Proposed Code of Conduct,
as approved at the 5th Session of the UN Committee of Experts (October, 2009)

U.N. CODE OF CONDUCT ON COOPERATION IN COMBATING
INTERNATIONAL TAX EVASION

Preamble

ACKNOWLEDGING that tax systems are a key means of mobilizing domestic public
resources and enhancing macroeconomic policies, as well as the need to step up efforts to
enhance the ability of each country to collect tax revenues, efficiently and effectively
combat tax evasion and protect their tax bases from non-compliance with their tax laws.

ACKNOWLEDGING the importance of supporting national efforts in these areas by
enhancing international tax cooperation,

ACKNOWLEDGING that international tax evasion has become increasingly detrimental to
development as globalization has extended to all parts of the world,

ACKNOWLEDGING that the tools of tax evasion have accompanied globalization and that
they are undermining the ability of developing countries to mobilize domestic resources
for development,

ACKNOWLEDGING, therefore, the need for a Code of Conduct in combating international
tax evasion,

EMPHASIZING that the Code of Conduct is a political commitment and does not affect the
rights and obligations of States or the respective spheres of competence,

EMPHASIZING that the Code of Conduct is a practical means of enhancing international
tax co-operation to an acceptable level but that individual countries should aspire to a
higher level of cooperation to the extent their circumstances allow.

WE HEREBY ADOPT THE FOLLOWING CODE OF CONDUCT:

I. Scope

This Code of Conduct applies to Governments, including their agencies, and extends to
tax laws, regulations and administrative practices.

II. Goals

The Code of Conduct has the following goals:
(a) To ensure that all countries, in an effort to combat international tax evasion, and to protect their tax bases from non-compliance with their tax laws, provide that high levels of transparency and exchange of information in tax matters are adhered to, and in particular they are able to supply bank information and information about beneficial owners of income and assets.

(b) To assist in the development of international norms and practical steps that Governments should follow to cooperate to avoid and combat international tax evasion and to protect their tax bases from non-compliance with their tax laws.

III. Commitments

Under this Code of Conduct Governments commit to:

(a) effectively exchange information in both criminal and civil tax matters;

(b) ensure there are no restrictions on information exchange caused by application of the dual criminality principle or a domestic tax interest requirement;

(c) have appropriate confidentiality rules for information exchanged and safeguards and limitations that apply to taxpayer information;

(d) ensure that reliable information is available, in particular, bank account, ownership, identity and relevant accounting information, with powers in place to obtain and provide such information in response to a specific request.

These commitments are to be implemented by the following actions:

(a) Unilateral actions: the national implementation of these standards may require that countries amend their domestic legislation and practices.

(b) Bilateral, or as appropriate multilateral, including regional, actions: the principles of transparency and effective exchange of information will generally be implemented through bilateral agreements implementing the substance of Article 26 and the accompanying Commentary on the United Nations Model Tax Convention, as finalised by the United Nations Committee of Experts on International Cooperation in Tax Matters in 2008.

Note: It was explained that the Committee itself would not adopt the Code. Instead it would be recommended to ECOSOC for adoption in appropriate form. In practice, the likely process would be that some countries would draft a resolution supporting the code in appropriate form and that would be discussed in ECOSOC. Para. 51, Draft report on the fifth session of the Committee of Experts on International Cooperation in Tax Matters (19-23 October 2009).