

COURTESY TRANSLATION

Republic of Panama
Ministry of Economy and Finances
Office of the Minister

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Mr. Donald Johnston
Secretary General of the Organization
For Economic Cooperation and Development
Paris, France.-

Secretary General:

By these means, I make reference to the conversations which have taken place between the Government of the Republic of Panama and OECD representatives in regards to the Harmful Tax Practises Forum and its reports of 1998, 2000 and 2001.

As you know, the Government of the Republic of Panama has engaged in an ample exchange of ideas and opinions with OECD representatives with the objective of understanding the scope of the Initiative, explaining the characteristics of the Panamanian taxation system and evaluating the viability of its participation in order to convince the OECD the Republic of Panama should not be considered a "non cooperative tax haven".

Taking into consideration that the future economic development of the Republic of Panama depends, among other things, upon the promotion, projection and defence of its international prestige as a first level service centre, the Government of the Republic of Panama reiterates to the OECD its firm commitment and interest to cooperate in any multilateral initiative relating to this issue, and advanced under the strict parameters of respect to the sovereignty of states, public international law and, above all, to the principle of equity and non discrimination contained in the english concept of "level playing field".

The Government of the Republic of Panama considers it essential that the materialization of the initiative proposed by the OECD ensures equity and non discrimination among all countries and jurisdictions, members and non-members of the OECD, with whom the Republic of Panama substantially competes, in the international service markets, particularly the financial and trade ones. It is only the fair and equitable application of these principles to all countries and jurisdictions involved with this initiative, that will ensure that all of them integrate completely in the process to achieve international standards on the matter, so that, it may count on a true universal support.

In light of the above, the Government of the Republic of Panama commits to the principles of "Transparency" and "Effective Exchange of Tax Information" promoted by the OECD. The said commitment to implement the principles gathered in the OECD Initiative is offered by the Government of the Republic of Panama on the basis that:

1. The commitment is made without prejudice to the autonomy of the Republic of Panama to apply the tax system most appropriate for its fundamental economic interests, which are a matter of public security.
2. The Republic of Panama is not included in the OECD list of unco-operative tax havens and is not subject to the coordinated framework of defensive measures proposed by its member states.
3. The Government of the Republic of Panama is invited to participate on an equal footing, in all discussions in the Global Forum or in any other similar fora of the OECD member and non-member states or jurisdictions on the design of internationally accepted standards for the implementation of these, or any other similar commitments.

4. The Government of the Republic of Panama is not required to collect taxes on behalf of any foreign government or to establish legal proceedings with this objective in mind.
5. The 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.

The following commitments by the Government of the Republic of Panama will be implemented on a phased basis by December 31st, 2005, on the basis of an implementation plan agreed upon with the OECD:

1. Effective Exchange of Information.
 - a) The Government of the Republic of Panama will establish legal mechanisms to allow information to be provided to tax authorities of requesting OECD countries for the investigation and prosecution of criminal tax matters, from the 1st of January, 2004 and for civil tax matters, from the 1st of January, 2006. The tax information exchange agreements to be entered into by the Government of the Republic of Panama will define the tax matters covered.
 - b) Both, the Government of the Republic of Panama and its counterparts will ensure the appropriate protection against the unauthorized use of tax information.
 - c) 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 the Republic of Panama.
 - d) In the case of information requested in the context of a civil tax matter, the absence of a Panamanian tax interest in the case or in obtaining the information shall not be a bar to the provision of information.
 - e) The Government of the Republic of Panama will not provide any information requested, when in the requesting country it is not legally possible to obtain the said information for the enforcement of its own tax laws.
 - f) The Government of the Republic of Panama may decline to assist in the exchange of information where disclosure of the information requested would be contrary to public policy (ordre public).
 - g) 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 entered into by the Republic of Panama 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.
 - a) The Government of the Republic of Panama will adopt mechanisms in order to ensure that information on beneficial ownership of companies, partnerships and other legal entities established in the Republic of Panama, including managers of collective investment funds, and trustees and beneficiaries of trusts, is available to Panamanian tax or regulatory authorities. This includes companies and other legal entities operating from the Republic of Panama provided the said information is present in Panamanian territory or in the possession or control of a person subject to Panamanian jurisdiction. The Government of the Republic of Panama agrees the said information will be subject to exchange under the terms of the tax information exchange agreements to be negotiated.
 - b) The Government of the Republic of Panama will adopt measures to allow its tax and regulatory authorities to have access to information held by banks and financial institutions which is relevant to criminal or civil tax matters. The Government of the Republic of Panama agrees the said information will be subject to exchange under the terms of the tax information exchange agreements to be negotiated.

- c) The Government of the Republic of Panama will require the keeping of accounts by companies, partnerships, trusts and other legal entities established in the Republic of Panama or having a place of business in its territory. Subject to exceptions to be developed by the Government of the Republic of Panama together with the OECD and other committed jurisdictions, filing and/or auditing requirements will also be introduced for these entities. In this regard, the Government of the Republic of Panama understands it will be invited to participate in the joint ad hoc group on accounts consisting of OECD Member countries and committed jurisdictions to address issues raised by the accounts and audit or filing requirements. The Government of the Republic of Panama agrees that such information will be subject to exchange under tax information agreements to be negotiated.
- d) The Government of the Republic of Panama will ensure the adoption of measures to ensure the transparency of its tax system, avoiding the existence of secret agreements and warranting that all new regimes or practices comply with the principles of transparency and effective exchange of tax information promoted by the OECD Initiative.

The implementation of the commitments herein stated by the Government of the Republic of Panama, which might not yet be included and in effect under Panamanian law, will be subject to the approval by the National Assembly of the Republic of Panama of the pertinent legislation proposed by the Government of the Republic of Panama to that effect.

To conclude, the Government of the Republic of Panama reiterates, as it has done throughout all meetings held with the OECD, that international cooperation must be conducted by means of sincere dialogue and that the principles of transparency and effective exchange of information to which this document refers should be developed under the parameters of equity and non discrimination, that is, a "level playing field".

Regards,

NORBERTO DELGADO DURAN
Minister