



**Office of the Minister of Finance,
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March 5, 2002

Mr Donald Johnston
Secretary General
OECD
2 Rue Andre Pascal,
75775 Paris Cedex 16
France

Via fax 011 33 1 45 24 88 26

Dear Mr Johnston

COMMITMENT OF ANGUILLA

I am writing in connection with the Organisation for Economic Co-operation and Development's (OECD) project on harmful tax competition.

Anguilla has taken careful note of the 1998 OECD report entitled "Harmful Tax Competition: An Emerging Global Issue", as well as related subsequent progress reports and developments and in particular, the 2001 OECD progress report on its Harmful Tax Competition initiative. In recognition of the modifications made to its Harmful Tax Competition initiative, which the OECD has published, I am pleased to inform you that, in keeping with its long standing policy of international cooperation, the Government of Anguilla hereby commits to the principles of effective exchange of information in tax matters and transparency.

To give effect to these principles in its relationship with the OECD Member States, the Government of Anguilla further commits to the phased implementation plan outlined in this letter and the Attachment.

The detailed implementation of specific commitments will be subject to approval by the Anguilla House of Assembly on an ongoing basis as individual legislation and policy proposals are advanced.

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Anguilla considers fair tax competition in all areas of business activities to be of benefit to the world economy and should not be discouraged. Moreover Anguilla considers the establishment of a level playing field among all OECD member countries and also those non-member jurisdictions with which it is materially in competition in the provision of cross-border financial services to be essential.

These commitments will have significant adverse cost impacts on the small economy of Anguilla; but taking into account the need to pursue the long term development of its economy, and recognising the important roles of fiscal and other measures in this context, and the need to maintain its fiscal autonomy, Anguilla makes these commitments in the hope that the OECD together with other international organisations will be responsive to these objectives. Areas of possible assistance could include technical assistance in matters relating to improving existing revenue systems and their administration and generally assistance in strengthening capacities in financial services and diversification of the economy.

Anguilla is determined to protect its economic interests and fiscal autonomy in any future negotiations with the OECD and its Member States. The issue of developing and maintaining a level playing field is critical to those interests.

The Commitment herein is offered on the basis that:

- Anguilla will not be included on any OECD list of uncooperative tax havens;
- Anguilla will not be subject to any framework of coordinated defensive measures by OECD Member States;
- Those jurisdictions, including OECD member countries and other countries and jurisdictions yet to be identified, that fail either to make equivalent commitments or to satisfy the standards of the 1998 Report will be the subject of a common framework of coordinated defensive measures;
- Anguilla will be invited to participate fully on an equal basis in any discussions in the Global Forum or other similar fora of OECD member countries and representative non-member countries and jurisdictions on the design of internationally accepted standards for the implementation of these and any similar commitments;

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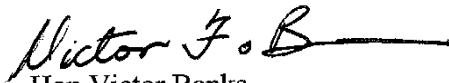
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- Anguilla will receive, upon request, technical assistance, as required, for amending and/or implementing laws, regulations, practices and procedures as may be necessary to comply with the commitment herein; and
- Anguilla will not be required to collect taxes on behalf of foreign countries nor to institute legal proceedings for such collection.

The Government of Anguilla 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



Hon Victor Banks
Minister of Finance
For the Government of Anguilla

Cc: Mr Torsten Fensby Via Fax 011 33 1 44 30 63 12

Attachment

This Attachment outlines the measures that the Government of Anguilla will take on a phased basis by 31st December 2005 to implement its commitment to the principles of transparency and effective exchange of information. Details of these measures and a specific timetable will be developed together with the OECD.

1. Establishing A Process For Effective Exchange Of Information

- In recognition of OECD's modifications made to its initiative on harmful tax practices and in an effort to promote and foster international co-operation in tax matters, Anguilla agrees to the effective exchange of information for criminal tax matters beginning in the first tax year after 31st December 2003 and for civil tax matters beginning in the first tax year after 31st December 2005. These arrangements will relate to the provision of information upon specific request and will include protections against unauthorised disclosures and/or unauthorised use of information by the receiving jurisdiction (taking into account the interest of public policy (ordre public), the need to protect trade, business, industrial, commercial and professional secrets, respect for attorney-client privilege and restriction on disclosure to jurisdictions that are not party to the agreement authorizing the exchange of information). Information of the type referred to in bullet points 1-3 in section 2 shall not be treated as secret merely because it meets the criteria in those paragraphs. It is understood that the process will entail the negotiation and adoption of tax information exchange agreements or arrangements which may take one or more of several forms, including bilateral or multilateral agreements or arrangements or other formats or instruments, currently being developed by the Global Forum Working Group.
- In a case involving information required for the investigation and prosecution of criminal tax matters, the information will be provided without the requirement that the conduct being investigated would constitute a crime under the laws of Anguilla if it occurred in Anguilla. However, such information may not be provided where the party requesting it cannot under its own laws for purposes of enforcing its own tax laws, obtain such information.
- In the case of information requested in the context of a civil tax matter, the absence of Anguilla tax interest in the case or in obtaining the information shall not be a bar to the provision of such information. However, such information may not be provided where the party requesting it cannot under its own laws for purposes of enforcing its own tax laws, obtain such information.
- The incidence of costs incurred in providing assistance in criminal and civil tax matters shall be agreed in the context of the exchange of information agreements

or arrangements entered into by Anguilla 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 or arrangement, 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

- The Government of Anguilla undertakes to ensure that information on beneficial ownership of companies, partnerships and other legal entities established in Anguilla, including managers 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 Anguilla provided that the information is present within the territory, or in possession or control of a person subject to the jurisdiction of Anguilla. Anguilla agrees that such information will be subject to exchange under the tax information exchange agreements referred to in section 1.
- The Government of Anguilla further undertakes to require the keeping of accounts by companies, partnerships, trusts and other legal entities established in Anguilla or having a place of business in the jurisdiction. Subject to de minimis and other exceptions to be developed by the Government of Anguilla together with the OECD and other committed jurisdictions, filing and auditing requirements will also be introduced for such entities. Anguilla agrees that such information will be subject to exchange under the tax information exchange agreements referred to in section 1.
- The Government of Anguilla will also ensure that its tax or regulatory authorities, or such other authority as it may designate, will have access to bank information relevant to tax matters to the extent necessary to perform obligations under a tax information exchange agreement concluded pursuant to section 1.