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AD HOC GROUP OF EXPERTS ON
INTERNATIONAL COOPERATION
IN TAX MATTERS
Seventh meeting
Geneva, 11-15 December 1995
Item 4 of the provisional agenda

ADOPTION OF THE AGENDA AND ORGANIZATION OF WORK

Annotated provisional agenda

1. Opening of the meeting
2. Remarks by the Director and the Secretary of the Group
3. Election of Officers
4. Adoption of the agenda and organization of work

The substantive items of the provisional agenda have been determined on the basis of specific recommendations made by the Sixth Meeting of the Ad Hoc Group of Experts on International Cooperation in Tax Matters (ST/ESA/230) and by the Steering Committee of the Ad Hoc Group (ST/SG/AC.8/1995/L.7; ST/SG/AC.8/1995/CRP.10; ST/SG/AC.8/1995/WP.1; and ST/SG/AC.8/1995/WP.2).

5. Taxation of special categories: teachers and students

It is proposed to examine articles 14, 15 and 20 of the United Nations Model Double Taxation Convention Between Developed and Developing Countries, especially the recommendation of the Steering Committee to consider the possible deletion of article 14, paragraph 1 (c), and article 20, paragraph 2, of the Convention (ST/SG/AC.8/1995/L.3 and ST/SG/AC.8/1995/L.2; ST/SG/AC.8/1995/CRP.1; ST/SG/AC.8/1995/CRP.2; ST/SG/AC.8/1995/CRP.3; ST/SG/AC.8/1995/CRP.9).

6. Transfer pricing, in particular as it related to pricing of primary products between related entities, cost-sharing arrangements and the provision of services

Transfer pricing is a very important matter for both developed and developing countries, in connection with the proper international treatment of multinational corporations and their complex network of subsidiaries and branches. The intervening 20 years have done nothing to call that assessment into question.

The Group judged it timely to address the matter of guidelines once more with the objectives of (a) taking into account the considerable amount of study undertaken by the Organisation for Economic Cooperation and Development (OECD) and (b) sensitizing the developing countries, in particular to a new approach to the question.

The use of transfer pricing by multinationals will impact on the allocation between countries of their overall profits, and prices can be manipulated to minimize or avoid tax by diverting profits into tax havens or low-tax-rate countries, or to countries where unutilized losses are stored. The prices used, therefore, will not necessarily produce a figure of profit or loss in a particular jurisdiction that is considered appropriate by that tax authority.

The Subgroup consideration of this matter is reflected in the attached discussion papers (ST/SG/AC.8/1995/L.4; ST/SG/AC.8/1995/L.8; ST/SG/AC.8/1995/CRP.4; ST/SG/AC.8/1995/CRP.16; and ST/SG/AC.8/1995/CRP.17).

7. Tax treatment of new financial instruments (hybrid instruments)

The question of taxation of new financial instruments is challenging. The Subgroup noted the significance of the detailed study in this field currently being undertaken by the OECD Fiscal Committee. Accordingly, the Subgroup confined the discussions to hybrid instruments and reserved a detailed discussion of these and other instruments until the preparation of the OECD report.

The Subgroup has not produced a paper. However, it was noted that the Model Convention articles exist to assist the member to define the key elements of financial instruments, namely interest, dividends, capital and capital gains (ST/SG/AC.8/1995/L.5) (ST/SG/AC.8/1995/L.6) (ST/SG/AC.8/1995/CRP.5; ST/SG/AC.8/1995/CRP.7; ST/SG/AC.8/1995/CRP.8; ST/SG/AC.8/1995/CRP.13).

8. Discussion of the draft update of the United Nations Model Double Taxation Convention Between Developed and Developing Countries and of the Manual for the Negotiation of Bilateral Tax Treaties Between Developed and Developing Countries

The revision of the above-mentioned documents, published in 1980, is an important task, especially in view of the revision of OECD and other model conventions. The objective is to initiate the process of updating both the Convention and the Manual with a view to improving bilateral tax treaties and

enhancing resource mobilization (ST/SG/AC.8/1995/L.9; ST/SG/AC.8/1995/CRP.6; ST/SG/AC.8/1995/CRP.11; ST/SG/AC.8/1995/CRP.12; ST/SG/AC.8/1995/CRP.14; ST/SG/AC.8/1995/CRP.15; ST/SG/AC.8/1995/CRP.18; ST/SG/AC.8/1995/WP.3; and ST/SG/AC/8/1995/WP.9).

9. Other topics

If time permits, it is proposed to allow half a day for a brief general discussion of any points that members may wish to bring to the attention of the Group of Experts, possibly for more detailed discussions at a later meeting; members who wish to raise such points are requested to inform the Secretary-General of them in advance, if possible.

10. Arrangements for the eighth meeting

The working arrangements and topics for consideration at the next meeting will be discussed. In this regard, the Group may wish to consider the following topics for its 1996 meeting:

(a) Off-shore/low-tax States;

(b) New financial instruments;

(c) Review of the progress in revising the United Nations Model Double Taxation Convention Between Developed and Developing Countries and the Manual for the Negotiation of Bilateral Tax Treaties Between Developed and Developing Countries;

(d) Other issues deemed appropriate by the Group.
