



Council of the
European Union

Brussels, 8 June 2020
(OR. en)

12109/18
DCL 1

FISC 352

DECLASSIFICATION

of document:	ST 12109/18 RESTREINT UE/EU RESTRICTED
dated:	12 September 2018
new status:	Public
Subject:	Revision of the geographical scope of the EU listing exercise: Compromise proposal

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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NOTE

From: Presidency

To: Delegations

Subject: Revision of the geographical scope of the EU listing exercise:
Compromise proposal

Delegations will find attached a document from the Presidency with a view to the meeting of the COCG subgroup on third countries meeting on 20 September 2018.

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**REVISION OF THE GEOGRAPHICAL SCOPE OF THE EU LISTING EXERCISE:
COMPROMISE PROPOSAL****I/ BACKGROUND**

1. A first exchange of views on the revision of the geographical scope was held at the May 2018 COCG subgroup meeting. As a result, the Council endorsed in June 2018 the COCG recommendation to ask the Commission services to make a proposal "*that would take into account the need to wait until the moment when the assessment of the commitments taken is completed, would focus on the jurisdictions in tables III and IV of the Scoreboard that have more on the economic ties with the EU and/or which are within the AMLD list's scope (but without automatic listing of these jurisdictions)*" and "*in the meantime screen, starting from 2019, the G20 countries that have not yet been covered by the EU listing exercise, considering their economic importance*"¹.
2. At the subgroup meeting of 10 July 2018, the Commission services proposed the following way forward (see doc. 10809/18 EU RESTRICTED):
 - Apply a lower threshold (less than 15) for the indicators representing the economic ties with the EU and/or the importance of the financial sector;
 - Exclude all selected jurisdictions that score higher than 90 in terms of stability;
 - Include Puerto Rico (US dependent territory) from jurisdictions featuring in Table IV of the Scoreboard, but exclude others considering that these are very small jurisdictions, almost uninhabited and for which no data is available.
3. If agreed, this would result in the following jurisdictions to be selected: Argentina, Azerbaijan, Guyana, Kazakhstan, Kuwait, Lebanon, Mexico, Moldova, New Zealand, Puerto Rico, Russia and Ukraine. The three G20 countries that were not screened in 2017 and which COCG will screen in 2019 (Argentina, Mexico and Russia) would therefore be caught by the same indicators as other jurisdictions.

¹ See paragraph 82 of the COCG report to the June 2018 ECOFIN Council, doc. 9637/18.

4. Furthermore, the Commission services proposed a screening process lasting until the end of 2019, which would follow the same steps as in 2017 (first letter to establish contact, preliminary analysis on the basis of available information, targeted questionnaire, follow-up questions, draft assessment, letter seeking commitment, and assessment of the commitment letters received in return), without expert panels but with regular reporting to the Code of Conduct Group.
5. This proposal prompted a number of comments from delegations:
 - Some delegations requested a consistent approach, with objective criteria or economic data justifying inclusion in respect of jurisdictions in table IV;
 - One delegation expressed preference for a threshold of 80 rather than 90 with regard to the stability factor;
 - One delegation regretted that the proposal does not take into account those jurisdictions which are within the AMLD list's scope;
 - Several delegations expressed doubts about any further extension of the geographical scope for now considering the additional burden this would create for the existing EU listing process.
6. With regard to Puerto Rico, the Presidency notes that one indicator (stability factor) is relatively high (30.8% in the 2016 Scoreboard) and that economic data seem to exist considering articles published recently.²
7. Concerning the threshold for the stability factor, the Presidency proposes to follow Commission's approach in order to include the missing three G20 countries that the Council has already decided to screen in 2019.
8. As for the AMLD list³, the jurisdictions that it contains are either already covered by the EU listing exercise (Bosnia and Herzegovina, Trinidad and Tobago, Tunisia, Vanuatu) or not relevant:
 - Afghanistan, Ethiopia, Lao PDR, Yemen were not selected because they are listed by the UN as least developed countries
 - Guyana was not selected in the 2016 Scoreboard because of a stability factor of 73.1, but would be covered by the proposed revision

² See for instance <http://gabriel-zucman.eu/missingprofits/>, which put into the public domain the economic data used (national accounts, balance of payments, etc.)

³ See Delegated Regulation (UE) 1675/2016 and later amendments.

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- Iraq, North Korea and Syria were not selected in the 2016 Scoreboard because not ranking high in any selection factor and would still not meet the proposed thresholds
 - Sri Lanka was not selected because not ranking high in any selection factor, but could be included in a future screening process
9. Jurisdictions falling under the AMLD list would not necessarily have to be caught under the same methodology (selection indicators) as other jurisdictions, considering the above-mentioned way forward endorsed by ECOFIN. Nevertheless it has to be kept in mind, that although the two lists may overlap on some of the countries, they have different objectives, different criteria, a different compilation process and different consequences. Furthermore, the AMLD list is likely to change substantially before the end of next year due to a new methodology.⁴ Thus, a case by case assessment would be required in order to avoid the unnecessary screening of irrelevant jurisdictions such as those mentioned above.
10. Finally, with regard to the timing of the possible geographical extension, the Presidency considers that the mandate received from ECOFIN ("*when the assessment of the commitments taken is completed*") indicates that such extension should only happen as from 2020 considering that commitments made by some developing country jurisdictions are to be fulfilled by end 2019.
11. This would therefore mean one additional year compared to the proposal at the last subgroup meeting (ST 10809/18 EU RESTRICTED) and would avoid burdening the existing process, whilst allowing preliminary fact-finding.

⁴ See Methodology for identifying high risk third countries under Directive (EU) 2015/849. https://ec.europa.eu/info/sites/info/files/swd_2018_362_fl_staff_working_paper_en_v2_p1_984066.pdf

II/ PROPOSED WAY FORWARD

12. Against this background, the Presidency proposes the following compromise proposal:

- Screen, starting from 2020, all jurisdictions that rank high (indicator below 15%) in at least one of the first two categories (economic ties with the EU and importance of their financial sector), excluding those jurisdictions that rank extremely low (indicator higher than 90%) in terms of institutional stability;
- In respect of the list of third countries presenting strategic deficiencies in their regime on anti-money laundering and countering terrorist financing (AML/CFT), request the Commission services to:
 - review the appropriateness of screening Sri Lanka and report back to the COCG in order to allow for a decision by the end of the Austrian Presidency;
 - inform the COCG of future changes to this list and apply the same approach to newly listed countries, where appropriate;
- Request the Commission services to re-evaluate the case of Puerto Rico on the basis of existing economic data and, should it meet the new selection indicators, screen it starting from 2020.

QUESTION TO DELEGATIONS

What are your views on the compromise proposal put forward by the Presidency?