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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 an original mandate expiring on 31 December 2012 [[C\(2009\)122/FINAL](#)]. The OECD Council renewed and revised that mandate, with the second mandate expiring on 31 December 2015 [[C\(2012\)148](#)].

2. The Global Forum is charged with promoting the effective implementation of the international standards of transparency and exchange of information for tax purposes. As set out in the attached draft Resolution, the mission of the Global Forum is to 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 is an ongoing exercise and jurisdictions are expected to act on any recommendations in the review and to report back to the Global Forum on actions taken.

Summary of the Evaluation

3. An evaluation of the Global Forum has been undertaken in accordance with paragraph 16 of the current mandate and endorsed by the Global Forum plenary in Barbados [[CTPA/GFTEI\(2015\)16](#)]. A summary of this evaluation is set out below.

4. The Global Forum is the largest tax organisation in the world, with all 129 members on an equal footing. In an age where taxpayers – and tax revenue – are increasingly mobile, it is critical to ensure that tax authorities have all of the information they need to tax the right person at the right time. Without tax transparency and international exchange of information, even the best tax laws can be circumvented.

5. The Global Forum is now working in three key areas: exchange of information on request; automatic exchange of information; and supporting lower capacity jurisdictions to implement and benefit from the standards. Over the current mandate, 2013 – 2015, the Global Forum not only fulfilled its mission of conducting peer reviews on the standard on exchange of information on request, but launched ground work with respect to automatic exchange of information and substantially expanded its capacity building activities.

6. Significant successes have been achieved. In 2009, the G20 declared that the era of bank secrecy was over; the Global Forum has not only delivered on that promise over its first two mandates, but has worked actively to enhance the knowledge of tax authorities to continue delivering on this achievement.

7. In its work on exchange of information on request, key performance highlights over the current mandate include:

- 215 peer review reports published, drawing detailed conclusions and providing practical recommendations which jurisdictions have agreed to act upon;
- 86 jurisdictions rated on their overall performance, which powerfully signals the compliance with the standard and influences global investments. Around 86% of those assigned ratings are compliant or largely compliant;
- 35 supplementary reviews undertaken to reflect significant improvements made, including four jurisdictions previously rated as Non-Compliant moving to Largely Compliant, and 20

jurisdictions with major deficiencies in their legal framework being upgraded and moved into the phase 2 process;

- About 550 recommendations acted on and 197 follow up reports detailing improvements received;
- Around 300 new bilateral agreements signed which allow for the exchange of information in accordance with the international standard;
- 30 new jurisdictions signed the multilateral Convention on Mutual Administrative Assistance in Tax Matters (now 89 jurisdictions covered in total), forming around 1 800 new EOI relationships;
- 11 jurisdictions abolished bank secrecy for EOI purposes;
- 23 jurisdictions abolished or immobilised bearer shares.

8. The new standard on automatic exchange of information (AEOI) was published in 2014. The G20 mandated the Global Forum to create the mechanism to monitor and review implementation of the AEOI standard, and to work to ensure developing countries can benefit from the standard. In a very short time, the Global Forum has ensured that some initial ground work was in place for this new standard to become an essential building block of the global tax transparency framework. Key highlights of the Global Forum's leadership in this area include:

- A commitment process created in mid-2014, which has resulted in 96 Global Forum members committing to the new standard on an ambitious timeline of first exchanges in 2017 or 2018. The speed and scale of this commitment is unprecedented, and will fundamentally and permanently alter the arithmetic of international tax evasion;
- A Roadmap was published to pave the way for developing countries to implement and benefit from the standard, which was subsequently endorsed by the G20 and is being implemented by the Global Forum (working with the World Bank Group and other partner jurisdictions);
- Nine regional AEOI training events were held, with more than 400 government officials from 120 jurisdictions attending;
- Preliminary assessments for confidentiality and data safeguards to enable decision making on suitable information exchange partners; 51 reviews scheduled to be completed by the end of 2015;
- Monitoring of all Global Forum members' implementation of the AEOI standard is underway, assisting in the identification of needs for support and capacity building.

9. Increasingly, the members of the Global Forum are developing countries, a trend that will continue. New members since the start of the current mandate are Armenia, Azerbaijan, Bulgaria, Côte d'Ivoire, Croatia, Dominican Republic, Lesotho, Niger, Papua New Guinea, Peru, Romania, Tanzania and Ukraine. With the help of international organisations and national agencies, the Global Forum is ensuring that developing countries can benefit from the gains made in tax transparency.

10. The impact of the Global Forum over the course of this mandate in the area of capacity building on the standards of exchange of information on request and automatic exchange of information include:

- The Global Forum Secretariat created a team dedicated to providing support and technical assistance to all members but especially developing countries, which includes advisory services and technical supporting tools;
- 62 training events were held;
- In 2014 a dedicated Africa Initiative was developed in order to encourage the effective use of exchange of information in combating tax evasion and to put the issue of tax transparency at the top of the political agenda in African countries;
- Five AEOI pilot projects with developing countries launched to provide staged implementation assistance, in partnership with G20 and OECD countries and the World Bank Group;
- The Global Forum's work was specifically welcomed in the 2015 Addis Ababa Declaration.

11. Over the course of this mandate, the Global Forum not only achieved the above, but also set the stage for even greater gains in tax transparency over the next five years. This includes:

- Creation of the mechanism for a next round of peer reviews on exchange of information on request. This will commence in mid-2016 and assess all members and other relevant jurisdictions against an even higher standard, including the availability of beneficial ownership information;
- Ensuring that there is delivery on the commitments to the AEOI standard and commencing a staged process of peer reviews to ensure effective global implementation of the standard; and
- Continuing work to ensure that all members, particularly developing countries, can benefit from the standards and enhance their domestic resource mobilisation.

12. The Global Forum has firmly established itself as an essential organisation that creates change in the international tax field. It has achieved much, and will draw on the lessons learned so far to serve its members, as well as other stakeholders including the G20, international organisations and civil society, to a very high standard. The impact that the Global Forum has had demonstrates that the Global Forum has the expertise, membership, and reputation to continue to deliver its mission and effect substantial change in the field of tax transparency.

Mandate Renewal and Revision

13. At the Global Forum meeting which took place in Berlin on 28 and 29 October 2014, the Global Forum agreed to the principle of extending its current mandate until the end of 2020. This will allow the completion of another cycle of peer reviews on the standard of exchange of information on request, and for the Global Forum to significantly advance the work on the standard on automatic exchange of information.

14. At its meeting held in Barbados on 29-30 October 2015, the Global Forum also approved revisions to its mandate, formally recognising the expansion of its work to include the standard on automatic exchange of information for tax purposes (paragraph 1 of the revised mandate), as well as its work to assist members to implement the standards effectively (paragraph 2 of the revised mandate). It also describes in a more forward-looking manner the membership of the Global Forum and discontinues the automatic membership of the Vice-Chairs of the Peer Review Group in the Steering Group to facilitate a better and more inclusive rotation of members in this body (paragraph 8 of the revised mandate).

15. 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 five years, until 31 December 2020. 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

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

THE COUNCIL

- a) noted document [C\(2015\)127](#);
- 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\(2015\)127](#), which will enter into force on 1 January 2016.

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 14 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, Berlin on 28-29 October 2014 and in Barbados on 29-30 October 2015;

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 programme of the budget of the Organisation [\[C\(2009\)122\]](#), whose mandate was renewed and revised in 2012 [\[C\(2012\)148\]](#);

Having regard to the proposed renewal and revision of the mandate of the Global Forum [\[C\(2015\)127\]](#) and to the results of the evaluation exercise conducted according to article 16 of its mandate [\[CTPA/GFTEI\(2015\)16\]](#);

DECIDES

A. The Global Forum is renewed with the following revised mandate:

Mission

1. The Global Forum shall ensure a rapid and an effective global implementation of the standards of transparency and exchange of information for tax purposes¹, either on request or automatic (the standards).
2. The Global Forum shall work to achieve its aims by monitoring implementation of the standards, undertaking peer reviews, developing tools and assisting members to implement the standards effectively. Monitoring and peer review processes will be ongoing exercises. Peer reviews will be published, and other Global Forum reports or documents may also be published, after adoption by the Global Forum. Jurisdictions will be expected to act on any recommendations in their reviews and to report back to the Global Forum on action taken.

Participation

3. The Global Forum membership comprises OECD countries,² G20 countries, and other jurisdictions that have committed to implement the standards, to be reviewed pursuant thereto and to pay the contributions. The Global Forum may invite other jurisdictions to participate in its work as members provided that they make the same commitments.
4. All members participate on an equal footing.
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 prepares and guides the Global Forum's work;
 - A Peer Review Group (PRG), which develops the methodology and detailed terms of reference for a robust and transparent peer review process. The PRG also carries 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 Plenary shall also appoint the other members of the Steering Group, as well as the members and Chair and Vice Chairs of the PRG and any other subsidiary body.

¹ The Global Forum standards of transparency and exchange of information for tax purposes are set out in the 2015 Global Forum Terms of Reference for exchange of information upon request and in the 2014 Standard for Automatic Exchange of Financial Account Information in Tax Matters.

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.

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 6 b), 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 programme shall be charged against the appropriations authorised under a Part II chapter of the budget of the Organisation.

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.

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.

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

B. The mandate shall remain in force until 31 December 2020.