Republic of Seychelles
Office of the Vice President

13th February 2001

Mr David Johnston
Secretary General
OECD
2 Rue André Pascal
75775 Paris Cedex 16
FRANCE

Dear Mr Johnston

COMMITMENT OF THE REPUBLIC OF SEYCHELLES

I am writing in connection with the OECD's project on Harmful tax Competition and the OECD's reports 'Harmful Tax Competition' and 'Towards Global Tax Co-operation' of 1998 and 2000.

In view of the above, I am pleased hereby to inform you that the Republic of Seychelles is committed to the elimination of harmful tax practices as commended by the Forum on Harmful Tax Competition.

We commit ourselves, in particular, to a programme of effective exchange of information in tax matters, transparency, and the elimination of ring-fencing of the regimes for financial and other services as outlined in the attachment to this letter. Our plan to achieve these international standards will be agreed with the Forum by 31st December 2001.

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

The Government of the Republic of the Seychelles intends to release the substance of this letter and the attachment to financial and business press and other contacts and expect the OECD to publish them on the OECD's internet site.

Yours truly,

James A. Michel
VICE PRESIDENT

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Republic of the Seychelles

Annex

This attachment outlines the measures that the Republic of the Seychelles will take on a phased basis by 31 December 2005. It describes as well stand-still, collateral and termination issues with respect to the commitment.

Terms & Timetable:

(A) By 31 December 2001:

Plan to achieve international standards: The Republic of the Seychelles will adopt a detailed plan indicating how, by 31 December 2005, it will achieve transparency and effective exchange of information for all tax matters, and eliminate any regimes that attract business without substantial business activity.

(B) By 31 December 2002:

Beneficial Ownership information available: The Republic of the Seychelles ensures that its regulatory or tax authorities have access to information regarding beneficial owners of companies, partnerships and other entities organised in its jurisdiction, including collective investment funds, and to information on the identity of the principal (as opposed to agent or nominee) of those establishing trusts (settlers) under their laws and those benefiting from trusts.

Financial Books & Records: The Republic of the Seychelles ensures that financial accounts will be drawn up in accordance with generally accepted accounting standards, and that such accounts will be either audited or filed for all entities (banks, insurance companies, collective investment funds and managers, trusts, foundations, etc.) organised or operating in the country (subject to de minimis exceptions for entities that are not engaged in offshore activities and do not have foreign ownership, beneficiaries, management, or other involvement). The Republic of the Seychelles ensures that there is access by its regulatory or tax authorities to such accounts.

(C) By 31 December 2003:

Effective Exchange of Information (Criminal tax matters): The Republic of the Seychelles will have in place a legal mechanism that allows information to be provided to the tax authorities of OECD countries upon request for the investigation and prosecution of criminal tax matters. This mechanism will include a means to ensure that information can be given to tax authorities of OECD countries in response to a request if the information may be relevant to the investigation of a criminal tax matter. The information eligible for exchange will include bank information and financial information as well as information on beneficial ownership.

In the case of information required for the investigation and prosecution of a criminal tax matter, the information will be provided without the requirement that the conduct being investigated would constitute a crime under the laws of the Republic of the Seychelles, if it occurred in the Republic of the Seychelles.
The Republic of the Seychelles will ensure that there is no impediment to the disclosure of any exchanged information to persons or authorities (including courts and administrative bodies) concerned with the enforcement or prosecution in respect of, or the determination of appeals in relation to, criminal tax matters.

Administrative practices will be in place so that the legal mechanism for exchange of information will function effectively and can be monitored. Personnel responsible to make sure that the requests for information are answered promptly and efficiently, and personnel trained or experienced in obtaining information will be at place.

**Access to Bank Information:** The Republic of the Seychelles will ensure that its regulatory or tax authorities have access to bank information that may be relevant for the investigation or prosecution of criminal tax matters.

**Transparency of tax system:** The Republic of the Seychelles will ensure that there are no non-transparent features of its tax systems, such as rules that depart from accepted laws and practices, secret rulings, or the ability of investors to “elect” or “negotiate” the rate of tax to be applied. To the extent rulings are given with respect to transfer pricing issues, such rulings will not deviate materially from the result under the OECD Transfer Pricing Guidelines.

**Not attracting business without substantial domestic activity:** The Republic of the Seychelles will remove any restrictions on the ability of entities qualifying for preferential tax treatment to do business in the domestic market.

(D) By 31 December 2005

**Effective Exchange of Information (All tax matters):** The Republic of the Seychelles will have in place a legal mechanism that allows information to be provided to the tax authorities of OECD countries upon request for the investigation and prosecution of criminal tax matters and for the determination, assessment, collection, and enforcement of all other tax matters (hereafter referred to as “civil tax matters”). This mechanism will include a means to ensure that information could be given to tax authorities of OECD countries in response to a request if the information may be relevant to one of a civil or criminal tax matter. The information eligible for exchange will have to include bank information, financial information, as well as information on beneficial ownership.

In the case of information requested for the investigation and prosecution of a criminal tax matter, the information will be provided without the requirement that the conduct being investigated would constitute a crime under the laws of the Republic of the Seychelles, if it occurred in the Republic of the Seychelles.

In the case of information requested in the context of a civil tax matter, the Republic of the Seychelles will provide the information without regard to whether or not the Seychelles has an interest in obtaining the information for its own domestic tax purposes.

The Seychelles will ensure that there is no impediment to the disclosure of any exchanged information to persons or authorities (including courts and administrative bodies) concerned with civil and criminal tax matters. Further, the information will have to be provided without regard to whether or not the Republic of the Seychelles has an interest in the information for its own tax purposes.
Administrative practices will be in place so that the legal mechanism for exchange of information will function effectively and can be monitored. Personnel responsible to make sure that the requests for information are answered promptly and efficiently and personnel that is trained or experienced in obtaining information will be at place.

**Access to Bank Information:** The Republic of the Seychelles will ensure that its regulatory or tax authorities have access to bank information that may be relevant for civil and criminal tax matters.

**Not attracting business without substantial domestic activity:** For any preferential tax treatment accorded to financial and other services activities, the Republic of the Seychelles will remove any restrictions that deny the benefits of that preferential tax treatment to resident taxpayers, to entities owned by resident taxpayers, or to income derived from doing the same type of business in the domestic market.

**(E) Stand-Still**

The Republic of the Seychelles will refrain from

(i) introducing any new regime that would constitute a harmful tax practice under the OECD 1998 Report on Harmful Tax Competition;

(ii) with respect to any existing regime related to financial and other services that currently does not constitute a harmful tax practice under the OECD Report, modifying the regime in such a way that, after the modifications, it would constitute a harmful tax practice under the OECD Report; and

(iii) strengthening or extending the scope of any existing measure that currently constitutes a harmful tax practice under the OECD Report.

**(F) Collateral Issues**

**List of Uncooperative Tax Havens:** The OECD will refrain from including the name of the Republic of the Seychelles on any List of Uncooperative Jurisdictions, provided that the Republic of the Seychelles is proceeding in good faith to satisfy the terms and timetable of this Annex.

**Defensive Measures:** The OECD will refrain from recommending that any common framework of defensive measures (within the meaning of the 1998 Report) be implemented against the Republic of the Seychelles, provided that the Republic of the Seychelles is proceeding in good faith to satisfy the terms and timetable of this Annex.

**Invitation to the Global Forum:** The Republic of the Seychelles is invited to participate in the OECD's Global Forum on Taxation, which is developing a framework for a legal mechanism for exchange of information, provided that the Republic of the Seychelles is proceeding in good faith to satisfy the terms and timetable of this Annex.
(G) Termination prior to 31 December 2005

The Republic of the Seychelles shall have the annual option by advance written notice to the Chairman of the OECD’s Committee on Fiscal Affairs to terminate the implementation of its commitment as outlined in this Annex as of 31 December of the given year.