



The Hon. Donville O. Inniss, Bsc, MBA, J.P, M.P.

MINISTER

**MINISTRY OF INDUSTRY, INTERNATIONAL BUSINESS, COMMERCE
AND SMALL BUSINESS DEVELOPMENT**

Reef Road, Fontabelle, St. Michael, Barbados, West Indies

Tel: (246)535-7701 Fax: (246) 535-7700- E-mail: donville.inniss@barbados.gov.bb

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On 5 December 2017 yesterday, the Council of the European Union through its Code of Conduct Group approved and published conclusions containing an EU list of non-cooperative jurisdictions in taxation.

It also agreed on the further process, including the application of 'defensive' measures with regard to the listed jurisdictions.

The aim of this from their perspective is to promote good governance worldwide, in order to maximise efforts to prevent tax fraud and tax evasion. The initiative is part of the Council's external strategy for taxation, delivering on its November 2016 conclusions that called for a list to be established by the end of 2017.

It is important to note that The Council's work on the list has been conducted in parallel with the OECD and in the context of the G20. With respect to the OECD, the EU works in parallel with the OECD on account of the anti-BEPS (Base Erosion and Profit Shifting) measures as is monitored by the Forum on Harmful Tax Practices (FHTP) but more on this a little later.

In the report of the General Secretariat of the Council "The EU List of Non-cooperative jurisdictions for tax purposes", Annex 1 page states that "Barbados has a harmful preferential tax regime and did not clearly commit to amending or abolishing it as requested by 31 December 2018. Barbados' commitment to amend or abolish other harmful tax regimes in line with criterion 2.1 will be monitored." The foot note states that

the report is “on the basis of the responses received by 4 December 2017; 17:00 (UTC +01:00).”

It is important therefore to set the context so that Barbados’ position on this issue is clear. The Organization for Economic Cooperation and Development and more specifically the FHTP developed an engagement strategy for OECD Members and BEPS Associates to work on regimes that met the criteria for classification as harmful tax practices. What does this mean? It means that the Action Plan on Base Erosion and Profit Shifting (BEPS Action Plan) identified 15 actions (four of which are minimum requirements) to address the BEPS issue. In October 2015 the G20 Finance Ministers endorsed this Action Plan which includes Action 5. Action 5 is the Countering of Harmful Tax Practices More Effectively, Taking into Account Transparency and Substance. This and the other three minimum standard Actions are conducted by a peer review system which involves self-review questionnaires on the regimes by the Countries in question.

There was established an Inclusive Framework relative to the BEPS Action plan and all members of the Inclusive Framework have committed to the implementation of the Action 5 minimum standard. Let me state clearly for the Barbadian public and our International Business and Financial Services Sector that Barbados is a member of the Inclusive Framework and has committed to the Action 5 implementation.

To this end, a committee was established to ensure the accuracy of the information provided to inform FHTP discussions and to examine what if any amendments could be made to the various regimes to ensure compliance with agreed standards while protecting Barbados’ interests. This committee comprised representatives from the International Business Division, Central Bank of Barbados, Financial Services Commission, Barbados International Business Association, Invest Barbados, Institute of Chartered Accountants of Barbados, the Barbados Revenue Authority and one private taxation expert. The International Business Division (IBD) engaged the FHTP Secretariat on a weekly basis from around the Month of March of this year, working diligently to ensure the comprehensive examination of our regimes which were deemed in scope according to the criteria set out by the FHTP.

The regimes in question are: International Business Companies, International Societies with Restricted Liability, International Trusts, Qualifying Insurance companies, Exempt Insurance Companies, International Financial Services Act and the Foreign Credit for Qualifying Overseas Projects. There is one other regime which the FHTP deemed as not in scope but the EU Code of Conduct Group deemed as in scope to which I will address shortly, this regime being the Fiscal Incentives Act.

Barbados by way of letter dated **September 12th 2017**, emanating from FHTP meetings held in March, May, July and September of this year in which Barbados' regimes were discussed and concerns expressed, committed to amending the following regimes by December 31st 2018 –

- International Business Companies
- International Societies with Restricted Liability
- Exempt Insurance
- Qualifying Insurance Companies Act
- International Trusts

On November 16th 2017, Barbados sent a letter to the Chair of the Inclusive Framework on Base Erosion and Profit Shifting of the OECD stating categorically that the International Financial Services Act and the Foreign Credit for Qualifying Overseas Projects regimes would be amended by the stipulated deadline and that on-going work and progress would be reported to the FHTP as Barbados continues its work with the Secretariat.

Barbados thereafter received an email from the EU, after the publication of the FHTP's findings, stating that among other things: 1) notwithstanding that the FHTP had deemed the Fiscal Incentives Act Regime as out of scope, the EU had slightly different assessment criteria and that their experts had deemed it as in scope and 2) that a reiterated commitment to the EU this time of what had previously been committed to the FHTP was necessary.

Barbados responded and inquired as to the EU's conclusion that the Fiscal Incentives Act Regime was in scope and there began a series of email dialogues between the EU and Barbados through the International Business Division. Subsequently Barbados by letter dated November 27, 2017 communicated with the General Secretariat of the Council of the European Union and the Code of Conduct Group of the

EU that Barbados reiterated its commitment made to the FHTP to amend the regimes of:

- International Business Companies,
- International Societies with Restricted Liability,
- International Trusts,
- Qualifying Insurance Companies,
- Exempt Insurance Companies,
- International Financial Services Act and
- The Foreign Credit for Qualifying Overseas Projects

Barbados also, in that same letter, outlined that it is a member of the Inclusive Framework and is thereby committed to the implementation of Action 5 of the BEPS standards. Barbados also stated that notwithstanding the Fiscal Incentives Act, as a member of the World Trade Organization, Barbados is committed to reviewing this regime. The EU then responded and queried certain aspects of the Fiscal Incentives Regime to which Barbados replied outlining how it operated and re-enforced commitment to addressing that regime. That Letter was sent November 28, 2017. Finally, by way of correspondence dated December 1st, 2017 Barbados indicated to the EU that the Cabinet of Barbados had taken a policy decision to abolish this regime by September 2018.

So to refresh our memories as to the statement in “The EU List of Non-cooperative jurisdictions for tax purposes”, Annex 1 page 8 states that “Barbados has a harmful preferential tax regime and did not clearly commit to amending or abolishing it as requested by 31 December 2018. Barbados' commitment to amend or abolish other harmful tax regimes in line with criterion 2.1 will be monitored.”

Barbados has therefore enquired of the EU yesterday morning by way of email as to which regime Barbados has not clearly committed to amending. The IBD has telephoned the EU this morning seeking clarification but to date no response has been forthcoming.

It is the view of the Barbados Government therefore that to include Barbados in Annex 1 listed as a non-cooperative tax jurisdiction is extremely unfortunate and unfair in light of and despite Barbados' recent direct engagement with the EU Code of Conduct Group (COCG) over the past months. Barbados' work with the FHTP is also well documented.

Barbados is a jurisdiction that has always valued good international relations from Latin America to Europe to the African continent. It is important to note that Barbados has tax treaties in force with ten (10) of the twenty-eight (28) EU member countries (inclusive of the UK). They are with

1. Austria
2. Czech Republic
3. Finland
4. Italy
5. Luxembourg
6. Malta
7. Netherlands
8. Spain
9. Sweden
10. United Kingdom

Barbados has completed its ratification of the DTAs with Portugal, Slovak Republic, and Cyprus, respectively and is awaiting official notification from them on the status of their ratification of the DTAs as required in order for the DTAs to enter into force. We are also awaiting signature of a DTA initialled with Belgium.

It should also be noted that Barbados has a Tax Information Exchange Agreement (TIEA) in force with Denmark and is also awaiting signature of similarly initialled Agreements with France and Germany, respectively.

Consequently Barbados has committed to signing the Multi-lateral Instrument in a signing ceremony in Paris on January 24th 2018. Through the IBD, there has been a concerted effort to ensure that Barbados is a well-regulated, transparent jurisdiction of substance.

This is precipitated by a harmonious relationship with the Service Providers which has resulted in the cancellation on November 27th,

2017 of the licenses of six International Business Companies on grounds of public policy.

So in conclusion I wish to state forcefully that Barbados is NOT a non-cooperative jurisdiction in taxation matters or any other matter. We are and remain cooperative but true to our ideals and policies as a sovereign nation as we strive to be the International Financial jurisdiction of choice.

With respect to the way forward, Barbados will dispatch a detailed correspondence to the EU requesting an urgent review of their rather unfortunate listing. Secondly, being mindful that our Region will continue to be under scrutiny and attacks from other regional groupings and multinational organisations, Barbados will once again request a regional dialogue on the matter with the goal of establishing a high level regional team of experts to engage with external parties on behalf of the Region. We really expect that CARICOM will take the lead on this matter.

Thirdly we will engage all of our officials and private sector partners to continue to educate our multinational partners on these issues.