



Council of the  
European Union

Brussels, 5 April 2018  
(OR. en)

6972/18  
ADD 33

FISC 113

## 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
- = Antigua and Barbuda
-



GOVERNMENT OF ANTIGUA AND BARBUDA  
Office of the Prime Minister

Queen Elizabeth Highway  
St. John's  
Antigua and Barbuda

Tel. (268) [REDACTED]  
Fax. (268) [REDACTED]

27<sup>th</sup> February, 2018

Ms Fabrizia Lapecorella  
General Secretary of the Council  
Chair of the Code of Conduct Group (Business Taxation)  
Brussels

Dear Ms Lapecorella,

**EU Council Screening of Antigua and Barbuda by the Code of Conduct Group (Business Taxation)**  
**Letter of Commitment**

Antigua and Barbuda extends appreciation to the Council of the EU for the consideration afforded our jurisdiction after the devastating impact of Hurricane Irma. The work to rebuild continues even as we prepare for the start of another hurricane season.

Antigua and Barbuda remains firmly committed to being a responsible partner with the EU, to find workable and equitable solutions to our common challenges and to build on our common values.

Having collaborated with relevant stakeholders within our Jurisdiction, we have provided our responses to the identified shortcomings below.

By this letter, I hereby make a formal commitment on behalf of the Government of Antigua and Barbuda to address the deficiencies identified in Annex I of your letter of 26<sup>th</sup> January, 2018. Antigua and Barbuda further commits to address these deficiencies by **December 2018**.

The Government of Antigua and Barbuda proposes the following specific actions:

**Criterion 1.1**

Antigua and Barbuda hereby commits to become a signatory to the Multilateral Competent Authority Agreement by **31<sup>st</sup> December 2018**. Antigua and Barbuda is adopting the multilateral approach, the preferred approach of the vast majority of jurisdictions. Like our colleagues in other jurisdictions, we see this route as the most effective and efficient to deliver on this aspect of the commitment to the AEOI Standard. On 16<sup>th</sup> August 2016, Antigua and Barbuda communicated to

the Secretary General of the OECD our strong interest in becoming a Party to the multilateral Convention on Mutual Administrative Assistance in Tax Matters, as amended by the 2010 Protocol.

The Jurisdiction was subsequently asked to make several amendments to the primary legislation, the *Automatic Exchange of Financial Account Information Act, No. 11 of 2016*. The last amendment needed to further address matters of confidentiality and data safeguard, was submitted to the Secretariat to be circulated amongst the Co-ordinating Body delegates for consideration on 6<sup>th</sup> February 2018. We are therefore on track to meet this commitment by December 2018.

### **Criterion 1.3**

Antigua and Barbuda re-confirms its commitment to sign and ratify the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters. The Secretariat has indicated that once approval of the aforementioned amendment to the enabling legislative framework has been received from the Co-ordinating Body delegates, the Secretariat will revert to arrange the signing modalities for the MAC.

### **Criterion 2.1**

Antigua and Barbuda undertakes to commit to review its legislative framework for international financial services, in particular the ‘International Business Corporations Regime’ with a view to addressing by abolition or amendment any provisions that may be considered to be harmful taxation practices by the deadline of 31<sup>st</sup> December, 2018.

In consideration of the letter of 7<sup>th</sup> November 2017 from the Code of Conduct Group, our Government, made a policy decision to regularise the tax rate paid by both local and international banks to address the perception of preferential treatment being given to the international banking sector. In January 2018 meetings were held with the stakeholders within the international banking sector notifying them of this decision and to garner feedback concerning implementation. This decision was further announced nationally in the 2018 Budget speech. The gaming sector is the only other international financial services sector licensed to carry on business within the Jurisdiction and we commit similarly to address this sector.

I further wish to add that whilst the International Business Corporations Act does grant tax concessions to IBCs, the international banks which comprise the predominant IBC sector licensed to carry on business are taxed under the International Banking Act governing its activities. It must be noted also that mechanisms exist to allow domestic companies to enjoy the same and often better tax concessions offered by the Government of Antigua and Barbuda to international financial services entities. These concessions to domestic entities are accessed through the Antigua and Barbuda Investment Authority Act and the Tourism Special Incentive Act.

Further, in relation to criterion 2.1, Antigua and Barbuda has also taken additional steps to foster tax transparency. In 2017 an Amendment was made to the International Business Corporations Act that requires attestations to be filed annually with the Financial Services

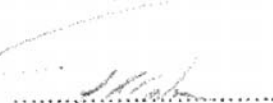
Regulatory Commission on beneficial ownership and control. The objective is to ensure that this information on the beneficial ownership of all foreign entities can be provided when requested by our partners. The information on beneficial ownership and control of all local companies is likewise available because of amendments made to the Companies Act.

**Criterion 3**

This present Government re-affirms its commitment to join the Inclusive Framework on BEPS or to the implementation of the minimum standards by December 2018.

In closing, I reaffirm the commitment of Antigua and Barbuda to fully co-operate at the international level as a responsible and accountable tax transparent jurisdiction. Consequently, Antigua and Barbuda looks forward to continue working with the Council of the EU as we partner together to achieve common objectives.

Sincere regards,



.....  
Hon. Gaston Browne MP  
Prime Minister



GOVERNMENT OF ANTIGUA AND BARBUDA  
Office of the Prime Minister

Queen Elizabeth Highway  
St. John's  
Antigua and Barbuda

Tel. (268)

Fax. (268)

2nd March, 2018

Ms. Fabrizia Lapecorella  
General Secretary of the Council  
Chair of the Code of Conduct Group (Business Taxation)  
European Commission, Brussels

Dear Ms. Lapecorella,

**EU Council Screening of Antigua and Barbuda by the Code of Conduct Group (Business Taxation)**

**Letter of Commitment**

As a follow up to your email communication of 1<sup>st</sup> March 2018, seeking clarification on commitments made under Criteria 1.1 and 2.1 in our letter of 27<sup>th</sup> February, 2018, I wish to clarify with the following:

**Criterion 1.1**

Further to our letter of 27<sup>th</sup> February, 2018, where Antigua and Barbuda committed to become a signatory to the Multilateral Competent Authority Agreement, I am pleased to clarify that Antigua and Barbuda has communicated its intention to the Global Forum Secretariat by way of Notification Pursuant to Section 7 (1) (f) of the Multilateral Competent Authority Agreement on Automatic of Financial Account Information its intention to exchange information with all EU countries.

**Criterion 2.1**

Antigua and Barbuda commits to addressing by abolition or amendment any provisions in its legislative framework for international financial services, in particular the 'International Business Corporations Regime' which may be considered to be harmful taxation practices. We commit to amending or abolishing the identified harmful taxation practices by the deadline of 31<sup>st</sup> December, 2018. In Antigua and Barbuda the process for implementing changes, begins with an in depth review of the existing legislation by our Attorney General and concludes with a parliamentary process for approval of the proposed new legislation.

During the process, our Government will also be required to conduct socio-economic and administrative impact assessments, to determine the impact of the proposed changes on the economy as well as to determine what mechanisms will be required to be put in place to support the new system and processes. We will also undertake industry and stakeholder consultations on the proposed amendments or new laws.

Page.....1

The Antigua and Barbuda legislative drafting process specifically will involve the following steps:


1. Review of the relevant legislation – Jan to May 2018
2. Industry and stakeholder consultations and impact assessments – January to May 2018
3. Draft legislation by technical officers – June 2018.
4. Further stakeholder consultations – July 2018.
5. Presentations and Submission of memorandum to Cabinet of Ministers – July 2018.
6. Finalization of legislation by the Attorney General's Chambers – August 2018.
7. Passage of New legislation September 2018.

Antigua and Barbuda respectfully wishes to avail itself of the grandfathering mechanism with respect to full implementation of the amended or new laws. In this respect, we intend to apply the grandfathering period up to the allowed period of 3 years after the passage of the amended legislation i.e. up to 2021. We expect that the grandfathering period will allow the necessary time for the sector and relevant stakeholders in Antigua and Barbuda to make necessary adjustments to the new requirements. It will also allow additional time to buffer the adverse effects of the new laws on our financial services sector.

I trust that through this commitment letter, my Government would have clarified the concerns that you outlined regarding the commitments made in our letter of February 27th 2018.

In closing, I wish to extend my highest regards to you.

Sincerely,



.....  
Honourable Gaston Browne M.P.  
Prime Minister and Minister of Finance

