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

Fourth session

Geneva, 20-24 October 2008

Item 4 (a) of the provisional agenda

Discussion of substantive issues related to international cooperation in tax matters

General issues in the review of Commentaries

Revision of the Commentaries of the UN Model Convention

Note by the coordinator of the working group on Commentaries of

the UN Model Convention Item 5 (a) of the provisional agenda

is used as a contrast to the position taken under the UN Model. Wording like “*The OECD Commentary further observes:*” might therefore be best avoided unless contextualised by an assessment of its immediate relevance. However if such consideration has taken place by the Committee it might want to express that by a wording like: “*The Committee is in agreement/disagrees with the interpretation put forward in the OECD Model Commentary 2005, paragraphs XX to XX of Article X*” in order to reflect that fact. To reflect the technical knowledge and helpful analyses contained in the OECD Model but without a specific evaluation by the Committee a new wording might be introduced in the Introduction to the UN Model as follows: “*The Committee and before that the Group of Experts has used the OECD Model Convention as its main reference text, therefore the Commentaries and the reservations and observations made to that Model is of importance for the common understanding of provisions where the text of the OECD and UN Models is the same. However the UN Committee of experts has not expressed a general opinion regarding those Commentaries unless specifically included in part two of the UN Model. Care would of course have to be taken in relation to OECD interpretations adopted following the consideration of existing Commentaries by the Committee, whether or not they are stated to be mere elaborations of the existing Commentaries*”

II. Other issues

Different language and terminology issues of the Commentaries were pointed out in relation to the mandate of

B. How to make reference to Members of the Committee, UN Member States, majority and minority views.

To indicate that a particular view is shared by the members of the committee it is suggested to refer only to the “**Committee**”.

However, when there are different views it should first be remembered that a single expert member of the Committee may require his or her views to be included in the text (see above paragraph 15, Article 12). If that is the case it is suggested to follow the rule in A above and only refer to “**A Member ...**” unless it is felt necessary to add the policy view held by that member. In this context it could also be worth mentioning if there is a majority or minority view on the Committee, for example; “**A majority of Members thought...**” or “**A minority of Members thought...**”.

As mentioned in part I. A it is important to take advantage of the technical knowledge represented by experts from other UN Member States that are not represented on the committee and it is also felt important to be able to refer to such non-members in the commentaries. Wording to reflect such States is suggested as: “**A UN member State thought ...**” or “**Various UN member States thought ...**”.

Furthermore, when in the Commentary a reference is made to States not represented in the Committee of Experts, it is suggested to not use the word “**observers**” but to use that word to represent other persons or organisations participating in the meeting or work undertaken by the committee.

How reference should be made to **Subcommittee work**.

It does not appear to be necessary to make reference to the specific subcommittees in the commentaries but this might need to be revised in light of the discussions and decisions at meetings.

C. Reference to the Committee of Experts

In 2004, the “Ad Hoc Group of Experts on International Cooperation Matters” was abolished and a new agency called “Committee of Experts on International Cooperation in Tax Matters” was created.

In order to avoid confusion in relation to the work carried out by the different bodies, it would be advisable that a new paragraph be included in the Introduction to the UN Model, explaining that the part of the commentaries that refer to comments or decisions taken by the “Ad Hoc Group of Experts on International Cooperation Matters” will be referred to as from “**The Ad hoc group**” and the comments and decisions from the current “Committee of Experts on International Cooperation in Tax Matters” as comments and decisions taken from “**The Committee**”.