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**Committee of Experts on International  
Cooperation in Tax Matters  
Twentieth session**

*[Dates and location of the session TBC]*

Item 3 (j) of the provisional agenda

**Tax treatment of official development assistance (ODA) projects – Proposed  
Recommendation**

**Note by the Subcommittee on the Tax treatment of ODA projects**

***Summary***

This note, which is presented FOR DISCUSSION (and not for approval) at the twentieth session of the Committee, includes a proposed recommendation on the Public Disclosure of Provisions Granting Tax Exemptions with respect to Official Development Assistance Projects. That proposed recommendation was drafted by the Subcommittee on the Tax Treatment of ODA Projects at its meeting of 6-7-8 February 2020.

At its twentieth session, the Committee is invited to have a first discussion of the proposed recommendation included in this note. The proposed recommendation will be revised on the basis of that discussion and presented for approval at the twenty-first session of the Committee.

## **Introduction**

1. As indicated in note E/C.18/2020/CRP.4, the Subcommittee on the Tax Treatment of ODA Projects, at its meeting of 6-7-8 February 2020, discussed the follow-up to the meeting that was held on 5 February 2020 with the OECD Development Assistance Committee (DAC). The discussion focused in the particular on the decision by the DAC to work on the transparency of agreed provisions related to tax exemptions for ODA. These provisions are often included in agreements that are not public and may be negotiated without the involvement of the tax authorities. Sometimes, a tax administration does not even have access to the wording of these provisions even though it has to apply them.

2. The Subcommittee agreed that since the need to ensure greater transparency of these provisions was a topic on which there was broad consensus among donors and recipients of ODA, a recommendation addressing that specific issue should be presented for approval by the Committee. Such a recommendation would serve a number of purposes:

- i) It would stress the importance of the part of the Guidelines that deals with transparency.
- ii) It would draw the attention of stakeholders to the Guidelines themselves.
- iii) It would help convince donors to move quickly on the issue of transparency.
- iv) It would assist DAC's work on that issue.

3. During its meeting, the Subcommittee discussed and approved the wording of the proposed recommendation included in this note.

4. At its twentieth session, the Committee is invited to have a first discussion of the proposed recommendation included in this note. The proposed recommendation will be revised on the basis of that discussion and presented for approval at the twenty-first session of the Committee.

**PROPOSED RECOMMENDATION**

**UNITED NATIONS COMMITTEE OF EXPERTS ON INTERNATIONAL  
COOPERATION IN TAX MATTERS**

**Draft Recommendation on the Public Disclosure of Provisions Granting Tax  
Exemptions with respect to Official Development Assistance Projects**

CONSIDERING that the *Addis Ababa Action Agenda* includes the commitment to “consider not requesting tax exemptions on goods and services delivered as government-to-government aid, beginning with renouncing repayments of value-added taxes and import levies.”<sup>1</sup>

CONSIDERING that the on-going work of the Committee and of the partners of the Platform on Collaboration of Tax on the issue of tax exemptions related to official development assistance (ODA) projects has identified concerns with the transparency of some instruments through which these exemptions are granted.

RECOGNIZING that the constitutional and legal principles applicable in a large number of countries require the legislative adoption of, and full public access to, the rules concerning the exercise of a State’s taxing powers;

RECOGNIZING, however, that constitutional and legal principles applicable in a large number of countries also provide for the confidentiality of taxpayer-specific information.

CONSIDERING that there is wide consensus that, subject to any applicable legal requirements concerning the confidentiality of taxpayer-specific information, provisions included in any treaty, agreement, letter, memorandum of understanding or other document intended to govern the taxation, by a country that receives official development assistance, of goods or services provided in the context of such assistance, should be publicly available.

CONSIDERING that, in the light of this wide consensus, there is no need to wait for the completion of the ongoing work of the Committee and of the partners of the Platform on Collaboration of Tax on the issue of tax exemptions related to ODA projects before taking measures seeking to ensure that this practice is implemented.

THE COMMITTEE OF EXPERTS ON INTERNATIONAL COOPERATION IN TAX MATTERS:

1. RECOMMENDS that, subject to any applicable legal requirements concerning the confidentiality of taxpayer-specific information, countries that receive official development assistance (ODA) and donor countries, their aid agencies as well as international governmental organizations through which ODA is provided, ensure that

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1 *Addis Ababa Action Agenda*, section C (International Development Cooperation), paragraph 58.

the parts of any treaty, agreement, letter, memorandum of understanding or other document to which they are parties that include provisions intended to govern the taxation, by a country that receives official development assistance, of goods or services provided in the context of such assistance, be made publicly available.

2. ENCOURAGES the partners of the Platform for Collaboration on Tax to pursue initiatives that would ensure and facilitate public access (e.g. through a web site that would serve as a central repository or point of access) to the provisions referred to above and, more generally, that would increase transparency in the area of tax exemptions related to the official development assistance projects,
3. INSTRUCTS its Subcommittee on the Tax Treatment of ODA Projects to incorporate this recommendation in the Guidelines on the Tax Treatment of ODA Projects that are expected to be finalised before the end of 2020.