

## **Summary of Outcomes of the Meeting of the Global Forum on Transparency and Exchange of Information for Tax Purposes Held in Mexico on 1-2 September 2009**

178 delegates from over 70 jurisdictions and international organisations met on 1-2 September in Mexico to discuss progress made in implementing the international standards of transparency and exchange of information for tax purposes, as reflected in the Model Tax Information Exchange Agreement and Article 26 of the OECD and UN Model Tax Conventions, and how to respond to international calls to strengthen the work of the Global Forum. (Attached is a list of jurisdictions present in Mexico).

In the context of the need of governments to protect their tax bases from non compliance with their tax laws, the main objectives for the meeting were to:

- Agree on restructuring the OECD Global Forum to expand its membership and ensure its members participate on an equal footing;
- Agree on how to establish an in-depth peer review process to monitor and review progress made towards full and effective exchange of information; and
- Identify mechanisms to speed-up the negotiation and conclusion of agreements to exchange information and to enable developing countries to benefit from the new more cooperative tax environment.

The outcomes of the meeting which were agreed by participants<sup>1</sup>, as well as the next steps in the process, are set out below<sup>2</sup>.

### **I. Outcomes of the Meeting**

#### **(a) Restructuring the Global Forum**

##### *(i) Structure and mandate*

- Participants agreed that the Global Forum should be strengthened and restructured as a Part II program entirely financed by all of its members and with a dedicated self standing secretariat based in the OECD's Centre for Tax Policy and Administration so as to benefit from the Organisation experience in this area. The Secretariat, which would service the Global Forum, should be open to experts from OECD and non OECD jurisdictions.
- They agreed that the Global Forum should operate under a new three-year mandate aimed at ensuring a rapid and effective global implementation of the standards of transparency and exchange of information for tax purposes through in-depth monitoring and peer review.
- The Global Forum provided guidance to the Secretariat for the timely preparation of a detailed budget proposal based on an approximate annual budget of Euros 2.9 million and agreed that these costs should be shared out on an allocation formula based on a combination of a fixed fee and a sharing of the balance under a contribution scale reflecting ability to pay. The Global Forum agreed that the following proposal, which does not necessarily reflect

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<sup>1</sup> A few of the jurisdictions invited were unable to participate, but some nevertheless provided comments.

<sup>2</sup> These discussions were mainly based on the key document *Transparency and Exchange of Information for Tax Purposes: A Proposed Framework for In-Depth Monitoring and Peer Review, and for Restructuring the Global Forum*.

consensus, should be further examined. There would be a fixed fee amounting to 15000 Euros for each jurisdiction. The remaining funding would be shared based on a GNP based scale, taking into account an abatement per inhabitant (see more details in Annex).

- All OECD, G20 and other jurisdictions covered by the 2009 Assessment should be invited to be members of the Global Forum<sup>3</sup>. All members will participate in the Global Forum on an equal footing.
- Other jurisdictions will also be invited to participate in the work of the Global Forum with the possibility to become members if they commit to implement the standards and accept to be reviewed. Relevant international organisations will also be invited as observers.
- The structure and the mandate will be reviewed at the end of the first mandate.

(ii) *Decision-making and Governance*

- The Global Forum will be the decision-making body.
- The Global Forum will continue to operate by consensus. However, peer reviews would require an approach to consensus that ensures that no one jurisdiction can block the adoption or publication of a review. Nevertheless, every effort should be made to arrive at a consensus and the views of the jurisdiction would be fully noted.
- The Global Forum shall be assisted by a Steering Group which will prepare and guide its future work.
- The Global Forum elected Australia (Mike Rawstron) as the Chair of the Global Forum, and China, Germany and Bermuda as the Vice Chairs. It also elected France (Francois d'Aubert) as Chair of the Peer Review Group and India, Japan, Singapore and Jersey as Vice Chairs. The other members of the steering group will be Brazil, Cayman Islands, South Africa, Switzerland, United Kingdom and the United States of America.

(b) *Establishing a robust and comprehensive monitoring and peer review process*

- In order to carry out an in-depth monitoring and peer review of the implementation of the standards of transparency and exchange of information for tax purposes, the Global Forum agreed on the setting up of a Peer Review Group (PRG) to develop the methodology and detailed terms of reference for a robust, transparent and accelerated process.
- The terms of reference will be based on the proposals set out in the framework paper for more in depth monitoring and peer review as discussed at the meeting. There will be two phases for the peer review. Phase 1, which will examine the legal and regulatory framework in each jurisdiction, will begin early in 2010 and will be completed for all members within the initial three-year mandate. Phase 2, which will also begin early in 2010, will evaluate the implementation of the standards in practice. The Global Forum agreed that all members and relevant non member jurisdictions will be covered by Phase 1 and Phase 2 reviews. The Peer review Group will propose the scheduling of jurisdictions to be reviewed under phase 2.

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<sup>3</sup> As the European Commission takes part in the work of the OECD on all levels, it would become a participant in the Global Forum.

- Contrary to phase 2 reviews, phase 1 reviews would not normally require on site visits.
- In addition to the two phases of the peer review, the Global Forum will monitor legal instruments for exchange of information (e.g. double taxation treaties and tax information exchange agreements (TIEAs)). Such monitoring will now be continuous and cover both Global Forum members and relevant non-member jurisdictions, identifying and distinguishing between agreements in force and agreements signed but not in force. It will focus on whether these agreements meet the standard. The first report is expected by December 2009.
- The Global Forum will continue to publish its annual updates and will issue the schedule of its upcoming reviews.
- The whole monitoring and peer review process will be an ongoing exercise. Evaluation reports will be published after adoption by the Global Forum. Jurisdictions will be expected to act on any recommendations in the review and to report back to the Global Forum on actions taken.
- The Peer Review Group will develop more detailed guidance on how to implement these conclusions.

***(c) Speeding up the process of negotiating agreements***

- The Global Forum welcomes progress on three projects to accelerate the conclusion of information exchange agreements:
  - Regional multilateral negotiations leading to the simultaneous signature of bilateral agreements;
  - Guidance on the practical implementation of the multilateral version of the 2002 Model Agreement on Exchange of Information on Tax Matters;
  - Exploration of the extension of an updated OECD-Council of Europe Multilateral Convention on Administrative Assistance in Tax Matters to more jurisdictions.
- The Global Forum took would also continue to examine how the unilateral approach described in the background paper can be developed.

***(d) Enhancing the capacities of developing countries***

- A report to the Global Forum early next year will examine how developing countries can be further integrated in and benefit from the Global Forum's work. Participants also noted that beyond the Global Forum, developing countries' tax administrations could benefit from capacity-building and they welcomed initiatives in this area by the EU, IMF, the OECD, World Bank and regional tax administrations as well as by members of the Global Forum.
- The Global Forum recognised that small financial centres may require technical assistance to implement the standards effectively. It encouraged the OECD, working with other relevant organisations, to develop concrete proposals by the end of 2009 on how this would be provided.

## II. Next Steps

- A report to the G20 on the outcomes from the meeting was agreed upon and will now be submitted to the G20 Finance Ministers and leaders for the September 2009 meetings.
- The first meeting of the Peer Review Group will take place in October.
- The Global Forum agreed that the next meeting will take place before June 2010. At that meeting the Global Forum will review among other matters: (i) progress in the signing and entry into force of agreements; (ii) preliminary outcomes from Phase 1 of the peer review process; (iii) multilateral initiatives to improve the exchange of information; and (iv) a report from the Secretariat on how developing countries can be further integrated in and benefit from the Global Forum's work.
- In advance of the G20 Finance Ministers meeting in November, the Secretariat will submit a report to inform Ministers how multilateral tax information exchange agreements (TIEAs) work and what steps are necessary to accelerate full implementation of the standards.
- The Chair of the Global Forum will write to all the jurisdictions invited to Los Cabos to formally ask them to confirm their participation in the Global Forum by 21 September.
- The Secretary-General of the OECD will propose to the OECD Council to take the decision to establish the Global Forum along the lines described in this summary of outcomes.

## Annex

### Jurisdictions invited and participating in the meeting

Andorra	Netherlands
Antigua and Barbuda	Netherlands Antilles
Argentina	New Zealand
Australia	Panama
Austria	People's Republic of China
Belgium	Philippines
Bermuda	Poland
Brazil	Russian Federation
British Virgin Islands	Saint Kitts and Nevis
Canada	Saint Vincent and the Grenadines
Cayman Islands	Samoa
Chile	San Marino
Cook Islands	Seychelles
Costa Rica	Singapore
Czech Republic	Slovenia
Denmark	South Africa
Finland	Spain
France	Sweden
Germany	Switzerland
Gibraltar	The Bahamas
Guatemala	Turks and Caicos Islands
Guernsey	United Kingdom
Hong Kong, China	United States
India	Uruguay
Ireland	<b>International Organisations</b>
Isle of Man	European Bank for Reconstruction and Development
Italy	European Commission
Japan	Financial Action Task Force
Jersey	Inter-American Development Bank
Korea	International Finance Corporation
Liberia	International Monetary Fund
Liechtenstein	Organisation for Economic Co-operation and Development
Luxembourg	World Bank
Macau, China	
Malaysia	
Marshall Islands	
Mexico	
Monaco	

## Annex

### **PROPOSAL FOR THE ALLOCATION OF FINANCIAL CONTRIBUTIONS TO THE GFTEI**

The proposal is the result of the discussions which took place in the 5<sup>th</sup> Meeting of the Global Forum on the Transparency and Exchange of Information (Global Forum) on 1-2 September 2009. The proposal does not necessarily reflect consensus. It is based on the following premises:

- A flat fee of 15000 euros for each of the members of the Global Forum.
- the remaining funding will be allocated in line with the methodology used in other Part II bodies. It will be based on the overall GNP with an abatement of 450 USD/inhabitant. In order to not overburden the smallest jurisdictions, it is proposed that only jurisdictions with a GNP above 35 billion USD be requested to contribute to this part of the budget.