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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
- = Turks and Caicos Islands
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MINISTRY OF FINANCE
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Grand Turk, Turks and Caicos Islands
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Ms. Fabrizia Lapecorella
Chair of the Code of Conduct Group (Business Taxation)
General Secretariat of the Council
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Wetstraat 175
B-1048 Brussels, BELGIUM

March 29, 2018

Dear Ms. Lapecorella,

Thank you for your letter of 7 March 2018.

The Turks and Caicos Islands' reputation as a well-regulated and transparent jurisdiction, that supports the development and implementation of international standards, is important to my Government. We are committed to supporting the new rules that the global community identifies, whether originating in the EU or OECD, to address emerging risks and practices in cross-border finance.

I thank you for your recognition that the Government of the Turks and Caicos Islands has cooperated with the Code Group in its work and your acknowledgement that the information so far provided by the Turks and Caicos Islands has helped to clarify aspects of our tax regime. We very much value our relationship with the European Union, and we reaffirm our support for your ongoing work to improve transparency and information sharing in tax matters.

I can therefore confirm the Government of the Turks and Caicos Islands unequivocal commitment to addressing the concerns that the EU Code of Conduct has identified.

In particular:

- I confirm that we will make the necessary changes to ensure businesses have sufficient economic substance where appropriate, taking account in particular of the Terms of Reference enclosed with your letter.
- I recognise that changes may need to be reflected in our legal and regulatory framework. We have already started to review relevant legislation in this regard, including our company law¹ and regulations.

¹ Which was amended in late 2017 to do away with "offshore" companies.

- We have actively updated our accounting and tax reporting obligations in line with the OECD and emerging requirements as and when they are introduced. I can confirm that our legislative framework regarding accounting and tax reporting represents international best practice and requirements, and is drafted in such a way that we can accommodate emerging requirements where our legislation is found insufficient and/or where it is recognized that additional accounting and tax reporting obligations may be needed.
- I commit to addressing the Code Group's concerns by December 2018. I note the Code Group will not recommend the listing of those jurisdictions that commit to correcting the identified concerns by this date. To this end, I have attached an indicative
- timeline to this letter as an annex, providing both a description of the steps to be taken and the likely timeframe for implementing any changes.
- Your letter makes clear that your area of concern is focused upon the compliance of the Turks and Caicos Islands legal and regulatory framework with criterion 2.2 of the set criteria; specifically, the possibility of a de facto lack of substance, which may be due to the absence of legal substance requirements for entities doing business in or through the Turks and Caicos Islands.

The Turks and Caicos Islands does not encourage or welcome those seeking to pursue aggressive tax avoidance: we have not been and we will not be a safe harbour for such operators.

Early dialogue (which we welcome) with the Code Group will ensure we are working on a shared understanding of what 'economic substance' means, taking account of the enclosed Terms of Reference, and to ensure that any changes we make will address the concerns identified by the Code Group.

I'd ask the Code Group to also bear in mind that the Turks and Caicos Islands:

- is a tiny jurisdiction, with very limited resources (and that we have recently sustained extensive damage from the impact of hurricanes Irma and Maria).
- as such the deployment of our scarce governmental resources has to be undertaken with great care;
- we are not a substantial Financial Services jurisdiction. The vast majority of companies incorporated in these islands either do business locally, or are producer owned reinsurance captives that are exclusively employed in the US market; and
- we have and continue to expend considerable resources in complying with tax transparency, AML and other financial services legislation.
- Information shared early in relation to non-residents and the incorporation of entities present transparent legal mechanism for entities doing business in TCI with no preferential treatment to non-resident businesses.

I would also welcome the opportunity to discuss and agree any further formal cooperation on tax transparency between the Turks and Caicos Islands and the EU, which the EU may consider helpful such as those I am advised have recently been concluded with Switzerland, Liechtenstein, San Marino, Andorra and Monaco. I also note that the Commission, as part of its scoreboard exercise in 2016, considered these five jurisdictions favorably.

I now look forward to working with the Code Group on these matters and to the Group's formal recognition that we remain a cooperative jurisdiction for tax purposes in due course.

I am copying the letter to the Permanent Representative of Estonia to the EU, Ambassador Kaja Tael as Presidency, and to EU Commissioner Pierre Moscovici.

Yours sincerely,



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The Honorable Sharlene Cartwright-Robinson
Premier of the Turks and Caicos Islands

cc. H.E. Kaja Tael
Mr. Pierre Moscovici

**ANNEX – GOVERNMENT OF TURKS AND CAICOS ISLANDS INDICATIVE
TIMELINE**

Development of Sectoral “Economic Substance” Tests

It is likely that a programme of work to develop and implement appropriate tests of economic substance will be coordinated by the Government’s Exchange of Information Unit and the Attorney General’s Chambers.

Determine what sectors and/or sub-sectors of the Turks and Caicos economy require substance tests.	April, May 2018
Early discussion with Code Group, to discuss what further steps could be taken by the Turks and Caicos Islands	May, June 2018
Conduct research and consultation with business/sectors and other Governments – to inform the establishment of a range of practical substance tests.	June, July 2018
Present early findings and recommendations to Government.	August 2018
Appraise the need for accounting provision to measure ongoing substance according to tests on a recurring basis.	September 2018
Appraise the need for tax (or other kinds of) reporting provisions – to report substance according to the tests.	October 2018
Publish and consult on any draft legislation to support substance tests and on any accounting and tax regulations.	October 2018
Lodge firm legislative proposal with the Turks and Caicos Islands House of Assembly.	November 2018
Determine which arm of Government should lead and exercise any regulatory oversight.	December 2018
The House of Assembly debate and vote upon any legislative and regulatory changes.	December 2018
Implement substance tests.	January 2019



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Ms. Fabrizia Lapecorella
Chair of the Code of Conduct Group (Business Taxation)
General Secretariat of the Council
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Wetstraat 175
B-1048 Brussels, BELGUIM

April 19, 2018

Dear Ms. Lapecorella,

Further to my letter to you of March 29th 2018, I am advised that the Code of Conduct Group (business taxation) has raised a concern that my letter did not adequately reference a commitment on behalf of the Government of the Turks and Caicos Islands to comply with sub-criteria 1 and 2 of the Code of Conduct.

In particular, I understand that the Code of Conduct Group seeks a clear commitment from my Government that, to the extent our laws and regulations permit the granting of advantages only to non-residents, or in respect of transactions carried out by non-residents, in particular though allowing the incorporation of entities which are not permitted to carry on business in the Turks and Caicos Islands, then the Code of Conduct Group ask for a commitment from my Government that we will address these issues, and take such steps as may be necessary to change our laws and regulations so as not to allow the granting of benefits to non-residents, or to transactions carried out by non-residents.

I confirm that the Government of the Turks and Caicos Islands will make the necessary changes to address the issues identified under sub-criterion 1 and 2, including engaging a consultant to advise on the best legislative and administrative arrangements to be applied to the abolition of legal or de facto mechanisms that enable the granting of advantages only to non-residents, or to transactions carried out by non-residents.

We will undertake this task contemporaneously with the timetable concerning matters of economic substance set out in the annex to my letter of 29th March 2018 to you.


The Turks and Caicos Islands is a very small jurisdiction, with less than 40,000 people and an economy heavily dependent on tourism. Financial Services activities in terms of GDP is in the low single digits, as you will have seen from the data shared in my earlier correspondence.

Keeping in line with the international transparency framework overseen by the OECD, the Turks and Caicos Islands have received a largely compliant rating from the Global Forum Peer Review assessment process on exchange of information for tax purposes. Membership to the Inclusive Framework on BEPS was confirmed in June 2017 by signature to CbCR MCAA.

The Turks and Caicos Islands is currently engaged in a very substantial rebuilding program following the devastation of 2 storms in 2017. Assistance provided by the international community has been very encouraging, and is much needed. Any negative publication about the jurisdiction at the time of these rebuilding efforts will certainly have a negative impact on our ongoing recovery efforts, including our future development potential, and our ability to attract foreign direct investments.

I would be grateful if the Secretariat to the Code of Conduct Group would confirm that this commitment is satisfactory for the purposes of the Group, and I look forward to working with the Code of Conduct Group going forwards on these important matters.

Yours sincerely,



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The Honorable Sharlene Cartwright-Robinson
Premier of the Turks and Caicos Islands

cc. H.E. Kaja Tael
Mr. Pierre Moscovici