

Introdukshon na okashon di Reunion di Komishon Sentral di Staten
Pasonan ku ta tuma pa kombati e etikèt indebido di “paraiso fiskal”

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Kiko ta un “paraiso fiskal”?

No tin un definishon akseptá kiko ta un paraiso fiskal. Nos ta usa e definishon di OECD (Organisashon pa Koperashon i Desaroyo Ekonómiko): *Un paraiso fiskal normalmente ta 1. un pais ku ta kobra nada òf masha tiki belasting lokual den práktika kier men ku no-residentenan ta paga ménos belasting ku residentenan. 2. E ta protehá tur informashon finansiero personal i 3. Falta di transparensia den asuntunan atministrativo, legal i interkambio di informashon.*

Falta di kriterio transparente pa “paraiso fiskal”

Dor ku no tin un definishon akseptá, tur pais en prinsipio ta liber pa yama un otro un paraiso fiskal. Tin pais ta yama otro pais paraiso fiskal, miéntras ku nan mes ta aparesé riba listanan di paraiso fiskal. Merka por ehèmpel pa hopi ta un paraiso fiskal, den e kaso aki estado Delaware. Algun parlamentario Ulandes a tilda nos komo paraiso fiskal mientras e organisashon Stichting Onderzoek Multinationale Ondernemingen (SOMO) a konkluí den su rapòrt “*Nederland: Een Belastingparadijs*” ku Ulanda ta un paraiso fiskal.

Pakiko nos pais no ta un “paraiso fiskal”

Den añanan 90 a tuma e desishon pa kambia i modernisá nos legislashon fiskal. Na 1999 a trese kambionan supstansial den nos sistema di belasting ku nos a yama Nieuw Fiscaal Raamwerk (NFR). NFR ta kumpli ku tur rekisito di e Organisashon pa Koperashon i Desaroyo Ekonómiko (OECD) i otro standardnan mundial i Oropeo. Pues kontrali na e definishon di un paraiso fiskal, den nos pais no tin diferensia den trato di residente i no-residente.

Nos pais ta sumamente aktivo pa sera tratado fiskal pa asina promové transparensia. Nos tin òf ta den proseso na yega na tratado pa interkambio di belasting (TIEA) ku 11 pais. Banda di TIEA ta negoshá ku 5 otro pais pa yega na un tratado pa evitá pagamentu di belasting dòbel (DTA) ku tambe ta kontené interkambio di informashon di belasting. Ademas nos pais - hasiendo hopi sakrifisio - ta kumpli ku rekisitonan di CFATF, FATG, Egmont Group i tambe Direktivanan i Kódigonan di Kondukta di Union Oropeo. Bisando esaki, nos maneho ta totalmente kontrali na e falta di transparensia ku karakterisá un paraiso fiskal.

Bários organisashon internashonal manera Egmont, Fondo Monetario Internashonal (IMF) i e Organisashon pa Koperashon i Desaroyo Ekonómiko (OECD) a mensioná Antia den un grupo selekto di 5 pais chikí komo un ku ta kumpli kabalmente ku stándanan di transparensia. E otro paisnan ta Aruba, Isle of Man, Guernsey i Jersey i Bermuda.

E etikèt di “paraiso fiskal” ta hasi daño na nos ekonomia

Apesar di tur kos, algun pais ta konsiderá nos komo un paraiso fiskal. Esakinan ta e.o. Portugal Polonia, Gresia, Italia, Ecuador, Brazil, Argentina i Kazakstan. Problema ta ku komo pais no ta semper bo ta na altura ku bo ta riba sierto listanan. Paisnan tampoko no ta avisábo ku nan tin intenshon di ponebo riba lista i lokual ta ferfelu ta ku hopi biaha ta masha kompliká i ta tuma hopi tempu pa bo keda eliminá for di e listanan aki.

Hecho ta ku siendo riba un lista negativo, esaki ta stroba hasimentu di negoshi. Ta bin mas opstákulo ku normal, sierto transakshonnan no ta posibel i importashon di merkansia i servisio ta mas karu. E hecho ku nos ta riba lista di paraiso fiskal di Brasil ta hasi ku un kòntainer di karni for di Brasil tin ku paga mas belasting na Brasil pa e yega Antia, hasiendo e merkansia mas karu.

Posiblemente e daño prinsipal ta e imágen negativo pa bo pais komo un paraiso fiskal. Ku bista riba e krísis internashonal, nos ta ripará ku den kuadro di “re-tool” e sistema finansiero mundial, lo pone hopi atenshon na integridat di sistemanan fiskal. Ta opvio den esaki ku lo pone preshon riba paraisonan fiskal. Hecho ta ku si bo ta riba lista di paraiso fiskal esaki lo afektá e kompetitividat di bo sektor finansiero internashonal. Den nos kaso pues, mester hasi mas tantu pa kita e etikèt di paraiso fiskal for di nos kurpa.

Kiko nos a bin ta hasi?

Basá riba propio outoridat nos a tuma bários akshon. Ta bon pa mensioná ku na 2006 mi a proponé na Ulanda - mirando ku algun pais di Union Oropeo (EU) tin nos riba nan lista di paraiso fiskal - pa den kuadro di Komishon Oropeo (EC) i ECOFIN nan lobby pa nos keda bahá for di e listanan. Ministerio di Finansa Ulandes sinembargo no a mustra interes pa yuda nos. Riba propio forsa for di 2006 ku éksito nos a kita for di listanan di Spaña, Mexico i Bèlgika dor di negoshá tratadonan TIEA.

Riba 4 tereno nos ta traha pa baha for di e listanan i sòru pa nos - inkluso aworó paisnan Kòrsou i Sint Maarten - no subi listanan nobo.

A. Akshon bilateral: negosiashon

Ta sigui negoshá TIEA ku e siguiente paisnan ku tin nos komo paraiso fiskal: Ecuador, Italia, Brasil i Kazakstan. Ta hasi e trámitenan diplomátiko pa kuminsá negosiá e aña aki.

B. Akshon bilateral: informashon i mas informashon

Nos ta realisá ku den sierto kaso a pone nos riba lista negativo a base di informashon no korekto i antikuá. Aki mi kier asumí responsabilidad, pasombra nos a tribi poko pa informá paisnan di e kambionan di lei na 1999. Den e kuadro aki nos a saka un foyeto pa repartí via di embahadanan; nos a eksihí pa embahadanan sostené nos den e kuadro di merkadeo/dunamentu di informashon; saka mas informashon den prensa internashonal i organisá road-show. Ademas un studiante di UNA ta hinka un plan di merkadeo den otro pa kon mihó nos atendé e asunto di paraiso fiskal aki tambe.

C. Akshon versus Union Oropeo

Pa loke ta trata e paisnan Oropeo, nos a sinta na mesa ku EC i tambe a manda un karta (athunto). Básikamente nos no ta di akuerdo ku EU ora di imponé reglanan i direktivanan e ta aktua na nòmber di tur miembro, pero ora nos pidi pa atendé e hecho ku indebidamente Antia ta riba lista, EC ta bisa ku kada pais ta outónimo pa pone i kita paisnan for di listanan pretu. Esaki siendo ku EC ta di akuerdo ku nos no ta un paraiso fiskal.

Otro punto ku nos a kuestioná ta e hecho ku sierto paisnan den EU ta konsiderá nos komo un pais íntegro i otronan di e mesun union - kaminda tin kuestion di harmonisashon - ta konsiderá nos komo paraiso fiskal. Mi opinion ta ku en todo kaso nos pais no mester bai di akuerdo ku ningun regla i/òf direktiva nobo di EU sin ku EC tuma akshon pa ku nos inklushon indebido riba listanan di paraiso fiskal.

D. Akshon internashonal

E pasonan ku nos a tuma versus EU a kapta atenshon di Isle of Man, ku manera nos tambe ta un pais ku ta conforme tur regla internashonal pero ku apesar di esaki ta aparesé riba algun lista pretu. Mi a haña sosten di Konseho di Minister pa aserka Isle of Man i otronan pa nos tuma akshon riba plano internashonal kontra di e manera arbitrario ku ta pone paisnan riba listanan negativo. Mi a bai di akuerdo ku Gobièrnu di Isle of Man pa saka un “joint statement” riba e tema aki.

Mirando ku e seis paisnan ku segun OECD ta kumpli kabalmente ku tur regla ta sea Ulandes o Ingles, a palabra ku Antia lo lobby ku Aruba miéntras ku Isle of Man lo lobby ku Guernsey, Jersey i Bermuda pa nos forma un frente.

Pa duna un idea kiko nos ta bai hasi, athunto enkontrá un draft joint-statement ku ainda no ta aprobá. Den esaki nos ta pidi lo siguiente: 1. Pa OECD asumí un papel di liderazgo pa sòru bin ku kriterionan transparente i globalmente akseptá kiko ta un paraiso fiskal 2. Pa OECD duna apoyo na nos pa kombati e etikèt indebido di paraiso fiskal i 3. pa OECD duna un seyo di aprobashon òf un lista blanku riba kua tur pais ku no ta un paraiso fiskal ta aparesé.

Despues di desmantelashon di Antia

Ta imperativo ku aworó ora Kòrsou i Sint Maarten haña nan status nobo, ku nan no aparesé riba listanan for di kua Antia Ulandes a baha òf subi listanan nobo. Lo ta funesto pa paisnan nobo kuminsá ku e peso di ta aparesé riba bários lista di paraiso fiskal. Ta bira hopi importante den e fase aki pa nos di Antia duna informashon korekto i sigurá un i tur den mundu ku paisnan nobo - Sint Maarten i Kòrsou - lo bai tin sistemanan fiskal ku ta kuadra ku tur e reglanan di transparensia i integridat ku ta konta den mundu. Nos mester ta kouteloso pa tur e trabou ku nos a hasi pa Antia no ta pòrnada, esta ku ta kuminsá totalmente di nobo ku e tema aki ora Kòrsou i Sint Maarten nase komo pais.

NEDERLANDSE ANTILLEN



STAATSSECRETARIS VAN FINANCIËN BELAST MET FISCALE ZAKEN

European Commission
Taxation and Customs Union Directorate-General
Att. Mr. Stephen Stork
Coordination of Tax Policies and Harmful Tax Practices
EC – Office MO59 06/59
Rue Montoyer 59
1049 Brussels
Belgium

Willemstad, 5 August 2008
RvM/1104

RE: Righting a grave injustice; removal of the Netherlands Antilles from black lists

Further to our conversation held in The Hague on the 15th of May 2008, we are writing to express our concern about the fact that the Netherlands Antilles is inaccurately and unjustly referred to as a 'tax haven' and consequently black-listed by some European Union (EU) members. As you are well aware, being black-listed by some EU Members seriously undermines the competitiveness of the Netherlands Antilles' financial services sector and consequently the well-being of its people.

Again we want to stress - as we did in our meeting - that we are committed to provide a leading edge financial services industries with high-end supervision in line with international standards to protect the consumer. As a matter of fact you reaffirmed that the Netherlands Antilles meets all EU and Organization for Economic and Cooperation Development (OECD)-requirements for a clean and reputable international financial services center.

Based on this argument and as an EU Associate Member, the Netherlands Antilles urges you to ask all the EU Members that categorize us as a 'tax haven' to immediately rectify this injustice by eliminating us from their black lists.

Our commitment to providing a leading edge financial services industries

Mission: belonging to the top-ten high-value financial centers of the world

The overall objective of the Government's policy with regards to the international financial services industry is to continue to strive to be a premier and high quality, globally competitive financial center that contributes to sustainable economic growth and well-being of the people of the Netherlands Antilles. In the coming years the Netherlands Antilles must not only reach but remain in the top-ten high-value financial services centers of the world.

The international financial services industry is a globally competitive environment in which operates many aggressive small and big players. The strategy the Netherlands Antilles has chosen to reach its objective is to be the gateway for channeling investments into and from Latin America. The Netherlands Antilles is looking to reach its mission via a treaty-based competitive and trustworthy international financial system.

Treaty-based financial services industry

The Netherlands Antilles has signed Tax Information Exchange Treaties (TEIA) with the United States of America, Australia, New Zealand and Spain and is planning to sign eight (8) more with Mexico, Canada, Denmark, Sweden, Finland, Iceland Faroe Islands and Greenland. These agreements confirm the Netherlands Antilles' commitment to high international standards and its stature as a responsible international financial center.

Currently the Netherlands Antilles is negotiating or in the process to start negotiations of double taxation and the prevention of fiscal evasion (DTA) with Suriname, the United Arab Emirates, Colombia, Spain, Mexico, Colombia, Barbados, Jamaica and Ecuador. Existing DTAs with Norway and the Netherlands are also in the process of being renegotiated.

Competitive and trustworthy financial center

In order to be globally competitive, one should be competitive at home in the first place. The Government has to provide a legislative environment which best enables the international financial service industry to deliver quality products to its costumers. The planned policy reforms which will be in place in 2010 call for simplification of the tax regime through elimination of exemptions, streamlining of rates and more emphasis of indirect taxes. These reforms will also improve collection of taxes and level the field.

The main purpose of a high-end supervision in line with international standards is to protect the consumer who makes use of our international financial services industry. At the end of the day it is the trustworthiness of the international financial services center that counts. The Netherlands Antilles is committed to the higher standards of transparency in the tax area and is an active and a complying member of various international organizations such as the OECD, the Egmont Group, the Financial Action Task Force (FATF) and the Caribbean Financial Action Task Force (CFATF).

Cooperation with EU should be a two-way street

Clean bill of health

In line with its commitment of being a clean and reputable international financial services center, the Netherlands Antilles has been fully cooperating with the European Code of Conduct Group, the OECD Harmful Tax Practices, the European Union Savings Directives and other measures against money laundering and the financing of terrorism. See also Annex 1.

These efforts have paid off. The Netherlands Antilles is recognized by the OECD as a co-operative jurisdiction; in April 2008 the Egmont Group gave the Netherlands Antilles its seal of approval and the IMF in its most recent Article IV Consultations concluded that "*The financial sector of the Netherlands Antilles is broadly healthy*".

Yet some EU 'black-list' the Netherlands Antilles

In spite of being full cooperative with the EU, some EU members have unfairly black-listed the Netherlands Antilles. The Government of the Netherlands Antilles is aware that the following EU Members unjustly refer to Netherlands Antilles as a "tax haven": Spain, Portugal, Poland, Greece, Italy and (maybe) Germany. With the exception of Spain no amount of bilateral (diplomatic or informal) contact between the Netherlands Antilles and the EU Members black-listing our country has resulted in rectification of this situation.

The Case of Spain

In the case of Spain it took the Netherlands Antilles around four (4) years of effort and negotiation to finally get the Spanish authorities to agree to remove us from the Spanish black list. In this case it took the negotiation of a Tax Information Exchange Agreement which was signed on 10 July 2008 and an evaluation done by the Spanish tax authorities to confirm the fact that the Netherlands Antilles "can not be considered a tax haven".

Quid pro quo

As we told you during our meeting, the Netherlands Antilles can not afford to spend four (4) years attending each of the other five (5) EU Members in order to convince them that they have unjustly black-listed us. As a small developing island we do not have the necessary resources and manpower to do it and especially because - as you confirmed during our meeting - we should not have been on those lists to begin with.

Finally, we again stress that we have been very cooperative and are open to continue to work to promote sound policies in the tax area. However, cooperation should be a two-way street. We can therefore not agree with you - as you stated in our conversation - that the EC can not intervene on our behalf to correct the above mentioned unjust inclusion on black list of some EU members because "EU Members are autonomous in their tax matters". This statement seems very curious especially when we note that in the case of imposing actions to promote what the EU calls "good tax governance" the EC does have the authority to act on behalf of the EU Members. This consequently raises the following questions: *Why does the argument of autonomy of the individual EU Member not apply when the EU takes actions to "promote good tax governance" on the Netherlands Antilles¹? And why does it apply when the Netherlands Antilles request the EC, not for a favor mind you, but to simply correct an error that has been made by some EU members?*

It is impossible to expect the Netherlands Antilles to continue to cooperate, contributing to the further erosion of our international financial industry, while no cooperation can be expected from the EU, not even in the case of righting a grave injustice.

¹ See for example Note on Milestones for Dutch OCT's (TAXUD/E01/StS/D92008)

Conclusion

Based on the fact that the EC recognizes that the Netherlands Antilles complies with all EU and OECD requirements; that the Spanish authorities have certified the Netherlands Antilles as compliant; that the Netherlands Antilles has concluded a TIEA with Spain; that the Netherlands Antilles has a firm commitment with Spain to start negotiating a DTA; that an EU Member would not conclude tax treaties with a 'tax haven', that the Netherlands Antilles is an Associated EU Member; that we demand a level playing field and that we need to guard our financial services sector against further erosion:

1. We urge the EC to immediately take action and ask all the EU Members that categorize us as a 'tax haven' to immediately rectify this injustice by eliminating us from their black lists.
2. We urge the EC to take appropriate action to prevent that other (than those mentioned in 1.) and future EU Members black-list the Netherlands Antilles.

Finally I inform you that I will be in Brussels from 1 to 5 September 2008 to attend the International Fiscal Association (IFA) convention. I will hear from you if you wish to meet with my delegation and I to further discuss our letter. In that case you can contact my assistant, Mr. Martijn Niekus (martijn.niekus@gov.an) or the Director of Fiscal Affairs Mr. Cedric Josepa (cedric.josepa@gov.an).

Sincerely,

Alex D. Rosaria

CC: The Minister of General Affairs and International Relations
The Minister of Finance
The Director of Fiscal Affairs
Members of the Fiscal Treaties Task Force
The CIFA

**JOINT STATEMENT OF [COUNTRY NAME] AND THE NETHERLANDS
ANTILLES ON THE MATTER OF “TAX HAVENS”**

1. [country name] and the Netherlands Antilles are fully committed to providing leading edge financial services with high-end supervision in line with all relevant international standards in order to guarantee the integrity of the financial markets and to protect the consumers who make use of their services.
2. Based on their commitment of transparency and effective exchange of information, [country name] and the Netherlands Antilles have been fully cooperating with the Organization of Economic Cooperation and Development (OECD), the European Code of Conduct, the European Union Savings Directives and other measures against tax evasion and fraud, money laundering and the financing of terrorism.
3. Convinced that international cooperation on tax matters should be a two-way street, [country name] and the Netherlands Antilles are committed to continue to work to promote sound policies in the tax area.
4. In matters of tax exchange information agreements and the active negotiations of these agreements, the Secretary-General of OECD concluded in October 2008 that most progress have been made by six jurisdictions namely the Isle of Man, the Netherlands Antilles, Aruba, Bermuda, Guernsey and Jersey. Most recently, in November 2008, the Director of the Tax Policy Administration at the OECD declared that the Isle of Man, the Netherlands Antilles, Aruba, British Virgin Islands, Bermuda, Jersey and Guernsey are fully compliant with OECD transparency standards.
5. Yet in spite of these unequivocal assessments by the OECD, [country name] and the Netherlands Antilles are still unfairly and baselessly being labeled as “tax havens” by some countries, among them even OECD-member states.
6. [country name] and the Netherlands Antilles equally deplore the fact that currently any jurisdiction can arbitrarily compose its own tax haven lists for there are no widely accepted and transparent criteria of what constitutes a tax haven.
7. [country name] and the Netherlands Antilles further note that (in most cases) no pre(warning) and or rationalization what so ever is given for their inclusion on these “tax havens” lists.
8. It should also become clear that the international financial services industry is vital for the survival of small economies like [country name] and the Netherlands Antilles that not only lack natural resources, but also are very susceptible to external shocks. Their inclusion of on “tax haven” lists (further) erodes their financial services sectors consequently undermining their Government’s ability to provide well-being for their peoples.
9. [country name] and the Netherlands Antilles also deplore the fact that the process of getting off these “tax havens” lists is long and arduous and puts a lot of pressure on their limited resources, consequently limiting their ability to compete in the globally competitive environment which characterizes the international financial industry.

10. [country name] and the Netherlands Antilles are asking for no free rides and or a preferential treatment, but demand regarding the international financial industry a level playing field in which some are not held to higher standards than is demanded of others.

11. Aware of their own responsibilities [country name] and the Netherlands Antilles will continue to supply correct information on their tax systems and international commitments regarding transparency and integrity of their international financial industries. Correct information is a powerful instrument in the prevention of being included on new “tax havens” lists.

12. In addition to providing information, [country name] and the Netherlands Antilles will continue their efforts to engage with those jurisdictions that have included them on “tax haven” lists in order to concretize their swift removal from them.

13. [country name] and the Netherlands Antilles, aware of their own responsibilities, are convinced that - based on the notion of *quid pro quo* - the OECD can and must play a more active role on behalf of the jurisdictions it has indicated as fully compliant with OECD transparency standards leading to their swift elimination from existing “tax haven” lists.

14. [country name] and the Netherlands Antilles are of the opinion that it is inconceivable that OECD-member states are able to label as “tax havens” jurisdictions that the very OECD has indicated as being “fully compliant”.

15. [country name] and the Netherlands Antilles urge the OECD to provide leadership to a process that should result in widely accepted and transparent criteria on which a jurisdiction is to be categorized as a “tax haven”.

16. Finally [country name] and the Netherlands Antilles urge the OECD to develop a white list and or a seal of approval that is widely respected and accepted, for those jurisdictions deemed to be fully compliant with OECD transparency standards.