OECD unveils first "transparency ratings"

22 November 2013, the British Virgin Islands, Cyprus, Luxembourg and the Seychelles were all branded non-compliant with international standards on information exchange according to new compliance ratings issued for 50 countries and jurisdictions by the OECD's Global Forum on Transparency and Exchange of Information for Tax Purposes.

The ratings, based on peer reviews compiled by international teams of assessors who examined the adequacy of Forum members' legal and regulatory framework for exchange of information in tax matters (Phase 1) as well as the application of this framework (Phase 2), were unveiled at a meeting of the Global Forum in Jakarta, Indonesia.

To date, 124 peer reviews have been completed, including 50 Phase 2 reviews. The four countries found to be non-compliant were all considered to have sufficiently robust legislation to meet international standards but were deemed to have done too little to put it into practice.

To achieve compliance the British Virgin Islands was required to: ensure reliable accounting records are kept; give authorities power to obtain information under an exchange of information request; and provide information under its network of agreements in a timely fashion.

Cyprus was required to ensure reliable accounting records are kept and give authorities power to obtain information under an exchange of information request.

Luxembourg was required to: make ownership information of companies, entities and other arrangements available to authorities; give authorities power to obtain information under an exchange of information request; have mechanisms to provide for effective exchange of information and ensuring those mechanisms respect the rights and safeguards of taxpayers and third parties.

The Seychelles was required to make ownership information of companies, entities and other arrangements available to authorities, and to ensure reliable accounting records are kept.

Only 18 of the 50 jurisdictions rated were deemed to be compliant – Australia, Belgium, Canada, China, Denmark, Finland, France, Iceland, India, Ireland, the Isle of Man, Japan, Korea, New Zealand, Norway, South Africa, Spain and Sweden.

A further 26 jurisdictions, including Germany, the US, the UK, Hong Kong and Singapore, were rated "largely compliant. The others were Argentina, the Bahamas, Bahrain, Bermuda, Brazil, Cayman Islands, Estonia, Greece, Guernsey, Italy, Jamaica, Jersey, Macao, Malta, Mauritius, Monaco, the Netherlands, Philippines, Qatar, San Marino and the Turks and Caicos Islands – while two jurisdictions – Austria and Turkey – were rated only "partially compliant".

In addition, 14 jurisdictions – most notably Panama, Switzerland and the United Arab Emirates – were informed that they would not be reviewed until they had improved their legal and regulatory framework. The remaining countries in this category were Botswana, Brunei, Dominica, Guatemala, Lebanon, Liberia, Marshall Islands, Nauru, Niue, Trinidad and Tobago and Vanuatu.

The Global Forum's second mandate, which started at the beginning of 2013, will focus on completing the Phase 2 reviews and on monitoring ongoing changes to jurisdictions legal systems and practices for exchange of information on request. It was further charged by the G20 leaders to review the implementation of the new global standard on automatic exchange of information to draw on the work of the Financial Action Task Force (FATF) on beneficial ownership and ensure that all countries have information regarding the beneficial ownership of entities operating in their jurisdictions.

Panama's tax system to remain territorial

30 December 2013, a law (No. 120 of 2013) that included an amendment to article 694 of the Fiscal Code to move from a territorial to a worldwide income tax system was published in the Official Gazette without prior notice. As a result individuals and companies domiciled in Panama would be taxed on their worldwide income rather than just local-source income.

The amendment, which had not been voted on in the National Assembly, was immediately attacked by business leaders and professional associations. Government representatives, including the Ministry of Economy and Finance and the Administrator of the National Authority of Public Revenue (ANIP), stated that a new bill repealing the Law would be submitted to the Legislative Branch in order to readopt the territorial income tax system.

On 2 January 2014, the Panamanian government passed a resolution repealing sections 2 and 3 of Law 120, which provided for the payment of taxes on income earned outside Panama.

France to remove Jersey and Bermuda from blacklist

23 December 2013, the French finance ministry said it planned to remove Jersey and Bermuda from its list of uncooperative tax havens as a result of an improved exchange of information. France had blacklisted the two jurisdictions last August, making them subject to sanctions in the form of additional taxes on all capital flowing to and from France.

"As of today, Bermuda and Jersey have satisfied all of France's requests for information, which will enable them to avoid reprisals contained in the law," the ministry said in a statement.

The blacklist will be updated in 2014 after Finance Minister Pierre Moscovici and Budget Minister Bernard Cazeneuve wrote to the relevant committees of the French lower and upper houses of parliament signalling progress by the two countries.

On 6 November 2013, Jersey brought the Taxation (Exchange of Information with Third Countries) (Amendment No. 7) (Jersey) Regulations 2008 into force. Under the amendments, the time period for responding to a tax information request was reduced from 30 to 15 days and the time period for any application for judicial review will be restricted to 14 days after receipt of the notice. The amendments generally apply retroactively to outstanding requests for tax information.

Anti-avoidance measures to fore in UK Autumn Statement

5 December 2013, in issuing his Autumn Statement UK Chancellor George Osborne unveiled what he described as the "largest package of measures to tackle tax avoidance, tax evasion, fraud and error so far this Parliament." The Chancellor hopes that the package will generate an additional £9 billion over the next five years.

Amendments to the controlled foreign companies (CFC) rules were introduced with immediate effect to address the transfer offshore of profits from existing UK intergroup lending. Changes will be made to the worldwide debt cap (WWDC) provisions to include companies limited by guarantee within the grouping rules and legislation will be introduced to put beyond doubt that double tax relief can only be claimed where the income is taxed twice. The government also confirmed that it would strengthen HMRC's ability to assess the tax risks posed by large multinational companies.

A measure is also being introduced to ensure that corporation tax relief is not available in respect of derivative contracts linked to company profits that enabled companies to pay profits to overseas group companies and avoid corporation tax.

Following consultation, the Chancellor confirmed that new measures would be introduced to counter manipulation of profit and loss allocations within "mixed membership" partnerships, where the partnership consists of both individual and corporate members. These rules come into immediate effect from 5 December 2013.

The measures seek to prevent arrangements whereby partnership profits are allocated from an individual member of the partnership to a corporate member, in order to benefit from the lower rates of corporate tax. Relevant profits will be re-allocated back to the individual partner for tax purposes in circumstances where a corporate partner's profit share is deemed to be 'excessive', or an individual member may ultimately benefit from the reallocated profits.

Further measures will be introduced to counter arrangements where partnership losses are re-allocated to an individual partner from a corporate partner in order to achieve an overall tax advantage. These measures will apply from 6 April 2014.

Two significant changes to the UK capital gains tax regime were announced. From April 2015 a capital gains tax charge on future gains made by non-residents disposing of residential property will be introduced. A consultation will be published in 2014. From 6 April 2014, the private residence relief that exempts capital gains on property used by an individual as their primary home will be reduced from 36 months to 18 months.

Specific action on avoidance schemes is also being taken. Schemes where deductions are claimed for payments between companies in the

same group under derivative contracts, which are linked to company profits, will be blocked. Legislation will be included in Finance Bill 2014 to prevent a charity's entitlement to tax reliefs if one of the main purposes of establishing that charity is to avoid tax. The definition of a charity for tax purposes will be amended accordingly.

There will be a new information disclosure and penalty regime for high risk scheme promoters, with objective criteria and a higher standard of reasonable excuse and care to be implemented. Clients of such promoters will find themselves subject to new obligations, including the requirement to identify themselves to HM Revenue and Customs (HMRC). Users of a scheme that HMRC has defeated in a tribunal or court hearing in another party's litigation will have to concede their position to reflect that ruling. A "tax-geared" penalty will be levied if the required amendments are not made and it is found that the scheme in question failed on the same point of law. Payment of the tax in dispute in an enquiry of this kind will be mandated when an "avoidance follower penalty notice" is issued.

HMRC will launch a project in early 2014 to ensure that it is ready to make sufficient use of data received under new exchange of information agreements (TIEAs). At Budget 2014, HMRC will consult on a range of enhanced proposals to penalise those "hiding" their money offshore.

US Treasury to close Dividend Tax Loophole for non-US investors

4 December 2013, the US Department of the Treasury proposed new regulations to close a tax loophole that enables non-US investors, particularly offshore hedge funds, to avoid paying taxes on dividends paid by US companies.

Under the US Internal Revenue Code, non-US persons are generally subject to a tax of 30% on dividends paid on US equities. Many non-US investors, including foreign hedge funds, therefore enter into swaps or other derivative contracts that pay dividend equivalents, which are not currently subject to US tax, instead of directly holding the dividend-paying equities on which they are based.

The proposed regulations under section 871(m), an amendment to the Internal Revenue Code enacted in 2010, would align the taxation of dividend equivalents with the taxation of dividends from sources within the US when the underlying security that generates the dividend equivalent is US equity.

Final regulations released with the proposed regulations continue the statutory regime that imposes a withholding tax on the dividend equivalent component of certain US equity-linked swap contracts.

Hong Kong trust reforms come into force

1 December 2013, the much anticipated Trust Law (Amendment) Ordinance 2013, which was passed by the Legislative Council on 17 July 2013, was brought into force with the exception of the statutory controls on trustees' exemption clauses will take effect, in relation to pre-existing trusts, on 1 December 2014.

The purpose of the amendments is to modernise Hong Kong trust law, which is considered to be outdated and out of step with more modern trust laws in comparable jurisdictions like Singapore and the UK, and are intended to enhance Hong Kong's status as an international asset management centre.

The key amendments include the following new provisions:

Enhancing trustees' default powers with a view to facilitating the effective administration of trusts, including: power to appoint agents, nominees and custodians to perform their "delegable" functions; power to insure trust property against the risk of loss or damage; entitlement to receive remuneration out of the trust fund even if the services are capable of being provided by a lay trustee.

Enhancing beneficiaries' protection, including: trustees will owe a clearly defined statutory duty of care to exercise such care and skill as is reasonable; professional trustees will not be able to exclude liability arising from fraud, wilful misconduct and gross negligence through exculpation clauses in trust instruments; beneficiaries will be able to appoint and retire trustees without the involvement of the court and without the requirement of terminating the trust.

Reserved powers by settlors: a trust will not be invalidated only because a settlor has retained any or all powers of investment or asset management functions.

Abolition of the rules against perpetuities and excessive accumulations of income: settlors will be able to set up perpetual trusts in Hong Kong and there will be no limits on periods for which income may be accumulated in relation to non-charitable trusts.

Trusts governed by Hong Kong law will be protected from foreign heirship rules.

Investment restrictions on trustees in default situations will be relaxed in respect of market capitalisation and dividend requirements of shares.

ECOFIN defers decision on UK patent box regime

10 December 2013, the EU Economic and Financial Affairs Council (ECOFIN) deferred a decision on whether the UK patent box regime is in breach of the EU Code of Conduct for business taxation.

ECOFIN instead invited the EU Code of Conduct group to "assess or consider all patent boxes in the EU, including those already assessed or considered before, by the end of 2014, ensuring consistency with the principle of equal treatment, also against the background of international developments, including those in relation to the OECD BEPS initiative."

The UK introduced a "patent box" tax regime, with effect from 1 April 2013, which provides for a lower UK corporation tax rate of 10% for profits associated with UK and EU patented inventions. It is intended to encourage companies to develop and exploit their patents in the UK. A number of other European jurisdictions apply similar favourable regimes.

However the UK "patent box" regime was criticised, especially by Germany after it was reported that patent registrations by German companies in the UK had risen by 27%, and the European Commission found that it to be harmful because it "violates two of the five principles of the Code." It referred the issue to the EU Code of Conduct working group, which in turn escalated the matter to ECOFIN.

The UK Treasury defended the measure, saying in a statement: "The government is confident that the UK's Patent Box regime does not breach the EU Code of Conduct Group's criteria; it is more tightly defined and imposes tougher eligibility criteria than other similar measures in operation that have previously been considered by the Code Group, for example those in France, Spain, Belgium and the Netherlands."

ECOFIN's decision to commission a wide-ranging report on patent box regimes across the EU means that the question will be deferred for at least another year.

Gibraltar tax regime under EU investigation

17 October 2013, the European Commission opened an "in-depth investigation" into whether a corporate tax regime Gibraltar implemented in 2011 "selectively favours certain categories of companies, in breach of EU state aid rules".

The move followed a complaint from Spain in June 2012, which alleged that an element of the Gibraltar tax code enabled Gibraltar to "continue to grant a selective advantage to offshore companies". The commission said that, on the basis of a preliminary investigation, it had decided to consider the matter further.

The Commission said it would focus in particular on an exemption that the Gibraltar tax regime gives to those taxpayers who receive passive income, such as dividends, royalties and certain types of interest income. "At this stage, the Commission considers that the tax exemption for passive interest and royalty income may involve state aid, because it departs from the general corporation tax system," it said in a statement.

"This could grant a special advantage to the particular group of companies that produce this type of income. Unlike for dividends – the exemption of which can be justified by the need to avoid double taxation – the Commission has, at this stage, found no valid justification for such an exemption."

Although Gibraltar amended the legislation, as of 1 July 2013, to repeal the exemption for inter-company loan interest, whether from Gibraltar or abroad, the Commission said it still needed to examine "whether the passive interest exemption was in breach of the state aid rules during the period when it was in force".

The Gibraltar government said it was confident that it could take swift legislative action to address the issues raised and described the Commission's rejection of Spain's broader complaints about its regime as "very positive".

"Of even greater importance, the European Commission has categorically rejected Spain's argument that the corporate tax system in Gibraltar is regionally selective. This is … arguably the most important aspect of today's decision, [for it] is the first time ever that the European Commission has officially and formally stated its opinion on the critical issue of regional selectivity and Gibraltar since the European Court judgments under

the previous tax regime. It is the first time ever that the European Commission finds that the far-reaching principle of regional selectivity does not apply to Gibraltar.

Labuan achieves 10,000th company milestone

30 September 2013, the Labuan Financial Services Authority (FSA) announced that the Labuan International Business and Financial Centre (IBFC) had achieved a major milestone by passing the 10,000 companies mark in the third quarter of the year.

As of 31 August 2013, a total of 10,003 companies had a presence in Labuan IBFC, comprising 641 licensed entities and 9,362 standard Labuan companies, of which 4,660 are operating. More than 70% of the Labuan companies originated from the Asian region.

The activities of the entities licensed by Labuan FSA to conduct financial services in or from the Labuan IBFC include banking, Islamic financial services, insurance and insurance related business. In addition, Labuan trust companies are licensed to provide trust, secretarial and fiduciary services to support the conduct of international business in the Labuan IBFC.

Labuan FSA confirmed it would continue to review its legislative framework to meet international standards, as it positions Labuan IBFC "as a mid-shore jurisdiction with a robust regulatory framework and the flexibility and competitiveness of an international financial centre." It would also continue to pursue greater cross-border supervision cooperation with other regulators.

G20 targets global tax evasion and avoidance

6 September 2013, leaders of the world's 20 largest economies endorsed, at the G20 summit in St Petersburg, plans to address the problems of cross-border tax evasion and avoidance and committed to take steps to tackle tax avoidance, harmful practices and aggressive tax planning.

In the official declaration issued at the conclusion of the summit the G20 leaders formally abandoned the "on request" standard for exchanging confidential taxpayer information in favour of a new model of international tax co-operation based on automatic exchange of information in accordance with the OECD Multilateral Convention on Mutual assistance in Tax Matters.

In July, G20 Finance Ministers and Central Bank governors mandated the OECD to present a new single global standard for automatic exchange of information by February 2014 and to finalise technical procedures for effective automatic exchange by mid-2014. The G20 leaders agreed to begin to exchange information automatically on tax matters among G20 members by the end of 2015.

In August, China became the 56th signatory to the Convention and the final G20 member country to fulfil the commitment made at the 2011 G20 Summit in Cannes to move to automatic exchange of tax information as the new global standard. The G20 declaration said: "We expect all jurisdictions to join the Convention without further delay."

The G20 leaders also gave their backing to the OECD's action plan on base erosion and profit shifting (BEPS), presented to G20 Finance Ministers and Central Bank governors in July, which is designed to address the gaps between different countries' tax systems by re-examining existing international tax rules on tax treaties, permanent establishment and transfer pricing to ensure that profits are taxed where economic activities occur and value is created.

The G20 declaration said more transparency will be established, including through a common template for companies to report to tax administrations on their worldwide allocation of profits and tax, and that all the actions on BEPS were expected to be delivered in the coming 18 to 24 months. To ensure that the recommendations are implemented quickly, the OECD is to develop a multilateral instrument for interested countries to amend their existing network of bilateral treaties.

The G20 agreement followed a deal struck by the G8 countries in June to establish automatic exchange of tax information between tax authorities and for all the G8 countries to publish action plans on requiring companies to obtain and hold information on who really owns and controls them and to ensure that this information is available to tax and law enforcement authorities through central registries.

Prior to the G8 summit UK Prime Minister David Cameron, president of the G8, held a meeting of all the heads of Britain's Crown Dependencies and Overseas Territories at which they also agreed to produce national action plans on beneficial ownership registries and committed to joining the OECD's Multilateral Convention.

Tony Abbott, Prime Minister of Australia, which took over the presidency of the G20 on 1 December, said: "Australia will lead stronger international cooperation in the G20 to combat tax base erosion and profit shifting, including better global exchange of tax information."

French court approves 75% tax rate for high earners

29 December 2013, France's highest court approved a 75% tax on salaries above €1 million that was one of President Francois Hollande's key manifesto policies at the 2012 election. The levy will apply for two years, affecting income earned this year and in 2014.

Hollande's initial proposal was ruled unconstitutional by the Constitutional Council in December 2012 because the tax applied to individuals and not households. The Council said any rate above 66% would be rejected as confiscatory.

Under the modified proposal, companies will now have to pay a 50% duty on wages above €1 million. In combination with other taxes and social charges, the rate will amount to 75% of salaries above the threshold, the court found. The total amount is limited to 5% of a company's revenue.

"The companies that pay out remuneration above €1 million will, as expected, be called upon for an effort of solidarity on remuneration paid in 2013 and 2014," the Economy Ministry said in a statement.

Antigua & Barbuda launches Citizenship by Investment Programme

13 October 2013, Antigua Prime Minister Baldwin Spencer announced the launch of a new Citizenship by Investment Programme (CIP), which was designed to generate investments and jobs and "put Antigua and Barbuda on the road to sustainable growth and development."

To qualify for citizenship under the programme, foreign investors must make a minimum investment of USD250,000 in Antigua's National Development Fund. Alternatively, they can choose to invest USD400,000 in real estate or make a business investment of at least USD1.5 million.

Spencer said: "We have structured the CIP to meet the most incisive scrutiny and to deliver the most rigorous review of the applications received by the Citizenship by Investment Unit."

Antigua's basic rate of income tax is 10% on income up to USD48,000, 15% up to USD120,000, 20% up to USD180,000 and 25% above that. There is no capital gains or inheritance tax.

EC proposes to tighten Parent-Subsidiary Directive

25 November 2013, the European Commission proposed amendments to close loopholes in the Parent-Subsidiary Directive because, it said, some companies have been using it to escape taxation. Revision of the Directive was one of the measures announced in the Commission's Action Plan against tax evasion last December.

The Parent-Subsidiary Directive was originally conceived to prevent same-group companies, based in different Member States, from double taxation of the same income. However, it said, certain companies have exploited provisions in the Directive and mismatches between national tax rules to achieve double non-taxation.

The proposal obliges Member States to adopt a common anti-abuse rule. This will allow them to ignore artificial arrangements used for tax avoidance purposes and ensure taxation takes place on the basis of real economic substance.

It will also ensure that the Directive is tightened up so that hybrid loan arrangements cannot benefit from tax exemptions. Under the proposal, if a hybrid loan payment is tax deductible in the subsidiary's Member State, then it must be taxed by the Member State where the parent company is established. This will prevent cross-border companies from planning their intra-group payments to enjoy double non-taxation.

Commissioner for Taxation Algirdas Šemeta said: "Today's proposal will ensure that the spirit, as well as the letter, of our law is respected. As such, it will ensure greater revenues for national budgets and fairer competition for our businesses." Member States are expected to implement the amended Directive by 31 December 2014.

DIFC unveils expansion plan

8 October 2013, the Dubai International Financial Centre (DIFC), a designated tax-free business zone, announced plans for a USD4.1 billion expansion to accommodate

high occupancy demand. The expansion is scheduled over a 10-year period.

DIFC Properties chief executive Brett Schafer said DIFC would seek property companies, developers, funds and real estate investment trusts to develop 17 buildings through joint ventures. The DIFC would contribute land and infrastructure while its partners would be responsible for financing construction.

DIFC offers exemption from income tax for 50 years, 100% foreign ownership, no exchange controls and a legal system based on English common law. It recently announced that the number of companies operating in the zone has reached more than 1,000.

President vetoes Bulgarian citizenship amendments

7 November 2013, Bulgarian President Rossen Plevneliev vetoed amendments adopted by Parliament in October to the Foreigners Act and Citizenship Act that would enable non-EU citizens to get permanent residence in Bulgaria for making a million-leva (€500,000) five-year investment.

The legislation as adopted did not provide a mechanism against abuse of the right of permanent residence of foreigners, and nor did it create the conditions to encourage real investment in the economy, sustainable positive growth and job creation.

A similar provision in Bulgarian law was rescinded in early 2013 for reasons of national security because foreigners who had already gained permanent residence could use the investment as collateral for a loan that could then be used by others to get residence permits.

"The President supports the creation of opportunities for attracting foreign investment, but provided there are legislative guarantees against circumvention," a statement said.

Plevneliev also vetoed a proposal under which someone who had become a permanent resident through investment could apply a year later to become a Bulgarian citizen. An assessment on whether to grant citizenship could not and should not be based solely on financial reasons, he said. Further, as a member of the European Union, Bulgaria had responsibilities that required the creation of effective safeguards.

Plevneliev believed that further consideration of the law by the National Assembly would improve the legal framework by eliminating threats to national security and the ability to easily circumvent the law. Under Bulgaria's constitution, the President's veto is not absolute and may be overridden by a simple majority of the members of the National Assembly.

Bearer shares abolished in TCI

13 November 2013, the Abolishment of Bearer Shares Bill was enacted to prohibit the issue of bearer shares in the Turks and Caicos Islands. A six-month period has been granted for holders of bearer shares to register their shares and convert them to ordinary ones.

TCI Premier Rufus Ewing noted that the decision was in keeping with his government's commitment to ensuring that the financial services centre remains transparent and operates in accordance with international accepted standards.

Switzerland and China sign new double tax treaty

25 September 2013, Switzerland and China signed a new double tax treaty that will replace the current 1991 treaty. The new treaty reduces the maximum rate of withholding tax on dividends from 10% to 5% and contains provisions on the exchange of information in accordance with the currently international standard.

Switzerland and China have agreed to reduce the maximum rate of withholding tax on dividends from 10% to 5% if the company receiving the dividends holds a stake of at least 25% in the distributing company. The withholding tax rate for royalties has been lowered from 10% to 9%, while the rate for interest payments remains at 10%

Thresholds for permanent establishments have been adjusted to 12 months for building and construction sites and installation projects as well as to 183 days in a 12-month period for provision of services.

China will not be entitled to levy any business tax or any value added tax on international transport services provided by Swiss shipping companies and airlines.

Capital gains tax deriving from disposal of shares is levied in the country where the company whose shares are being sold is resident, provided a minimum participation of 25% is during the last 12-month preceding the disposal.

The treaty has to be ratified by the parliaments of the two countries and is subject to an optional referendum in Switzerland.

Bermuda streamlines funds' approval process

4 October 2013, the Investment Funds Act 2006 was amended by the Investment Funds Amendment Act 2013 to streamline the approvals process for funds. The Amendment Act repeals the existing provisions on exemption and introduces two new classes of exempt funds – Class A and Class B. Class A Exempt Funds require no approval by the Bermuda Monetary Authority (BMA) and can be registered and launched in Bermuda on a fast-track basis using the BMA's ERICA online system.

Class A Exempt Funds are only open to qualified participants – sophisticated private investors or institutional investors – and must have an investment manager who is licensed under Bermuda's Investment Business Act, or authorised by a recognised foreign regulator or has assets under management of at least $100 million.

The fund must appoint an auditor, fund administrator, registrar and a custodian or prime broker, as well as a local representative with access to financial information. The fund must also update the Bermuda Monetary Authority annually and ensure that it continues to meet these qualifications.

Bermuda has also amended its Class B Exempt Funds to eliminate the requirement that a fund administrator be recognised and the requirement to file changes of service providers to the fund. However a minimum level of investment of $100,000 by qualified investors has been introduced.

Funds that are currently exempt under the repealed provisions will be grandfathered by the Amendment Act and will continue to be exempt under the repealed provisions for a period of three years.

Dutch offer treaty talks with developing countries

30 August 2013, the Netherlands government offered 23 developing countries the chance to renegotiate tax treaties to close loopholes that allow multinationals to avoid taxation. The review of tax treaties with developing countries was launched after Mongolia cancelled its tax treaty with the Dutch, accusing the Netherlands of enabling "fiscal avoidance."

The Netherlands will in future inform treaty partners when a company does not meet substance requirements and is merely using a Dutch shell company to avoid taxes. It will also approach the other low-income countries and low middle-income countries to see if they wish to add anti-abuse clauses to the existing treaties.

The Netherlands has more than 90 double tax treaties. Several thousand international corporations, including 80 of the world's largest, use so-called "letter-box" companies with no employees to re-route profits to low tax jurisdictions, often paying no withholding tax in the country of origin.

"By making use of loopholes in tax treaties in combination with differences between national tax rules, internationally operating companies can avoid paying tax," Development Cooperation Minister Lilianna Ploemen said in a statement.

In October 2013, Dutch Financial State Secretary Frans Weekers submitted an amendment to the government's Tax Plan to extend the reporting obligations in respect of conduit companies in the Netherlands from 1 January 2014. These requirements include governance and administration from the Netherlands, incurring sufficient risk with regard to related legal relationships and maintaining a sufficient level of equity in accordance with functions.

Under the previous regime, the Netherlands required intermediary companies in receipt of interest or royalty payments from other countries that pay out the interest or royalties to third countries, to inform the Dutch Tax Administration of their existence and size only if they wished to obtain advance rulings on tax treatment. These provisions will be extended to include intermediary companies that do not request advance rulings. If an entity does not fulfil the substance requirements it will have to disclose information to avoid double taxation. The tax authorities will also spontaneously exchange information with relevant foreign tax authorities.

The measure forms part of efforts to actively combat international tax avoidance, without altering the basic structure of the Dutch tax system. The Dutch Tax Administration has further pledged to spontaneously inform the tax administrations in treaty partner states if an entity fails to meet the necessary criteria.

The Offshore Survey January 2014 Supplement on the website has the following 19 additional articles:

Switzerland authorises banks to participate in US programme

Former UBS banker agrees to US extradition

US signs six FATCA Intergovernmental Agreements in one week

Swiss Federal Council adopts mandate on savings tax with EU

EC examining states' corporate tax arrangements

Channel Islands Aircraft Register takes off

China launches Shanghai free trade zone

Plans agreed for Asia Region Funds Passport

UK Dependent Territories no longer "tax havens", says PM

European Parliament approves tax information exchange proposals

Swiss Federal Council approves steps for enhanced due diligence

Six more countries join G5's tax information exchange pilot

Singapore nears FATCA agreement with US

Singapore consults on FATF regulatory changes

Cayman Islands and US sign FATCA agreement

Signatories to OECD Multilateral Convention double over year

Swiss Federal Council adopts dispatch on first three TIEAs

UK/Swiss tax agreement fails to deliver

Second Swiss private bank closes over US tax row

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