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OECD News Release

Paris, 12 April 2000

OECD Countries Issue Report on Improving Access to Bank Information for Tax Purposes

The OECD's Committee on Fiscal Affairs today issued a report, **"Improving Access to Bank Information for Tax Purposes"**, which analyses current country practices and bank secrecy rules as they relate to tax matters.

The report, which was agreed unanimously by all 29 Member countries represented in the Committee, suggests a series of measures to improve existing access to bank information for tax purposes and the exchange of such information under tax treaties between OECD countries in specific cases.

The report will be used as a basis for an ongoing dialogue with OECD and non-OECD countries. Its text is available to journalists at: http://www.oecd.org/news_and_events/journalists/journalists.htm

Note to Editors

1. Publication of this report follows several years of work by the OECD's Committee on Fiscal Affairs on the issue of access to bank information for tax purposes. It forms an important component in the OECD's ongoing work intended to adapt fiscal and financial systems to the new global environment.

2. A 1985 OECD report on bank secrecy, *International Tax Avoidance and Evasion. Four Relatec Studies,* failed to win the unanimous approval of governments represented in the OECD Committee on Fiscal Affairs. It is significant that, in the case of the latest report, the approval of Committee members was unanimous.

3. Mr. Gabriel Makhlouf, Director of the U.K. Inland Revenue International Division and Chair of the OECD Committee on Fiscal Affairs, will brief journalists on the report at 2.00 p.m. today at OECD Headquarters in Paris.

For further information and to register for the briefing, please contact the OECD's Media Relations Division (tel. 33 1 45 24 97 00).

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STATEMENT TO THE MEDIA BY GABRIEL MAKHLOUF
CHAIR OF THE COMMITTEE ON FISCAL AFFAIRS

12 April 2000

Introduction

- The OECD has today published a report prepared by the Committee on Fiscal Affairs on improving access to bank information for tax purposes.
- It is an important achievement because it is the first time that **all** 29 OECD Members have agreed to a report on bank secrecy as it relates to taxation.
- But let me be clear about one thing: this Report does **not** mean the end of bank secrecy. The Report is quite explicit in recognising the legitimate role that bank secrecy plays in protecting the confidentiality of financial affairs and in maintaining the soundness of financial systems.
- The scope of the Report is also limited. The focus of the Report is on to access to bank information pursuant to a **specific request** made by a tax authority, directly or through a judicial or other authority, for information that may be relevant to a specific case.

What does the Report do?

- It tries to address the fact that bank secrecy towards governmental authorities, including tax authorities, may enable taxpayers to hide illegal activities and to escape the taxes established by their parliaments.
- This issue is of growing concern in an increasingly global economic environment where taxpayers, large and small, corporate and individual, are increasingly doing business internationally. While taxpayers are able to operate in an increasingly borderless world, tax authorities must continue to observe national boundaries. We believe that enhanced international co-operation is necessary for effective application of tax laws in this new environment.
- To that end, the Report establishes an ideal, namely, that all Member countries should 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.
- It then identifies measures that would assist countries in moving towards that ideal. These measures are: eliminate anonymous accounts and require identification of bank customers and beneficial owners of accounts; re-examine what is known as the "domestic tax interest requirement" for exchanging information. Some countries will not obtain bank (or other) information for a treaty partner unless they have an interest in obtaining the information for their own tax purposes; 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 international trend towards such access.
- Countries with dependencies have committed to promoting the implementation of the measures in those dependencies.

What the Report does not do

- It does not call for **unfettered** access to bank information by tax authorities. All Member countries have administrative or judicial procedures in place to ensure that the information is sought only for an appropriate tax purpose.
- It does not permit tax authorities to go "fishing" for information. The Report relates to improving access to bank information in the context of specific cases where the information is relevant to a particular taxpayer under examination.
- It does not cover **routine** exchange of information on cross-border savings. The Committee has a separate project on this issue.
- It does not suggest that bank secrecy should be abolished. Even those Member countries with the broadest access to bank information for tax purposes continue to support the broader role that bank secrecy plays in protecting the confidentiality of financial information and in preserving confidence in financial systems.

Broader implications of Report

- This Report is **not** just about the tax man's ability to collect taxes. The consequences of not being able to effectively enforce tax laws due to strict bank secrecy go beyond tax collection.
- The tax laws enacted by Parliaments reflect **economic** and **social** policy decisions about the tax burden to be borne by taxpayers based on levels of income and types of income. The fact that some taxpayers may be able to successfully hide income and assets in banks in foreign jurisdictions that won't disclose such information for tax purposes distorts the distribution of the tax burden intended by national parliaments.
- Confidence in the fairness of tax systems will be undermined if governments cannot show honest taxpayers that they are making a concerted effort to deal with dishonest taxpayers.
- If we are to continue to reap the benefits of globalisation and liberalisation of financial markets, we must be prepared to address these challenges. The Committee has attempted to do so in a way that strikes the appropriate balance between the needs of tax authorities and the need for confidentiality.

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Soft words on secrecy

The OECD's approach to the banking transparency issue is too cautious

MICHAEL PEEL

Kaspar Villiger, Swiss finance minister, gave a whimsical summing up last week of his approach to the issue of bank secrecy.

Speaking in a cosy wood-panelled room in the parliament in Berne, he argued customer privacy was as crucial to the country as its system of national military service.

"Banking secrecy is to Switzerland as important as every Swiss man having his gun at home," he said. "That can't change."

His relaxed attitude was remarkable given the circumstances. Hours earlier the Organisation for Economic Co-operation and Development had promised to "take away the shroud of bank secrecy which tax evaders hide behind". The remark referred to a pledge just signed by all 29 OECD members, including Switzerland.

The Swiss belligerence suggested the OECD work was less far-reaching than implied by the rhetoric. The research, which included no specific recommendations for action, contained plenty to reassure worried bankers. "This report does not mean the end of bank secrecy," said Gabriel Makhlouf, chair of the committee that prepared the research.

The OECD's approach raises old concerns about its work on issues of financial transparency. The body, essentially a club of the world's big economies, is in danger of creating a perception that it is less firm with its own members than with outsiders. It is an image that threatens to erode the authority of worthwhile projects, in particular the work to force tax havens to reform their secretive ways.

The key to the OECD's problem is its 1998 report on what it described as "harmful tax competition". This is targeted at countries that offer low or zero income tax rates without sufficient disclosure about the individuals or companies doing the business. The OECD expects to publish in June a list of pariah jurisdictions, including both members and non-members, with the possibility of sanctions to follow.

The work could and should have been managed better. Two members, Switzerland and Luxembourg, refused to sign up. The central message about transparency was lost amid complaints by tax havens that the OECD was forcing them to abandon their no- or low-tax regimes.

The game became an "us and them" play by the OECD against offshore financial centres. This undermined the sound principles underlying the work by allowing the tax havens to accuse their pursuers of hypocrisy. "They should put their house in order first," says John Cashen, chief financial officer for the Isle of Man government.

The OECD has spent a good deal of time trying to undo this early damage. It says the 1998 report is no longer about harmful tax competition, with the battle of wills that implies, but concerns instead harmful tax practices. The existence of a list of 47 potential targets among tax havens, once confirmed without a second thought, is now played down.

The work on bank secrecy is supposed to be the next step down that road to redemption. It is the first unanimous declaration of its kind. It applies equally to OECD members and tax havens outside the club.

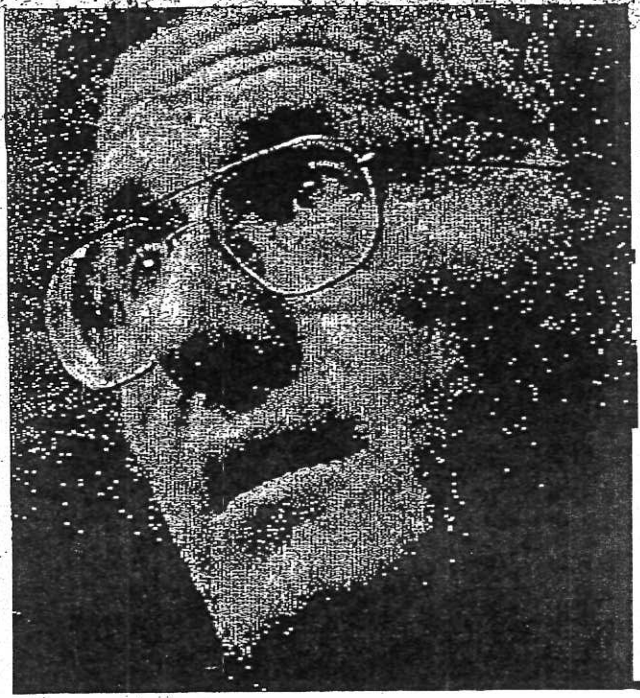
The problem is that the report is anodyne compared with what could have been produced. Some countries would doubtless have gone further. Britain, one of the main forces for action on transparency, has attacked the "wall of secrecy and silence" existing in some member states.

This argument fell victim to the premium put on achieving unanimity. The product had to bring comfort to all. The result of this lowest common denominator approach is a document that the Swiss Bankers' Association says "in no way weakens" privacy rules.

The OECD's soft words risk undermining much-needed action on transparency. The scandals keep flowing out of Swiss bank accounts, from Nazi gold to the loot hidden by Sani Abacha, the late Nigerian dictator. If the government will not act, then heavy international pressure needs to be applied.

The same goes for tax havens. Crucial information, such as the total assets managed by banks, is often unavailable. Disclosure requirements for offshore companies are minimal, making them useful tools for hiding financial crime.

Part of the problem for the OECD is the history of its members in relation to tax havens. A number of offshore jurisdictions are financial centres because their former rulers made them so. It looks rich for the big economies to attack systems that were imposed under imperial rule.



Relaxed attitude: Kaspar Villiger Reuters

The OECD needs to recognise that it has a social responsibility for the future of many tax havens. It must address better the consequences of its action, which may drive investors away from offshore centres. If this leads to job losses, the people affected will need to be helped.

This should be part of a wider attempt to silence the vested interests that speak on behalf of the havens. Recalcitrant OECD countries should be forced into greater transparency as quickly as possible. This will kill the argument that members are receiving preferential treatment.

The OECD needs to start by following up last week's report with greater robustness than it has shown so far. Its conduct to date has been too confused and too open to accusations of hypocrisy. Mr Villiger's wisecracks in the Bundeshaus are a sign of the work that needs to be done.

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