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Developing a Code of Conduct on Promoting Tax Compliance**Summary*

A code of conduct governing international tax cooperation in combating tax evasion and capital flight can serve three important functions. First, it can set a moral tone for the international tax community C a set of ideals that might undermine the social acceptance of international tax avoidance and evasion. Second, it can give moral support to governments that wish to conform to an emerging international standard of conduct. That moral support may help those countries take action against their own tax cheats, who may enjoy considerable political influence. Third, the code of conduct can help create a level playing field for low-tax countries that are meeting their international obligations by putting pressure on non-complying countries to meet their own obligations.

In my view, the Expert Committee should explore the possibility of developing a code of conduct to be promulgated under the aegis of the United Nations. We all need to understand what the obstacles might be to the formulation and adoption of such a document. We also need to begin the work of developing some general consensus on the issues to be addressed in a code of conduct. We also might want to discuss procedures that might be followed by ECOSOC in considering a code of conduct, so that countries will feel that they have had an opportunity to express their views on this initiative, whether they support or oppose it.

*The present paper was prepared by the subcommittee on exchange of information (Professor Michael McIntyre, Wayne State University). The views and opinions expressed are those of the author and do not necessarily represent those of the United Nations.

The United Nations has often been effective in mobilizing world opinion to support action on a major moral issue of the day. A moral issue of critical importance to developing countries is capital flight and international tax evasion. The United Nations should use its position as a world body to promote tax compliance and to support countries seeking to encourage international cooperation on tax enforcement. One method available to the United Nations for mobilizing the development of a new moral standard on tax cooperation would be the development of a code of conduct governing information exchange and international cooperation on tax matters.

The OECD has done useful work in drawing the world's attention to the harm caused by low-tax regimes that assist individuals, companies, and various legal entities in avoiding their fair share of their country's tax burden. The OECD, however, is not in a position to promote a code of conduct for the many non-members of that rather exclusive club. Only an organization with universal representation can formulate moral guidelines that would have worldwide legitimacy. That organization is the United Nations.

A code of conduct governing international tax cooperation in combating tax evasion and capital flight can serve three important functions. First, it can set a moral tone for the international tax community C a set of ideals that might undermine the social acceptance of international tax avoidance and evasion. Second, it can give moral support to governments that wish to conform to an emerging international standard of conduct. That moral support may help those countries take action against their own tax cheats, who may enjoy considerable political influence. Third, the code of conduct can help create a level playing field for low-tax countries that are meeting their international obligations by putting pressure on non-complying countries to meet their own obligations.

Over the past decade, the OECD and some of its member countries have sought to impose on various low-tax countries an obligation to exchange information on potential tax evaders, notwithstanding domestic laws guaranteeing secrecy of financial accounts. In addition, the international community has been developing various *Aknow your customer* and *Aknow your shareholder* standards that all countries are expected to follow. The goal is to provide greater transparency in the financial accounts of taxpayers so that tax officials and law enforcement officers are better able to detect and prevent various fiscal crimes.

In some respects, there appear to be some emerging standards with respect to the actions a country must take to be considered a good citizen in the community of nations. What is now needed is a more formal articulation of those standards and a universal application of them. In brief, a code of conduct is a formal articulation of the appropriate standards.

Notwithstanding the progress that has been made over the past decade in promoting greater financial transparency, the problems of international tax evasion and aggressive tax avoidance have continued to grow. One reason is that the efforts of the OECD appear to have redirected tax evasion activities from complying countries to various countries that have refused to engage in the types of actions fostered by the OECD. In addition, the OECD has had difficulty eliminating unacceptable practices in some of its own member states. The result is an unacceptable windfall for noncomplying countries. As noted above, a code of conduct endorsed by the United Nations would be a useful tool in inducing noncomplying countries to change their practices. As the experience of the OECD clearly has demonstrated, forceful and united action by a consortium of countries is not easily ignored by any country.

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general consensus on the issues to be addressed in a code of conduct. We also might want to discuss procedures that might be followed by ECOSOC in considering a code of conduct, so that countries will feel that they have had an opportunity to express their views on this initiative, whether they support or oppose it.

I do not think that the time has yet arrived for the Expert Committee to draft a code of conduct. My understanding from the discussion in Geneva in December of 2005 is that the first steps are to discuss a possible code of conduct, to pull together materials of interest on the topic, to give some information on the likely content of a code of conduct, and to research the procedures that would need to be followed for the Expert Committee to recommend a code of conduct for consideration by ECOSOC.
