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**Ad Hoc Group of Experts on International
Cooperation in Tax Matters
Tenth meeting
Geneva, 10-14 September 2001**

**Draft report of the Tenth Meeting of the Ad Hoc Group of
Experts on International Cooperation in Tax Matters**

Draft Report of the Discussion on 13 September 2001 in the Tenth Meeting of the Ad Hoc Group of Experts on International Cooperation in Tax Matters

The meeting began with discussion of agenda item 8, Mutual Assistance in Tax Collection. It was observed that the issue of mutual assistance in tax collection is not dealt with in Article 26, dealing with exchange of information, of the United Nations or OECD Model Conventions. The reasons for the failure to include a tax collection assistance clause in model conventions were attributed to the general principle of territorially limited State sovereignty. Such territorial limitations, it was pointed out, can be overcome only by authorizing and altering enforcement conditions through an international convention, making it obligatory for a State to respond to requests for assistance by another State in recovering the latter's tax claims.

There are, however, major obstacles to lending assistance in tax collection that have thus far prevented international administrative cooperation through the OECD and United Nations Model Conventions. These obstacles include both substantive and procedural tax problems. Jurisdiction to deal with both the substantive and procedural aspects of tax collection may involve different arrangements regarding the status of private parties vis-à-vis the faculties, powers, duties, and privileges of the tax administration in each state. This makes it difficult to establish generally applicable and agreed measures on a global basis, and it suggests the need for individual responses that are tailored to the structure and administration of the particular State in question. Furthermore, States tend to be apprehensive about the negative effects on commercial and foreign relations that potentially could result from such cooperative arrangements.

Despite these difficulties, it was observed that States nevertheless need to study the mechanisms and guidelines to reinforce cooperation in tax collection. It was pointed out that it is unacceptable in an era of increasing economic globalization for the international community of States to persist in an entrenched attitude based on a rigid conception of sovereignty circumscribed by territorial borders. It was noted that arrangements for cooperation in tax collection are increasingly being accepted and included in the double taxation agreements currently in force. Furthermore, it was suggested that consideration should be given to the influence of a new international instrument for promoting international assistance in tax collection, namely, the multilateral Convention on Mutual Administrative Assistance in Tax Matters of the Council of Europe and OECD. It was observed that there are compelling reasons for strengthening administrative cooperation in the recovery of tax claims and authorizing such assistance in international legal agreements. Economic globalization requires appropriate use of enforcement powers by States to allow correct application of the tax system and also the need to prosecute fiscal fraud and to control tax evasion.

International administrative collaboration on tax matters requires explicit regulatory authorization giving the corresponding tax administration the instruments needed to obtain assistance from the other State, and making it a legal duty of the other State to respond to the request for collaboration. Several alternative methods for achieving international

administrative cooperation in tax collection were considered, but no preference was expressed for adopting any specific method.

A member from a developed country described his country's experiences with assistance in collection. He described the experience as entirely favourable. He noted that his country has already entered into 22 conventions that contain an assistance-in-collection article. Several treaties with developing countries are currently under consideration and at least two treaties with countries with economies in transition have been concluded. The member indicated that his country has received approximately 800 requests for assistance in collection and has made approximately 200 requests of its treaty partners.

One member from a developing country described the extensive experience of his country with assistance in collection. Treaties containing such an article have been concluded with many neighboring countries and with some more distant countries as well. Although experience with these articles is limited, it appears that the process is working successfully and is a two-way street in that his country is both receiving and making requests under the article.

One participant from a developed country indicated that her country had 22 agreements providing for assistance in tax collection. In her view, these arrangements were working very smoothly and routinely. There was an emerging consensus that the international climate was moving in favour of an assistance-in-collection article. One developed country that had long opposed such an article was now seriously reconsidering its position.

The discussion then turned to agenda item 4, Revision and Updating of 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. Participants from developed and developing countries and countries with economies in transition expressed their appreciation for the work that was done on the revision and updating of the Manual which constitutes a major tool for educational and training purposes in international taxation for their tax administrations. They emphasized the extreme usefulness of such document to enhance their capacities and secure the availability of expertise and skills in tax treaty negotiations. Several participants from developing countries and economies in transition emphasized that their staff dealing with tax treaty negotiations are limited to a single or a few persons and that the Manual would not only avail them to train a larger number of middle level officials in international taxation but will also enhance their own capacities in treaty negotiations. Some participants, however, observed that in view of the recent publication (June 2001) of the revised United Nations Model Double Taxation Convention between Developed and Developing Countries, the contents of the draft Manual may further gain in clarity through additional updating of the commentary. This approach will result in further consistency of the contents of the Manual with the Model Convention. Accordingly, it was agreed that participants will forward comments, suggestions and editorial changes within a month's time prior to the publication of the final version of the Manual.

A report from the Focus Group on Transfer Pricing was presented. The Focus Group recommended that the United Nations take a variety of steps to improve and augment technical assistance provided to developing countries and economies in transition. After

considerable discussion of the merits of the proposal, the Ad Hoc Group of Experts decided to defer action until all the members had been accorded an opportunity to review the text of the proposal.
