

Distr.: General
12 October 2009

Original: English

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

Fifth Session

Geneva, 19-23 October 2009

Item 6 (g) of the provisional agenda

**Revision of the Manual for the Negotiation of Bilateral
Tax Treaties between Developed and Developing Countries**

**Note Provided at the Request of the Coordinator of the
Subcommittee on Revision of the Manual for the Negotiation of
Bilateral Tax Treaties between Developed and Developing Countries**

Summary

This paper has been provided by Professor Stephen Crow and Professor Jon Bischel, at the request of the Coordinator of the subcommittee on Revision of the Manual for the Negotiation of Bilateral Tax Treaties between Developed and Developing Countries, Professor Frank Brunetti. It addresses a proposed Appendix for Special Consideration Articles, a proposed protocol for inclusion in such an Appendix, and a proposed timeline for consideration of possible inclusion.

* This report should not be taken as necessarily representing the views of the United Nations.

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I. Preamble

1. At the Fourth meeting of the UN Committee of

5. Typically, the articles included in this section would arise from discussions at meetings of the Committee of Experts on International Cooperation in Tax Matters, but it is proposed that such articles could be proposed outside that specific venue, according to protocols agreed to by the Committee members.

6. Regardless of the reason for non inclusion, the usefulness of the Manual would be enhanced with, and in some cases compromised without, the availability of articles such as these. The Manual should be both timely and accurate. If significant issues such as these are not available for guidance, the usefulness of the Manual, their integrity or accuracy, may be

IV. Guidelines: A Proposal

10. The following are very preliminary, but could serve as a starting point for the discussion:
- a. The articles included in the Appendix should have a practical and solutions oriented focus.
 - b. The articles should preserve and strengthen the integrity and accuracy of the Manual and the Commentaries.
 - c. The content included in the Appendix should be considered for its contribution to facilitating effective communication among the stakeholders.
 - d. The discussion should facilitate the dissemination of knowledge and experience among Manual users that is relevant to the negotiation process.
 - i. The topics or articles that appear have a high level of interest to stakeholders, but, technically, they do not meet established conventions for consideration as an inclusion in either the provisions of the Model or the Commentaries, e.g.
 - (1) the issue is unsettled at the time of the discussion, but it is important and relevant, and should be available for general discussion,
 - (2) the issue focuses on elements that are experience based and are to specific to be considered for language to be interjected into provisions, or are to preliminary to receive the formal approval required for inclusion in the Commentaries, but are critical in nature to the negotiation process.
 - ii. The topics are viewed as having relatively high priority in the process of the timely and accurate dissemination of helpful information for the treaty negotiation process.
 - iii. The issue takes on the nature of a discussion item that needs development before it is presented in a manner that could be considered for inclusion in another section of the Manual.
 - e. The information presented must focus on the discussion of the topic of the particular inquiry.
 - f. The information must be timely and accurate.
 - g. The submission process should be transparent to and accessible by interested parties.
 - h. The determination to include a submission in the Appendix should be the product of a Peer Review process with a panel to be comprised of Committee members and observers.

17. Whatever process is implemented, there needs to be a priority placed on a timely dissemination of useful information that is accurate for the views and facts presented at that level of the discussion. The review or selection process should be transparent to and accessible by interested parties. The submitting parties must be aware of the criteria and how the criteria are applied. The selection process needs to be above criticism and without any appearance of bias or predisposition at any stage. Also, the parties need to be apprised of the criteria for and process of selection so that they may evolve their submissions in a manner that addresses all the criteria and facilitates compliance with procedural requirements.

18. The individual items that will be included in the Appendix are individual articles. It may be that implications of one discussion will affect other issues, but each article will be judged on its own as a separate and independent piece of work (unless a special section of contributions is called for by the Committee, as might be the case with a special .8162 -14155 0 TD.01940w(eirtopic))21.9(

