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**Committee of Experts on International
Cooperation in Tax Matters
Twenty-first session**

Online meeting of 20-30 October 2020

Item 3 (j) of the provisional agenda

**Recommendation on the Public Disclosure of Provisions Concerning the Tax Treatment
of Government-to-Government Aid Projects**

Note by the Subcommittee on the Tax treatment of ODA projects

Summary

This note, which is presented FOR APPROVAL at the twenty-first session of the Committee, includes a proposed recommendation on the Public Disclosure of Provisions Granting Tax Exemptions with respect to Government-to-Government Aid Projects. That proposed recommendation was originally drafted by the Subcommittee on the Tax Treatment of ODA Projects at its meeting of 6-7-8 February 2020 and was subsequently amended on the basis of the discussion of a first draft at the 20th session (held online on 22-26 June 2020).

At its twenty-first session, the Committee is invited to have a final discussion and to approve the proposed recommendation included in this note.

1. A first version of the proposed recommendation included in this note was drafted by the Subcommittee on the Tax Treatment of ODA Projects at its meeting of 6-7-8 February 2020, when the Subcommittee discussed the follow-up to the joint meeting that was held on 5 February 2020 with the OECD Development Assistance Committee (DAC) (see note [E/C.18/2020/CRP.4](#)). The decision to propose a recommendation concerning the public disclosure of provisions granting tax exemptions with respect to government-to-government aid projects was made based on the discussion, during the joint meeting, of issues related to the transparency of agreed these provisions. These provisions are often included in agreements that are not public and that may be negotiated without the involvement of the tax authorities. Sometimes, a tax administration does not even have access to the wording of these provisions even though it has to apply them.

2. The Subcommittee agreed that since the need to ensure greater transparency of these provisions was a topic on which there was broad consensus among donors and recipients of government-to-government aid, a recommendation addressing that specific issue should be presented for approval by the Committee.

3. A first draft of the recommendation was presented for discussion at the 20th session of the Committee (held online from 22 to 26 June 2020). One member who expressed concerns about the draft recommendation suggested to delete the last consideration dealing with the ongoing work of the Platform for Collaboration on Tax on the issue of transparency in the area of tax exemptions for government-to-government aid as well as the part of the recommendation dealing with the possibility of setting up a central repository or point of access for provisions of assistance agreements dealing with tax issues. Changes were made to the recommendation in order to accommodate these suggestions and the revised version of the recommendation that is included in this note was distributed to the members of the Committee on 2 August 2020.

4. At its twenty-first session, the Committee is invited to continue its discussion and to approve the proposed recommendation included in this note.

**UNITED NATIONS COMMITTEE OF EXPERTS ON INTERNATIONAL
COOPERATION IN TAX MATTERS**

**Recommendation on the Public Disclosure of Provisions Concerning the Tax
Treatment of Government-to-Government Aid Projects**

CONSIDERING that the *Addis Ababa Action Agenda* includes the commitment to “consider not requesting tax exemptions on goods and services delivered as government-to-government aid, beginning with renouncing repayments of value-added taxes and import levies.”¹

CONSIDERING that the on-going work of the Committee and of the partners of the Platform on Collaboration of Tax on the issue of tax exemptions related to government-to-government aid projects has identified concerns with the transparency of some instruments through which these exemptions are granted.

RECOGNIZING that the constitutional and legal principles applicable in a large number of countries require the legislative adoption of, and full public access to, the rules concerning the exercise of a State’s taxing powers;

RECOGNIZING, however, that constitutional and legal principles applicable in a large number of countries also provide for the confidentiality of taxpayer-specific information.

CONSIDERING that there is wide consensus that, subject to any applicable legal requirements concerning the confidentiality of taxpayer-specific information, provisions included in any treaty, agreement, letter, memorandum of understanding or other document intended to govern the taxation, by a country that receives government-to-government aid, of goods or services provided in the context of such assistance, should be publicly available.

THE COMMITTEE OF EXPERTS ON INTERNATIONAL COOPERATION IN TAX MATTERS:

1. RECOMMENDS that, subject to any applicable legal requirements concerning the confidentiality of taxpayer-specific information, countries that receive government-to-government aid and donor countries, their aid agencies as well as international governmental organizations through which such aid is provided, endeavour to ensure that the parts of any treaty, agreement, letter, memorandum of understanding or other document to which they are parties that include provisions intended to govern the taxation, by a country that receives government-to-government aid, of goods or services provided in the context of such assistance, be made publicly available.

1 *Addis Ababa Action Agenda*, section C (International Development Cooperation), paragraph 58.

2. ENCOURAGES the partners of the Platform for Collaboration on Tax to pursue initiatives that would ensure and facilitate public access to the provisions referred to above.
3. INSTRUCTS its Subcommittee on the Tax Treatment of ODA Projects to incorporate this recommendation in the Guidelines on the Tax Treatment of Government-to-Government Aid Projects that are expected to be finalised before the end of 2020.