

COUNCIL

Council

**DRAFT RESOLUTION OF THE COUNCIL RENEWING AND REVISING THE MANDATE OF THE
GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX
PURPOSES**

(Note by the Secretary-General)

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Background

1. The OECD Council adopted on 17 September 2009 a Decision formally establishing the Global Forum on Transparency and Exchange of Information for Tax Purposes (the Global Forum) as a Part II programme of the budget of the Organisation, with a mandate expiring on 31 December 2012 [[C\(2009\)122/FINAL](#)].

2. The Global Forum is charged with promoting the effective implementation of the international standards of transparency and exchange of information for tax purposes. Its mission is described in the Council Decision in the following terms:

- The Global Forum shall ensure 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 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.

3. At the Global Forum meeting which took place in Paris on 25 and 26 October 2011, the Global Forum decided to extend its current mandate until the end of 2015.

4. In the light of this decision, the Council is invited to extend the Global Forum mandate until the end of 2015, a draft Resolution to this effect is annexed to this note. A technical revision related to some specification of the coverage of the provisions on carry-forward set out in the initial mandate (para. 15) and a provision concerning arrears to reflect the Global Forum decision taken at its last meeting held in Cape Town on 26-27 October 2012 (para. 14) have been introduced.

5. An evaluation of the Global Forum has been undertaken in accordance with paragraph 15 of the original mandate and endorsed in Cape Town [[CTPA/GFTEI\(2012\)5](#)]. A summary of this evaluation is set out below.

B. Summary of the evaluation

6. The Global Forum achieves its mission through a number of programmes. These include the peer reviews which are central to the Global Forum's work, ongoing monitoring, the training activities that the Secretariat undertakes to help prepare assessors and jurisdictions for the reviews, the various activities undertaken to assist developing countries to benefit from the more transparent international environment and the work of the OECD Secretariat in building awareness and support for the standards, including in other international organisations. Increasing membership also assists the global implementation of the standards and the Global Forum is now the largest international tax group in the world with 116 members.*

7. The principal mechanism used by the Global Forum to achieve its objectives is the peer review process. Phase 1 reviews examine jurisdictions' legal and regulatory framework for exchange of information. Phase 2 reviews assess the implementation of the standards in practice. The bulk of the Phase 2 reviews will commence in 2013. A limited number of combined reviews which encompass both Phase 1 and Phase 2 are

* The updated list of members can be found in the on-line version of the Bodies Guide, available at: <http://bodies.oecd.org>.

also being undertaken. To date 88 reviews, out of which 66 are Phase 1 reviews, have been completed giving rise to a total of 616 recommendations for improvement. Although this is a very demanding job, the number counts, but the quality is much more important.

8. To support and encourage jurisdictions to implement these recommendations, all jurisdictions are expected to report within 6 to 12 months following the adoption of their report on how they have addressed any deficiencies identified in their peer reviews. It is clear from the follow-up reports provided by reviewed jurisdictions that many of them have already made the changes recommended or are in the process of addressing the recommendations made in their initial reports. To date more than 50 jurisdictions have provided follow up reports describing actions they have taken to implement recommendations:

- 17 jurisdictions have obtained or improved access to bank information for tax purposes;
- 17 jurisdictions have introduced, or are introducing, measures to abolish, immobilise or otherwise identify the owners of bearer shares;
- 42 jurisdictions have improved their legislation to ensure the availability of accounting and ownership information;
- 6 jurisdictions have eliminated domestic tax interest requirements to access information for exchange of information (EOI) purposes.

9. In addition, more than 800 new bilateral agreements have been signed that allow for the exchange of information in accordance with the international standard.

10. A supplementary report process was adopted by the Global Forum in May 2011 to ensure that where a jurisdiction has made significant progress in implementing recommendations it can be properly assessed and publicly reflected in a published document. To date 16 supplementary reports have been completed, reflecting the rapid pace at which changes are being brought about by jurisdictions.

11. The success of the peer review mechanism depends on skilled assessment teams and well-prepared jurisdictions. For this reason the Global Forum regularly provides Assessor Training and Regional Training Seminars, engaging with its members and spreading knowledge and awareness of the international standards. To date a total of 12 regional training and assessor training seminars have been held all over the world.

12. To assist developing countries in implementing the international standards and enhance their capacities the Global Forum has:

- Set up a Coordination Platform, serving as an intermediary between developing countries and the international organisations and development agencies which will be able to provide technical assistance.
- Organised Regional Seminars, to help developing countries to understand the international standards and their implications, as well as assisting them in assessing the areas where technical assistance is needed.
- Facilitated bilateral and multilateral negotiations to expand the developing countries' exchange of information networks.

13. In addition, two pilot projects were launched in 2011 with Ghana and Kenya to provide in-depth technical assistance, in cooperation with other organisations, in particular the UK's Department of Overseas Development (DFID), Germany's International Tax Compact (ITC) and the World Bank. These are aimed at

improving the EOI capability in the jurisdictions concerned by helping to foster the necessary skills and experience as well as developing their legal infrastructure. Cooperation with international organisations such as the World Bank is now part of the fabric of the Global Forum's training and assistance activities.

14. In summary, the Global Forum has delivered a cutting edge performance since its inception. It has developed a new type of peer review while at the same time producing 40 reviews a year. It has grown into the largest tax group in the world and continues to attract new members and observers highlighting the enduring relevance of its work. Increasingly these new members are developing countries, demonstrating the now almost universal recognition of the need for, and benefits of, transparency and exchange of information for tax purposes. On the ground, efforts to implement the standards and deliver effective exchange of information are clearly evident. More than 800 agreements to the EOI standard have been signed since 2009 and jurisdictions that have been peer reviewed are now addressing the more than 600 recommendations that have been made during the course of those reviews. Sixteen of the reviewed jurisdictions have asked for supplementary reports to reflect their progress in addressing the recommendations.

15. The Global Forum's work is not finished. Transparency and exchange of information for tax purposes remains an international priority. The already demanding pace of the work will continue over the second mandate with 40 more reviews due to be launched in 2013 and more than 30 in 2014. Most of these will be Phase 2 reviews, which will examine the effectiveness of transparency and exchange of information practices in the jurisdictions being reviewed. In the final analysis, what is important is not how busy the Global Forum is but whether it is effective in ensuring the universal, rapid and consistent implementation of the international standards of transparency and exchange of information. While significant progress has been made since 2009 the Global Forum are now beginning the second and most important phase of the work to ensure that the standards are being effectively implemented in practice.

16. It is proposed that the revised mandate, as set out in the draft Resolution in the Annex hereto, should remain in force for a period of three years, until 31 December 2015. The draft Resolution would supersede all previous provisions concerning the mandate of the Global Forum. The Global Forum would return to the Council to propose a revision to its mandate should there be any major developments that warrant such a change.

Proposed Action

17. In the light of the preceding, the Secretary-General invites the Council to adopt the following draft conclusions:

THE COUNCIL

- a) noted document [C\(2012\)148](#);
- b) adopted the draft Resolution of the Council renewing and revising the mandate of the Global Forum on Transparency and Exchange of Information for Tax Purposes as set out in the Annex to document [C\(2012\)148](#), which will enter into force on 1 January 2013.

ANNEX

DRAFT RESOLUTION OF THE COUNCIL RENEWING AND REVISING THE MANDATE OF THE GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES

The COUNCIL,

Having regard to the Convention on the Organisation for Economic and Cooperation Development of 14th December 1960 (hereinafter called “the Convention”);

Having regard to the Rules of Procedure of the Organisation;

Having regard to the Financial Regulations of the Organisation;

Having regard to the Recommendation of the Council on Counteracting Harmful Tax Competition adopted on 9 April 1998 [[C\(98\)17](#)];

Having regard to the OECD Model Agreement on Exchange of Information on Tax Matters and article 26 of the OECD and UN Model Tax Conventions;

Having regard to the Summaries of Outcomes of the Global Forum on Transparency and Exchange of Information for Tax Purposes held in Mexico on 1-2 September 2009 and in Paris on 25-26 October 2011;

Having regard to the note by the Secretary-General concerning the establishment of the Global Forum on Transparency and Exchange of Information for Tax Purposes (hereinafter “the Global Forum”) as a Part II program of the budget of the Organisation [[C\(2009\)122](#)];

Having regard to the proposed renewal and revision of the mandate of the Global Forum [[C\(2012\)148](#)] and to the results of the evaluation exercise conducted according to article 15 of its initial mandate [[C\(2009\)122/FINAL](#)];

DECIDES

The Global Forum is renewed with the following revised mandate:

Mission

1. The Global Forum shall ensure a rapid and effective global implementation of the standards of transparency and exchange of information for tax purposes¹ through in depth monitoring and peer review.

¹ See *Tax Cooperation, Towards a Level Playing field, Assessment by the Global Forum on Taxation*, page 14, Summary of Part II.

2. 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.

Participation

3. The Global Forum membership is open to OECD countries,² G20 countries and other jurisdictions covered by the report “Tax Co-operation 2009: towards a level playing field”. All members will participate on an equal footing.

4. The Global Forum may invite other jurisdictions to participate in its work with the possibility to become members if they commit to implement the standards and accept to be reviewed.

5. The Global Forum may invite relevant international organisations as observers.

Governance

6. The Plenary of the Global Forum is the decision making body of the Global Forum. The Global Forum may adopt its rules of procedure.

7. The Plenary is assisted by:

- a Steering Group, which will prepare and guide the Global Forum’s future work;
- a Peer Review Group (PRG), which will develop the methodology and detailed terms of reference for a robust, transparent and accelerated peer review process. The PRG will also carry out such peer reviews;
- any other body it may deem appropriate to establish.

8. The Plenary shall appoint the Chair and Vice Chairs of the Global Forum, who are also Chair and Vice Chairs of the Steering Group, the Chair and Vice Chairs of the PRG, who are also members of the Steering Group, and the other members of the Steering Group and the Peer Review Group.

9. The Global Forum will operate by consensus. However, as far as peer reviews are concerned, 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 reviewed jurisdiction will be fully noted.

10. The Global Forum will be served by a dedicated self standing secretariat based in the Organisation’s Centre for Tax Policy and Administration so as to benefit from the Organisation’s experience in this area. Notwithstanding the provisions of Staff regulation 7b) and the related instruction 107/1, the Secretary-General of the OECD shall be authorised to appoint, as OECD officials, nationals from any member of the Global Forum as long as they are located in the secretariat serving the Global Forum.

Budget

11. The expenditures of the program shall be charged against the appropriations authorised under a Part II chapter of the budget of the Organisation.

² The European Commission takes part in the work of the Global Forum in accordance with article 13 of the OECD Convention and its Supplementary Protocol No. 1.

12. The budget of the Global Forum shall be financed by its members to the amount agreed between them.

13. The scale of contributions shall be the following:

- a yearly fee of 15,300 Euros for each member; such fee will be subject to an automatic annual increase equal to the annual increase in the Global Forum Budget, unless otherwise decided by the Global Forum;
- the remaining funding to be allocated in accordance with Annex II of document [BC\(2009\)3](#).³ In order not to overburden the smallest jurisdictions, only those with a GNP above 35 billion USD will contribute to this part of the budget.

14. A member would fall into arrears on 31 March of the year following the year of the call for payment of the annual contribution if the contribution remains unpaid at that date.

- In the first year of payment arrears, members in arrears, together with the amount outstanding for the year in question, will be identified in a table to be presented to the Global Forum at its next annual meeting.
- If, in the second year following the year of call for payment, a member's contribution remained unpaid by the member, the Global Forum would consider a proposal to suspend it from participation in the Global Forum, unless it paid the outstanding contribution. Settlement of the outstanding debt by the member in arrears will reverse the suspension.
- If, in the third year following the year of call for payment, a member's contribution remained unpaid the Global Forum would consider a proposal to exclude it from membership in the Global Forum, unless it paid the outstanding contribution.
- The decision to exclude would then be notified to the member. Debt settlement and reversal of the exclusion decision would be subject to the agreement of the Global Forum.

15. In order to allow members to contribute stable amounts to the Global Forum over successive years, appropriations for which no commitment has been entered into before the end of the financial year for which they were appropriated and any remaining net amounts shall be automatically carried forward to the budget for the ensuing year by decision of the Secretary General, notwithstanding the provisions of the Financial Regulations of the Organisation.

Evaluation

16. An evaluation exercise of the Global Forum will be conducted prior to the end of the mandate period.

Duration

17. The mandate shall remain in force until 31 December 2015.

³ Annex II of [BC\(2009\)3](#) contains the revised 2004 Principles and rules for determining the scales of contributions by Member other than part I of the budget of the Organisation.