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**Committee of Experts on International
Cooperation in Tax Matters
Tenth Session**

Geneva, 27-31 October 2014

Agenda item 3 (a) (ix) of the provisional agenda

Article 26 (Exchange of Information)*

**SECRETARIAT NOTE: PROPOSED UNITED NATIONS CODE OF CONDUCT ON
COOPERATION IN COMBATING INTERNATIONAL TAX EVASION**

In its Fifth Annual Session the Committee adopted for consideration by the Economic and Social Council (ECOSOC) a proposed United Nations Code of Conduct on Cooperation in Combating International Tax Evasion. The text was annexed to the Committee's report of that session¹. In the light of developments since, the Subcommittee on Exchange of Information has developed for consideration a proposed updated version of the code for consideration by the Committee at its Tenth annual session.

2. The proposed text is annexed as Attachment A to this note in marked-up form showing the differences from the 2009 version. A clean copy is at Attachment B.

* E/C.18/2014/1

¹ E/2009/45 (SUPP)

ATTACHMENT A

PROPOSED CODE OF CONDUCT (2014)

UNITED NATIONS CODE OF CONDUCT ON COOPERATION IN COMBATING INTERNATIONAL TAX EVASION

PREAMBLE

~~*Acknowledging* that tax systems are a key means of mobilizing domestic public resources and enhancing macroeconomic policies, as well as the need to step up efforts to enhance the ability of each State to collect tax revenues, efficiently and effectively combat tax evasion and protect their tax bases from non-compliance with their tax laws,~~

~~*Acknowledging* the importance of supporting national efforts in these areas by enhancing international tax cooperation,~~

~~*Acknowledging* that international tax evasion has become increasingly detrimental to development as globalization has extended to all parts of the world,~~

~~*Acknowledging* that the tools of tax evasion have accompanied globalization and that they are undermining the ability of developing countries to mobilize domestic resources for development,~~

~~*Acknowledging*, therefore, the need for a code of conduct in combating international tax evasion,~~

~~RECOGNIZING that tax evasion and abusive tax avoidance is a global problem affecting developed and developing countries,~~

~~CONSIDERING that during the past years, we have devoted substantive time and efforts to update the provisions related with exchange of information of the United Nations Model Double Taxation Convention between Developed and Developing Countries in order to adjust it with the current necessities.~~

~~CONSIDERING also that during its 5th Session we approved the Code of Conduct on Cooperation in Combating International Tax Evasion, setting minimal standards of conduct required in all member countries regarding the exchange of information,~~

VALUING the important role that the G20 has played in the international sphere by supporting and encouraging the development of new initiatives on exchange of information and to tackle tax evasion and abusive tax avoidance,

ACKNOWLEDGING the important role that the multilateral Convention on Mutual Administrative Assistance in Tax Matters can play in facilitating the implementation of automatic exchange of information and TAKING ADVANTAGE of the fact that over 65 countries have already signed the Convention, including a growing number of developing countries, and 15 jurisdictions are covered by way of territorial extension,

NOTING that to tackle tax evasion and abusive tax avoidance a new single global standard on automatic exchange of information has been developed to alert tax authorities,

CONSIDERING that a group of 45 countries and jurisdictions are committed to an early adoption of the new single global standard,

CONSCIOUS that the new single global standard should not impose undue administrative costs and ACKNOWLEDGING that appropriate safeguards including certain confidentiality requirements shall be met in order to ensure the requirement that information may be used only for the purposes foreseen by the legal instrument pursuant to which it is exchanged,

RECOGNIZING however that such new single global standard presents different challenges to Developed and Developing Countries that should be adequately addressed

RECOGNISING, however that developing countries may face capacity constraints when implementing automatic exchange of information under the new single global standard,

CONSCIOUS of the need to provide technical assistance and capacity building to developing countries so that they may be able to reap the benefits of the standard,

EMPHASIZING that the code of conduct is a political commitment and does not affect the rights and obligations of States or their respective spheres of competence,

~~*Emphasizing that the code of conduct is a practical means of enhancing international tax cooperation to an acceptable level but that individual States should aspire to a higher level of cooperation to the extent their circumstances allow.*~~

The Committee of Experts on International Cooperation in Tax Matters hereby adopts the following code of conduct:

I. Scope

This code of conduct applies to States, including Government agencies, and extends to tax laws, regulations and administrative practices.

II. Goals

The code of conduct has the following goals:

- (a) To ensure that all States, in an effort to combat international tax evasion, and to protect their tax bases from non-compliance with their tax laws, provide that high levels of transparency and exchange of information in tax matters are adhered to, in particular, to the new global standard of automatic exchange of information;
- (b) To assist in the development of international norms ~~and~~, practical steps and building capacity programs that Governments should follow with a view to cooperate to avoiding and combating international tax evasion and protecting their tax bases from non-compliance with their tax laws.

III. Commitments

Under this code of conduct States commit to:

- (a) Effectively exchange information in both criminal and civil tax matters;
- (b) Ensure there are no restrictions on information exchange caused by application of the dual criminality principle or a domestic tax interest requirement;
- (c) Have appropriate confidentiality rules for information exchanged and safeguards and limitations that apply to taxpayer information;
- (d) Ensure that reliable information is available, in particular, bank account, ownership, identity and relevant accounting information, with powers in place to obtain and provide such information in response to a specific request.
- (e) Acknowledge automatic exchange of information as the new single global standard;
- (f) Endorse the work and recent developments carried out on automatic exchange of information, including the Standard for Automatic Exchange of Financial Account Information in Tax Matters so called Common Reporting Standard;
- (g) Encourage all countries that have not already done so to sign and ratify the multilateral Convention on Mutual Administrative Assistance in Tax Matters;

- (h) Commit to work with the OECD, the Global Forum on Exchange of Information for Tax Purposes, the G20 and other concerned multilateral bodies and relevant international organizations in order to help developing countries and countries with economies in transition to identify their needs for capacity building and technical assistance on automatic exchange of information (including confidentiality);
- (i) Commit also to conduct technical meetings, seminars and other capacity-building or technical assistance events on automatic exchange of information (including confidentiality) for developing countries and countries with economies in transition, with concerned multilateral bodies and relevant international organizations.

These commitments are to be implemented by the following actions:

- (a) Unilateral actions: the national implementation of these standards may require that countries amend their domestic ~~legislation and practices~~legislation, practices and develop necessary administrative resources and IT infrastructure;
- (b) Bilateral, or as appropriate multilateral, including regional actions: the principles of transparency and effective exchange of information will generally be implemented through ~~bilateral agreements~~international cooperation (capacity building), bilateral or multilateral agreements in order to exchange information under the common reporting standard, or implementing the substance of article 26 and the accompanying commentary on the United Nations Model Tax Convention, as finalized by the United Nations Committee of Experts on International Cooperation in Tax Matters.

ATTACHMENT B

PROPOSED CODE OF CONDUCT (2014)

UNITED NATIONS CODE OF CONDUCT ON COOPERATION IN COMBATING INTERNATIONAL TAX EVASION

PREAMBLE

RECOGNIZING that tax evasion and abusive tax avoidance is a global problem affecting developed and developing countries,

CONSIDERING that during the past years, we have devoted substantive time and efforts to update the provisions related with exchange of information of the United Nations Model Double Taxation Convention between Developed and Developing Countries in order to adjust it with the current necessities.

CONSIDERING also that during its 5th Session we approved the Code of Conduct on Cooperation in Combating International Tax Evasion, setting minimal standards of conduct required in all member countries regarding the exchange of information,

VALUING the important role that the G20 has played in the international sphere by supporting and encouraging the development of new initiatives on exchange of information and to tackle tax evasion and abusive tax avoidance,

ACKNOWLEDGING the important role that the multilateral Convention on Mutual Administrative Assistance in Tax Matters can play in facilitating the implementation of automatic exchange of information and TAKING ADVANTAGE of the fact that over 65 countries have already signed the Convention, including a growing number of developing countries, and 15 jurisdictions are covered by way of territorial extension,

NOTING that to tackle tax evasion and abusive tax avoidance a new single global standard on automatic exchange of information has been developed to alert tax authorities,

CONSIDERING that a group of 45 countries and jurisdictions are committed to an early adoption of the new single global standard,

CONSCIOUS that the new single global standard should not impose undue administrative costs and ACKNOWLEDGING that appropriate safeguards including certain confidentiality requirements shall be met in order to ensure the requirement that

information may be used only for the purposes foreseen by the legal instrument pursuant to which it is exchanged,

RECOGNIZING however that such new single global standard presents different challenges to Developed and Developing Countries that should be adequately addressed

RECOGNISING, however that developing countries may face capacity constraints when implementing automatic exchange of information under the new single global standard,

CONSCIOUS of the need to provide technical assistance and capacity building to developing countries so that they may be able to reap the benefits of the standard,

EMPHASIZING that the code of conduct is a political commitment and does not affect the rights and obligations of States or their respective spheres of competence,

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accompanying commentary on the United Nations Model Tax Convention, as finalized by the United Nations Committee of Experts on International Cooperation in Tax Matters.
