

TAX HAVENS AND NON-COOPERATIVE JURISDICTIONS

Since 2008, the G20 has been the main political driving force behind action to counter tax havens and non-cooperative jurisdictions. The international conference held by France and Germany in October 2008 followed by the G20 Summit in London in 2009 marked a major milestone by stating for the first time that non-cooperative jurisdictions are a threat to the international financial system and our public finances. Three processes were set up (see details below) to objectively identify non-cooperative jurisdictions and urge them to comply with the international standards on transparency and information exchange.

The G20 in Cannes has fully reviewed these processes. This is an extremely tricky exercise as it calls for a collective judgment on certain extremely reluctant countries.

1 In tax matters, G20 action has prompted a first with the signing of a wave of over 700 tax information exchange agreements. The Global Forum (OECD body working on tax transparency and now counting 105 members) is responsible for checking that each country (i) has a legal framework for the exchange of information for tax purposes (phase 1 review) and (ii) that this legal framework is effective (phase 2 review). To date, 59 jurisdictions have been assessed. Full findings are detailed in the Global Forum's public report, which identified **11 jurisdictions** with serious shortcomings:

- **Antigua and Barbuda, Barbados, Botswana, Brunei, Panama, Seychelles, Trinidad and Tobago, Uruguay, and Vanuatu** do not have a suitable legal framework for the exchange of tax information and do not qualify for the phase 2 review;

- **Switzerland and Liechtenstein** do not qualify for phase 2 until they remedy certain deficiencies identified by the Global Forum;

- 24 other jurisdictions have a number of sizeable deficiencies, but are entitled to embark upon the phase 2 review: a further 16 present more minor failings, and **eight countries have no shortcomings (including France)**.

The Global Forum's assessments cover nearly 400 recommendations, intended for the jurisdictions to conduct the reforms required to increase their tax transparency. For example, Belgium has lifted its banking secrecy, the Cayman Islands have introduced new accounting obligations, and the British Virgin Islands have scaled up their tax administration's powers. This is a long battle that we need to fight tirelessly if we are to obtain results.

Cannes has also rallied all the G20 countries to the multilateral convention on mutual administrative assistance in tax matters. This new convention is set to have a new knock-on effect, especially on

developing countries, as it provides access to a tax information exchange network that includes the leading economies.

2. In financial regulation and supervision (banks, insurance and financial markets), the Financial Stability Board (FSB) is assessing the compliance of countries with international standards on cooperation and information exchange between supervisors. The FSB has already analyzed the situation of the 61 countries with the leading financial systems – including all the G20 members. The evaluations to date show that:

- 41 of the 61 countries evaluated satisfactorily apply the international standards;
- 18 are in an intermediate situation (either the assessment of one or more sectors has found shortcomings that are being corrected, or the assessment is incomplete or out of date, but the country is cooperating to bring itself into compliance);
- **2 countries, Libya (former authorities) and Venezuela,** refused to talk to the FSB and are accordingly deemed non-cooperative jurisdictions. The FSB continues to seek dialogue with these authorities, but is also prepared to use countermeasures if necessary.

3. In action to counter money laundering and the financing of terrorism, the FATF has identified 12 jurisdictions whose strategic deficiencies constitute a threat to the international financial system and which the States are advised to take into account:

- **Iran and North Korea** present the most serious deficiencies and the FATF has explicitly called for countermeasures to be taken against these non-cooperative jurisdictions (“enhanced due diligence” procedures by the banks).
- **Cuba, Bolivia, Ethiopia, Kenya, Myanmar, Nigeria, Sao Tomé & Príncipe, Sri Lanka, Syria, and Turkey** have made what the FATF considers to be insufficient progress.

In a second document, the FATF lists the 28 countries with strategic deficiencies that have embarked upon a process to solve these deficiencies with the FATF.

In Cannes, the G20 countries have solemnly recommitted to promote compliance with the international tax and financial information exchange standards and to use all the countermeasures available to them to combat tax havens and non-cooperative jurisdictions that do not comply with these standards.

In tax matters, the countermeasures include tax penalties on counterparties in transactions with tax havens.

Taking this action forward, the G20 has called on the FATF and the OECD to step up their joint work on corporate and trust transparency in tax and money laundering matters.