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REPORT

From: General Secretariat of the Council
To: Permanent Representatives Committee

Subject: Code of Conduct Group (Business Taxation)
- Report to the Council
= Approval

I. BACKGROUND

On 1 December 1997, the Council and the representatives of the Governments of the Member States, meeting within the Council, adopted a resolution on a Code of Conduct for business taxation. This resolution provides for the establishment of a group within the framework of the Council to assess tax measures that may fall within the Code, which was established on 9 March 1998.¹ It also provides that the Code of Conduct Group (hereafter "COCG" or "Group") "*will report regularly on the measures assessed*" and that "*these reports will be forwarded to the Council for deliberation and, if the Council so decides, published*" (paragraph H).

¹ ST 6619/98.

In its conclusions of 8 December 2015,² the Council expressed the wish to improve the visibility of the work of the COCG and agreed "*that its results, in particular its 6-monthly reports, are systematically made available to the public*" (paragraph 16).

In its conclusions of 8 March 2016,³ the Council furthermore called "*for having more substantial 6-monthly Group reports to ECOFIN, reflecting the main elements and views, which were discussed under specific items and reporting also on the monitoring concerning (non-) compliance with agreed guidance*" (paragraph 16).

This report from the COCG encompasses the work of the Group in the first half of 2022 during the term of the French Presidency of the Council.

II. GENERAL ASPECTS

1. Organisation of work

In the first half of 2022, the COCG, under the chairmanship of Mrs. Lyudmila Petkova, Director of the Tax Policy Directorate, Ministry of Finance of the Republic of Bulgaria, has continued to fulfil its mandate in accordance with the agreed work programme.

The COCG held an informal video-conference on 24 January and returned to physical meetings on 27 April and 2 June. The sub-group on internal/external issues met on 14 January, 2 and 7 February, 16 and 31 March, 5 and 18 May 2022 and 10 June 2022.

At the COCG videoconference on 24 January 2022, Mr. Maxime Monleon (France) and Ms. Jana Alexander (Czechia) were confirmed respectively as the first and the second vice-chairs for the period up to the end of the French Presidency.

At the same meeting, the Group approved a work programme until the end of the French Presidency as set out in doc. 5625/22.

² ST 15148/15.

³ ST 6900/16.

2. Revision of the Code of Conduct

In the Council conclusions of 18 June 2021⁴, Finance Ministers welcomed the ongoing discussion on the reform of the scope of the mandate that should also cover features of tax systems that have general application and that may have harmful effects and invited the Group to pursue the work. The Council also reiterated its readiness to continue to discuss the revision of the scope of the mandate as soon as there were relevant developments at international level but no later than by the beginning of 2022.

The COCG prepared a draft text of the revised mandate, which was submitted to the Council on 7 December 2021. Based on the discussion of the ministers, the Group will continue working with a view to advancing the reform in due time.

III. STANDSTILL AND ROLLBACK REVIEW PROCESSES

A call for standstill and rollback notifications of new preferential tax measures enacted by the end of 2021 was launched in mid-November 2021, the results were presented at the COCG meeting of 24 January 2022.

The following new regimes were identified⁵:

- Ireland: Digital games relief (IE017);
- Italy: Option for an increased deduction of R&D costs relating to certain IP assets (IT023);
- Italy: Amendments to the existing Notional Interest Deduction regime to apply the interest rate of 15% to increase of equity in 2021 (IT024);
- Poland: Holding tax regime (PL015);
- Poland: Robotisation tax relief (PL016);
- Romania: Exemption from payment of the tax specific to certain activities for the taxpayers in the field of HORECA (RO012);

⁴ ST 9896/21.

⁵ See updated compilation in doc. 8602/3/20 REV 3.

- Slovakia: Tax measure aimed at supporting investments into certain fixed assets (SK009).

1. Standstill review process

The following decisions were reached by the Group:

- a) Italy's option for an increased deduction of R&D costs relating to certain IP assets (IT023) does not need to be assessed by the COCG.⁶
- b) Italy's amendments to the existing Notional Interest Deduction regime to apply the interest rate of 15% to increase of equity in 2021 (IT024) do not need to be assessed by the COCG.⁷
- c) Poland's holding tax regime (PL015) – COCG agreed on the description.⁸
- d) Poland's robotisation tax relief (PL016) does not need to be assessed by the COCG.⁹
- e) Romania's exemption from payment of the tax specific to certain activities for the taxpayers in the field of HORECA (RO012) does not need to be assessed by the COCG.¹⁰
- f) Slovakia's tax measure aimed at supporting investments in certain fixed assets (SK009) does not need to be assessed by the COCG.¹¹

⁶ See ADD 1.

⁷ See ADD 2.

⁸ See ADD 3.

⁹ See ADD 4.

¹⁰ See ADD 5.

¹¹ See ADD 6.

- g) Croatia's newly introduced tax incentive for investment projects in the manufacturing industry (HR019, notification on 2020) – the COCG agreed on the description and took note of additional clarification by Croatia regarding the impact of the measure.¹²

As regards Ireland's digital games relief (IE017), the analysis of this measure is on hold until the state aid process is settled.

The standstill review of Romania's profit tax exemption for companies with innovation and R&D activities (RO008) is kept on hold until the relevant national legislation is adopted: this regime is currently not applied because the subsequent administrative acts have so far not been adopted.

2. Rollback review process

Regarding the rollback of Poland's Investment Zone (PL013)¹³, in 2022, Poland informed the Group that legislative work was completed regarding all three aspects raised in the assessment. The Group agreed that the rollback measures are sufficient and adequate to put aside the harmful features of the PL013 regime, and that the rollback is considered to be completed¹⁴.

¹² See ADD 7 and ADD 8.

¹³ ST 14114/19 ADD 3.

¹⁴ See ADD 9.

IV. MONITORING OF THE ACTUAL EFFECTS OF INDIVIDUAL MEASURES

During recent years, some of the measures subject to scrutiny were put under annual monitoring. At its meeting of 22 November 2021, the Group reviewed the actual effects of such measures. For this purpose, Member States concerned by the decisions adopted in 2017 and 2018 were requested to send the relevant data for the year 2019.

Based on such data, at its meeting of 22 November 2021, the Group concluded on certain measures.¹⁵ Under the rollback notifications enacted by the end of 2021, Greece notified on tax measure EL015. This amendment will be considered in the second half of 2022, when the work on the monitoring of the actual effects of individual measures will be resumed.

V. COCG GUIDANCE NOTES

2. On 29 October 2020 the Group agreed on the questionnaire for monitoring the implementation of the 2017 Guidance on tax privileges related to special economic zones presented at the COCG subgroup on internal issues meeting on 23 October 2020. Responses from the Member States were requested by 31 March 2021¹⁶. In its meeting of 19 May 2021, the Group decided to follow up on selected horizontal issues and requested further clarifications from the Member States concerned. Subsequently, in-depth technical analysis and work was pursued. The Group will continue monitoring the implementation of this guidance with the aim to conclude it in 2022.

¹⁵ ST 14848/21.

¹⁶ WK 5161/2021 + ADD 1-10.

VI. THE EU LIST OF NON-COOPERATIVE JURISDICTIONS FOR TAX PURPOSES

1. Update of the EU list of non-cooperative jurisdictions for tax purposes

In its conclusions of 7 December 2021,¹⁷ the ECOFIN Council invited the Group to continue its effective dialogue with jurisdictions and its monitoring, so that jurisdictions fulfil their respective commitments and comply with the EU listing criteria in accordance with the agreed deadlines. It also expressed its support for the preparatory work done with a view to the assessment of relevant jurisdictions for compliance with criterion 3.2 on country-by-country reporting (CbCR) in view of the update of the EU list in the first quarter of 2022 and invited the Group to request commitments from jurisdictions where appropriate and according to a timeline agreed by the Group.

The COCG continued interactions and dialogue with the relevant jurisdictions to assess recent developments and the implementation of their commitments, with a view to the update of the EU list.

The Group mandated the Subgroup on external issues to discuss urgent issues at the meeting on 14 January 2022 in the run-up to its meeting on 24 January 2022. The Subgroup on 2 February 2022 was subsequently tasked to finalise the update of the list. The updated EU list of non-cooperative jurisdictions was approved by the Council on 24 February 2022¹⁸ and published in the Official Journal on 3 March 2022.¹⁹

Under this update, no jurisdictions were either added to or removed from the EU list: nine jurisdictions remain listed in Annex I (American Samoa, Fiji, Guam, Palau, Panama, Samoa, Trinidad and Tobago, US Virgin Islands and Vanuatu). The entry on Vanuatu was amended to reflect progress on criterion 1.2 in relation to the exchange of information on request. New commitments under criterion 3.2 to implement the CbCR minimum standard by addressing the recommendations from the IF on BEPS were also recorded in Annex I for Panama and Trinidad and Tobago.

¹⁷ ST 14814/21.

¹⁸ ST 6437/22.

¹⁹ OJ C 103, 3.3.2022, p. 1–4.

Commitments from Anguilla, The Bahamas, Barbados, Bermuda and Turks and Caicos Islands were recorded in Annex II, as these jurisdictions committed to address the FHTP recommendations with regard to the effective implementation of substance requirements under criterion 2.2.

Furthermore, The Bahamas, Barbados, Belize, British Virgin Islands, Israel, Montserrat, Thailand, Tunisia and Vietnam committed to implement the country-by-country Reporting (CbCR) minimum standard (BEPS Action 13) in due time (criterion 3.2), and these commitments were also recorded in Annex II.

Commitments of the Russian Federation (preferential tax regime) and Costa Rica (regime in the scope of the FHTP) to reform their harmful tax regimes (criterion 2.1) were recorded in Annex II.

Thailand ratified the Convention on Mutual Administrative Assistance in Tax Matters and the reference to its commitment on criterion 1.3 was removed from Annex II, while a new commitment was recorded for Thailand in Annex II for criterion 3.2. The commitment of Qatar to abolish its preferential tax regimes in the scope of the FHTP under criterion 2.1 was deemed fulfilled, but the mention of the jurisdiction in Annex II is maintained pending the fulfilment of its commitment to reform its FSIE regime.

Turkey remains included in Annex II for criterion 1.1 (automatic exchange of information) as it is still not fully in line with the commitments required under the conclusions of the ECOFIN Council of 22 February 2021 and 5 October 2021. Turkey is expected to begin or continue the technical work on the effective exchange of data from Turkey with all Member States to meet the agreed international standards and fully comply with the requirements set in the mentioned conclusions of the ECOFIN Council.

2. Monitoring of the implementation of commitments taken by jurisdictions

General overview

As of February 2022, the implementation of a total of 31 commitments²⁰ taken at a high political level by 25 jurisdictions²¹ remains to be monitored by the Group. These are recorded in Annex II of the Council conclusions:

Criterion	Number of jurisdictions committed
1.1	1
1.2	6
2.1	10
2.2	5
3.2	9

Specifically, a total of 10 harmful tax regimes remain to be rolled back under criterion 2.1, 6 of which are under monitoring by the COCG²² and 4 by the OECD FHTP²³. A detailed overview may be found in the compilation²⁴ of preferential regimes and measures examined by the COCG under criteria 2.1 and 2.2.

²⁰ This figure adds up the number of commitments by jurisdictions under each criterion (see table).

²¹ Anguilla, The Bahamas, Barbados, Bermuda, Belize, Botswana, British Virgin Islands, Costa Rica, Dominica, Hong Kong, Israel, Jamaica, Jordan, Malaysia, Montserrat, North Macedonia, Qatar, the Russian Federation, Seychelles, Thailand, Tunisia, Turkey, Turks and Caicos Islands, Uruguay and Vietnam.

²² The FSIE regimes of Costa Rica, Hong Kong, Malaysia, Qatar and Uruguay, and the Russian Federation's „International Holding Companies“ regime.

²³ Costa Rica's „Free Trade Zone“ regime; Jamaica's “Special economic zones” regime; Jordan's “Aqaba special economic zone” regime and North Macedonia's “Technological industrial development zone” regime;.

²⁴ ST 14343/21.

Procedural and political aspects of the monitoring process

The Chair of the COCG continued to conduct political and procedural dialogues with relevant international organisations and jurisdictions, where necessary.

The Chair received a number of letters from jurisdictions and also held in-person meetings and video-conferences at a high political level with a number of them. Delegations were kept informed about these interactions, and response letters signed by the Chair were agreed by the Group.

The Chair participated in the virtual FHTP meeting on 21 April 2022 and intervened in order to provide an overview of the recent COCG work.

On 7 June 2022 the Chair held a coordination meeting with the Chairs and Secretariats of the OECD Global Forum, Forum on Harmful Tax Practices (FHTP) and of the Inclusive Framework on BEPS.

3. Screening and scoping issues

Future criterion 1.1 (peer reviews by the Global Forum with respect to the Common Reporting Standard for AEOI)

At its meetings of 31 March, 5 May and 18 May, the Subgroup discussed the alignment of criterion 1.1 with the peer review process on automatic exchange of financial account information (AEOI) by the Global Forum on tax transparency and exchange of information (Global Forum), in order to enhance the effectiveness of the EU list assessments on tax transparency.

From the outset, criterion 1.1 has been designed to evolve in line with the Global Forum peer review process on AEOI. The 2016 Council Conclusions on the criteria and process leading to the establishment of the EU list of non-cooperative jurisdictions for tax purposes²⁵ envisaged that once the Global Forum started assessing the effective implementation of AEOI, criterion 1.1 should reflect the outcomes of the Global Forum peer review process on AEOI.

Since 2020, the Global Forum has been reviewing annually the domestic and international legal frameworks put in place by member jurisdictions to implement the international standard on AEOI, in particular by issuing determinations on legal framework for the relevant core requirements 1 and 2 under the Terms of Reference for the peer reviews of the AEOI standard²⁶. Starting in 2022, as part of the peer review process on AEOI, the Global Forum will, in addition, issue *ratings* on the effectiveness of the implementation of the AEOI standard in practice.

At its meeting on 2 June, the Code of Conduct Group agreed on a two-step approach to update criterion 1.1 to take stock of the Global Forum peer reviews. The first step will start applying in 2022 based on the legal determinations on core requirements 1 and 2, which have been assigned to jurisdictions in the annual Global Forum report on CRS AEOI, expected before the end of this year. The Group adopted Guidance on the implementation of the updated criterion 1.1 under this first step (see the annex to this report).

For transparency reasons, the Group decided to send letters signed by the Chair to all concerned jurisdictions to inform them about this update. The second step of the approach will be applied at a later stage based on the future Global Forum ratings on the effectiveness of the implementation of the AEOI standard.

²⁵ Council conclusions (8 November 2016) on the criteria and process leading to the establishment of the EU list of non-cooperative jurisdictions for tax purposes, document: 14166/16.

²⁶ The Terms of Reference for the peer reviews of the AEOI standard require domestic legal frameworks in place to implement the AEOI standard to oblige Financial Institutions to conduct the due diligence and reporting procedures (Core Requirement 1), as well as international legal frameworks to exchange the information, including exchange relationships in effect for each jurisdiction with all Interested Appropriate Partners (Core Requirement 2).

Future criterion 1.4 (beneficial ownership)

The EU listing criteria approved by the ECOFIN Council in November 2016 (doc. 14166/16) included the following reference: *"1.4 Future criterion: in view of the initiative for future global exchange of beneficial ownership information, the aspect of beneficial ownership will be incorporated at a later stage as a fourth transparency criterion for screening"*.

The Group addressed the issue of future criterion 1.4 in the framework of the discussion on strengthening the application of the EU listing criteria to tackle tax fraud, evasion and avoidance. There was a broad understanding that the discussion on the exchange of beneficial ownership information should continue.

Assessment of regimes under criterion 2.1

Information on the follow-up to the OECD meeting of the FHTP (21-22 April 2022) was provided at the COCG meeting on 27 April 2022. Following discussions at the subgroup level, the Group agreed on 2 June to send letters to Armenia and Eswatini requesting commitments from them to amend or abolish the regimes deemed harmful by the FHTP (Armenia's Free economic zones and Information technology projects regimes and Eswatini's Special Economic Zone regime).

Foreign source income exemption regimes

In October 2019, the ECOFIN Council approved guidance on foreign source income exemption (FSIE) regimes in the framework of the EU listing exercise (criterion 2.1). This guidance acknowledges that FSIE regimes are a legitimate approach to prevent double taxation but identifies potentially harmful elements that could be present in such regimes.

In December 2019, the COCG Chair wrote to thirteen jurisdictions to inform them that a regime of this kind was identified in their jurisdiction. The Commission services followed up with a questionnaire to nine jurisdictions in February 2020 with a deadline of 20 March 2020 to reply. It was agreed to screen four jurisdictions at a later stage.

All the jurisdictions that have been contacted responded to the questionnaire. The Commission services analysed the replies and followed up where necessary. On this basis, the Commission services prepared an overview of the work carried out so far, as well as country-specific progress reports.

On 19 May 2021, the COCG agreed to send letters to 6 jurisdictions from which the COCG would seek commitments to repeal or amend their harmful FSIE regimes. 5 jurisdictions responded and confirmed their commitment to abolish or amend their regimes²⁷. 1 jurisdiction did not express the requested commitment²⁸. The remaining 3 jurisdictions²⁹ were deemed compliant under the EU listing criteria.

The COCG considered the state of play of the dialogue with jurisdictions with FSIE regimes at its meeting on 2 June 2022, following the Subgroup meetings on 5 and 18 May 2022.

Criterion 2.2

In July 2021, the Group decided to carry out the annual monitoring of the enforcement of economic substance requirements by 2.2 jurisdictions³⁰ by ensuring synergy with the parallel monitoring by the FHTP of no or only nominal tax jurisdictions.

²⁷ Costa Rica, Hong Kong, Malaysia, Qatar and Uruguay.

²⁸ Panama.

²⁹ Maldives, Nauru and Singapore.

³⁰ These jurisdictions include the twelve no or only nominal tax jurisdictions (Anguilla, Bahamas, Barbados, Bahrain, Bermuda, British Virgin Islands, Cayman Islands, Guernsey, Isle of Man, Jersey, Turks and Caicos Islands, United Arab Emirates) and the Republic of Marshall Islands.

At its meeting on 2 June, the Group decided to take into account the conclusions reached by the FHTP at the April meeting on the 2021 monitoring (which relates to the enforcement of the substance requirements for the 2019 year) and any progress made by the jurisdictions concerned in the monitoring areas up until the update of the EU list in October 2022. This ad-hoc approach will be taken exceptionally due to the specific timing-related circumstances of this first year of monitoring. The Group also decided that, from 2023 onwards, it will take into account the FHTP conclusions reached in the last quarter of the year before, in preparation of the update of the EU list in the first quarter of the year that would follow such conclusions.

In addition, the Group discussed the situation of entities or arrangements which can carry out highly mobile activities in the scope of criterion 2.2 and which have not yet been included in the scope of domestic legislation on economic substance requirements in all 2.2 jurisdictions. The Group agreed to conduct a screening exercise for trusts and fiduciaries similar to that of 2019 on partnerships, given that criterion 2.2 has a comprehensive scope, encompassing in principle all entities or arrangements.

At the 2 June meeting, the Group also decided to explore in due course how the recently adopted FHTP guidance on pure equity holding companies and entities claiming tax residence in another no or only nominal tax jurisdiction may impact on 2.2 jurisdictions.

Process for the Monitoring of Economic Substance Requirements for Collective Investment Funds (CIVs) under criterion 2.2

In May 2018, the COCG agreed on Technical Guidance on Substance Requirements for Collective Investment Funds (CIVs) giving effect to a distinctive treatment for CIVs, in terms of economic substance requirements, in the Scoping Paper on criterion 2.2.

In September 2018, the COCG found that four jurisdictions (Bahamas, Bermuda, British Virgin Islands (BVI) and Cayman Islands) in the scope of the EU listing process had a “relevant” fund sector. Subsequently, the COCG asked these jurisdictions to reform their funds’ framework in line with the Technical Guidance³¹. The reforms, approved by the COCG, entered into effect in these jurisdictions in 2020, i.e. one year later than other economic substance requirements (general substance requirements).

At its meeting on 27 April 2022, the COCG agreed on a monitoring process for the implementation of substance requirements specific to CIVs. The Commission will update the Group, on a regular basis, on the need to extend the monitoring exercise to other relevant 2.2 jurisdictions, if any, in the future.

Implementation of the new criterion 3.2

In 2019, the COCG agreed on a general approach for assessing compliance with criterion 3.2 on country-by-country reporting (CbCR), in particular for jurisdictions that joined the Inclusive Framework before the end of 2017.

In October and November 2021, the Code of Conduct Group discussed and agreed on the assessment of the relevant jurisdictions for compliance with criterion 3.2, which was taken into account in the update of the EU list in February 2022.

Defensive measures vis-à-vis third country jurisdictions

In line with the Guidance on defensive measures agreed in December 2019, the COCG resumed its work on defensive measures. On 1 February 2021, the COGC agreed that Member States should update the COCG on the state of play as regards defensive measures that they apply towards non-cooperative jurisdictions for tax purposes.

³¹ Bahamas, Bermuda, British Virgin Islands (BVI) and Cayman Islands.

An overview of the measures on the currently applied measures was attached to the COCG report to the Council³².

The Subgroup continued the discussion at its 16 and 31 March and 18 May meetings on effective application of the defensive measures, in accordance with the agreed Guidance. At the meeting of 2 June 2022, the Group agreed to continue working on this matter based on a staged approach. As a first step, an analysis could be conducted on how defensive measures have been effectively applied by Member States. The outcome of such analysis could serve as a basis for further discussions on whether and how coordination of the measures could be enhanced.

Possible lessons to be learned from the media revelations

Following the discussion of the Subgroup on 16 and 31 March and 18 May, the COCG of 2 June 2022 expressed an interest in looking at the outcomes in practice of the listing exercise in achieving the objectives set by the Council, namely to put an end to practices that do not comply with tax good governance criteria. Discussion on this topic will continue in the future in order to identify and resolve the issues relevant to the list and that persist despite the application of its criteria to the jurisdictions concerned.

³² 14230/21.

Reflection on the impact of Pillar 2 on the criteria of the EU list

At its meetings on 16 and 31 March and 18 May 2022, the Subgroup held an initial reflection on the possible impact of the forthcoming implementation of rules to ensure the application of a minimum tax rate (“Pillar 2”) by all jurisdictions that subscribed to the October 2021 Statement into the criteria used by the Code of Conduct. The Group expressed an interest to continue the work at technical level to evaluate the possible impact that Pillar 2 may have on the listing criteria, including those relating to preferential tax regimes (criterion 2.1) and schemes facilitating the creation of offshore structures or schemes designed to attract profits that do not reflect real economic activity in the jurisdiction concerned (criterion 2.2).

Review of the economic data used for selecting jurisdictions

In March 2019 the ECOFIN Council recalled *"the extensions of the geographical scope of the EU screening exercise to other jurisdictions agreed in 2018"*³³ and invited *"the Code of Conduct Group to review the economic data used for selecting jurisdictions in 2020, for application as from 2021"*. This invitation was reiterated in February 2020 with a view *"to focus on the most relevant jurisdictions, having regard to the agreed work on the extended geographical scope as identified in 2018"*.

At the meeting of 20 April 2021, the Fiscal Attachés had an exchange on a possible revision of the geographical scope of the EU list, taking into account the prioritization table prepared by the Commission Services and a note by the Chair and the Presidency. Further work will be necessary on this issue, in order to decide the approach to be used for selecting jurisdictions for the geographical scope of the EU screening exercise.

³³ ST 14364/21.

Guidance on the two-step application of criterion 1.1

Criterion 1.1 on automatic exchange of financial account information (AEOI) is set to evolve in line with the evolution of the Global Forum peer review process for AEOI, as envisaged in the 2016 Council Conclusions establishing the EU listing process³⁴. The Code of Conduct Group has decided to update criterion 1.1. through a two-step approach, as set out below:

First step:

- As a first step, starting with the 2022 Global Forum peer review report on AEOI, the COCG shall focus only on the determinations attributed by the Global Forum for implementing the required domestic and international legal framework. The minimum level of compliance for jurisdictions in scope shall be determinations “*In Place, but Needs Improvement*” for both Core Requirement 1 and Core Requirement 2 in the AEOI Terms of Reference;
- The COCG will request commitments from relevant jurisdictions on the basis of the 2022 Global Forum peer review report on AEOI (expected in October-November 2022). In-scope jurisdictions which do not meet the minimum level of compliance will be asked to commit to improving their legal and administrative framework. Commitments should be recorded in Annex II in the beginning of 2023 and should be fulfilled in time to be reflected in the 2024 Global Forum peer review report on AEOI.

³⁴ Council conclusions (8 November 2016) on Criteria and process leading to the establishment of the EU list of non-cooperative jurisdictions for tax purposes (document: 14166/16) envisaged that once the GF starts assessing the effective implementation of AEOI, criterion 1.1 should be updated accordingly.

- Developing countries without a financial center will remain outside the scope of criterion 1.1³⁵, except for developing countries without a financial center which have been identified as jurisdictions of relevance by the Global Forum³⁶. Any exempted developing country that may be identified as a jurisdiction of relevance by the Global Forum in the future, will also be brought within the scope of criterion 1.1 in due course.
- In applying the criterion, the COCG will take into account the Global Forum schedule of AEOI commitments³⁷ and ensure that the COCG timetable for criterion 1.1 is aligned with the Global Forum calendar of commitments. Therefore, in-scope jurisdictions undertaking AEOI exchanges at a later stage would be assessed for criterion 1.1 only when their Global Forum peer review for AEOI becomes available, in line with their commitment date in the Global Forum context.

Second step:

As a second step in bringing criterion 1.1 in line with the Global Forum Peer review process on AEOI, the Code of Conduct Group will integrate at a later stage the future Global Forum ratings on effectiveness of exchanges in its assessments.

³⁵ Approach agreed at the October 2019 COCG.

³⁶ Currently, the jurisdictions identified by the Global Forum as of relevance for AEOI purposes, which are within the geographical scope of the EU list are Jordan, Montenegro and Thailand.

³⁷ <https://www.oecd.org/tax/transparency/AEOI-Commitments.pdf>