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Subject: Note to the Code of Conduct Group (Business Taxation)

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Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.

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Council of the  
European Union

Brussels, 3 July 2017  
(OR. en)

10901/17

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FISC 155

**NOTE**

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From: General Secretariat of the Council

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To: Delegations

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Subject: Note to the Code of Conduct Group (Business Taxation)

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Delegations will find in the ANNEX a compilation of queries that were designed by the Code of Conduct Group expert panels and sent by the Chair of the Code of Conduct Group to the jurisdictions covered by the 2017 screening exercise.

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**INFORMATION REQUEST BY COCG EXPERTS**

**Criterion 3**

The COCG experts acknowledge that the Republic of Albania has not yet joined the Inclusive Framework on BEPS, nor committed to the agreed BEPS minimum standards and their consistent implementation. We would be grateful if you could clarify whether the Republic of Albania could join the Inclusive Framework on BEPS or, in any case, commit to these standards by the end of 2017.

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2	American Samoa
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Questionnaire included under the US (see No 78)

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3	Anguilla
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## INFORMATION REQUEST BY COCG EXPERTS

### Criterion 1.1

According to publicly available information it appears that Anguilla has not activated information exchange with all EU Member States under the framework of the Multilateral Competent Authority Agreement on the automatic exchange of financial account information. In this context we are interested in knowing whether you have notified the OECD coordinating body of your intention to exchange information with all EU Member States under the above mentioned framework. If you have not notified the OECD coordinating body of your intention to exchange information with all EU Member States yet, do you plan to do so and within what time frame? Should Anguilla not intend to cover all EU Member States, we would also be grateful if you could specify the reasons for such a decision.

### Criterion 1.2

The COCG experts acknowledge that Anguilla was granted a *Partially Compliant* rating by the Global Forum on Transparency and Exchange of Information for Tax Purposes (hereinafter, the Global Forum). In this context, it is important to know whether Anguilla has applied for the Fast-track procedure as envisaged in the Global Forum. Should application for the Fast-track procedure be submitted, this information will be taken into due consideration by the COCG experts.

### Criterion 2.2

The COCG experts acknowledge that Anguilla should be considered in the context of criterion 2.2 as further specified by the COCG (see Appendix 2 to Annex II).

We would therefore be grateful if you could respond to the questions set out in the Appendix 1 to this Annex.

Please be informed that further specific questions could follow based on information available.

### Criterion 3

The COCG experts acknowledge, on the basis of publicly available information, that Anguilla is not a member of the Inclusive Framework on BEPS. They also have no indication that Anguilla would have committed to implement the BEPS minimum standards.



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Nonetheless, COCG experts acknowledge that, given the features of its legal system, some of these minimum standards might not be relevant for Anguilla. To this aim, it is important to know whether Anguilla could join the Inclusive Framework on BEPS and /or commit, by the end of 2017, to apply at least the BEPS minimum standards that would be relevant, such as the Country by Country reporting as defined under the BEPS Action 13.

### **QUESTIONS CONCERNING CRITERION 2.2**

[as set out in the template questionnaire (see doc. 9995/17 FISC 124 EU RESTRICTED, Annex II)]

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4	Antigua and Barbuda
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## INFORMATION REQUEST BY COCG EXPERTS

### Criterion 1.1

According to publicly available information it appears that Antigua and Barbuda has not activated information exchange with all EU Member States under the framework of the Multilateral Competent Authority Agreement on the automatic exchange of financial account information. In this context we are interested in knowing whether you have notified the OECD coordinating body of your intention to exchange information with all EU Member States under the above mentioned framework. If you have not notified the OECD coordinating body of your intention to exchange information with all EU Member States yet, do you plan to do so and within what time frame? Should Antigua and Barbuda not intend to cover all EU Member States, we would also be grateful if you could specify the reasons for such a decision.

### Criterion 1.2

The COCG experts acknowledge that Antigua and Barbuda was granted a Partially Compliant rating by the Global Forum on Transparency and Exchange of Information for Tax Purposes (hereinafter, the Global Forum). In this context, it is important to know whether Antigua and Barbuda has applied for the Fast-track procedure as envisaged in the Global Forum. Should application for the Fast-track procedure be submitted, this information will be taken into due consideration by the COCG experts.

### Criterion 1.3

The COCG experts acknowledge that Antigua and Barbuda has not signed the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC), as amended. It is therefore important to know whether Antigua and Barbuda intends to sign the MAC or whether it has a network of exchange arrangements in force which is sufficiently broad to cover all EU Member States, effectively allowing both exchange of information on request (EOIR) and automatic exchange of information (AEOI). If the network of such arrangements exists, we would be grateful if you could specify if Antigua and Barbuda intends to extend this network to all EU Member States and which steps were or are being taken in order to achieve this objective.

### **Criterion 2.1**

The COCG experts have identified the tax regime, as described in the Appendix 1 to this Annex, which is relevant in the context of evaluating the situation against criterion 2.1 (see Annex II). We would be grateful if you could confirm whether information contained in Appendix 1 to Annex I is complete and accurate and, provide references, where such are missing or incorrect, to relevant legal provisions.

The COCG experts acknowledge that Antigua and Barbuda has not joined the Inclusive Framework on BEPS. We would be grateful if you could clarify whether Antigua and Barbuda intends to join the Inclusive Framework on BEPS; if so, it would be important that this action is taken as soon as possible. Please note that the COCG experts Panel will take stock of the assessment of the work carried out in the Inclusive Framework on BEPS, in order to evaluate your preferential tax regime against criterion 2.1 (see Annex II), to the extent the scope of the work carried out in the Inclusive Framework on BEPS is compatible with the analysis to be conducted by the COCG.

### **Criterion 3**

The COCG experts acknowledge that Antigua and Barbuda has not yet joined the Inclusive Framework on BEPS, nor committed to the agreed BEPS minimum standards and their consistent implementation. We would be grateful if you could clarify whether Antigua and Barbuda could join the Inclusive Framework on BEPS or, in any case, commit to these standards by the end of 2017.

## **DRAFT DESCRIPTION OF TAX REGIME (criterion 2.1)**

### **Regime: International Business Corporations (IBC)**

#### **1. Description of the regime**

An International Business Corporation (IBC) is incorporated under the International Business Corporations Act of 1982 company resident in Antigua and Barbuda which does not carry on trade in the buying or selling of goods or services in, or originating in, Antigua and Barbuda. An IBC is not permitted to carry on any business activity within Antigua and Barbuda except for those activities, which are solely in furtherance of its international trade or business activities.

An IBC is considered resident in Antigua if it is:

- incorporated in Antigua and the majority of the shares are beneficially held by one or more resident individuals;
- incorporated outside Antigua but controlled directly or indirectly by resident individuals and/or a resident company; or
- controlled by a resident company. "Controlled" means that shares carrying sufficient voting power to elect the majority of directors are held directly or indirectly.

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Often used “international” activities of an IBC cover, for example: banking; trust business; insurance; manufacturing; insurance broking; commercial, industrial, trading or business services; and international shipping and aircraft.

### 2. Benefits available to the IBC

The IBC are taxed lower than the standard 25% corporate income tax rate.

Corporations organized under the IBC Act are granted a guaranteed fifty-year tax exempt from the date of incorporation. Thus the corporations are exempt from income tax and capital gains tax; estate, inheritance, succession or similar tax; tax on the transfer of shares; withholding tax; exchange control tax.

The profits or gains of an IBC which is not an investment company shall be exempt from income tax if, within the prescribed time after the expiration of an income year the company satisfies the Commissioner that during the whole of that income year, it was an international business company within the meaning of this Act.

### 3. Possible concerns

Our understanding of Antigua and Barbuda legislation is that under this regime, the benefit of the reduced corporate income tax rate is limited to international business companies which may not carry on business in Antigua and Barbuda.

A regime limited to foreign tax payers and/or to operations outside the territory of the jurisdiction (ring fenced regime) does not meet criteria 1 and 2 of the Code of Conduct which forbid this type of ring fencing.

5	Armenia
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## INFORMATION REQUEST BY COCG EXPERTS

### Criterion 1.3

The COCG experts acknowledge that Armenia has not signed the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC), as amended. It is therefore important to know whether Armenia intends to sign the MAC or whether it has a network of exchange arrangements in force which is sufficiently broad to cover all EU Member States, effectively allowing both exchange of information on request (EOIR) and automatic exchange of information (AEOI). If the network of such arrangements exists, we would be grateful if you could specify if Armenia intends to extend this network to all EU Member States and which steps were or are being taken in order to achieve this objective.

### Criterion 2.1

The COCG experts have identified the tax regimes, as described in the Appendix 1 to this Annex, which are relevant in the context of evaluating the situation against criterion 2.1 (see Annex II). We would be grateful if you could confirm whether information contained in Appendix 1 to Annex I is complete and accurate and, provide references, where such are missing or incorrect, to relevant legal provisions.

The COCG experts acknowledge that Armenia has not joined the Inclusive Framework on BEPS. We would be grateful if you could clarify whether Armenia intends to join the Inclusive Framework on BEPS; if so, it would be important that this action is taken as soon as possible. Please note that the COCG experts Panel will take stock of the assessment of the work carried out in the Inclusive Framework on BEPS, in order to evaluate your preferential tax regimes against criterion 2.1 (see Annex II), to the extent the scope of the work carried out in the Inclusive Framework on BEPS is compatible with the analysis to be conducted by the COCG.

### Criterion 3

The COCG experts acknowledge that Armenia has not yet joined the Inclusive Framework on BEPS, nor committed to the agreed BEPS minimum standards and their consistent implementation. We would be grateful if you could clarify whether Armenia could join the Inclusive Framework on BEPS or, in any case, commit to these standards by the end of 2017.

**DRAFT DESCRIPTION OF TAX REGIMES (criterion 2.1)**

**Regime I: Reduced Tax Rate for Large exporters**

**1. Description of the regime**

The regime applies to companies or group of companies meeting several criteria under the government's export promotion-oriented program, as follows:

- exclusively engaged in exports of goods and services;
- only export to Member States of the Eurasian Economic Union;
- do not carry out business activities in the field of metal mining and the processing and sale of precious minerals and excisable goods;
- receive the sales proceeds in foreign currency on bank accounts held in Armenia; and
- have their business plans approved by the government.

**2. Benefits available**

The companies or group of companies involved in the program approved by the government are taxed lower than the standard 20% company income tax rate:

- 5% if the annual exports of the company or the group of companies exceed AMD 40 billion; and
- 2% if the annual exports of the company or the group of companies exceed AMD 50 billion (on the whole amount exceeding the threshold).

**3. Possible concerns**

Our understanding of Armenia legislation is that under this regime, the benefit of the reduced company income tax rate is limited to companies or groups of companies that exclusively export goods and services as the exported goods do not have to be produced in Armenia.

A regime limited to operations outside the territory of the jurisdiction (ring fenced regime) does not meet criteria 1 & 2 of the Code of Conduct which forbid this type of ring fencing.

## Regime II: Governmentally approved projects outside Armenia

### 1. Description of the regime

The regime applies to companies conducting governmentally approved construction and installation activities exclusively outside the territory of Armenia.

### 2. Benefits available

The construction companies involved in investment projects exclusively outside Armenia and approved by the government are subject to a corporate income tax rate of 5% (lower than the standard 20% company income tax rate). In addition, the income paid to Armenian resident employees of such companies is taxed at a reduced rate of 13%. These rates apply from 13 June 2015. A larger deduction is available for governmentally approved projects within Armenia.

It is unclear what the conditions are for getting the government's approval. It is also unclear if such conditions are laid down in law or not.

### 3. Possible concerns

Our understanding of Armenia legislation is that under this regime, the benefit of the reduced company income tax rate is limited to companies that conduct governmentally approved construction and installation activities exclusively outside of Armenian territory.

A regime limited to operations outside the territory of the jurisdiction (ring fenced regime) does not meet criteria 1 & 2 of the Code of Conduct which forbid this type of ring fencing.

An important Code of Conduct criterion used to assess the harmfulness of a regime is its transparency (criterion 5). A measure is considered not transparent when it is not laid down in law but granted on a discretionary basis. It is unclear if the conditions for getting the government's approval are laid down in law or not.

6	Aruba
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## INFORMATION REQUEST BY COCG EXPERTS

### Criterion 1.1

Although Aruba is committed to the **the OECD Automatic Exchange of Information (AEOI) standard (the Common Reporting Standard - CRS)**, at this stage, according to publicly available data, it appears that it has not enacted any primary or secondary legislation for that purpose. In that context, for the purpose of assessing the situation against criterion 1.1, it is important to know whether and when Aruba intends to enact such legislation, and how it will be ensured that such legislation provides for the customer due diligence in accordance with the international commitments of Aruba.

According to publicly available information it also appears that Aruba has not activated information exchange with all EU Member States under the framework of the Multilateral Competent Authority Agreement on the automatic exchange of financial account information. In this context we are interested in knowing whether you have notified the OECD coordinating body of your intention to exchange information with all EU Member States under the above mentioned framework. If you have not notified the OECD coordinating body of your intention to exchange information with all EU Member States yet, do you plan to do so and within what time frame? Should Aruba not intend to cover all EU Member States, we would also be grateful if you could specify the reasons for such a decision.

### Criterion 2.1

The COCG experts have identified the tax regimes, as described in the Appendix 1 to this Annex, which are relevant in the context of evaluating the situation against criterion 2.1 (see Annex II). We would be grateful if you could confirm whether information contained in Appendix 1 to Annex I is complete and accurate and, provide references, where such are missing or incorrect, to relevant legal provisions.

### Criterion 3

The COCG experts acknowledge that Aruba withdrew its membership in the Inclusive Framework on BEPS. We would be grateful if you could clarify the reasons of your decision. In this context, it would be important to know if Aruba is prepared to undertake commitments towards the EU to implement the BEPS minimum standards by the end of 2017.



**DRAFT DESCRIPTION OF TAX REGIMES (criterion 2.1)**

**1. Free Zone Company**

a. Description

A free zone is an area designated for international trade and services (two e-zones are available). In a free zone, company profits are taxed at 2%. **If trade is also conducted with companies located in Aruba, the turnover generated through local business will be taxed at the normal tax rate.**

Source: [\*Doing Business Dutch Caribbean\*](#)

b. Benefits under the regime

Standard corporate income tax rate in Aruba is 25% on the chargeable income. However, under the Free Zone Company regime, a lower tax rate of 2% applies.

c. Possible concerns

The regime may include ring-fencing elements as it does not apply to the turnover generated through local business.

**2. Shipping and aviation companies**

a. Description

A reduced tax rate applies to shipping and aviation companies. Such companies are deemed to derive 80% of the profits outside Aruba, and that portion of the profits is taxed at a rate of 2.8%.

The special rate will only be granted to companies that:

- are incorporated under Aruba civil law;
- have their statutory seat in Aruba; and
- exercise the daily management with regard to transportation provided in Aruba.

Furthermore, the ships and airplanes concerned must be registered in the Kingdom of the Netherlands. Ships and airplanes exploited by such companies which are not registered in the Kingdom of the Netherlands are upon request deemed to be registered there if safety standards are met.

Qualifying shipping and aircraft companies may set up an equalization reserve. Furthermore, those companies are entitled to a loss carry-forward of 6 years, and, for losses made during the first 6 years, an unlimited carry-forward applies.

Shipping and aircraft companies established in Aruba also enjoy the IPC status. Shipping companies only benefit from the IPC status if each of their seagoing vessels has a minimum net tonnage of 2,500 tonnes.

Source: [IBFD](#)

**b. Benefits under the regime**

The profits derived outside Aruba (condition: at least 80%) are taxed at a lower tax rate of 2.8%.

**c. Possible concerns**

The regime may include ring-fencing elements because it only applies to the profits derived outside Aruba.

**3. Imputation Payment Company (new IPC regime):**

**a. Description**

Under the prior IPC regime, companies paid the regular corporate income tax rate of 28%. After certain stringent conditions were met, the shareholder of the IPC could request an imputation payment. After receipt of the imputation payment, the effective tax rate on consolidated level was 2% (not taking into account possible dividend withholding tax). To make the IPC regime more attractive, the GOA decided to reform the IPC regime. The reformed IPC regime stimulates new activities and is simplified. The reformed IPC regime is effective as of July 1, 2013.

The following changes are adopted in the beneficial policy:

- 10% corporate Income Tax rate for entities (no imputation payment system anymore);
- an exemption for the withholding tax.

The scope of the IPC is also extended with:

- activities related to the promotion of the use of so-called ‘green’ energy or projects that can be labelled as being related to ‘green’ energy;
- activities focused on so-called sustainable developments, such as inter alia sustainable energy, sustainable tourism and sustainable agriculture;
- activities related to the promotion of a knowledge-based economy;
- scientific activities;

Source: [Guide Business Aruba](#), [PWC](#)

b. Benefits under the regime

The regime provides for a lower tax rate of corporate income tax for qualifying IP activities. The effective tax rate under the regime is 10% compared to the current Aruba corporate income tax rate of 25%.

c. Possible concerns

It is acknowledged that the IP regime will be discussed by the Code of Conduct Group at its next meeting in June.

The main concerns would relate to:

- The scope of the IP assets that can benefit from the IP regime, amongst which copyrights, trade names, trademarks (word marks, logos, colour marks, smell marks, shape marks, sound marks), design rights, portrait rights, name rights to include music compositions and lyrics, photographs, film footage (with including advertising), designs, fashion design, as well as recording of music, film, theatre, cabaret and the like, industrial designs, inventions, portraits and personal names.
- The absence of a ratio linking the income benefiting from the IP regime to the R&D expenditures incurred. Aruba IP regime does not link its benefits to R&D requirements. Therefore, no ratio is used to compute the income receiving tax benefit.
- The absence of tracing & tracking requirements in relation to the nexus ratio.
- The asymmetrical treatment of losses.

**4. Special zone San Nicolas**

a. Description

With retroactive effect to January 1, 2013 a special zone has been created in San Nicolas, a town located in the south-east of Aruba and home of the former refinery. The beneficial policy introduces tax incentives for companies located inside of the designated special zone. The tax incentives are attractive for both foreign and local companies.

If a company qualifies as special zone company, the following tax incentives apply:

- 15% profit tax for activities particularly aimed on the local market.
- 10% profit tax for activities aimed for more than 75% on export and hotels.

Source: [PWC](#)

b. Benefits under the regime

A lower CIT rate of 10 or 15 % is applicable.

c. Possible concerns

The regime may include ring-fencing elements because the lower CIT rate of 10% is applicable to companies which have exported more than 75%.

**5. Transparency regime:**

a. Description

As from January 1, 2006, taxable corporations in Aruba, including A.V.V.'s, may opt for treatment as a transparent entity for Aruban tax purposes by filing a request to that effect with the Aruba Tax Authorities. This option is available for all newly incorporated companies in Aruba.

If an entity has opted for transparency, it is not possible to undo this decision at a later stage without the severe penalty of being subject to an effective profit tax rate 52.5% in Aruba.

The treatment as a transparent entity for Aruban tax purposes implies that the company will be exempt from Aruba profit tax, dividend withholding tax and income tax and is in fact treated as a transparent partnership. *In case the AVV, NV, and VBA has foreign shareholders, the shareholders will only be subject to Aruba taxes if the shareholders have a taxable presence in Aruba via either a permanent establishment or a permanent representative.*

Source: [Guide Business Aruba, Tax and Legal Services Website](#)

b. Benefits under the regime: the regime provides for an exemption from profit tax.

c. Possible concerns

The regime may involve a risk of ring-fencing as foreign-owned companies may benefit from a lower level of taxation.

7	Australia
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**INFORMATION REQUEST BY COCG EXPERTS**

**Criterion 1.1**

The COCG experts acknowledge that Australia is committed to the OECD Automatic Exchange of Information (AEOI) standard (the Common Reporting Standard - CRS) and also understand that it has signed the Multilateral Competent Authority Agreement for the Common Reporting Standard.

According to publicly available information it appears, however, that Australia has not activated information exchange with all EU Member States under the framework of the Multilateral Competent Authority Agreement on the automatic exchange of financial account information. In this context we are interested in knowing whether you have notified the OECD coordinating body of your intention to exchange information with all EU Member States under the above mentioned framework. If you have not notified the OECD coordinating body of your intention to exchange information with all EU Member States yet, do you plan to do so and within what time frame? Should Australia not intend to cover all EU Member States, we would also be grateful if you could specify the reasons for such a decision.

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8	Bahamas
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### INFORMATION REQUEST BY COCG EXPERTS

#### Criterion 1.1

The COCG experts acknowledge that, for the purpose of implementing the automatic exchange of information as provided under **the OECD Automatic Exchange of Information (AEOI) standard (the Common Reporting Standard – CRS)** Bahamas has decided or is likely to follow the bilateral approach. In that context, in order to assess the situation against criterion 1.1, it is important to know whether Bahamas intends to have arrangements in place by the end of 2017 to be able to exchange information with all EU Member States through bilateral agreements, in accordance with the commitment to implement the CRS for first exchanges in 2018. We'd be grateful if you could specify those bilateral agreements which are already signed or ratified and those which are under negotiation.

#### Criterion 1.3

The COCG experts acknowledge that Bahamas has not signed the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC), as amended. It is therefore important to know whether Bahamas intends to sign the MAC or whether it has a network of exchange arrangements in force which is sufficiently broad to cover all EU Member States, effectively allowing both exchange of information on request (EOIR) and automatic exchange of information (AEOI). If the network of such arrangements exists, we'd be grateful if you could specify if Bahamas intends to extend this network to all EU Member States and which steps were or are being taken in order to achieve this objective.

#### Criterion 2.2

The COCG experts acknowledge that Bahamas should be considered in the context of criterion 2.2 as further specified by the COCG (see Appendix 2 to the Annex II).

We'd therefore be grateful if you could respond to the questions set out in the Appendix 1 to this Annex.

Please be informed that further specific questions could follow based on information available.

**Criterion 3**

The COCG experts acknowledge, on the basis of publicly available information, that Bahamas is not a member of the Inclusive Framework on BEPS. They also have no indication that Bahamas would have committed to implement the BEPS minimum standards. Nonetheless, COCG experts acknowledge that, given the features of its legal system, some of these minimum standards might not be relevant for Bahamas. To this aim, it is important to know whether Bahamas could join the Inclusive Framework on BEPS and /or commit, by the end of 2017, to apply at least the BEPS minimum standards that would be relevant, such as the Country by Country reporting as defined under the BEPS Action 13.

**QUESTIONS CONCERNING CRITERION 2.2**

[as set out in the template questionnaire (see doc. 9995/17 FISC 124 EU RESTRICTED, Annex II)]

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9	Bahrain
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## INFORMATION REQUEST BY COCG EXPERTS

### Criterion 1.1

The COCG experts acknowledge that Bahrain is committed to **the OECD Automatic Exchange of Information (AEOI) standard (the Common Reporting Standard - CRS)** and also understand that it has not signed the Multilateral Competent Authority Agreement for the Common Reporting Standard.

In that context, for the purpose of assessing the situation against requirements of criterion 1.1, it is important to know whether Bahrain intends to sign the Multilateral Competent Authority Agreement for the Common Reporting Standard by the end of 2017 or intends to follow another approach.

Although Bahrain is committed to the **the OECD Automatic Exchange of Information (AEOI) standard (the Common Reporting Standard - CRS)**, at this stage, according to publicly available data, it appears that it has not enacted secondary legislation/regulations for that purpose. In that context, for the purpose of assessing the situation against criterion 1.1, it is important to know whether and when Bahrain intends to enact such legislation, and how it will be ensured that such legislation provides for the customer due diligence in accordance with the international commitments of Bahrain.

### Criterion 1.3

The COCG experts acknowledge that Bahrain has not signed the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC), as amended. It is therefore important to know whether your jurisdiction intends to sign the MAC or whether it has a network of exchange arrangements in force which is sufficiently broad to cover all EU Member States, effectively allowing both exchange of information on request (EOIR) and automatic exchange of information (AEOI). If the network of such arrangements exists, we'd be grateful if you could specify if Bahrain intends to extend this network to all EU Member States and which steps were or are being taken in order to achieve this objective.

### Criterion 2.2

The COCG experts acknowledge that Bahrain should be considered in the context of criterion 2.2 as further specified by the COCG (see Appendix 1 to Annex II).

We'd therefore be grateful if you could respond to the questions set out in the Appendix 1 to this Annex.



Please be informed that further specific questions could follow based on information available.

**Criterion 3**

The COCG experts acknowledge, on the basis of publicly available information, Bahrain is not yet a member of the Inclusive Framework on BEPS. They also have no indication that Bahrain would have committed to implement the BEPS minimum standards. Nonetheless, COCG experts acknowledge that, given the features of its legal system, some of these minimum standards might not be relevant for Bahrain. To this aim, it is important to know whether Bahrain could join the Inclusive Framework on BEPS and /or commit, by the end of 2017, to apply at least the BEPS minimum standards that would be relevant, such as the Country by Country reporting as defined under the BEPS Action 13.

**QUESTIONS CONCERNING CRITERION 2.2**

[as set out in the template questionnaire (see doc. 9995/17 FISC 124 EU RESTRICTED, Annex II)]

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10	Barbados
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## INFORMATION REQUEST BY COCG EXPERTS

### Criterion 1.1

Although Barbados is committed to the OECD Automatic Exchange of Information (AEOI) standard (the Common Reporting Standard - CRS), at this stage, according to publicly available data, it appears that it has not enacted secondary legislation/regulations for that purpose. In that context, for the purpose of assessing the situation against criterion 1.1, it is important to know whether and when Barbados intends to enact such legislation, and how it will be ensured that such legislation provides for the customer due diligence in accordance with the international commitments of Barbados.

According to publicly available information it appears that Barbados has not activated information exchange with all EU Member States under the framework of the Multilateral Competent Authority Agreement on the automatic exchange of financial account information. In this context we are interested in knowing whether you have notified the OECD coordinating body of your intention to exchange information with all EU Member States under the above mentioned framework. If you have not notified the OECD coordinating body of your intention to exchange information with all EU Member States yet, do you plan to do so and within what time frame? Should Barbados not intend to cover all EU Member States, we would also be grateful if you could specify the reasons for such a decision.

### Criterion 2.1

The COCG experts acknowledge that Barbados is considered as a jurisdiction of relevance by the OECD Forum on Harmful Tax Practices (FHTP) and that your preferential tax regimes are scheduled for review in 2017. Please note that the COCG experts will take stock of the assessment conducted by the FHTP for the purpose of evaluating your preferential tax regimes against criterion 2.1 (see Annex II). Nevertheless, for the assessment of these regimes against criterion 2.1, the COCG experts may request additional information, if necessary.

### Criterion 3

The COCG experts acknowledge that Barbados has not yet joined the Inclusive Framework on BEPS, nor committed to the agreed BEPS minimum standards and their consistent implementation. We would be grateful if you could clarify whether Barbados could join the Inclusive Framework on BEPS or, in any case, commit to these standards by the end of 2017.

11	Belize
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## INFORMATION REQUEST BY COCG EXPERTS

### Criterion 1.1

Although Belize is committed to the OECD Automatic Exchange of Information (AEOI) standard (the Common Reporting Standard - CRS), at this stage, according to publicly available data, it appears that it has not enacted secondary legislation/regulations for that purpose. In that context, for the purpose of assessing the situation against criterion 1.1, it is important to know whether and when Belize intends to enact such legislation, and how it will be ensured that such legislation provides for the customer due diligence in accordance with the international commitments of Belize.

Additionally, according to publicly available information it appears that Belize has not activated information exchange with all EU Member States under the framework of the Multilateral Competent Authority Agreement on the automatic exchange of financial account information. In this context we are interested in knowing whether you have notified the OECD coordinating body of your intention to exchange information with all EU Member States under the above mentioned framework. If you have not notified the OECD coordinating body of your intention to exchange information with all EU Member States yet, do you plan to do so and within what time frame? Should Belize not intend to cover all EU Member States, we would also be grateful if you could specify the reasons for such a decision.

### Criterion 2.1

The COCG experts acknowledge that Belize has joined the OECD Inclusive Framework for Tackling Base Erosion and Profit Shifting (the Inclusive Framework on BEPS) and has therefore committed to the four BEPS minimum standards and their consistent implementation. Please note that the COCG experts will take stock of the assessment conducted by the FHTP for the purpose of evaluating your preferential tax regime against criterion 2.1 (see Annex II). Nevertheless, for the assessment of this regime against criterion 2.1, the COCG experts may request additional information, if necessary.

Nonetheless, the COCG experts have identified the tax regime, as described in the Appendix 1 to this Annex, which is relevant in the context of evaluating the situation against criterion 2.1 but is not scheduled for review by the FHTP under the Inclusive Framework on BEPS. Please be informed that for this regime, the COCG will conduct an assessment based on the criteria of EU Code of Conduct on Business Taxation (criterion 2.1 as referred to in Annex 2). We would be grateful if you could confirm whether information contained in Appendix 1 to Annex I is complete and accurate and provide references, where such are missing or incorrect, to relevant legal provisions.

**DRAFT DESCRIPTION OF TAX REGIMES (criterion 2.1)**

**Regime: Export processing zones (EPZ)**

**1. Description of the EPZ regime**

The Export Processing Zone Act (EPZ) provides for the establishment and operation of an export processing zone within Belize in order to promote economic growth and development, stimulate investment and create employment opportunities. It aims to boost exports of non-traditional manufactured products. Incentives available to investors who have obtained a certificate of compliance under the Act include:

- a 20-year exemption from income tax and business tax, with an option to extend this exemption for a further period;
- losses incurred in the tax holiday period may be carried forward for offset against business profits for a period of 5 years following the tax holiday;
- exemption from real property taxes;
- goods and services sold by an EPZ enterprise outside the Belize customs territory are exempt from general sales tax and excise tax;
- dividends paid by an EPZ enterprise are exempt from business tax and income tax;
- imports into and exports from an EPZ enterprise are exempt from customs duties and other similar taxes; and
- proceeds from the sale of stock or other complete ownership interests in an EPZ enterprise are not subject to any tax on capital gains.

EPZ enterprises, however, are subject to foreign currency regulations, including the Exchange Control Regulation Act (Cap. 43), and liable to pay business tax at the rate of 2%.

A “social fee” is levied at a rate of 5% on the value of all goods/services imported into EPZ.

According to paragraph 7, subparagraph 5, of the Export Processing Zone Act Chapter 280 – Revised Edition 2000 – “The lessee may conduct a domestic Belizean business on the leased property [from an EPZ Developer] under the established Laws of Belize without any of the benefits or advantages created under this Act for EPZ businesses”. Moreover, paragraph 8, subparagraph 3, provides that “ An EPZ business shall not sell, lease or transfer any article, item, goods, or service in Belize outside an EPZ, or to any resident of Belize or any domestic Belize business enterprise. The EPZ, with the concurrence of the Ministry, may provide waivers to this restriction upon application at its discretion. An EPZ business shall be free to sell, lease or transfer any article, item, goods, or service in an EPZ or outside Belize to other EPZ businesses, to foreign businesses, or to foreign individuals.”

## **2. Benefits available under the EPZ regime**

The standard income tax rate in Belize is of 25% on the chargeable income. However, the income tax payable is reduced by the amount of business tax payable and if the income tax assessed exceeds the business tax liability, the difference is written off and there is no additional liability.

EPZ Enterprises benefit of a 20-year exemption from income tax and business tax, with an option to extend this exemption for a further period. Other direct tax benefits are available, such as exemption from income tax in respect of dividend payments, or of capital gains.

## **3. Possible concerns**

Our understanding of Belize legislation is that the EPZ regime seems targeted to foreign enterprises and/ or for activities with foreign entities/markets since tax advantages are granted only to foreign enterprises or in respect of transactions carried out with non-residents.

A regime limited to foreign taxpayers and/or to operations outside the territory of the jurisdiction does not meet criteria 1 & 2 of the Code of Conduct which forbid this type of ring fencing.

DECLASSIFIED

12	Bermuda
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**INFORMATION REQUEST BY COCG EXPERTS**

**Criterion 1.1**

According to publicly available information it appears that Bermuda has not activated information exchange with all EU Member States under the framework of the Multilateral Competent Authority Agreement on the automatic exchange of financial account information. In this context we are interested in knowing whether you have notified the OECD coordinating body of your intention to exchange information with all EU Member States under the above mentioned framework. If you have not notified the OECD coordinating body of your intention to exchange information with all EU Member States yet, do you plan to do so and within what time frame? Should Bermuda not intend to cover all EU Member States, we would also be grateful if you could specify the reasons for such a decision..

**Criterion 2.2**

The COCG experts acknowledge that Bermuda should be considered in the context of criterion 2.2 as further specified by the COCG (see Appendix 2 to Annex II).

We would therefore be grateful if you could respond to the questions set out in the Appendix 1 to this Annex.

Please be informed that further specific questions could follow based on information available.

**QUESTIONS CONCERNING CRITERION 2.2**

[as set out in the template questionnaire (see doc. 9995/17 FISC 124 EU RESTRICTED, Annex II)]

13	Bosnia and Herzegovina
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### INFORMATION REQUEST BY COCG EXPERTS

#### Criterion 1.2

The COCG experts acknowledge that Bosnia and Herzegovina is not a member of the Global Forum on Transparency and Exchange of Information for Tax purposes (hereinafter, the Global Forum). Participation in the Global Forum is essential as it is the international body in charge of monitoring the implementation of the global standards on tax transparency. In that respect, the Code of Conduct Group has decided that developing countries among those selected for the EU listing process that are not financial centres should be requested or invited to join the Global Forum (this would not apply to Low Middle Income countries according to the last OECD DAC List of ODA). In this context, we would like to know whether Bosnia and Herzegovina could consider joining the Global Forum.

#### Criterion 1.3

The COCG experts acknowledge that Bosnia and Herzegovina has not signed the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC), as amended. It is therefore important to know whether your Bosnia and Herzegovina intends to sign the MAC or whether it has a network of exchange arrangements in force which is sufficiently broad to cover all EU Member States, effectively allowing both exchange of information on request (EOIR) and automatic exchange of information (AEOI). If the network of such arrangements exists, we would be grateful if you could specify if Bosnia and Herzegovina intends to extend this network to all EU Member States and which steps were or are being taken in order to achieve this objective.

#### Criterion 3

The COCG experts acknowledge, that Bosnia and Herzegovina has not joined the Inclusive Framework on BEPS, nor committed to the agreed BEPS minimum standards and their consistent implementation. We'd be grateful if you could clarify whether Bosnia and Herzegovina could join the Inclusive Framework on BEPS or, in any case, commit to these standards by the end of 2017.

14	Botswana
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**INFORMATION REQUEST BY COCG EXPERTS**

**Criterion 1.3**

The COCG experts acknowledge that Botswana has not signed the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC), as amended. It is therefore important to know whether Botswana intends to sign the MAC or whether it has a network of exchange arrangements in force which is sufficiently broad to cover all EU Member States, effectively allowing both exchange of information on request (EOIR) and automatic exchange of information (AEOI). If the network of such arrangements exists, we would be grateful if you could specify if Botswana intends to extend this network to all EU Member States and which steps were or are being taken in order to achieve this objective.

**Criterion 2.1**

The COCG experts have identified the tax regime, as described in the Appendix 1 to this Annex, which is relevant in the context of evaluating the situation against criterion 2.1 (see Annex II). We would be grateful if you could confirm whether information contained in Appendix 1 to Annex I is complete and accurate and, provide references, where such are missing or incorrect, to relevant legal provisions.

The COCG experts acknowledge that Botswana has not joined the Inclusive Framework on BEPS. We'd be grateful if you could clarify whether Botswana intends to join the Inclusive Framework on BEPS; if so, it would be important that this action is taken as soon as possible. Please note that the COCG experts Panel will take stock of the assessment of the work carried out in the Inclusive Framework on BEPS, in order to evaluate your preferential tax regime against criterion 2.1 (see Annex II), to the extent the scope of the work carried out in the Inclusive Framework on BEPS is compatible with the analysis to be conducted by the COCG.



**DRAFT DESCRIPTION OF TAX REGIMES (criterion 2.1)**

**Regime: Botswana International Financial Services Centres Companies (BITCC)**

**1. Description of the BITCC regime**

A BITCC is a company which has been licensed to engage in any of the following activities with other BITCCs, specified collective investment undertakings or non-residents of Botswana:

- a) Banking and financing operations transacted in foreign currency;
- b) Broking and trading of securities denominated in foreign currency;
- c) Investment advice;
- d) Management and custodial functions in relation to collective investment schemes;
- e) Insurance and related activities;
- f) Registrars and transfer agency services;
- g) Exploitation of intellectual property;
- h) Development and supply of computer software for use in the provision of services described under (a) – (e);
- i) Accounting and financial administration;
- j) Other financial operations approved by the Minister from time to time.

A BITCC must be licensed to operate as a bank under the Banking Act or exempted from obtaining such a licence. Alternatively, the applicant must be registered under the Insurance Industry Act. The tax treatment of the company is governed by the terms of a tax certificate issued to it on application, which will remain valid until 31 December 2020, unless revoked earlier.

**2. Benefits available to BITCCs**

A BITCC is taxed at the rate of 15% on income from approved financial transactions with non-residents, BITCCs and other collective investment undertakings. All other income derived by a BITCC is taxed at the normal CIT rate of 22%.

A BITCC is exempt from tax in respect of any dividends received by it from a non-resident company where the BITCC directly or indirectly controls, alone or with connected persons, 25% or more of the share capital, including 25% or more of the voting rights, of that non-resident company. A BITCC is also exempt from tax in respect of the gross income of its foreign branch.

Dividend, interest, commercial royalties and management or consultancy fees paid by a BITCC or tax-exempt collective investment undertaking to a non-resident, another collective investment undertaking or another BITCC are exempt from withholding tax.

**3. Possible concerns**

Our understanding of Botswana legislation is that under the BITCC regime, the benefit of the reduced CIT rate is limited to income from approved financial transactions with non-residents, BITCCs and other collective investment undertakings.

A regime limited to foreign taxpayers and/or to operations outside the territory of the jurisdiction does not meet criteria 1 & 2 of the Code of Conduct which forbid this type of ring fencing.

DECLASSIFIED

15	Brazil
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## INFORMATION REQUEST BY COCG EXPERTS

### Criterion 1.1

Although the Federative Republic of Brazil is committed to the the OECD Automatic Exchange of Information (AEOI) standard (the Common Reporting Standard - CRS), at this stage, according to publicly available data, it appears that it has not enacted regulations (guidance) for that purpose. In that context, for the purpose of assessing the situation against criterion 1.1, it is important to know whether and when the Federative Republic of Brazil intends to enact such regulations, and how it will be ensured that such legislation provides for the customer due diligence in accordance with the international commitments of the Federative Republic of Brazil.

According to publicly available information it also appears that Brazil has not activated information exchange with all EU Member States under the framework of the Multilateral Competent Authority Agreement on the automatic exchange of financial account information. In this context we are interested in knowing whether you have notified the OECD coordinating body of your intention to exchange information with all EU Member States under the above mentioned framework. If you have not notified the OECD coordinating body of your intention to exchange information with all EU Member States yet, do you plan to do so and within what time frame? Should Brazil not intend to cover all EU Member States, we would also be grateful if you could specify the reasons for such a decision.

### Criterion 2.1

The COCG experts acknowledge that the Federative Republic of Brazil has joined the OECD Inclusive Framework for Tackling Base Erosion and Profit Shifting (the Inclusive Framework on BEPS) and has therefore committed to the four BEPS minimum standards and their consistent implementation.

Please note that the COCG experts will take stock of the assessment conducted by the FHTP for the purpose of evaluating your preferential tax regime against criterion 2.1 (see Annex II)

Nonetheless, the COCG experts have identified the tax regime "Export Processing Zones" as described in the Appendix 1 to this Annex, which is relevant in the context of evaluating the situation against criterion 2.1 but is not scheduled for review by the FHTP under the Inclusive Framework on BEPS. Please be informed that for this regime the COCG will conduct an assessment based on the criteria of EU Code of Conduct on Business Taxation (criterion 2.1 as referred to in Annex 2). We would be grateful if you could confirm whether information contained in Appendix 1 to Annex I is complete and accurate and, provide references, where such are missing or incorrect, to relevant legal provisions.

**DRAFT DESCRIPTION OF TAX REGIMES (criterion 2.1)**

**1. Description**

Export Processing Zones are defined as "Demarcated areas where exporting companies benefit from fiscal and currency exchange incentives, as well as reduced bureaucratic procedures". It is not considered part of Brazilian territory for customs purposes and a maximum of 20% of the goods produced in a ZPE are permitted for sale on the domestic market. (i.e. 80% minimum of production has to be for export). Products sold to the domestic market will be subject to the payment of all taxes and contributions normally granted by the EPZ regime.

Companies operating in ZPEs benefit from the following tax incentives for a period of 20 years:

- Suspension of the import duty
- Suspension of the taxes IPI<sup>1</sup>, PIS<sup>2</sup>, PIS-import, COFINS<sup>3</sup>, COFINS-import and AFRMM
- Exemption from customs and administrative controls and constraints such as export /import licenses for certain goods
- Exemption from tax withholding due on payments of services rendered by foreign companies
- Corporate tax exemption (Northeast and North regions:– 75% reduction)
- Flexibility to keep 100% of export proceeds in a financial institution abroad

**2. Benefits available under the EPZ regime**

The preferential regime is a 75% reduction of Income tax in certain areas. Suspension of indirect taxes and social contribution taxes also apply.

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<sup>1</sup> Tax on Industrialized Products, IPI is a federal tax that is applied to all national and foreign products that have been modified in some industrialized way for consumption or use. Overall, IPI is paid by all of those who own industries and by those who import industrialized goods to Brazil. The basis for the IPI tax calculation is the retail sales price for national products and the sales price plus the addition of the import duty and other import fees for all imports.

<sup>2</sup> PIS (Programa de Integração Social) are social contributions, payable by legal entities, in order to finance the payment of insurance unemployment allowance and participation in revenues from agencies and entities for public and private workers.

<sup>3</sup> Contribuição para o Financiamento da Seguridade Social (Contribution for Social Security Financing). It is a federal social contribution levied on the gross revenue of businesses in general.

**3. Possible concerns**

Our understanding of The Federative Republic of Brazil's legislation is that the EPZ regime seems targeted to foreign enterprises or for activities with foreign entities/markets which could entail a risk of ring fencing since tax advantages are likely to be granted just to foreign enterprises or in respect of transactions carried out with non-residents.

DECLASSIFIED

16	British Virgin Islands
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## INFORMATION REQUEST BY COCG EXPERTS

### Criterion 1.1

According to publicly available information it appears that the British Virgin Islands has not activated information exchange with all EU Member States under the framework of the Multilateral Competent Authority Agreement on the automatic exchange of financial account information. In this context we are interested in knowing whether you have notified the OECD coordinating body of your intention to exchange information with all EU Member States under the above mentioned framework. If you have not notified the OECD coordinating body of your intention to exchange information with all EU Member States yet, do you plan to do so and within what time frame? Should the British Virgin Islands not intend to cover all EU Member States, we would also be grateful if you could specify the reasons for such a decision.

Although the British Virgin Islands is committed to the OECD Automatic Exchange of Information (AEOI) standard (the Common Reporting Standard - CRS), at this stage, according to publicly available data, it appears that it has not enacted secondary legislation/regulations for that purpose. In that context, for the purpose of assessing the situation against criterion 1.1, it is important to know whether and when the British Virgin Islands intends to enact such legislation, and how it will be ensured that such legislation provides for the customer due diligence in accordance with the international commitments of the British Virgin Islands.

### Criterion 2.2

The COCG experts acknowledge that the British Virgin Islands should be considered in the context of criterion 2.2 as further specified by the COCG (see Appendix 1 to Annex I).

We'd therefore be grateful if you could respond to the questions set out in the Appendix 2 to this Annex.

Please be informed that further specific questions could follow based on information available.

## QUESTIONS CONCERNING CRITERION 2.2

[as set out in the template questionnaire (see doc. 9995/17 FISC 124 EU RESTRICTED, Annex II)]

17	Cabo Verde
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## INFORMATION REQUEST BY COCG EXPERTS

### Criterion 1.2

The COCG experts acknowledge that Cabo Verde is not a member of the Global Forum on Transparency and Exchange of Information for Tax purposes (hereinafter, the Global Forum).

Participation in the Global Forum is essential as it is the international body in charge of monitoring the implementation of the global standards on tax transparency. In that respect, the Code of Conduct

Group has decided that developing countries among those selected for the EU listing process that are not financial centres should be requested or invited to join the Global Forum. In this context, we would like to know whether Cabo Verde could consider joining the Global Forum.

### Criterion 1.3

The COCG experts acknowledge that Cabo Verde has not signed the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC), as amended. It is therefore important to know whether Cabo Verde intends to sign the MAC or whether it has a network of exchange arrangements in force which is sufficiently broad to cover all EU Member States, effectively allowing both exchange of information on request (EOIR) and automatic exchange of information (AEOI). If the network of such arrangements exists, we would be grateful if you could specify if Botswana intends to extend this network to all EU Member States and which steps were or are being taken in order to achieve this objective.

### Criterion 2.1

The COCG experts have identified the tax regimes, as described in the Appendix 1 to this Annex, which are relevant in the context of evaluating the situation against criterion 2.1 (see Annex II). We would be grateful if you could confirm whether information contained in Appendix 1 to Annex I is complete and accurate and, provide references, where such are missing or incorrect, to relevant legal provisions.

The COCG experts acknowledge that Cabo Verde has not joined the Inclusive Framework on BEPS. We would be grateful if you could clarify whether Cabo Verde intends to join the Inclusive Framework on BEPS; if so, it would be important that this action is taken as soon as possible. Please note that the COCG experts Panel will take stock of the assessment of the work carried out in the Inclusive Framework on BEPS, in order to evaluate your preferential tax regimes against criterion 2.1 (see Annex II), to the extent the scope of the work carried out in the Inclusive Framework on BEPS is compatible with the analysis to be conducted by the COCG.

### Criterion 3

The COCG experts acknowledge that Cabo Verde has not yet joined the Inclusive Framework on BEPS, nor committed to the agreed BEPS minimum standards and their consistent implementation. We would be grateful if you could clarify whether Cabo Verde could join the Inclusive Framework on BEPS or, in any case, commit to these standards by the end of 2017.

## DRAFT DESCRIPTION OF TAX REGIMES (criterion 2.1)

### Regime: International Business Centres

#### **1. Description of the International Business Centre regime**

The International Business Centre (Centro Internacional de Negócios, CIN) regime was created by Legislative Decree 1/2011 (published in the Official Gazette of 31 January 2011, amended and republished by Law-Decree 38/2013 of 2 October 2013) and has been in force since 2 March 2011.

It appears, from the publicly available information, that as of September 2015 (which is the latest information update on IBFD website) the International Business Centre is not yet in operation, as the complementary legislation regulating its operation is yet to be published.

We would be grateful if you could clarify whether this regime is already in operation and, if so, since when.

A company has to obtain an authorization to carry on activities in the International Business Centre, according to requirements and rules prescribed in Legislative Decree 1/2011. The Cape Verdean Foreign Investment Agency is the entity responsible for issuing the licences for investors to operate within the International Business Centre, following prior approval by the Foreign Investment Agency.

Authorized companies may be established in one of the three following centres within the International Business Centre, depending on the economic activities to be performed (industrial activities, commercial activities or the provision of services):

- Industrial activities: International Industrial Centre (Centro Internacional Industrial, CII), formed by the industrial free zones to be established by the government
- Commercial activities: International Commerce Centre (Centro Internacional do Comércio, CIC), formed by the commercial free zones to be established by the government;
- Provision of services: International Service Centre (Centro Internacional de Prestação de Serviços, CIPS), which may be established in any location within the territory of Cape Verde.



## 2. Benefits available to International Business Centre

The Tax Benefits Code provides for the following tax benefits for companies licensed to operate in the International Business Centre to undertake industrial or business activities or to provide services (except for companies engaged in tourism, banking and insurance, real estate, or construction), which may be carried out with other International Business Centre-licensed companies or with non-resident companies without a permanent establishment in Cape Verde:

- A reduced income tax rate of 5%, 3.5% or 2.5% for companies that create 5, 20 or 50 jobs, respectively. The income tax rate is 2.5% in the case of creation of 2 jobs, for companies licensed to operate within the International Service Centre;
- An exemption from customs duties on the importation of certain goods, equipment and materials used within the scope of the activity licensed under the International Business Centre; and
- A VAT and customs duties exemptions.
- An exemption applicable to dividends and interest received by the shareholders of the companies licensed to operate in the IBC has been granted at the beginning of 2016.

## 3. Possible concerns

Our understanding of Cabo Verde legislation is that under the International Business Centre regime, the tax benefits are limited to activities carried out with other International Business Centre-licensed companies or with non-resident companies without a permanent establishment in Cape Verde.

A regime limited to foreign taxpayers and/or to operations outside the territory of the jurisdiction does not meet criteria 1 & 2 of the Code of Conduct which forbid this type of ring fencing.

### **Regime: International Financial Institutions**

#### 1. Description of the International Financial Institutions regime

International financial institutions within the scope of Law 43/III/88 of 27 December 1988 benefit from various tax benefits:

- customs duties exemption on the importation of materials and equipment that are exclusively destined to the establishment of the financial institution;
- exemption from single tax on income until 31 December 2017, and a single rate of 2.5% from 1 January 2018 onwards;
- stamp duty exemption on transactions with non-residents;

## RESTREINT UE/EU RESTRICTED

According to paragraph 2 of Article 28 of the Tax Benefit Code, “the non-resident individuals and companies who are clients of the eligible institutions, (...) as well as the resident entities who have funds placed abroad and that hire financial services to the eligible institutions benefit from (i) an income tax exemption, regardless of the type of income, and (ii) a stamp duty exemption...”. Furthermore, according to paragraph 3 of the same Article, the income tax exemption applicable to the eligible financial institutions until 31 December 2017, followed by a 2,5%-flat-rate onwards, “does not apply to income deriving from operations carried on with residents; therefore, the accounting registers should separate the revenues and costs so as to enable the calculation of the different taxable results”.

### 2. Benefits available under the International Financial Institutions regime

Individuals and companies considered clients of such international financial institutions benefit from:

- an exemption from the single tax on income, regardless of the type of income;
- stamp duty exemption.

### 3. Possible concerns

Our concern is that the International Financial Institutions regime might be targeted to foreign enterprises and/ or for activities with foreign entities/markets. [need for additional info??]

A regime limited to foreign taxpayers and/or to operations outside the territory of the jurisdiction does not meet criteria 1 & 2 of the Code of Conduct which forbid this type of ring fencing.

18	Canada
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**INFORMATION REQUEST BY COCG EXPERTS**

**Criterion 1.1**

The COCG experts acknowledge that Canada is committed to the OECD Automatic Exchange of Information (AEOI) standard (the Common Reporting Standard - CRS) and also understand that it has signed the Multilateral Competent Authority Agreement for the Common Reporting Standard.

According to publicly available information it appears, however, that Canada has not activated information exchange with all EU Member States under the framework of the Multilateral Competent Authority Agreement on the automatic exchange of financial account information. In this context we are interested in knowing whether you have notified the OECD coordinating body of your intention to exchange information with all EU Member States under the above mentioned framework. If you have not notified the OECD coordinating body of your intention to exchange information with all EU Member States yet, do you plan to do so and within what time frame? Should Canada not intend to cover all EU Member States, we would also be grateful if you could specify the reasons for such a decision.

DECLASSIFIED

19	Cayman Islands
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**INFORMATION REQUEST BY COCG EXPERTS**

**Criterion 1.1**

According to publicly available information it appears that the Cayman Islands has not activated information exchange with all EU Member States under the framework of the Multilateral Competent Authority Agreement on the automatic exchange of financial account information. In this context we are interested in knowing whether you have notified the OECD coordinating body of your intention to exchange information with all EU Member States under the above mentioned framework. If you have not notified the OECD coordinating body of your intention to exchange information with all EU Member States yet, do you plan to do so and within what time frame? Should the Cayman Islands not intend to cover all EU Member States, we would also be grateful if you could specify the reasons for such a decision.

**Criterion 2.2**

The COCG experts acknowledge that the Cayman Islands should be considered in the context of criterion 2.2 as further specified by the COCG (see Appendix 2 to Annex II).

We would therefore be grateful if you could respond to the questions set out in the Appendix 1 to this Annex.

Please be informed that further specific questions could follow based on information available.

**QUESTIONS CONCERNING CRITERION 2.2**

[as set out in the template questionnaire (see doc. 9995/17 FISC 124 EU RESTRICTED, Annex II)]

20	Chile
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## INFORMATION REQUEST BY COCG EXPERTS

### Criterion 1.1

Although the Republic of Chile is committed to the the OECD Automatic Exchange of Information (AEOI) standard (the Common Reporting Standard - CRS), at this stage, according to publicly available data, it appears that it has not enacted primary, secondary legislation or regulations for that purpose. In that context, for the purpose of assessing the situation against criterion 1.1, it is important to know whether and when the Republic of Chile intends to enact such legislation, and how it will be ensured that such legislation provides for the customer due diligence in accordance with the international commitments of the Republic of Chile.

According to publicly available information it also appears that the Republic of Chile has not activated information exchange with all EU Member States under the framework of the Multilateral Competent Authority Agreement on the automatic exchange of financial account information. In this context we are interested in knowing whether you have notified the OECD coordinating body of your intention to exchange information with all EU Member States under the above mentioned framework. If you have not notified the OECD coordinating body of your intention to exchange information with all EU Member States yet, do you plan to do so and within what time frame? Should the Republic of Chile not intend to cover all EU Member States, we would also be grateful if you could specify the reasons for such a decision.

### Criterion 2.1

The COCG experts acknowledge that the Republic of Chile has joined the OECD Inclusive Framework for Tackling Base Erosion and Profit Shifting (the Inclusive Framework on BEPS) and has therefore committed to the four BEPS minimum standards and their consistent implementation.

Please note that the COCG experts will take stock of the assessment conducted by the FHTP for the purpose of evaluating your preferential tax regime (the Business Platform regime) against criterion 2.1 (see Annex II).

21	China
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## INFORMATION REQUEST BY COCG EXPERTS

### Criterion 1.1

Although The People's Republic of China is committed to the the OECD Automatic Exchange of Information (AEOI) standard (the Common Reporting Standard - CRS), at this stage, according to publicly available data, it appears that it has not enacted secondary legislation for that purpose. In that context, for the purpose of assessing the situation against criterion 1.1, it is important to know whether and when China intends to enact such legislation, and how it will be ensured that such legislation provides for the customer due diligence in accordance with the international commitments of China.

According to publicly available information it appears that China has not activated information exchange with all EU Member States under the framework of the Multilateral Competent Authority Agreement on the automatic exchange of financial account information. In this context we are interested in knowing whether you have notified the OECD coordinating body of your intention to exchange information with all EU Member States under the above mentioned framework. If you have not notified the OECD coordinating body of your intention to exchange information with all EU Member States yet, do you plan to do so and within what time frame? Should China not intend to cover all EU Member States, we would also be grateful if you could specify the reasons for such a decision.

### Criterion 2.1

The Code of Conduct Group (Business Taxation) experts acknowledge that China has joined the OECD Inclusive Framework for Tackling Base Erosion and Profit Shifting (the Inclusive Framework on BEPS) and has therefore committed to the four BEPS minimum standards and their consistent implementation.

Please note that the Code of Conduct Group (Business Taxation) experts will take stock of the assessment conducted by the Forum on Harmful Tax Practices for the purpose of evaluating your preferential tax regimes against criterion 2.1 (see Annex II). Nevertheless, for the assessment of these regimes against criterion 2.1, the Code of Conduct Group (Business Taxation) experts may request additional information, if necessary.

22	China, Hong Kong SAR
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## INFORMATION REQUEST BY COCG EXPERTS

### Criterion 1.1

The COCG experts acknowledge that, for the purpose of implementing the automatic exchange of information as provided under the OECD Automatic Exchange of Information (AEOI) standard (the Common Reporting Standard - CRS), Hong Kong has decided or is likely to follow the bilateral approach. In that context, in order to assess the situation against criterion 1.1, it is important to know whether Hong Kong intends to have arrangements in place by the end of 2017 to be able to exchange information with all EU Member States through bilateral agreements, in accordance with the commitment to implement the CRS for first exchanges in 2018. We'd be grateful if you could specify those bilateral agreements which are already signed or ratified and those which are under negotiation.

### Criterion 1.3

The COCG experts acknowledge that Hong Kong does not participate in the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC), as amended. It is therefore important to know whether Hong Kong intends to participate in the MAC or whether it has a network of exchange arrangements in force which is sufficiently broad to cover all EU Member States, effectively allowing both exchange of information on request (EOIR) and automatic exchange of information (AEOI). If the network of such arrangements exists, we would be grateful if you could specify if Hong Kong intends to extend this network to all EU Member States and which steps were or are being taken in order to achieve this objective.

### Criterion 2.1

The COCG experts acknowledge that Hong Kong has joined the OECD Inclusive Framework for Tackling Base Erosion and Profit Shifting (the Inclusive Framework on BEPS) and has therefore committed to the four BEPS minimum standards and their consistent implementation.

Please note that the COCG experts will take stock of the assessment conducted by the FHTP for the purpose of evaluating your preferential tax regimes against criterion 2.1 (see Annex II).

Nonetheless, the COCG experts have identified the tax regimes, as described in the Appendix 1 to this Annex, which are relevant in the context of evaluating the situation against criterion 2.1 (see Annex II) but are not scheduled for review by the FHTP under the Inclusive Framework on BEPS. For these regimes, the COCG will conduct an assessment based on the EU Code of Conduct on Business Taxation.

We would be grateful if you could confirm whether information contained in Appendix 1 to Annex I is complete and accurate and, provide references, where such are missing or incorrect, to relevant legal provisions.

In addition we have noticed that one tax regime "shipping regime" is currently scheduled for review by the FHTP in 2018.

By letter of 31 May 2017, the Chair of the COCG informed Hong Kong that it would be relevant for the FHTP to activate the fast-track procedure for this regime, in order to prevent any duplication of work or overlap in the assessment of preferential regimes and allow the EU to rely on the FHTP work during the EU screening process (to be finalised by September this year).

## DRAFT DESCRIPTION OF TAX REGIMES (criterion 2.1)

### I - Regimes assessed by the Code of Conduct experts

#### 1. Offshore funds: 2006 exemption

##### a. Description

If an offshore fund derives trading profits from securities transactions carried out through an agent i.e. its broker in Hong Kong, the activities of the onshore agent can be attributed to the offshore fund. And if those activities amount to the carrying on of a business in Hong Kong, profits of the fund from those trades could be subject to tax.

A non-resident person (including corporations and partnerships) is not be subject to tax on profits derived from

- (i) "specified transactions" that were
- (ii) carried out in Hong Kong through or arranged by a "specified person".

Additionally, to qualify for the exemption, the non-resident person must not carry on any business in Hong Kong in addition to the specified transactions, except for a limited scope of transactions which were incidental to the carrying out of the specified transactions. Any onshore non-qualifying transactions would cause the tainting of all specified transactions of the offshore fund that would otherwise have qualified for the exemption for that year of assessment.

The scope of the 2006 Exemption largely confines its use to the activities of offshore hedge funds and does not address transactions typically carried out by private equity funds when investing in or through Hong Kong. The principal issues are these:

- "Specified transactions" included transactions in "securities", but specifically excluded the shares of private companies. This largely rules out the availability of the exemption for the types of investments typically structured by private equity funds.



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- “Specified person” means a licensed corporation under Hong Kong’s licensing regime, which is administered by the Securities and Futures Commission. Typically, the onshore advisors of many offshore private equity funds are not licensed as either their activities fall outside of the scope of the regime, or they are able to claim an available exemption, and private equity funds might not typically execute their transaction through a licensed person.

The 2006 Exemption includes anti-avoidance provisions that would attribute offshore profits to an onshore resident person who triggered a 30% ownership test in the offshore person.

### b. Benefits available from the regime

This regime can be qualified as preferential as offshore funds are exempt from CIT.

### c. Possible concern:

There is a risk of ring-fencing because the exemption is only applicable to offshore funds who may not carry on any business in Hong Kong in addition to the specified transactions.

## 2. Offshore Private Equity Funds:

### a. Description

On 17 July, 2015 Hong Kong enacted legislation to expand the existing offshore funds tax exemption to benefit non resident private equity funds. The change applies to transactions occurring on or after 1 April, 2015.

The 2015 Amendment expands the scope of the 2006 Exemption to include the assessable profits of an onshore special purpose vehicle (“SPV”) owned by a nonresident person (the fund), derived from the disposal of the shares, stocks, debentures, loan stocks, funds, bonds or notes of, or issued by, an offshore portfolio company which is a private company. The activities of the SPV in Hong Kong must be limited to holding and administering one or more offshore portfolio companies which are private companies (so-called an “excepted private company” (“EPC”)).

An added requirement introduced by the 2015 Amendment for the exemption to apply is that the offshore fund must be a “qualifying fund”. This is an alternative to the existing requirement of the 2006 Exemption that the transaction be carried out through a “specified person” and is in recognition of the position that many PE funds may not require an SFC licensed corporation to carry out their transactions. These criteria for a “qualifying fund” are that:

## RESTREINT UE/EU RESTRICTED

- at all times after the final closing of sale of interests (i) there are at least 5 investors in the fund, and (ii) the capital commitments made by investors exceed 90% of the aggregate capital commitments; and
- the portion of the net proceeds arising out of the transactions of the fund to be received by the originator (i.e. sponsor) and the originator's associates, after deducting the portion attributable to their capital contributions (which is proportionate to that attributable to the investors' capital contributions), is agreed under a fund's governing documents to be an amount not exceeding 30% of the net proceeds.

Whether a fund, structured as a corporation or partnership, qualifies as a non-resident person will be determined by whether the fund's central management and control was exercised outside of Hong Kong in the year of assessment in question. The phrase "central management and control" is not defined in legislation but is a well-established judicially developed principle that refers to the highest level of control of the business of a company.

### b. Benefits available from the regime

The regime can be qualified as preferential as non-resident private equity funds are exempt from CIT.

### c. Possible concern:

There is a risk of **ring-fencing** because the exemption is applicable only for non-resident private equity funds.

## 3. Qualifying debt instruments:

### a. Description

Hong Kong's Qualifying Debt Instrument (QDI) scheme was introduced in 1996. The scheme provides concessionary tax treatment on interest income and trading profits derived from QDIs.

To address these issues, several refinements to the QDI scheme were included in the Financial Secretary's 2010-11 Budget.

Under the Inland Revenue Ordinance (IRO), interest income and trading profits of debt instruments issued and traded in Hong Kong are chargeable to profits tax. The QDI scheme grants a tax concession of 100% (long-term qualifying debt instruments) and 50% (to short-term and medium-term qualifying debt instruments) under section 14A of the IRO to interest income and trading profits derived from a debt instrument that satisfied the relevant criteria:

The relevant criteria are that the instruments

- are lodged with and cleared by the Central Money markets Unit (CMU) operated by the Hong Kong Monetary Authority (HKMA);
- have a minimum denomination of HK\$50,000 or its equivalent in a foreign currency;
- have a credit rating acceptable to the HKMA from a credit rating agency it recognised.
- the instrument is issued in Hong Kong to:
  - 10 or more persons; or
  - if less than 10 persons, none of whom is an associate of the issuer of the instrument.
- have an original maturity of at least seven years (long-term debt instruments – 100% exemption).
- have an original maturity of less than three years (short-term/ medium term debt instruments – 50% exemption)

b. Benefits available from the regime

The regime can be qualified as preferential as it provides tax concessions of up to 100%.

c. Possible concern:

There is a risk of **ring-fencing**.

23	China, Macao SAR
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## INFORMATION REQUEST BY COCG EXPERTS

### Criterion 1.1

Although Macao is committed to the OECD Automatic Exchange of Information (AEOI) standard (the Common Reporting Standard - CRS), at this stage, according to publicly available data, it appears that it has not enacted any primary or secondary legislation for that purpose. In that context, for the purpose of assessing the situation against criterion 1.1, it is important to know whether and when Macao intends to enact such legislation, and how it will be ensured that such legislation provides for the customer due diligence in accordance with the international commitments of the Macao.

The COCG experts acknowledge that, for the purpose of implementing the automatic exchange of information as provided under the OECD Automatic Exchange of Information (AEOI) standard (the Common Reporting Standard - CRS), Macao has decided or is likely to follow the bilateral approach. In that context, in order to assess the situation against criterion 1.1, it is important to know whether Macao intends to have arrangements in place by the end of 2017 to be able to exchange information with all EU Member States through bilateral agreements, in accordance with the commitment to implement the CRS for first exchanges in 2018. We would be grateful if you could specify those bilateral agreements which are already signed or ratified and those which are under negotiation.

### Criterion 1.3

The COCG experts acknowledge that Macao does not participate in the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC), as amended. It is therefore important to know whether Macao intends to participate in the MAC or whether it has a network of exchange arrangements in force which is sufficiently broad to cover all EU Member States, effectively allowing both exchange of information on request (EOIR) and automatic exchange of information (AEOI). If the network of such arrangements exists, we would be grateful if you could specify if Macao intends to extend this network to all EU Member States and which steps were or are being taken in order to achieve this objective.

**Criterion 2.1**

The COCG experts acknowledge that Macao has joined the OECD Inclusive Framework for Tackling Base Erosion and Profit Shifting (the Inclusive Framework on BEPS) and has therefore committed to the four BEPS minimum standards and their consistent implementation. Please note that the COCG experts will take stock of the assessment conducted by the Forum on Harmful Tax Practices for the purpose of evaluating your preferential tax regimes against criterion 2.1 (see Annex II). Nevertheless, for the assessment of these regimes against criterion 2.1, the Code of Conduct Group (Business taxation) experts may request additional information, if necessary.

DECLASSIFIED

24	Taiwan
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QUESTIONNAIRE NOT READY

DECLASSIFIED

25	Colombia
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**INFORMATION REQUEST BY COCG EXPERTS**

**Criterion 1.1**

The COCG experts acknowledge that Colombia is committed to the OECD Automatic Exchange of Information (AEOI) standard (the Common Reporting Standard - CRS) and also understand that it has signed the Multilateral Competent Authority Agreement for the Common Reporting Standard.

According to publicly available information it appears, however, that Colombia has not activated information exchange with all EU Member States under the framework of the Multilateral Competent Authority Agreement on the automatic exchange of financial account information. In this context we are interested in knowing whether you have notified the OECD coordinating body of your intention to exchange information with all EU Member States under the above mentioned framework. If you have not notified the OECD coordinating body of your intention to exchange information with all EU Member States yet, do you plan to do so and within what time frame? Should Colombia not intend to cover all EU Member States, we would also be grateful if you could specify the reasons for such a decision.

**Criterion 2.1**

The COCG experts acknowledge that Colombia has joined the OECD Inclusive Framework for Tackling Base Erosion and Profit Shifting (the Inclusive Framework on BEPS) and has therefore committed to the four BEPS minimum standards and their consistent implementation. Please note that the COCG experts will take stock of the assessment conducted by the FHTP for the purpose of evaluating your preferential tax regime against criterion 2.1 (see Annex II). Nevertheless, for the assessment of these regimes against criterion 2.1, the COCG experts may request additional information, if necessary.

26	Cook Islands
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### INFORMATION REQUEST BY COCG EXPERTS

#### Criterion 1.1

According to publicly available information it appears that Cook Islands has not activated information exchange with all EU Member States under the framework of the Multilateral Competent Authority Agreement on the automatic exchange of financial account information. In this context we are interested in knowing whether you have notified the OECD coordinating body of your intention to exchange information with all EU Member States under the above mentioned framework. If you have not notified the OECD coordinating body of your intention to exchange information with all EU Member States yet, do you plan to do so and within what time frame? Should Cook Islands not intend to cover all EU Member States, we would also be grateful if you could specify the reasons for such a decision.

#### Criterion 1.3

The COCG experts acknowledge that the Cook Islands has signed the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC), as amended, although the ratification instrument has not been deposited yet. It is therefore important to know whether and when the Cook Islands intends to ratify the MAC and whether it intends to issue any unilateral declaration allowing for an early entry into force of the MAC.

#### Criterion 2.1

The COCG experts have identified the tax regimes, as described in the Appendix 1 to this Annex, which are relevant in the context of evaluating the situation against criterion 2.1 (see Annex II). We would be grateful if you could confirm whether information contained in Appendix 1 to Annex I is complete and accurate and, provide references, where such are missing or incorrect, to relevant legal provisions.

The COCG experts acknowledge that the Cook Islands has not joined the Inclusive Framework on BEPS. We would be grateful if you could clarify whether the Cook Islands intends to join the Inclusive Framework on BEPS; if so, it would be important that this action is taken as soon as possible. Please note that the COCG experts Panel will take stock of the assessment of the work carried out in the Inclusive Framework on BEPS, in order to evaluate your preferential tax regimes against criterion 2.1 (see Annex II), to the extent the scope of the work carried out in the Inclusive Framework on BEPS is compatible with the analysis to be conducted by the COCG.



**Criterion 3**

The COCG experts acknowledge, that the Cook Islands has not joined the Inclusive Framework on BEPS, nor committed to the agreed BEPS minimum standards and their consistent implementation. We would be grateful if you could clarify whether the Cook Islands could join the Inclusive Framework on BEPS or, in any case, commit to these standards by the end of 2017.

**DRAFT DESCRIPTION OF TAX REGIMES (criterion 2.1)**

**i) International Companies**

a. Description

An “international company” means a company incorporated pursuant to the International Companies Act 1981-82 (as amended in 2005) and includes a company registered on incorporation as an international shipping company. Under Section 6 of the International Companies Act, no natural person who is a citizen or a resident of or domiciled in the Cook Islands and no company incorporated or registered under the Companies Act 1970-71, except a trustee company, may hold shares beneficially, either individually or with another person or persons, in an international company under the Act or a foreign company that has the centre of its administrative management in the Cook Islands unless that foreign company is registered under the Companies Act 1970-71.

According to Section 7(1) of the International Companies Act, an international company may be incorporated for any lawful purpose or purposes except for the purpose of carrying on the business of banking insurance or acting as a trustee company, or any of such businesses, otherwise than in accordance with Section 7. Under Section 7(2) an international company unless restricted by its articles or memorandum may carry on any business which may lawfully be carried on by an individual but shall not carry on the business of

- a) banking, unless it is licensed pursuant to the provisions of the Off-Shore Banking Act 1981,
- b) insurance, unless it is licensed pursuant to the provisions of the Off-Shore Insurance Act 1981-82<sup>4</sup>, or
- c) acting as a trustee company unless it is permitted to do so pursuant to the Trustee Companies Act 1981-82.

According to Section 249 of the International Companies Act, international companies are exempt from taxation.

Source: International Companies Act 1981-82

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<sup>4</sup> It is not entirely clear, but it appears that this Act has been abolished and replaced by the 2008 Insurance Act, see regime ii) below, and by the Captive Insurance Bill 2013, see regime iv) below.

b. Preferential features

International companies are exempt from tax. The normal tax rate is 20 %.

c. Possible concerns

A regime limited to foreign tax payers and/or to operations outside the territory of the jurisdiction (ring fenced regime) does not meet criteria 1 and 2 of the Code of Conduct which forbid this type of ring fencing. The International Companies regime seems targeted to foreign owned enterprises since tax advantages are granted only to foreign owned companies. Shares in international companies may not be held beneficially by a natural person who is a citizen or a resident of or domiciled in the Cook Islands; or by any company incorporated or registered under the Companies Act 1970-71. With regard to insurance companies incorporated under the International Companies Act, see regime ii) and regime iv) below.

**ii) International Insurance Companies**

a. Description

Under Section 8 of the 2008 Insurance Act, there are three categories of licences.

- Category A - incorporated under the Companies Act (insurance business including domestic business)
- Category B - for external insurer carrying on insurance business in the Cook Islands that forms a branch office. This entitles the holder to carry on domestic insurance business ("External insurer" means an insurer incorporated, constituted or formed outside the Cook Islands).
- Category C - only issued to a company incorporated under the International Companies Act 1981-1982. The license entitles the holder to carry on international business only ("International business means insurance business that is not domestic business).

According to Section 249 of the International Companies Act, international companies are exempt from taxation. Insurance companies that hold a category C license are therefore exempt from tax.

Source: International Companies Act 1981-82, 2008 Insurance Act

b. Preferential features

International insurance companies are exempt from tax. The normal tax rate is 20 %.

c. Possible concerns

A regime limited to foreign tax payers and/or to operations outside the territory of the jurisdiction (ring fenced regime) does not meet criteria 1 and 2 of the Code of Conduct which forbid this type of ring fencing. The International Insurance Companies regime seems targeted to foreign owned enterprises since tax advantages are granted only to foreign owned companies. Shares in international companies may not be held beneficially by a natural person who is a citizen or a resident of or domiciled in the Cook Islands; or by any company incorporated or registered under the Companies Act 1970-71. In addition, tax advantages are only granted to activities outside the Cook Islands since international insurance companies may only carry on business outside of the Cook Islands.

**iii) Overseas insurance companies**

a. Description

According to the Income Tax Act overseas insurance companies other than life insurance companies are taxed at the rate of 3% (Section 74 of and Schedule 1 to the Income Tax Act). "Overseas company" means any company other than one incorporated in the Cook Islands.

It is not entirely clear but it would appear that Category B licensees under the 2008 Insurance Act would be considered as "overseas insurance companies". A Category B license can be issued to an external insurer carrying on insurance business in the Cook Islands that forms a branch office. This entitles the holder to carry on domestic insurance business. "External insurer" means an insurer incorporated, constituted or formed outside the Cook Islands.

b. Preferential features

Overseas insurance companies are taxed at the rate of 3%. Resident companies are taxed at a rate of 20%. Non-resident companies are taxed at a rate of 28%.

c. Possible concerns

A regime limited to foreign tax payers and/or to operations outside the territory of the jurisdiction (ring fenced regime) does not meet criteria 1 and 2 of the Code of Conduct which forbid this type of ring fencing. The overseas insurance companies' regime seems targeted to foreign enterprises since tax advantages are granted only to external insurers whose main place of business is situated outside the Cook Islands.

**iv) International Captive Insurance Companies**

a. Description

According to Article 48 of the Captive Insurance Bill 2013, licensed captive insurers incorporated under the International Companies Act 1981-82, are exempt from taxation.

Source: International Companies Act 1981-82, Captive Insurance Bill 2013

b. Preferential features

Licensed captive insurers incorporated under the International Companies Act are exempt from tax. The normal tax rate is 20 %.

c. Possible concern:

A regime limited to foreign tax payers and/or to operations outside the territory of the jurisdiction (ring fenced regime) does not meet criteria 1 and 2 of the Code of Conduct which forbid this type of ring fencing. The International Captive Insurance Companies regime seems targeted to foreign owned enterprises since tax advantages are granted only to foreign owned companies. Shares in international captive insurance companies may not be held beneficially by a natural person who is a citizen or a resident of or domiciled in the Cook Islands nor by any company incorporated or registered under the Companies Act 1970-71.

**v) Encouragement of new industry or enterprise**

a. Description

Under the Development Investment Act 1995-96, where any new industry or enterprise is established in the Cook Islands, or where any industry or enterprise already existing in the Cook Islands is materially expanded, income tax concessions may be granted if the establishment or expansion, as the case may be, will contribute substantially to the economic development of the Cook Islands, e.g. investment in priority investment areas.

*“Section 27A. Investment incentives and concessions established=*

*(1) Incentives and concessions as specified in the Schedule to the Development Investment Act [1977] are hereby established and shall, notwithstanding any other legislation, override and supersede the effects of any provision therein where and when any or all of these have been granted by Cabinet and, where necessary approved by the Executive Council to any enterprise.*

*(2) Cabinet may decide from time to time what specific enterprise or activity set out in the Investment Code shall be eligible for any of the incentives and concessions specified in the Schedule to the Development Investment Act 1977.*

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*(3) Except where an application for the incentive or concession relating to the assessment or payment of tax under the Income Tax Act 1997 or the Value Added Tax Act 1997 has been made to the Development Investment Board and received before 28 May 1997, the Development Investment Board may not grant any incentive or concession which would reduce the amount of income tax or value added tax but any grant made by the Board of an incentive or concession in respect of an application made before that date will continue to take effect according to its terms.]”*

Section 27A was inserted in the Development Investment Act by Paragraph 3 of the Fourth Schedule of the Income Tax Act 1977.

There used to be a Section (Section 43) in the Income Tax Act which dealt with the exemption of income of Concessions for contributing to economic development and development industries. This Section was repealed by the Income Tax Amendment Act 2013 with application from 1 January 2014. It is unclear whether new tax exemptions may be granted as from 1 January 2014. We would like to ask the Cook Islands to clarify if new tax exemptions may still be granted as well as the number of companies still benefitting from the regime.

Source: Income Tax Act, Development Investment Act 1995-96

### b. Preferential features

The tax concessions may take form of partial or total exemption, tax reductions, special deductions, etc. as considered desirable and appropriate. There are no clear conditions laid down in law for granting the tax benefits. The normal tax rate is 20 %.

### c. Possible concerns

An important criterion used to assess the harmfulness of a regime under the Code of Conduct, is its transparency (criterion 5 of the Code of Conduct). A measure is considered as not transparent when it is not laid down in law but granted on a discretionary basis. This regime does not seem transparent to the extent that there are no clear criteria available on the requirements for the tax concessions that may be granted. This leaves an important discretionary power to grant the benefits.

### vi) Development projects

#### a. Description

Under Section 42 (j) of the Income Tax Act the following income is exempt from taxation:

*“income derived by any society or association whether incorporated or not, which is in the opinion of the Collector, established substantially or primarily for the purpose of advertising, beautifying, or developing any island, village, or other district so as to attract trade, tourists, visitors, or population, or to create, increase, expand, or develop amenities for the general public, if no part of the income or other funds of the society or association is used or is or may become available to be used for any other purpose, not being a charitable purpose;”*

b. Preferential features

The income is exempt from taxation if “in the opinion of the Collector” fulfils the purpose set down in Section 42 (j) of the Income Tax Act. The normal tax rate is 20 %.

c. Possible concern:

An important criterion used to assess the harmfulness of a regime under the Code of Conduct, is its transparency (criterion 5 of the Code of Conduct). A measure is considered as not transparent when it is not laid down in law but granted on a discretionary basis. This regime does not seem transparent to the extent that the benefits may be granted only if the purpose is fulfilled “in the opinion of the Collector”. This leaves an important discretionary power to grant the benefits.

DECLASSIFIED

27	Costa Rica
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## INFORMATION REQUEST BY COCG EXPERTS

### Criterion 1.1

Although Costa Rica is committed to the the OECD Automatic Exchange of Information (AEOI) standard (the Common Reporting Standard - CRS), at this stage, according to publicly available data, it appears that it has not enacted regulations (guidance) for that purpose. In that context, for the purpose of assessing the situation against criterion 1.1, it is important to know whether and when Costa Rica intends to enact such regulations (guidance), and how it will be ensured that such regulations provide for the customer due diligence in accordance with the international commitments of Costa Rica.

According to publicly available information it appears that Costa Rica has not activated information exchange with all EU Member States under the framework of the Multilateral Competent Authority Agreement on the automatic exchange of financial account information. In this context we are interested in knowing whether you have notified the OECD coordinating body of your intention to exchange information with all EU Member States under the above mentioned framework. If you have not notified the OECD coordinating body of your intention to exchange information with all EU Member States yet, do you plan to do so and within what time frame? Should Costa Rica not intend to cover all EU Member States, we would also be grateful if you could specify the reasons for such a decision.

### Criterion 1.2

The COCG experts acknowledge that Costa Rica was granted a Partially Compliant rating by the Global Forum on Transparency and Exchange of Information for Tax Purposes (hereinafter, the Global Forum). In this context, it is important to know whether Costa Rica has applied for the Fast-track procedure as envisaged in the Global Forum. Should application for the Fast-track procedure be submitted, this information will be taken into due consideration by the COCG experts.

### Criterion 2.1

The COCG experts acknowledge that Costa Rica has joined the OECD Inclusive Framework for Tackling Base Erosion and Profit Shifting (the Inclusive Framework on BEPS) and has therefore committed to the four BEPS minimum standards and their consistent implementation. Please note that the COCG experts will take stock of the assessment conducted by the FHTP for the purpose of evaluating your preferential tax regime against criterion 2.1 (see Annex II). Nevertheless, for the assessment of these regimes against criterion 2.1, the COCG experts may request additional information, if necessary.

28	Curaçao
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## INFORMATION REQUEST BY COCG EXPERTS

### Criterion 1.1

Although Curaçao is committed to the OECD Automatic Exchange of Information (AEOI) standard (the Common Reporting Standard - CRS), at this stage, according to publicly available data, it appears that it has not enacted secondary legislation for that purpose. In that context, for the purpose of assessing the situation against criterion 1.1, it is important to know whether and when Curaçao intends to enact such legislation, and how it will be ensured that such legislation provides for the customer due diligence in accordance with the international commitments of Curaçao.

According to publicly available information it appears that Curaçao has not activated information exchange with all EU Member States under the framework of the Multilateral Competent Authority Agreement on the automatic exchange of financial account information. In this context we are interested in knowing whether you have notified the OECD coordinating body of your intention to exchange information with all EU Member States under the above mentioned framework. If you have not notified the OECD coordinating body of your intention to exchange information with all EU Member States yet, do you plan to do so and within what time frame? Should Curaçao not intend to cover all EU Member States, we would also be grateful if you could specify the reasons for such a decision.

### Criterion 1.2

The COCG experts acknowledge that Curaçao was granted a Partially Compliant rating by the Global Forum on Transparency and Exchange of Information for Tax Purposes (hereinafter, the Global Forum). In this context, it is important to know whether Curaçao has applied for the Fast-track procedure as envisaged in the Global Forum. Should application for the Fast-track procedure be submitted, this information will be taken into due consideration by the COCG experts.

### Criterion 2.1

The COCG experts acknowledge that Curaçao has joined the OECD Inclusive Framework for Tackling Base Erosion and Profit Shifting (the Inclusive Framework on BEPS) and has therefore committed to the four BEPS minimum standards and their consistent implementation. Please note that the COCG experts will take stock of the assessment conducted by the FHTP for the purpose of evaluating your preferential regimes against criterion 2.1 (see Annex II). Nevertheless, for the assessment of these regimes against criterion 2.1, the COCG experts may request additional information, if necessary.



29	Dominica
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## INFORMATION REQUEST BY COCG EXPERTS

### Criterion 1.1

The COCG experts acknowledge that Dominica is committed to **the OECD Automatic Exchange of Information (AEOI) standard (the Common Reporting Standard - CRS)** and also understand that it has not signed the Multilateral Competent Authority Agreement for the Common Reporting Standard.

In that context, for the purpose of assessing the situation against requirements of criterion 1.1, it is important to know whether Dominica intends to sign the Multilateral Competent Authority Agreement for the Common Reporting Standard by the end of 2017 or intends to follow another approach.

Although Dominica is committed to the **the OECD Automatic Exchange of Information (AEOI) standard (the Common Reporting Standard - CRS)**, at this stage, according to publicly available data, it appears that it has not enacted primary/secondary legislation/regulations for that purpose. In that context, for the purpose of assessing the situation against criterion 1.1, it is important to know whether and when Dominica intends to enact such legislation, and how it will be ensured that such legislation provides for the customer due diligence in accordance with the international commitments of Dominica.

### Criterion 1.2

The COCG experts acknowledge that Dominica was granted a Partially Compliant rating by the Global Forum on Transparency and Exchange of Information for Tax Purposes (hereinafter, the Global Forum). In this context, it is important to know whether Dominica has applied for the Fast-track procedure as envisaged in the Global Forum. Should application for the Fast-track procedure be submitted, this information will be taken into due consideration by the COCG experts.

### Criterion 1.3

The COCG experts acknowledge that Dominica has not signed the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC), as amended. It is therefore important to know whether and when Dominica intends to sign the MAC or whether it has a network of exchange arrangements in force which is sufficiently broad to cover all EU Member States, effectively allowing both exchange of information on request (EOIR) and automatic exchange of information (AEOI). If the network of such arrangements exists, we would be grateful if you could specify if Dominica intends to extend this network to all EU Member States and which steps were or are being taken in order to achieve this objective.

### **Criterion 2.1**

The COCG experts have identified the tax regimes, as described in the Appendix 1 to this Annex, which are relevant in the context of evaluating the situation against criterion 2.1 (see Annex II). We would be grateful if you could confirm whether information contained in Appendix 1 to Annex I is complete and accurate and, provide references, where such are missing or incorrect, to relevant legal provisions.

The COCG experts acknowledge that Dominica has not joined the Inclusive Framework on BEPS. We would be grateful if you could clarify whether Dominica intends to join the Inclusive Framework on BEPS; if so, it would be important that this action is taken as soon as possible. Please note that the COCG experts Panel will take stock of the assessment of the work carried out in the Inclusive Framework on BEPS, in order to evaluate your preferential tax regimes against criterion 2.1 (see Annex II), to the extent the scope of the work carried out in the Inclusive Framework on BEPS is compatible with the analysis to be conducted by the COCG.

### **Criterion 3**

The COCG experts acknowledge, that Dominica has not joined the Inclusive Framework on BEPS, nor committed to the agreed BEPS minimum standards and their consistent implementation. We'd be grateful if you could clarify whether Dominica could join the Inclusive Framework on BEPS or, in any case, commit to these standards by the end of 2017.

## **DRAFT DESCRIPTION OF TAX REGIMES (criterion 2.1)**

### **i) International Business Companies**

#### **a. Description**

Under Section 109 of the 1996 International Business Companies Act as amended in March of 1997, a Dominica registered International Business Company automatically receives a 20-year exemption from all taxes (including profit and capital gains), duties and similar charges.

Under Section 5 of the International Business Companies Act, for purposes of that Act, an International Business Company is a company that does not:

- Carry on business in Dominica with persons domiciled or resident in Dominica; or
- Own an interest in real property situate in Dominica other than an interest referred to in subsections (2)(e);
- Accept banking deposits; or
- Accept contracts of insurance

Source: International Business Companies Act 1996

b. Preferential features

International business companies are exempt from tax. The normal tax rate is 25%.

c. Possible concerns

A regime limited to foreign tax payers and/or to operations outside the territory of the jurisdiction (ring fenced regime) does not meet criteria 1 and 2 of the Code of Conduct which forbid this type of ring fencing. The international business company regime seems targeted at activities with foreign entities/markets since tax advantages are granted only for transactions with persons that are not domiciled or resident in Dominica.

i) Offshore Banking

a. Description

Under the 1996 Offshore Banking Act, a licensee under that Act is exempt from tax in respect of offshore banking business carried on within Dominica. The tax exemption is only available for transactions with non-residents.

According to the same Act, “offshore banking business” means business conducted exclusively in currencies other than East Caribbean dollars. The licensee must separate its offshore banking activities from its other activities in Dominica and keep separate records of its offshore banking business. A licensee is also prohibited – except with written approval of the Minister – to knowingly accept or keep a resident of Dominica as a customer for any of its offshore banking services.

Source: Offshore Banking Act 1996

b. Preferential features

Offshore banks are exempt from tax. The normal tax rate is 25%.

c. Possible concerns

A regime limited to foreign tax payers and/or to operations outside the territory of the jurisdiction (ring fenced regime) does not meet criteria 1 and 2 of the Code of Conduct which forbid this type of ring fencing. The offshore banking regime seems targeted at activities with foreign entities/markets since tax advantages are granted only for transactions with non-residents.

**ii) General incentive under Fiscal Incentives Act (FIA)**

a. Description

Under the Fiscal Incentives Act, the Minister may grant incentives to companies for a limited period of time, that are specified in an Order, i.e. an act through which an incentive is granted to a certain company. The incentives may be granted provided that an enterprise is beneficial to the economy of Dominica (articles 5 and 6 of the Fiscal Incentives Act). A complete or partial exemption from income tax may be granted for a period not longer than 10, 12 or 15 years, depending on the classification of the company, as provided by article 13 of the Fiscal Incentives Act.

Companies may apply for the incentive through an application to be submitted in writing to the Minister with information regarding the business, such as the nature of the enterprise, the contribution it is expected to make to the economy, the number of persons employed, the area where it will be located, etc. (article 8 of the Fiscal Incentives Act).

Source: Fiscal Incentives Act

b. Preferential features

Companies may be granted complete or partial exemption from income tax for a period from 10-15 years, depending on the classification of the company. The normal tax rate is 25 %.

c. Possible concern

An important Code of Conduct criterion used to assess the harmfulness of a regime is its transparency (criterion 5). A measure is considered not transparent when it is not laid down in law but granted on a discretionary basis. The Fiscal Incentives regime does not seem transparent to the extent that the Minister may grant a complete or partial exemption on a discretionary basis since the exact requirements for getting the benefits are not laid down in law.

30	Faroe Islands
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**INFORMATION REQUEST BY COCG EXPERTS**

**Criterion 1.1**

According to publicly available information it appears that the Faroe Islands have not activated information exchange with all EU Member States under the framework of the Multilateral Competent Authority Agreement on the automatic exchange of financial account information. In this context we are interested in knowing whether you have notified the OECD coordinating body of your intention to exchange information with all EU Member States under the above mentioned framework. If you have not notified the OECD coordinating body of your intention to exchange information with all EU Member States yet, do you plan to do so and within what time frame? Should the Faroe Islands not intend to cover all EU Member States, we would also be grateful if you could specify the reasons for such a decision.

**Criterion 3**

The COCG experts acknowledge that Faroe Islands has not yet joined the Inclusive Framework on BEPS, nor committed to the agreed BEPS minimum standards and their consistent implementation. We would be grateful if you could clarify whether Faroe Islands could join the Inclusive Framework on BEPS or, in any case, commit to these standards by the end of 2017.

DECLASSIFIED

31	Fiji
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## INFORMATION REQUEST BY COCG EXPERTS

### Criterion 1.2

The COCG experts acknowledge that Fiji is not a member of the Global Forum on Transparency and Exchange of Information for Tax purposes (hereinafter, the Global Forum). Participation in the Global Forum is essential as it is the international body in charge of monitoring the implementation of the global standards on tax transparency. In that respect, the Code of Conduct Group has decided that developing countries among those selected for the EU listing process that are not financial centres should be requested or invited to join the Global Forum (this would not apply to Low Middle Income countries according to the last OECD DAC List of ODA). In this context, we would like to know whether Fiji could consider joining the Global Forum.

### Criterion 1.3

The COCG experts acknowledge that Fiji has not signed the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC), as amended. It is therefore important to know whether Fiji intends to sign the MAC or whether it has a network of exchange arrangements in force which is sufficiently broad to cover all EU Member States, effectively allowing both exchange of information on request (EOIR) and automatic exchange of information (AEOI). If the network of such arrangements exists, we would be grateful if you could specify if Fiji intends to extend this network to all EU Member States and which steps were or are being taken in order to achieve this objective.

### Criterion 2.1

The COCG experts have identified the tax regimes, as described in the Appendix 1 to this Annex, which are relevant in the context of evaluating the situation against criterion 2.1 (see Annex II). We would be grateful if you could confirm whether information contained in Appendix 1 to Annex I is complete and accurate and, provide references, where such are missing or incorrect, to relevant legal provisions.

The COCG experts acknowledge that Fiji has not joined the Inclusive Framework on BEPS. We would be grateful if you could clarify whether Fiji intends to join the Inclusive Framework on BEPS; if so, it would be important that this action is taken as soon as possible. Please note that the COCG experts Panel will take stock of the assessment of the work carried out in the Inclusive Framework on BEPS, in order to evaluate your preferential tax regimes against criterion 2.1 (see Annex II), to the extent the scope of the work carried out in the Inclusive Framework on BEPS is compatible with the analysis to be conducted by the COCG.

### Criterion 3

The COCG experts acknowledge that Fiji has not joined the Inclusive Framework on BEPS, nor committed to the agreed BEPS minimum standards and their consistent implementation. We would be grateful if you could clarify whether Fiji could join the Inclusive Framework on BEPS or, in any case, commit to these standards by the end of 2017.

#### DRAFT DESCRIPTION OF TAX REGIMES (criterion 2.1)

##### i) Exporting Companies

###### a. Description

Companies involved in the business of exporting goods and services are allowed deductions of up to 50% of their export income. Such export income (i.e. net profits derived from the business of exporting goods and services, excluding re-exports) deduction is currently 50%. The deduction is only allowed if the Commissioner of Inland Revenue is satisfied that the export earnings will be remitted to Fiji.

Source:Fiji 2016/2017-INCENTIVE-BROCHURE p. 5

<http://www.frca.org.fj/wp-content/uploads/2016/10/2016-2017-Incentives13OCT2016.pdf>

###### b. Preferential features

The corporate income tax rate is 20% since 2012.

Companies that have established or relocated their headquarters to Fiji are subject to a lower corporate tax rate of 17%.

Half of the income of exported goods and services can be deducted from the taxable base.

Thus, a preferential tax regime is granted to Exporting companies.

###### c. Possible concerns

A regime limited to foreign tax payers and/or to operations outside the territory of the jurisdiction (ring fenced regime) does not meet criteria 1 and 2 of the Code of Conduct which forbid this type of ring fencing. The Exporting companies' regime seems targeted to foreign enterprises or for activities with foreign entities/markets since tax advantages are granted only to foreign enterprises or in respect of transactions carried out with non-residents (only on export income).

Another important Code criterion used to assess the harmfulness of a regime is its transparency (criterion 5). A measure is considered as not transparent when it is not laid down in law but granted on a discretionary basis. The Exporting companies' regime does not seem transparent to the extent that the law provides that the deduction is granted only if the administration - Commissioner of Inland Revenue – is satisfied that the export earnings will be remitted to Fiji, thus entailing a significant discretionary power to the Inland Revenue.

**ii. Income Communication Technology (ICT) Incentive**

a. Description

The income of an Income Communication Technology operator operating in the declared Kalabu Tax Free Zone from 1 January 2007 to 31 December 2016 shall be exempt from tax for 10 years under the following criteria:

- business employs 50 employees or more for any 6 months within the income year; and
- 60 percent of its total services are exported.

The income of:

- any new Communication operator who is granted a license from 1 January 2009;
- any new operator setting up internationally accredited ICT training institutions who is granted a license from 1 January 2015;
- any new operator setting up ICT businesses involved in Application designing and Software development who is granted a license from 1 January 2015

shall be exempt from tax for a period of 13 years under the following criteria:

- any new operator may apply and pay a license fee of \$1,000 per annum to the Commissioner of Inland Revenue. The Tax exemption is granted from the date of the initial license.
- Income tax exemption is available to investors under the following criteria:
  - business employs 50 employees or more for any 6 months within the income year; and
  - 60 percent of its total services are exported.

ICT business includes software development, call centres and internet service provisions (excluding internet cafes) but does not include retail or wholesale of information technology products and the repair, sale or service of such products.

Source: Fiji 2016-INCENTIVE-BROCHURE p. 8

<http://www.frca.org.fj/wp-content/uploads/2016/03/2016-INCENTIVE-BROCHURE-final-21.pdf>



b. Preferential features

The corporate income tax rate on income is 20% since 2012. Companies that have established or relocated their headquarters to Fiji are subject to a lower corporate tax rate of 17%.

From 1 January 2007, Fiji offers a 10-year tax holiday for ICT investors in the Kalabu Tax Free Zone. Effective 1 January 2008, this incentive will also apply to investments outside the zone provided certain criteria are met. New operators who are granted licenses from 1 January 2009 onwards are exempt from tax for a period of 13 years, on the condition that the business employs at least 50 employees for any 6 months within the income year and 60% of its services are exported. With effect from 1 January 2014, the scope of the ICT incentives has been extended to include the setting up of ICT accredited training institutions and ICT start-ups involved in application design and software development.

Thus, a preferential tax regime – several tax holiday periods - is granted to ICT operators.

c. Possible concerns

A regime limited to foreign tax payers and/or to operations outside the territory of the jurisdiction (ring fenced regime) does not meet criteria 1 and 2 of the Code of Conduct which forbid this type of ring fencing.

The ICT regime seems targeted to foreign enterprises or for activities with foreign entities/markets since tax advantages are granted only to foreign enterprises or in respect of transactions carried out with non-residents, given that the ICT incentive requires that at least 60% of the total services are exported in order for the company to benefit of the tax holiday.

**iii) Concessionary rate of tax for regional or global headquarters**

a. Description

According to Section 138 of the Income Tax Act 2015:

1) The Minister may, by regulations, provide that tax at a rate of 17% or such other concessionary rate, be levied and paid for each tax year upon such income as the Minister may specify for an approved regional or global headquarters.

(2) Pursuant to subsection (1), tax shall be levied for income derived by the regional or global headquarters from the provision of qualifying services as prescribed to its offices, associated companies and other persons, outside Fiji.

(3) The concessionary rate of tax referred to in subsection (1) shall apply to an approved regional or global headquarters

(a) in respect of any qualifying service only where the qualifying service and the office, associated company or person to whom the service is rendered, have been approved in relation to that regional or global headquarters for such concessionary rate; and

(b) subject to such conditions as the CEO or any person appointed by the CEO, may impose.

(4) A foreign company which operates or is carrying on business in Fiji is allowed a 150% deduction for capital expenditure incurred for the relocation of its regional or global headquarters to Fiji, which provides management, technical or other supporting services to its offices or associated companies.

(5) In this section

“associated company”, in relation to an approved regional or global headquarters, means a company

(a) the operations of which are or can be controlled, directly or indirectly, by that regional or global headquarters;

(b) which controls or can control, directly or indirectly, the operations of that regional or global headquarters; or

(c) the operations of which are or can be controlled, directly or indirectly, by a person or persons who control or can control, directly or indirectly, the operations of that regional or global headquarters; and

“regional or global headquarters” refers to a regional or international company which operates or is carrying on business in Fiji, and which provides management, technical or other supporting services to its offices or associated companies, outside Fiji.

(6) For the purposes of subsection (4), a company shall be deemed to be an associated company in relation to an approved regional or global headquarters if

(a) at least 25% of the total number of its issued shares are beneficially owned, directly or indirectly, by the approved headquarters company; or

(b) at least 25% of the total number of the issued shares of the approved headquarters company are beneficially owned, directly or indirectly, by the first-mentioned company.

Source: Income Tax Act 2015

b. Preferential features

The corporate income tax rate on income is 20% since 2012. The Minister may, by regulations, provide that tax at a rate of 17% or such other concessionary rate, be levied and paid for each tax year upon such income as the Minister may specify for an approved regional or global headquarters. A foreign company which operates or is carrying on business in Fiji is allowed a 150% deduction for capital expenditure incurred for the relocation of its regional or global headquarters to Fiji, which provides management, technical or other supporting services to its offices or associated companies

c. Possible concerns

A regime limited to foreign tax payers and/or to operations outside the territory of the jurisdiction (ring fenced regime) does not meet criteria 1 and 2 of the Code of Conduct which forbid this type of ring fencing.

The global and regional headquarters regime seems targeted to foreign enterprises or for activities with foreign entities/markets since tax advantages are granted only to foreign enterprises or in respect of transactions carried out with non-residents.

Another important Code criterion used to assess the harmfulness of a regime is its transparency (criterion 5). A measure is considered as not transparent when it is not laid down in law but granted on a discretionary basis. The global and regional headquarters' regime does not seem transparent to the extent that the law provides that the Minister may grant a tax rate on a discretionary basis ("17 % or such other concessionary rate") without the law specifying the requirements or conditions for companies being granted different tax rates.

32	Former Yugoslav Republic of Macedonia
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**INFORMATION REQUEST BY COCG EXPERTS**

**Criterion 1.3**

The COCG experts acknowledge that the Former Yugoslav Republic of Macedonia has not signed the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC), as amended. It is therefore important to know whether the Former Yugoslav Republic of Macedonia intends to sign the MAC or whether it has a network of exchange arrangements in force which is sufficiently broad to cover all EU Member States, effectively allowing both exchange of information on request (EOIR) and automatic exchange of information (AEOI). If the network of such arrangements exists, we would be grateful if you could specify if the Former Yugoslav Republic of Macedonia intends to extend this network to all EU Member States and which steps were or are being taken in order to achieve this objective.

**Criterion 3**

The COCG experts acknowledge that the Former Yugoslav Republic of Macedonia has not yet joined the Inclusive Framework on BEPS, nor committed to the agreed BEPS minimum standards and their consistent implementation. We would be grateful if you could clarify whether the Former Yugoslav Republic of Macedonia could join the Inclusive Framework on BEPS or, in any case, commit to these standards by the end of 2017.

DECLASSIFIED

33	Georgia
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**INFORMATION REQUEST BY COCG EXPERTS**

**Criterion 2.1**

The COCG experts acknowledge that Georgia has joined the OECD Inclusive Framework for Tackling Base Erosion and Profit Shifting (the Inclusive Framework on BEPS) and has therefore committed to the four BEPS minimum standards and their consistent implementation. Please note that the COCG experts will take stock of the assessment conducted by the FHTP for the purpose of evaluating your preferential tax regimes against criterion 2.1 (see Annex II). Nevertheless, for the assessment of these regimes against criterion 2.1, the COCG experts may request additional information, if necessary.

DECLASSIFIED

34	Greenland
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## INFORMATION REQUEST BY COCG EXPERTS

### Criterion 1.1

According to publicly available information it appears that Greenland has not activated information exchange with all EU Member States under the framework of the Multilateral Competent Authority Agreement on the automatic exchange of financial account information. In this context we are interested in knowing whether you have notified the OECD coordinating body of your intention to exchange information with all EU Member States under the above mentioned framework. If you have not notified the OECD coordinating body of your intention to exchange information with all EU Member States yet, do you plan to do so and within what time frame? Should Greenland not intend to cover all EU Member States, we would also be grateful if you could specify the reasons for such a decision.

Although Greenland is committed to the OECD Automatic Exchange of Information (AEOI) standard (the Common Reporting Standard - CRS), at this stage, according to publicly available data, it appears that it has not enacted secondary legislation/regulations for that purpose. In that context, for the purpose of assessing the situation against criterion 1.1, it is important to know whether and when Greenland intends to enact such legislation, and how it will be ensured that such legislation provides for the customer due diligence in accordance with the international commitments of Greenland.

### Criterion 1.2

The COCG experts acknowledge that Greenland is not a member of the Global Forum on Transparency and Exchange of Information for Tax purposes (hereinafter, the Global Forum). Participation in the Global Forum is essential as it is the international body in charge of monitoring the implementation of the global standards on tax transparency. In that respect, the Code of Conduct Group has decided that developing countries among those selected for the EU listing process that are not financial centres should be requested or invited to join the Global Forum (this would not apply to Low Middle Income countries according to the last OECD DAC List of ODA). In this context, we would like to know whether Greenland could consider joining the Global Forum.

### Criterion 3

The COCG experts acknowledge, that Greenland has not joined the Inclusive Framework on BEPS, nor committed to the agreed BEPS minimum standards and their consistent implementation. We'd be grateful if you could clarify whether Greenland could join the Inclusive Framework on BEPS or, in any case, commit to these standards by the end of 2017.

35	Grenada
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## INFORMATION REQUEST BY COCG EXPERTS

### Criterion 1.1

Although Grenada is committed to the OECD Automatic Exchange of Information (AEOI) standard (the Common Reporting Standard - CRS), at this stage, according to publicly available data, it appears that it has not enacted primary/secondary legislation/regulations for that purpose. In that context, for the purpose of assessing the situation against criterion 1.1, it is important to know whether and when Grenada intends to enact such legislation, and how it will be ensured that such legislation provides for the customer due diligence in accordance with the international commitments of Grenada.

According to publicly available information it appears that Grenada has not activated information exchange with all EU Member States under the framework of the Multilateral Competent Authority Agreement on the automatic exchange of financial account information. In this context we are interested in knowing whether you have notified the OECD coordinating body of your intention to exchange information with all EU Member States under the above mentioned framework. If you have not notified the OECD coordinating body of your intention to exchange information with all EU Member States yet, do you plan to do so and within what time frame? Should Grenada not intend to cover all EU Member States, we would also be grateful if you could specify the reasons for such a decision.

### Criterion 1.3

The COCG experts acknowledge that Grenada has not signed the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC), as amended. It is therefore important to know whether Grenada intends to sign the MAC or whether it has a network of exchange arrangements in force which is sufficiently broad to cover all EU Member States, effectively allowing both exchange of information on request (EOIR) and automatic exchange of information (AEOI). If the network of such arrangements exists, we would be grateful if you could specify if Grenada intends to extend this network to all EU Member States and which steps were or are being taken in order to achieve this objective.

### Criterion 2.1

The COCG experts have identified the tax regimes, as described in the Appendix 1 to this Annex, which are relevant in the context of evaluating the situation against criterion 2.1 (see Annex II). We would be grateful if you could confirm whether information contained in Appendix 1 to Annex I is complete and accurate and, provide references, where such are missing or incorrect, to relevant legal provisions.

## RESTREINT UE/EU RESTRICTED

The COCG experts acknowledge that Grenada has not joined the Inclusive Framework on BEPS. We would be grateful if you could clarify whether Grenada intends to join the Inclusive Framework on BEPS; if so, it would be important that this action is taken as soon as possible. Please note that the COCG experts Panel will take stock of the assessment of the work carried out in the Inclusive Framework on BEPS, in order to evaluate your preferential tax regimes against criterion 2.1 (see Annex II), to the extent the scope of the work carried out in the Inclusive Framework on BEPS is compatible with the analysis to be conducted by the COCG.

### **Criterion 3**

The COCG experts acknowledge that Grenada has not yet joined the Inclusive Framework on BEPS, nor committed to the agreed BEPS minimum standards and their consistent implementation. We would be grateful if you could clarify whether Grenada could join the Inclusive Framework on BEPS or, in any case, commit to these standards by the end of 2017.

### **DRAFT DESCRIPTION OF TAX REGIMES (criterion 2.1)**

#### **Regime: International Companies**

##### **a. Description of the regime**

Under the 2008 International Companies Act, a Grenada registered International Company automatically receives a 20-year exemption from all taxes.

International Companies shall not:

- carry on business with persons domiciled or resident in Grenada;
- own an interest in real property in Grenada other than a lease;
- engage in offshore banking business, provide trust services or engage in investment brokerage unless licensed to do so by written law; or
- engage in offshore insurance business, merchant shipping or carry on any other type of international business unless licensed to do so by written law.

##### **b. Benefits available to International Companies**

International business companies are exempt from all taxes.

The normal corporate tax rate in Grenada is 30%.



**c. Possible concerns**

Our understanding of Grenada legislation is that the regime seems targeted at activities with foreign entities/markets that are not domiciled or resident in Grenada. International Companies are prohibited from carrying on business with persons domiciled or residents in Grenada.

A regime limited to foreign tax payers and/or to operations outside the territory of the jurisdiction does not meet criteria 1 and 2 of the Code of Conduct.

**Regime: Offshore banking**

**a. Description of the regime**

The 2008 Offshore Banking Act provides for specific rules on offshore banking according to which a company desirous of commencing an offshore banking business or trust business from within Grenada shall apply to the Minister for a license.

The licence will be granted to the applicant if, amongst other conditions:

- it is incorporated in accordance with the International Companies Act, is a qualified foreign bank, or other financial institution;
- its objects or business activities are restricted to offshore banking or trust business whether within or outside of Grenada;
- it provides the Authority with the names and addresses and other particulars of identification with respect to every shareholder of the company;
- notwithstanding anything contained in the International Companies Act, has at least two directors, all of whom must be natural persons and one of whom must be a citizen of and resident in, Grenada.

The Offshore banking Act sets as a condition for a licence that:

- the licensee may not accept any deposit for the account of a resident of Grenada or keep a resident of Grenada as a customer for any of its offshore banking services;
- if the licensee is a foreign bank or other financial institution, it shall separate activities in Grenada and keep separate records of its offshore banking activities.

A licensee shall not conduct offshore banking business or trust business with any person resident in Grenada other than another licensee, or an international company and invest in any asset that represents a claim on any person resident in Grenada.

**b. Benefits available to Offshore Banks**

The normal corporate tax rate in Grenada is 30%.

The Offshore Banking Act grants an exemption of income tax, capital gains tax and any other direct tax upon the profits or gains of a licensed offshore bank.

No income tax, capital gains tax or other direct tax or impost shall be levied in Grenada in respect of any dividends or earnings attributable to the shares or securities of a licensee that are beneficially owned by another licensee or by a person who is not a resident of Grenada.

**c. Possible concerns**

Our understanding of Grenada legislation is that the regime seems targeted at activities with foreign entities/markets that are not domiciled or resident in Grenada. Offshore banks are prohibited from carrying on banking business with persons domiciled or residents in Grenada.

A regime limited to foreign tax payers and/or to operations outside the territory of the jurisdiction does not meet criteria 1 and 2 of the Code of Conduct.

**Regime: International insurance**

**a. Description of the regime**

A licence granted by the Minister is necessary to carry on international insurance business. Such licence can be granted either to an International Company or a foreign company.

The 2008 International Insurance Act provides for specific rules on international insurance business which is defined as the carrying on or the conducting whether within or outside Grenada of any insurance business where each of the insured:

- is not domiciled in Grenada;
- is not ordinarily resident in Grenada;
- is not a company incorporated or registered in Grenada under any legislation other than the International Companies Act; or
- is a trustee company.

One of the conditions to be granted a licence is that the licensee will not carry any activities from within Grenada, otherwise than in connection with or for the purpose of the particular offshore insurance business in respect of which it is registered.

Under section 34 of the International Insurance Act, the Minister may exempt a registered insurer from all or any part of the provisions or any regulations made under the International Insurance Act and may impose such terms and conditions as he or she thinks fit as a condition under which such exemption is granted. An exemption granted under this subsection may be revoked or other terms and conditions changed by the Minister at any time. In dealing with an application the Minister shall not be required to act judicially and his or her decision in all cases shall be final.

**b. Benefits available under the International Insurance regime**

The normal corporate tax rate in Grenada is 30%.

No income tax, nor any other direct or indirect tax, shall be levied in Grenada in respect of any offshore insurance business.

No income tax, nor any other direct or indirect tax, shall be levied in Grenada in respect of any dividends or earnings, or upon any premiums paid to a registered insurer or money paid to an insured by a registered insurer or money paid to an insured by a registered insurer attributable to the shares or securities of a registered insurer that are beneficially owned by another registered insurer or by a person who is not a resident of Grenada.

**c. Possible concerns**

Our understanding of Grenada legislation is that international insurers are prohibited from carrying on insurance business with persons domiciled or residents in Grenada. A regime limited to foreign tax payers and/or to operations outside the territory of the jurisdiction does not meet criteria 1 and 2 of the Code of Conduct.

An important Code of Conduct criterion used to assess the harmfulness of a regime is its transparency (criterion 5). A measure is considered not transparent when it is subject to approval, and the exact requirements are not laid down in law. The section 34 exemption seems to grant discretionary power to the Minister.

**Regime: International Trusts**

**a. Description of the regime**

Under the 2008 International Trust Act, an international trust is a trust in respect of which:

- the settlor is resident outside Grenada;
- at least one of the trustees is a trust corporation;
- no beneficiary is a resident of Grenada; and

## RESTREINT UE/EU RESTRICTED

- the trust property does not include any immovable property situate in Grenada or an interest in any property situated in Grenada.

The beneficiary of the trust may be:

- an international insurance company within the meaning of the International Insurance Act;
- an offshore bank within the meaning of the Offshore Banking Act;
- an international business company within the meaning of the International Companies Act.

The trust property of a Grenada international trust must not be located in Grenada.

### **b. Benefits available under the International Trust regime**

The income from an international trust that is received by a beneficiary who is not resident in Grenada is exempt from income tax. An international trust is exempt from any tax, duty or other impost in Grenada on the funds of the trust that comprise foreign currency or foreign securities.

### **c. Possible concerns**

Our understanding of Grenada legislation is that the tax exemption is conditional upon the beneficiary being non-resident of Grenada. The trust property of a Grenada offshore trust must not be located in Grenada.

A regime limited to foreign tax payers and/or to operations outside the territory of the jurisdiction does not meet criteria 1 and 2 of the Code of Conduct.

## **Regime: Fiscal incentives under various Acts**

### **a. Description of the regime**

Under the Fiscal Incentives Act, the Qualified Enterprises Act and the Hotel Aids Act, certain foreign companies may be granted a tax exemption or holiday. The incentives may be granted provided that an enterprise is beneficial to the economy of Grenada. Under the Fiscal Exemption Act incentives can be granted for up to 15 years.

### **b. Benefits available under the Fiscal incentives Acts**

Companies may be granted complete or partial exemption from tax for up to 15 years, depending on the classification of the company. The normal tax rate is 30%.

## RESTREINT UE/EU RESTRICTED

Where the export profits of enterprises referred to in the Act, amount to ten (10) % or more of the entire profits of the enterprise, from the export of an approved product, relief shall be granted from income tax on the export profits. This relief is granted by way of tax credits.

Amount of export profits expressed as a percentage of the entire profits	Maximum percentage of tax relief
10% or more but less than 21%	25%
21% or more but less than 41%	35%
41% or more but less than 61%	45%
61% or more	50%

Where shareholders or their nominees are not resident in Grenada, they shall be exempted from income tax on dividends, in respect of the amount of tax that exceeds the tax liability of the shareholder in his country of residence.

### c. Possible concerns

A regime limited to foreign tax payers and/or to operations outside the territory of the jurisdiction does not meet criteria 1 and 2 of the Code of Conduct. The incentives seem targeted at activities with foreign entities/markets that are not domiciled or resident in Grenada.

An important Code of Conduct criterion used to assess the harmfulness of a regime is its transparency (criterion 5). A measure is considered not transparent when it is subject to approval, and the exact requirements are not laid down in law.

### Regime: Export processing / commercial free zones enterprises

#### a. Description of the regime

The Free Trade and Processing Zone Act (FTPZ Act) gives the Minister of Finance the authority to designate an area as a free zone upon the application by the requisite company.

Activities that can take place within the FTPZ are for example:

## RESTREINT UE/EU RESTRICTED

- commercial, financial, business and services centre activities, and services incidental thereto, pursuant to the Offshore Banking Act, the International Insurance Act and the International Companies Act;
- functional container port activities, as well as activities at auxiliary facilities and locations to be determined by the concessionaire;
- sea and air transportation services;
- imports of goods and construction materials, machinery and equipment, including fixtures, furniture and technical equipment, incorporated into any and all buildings within a free zone or a processing zone;
- exports, including export processing activities;
- warehousing and storing;
- trans-shipment;
- loading and unloading operations;
- packaging and shipping; assembling;
- merchandising, including international trading of products;
- sale of goods and services produced;
- processing, refining, purifying, mixing and recycling of all materials.

### **b. Benefits available under the FTPZ Act**

The normal corporate income tax rate in Grenada is 30% on the annual net profit of a company in excess of ECD 60,000. Companies approved under FTPZ Act are exempt from tax for a period of 60 years with the possibility for an extension of another 60 years.

### **c. Possible concerns**

The tax incentive granted to offshore mobile activities seems targeted to foreign enterprises or for activities with foreign entities/markets since tax advantages are granted only to foreign enterprises or in respect of transactions carried out with non-residents, the purpose of the FTPZ Act being to promote investment and export development.

## RESTREINT UE/EU RESTRICTED

A regime limited to foreign tax payers and/or to operations outside the territory of the jurisdiction does not meet criteria 1 & 2 of the Code of Conduct which prohibit this type of ring-fencing.

Another important criterion to assess the harmfulness of a tax regime is the substance criterion (criteria 3 of the Code of Conduct). The description of the regime seems to indicate there is no actual requirement regarding the substance for the benefits to be granted.

Another important Code criterion used to assess the harmfulness of a regime is its transparency (criterion 5). A measure is considered as not transparent when it is not laid down in law but granted on a discretionary basis. The conditions for the granting the concessions under the FTPZ Act do not seem clear and transparent being left at the discretion of the Minister of Finance to designate such FTPZ.

DECLASSIFIED

36	Guam
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Questionnaire included under the US (see No 78)

DECLASSIFIED



37	Guernsey
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**INFORMATION REQUEST BY COCG EXPERTS**

**Criterion 1.1**

According to publicly available information it appears that Guernsey has not activated information exchange with all EU Member States under the framework of the Multilateral Competent Authority Agreement on the automatic exchange of financial account information. In this context we are interested in knowing whether you have notified the OECD coordinating body of your intention to exchange information with all EU Member States under the above mentioned framework. If you have not notified the OECD coordinating body of your intention to exchange information with all EU Member States yet, do you plan to do so and within what time frame? Should Guernsey not intend to cover all EU Member States, we would also be grateful if you could specify the reasons for such a decision.

**Criterion 2.2**

The COCG experts acknowledge that Guernsey should be considered in the context of criterion 2.2 as further specified by the COCG (see Appendix 2 to the Annex II).

We'd therefore be grateful if you could respond to the questions set out in the Appendix 1 to this Annex.

Please be informed that further specific questions could follow based on information available.

**QUESTIONS CONCERNING CRITERION 2.2**

[as set out in the template questionnaire (see doc. 9995/17 FISC 124 EU RESTRICTED, Annex II)]

38	Iceland
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**INFORMATION REQUEST BY COCG EXPERTS**

**Criteria 1.1**

The COCG experts acknowledge that Iceland is committed to the OECD Automatic Exchange of Information (AEOI) standard (the Common Reporting Standard - CRS) and also understand that it has signed the Multilateral Competent Authority Agreement for the Common Reporting Standard.

According to publicly available information it appears, however, that Iceland has not activated information exchange with all EU Member States under the framework of the Multilateral Competent Authority Agreement on the automatic exchange of financial account information. In this context we are interested in knowing whether you have notified the OECD coordinating body of your intention to exchange information with all EU Member States under the above mentioned framework. If you have not notified the OECD coordinating body of your intention to exchange information with all EU Member States yet, do you plan to do so and within what time frame? Should Iceland not intend to cover all EU Member States, we would also be grateful if you could specify the reasons for such a decision.

DECLASSIFIED

39	India
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**INFORMATION REQUEST BY COCG EXPERTS**

**Criterion 1.1**

According to publicly available information it appears that India has not activated information exchange with all EU Member States under the framework of the Multilateral Competent Authority Agreement on the automatic exchange of financial account information. In this context we are interested in knowing whether you have notified the OECD coordinating body of your intention to exchange information with all EU Member States under the above mentioned framework. If you have not notified the OECD coordinating body of your intention to exchange information with all EU Member States yet, do you plan to do so and within what time frame? Should India not intend to cover all EU Member States, we would also be grateful if you could specify the reasons for such a decision.

**Criterion 2.1**

The COCG experts acknowledge that India has joined the OECD Inclusive Framework for Tackling Base Erosion and Profit Shifting (the Inclusive Framework on BEPS) and has therefore committed to the four BEPS minimum standards and their consistent implementation.

Please note that the COCG experts will take stock of the assessment conducted by the FHTP for the purpose of evaluating your preferential tax regime against criterion 2.1 (see Annex II). Nevertheless, for the assessment of these regimes against criterion 2.1, the COCG experts may request additional information, if necessary.

40	Indonesia
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## INFORMATION REQUEST BY COCG EXPERTS

### Criterion 1.1

Although Indonesia is committed to the OECD Automatic Exchange of Information (AEOI) standard (the Common Reporting Standard - CRS), at this stage, according to publicly available data, it appears that it has not enacted secondary legislation/regulations for that purpose. In that context, for the purpose of assessing the situation against criterion 1.1, it is important to know whether and when Indonesia intends to enact such legislation and how it will be ensured that such legislation provides for the customer due diligence in accordance with the international commitments of Indonesia.

According to publicly available information it appears that Indonesia has not activated information exchange with all EU Member States under the framework of the Multilateral Competent Authority Agreement on the automatic exchange of financial account information. In this context we are interested in knowing whether you have notified the OECD coordinating body of your intention to exchange information with all EU Member States under the above mentioned framework. If you have not notified the OECD coordinating body of your intention to exchange information with all EU Member States yet, do you plan to do so and within what time frame? Should Indonesia not intend to cover all EU Member States, we would also be grateful if you could specify the reasons for such a decision.

### Criterion 1.2

The COCG experts acknowledge that Indonesia was granted a Partially Compliant rating by the Global Forum on Transparency and Exchange of Information for Tax Purposes (hereinafter, the Global Forum). In this context, it is important to know whether Indonesia has applied for the Fast-track procedure as envisaged in the Global Forum. Should application for the Fast-track procedure be submitted, this information will be taken into due consideration by the COCG experts.

### Criterion 2.1

The COCG experts acknowledge that Indonesia has joined the OECD Inclusive Framework for Tackling Base Erosion and Profit Shifting (the Inclusive Framework on BEPS) and has therefore committed to the four BEPS minimum standards and their consistent implementation.

Please note that the COCG experts will take stock of the assessment conducted by the FHTP for the purpose of evaluating your preferential tax regime against criterion 2.1 (see Annex II). Nevertheless, for the assessment of these regimes against criterion 2.1, the COCG experts may request additional information, if necessary.

41	Isle of Man
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**INFORMATION REQUEST BY COCG EXPERTS**

**Criterion 1.1**

According to publicly available information it appears that the Isle of Man has not activated information exchange with all EU Member States under the framework of the Multilateral Competent Authority Agreement on the automatic exchange of financial account information. In this context we are interested in knowing whether you have notified the OECD coordinating body of your intention to exchange information with all EU Member States under the above mentioned framework. If you have not notified the OECD coordinating body of your intention to exchange information with all EU Member States yet, do you plan to do so and within what time frame? Should the Isle of Man not intend to cover all EU Member States, we would also be grateful if you could specify the reasons for such a decision.

**Criterion 2.2**

The COCG experts acknowledge that Isle of Man should be considered in the context of criterion 2.2 as further specified by the COCG (see Appendix 1 to Annex II).

We'd therefore be grateful if you could respond to the questions set out in the Appendix 1 to this Annex.

Please be informed that further specific questions could follow based on information available.

**QUESTIONS CONCERNING CRITERION 2.2**

[as set out in the template questionnaire (see doc. 9995/17 FISC 124 EU RESTRICTED, Annex II)]

42	Israel
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## INFORMATION REQUEST BY COCG EXPERTS

### Criterion 1.1

Although Israel is committed to the OECD Automatic Exchange of Information (AEOI) standard (the Common Reporting Standard - CRS), at this stage, according to publicly available data, it appears that it has not enacted secondary legislation for that purpose. In that context, for the purpose of assessing the situation against criterion 1.1, it is important to know whether and when Israel intends to enact such legislation, and how it will be ensured that such legislation provides for the customer due diligence in accordance with the international commitments of Israel.

According to publicly available information it appears that Israel has not activated information exchange with all EU Member States under the framework of the Multilateral Competent Authority Agreement on the automatic exchange of financial account information. In this context we are interested in knowing whether you have notified the OECD coordinating body of your intention to exchange information with all EU Member States under the above mentioned framework. If you have not notified the OECD coordinating body of your intention to exchange information with all EU Member States yet, do you plan to do so and within what time frame? Should Israel not intend to cover all EU Member States, we would also be grateful if you could specify the reasons for such a decision.

### Criterion 2.1

The COCG experts acknowledge that Israel has joined the OECD Inclusive Framework for Tackling Base Erosion and Profit Shifting (the Inclusive Framework on BEPS) and has therefore committed to the four BEPS minimum standards and their consistent implementation.

Please note that the COCG experts will take stock of the assessment conducted by the FHTP for the purpose of evaluating your preferential tax regime against criterion 2.1 (see Annex II). Nevertheless, for the assessment of these regimes against criterion 2.1, the COCG experts may request additional information, if necessary.

43	Jamaica
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### INFORMATION REQUEST BY COCG EXPERTS

#### Criterion 1.3

The COCG experts acknowledge that Jamaica has signed the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC), as amended, although the ratification instrument has not been deposited yet. It is therefore important to know whether and when Jamaica intends to ratify the MAC.

#### Criterion 2.1

The COCG experts acknowledge that Jamaica has joined the OECD Inclusive Framework for Tackling Base Erosion and Profit Shifting (the Inclusive Framework on BEPS) and has therefore committed to the four BEPS minimum standards and their consistent implementation.

Nonetheless, the COCG experts have identified the tax regimes, as described in the Appendix 1 to this Annex, which are relevant in the context of evaluating the situation against criterion 2.1 but are not scheduled for review by the FHTP under the Inclusive Framework on BEPS. Please be informed that for these regimes the COCG will conduct an assessment based on the criteria of EU Code of Conduct on Business Taxation (criterion 2.1 as referred to in Annex 2). We would be grateful if you could confirm whether information contained in Appendix 1 to Annex I is complete and accurate and, provide references, where such are missing or incorrect, to relevant legal provisions.

### DRAFT DESCRIPTION OF TAX REGIMES (criterion 2.1)

#### **1. Industrial (export related) Incentives**

The main incentives for manufacturing and export-manufacturing activities are granted under the Industrial Incentives Act (IIA) and the Export Industry Encouragement Act (EIEA), respectively. The IIA and the EIEA were repealed on 31 December 2013, and thus no new approvals can be granted. However, persons entitled to fiscal incentives under the IIA and the EIEA will continue to be entitled to those fiscal incentives until they elect to terminate those fiscal incentives or until the end of the tax holiday period.

The incentives granted under the EIEA – relief from customs duties, general consumption tax and income tax for up to 10 years and the export tax credit for post-tax holiday exports – as well as the application procedure, are very similar to those of the IIA except that only companies manufacturing for export are entitled to the EIEA benefits.

## RESTREINT UE/EU RESTRICTED

Approved enterprises – local or foreign companies manufacturing products either for local consumption or export – which the government believes to be in the interest of the economy, may benefit from the following tax incentives:

- exemption from income tax for a limited period, which may be extended in respect of export profits after the end of the tax holiday period;
- tax exemptions and reliefs for shareholders in approved enterprises; and
- relief from customs duty and general consumption tax reliefs on certain imports from outside the CARICOM region by approved enterprises during their tax holiday period.

The government decides on the approval of an enterprise taking into account the following considerations:

The enterprise

- (a) has to be adequately financed;
- (b) has adequate trained personnel in its employ or is able to obtain the services of such personnel;
- (c) has access to the necessary technical information;
- (d) is able to obtain adequate raw materials;
- (e) possesses, or will possess, the necessary factory.

For the EIEA it should also be taken into account that the enterprise proposes to manufacture the approved export product exclusively for export from this Island to countries other than those belonging to the Caribbean Common Market.

Approved enterprises are classified as Group I<sup>5</sup>, II<sup>6</sup> or III<sup>7</sup> enterprises, by reference to local value added (see below) to the product being manufactured or as “enclave enterprises”, which manufacture approved products exclusively for export outside the CARICOM region, regardless of local value added. Group classification is determined by JAMPRO<sup>8</sup> by reference initially to its estimate of local value to be added; classification is reviewed and may be re-determined during the tax relief period. The tax relief period for the four categories of enterprises is as follows:

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<sup>5</sup> Those enterprises whose products have a local value added of 50% of the products’ sales proceeds over 12 months.

<sup>6</sup> Those enterprises manufacturing products with a local value added of between 25% and 49.99%.

<sup>7</sup> Those enterprises which manufacture products with between 10% and 24.99% local value added.

<sup>8</sup> Agency of the Government of Jamaica’s Ministry of Economic Growth and Job Creation that promotes business opportunities in export and investment to the local and international private sector.



## RESTREINT UE/EU RESTRICTED

Category of enterprise	Duration of tax relief
Group I	9 years
Group II	7 years
Group III	5 years
Enclave	10 years

*An approved enterprise which exports after the end of its tax holiday period approved products outside the CARICOM region may be entitled to an export tax credit for up to 10 years after the tax holiday period.*

During the tax holiday period exempted profits must be placed in a separate account, from which alone dividends declared out of exempted profits must be paid. During the tax holiday any approved enterprises remains obliged to file income tax returns.

Any net losses incurred during the tax holiday period, including deemed deducted annual allowances as above, may be carried forward and set off against profits of the first 5 years of assessment after the end of the tax holiday period.

### **Preferential features/Benefits available under the Industrial incentives regime**

The standard income tax rate for domestic companies is currently 25%<sup>9</sup>.

Approved enterprises manufacturing certain products which the government believes to be in the interest of the economy benefit from an *exemption from income tax for a limited period*<sup>10</sup> – in addition, such period may be extended in respect of export profits after the end of the tax holiday period.

Therefore, a preferential tax treatment is granted to certain approved enterprises.

<sup>9</sup> For regulated companies, including those regulated by the Financial Services Commission (FSC), the Office of Utilities Regulation (OUR), the Bank of Jamaica (BOJ), and the Ministry of Finance and Planning (MOFP), the income tax rate is 33 1/3%.

<sup>10</sup> The higher the local value added to the product, the longer the tax holiday period.

**Possible concerns/What is the problem under the Code?**

The tax benefits provided by the Jamaican Authorities are directly proportionate to the level of exportation of the approved products; for *enclave enterprises* which manufacture approved products exclusively for export outside the CARICOM region, regardless of local value added, tax advantages are granted just in respect of export transactions (ring-fencing).

A regime limited to foreign tax payers and/or to operations outside the territory of the jurisdiction (ring fenced regime) does not meet criteria 1 & 2 of the Code of Conduct which prohibit this type of ring fencing. As the regime grants industrial (export related) tax incentives, it seems targeted to foreign enterprises or for activities with foreign entities/markets since tax advantages are granted only to foreign enterprises or in respect of transactions carried out with non-residents..

Another important Code criterion used to assess the harmfulness of a regime is its transparency. A measure is considered as not transparent when it is not laid down in law but granted on a discretionary basis. Thus, a regime which provides for tax measures that lack transparency, including where legal provisions are relaxed at administrative level in a non-transparent way risks violating criterion 5 of the Code. The tax incentives set by the Industrial incentives acts do not seem transparent to the extent the conditions for granting the concessions are not sufficiently clear and at the discretion of the Government assessment that manufacturing a certain product is or not in the interest of the economy.

**Further questions**

We understand that the regimes have been repealed 31 December 2013. However, persons entitled to fiscal incentives under the IIA and the EIEA will continue to be entitled to those fiscal incentives until they elect to terminate those fiscal incentives or until the end of the tax holiday period. Until when will there be no fiscal incentive under the IIA and EIEA granted for persons that have already been entitled before 31 December 2013? When will the regimes be effectively abolished?

**Source of information**

IBFD

<http://mset.gov.jm/incentives>

**2. Special Economic Zones****Description**

The Special Economic Zones (SEZ) Act, 2016, repealing the Jamaica Export Free Zone Act and effective 1 August 2016, includes tax and customs incentives for qualifying entities. It has established a regime to support the designation, promotion, development, operation, and management of SEZ. Under the Act, the Minister with responsibility for finance may designate certain geographical areas as SEZ.

A person may be declared to be a ‘developer’ or ‘occupant’ under the SEZ Act. A ‘developer’ refers to a company that is incorporated under the Companies Act and is established by a sponsor for the purposes of entering into a master-concession or a licence-agreement. An ‘occupant’ refers to a person, other than a developer, or a zone user who conducts business in the zone under a sub-concession made with the developer.

*Tax incentives that are available to a developer or occupant under the SEZ Act* include relief from asset tax, a *reduced rate of income tax, property tax, transfer tax, GCT, and customs duty.* However, these incentives are not available to developers or occupants who are eligible for relief under a number of other enactments<sup>11</sup>. Developers and occupants of a SEZ may pay tax on income at a rate of 12.5% (or an income tax rate as low as approximately 7.5% if they qualify for certain tax credits). There is no customs duty on items imported into the special economic zone, and no general consumption tax applies on imported and local purchases of goods and services.

Certain business activities are *specifically prohibited* in the SEZ, including (but not limited to) mining or quarrying for natural resources, services pertaining to tourism, telecommunications, public utilities, *financial services*, construction, real estate, and property management.

### **Preferential features/Benefits available under the SEZ regime**

The standard income tax rate for domestic companies is currently 25%<sup>12</sup> for resident companies.

Developers and occupants of a SEZ may pay tax on income at a rate of 12.5% (or an income tax rate as low as approximately 7.5% if they qualify for certain tax credits).

Therefore, a preferential tax treatment is granted to developers or occupants under the SEZ Act.

### **Possible concerns/What is the problem under the Code?**

An important Code criterion used to assess the harmfulness of a regime is its transparency (criterion 5). A measure is considered as not transparent when it is not laid down in law but granted on a discretionary basis. Thus, a regime which provides for tax measures that lack transparency, including where legal provisions are relaxed at administrative level in a non-transparent way risks in violating criterion 5 of the Code. The regime set by the SEZ Act might lack transparency to the extent the conditions for granting the concessions are not clear and transparent, this being left with the Ministry of Finance.

### **Source of information**

(PWC)

<https://home.kpmg.com/xx/en/home/insights/2016/10/tnf-jamaica-tax-customs-incentives-for-special-economic-zone-regime.html>

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<sup>11</sup> Including the Bauxite and Alumina Industries (Encouragement) Act and the Income Tax Relief (Large-Scale Projects & Pioneer Industries) Act.

<sup>12</sup> For regulated companies, including those regulated by the Financial Services Commission (FSC), the Office of Utilities Regulation (OUR), the Bank of Jamaica (BOJ), and the Ministry of Finance and Planning (MOFP), the income tax rate is 33 1/3%.

44	Japan
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**INFORMATION REQUEST BY COCG EXPERTS**

**Criterion 1.1**

Although Japan is committed to the the OECD Automatic Exchange of Information (AEOI) standard (the Common Reporting Standard - CRS), at this stage, according to publicly available data, it appears that it has not enacted regulations (guidance) for that purpose. In that context, for the purpose of assessing the situation against criterion 1.1, it is important to know whether and when Japan intends to enact such regulations, and how it will be ensured that such regulations provide for the customer due diligence in accordance with the international commitments of Japan.

According to publicly available information it appears that Japan has not activated information exchange with all EU Member States under the framework of the Multilateral Competent Authority Agreement on the automatic exchange of financial account information. In this context we are interested in knowing whether you have notified the OECD coordinating body of your intention to exchange information with all EU Member States under the above mentioned framework. If you have not notified the OECD coordinating body of your intention to exchange information with all EU Member States yet, do you plan to do so and within what time frame? Should Japan not intend to cover all EU Member States, we would also be grateful if you could specify the reasons for such a decision.

DECLASSIFIED

45	Jersey
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**INFORMATION REQUEST BY COCG EXPERTS**

**Criterion 1.1**

According to publicly available information it appears that Jersey has not activated information exchange with all EU Member States under the framework of the Multilateral Competent Authority Agreement on the automatic exchange of financial account information. In this context we are interested in knowing whether you have notified the OECD coordinating body of your intention to exchange information with all EU Member States under the above mentioned framework. If you have not notified the OECD coordinating body of your intention to exchange information with all EU Member States yet, do you plan to do so and within what time frame? Should Jersey not intend to cover all EU Member States, we would also be grateful if you could specify the reasons for such a decision.

**Criterion 2.2**

The COCG experts acknowledge that Jersey should be considered in the context of criterion 2.2 as further specified by the COCG (see Appendix 2 to Annex II).

We would therefore be grateful if you could respond to the questions set out in the Appendix 1 to this Annex.

Please be informed that further specific questions could follow based on information available.

**QUESTIONS CONCERNING CRITERION 2.2**

[as set out in the template questionnaire (see doc. 9995/17 FISC 124 EU RESTRICTED, Annex II)]

46	Jordan
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## INFORMATION REQUEST BY COCG EXPERTS

### Criteria 1.2

The COCG experts acknowledge that Jordan is not a member of the Global Forum on Transparency and Exchange of Information for Tax purposes (hereinafter, the Global Forum). Participation in the Global Forum is essential as it is the international body in charge of monitoring the implementation of the global standards on tax transparency. In that respect, the Code of Conduct Group has decided that developing countries among those selected for the EU listing process that are not financial centres should be requested or invited to join the Global Forum (this would not apply to Low Middle Income countries according to the last OECD DAC List of ODA). In this context, we would like to know whether Jordan could consider joining the Global Forum.

### Criteria 1.3

The COCG experts acknowledge that Jordan has not signed the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC), as amended. It is therefore important to know whether Jordan intends to sign the MAC or whether it has a network of exchange arrangements in force which is sufficiently broad to cover all EU Member States, effectively allowing both exchange of information on request (EOIR) and automatic exchange of information (AEOI). If the network of such arrangements exists, we would be grateful if you could specify if Jordan intends to extend this network to all EU Member States and which steps were or are being taken in order to achieve this objective.

### Criterion 2.1

The COCG experts acknowledge that Jordan is considered as a jurisdiction of relevance by the OECD Forum on Harmful Tax Practices (FHTP) and that your preferential tax regime is scheduled for review in 2017. Please note that the COCG experts will take stock of the assessment conducted by the FHTP for the purpose of evaluating your preferential tax regime against criterion 2.1 (see Annex II). Nevertheless, for the assessment of this regime against criterion 2.1, the COCG experts may request additional information, if necessary.

**Criteria 3**

The COCG experts acknowledge that Jordan has not yet joined the Inclusive Framework on BEPS, nor committed to the agreed BEPS minimum standards and their consistent implementation. We would be grateful if you could clarify whether Jordan could join the Inclusive Framework on BEPS or, in any case, commit to these standards by the end of 2017.

DECLASSIFIED

47	Korea, Republic of
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**INFORMATION REQUEST BY COCG EXPERTS**

**Criterion 1.1**

According to publicly available information it appears that Republic of Korea has not activated information exchange with all EU Member States under the framework of the Multilateral Competent Authority Agreement on the automatic exchange of financial account information. In this context we are interested in knowing whether you have notified the OECD coordinating body of your intention to exchange information with all EU Member States under the above mentioned framework. If you have not notified the OECD coordinating body of your intention to exchange information with all EU Member States yet, do you plan to do so and within what time frame? Should Republic of Korea not intend to cover all EU Member States, we would also be grateful if you could specify the reasons for such a decision.

**Criterion 2.1**

The COCG experts acknowledge that Korea has joined the OECD Inclusive Framework for Tackling Base Erosion and Profit Shifting (the Inclusive Framework on BEPS) and has therefore committed to the four BEPS minimum standards and their consistent implementation. Please note that the COCG experts will take stock of the assessment conducted by the FHTP for the purpose of evaluating your preferential regimes against criterion 2.1 (see Annex II). Nevertheless, for the assessment of these regimes against criterion 2.1, the COCG experts may request additional information, if necessary.



48	Malaysia
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### INFORMATION REQUEST BY COCG EXPERTS

#### Criteria 1.1

According to publicly available information it appears that Malaysia has not activated information exchange with all EU Member States under the framework of the Multilateral Competent Authority Agreement on the automatic exchange of financial account information. In this context we are interested in knowing whether you have notified the OECD coordinating body of your intention to exchange information with all EU Member States under the above mentioned framework. If you have not notified the OECD coordinating body of your intention to exchange information with all EU Member States yet, do you plan to do so and within what time frame? Should Malaysia not intend to cover all EU Member States, we would also be grateful if you could specify the reasons for such a decision.

Concerning **the Federal Territory of Labuan**, with regard to the implementation of the global standards of tax transparency and exchange of information, we understand that the Federal Territory of Labuan is covered by the review process of Malaysia undertaken by the Global Forum. Therefore questions concerning tax transparency are being referred to Malaysia.

Therefore we would like to find out whether the Federal Territory of Labuan will also exchange information with all EU Member States under the framework of the Multilateral Competent Authority Agreement (MCAA) (following the Common Reporting Standard (CRS) on Automatic Exchange of Information (AEOI)).

#### Criterion 2.1

The COCG experts acknowledge that Malaysia (including the Federal Territory of Labuan) has joined the OECD Inclusive Framework for Tackling Base Erosion and Profit Shifting (the Inclusive Framework on BEPS) and has therefore committed to the four BEPS minimum standards and their consistent implementation. Please note that the COCG experts will take stock of the assessment conducted by the FHTP for the purpose of evaluating your preferential tax regimes against criterion 2.1 (see Annex II). Nevertheless, for the assessment of these regimes against criterion 2.1, the COCG experts may request additional information, if necessary.

49	Maldives
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## INFORMATION REQUEST BY COCG EXPERTS

### Criterion 1.3

The COCG experts acknowledge that Maldives has not signed the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC), as amended. It is therefore important to know whether Maldives intends to sign the MAC or whether it has a network of exchange arrangements in force which is sufficiently broad to cover all EU Member States, effectively allowing both exchange of information on request (EOIR) and automatic exchange of information (AEOI). If the network of such arrangements exists, we would be grateful if you could specify if Maldives intends to extend this network to all EU Member States and which steps were or are being taken in order to achieve this objective.

### Criterion 2.1

The COCG experts have identified the tax regime, as described in the Appendix 1 to this Annex, which is relevant in the context of evaluating the situation against criterion 2.1 (see Annex II). We would be grateful if you could confirm whether information contained in Appendix 1 to Annex I is complete and accurate and, provide references, where such are missing or incorrect, to relevant legal provisions.

The COCG experts acknowledge that Maldives has not joined the Inclusive Framework on BEPS. We would be grateful if you could clarify whether Maldives intends to join the Inclusive Framework on BEPS; if so, it would be important that this action is taken as soon as possible. Please note that the COCG experts Panel will take stock of the assessment of the work carried out in the Inclusive Framework on BEPS, in order to evaluate your preferential tax regime against criterion 2.1 (see Annex II), to the extent the scope of the work carried out in the Inclusive Framework on BEPS is compatible with the analysis to be conducted by the COCG.

### Criterion 3

The COCG experts acknowledge that Maldives has not yet joined the Inclusive Framework on BEPS, nor committed to the agreed BEPS minimum standards and their consistent implementation. We would be grateful if you could clarify whether Maldives could join the Inclusive Framework on BEPS or, in any case, commit to these standards by the end of 2017.

DRAFT DESCRIPTION OF TAX REGIMES (criterion 2.1)

**Regime: Reduced Tax Regime**

1. Description of the regime

Under the Business Profit Tax Act, tax is imposed at the rate of 15% on profits carried out by companies in Maldives exceeding MVR 500.000 in a tax year. A lower rate of 5% is applicable to companies resident in the Maldives generating all of their income from outside the Maldives.

Extract form the Business Profit Tax Act:

Section 2 (b):

*Tax on profits from sources outside Maldives shall be charged provided the following conditions are met:*

1. *The company is registered under the Companies Act of Maldives an is not resistant outside Maldives;*
2. *Such Company derives income in that period from:*
  - a) *any business carried on wholly outside Maldives; or*
  - b) *bonds, shares, debentures, loans or any financial instruments issued or granted by a Person who is not resident in Maldives; or*
  - c) *bonds, shares, debentures, loans or any financial instruments issued or granted by a Person who is resident in Maldives, for the purpose of any capital project carried on outside Maldives; or*
  - d) *loans of any nature; or any royalties payable by a Person who is not resident in Maldives; or*
  - e) *any immovable property situated outside Maldives; and*
3. *does not carry on any other business or have any other source of income.*

Section 7:

- a) *Tax shall be charged for any year on taxable profits of that year within Section 2 of this Act at the following rates:*
  1. *0 % on taxable profits of the year not exceeding MVR 500.000*
  2. *5 % on taxable profits of the year exceeding MVR 500.000*

## RESTREINT UE/EU RESTRICTED

b) *Tax shall be charged for any year on taxable profits of that year not within Section 2 and Section 6 of this Act at the following rates:*

1. *0 % on taxable profits of the year not exceeding MVR 500.000*
2. *15 % on taxable profits of the year exceeding MVR 500.000*

2. Benefits available in the reduced tax regime:

The normal corporate income tax rate is 15 % on taxable profits of the year exceeding MVR 500.000. For Companies, generating all of their income from outside the Maldives, the reduced corporate income tax rate is 5 % on taxable profits of the year exceeding MVR 500.000. This tax measure provides for a significantly lower effective level of taxation, than those levels which generally apply in Maldives.

3. Possible concern:

Our understanding of the Business Profit Tax Act is that under this regime, the benefit of the reduced corporate income tax rate is limited to companies generating all their income from outside the Maldives.

A regime limited to foreign tax payers and/or to operations outside the territory of the jurisdiction (ring fenced regime) does not meet criteria 1 and 2 of the Code of Conduct which forbid this type of ring fencing.

DECLASSIFIED

50	Mauritius
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**INFORMATION REQUEST BY COCG EXPERTS**

**Criterion 1.1**

According to publicly available information it appears that Mauritius has not activated information exchange with all EU Member States under the framework of the Multilateral Competent Authority Agreement on the automatic exchange of financial account information. In this context we are interested in knowing whether you have notified the OECD coordinating body of your intention to exchange information with all EU Member States under the above mentioned framework. If you have not notified the OECD coordinating body of your intention to exchange information with all EU Member States yet, do you plan to do so and within what time frame? Should Mauritius not intend to cover all EU Member States, we would also be grateful if you could specify the reasons for such a decision..

**Criterion 2.1**

The COCG experts acknowledge that Mauritius has joined the OECD Inclusive Framework for Tackling Base Erosion and Profit Shifting (the Inclusive Framework on BEPS) and has therefore committed to the four BEPS minimum standards and their consistent implementation. Please note that the COCG experts will take stock of the assessment conducted by the FHTP for the purpose of evaluating your preferential tax regimes against criterion 2.1 (see Annex II). Nevertheless, for the assessment of these regimes against criterion 2.1, the COCG experts may request additional information, if necessary.

51	Mongolia
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**INFORMATION REQUEST BY COCG EXPERTS**

**Criterion 1.2**

The COCG experts acknowledge that Mongolia is not a member of the Global Forum on Transparency and Exchange of Information for Tax purposes (hereinafter, the Global Forum).

Participation in the Global Forum is essential as it is the international body in charge of monitoring the implementation of the global standards on tax transparency. In that respect, the Code of Conduct Group has decided that developing countries among those selected for the EU listing process that are not financial centres should be requested or invited to join the Global Forum). In this context, we would like to know whether Mongolia could consider joining the Global Forum.

**Criterion 1.3**

The COCG experts acknowledge that Mongolia has not signed the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC), as amended. It is therefore important to know whether Mongolia intends to sign the MAC or whether it has a network of exchange arrangements in force which is sufficiently broad to cover all EU Member States, effectively allowing both exchange of information on request (EOIR) and automatic exchange of information (AEOI). If the network of such arrangements exists, we'd be grateful if you could specify if Mongolia intends to extend this network to all EU Member States and which steps were or are being taken in order to achieve this objective.

**Criterion 3**

The COCG experts acknowledge, that Mongolia has not joined the inclusive Framework on BEPS, nor committed to the agreed BEPS minimum standards and their consistent implementation. We'd be grateful if you could clarify whether Mongolia could join the Inclusive framework on BEPS or, in any case, commit to these standards by the end of 2017.

52	Montenegro
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### INFORMATION REQUEST BY COCG EXPERTS

#### Criterion 1.2

The COCG experts acknowledge that Montenegro is not a member of the Global Forum on Transparency and Exchange of Information for Tax purposes (hereinafter, the Global Forum). Participation in the Global Forum is essential as it is the international body in charge of monitoring the implementation of the global standards on tax transparency. In that respect, the Code of Conduct Group has decided that developing countries among those selected for the EU listing process that are not financial centres should be requested or invited to join the Global Forum (this would not apply to

Low Middle Income countries according to the last OECD DAC List of ODA). In this context, we would like to know whether Montenegro could consider joining the Global Forum.

#### Criterion 1.3

The COCG experts acknowledge that Montenegro has not signed the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC), as amended. It is therefore important to know whether your jurisdiction intends to sign the MAC or whether it has a network of exchange arrangements in force which is sufficiently broad to cover all EU Member States, effectively allowing both exchange of information on request (EOIR) and automatic exchange of information (AEOI). If the network of such arrangements exists, we'd be grateful if you could specify if Montenegro intends to extend this network to all EU Member States and which steps were or are being taken in order to achieve this objective.

#### Criterion 3

The COCG experts acknowledge, that Montenegro has not yet joined the Inclusive Framework on BEPS, nor committed to the agreed BEPS minimum standards and their consistent implementation. We'd be grateful if you could clarify whether Montenegro could join the Inclusive Framework on BEPS or, in any case, commit to these standards by the end of 2017.

53	Montserrat
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## INFORMATION REQUEST BY COCG EXPERTS

### Criterion 1.1

According to publicly available information it appears that Montserrat has not activated information exchange with all EU Member States under the framework of the Multilateral Competent Authority Agreement on the automatic exchange of financial account information. In this context we are interested in knowing whether you have notified the OECD coordinating body of your intention to exchange information with all EU Member States under the above mentioned framework. If you have not notified the OECD coordinating body of your intention to exchange information with all EU Member States yet, do you plan to do so and within what time frame? Should Montserrat not intend to cover all EU Member States, we would also be grateful if you could specify the reasons for such a decision.

### Criterion 2.1

The COCG experts have identified the tax regime, as described in the Appendix 1 to this Annex, which is relevant in the context of evaluating the situation against criterion 2.1 (see Annex II). We would be grateful if you could confirm whether information contained in Appendix 1 to Annex I is complete and accurate and, provide references, where such are missing or incorrect, to relevant legal provisions.

The COCG experts acknowledge that Montserrat has not joined the Inclusive Framework on BEPS. We would be grateful if you could clarify whether Montserrat intends to join the Inclusive Framework on BEPS; if so, it would be important that this action is taken as soon as possible. Please note that the COCG experts Panel will take stock of the assessment of the work carried out in the Inclusive Framework on BEPS, in order to evaluate your preferential tax regime against criterion 2.1 (see Annex II), to the extent the scope of the work carried out in the Inclusive Framework on BEPS is compatible with the analysis to be conducted by the COCG.

### Criterion 3

The COCG experts acknowledge that Montserrat has not yet joined the Inclusive Framework on BEPS, nor committed to the agreed BEPS minimum standards and their consistent implementation. We would be grateful if you could clarify whether Montserrat could join the Inclusive Framework on BEPS or, in any case, commit to these standards by the end of 2017.



DRAFT DESCRIPTION OF TAX REGIMES (criterion 2.1)

**Regime: International Business Companies (IBC)**

**1. Description of the regime**

A company which is an International Business Company (IBC) under the International Business Companies Act is exempt from income tax. Any person may singly or jointly with others, by subscribing to a Memorandum and to Articles, incorporate a company under the International Business Companies Act. Companies incorporated under the Act are not permitted to:

- carry on business with persons resident in Montserrat;
- own an interest in real property situated in Montserrat, other than a lease of property for use as an office from which to communicate with members or where books and records of the company;
- accept banking deposits from persons resident in Montserrat;
- accept contracts of insurance from persons resident in Montserrat.

**2. Benefits available to the IBC**

The standard corporate income tax rate is 30%.

Companies incorporated under the IBC Act are granted a tax exemption from the date of incorporation. Any dividends paid to non-residents out of exempt income, and any rents, royalties, compensations or other amounts payable to non-residents are also exempt. The tax exemption is granted for a period of not less than 25 years from the date of incorporation.

**3. Possible concerns**

Our understanding of Montserrat legislation is that the tax exemption is conditional upon the absence of any business activity with residents in Montserrat.

A regime limited to foreign tax payers and/or to operations outside the territory of the jurisdiction (ring fenced regime) does not meet criteria 1 and 2 of the Code of Conduct which forbid this type of ring fencing.

54	Morocco
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### INFORMATION REQUEST BY COCG EXPERTS

#### Criterion 1.3

The COCG experts acknowledge that Morocco has signed to the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC), as amended, although the ratification instrument has not been deposited yet. It is therefore important to know whether and when Morocco intends to ratify the MAC and whether it intends to issue any unilateral declaration allowing for an early entry into force of the MAC.

#### Criterion 2.1

The COCG experts have identified the tax regimes, as described in the Appendix 1 to this Annex, which are relevant in the context of evaluating the situation against criterion 2.1 (see Annex II). We would be grateful if you could confirm whether information contained in Appendix 1 to Annex I is complete and accurate and, provide references, where such are missing or incorrect, to relevant legal provisions.

The COCG experts acknowledge that Morocco has not joined the Inclusive Framework on BEPS. We would be grateful if you could clarify whether Morocco intends to join the Inclusive Framework on BEPS; if so, it would be important that this action is taken as soon as possible. Please note that the COCG experts Panel will take stock of the assessment of the work carried out in the Inclusive Framework on BEPS, in order to evaluate your preferential tax regimes against criterion 2.1 (see Annex II), to the extent the scope of the work carried out in the Inclusive Framework on BEPS is compatible with the analysis to be conducted by the COCG.

#### Criterion 3

The COCG experts acknowledge that Morocco has not yet joined the Inclusive Framework on BEPS, nor committed to the agreed BEPS minimum standards and their consistent implementation. We would be grateful if you could clarify whether Morocco could join the Inclusive Framework on BEPS or, in any case, commit to these standards by the end of 2017.

**DRAFT DESCRIPTION OF TAX REGIMES (criterion 2.1)**

**Regime: Coordination Centres**

1. Description of the regime

Coordination Centres are branches or subsidiaries of a company or of an international group of companies, with their seat outside Morocco, which perform management, coordination or control activities for the exclusive benefit of that company or international group.

2. Benefits available to Coordination Centres:

The tax base of Coordination Centres is reduced. It is defined as the income from non-operating activities plus 10% of the amount of their operating costs.

3. Possible concerns:

Our understanding of Morocco legislation is that the Coordination Centres regime only applies to a company that has its seat outside Morocco.

A regime limited to foreign tax payers and/or to operations outside the territory of the jurisdiction does not meet criteria 1 and 2 of the Code of Conduct which forbid this type of ring fencing.

**Regime: Export Enterprises**

1. Description of the regime

Export enterprises benefit from a special tax regime. The regime is extended also to companies selling finished goods to other companies established in "export platform". The exemption or reduction is conditional upon the export of goods.

2. Benefits available to Export Enterprises:

Export enterprises are fully exempt from corporate tax during the first 5 years of operations. Thereafter, for an unlimited period, they will be subject to a corporate tax rate of 17.5%. The normal tax rate is progressive from 10% up to 31% for taxable profits over MAD 5,000,000.

The corporate tax exemption or reduction will apply only to income in foreign currency and services used outside Morocco.

3. Possible concerns:

Our understanding of Morocco legislation is that the tax exemption or reduction is conditional upon the export of goods.

A regime limited to foreign tax payers and/or to operations outside the territory of the jurisdiction does not meet criteria 1 and 2 of the Code of Conduct which forbid this type of ring fencing.

**Regime: Export Free Zones (EFZ) or Free Trade Zones (FTZ)**

1. Description of the regime

This regime applies to industrial, commercial and service activities geared towards export and carried on in EFZs by residents or non-resident individuals or legal entities. The benefit of EFZ regime is granted provided that

- the final product is exported and
- the transfer of merchandise between different EFZs follows customs regulations.

2. Benefits available to EFZ/FTZ:

Profits derived by companies during the first 5 years of activities in EFZs are exempt from corporate tax and are subject to corporate tax at the reduced rate of 8,75% for the following 20 years. The standard corporate tax rate is 30 %. Dividends and similar income distributed by companies in EFZs are exempt from the 15% withholding tax when paid to non-resident individuals or legal entities.

3. Possible concerns:

Our understanding of Morocco legislation is that the regime applies to companies whose business is geared towards export (the final product must be exported).

A regime limited to foreign tax payers and/or to operations outside the territory of the jurisdiction does not meet criteria 1 and 2 of the Code of Conduct which forbid this type of ring fencing.

**Regime: Offshore banks**

1. Description of the regime

Offshore banks are financial institutions which offer services to non-residents only. They must be approved by the tax authorities (who will be advised by the Bank of Morocco) before commencing activities. Activities which may be carried on by offshore banks include:

- Receiving funds in foreign convertible currency belonging to non-residents;
- Transacting business on their own behalf or on behalf of their clientele, relating to investment, exchange arbitration, and collateral or transfer payments in foreign currency or gold;
- Rendering financial assistance to non-residents; and
- Participating in the capital of non-resident enterprises and subscribing to loans issued by such non-resident enterprises.

2. Benefits available to Offshore banks

Offshore banks benefit from a reduction in corporate income tax for the first 15 years of operation.

Banks may opt for a minimum corporate income tax equivalent in dirham to 25,000 United States dollars or pay the tax at a reduced rate of 10 %.

The standard corporate tax rate is 30 %.

3. Possible concerns:

Our understanding of Morocco legislation is that the offshore bank regime applies only to financial institutions which offer services only to non-residents.

A regime limited to foreign tax payers and/or to operations outside the territory of the jurisdiction does not meet criteria 1 and 2 of the Code of Conduct which forbid this type of ring fencing.

**Regime: Offshore holding companies**

1. Description of the regime

A company must fulfil the following four conditions in order to be regarded as an offshore holding company:

- The shareholders must be foreign individuals or legal entities;
- The sole object of the company must be the management of portfolios of non-resident companies and the acquisition of holdings in other non-resident companies;
- Its capital must be expressed in a foreign convertible currency; and
- It must carry out all transactions on behalf of non-residents (offshore banks, other legal entities or individuals) in foreign convertible currency.

2. Benefits available Offshore holding companies

Holding companies located in offshore zones pay a flat-rate corporate tax equivalent in dirham to 500 US dollars during the first 15 years of operation.

The standard corporate tax rate is 30 %.

3. Possible concerns:

Our understanding of Morocco legislation is that the regime only applies to offshore holding companies whose sole object is the management/holding in other non-resident companies.

A regime limited to foreign tax payers and/or to operations outside the territory of the jurisdiction does not meet criteria 1 and 2 of the Code of Conduct which forbid this type of ring fencing.

55	Namibia
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### INFORMATION REQUEST BY COCG EXPERTS

#### Criterion 1.1

The COCG experts acknowledge that the Republic of Namibia is not committed to the OECD Automatic Exchange of Information (AEOI) standard (the Common Reporting Standard - CRS). In that context, for the purpose of assessing the situation against requirements of criterion 1.1, it is important to know whether Republic of Namibia intends to commit to Standard for Automatic Exchange of Financial Account Information in Tax Matters (CRS) by the end of 2017 and the timeline of this commitment. In case commitment to this standard is not considered, we'd be grateful if you could specify the reason for this.

#### Criterion 1.2

The COCG experts acknowledge that the Republic of Namibia is not a member of the Global Forum on Transparency and Exchange of Information for Tax purposes (hereinafter, the Global Forum). Participation in the Global Forum is essential as it is the international body in charge of monitoring the implementation of the global standards on tax transparency. In that respect, the Code of Conduct Group has decided that developing countries among those selected for the EU listing process that are not financial centres should be requested or invited to join the Global Forum (this would not apply to Low Middle Income countries according to the last OECD DAC List of ODA). In this context, we would like to know whether the Republic of Namibia could consider joining the Global Forum.

#### Criterion 1.3

The COCG experts acknowledge that the Republic of Namibia has not signed the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC), as amended. It is therefore important to know whether the Republic of Namibia intends to sign the MAC or whether it has a network of exchange arrangements in force which is sufficiently broad to cover all EU Member States, effectively allowing both exchange of information on request (EOIR) and automatic exchange of information (AEOI). If the network of such arrangements exists, we would be grateful if you could specify if the Republic of Namibia intends to extend this network to all EU Member States and which steps were or are being taken in order to achieve this objective.

**Criterion 2.1**

The COCG experts have identified the tax regimes, as described in the Appendix 1 to this Annex, which are relevant in the context of evaluating the situation against criterion 2.1 (see Annex II). We would be grateful if you could confirm whether information contained in Appendix 1 to Annex I is complete and accurate and, provide references, where such are missing or incorrect, to relevant legal provisions.

The COCG experts acknowledge that the Republic of Namibia has not joined the Inclusive Framework on BEPS. We would be grateful if you could clarify whether the Republic of Namibia intends to join the Inclusive Framework on BEPS; if so, it would be important that this action is taken as soon as possible. Please note that the COCG experts Panel will take stock of the assessment of the work carried out in the Inclusive Framework on BEPS, in order to evaluate your preferential tax regimes against criterion 2.1 (see Annex II), to the extent the scope of the work carried out in the Inclusive Framework on BEPS is compatible with the analysis to be conducted by the COCG.

**Criterion 3**

The COCG experts acknowledge, on the basis of publicly available information, that the Republic of Namibia is not a member of the Inclusive Framework on BEPS. They also have no indication that the Republic of Namibia would have committed to implement the BEPS minimum standards. Nonetheless, COCG experts acknowledge that, given the features of its legal system, some of these minimum standards might not be relevant for the Republic of Namibia. To this aim, it is important to know whether the Republic of Namibia could join the Inclusive Framework on BEPS and /or commit, by the end of 2017, to apply at least the BEPS minimum standards that would be relevant, such as the Country by Country reporting as defined under the BEPS Action 13.



56	New Caledonia
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QUESTIONNAIRE NOT READY

DECLASSIFIED

57	Norway
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**INFORMATION REQUEST BY COCG EXPERTS**

**Criterion 1.1**

The COCG experts acknowledge that Norway is committed to the OECD Automatic Exchange of Information (AEOI) standard (the Common Reporting Standard - CRS) and also understand that it has signed the Multilateral Competent Authority Agreement for the Common Reporting Standard.

According to publicly available information it appears, however, that the Kingdom of Norway has not activated information exchange with all EU Member States under the framework of the Multilateral Competent Authority Agreement on the automatic exchange of financial account information. In this context we are interested in knowing whether you have notified the OECD coordinating body of your intention to exchange information with all EU Member States under the above mentioned framework. If you have not notified the OECD coordinating body of your intention to exchange information with all EU Member States yet, do you plan to do so and within what time frame? Should the Kingdom of Norway not intend to cover all EU Member States, we would also be grateful if you could specify the reasons for such a decision.

DECLASSIFIED

58	Oman
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### INFORMATION REQUEST BY COCG EXPERTS

#### Criterion 1.1

The COCG experts acknowledge that Oman is not committed to **the OECD Automatic Exchange of Information (AEOI) standard (the Common Reporting Standard - CRS)**. In that context, for the purpose of assessing the situation against requirements of criterion 1.1, it is important to know whether Oman intends to commit to **Standard for Automatic Exchange of Financial Account Information in Tax Matters (CRS)** by the end of 2017 and the timeline of this commitment. In case commitment to this standard is not considered, we'd be grateful if you could specify the reason for this.

#### Criterion 1.2

The COCG experts acknowledge that Oman is not a member of the Global Forum on Transparency and Exchange of Information for Tax purposes (hereinafter, the Global Forum). Participation in the Global Forum is essential as it is the international body in charge of monitoring the implementation of the global standards on tax transparency. In that respect, the Code of Conduct Group has decided that developing countries among those selected for the EU listing process that are not financial centres should be requested or invited to join the Global Forum (this would not apply to Low Middle Income countries according to the last OECD DAC List of ODA). In this context, we would like to know whether Oman could consider joining the Global Forum.

#### Criterion 1.3

The COCG experts acknowledge that Oman has not signed the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC), as amended. It is therefore important to know whether Oman intends to sign the MAC or whether it has a network of exchange arrangements in force which is sufficiently broad to cover all EU Member States, effectively allowing both exchange of information on request (EOIR) and automatic exchange of information (AEOI). If the network of such arrangements exists, we'd be grateful if you could specify if Oman intends to extend this network to all EU Member States and which steps were or are being taken in order to achieve this objective.

**Criterion 3**

The COCG experts acknowledge, that Oman has not yet joined the Inclusive Framework on BEPS, nor committed to the agreed BEPS minimum standards and their consistent implementation. We'd be grateful if you could clarify whether Oman could join the Inclusive Framework on BEPS or, in any case, commit to these standards by the end of 2017.

DECLASSIFIED

59	Panama
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## INFORMATION REQUEST BY COCG EXPERTS

### Criterion 1.1

The COCG experts acknowledge that, for the purpose of implementing the automatic exchange of information as provided under the OECD Automatic Exchange of Information (AEOI) standard (the Common Reporting Standard - CRS), Panama has decided or is likely to follow the bilateral approach. In that context, in order to assess the situation against criterion 1.1, it is important to know whether Panama intends to have arrangements in place by the end of 2017 to be able to exchange information with all EU Member States through bilateral agreements, in accordance with the commitment to implement the CRS for first exchanges in 2018. We'd be grateful if you could specify those bilateral agreements which are already signed or ratified and those which are under negotiation.

Although Panama is committed to the the OECD Automatic Exchange of Information (AEOI) standard (the Common Reporting Standard - CRS), at this stage, according to publicly available data, it appears that it has not enacted secondary legislation for that purpose. In that context, for the purpose of assessing the situation against criterion 1.1, it is important to know whether and when Panama intends to enact such legislation, and how it will be ensured that such legislation provides for the customer due diligence in accordance with the international commitments of Panama.

### Criterion 1.2

The COCG experts acknowledge that Panama was granted a Non-Compliant rating by the Global Forum on Transparency and Exchange of Information for Tax Purposes (hereinafter, the Global Forum). In this context, it is important to know whether Panama has applied for the Fast-track procedure as envisaged in the Global Forum. Should application for the Fast-track procedure be submitted, this information will be taken into due consideration by the COCG experts.

### Criterion 2.1

The COCG experts acknowledge that Panama has joined the OECD Inclusive Framework for Tackling Base Erosion and Profit Shifting (the Inclusive Framework on BEPS) and has therefore committed to the four BEPS minimum standards and their consistent implementation.

Please note that the COCG experts will take stock of the assessment conducted by the FHTP for the purpose of evaluating your preferential tax regimes against criterion 2.1 (see Annex II).

Nonetheless, the COCG experts have identified the tax regime, as described in the Appendix 1 to this Annex, which is relevant in the context of evaluating the situation against criterion 2.1 (see Annex II) but is not scheduled for review by the FHTP under the Inclusive Framework on BEPS. For this regime, the COCG will conduct an assessment based on the EU Code of Conduct on Business Taxation.

We would be grateful if you could confirm whether information contained in Appendix 1 to Annex I is complete and accurate and, provide references, where such are missing or incorrect, to relevant legal provisions.

In addition we have noticed that one tax regime is currently scheduled for review by the FHTP in 2018.

By letter of 31 May 2017, the Chair of the COCG informed Panama that it would be relevant for the FHTP to activate the fast-track procedure for this regime, in order to prevent any duplication of work or overlap in the assessment of preferential regimes and allow the EU to rely on the FHTP work during the EU screening process (to be finalised by September this year).

### **DRAFT DESCRIPTION OF TAX REGIMES (criterion 2.1)**

#### **Foreign owned Call Centres**

##### **Description**

The Panamanian Call Centre Regulation Law (Law No. 54 of October 25, 2001) provides tax and other special economic zone benefits to call centres established in Panama by foreign investors. However, the special tax exemption is limited to foreign companies who have “commercial use” call centres based in Panama.

For telecommunications, Law 54 of 2001 offers Call Centres the same incentives granted to export processing zones by Law 25 of 1992. The most relevant incentives are similar to those granted to EPZ:

- No income tax, sales tax, import duty or any other national taxes levied on call centres export operations;
- Special vacation schedules;
- Special employee stability regime (three years);
- Market fluctuations as a justified cause for labor contract termination.

Any person exploiting call centre activities duly authorized by the Panamanian Authority of Public Services may benefit from the tax benefits granted to companies operating in ‘export processing zones’. Activities benefiting are those considered ‘export’ services (e.g. the final destination of telecommunication services provided used outside the Panamanian territory).

**Preferential features/ Benefits available under the FOREIGN OWNED CALL CENTRES regime**

The general income tax rate for domestic companies is currently 25%.

A special income tax exemption is limited to foreign companies who have “commercial use” call centres based in Panama (on call centres export operations). Therefore, a preferential tax treatment is granted.

**Possible concern/What is the problem under the Code?**

A regime limited to foreign tax payers and/or to operations outside the territory of the jurisdiction (ring fenced regime) does not meet criteria 1 & 2 of the Code of Conduct which prohibit this type of ring fencing.

The special tax exemption is limited to foreign companies/ export operations. As the tax exemption only applies to the income from foreign operations, the regime seems targeted to foreign enterprises or for activities with foreign entities/markets since tax advantages are likely to be granted only to foreign enterprises or in respect of transactions carried out with non-residents.

**Source of information**

[KPMG](#),

[Outsourcing Law Website](#)

DECLASSIFIED

60	Peru
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**INFORMATION REQUEST BY COCG EXPERTS**

**Criterion 1.3**

The COCG experts acknowledge that Peru has not signed the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC), as amended. It is therefore important to know whether Peru intends to sign the MAC or whether it has a network of exchange arrangements in force which is sufficiently broad to cover all EU Member States, effectively allowing both exchange of information on request (EOIR) and automatic exchange of information (AEOI). If the network of such arrangements exists, we would be grateful if you could specify if Peru intends to extend this network to all EU Member States and which steps were or are being taken in order to achieve this objective.

**Criterion 2.1**

The COCG experts acknowledge that Peru has joined the OECD Inclusive Framework for Tackling Base Erosion and Profit Shifting (the Inclusive Framework on BEPS) and has therefore committed to the four BEPS minimum standards and their consistent implementation. Please note that the COCG experts will take stock of the assessment conducted by the FHTP for the purpose of evaluating your preferential regimes against criterion 2.1 (see Annex II). Nevertheless, for the assessment of these regimes against criterion 2.1, the COCG experts may request additional information, if necessary.

DECLASSIFIED



61	Qatar
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## INFORMATION REQUEST BY COCG EXPERTS

### Criterion 1.1

The COCG experts acknowledge that the State of Qatar is committed to the OECD Automatic Exchange of Information (AEOI) standard (the Common Reporting Standard - CRS) and also understand that it has not signed the Multilateral Competent Authority Agreement for the Common Reporting Standard.

In that context, for the purpose of assessing the situation against requirements of criterion 1.1, it is important to know whether the State of Qatar intends to sign the Multilateral Competent Authority Agreement for the Common Reporting Standard by the end of 2017 or intends to follow another approach.

According to publicly available data it also appears that the State of Qatar has not enacted primary, secondary legislation and regulations for the purpose of implementing the Common Reporting Standard. In that context, in order to assess the situation against criterion 1.1, it is important to know whether and when the State of Qatar intends to enact such legislation, and how it will be ensured that such legislation provides for the customer due diligence in accordance with the international commitments of the State of Qatar.

### Criterion 1.3

The COCG experts acknowledge that the State of Qatar has not signed the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC), as amended. It is therefore important to know whether the State of Qatar intends to sign the MAC or whether it has a network of exchange arrangements in force which is sufficiently broad to cover all EU Member States, effectively allowing both exchange of information on request (EOIR) and automatic exchange of information (AEOI). If the network of such arrangements exists, we would be grateful if you could specify if the State of Qatar intends to extend this network to all EU Member States and which steps were or are being taken in order to achieve this objective.

### Criterion 3

The COCG experts acknowledge that the State of Qatar has not yet joined the Inclusive Framework on BEPS, nor committed to the agreed BEPS minimum standards and their consistent implementation. We'd be grateful if you could clarify whether State of Qatar could join the Inclusive Framework on BEPS or, in any case, commit to these standards by the end of 2017.

62	Saint Kitts and Nevis
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### INFORMATION REQUEST BY COCG EXPERTS

#### Criterion 1.1

According to publicly available information it appears that Saint Kitts and Nevis has not activated information exchange with all EU Member States under the framework of the Multilateral Competent Authority Agreement on the automatic exchange of financial account information. In this context we are interested in knowing whether you have notified the OECD coordinating body of your intention to exchange information with all EU Member States under the above mentioned framework. If you have not notified the OECD coordinating body of your intention to exchange information with all EU Member States yet, do you plan to do so and within what time frame? Should Saint Kitts and Nevis not intend to cover all EU Member States, we would also be grateful if you could specify the reasons for such a decision.

#### Criterion 2.1

The COCG experts have identified the tax regime, as described in the Appendix 1 to this Annex, which are relevant in the context of evaluating the situation against criterion 2.1 (see Annex II). We would be grateful if you could confirm whether information contained in Appendix 1 to Annex I is complete and accurate and, provide references, where such are missing or incorrect, to relevant legal provisions.

The COCG experts acknowledge that Saint Kitts and Nevis has not joined the Inclusive Framework on BEPS. We would grateful if you could clarify whether Saint Kitts and Nevis intends to join the Inclusive Framework on BEPS; if so, it would be important that this action is taken as soon as possible. Please note that the COCG experts Panel will take stock of the assessment of the work carried out in the Inclusive Framework on BEPS, in order to evaluate your preferential tax regime against criterion 2.1 (see Annex II), to the extent the scope of the work carried out in the Inclusive Framework on BEPS is compatible with the analysis to be conducted by the COCG.

**DRAFT DESCRIPTION OF TAX REGIMES (criterion 2.1)**

**Offshore companies**

Companies carrying on business exclusively with persons who are not resident in St. Kitts are exempt from tax. Such companies must register to be exempt from all income, capital gains and withholding taxes. Offshore companies are established under the Nevis Business Corporation Ordinance, the Nevis Limited Liability Company Ordinance or the Companies Act.

Similar legislation exists for tax-free trusts and limited partnerships.

Offshore companies can take various forms like: exempt private company, international business company, exempt limited partnership and international exempt trust.

The exemption from tax will not be affected even where the company:

- carries on business with, or buys or sells or otherwise deals in any securities issued or created by, or acts as manager or agent for or consultant or adviser to any tax-exempt resident person;
- effects or concludes in St. Kitts contracts or arrangements (including contracts or arrangements with any resident for employment with or the supply of goods and services to the company) and exercises in St. Kitts all other powers, as far as may be necessary for the purpose of enabling it to carry on its business;
- administers its internal affairs within St. Kitts and holds meetings of its directors or members within the country;
- owns or leases property in the country for carrying on its business or as residence for its directors or employees;
- reinsures risks undertaken by any resident who is authorized to carry on insurance business under any law of St. Kitts; or
- transacts banking business (to meet local operating requirements) with any resident who is authorized to carry on the business of banking under any of the country's laws.

A resident person in this context is defined as a person who ordinarily resides within St. Kitts or carries on business from an office or other fixed place within the country, but excludes an exempt company.

Possible concerns

The exemption is granted exclusively to companies carrying on business with persons who are not resident. A regime limited to foreign taxpayers and/or to operations outside the territory of the jurisdiction does not meet criteria 1 & 2 of the Code of Conduct which forbid this type of ring fencing.

63	Saint Lucia
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### INFORMATION REQUEST BY COCG EXPERTS

#### Criterion 1.1

According to publicly available information it appears that Saint Lucia has not activated information exchange with all EU Member States under the framework of the Multilateral Competent Authority Agreement on the automatic exchange of financial account information. In this context we are interested in knowing whether you have notified the OECD coordinating body of your intention to exchange information with all EU Member States under the above mentioned framework. If you have not notified the OECD coordinating body of your intention to exchange information with all EU Member States yet, do you plan to do so and within what time frame? Should Saint Lucia not intend to cover all EU Member States, we would also be grateful if you could specify the reasons for such a decision.

#### Criterion 1.3

The COCG experts acknowledge that Saint Lucia has signed the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC), as amended, although the ratification instrument has not been deposited yet. It is therefore important to know whether and when Saint Lucia intends to ratify the MAC and whether it intends to issue any unilateral declaration allowing for an early entry into force of the MAC.

#### Criterion 2.1

The COCG experts have identified the tax regime, as described in the Appendix 1 to this Annex, which is relevant in the context of evaluating the situation against criterion 2.1 (see Annex II). We would be grateful if you could confirm whether information contained in Appendix 1 to Annex I is complete and accurate and, provide references, where such are missing or incorrect, to relevant legal provisions.

The COCG experts acknowledge that Saint Lucia has not joined the Inclusive Framework on BEPS. We would be grateful if you could clarify whether Saint Lucia intends to join the Inclusive Framework on BEPS; if so, it would be important that this action is taken as soon as possible. Please note that the COCG experts Panel will take stock of the assessment of the work carried out in the Inclusive Framework on BEPS, in order to evaluate your preferential tax regime against criterion 2.1 (see Annex II), to the extent the scope of the work carried out in the Inclusive Framework on BEPS is compatible with the analysis to be conducted by the COCG.

**Criterion 3**

The COCG experts acknowledge, that Saint Lucia has not yet joined the Inclusive Framework on BEPS, nor committed to the agreed BEPS minimum standards and their consistent implementation. We would be grateful if you could clarify whether Saint Lucia could join the Inclusive Framework on BEPS or, in any case, commit to these standards by the end of 2017.

**DRAFT DESCRIPTION OF TAX REGIMES (criterion 2.1)**

**IBC (International Business Companies).**

Under the International Business Companies Act of 1999 and the International Business Companies Regulations of 2000, an international business company shall not, among others, carry on business with persons resident in Saint Lucia or own an interest in immovable property situated in Saint Lucia, other than a lease of property for use as an office from which to communicate with members, or where books and records of the Company are prepared or maintained, as referred to in (4)(e) of the abovementioned Act.

An IBC which complies with this Act and does not carry on business in Saint Lucia may elect to be exempted from income tax or to be liable to income tax on its profits and gains at a rate of 1%.

On the basis of publicly available information, it seems that no taxes of any sort are levied for all transactions made by the IBC outside of the jurisdiction, while the tax at 1% rate may be levied on local transactions. The 1% tax election is for those IBCs waiting to utilize the CARICOM Doble Tax Agreement, as once tax is paid in Saint Lucia or any other member jurisdiction, then transactions and payments to any other CARICOM member country are made tax-free.

For purposes of this regime, an IBC shall not be considered to be doing business in Saint Lucia solely because it engages in one or more of the following activities:

- (a) maintaining one or more bank, trust or securities accounts in Saint Lucia;
- (b) holding meetings of directors or members in Saint Lucia;
- (c) maintaining corporate or financial records in Saint Lucia;
- (d) maintaining an administrative or managerial office in Saint Lucia with respect to assets or activities outside Saint Lucia;
- (e) maintaining a registered agent or registered office in Saint Lucia; or
- (f) investing in stocks or entities doing business in Saint Lucia or being a partner in a partnership existing under the laws of Saint Lucia or a beneficiary of a trust or estate which has Saint Lucia as its *situs*.

## RESTREINT UE/EU RESTRICTED

Despite any provisions of the Income Tax Act, an IBC that elects to be exempt from tax shall not be required to file any tax returns; an IBC that elects to pay tax, shall file an annual tax return based on annual audited financial statements.

Concerning the accessibility of records, whereas domestic companies, partnerships and businesses have to be registered in the Companies Registrar with disclosure of ownership and annual report concerning this ownership, the IBCs are registered in the IBC Registrar by a registered agent who has been issued a financial and corporate service providers licence. The IBC's memorandum and the articles of association are to be submitted. The registers of directors and members are not recorded at the public registry, but may be filed as an option.

DECLASSIFIED

64	Saint Vincent and the Grenadines
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### INFORMATION REQUEST BY COCG EXPERTS

#### Criterion 1.1

According to publicly available information it appears that Saint Vincent and Grenadines has not activated information exchange with all EU Member States under the framework of the Multilateral Competent Authority Agreement on the automatic exchange of financial account information. In this context we are interested in knowing whether you have notified the OECD coordinating body of your intention to exchange information with all EU Member States under the above mentioned framework. If you have not notified the OECD coordinating body of your intention to exchange information with all EU Member States yet, do you plan to do so and within what time frame? Should Saint Vincent and Grenadines not intend to cover all EU Member States, we would also be grateful if you could specify the reasons for such a decision.

#### Criterion 2.1

The COCG experts have identified the tax regime, as described in the Appendix 1 to this Annex, which are relevant in the context of evaluating the situation against criterion 2.1 (see Annex II). We would be grateful if you could confirm whether information contained in Appendix 1 to Annex I is complete and accurate and, provide references, where such are missing or incorrect, to relevant legal provisions.

The COCG experts acknowledge that Saint Vincent and Grenadines has not joined the Inclusive Framework on BEPS. We would be grateful if you could clarify whether Saint Vincent and Grenadines intends to join the Inclusive Framework on BEPS; if so, it would be important that this action is taken as soon as possible. Please note that the COCG experts Panel will take stock of the assessment of the work carried out in the Inclusive Framework on BEPS, in order to evaluate your preferential tax regime against criterion 2.1 (see Annex II), to the extent the scope of the work carried out in the Inclusive Framework on BEPS is compatible with the analysis to be conducted by the COCG.

**DRAFT DESCRIPTION OF TAX REGIMES (criterion 2.1)**

**1. International Business Companies (IBC)**

Description

International Business Companies are not subject to any corporate tax, income tax, withholding tax, capital gains tax or other similar taxes regarding assets or income originating abroad or in connection with company administration occurring within the country. Nevertheless, an IBC may irrevocably elect to be liable to income tax at a rate of 1%. An IBC is defined as a company that is incorporated or continued under the International

Business Company Act and does not:

- a) in the ordinary course of business, make its goods or services available to resident persons;
- b) own an interest in real property situated in St. Vincent and the Grenadines, without first obtaining any licence, other than a lease referred to in the Act;
- c) carry on any activity without a required licence.

*Source: IBFD, International Business Companies Act 2007*

Preferential:

Yes, exempt from tax. However an IBC may irrevocably elect to be liable to a lower tax rate of 1%. Normally the CIT rate is 32.5%.

Possible concern:

*ring-fencing* because the regime only applies to companies that, in the ordinary course of business, do not make its goods or services available to resident persons.

**2. International banks**

Description

No income tax, capital gains tax or other direct tax is imposed on the profits, gains or earnings of a licensee in respect of its offshore banking business or dividends or earnings attributable to the shares, debt or securities of a licensee that are beneficially owned by another licensee or by a non-resident.

No income tax, capital gains tax or other direct tax is imposed, withheld or collected in respect of any dividends, interest or other returns from any shares, securities, deposits or other borrowings of a licensee or any assets managed by a licensee, provided that the shares, securities, deposits or other borrowings are assets beneficially owned by a non-resident. The burden of proof for this exemption rests with the licensee.



Source: *IBFD*

Preferential

Yes, exempt from tax.

Possible concern

*ring-fencing* because the regime only applies to offshore banking business related to assets beneficially owned by a non-resident.

**3. International trusts:**

Description

Under the International Trusts Act 1996, as amended, income, profit or gain realized or received by an international trust or beneficiary of such a trust is not subject to income tax, provided that:

- the trust is created neither by or on behalf of nor for the benefit of a resident person;
- all income of the trust (other than interest from regular bank accounts or portfolio investments of securities held by the trust in St. Vincent and the Grenadines) either accrues or is derived outside St. Vincent and the Grenadines or, in the case of income received by a trust, would not, had it been received directly by the beneficiary of the trust, be subject to income tax in St. Vincent and the Grenadines; and
- the terms of the trust prohibit ownership of Vincentian-situs real property by the trust, directly or indirectly, or an interest in such property and exclude Vincentian residents as persons who either are or may be beneficiaries of the trust.

Source: *IBFD*

Preferential:

Yes, not subject to income tax.

Possible concern:

*ring-fencing* because the regime only applies to trusts created by or on behalf of or for the benefit of a non- resident person.

#### 4. International insurance business

##### Description

The commissioner of International Insurance may issue a certificate of tax exemption guaranteeing that the provisions of the International Insurance (Amendment and Consolidation) Act 1998 (IIA) will apply for at least 25 years from the date of that certificate. Specifically, the IIA provides exemptions that include exemption from any tax or withholding tax, otherwise applicable to the recipient or the payer, for individuals, trusts or other entities which are not ordinarily resident in St. Vincent and the Grenadines with regard to any premium payment, policy benefit, dividend or distribution paid by a licensed insurer.

*Source: IBFD*

##### Preferential:

Yes, exempt from any tax.

##### Possible concern

ring-fencing because the regime only applies to individuals, trusts or other entities which are not ordinarily resident in Saint Vincent and the Grenadines.

DECLASSIFIED

65	Samoa
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### **INFORMATION REQUEST BY COCG EXPERTS**

#### **Criterion 1.1**

According to publicly available information it appears that Samoa has not activated information exchange with all EU Member States under the framework of the Multilateral Competent Authority Agreement on the automatic exchange of financial account information. In this context we are interested in knowing whether you have notified the OECD coordinating body of your intention to exchange information with all EU Member States under the above mentioned framework. If you have not notified the OECD coordinating body of your intention to exchange information with all EU Member States yet, do you plan to do so and within what time frame? Should Samoa not intend to cover all EU Member States, we would also be grateful if you could specify the reasons for such a decision.

#### **Criterion 1.2**

The COCG experts acknowledge that Samoa was granted a Partially Compliant rating by the Global Forum on Transparency and Exchange of Information for Tax Purposes (hereinafter, the Global Forum). In this context, it is important to know whether Samoa has applied for the Fast-track procedure as envisaged in the Global Forum. Should application for the Fast-track procedure be submitted, this information will be taken into due consideration by the COCG experts.

#### **Criterion 2.1**

The COCG experts have identified the tax regime, as described in the Appendix 1 to this Annex, which are relevant in the context of evaluating the situation against criterion 2.1 (see Annex II). We'd be grateful if you could confirm whether information contained in Appendix 1 to Annex I is complete and accurate and, provide references, where such are missing or incorrect, to relevant legal provisions.

The COCG experts acknowledge that Samoa has not joined the Inclusive Framework on BEPS. We'd be grateful if you could clarify whether Samoa intends to join the Inclusive Framework on BEPS; if so, it would be important that this action is taken as soon as possible. Please note that the COCG experts Panel will take stock of the assessment of the work carried out in the Inclusive Framework on BEPS, in order to evaluate your preferential tax regime against criterion 2.1 (see Annex II), to the extent the scope of the work carried out in the Inclusive Framework on BEPS is compatible with the analysis to be conducted by the COCG.

**Criterion 3**

The COCG experts acknowledge, that Samoa has not joined the Inclusive Framework on BEPS, nor committed to the agreed BEPS minimum standards and their consistent implementation. We'd be grateful if you could clarify whether Samoa could join the Inclusive Framework on BEPS or, in any case, commit to these standards by the end of 2017.

**DRAFT DESCRIPTION OF TAX REGIMES (criterion 2.1)**

Exempt and Offshore Companies

Description

Samoa offers offshore business vehicles for international finance activities conducted outside Samoa. These business structures include international companies, international trusts, international banks, international partnerships, segregated fund international companies, international insurance companies, special purpose international companies and international mutual funds.

International and registered foreign companies are exempt from payment of all income taxes and from other direct or indirect taxes and stamp duties on their transactions, profits and gains and on any dividends, earnings or interest attribute to or paid upon their shares or securities which are beneficially owned by non-residents or other international companies.

Full exemption from taxation for any business activity or transaction carried out outside Samoa.

66	Saudi Arabia
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**INFORMATION REQUEST BY COCG EXPERTS**

**Criterion 1.1**

The COCG experts acknowledge that Saudi Arabia is committed to the OECD Automatic Exchange of Information (AEOI) standard (the Common Reporting Standard - CRS) and also understand that it has signed the Multilateral Competent Authority Agreement for the Common Reporting Standard.

However, at this stage, according to publicly available data, it appears that Saudi Arabia has not enacted any primary, secondary legislation and regulations for that purpose. In that context, in order to assess the situation against criterion 1.1, it is important to know whether and when Saudi Arabia intends to enact such legislation, and how it will be ensured that such legislation provides for the customer due diligence in accordance with the international commitments of Saudi Arabia.

According to publicly available information it also appears that Saudi Arabia has not activated information exchange with all EU Member States under the framework of the Multilateral Competent Authority Agreement on the automatic exchange of financial account information. In this context we are interested in knowing whether you have notified the OECD coordinating body of your intention to exchange information with all EU Member States under the above mentioned framework. If you have not notified the OECD coordinating body of your intention to exchange information with all EU Member States yet, do you plan to do so and within what time frame? Should Saudi Arabia not intend to cover all EU Member States, we would also be grateful if you could specify the reasons for such a decision.

DECLASSIFIED

67	Serbia
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### INFORMATION REQUEST BY COCG EXPERTS

#### Criterion 1.2

The COCG experts acknowledge that Serbia is not a member of the Global Forum on Transparency and Exchange of Information for Tax purposes (hereinafter, the Global Forum). Participation in the Global Forum is essential as it is the international body in charge of monitoring the implementation of the global standards on tax transparency. In that respect, the Code of Conduct Group has decided that developing countries among those selected for the EU listing process that are not financial centres should be requested or invited to join the Global Forum (this would not apply to Low Middle Income countries according to the last OECD DAC List of ODA). In this context, we would like to know whether Serbia could consider joining the Global Forum.

#### Criterion 1.3

The COCG experts acknowledge that Serbia has not signed the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC), as amended. It is therefore important to know whether Serbia intends to sign the MAC or whether it has a network of exchange arrangements in force which is sufficiently broad to cover all EU Member States, effectively allowing both exchange of information on request (EOIR) and automatic exchange of information (AEOI). If the network of such arrangements exists, we'd be grateful if you could specify if Serbia intends to extend this network to all EU Member States and which steps were or are being taken in order to achieve this objective.

#### Criterion 3

The COCG experts acknowledge, that Serbia has not yet joined the Inclusive Framework on BEPS, nor committed to the agreed BEPS minimum standards and their consistent implementation. We'd be grateful if you could clarify whether Serbia could join the Inclusive Framework on BEPS or, in any case, commit to these standards by the end of 2017.

68	Seychelles
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**INFORMATION REQUEST BY COCG EXPERTS**

**Criterion 1.1**

According to publicly available information it appears that Seychelles has not activated information exchange with all EU Member States under the framework of the Multilateral Competent Authority Agreement on the automatic exchange of financial account information. In this context we are interested in knowing whether you have notified the OECD coordinating body of your intention to exchange information with all EU Member States under the above mentioned framework. If you have not notified the OECD coordinating body of your intention to exchange information with all EU Member States yet, do you plan to do so and within what time frame? Should Seychelles not intend to cover all EU Member States, we would also be grateful if you could specify the reasons for such a decision.

**Criterion 2.1**

The COCG experts acknowledge that Seychelles has joined the OECD Inclusive Framework for Tackling Base Erosion and Profit Shifting (the Inclusive Framework on BEPS) and has therefore committed to the four BEPS minimum standards and their consistent implementation. Please note that the COCG experts will take stock of the assessment conducted by the FHTP for the purpose of evaluating your preferential tax regimes against criterion 2.1 (see Annex II). Nevertheless, for the assessment of these regimes against criterion 2.1, the COCG experts may request additional information, if necessary.

DECLASSIFIED

69	Singapore
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### INFORMATION REQUEST BY COCG EXPERTS

#### Criterion 1.1

The COCG experts acknowledge that, for the purpose of implementing the automatic exchange of information as provided under the OECD Automatic Exchange of Information (AEOI) standard (the Common Reporting Standard - CRS), Singapore has decided or is likely to follow the bilateral approach. In that context, in order to assess the situation against criterion 1.1, it is important to know whether Singapore intends to have arrangements in place by the end of 2017 to be able to exchange information with all EU Member States through bilateral agreements, in accordance with the commitment to implement the CRS for first exchanges in 2018. We would be grateful if you could specify those bilateral agreements which are already signed or ratified and those which are under negotiation.

#### Criterion 2.1

The COCG experts acknowledge that Singapore has joined the OECD Inclusive Framework for Tackling Base Erosion and Profit Shifting (the Inclusive Framework on BEPS) and has therefore committed to the four BEPS minimum standards and their consistent implementation.

Please note that the COCG experts will take stock of the assessment conducted by the FHTP for the purpose of evaluating your preferential tax regimes against criterion 2.1 (see Annex II). Nevertheless, for the assessment of these regimes against criterion 2.1, the COCG experts may request additional information, if necessary.

It appears however that a tax regime identified by the COCG experts is currently scheduled for review by the FHTP in 2018.

By letter of 31 May 2017, the Chair of the COCG informed Singapore that it would be relevant for the FHTP to activate the fast-track procedure for this regime, in order to prevent any duplication of work or overlap in the assessment of preferential regimes and allow the EU to rely on the FHTP work during the EU screening process (to be finalised by fall this year).



70	South Africa
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### INFORMATION REQUEST BY COCG EXPERTS

#### Criterion 2.1

The COCG experts acknowledge that South Africa has joined the OECD Inclusive Framework for Tackling Base Erosion and Profit Shifting (the Inclusive Framework on BEPS) and has therefore committed to the four BEPS minimum standards and their consistent implementation.

Nonetheless, the COCG experts have identified the tax regime, as described in the Appendix 1 to this Annex, which is relevant in the context of evaluating the situation against criterion 2.1 but is not scheduled for review by the FHTP under the Inclusive Framework on BEPS. Please be informed that for this regime the COCG will conduct an assessment based on the criteria of EU Code of Conduct on Business Taxation (criterion 2.1 as referred to in Annex 2). We would be grateful if you could confirm whether information contained in Appendix 1 to Annex I is complete and accurate and, provide references, where such are missing or incorrect, to relevant legal provisions.

#### DRAFT DESCRIPTION OF TAX REGIMES (criterion 2.1)

##### 1. Special economic zones. *(operational as from 1 October 2016)*

###### (i) Description

The Department of Trade and Industry (DTI) has introduced Special Economic Zones (SEZs), with a view to convert existing Industrial Development Zones into SEZs, where additional income tax incentives will apply to encourage higher levels of investments.

The reformed SEZ regime became operational in 2016.

The main requirements to benefit from the income tax incentive are that the entity must be formed or effectively managed within South Africa, generate at least 90% of its income from services or the sale of goods that must relate to activities attributable to a fixed place of business within one or more SEZs and which has been approved by the Minister of Finance (in consultation with the Minister of Trade and Industry).

An otherwise qualifying company will be disqualified from the SEZ income tax incentives if:

- more than 20% of its deductible expenditure or income arises from transactions with connected persons that are residents;
- or if the connected persons are non-residents, in relation to transactions attributable to a permanent establishment of the non-residents in South Africa.

**(ii) Preferential features**

Companies carrying on qualifying activities will be subject to a reduced corporate tax rate of 15% (instead of 28%).

In addition, such business is eligible for the special section 12i (of the ITA 1962) income tax allowance supporting new industrial projects or expansions or upgrades of existing industrial projects.

**(iii) Possible concerns**

A company located in the SEZ will be disqualified from the income tax incentive if more than 20% of its deductible expenditure or income arises from transactions with connected persons that are residents or, if the connected persons are non-residents, in relation to transactions attributable to a permanent establishment of the non-residents in South Africa

A regime limited to foreign taxpayers and/or to operations outside the territory of the jurisdiction does not meet criteria 1 & 2 of the Code of Conduct which forbid this type of ring fencing.

**(iv) Sources of information**

IBFD

71	Swaziland
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### INFORMATION REQUEST BY COCG EXPERTS

#### Criterion 1.2

The COCG experts acknowledge that Swaziland is not a member of the Global Forum on Transparency and Exchange of Information for Tax purposes (hereinafter, the Global Forum).

Participation in the Global Forum is essential as it is the international body in charge of monitoring the implementation of the global standards on tax transparency. In that respect, the Code of Conduct Group has decided that developing countries among those selected for the EU listing process that are not financial centres should be requested or invited to join the Global Forum). In this context, we would like to know whether Swaziland could consider joining the Global Forum.

#### Criterion 1.3

The COCG experts acknowledge that Swaziland has not signed the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC), as amended. It is therefore important to know whether Swaziland intends to sign the MAC or whether it has a network of exchange arrangements in force which is sufficiently broad to cover all EU Member States, effectively allowing both exchange of information on request (EOIR) and automatic exchange of information (AEOI). If the network of such arrangements exists, we'd be grateful if you could specify if Swaziland intends to extend this network to all EU Member States and which steps were or are being taken in order to achieve this objective.

#### Criterion 3

The COCG experts acknowledge, that Swaziland has not yet joined the inclusive Framework on BEPS, nor committed to the agreed BEPS minimum standards and their consistent implementation. We'd be grateful if you could clarify whether Swaziland could join the Inclusive framework on BEPS or, in any case, commit to these standards by the end of 2017.

72	Thailand
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### **INFORMATION REQUEST BY COCG EXPERTS**

#### **Criterion 1.1**

The COCG experts acknowledge that Thailand is not committed to the **OECD Automatic Exchange of Information (AEOI) standard (the Common Reporting Standard - CRS)**. In that context, for the purpose of assessing the situation against requirements of criterion 1.1, it is important to know whether Thailand intends to commit to **Standard for Automatic Exchange of Financial Account Information in Tax Matters (CRS)** by the end of 2017 and the timeline of this commitment. In case commitment to this standard is not considered, we'd be grateful if you could specify the reason for this.

#### **Criterion 1.3**

The COCG experts acknowledge that Thailand has not signed the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC), as amended. It is therefore important to know whether Thailand intends to sign the MAC or whether it has a network of exchange arrangements in force which is sufficiently broad to cover all EU Member States, effectively allowing both exchange of information on request (EOIR) and automatic exchange of information (AEOI). If the network of such arrangements exists, we'd be grateful if you could specify if Thailand intends to extend this network to all EU Member States and which steps were or are being taken in order to achieve this objective.

#### **Criterion 2.1**

The COCG experts acknowledge that Thailand has joined the OECD Inclusive Framework for Tackling Base Erosion and Profit Shifting (the Inclusive Framework on BEPS) and has therefore committed to the four BEPS minimum standards and their consistent implementation. Please note that the COCG experts will take stock of the assessment conducted by the FHTP for the purpose of evaluating your preferential tax regimes against criterion 2.1 (see Annex II). Nevertheless, for the assessment of these regimes against criterion 2.1, the COCG experts may request additional information, if necessary.

**DRAFT DESCRIPTION OF TAX REGIMES (criterion 2.1)**

**1. International Headquarters: (IHQ)**

Intra group services

Exempt and Offshore Companies

Description

An IHQ is defined as a company incorporated under the law of Thailand for the purpose of providing managerial, technical, or supporting services or financial management to its associated enterprises or branches situated in Thailand or abroad.

The criteria for an IHQ are:

- A company formed under Thai law with minimum paid-up capital of THB 10 million.
- Managerial, technical, or supporting services (and financial management in the case of treasury centres, *as stated below*) must be provided to foreign affiliates (companies with at least 25% common group ownership, directly or indirectly).
- Operating expenses related to IHQ activities of at least THB 15 million per year.

Tax incentives for an IHQ include:

- corporate income tax reduction to 10% for profit derived from services provided to Thai affiliates and royalty income derived from affiliates in Thailand;
- corporate income tax exemption on profit derived from services provided to affiliates abroad, income from royalties and dividends derived from affiliates abroad, capital gains derived from transfers of shares in affiliates abroad (if capital gains are calculated as prescribed by the RD), profit derived from procurement and sales of goods outside of Thailand;
- exemption from withholding tax on payments to companies established abroad and not doing business in Thailand.
- (amongst others)

## **2. International Trading Centre (ITC)**

Exempt and Offshore Companies

Description

An ITC is defined as a company established under the law of Thailand and engaged in the business of buying and selling goods, raw materials, and parts, including providing services relating to international trade **to foreign juristic entities**. Tax incentives for an ITC include:

- exemption from CIT on profits earned or received abroad, including sales, procurement and services (“out-out”);
- exemption from withholding tax on dividends paid to its corporate shareholders abroad who are not carrying on business in Thailand

## **3. Regional Operating Headquarters (ROH)**

Intra group services

Exempt and Offshore Companies

Description

ROH means a company organised under the Thai law providing administrative, technical assistance, or supporting services to its domestic or overseas affiliated enterprises or branches in at least three countries other than Thailand with a paid-in capital of at least THB 10 million on the last day of any accounting period.

The criteria for ROH are:

- Company formed under Thai law with a minimum paid-up capital of THB 10 million.
- Provision of qualified services to qualified affiliates (companies with at least 25% common group ownership) in at least three countries other than Thailand.
- Income from services provided to, or royalties received from, overseas affiliates must be at least 50% of the total income of the ROH company (reduced to one-third for the first three years).

A corporate tax **exemption** applies to all activities that are related to the services of the ROH if rendered to affiliated offices **outside** Thailand. ROH services rendered to affiliated offices **within** Thailand are subject to **10% corporate income tax**. The reduced rate is applicable for a period of 10 years if the ROH derives at least 50% of its total revenue from the provision of services to its overseas affiliates or receives royalty from its overseas affiliates as a result of R&D and technology development services carried out in Thailand.

#### **4. Treasury Centre (TC)**

Intra group services

Exempt and Offshore Companies

Description

An International Headquarter that has obtained a Treasury Centre (TC) licence from the Bank of Thailand can request approval from the Revenue Department for the tax concessions available when carrying on the business of financial management for its associated enterprises or branches situated in Thailand or abroad.

Financial management includes:

- 1) Financial management of a TC permitted under the law governing exchange control.
- 2) Borrowing and lending of Thai currency ('Baht') in the following cases:
  - a. Funds borrowed from Thai financial institutions or affiliates in Thailand.
  - b. Lending of funds obtained from operations under 1 or 2 (a) in Thai currency to affiliates in Thailand.

The tax concessions are:

- WHT exemption on interest paid to foreign companies not carrying on business in Thailand on loans borrowed for re-lending to affiliates.
- Exemption from specific business tax on remuneration received from financial management provided to affiliates.
- Other tax concessions available for the TC activities are the same as for IHQ noted above.

A qualified IHQ will be granted tax privileges for 15 accounting periods. **The criteria are the same as noted above for an IHQ.**

73	Trinidad and Tobago
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### INFORMATION REQUEST BY COCG EXPERTS

#### Criterion 1.1

The COCG experts acknowledge that Trinidad and Tobago is committed to the OECD Automatic Exchange of Information (AEOI) standard (the Common Reporting Standard - CRS) and also understand that it has not signed the Multilateral Competent Authority Agreement for the Common Reporting Standard.

Although Trinidad and Tobago is committed to the OECD Automatic Exchange of Information (AEOI) standard (the Common Reporting Standard - CRS), at this stage, according to publicly available data, it appears that Trinidad and Tobago has not enacted primary/secondary legislation/regulations for the CRS. In that context, for the purpose of assessing the situation against criterion 1.1, it is important to know whether and when Trinidad and Tobago intends to enact such legislation, and how it will be ensured that such legislation provides for the customer due diligence in accordance with the international commitments of Trinidad and Tobago.

Also for the purpose of assessing the situation against requirements of criterion 1.1, it is important to know whether Trinidad and Tobago intends to sign the Multilateral Competent Authority Agreement for the Common Reporting Standard by the end of 2018 or intends to follow another approach.

#### Criterion 1.2

The COCG experts acknowledge that Trinidad and Tobago was granted a Non- Compliant rating by the Global Forum on Transparency and Exchange of Information for Tax Purposes (hereinafter, the Global Forum) without having undergone a Phase 2 review. In this context, it is important to know whether Trinidad and Tobago has applied for the Fast-track procedure as envisaged in the Global Forum. Should application for the Fast-track procedure be submitted, this information will be taken into due consideration by the COCG experts.



**Criterion 1.3**

The COCG experts acknowledge that Trinidad and Tobago has not signed the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC), as amended. It is therefore important to know whether Trinidad and Tobago intends to sign the MAC or whether it has a network of exchange arrangements in force which is sufficiently broad to cover all EU Member States, effectively allowing both exchange of information on request (EOIR) and automatic exchange of information (AEOI). If the network of such arrangements exists, we would be grateful if you could specify if Trinidad and Tobago intends to extend this network to all EU Member States and which steps were or are being taken in order to achieve this objective.

**Criterion 2.1**

The COCG experts acknowledge that Trinidad and Tobago is considered as a jurisdiction of relevance by the OECD Forum on Harmful Tax Practices (FHTP) and that your preferential tax regimes are scheduled for review. Please note that the COCG experts will take stock of the assessment conducted by the FHTP for the purpose of evaluating your preferential tax regimes against criterion 2.1 (see Annex II). Nevertheless, for the assessment of these regimes against criterion 2.1, the COCG experts may request additional information, if necessary.

**Criterion 3**

The COCG experts acknowledge, that Trinidad and Tobago has not yet joined the Inclusive Framework on BEPS, nor committed to the agreed BEPS minimum standards and their consistent implementation. We would be grateful if you could clarify whether Trinidad and Tobago could join the Inclusive Framework on BEPS or, in any case, commit to these standards by the end of 2017.

**DRAFT DESCRIPTION OF TAX REGIMES (criterion 2.1)**

**1. Free zones**

The Free Zones Act 1988 makes provision for the establishment of free trade zones in T&T, under the management of the Trinidad and Tobago Free Zones Company Limited. Within the zones, goods can be manufactured, assembled, inspected, repaired, modified or simply stored in a tax and duty-free environment. Such goods are deemed to be in international commerce. All goods exported or transferred between free zones remain duty free.

Companies engaged in international trade may also be registered to do business in a free trade zone and benefit from the exemptions provided under the legislation.

## RESTREINT UE/EU RESTRICTED

The Trinidad and Tobago Free Zones Company Limited has approved the establishment and operation of privately developed and managed free zones.

Application to establish an operation within a free zone must be made to the Trinidad and Tobago Free Zones Company Limited.

A company must be registered in accordance with the Companies Act and under the Registration of Business Names Act.

Benefits from operating within a free zone include:

- an unlimited tax holiday in respect of corporate income tax on profits and withholding taxes on remittances to non-resident shareholders;
- exemption from import duties on machinery, equipment, raw materials and building materials used for the purpose of the enterprise;
- exemption from VAT on goods imported into the zone;
- export/import licensing is not required;
- unlimited repatriation of capital, profits and dividends; and
- investors may operate in any currency provided it is freely exchangeable on the open market.

DECLASSIFIED

74	Tunisia
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## INFORMATION REQUEST BY COCG EXPERTS

### Criterion 1.1

The COCG experts acknowledge that Tunisia is not committed to the OECD Automatic Exchange of Information (AEOI) standard (the Common Reporting Standard - CRS). In that context, for the purpose of assessing the situation against requirements of criterion 1.1, it is important to know whether Tunisia intends to commit to Standard for Automatic Exchange of Financial Account Information in Tax Matters (CRS) by the end of 2017 and the timeline of this commitment. In case commitment to this standard is not considered, we would be grateful if you could specify the reason for this.

### Criterion 1.2

The COCG experts acknowledge that Tunisia has not received an overall rating by the Global Forum on Transparency and Exchange of Information for Tax Purposes (hereinafter, the Global Forum) after having been subject to a phase 1 report. In this context, it is important to know whether Tunisia has applied for the Fast-track procedure as envisaged in the Global Forum. Should application for the Fast-track procedure be submitted, this information will be taken into due consideration by the COCG experts.

### Criterion 2.1

The COCG experts have identified the tax regimes, as described in the Appendix 1 to this Annex, which are relevant in the context of evaluating the situation against criterion 2.1 (see Annex II). We would be grateful if you could confirm whether information contained in Appendix 1 to Annex I is complete and accurate and, provide references, where such are missing or incorrect, to relevant legal provisions.

The COCG experts acknowledge that Tunisia has not joined the Inclusive Framework on BEPS. We would be grateful if you could clarify whether Tunisia intends to join the Inclusive Framework on BEPS; if so, it would be important that this action is taken as soon as possible. Please note that the COCG experts Panel will take stock of the assessment of the work carried out in the Inclusive Framework on BEPS, in order to evaluate your preferential tax regimes against criterion 2.1 (see Annex II), to the extent the scope of the work carried out in the Inclusive Framework on BEPS is compatible with the analysis to be conducted by the COCG.

**DRAFT DESCRIPTION OF TAX REGIMES (criterion 2.1)**

**a) Export promotion incentives.**

All tax incentives have been initially introduced under the old Investment Incentives Code (IIC); a new Investment Code was enacted under Law 2016-17 and is applicable as of 1 April 2017. The new Investment Code includes only non-tax incentives. All tax incentives previously available under the IIC are integrated into the Income Tax Code. The old IIC covered the agricultural, industrial, service and tourism sectors. The mining, finance and energy sectors were excluded.

Under the old regime, profits from the export of goods and services were deductible from the taxable base for a period of 10 years as from the date of first export. After the end of that 10-year period the deduction was limited to 50% of such profits.

For the purposes of this measure, exports were deemed to include supplies of services and goods to enterprises whose business related wholly or partially to export, to enterprises operating in economic activity parks, to international commercial companies and to financial and banking organizations dealing mainly with non-residents. The deduction was not available in respect of financial services, leasing transactions, sales of fuel, water and electricity.

Export-oriented companies were entitled to the following benefits:

- full exemption from corporate tax (during the first 10 years of operation on income from exports -provided that the company has requested the exemption when filing its tax return-, and a 50% income tax reduction starting from the 11th year for an unlimited period of time;
- full exemption from customs duties and similar taxes on imports, provided that imported goods were necessary for carrying on their activities. VAT was suspended on their purchases regardless of origin (domestic market or imports);
- full exemption from Tunisian social security contributions for foreign personnel who opted to be subject to a foreign social security regime;
- investors subscribing to the initial capital or capital increases of such companies were entitled to an exemption from income tax. In addition, export companies which reinvested part of their profits in their own activities were entitled to exemption from income tax or corporate tax, as the case may be, in respect of such part.

As from 1 January 2014, this incentive was abolished, and profits from the export of goods and services are then subject to corporate tax at the rate of 10%, but companies established before 1 January 2014 may continue to enjoy the tax holiday until the end of the 10-year period.

For financial year 2015, companies producing goods or rendering services wholly for export are exceptionally allowed to sell up to 50% of their revenues realized in 2014 on the domestic market without losing their status as export companies under the IIC or under Law 81 of 1992 related to economic activities parks. In principle, the percentages of the overall revenues that could be sold domestically is 30% for export companies licensed under the IIC.

The Finance Law 2016 clarified that the reduced 10% corporate tax rate is applicable only to income derived from the business activity of the company. Income which is not connected to the business activity is subject to the standard tax rate subject to some exceptions.

A regime limited to foreign taxpayers and/or to operation outside the territory of the jurisdiction does not meet criteria 1 and 2 of the Code of Conduct which forbids this type of ring-fencing.

**b) Offshore financial services.**

The offshore financial services code (Law 2009-64 of 12 August 2009) allowed the creation of offshore collective investment vehicles, which are subject to simplified investment rules. The Law also provided for the creation of offshore banks, offshore financial institutions and offshore portfolio management companies. All these entities are exclusively dedicated to non-resident investors and they get several tax incentives. Accordingly, offshore banks, offshore financial institutions and offshore portfolio management companies are entitled, inter alia, to the following:

- a 10% corporate tax rate as of 1 January 2014 for profits derived from offshore transactions;
- tax exemption for interest received on deposits made in hard currency; and
- exemption from the obligation to withhold tax on interest payments on certain loans to non-residents lenders.

The entities eligible for this preferential treatment are dedicated to non-resident investors. A regime limited to foreign taxpayers and/or to operations outside the territory of the jurisdiction does not meet criteria 1 and 2 of the Code of Conduct which forbids this type of ring fencing.

DECLASSIFIED

75	Turkey
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## INFORMATION REQUEST BY COCG EXPERTS

### Criterion 1.1

Although Turkey is committed to the the OECD Automatic Exchange of Information (AEOI) standard (the Common Reporting Standard – CRS), at this stage, according to publicly available data, it appears that it has not enacted primary and secondary legislation for that purpose. In that context, for the purpose of assessing the situation against criterion 1.1, it is important to know whether and when Turkey intends to enact such legislation, and how it will be ensured that such legislation provides for the customer due diligence in accordance with the international commitments of Turkey.

According to publicly available information it appears that Turkey has not activated information exchange with all EU Member States under the framework of the Multilateral Competent Authority Agreement on the automatic exchange of financial account information. In this context we are interested in knowing whether you have notified the OECD coordinating body of your intention to exchange information with all EU Member States under the above mentioned framework. If you have not notified the OECD coordinating body of your intention to exchange information with all EU Member States yet, do you plan to do so and within what time frame? Should Turkey not intend to cover all EU Member States, we would also be grateful if you could specify the reasons for such a decision.

### Criterion 1.2

The COCG experts acknowledge that Turkey was granted a Partially Compliant rating by the Global Forum on Transparency and Exchange of Information for Tax Purposes (hereinafter, the Global Forum). In this context, it is important to know whether Turkey has applied for the Fast-track procedure as envisaged in the Global Forum. Should application for the Fast-track procedure be submitted, this information will be taken into due consideration by the COCG experts.

### Criterion 1.3

The COCG experts acknowledge that Turkey has signed the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC), as amended, although the ratification instrument has not been deposited yet. It is therefore important to know whether and when Turkey intends to ratify the MAC and whether it intends to issue any unilateral declaration allowing for an early entry into force of the MAC.

**Criterion 2.1**

The COCG experts acknowledge that Turkey has joined the OECD Inclusive Framework for Tackling Base Erosion and Profit Shifting (the Inclusive Framework on BEPS) and has therefore committed to the four BEPS minimum standards and their consistent implementation. Please note that the COCG experts will take stock of the assessment conducted by the FHTP for the purpose of evaluating your preferential tax regimes against criterion 2.1 (see Annex II). Nevertheless, for the assessment of these regimes against criterion 2.1, the COCG experts may request additional information, if necessary.

DECLASSIFIED

76	Turks and Caicos Islands
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### INFORMATION REQUEST BY COCG EXPERTS

#### Criterion 1.1

According to publicly available information it appears that Turks and Caicos Islands has not activated information exchange with all EU Member States under the framework of the Multilateral Competent Authority Agreement on the automatic exchange of financial account information. In this context we are interested in knowing whether you have notified the OECD coordinating body of your intention to exchange information with all EU Member States under the above mentioned framework. If you have not notified the OECD coordinating body of your intention to exchange information with all EU Member States yet, do you plan to do so and within what time frame? Should Turks and Caicos Islands not intend to cover all EU Member States, we would also be grateful if you could specify the reasons for such a decision.

#### Criterion 2.1

The COCG experts acknowledge that Turks and Caicos Islands has joined the OECD Inclusive Framework for Tackling Base Erosion and Profit Shifting (the Inclusive Framework on BEPS) and has therefore committed to the four BEPS minimum standards and their consistent implementation. Please note that the COCG experts will take stock of the assessment conducted by the FHTP for the purpose of evaluating your preferential tax regime against criterion 2.1 (see Annex II). Nevertheless, for the assessment of these regimes against criterion 2.1, the COCG experts may request additional information, if necessary.



77	United Arab Emirates
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**INFORMATION REQUEST BY COCG EXPERTS**

**Criterion 1.1**

The COCG experts acknowledge that the United Arab Emirates are committed to the OECD Automatic Exchange of Information (AEOI) standard (the Common Reporting Standard - CRS) and also understand that they have not signed the Multilateral Competent Authority Agreement for the Common Reporting Standard.

In that context, for the purpose of assessing the situation against requirements of criterion 1.1, it is important to know whether the United Arab Emirates intend to sign the Multilateral Competent Authority Agreement for the Common Reporting Standard by the end of 2018 or intend to follow another approach.

**Criterion 1.2**

The COCG experts acknowledge that the United Arab Emirates were granted a Partially Compliant rating by the Global Forum on Transparency and Exchange of Information for Tax Purposes (hereinafter, the Global Forum). In this context, it is important to know whether the United Arab Emirates have applied for the Fast-track procedure as envisaged in the Global Forum. Should application for the Fast-track procedure be submitted, this information will be taken into due consideration by the COCG experts.

**Criterion 1.3**

The COCG experts acknowledge that the United Arab Emirates have signed the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC), as amended, although the ratification instrument has not been deposited yet. It is therefore important to know whether and when the United Arab Emirates intend to ratify the MAC and whether they intend to issue any unilateral declaration allowing for an early entry into force of the MAC.

**Criterion 2.1**

The COCG experts have identified the tax regimes, as described in the Appendix 1 to this Annex, which are relevant in the context of evaluating the situation against criterion 2.1 (see Annex II). We would be grateful if you could confirm whether information contained in Appendix 1 to Annex I is complete and accurate and, provide references, where such are missing or incorrect, to relevant legal provisions.

Preferential tax regimes exist for businesses established in the various free zones. However, regulations are different. How can the various regulations be overseen, controlled or managed by the Competent Authority?

The COCG experts acknowledge that the United Arab Emirates have not joined the Inclusive Framework on BEPS. We would be grateful if you could clarify whether the United Arab Emirates intend to join the Inclusive Framework on BEPS; if so, it would be important that this action is taken as soon as possible. Please note that the COCG experts Panel will take stock of the assessment of the work carried out in the Inclusive Framework on BEPS, in order to evaluate your preferential tax regimes against criterion 2.1 (see Annex II), to the extent the scope of the work carried out in the Inclusive Framework on BEPS is compatible with the analysis to be conducted by the COCG.

**DRAFT DESCRIPTION OF TAX REGIMES (criterion 2.1)**

**Free zones**

Several emirates in the UAE have free zones where businesses are offered incentives such as exemptions from income tax and customs duties, the possibility of 100% foreign ownership, streamlined administrative procedures etc. The possibility of 100% foreign ownership is an exception from the usual requirement for companies to have UAE national partner(s) who hold at least 51% of the company's capital. Free zone companies may only operate within the free zone boundaries and are generally limited to performing solely those activities listed in their license(s). Free Zone entities must operate within their zone boundaries and are not licensed to operate elsewhere in UAE, i.e. not permitted to trade directly with UAE market.

The possible concern is that the regime is ring-fenced because the free zone companies may only operate within the free zone boundaries and are not permitted to trade directly with UAE market. This does not meet criteria 1 and 2 of the Code of Conduct which forbids this type of ring-fencing.

78	United States
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**THE UNITED STATES OF AMERICA:**  
**INFORMATION REQUEST BY COCG EXPERTS**

**Criterion 1.1**

The COCG experts acknowledge that the United States is undertaking automatic information exchanges pursuant to FATCA and has entered into intergovernmental agreements (IGAs) with other jurisdictions to do so. The Model 1A IGAs entered into by the United States acknowledge the need for the United States to achieve equivalent levels of reciprocal automatic information exchange with partner jurisdictions. They also include a political commitment to pursue the adoption of regulations and to advocate and support relevant legislation to achieve such equivalent levels of reciprocal automatic exchange.

According to public available information it appears that the United States has entered into Model 1A IGAs with nearly all EU member states. Only with respect to Austria, the United States entered into a Model 2 IGA which does not ensure the equivalent level of reciprocal automatic information exchange. With respect to Greece, it appears that the IGA is signed but not in force yet. In that context, in order to assess the situation against criterion 1.1, it is important to know whether the United States intends to enter into a Model 1 IGA with Austria by the end of 2017 and when the IGA with Greece would likely come into force to be able to exchange information with all EU Member States. In case this is not considered, we would be grateful if you could specify the reason for this.

**Criterion 1.3**

The COCG experts acknowledge that the United States has signed the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC), as amended, although the ratification instrument has not been deposited yet. It is therefore important to know whether and when the United States intends to ratify the MAC and whether it intends to issue any unilateral declaration allowing for an early entry into force of the MAC.

**Criterion 2.1**

The COCG experts acknowledge that the United States has joined the OECD Inclusive Framework for Tackling Base Erosion and Profit Shifting (the Inclusive Framework on BEPS) and has therefore committed to the four BEPS minimum standards and their consistent implementation.

Please note that the COCG experts will take stock of the assessment conducted by the FHTP for the purpose of evaluating your preferential tax regimes against criterion 2.1 (see Annex V).

Nonetheless, the COCG experts have identified the tax regimes, as described in the Appendix 1 to this Annex, which are relevant in the context of evaluating the situation against criterion 2.1 but are not scheduled for review by the FHTP under the Inclusive Framework on BEPS. Please be informed that for these regimes the COCG will conduct an assessment based on the criteria of EU Code of Conduct on Business Taxation (criterion 2.1 as referred to in Annex V). We would be grateful if you could confirm whether information contained in Appendix 1 to Annex I is complete and accurate and provide references, where such are missing or incorrect, to relevant legal provisions.

**THE UNITED STATES OF AMERICA:**

**DRAFT DESCRIPTION OF TAX REGIMES (criterion 2.1)**

1. Delaware exemption of intangible investments
2. Delaware deduction of interest from affiliated companies

***1. Delaware Exemption of Investment Holding Companies, Firms managing Intangible Investments of Mutual Funds***

(i) Description

Investment holding companies and corporations whose activities within the State of Delaware are confined to the maintenance and management of the intangible investments of corporations are exempt from the state corporate income tax. This provision was extended to include corporations that invest the funds of a mutual fund.

(ii) Preferential features

The benefit is an exemption from the state corporate income tax (normal rate 8.7%).

(iii) Possible concerns

It seems Delaware does not require any business activities or offices to be located in the State, other than a registered agent. There is no obvious substance requirement, which is in contradiction with Criterion 3 of the Code of Conduct.

Another concern is the lack of transparency, which may fall under Criterion 5 of the Code of Conduct since, according to the Delaware Department of Finance website, these firms file informal returns establishing their eligibility but do not have to file corporate income tax returns. Therefore, there can be no estimate for the revenue loss from this tax expenditure.

(iv) Sources of information

[http://finance.delaware.gov/publications/2015\\_tax\\_prefer/15\\_tax\\_prefer.pdf](http://finance.delaware.gov/publications/2015_tax_prefer/15_tax_prefer.pdf),  
<http://corplaw.delaware.gov/eng/borders.shtml>,  
[http://www.stateincentives.org/media/2015/outcomes/Delaware\\_State\\_Specific\\_Report\\_-\\_November\\_2015.pdf](http://www.stateincentives.org/media/2015/outcomes/Delaware_State_Specific_Report_-_November_2015.pdf)

## *2. Deduction of interest from affiliated companies*

### (i) Description

Delaware permits creditor companies to deduct interest income arising from inter corporate obligations from their overall taxable income.

However the debtor company cannot deduct such interest payments when determining its net income for Delaware corporation income tax purposes.

### (ii) Preferential features

The incentive consists of a deduction from corporate tax liability that reduces effective rate for the creditor company.

### (iii) Possible concerns

It seems Delaware does not require any business activities or offices to be located in the State, other than a registered agent. There is no obvious substance requirement, which is in contradiction with Criterion 3 of the Code of Conduct.

### (iv) Sources of information

[http://finance.delaware.gov/publications/2015\\_tax\\_prefer/15\\_tax\\_prefer.pdf](http://finance.delaware.gov/publications/2015_tax_prefer/15_tax_prefer.pdf)

DECLASSIFIED

79	Uruguay
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## INFORMATION REQUEST BY COCG EXPERTS

### Criterion 1.1

According to publicly available information it appears that Uruguay has not activated information exchange with all EU Member States under the framework of the Multilateral Competent Authority Agreement on the automatic exchange of financial account information. In this context we are interested in knowing whether you have notified the OECD coordinating body of your intention to exchange information with all EU Member States under the above mentioned framework. If you have not notified the OECD coordinating body of your intention to exchange information with all EU Member States yet, do you plan to do so and within what time frame? Should Uruguay not intend to cover all EU Member States, we would also be grateful if you could specify the reasons for such a decision.

### Criterion 2.1

The COCG experts acknowledge that Uruguay has joined the OECD Inclusive Framework for Tackling Base Erosion and Profit Shifting (the Inclusive Framework on BEPS) and has therefore committed to the four BEPS minimum standards and their consistent implementation. Please note that the COCG experts will take stock of the assessment conducted by the FHTP for the purpose of evaluating your preferential tax regime against criterion 2.1 (see Annex II).

Nonetheless, the COCG experts have identified a tax regime, as described in the Appendix 1 to this Annex, which is relevant in the context of evaluating the situation against criterion 2.1 (see Annex II) but is not scheduled for review by the FHTP under the Inclusive Framework on BEPS. For this regime, the COCG will conduct an assessment based on the EU Code of Conduct on Business Taxation. We would be grateful if you could confirm whether the information contained in Appendix 1 to Annex I is complete and accurate and, provide references, where such are missing or incorrect, to relevant legal provisions.

In addition we have noticed that two tax regimes are currently scheduled for review by the FHTP in 2018. By letter of 31 May 2017, the Chair of the COCG informed Uruguay that it would be relevant for the FHTP to activate the fast-track procedure for these regimes, in order to prevent any duplication of work or overlap in the assessment of preferential regimes and allow the EU to rely on the FHTP work during the EU screening process (to be finalised by September this year).

**DRAFT DESCRIPTION OF TAX REGIMES (criterion 2.1)**

1. General powers under Law 16,906

**General powers under Law 16,906<sup>13</sup>**

**(i) Description**

Under Law 16,906, the government has the power to provide various tax benefits to a "promoted activity", which includes a total or partial exemption from any tax.

**(ii) Preferential features/Benefits under the General powers under Law 16,906**

Income tax on Economic Activities (IRAE) is payable at a rate of 25%. "Promoted activities" can be granted either partial exemption or full exemptions.

Therefore, a preferential treatment is granted to "promoted activities".

**(iii) Possible concern/ What is the problem under the Code?**

An important Code criterion used to assess the harmfulness of a regime is its transparency (criterion 5). A measure is considered as not transparent when it is not laid down in law but granted on a discretionary basis. The tax benefits under the General powers under Law 16,906 do not seem transparent to the extent such granting is decided discretionarily by the Government.

**(iv) Source of information**

[IBFD](#)

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<sup>13</sup> The Investment Law Regime is probably the same regime as the regime of the General Powers under Law 16,906.

80	US Virgin Islands
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Questionnaire included under the US (see No 78)

DECLASSIFIED



81	Viet Nam
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**INFORMATION REQUEST BY COCG EXPERTS**

**Criterion 1.3**

The COCG experts acknowledge that Viet Nam is not a member of the Global Forum on Transparency and Exchange of Information for Tax purposes (hereinafter, the Global Forum).

Participation in the Global Forum is essential as it is the international body in charge of monitoring the implementation of the global standards on tax transparency. In that respect, the Code of Conduct Group has decided that developing countries among those selected for the EU listing process that are not financial centres should be requested or invited to join the Global Forum (this would not apply to Low Middle Income countries according to the last OECD DAC List of ODA). In this context, we would like to know whether Viet Nam could consider joining the Global Forum.

**Criterion 2.1**

The COCG experts acknowledge that Viet Nam is considered as a jurisdiction of relevance by the OECD Forum on Harmful Tax Practices (FHTP) and that your preferential tax regimes are scheduled for review. Please note that the COCG experts will take stock of the assessment conducted by the FHTP for the purpose of evaluating your preferential tax regimes against criterion 2.1 (see Annex II). Nevertheless, for the assessment of these regimes against criterion 2.1, the COCG experts may request additional information, if necessary.

**Criterion 3**

The COCG experts acknowledge, that Viet Nam has not yet joined the Inclusive Framework on BEPS, nor committed to the agreed BEPS minimum standards and their consistent implementation. We would be grateful if you could clarify whether Viet Nam could join the Inclusive Framework on BEPS or, in any case, commit to these standards by the end of 2017.

**DRAFT DESCRIPTION OF TAX REGIMES (criterion 2.1)**

**1. Export processing zones**

Export processing zones are specially designated locations for enterprises specializing in the production of goods for exports, and for the provision of services for such export-oriented activities.

A 10% Enterprise Income Tax (EIT) rate is available for a period of 15 years (standard EIT rate is 20% since 1/1/2016). The normal EIT rate applies after the incentive period. Where these projects are on a large scale, with high or new technology and a special need to attract investment, the incentive period may be extended up to a total period of 30 years.

The preferential rate is available for the entire operational period of enterprises in the education and vocational training, healthcare, cultural, sports and environmental sectors (collectively referred to as social sectors). There is no WHT on dividends, interest or royalties.

DECLASSIFIED

82 (1)	Andorra
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## INFORMATION REQUEST BY COCG EXPERTS

### Criterion 1.1

The COCG experts acknowledge that the Principality of Andorra is committed to the OECD Automatic Exchange of Information (AEOI) standard (the Common Reporting Standard - CRS) and also understand that it has signed the Multilateral Competent Authority Agreement for the Common Reporting Standard. Of particular relevance, an agreement entered into force on 1 January 2017 between the EU and Andorra, which provides for the alignment to the international standard not only for insofar the automatic exchange of financial account information is concerned but also as regards exchanges on request with all EU MS concerning taxes of any kind and description.

According to publicly available data it appears, however, that the Principality of Andorra has not enacted legislation other than primary legislation for that purpose. In that context, for the purpose of assessing the situation against criterion 1.1, it is important to know whether and when the Principality of Andorra intends to enact secondary legislation and how it will be ensured that such secondary legislation provides for the customer due diligence as of the 1st of January 2017 in accordance with the commitments undertaken by the Principality of Andorra .

### Criterion 1.2

The COCG experts acknowledge that the Principality of Andorra was granted a Partially Compliant rating by the Global Forum on Transparency and Exchange of Information for Tax Purposes (hereinafter, the Global Forum). In this context, it is important to know whether the Principality of Andorra has applied for the Fast-track procedure as envisaged in the Global Forum and whether a date for the Fast-track procedure has already been set. Should application for the Fast-track procedure be submitted, this information will be taken into due consideration by the COCG experts.

### Criterion 2.1

The COCG experts acknowledge that the Principality of Andorra has joined the OECD Inclusive Framework for Tackling Base Erosion and Profit Shifting (the Inclusive Framework on BEPS) and has therefore committed to the four BEPS minimum standards and their consistent implementation. Please note that the COCG experts will take stock of the assessment conducted by the FHTP for the purpose of evaluating your preferential tax regimes against criterion 2.1 (see Annex II). Nevertheless, for the assessment of these regimes against criterion 2.1, the COCG experts may request additional information, if necessary.

83 (2)	Liechtenstein
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**INFORMATION REQUEST BY COCG EXPERTS**

**Criterion 2.1**

The COCG experts acknowledge that Liechtenstein has joined the OECD Inclusive Framework for Tackling Base Erosion and Profit Shifting (the Inclusive Framework on BEPS) and has therefore committed to the four BEPS minimum standards and their consistent implementation.

Please note that the COCG experts will take stock of the assessment conducted by the FHTP for the purpose of evaluating your preferential regimes against criterion 2.1 (see Annex II), and also of the ongoing assessment process with the main Code of Conduct Group.

DECLASSIFIED

84 (3)	Monaco
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Questionnaire will not be sent (COCG 8 June)

DECLASSIFIED

85 (4)	San Marino
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**INFORMATION REQUEST BY COCG EXPERTS**

**Criterion 2.1**

The COCG experts acknowledge that San Marino has joined the OECD Inclusive Framework for Tackling Base Erosion and Profit Shifting (the Inclusive Framework on BEPS) and has therefore committed to the four BEPS minimum standards and their consistent implementation.

Please note that the COCG experts will take stock of the assessment conducted by the FHTP for the purpose of evaluating your preferential tax regime "Financial/leasing" against criterion 2.1 (see Annex II). Nevertheless, for the assessment of these regimes against criterion 2.1, the COCG experts may request additional information, if necessary. We understand this regime is about to be abolished, and we would appreciate if you could confirm this information.

DECLASSIFIED

86 (5)	Switzerland
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**INFORMATION REQUEST BY COCG EXPERTS**

**Criterion 2.1**

The COCG experts acknowledge that Switzerland has joined the OECD Inclusive Framework for Tackling Base Erosion and Profit Shifting (the Inclusive Framework on BEPS) and has therefore committed to the four BEPS minimum standards and their consistent implementation.

Please note that the COCG experts will take stock of the assessment conducted by the FHTP for the purpose of evaluating your preferential regimes against criterion 2.1 (see Annex II) and of the ongoing dialogue with the Code of Conduct Group through the European Commission.

Nevertheless, for the assessment of these regimes against criterion 2.1, the COCG experts may request additional information, if necessary.

DECLASSIFIED

87 (1)	Marshall Islands
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## INFORMATION REQUEST BY COCG EXPERTS

### Criterion 1.1

The COCG experts acknowledge that the Marshall Islands is committed to the OECD Automatic Exchange of Information (AEOI) standard (the Common Reporting Standard - CRS) and also understand that it has signed the Multilateral Competent Authority Agreement for the Common Reporting Standard.

According to publicly available information it appears that the Marshall Islands has not activated information exchange with all EU Member States under the framework of the Multilateral Competent Authority Agreement on the automatic exchange of financial account information. In this context we are interested in knowing whether you have notified the OECD coordinating body of your intention to exchange information with all EU Member States under the above mentioned framework. If you have not notified the OECD coordinating body of your intention to exchange information with all EU Member States yet, do you plan to do so and within what time frame? Should the Marshall Islands not intend to cover all EU Member States, we would also be grateful if you could specify the reasons for such a decision.

### Criterion 1.2

The COCG experts acknowledge that the Marshall Islands was granted a Non-Compliant rating by the Global Forum on Transparency and Exchange of Information for Tax Purposes (hereinafter, the Global Forum). In this context, it is important to know whether the Marshall Islands has applied for the Fast-track procedure as envisaged in the Global Forum and whether a date for the Fast-track procedure has already been set. Should application for the Fast-track procedure be submitted, this information will be taken into due consideration by the COCG experts.

### Criterion 2.2

The COCG experts acknowledge that the Marshall Islands should be considered in the context of criterion 2.2 as further specified by the COCG (see Appendix 2 to Annex II).

We would therefore be grateful if you could respond to the questions set out in the Appendix to this Annex.

Please be informed that further specific questions could follow based on information available.



**Criterion 3**

The COCG experts acknowledge, on the basis of publicly available information, that the Marshall Islands is not a member of the Inclusive Framework on BEPS. They also have no indication that the Marshall Islands would have committed to implement the BEPS minimum standards. Nonetheless, COCG experts acknowledge that, given the features of its legal system, some of these minimum standards might not be relevant for the Marshall Islands. To this aim, it is important to know whether the Marshall Islands could, , join the Inclusive Framework on BEPS and /or commit, by the end of 2017, to apply at least the BEPS minimum standards that would be relevant, such as the Country by Country reporting as defined under the BEPS Action 13.

**QUESTIONS CONCERNING CRITERION 2.2**

[as set out in the template questionnaire (see doc. 9995/17 FISC 124 EU RESTRICTED, Annex II)]

DECLASSIFIED

88 (2)	Nauru
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**INFORMATION REQUEST BY COCG EXPERTS**

**Criterion 1.1**

According to publicly available information it appears that Nauru has not activated information exchange with all EU Member States under the framework of the Multilateral Competent Authority Agreement on the automatic exchange of financial account information. In this context we are interested in knowing whether you have notified the OECD coordinating body of your intention to exchange information with all EU Member States under the above mentioned framework. If you have not notified the OECD coordinating body of your intention to exchange information with all EU Member States yet, do you plan to do so and within what time frame? Should Nauru not intend to cover all EU Member States, we would also be grateful if you could specify the reasons for such a decision.

**Criterion 1.2**

The COCG experts acknowledge that Nauru has not received an overall rating by the Global Forum on Transparency and Exchange of Information for Tax Purposes (hereinafter, the Global Forum) after having been prevented from moving to phase 2 and been subject to a supplementary phase 1 report. In this context, it is important to know whether Nauru has applied for the Fast-track procedure as envisaged in the Global Forum. Should application for the Fast-track procedure be submitted, this information will be taken into due consideration by the COCG experts.

**Criterion 2.2**

The COCG experts acknowledge that Nauru should be considered in the context of criterion 2.2 as further specified by the COCG (see Appendix 2 to Annex II).

We'd therefore be grateful if you could respond to the questions set out in the Appendix 2 to this Annex.

Please be informed that further specific questions could follow based on information available.

**Criterion 3**

The COCG experts acknowledge, on the basis of publicly available information, that Nauru is not a member of the Inclusive Framework on BEPS. They also have no indication that Nauru would have committed to implement the BEPS minimum standards. Nonetheless, COCG experts acknowledge that, given the features of its legal system, some of these minimum standards might not be relevant for Nauru. To this aim, it is important to know whether Nauru could join the Inclusive Framework on BEPS and/or commit, by the end of 2017, to apply at least the BEPS minimum standards that would be relevant, such as the Country by Country reporting as defined under the BEPS Action 13.

**QUESTIONS CONCERNING CRITERION 2.2**

[as set out in the template questionnaire (see doc. 9995/17 FISC 124 EU RESTRICTED, Annex II)]

DECLASSIFIED

89 (3)	Niue
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## INFORMATION REQUEST BY COCG EXPERTS

### Criterion 1.1

According to publicly available information it appears that Niue has not activated information exchange with all EU Member States under the framework of the Multilateral Competent Authority Agreement on the automatic exchange of financial account information. In this context we are interested in knowing whether you have notified the OECD coordinating body of your intention to exchange information with all EU Member States under the above mentioned framework. If you have not notified the OECD coordinating body of your intention to exchange information with all EU Member States yet, do you plan to do so and within what time frame? Should Niue not intend to cover all EU Member States, we would also be grateful if you could specify the reasons for such a decision.

### Criterion 2.1

The COCG experts have identified the tax regime, as described in the Appendix 1 to this Annex, which are relevant in the context of evaluating the situation against criterion 2.1 (see Annex II). We'd be grateful if you could confirm whether information contained in Appendix 1 to Annex I is complete and accurate and, provide references, where such are missing or incorrect, to relevant legal provisions.

The COCG experts acknowledge that Niue has not joined the Inclusive Framework on BEPS. We'd be grateful if you could clarify whether Niue intends to join the Inclusive Framework on BEPS; if so, it would be important that this action is taken as soon as possible. Please note that the COCG experts Panel will take stock of the assessment of the work carried out in the Inclusive Framework on BEPS, in order to evaluate your preferential tax regime against criterion 2.1 (see Annex II), to the extent the scope of the work carried out in the Inclusive Framework on BEPS is compatible with the analysis to be conducted by the COCG.

### Criterion 3

The COCG experts acknowledge, that Niue has not yet joined the Inclusive Framework on BEPS, nor committed to the agreed BEPS minimum standards and their consistent implementation. We'd be grateful if you could clarify whether Niue could join the Inclusive Framework on BEPS or, in any case, commit to these standards by the end of 2017.

DRAFT DESCRIPTION OF TAX REGIMES (criterion 2.1)

**IBC (Exempt and offshore companies).**

Niue IBCs are formed pursuant to the International Business Companies Act of 1994 which allows for minimal reporting and maximum privacy. The Niue IBC can engage in any lawful business and can carry on transactions in whatever currency is preferred. IBCs cannot trade within Niue or own real estate there. They cannot undertake Banking, Insurance, Assurance, Re-Insurance, Fund Management, Asset Management (other than the management of their own assets). They cannot solicit funds from the public or offer their shares to the public. An IBC is exempted from local taxation. Only one shareholder is required and no details appear on public record; regarding the management of these companies, a minimum of one director is required. There is no requirement to register the details of the first directors or any subsequent changes therein. Meetings can be held anywhere in the world. There is no requirement for the Niue IBC to file accounts or an annual tax return; furthermore, the IBC companies are not obliged to make a disclosure of the beneficial ownership to the tax authorities. IBC companies are fully exempt from taxation on any activities carried on outside Niue.

This legislation, introduced in 1994, was repealed in 2006; it seems that the IBC system was not purely stopped and that IBCs still benefit from the system at the date of writing.

The regime is preferential as it grants a lower taxation than normal: IBCs are fully exempt from taxation on any activities carried on outside Niue.

DECLASSIFIED

90 (4)	Palau
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**INFORMATION REQUEST BY COCG EXPERTS**

**Criterion 1.1**

The COCG experts acknowledge that Palau is not committed to the OECD Automatic Exchange of Information (AEOI) standard (the Common Reporting Standard - CRS). In that context, for the purpose of assessing the situation against requirements of criterion 1.1, it is important to know whether Palau intends to commit to Standard for Automatic Exchange of Financial Account Information in Tax Matters (CRS) by the end of 2017 and the timeline of this commitment. In case commitment to this standard is not considered, we'd be grateful if you could specify the reason for this.

**Criterion 1.2**

The COCG experts acknowledge that Palau is not a member of the Global Forum on Transparency and Exchange of Information for Tax purposes (hereinafter, the Global Forum). Participation in the Global Forum is essential as it is the international body in charge of monitoring the implementation of the global standards on tax transparency. In that respect, the Code of Conduct Group has decided that developing countries among those selected for the EU listing process that are not financial centres should be requested or invited to join the Global Forum. In this context, we would like to know whether Palau could consider joining the Global Forum.

**Criterion 1.3**

The COCG experts acknowledge that Palau has not signed the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC), as amended. It is therefore important to know whether Palau intends to sign the MAC or whether it has a network of exchange arrangements in force which is sufficiently broad to cover all EU Member States, effectively allowing both exchange of information on request (EOIR) and automatic exchange of information (AEOI). If the network of such arrangements exists, we'd be grateful if you could specify if Palau intends to extend this network to all EU Member States and which steps were or are being taken in order to achieve this objective.

**Criterion 2.2**

The COCG experts acknowledge that Palau should be considered in the context of criterion 2.2 as further specified by the COCG (see Appendix 2 to Annex II).

We would therefore be grateful if you could respond to the questions set out in the Appendix 1 to this Annex.

Please be informed that further specific questions could follow based on information available.

**Criterion 3**

The COCG experts acknowledge, that Palau has not joined the Inclusive Framework on BEPS, nor committed to the agreed BEPS minimum standards and their consistent implementation. We'd be grateful if you could clarify whether Palau could join the Inclusive Framework on BEPS or, in any case, commit to these standards by the end of 2017.

We would therefore be grateful if you could respond to the questions set out in the Appendix 1 to this Annex.

**QUESTIONS CONCERNING CRITERION 2.2**

[as set out in the template questionnaire (see doc. 9995/17 FISC 124 EU RESTRICTED, Annex II)]

DECLASSIFIED

91 (5)	Malaysia/Labuan Island
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Questionnaire included under Malaysia (see No 48)

DECLASSIFIED



92 (5)	Vanuatu
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## INFORMATION REQUEST BY COCG EXPERTS

### Criterion 1.1

The COCG experts acknowledge that Vanuatu is committed **the OECD Automatic Exchange of Information (AEOI) standard (the Common Reporting Standard – CRS)** and also understand that it has not signed the Multilateral Competent Authority Agreement for the Common Reporting Standard. In that context, for the purpose of assessing the situation against requirements of criterion 1.1, it is important to know whether Vanuatu intends to sign the Multilateral Competent Authority Agreement for the Common Reporting Standard by the end of 2017 or intends to follow another approach.

Although Vanuatu is committed to **the OECD Automatic Exchange of Information (AEOI) standard (the Common Reporting Standard – CRS)** at this stage, according to publicly available data, it appears that it has not enacted secondary legislation and regulations for that purpose. In that context, for the purpose of assessing the situation against criterion 1.1, it is important to know whether Vanuatu intends to enact such legislation, and how it will be ensured that such legislation provides for the customer due diligence in accordance with the international commitments of Vanuatu.

### Criterion 1.2

The COCG experts acknowledge that Vanuatu has not received an overall rating by the Global Forum on Transparency and Exchange of Information for Tax Purposes (hereinafter, the Global Forum) after having been prevented from moving to phase 2 and been subject to a supplementary phase 1 report. In this context, it is important to know whether Vanuatu has applied for the Fast-track procedure as envisaged in the Global Forum. Should application for the Fast-track procedure be submitted, this information will be taken into due consideration by the COCG experts.

### Criterion 1.3

The COCG experts acknowledge that Vanuatu has not signed the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC), as amended. It is therefore important to know whether Vanuatu intends to sign the MAC or whether it has a network of exchange arrangements in force which is sufficiently broad to cover all EU Member States, effectively allowing both exchange of information on request (EOIR) and automatic exchange of information (AEOI). If the network of such arrangements exists, we'd be grateful if you could specify if Vanuatu intends to extend this network to all EU Member States and which steps were or are being taken in order to achieve this objective.

**Criterion 2.2**

The COCG experts acknowledge that Vanuatu should be considered in the context of criterion 2.2 as further specified by the COCG (see Appendix 2 to the Annex II).

We'd therefore be grateful if you could respond to the questions set out in the Appendix 1 to this Annex.

Please be informed that further specific questions could follow based on information available.

**Criterion 3**

The COCG experts acknowledge, on the basis of publicly available information, that Vanuatu is not a member of the inclusive Framework on BEPS. They also have no indication that Vanuatu would have committed to implement the BEPS minimum standards.

Nonetheless, COCG experts acknowledge that, given the features of its legal system, some of these minimum standards might not be relevant for Vanuatu. To this aim, it is important to know whether Vanuatu could join the Inclusive Framework on BEPS and / or commit, by the end of 2017, to apply at least the BEPS minimum standards that would be relevant, such as the Country by Country reporting as defined under BEPS Action 13.

**QUESTIONS CONCERNING CRITERION 2.2**

[as set out in the template questionnaire (see doc. 9995/17 FISC 124 EU RESTRICTED, Annex II)]

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