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TAX AND DEVELOPMENT THEMES IN RECENT G20 DISCUSSIONS

Room Document 2

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This document is submitted for INFORMATION under item 4 of the Draft Annotated Agenda [DCD/DAC/A(2013)13]. It sets out the tax and development themes referenced in recent G-20 meetings, most recently the September 2013 St Petersburg summit.

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TAX AND DEVELOPMENT THEMES IN RECENT G20 DISCUSSIONS

The three excerpts below are from A) the Leaders Communique, B) The G20 Development Working Group (DWG) St Petersburg Development Outlook section on Domestic Resource Mobilization (DRM) and C) The G20 Development Working Group's Saint Petersburg Accountability Report on G20 Development Commitments, section on Domestic Resource Mobilization (DRM) Pillar.

A) Leaders Communique, 6th September 2013: Addressing Base Erosion and Profit Shifting, Tackling Tax Avoidance, and Promoting Tax Transparency and Automatic Exchange of Information (Communiqué paras 50-52, page12-13)

1. In a context of severe fiscal consolidation and social hardship, in many countries ensuring that all taxpayers pay their fair share of taxes is more than ever a priority. Tax avoidance, harmful practices and aggressive tax planning have to be tackled. The growth of the digital economy also poses challenges for international taxation. We fully endorse the ambitious and comprehensive Action Plan – originated in the OECD – aimed at addressing base erosion and profit shifting with mechanism to enrich the Plan as appropriate. *(The Action Plan itself notes the Task Force on Tax and Development (TFTD) will provide a useful platform to discuss the specific BEPS concerns in the case of developing countries and explore possible solutions with all stakeholders)*. We welcome the establishment of the G20/OECD BEPS project and we encourage all interested countries to participate. Profits should be taxed where economic activities deriving the profits are performed and where value is created. In order to minimize BEPS, we call on member countries to examine how our own domestic laws contribute to BEPS and to ensure that international and our own tax rules do not allow or encourage multinational enterprises to reduce overall taxes paid by artificially shifting profits to low-tax jurisdictions. We acknowledge that effective taxation of mobile income is one of the key challenges. We look forward to regular reporting on the development of proposals and recommendations to tackle the 15 issues identified in the Action Plan and commit to take the necessary individual and collective action with the paradigm of sovereignty taken into consideration.

2. We commend the progress recently achieved in the area of tax transparency and we fully endorse the OECD proposal for a truly global model for multilateral and bilateral automatic exchange of information. Calling on all other jurisdictions to join us by the earliest possible date, we are committed to automatic exchange of information as the new global standard, which must ensure confidentiality and the proper use of information exchanged, and we fully support the OECD work with G20 countries aimed at presenting such a new single global standard for automatic exchange of information by February 2014 and to finalizing technical modalities of effective automatic exchange by mid-2014. In parallel, we expect to begin to exchange information automatically on tax matters among G20 members by the end of 2015. We call on all countries to join the Multilateral Convention on Mutual Administrative Assistance in Tax Matters without further delay. We look forward to the practical and full implementation of the new standard on a global scale. We encourage the Global Forum to complete the allocation of comprehensive country ratings regarding the effective implementation of information exchange upon request and ensure that the implementation of the standards are monitored on a continuous basis. We urge all jurisdictions to address the Global Forum recommendations in particular those 14 that have not yet moved to Phase 2. We invite the Global Forum to draw on the work of the FATF with respect to beneficial ownership. We also ask the Global Forum to establish a mechanism to monitor and review the implementation of the new global standard on automatic exchange of information.

3. Developing countries should be able to reap the benefits of a more transparent international tax system, and to enhance their revenue capacity, as mobilizing domestic resources is critical to financing development. We recognize the importance of all countries benefitting from greater tax information exchange. We are committed to make automatic exchange of information attainable by all countries, including LICs, and will seek to provide capacity building support to them. We call on the Development Working Group in conjunction with the Finance Track, to work with the OECD, the Global Forum and other IOs to develop a roadmap showing how developing countries can overcome obstacles to participation in the emerging new standard in automatic exchange of information, and to assist them in meeting the standard in accordance with the action envisaged in the St Petersburg Development Outlook (*The Leaders endorsed the Development Outlook and welcomed the St Petersburg Accountability Report on G20 Development Commitments, see below for details*). The Working Group should report back by our next meeting. Working with international organizations, we will continue to share our expertise, help build capacity, and engage in long-term partnership programmes to secure success. In this respect, we welcome the OECD Tax Inspectors Without Borders initiative, which aims to share knowledge and increase domestic capacities in developing countries in the tax area. Finally, we are committed to continue to assist developing countries, including through the IOs, in identifying individual country needs and building capacity in the area of tax administration (in addition to automatic exchange of information) and encourage such support to be developing country led.

B) St Petersburg Development Outlook: Domestic Resource Mobilization (DRM) (Page 9)

4. We note the work of the OECD on BEPS, and the relevance of this work to developing countries. Close cooperation with other G20 workstreams and in particular the Anti-Corruption Working Group is crucial.

New Action 1: Identifying Obstacles to Information Exchange and Strengthen Capacity

5. We will work with the Global Forum on Transparency and Exchange of Information for Tax Purposes to identify and address the obstacles to automatic exchange of information (AEOI) for developing countries, and reinforce our support to developing country revenue authorities both through bilateral programmes and multilateral programmes such as Tax Inspectors Without Borders.

New Action 2: Address BEPS in LICs

6. We will review relevant work on BEPS during 2014 in order to identify issues relevant to LICs and consider actions to address them.

On-going Actions

- We encourage more developing countries to join the Global Forum. We request the Global Forum to remain engaged with developing countries to prepare for their peer reviews and provide them with tailored technical assistance (commitment 64 in MYAP).
- We will continue to promote the Multilateral Convention on Mutual Administrative Assistance among developing countries. The Convention provides for all possible forms of administrative cooperation between states in the assessment and collection of taxes, in particular with a view to combating tax avoidance and evasion (commitment in Los Cabos Leaders' Declaration).

C) Saint Petersburg Accountability Report on G20 Development Commitments. Domestic Resource Mobilization (DRM) Pillar (Page 62 – 64)

7. Since 2010, South Africa and Spain have co-facilitated the work under the DRM Pillar. The G20 called for the OECD Task Force on Tax and Development, the UN, IMF, World Bank, the Global Forum on Transparency and Exchange of Information for Tax Purposes and regional tax organizations to contribute to the ongoing work.

In-Depth Assessment: Help developing countries tax MNEs fairly through effective transfer pricing regimes

8. A transfer price is the price charged for a transaction by one MNE to one or more MNEs in the same multinational group of companies. The transfer prices used will influence the amount of profit an MNE reports (and pays tax on) in each country where they operate. While transfer pricing is a legitimate feature of commercial activity, it can be used to reduce an MNE's global tax bill by shifting profit from normal tax-rate countries to low tax-rate countries. This can also have wider implications: tax avoidance by high profile corporate taxpayers will be perceived as "unfair" by citizens, and may undermine the legitimacy and credibility of the tax system, thus discouraging compliance among all taxpayers.

9. Most OECD and many non-OECD countries have introduced transfer pricing rules into their tax legislation. However, relatively few developing countries have fully effective transfer pricing regimes and often lack the administrative, technical and auditing capacity to conduct effective and efficient audits.

Alignment with Core G20 and DWG Mandate

10. In the globalized economy, developing countries are increasingly opening their borders to international trade and investment. It is estimated that as much as two-thirds of all cross-border business transactions take place between companies belonging to the same group. Such cross-border trade and investment is vital to economic development, but it is also essential that developing countries should be able to collect tax on the profits that MNEs earn in their countries in a way that does not discourage or distort international trade and investment.

Implementation

11. In 2010, G20 leaders called on relevant IOs to support the development of more effective tax systems by identifying ways to help developing countries tax MNEs through effective transfer pricing regimes. To implement this action, some G20 members joined the European Commission, OECD Task Force on Tax and Development and World Bank to deliver support to developing countries on transfer pricing. The work led by the OECD Task Force on Tax, which brings together all major stakeholders on tax and development, assists developing countries in putting in place measures to protect their tax bases and foster a transparent, predictable investment climate through the introduction of rules that create certainty and consistency for business.

12. Under the DRM Pillar, a program of intensive support for transfer pricing capacity development is underway. The programs have already achieved a significant impact in all countries of operation leading to increases in tax revenues, and a more transparent and predictable investment climate through the introduction of rules that create certainty and consistency for business. Some of the practical results achieved include:

- **Colombia** — transfer pricing adjustments made as a result of audits of MNEs have increased revenues from US\$3.3m in 2011 to US\$5.83m in 2012 (a 76% increase).

- **Kenya** — the Kenya Revenue Authority (KRA) successfully negotiated a transfer pricing adjustment based on the advice given through the pilot program, which resulted in additional tax revenue of US\$ 12.9m.
- **Ghana** — in September 2012, new transfer pricing regulations that are aligned with international standards were introduced.
- **Rwanda** — the pilot program is working with the Rwanda Revenue Authority to design an effective transfer pricing regime.
- **Vietnam** — a recent audit of a large MNE resulted in the increased tax of US\$3.9m paid in Vietnam.

Lessons Learned

- The G20 DWG has played a critical role in bringing together international and regional organizations to address the challenges facing developing countries, including LICs, in the DRM area. The current international agenda is focusing ever more closely on international tax issues as is demonstrated by the outcomes statement of the G20 Finance Ministers' meeting in April 2013.
- There is a need for the DWG to more closely align itself with the rest of the G20 as an implementer and monitoring mechanism for ensuring that developing countries benefit from developments and decisions.
- Pilot project: Developing countries have expressed concerns relating to the availability of and access to comparable data, which is important to the application of transfer pricing rules. The pilot program will explore what work might be undertaken to address these concerns. This would include looking at how improvements might be made in the availability of financial data to developing countries and how they might reduce their reliance on comparable data to be able to better apply their transfer pricing regimes.