

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

Geneva, 19-23 October 2015

Agenda item 3 (a) (vi)

Article 26 (Exchange of Information): proposed Code of Conduct

**PROPOSED CODE OF CONDUCT (2014)201\*)**

**UNITED NATIONS CODE OF CONDUCT ON COOPERATION IN COMBATING  
COMBATINGINTERNATIONALINTERNATIONAL TAX EVASION.**

**PREAMBLE**

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

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

CONSIDERING also that during its 5<sup>th</sup> Session ~~we~~the Committee of Experts approved the Code of Conduct on Cooperation in Combating International Tax Evasion, setting ~~minimal~~minimum 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, including~~ tax ~~avoidance~~fraud,

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~~an important number of countries have already signed the Convention, including a growing number of developing countries, and ~~15~~several jurisdictions are covered by way of territorial extension,

NOTING that to tackle tax evasion ~~and abusive, including~~ tax ~~avoidance~~fraud a new single global standard on automatic exchange of information has been developed to alert tax authorities on the financial assets deposited abroad by their residents and income earned on these assets in order to detect if the appropriate amount of taxes is being paid.  
~~transactions that are being carried out by their residents in order to detect if the appropriate amount of taxes is being paid.~~

Comment [IR1]: Change suggested by Christoph Schelling

CONSIDERING that ~~a group~~an important number 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 a new single global standard presents different challenges to developed and developing countries that should be adequately addressed developing the appropriate legal framework, having the necessary IT and human resources, as well as capacity building, in order to achieve an effective and efficient implementation.

RECOGNIZING, 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,

[The Committee of Experts on International Cooperation in Tax Matters hereby adopts the following code of conduct:] Pending on the determination of the document by which the Code of Conduct will be adopted

### **I. Scope**

This code of conduct applies to States agreeing to be bound by it, 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, practical steps and building capacity programs ~~that those~~ Governments should follow with a view 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 [agreeing to be bound by it](#), 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~~ [global standard, which comprises also the fulfilment of strict confidentiality rules with respect to the information exchanged](#);
- (f) Endorse the work ~~and recent developments~~ carried out on automatic exchange of [financial accounts](#) 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 UN](#), 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 States amend their domestic legislation, practices and develop necessary administrative resources and IT infrastructure ;
- (a) Bilateral, or as appropriate multilateral, including regional actions: the principles of transparency and effective exchange of information will generally be implemented through 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.

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