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Ministerial Statement to Parliament by the Chief Minister

Code Group Findings & ECOFIN Meeting

Mr Speaker,

I am delighted to announce that in its meeting last Friday in Brussels, which ended in the very early hours of Saturday morning, the European Council of Economic and Finance Ministers of the 27 EU Member States (ECOFIN) endorsed Gibraltar's Income Tax Act, as amended earlier this month, as now being compliant with the EU Code of Conduct for Business Taxation.

This is the first time that Gibraltar's tax system has been fully endorsed by BOTH the Code Group and the ECOFIN.

These approvals mark a major milestone in the transformation of Gibraltar as a mainstream and compliant tax jurisdiction.

Although the EU Code of Conduct is not a legally binding instrument, it has strong political force. It has become the yardstick by which harmful tax measures within the EU and in the overseas territories of the EU Member States are assessed.

The Code was adopted in 1997.

It requires Member States to refrain from introducing any new harmful tax measures (known as the "standstill principle") and amend any laws or practices that are deemed to be harmful in respect of the principles of the Code (which is known as the "rollback principle").

The Code covers tax measures (legislative, regulatory and administrative) which have, or may have, a significant impact on the location of business in the Union.

The Code Group criteria for identifying potentially harmful measures include:

- an effective level of taxation which is significantly lower than the general level of taxation in the country concerned;
- tax benefits reserved for non-residents;
- tax incentives for activities which are isolated from the domestic economy and therefore have no impact on the national tax base;
- granting of tax advantages even in the absence of any real economic activity;
- the basis of profit determination for companies in a multinational group departs from internationally accepted rules, in particular those approved by the OECD; or
- lack of transparency.

The Code is implemented by the Code of Conduct Group which is a group that pools together the tax authorities of the 27 EU Member States and is chaired by the European Commission.

Gibraltar's Income Tax Act had been under close examination by the Code Group for several years now.

In November 2012, the Code Group made its evaluation and found that the Income Tax Act as adopted in 2010 was "a harmful tax measure". It made that finding on the basis that the non-taxation of inter-company loan interest income was harmful because in practice it benefited transactions with non-residents.

Since November 2012, the Government has therefore been working very intensely indeed with the European Commission in finding a way to address that concern.

This has included attendance at various meetings in Brussels by me and by officials.

As a result, the Government has been able to devise changes to the Income Tax Act which removed the perceived harm (or "rollback" in the language of the Code).

The Gibraltar Government was invited to make representations to the Code Group on 29 May 2013 to explain the work it had done on rollback since November 2012.

At that meeting, the Code Group took a vote and found in Gibraltar's favour by a crushing majority vote.

It is this vote that was endorsed by the ECOFIN last Friday.

Mr Speaker, this is a great and important day for Gibraltar as a serious, EU compliant financial services jurisdiction.

Gibraltar's listing as a harmful tax jurisdiction under EU Code of Conduct criteria has been damaging to Gibraltar's reputation over the last 15 years.

Code Group approval has eluded us since its creation in 1997.

I am therefore delighted that the work we have done and the meetings we have held since November 2012 and the amendment we made earlier this month have been found satisfactory and has now given Gibraltar, for the first time, a clean bill of health under this important process.

Mr Speaker, in the spirit of the Privy Council style status that I have sought to create - to move away from unnecessary partisanship on matters of National importance and allow the Opposition to be briefed on such issues - I asked the Chief Legal Adviser of the Government and the Commissioner of Income Tax to brief both the Leader of the Opposition and the previous Chief Minister of the results of the Code Group's determinations some weeks ago, ahead of the Ecofin meeting that had originally been scheduled for the 20th June.

Mr Speaker, I am delighted to now have the opportunity to share this excellent and hugely positive news with the whole House and the public.

Mr Speaker, those who persistently try to denigrate us, those who with compulsive blindness seek to undermine the reputation and credibility of our country, are fast running out of credible options to do so.

We will continue to expose them, Mr Speaker.

We will do so by showing them all that Gibraltar can and will adhere to EU and international standards and will prosper in the process of doing so.

That is the economic model my Government subscribes to.

That is the economic model that will take us forward and deliver the progress we deserve.

ENDS