that have been determined harmful by the Code of Conduct Group relating to the "special zone San Nicolas" and the "Transparency regime". Consequently Aruba undertakes to implement such legislative measures as are necessary to fulfill this commitment.

Aruba commits to:

1. Abolishing the San Nicolas regime with grandfathering until December, 31 2020. Abolishment will be effectuated before the end of 2017.

2. Amend the transparency regime in so far that the definition of permanent establishment will be aligned with article 5 of the OECD Model Tax Treaty and the requirements on eligibility for the transparency regime will be adjusted, including the requirement that the company has to actually exercise activities in Aruba in order to opt for this regime.

The existing transparent companies will be given the opportunity until December 31, 2020 to meet the new requirements. If the companies do not meet the requirements on January 1, 2021, the company will no longer be eligible for the transparency regime.

The commitment is given on the basis that:

1. Aruba will not be included in the EU list of non-cooperative jurisdictions for tax purposes;

2. Aruba will be enabled to discuss the proposed changes to the transparency regime in more detail, in order to shape the adjustments to the satisfaction of the EU Code of Conduct Group.

I trust to have informed you satisfactorily on the progress of this important matter.

Sincerely,



Mrs. Xiomara J. Ruiz-Maduro, LL.M.  
Minister of Finance and Government Organization

For and on behalf of the Government of Aruba



GOBIERNO DI ARUBA

Minister di Finanzas,  
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Aruba, 30 November 2017.

Subject : Addition to the letter of Aruba of 28 November 2017.

Dear Ms. Lapecorella.

With reference to our letter of 28 November 2017 regarding the assessment of Aruba on the criteria agreed by the Council of the EU in the "Conclusions on criteria and process leading to the establishment of the EU list of non-cooperative jurisdictions for tax purposes" and the email of 29 November 2017 of the Secretariat DGG2B COGC, I would like to inform you that mistakenly criterion 3 to comply with the criteria agreed by the Council of the EU, concerning the areas of tax transparency, fair taxation and implementation of anti-Base Erosion and Profit Shifting (anti-BEPS) measures, was not included in this letter.

I would therefore like to add to the aforementioned letter of 28 November 2017 the commitment of Aruba to the minimum standard concerning the areas of tax transparency, fair taxation and implementation of anti-Base Erosion and Profit Shifting (anti-BEPS) measures, by 31 December 2018.

Sincerely,

Mrs Xiomara J. Ruiz-Maduro LL.M.  
Minister of Finance and Government Organization

For and on behalf of the Government of Aruba