

**AGREEMENT**

*between*

**BARBADOS**

*and*

**THE REPUBLIC OF COLOMBIA**

**CONCERNING INFORMATION ON  
TAX MATTERS**

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**AGREEMENT BETWEEN BARBADOS AND THE REPUBLIC  
OF COLOMBIA CONCERNING INFORMATION  
ON TAX MATTERS**

The Government of Barbados and the Government of the Republic of Colombia, desiring to conclude an Agreement concerning information on tax matters have agreed as follows:

**Article 1**

*Object and Scope of the Agreement*

The competent authorities of the Contracting Parties shall provide assistance through exchange of information that is foreseeably relevant to the administration and enforcement of the domestic laws of the Contracting Parties concerning taxes covered by this Agreement. Such information shall include information that is foreseeably relevant to the determination, assessment and collection of such taxes, the recovery and enforcement of tax claims, or the investigation or prosecution of tax matters. Information shall be exchanged in accordance with the provisions of this Agreement and shall be treated as confidential in the manner provided in Article 9. The rights and safeguards secured to persons by the laws or administrative practice of the requested Party remain applicable to the extent that they do not unduly prevent or delay effective exchange of information.

**Article 2**

*Jurisdiction*

The requested Party is not obligated to provide information which is neither held by its authorities nor in the possession of or under the control of a resident or non-resident person over which it is able to exercise jurisdiction.

**Article 3**

*Taxes Covered*

1. The taxes which are the subject of this Agreement are taxes of every kind and description imposed in the Contracting Parties.

2. The Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting Parties shall notify each other of any substantial changes to the taxation and related information gathering measures covered by the Agreement.

#### **Article 4**

##### *Definitions*

1. For the purposes of this Agreement, unless the context otherwise requires:
  - (a) the term “Barbados” means the present territory of Barbados including the territorial sea and any maritime area situated beyond the territorial sea of Barbados which has been or might in the future be designated under the national law of Barbados in accordance with international law as an area within which Barbados may exercise its sovereign rights and jurisdiction to explore, exploit and preserve the seabed, subsoil and the natural resources;
  - (b) the term “Colombia” means the Republic of Colombia;
  - (c) the term “Contracting Party” means Barbados or Colombia as the context requires;
  - (d) the term “competent authority” means:
    - a. in the case of Barbados, the Minister responsible for Finance or his authorized representative;
    - b. in the case of Colombia, the *Director General de la Dirección de Impuestos y Aduanas Nacionales –DIAN–* (Director-General of the National Tax and Customs Administration) or his authorized representative;
  - (e) the term “person” includes an individual, a company and any other body of persons;
  - (f) the term “company” means any body corporate or any entity that is treated as a body corporate for tax purposes;

- (g) the term “tax” means any tax to which the Agreement applies;
- (h) the term “applicant Party” means the Contracting Party requesting information;
- (i) the term “requested Party” means the Contracting Party requested to provide information;
- (j) the term “information gathering measures” means laws and administrative or judicial procedures that enable a Contracting Party to obtain and provide the requested information;
- (k) the term “information” means any fact, statement or record in any form whatever;
- (l) the term “criminal tax matters” means tax matters involving intentional conduct which is liable to prosecution under the criminal laws of the applicant Party;
- (m) the term “criminal laws” means all criminal laws designated as such under domestic law irrespective of whether contained in the tax laws, the criminal code or other statutes.

2. As regards the application of the Agreement at any time by a Contracting Party, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that Party for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that Party prevailing over a meaning given to the term under other laws of that Party.

## **Article 5**

### *Exchange of Information Upon Request*

1. The competent authority of the requested Party shall provide upon request information for the purposes referred to in Article 1. Such information shall be exchanged without regard to whether the conduct being investigated would constitute a crime under the laws of the requested Party if such conduct occurred in the requested Party.

2. If information is requested by the applicant Party in accordance with this Agreement, the requested Party shall use its information gathering measures to obtain the requested information, even though the requested Party may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations contained in this Agreement, but in no case shall such limitations, including in particular those of paragraph 2 of Article 8, be construed to permit the requested Party to decline to supply information solely because it has no domestic interest in such information.

3. If specifically requested by the competent authority of the applicant Party, the competent authority of the requested Party shall provide information under this Article, to the extent allowable under its domestic laws, in the form of depositions of witnesses and authenticated copies of original records.

4. Each Contracting Party shall ensure that its competent authorities for the purposes specified in Article 1 of the Agreement, have the authority to obtain and provide upon request:

- (a) information held by banks, other financial institutions, and any person acting in an agency or fiduciary capacity including nominees and trustees;
- (b) information regarding the ownership of companies, partnerships, trusts, foundations, and other persons, including, within the constraints of Article 2, ownership information on all such persons in an ownership chain; in the case of trusts, information on settlors, trustees and beneficiaries; and in the case of foundations, information on founders, members of the foundation council and beneficiaries.

5. The competent authority of the applicant Party shall provide the following information to the competent authority of the requested Party when making a request for information under the Agreement to demonstrate the foreseeable relevance of the information to the request:

- (a) the identity of the person under examination or investigation;
- (b) a statement of the information sought including its nature and the form in which the applicant Party wishes to receive the information from the requested Party;

- (c) the tax purpose for which the information is sought;
- (d) grounds for believing that the information requested is held in the requested Party or is in the possession or control of a person within the jurisdiction of the requested Party;
- (e) to the extent known, the name and address of any person believed to be in possession of the requested information;
- (f) a statement that the request is in conformity with the law and administrative practices of the applicant Party, that if the requested information was within the jurisdiction of the applicant Party then the competent authority of the applicant Party would be able to obtain the information under the laws of the applicant Party or in the normal course of administrative practices and that it is in conformity with this Agreement;
- (g) a statement that the applicant Party has pursued all reasonable measures available under its laws or administrative practice to obtain the information, except where recourse to such measures would give rise to disproportionate difficulties.

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:

- (a) confirm receipt of a request in writing to the competent authority of the applicant Party and shall notify the competent authority of the applicant Party of deficiencies in the request, if any, within 60 days of the receipt of the request.
- (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.

## **Article 6**

### *Other Forms of Exchange of Information*

The Contracting Parties may agree on other forms of exchange of information and cooperation, such as automatic and spontaneous exchange of information. The competent authorities of the Contracting Parties shall determine the requisites and the procedure for such exchange and cooperation by the mutual agreement procedure provided for in Article 11 (Mutual Agreement Procedure).

## **Article 7**

### *Tax Examinations Abroad*

1. A Contracting Party may allow representatives of the competent authority of the other Contracting Party to enter the territory of the first-mentioned Party to interview individuals and examine records with the written consent of the persons concerned. The competent authority of the second-mentioned Party shall notify the competent authority of the first-mentioned Party of the time and place of the meeting with the individual concerned.
2. At the request of the competent authority of one Contracting Party, the competent authority of the other Contracting Party may allow representatives of the competent authority of the first-mentioned Party to be present at the appropriate part of a tax examination in the second-mentioned Party.
3. If the request referred to in paragraph 2 is acceded to, the competent authority of the Contracting Party conducting the examination shall, as soon as possible, notify the competent authority of the other Party about the time and place of the examination, the authority or official designated to carry out the examination and the procedures and conditions required by the first-mentioned Party for the conduct of the examination. All decisions with respect to the conduct of the tax examination shall be made by the Party conducting the examination.

## **Article 8**

### *Possibility of Declining a Request*

1. The competent authority of the requested Party may decline to assist where the request is not made in conformity with this Agreement.



2. The provisions of this Agreement shall not be construed so as to impose on a Contracting Party the obligation:

- (a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting Party;
- (b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting Party;
- (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (ordre public). Information of the type referred to in Article 5, paragraph 4 shall not be treated as such a secret or trade process merely because it meets the criteria in that paragraph;
- (d) to provide information for the purpose of administering or enforcing a provision of the tax law of the applicant Party, or any requirement connected therewith, which discriminates against a national of the requested Party as compared with a national of the applicant Party in the same circumstances;
- (e) to provide information if the applicant Party has not pursued all reasonable measures available under its laws or administrative practice, except where recourse to such measures would give rise to disproportionate difficulties.

3. In no case shall the provisions of this Agreement, including in particular those of paragraph 2, be construed to permit the requested Party to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

4. A request for information shall not be refused on the ground that the tax claim giving rise to the request is disputed.

## **Article 9**

### *Confidentiality*

Any information received by a Contracting Party under this Agreement shall be treated as secret in the same manner as information obtained under the domestic laws of that Party and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in this Agreement, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. Notwithstanding the foregoing, information received by a Contracting Party may be used for other purposes when such information may be used for such other purposes under the laws of both Parties and the competent authority of the requested Party authorizes such use.

## **Article 10**

### *Costs*

Incidence of costs incurred in providing assistance shall be agreed by the competent authorities of the Contracting Parties.

## **Article 11**

### *Mutual Agreement Procedure*

1. The competent authorities shall adopt and implement procedures that are necessary to facilitate the implementation of this Agreement, including such additional forms for the exchange of information as shall promote the most effective use of the information.
2. Where difficulties or doubts arise between the Contracting Parties regarding the implementation or interpretation of the Agreement, the competent authorities shall endeavour to resolve the matter by mutual agreement.
3. In addition to the agreements referred to in paragraph 2, the competent authorities of the Contracting Parties may mutually agree on the procedures to be used under Article 5, Article 6, Article 7 and Article 10.

4. The competent authorities of the Contracting Parties may communicate with each other directly for purposes of reaching agreement under this Article.
5. The Contracting Parties may also agree on other forms of dispute resolution.

## **Article 12**

### *Entry into Force*

1. Each of the Contracting Parties shall notify the other in writing, through diplomatic channels, of the completion of the internal procedures required by its laws for the bringing into force of this Agreement.
2. This Agreement shall enter into force on the date in which the later of the notifications has been received, and its provisions shall have effect on that date.
3. The Contracting Parties shall exchange information, for requests made on or after the date of entry into force, regarding taxable periods prior to the entry into force of this Agreement, or where there is no taxable period, regarding charges to tax arising prior to the entry into force of this Agreement, provided that such information is available. The requested information shall correspond to tax liabilities that are reviewable by the tax authorities of the requesting Party according to its statute of limitations.

## **Article 13**

### *Termination*

1. This Agreement shall remain in force until terminated by a Contracting Party. Either Contracting Party may terminate the Agreement by giving written notice of termination to the other Contracting Party.
2. In such case, the Agreement shall cease to have effect on the first day of the month following the end of the period of six months after the date of receipt of notice of termination by the other Contracting Party.
3. In the event of termination, both Contracting Parties shall remain bound by the provisions of Article 9 with respect to any information obtained under the Agreement.

**IN WITNESS WHEREOF**, the undersigned, duly authorised thereto, have signed this Agreement.

**DONE at, Washington, D.C. this 25th day of November, 2014, in English and Spanish languages, all texts being equally authentic. In case there is any divergence of interpretation the English text shall prevail.**

**JOHN BEALE**  
for Barbados

**LUIS CARLOS VILLIGES**  
For the Republic of Colombia