Council

SUMMARY RECORD OF THE 974th SESSION

held at the Château de la Muette, Paris
on Wednesday 12 April 2000

Item 99: Introductory statement by the Chair of the Committee on Fiscal Affairs regarding the report “Improving Access to Bank Information for Tax Purposes”, and statements by Luxembourg, the United States and Switzerland. Item 102: Statement by the United Kingdom on the pension issues [for reference: letter of 14 April 2000 by the Permanent Representative of the United Kingdom to the Secretary-General and the other Permanent Representatives].

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ITEM 99: REPORT BY THE COMMITTEE ON FISCAL AFFAIRS “IMPROVING ACCESS TO BANK INFORMATION FOR TAX PURPOSES”

Introductory statement by the Chair of the Committee on Fiscal Affairs

“In 1985, the OECD failed to reach a consensus on a report which set out proposals to improve access to bank information. Today we have reversed that failure and have produced a report, which is not only endorsed by all 29 Member countries but also represents meaningful progress in this area. The OECD should be proud of this achievement. Let me take a few minutes to explain how we were able to progress the work.

The CFA initiated this project in 1996 due to growing concerns that globalisation, liberalisation of financial markets and electronic commerce had the potential to seriously undermine the effectiveness of national tax systems by making it easier for taxpayers to hide their income in foreign countries. We saw that progress was being made in other areas such as money laundering, and hoped that similar progress could also be made in the tax area.

We first undertook a comprehensive survey of current country practices in order to identify existing impediments to access to bank information for tax purposes and effective exchange of that information pursuant to treaties. The results of the survey were used as a basis for considering ways to improve this access. Our work was not conducted in isolation. It was enriched by input from other parts of government and the financial sector. Last September, the Italian Minister of Finance, Mr Visco, hosted a high-level round table in Perugia, which brought together tax and anti-money laundering authorities, central bankers and representatives from the financial sector to discuss their experiences and concerns. A draft of the report was circulated to all participants. And certainly the report that is now out was enhanced by that discussion.

I would like to make one technical point. The official text of the Report is the English version. The French version has some errors in it, which are being corrected as we speak. But what does the Report do?

First, the Report establishes the ideal access. The CFA agreed that all Member countries should ideally permit access to bank information, directly or indirectly, for all tax purposes so that tax authorities can fully discharge their revenue raising responsibilities and engage in effective exchange of information with their treaty partners.

Secondly, it identifies measures that will help countries move towards that ideal. Having looked at current country practices and identified potential barriers to access to bank information for tax purposes, the Report encourages countries to:

• Eliminate anonymous accounts and require identification of bank customers and beneficial owners of accounts. This proposal is consistent with Recommendations from the Financial Action Task Force.

• Re-examine what is known as the “domestic tax interest requirement” for exchanging information.

• Re-examine policies and practices that prevent exchange of information for criminal tax cases.
• Take appropriate initiatives to achieve access to bank information for civil tax cases. The Committee recognises that some countries would have great difficulty in achieving this level of access in the present circumstances, and for that reason have agreed to have an ongoing dialogue to promote the trend towards improving access to bank information.

Thirdly, the Committee will promote the measures outside of the OECD area. Member countries with dependencies and associated territories have agreed to promote the implementation of the measures in their dependencies and territories. We will also promote the implementation of these measures in our contacts with other non-members.

I think it is very important to be clear about what the Report does not do. It does not mean the end of bank secrecy. It does not question the legitimate role of bank secrecy in protecting the confidentiality of personal and commercial financial affairs. It does not provide tax authorities with unfettered access to information or enable them to go “fishing” for information. It does not cover the routine exchange of information on cross-border savings. That is a separate issue, which we are considering separately.

How does this Report relate to other OECD work? There are four other pieces of work that I would just like to mention. Firstly, the tax competition exercise. This Report is separate from but relevant to our work regarding tax havens, because it should help demonstrate to havens that we are trying to clean up our own house and not just point fingers outside the OECD. It should also improve access to bank information, which will assist in the implementation of the Recommendation on the non-deductibility of bribes to foreign public officials. And because of techniques used to launder money and evade taxes are substantially similar, it should help provide a climate, which will make money laundering more difficult. Finally, and more generally, it will contribute – in many ways this is probably the most important development – to greater transparency in financial transactions, and pave the way for better governance in Member countries.”

Statement by Luxembourg

“Luxembourg welcomes the fact that, following discussions that have been difficult but always constructive, the Committee on Fiscal Affairs has finalised a report on improving the exchange of information in response to a request for specific information concerning a particular taxpayer.

In approving the report, the Luxembourg delegates to the Committee on Fiscal Affairs have emphasised inter alia in their letter, sent to Member country delegates for their opinion together with the letters from other delegations, that the report, first of all, does not prejudge the discussions in progress in the OECD, but also in other fora, on the most appropriate way of taxing cross-border interest flows. Secondly, one of the accepted ways of responding to the encouragement expressed in the said report, and bearing in mind the latter’s objectives, is for judicial authorities to exchange information in the framework of action to counter serious tax evasion.

If Luxembourg considers it necessary to make these comments again today, it is because it can but note that, even before being published, the report has been used in such a way that a distorted view has been given both of its objectives and the way it is to be applied.

Luxembourg stresses that it is ready to play its role fully in the ongoing dialogue, as agreed in the report, while at the same time calling on the Committee on Fiscal Affairs, in furtherance of the spirit of consensus shown by all the delegates, to ensure a balanced presentation of the report reflecting the consensus that it represents.”
Statement by the United States

“The United States supports this Report, which we view as an important but limited first step in an ongoing dialogue. We are pleased that all OECD countries were able to support the Report, which strongly encourages countries to allow tax authorities greater access to bank information, particularly in cases involving tax crimes. We believe it is critical for Member countries to continue the dialogue, and to work rapidly towards the ideal stated in the Report: allowing tax authorities access to bank information for all other tax administration purposes, that is for civil as well as criminal matters. We commend the Committee on Fiscal Affairs for taking this important first step, which is valuable on its own, but will also help reinforce the ongoing work in the Forum on Harmful Tax Practices. And we look forward to hearing of progress on this issue as a result of the ongoing dialogue between Member countries.”

Statement by Switzerland

“The report we have before us - and I would point out that only the English version is the original since there are still a number of details to be settled in the French version - is the result of a difficult but constructive process.

The Finance Minister, Mr. Villiger, takes the report very seriously. He also takes very seriously the recommendations of the Committee on Fiscal Affairs, in particular the measures in §21 and more specifically measure 21 c). This also applies, naturally, to the undertaking to participate in future work.

It should be noted that the report does not in any way prejudge the outcome of the dialogue that will be continuing within Working Party No. 8. One can go no further than the consensus has gone, and I should also like to say that the consensus is on the same level for all delegations.

I would not want any interpretations that were too far-reaching to undermine the credibility of the work carried out because there is the risk, which we must not hide, that they would result in serious economic disturbances. It is the spirit of compromise that has prevailed and it is that spirit that needs to be cultivated. It is through co-operation that we shall make the most progress”.

ITEM 102: OECD PENSION ISSUES

Statement by the United Kingdom

“In joining consensus, the United Kingdom Delegation places on record:

a) that in developing the Fund’s statute, it will need to be satisfied that this will provide value for money. In particular it is expected that:

• the administrative costs are reasonable and in line with the most efficient providers in the private sector;

• that any revisions to the terms and conditions of a pension scheme for staff are considered to be reasonable for recruitment and retention purposes;

• that any surpluses from the funds invested by member states should be returned to them rather than used to fund higher pensions;
• that the arrangements are transparent, with clear lines of accountability in place; and

• that the portfolio chosen for the fund makes an appropriate balance between risk and return, so as to imply an average rate of return consistent with the actuarially determined discount.

b) while accepting that breach of ZRG on total contributions to the OECD budget as a whole will take place in the short term to permit establishment of the Fund, the United Kingdom will not support any breach of zero real growth for programme expenditure;

c) the United Kingdom interprets “the long-term” in paragraph two of REV4 to mean 25 years. Consequently, the British approach to future budget negotiations will be governed by the need to ensure that necessary savings are made such that zero real growth holds for gross contributions over the 25-year period taken as a whole in Net Present Value terms.”