



Supplementary Peer Review Report Phase 1 Legal and Regulatory Framework

BARBADOS



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About the Global Forum

The Global Forum on Transparency and Exchange of Information for Tax Purposes is the multilateral framework within which work in the area of tax transparency and exchange of information is carried out by over 100 jurisdictions, which participate in the Global Forum on an equal footing.

The Global Forum is charged with in-depth monitoring and peer review of the implementation of the international standards of transparency and exchange of information for tax purposes. These standards are primarily reflected in the 2002 OECD *Model Agreement on Exchange of Information on Tax Matters* and its commentary, and in Article 26 of the OECD Model Tax Convention on Income and on Capital and its commentary as updated in 2004. These standards have also been incorporated into the UN *Model Tax Convention*.

The standards provide for international exchange on request of foreseeably relevant information for the administration or enforcement of the domestic tax laws of a requesting party. Fishing expeditions are not authorised but all foreseeably relevant information must be provided, including bank information and information held by fiduciaries, regardless of the existence of a domestic tax interest or the application of a dual criminality standard.

All members of the Global Forum, as well as jurisdictions identified by the Global Forum as relevant to its work, are being reviewed. This process is undertaken in two phases. Phase 1 reviews assess the quality of a jurisdiction's legal and regulatory framework for the exchange of information, while Phase 2 reviews look at the practical implementation of that framework. Some Global Forum members are undergoing combined – Phase 1 plus Phase 2 – reviews. The Global Forum has also put in place a process for supplementary reports to follow-up on recommendations, as well as for the ongoing monitoring of jurisdictions following the conclusion of a review. The ultimate goal is to help jurisdictions to effectively implement the international standards of transparency and exchange of information for tax purposes.

All review reports are published once approved by the Global Forum and they thus represent agreed Global Forum reports.

For more information on the work of the Global Forum on Transparency and Exchange of Information for Tax Purposes, and for copies of the published review reports, please refer to www.oecd.org/tax/transparency and www.eoi-tax.org.

Executive Summary

1. This is a supplementary report to the Phase 1 Peer Review Report. The Phase 1 Peer Review Report on Barbados was adopted and published by the Global Forum on Transparency and Exchange of Information for Tax Purposes in January 2011 (the “Phase 1 report”) and assessed the situation of Barbados as of October 2010. The international standard, which is set out in the Global Forum’s Terms of Reference to Monitor and Review Progress Towards Transparency and Exchange of Information, is concerned with the availability of relevant information within a jurisdiction, the competent authority’s ability to gain access to that information, and in turn, whether that information can be effectively exchanged on a timely basis with its exchange of information (EOI) partners.

2. The Phase 1 report concluded that elements which are crucial for achieving effective exchange of information were not yet in place in Barbados, and recommended that Barbados does not move to a Phase 2 review until it has acted on the recommendations contained in the Summary of Factors and Recommendations to improve its legal and regulatory framework. Most importantly, a number of serious deficiencies had been identified in Barbados exchange of information treaties: (i) Barbados did not exchange information on certain entities such as international business companies, which are excluded from treaty benefits, with four jurisdictions, including two major trading partners; (ii) Barbados could not exchange bank information with a quarter of its treaty partners, for a variety of reasons; and (iii) the terms of three of its treaties appeared to be limited by a domestic tax interest requirement. Barbados provided a detailed written report to the Peer Review Group within 12 months of the adoption of the Phase 1 report. On that occasion, Barbados asked for a supplementary peer review report pursuant to paragraph 58 of the Methodology for Peer Reviews and Non Members Reviews (see Annex 2), for the Global Forum to consider the changes made by Barbados to address the recommendations made in the Phase 1 report so as to enable Barbados to move to the Phase 2 stage of the review process.

3. The present supplementary report assesses the new exchange of information instruments signed by Barbados to address the determination

and recommendations relating to element C.1 (exchange of information mechanisms) and C.2 (network of exchange of information mechanisms) which were previously assessed to be not in place. Barbados was of the view that the amendments made to its legal framework were such that these two elements should now be determined to be in place. The present report takes this opportunity to also review progress made to address other recommendations made in the Phase 1 report as concerns elements A.1 (ownership information), A.2 (availability of accounting information), A.3 (availability of banking information) and B.1 (access to information) assessed to be in place but in need of improvements.

4. Since the Phase 1 review, Barbados has signed 4 double tax conventions, 3 tax information exchange agreements and 4 protocols to existing treaties. In addition, 3 EOI instruments signed but not in force at the time of Phase 1 have entered into force. As of January 2012, Barbados has EOI instruments with 37 partners, of which 16 meet the standard and another 9 will meet the standard once in force.

5. Barbados is revising its existing double tax conventions (DTCs) where they do not currently meet the standard or where they meet the standard but do not reflect the latest version of the Model Tax Convention. Most importantly, Barbados signed a protocol to its DTC with Canada in November 2011. Thus, Barbados has EOI instruments to the standard with both of its prominent EOI partners (the other one being the United States). Element C.1 is therefore no longer considered as “not in place”. However, considering that further instruments should be brought to the standard, element C.1 is determined as “in place but certain aspects of the legal implementation of the element need improvement”.

6. Barbados is also developing its exchange of information network, in line with the recommendations made on element C.2. In particular, Barbados has signed Tax Information Exchange Agreements in November 2011 with Denmark, Greenland and the Faroe Islands, and initialled two others over the last two months. It also signed new treaties with Spain (already in force), Portugal, the Czech Republic and Iceland. These treaties will also provide for exchange of information to the standard once in force. The recommendations and determinations for element C.2 have therefore also been revised and upgraded to “the element is in place but certain aspects of the legal implementation of the element need improvement”.

7. Obligations to ensure the availability of identity and ownership information for entities are in place although gaps were noted as regards the requirements for some nominees to hold information, lack of penalties for maintaining share registers and in relation to information on some express trusts. Progress was made on the availability of information related to nominees and trustees now covered by a new anti-money laundering law. The lack

of penalties for not maintaining share registers remains. There also remain inconsistent obligations on relevant entities that are not subject to tax obligations in Barbados to maintain reliable accounting records, including underlying documentation for a minimum five year period. The determinations of elements A.1 and A.2 therefore remain assessed as in place but in need of improvements, whereas the recommendations on nominees and trusts are removed to take account of the progress made.

8. Barbados implemented the Phase 1 recommendation on the availability of banking information. The Money Laundering and Financing of Terrorism (Prevention and Control) Act, 2011 removed a threshold, below which banks were not required to maintain information regarding client account transactions. The recommendation is therefore removed and element A.3 is now considered as “in place” in Barbados.

9. Regarding access to information, the Barbadian competent authority generally has the same powers to obtain information for domestic and exchange purposes. However, secrecy provisions may limit the Barbadian authority’s access to information on some trusts. Barbados should continue to review its laws and their interpretation to remove any impediments or uncertainties about its powers to obtain and willingness to exchange information.

10. Given the progress made by Barbados since October 2010 to its legal and regulatory framework for transparency and exchange of information, in particular in respect of the elements that were found to be “not in place”, the Phase 2 review of Barbados will take place, in accordance with the schedule of reviews adopted by the Global Forum, during the first half of 2013. The Phase 2 review will consider in detail Barbados’ response to the recommendations remaining in this report, as well as the application of the legal framework to the practices of its competent authority.

Introduction

Information and methodology used for the supplementary peer review of Barbados

11. This supplementary peer review report was prepared pursuant to paragraph 58 of the Global Forum’s Methodology, pursuant to which an assessed jurisdiction that implements changes that are likely to result in an upgrade in a determination of an essential element can submit a detailed written report and ask for a supplementary report (see Annex 2 for the request by Barbados). The present report therefore considers recent changes to the legal and regulatory framework of Barbados based on the international standards for transparency and exchange of information as described in the Global Forum’s Terms of Reference.¹ The assessment was based on information available to the assessment team including the laws, regulations, and exchange of information arrangements in force or effect as at January 2012, and further information supplied by Barbados (see Annexes 3 to 4). It follows the Phase 1 report on Barbados which was adopted and published by the Global Forum in January 2011 (and which was based on information available up to October 2010).

12. The Terms of Reference break down the standards of transparency and exchange of information into 10 essential elements and 31 enumerated aspects under three broad categories: (A) availability of information; (B) access to information; and (C) exchanging information. In respect of each essential element a determination is made that (i) the element is in place, (ii) the element is in place but certain aspects of the legal implementation of the element need improvement, or (iii) the element is not in place. These determinations are accompanied by recommendations for improvement where relevant. This supplementary report considers changes in Barbados’ legal and regulatory framework and the resulting changes in the recommendations and determinations made in the Phase 1 report.

1. The Methodology for Peer Reviews and Non Members Reviews and the Terms of Reference to Monitor and Review Progress Towards Transparency and Exchange of Information (ToR) are available on www.oecd.org/tax/transparency.

13. The supplementary review was conducted by an assessment team, which consisted of three expert assessors and one representative of the Global Forum Secretariat: Monica Bhatia, from the Income-Tax Department of India; Jesper Leth Vestergaard and Merete Helle Hansen, from the Ministry of Taxation of Denmark; and Gwenaëlle Le Coustumer from the Global Forum Secretariat.

14. An updated summary of determinations and factors underlying recommendations in respect of the 10 essential elements of the Terms of Reference, which takes into account the conclusions of this supplementary report, is set out on pages 43-45.

Compliance with the Standards

A. Availability of information

Overview

15. Effective exchange of information requires the availability of reliable information. In particular it requires information on the identity of owners and other stakeholders as well as information on the transactions carried out by entities and other organisational structures. Such information may be kept for tax, regulatory, commercial or other reasons. If such information is not kept or the information is not maintained for a reasonable period of time, a jurisdiction's competent authority² may not be able to obtain and provide it when requested. This section of the report describes and assesses the progress made in Barbados' legal and regulatory framework on availability of information.

16. The Phase 1 report made three recommendations on element A.1 related to the availability of ownership and identity information for relevant entities. With the introduction of the International Corporate and Trust Service Providers Act, 2011 and Money Laundering and Financing of Terrorism (Prevention and Control) Act, 2011, Barbados has implemented the Phase 1 recommendations on nominees and trustees but has made no progress on the recommendation on enforcement measures.

2. The term "competent authority" means the person or government authority designated by a jurisdiction as being competent to exchange information pursuant to a double tax convention or tax information exchange agreement.

17. First, two sets of rules now ensure that information is available on owners of companies on whose behalf a nominee acts. Corporate service providers acting as nominees are now subject to the anti-money laundering law and obligation to identify their customers. The new laws also ensure that international entities must make all their licensing applications for obtaining and renewing their licence through an international service provider who has the obligation to collect information on the identity of its customers, including on the persons on behalf of whom a legal owner acts and on the beneficial owners of non-individual customers. The recommendation is therefore removed.

18. Second, the same provision of the new anti-money laundering law ensures that full ownership information should be available on all trusts having a trustee resident in Barbados, since trusteeship is a service provided by subjected financial institutions or non-financial business entities or professionals. The recommendation is therefore removed.

19. Third, the Phase 1 report noted that there are currently no penalties for non-compliance with obligations to maintain up to date share registers in the case of limited companies and SRLs. The Barbadian authorities indicate that work is continuing on this element and the recommendation remains unchanged, as well as the determination for element A.1.

20. As far as the other aspects of element A.1 are concerned – bearer shares and partnerships – the Phase 1 report determined that the laws of Barbados appeared to conform to the standard.

21. The Phase 1 report concluded that Barbados' legislation does not ensure that reliable accounting records or underlying documentation are kept for all partnerships and trusts, and Barbados has not yet reported progress on the implementation of this recommendation. Therefore, no change has been made to the recommendation or the determination for element A.2.

22. Finally, Barbados implemented the Phase 1 recommendation on the availability of banking information. The Money Laundering and Financing of Terrorism (Prevention and Control) Act, 2011 removed a threshold, below which banks were not required to maintain information regarding client account transactions. The recommendation is therefore removed and element A.3 is now considered to be “in place” in Barbados.

A.1. Ownership and identity information

Jurisdictions should ensure that ownership and identity information for all relevant entities and arrangements is available to their competent authorities.

23. The Phase 1 report made three recommendations on element A.1 on (i) the availability of ownership information in the case of nominee ownership in companies; (ii) the availability of identity information in respect of all express trusts; and (iii) the absence of penalties for non-compliance with obligations to maintain up to date share registers for some entities.

Nominee ownership in Companies (ToR A.1.1)

24. The Phase 1 report noted that there was no requirement in Barbados for nominees or service providers to hold any ownership information on companies, either domestic or international. A recommendation was therefore made for an obligation to be established for all nominees to maintain relevant ownership information where they act as the legal owners on behalf of any other person.

25. Since the publication of the Phase 1 report, Barbados has implemented the Phase 1 recommendation with the introduction of the Money Laundering and Financing of Terrorism (Prevention and Control) Act, 2011, which entered into force on 11 November 2011, and of the International Corporate and Trust Service Providers Act, 2011 which entered into force on 21 December 2011 (the ICTSPA, announced during the Phase 1 review³).

26. Primarily, the new Money Laundering and Financing of Terrorism (Prevention and Control) Act, 2011 requires from nominees that they maintain information on the identity of their customers. The act includes in the category of non-financial business entities and professionals (NFBEP) “a corporate service provider... engaged in acting or arranging for another to act as a nominee shareholder for another person” (Second Schedule, s. 4(e)). NFBEP are treated as financial institutions for all purposes of the Act (s. 4), and they must therefore establish and verify the true identity of their customers and keep record of the nature of evidence obtained (s. 15 and 18). The term “corporate service provider” is not defined in the law, but the Barbadian authorities confirm that all persons acting as nominees can be considered as corporate service providers and must therefore identify their customers. However, a non-professional nominee cannot, by definition, have “customers”, and the application of the law to them remains uncertain. The impact of this exception will be reviewed in the Phase 2 of the review process.

3. See Phase 1 report paragraphs 29 and 53.

27. The new laws require maintaining ownership information not only from nominees themselves, but also from other corporate service providers, and in some instances the Ministry in charge of international business also maintains information on nominee ownership. First, financial institutions and NFBEP must take reasonable measures to establish whether a customer is acting on behalf of another person, and if so, to establish the true identity of the person on whose behalf or for whose ultimate benefit the customer is acting, as well as the true identity of the beneficial owners of the non-individual customers (s. 15). The term “beneficial owner” is not defined in the law but is explained in the Central Bank’s revised Guidelines for its licensees.⁴ Section 7.2 on Corporate customers defines “beneficial owners” as the ultimate owners of the corporate structure, *i.e.* persons with a minimum of 10% shareholding in private companies.⁵ The Guidelines also specifically indicate that licensees should exercise care in conducting transactions with companies with nominee shareholders (Section 7.4.7⁶). These measures should also assist in identifying persons on behalf of whom a legal owner may act as a nominee.

28. Second, the creation of international entities must now be performed by licensed entities that also have the obligations to identify their clients and provide this information to the Ministry responsible for international business. The Money Laundering and Financing of Terrorism (Prevention and Control) Act, 2011 has amended the International Business Companies Act and the Societies with Restricted Liability Act by introducing an express obligation for international business companies (IBC) and international societies with restricted liability (international SRL) to make their applications for an international licence via a licensed international service provider. Correlatively, the ICTSPA provides for the licensing of international service

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4. Anti-Money Laundering/Combating Terrorist Financing Guideline for Financial Institutions Licensed under FIA and the IFSA revised at November 2011
 5. This information should extend to identifying those who ultimately own and control the company and should include anyone who is giving instructions to the licensee to act on behalf of the company. However, (i) If the company is publicly listed on a recognised stock exchange and not subject to effective control by a small group of individuals, identification on shareholders is not required; (ii) If the company is a private, identity should be sought on persons with a minimum of 10% shareholding.
 6. “Where a licensee decides that companies with nominee shareholders represent an acceptable business risk, they should exercise care in conducting transactions. Licensees should ensure they can identify the beneficial owners of such companies and should immobilise bearer shares as a means of monitoring the identity of such companies...”

providers acting for profit (ICTSPA, s. 6).⁷ A licensed international service provider is required to adhere to the code of conduct scheduled to the Act, which stipulates that he/she “shall know and be able to identify and verify the identity of each client and where his clients are companies or societies, the beneficial owners of the companies or societies” (ICTSPA, s. 21 and scheduled Code of Practice, s. 1). Further, licensed international service providers are required to maintain records on clients for at least five years from the end of their business relationship with the client (ICTSPA, s. 14).⁸ When applying for the annual renewal of the licence of its clients, the international service provider must attach to the form information on “any change(s) made to the information provided on the application form”. As for the new anti-money laundering law, the ICTSPA does not define the term “beneficial owners” but the Barbadian authorities assured that this would cover nominee ownership, *i.e.* it would require the disclosure of persons for whom nominees may be acting, in line with the above-mentioned Guidelines of the Central Bank.

29. In summary, (i) Barbadian nominees acting by way of business are corporate service providers that must identify their clients; (ii) Barbadian financial institutions and NFBEP must identify the ultimate beneficial owners of their clients, having a minimum of 10% shareholding (in private companies); and (iii) information on nominee ownership of IBCs and International SRLs is maintained by the Ministry and international service providers. The Phase 1 recommendation of establishing an obligation for all nominees to maintain relevant ownership information where they act as the legal owners on behalf of any other person is therefore considered as implemented. It remains that there is no information available in Barbados on nominees who are not acting by way of business and hold less than 10% of the shares of a private company. This corresponds to a limited category of nominees and as a factual matter it is expected that they know the persons for whom they are acting as nominees. The implementation and enforcement of the new laws in practice will be reviewed in the Phase 2 of the review process.

7. International services are defined as the licensing or registration of international business companies (IBC), foreign sales corporations (FSC), international societies with restricted liability (international SRL), and international trusts (ICTSPA, s. 2).

8. This new law complements the existing obligations under the laws and regulations dedicated to international business companies and international SRLs, which already provide for the identification of the beneficial owners of the applicant entities (see Phase 1 report, paragraphs 47 and 49).

Trusts (ToR A.1.4)

Implementation of the recommendation

30. The Phase 1 report noted that identity and ownership information may not be consistently available in respect of all express trusts, and that the requirements in the case of domestic trusts are unclear. A recommendation was made for all trustees resident in Barbados to maintain information on the settlors, trustees and beneficiaries of their trusts.

31. Barbados implemented the recommendation with the entry into force of the Money Laundering and Financing of Terrorism (Prevention and Control) Act, 2011. The Barbadian authorities also clarified the scope of application of existing laws. In particular, they explained that contrary to what is discussed in the Phase 1 report, offshore trusts under the International Financial Services Act (IFSA) and international trusts under the International Trust Act are not two categories of trusts. Indeed, no trust can be created pursuant to the IFSA and notwithstanding the terminology used, the trusts referenced in the IFSA are governed under the International Trusts Act. The part of the recommendation that relates to offshore trusts is therefore not valid and is then repealed. It remains that some information available to the public misleadingly indicates that offshore trusts and international trusts are two separate types of trusts. The Barbadian authorities are therefore encouraged to make public statements and raise awareness of the financial institutions on the correct interpretation of the law.

32. In any event, the Barbadian legal framework has been enhanced. Trustees of international trusts and licensed trust companies⁹ are covered by the definition of financial institutions (s. 2), whereas the other trustees (*i.e.* individual trustees of domestic and foreign trusts) are covered by the definition of trust service providers, and are therefore qualified as non-financial business entities and professionals (s. 2 and Second Schedule).

33. The trustees subject to the new law must now take reasonable measures to establish and verify the true identity of a customer and, where this customer is not an individual, its beneficial owners (anti-money laundering law, s. 15). The law does not define the concept of “beneficial owner”, but the Central Bank’s revised Guidelines contain a specific provision dedicated to trusts. Section 7.4.1 expressly requires from licensed trustees and licensees

9. “Financial institutions” include trustees of international trusts, as well as persons who provide an international financial service within the meaning of the International Financial Services Act. In turn, this act includes in the definition of international financial services the international banking business of accepting in trust from persons resident outside Barbados or from prescribed persons some assets as defined in section 4.

otherwise providing services to trusts that at a minimum they obtain the name and nature of the trust, its country of establishment, and “the identity of the trustee(s), settlor(s), protector(s)/controller(s) or similar person holding power to appoint or remove the trustee and where possible the names or classes of beneficiaries; the identity of person(s) with powers to add beneficiaries, where applicable; and the identity of the person providing the funds, if not the ultimate settlor”. The Central Bank authorities add that the obligation to identify the beneficial owner of a customer extends to the beneficiaries in case of trusts.

34. These Guidelines note that “it may be impractical to obtain all of the above at the onset of the relationship, *e.g.* unborn beneficiaries”. However, it is specified that “in all circumstances, the licensee should verify beneficiaries before the first distribution of assets”. Furthermore, the manner in which a trustee is expected to fulfil the obligations to identify the beneficiaries and other parties is by obtaining a copy of the creating instrument and other amending or supplementing instruments.

35. The Guidelines apply to financial institutions, which include trustees of international trusts as well as any person who invests and administers or manages funds or money on behalf of other persons or who provides any other service of a financial nature. They do not apply to trustees which are not financial institutions; however, professional trustees that are not financial institutions (for the most part trustees of domestic trusts) are nonetheless DNFPBs subject to the overriding AML requirement to identify the “beneficial owners” of their clients. It can be expected that in fulfilling their obligations under AML law they would consult relevant guidance applicable in other sectors.

36. Non-professional trustees are not covered by the new legal obligations, since non-professionals do not have “customers”. They remain subject to the common law fiduciary duties to identify the settlor and beneficiaries, as noted in the Phase 1 report. A domestic trust is deemed to be a separate subject to tax obligations, and must in particular supply information on the beneficiaries in order to deduct payments made to them in calculating its income, as noted in the Phase 1 report. The impact of the gap on exchange of information and the extent of the common law duties and tax obligations in practice will be reviewed in the Phase 2 of the review process.

37. All professional Barbadian trustees of domestic, international and foreign trusts have now a clear obligation to identify the settlors, trustees, and beneficiaries of these trusts. The Phase 1 recommendation related to trusts can therefore be deleted and the implementation of the new law in practice will be reviewed in the framework of the Phase 2 review process.

Other consequences of the newly adopted laws

38. International trust service providers, in the same manner as international companies, are now more strictly regulated and have the obligation to maintain identity information on international trusts (see above the section on nominees). The ICTSPA provides for the licensing of a person in Barbados providing international services (ICTSPA, s. 6), which includes a service related to the registration of an international trust (ICTSPA, s. 2). Licensed service providers are required to adhere to a code of conduct which stipulates that they “shall know and be able to identify and verify the identity of each client” (ICTSPA, s. 21 and Code of Practice, schedule 1). Further, licensed service providers are required to maintain records on clients for at least 5 years from the end of their business relationship with the client (ICTSPA, s. 14). These provisions complement existing obligations analysed in the Phase 1 report.

***Enforcement provisions to ensure availability of information
(ToR A.1.6)***

39. The Phase 1 report noted that there are currently no penalties for non-compliance with obligations to maintain up to date share registers in the case of limited companies and SRLs. The report recommended that, in so far as penalties are not currently provided, effective sanctions should be introduced against companies and SRLs that fail to comply with requirements to maintain share registers.

40. The Barbadian authorities indicate that work is continuing on this element and the recommendation remains unchanged.

41. Persons subject to the new Money Laundering and Financing of Terrorism (Prevention and Control) Act, 2011 that would not maintain business transaction records are guilty of an offence and liable on conviction on indictment to a fine of BBD 100 000 (USD 50 000; s. 18). The obligation to maintain business transaction records includes an obligation to maintain evidence of the identity of a person as required under the provisions on the identification of customers.

42. For information, the new ICTSPA establishes sanctions, including for non-compliance with the requirements to maintain ownership information on international entities. These measures include issuing private warning; an order to take remedial measures; a pecuniary penalty of up to BBD 5 000 (USD 2 500) or higher in the case of repeated infractions; or to suspend or revoke the service provider’s licence.

Determination and factors underlying recommendations

Phase 1 Determination	
The element is in place, but certain aspects of the legal implementation of the element need improvement.	
Factors underlying recommendations	Recommendations
Nominees that are not financial institutions for anti-money laundering purposes are not required to maintain ownership and identity information in respect of all persons for whom they act as legal owners.	An obligation should be established for all nominees to maintain relevant ownership information where they act as the legal owners on behalf of any other person.
Identity and ownership information may not be consistently available in respect of all express trusts, particularly as regards the beneficiaries and all trustees of offshore trusts. The requirements in the case of domestic trusts are unclear.	An obligation should be established for all trustees resident in Barbados to maintain information on the settlor, trustees and beneficiaries of their trusts.
There are currently no penalties for non-compliance with obligations to maintain up to date share registers in the case of companies and SRLs.	In so far as penalties are not currently provided, effective sanctions should be introduced against companies and SRLs that fail to comply with requirements to maintain share registers.

A.2. Accounting records

Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements.

General requirements (ToR A.2.1.), Underlying documentation (ToR A.2.2.) and the 5-year retention standard (ToR A.2.3.)

43. The Phase 1 report concluded that Barbados legislation does not ensure that reliable accounting records or underlying documentation are kept for all partnerships and trusts. In particular, it was considered during Phase 1 that partnerships that are not subject to the Income Tax Act have limited accounting obligations under statute law. Similarly the Income Tax Act accounting obligations do not apply to some international trusts and foreign trusts administered in Barbados when no trustee is resident there. A recommendation was therefore made that all relevant entities and arrangements

should be required to maintain reliable accounting records including underlying documentation for a minimum of 5 years.

44. Barbados has not submitted any legislative changes relating to the record-keeping requirements for these partnerships, and the record-keeping obligations of the Money Laundering and Financing of Terrorism (Prevention and Control) Act, 2011 are not sufficient to meet the standard.¹⁰ Therefore, no changes have been made to the recommendation concerning obligations to keep accounting records for partnerships and trusts, or the determination for element A.2.

45. As far as international service providers are concerned, the ICTSPA requires the licensed service provider to keep “accounting records” for a minimum of 5 years (ICTSPA, s. 14). The term “accounting records” is not defined or otherwise elaborated. However, service providers are taxpayers in Barbados and are therefore subject to the accounting requirements of the Income Tax Act outlined in the Phase 1 report.

Determination and factors underlying recommendations

Phase 1 Determination	
The element is in place, but certain aspects of the legal implementation of the element need improvement.	
Factors underlying recommendations	Recommendations
Barbados legislation does not ensure that reliable accounting records or underlying documentation are kept for all partnerships and trusts.	All relevant entities and arrangements should be required to maintain reliable accounting records including underlying documentation for a minimum of 5 years.

A.3. Banking information

Banking information should be available for all account-holders.

46. The Phase 1 report concluded that banks in Barbados were only required to maintain information regarding client account transactions above a certain threshold (BBD 10 000, being USD 5 000).

47. This threshold is eliminated by the entry into force on 11 November 2011 of the Money Laundering and Financing of Terrorism (Prevention and

10. Entities subject to the law must “establish and maintain business transaction records of all business transactions” and keep these records for five years.

Control) Act, 2011 (s. 18(1)). This new law ensures that all transaction records are maintained by the financial institutions in Barbados, and eliminates the need for clarification regarding the concerns expressed in the Phase 1 report on whether the Financial Institutions Act and the International Financial Services Act require the maintenance of all records pertaining to accounts.

48. In conclusion, the recommendation is removed and element A.3 is now considered as “in place”.

Determination and factors underlying recommendations

Phase 1 Determination	
The element is in place, but certain aspects of the legal implementation of the element need improvement.	
Factors underlying recommendations	Recommendations
Under the anti-money laundering law, transactional information is required to be maintained in Barbados banks only in relation with transactions above a certain threshold and the requirements to maintain records under banking legislation is unclear.	Barbados should ensure that banking information is available for all transactions, whatever their amount.

B. Access to information

49. A variety of information may be needed in respect of the administration and enforcement of relevant tax laws, and jurisdictions should have the authority to access all such information. The Phase 1 report concluded that Barbados has powers to obtain information, whether or not it is required to be kept, and has measures to compel the production of such information.

50. However, the Phase 1 report identified a number of instances in which there are restrictions on, or uncertainties about, the competent authority's powers to obtain information for exchange purposes. In particular, an issue was identified concerning the existence of competing secrecy provisions contained in legislation concerning international trusts and unit trusts. Consequently, element B.1 was found to be in place, but in need of some improvement. The Phase 1 report also noted that the level of sanctions for failing to provide the information upon request of the tax authorities should be closely reviewed in Phase 2.

51. No change has been reported by Barbados and no amendment is made to the recommendations and determination.

52. The Phase 1 report found that the rights and safeguards available under Barbados law are compatible with the effective exchange of information and element B.2 is therefore in place.

B.1. Competent Authority's ability to obtain and provide information

Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information).

53. With regard to element B.1, the Phase 1 report notes that Barbados' information gathering powers will in most cases allow access to ownership, identity and accounting information relating to companies, societies and partnerships. However, the Phase 1 report raised the issue of some secrecy

provisions that may limit the Barbadian authority’s access to information on some trusts. In particular, access to information in respect of international trusts and registered unit trusts is uncertain because of apparent conflict between the competent authority’s access powers and very strict confidentiality rules in the International Trust Act and the Mutual Funds Act.

54. After having considered the recommendation, the Barbadian authorities concluded that there is no need to amend the International Trust Act or the Mutual Funds Act. As already explained during the Phase 1 review, they consider that the existing laws do not prevent access to information by the competent authority. The secrecy provision of the International Trust Act applies to the disclosure to “any other person not legally entitled”, which, the Barbadian authorities claim, does not cover the competent authority which has entitlement to access information under the Income Tax Act. Similarly, the secrecy provision of the Mutual Funds Act does not apply “to a disclosure necessary for the effective regulation of a mutual fund, or permitted or authorised by any other Act”. Again, the Barbadian authorities consider that the competent authority has access to information as a consequence of the general provisions of the Income Tax Act.

55. However, no supporting case law or other material was provided by the Barbadian authorities either during the Phase 1 review process or during the present supplementary review. In addition, as mentioned in the Phase 1 report, the other relevant laws contain express provisions on access by the tax authorities to confidential information: The laws dedicated to IBCs, exempt SRLs, and exempt insurance companies contain a confidentiality obligation as well as derogation to this obligation in respect of persons carrying out duties imposed by the Income Tax Act or otherwise acting in pursuance of international agreements to which Barbados is a party.

56. No change is made to the determination or recommendation in respect of element B.1.

Determination and factors underlying recommendations

Phase 1 Determination	
The element is in place, but certain aspects of the legal implementation of the element need improvement.	
Factors underlying recommendations	Recommendations
Trustees of international trusts and registered unit trusts are prohibited to disclose to any other person the name of the settlor or any beneficiary, or any information relating to or forming part of the accounts of an international trust.	The competent authority should have power to access confidential information covered by the International Trust Act and the Mutual Funds Act.

B.2. Notification requirements and rights and safeguards

The rights and safeguards (e.g. notification, appeal rights) that apply to persons in the requested jurisdiction should be compatible with effective exchange of information.

57. The Phase 1 report found that the rights and safeguards available under Barbados law are compatible with the effective exchange of information.

Determination and factors underlying recommendations

Phase 1 Determination
The element is in place

C. Exchanging information

58. This section of the report examines whether a jurisdiction has in place a network of agreements that would allow it to achieve effective exchange of information (EOI) in practice. The Phase 1 Report noted that elements C.1 and C.2 were not in place, while elements C.3 and C.4 were in place. As with other Phase 1 reports, in respect of element C.5 the report noted that it involves issues of practice that would be dealt with in Barbados' Phase 2 review.

59. The Phase 1 report assessed the legal framework of Barbados as at October 2010. Since then, Barbados has signed 4 double tax conventions (DTCs), 3 tax information exchange agreements (TIEAs) and 4 protocols to existing treaties. In addition, 3 EOI instruments signed but not in force at the time of Phase 1 have entered into force. As of January 2012, Barbados has EOI instruments with 37 partners, of which 25 are in line with the standard. Of these agreements, 9 are not yet in force, however 7 have only been signed in the last few months and two are awaiting ratification by the treaty partners. The other EOI instruments do not meet the standard either because of the provisions in the treaty (5 jurisdictions) or because of restrictions in the domestic legislation of the other party that do not ensure reciprocity of exchange (7 jurisdictions).

60. Barbados has continued revising its existing double tax conventions where they do not currently meet the standard, as recommended under element C.1, or even though meeting the standard, do not reflect the latest version of the Model Tax Convention. Barbados has signed Protocols to its treaties with Canada, Finland, Norway and Sweden in November 2011; which will all provide for exchange of information to the level of the standard once both parties take all steps necessary to bring the agreements into force. Barbados has also initialled a new treaty with the United Kingdom in May 2011. The EOI relationship of Barbados with a number of other partners continues to not comply with the standard, either because of deficient provisions in the treaty itself (*e.g.* exclusion of some entities, clause on domestic tax interest) or because of deficiencies in the domestic laws of the treaty partners that do not allow reciprocity in the implementation of the treaty.

61. Barbados signed a protocol to its DTC with Canada in November 2011. Thus, Barbados has EOI instruments with both of its prominent EOI partners, Canada and the United States. The recommendations for element C.1 have been revised accordingly. The determination is no longer “not in place”. However, considering that further instruments should be brought to the standard, element C.1 is determined as “in place but certain aspects of the legal implementation of the element need improvement”.

62. Barbados is also developing its EOI network, in line with the recommendations made on element C.2. In particular, Barbados has signed TIEAs in November 2011 with Denmark, Greenland and the Faroe Islands, and initialled two others in 2011. It also signed new treaties with Spain (already in force), Portugal, the Czech Republic and Iceland. These treaties will also provide for exchange of information to the standard once in force, and are reviewed in the present report. New DTCs have also been initialled since Phase 1. However, as for element C.1, further instruments should be brought to the standard. The recommendations and determination for element C.2 have therefore been revised and upgraded to “the element is in place but certain aspects of the legal implementation of the element need improvement”.

63. In addition to bilateral agreements, Barbados has introduced the Income Tax (Exchange of Information) Regulations, 2011 (the unilateral regulation) which was intended to allow Barbados to exchange information to the standard with all of the EOI partners with whom an initialled or signed agreement was not yet in force or was in force but not to the standard. While the unilateral regulation is an explicit attempt to remedy deficiencies identified in the Phase 1 report, there are concerns regarding its legal effectiveness, which may prevent it from being considered an effective mechanism under which information can be exchanged for tax purposes to the standard. Conscious of the possible limits of this mechanism, the Barbadian authorities have continued negotiating and signing bilateral instruments.

64. The protection of the confidentiality of all information relating to EOI requests made in application of a newly signed EOI instrument is protected, as are the rights and safeguards of taxpayers and third parties. The determinations for elements C.3 and C.4 are unchanged from the Phase 1 report, and are “in place”. As noted in the Phase 1 report, element C.5 is not fully addressed in the Phase 1 report as it involves issues of practice that will be dealt with in the Phase 2 review of Barbados.

C.1. Exchange of information mechanisms

Exchange of information mechanisms should allow for effective exchange of information.

65. The Phase 1 report found that element C.1 (as well as element C.2) was not in place, and made two recommendations in respect of element C.1.

66. The first recommendation relates to the fact that “Some DTCs limit exchange of information (*i*) to information for carrying out the provisions of the Convention, or (*ii*) by failing to provide for exchange of bank information”. This recommendation relates to the DTCs with Switzerland (for the two aspects) and with Austria, Belize, Botswana, Grenada, St Lucia, St Vincent and the Grenadines (for the second aspect).

67. The second recommendation relates to the fact that “In certain cases Barbados does not exchange information in respect of entities (IBCs, offshore banks, etc.), which are not covered by the treaty”. This concern mainly relates to the treaties with Canada and the United Kingdom, in relation to which Barbados indicated it would not exchange information on excluded entities (unless the information is sought to fight fiscal evasion).

68. Barbados took two types of action to remedy these deficiencies. First, it passed a regulation that introduces a unilateral exchange mechanism. Second, it started negotiating a number of protocols or new EOI instruments to bring its bilateral agreements to the standard. The present sub-section reviews first the unilateral mechanism, and then the new agreements along the sub-elements of element C.1.

69. The Income Tax (Exchange of Information) Regulations, 2011 (the unilateral regulation) came into force on 17 March 2011 and applies to EOI requests made after that date for information related to tax periods that begin after that date. Section 3 of the unilateral regulation provides:

Where a double taxation agreement between Barbados and another country or territory to which section 83(2) of the [Income Tax] Act refers,

- a) no longer meets the international standard in respect of the exchange of information provision in the agreement;
- b) excludes certain international business entities from the benefits of its provisions resulting in the exclusion of those entities from the application of the exchange of information provision in the agreement; or

- c) has been initialled or signed by the parties to that agreement but the parties have not yet concluded that process of ratification of the agreement,

Barbados shall unilaterally exchange information under those agreements in accordance with that international standard.

70. However, the legal effectiveness of the unilateral regulation is uncertain with three fundamental issues identified.

71. First, in respect of the EOI agreements which are already in force (options (a) and (b)), it is not clear how a regulation will override the specific and sometimes conflicting provisions of a treaty given that a treaty has the force of law in Barbados (Income Tax Act, s. 83(1)). Whereas section 83(2) of the Income Tax Act provides the Minister with the authority to make regulations for the purpose of carrying out any EOI instrument,¹¹ section 83(3) provides that:

(3) In the event of any inconsistency between an agreement and any regulations made under subsection (2), the terms of the agreement prevail to the extent of the inconsistency.

72. Therefore, if a DTC expressly excludes certain entities from its scope, the application of the regulation to such entities would appear to be inconsistent with this exclusion.

73. Second, for option (c) of the unilateral regulation to be effective, Barbados should inform its future partners of their ability to request information on this basis until the bilateral agreement enters into force. However, it appears that Barbados has not informed some of them. The Barbadian authorities indicated that they were in the process of notifying their new partners. The relevance of the unilateral regulation would be greatly diminished if Barbados would not systematically notify its new partners when initialling new EOI instruments.

74. Third, the unilateral regulation also refers to agreements that “no longer meet the standard” and not simply to agreements that do not meet the standard. This appears to be aimed at older agreements that may have been considered to have met the standard prior to the evolution of the standard (though it is not clear what stages are referred to here).¹² Consequently, even

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- 11. The full provision reads: “The Minister may make regulations for the purpose of carrying out any agreement referred to in subsection (1) or for giving effect to any of the provisions thereof, and such regulations may be made and continue in force notwithstanding that no agreement is in effect for the purposes of subsection (1)”.
 - 12. The Barbadian authorities consider that all their treaties could potentially meet criterion (a), given that they are unable to ensure that the domestic laws of the treaty partners permit EOI to the standard.

if there was no doubt regarding the effectiveness of the mechanism, it would not apply to any agreement that never met the standard. As is indicated in the Phase I report, Barbados' DTC with Panama contains unduly restrictive conditions regarding the information required to be provided to demonstrate the foreseeable relevance of a request. The unilateral regulation would not cure this deficiency.

75. In addition to these three key issues, absent a bilateral international agreement, Barbados' EOI partners may be unable to provide the information to form the basis of a request under the unilateral mechanism. In particular, the competent authorities of some jurisdictions might not be able to use confidential information in their EOI requests to Barbados based on the unilateral regulation rather than a DTC or TIEA, as only the latter would be recognised as legal basis in their jurisdiction. This will be of particular concern in respect of EOI partners who have only an initialled or signed EOI agreement with Barbados. However the Barbadian authorities indicate that none of the jurisdictions informed of the availability of the unilateral regulation notified back that it would not be a valid basis for them to make an EOI request.

76. Section 3(b) of the unilateral regulation on excluded entities also raised some doubts, clarified by the Barbadian authorities. Indeed, one might read this provision as indicating that the DTCs that exclude some entities from their "benefit" do not meet the standard, which would be contrary to the interpretation of the treaties given by Barbados and its partners during Phase I. However, the Barbadian authorities clarified that this provision should be interpreted as covering only the DTCs that exclude some entities from their application, the beginning of the clause being just an explanation of the reasons of the exclusion: so that these entities do not benefit from the application of the DTC. This provision would apply to the DTCs with Canada and the United Kingdom only.

77. Finally, the unilateral regulation applies only to "double taxation agreements", which excludes from its scope any TIEA that Barbados has or would sign. Even though it can be expected that any new TIEA would follow the standard, it remains that option (c) would not be applicable to TIEAs, contrary to what Barbados indicated to some of its new TIEA partners.

78. Barbados acknowledges that the unilateral regulation is an interim measure as it relates to implementing the standard on transparency and exchange of information and that there may be some uncertainty regarding the legal basis for its treaty partners to request information from Barbados in all cases. Barbados also indicates that it has informed a number of relevant treaty partners of the existence of the unilateral regulation via Diplomatic Notes dated 1 April 2011. Barbados informed them that it would exchange information with them in accordance with the standard on transparency and exchange of information pending the entry into force of the relevant protocol

or DTC, where applicable.¹³ The Barbadian authorities also indicated that they are in the process of similarly notifying the jurisdictions with which they have recently initialled or signed an EOI instrument. So far, Barbados received no request on the basis of the unilateral regulation.

79. The fundamental issues identified concerning the legal effectiveness of the unilateral regulation prevent it from being considered an effective means to exchange information upon request for tax purposes in line with the standard.

80. Barbados notes that it is continuing its efforts to improve its EOI network through negotiations to update older DTCs or negotiate new DTCs, as well as negotiations for further TIEAs in a number of cases. The compliance of Barbados with element C.1 is thus analysed below on the basis of the protocols signed to existing EOI instruments, and the important progress made on signing new bilateral EOI instruments.

81. Most importantly, the Phase 1 report determined that the Barbados' DTC with Canada, which is one of the two most important EOI partners of Barbados (together with the United States), does not meet the standard. It was therefore critical for Barbados to upgrade this treaty and a protocol had been initialled at the time of Phase 1. It is now signed and can be reviewed. On the other hand, the bilateral EOI relationship with the United Kingdom continues to not meet the standard and the application of the unilateral regulation to the new treaty initialled with the United Kingdom is unclear. Barbados also signed protocols to the treaties of Finland, Norway and Sweden even though the existing treaties were considered as meeting the standard, in view of having the full text of Article 26 of the Model Tax Convention and lifting any possible doubt on their scope.

82. Finally, since Phase 1 Barbados continued expanding its EOI network and the new DTCs with the Czech Republic, Iceland, Portugal and Spain as well as the TIEAs with Denmark, the Faroe Islands and Greenland are also reviewed below.¹⁴ The new agreements follow the Model Tax Convention and Model TIEA. The Spanish treaty is also complemented by a Memorandum of Understanding that borrows provisions from the Model TIEA.

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13. The countries notified were China, Cuba, Venezuela, Switzerland, Sweden, Norway, Finland, USA, Seychelles, United Kingdom, Panama, Mexico, Netherlands, Austria, Botswana, Mauritius, Malta, Czech Republic, Luxembourg, Italy, Spain, Portugal, Ghana, Vietnam, Belgium and CARICOM members.
 14. Section 83 of the Income Tax Act gives the force of law to “agreements made between Barbados and another country or territory with respect to the avoidance of double taxation, the prevention of fiscal evasion or other matters relating to the taxation of income”. This covers both the DTCs and TIEAs.

Foreseeably relevant standard (ToR C.1.1.)

83. All of Barbados’ new EOI bilateral arrangements and protocols provide for the exchange of information that is “foreseeably relevant”, in accordance with the standard.

In respect of all persons (ToR C.1.2.)

84. For exchange of information to be effective it is necessary that a jurisdiction’s obligation to provide information is not restricted by the residence or nationality of the person to whom the information relates or by the residence or nationality of the person in possession or control of the information requested. For this reason the international standard for exchange of information envisages that EOI mechanisms will provide for exchange of information in respect of all persons.

85. Article 26(1) of the OECD Model Tax Convention indicates that “the exchange of information is not restricted by Article 1”, which defines the personal scope of application of the Convention and indicates that it applies to persons who are residents of one or both of the Contracting States. All the new DTCs and protocols of Barbados contain this language under the respective EOI provisions. The TIEAs of Barbados also apply in respect of all persons.

86. The Phase 1 report contains two recommendations on this aspect of element C.1. The first Phase 1 recommendation relates to the fact that “Some DTCs limit exchange of information to information for carrying out the provisions of the Convention”. This recommendation relates to the old DTC with Switzerland only. Barbados reports a request for negotiating a protocol to update the EOI article was made to Switzerland in November 2011.

87. The second Phase 1 recommendation relates to the fact that “In certain cases Barbados does not exchange information in respect of entities (IBCs, offshore banks, etc.), which are not covered by the treaty”. This concern mainly related to the treaties with Canada and the United Kingdom, in relation to which Barbados indicated that its competent authority would not exchange information on excluded entities (unless the information is sought to fight fiscal evasion). The protocol to the DTC with Canada expressly provides that only some articles of the DTC – but not the EOI provision – do not apply to excluded entities and therefore EOI will now fully cover the entities otherwise excluded from some benefits of the treaty.

88. The Phase 1 report also notes Barbados’ assurance that where the DTC excludes entities “from its benefits” rather than from its entire application (like the treaties with the Netherlands and Sweden), this has no impact on exchange of information relating to or held by those entities because exchange

of information is not a treaty “benefit”, consistent with the common interpretation given to this type of clause. Since Phase 1, Barbados and Sweden signed a protocol that explicitly allows for EOI in respect of all persons.¹⁵

Exchange information held by financial institutions, nominees, agents and ownership and identity information (ToR C.1.3.)

89. Barbados’ new DTCs, TIEAs and protocols include a provision which specifically provides for the exchange of ownership and identity information including where it is held by financial institutions, nominees or agents.

90. A Phase 1 recommendation relates to the fact that “Some DTCs limit exchange of information... (ii) by failing to provide for exchange of bank information”. This recommendation relates to the DTCs with Austria, Belize, Botswana, Grenada, St Lucia, St Vincent and the Grenadines, and Switzerland. These restrictions noted in the Phase 1 report still apply.

91. The Phase 1 report also noted that DTCs with Switzerland, the United Kingdom and Venezuela contain an EOI provision that might be restrictively interpreted, in that EOI covers only the information already at the disposal of the tax authorities. The Barbados authorities considered that they would be able to access all information to respond to a request, but nonetheless indicated their willingness to amend these agreements. Since then, Barbados initialled a new DTC with the United Kingdom in May 2011 and invited Switzerland and Venezuela to negotiate a protocol to the existing DTC in November 2011.

Absence of domestic tax interest (ToR C.1.4.)

92. Barbados’ new EOI instruments provide for the exchange of relevant information in the absence of a domestic tax interest.

Absence of dual criminality principles (ToR C.1.5.)

93. Barbados’ new EOI instruments do not apply a dual criminality principle.

15. The provision of the treaty with Sweden mentioned in paragraph 178 of the Phase 1 report will be repealed with the entry into force of an unequivocal protocol signed in November 2011. The exclusion applies now to any provision of the Convention conferring an exemption or reduction of tax, which is not the case of the EOI provision.

Exchange of information in both civil and criminal tax matters (ToR C.1.6.)

94. Barbados' new EOI instruments allow for exchange of information in both civil and criminal tax matters.

Provide information in specific form requested (ToR C.1.7.)

95. Barbados' TIEAs with Denmark, the Faroe Islands and Greenland as well as the Memorandum to the DTC with Spain contain an explicit provision requiring the requested state to provide information in the form of deposition of witnesses or authenticated copies of original records, if so requested and to the extent allowable under domestic laws of the parties.

96. Whereas this aspect is not mentioned in the other new EOI instruments, there are no restrictions in Barbados DTCs with the Czech Republic, Iceland and Portugal, its protocol to the DTC with Finland, Norway and Sweden, or its laws that would prevent it from providing information in a specific form, so long as this is consistent with its own administrative practices.

In force (ToR C.1.8.)

97. Barbados' DTC with Spain has already entered into force. The DTC with Portugal signed in 2010 has been ratified in Barbados and is awaiting ratification in Portugal. The other new instruments were signed only recently, in October-November 2011 and their ratification process has not yet started in Barbados. It is also noted that three instruments signed but not in force at the time of the Phase 1 review have now entered into force, *i.e.* the treaties with Luxembourg and Panama, as well as the protocol to the treaty with the Netherlands.

Be given effect through domestic law (ToR C.1.9.)

98. The present supplementary report, in conjunction with the Phase 1 report raise a few issues concerning the availability of certain information in Barbados and the Barbadian competent authority's capacity to use its powers to obtain the information needed to give effect to the terms of arrangements that it has entered into.

Determination and factors underlying recommendations

Phase 1 Determination	
The element is not in place, but certain aspects of the legal implementation of the element need improvement.	
Factors underlying recommendations	Recommendations
Some DTCs limit exchange of information (i) to information for carrying out the provisions of the Convention, or (ii) by failing to provide for exchange of bank information.	Barbados should continue to revise its existing treaties in line with the international standard where they do not currently meet that standard.
In certain cases <u>In respect of one of its treaties</u> Barbados does not exchange information in respect of <u>some</u> entities (IBCs, offshore banks, etc.), which are not covered by the one treaty.	Barbados should remove any impediments to exchange of information on Barbadian entities that are not covered by its treaties.

C.2. Exchange of information mechanisms with all relevant partners

The jurisdictions' network of information exchange mechanisms should cover all relevant partners.

99. The Phase 1 report identified two issues in respect of Barbados' network of information exchange mechanisms. First, its agreements with a number of major relevant partners do not meet the standards. Secondly, Barbados had not negotiated TIEAs with relevant jurisdictions that had requested such agreements.

100. The Phase 1 report assessed the legal framework of Barbados as at October 2010. Since then, Barbados has continued revising its existing DTCs where they do not meet that standard, as recommended under element C.1 and the first recommendation under element C.2. Barbados has signed a protocol to its treaty with Canada in November 2011. Barbados also initialled a new treaty with the United Kingdom in May 2011 to replace the one signed before Barbados' independence. Barbados also signed in November 2011 protocols to the DTCs with Finland, Norway and Sweden that introduce a full EOI provision comparable to the Model Article 26.

101. Barbados is also developing its exchange of information network with relevant partners, in line with the second recommendation made on element C.2. In particular, Barbados has signed TIEAs in November 2011 with Denmark, the Faroe Islands and Greenland. Moreover, Barbados has now initialled TIEAs with other Global Forum members that had indicated

during Phase 1 that they had approached Barbados for negotiations on such an instrument without success.

102. Barbados has also signed four new DTCs with the Czech Republic, Iceland, Portugal and Spain, which meet the standard.

103. Finally, Barbados has enacted the unilateral regulation, even though, as analysed above under section C.1, there are a number of fundamental issues and concerns, which prevent it from being considered an effective means to exchange information upon request for tax purposes in line with the standard.

104. Considering the progress made by Barbados to update and expand its EOI network of agreements, and in particular considering the signature of TIEAs in 2011, the determination of element C.2 is upgraded to “the element is in place, but in needs of improvements”, even though Barbados should continue upgrading existing EOI provisions, and sign further EOI agreements when requested by relevant partners.

Determination and factors underlying recommendations

Phase 1 Determination	
The element is not in place, but certain aspects of the legal implementation of the element need improvement.	
Factors underlying recommendations	Recommendations
Some A number of DTCs with major relevant partners of Barbados do not meet the international standard (see C.1).	Barbados should <u>continue to</u> revise its existing treaties in line with the international standard where they do not currently meet that standard.
Barbados has been approached by a number of jurisdictions to negotiate TIEAs but has not done so.	Barbados should <u>continue to</u> enter into agreements for exchange of information (whether DTCs, TIEAs or multilateral instruments) with all relevant partners, meaning those partners who are interested in entering into an information exchange arrangement with it.

C.3. Confidentiality

The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received.

Information received: disclosure, use and safeguards (ToR C.3.1.) and all other information exchanged (ToR C.3.2.)

105. Barbados new agreements contain confidentiality provisions in line with the standard. The domestic law confidentiality provisions, which are described in paragraphs 209 to 213 of the Phase 1 report, will apply in the same way to these agreements. Therefore, there is no change to the determination made for element C.3 in the Phase 1 report.

106. The unilateral regulation provides that the confidentiality requirements described in the Model Tax Convention will apply. However, given that they are contained in the domestic law, they cannot bind the requesting party in the same way that an international agreement would.

107. In particular, the competent authorities of some covered jurisdictions might not be able to use confidential information in their EOI requests to Barbados based on the unilateral regulation rather than a DTC or TIEA, as only the latter would be recognised as legal bases in their jurisdiction. As a result, the regulation would not be able to compensate the weakness of or non entry into force of the underlying EOI bilateral instrument. The Barbadian authorities have not indicated whether they have received any feedback from the covered jurisdictions.

Determination and factors underlying recommendations

Phase 1 Determination
The element is in place.

C.4. Rights and safeguards of taxpayers and third parties

The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties.

Exceptions to requirement to provide information (ToR C.4.1.)

108. Barbados new agreements provide that the parties are not obliged to provide information which would disclose any trade, business, industrial, commercial or professional secret or information the disclosure of which would be contrary to public policy. Further, the scope of confidential communications protected by Barbados domestic law and described in paragraph 216

of the Phase 1 Report will also apply to these agreements. Therefore, there is no change to the determination made for element C.4 in the Phase 1 report.

Determination and factors underlying recommendations

Phase 1 Determination
The element is in place

C.5. Timeliness of responses to requests for information

The jurisdiction should provide information under its network of agreements in a timely manner.

Responses within 90 days (ToR C.5.1.)

109. In order for exchange of information to be effective, it needs to be provided in a timeframe that allows tax authorities to apply the information to the relevant cases. If a response is provided but only after a significant lapse of time, the information may no longer be of use to the requesting authorities. This is particularly important in the context of international cooperation as cases in this area must be of sufficient importance to warrant making a request.

110. Barbados TIEAs and the Memorandum of Understanding integrated into the DTC with Spain require the provision of request confirmations, status updates and the provision of the requested information within the timeframes foreshadowed in Article 5(6)(b) of the OECD Model TIEA:

“6. The competent authority of the requested Party shall forward the requested information as promptly as possible to the applicant Party. To ensure a prompt response, the competent authority of the requested Party shall: [...]

b) If the competent authority of the requested Party has been unable to obtain and provide the information within 90 days of receipt of the request, including if it encounters obstacles in furnishing the information or it refuses to furnish the information, it shall immediately inform the applicant Party, explaining the reason for its inability, the nature of the obstacles or the reasons for its refusal.”

111. For the rest, there are no specific legal or regulatory requirements in place which would prevent Barbados responding to a request for information by providing the information requested or providing a status update within 90 days of receipt of the request. A review of the practical ability of

Barbados' competent authority to respond to requests in a timely manner will be conducted in the course of its Phase 2 review.

Organisational process and resources (ToR C.5.2.)

112. The DTCs and TIEAs indicate that the competent authority for the exchange of information for tax purposes is the Minister of Finance or his authorised representative (or directly the Inland Revenue Department). A Deputy Commissioner of Inland Revenue Department is responsible for receiving and responding to EOI requests for tax purposes in practice.

113. A review of Barbados organisational process and resources will be conducted in the context of its Phase 2 review.

Absence of restrictive conditions on exchange of information (ToR C.5.3.)

114. There are no aspects of Barbados laws that appear to impose additional restrictive conditions on exchange of information.

Determination and factors underlying recommendations

Phase 1 Determination
The assessment team is not in a position to evaluate whether this element is in place, as it involves issues of practice that are dealt with in the Phase 2 review.

Summary of Determinations and Factors Underlying Recommendations

Determinations	Factors underlying recommendations	Recommendations
Jurisdictions should ensure that ownership and identity information for all relevant entities and arrangements is available to their competent authorities. <i>(ToR A.1)</i>		
The element is in place, but certain aspects of the legal implementation of the element need improvement	There are currently no penalties for non-compliance with obligations to maintain up to date share registers in the case of limited companies and SRLs.	In so far as penalties are not currently provided, effective sanctions should be introduced against companies and SRLs that fail to comply with requirements to maintain share registers.
Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements. <i>(ToR A.2)</i>		
The element is in place, but certain aspects of the legal implementation of the element need improvement	Barbados legislation does not ensure that reliable accounting records or underlying documentation are kept for all partnerships and trusts.	All relevant entities and arrangements should be required to maintain reliable accounting records including underlying documentation for a minimum of 5 years.
Banking information should be available for all account-holders. <i>(ToR A.3)</i>		
The element is in place		

Determinations	Factors underlying recommendations	Recommendations
Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information). <i>(Tor B.1)</i>		
The element is in place, but certain aspects of the legal implementation of the element need improvement	Trustees of international trusts and registered unit trusts are prohibited to disclose to any other person the name of the settlor or any beneficiary, or any information relating to or forming part of the accounts of an international trust.	The competent authority should have power to access confidential information covered by the International Trust Act and the Mutual Funds Act.
The rights and safeguards (e.g. notification, appeal rights) that apply to persons in the requested jurisdiction should be compatible with effective exchange of information. <i>(ToR B.2)</i>		
The element is in place		
Exchange of information mechanisms should allow for effective exchange of information. <i>(ToR C.1)</i>		
The element is in place, but certain aspects of the legal implementation of the element need improvement	Some DTCs limit exchange of information <i>(i)</i> to information for carrying out the provisions of the Convention, or <i>(ii)</i> by failing to provide for exchange of bank information.	Barbados should continue to revise its existing treaties in line with the international standard where they do not currently meet that standard.
	In respect of one of its treaties Barbados does not exchange information in respect of some entities (IBCs, offshore banks, etc.).	Barbados should remove any impediments to exchange of information on Barbadian entities that are not covered by its treaties.

Determinations	Factors underlying recommendations	Recommendations
The jurisdictions' network of information exchange mechanisms should cover all relevant partners. <i>(ToR C.2)</i>		
The element is in place, but certain aspects of the legal implementation of the element need improvement	A number of DTCs of Barbados do not meet the international standard (see C.1).	Barbados should continue to revise its existing treaties in line with the international standard where they do not currently meet that standard.
		Barbados should continue to enter into agreements for exchange of information (whether DTCs, TIEAs or multilateral instruments) with all other relevant partners, meaning those partners who are interested in entering into an information exchange arrangement with it.
The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received. <i>(ToR C.3)</i>		
The element is in place		
The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties. <i>(ToR C.4)</i>		
The element is in place		
The jurisdiction should provide information under its network of agreements in a timely manner. <i>(ToR C.5)</i>		
The assessment team is not in a position to evaluate whether this element is in place, as it involves issues of practice that are dealt with in the Phase 2 review.		

Annex 1: Jurisdiction’s Response to the Supplementary Report*

Barbados wishes to once again express its agreement with the revised Report of the Peer Review Group on the country’s legal and regulatory framework. We have accepted and endorsed all of the recommendations and are fully committed to ensuring that they are implemented.

It should be noted that Barbados has now completed its constitutional requirements for a number of Agreements, Protocols and TIEAs signed recently and referenced in the revised Report to enter into force. Barbados has communicated this to its respective partners who now have to carry out their procedures for entry into force of these instruments. We will continue to update our existing treaties to meet international standard and expand the network while at the same time addressing reforms to ensure that appropriate legal and regulatory arrangements are in place to facilitate access to tax information on request.

* This Annex presents the jurisdiction’s response to the review report and shall not be deemed to represent the Global Forum’s views.

Annex 2: Request for a Supplementary Report Received from Barbados

REQUEST FOR A SUPPLEMENTARY REPORT BY BARBADOS PURSUANT TO PARAGRAPH 58 OF THE METHODOLOGY – 15 July 2011

1. This Report is to support Barbados' case for the Peer Review Group to prepare a supplementary report on Barbados in accordance with paragraph 58 of the Methodology for the Peer Review.

2. Barbados' request for the supplementary report comes in light of the Government of Barbados having implemented a domestic solution and taken actions which it believes are likely to result in an upgrade of the determinations of the elements ToR C.1. and ToR C.2 and could result in a recommendation that Barbados proceed to a Phase 2 Peer Review. Specifically, Barbados introduced the *Income Tax (Exchange of Information) Regulations, 2011* which came into effect on March 17, 2011. In addition, Barbados wishes to report that it has addressed each of the four recommendations associated with elements C1 and C2, respectively.

3. During the period March-December 2010, Barbados was reviewed and the Phase 1 Peer Review Report to reflect Barbados' legal and regulatory framework as at October 2010, was published on January 27, 2011. The Report noted *inter alia* that out of ten (10) elements mentioned in that Report, the following two elements crucial for a jurisdiction to progress to a Phase 2 Review were considered elements not in place. These were:

(i) ToR C1: Exchange of information mechanisms should allow for effective exchange of information; and

- Some double taxation agreements (DTAs) limit exchange of information (i) to information for carrying out the provisions of the Convention, or (ii) by failing to provide for exchange of bank information;
- In certain cases Barbados does not exchange information in respect of entities (IBCs, offshore banks, etc.), which are not covered by the treaty;

(ii) ToR C2: The jurisdictions’ network of information exchange should cover all relevant partners.

- Some DTAs with major relevant partners do not meet the international standard; and
- Barbados has been approached by a number of jurisdictions to negotiate TIEAs but has not done so.

4. As a result, the Peer Review Group noted that “Barbados has made progress in extending and updating its treaty network in order to address these deficiencies. It is therefore encouraged to continue this progress to ensure that its exchange of information agreements with historical partners that do not currently meet the international standard are quickly brought up to that standard. It is also encouraged to negotiate new agreements with other significant trading partners.”

Rationale for the Unilateral Mechanism

5. At the time of review, Barbados had seventeen DTAs in force. In addition, four DTAs were awaiting ratification while four others were awaiting signature. The protracted delay in ratification could therefore be considered as a contributing factor to Barbados not reaching the threshold of 12 DTAs with OECD countries in order to have been considered as having substantially implemented the standard.

6. Given the practical difficulty caused by the protracted ratification process and the impact that any further delays could have on Barbados’ efforts to move to a Phase 2 review, the Government introduced Regulations to the Income Tax Act to specifically address the concerns raised in the Report and to ensure that Barbados could effectively exchange information with all of its treaty partners at the level of the standard.

7. The Government considered this option the most viable given Barbados’ commitment to implementing the standard on transparency and exchange of information, particularly in view of its treaty partners’ inability to ratify treaties speedily. Barbados also noted that the issue of protracted ratification was not only limited to Barbados and that some countries had reported similar difficulties.

8. Barbados also took note of the fact that several countries such as the Cayman Islands and St. Kitts and Nevis have used a unilateral mechanism and the Global Forum’s acknowledgement that such mechanisms are useful tools for accelerating the implementation of the standard, particularly for smaller jurisdictions, given the urgency of the issue and the time and other resources required to negotiate bilateral agreements. Barbados was cognizant

of the concern that certain issues could sometimes prevent unilateral legislation from achieving its goal and therefore in implementing its domestic law solution, took into consideration the general requirements with respect to transparency, receptiveness to DTA negotiations with other jurisdictions; and the effectiveness of underlying mechanisms for exchange of information.

Overview of the *Income Tax (Exchange of Information) Regulations, 2011*

9. On March 17, 2011, the *Income Tax (Exchange of Information) Regulations, 2011* which is attached, came into effect. The Regulations provide for Barbados to unilaterally exchange information to the international standard with all of its existing treaty partners including those countries with which Barbados initialed a treaty or signed a treaty. Specifically, it defines “international standard” as the standard set out in Article 26 of the Organization of Economic Cooperation and Development (OECD) 2008 Model Agreement on the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Capital. The Regulations were formulated to ensure that it covered the circumstances relating to the 3 factors underlying the recommendations regarding ToR C.1 and ToR C.2, at paragraphs 3(i) and 3 (ii) mentioned above, respectively.

10. Regulation 3 of the *Income Tax (Exchange of Information) Regulations, 2011* states as follows:

“3. Where a double taxation agreement between Barbados and another country or territory to which section 83(1) of the Act refers,

(a) no longer meets the international standard in respect of the exchange of information provision in the agreement;

(b) excludes certain international business entities from the benefits of its provisions resulting in the exclusion of those entities from the application of the exchange of information provision in the agreement; or

(c) has been initialled or signed by the parties to that agreement but the parties have not yet concluded that process of ratification of the agreement,

Barbados shall unilaterally exchange information under those agreements in accordance with that international standard.”

11. However, Barbados is fully cognizant that the unilateral mechanism is an interim measure as it relates to implementing the standard on transparency and exchange of information and that it does not establish an obligation for its treaty partners to exchange information. As a result, Barbados is continuing its efforts to revise the existing treaties in line with the standard. In this regard, Barbados, via diplomatic communication has notified all relevant parties that it will unilaterally exchange information with them within the

context of the *Income Tax (Exchange of Information) Regulations, 2011* pending the entry into force of a Protocol to an existing treaty or the entry into force of a new treaty, as the case may be.

12. Barbados is encouraged by the acceptance of the *Income Tax (Exchange of Information) Regulations, 2011* by the United Kingdom as a practical solution to protracted ratification procedures. It is instructive to note that, it was on the basis of the *Income Tax (Exchange of Information) Regulations*, coupled with the recently initialed new Barbados/United Kingdom Double Taxation Agreement, the United Kingdom has upgraded Barbados' status on Her Majesty's Revenue and Customs list regarding off-shore tax non compliance from a category 3 listing to category 2.

13. The application of the Income Tax Regulations to the various determinations is set out below.

C 1 – Exchange of Information mechanisms should allow for effective exchange of information

14. Barbados notes the concerns that some DTAs limit exchange (i) to information for carrying out the provisions of the Convention, or (ii) by failing to provide for exchange of bank information. Under Regulation 3 of the *Income Tax (Exchange of Information) Regulations, 2011*, Barbados can effectively exchange information to the standard with all of its treaty partners and also makes provision to cover the concerns by making it clear that Barbados will unilaterally exchange information at the level of the standard in circumstances where the exchange of information provision in the treaty no longer meets the standard.

15. Given that the unilateral mechanism is an interim measure, Barbados is therefore continuing with its efforts to bring the existing tax treaties with Switzerland, Ghana and Venezuela into compliance with the standard. To date, Barbados has concluded negotiations and initialed a Protocol to the Barbados/Canada DTA which, among other things, amended the treaty to ensure that Barbados can exchange information on those entities which were previously excluded from the treaty. Barbados and the United Kingdom also reached agreement on a new tax treaty which includes an EOI Article based on the new standard, to replace the existing one.

16. In relation to C.1 therefore, by virtue of the *Income Tax (Exchange of Information) Regulations, 2011*, Barbados can effectively exchange information to the standard with all of its treaty partners along with the countries with which it has initialed or signed a double taxation agreement. In addition, Barbados has demonstrated its commitment to updating its tax treaty network to meet the standard as evidenced by the Protocols to the DTAs with China

and the Netherlands, over the last 2 years, the recently initialed Protocols to the DTAs with Canada, Finland, Norway, and Sweden, and the new DTA with the United Kingdom.

17. Barbados has made significant progress in implementing the standard considering that it has been reviewed only two years after its adoption of the standard.

C 1 – In certain cases Barbados does not exchange information in respect of entities (IBCs, offshore banks, etc.), which are not covered by the treaty;

18. Barbados reiterates that, by virtue of Regulation 3 of the *Income Tax (Exchange of Information) Regulations, 2011*, Barbados will also exchange information to the level of the standard in the circumstances where Barbados did not exchange information in respect of certain entities which were not covered by the treaty. Regulation 3 (b) states “Where a double taxation agreement between Barbados and another country or territory to which section 83(1) of the Act refers, excludes certain international business entities from the benefits of its provisions resulting in the exclusion of those entities from the application of the exchange of information provision in the agreement; Barbados shall unilaterally exchange information under those agreements in accordance with the international standard.”

19. As mentioned previously, Barbados recognizes that the amendment to the domestic law by way of the *Income Tax (Exchange of Information) Regulations* is an interim measure. Consequently, it continues to deal with this issue. To this end, Barbados has negotiated and initialed Protocols, which resolved the issue with Canada, United Kingdom, Finland, Norway and Sweden.

20. Barbados is therefore of the view that the recommendation has been satisfied. to the extent that under Regulation 3 of the *Income Tax (Exchange of Information) Regulations, 2011*, it can effectively exchange information to the standard in the cases where it did not exchange information in respect of certain entities, which are not covered by the treaty; and it has and continues to revise the relevant treaties to ensure that this aspect is addressed.

21. The *Income Tax (Exchange of Information) Regulations, 2011* effectively addresses the impediments in the existing treaties.

ToR C.2 – The jurisdictions’ network of information exchange mechanisms should cover all relevant partners.

22. In terms of the factor that “Some DTAs with major relevant partners do not meet the international standard;”, it should be noted that Barbados has taken significant steps in meeting the recommendation that Barbados should revise its existing treaties in line with the international standard. Again, by virtue of Regulation 3 of the *Income Tax (Exchange of Information) Regulations, 2011*, Barbados will exchange information at the level of the standard with all of its treaty partners inclusive of major relevant partners.

23. Furthermore, Barbados is actively updating its treaty network with major relevant partners to meet the standard as evidenced by the recently initialled DTA with the United Kingdom in May 2011 and the initialled protocol with Canada in July 2010, in keeping with its commitment to implement the standard and the recommendation that Barbados should revise its existing treaties in line with the standard. Plans are in train to update the existing treaties to allow for the effective exchange of information to be done through the provisions of the treaties where they do not currently meet the standard.

24. It is also significant to note that as a result of the *Income Tax (Exchange of Information) Regulations, 2011*, Barbados can exchange information to the level of the standard with 37 countries which comprise the 19 existing treaty partners inclusive of the CARICOM treaty, which is treated as 10, and the 9 countries which have initialed or signed treaties with Barbados.

25. Barbados therefore considers that to the extent that the *Income Tax (Exchange of Information) Regulations, 2011* allow Barbados to exchange information with all of its treaty partners inclusive of those with whom it has initialed or signed treaties and the fact that Barbados is actively updating its network of treaties in regard to exchange of information, the element would be in place.

C.2 – Jurisdictions’ network of information exchange mechanisms should cover all relevant partners. (ToR C.2)

26. With regard to the factor that Barbados has been approached by a number of jurisdictions to negotiate TIEAs but has not done so, it should be noted that Barbados has initialed TIEAs to implement the standard with Denmark, Greenland and the Faroes Islands, respectively, during the period June 20-24, 2011. The Government is committed to having these Agreements ratified expeditiously.

27. Barbados’ position as expressed through the Hon. George Hutson, Minister of International Business and International Transport in his address

to the delegates at the 2011 Global Forum meeting in Bermuda is that Barbados is willing to be flexible on the issue of implementing the standard through a TIEA despite the fact that its policy preference is to negotiate DTAs.

28. It is well known that as a small open developing economy with limited resources, Barbados' policy preference is to implement the standard through a DTA because of the added mutual benefits to the country and its treaty partners in terms of enhancing the investment framework to facilitate trade and investment between parties. However, Barbados is cognizant that some countries would prefer to enter into TIEAs and not DTAs. Barbados respects the sovereign rights of countries to determine which instrument is best suited to their needs. Barbados remains however committed to implementing the standard and is willing to have discussions with countries to determine the best instrument to use considering both countries' circumstances.

29. Following preliminary talks with representatives from France and Germany who have indicated interest in negotiating TIEAs, Barbados is making arrangements to have discussions with the appropriate officials in these countries with a view to implementing the standard.

Why Barbados should be recommended to advance to Phase 2

30. In light of the foregoing, Barbados believes that it has effectively addressed all four of the factors underlying the determinations relating to ToR C.1 and ToR C.2 to merit an upgrade of both elements.

31. As it relates to ToR C.1, the fact that the *Income Tax (Exchange of Information) Regulations, 2011* provides for the effective exchange of information to the standard solves the fundamental problem of impediments in the treaties preventing the effective exchange of information.

32. Barbados can unilaterally exchange information at the level of the standard with 37 countries by virtue of the *Income Tax (Exchange of Information) Regulations, 2011*.

33. In recognition of the fact that the *Income Tax (Exchange of Information) Regulations, 2011* is an interim solution, Barbados has continued to update the existing treaties so that the information could be exchanged within the context of the provisions of the treaties.

Furthermore, Barbados expects to complete its update of the existing treaty network well in advance of the 2013 date initially proposed for the Phase 2 Peer Review.

34. In the case of ToR C.2, Barbados has demonstrated that the *Income Tax (Exchange of Information) Regulations, 2011* cover all of its trading partners and efforts are continuing to upgrade the existing treaties while it negotiates new treaties.

35. Barbados has made significant progress with regard to addressing element ToR C.2 in terms of the issue of negotiating TIEAs with interested countries in that although its preference is to implement the standard through a DTA, it has nonetheless, negotiated and initialed three TIEAs with Denmark, Greenland and the Faroes Islands, respectively.

36. Barbados remains committed to implementing the standard and is cognizant of the need to be flexible on the issue, as some countries would not wish to implement the standard through a DTA.

37. Barbados believes that it has essentially addressed the recommendations and ensured that its exchange of information framework allows for exchange of information at the level of the standard, and that the country has demonstrated its commitment to implement the standard. Barbados further believes that the steps taken demonstrate good faith and commitment to implementing the standard. Barbados therefore looks forward to not only working with the Peer Review Group in regard to its request for a supplementary report but also to a successful outcome.

**Ministry of international business and international transport
(Barbados) July 15, 2011**

Annex 3: List of all Exchange-of-Information Mechanisms in Force

Exchange of information mechanisms signed by Barbados as of January 2012 (modifications since Phase 1 are marked in bold)

	Jurisdiction	Type of arrangement	Signed	Ratified/ in force
1	Antigua and Barbuda (Caricom)	Multilateral	6 July 94	7 July 95
2	Austria	DTC	27-Feb-06	1 April 07
3	Belize (Caricom)	Multilateral	6 July 94	30-Nov-94 (effective 1-Jan-96)
4	Botswana	DTC	23-Feb-05	12 Aug 05
5	Canada	DTC	22-Jan-80	22-Dec-80
		Protocol to DTC	8-Nov-11	Not ratified
6	China (People's Rep.)	DTC	15-May-00	27 Oct 00
		Protocol to DTC	10-Feb-10	9 June 2010
7	Cuba	DTC	17-June-99	16 March 00
8	Czech Republic	DTC	16 Oct 11	Not ratified
9	Denmark	TIEA	3-Nov-11	Not ratified
10	Dominica (Caricom)	Multilateral	6 July 94	30-Nov-94 (effective 1-Jan-97)
11	Faroe Islands	TIEA	3-Nov-11	Not ratified
12	Finland	DTC	15-June-89	20 Aug 92
		Protocol to DTC	3-Nov-11	Not ratified
13	Ghana	DTC	22-April-08	Not ratified in Ghana
14	Greenland	TIEA	3-Nov-11	Not ratified

	Jurisdiction	Type of arrangement	Signed	Ratified/ in force
15	Grenada (Caricom)	Multilateral	6 July 94	In force
16	Guyana (Caricom)	Multilateral	6 July 94	In force
17	Iceland	DTC	3-Nov-11	Not ratified
18	Jamaica (Caricom)	Multilateral	6 July 94	In force
19	Luxembourg	DTC	01-Dec-09	8-Aug-11
20	Malta	DTC	05-Dec-01	19 June 02
21	Mauritius	DTC	28-Sep-04	28 Jan 05
22	Mexico	DTC	07-April-08	26 Jan 09
23	Netherlands	DTC	28-Nov-06	12 July 07
		Protocol to DTC	27-Nov-09	13 Nov 11
24	Norway	DTC	15-Nov-90	3 July 93
		Protocol to DTC	3-Nov-11	Not ratified
25	Panama	DTC	21-June-10	18-Feb-11
26	Portugal	DTC	22-Oct-10	Not ratified in Portugal
27	Seychelles	DTC	19-Oct-07	21 April 08
28	Spain	DTC	1-Dec-10	14-Oct-11
29	St. Kitts and Nevis (Caricom)	Multilateral	6-July-94	30-Nov-94 (effective 1-Jan-98)
30	St. Lucia (Caricom)	Multilateral	6-July-94	30-Nov-94 (effective 1-Jan-96)
31	St. Vincent and the Grenadines (Caricom)	Multilateral	6-July-94	30-Nov-94 (effective 1-Jan-99)
32	Sweden	DTC	01 July 91	1 Dec 91
		Protocol to DTC	3-Nov-11	Not ratified
33	Switzerland	DTC	20-Aug-63	1963
34	Trinidad and Tobago (Caricom)	Multilateral	6-July-94	30-Nov-94 (effective 1-Jan-96)
35	United Kingdom	DTC	26-Mar-70	1 Jan 69

	Jurisdiction	Type of arrangement	Signed	Ratified/ in force
36	United States	DTC	31-Dec-84	28-Feb-86
		Protocol to DTC	14-July-04	20-Dec-04
		TIEA	03-Nov-84	03-Nov-84
37	Venezuela	DTC	11-Dec-98	01 Jan 01

The texts of the EOI instruments of Barbados are available on the EOI Portal at <http://eoi-tax.org/> as well as on the Barbados website at: www.invest-barbados.org/dtas.php.

Annex 4: List of Laws, Regulations And Other Material Received

Below are the texts used for the purpose of the supplementary report. Others relevant laws and regulations are listed in annex to the Phase 1 report.

- International Corporate and Trust Service Providers Act, 2011-5 (the ICTSPA)
- Money Laundering and Financing of Terrorism (Prevention and Control) Act, 2011
- Central Bank of Barbados Anti-Money Laundering/Combating Terrorist Financing Guideline for Financial Institutions Licensed under FIA and the IFSA revised at November 2011
- Income Tax (Exchange of Information) Regulations, 2011

