Delegates will find attached the Draft Summary Record of the Third Meeting of Working Party No. 9 on Consumption Taxes, held at OECD Headquarters on 9 June 2000.

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I. ADOPTION OF THE DRAFT AGENDA OF THE THIRD MEETING

1. The Draft Agenda was adopted as proposed.

II. DRAFT SUMMARY RECORD OF THE SECOND MEETING

2. The Draft Summary Record of the second meeting was approved, without amendment.

III. ELECTRONIC COMMERCE: OVERVIEW OF GENERAL ISSUES

A. Update on developments in the European Union

3. The European Commission Delegate, Stephen Bill, reported on the Commission’s recently announced strategy to improve the current EU VAT regime, with the emphasis lying on the need for simplification and modernisation. He stressed that the proposed amendment to the 6th VAT Directive to address particular e-commerce-related challenges should be seen and considered in this context. He added that the proposed changes were expressly and specifically aimed at implementing the primary Ottawa Taxation Framework Conditions (taxation in the place of consumption) in the context of the EU’s existing VAT system.

4. The Delegate from the United States, Jeffrey Friedman, expressed certain concerns about the timing of the European Commission’s proposal and emphasised the need for the EU process to take full account of the international work being progressed under the auspices of the OECD. He expressed his confidence in the latter as a way of promoting an internationally consistent approach.

B. Update on developments in the United States, including the Advisory Commission on Electronic Commerce

5. The Delegate from the United States, Jeffrey Friedman, outlined the main conclusions of the ACEC (Advisory Commission on Electronic Commerce) Report to Congress, which had been submitted in April 2000. He pointed out that the most of the Report’s conclusions did not, in fact, secure the necessary two-thirds majority of the 19 Commissioners to make official recommendations to Congress. The majority of the ACEC members supported nevertheless the extension, for a period of five years, of the current “moratorium” on new taxation of e-commerce. He highlighted the fact that the Report included a very

positive reference to the OECD process. At this stage, it was difficult to predict to what extent, and to what timetable, Congress would respond to the Report’s conclusions.

C. Update on work of other Working Parties and TAGs

6. The Secretariat presented the Draft Report to Ministers [DAFFE/CFA(2000)29/CONF], which had been approved by the Committee on Fiscal Affairs (CFA) in May, and would now go forward to the Ministerial on 26-27 June 2000. The Report identified progresses in implementing the Ottawa Taxation Framework Conditions, outlining work to date and expected outputs over the coming months. The Secretariat recalled that the final decision on the text put to Council laid with the Secretary General. The Report would be published after the Ministerial, so providing a useful stocktake of the OECD’s work on these issues.

7. At its meeting in May the CFA had itself reviewed progress on the e-commerce work programme overall. Noting work in progress, it had called for substantive reports from all its subsidiary bodies to be submitted to its next meeting on 30-31 January 2001. Such reports should clearly identify emerging conclusions and/or recommendations; and further work. The CFA would also be considering a report on the Technical Advisory Group (TAG) process with a view to agreeing how the dialogue with business and non-members should be taken forward. The Working Party noted that its own report on the consumption tax aspects of electronic commerce would be an important part of the CFA’s review of the whole programme.

8. The Secretariat also reported that the CFA Officers had considered the overall management of the Committee’s work on e-commerce, and concluded that there was a need for a stronger focus on outputs and on the coherence of the programme of work as a whole. To this end, Frank Mullen, Vice-Chair of the CFA, had been asked to oversee the programme more directly, and to liaise with the relevant Chairs of subsidiary bodies to ensure that key targets were met and issues brought to the Committee in a timely fashion.

9. Turning to the work of the Working Party’s own Sub-group on Electronic Commerce, the Secretariat noted the usefulness of the exchange of information with the Forum on Strategic Management (FSM) Sub-group on Electronic Commerce, in particular on its work on audit and control procedures. Similarly, a constructive working relationship had been developed with both the Consumption Tax TAG and the Technology TAG.

10. The Secretariat also presented the draft framework of the June 2001 Global Conference to be held in Montreal: Tax Administrations in an Electronic World [DAFFE/CFA (2000)3/REV1]. The CFA had approved this framework, and invited the Secretariat to continue to work with the co-sponsoring organisations to flesh out the agenda and confirm the details of participation, etc. The Secretariat also outlined the background to the OECD Forum 2000, which was to take place in Paris on 26-28 June 2000, in parallel with this year’s Ministerial. Panel discussions on a wide range of key topical issues would include a session (on the morning of Wednesday, 28 June) devoted to the taxation issues associated with e-commerce.

11. The Secretariat finally reported on preparations for the forthcoming EMEF (Emerging Market Economy Forum) on electronic commerce, to take place in November 2000 in Dubai. Building upon both the Ottawa Ministerial in 1998 and the Paris Forum in 1999, this EMEF would, in effect, represent a further progress report on the full span of e-commerce issues being explored across the OECD. A particular objective of this meeting was to broaden the dialogue with non-members. There would be a
session on taxation-related issues. [Secretariat note: the event was subsequently postponed until 16-17 January 2001.]

IV. ELECTRONIC COMMERCE: SPECIFIC CONSUMPTION TAXES ISSUES

A. Overview of work of WP9 Sub-group on Electronic Commerce and of Consumption Tax TAG, since December 1999

12. Andrew Marsland (Canada), Chair of the WP9 Sub-group, gave a presentation of the Sub-group’s work to date. The Sub-group had met twice with the Consumption Tax TAG; and developed a Draft of Possible Guidelines on Place of Consumption [DAFFE/CFA/WP9(2000)2]. On process, three lessons could be learned from the work with the Consumption Tax TAG. Firstly, there was a necessary period of time to build confidence with the business members of the TAG. Secondly, the sharing of the Sub-group’s documents with the TAG had proved very productive. Thirdly, the business members of the TAG were keen not only to answer the questions of the Sub-group, but also to make constructive proposals.

13. Satoshi Watanabe (Japan), Government Co-Chair of the Consumption Tax TAG, underlined the need, in the government-business dialogue, to work towards concrete results, clarifying the respective positions of the parties, even on points of disagreement.

B. Place of consumption principle


15. The Secretariat introduced the outline of the proposed WP9 Report to the CFA (room document), recalling the broadly favourable response of the Sub-group at its meeting. It had been agreed that the proposed Guidelines as such, should focus specifically on the principle of taxation in the place of consumption, with the collection mechanisms which might support Guidelines to be addressed separately. The Guidelines should be annexed to the WP9 Report to the CFA.

16. The Working Party agreed on the structure for the Report to the CFA, but discussed the issue of the scope of the proposed Guidelines, and how that scope should be expressed. Several Delegations argued in favour of a specific reference to the digitised services and products (a “narrower” approach), rather than a broader reference to the products traded internationally (a “broader” approach). To resolve this problem, the Working Party agreed that the Secretariat should circulate a new draft of the Guidelines with both approaches illustrated, for written comments of all Delegates. These approaches would be formulated in the form of two options: an Option A describing the scope of the Guidelines as applicable to the cross-border supply of services and intangible products that are capable of delivery from a remote location; and an Option B limiting the scope of the Guidelines to the cross-border supply of digitised products and services. The Sub-group would then revert to this issue at its next meeting.

C. Tax collection mechanisms

17. Andrew Marsland updated the Working Party on the debate on tax collection mechanisms and the input from both the Consumption Tax TAG and the Technology TAG. In relation to the most problematic
area of B2C (business-to-consumer) transactions, he outlined the Consumption Tax TAG’s suggested “Simplified Interim Approach” (a simplified registration mechanism for non-resident vendors) which, the business community was proposing, should apply in the short term, pending the development, in the medium-longer term, of more effective technology-based systems. It was noted that technology-based “solutions” which only dealt with B2C on-line transactions might be too “narrow” to justify/support their development. It might be necessary to consider a more comprehensive approach.

18. More generally, the Working Party noted the emerging consensus on the adoption, as appropriate, of a reverse-charge/self-assessment system for cross-border B2B (business-to-business) transactions. It agreed that other tax collection mechanisms, including technology-based options, should be reviewed in the Report to the CFA, with the input and advice of both TAGs reflected in that analysis.

D. Simplification issues

19. David Holmes, Vice-Chair of the WP9 Sub-group, reported on this leg of the work, emphasising the importance of this issue for the business. The Consumption Tax TAG has now produced a list of simplification possibilities, including electronic invoicing and registration, audit and verification procedures. Further work would be necessary to agree on relative priorities, and on those options and ideas that required concerted action at the OECD-level.

20. The Chair stressed the importance of giving the business community a strong signal in the Report to the CFA as to the commitment of governments to the goal of administrative simplification.

E. Sharing of documents with TAGs, and publication of drafts for comment

21. The Secretariat mentioned the pressure for more disclosure of the work of the WP9 Sub-group and the Consumption Tax TAG, whose documents were restricted to the use of their members. One option would be to publish various papers prepared to date, although this raised presentational problems and concerns for both governments and business. Another option would be to prepare a high-level information note, outlining the main areas of discussion and debate. Some Delegations expressed reservations about how much detail such a note would include, and how the fluid nature of the current debate could be appropriately reflected. In practice, it was noted that the main focus should in practice lie upon the WP9 Report to the CFA, which, subject to the latter’s approval, would be published early next year as a “discussion draft” for a period of comment (with that period to include the June 2001 Montreal Global Conference).

V. EXCHANGE OF INFORMATION

22. Stuart Wesley, Chair of the Steering Group on International Co-operation and Information Exchange, presented the Steering Group’s Progress Report [DAFFE/CFA/WP9(2000)3]. He assured the Working Party that there was effective co-ordination with the FSM Knowledge Exchange initiative, particularly in terms of the examination of options for the future. He reported on developments of exchange of category 2 and 3 information, taking account of the key issue of security of data. Due to the weaknesses of the current security system, and the consequent suspension of information exchanges, the Steering Group proposed to extend the Pilot Study beyond the original planned completion date of December 2000 to June 2001, with a final report to be made to the Working Party in May 2001.

VI. OTHER ISSUES

A. Gambling and the Internet

24. The Delegate from the United Kingdom, Andrew Webb, presented the work of the Informal Working Group. In order to take forward an analysis of the challenges presented in this field, the Informal Working Group proposed to issue a questionnaire to Member countries. The latter would seek information on the indirect taxation regimes application to gambling, and on countries experiences of Internet-related challenges to the effective operation of those regimes. An analysis of the results of the survey would be presented at the next meeting of the Working Party on 30 November – 1 December 2000.

B. Financial services

25. The European Commission Delegate, Stephen Bill, reported on recent discussions both with the Member States and the financial services sector on the so-called “Poddar Report” on a possible mechanism for the application of VAT to such services. The reaction had been muted: there was little enthusiasm, for a variety to reasons, for radical change. That said, he thought it was still important to consider certain aspects of the VAT treatment of the financial services sector, where modernisation of the current rules might well be necessary (for example, to address the increasing trend toward outsourcing of certain functions in the sector).

26. In relation to the Working Party’s own examination of these issues, it was agreed that given more immediate priorities (principally e-commerce related work) further work should continue to be deferred. The Chair concluded that the Working Party should revert to the issue during 2001, in terms, for example, of a further dialogue with the business community about the commercial significance of variations in tax treatment (as had been identified in the KPMG study).

27. The Delegate from Canada, Tom Boucher, drew attention to the particular challenges posed (as a consequence of the combination of the impact of globalisation, deregulation and e-commerce) by distortion of competition stemming from the differences in the tax treatment of local and cross-border transactions of financial services. The Informal Working Group established to examine this issue proposed, in the first instance, to focus on an assessment of the scale and nature of such distortions.

C. Taxation and the environment

28. The Delegate from Denmark, Annette Pedersen, presented the note “Designing and Implementing Environmental Taxes – the Danish Approach and Experience”, with comment from the Norwegian Ministry of Finance [DAFFE/CFA/WP9(2000)4]. She emphasised the fact that the design of environmental taxes in many ways did not differ from the design of ‘traditional’ consumption taxes, for example of excise duties levied on mineral oil or alcohol. The main difference between such ‘traditional’ taxes and the environmental taxes was that the latter not only aimed to generate revenues, but also to improve environmental performance. She finally stressed the particular value of tax administrations’ practical experience of operating consumption taxes when it came to implementing environmental taxes.

29. The Delegate from Sweden, Eva Carlsson, indicated that Sweden had had, during the two last decades, much the same experience as Denmark and Norway in relation to the development of environmental taxes. She stressed the importance of environmental taxation for the Working Party’s future work programme. The Delegate from Ireland, Sean O’Seaghdha, welcomed the paper, stressing the importance of tax experts participating in the evaluation of options and ideas for environmental taxes.
30. The Chair indicated that the CFA has identified sustainable development as an important issue for the 2001 agenda, not least as it would be a theme of the 2001 Ministerial. Although the Working Party No. 2 (on Tax Policy Analysis and Tax Statistics) would be taking the lead on this, it was important that Working Party No. 9 was alert to this work and, as appropriate, made a constructive input to it. He invited the Secretariat to report further at the next meeting on developments and to advise the Working Party on how best to strengthen its contribution to the CFA’s work in this important field.

VII. OTHER BUSINESS

A. Self-evaluation questionnaire

31. The Secretariat presented the analysis of replies to the self-evaluation questionnaire in relation to the Second meeting of the Working Party [DAFFE/CFA/WP9(2000)5]. Overall the evaluation had been quite positive. The process would be repeated on an annual basis.

B. Update on Consumption Tax Trends

32. The Secretariat drew attention to its letter [DAFFE/CFA/WP9(2000)6] asking Delegates to review and update the data showed in the 1999 edition of *Consumption Tax Trends*, by no later than 14 July 2000. It was important to hold to the deadline if the timetable for publication of the next edition in January 2001 was to be met.

C. Future meetings

- 30 November – 1 December 2000
- 9 – 10 May 2001 [Secretariat note: This meet was subsequently rescheduled for 3-4 May.]
- 6 – 7 December 2001
THIRD MEETING OF THE WORKING PARTY NO. 9 ON CONSUMPTION TAXES
9 June 2000, Château de la Muette, Paris

Chair: Mr. Jan DE WAARD (Netherlands)

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