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**Anatomy of the EU tax list: a case-study on EU external tax policy**  
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## Appendices



# Appendix I

## Glossary

Developing country/ emerging economy	According to the definition of the COCG: Upper middle income, low middle income, and least developed countries. <sup>1</sup>
Efficacy	The ability to produce the intended results. <sup>2</sup>
Harmful tax competition	Countries' use of their tax policies to attract businesses and investments at the expense of other countries, leading to a race to the bottom in tax rates and erosion of the global tax base. <sup>3</sup>
Legitimacy	"A generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions". <sup>4</sup>
Letter-box/ shell companies	Companies without economic substance set up for tax planning purposes. <sup>5</sup>
Phantom investments	Cross-border financial investments that pass through shell companies. They are often used for holding activities, intra-firm financing, or managing intangible assets, primarily to minimize multinational corporations' tax liabilities. <sup>6</sup>
Reputation	A generally shared belief concerning a referent's character or nature, based on a wide range of information, associations, and social cues. <sup>7</sup>

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1 COCG Report, 2018, Annex 3

2 Cambridge Dictionary.

3 Faulhaber, 2018.

4 Suchman, 1995, p. 574.

5 Aliprandi et al., 2023.

6 Damgaard et al., 2019.

7 Sharman, 2007.

Response	Behavioural reaction to institutional pressure. <sup>8</sup> It refers to non-EU countries' reactions (i.e. (perceptions and compliance strategies) to the compliance pressure generated by the EU tax list.
Tax avoidance	A practice where taxpayers utilize the differences between national tax regimes to reduce their overall tax obligations. It involves exploiting legal loopholes and discrepancies in tax laws across different jurisdictions by means of legal strategies. <sup>9</sup> The impact of tax avoidance and harmful tax competition is a loss of tax revenues for countries. This effect is felt not only by countries offering tax advantages, but also by those unable to provide similar benefits potentially leading to taxpayers relocating to jurisdictions with more favourable tax systems.
Tax havens	Jurisdictions that facilitate international tax avoidance and tax evasion. They often have favourable tax laws and regulations that attract multinational firms looking to minimize their tax liabilities. <sup>10</sup> Policy papers of the EU, PTGG documents, and interviewees reported in this Dissertation may use the term inconsistently, without rigorously distinguishing between countries with zero or almost zero percent CIT rate or no tax system, countries with preferential regimes, and conduit countries. Any definitions or references to tax havens by reported interviewees or documents should be interpreted as their personal understanding and opinion.
Tax treaty shopping	Tax avoidance strategy where multinational enterprises exploit reduced tax rates in tax treaties by routing income through intermediate countries that have favourable tax treaties. This practice can lead to significant tax revenue losses for countries, particularly developing ones. <sup>11</sup>

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8 Oliver, 1991.

9 Vlcek, 2019; De Vito et al., 2024.

10 Lejour, 2021.

11 van 't Riet et al., 2025.

## Appendix II

### Table of interviewees and reference coding

Code (ID)	Country/Institution	Category	Number of interviewees present	In-person/online	Year of interview	Confidentiality*
EP1	European Parliament	Policy Advisors	2	In person	2022	A
EP2	European Parliament	Policy Advisor	1	In person	2022	B
EP3	European Parliament	Member of European Parliament	1	In person	2023	B
EC1	European Commission	Civil Servant; participant in COCG meetings	1	In person	2022	B
EC2	European Commission	Civil servant; participant in COCG meetings	1	In person	2023	A
GSC1	General Secretariat of the Council	Civil Servant; participant in COCG meetings	1	In person	2022	B
MS1	EU Member State	Fiscal attachés; COCG members	3	In person	2022	B
MS2	EU Member State	Fiscal attaché; COCG member	1	Online	2022	A
MS3	EU Member State	Fiscal attaché; COCG member	1	In person	2022	B
MS4	EU Member State	Fiscal attaché; COCG member	1	In person	2022	B
MS5	EU Member State	Fiscal attaché; COCG member	1	In person	2022	A
MS6	EU Member State	Fiscal attaché; COCG member	1	On the phone	2022	B
NGO1	NGO	Ex-NGO employee; ex-participant in PTGG meetings	1	Online	2023	B
NGO2	NGO	Ex-NGO employee; ex-participant in PTGG meetings	2	In person	2022	A
NGO3	NGO	NGO employee; participant in PTGG meetings	1	Online	2023	B
NEC1	Developed non-EU country	Policy advisor/diplomat	1	On the phone	2022	B
NEC2	Developing non-EU country	Policy advisor	1	Online	2023	B
NEC3	Developing non-EU country	Policy advisor	1	Online	2023	B
NEC4	Developed non-EU country	Policy advisor	1	Online	2023	B
NEC5	Developed non-EU country	Policy advisor/diplomat	1	Online	2022	B
NEC6	Developing non-EU country	Policy advisor	1	Written communication	2022	B
NEC7	Developed non-EU country	Policy advisor/diplomat	1	In person	2022	A
PS1	Private sector tax consultant	Tax consultant on countries' tax policy, supporting countries' compliance to get off the EU tax list	1	Online	2023	B
PS2	Private sector company based in a developed non-EU country	Employees supporting countries' compliance to get off the EU tax list	2	Online	2023	B
InF1	OECD	OECD policy advisor (high hierarchy)	1	Online	2022	B

\* Confidentiality map: A = reference and quotes allowed; B = references, but no quotes, allowed



## Appendix III

### Topic list used in interviews

*Interviews with EU civil servants, international fora, NGOs (adjusted):*

- The process of the EU tax list:
  - How does the process go?
  - What is your role in the process?
  - Any comments on the process?
- EU Member States' response to the EU tax list:
  - What is the EU Member States' position with regard to the EU tax list?
  - How do they contribute?
  - To what extent are EU Member States' national tax haven blacklists replaced with the new EU tax list?
- Relation with non-EU countries:
  - How do you find the relation with non-EU countries?
  - What are the factors influencing a certain outcome (listed/not listed/delisted) for the non-EU countries?
- Defensive measures:
  - What is the rate by which EU Member States apply national defensive measures?
  - What are the most common defensive measures used by EU Member States?
  - How does the application of defensive measure work?
  - To what extent are the measures applied in practice?
  - What effects have you noticed in practice?
  - Why was it difficult to reach agreement at EU level on the defensive measures?
- Relation with OECD standards and bodies.
- Upcoming steps for the EU tax list.

*Interviews with EU member states' national civil servants:*

- Your country involvement in the EU tax list:
  - What is your country position on the EU tax list?
  - What was/is your response to the EU tax list?
  - Did/does your country have a national list?
  - Did your country replace its national list (if any) with the new EU tax list?
- Relation with non-EU countries:
  - How do you find the relation with non-EU countries?
  - What are the factors influencing a certain outcome (listed/not listed/delisted) for the non-EU countries?

- Defensive measures:
  - Does your country apply national defensive measures? If no, why? If yes, what measures?
  - If so, how does the application of defensive measure work?
  - To what extent are the measures applied in practice?
  - What effects have you noticed in practice?
  - Why was it difficult to reach agreement at EU level on the defensive measures?
- Relation with OECD standards and body.
- Upcoming steps for the EU tax list.

*Interviews with non-EU countries' national civil servants and private sector (adjusted):*

- Your country involvement in the EU tax list.
- Your response to the EU requests (for example, national reforms).
- Effects of your response in the list (for example, being greylisted and/or de-listed by the EU) and in your country.
- When applicable, application of defensive measures by EU and EU Member States.
- Relation with OECD standards and body
- Upcoming steps involving your country.

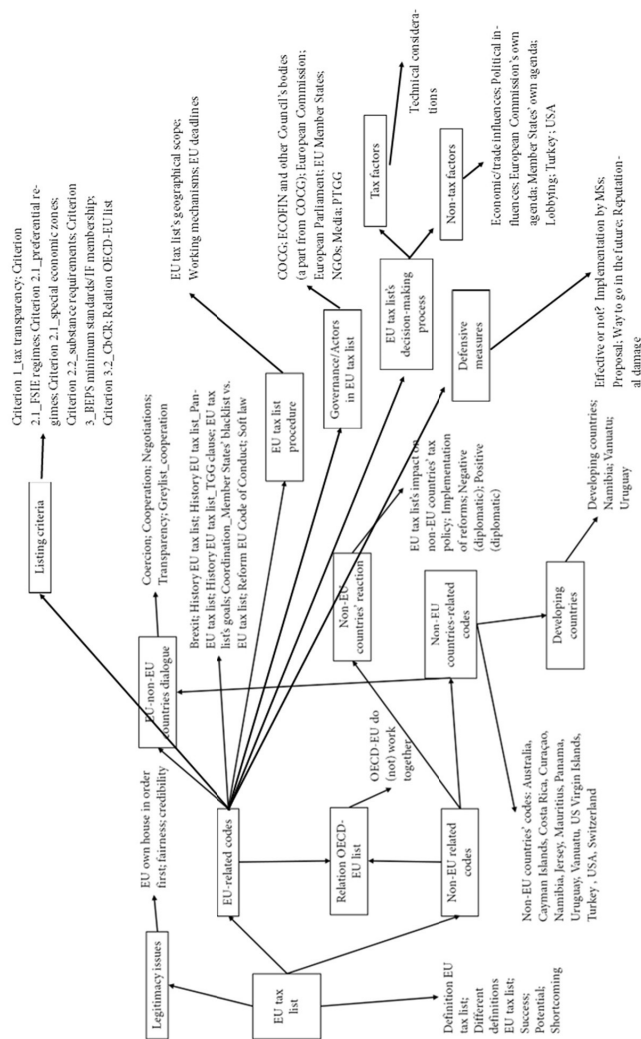
# Appendix IV

## Code-groups for interviews data analysis

This appendix reports the codes used to analyse the interviews. The codes were firstly generated in vivo, then classified into groups.

The codes are firstly reported in a scheme highlighting the connections among the codes (Fig. 1 Appendix IV below) and the groups; they are then listed in a table.

Fig. 1 Appendix IV: Schematization of coding groups



<b>Code Group</b>	<b>Code</b>
Non-EU countries-related codes	Australia Cayman Islands Costa Rica Curaçao Namibia Jersey Mauritius Panama Uruguay Vanuatu US Virgin Islands Turkey USA Switzerland
EU-related codes	Brexit History EU tax list History EU tax list_Pan-EU tax list History EU tax list_TGG clause EU tax list's goals Coordination_Member States' blacklist vs. EU tax list Reform EU Code of Conduct Soft law
EU tax list	Definition EU tax list Different definition EU tax list Success Potential Shortcomings
EU tax list procedure	EU tax list's geographical scope EU tax list procedure_working mechanisms EU tax list procedure_deadlines
Governance/Actors in the EU tax list	Governance/Actors_COCCG Governance/Actors_ECOFIN and other Council's bodies (a part from COCCG) Governance/Actors_European Commission Governance/Actors_European Parliament Governance/Actors_EU Member States Governance/Actors_NGOs Governance/Actors_Media Governance/Actors_PTGG
EU tax list's decision-making process	Transparency towards non-EU countries Transparency towards the public Relation OECD-EU list

EU tax list's decision-making process_Non-tax factors	Economic/trade influences Political influences European Commission's own agenda Member States' own agenda Lobbying Turkey USA
EU tax list's decision-making process_Tax factors	Technical considerations
Listing criteria	Criterion 1_tax transparency Criterion 2.1_FSIE regimes Criterion 2.1_preferential regimes Criterion 2.1_special economic zones Criterion 2.2_substance requirements Criterion 3_BEPS minimum standards/IF membership Criterion 3.2_CbCR Relation OECD-EU list
Defensive measures	Defensive measures_effective or not? Defensive measures_implementation by MSs Defensive measures_Proposal Defensive measures_Way to go in the future Reputational damage
EU-non-EU countries dialogue	EU-non-EU countries dialogue_coercion EU-non-EU countries dialogue_cooperation EU-non-EU countries dialogue_negotiations EU-non-EU countries dialogue_transparency Greylist_cooperation
Third parties' reactions to the EU tax list	Relation OECD-EU list_OECD reaction Non-EU countries' reaction_EU tax list's impact on non-EU countries' tax policy Non-EU countries' reaction_Implementation of reforms Non-EU countries' reaction_Negative (diplomatic) Non-EU countries' reaction_Positive (diplomatic) Non-EU countries' reaction + OECD-EU tax list relation_OECD-EU do (not) work together
Developing countries	Developing countries Namibia Vanuatu Uruguay
Legitimacy issues	Legitimacy issues_'EU own house in order first' Legitimacy issues_fairness Legitimacy issues_credibility



## Appendix V

### Examples of EU's and non-EU countries' letters

*List of content:*

- Letters from the COCG requesting information to a non-EU country (letters A and B).
- Letter from the COCG to non-EU countries seeking commitment (letter C).
- Letter from a non-EU country to the COCG Chair (letter D).
- Letters from the COCG to non-EU countries communicating the blacklisting decision (letter E).
- Letter from the COCG to non-EU countries as outcome of the monitoring activity (letter F).
- Letters from the COCG to non-EU countries amending previous miscommunication (letter G).
- Letters from non-EU countries to the COCG rectifying miscommunication (letter H).

A) Example 1 of a COCG letter requesting information to a non-EU country<sup>1</sup>

<b>RESTREINT UE/EU RESTRICTED</b>		
8	Bahamas	
<b><u>INFORMATION REQUEST BY COCG EXPERTS</u></b>		
<b><u>Criterion 1.1</u></b>		
<p>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.</p>		
<b><u>Criterion 1.3</u></b>		
<p>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.</p>		
<b><u>Criterion 2.2</u></b>		
<p>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).</p> <p>We'd therefore be grateful if you could respond to the questions set out in the Appendix 1 to this Annex.</p> <p>Please be informed that further specific questions could follow based on information available.</p>		
10901/17 ANNEX	DG G 2B RESTREINT UE/EU RESTRICTED	JB/fm 21 <b>EN</b>

<sup>1</sup> COCG Note, 2017, p. 21-22.

**RESTREINT UE/EU RESTRICTED**

**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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B) Example 2 of a COCG letter requesting information to a non-EU country<sup>2</sup>

<b>RESTREINT UE/EU RESTRICTED</b>	
4	Antigua and Barbuda
<b><u>INFORMATION REQUEST BY COCG EXPERTS</u></b>	
<b><u>Criterion 1.1</u></b>	
<p>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.</p>	
<b><u>Criterion 1.2</u></b>	
<p>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.</p>	
<b><u>Criterion 1.3</u></b>	
<p>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.</p>	
10901/17 ANNEX	DG G 2B RESTREINT UE/EU RESTRICTED
	JB/fm 9 <b>EN</b>

<sup>2</sup> COCG Note, 2017, p. 21-22.

**RESTREINT UE/EU RESTRICTED****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.

**RESTREINT UE/EU RESTRICTED**

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.

C) Example of COCG letter to non-EU countries seeking commitment<sup>3</sup>

██████████  
Director of International Business  
Ministry of Industry, International Business,  
Commerce and Small Business Development  
8<sup>th</sup> Floor  
Baobab Tower  
Warrens  
St. Michael  
BARBADOS  
██████████

Brussels, 23 October 2017

**Subject: Letter for the attention of the authorities of Barbados**

- **Taxation: follow-up to the screening process**

Dear Sir,

By a letter dated 15 June 2017 from the Chair of the Code of Conduct Group (Business Taxation), Barbados was invited to provide additional information to the experts designated to assess the compliance with the criteria agreed by the Council of the EU, concerning the areas of tax transparency, fair taxation and implementation of anti-Base Erosion and Profit Shifting (anti-BEPS) measures, as set out in the Council "Conclusions on criteria and process leading to the establishment of the EU list of non-cooperative jurisdictions for tax purposes" of 8th November 2016<sup>6</sup>.

We would like to thank you for the response to the Chair's letter and for the cooperation you have shown so far. On the basis of your explanations and publicly available information, the experts have been able to clarify certain aspects but have also identified deficiencies as regards the compliance of Barbados with the set criteria.

We acknowledge that in your letter dated 6 July 2017, you have pointed out a willingness to address the identified shortcomings. In welcoming this indication, we would now need a firm commitment at a high political level that Barbados will address the deficiencies listed in Annex 1. Such a commitment would allow the Code of Conduct Group to positively consider future changes in our ongoing work.

The Code of Conduct Group will not recommend to the Council of the EU to include in the list of non-cooperative jurisdictions for tax purposes any country or jurisdictions which commit to correct the identified deficiencies by 31 December 2018 at the latest. To this end, the Code of Conduct Group would appreciate receiving a precise timeline and a description of the steps for the implementation of the changes by the date indicated below.

<sup>6</sup> The official publication of these Council Conclusions can be found in the *Official Journal of the European Union*: OJ C 461, 10.12.2016, page 2.

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3 COCG Information, 2018, p. 27-29.

The Code of Conduct Group will continue monitoring the commitments taken by the identified jurisdictions to consider whether they have been fulfilled and, as the case may be, will recommend an update to the EU list of non-cooperative jurisdictions for tax purposes.

We would be grateful for your response to reach us by 17 November 2017.

Sincerely,

Fabrizia Lapecorella



c.c. General Secretariat of the Council  
Unit DG G 2B – Tax Policy, Export Credits and Regional Policy  
[secretariat\\_cocg-jurisdictions@consilium.europa.eu](mailto:secretariat_cocg-jurisdictions@consilium.europa.eu)  
tel. +32 (0)2 281 72 75

## ANNEX I

**Request for commitment by the Chair of the Code of Conduct Group**

Annex I set out the deficiencies identified by the experts designated by the Code of Conduct Group and the proposed actions to be undertaken by Barbados in order to comply with the set criteria.


**Criterion 2.1**

In our letter dated 15 June 2017 we have informed Barbados that we would take stock of the assessment conducted by the Forum on Harmful Tax Practices for the purpose of evaluating the preferential tax regimes of Barbados. On the basis of such assessment, it has been found that the regime named *International Financial Service Regime* and the regime named *Credit for overseas projects or services* have been considered potentially harmful by the Forum on Harmful Tax Practices. For this reason, we invite Barbados to commit to amend or abolish the above mentioned regime in order to comply with the criteria applied by the Forum on Harmful Tax Practices and the Code of Conduct Group, and to communicate the timeline for doing so.

On the basis of its assessment, the Forum on Harmful Tax Practices has also found that the regimes named *International Business Companies*; *Exempt Insurance Company*; *Qualifying Insurance Company*; *International Societies with Restricted Liability* and *International Trusts* have been considered as 'in the process of being amended' by the Forum on Harmful Tax Practices. For this reason, we invite Barbados to reiterate this commitment to the Code of Conduct Group, under the procedure specified in the letter to which this annex is attached, and to communicate the timeline for doing so.

Moreover, the Forum on Harmful Tax Practices has assessed the regime *Fiscal Incentives Act* 'out of scope'. The experts have assessed the legal features of the regime against the criteria set by the Code of Conduct Group. On the basis of the information available the experts have found that the regime is harmful. We invite Barbados to commit, under the procedure specified in the letter to which this annex is attached, to amending or abolishing the above mentioned regime in order to comply with the criteria applied by the Forum on Harmful Tax Practices and the Code of Conduct Group. We invite Barbados to communicate the timeline for doing so. Please consider that possible grandfathering mechanisms can be accepted only if these do not extend beyond 2021.

D) Example of a letter from a non-EU country to the COCG Chair<sup>4</sup>



**Republic of Seychelles**  
Ministry of Finance Trade and Economic Planning

**The Minister**  
General Secretariat,  
Council of the European Union,  
Chair of the Code of Conduct Group (Business Taxation),  
Rue de la Loi 175 – 1048 Brussels,  
Belgium.

6<sup>th</sup> November 2017.

Dear Chair, Code of Conduct Group (Business Taxation),

The Ministry of Finance, Trade and Economic Planning would like to extend its best wishes to the Code of Conduct Group (Business Taxation).

I take this opportunity to reiterate the strong commitment Seychelles have already made through the letter submitted to Forum on Harmful Tax Practices (FHTP) in July 2017 regarding regimes which have been assessed as potentially harmful and which therefore need to be amended in accordance with the standards governing the assessments that were conducted.

At the meetings of FHTP held in March, May and July 2017, Seychelles had some of their tax regimes, including those referred in the Annex 1 of your letter dated 23<sup>rd</sup> October 2017, reviewed by the FHTP. These include-

1. International Business Companies
2. Free Zone
3. Offshore banks
4. Offshore insurance
5. Seychelles Special License Companies
6. Securities Business under the Securities Act
7. Fund Administration Business

Seychelles note that the Code of Conduct Group is taking stock of the assessment conducted by the FHTP for the purpose of evaluating the preferential tax regimes of Seychelles in the context of the European Council.

On the basis of such assessment, concerns regarding regimes 1-7 above containing potentially harmful features identified under the FHTP's framework are being acknowledged by Seychelles which offer their assurances that it is their intention for Seychelles' tax regimes to be consistent with the requirement set by FHTP and the Code of Conduct.

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<sup>4</sup> COCG, 2018e, p. 1-5.



In order to correct the deficiencies within the timeframe, we have approached the OECD and IMF to provide the required level of expertise in the form of technical assistance to ensure we successfully identify and implement robust reforms that both support the economy and remove potentially harmful features within our tax regimes. Consultative meetings are being organised with the stakeholders and we expect to find solution within the agreed timeframe to demonstrate the results of our engagement.

For the following regimes, Seychelles is committed to complete the necessary legislative amendments in accordance with the timetable as set out below-

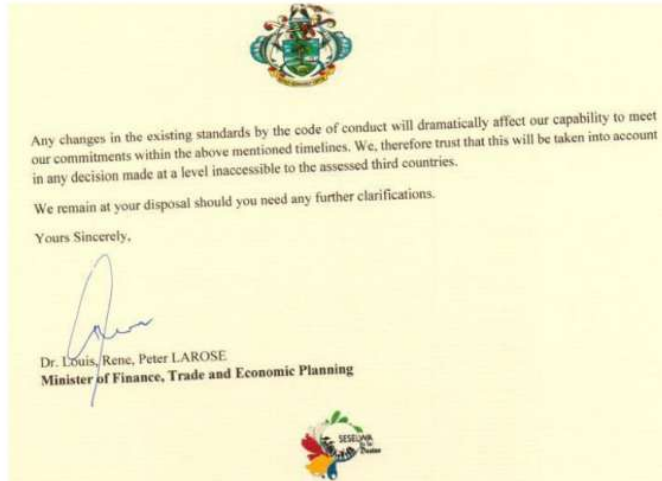
Regimes	Actions	Timeframe	Persons in charge
-IBC	Remove any preferential tax regime	June 2018	Ministry of Finance; Financial Services Authority; Seychelles Revenue Commission; Cabinet of Ministers; National Assembly
-Offshore banks	Remove any preferential tax regime	June 2018	Ministry of Finance; Seychelles Revenue Commission; Central Bank Of Seychelles; Cabinet of Ministers
-Offshore insurance	Remove any preferential tax regime	June 2018	Ministry of Finance; Financial Services Authority; Seychelles Revenue Commission; Cabinet of Ministers; National Assembly
-Fund Administration Business	-amend the law to prescribe substance requirements to be met by licensees under the Mutual and Hedge Fund Act;  -the substance requirement will be in accordance with the criteria set by FHTP;	August 2018	Ministry of Finance; Financial Services Authority; Seychelles Revenue Commission; Stakeholders; Cabinet of Ministers; National Assembly



-Securities Business under the Securities Act	-delete the provision relating to the exemption of overseas securities dealers;  -amend the law to prescribe substance requirements to be met by licensees under the Securities Act;  -the substance requirement to be met will be in accordance with the criteria set by FHTP;	August 2018	Ministry of Finance; Financial Services Authority; Seychelles Revenue Commission; Stakeholders; Cabinet of Ministers; National Assembly
-Free Zone	-not to renew any of the existing export services licenses;  -redefine the activities that can be provided from the SITZ and this will not include any geographically mobile activities.	August 2018	Ministry of Finance; Financial Services Authority; Seychelles Revenue Commission; Cabinet of Ministers; National Assembly
-Seychelles Special License Companies	Remove any preferential regime	June 2018	Ministry of Finance; Financial Services Authority; Seychelles Revenue Commission; Cabinet of Ministers; National Assembly

Seychelles will work to implement the changes according to this timeframe.

We wish to state that this action plan is being made under the assumption that the standards basing the assessment of the above mentioned regimes in the FHTP process will remain the same as the Code of Conduct for business taxation.



E) Example of letters from the COCG to non-EU countries communicating the blacklisting decision<sup>5</sup>

<b>RESTREINT UE/EU RESTRICTED</b>			
<b><u>BARBADOS</u></b>			
[Addressee and contact details]			
Brussels, [date]			
<b>Subject: Letter for the attention of the authorities of Barbados</b>			
- <b>The EU list of non-cooperative jurisdictions for tax purposes</b>			
Dear Madam, dear Sir,			
By a letter dated 23 October 2017 from the Chair of the Code of Conduct Group (Business Taxation) Barbados was informed that some deficiencies were identified as regards the screening criteria used by the EU, as set out in the Annex to that letter, and was invited to provide a commitment at a high political level to address the deficiencies.			
Your response (letters of 9 November 2017, 27 November 2017, 28 November 2017 and 1 December 2017) was assessed by the Code of Conduct Group, in order to ascertain whether the relevant commitment was made at the appropriate political level, sufficiently clearly addressing all the issues and whether a clear timeline was provided for relevant actions.			
All jurisdictions concerned were invited to reply by 17 November 2017. Nevertheless, the Council of the EU took into account all letters that arrived in time for the Ministers to take an informed decision at their meeting on 5 December 2017.			
On the basis of this analysis, the Council of the EU deemed the commitment set out in the abovementioned correspondence not sufficient, and, consequently, decided, by consensus, on 5 December 2017, to include Barbados in the EU list of non-cooperative jurisdictions for tax purposes <sup>1</sup> .			
More details on the reasons underpinning this decision can be found in Annex 1 to this letter.			
As you know, the EU has long been committed to pursuing the global implementation of tax good governance standards. It is in this context that the recent exercise of engagement with jurisdictions around the world was conducted.			
We would like to emphasise the aim to continue a constructive dialogue with the jurisdictions concerned, so that the identified issues can be addressed in an effective and mutually satisfactory manner. Therefore the EU list of non-cooperative jurisdictions for tax purposes will be regularly updated by the Council of the EU.			
The Code of Conduct Group will continue the dialogue and monitor the actual implementation of the commitments made by the jurisdictions. Based on any new commitment taken and on the implementation of these commitments, the Code of Conduct Group can recommend to the Council of the EU to update the list of non-cooperative jurisdictions for tax purposes.			
<sup>1</sup> <a href="http://www.consiliium.europa.eu/media/31945/st15429en17.pdf">http://www.consiliium.europa.eu/media/31945/st15429en17.pdf</a>			
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<sup>5</sup> COCG Note, 2017b, p. 8-10.

**RESTREINT UE/EU RESTRICTED**

To this end, our experts stand ready to continue the discussions with the jurisdictions concerned, to assist them, as necessary, in meeting the tax good governance criteria of the EU.

We remain at your disposal, and look forward to hearing from you on this matter, through our usual contact point.

Sincerely,

[COCG chair signature]

c.c. General Secretariat of the Council

Unit DG G 2B – Tax Policy, Export Credits and Regional Policy

[secretariat.cocg-jurisdictions@consilium.europa.eu](mailto:secretariat.cocg-jurisdictions@consilium.europa.eu)

tel. +32 (0)2 281 72 75

DECLASSIFIED

**RESTREINT UE/EU RESTRICTED****ANNEX 1**

In the letter of 23 October 2017, Barbados was informed that deficiencies were identified as regards the following screening criterion.

**Criterion 2.1**

Barbados has several harmful preferential tax regimes. We took into due consideration your commitment to amend the following regimes by 31 December 2018 with the aim of removing harmful features:

- International Business Companies
- Exempt Insurance Companies
- Qualifying Insurance Companies
- International Societies with Restricted Liability
- International Trusts
- International Financial Services
- Foreign Credit for Qualifying Overseas Projects/Services

On the Fiscal Incentive Act the commitment was not sufficient to guarantee that Barbados will abolish or amend the regime in line with the request by the end of 2018. In particular, in your letters there was no indication of possible grandfathering mechanisms that cannot extend beyond the end of 2021.

Barbados' commitment to amend or abolish the other seven harmful tax regimes in line with criterion 2.1 will be monitored.

The Code of Conduct Group will be in a position to consider at any time to recommend to the Council of the EU to update the list of non-cooperative jurisdictions on the basis of any new commitment taken to address the deficiencies identified and on the implementation of these commitments by your jurisdiction. The Code of Conduct Group will be informed of any commitment or action taken to address the deficiencies identified.

F) Example of COCG letter to non-EU countries as outcome of the monitoring activity<sup>6</sup>

ANNEX

**The Honourable Ronald TOPPIN**  
 Minister of International Business and Industry  
 8th Floor, Baobab Tower  
 Warrens  
 St. Michael  
 BARBADOS

Brussels, 1 February 2019

**Subject: Replacement of Barbados' harmful preferential tax regimes with measures of similar effect**

Your Excellency,

We would like to thank you once again for the cooperation you have shown so far in the context of our dialogue on tax good governance standards.

As Barbados abolished its preferential tax regimes<sup>1</sup> at the request of the Council of the European Union by introducing regressive corporate income tax rates (as low as 1%) applicable to all entities, which fails to remove the harmful features or effects of the original regimes<sup>2</sup>, the Code of Conduct Group has decided that Barbados should be treated as a jurisdiction that applies "a nominal corporate tax rate equal to zero or almost zero".

The Code of Conduct Group has for this reason identified these amendments to Barbados' Income Tax Act as a new measure falling under EU listing criterion 2.2.

This criterion has been agreed by the EU Finance Ministers in November 2016<sup>3</sup> and its scope has been further defined by the same Ministers in 2017 and finally in June 2018. This guidance is summarized in a "Scoping paper on criterion 2.2" (including two annexes), which is available at the following link: <http://data.consilium.europa.eu/doc/document/ST-10421-2018-INIT/en/pdf>

According to criterion 2.2, jurisdictions should not facilitate offshore structures or arrangements aimed at attracting profits which do not reflect real economic activity in the jurisdiction.

On this basis, Barbados needs to comply with the requirements under criterion 2.2, including by ensuring that legal mechanisms do not exist that enable the granting of advantages only to non-residents or in respect of transactions carried out with non-residents and that sufficient substance is required for entities doing business in or through your jurisdiction. The absence of adequate legal substance requirements increases the risk that profits registered in a jurisdiction are not commensurate with economic activities and substantial presence which is a concern from the

<sup>1</sup> Namely the International Business Companies (BB001), International Financial Services (B002), Exempt Insurance Company (BB003), Qualifying Insurance Companies (BB004), International Societies with Restricted Liability (BB005), International Trusts (BB007), Fiscal Incentives Act (BB008) and Foreign Currency Earnings Credit (BB009) regimes

<sup>2</sup> No further relevant data was provided by Barbados.

<sup>3</sup> The official publication of these Council Conclusions can be found in the *Official Journal of the European Union*: OJ C 461, 10.12.2016, page 2.

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<sup>6</sup> COCG Note, 2019, p. 2-3.

perspective of criterion 2.2.

Against this background, we would welcome to receive a commitment at a high political level that Barbados will address concerns outlined in line with the EU Terms of Reference and the above-mentioned scoping paper on criterion 2.2 by 31 December 2019, without any grandfathering mechanism.

In this case, the Code of Conduct Group will not recommend to the Council of the EU to include Barbados in the EU list of non-cooperative jurisdictions for tax purposes, as long as no other criteria have been failed.

With a view to demonstrate that Barbados has made meaningful commitments at high political level to take the necessary steps to address the issues identified by the EU, we would furthermore seek your consent to publish this commitment letter on the Council's website. This will ensure the transparency of the process.

Finally, the Code of Conduct Group would like to inform Barbados that no further replacement with measures of similar effect or delays will be accepted when assessing at the beginning of 2020 whether the requested commitments will have been implemented.

We would be grateful for your response to reach us by 15 February 2019.

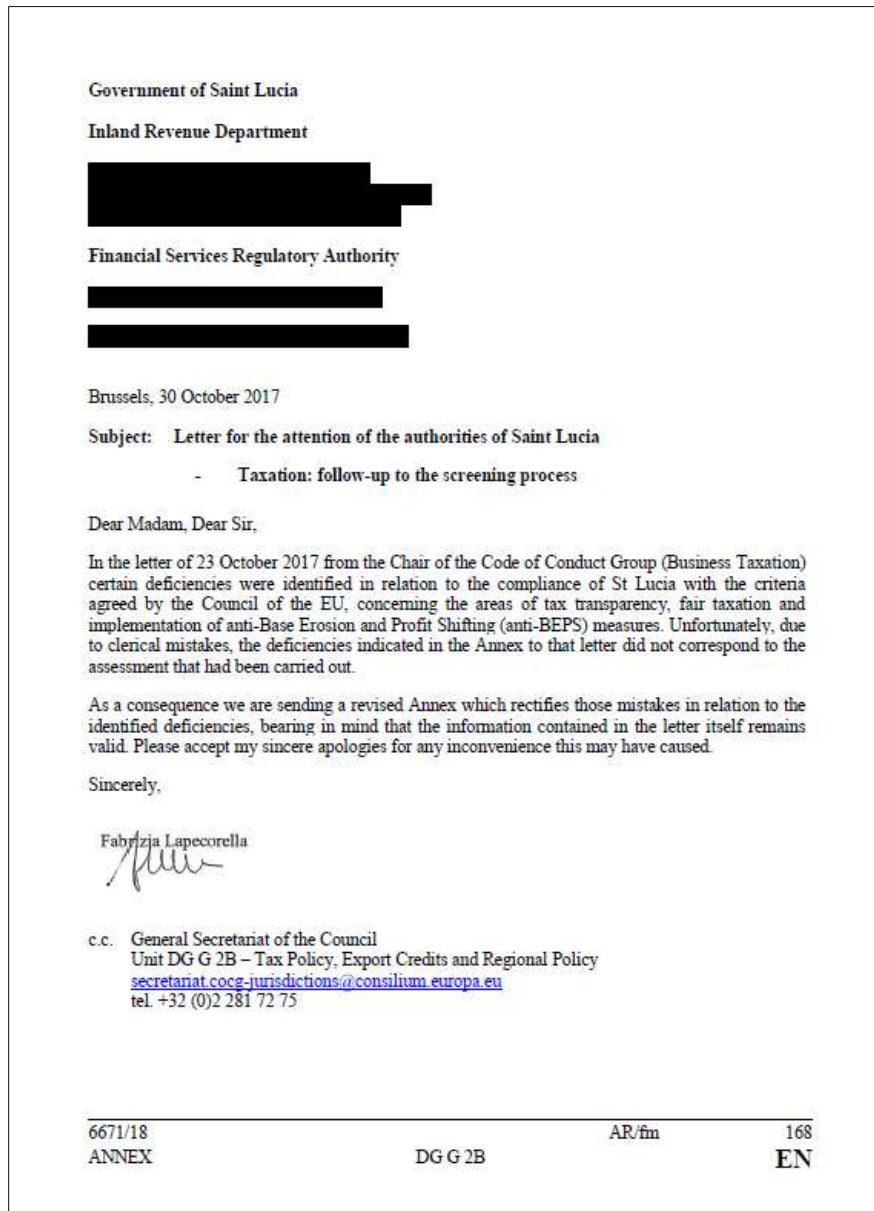
Sincerely,

Fabrizia Lapecorella




c.c. General Secretariat of the Council  
Unit DG G 2B – Tax Policy, Export Credits and Regional Policy  
[secretariat.cocg-jurisdictions@consilium.europa.eu](mailto:secretariat.cocg-jurisdictions@consilium.europa.eu)  
tel. +32 (0)2 281 72 75

G) Example of COCG letters to non-EU countries amending previous miscommunication<sup>7</sup>



<sup>7</sup> COCG Information, 2018, p. 168-169.

H) Example of letters from non-EU country to the COCG rectifying miscommunication<sup>8</sup>

<p>No. <u>FIN. 1400.02(2)</u> In reply please quote this number</p>		<p><b>MINISTRY OF FINANCE</b> CECIL WALLACE-WHITEFIELD CTR. WEST BAY STREET NASSAU, THE BAHAMAS P.O.BOX N-3017 TELEX: [REDACTED] TEL: (242) [REDACTED] FAX: (242) [REDACTED] E.MAIL: [REDACTED]</p>
<p>9<sup>th</sup> March 2018</p> <p><u>Via E-Mail &amp; Courier</u></p> <p>Ms. Fabrizia Lapecorella General Secretariat of the Council Chair of the Code of Conduct Group (Business Taxation) Rue de la Loi/Wetstraat 175 B-1048 Bruxelles/Brussels</p> <p>Dear Ms. Lapecorella,</p> <p><u>Re: The EU list of Non-Cooperative Jurisdictions</u></p> <p>With reference to the letter from the General Secretariat of the Council regarding the EU list of non-cooperative jurisdictions for tax purposes and our subsequent teleconference this afternoon with myself, Deputy Prime Minister and Minister of Finance of The Bahamas – K. Peter Turnquest, Consultant - [REDACTED] General Secretariat of the Council - Fabrizia Lapecorella and other members of the EU Commission.</p> <p>The Bahamas made a commitment in December 2017 to the inclusive Framework for the implementation of the minimum standards for the Base Erosion Profit Shifting (BEPS) initiative by December 2018. We are still strongly committed to this initiative.</p> <p>We note your concerns stated in the letter that The Bahamas has not made a sufficient commitment to Criterion 2.2 by the use of "specific words", which as we stated in our teleconference today, we believe was a misunderstanding of our intentions and should not be the basis for the inclusion of The Bahamas on the EU list of non-cooperative jurisdictions for tax purposes - Annex I.</p> <p><u>Response to the provisional conclusions</u></p> <p>We note the provisional conclusion of the Code of Conduct Group (COCG) experts regarding The Bahamas' tax regime as being 'harmful' due to the concern in relation to a perceived de facto lack of substance, which may be due to the absence of specific legal substance requirements for entities doing business in or through The Bahamas. We also note the main considerations of the COCG experts concerning the analysis of The Bahamas under Criterion 2.2 and the COCG's</p>		
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<sup>8</sup> COCG, 2018c, p. 2-5.

criteria being applied regarding the absence of a corporate tax system or applying a nominal corporate tax rate equal to zero or almost zero. We welcome the opportunity to engage in substantive dialogue with the COCG on its provisional conclusions.

#### Timeline Commitments

I once again confirm the commitment of The Bahamas to address by the end of December 2018 all concerns around economic substance that have been identified by the experts, and to maintain and further enhance our cooperation and dialogue with the COCG in so doing.

The Bahamas will no longer facilitate offshore structures and arrangements aimed at attracting profits without real economic substance and unequivocally commits to addressing these issues by 31 December 2018.

In order to fulfil this commitment, we recognise that we will need to make changes to our domestic legislation and regulatory requirements. To be clear our said commitments will include specific legislative changes requiring:

- (i) Investigations on the carrying on of real economic activities within The Bahamas including factual manifestations of the activity that benefits from the non-taxation at issue, and
- (ii) addressing the concerns around economic substance taking into account the Terms of Reference enclosed with your letter.

We recognise our obligations for additional accounting and tax reporting measures, such as appropriate notification regimes for entities that give rise to the risk and concerns raised by the COCG in its provisional conclusions, which we will address in our implementation plan.

We welcome your technical assistance and look forward to further dialogue with the Code of Conduct Group. We believe that an early meeting in April 2018 would be valuable to our ongoing relationship and will help us to better understand the specific concerns of the Group. This dialogue will help ensure there is no further mis-communication in complying with our commitment to address the concerns identified and the exact steps to be taken before December 2018.

We look forward to a good working relationship and to establishing a stronger cooperation in the future that does not inhibit fair access to markets and recognition of international standards.

Sincerely,  


K. Peter Turnquest, MP  
Deputy Prime Minister  
Minister of Finance

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## Appendix VI

### Examples of countries investigated under each listing criterion

In quantitative terms, the 2017 EU tax list achieved the following results:<sup>1</sup> out of the 213 countries included in the European Commission scoreboard<sup>2</sup>, 92<sup>3</sup> were selected for screening. 20 countries<sup>4</sup> were identified as ‘clear’ (i.e. compliant with the listing criteria), whereas 72 countries<sup>5</sup> were requested to solve tax deficiencies. Among them, 17 countries were blacklisted as non-cooperative jurisdictions.<sup>6</sup>

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1 European Commission website, 2017; COCG Report, 2017; Council Conclusions, 2017; Council Information, 2017, 2017b. For a summary of the procedure followed and results achieved in 2017, see Council Presidency, 2017.

2 European Commission, 2016b.

3 Albania, American Samoa, Andorra, Anguilla, Antigua and Barbuda, Armenia, Aruba, Australia, Bahamas, Bahrain, Barbados, Belize, Bermuda, Bosnia and Herzegovina, Botswana, Brazil, British Virgin Islands, Cabo Verde, Canada, Cayman Islands, Chile, China, China Hong Kong SAR, China Macao SAR, Colombia, Cook Islands, Costa Rica, Curaçao, Dominica, Eswatini, Faroe Islands, Fiji, Former Yugoslav Republic of Macedonia, Georgia, Greenland, Grenada, Guam, Guernsey, Iceland, India, Indonesia, Isle of Man, Israel, Jamaica, Japan, Jersey, Jordan, Korea Republic of, Labuan Island, Liechtenstein, Malaysia, Maldives, Marshall Islands, Mauritius, Monaco, Mongolia, Montenegro, Montserrat, Morocco, Namibia, Nauru, New Caledonia, Niue, Norway, Oman, Palau, Panama, Peru, Qatar, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Saudi Arabia, Serbia, Seychelles, Singapore, South Africa, Switzerland, Taiwan, Thailand, Trinidad and Tobago, Tunisia, Turkey, Turks and Caicos Islands, United Arab Emirates, United States, Uruguay, US Virgin Islands, Vanuatu and Vietnam.

4 Australia, Brazil, Canada, Chile, China, Colombia, Costa Rica, Georgia, Iceland, India, Indonesia, Israel, Japan, Monaco, Montserrat, Norway, Saudi Arabia, Singapore, South Africa, United States.

5 Albania, American Samoa, Andorra, Anguilla, Antigua and Barbuda, Armenia, Aruba, Bahamas, Bahrain, Barbados, Belize, Bermuda, Bosnia and Herzegovina, Botswana, British Virgin Islands, Cabo Verde, Cayman Islands, China Hong Kong SAR, China Macao SAR, Cook Islands, Curaçao, Dominica, Eswatini, Faroe Islands, Fiji, Former Yugoslav Republic of Macedonia, Greenland, Grenada, Guam, Guernsey, Isle of Man, Jamaica, Jersey, Jordan, Korea Republic of, Labuan Island, Liechtenstein, Malaysia, Maldives, Marshall Islands, Mauritius, Mongolia, Montenegro, Morocco, Namibia, Nauru, New Caledonia, Niue, Oman, Palau, Panama, Peru, Qatar, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Serbia, Seychelles, Switzerland, Taiwan, Thailand, Trinidad and Tobago, Tunisia, Turkey, Turks and Caicos Islands, United Arab Emirates, Uruguay, US Virgin Islands, Vanuatu and Vietnam.

6 American Samoa, Bahrain, Barbados, Republic of Korea, United Arab Emirates, Grenada, Guam, Macao SAR, Marshall Islands, Mongolia, Namibia, Palau, Panama, Saint Lucia, Samoa, Trinidad and Tobago, Tunisia.

47<sup>7</sup> countries and the 8 countries<sup>8</sup> hit by hurricanes committed to cooperate and change their tax system, therefore they were greylisted.<sup>9</sup>

The list below offers examples of countries, divided by geographical area, in relation to the listing criteria which they were scrutinised for under the EU tax list.

AFRICA:

*Mauritius:*

- was requested to roll back the following tax regimes:<sup>10</sup>
  - Global Business Company 1: identified in 2017 and found harmful by the by the OECD FHTP. Rolled back in 2019;
  - Global Business Company 2: identified in 2017 and found harmful by the by the OECD FHTP. Rolled back in 2019;
  - Freeport Zone: identified in 2017 and found harmful by the by the OECD FHTP. Rolled back in 2018;
  - Captive Insurance: identified in 2017 and found harmful by the by the OECD FHTP. Rolled back in 2018;
  - Banks Holding a Banking Licence under the Banking Act 2004 (segment B banking): identified in 2017 and found harmful by the by the OECD FHTP. Rolled back in 2019;

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7 More specifically, the following countries were not satisfying the tax transparency criterion: Armenia; Bosnia & Herzegovina; Botswana; Cape Verde; Hong Kong SAR; Curaçao; Fiji; Former Yugoslav Republic of Macedonia; Jamaica; Jordan; Maldives; Montenegro; Morocco; New Caledonia; Oman; Peru; Qatar; Serbia; Swaziland; Taiwan; Thailand; Turkey; Viet Nam.

The following countries were not satisfying the criterion on tax regimes: Andorra; Armenia; Aruba; Belize; Botswana; Cape Verde; Cook Islands; Curaçao; Fiji; Hong Kong SAR; Jordan; Labuan Island; Liechtenstein; Malaysia; Maldives; Mauritius; Morocco; St Vincent & Grenadines; San Marino; Seychelles; Switzerland; Taiwan, Thailand, Turkey; Uruguay; Viet Nam. The following countries were not satisfying the offshore criterion: Bermuda; Cayman Islands; Guernsey; Isle of Man; Jersey; Vanuatu.

The following countries were not satisfying the OECD BEPS criterion: Albania; Armenia; Aruba; Bosnia & Herzegovina; Cape Verde; Cook Islands; Faroe Islands; Fiji; Former Yugoslav Republic of Macedonia; Greenland; Jordan; Maldives; Montenegro; Morocco; Nauru; New Caledonia; Niue; Saint Vincent & Grenadines; Serbia; Swaziland; Taiwan; Vanuatu. See European Commission website, 2017.

8 Antigua and Barbuda, Anguilla, Bahamas, British Virgin Islands, Dominica, St Kitts and Nevis, Turks and Caicos, US Virgin Islands. They were given until early 2018 to respond and until the end of 2018 to solve to the EU's concerns.

9 Albania, Andorra, Armenia, Aruba, Belize, Bermuda, Bosnia and Herzegovina, Botswana, Cabo Verde, Cayman Islands, Cook Islands, Curacao, Faroe Islands, Fiji, Greenland, Guernsey, Hong Kong, Jamaica, Jersey, Jordan, Liechtenstein, Labuan Island, Former Yugoslav Republic of Macedonia, Malaysia, Maldives, Isle of Man, Morocco, Mauritius, Montenegro, Nauru, Niue, New Caledonia, Oman, Peru, Qatar, Saint Vincent and the Grenadines, San Marino, Serbia, Seychelles, Switzerland, Swaziland, Taiwan, Thailand, Turkey, Uruguay, Vanuatu, Vietnam, Anguilla, Antigua and Barbuda, Bahamas, British Virgin Islands, Dominica, Saint Kitts and Nevis, US Virgin Islands, Turks and Caicos Islands.

10 COCG, Overview, 2023; Council Conclusions, 2017b, p. 22. See Chapter 8.

- Partial exemption system (replaces the Global Business Company 1 and 2 regimes): identified in 2018 and found harmful by the OECD FHTP. Rolled back in 2019;
- Manufacturing activities under the Freeport zone regime: identified in 2018 and found harmful by the COCG. Rolled back in 2019 .

*Namibia:*

- was requested to comply with the criteria on tax transparency and BEPS minimum standards.<sup>11</sup>
- was requested to roll back the following tax regimes:<sup>12</sup>
  - Export Processing Zones (EPZ): identified in 2017 and found harmful by the COCG. Rolled back in 2021;
  - Exporters: identified in 2017 and found harmful by the COCG. Rolled back in 2021;
  - Foreign Source Income Exemption: identified in 2019 by the COCG. Assessment was postponed as Namibia is a developing country without financial centre.

*Seychelles:*

- was requested to roll back the following tax regimes:<sup>13</sup>
  - International Business Companies: identified in 2017 and found harmful by the OECD FHTP. Rolled back in 2019 without grandfathering.
  - International Trade Zone (ITZ) (or Free Zones): identified in 2017 and found harmful by the OECD FHTP. Rolled back in 2019 (when the IP part was abolished) and in 2021 (when the regime was abolished);
  - Offshore banks (OB) (Segment 1 banking license): identified in 2017 and found harmful by the OECD FHTP. Rolled back in 2019: abolished without grandfathering;
  - Offshore insurance (or Non-domestic insurance business, Insurance of offshore risks): identified in 2017 and found harmful by the OECD FHTP. Rolled back in 2019: abolished with grandfathering ending on 30/06/2021;
  - Companies special license (CSL): identified in 2017 and found harmful by the OECD FHTP. Rolled back in 2019: abolished without grandfathering.
  - Securities Business under the Securities act: identified in 2017 and found harmful by the OECD FHTP. Rolled back in 2019: amended with grandfathering ending on 30/06/2021.
  - Fund Administration Business: identified in 2017 and found harmful by the OECD FHTP. Rolled back in 2019: amended with grandfathering ending on 30/06/2021;
  - Manufacturing activities in the International Trade Zone: identified in 2018 and found harmful by the COCG. Rolled back in 2021;<sup>14</sup>

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11 COCG Note, 2017; COCG Information, 2018, 2017b; COCG Report, 2020; Council Conclusions, 2017b, p. 15.

12 COCG, Overview, 2023; See Chapter 8.

13 COCG Overview, 2023; COCG Note, 2019; Council Conclusions, 2017b, p. 22.

14 See Chapter 8.

- Foreign Source Income Exemption: identified in 2019 and found harmful by the COCG. Rolled back in 2021: amended.<sup>15</sup>

ASIA:

*Fiji:*

- was requested to comply with the criteria on tax transparency criterion and BEPS minimum standards.<sup>16</sup>
- was requested to comply with the criterion on tax regimes (criterion 2.1) to amend or abolish the following tax regimes:<sup>17</sup>
  - Exporting Companies: identified in 2017 and found harmful by the COCG. Not rolled back;
  - Income Communication Technology (ICT) Incentive: identified in 2017 and found harmful by the COCG. Not rolled back;
  - Concessionary rate of tax for regional or global headquarters: identified in 2017 and found harmful by the COCG).

*Hong Kong:*

- was requested to comply with the tax transparency criterion.<sup>18</sup>
- was requested roll back the following tax regimes:<sup>19</sup>
  - Corporate treasury centres (CTC) (or Profits tax concession for corporate treasury centres): identified in 2017 and found harmful by the OECD FHTP. Rolled back in 2018;
  - Offshore funds: identified in 2017 and found harmful by the COCG. Rolled back in 2019;
  - Offshore Private Equity Funds: identified in 2017 and found harmful by the COCG. Rolled back in 2019;
  - Offshore Reinsurance (or Profits tax concession for professional reinsurers): identified in 2017 and found harmful by the OECD FHTP. Rolled back in 2018;
  - Offshore captive insurance (or Profits tax concession for captive insurers): identified in 2017 and found harmful by the OECD FHTP. Rolled back in 2018.
  - Foreign source income exemption regime: identified in 2019 and found harmful by the COCG. Rolled back in 2023.<sup>20</sup>

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15 See Chapter 8.

16 COCG Note, 2017; COCG Overview, 2019c, 2019d, 2019e.

17 COCG Overview, 2023.

18 Council Conclusions, 2017b, p. 20, 21, 2022e, p. 9.

19 COCG Overview, 2023.

20 See Chapter 8.

*Russia:*<sup>21</sup>

- was requested to roll back the following tax regime:<sup>22</sup>
  - International Holding Companies: identified in 2021 and found harmful by the COCG. Not yet rolled back.

*Taiwan:*

- was requested to comply with the criteria on tax transparency and BEPS minimum standards.<sup>23</sup>
- was requested to roll back the following regime:<sup>24</sup>
  - Free Trade Zone (including the International Airport Park Development regime): identified in 2017 and found harmful by the COCG.

CARIBBEAN:

*Bahamas:*<sup>25</sup>

- was requested to comply with the criteria on tax transparency and BEPS minimum standards.
- was requested to comply with the offshore criterion to introduce substance requirements for companies, CIVs, and partnerships.<sup>26</sup>

*Barbados:*<sup>27</sup>

- was requested to roll back the following tax regimes:<sup>28</sup>
  - International Business Companies: identified in 2017 and found harmful by the OECD FHTP. Rolled back in 2019;
  - International Financial Services: identified in 2017 and found harmful by the OECD FHTP. Rolled back in 2019;
  - Exempt Insurance Company: identified in 2017 and found harmful by the OECD FHTP. Rolled back in 2019;
  - Qualifying Insurance Company: identified in 2017 and found harmful by the OECD FHTP. Rolled back in 2019;
  - International Societies with Restricted Liability: identified in 2017 and found harmful by the OECD FHTP. Rolled back in 2019;
  - Shipping Regime: identified in 2017. Not harmful
  - International Trusts: identified in 2017 and found harmful by the OECD FHTP. Rolled back in 2019;

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21 Council Conclusions, 2023b, p. 7.

22 COCG Overview, 2023; Council Conclusions, 2025.

23 COCG Report, 2023b, p. 15, 2022, p. 16-17; Council Conclusions, 2017b, p. 20-22.

24 COCG Overview, 2023.

25 Council Information, 2017b; COCG, 2018b, p. 2, 3, 5; COCG Note, 2017; COCG Report, 2020c; COCG Report, 2022, p. 9, 16, 2023b, p. 15; COCG Assessment, 2019j ADD 1; COCG Overview, 2021; COCG Overview, 2021b.

26 See Chapter 8.

27 COCG Report, 2020c; COCG Report, 2023b, p. 15, 2022, p. 16-17; COCG Assessment, 2020b.

28 COCG Overview, 2023.

- Fiscal Incentives Act: identified in 2017 and found harmful by the COCG. Rolled back in 2018;
- Foreign Currency Earnings Credit (FCEC)/Credit for overseas projects or services: identified in 2017 and found harmful by the OECD FHTP and COCG. Rolled back in 2019.
- was later requested to comply with the offshore criterion by introducing substance requirements for companies, CIVs, and partnerships.<sup>29</sup>
- was requested to address the BEPS IF's recommendations with regard to the implementation of OECD CBCR standards.

*Bermuda:*

- was requested to comply with the offshore criterion by introducing substance requirements for companies, CIVs, and partnerships.<sup>30</sup>

*British Virgin Islands:*<sup>31</sup>

- was requested to comply with the offshore criterion by introducing substance requirements for companies, CIVs, and partnerships.
- was requested to address the BEPS IF's recommendations with regard to the implementation of OECD CBCR standards.

*Cayman Islands:*

- was requested to comply with the offshore criterion by introducing substance requirements for companies, CIVs, and partnerships.<sup>32</sup>

*Curacao:*<sup>33</sup>

- was requested to comply with the tax transparency criterion on AEOI and EOIR.
- was requested to roll back the following regimes:<sup>34</sup>
  - eZone: identified in 2017 and found harmful by the OECD FHTP. Rolled back in 2018;
  - Export companies (or Export facility): identified in 2017 and found harmful by the OECD FHTP. Rolled back in 2018;
  - Investment company (formerly: Tax Exempt Entity): identified in 2017 and found harmful by OECD FHTP. Rolled back in 2019;
  - Manufacturing activities under the eZone regime: identified in 2018 and found harmful by the COCG. Rolled back in 2020;<sup>35</sup>
  - Exemption of foreign income: identified in 2019 and found harmful by the COCG. Rolled back in 2020.<sup>36</sup>

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29 See Chapter 8.

30 COCG Report, 2020c. See Chapter 8.

31 COCG Report, 2020, 2023b, p. 15, 2022, p. 16-17. See Chapter 8.

32 COCG Report, 2020c. See Chapter 8.

33 COCG Note, 2017, 2019; COCG Overview, 2021, p. 15-16.

34 COCG Overview, 2023.

35 See Chapter 8.

36 See Chapter 8.

## EUROPE:

*Guernsey:*

- was requested to with the offshore criterion by introducing substance requirements for companies and partnerships.<sup>37</sup>

*Isle of Man:*

- was requested to comply with the offshore criterion by introducing substance requirements for companies and partnership.<sup>38</sup>

*Jersey:*<sup>39</sup>

- was not investigated under any transparency criteria, even if it has not enacted AEOI with Romania and Cyprus, which is in breach of the tax transparency criterion on AEOI (criterion 1.1).<sup>40</sup> Initially, the ‘two out of three’ exception was applicable, which justifies the lack of scrutiny on the AEOI issue.<sup>41</sup> However, it is unclear why the European Commission and the COCG have not started the investigation once the exception was abolished.
- was requested to comply with the offshore criterion by introducing substance requirements for companies and partnerships.<sup>42</sup>

*Turkey:*

- was required to comply with all tax transparency criteria. Despite the extension of the information exchange to almost all Member States within the one year deadline, Turkey continued to refuse exchanging information with Cyprus since the two countries do not have any diplomatic relations. From a technical perspective, this should have been sufficient to blacklist Turkey due to the unfulfilled commitment within the deadline. However, given the progress in the delivering of its commitment, and the peculiarity of the Cyprus-Turkey case, the COCG decided to keep Turkey in the greylist. It invited the country to overcome the issue and ensure effective implementation of information exchange with all Member States. This political compromise has been established since 2018. At the time of writing this thesis (2023), no progress on Turkey’s commitment has been made.<sup>43</sup>
- was requested to roll back the following regimes:<sup>44</sup>
  - Technology Development Zones: identified in 2017 and found harmful by the OECD FHTP. Rolled back in 2018.
  - Regional Headquarters (or Regional management centres): identified in 2017 and found harmful by the COCG. Rolled back in 2019.

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37 COCG Report, 2020c; Council Conclusions, 2017, p. 16; COCG Overview, 2021, p. 15-16.

38 COCG Report, 2020c; Council Conclusions, 2017, p. 16; COCG Overview, 2021, p. 15-16.

39 COCG Note, 2017; COCG Report, 2020c; COCG Overview, 2021, p. 15-16

40 Council Information, 2017b.

41 See Chapter 5.

42 See Chapter 8.

43 COCG Report, 2020; Interview MS5. See Chapter 2.

44 COCG Overview, 2023.

*Switzerland:*

- was requested to roll back the following preferential regimes:<sup>45</sup>
  - Cantonal administrative company status: identified in 2012 and found harmful by the COCG. Rolled back in 2019.
  - Cantonal mixed company status: identified in 2012 and found harmful by the COCG. Rolled back in 2019.
  - Cantonal holding company status: identified in 2012 and found harmful by the COCG. Rolled back in 2019.
  - Circular Number 8 of the Federal Tax Administration on principal structures (principal regime): identified in 2012 and found harmful by the COCG. Rolled back in 2019.
  - Practice of the Federal Tax Administration regarding finance branches: identified in 2012 and found harmful by the COCG. Rolled back in 2019.
  - Notional interest deduction: identified in 2019 and found potentially harmful (under monitoring) by the COCG.

## LATIN AMERICA:

*Costa Rica:*

- was requested to comply with the tax transparency criteria on AEOI.<sup>46</sup>
- was requested roll back the following regimes:<sup>47</sup>
  - Free Zones (or Free trade zone): identified in 2017 and found by the OECD FHTP. Rolled back in 2019.
  - Manufacturing activities under the amended Free Zones regime: identified in 2019 and found harmful by the COCG. Rolled back in 2019.<sup>48</sup>
  - Foreign source income exemption: identified in 2019 and found harmful by the COCG. Rolled back in 2023.<sup>49</sup>

*Panama:*<sup>50</sup>

- was requested to comply with tax transparency standards on EOIR.<sup>51</sup>
- was requested to roll back the following tax regime:<sup>52</sup>
  - Multinational Headquarters: identified in 2017 and found harmful by the OECD FHTP. Rolled back in 2019: amended with grandfathering rule ending on 30/06/2021.

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45 COCG Overview, 2023. See Chapter 6.

46 Council Conclusions, 2023b.

47 Council Conclusions, 2022e, p. 9; COCG Overview, 2023.

48 See Chapter 8.

49 See Chapter 8.

50 Council Information, 2017; COCG Note, 2017; COCG Information, 2018; COCG Overview, 2021; Council

Conclusions, 2025.

51 Council Conclusions, 2025.

52 COCG Overview, 2023.

- Panama-Pacifico Special Economic Area: identified in 2017 and found harmful by the OECD FHTP. Rolled back in 2019: amended with grandfathering ending on 30/06/2021.
- Foreign Owned Call Centres: identified in 2017 and found harmful by the COCG. Rolled back in 2018.
- Intellectual Property-City of Knowledge: identified in 2017 and found harmful by the OECD FHTP. Rolled back in 2019: amended without grandfathering.
- Foreign source income exemption: identified in 2019 and found harmful by the COCG. Not rolled back.

*Uruguay:*<sup>53</sup>

- was requested to roll back the following tax regime:<sup>54</sup>
  - Free zones: identified in 2017 and found harmful by the OECD FHTP. Rolled back in 2019: amended with grandfathering rule ending on 30/06/2021;
  - Shared service centre: identified in 2017 and found harmful by the OECD FHTP. Rolled back in 2018;
  - Software and biotechnology industry incentives (benefits under lit. S art. 52): identified in 2017 and found harmful by the OECD FHTP. Rolled back in 2019: amended with grandfathering rule ending on 30/06/2021;
  - Benefits under law 16,906 for biotechnology: identified in 2018 and found harmful by the OECD FHTP. Rolled back in 2019: IP part abolished, non-IP part amended. No grandfathering rule.
  - Foreign source income exemption: identified in 2019 and found harmful by the COCG. Rolled back in 2022.

## MIDDLE-EAST:

*Qatar:*

- Was requested to comply with the tax transparency criterion.<sup>55</sup>
- was requested to roll back the following tax regimes:<sup>56</sup>
  - Free zone at science and technology park: identified in 2019 and found harmful by the OECD FHTP. Rolled back in 2022;
  - Qatar Financial Centre: identified in 2019 and found harmful by the OECD FHTP. Rolled back in 2022;
  - Free zone areas: identified in 2019 and found harmful by the OECD FHTP. Rolled back in 2022.

*UAE:*

- was requested to comply with that criteria on tax transparency and BEPS minimum standards.<sup>57</sup>

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53 Council Conclusions, 2022e, p. 9; COCG Overview, 2021.

54 COCG Overview, 2023.

55 Council Conclusions, 2017.

56 COCG Overview, 2023; Council Conclusions, 2022e, p. 9.

57 Council Conclusions, 2017; COCG Information, 2017b, 2018.

- was requested to comply with the offshore criterion by implementing substance requirements for companies.<sup>58</sup>

#### NORTH AMERICA:

##### *USA:*

- was investigated under that tax transparency criterion on AEOI and to exchange information with all EU Member States.<sup>59</sup>
  - Delaware’s preferential tax regimes were identified as not harmful, while a federal preferential tax regime was under OECD FHTP review and classified as ‘amended’.<sup>60</sup>

#### PACIFIC ASIA:

##### *Australia:*

- was requested to roll back the following tax regime:
  - Offshore banking unit: identified in 2018 and found harmful by the OECD FHTP. Rolled back in 2021.<sup>61</sup>

##### *American Samoa:*

- was requested to comply with criteria on tax transparency and BEPS minimum standards.<sup>62</sup>

##### *Anguilla:*

- was requested to comply with the tax transparency criterion on EOIR.<sup>63</sup>
- was requested to comply with the offshore criterion by introducing economic substance requirements for companies and partnerships.<sup>64</sup>

##### *Belize:*

- was requested to comply with the tax transparency criterion on EOIR.<sup>65</sup>
- was requested to roll back the following tax regimes:<sup>66</sup>
  - International business company (IBC): identified in 2017 and found harmful by the OECD FHTP. Rolled back in 2019.
  - Export processing zones (EPZ) enterprises: identified in 2017 and found harmful by the COCG. Rolled back in 2019.

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58 COCG Overview, 2023.

59 COCG Note, 2017.

60 COCG Overview, 2023.

61 COCG Overview, 2023; see Chapter 3.

62 COCG Note, 2017.

63 Council Conclusions, 2020.

64 COCG Report, 2020c.

65 Council Conclusions, 2025.

66 COCG Overview, 2023; COCG Note, 2019.

- Foreign source income exemption: identified in 2019 and found harmful by the COCG. Rolled back in 2020.

*US Virgin Islands:*

- was requested to comply with criterion on AEOI and to exchange information with all EU Member States.<sup>67</sup>
- was requested to roll back the following tax regimes:<sup>68</sup>
  - Economic Development Programme: identified in 2017 and found harmful by the COCG. Not yet rolled back.
  - Exempt companies: identified in 2017 and found harmful by the COCG. Not yet rolled back.
  - International Banking Centre Regulatory Act: identified in 2017 and found harmful by the COCG. Not yet rolled back.

*Saint Lucia:*

- Was requested to comply with the BEPS minimum requirements standards.<sup>69</sup>
- was requested to amend the following tax regimes:<sup>70</sup>
  - International Business Companies (IBC): identified in 2017 and found harmful by the COCG. Rolled back in 2019;
  - International Trusts: identified in 2017 and found harmful by the COCG. Rolled back in 2019;
  - Free trade Zones: identified in 2017 and found harmful by the COCG. Rolled back in 2019;
  - International Partnership Act: identified in 2018 and found harmful by the OECD FHTP. Rolled back in 2018;
  - Foreign Source Income Exemption: identified in 2019 and found harmful by the COCG. Rolled back in 2021.

*Trinidad and Tobago:*

- was requested to comply with tax transparency standards on AEOI and EOIR, and with the BEPS minimum requirements standards.<sup>71</sup>
- was requested to roll back the following tax regimes:<sup>72</sup>
  - Free trade zone: identified in 2017 and found harmful by the COCG. Not yet rolled back.

*Grenada:*

- was requested to comply with the criteria on tax transparency and BEPS minimum standards.<sup>73</sup>

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67 COCG Note, 2017.

68 COCG Overview, 2023; Council Conclusions, 2025.

69 Council Conclusions, 2017.

70 COCG Overview, 2023.

71 Council Conclusions, 2017.

72 Council Conclusions, 2024c.

73 Council Conclusions, 2017.

- was requested to roll back the following tax regimes:<sup>74</sup>
  - International companies: identified in 2017 and found harmful by the COCG. Rolled back in 2019;
  - Offshore Banking: identified in 2017 and found harmful by the COCG. Rolled back in 2019;
  - International Insurance: identified in 2017 and found harmful by the COCG. Rolled back in 2019;
  - International trusts: identified in 2017 and found harmful by the COCG. Rolled back in 2019;
  - Fiscal incentives under various Acts: identified in 2017 and found harmful by the COCG. Rolled back in 2019.

*Maldives:*

- was requested to comply with the criteria on tax transparency and BEPS minimum standards.<sup>75</sup>
- was requested to roll back the following tax regimes:
  - Reduced tax rates on profits sourced outside Maldives: identified in 2017 and found harmful by the COCG. Rolled back in 2020.

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74 COCG Overview, 2023.

75 Council Conclusions, 2017.

## Appendix VII

### Overviews of EU Member States defensive measures

Overview of administrative defensive measures (cut-off date: 31 January 2023)<sup>1</sup>

Defensive Measures	Number of Member States applying the measure	Number of Member States that apply the measure in combination with at least one other measure
Reinforced monitoring of certain transactions	16	11
Increased auditing	19	12

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<sup>1</sup> Information extracted from COCG Report, 2023 b, Annex I, p. 18-38.

Administrative measures enacted by each Member State

Member States	Administrative Measures
AT – Austria	<p><u>Increased audit risks</u></p> <p>The measure applies to taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless the criterion for which jurisdictions are deemed non-cooperative.</p>
BE – Belgium	<p><u>Reinforced monitoring of certain transactions</u></p> <p>The measure applies to Belgian resident companies or legal entities, as well as Belgian based permanent establishments of non-resident companies, which have to report payments above EUR 100,000 (on a yearly basis) made to persons established in:</p> <ul style="list-style-type: none"> <li>- a non-cooperative jurisdiction for tax purposes according to the EU list criteria or the Belgian national list or</li> <li>- a low or not tax jurisdiction or</li> <li>- a jurisdiction which has not substantially implemented the international standards on exchange of information on request.</li> </ul>
BG – Bulgaria	<p><u>Reinforced monitoring of certain transactions</u></p> <p>The measure applies to corporate taxpayers benefiting from preferential tax regimes deemed harmful under criterion 2.1 of EU list. Taxpayers have to include in their annual tax return the following information:</p> <ul style="list-style-type: none"> <li>• Total amount of accounting revenues from transactions with persons resident in jurisdictions with a harmful preferential tax regime;</li> <li>• Total amount of accounting expenses from transactions with persons resident in jurisdictions with a harmful preferential tax regime;</li> <li>• Receivables from persons resident in jurisdictions with a harmful preferential tax regime.</li> <li>• Liabilities to persons resident in jurisdictions with a harmful preferential tax regime.</li> </ul>

<p>HR – Croatia</p>	<p><u>Increased audit risks</u></p> <p>The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless the criterion for which jurisdictions are deemed non-cooperative.</p> <p><u>Reinforced monitoring of certain transactions</u></p> <p>The measure applies to corporate taxpayers that conduct transactions with enterprises in in jurisdictions considered as non-cooperative for tax purposes regardless the criterion for which jurisdictions are deemed non-cooperative.</p>
<p>CY – Cyprus</p>	<p>None.</p>
<p>CZ – Czechia</p>	<p><u>Increased audit risks</u></p> <p>The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless the criterion for which jurisdictions are deemed non-cooperative</p> <p><u>Reinforced monitoring of certain transactions</u></p> <p>The measure applies to corporate taxpayers benefiting from preferential tax regimes deemed harmful under criterion 2.1 of EU list.</p>
<p>DK – Denmark</p>	<p><u>Reinforced monitoring of certain transactions</u></p> <p>The measure applies to all kind of taxpayers that conduct transactions with enterprises etc. in non-cooperative jurisdictions for tax purposes regardless the criterion for which jurisdictions are deemed non-cooperative.</p> <p><u>Increased audit risks</u></p> <p>The measure applies to all kind of taxpayers that conduct transactions with enterprises etc. in non-cooperative jurisdictions for tax purposes regardless the criterion for which jurisdictions are deemed non-cooperative.</p>

EE – Estonia	<p><u>Reinforced monitoring of certain transactions</u></p> <p>The measure applies to all kind of taxpayers that conduct transactions with enterprises etc. in non-cooperative jurisdictions for tax purposes regardless the criterion for which jurisdictions are deemed non-cooperative.</p>
FI – Finland	<p><u>Increased audit risks</u></p> <p>The measure applies to corporate taxpayers that conduct transactions with enterprises in non-cooperative jurisdictions for tax purposes regardless the criterion for which jurisdictions are deemed non-cooperative.</p> <p><u>Reinforced monitoring of certain transactions</u></p> <p>The measure applies to corporate taxpayers that conduct transactions with enterprises in non-cooperative jurisdictions for tax purposes regardless the criterion for which jurisdictions are deemed non-cooperative.</p>
FR – France	<p><u>Reinforced monitoring of certain transactions</u></p> <p>The measure applies to corporate taxpayers that conduct transactions with enterprises in non-cooperative jurisdictions for tax purposes regardless the criterion for which jurisdictions are deemed non-cooperative.</p>
DE – Germany	<p><u>Increased audit risks</u></p> <p>The measure applies to corporate taxpayers that conduct transactions with enterprises in non-cooperative jurisdictions for tax purposes regardless the criterion for which jurisdictions are deemed non-cooperative.</p>
EL – Greece	<p><u>Increased audit risks</u></p> <p>The measure applies to corporate taxpayers that conduct transactions with enterprises in non-cooperative jurisdictions for tax purposes regardless the criterion for which jurisdictions are deemed non-cooperative.</p>

<p>HU – Hungary</p>	<p><u>Increased audit risks</u></p> <p>The measure applies to corporate taxpayers that conduct transactions with enterprises in non-cooperative jurisdictions for tax purposes regardless the criterion for which jurisdictions are deemed non-cooperative.</p>
<p>IE – Ireland</p>	<p><u>Increased audit risks</u></p> <p>The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless the criterion for which jurisdictions are deemed non-cooperative. Corporate taxpayers must declare Interest, Royalties or Dividends with persons in a non-cooperative jurisdiction for tax purposes.</p> <p><u>Reinforced monitoring of certain transactions</u></p> <p>The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless of the criterion for which jurisdictions are deemed non-cooperative.</p>
<p>IT – Italy</p>	<p><u>Increased tax audit risks</u></p> <p>The measure applies to multinational enterprises that put in place transactions with non-cooperative jurisdictions for tax purposes.</p>
<p>LV – Latvia</p>	<p><u>Reinforced monitoring of certain transactions</u></p> <p>The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless of the criterion for which jurisdictions are deemed non-cooperative.</p>
<p>LT – Lithuania</p>	<p><u>Increased audit risks</u></p> <p>The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless the criterion for which jurisdictions are deemed non-cooperative.<sup>37</sup></p>

<sup>37</sup> This measure does not apply specifically to jurisdiction listed as non-cooperative according to the EU listing criteria but have broader application according to Lithuania's domestic tax policy.

LU – Luxembourg	<p><u>Increased audit risks</u></p> <p>The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless of the criterion for which jurisdictions are deemed non-cooperative.</p> <p><u>Reinforced monitoring of certain transactions</u></p> <p>The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless of the criterion for which jurisdictions are deemed non-cooperative.</p>
MT – Malta	<p><u>Increased audit risks</u></p> <p>The measure applies to corporate taxpayers that conduct transactions or have a link with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless of the criterion for which jurisdictions are deemed non-cooperative.</p> <p><u>Reinforced monitoring of certain transactions</u></p> <p>The measure applies to corporate taxpayers that conduct transactions or have a link with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless of the criterion for which jurisdictions are deemed non-cooperative.</p>
NL – Netherlands	<p><u>Increased audit risks</u></p> <p>The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless of the criterion for which jurisdictions are deemed non-cooperative.</p>
PL – Poland	<p><u>Increased audit risks</u></p> <p>The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless of the criterion for which jurisdictions are deemed non-cooperative.</p>

<p>PT – Portugal</p>	<p><u>Increased audit risks</u></p> <p>The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless of the criterion for which jurisdictions are deemed non-cooperative.<sup>38</sup></p>
<p>RO – Romania</p>	<p><u>Increased audit risks</u></p> <p>The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless of the criterion for which jurisdictions are deemed non-cooperative.</p>
<p>SK – Slovak Republic</p>	<p><u>Increased audit risks</u></p> <p>The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless the criterion for which jurisdictions are deemed non-cooperative.</p> <p><u>Reinforced monitoring of certain transactions</u></p> <p>The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless of the criterion for which jurisdictions are deemed non-cooperative.</p>
<p>SI – Slovenia</p>	<p><u>Increased audit risks</u></p> <p>The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless of the criterion for which jurisdictions are deemed non-cooperative.</p> <p><u>Reinforced monitoring of certain transactions</u></p> <p>The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless of the criterion for which jurisdictions are deemed non-cooperative.<sup>39</sup></p>

<sup>38</sup> This measure does not apply specifically to jurisdiction listed as non-cooperative according to the EU listing criteria but have broader application according to Portugal’s domestic tax policy.

<sup>39</sup> This measure does not apply specifically to jurisdiction listed as non-cooperative according to the EU listing criteria but have broader application according to Slovenia’s domestic tax policy.

ES – Spain	<p><u>Increased audit risks</u></p> <p>The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless of the criterion for which jurisdictions are deemed non-cooperative.</p> <p><u>Reinforced monitoring of certain transactions</u></p> <p>The measure applies to transactions of securities for which the issuing entity is resident, established or the securities are negotiated in a non-cooperative jurisdiction, regardless the criterion for which jurisdictions are deemed non-cooperative.</p>
SE – Sweden	<p><u>Increased audit risks</u></p> <p>The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless of the criterion for which jurisdictions are deemed non-cooperative and jurisdictions in Annex II.</p> <p><u>Reinforced monitoring of certain transactions</u></p> <p>The measure applies to corporate taxpayers that conduct transactions with enterprises in jurisdictions considered as non-cooperative for tax purposes regardless of the criterion for which jurisdictions are deemed non-cooperative and jurisdictions in Annex II.</p>

Overview of legislative defensive measures (cut-off date: 31 January 2023)

Out of 27 Member states:

- 17 have chosen to implement CFC rules;
- 16 have chosen to implement a non-deductibility of costs;
- 14 have chosen to implement a withholding tax;
- 11 have chosen to implement a limitation to the participation exemption.

Overview of legislative defensive measures enacted by each Member State (cut-off date: 31 January 2023)

Member State	Defensive Measures
AT – Austria	<p><u>CFC rules apply to jurisdictions listed in Annex I.</u></p> <p>The Austrian CFC rules apply by presuming that the threshold of Article 7(1) of ATAD on the level of corporate income tax abroad is met if a company is established in listed jurisdictions. The assessment takes place on a financial-year-base, i.e. if the foreign corporation's jurisdiction of residence is listed on the financial year's balance sheet day, the foreign entity will be deemed being low taxed for that particular financial year with respect to the Austrian CFC.</p>
BE – Belgium	<p><u>Non-deductibility of costs, CFC rules and limitation of participation exemption on profit distribution apply to jurisdictions in Annex I.</u></p> <p>The non-deductibility of certain payments (Article 198, 10° BITC 92) is linked to the obligation to report certain foreign payments (Article 307, §1/2 BITC 92). Costs that are in principle deductible for the taxpayer will be refused if the Belgian taxpayer fails to report the payments or if the payments are reported but the taxpayer fails to prove that the payments were done in the framework of actual and sincere transactions carried out with a person other than (an) artificial construction(s). In those cases, the payment will not be tax deductible. The possibility of counterevidence by the taxpayer can be proven by all legal means.</p> <p>The Belgian CFC rules apply by presuming that the threshold of Article 7(1) of ATAD on the ownership control, level of corporate income tax abroad are met in all cases for companies established in listed jurisdictions.</p> <p>The Belgian participation exemption rules do not apply to dividends from companies in listed jurisdictions. No counter-evidence possible for the taxpayer.</p>

BG – Bulgaria	<p><u>Non-deductibility of cost and withholding taxes apply to jurisdictions listed in Annex I</u></p> <p>The non-deductibility of costs applies to any expenses on interest payments charged (unless the conditions of the loan are agreed in conformity with requirements provided for in a statutory instrument) where at least three of the following conditions are fulfilled:</p> <ul style="list-style-type: none"> <li>- the loan exceeds the owners' equity of the payer of the income at the 31st day of December of the last preceding year;</li> <li>- the repayment of the loan or the payment of interest thereon is not limited by a fixed period;</li> <li>- the repayment of the loan or the payment of interest thereon depends on the existence or on the amount of profits accruing to the payer of the income;</li> <li>- the repayment of the loan depends on satisfaction of the claims of other creditors or on the payment of dividends.</li> </ul> <p>A withholding tax applies at the rate of 5% applies to dividends and boni to companies in listed jurisdictions. A withholding tax at the rate of 10% applies to all other payments.</p>
HR – Croatia	<p><u>CFC rules and a withholding tax apply to jurisdictions listed in Annex I</u></p> <p>The Croatian CFC rules apply by denying the waivers in Article 7(3) of ATAD in relation to turnover threshold and non-trading income threshold.</p> <p>A withholding tax measure applies to all services and fees (listed in the article 31 of the Profit tax act) paid to persons having their headquarters or place of effective management, or supervision of business in listed jurisdictions. The measure does not apply if a double taxation treaty is in force. The withholding tax rate is 20%.</p>
CY – Cyprus	<p><u>A withholding tax applies to jurisdictions listed in Annex I.</u></p> <p>A withholding tax applies to dividends (17%), interests (30%) and royalties (10%) paid to companies resident in listed jurisdictions.</p>

<p>CZ – Czechia</p>	<p><u>CFC rules apply to jurisdictions listed in Annex I.</u></p> <p>The Czech CFC rules apply by denying eligibility for the economic substance safeguard and presuming presume that the thresholds of Article 7(1) of ATAD on the level of corporate income tax abroad is met for companies established in listed jurisdictions.</p>
<p>DK – Denmark</p>	<p><u>Non-deductibility of costs and withholding tax measures apply to jurisdictions listed in Annex I</u></p> <p>Non-deductibility of costs applies to all payments to related parties established in listed jurisdictions.</p> <p>Withholding tax measures applies to all dividend payments where the shareholder is tax resident or registered in a listed jurisdiction and the shares qualify as “main shareholder shares”, “subsidiary shares” or “group shares”. The tax rate is 44%.</p>
<p>EE – Estonia</p>	<p><u>Non-deductibility of costs, a withholding tax and Limitation of participation exemption of profit distributions apply to jurisdictions listed in Annex I.</u></p> <p>The non-deductibility of costs applies to the following costs linked to listed jurisdictions:</p> <ul style="list-style-type: none"> <li>- acquisition of securities issued by a legal person located in a listed jurisdiction unless such securities meet the requirements provided for in subsection 107 (1) of the Investment Funds Act;</li> <li>- acquisition of a holding in a legal person located in a listed jurisdiction;</li> </ul> <p>payment of a fine for delay or a contractual penalty, or extra-judicial compensation for damage, to a legal person located in a listed jurisdiction;</p> <ul style="list-style-type: none"> <li>- grant of a loan or making of an advance payment to a legal person located in a listed jurisdiction or acquisition of a right of claim against a legal person located in a listed jurisdiction in any other manner;</li> <li>- in case of resident credit institutions, losses sustained by a credit institution when it transfers a right of claim or waives the collection of a right of claim (including loans granted and advance payments made) acquired against a legal person located in a listed jurisdiction.</li> </ul> <p>A withholding tax applies to payments to legal persons located in listed</p>

	<p>jurisdictions in relation to services provided to an Estonian resident. The withholding tax rate is 20%.</p> <p>The participation exemption of profit distributions under Estonian law does not apply if a legal person distributing profits is located in a listed jurisdiction.</p>
FI – Finland	<p><u>CFC rules apply to jurisdictions listed in Annex I.</u></p> <p>The Finnish CFC rules apply by denying eligibility for the economic substance safeguard if a company is established in listed jurisdictions.</p>
FR – France	<p><u>CFC rules, non-deductibility of costs, limitation of participation exemption and a withholding tax applies to jurisdictions listed in Annex I.</u></p> <p>The non-deductibility of costs applies to payments such as interests, deposits, guarantees, debts, royalties for the transfer or concession of operating licenses, patents, trademarks, remuneration for services of any kind (salaries, fees, commissions, etc.) as well as any payment made to an account held in a financial institution established in listed jurisdictions.</p> <p>A withholding tax applies to payments such as dividends, royalties, capital gains, income distributed to non-resident individuals or legal entities (in particular income from shares and directors' fees) when these payments are made to jurisdictions listed in Annex I in relation to criterion 2.2. The withholding tax rate is 75%.</p> <p>The French participation exemption rules do not apply for income received from listed jurisdictions, such as dividends, interests and royalties.</p>
DE – Germany	<p><u>Non-deductibility of costs, CFC rules, withholding taxes, and limitation of participation exemption on profit distribution apply to jurisdictions listed in Annex I based on a number of conditions.</u></p> <p>Non-deductibility applies to all costs in relations to companies resident in listed jurisdictions.</p> <p>The German CFC rules apply by denying the waivers and safeguards introduced according to the ATAD directive.</p> <p>A withholding tax applies to income from financing relationships, insurance and reinsurance services, from the provision of other services or from trading of goods, if such income is not taxable under the</p>

	<p>existing German rules of non-residents companies in so far as the remunerations constituting the income are deductible as business expenditure or income-related expenses by a resident taxpayer. The withholding tax rate is 15%</p> <p>The German participation exemption rules do not apply to income deriving from dividends and sale of shares from companies resident in listed jurisdictions.</p> <p>These measures do not apply cumulatively. CFC rules apply only to the extent that the rules on limitation of profit distributions do not apply. The limitation on participation exemption does not apply if a company resident in listed jurisdiction provides evidence that it has been subject to a withholding tax in that jurisdiction. The non-deductibility of costs applies only if the withholding tax does not apply</p> <p>The non-deductibility of costs and the limitation of profit distribution apply only after a jurisdiction features on Annex I for three or two years, respectively.</p>
EL – Greece	<p><u>Non-deductibility of costs applies to jurisdiction listed in Annex I.</u></p> <p>The non-deductibility of costs applies to all expenses paid to an individual or legal entity which is tax resident in a listed jurisdiction. The taxpayer can demonstrate that these expenses concern real and ordinary transactions and do not result to the transfer of profits or income or capital for the purpose of tax avoidance or tax evasion. The expenditures reformation will take place at the very time the jurisdiction is listed or delisted (i.e. amending the tax return).</p>
HU – Hungary	<p><u>CFC rules apply to jurisdictions listed in Annex I.</u></p> <p>The Hungarian CFC rules apply by denying the waivers in Article 7(3) and (4) of ATAD in relation to low profit margin and the turnover threshold if a company is established in listed jurisdictions.</p>
IE – Ireland	<p><u>CFC rules apply to jurisdictions listed in Annex I.</u></p> <p>The Irish CFC rules apply by denying the exemption based on the corporate income tax level of the CFC and the waivers in Article 7(4) of ATAD in relation to low profit margin and low accounting profit when a subsidiary of an Irish group is in a listed jurisdiction.</p>

IT – Italy	<p><u>Non-deductibility of costs applies to jurisdiction listed in Annex I.</u></p> <p>The measure applies to all expenses paid to an individual or legal entity which is tax resident in a listed jurisdiction. Taxpayers may rebut the presumption by provide evidence that these transactions have been actually carried out and that there is an underlying reasonable economic rationale.</p>
LV – Latvia	<p><u>CFC rules, non-reduction of tax base, withholding taxes, and limitation of participation exemption apply to jurisdictions listed in Annex I.</u></p> <p>The Latvian CFC rules apply by denying the waiver in Article 7(4)(a) of ATAD on in relation to the companies' turnover.</p> <p>Limitation to reduce an amount of dividends that are included in taxpayers tax base by the amount of income obtained from the alienation of stocks of a person who is located, set up or established in a listed jurisdiction. In addition, any transaction with a person located or established in jurisdictions listed in Annex I shall be considered as a transaction with a related party.</p> <p>A withholding tax applies to payments and dividends paid to a company located in listed countries. The withholding tax rate is 20%.</p> <p>The limitation of participation exemption applies by including income from dividends in the tax base of the Latvia-resident companies, if the payment is made by a company located in a listed jurisdiction.</p>
LT – Lithuania	<p><u>Non-deductibility of costs, CFC rules, withholding tax measures and limitation of participation exemption apply to companies registered or otherwise organized in the target jurisdictions according to the definition provided in the Lithuanian legislation. The target jurisdictions correspond to the jurisdictions currently listed in Annex I.</u></p> <p>Non-deductibility of cost applies to payments made to foreign entities registered or otherwise organized in target territories, unless the taxpayer provides evidence that such payments are related to the usual activities of both parties or the receiving foreign entity controls the assets needed to perform such usual activities, or there is a link between the payment and a genuine economic operation. The measures apply to costs included in allowable deductions 18 months before the goods actually received from or the services actually provided by entities registered or otherwise organized in target territories.</p> <p>The Lithuanian CFC rules apply by presuming that the threshold of</p>

	<p>Article 7(1) of ATAD in relation to the level of corporate income tax abroad is met, denying the waiver IN Article 7(4) in relation to non-trading income and denying eligibility for the economic substance safeguard.</p> <p>Withholding taxes apply to interests, dividends and royalties paid to foreign entities registered or otherwise organized in target territories. The withholding CIT rate for dividends is 15%; on interest and royalties is 10%.</p> <p>The Lithuanian participation exemption does not apply to dividends paid by a Lithuanian entity to a foreign entity registered or otherwise organized in target territories.</p>
LU – Luxembourg	<p><u>Non-deductibility of costs applies to jurisdictions listed in Annex I.</u></p> <p>The non-deductibility of costs relates to interests and royalties paid from companies established in Luxembourg to associated companies established in listed jurisdictions.</p>
MT – Malta	<p><u>Limitation of participation exemption on profit distribution applies to jurisdictions listed in Annex I</u></p> <p>The Maltese participation exemption does not apply to dividends received by a Maltese entity from entities in listed jurisdictions.</p>
NL – Netherlands	<p><u>CFC rules and a withholding tax apply to jurisdictions listed in Annex I</u></p> <p>The CFC rules apply according to Model A as set forth by the EU Anti-Tax avoidance directive apply, as opposed to the Dutch general CFC rules, which follow model B.</p> <p>A withholding tax on royalties and interest on payments to listed jurisdictions applies. The withholding tax rate is 25%.</p>
PL – Poland	<p><u>CFC rules apply to jurisdictions listed in Annex I.</u></p> <p>The Polish CFC rules apply by denying eligibility for the economic substance safeguard, the threshold on control requirement and the waivers in Article 7(3) and (4) in relation to low profit margin, low accounting profit, turnover threshold and non-trading income threshold.</p>

PT – Portugal	<p><u>Non-deductibility of costs, CFC rules, withholding tax measures and limitation of participation exemption on profit distribution apply to jurisdiction in the Portuguese national list. These jurisdictions include the jurisdictions currently listed in Annex I</u></p> <p>Non-deductibility of costs applies to all the amounts paid, or due, to non-resident individuals or companies that are resident or established in a jurisdiction listed in the Portuguese national list or paid, as well as to amounts whose payment is made to accounts opened with financial institutions resident or domiciled in a listed jurisdiction. The taxpayer can demonstrate that such charges correspond to transactions actually carried out and that they are not abnormal in character or have an exaggerated amount.</p> <p>A withholding tax applies at the rate of 25% to income paid to non-residents without a permanent establishment in Portugal. A higher rate (35%) applies to investment income. Investment income comprises, inter alia, dividends, interest, income from investment fund units, income from interest-rate swaps, royalties (whenever the beneficial owner is not the author or the original holder), income from the use or concession of the use of agricultural and industrial, commercial or scientific equipment.</p>
RO – Romania	<p><u>Non-deductibility of costs applies to jurisdictions listed in Annex I.</u></p> <p>The non-deductibility of costs applies to all cost otherwise deductible according to Romanian legislation from the date in which a jurisdiction is listed. Specific rules apply if the expenses are incurred as a result of transactions that are deemed not to have an economic purpose.</p>
SK – Slovak Republic	<p><u>Non-deductibility of costs, a withholding tax and limitation of participation exemption on profit distribution apply to jurisdictions listed in Annex I.</u></p> <p>The non-deductibility of costs (in force) applies to any payments to a taxpayer from listed jurisdictions that would be otherwise deductible under Slovak legislation. The costs may be deductible only after the payment has been made.</p> <p>A withholding tax applies to any payment made to companies in listed jurisdictions. The withholding tax rate is 35%.</p> <p>The Slovak participation exemption rules do not apply to dividends derived from companies in listed jurisdictions. The dividends are taxed by applying a higher tax rate (35 %).</p>

SI – Slovenia	<p><u>CFC rules, non-deductibility of costs, withholding tax and limitation of participation exemption on profit distribution apply to jurisdictions listed in Annex I.</u></p> <p>The Slovenian CFC rules apply by denying eligibility for the economic substance safeguard and the waiver in Article 7(3) of ATAD in relation to low accounting profit in connection to certain categories of income.</p> <p>A 15% withholding tax also applies on interest payments by banks and on payments for certain services.</p>
ES – Spain	<p><u>Non-deductibility of costs, CFC rules, withholding taxes and limitation of participation exemption to profit distributions apply to jurisdictions included in the Spanish national list. These jurisdictions include almost all jurisdictions the jurisdictions currently listed in Annex I.</u></p> <p>The non-deductibility of costs relates to operations carried out directly or indirectly with natural persons or companies or through natural persons or entities resident in listed jurisdictions.</p> <p>The Spanish CFC rules apply to listed jurisdictions.</p> <p>Withholding taxes apply to the following income:</p> <ul style="list-style-type: none"> <li>- interests obtained through listed jurisdictions.</li> <li>- capital gains obtained through listed jurisdictions.</li> <li>- income derived from alienation or reimbursement of shares in investment funds, provided they are obtained through listed jurisdictions.</li> </ul> <p>The withholding taxes apply by disallowing the exemptions foreseen under the Non-Resident Income Tax Act. The withholding tax rates are 19%.</p> <p>The Spanish participation exemption rules on profit distribution is denied for Spanish resident and non-resident companies in case profits are distributed by entities which are tax resident in listed jurisdictions.</p>
SE – Sweden	<p><u>Non-deductibility of costs applies to jurisdictions listed in Annex I. In specific situations, the CFC rules apply as a backstop.</u></p> <p>Non-deductibility of costs applies to interest on both intra-group and external loans in listed jurisdictions. When a double tax treaty is in force with listed jurisdictions, the general Swedish CFC rules apply.</p>

Member States	Adm. in Place	Leg. in Place	Non-Deduct. of Costs	CFC rules	Participation Exemption	WHT	Others
Austria	X	X		X			
Belgium	X	X	X	X	X		X
Bulgaria	X	X	X		X	X	
Croatia	X	X		X		X	
Cyprus		X				X	
Czech Republic	X	X		X			
Denmark	X	X	X			X	
Estonia	X	X	X	?*	X	X	
Finland	X	X		X			
France	X	X	X	X	X	X	X
Germany	X	X	X	X	X	X	
Greece	X	X	X				X
Hungary	X	X		X			
Ireland	X	X		X			
Italy	X	X	X				
Latvia	X	X		X	X	X	
Lithuania	X	X	X	X	X	X	
Luxembourg	X	X	X				
Malta	X	X			X		
Netherlands	X	X		X		X	
Poland	X	X	?***	X			?***
Portugal	X*	X*	X	X	X	X	
Romania	X	X	X				
Slovak Republic	X	X	X	?**	X	X	
Slovenia	X	X	X	X	X	X	
Spain	X	X**	X	X	X	X	X
Sweden	X	X	X	X			

\* Legislation is in place vis-à-vis jurisdictions defined according to the national listing process, which includes almost all jurisdictions listed in Annex I.

\*\* Legislation is in place vis-à-vis jurisdictions defined according to the national listing process, which includes almost all jurisdictions listed in Annex I. A revised national list is due to be adopted in 2023 taking into account, inter alia, the EU list criteria.

*Information added by this dissertation:*

*?\*: Although the COCG Report on which this Appendix is based (COCG Report, 2023 b, Annex I) reports no CFC rule used as defensive measure in Estonia, it results that the CFC rules was connected to the EU tax list in 2021 (Estonian Income Tax Act, 1999, art. 22 (as amended in 2021 by RT I, 26.03.2021));*

*?\*\*\*: Although the COCG Report on which this Appendix is based (COCG Report, 2023 b, Annex I) reports no CFC rule used as defensive measure in Slovak Republic, current research refers to a link between the Slovakian CFC rules for individuals and the EU tax list (Kačaljak et al., 2020; Adriaans et al., 2021).*

*?\*\*\*: Although the COCG Report on which this Appendix is based (COCG Report, 2023 b, Annex I) reports no limitation of expenses deductions and no additional measures used in Poland as defensive measures, literature (Adriaans et al., 2021, 356-357) reports that Poland denies at least interest deductions and transfer pricing safe harbours in connection to the EU tax list.*



## Appendix VIII

### COCG's pseudo-case law on the offshore criterion and the tax-regimes criterion (FSIE regimes and manufacturing regimes)

Table A1: COCG's pseudo-case law on the offshore criterion (criterion 2.2)<sup>1</sup>

Case no.	Country and type of low-tax system	COCG/OECD FHTP assessment	Rollback
A/1	Barbados – 1 percent corporate tax rate	COCG: Harmful (2019) OECD: Harmful (2020); not harmful (2021)	2020
A/2	Bermuda – no corporate tax	COCG: Harmful (2017); not harmful (2019) OECD: Harmful (2020); not harmful (2021)	2019; 2022 (OECD FHTP)
A/3	Jersey – zero percent corporate tax rate (except for financial services and specified utility companies and rental income and property development profits from Jersey)	COCG: Harmful (2017); not harmful (2019) OECD: Not harmful (2020; 2021)	2019
A/4	The Bahamas – no corporate tax	COCG: Harmful (2017) OECD: Harmful (2020; 2021)	2019
A/5	The BVI – zero percent corporate tax rate	COCG: Harmful (2017; 2019) OECD: Not harmful (2020; 2021)	2019; 2020
A/6	The Cayman Islands – no corporate tax	COCG: Harmful (2017; 2019) OECD: Not harmful (2020; 2021)	2019
A/7	The UAE – no federal corporate tax	COCG: Harmful (2018); not harmful (2019) OECD: Not harmful (2020; 2021)	2019

<sup>1</sup> COCG Overview, 2023, p. 24-26.

Table A2: COCG's pseudo-case law on the offshore criterion (criterion 2.2) in non-EU countries not analysed in the dissertation<sup>2</sup>

Case no.	Country and type of low-tax system	COCG/OECD FHTP assessment	Rollback
A/8	Anguilla	COCG: Harmful (2017) OECD: Harmful (2020; 2021)	2019
A/9	Bahrain	COCG: Harmful (2017); not harmful (2019) OECD: Not harmful (2020; 2021)	2019
A/10	Guernsey	COCG: Harmful (2017); not harmful (2019) OECD: Not harmful (2020; 2021)	2019
A/11	Isle of Man	COCG: Harmful (2017); not harmful (2019) OECD: Not harmful (2020; 2021)	2019
A/12	Marshall Islands	COCG: Harmful (2017; 2021); not harmful (2020); harmful (2021)	2019
A/13	Turks and Caicos Islands	COCG: Harmful (2017); not harmful (2019) OECD: Harmful (2020; 2021)	2019
A/14	Vanuatu	COCG: Harmful (2017)	–

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2 COCG Overview, 2023, p. 24-26.

Table B: COCG's pseudo-case law on the tax-regimes criterion (criterion 2.1): FSIE regimes and manufacturing regimes

## B1: FSIE regimes

Case no.	Country and tax regime	Year of implementation	COCG's assessment (year)	Rollback (year)
B/1	Costa Rica – Territorial Regime/FSIE regime	1988	Harmful (2021) (COCG Assessment, 2021b)	Amended 2023 (COCG Report, 2023c)
B/2	Curaçao – FSIE Regime	2018/2019	Harmful (2019) (COCG Note, 2019; COCG Report, 2019; COCG Assessment, 2020d)	Amended 2020 (COCG Assessment, 2020d)
B/3	Hong Kong – Territorial Regime/FSIE regime	1940	Harmful (2021) (COCG Assessment, 2021c)	Amended 2023 (COCG Report, 2024b)
B/4	Mauritius – Partial Exemption Regime	2018	Harmful (2018) (COCG Note, 2019; COCG Report, 2019; COCG Assessment, 2019l)	Amended 2019 (COCG Assessment, 2019l)
B/5	Namibia – Territorial Regime	Unclear	Assessment postponed (COCG Report, 2019f; COCG Overview, 2023)	–
B/6	Panama – Territorial Regime	Unclear	Harmful (2021) (COCG Assessment, 2021d)	No rollback (COCG Assessment, 2021d)
B/7	Seychelles – Territorial regime	2018/2019	Harmful (2019) (COCG Note, 2019; COCG Report, 2019)	Amended (2021) (COCG Assessment, 2021)
B/8	Uruguay – Territorial Regime	Unclear	Harmful (2021) (COCG Assessment, 2021e)	Amended (2022) (doc. 6429/23)

*B1a: FSIE regimes in non-EU countries not analysed in the dissertation<sup>3</sup>*

<b>Case no.</b>	<b>Country and tax regime</b>	<b>COCG's assessment (year)</b>	<b>Rollback (year)</b>
B/9	Botswana	Out of scope (2019)	–
B/10	Saint Lucia	Harmful (2019)	2021
B/11	Maldives	Repealed during screening phase	–
B/12	Malaysia and Labuan Island	Harmful (2019)	–
B/13	Nauru	Amended during screening phase	–
B/14	Qatar	Harmful (2019)	–
B/15	Singapore	Not harmful (2019)	–
B/16	Singapore – Capital gains under the Foreign source income exemption regime	2022	–
B/17	Eswatini	Assessment postponed (2019)	–
B/18	Belize	Harmful (2019)	2020

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3 COCG Overview, 2023.

*B2: Manufacturing regimes*

Case no.	Country and tax regime	Year of implementation	COCG's assessment (year)	Rollback (year)
C/1	Costa Rica – Manufacturing activities under the amended Free Zones regime	1990	Harmful (2018) (COCG Assessment, 2019n)	Amended (2019) (COCG Assessment, 2019e)
C/2	Curaçao – Manufacturing activities under the eZone regime	Unclear	Harmful (2018) (COCG Report, 2018e; COCG Assessment, 2020g, Annex I)	Abolished (2019) (COCG Assessment, 2020g)
C/3	Mauritius – Manufacturing activities under the Freeport zone regime	2018	Harmful (2018) (COCG Report, 2018b; COCG Assessment, 2019o, Annex I)	Abolished (2019) (COCG Assessment, 2019o)
C/4	Namibia – Export Processing Zones (EPZ)	1996	Harmful (2018) (doc. 6671/18; COCG Assessment, 2021e)	Abolished (2020) (COCG Assessment, 2021f)
C/5	Namibia – Exporters	Unclear	Harmful (2018) (doc. 6671/18; COCG Assessment, 2021e)	Abolished (2020) (COCG Assessment, 2021f)
C/6	Seychelles – Manufacturing activities in the International Trade Zone	2017	Harmful (2018) (COCG Report, 2018b)	Abolished (2021) (COCG Assessment, 2021)

*B2a: Manufacturing regimes in non-EU countries not analysed in the dissertation<sup>4</sup>*

Case no.	Country and tax regime	COCG's assessment (year)	Rollback (year)
C/7	Malaysia and Labuan Island – Manufacturing activities under the Pioneer status regime (high technology)"	Not harmful (2019)	–
C/8	Tunisia – Export promotion incentives	Harmful (2017)	Abolished (2019)
C/9	Vietnam – Export Processing Zone	Not harmful (2017)	–
C/10	Brazil – Export Processing Zone	Not harmful (2017)	–
C/11	Belize – Export processing zones (EPZ) enterprises	Harmful (2017)	Amended (2019)
C/12	Fiji – Exporting Companies	Harmful (2017)	–
C/13	Grenada – Export Processing regime	Harmful (2017); not harmful (2019)	–
C/14	Morocco – Free Trade Zones regime	Harmful (2017)	Amended (2020)

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4 COCG Overview, 2023. The table includes COCG's assessment of manufacturing regimes or tax regimes including manufacturing activities.

Table C: Summary of the main issues identified by the COCG, per country, among the selected non-EU jurisdictions in Chapter 8, subsection 8.2

Case no.	Country	<i>De jure</i> ring-fencing	<i>De facto</i> ring-fencing	Economic substance requirements	Alignment with international principles	(Administrative) Transparency
A/1	Barbados – 1 percent corporate tax rate	–	–	?*	–	–
A/2	Bermuda – no corporate tax	–	–	?*	?*	–
A/3	Jersey – zero percent corporate tax rate (except for financial services and specified utility companies and rental income and property development profits from Jersey)	–	–	?*	–	–
A/4	The Bahamas – no corporate tax	V	V	?*	?*	–
A/5	The BVI – zero percent corporate tax rate	?*	?*	?*	–	–
A/6	The Cayman Islands – no corporate tax	V	V	?*	?*	–
A/7	The UAE – no federal corporate tax	–	–	V	?*	–

?\* = Undetermined V = Harmful; - = Not harmful

Table D: Summary of the main issues identified by the COCG, per country, among the selected non-EU jurisdictions in Chapter 8, subsection 8.3

D1: FSIE regimes

Case n.	Country	<i>De jure</i> ring-fencing	<i>De facto</i> ring-fencing	Economic substance requirements	Alignment with international principles	(Administrative) Transparency
B/1	Costa Rica	V	?*	V	V	V
B/2	Curaçao	V	?*	V	-	-
B/3	Hong Kong	V	V	V	-	-
B/4	Mauritius	-	-	V	-	-
B/5	Namibia	Assessment postponed	Assessment postponed	Assessment postponed	Assessment postponed	Assessment postponed
B/6	Panama	V	?*	V	V	-
B/7	Seychelles	V	?*	V	-	-
B/8	Uruguay	V	?*	V	-	-

?\* = Undetermined V = Harmful; - = Not harmful

## D2: Manufacturing regimes

Case n.	Country	<i>De jure</i> ring-fencing	<i>De facto</i> ring-fencing	Economic substance requirements	Alignment with international principles	(Administrative) Transparency
C/1	Costa Rica	V	?*	-	-	-
C/2	Curaçao	V	V	-	-	-
C/3	Mauritius	V	?*	V	-	-
C/4	Namibia	-	-	-	-	-
C/5	Namibia	-	V	?*	-	-
C/6	Seychelles	V	?*	V	-	-

?\* = Undetermined V = Harmful; - = Not harmful

*Table E: Compliance behaviour of non-EU countries analysed in Chapter 8*

<b>Compliance behaviour</b>	<b>Countries</b>
Apparent compliance	Cayman Islands, BVI, Bermuda, Barbados, Bahamas, UAE, Curaçao, Mauritius, Seychelles
Minimum compliance	Cayman Islands, Barbados, BVI, Bermuda, Bahamas, UAE, Jersey.
Reluctant compliance	Barbados, UAE, Uruguay, Namibia, Curaçao, Seychelles, Mauritius
Preventive compliance	Barbados, the BVI, Curaçao

## Curriculum vitae

Federica was born in 1995. She started her PhD track at the Law School of Leiden University in 2021. Prior to that, she graduated in Law at the University of Bologna, Italy (2018-2019; *cum Laude*) and in International Business Taxation at Tilburg University, the Netherlands (2018-2019, *cum Laude*).

During her university studies, Federica pursued legal internships in Bologna (Italy) and London (UK). During her PhD, she pursued training in empirical methodology, she presented her PhD research in various international and national academic conferences and non-academic events. She pursued an internship period at the European Commission where she worked on various matters concerning anti-money laundering.

Currently, Federica is Assistant Professor in Tax Law at the University of Leeds, School of Law (UK).



In the range of books published by the Meijers Research Institute and Graduate School of Leiden Law School, Leiden University, the following titles were published in 2024-2025:

- MI-420 D. Stefoudi, *Legal and policy aspects of space big data. Legal implications of the use of large amounts of space data – Regulatory solutions and policy recommendations* (diss. Leiden), Amsterdam: Ipskamp Printing 2024, ISBN 978 94 6473 479 9
- MI-421 S. Pouloupoulou, *Towards the establishment of a new International Humanitarian Law compliance mechanism. Lessons learned from monitoring systems within the International Humanitarian and Human Rights Law frameworks*, (diss. Leiden), Amsterdam: Ipskamp Printing 2024
- MI-422 M. Aalbers, *De werking van algemene belangenafwegingen in het Europese staatssteunrecht. Tussen verbod en verenigbaarheid?*, (diss. Leiden), Amsterdam: Ipskamp Printing 2024
- MI-423 J.M. Elbers, *Reward Systems in Prison*, (diss. Leiden), Alblasterdam: Ridderprint 2024
- MI-424 Z. Tian, *Legal Aspects of Active Debris Removal (ADR): Regulation of ADR under International Space Law and the Way Forward for Legal Development*, (diss. Leiden), Amsterdam: Ipskamp Printing 2024
- MI-425 J.P. Crossen, *Wisselwerking tussen gemeen en bijzonder materieel strafrecht. Een analyse en waardering in het licht van de beginselen van codificatie, schuld en legaliteit*, (diss. Leiden), Den Haag: Boom juridisch 2024, ISBN 978 94 6212 967 2, ISBN 978 94 0011 466 1 (e-book)
- MI-426 L.B. Louis, *Towards Better Policing. Achieving Norm Internalization and Compliance with Persuasively Designed Technology*, (diss. Leiden), Amsterdam: Ipskamp Printing 2024, ISBN 978 94 6473 559 8
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