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*From the Ambassador*

30 July 2001

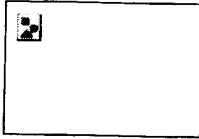
Dear Colleagues,

Attached for your information is the letter I sent to Prime Minister Arthur on 10 July, along with the answers to the 17 questions that were presented at the last Joint Working Group meeting.

Kind regards.

Yours sincerely

Tony Hinton  
Ambassador and Permanent Representative  
of Australia to the OECD



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*From the Ambassador*

17/07/2001

The Rt. Hon. Owen Arthur  
Prime Minister  
Government of Barbados  
St Michael  
BARBADOS

Dear Prime Minister,

I apologise once again for the delay in responding substantively to your letter of 2 April 2001. As I mentioned in my letter of 11 May 2001, the Forum on Harmful Tax Practices was to meet on 11-13 June to carry on its work on the harmful tax practices project. That meeting took place and was followed by a meeting of the Committee on Fiscal Affairs (the "CFA") held on 26-27 June. As a result, several modifications have been envisaged by the CFA to the work as it applies to tax havens. The modifications have benefited from the constructive discussions in the Joint Working Group (JWG), the high level consultations hosted in Barbados by your Government, and discussions with other jurisdictions. As you would appreciate, these modifications needed to be incorporated into the response of the OECD Members of the JWG.

The modifications can be summarised as follows:

- The "no substantial activities" criterion will no longer be applied to determine whether or not a jurisdiction is considered to be an uncooperative jurisdiction. Thus, any jurisdiction that makes a commitment to achieve by 31 December 2005 transparency and effective exchange of information will not be subject to a potential framework of co-ordinated defensive measures. OECD Member countries would welcome the removal by tax havens of practices falling within the no substantial activities criterion insofar as they inhibit fair tax competition.
- The potential framework of co-ordinated defensive measures would not apply to uncooperative tax havens any earlier than it would apply to OECD Member countries with harmful preferential regimes.
- A jurisdiction that makes a commitment will have twelve months after the date of making the commitment to develop an implementation plan on how it will achieve transparency and effective exchange of information by 31 December 2005. This represents a six month extension of the timeframe for implementation plans.

- In light of these developments and given the number of ongoing discussions with jurisdictions on the conclusion of commitments, the time for making a commitment has been extended to 30 November 2001.

Public announcement of these modifications must await action by the OECD Council. Until that time, I would appreciate that you and your colleagues not publicly disclose this information.

The modifications to the tax haven work do not affect the work in relation to Member Countries and non-member economies and do not alter the factors used in the 1998 Report to identify tax havens.

No changes are made with respect to the transparency and effective exchange of information criteria. Thus, effective exchange of information will continue to be sought in both civil and criminal tax matters when it may be relevant to a specific tax investigation or examination. An essential element of effective exchange of information is the implementation of appropriate safeguards to ensure that information is used only for the purpose for which it is sought. The adequate protection of taxpayers' rights and the confidentiality of their tax affairs are essential to preserving the integrity and effectiveness of exchange of information programmes.

Our objective remains to have as many jurisdictions as possible decide to make commitments. The OECD Member countries hope that the modifications will facilitate this process by promoting an inclusive and constructive approach which emphasises the benefits of the initiative, including the opportunities for technical and capacity building assistance which OECD Members commit themselves to provide to jurisdictions that commit to the process. No list will be issued differentiating between jurisdictions that have made a commitment and those that have not if all jurisdictions make a commitment by 30 November 2001.

All jurisdictions that make a commitment will be invited to participate in the Global Forum Working Group with Co-Operative Jurisdictions on Effective Exchange of Information. That working group is addressing the transparency and effective exchange criteria. In addition, all jurisdictions that make a commitment will be invited to a meeting on harmful tax practices to be held under the auspices of the OECD Global Forum on Taxation in September of 2001. All participants in the Global Forum events will participate on an equal basis.

You will find attached responses from the OECD Members of the JWG to the questions you raised at our meeting in Paris, and to which oral answers were given at that time. I know that you have been waiting for some time for these and I apologise for that, but finalisation of these written responses needed to await the discussions by the OECD Membership regarding the harmful tax practices project.

You are probably aware that the OECD is meeting with a group of Pacific jurisdictions this week in Auckland, New Zealand. I have asked the OECD Secretariat to distribute this letter with the attachment at that meeting.

The changes that have been made to the project are substantial. I hope that they meet many of the concerns raised by you and your colleagues. On behalf of the OECD Members, I would like to thank you and the other members of the JWG for your

collaboration in this work. I also would like to express my personal appreciation for the leadership that you have provided in this process.

Kind regards.

Yours sincerely

Tony Hinton  
Ambassador and Permanent Representative  
of Australia to the OECD