



Government of Antigua and Barbuda

Office of the Prime Minister

St. John's, Antigua

Via fax: 011 33 1 44 30 63 21 and post

Mr Donald Johnston
Secretary General
OECD
2 RUE André Pascal
75775 Paris Cedex 16
France

20th February 2002

Dear Mr. Johnston

COMMITMENT OF ANTIGUA AND BARBUDA

I am writing in connection with the OECD's project on harmful tax competition. I am pleased to inform you that the Government of Antigua and Barbuda commits to the principles of effective exchange of information in tax matters and transparency. To ensure compliance with these principles, the Government of Antigua and Barbuda will implement the measures outlined in the attachment. The detailed implementation of specific commitments will be subject to Antigua and Barbuda Parliamentary approval on an ongoing basis as individual legislation and policy proposals are advanced.

We understand that the OECD is prepared to assist us in establishing, improving, or maintaining such practices as are necessary to comply with the commitment.

The commitment is offered on a basis that:

1. Antigua and Barbuda is not included on the OECD list of un-cooperative tax havens nor subject to any framework of co-ordinated defensive measures;
2. Antigua and Barbuda is determined to protect its economic interests and fiscal autonomy in any future negotiations with OECD. The issue of a level playing field is critical to those interests.

3. Those jurisdictions, including OECD Member countries and other countries and jurisdictions yet to be identified, that fail to make equivalent commitments or to satisfy the standards of the 1998 Tax Competition Report, will be the subject of a framework of co-ordinated defensive measures; and
4. Antigua and Barbuda is invited to participate fully on an equal basis with all committed jurisdictions and OECD countries in any discussions in the Global Forum on the design of internationally-accepted standards for the implementation of these and any similar commitments.

The Government of Antigua and Barbuda will ensure that:

1. No new regime or practice is introduced that fails to comply with the principles of transparency and effective exchange of information; and
2. No existing regime or practice is modified in such a way that after the modification it would not comply with the principles of transparency and effective exchange of information.

Yours faithfully,



Lester B. Bird
Prime Minister and Minister of Finance
Antigua and Barbuda

Attachment

This attachment outlines the measures that the Government of Antigua and Barbuda will take on a phased basis by 31 December 2005 to implement its commitment to the principles of transparency and effective exchange of information.

1. Establishing a process for effective exchange of information

- 1 Antigua and Barbuda agrees to the effective exchange of information for criminal tax matters beginning in the first year after 31 December 2003 and for civil tax matters beginning in the first year after 31 December 2005. Such exchanges shall be achieved through the adoption of tax information exchange agreements that require the effective exchange of information in specific tax matters upon request. The tax information exchange agreements will include protections against unauthorised disclosures or unauthorised use of information.
- 2 In a case, involving information required for the investigation and prosecution of criminal tax matters information shall be provided without the requirement that the conduct being investigated must constitute a crime in Antigua and Barbuda.
- 3 In the case of information requested in the context of a civil tax matter, the absence of an Antigua and Barbudan tax interest in the case or in obtaining the information shall not be a bar to the provision of information. The incidence of costs incurred in providing such assistance shall be agreed in the context of the exchange of information agreements entered into by Antigua and Barbuda in satisfaction of its commitment. Flexibility is expected in determining the incidence of costs to take into account factors such as the likely flow of information requests between the two parties to the agreement, whether both parties have income tax administrations, the capacity of each party to obtain and provide information, and the volume of information involved.

2. Transparency

1. Antigua and Barbuda will ensure that information on beneficial ownership of Antigua and Barbuda companies, partnerships and other legal entities established in Antigua and Barbuda, including managers and beneficiaries of collective investment funds and trustees and beneficiaries of trusts is available to its tax or regulatory authorities. This will include companies and other legal entities operating from Antigua and Barbuda provided that the information is present within the territory, or in the possession or control of a person subject to the jurisdiction of Antigua and Barbuda. Antigua and Barbuda agrees that such information will be subject to exchange under tax information exchange agreements referred to in paragraph A.1.

2. Subject to de minimis exceptions to be developed by Antigua and Barbuda together with the OECD and other committed jurisdictions, Antigua and Barbuda will require that companies, partnerships, trusts and other legal entities established in Antigua and Barbuda or having a place of business in Antigua and Barbuda maintain accounts which are prepared in accordance with generally accepted accounting standards. Subject to other exceptions to be developed by Antigua and Barbuda together with the OECD and other committed jurisdictions, the companies, partnerships, trusts and other legal entities that are required to keep accounts will also be subject to either an audit or filing requirement. Antigua and Barbuda agrees that such statements will be subject to exchange agreements referred to in paragraph A.1.
3. Antigua and Barbuda agrees that its Commissioner of Inland Revenue will have access to bank information of persons and companies liable to tax in OECD countries to the extent necessary to perform obligations under a tax information exchange agreement concluded pursuant to paragraph A.1.