COUNCIL

SUMMARY RECORD OF THE 979th SESSION

held at the Château de la Muette, Paris,
on Friday, 16 June 2000
166. **ADOPTION OF THE AGENDA**

THE COUNCIL

noted the remarks by members of the Council and the Chairman, and adopted the draft Agenda for its 979th Session [C/A(2000)14/REV1/PROV] with item 8 being cancelled.

167. **APPROVAL OF THE SUMMARY RECORD OF THE 978th SESSION**

THE COUNCIL

approved the Summary Record of its 978th Sessions [C/M(2000)13/PROV].

168. **SINGAPORE: REQUEST TO PARTICPATE AS AN OBSERVER IN THE INSURANCE COMMITTEE**

THE COUNCIL

a) noted document C(2000)75 concerning the request by Singapore to participate as an observer in the Insurance Committee;

b) agreed, on the recommendation of the CCN and in accordance with the relevant provisions of the Resolution of the Council C(96)64/REV1/FINAL, to refer this request to the Insurance Committee for a technical opinion.

169. **FINAL 1999 BUDGET OUT-TURN AND TREASURY UPDATE AND PROPOSED USE OF EXCEPTIONAL INCOME: NEA**

THE COUNCIL

a) noted document C(2000)94/CORR1;

b) agreed, on the recommendation of the Budget Committee, to make the modifications in paragraph 5 of document C(2000)94, as set out in paragraph 2 of CORR1 above, and to amend accordingly the Decision by Council of 25 May 2000 adopting Annex to C(2000)94;

c) decided to create an A2/A3 project post at the Nuclear Energy Agency for a period of 12 months.

170. **RENEWAL OF THE MANDATE OF THE INSURANCE COMMITTEE**

THE COUNCIL
a) noted document C(2000)110;

b) agreed, on the recommendation of the Executive Committee, to extend the mandate of the Insurance Committee, in its amended form set forth in Annex 1 to document C(2000)110, for a period of five years from 1 July 2000.

171. ACCESSION OF THE SLOVAK REPUBLIC TO THE ORGANISATION

THE COUNCIL

a) noted documents C(2000)113 and CORR1, the report by the Chairman of the CCN, and the letter of 16 June addressed to the Secretary-General by the Ambassador of the Slovak Republic [subsequently reproduced as C(2000)113/ADD1] as well as document C(2000)114;

b) noted the statements made by the European Commission and the United States, set forth in the Annex 1 attached hereto, as well as the comments by other Members of the Council and the Secretariat;

c) agreed to return to this question at its next session scheduled to take place on Tuesday 20 June.

172. PREPARATION OF THE MINISTERIAL COUNCIL MEETING AND RELATED EVENTS IN JUNE 2000

a) OECD Guidelines for Multinational Enterprises: Review 2000

THE COUNCIL

a) noted document C(2000)96 and ADD1 as well as the Room document circulated by Mexico;

b) noted the comments by Members of the Council;

c) agreed to return to this question at its next session to be held on 20 June 2000.

b) Progress on Identifying and Eliminating Harmful Tax Practices

THE COUNCIL

a) noted documents C(2000)98 and CORR1;

b) noted the statements by Spain, Greece, Norway, Switzerland and the United States reproduced in Annex 2 attached hereto, and the comments by other members of the Council;
C/M(2000)14/PROV

b) noted the Report by the Committee on Fiscal Affairs entitled 'Progress on Identifying and eliminating Harmful Tax Practices' reproduced in Annex I to C(2000)98 and CORR1, and agreed to its declassification at the Council meeting at Ministerial level which will be held on 26-27 June 2000;

c) adopted the draft Recommendation on Counteracting Harmful Tax Practices attached in Annex II to C(2000)98 and CORR1, and agreed to its declassification at the time of the Council meeting at Ministerial level.

c) Documentation for the Meeting of the Council at Ministerial level (26-27 June 2000): Declassification

THE COUNCIL

a) noted document C(2000)105;

b) agreed that the following documents should be declassified on Friday 16 June 2000:


   ii) Trade Policy Message to Ministers from the Chairman of the Trade Committee [C/MIN(2000)5];

   iii) Options for Trade and Competition Policy Coherence [C/MIN(2000)6];


d) Latest Developments

THE COUNCIL

a) noted the remarks by Australia, the country chairing the Council Ministerial, and by the Secretary-General, in particular concerning the need for the list of Ministers participating in the sessions of 26 and 27 June to be readily available;

b) noted that the Council Working Party on Information should hold on 21 June, subject to confirmation, a meeting in preparation of the sessions of 26-28 June;

c) noted that pre-negotiation Group of the Communiqué will begin on Tuesday 20 June at 10.30, in Room 2, on the basis of the draft revised CES(2000)10/REV1, and continue on 21-22 June.

173. PROPOSAL FOR THE 2001 MINISTERIAL COUNCIL MEETING

COUNCIL
a) noted document C(2000)115;

b) noted the comments by Members of the Council;

c) agreed that Denmark will chair the Ministerial Council Meeting in 2001.

d) agreed that next year’s Ministerial Council Meeting will be held in the week 14-18 May 2001, subject that these dates do not conflict with other important international meetings;

e) agreed to return, at a forthcoming session, to the framework for the 2001 Ministerial Council Meeting on the basis of a detailed note by the Secretariat indicating also other meetings taking place around that time.

174. BIOTECHNOLOGY AND OTHER ASPECTS OF FOOD SAFETY

THE COUNCIL

green to postpone discussion of this Item to its next session, on 20 June.

175. ACTIVITY REPORTS

THE COUNCIL

noted that this item was postponed to its next session, on 20 June.

176. OTHER BUSINESS

THE COUNCIL

i) Intervention of the Canadian Prime Minister at Council, on 23 June

   a) noted that the Prime Minister of Canada will address the Council on 23 June at 9.15, and that the Secretariat will issue shortly a note giving details of the visit of Mr Chrétien;

ii) Korea: Pyongyang Summit

   b) noted the statement by Korea concerning the Summit talks between North and South Korea that took place in Pyongyang on 13-15 June 2000, and the comments by Japan;

iii) Bologna Conference

   c) noted the statement by Italy on the results of the Bologna Conference for Ministers responsible for SMEs and Industry Ministers on “Enhancing the
competitiveness of SMEs in the global economy: strategies and policies” of 14-15 June 2000;

iv) **Date of next sessions**

c) agreed to hold its next sessions on Tuesday 20 June at 15.00, and Friday 23 June, at 9.15 sharp.

***

**DOCUMENTS APPROVED BY THE COUNCIL UNDER THE WRITTEN PROCEDURE**

The documents listed below were approved by the Council under the written procedure on 16 June 2000 [cf. CES/PE(2000)11]:

177. **CREATION OF A PROJECT STAFF POST AT A3 LEVEL IN THE INDUSTRY DIVISION OF THE DIRECTORATE FOR SCIENCE, TECHNOLOGY AND INDUSTRY**

THE COUNCIL

a) noted document C(2000)4;

b) agreed to the creation of a project staff post at A3 level in the Industry Division of the Directorate for Science, Technology and Industry for a period of two years to support the work on human capital and knowledge.

178. **CREATION AND RENEWAL OF PROJECT STAFF POSTS IN THE FISCAL AFFAIRS DIVISION OF THE DIRECTORATE FOR FINANCIAL, FISCAL AND ENTERPRISE AFFAIRS**

THE COUNCIL

a) noted document C(2000)84;

b) agreed to the creation of an A3 project staff post for thirteen months and to the creation of a B3 project staff post for thirteen months to support the work on harmful tax practices; to the creation of an A4 project staff post for nine months to work on transfer pricing; and to the renewal for thirteen months of two A4, one A3 and one B3 project staff posts to provide continued support for the programme on taxation for non-member countries.

179. **VOLUNTARY CONTRIBUTIONS OR GRANTS BY JAPAN AND NORWAY**
THE COUNCIL

a) noted document C(2000)88;

b) accepted the voluntary contributions or grants set out in C(2000)88, authorised additional appropriations and increased the estimates of income in the Budget of the Organisation for the Financial Year 2000 by an amount of FRF 7 288 838.

180. CREATION OF AN A3 PROJECT STAFF POST AND EXTENSION OF AN EXISTING A4 PROJECT STAFF POST IN THE DIRECTORATE FOR FINANCIAL, FISCAL AND ENTERPRISE AFFAIRS

THE COUNCIL

a) noted document C(2000)89;

b) agreed to the extension of the A4 project staff post in the Directorate for Financial, Fiscal and Enterprise Affairs, for an additional period of two years;

c) agreed to the creation of an additional A3 project staff post in the Directorate for Financial, Fiscal and Enterprise Affairs, for a period of two years, to support work on bribery in international business transactions.

181. CREATION OF A B2 PROJECT STAFF POSITION IN THE CORPORATE AFFAIRS DIVISION OF THE DIRECTORATE FOR FINANCIAL, FISCAL AND ENTERPRISE AFFAIRS, FOR A PERIOD OF TWO YEARS

THE COUNCIL

a) noted document C(2000)90;

b) agreed to the creation of a B2 project staff post in the Corporate Affairs Division of the Directorate for Financial, Fiscal and Enterprise Affairs for a period of two years, to support the work on Financial Disclosure Reform.

182. CREATION OF A PROJECT STAFF POST AT A4 LEVEL IN THE GENERAL SECRETARIAT TO SUPPORT WORK ON THE OECD INITIATIVE ON SUSTAINABLE DEVELOPMENT

THE COUNCIL

a) noted document C(2000)92;
b) agreed to the creation of one project staff post at A4 level for a period of four months in the General Secretariat to support work for the Policy Report on Sustainable Development.


a) noted document C(2000)102;

b) approved the conclusions of the Liaison Committee Meeting between the OECD and the Slovak Republic as set out in document C(2000)102.
ANNEXE 1

STATEMENTS BY MEMBER COUNTRIES ON THE ACCESSION OF THE SLOVAK REPUBLIC TO THE ORGANISATION

Statement by the European Commission

“The purpose of my remarks is to reaffirm that, in our view, the ambiguity surrounding certain provisions of the Codes is still intact.

As I did when Hungary and Poland acceded, I must make a statement of a general nature reaffirming that the Community considers that the proposed text for Slovakia’s accession to the OECD does not constitute acceptance by the Community, either implicitly or explicitly, of the conclusions of the CIME/CMIT Committee experts set out in document C(2000)114, and in particular the statements obtained in the wake of what had been done in previous accession procedures.

It is my duty to reiterate, as in the statements recorded in document C/M(96)6, the contents of an exchange of letters of 6 March 1996 between Sir Leon Brittan and Mr. Paye, concerning Article 10 of the Codes.

I have no intention of quoting that statement in full, but I request that it be considered as written into the summary record of the conclusions of this meeting. The essence of our 1996 statement was that the interpretation put forward by the Secretariat and endorsed by the experts had no justification and had been appended artificially to the accession process. We confirm that we see neither the necessity nor the timeliness of it, especially in light of the evolving nature of the Agreements, and thus of the rights and obligations, to which new members of the European Community are bound.

We would also confirm, mutatis mutandis, our statement at the time of Poland’s accession in document C/M(96)14. At this juncture the problems are only theoretical and virtual and should not be prejudged, since they will be dealt with in due course if and when any actual problems arise. In this context, I therefore confirm the idea that no one has renounced or abandoned the possibility of invoking Article 10, and that all parties retain their rights intact.

In conclusion, Mr. Secretary-General, I request that:

1. our statements contained in documents C/M(96)6 and C/M(96)14, in reference to Hungary and Poland respectively, be considered reaffirmed in connection with the accession of Slovakia;

2. the unilateral statement by the Slovak Republic concerning its future rights and obligations vis-à-vis the OECD Codes be closely linked to the statement contained in the letter of the Slovak Ambassador distributed this day;

3. it be noted that the Community considers that the rights and obligations arising from commitments entered into by the Slovak Republic in connection with the European Agreement with the European Communities and, more recently, ongoing accession negotiations with the European Union, in particular as concerns the acceptance and implementation of the acquis communautaire, not be affected by the act that we are about to adopt.”

Statement by the United States
“First, I want to say that the United States is very pleased to support a decision by the Council to extend an invitation to Slovakia to join the OECD this month. President Clinton called, early on, for the admission to the OECD of Poland, Hungary, the Czech Republic and Slovakia. And it really is a historic moment in the history of the OECD that now this goal will be realised.

We welcome Slovakia’s decision not to lodge a reservation to Item H/1 of the Current Invisibles Code and we interpret that decision to mean that the Slovak authorities are accepting their standstill and non-discrimination commitments under the Codes, and thus will not introduce new restrictions in the audio-visual field.

We expressly reserve the right to raise questions in the CMIT/CIME concerning Slovakia’s Codes position if new restrictions are enacted in the future, specifically if Slovakia has breached the standstill and non-discrimination commitments it will accept when it joins the OECD.

In response to my EC colleague’s suggested interpretation of Article 10 of the Codes, I point out that Article 10 refers explicitly to applying new measures of liberalisation among members of a special customs union or monetary system. It says nothing at all about applying new restrictions to other OECD countries. And therefore Article 10 does not provide justification for the introduction of new restrictions, which are not permitted according to the standstill provisions of the OECD codes.

Furthermore, Slovakia is not yet a member of the European Union and may not join for some time. Therefore it is premature, to say the least, to consider invoking Article 10 for Slovakia, which in any event could not justify the introduction of protectionist measures such as broadcast quotas.”
ANNEXE 2

STATEMENTS BY MEMBER COUNTRIES REGARDING PROGRESS ON IDENTIFYING AND ELIMINATING HARMFUL TAX PRACTICES

Statement by Spain

“While we could go along with the agreement, my authorities have instructed me to make the following statement, which they also request to be included in the record of this meeting:

Gibraltar is a territory dependent from the UK, subject to a de-colonisation process, and regarding which the United Nations have instructed the UK and Spain to hold bilateral negotiations. Local Gibraltarian authorities do not have any capacity of international representation, so that any communication with them should be channelled through the UK. It is the UK that should take international responsibility for the fiscal situation existing in Gibraltar, as well as for the correct application to Gibraltarian territory of any OECD agreement and related acts.

It is inadmissible, and it is also a contradiction that Gibraltar is considered as OECD territory in some instances, while in others – for example, in the document on harmful tax practices – is excluded from the OECD territory.”

Statement by Norway

“Norway regards the work in the area of harmful tax practices as very important and we can approve the report to Ministers. However, when outlining the criteria applied in order to identify possible harmful practices, the particular characteristics of shipping has not yet been considered to any extent.

Consequently, Norway welcomes the amendments as was mentioned by the Deputy Secretary-General to footnote 12 in the document (2000)98.”

Statement by Switzerland

“Switzerland had abstained when the 1998 Report on harmful tax competition and its recommendations were adopted and is therefore not bound in any manner by its recommendations. This continues to be the position of Switzerland, also after the adoption of the current follow-up report “Progress on Identifying and Eliminating Harmful Tax Practices”.

In a spirit of co-operation Switzerland did not oppose that the Forum listed two cantonal preferential tax regimes as potentially harmful. This attitude is simply a position of non-active opposition and not an acceptance of the 1998 Report and its criteria.

The current Report and its corresponding Council Recommendation do not contain any commitment for countries that have abstained from the 1998 Report. It is therefore not necessary that Switzerland formally abstains from the adoption of the current report to Ministers and the Council recommendation.”

Statement by Greece

“Greece is prepared to approve the Report to Ministers on the understanding that the inclusion of international shipping regimes is provisional only, particularly in light of the unique issues that shipping regimes present in the context of the harmful tax criteria.
Greece, taking into account the recent study that has been made by the ECON on behalf of the OECD concerning the analysis of selected maritime support measures states that the examination of the tax measures related to the shipping sector must be continued, because the taxation of shipping is complex given the special regulatory framework that applies to maritime activities all over the world and the distinctions that framework makes. The criteria consistent with paragraphs 59 and 60 of the 1998 Report should be applied taking into account these factors in order to ensure that all shipping regimes are treated in same way.”

**Statement by the United States**

“I just have a couple of very brief points to make. Number one, that we welcome the report, and the hard work of all who have been involved in the Secretariat and in the delegations. Second, to note that it does of course respond to the Ministerial request in 1998. Third, that it is vital to put an end to international tax practices that encourage tax evasion and improper tax avoidance. We are happy to see this constructive approach vis-à-vis the tax havens is bearing fruit.

Now a lot of work is going to remain on harmful tax practices, so we will have to continue to work through the Forum to encourage reform in tax havens.

And let me just emphasise, my last point, I think that Council needs to work to ensure that the people working on these issues have sufficient resources. This is a very important point.”
ANNEXE 3/ANNEX 3

PRESENTS/PRESENT

Mr Johnston (Président/Chairman)
Mr Kaufmann-Bühler Allemagne/Germany
Mr Hacker "
Mr Hinton Australie/Australia
Mr Sturgiss "
Ms Bertrand Autriche/Austria
Mr Frix Belgique/Belgium
Ms Petit "
Mr Burger Canada
Mr Young Corée/Korea
Mr Hedegaard Danemark/Denmark
Mr Feito Espagne/Spain
Mr Sanz Escorihuela "
Ms Bondurant Etats-Unis/United States
Mr Behrend "
Mr Ristimäki Finlande/Finland
Mr Harth France
Mr Lioukas Grèce/Greece
Mr Kádár Hongrie/Hungary
Mr O’Connor Irlande/Ireland
Mr Cooney "
Mr Helgason Islande/Iceland
Mr Vattani Italie/Italy
Mr Nishimura Japon/Japan
Mr Engelberg Luxembourg
Mr de la Peña Mexique/Mexico
Mr Lozano "
Mr Magnus Norvège/Norway
Mr Grant Nouvelle-Zélande/New Zealand
Mr Jacobs Pays-Bas/Netherlands
Mr Huijsmans "
Mr Woroniecki Pologne/Poland
Mr de Lemos Godinho Portugal
Ms Serpa de Almeida "
Mr Privratsky République tchèque/Czech Republic
Mr Crabbie Royaume-Uni/United Kingdom
Mr Ferm Suède/Sweden
Ms Swärd "
Mr Frei Suisse/Switzerland
Mr Köprülü Turquie/Turkey

Mr Mazzocchi Commission européenne/European Commission
Mr Sorensen "
Mr Moe Secrétaire général adjoint/Deputy Secretary-General
Mr Schlögl Secrétaire général adjoint/Deputy Secretary-General
Mr Kondo Secrétaire général adjoint/Deputy Secretary-General
Ms Shelton-Colby Secrétaire général adjoint/Deputy Secretary-General
Mr Schmidt  Directeur exécutif/Executive Director
Mr Witherell  Directeur/Director, DAF
Mr Burgeat  Directeur/Director, CCNM
Mr Pecchioli  Directeur adjoint/Deputy Director, DAF
Mr Small  Directeur du Service juridique/Director of Legal Affairs
Mr Owens  Chef de Division/Head of Division, DAF
Mr Harmel  Chef du Secrétariat du Conseil/Head of the Council Secretariat