



# The Organization for Economic Cooperation and Development

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## Summary

The Organization for Economic Cooperation and Development (OECD) celebrated its 50<sup>th</sup> Anniversary in 2011, a time when the global economy continues to struggle to recover from a financial crisis and slow economic growth. The OECD is an intergovernmental economic organization in which the 34 member countries discuss, develop and analyze economic and social policy and share expertise and exchanges with more than 70 developing and emerging economies. The member countries include Australia, Austria, Belgium, Canada, Chile, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea, Luxembourg, Mexico, The Netherlands, New Zealand, Norway, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, United Kingdom, and the United States. While all of the member countries are considered to be economically advanced and collectively produce three-fourths of the world's goods and services, membership is limited only by a country's commitment to a market economy and a pluralistic democracy. The OECD has also extended an invitation to Russia to open discussions for membership and it has offered enhanced engagement with a view to possible membership to Brazil, China, India, Indonesia, and South Africa.

The member countries rely on the OECD Secretariat in Paris to collect data, monitor trends, analyze and forecast economic developments, research social changes and patterns in trade, environment, agriculture, society, innovation, corporate and public governance, taxation, sustainable development, and other areas to inform their discussions and to assist them in pursuing their efforts to develop common policies and practices. Following the financial crisis, the OECD played a major role in providing cross-country analyses of market reforms and programs to stimulate growth. The U.S. has sparred periodically with other OECD member countries over various issues, including U.S. antidumping laws and the size of the U.S. financial contribution. Karen Kornbluh was appointed by President Obama to serve as the U.S. Ambassador to the OECD. Key issues for Congress include OECD work on coordinating national approaches to curtailing bribery and the illicit use of tax havens. Congress appropriated about \$83.8 million to the OECD in FY2012; the budget request for FY2013 is \$85.1 million.

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## Background

The United States, along with a number of European countries, formed the predecessor organization to the OECD, the Organization for European Economic Cooperation (OEEC) in order to administer aid under the Marshall Plan for the reconstruction of Europe after WW II. In 1961, the OECD was formed to take over from the OEEC with a mandate to build strong economies in its member countries, improve efficiency, hone market systems, expand free trade, and contribute to development in industrialized as well as developing countries. In 2011, the OECD celebrated its 50<sup>th</sup> anniversary. The 34 member countries of the OECD have decided to broaden the OECD from a transatlantic organization into a global network of nations that focus their efforts on assisting developing and newly emerging economies that adopt free market systems. As a result of this broader perspective, the OECD is shifting its emphasis from focusing exclusively on the members of the OECD to assessing the manner in which various policy issues affect a broad range of countries, including the impact globalization is having on world trade, wages, and industrial development.

The OECD is organized around three main bodies: the Council, the Committees, and the Secretariat. Committees are comprised of representatives of all the member countries. The overriding committee is the Council, which has decision-making power. It is composed of one representative for each member country, generally at the level of Ambassador, gives guidance to the OECD, and directs its work. Since the work agenda is set by unanimous consent by the Council, a veto by a Council member removes an item from the agenda. The Council meets at the ministerial level once a year, when foreign, finance and other ministers from member countries raise issues and set the priorities for OECD work for the coming year. About 200 committees, comprised of some 40,000 senior government officials from the member countries meet to review and contribute to work that is conducted by the Secretariat. In many cases, these committees serve as conduits for providing information on work that is being conducted by officials among the OECD member countries on economic issues.

The Council also determines the OECD's budget, which presently amounts to about €342 million, or about \$445 million (€1.00 = \$1.3). OECD's budget is comprised of voluntary contributions, shared expenses, public sales of publications, and assessments of all the members based on the relative size of their economies. The United States, which appropriated about \$85.5 million in FY2011 and \$83.8 million in FY2012, contributed 21.97% of the OECD's budget. In addition, the OECD undertakes special projects and research at the request of and on behalf of a smaller number of OECD members and other non-OECD members, who fund those projects separately.

The Secretariat is comprised of a staff of about 2,500, mostly economists, scientists, lawyers, and other professionals, who are organized into directorates to support the work of the Committees to deliver the work program approved by the Council. As a result, the Secretariat is organized along substantive areas to mirror the work of the Committees, although the structure is flexible enough to handle cross-disciplinary studies. There are 12 directorates that focus their work in such areas as: employment and labor; environment and economics; trade and investment; biotechnology, agriculture and science; public management; and globalization and development. One directorate collects data, monitors trends, analyzes and forecasts economic developments, while other directorates research social changes or evolving patterns in trade, environment, agriculture, technology, taxation, and more.

The OECD produces: 1) semi-annual economic outlook reports that analyze economic conditions generally and provides forecasts of economic growth; 2) comprehensive reports on the individual members of the OECD; and 3) a vast amount of statistical information and data on the member countries that are made comparable to facilitate comparison and analysis. These data include national accounts, economic indicators, labor force and employment, migration, education, energy, taxation, tourism, and environment. The OECD also initiated and coordinates the work of the International Collaborative Initiative on Trade and Employment (ICITE), a group of ten organizations with the stated goal of improving understanding of the impact of international trade on labor. The ICITE project has attempted to improve the knowledge base of trade and labor through empirical analysis, publications, and conferences. In 2012, the group published “Policy Priorities for International Trade and Jobs,” a compilation of 14 separate studies, ranging from trade, wages, and employment to trade and services, trade and working conditions, and regional trade perspectives.<sup>1</sup>

In the 1990s, the OECD, under the direction of its member countries, including the United States, spearheaded an international agreement to outlaw crimes of bribery and it continues to coordinate efforts that are aimed at reducing the occurrence of money laundering and corruption. Also, the OECD is a pivotal player in promoting corporate codes of conduct that attempt to develop a voluntary set of standards for multinational firms that can be applied across national borders. The OECD is also analyzing the role of state-owned enterprises in the world economy. In 2011, the OECD members adopted an updated version of the OECD Guidelines for Multinational Enterprises<sup>2</sup> that: 1) includes a new chapter on human rights that is consistent with the United Nations’ Guiding Principles on Business and Human Rights; 2) provides a new and comprehensive approach to due diligence and responsible supply chain management; 3) makes changes to such chapters as combating bribery, employment and industrial relations, bribe solicitation and extortion, environment, consumer interests, and disclosure and taxation; and 4) provides clearer and reinforced procedural guidance to strengthen the role of the National Contact Points

## **OECD Issues**

The OECD is a strong proponent of the view that increasing world economic growth and welfare is best supported by a free and open flow of goods, services, and capital. As a result, it views its own role in this process as that of a leading proponent of the benefits of globalization and as a “forum in which governments can work together to share experiences and seek solutions to common problems.” The OECD also seeks to facilitate a dialogue among its members and with developing countries to develop institutions and regulatory structures that can make a broad range of benefits available to the OECD members and to developing countries.

Following the 2008-2009 financial crisis, the OECD directed its efforts to issues closely related to the crisis: low growth and high government debt levels; balancing stimulus measures to spur economic growth with efforts to consolidate public finances; and creating jobs, providing equal opportunities, and restoring trust among citizens. Since then, the OECD has shifted its focus to four main areas: 1) improving regulation and more effective governance to restore public

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<sup>1</sup> *Policy Priorities for International Trade and Jobs*, edited by Douglas Lippoldt, Organization for Economic Cooperation and Development, 2012.

<sup>2</sup> *OECD Guidelines for Multinational Enterprises 2011 Edition*, OECD, 2011.

confidence in markets and the institutions and companies that make them function; 2) increasing efforts by governments to improve public finances as a basis for sustainable economic growth; 3) seeking ways to foster and support new sources of growth through innovation, environmentally friendly ‘green growth’ strategies, and the development of emerging economies; and 4) ensuring that people of all ages can develop the skills to work productively. The core work of the OECD Committees and Working Groups in these four main areas is directed toward providing the members with studies, technical knowledge and expertise, and to help develop guidelines and codes. The detailed areas include:

- ***Restoring Public Finances.*** Most developed economies face the challenge of balancing fiscal consolidation measures designed to curb sharply rising public debt levels with economic stimulus measures developed to prevent an economic recession. The OECD’s work in this area is reflected in its traditional country reports, and in analyses of macroeconomic policies and financial markets, global imbalances, green growth, innovation, climate change, trade and investment, employment, education, social policies, and gender equality. In addition, in a 2012 study on fiscal consolidation,<sup>3</sup> the OECD addressed the short-term and long-run trade-offs involved in adopting various types of fiscal consolidation measures and the role of monetary policy. These trade-offs may involve choosing between tax measures and spending measures, and possibly could benefit from considering “best practices” in the areas of spending on health and education, and pension reform.
- ***Boosting Jobs and Skills.*** With employment lagging in most developed economies, the OECD is focusing some of its efforts on analyzing ways national governments can increase employment through “green” jobs, opening more employment opportunities to women, and working to improve job skills.
- ***Restoring Public Trust.*** In order to improve public confidence in the financial system, the OECD has led various international forums in such areas as tax havens, governance of state-owned enterprises, tax evasion, corruption, growing income disparities, consumer protection, and corporate taxes. In 2012, signatories to the Financial Action Task Force (FATF) adopted a new mandate for the FATF and renewed FATF’s mandate through December 31, 2020. The FATF is housed at the headquarters of the Organization for Economic Cooperation and Development (OECD) in Paris and occasionally uses some OECD staff, but the FATF is not part of the OECD.
- ***New Sources of Growth.*** The economic recession that accompanied the financial crisis of 2008-2009 continues to challenge the OECD members’ economies to provide balanced, sustainable, and equitable growth for their citizens. In addition to such traditional areas for economic growth as international trade, environmentally-friendly development, rural development, and infrastructure, the OECD is emphasizing the possibilities presented by the internet as a source of job creation.

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<sup>3</sup> Sutherland, Douglas, Peter Hoeller, and Rossana Merola, *Fiscal Consolidation: How Much, How Fast and by What Means?*, *OECD Economic Policy Papers*, No. 1, Organization for Economic Cooperation and Development, April 2012.

## OECD and the Financial Crisis

Since the 2008-2009 financial crisis, the OECD has worked closely with the G-20<sup>4</sup> group of nations to address economic recovery, global imbalances, and structural reforms.<sup>5</sup> According to the OECD, it has provided support to the G-20 on a wide range of issues, including:

- **Restoring growth and jobs.** The OECD supported the G-20 through work with the International Money Fund (IMF) in developing a framework for strong, sustainable and balanced growth.
- **Assisting G-20 countries in sharpening their social response to the crisis.** The OECD contributed to the preparations of the G-20 Labor Ministerial held in Washington in April 2010 and in Paris in September 2011, including reports, background documents or notes on various labor issues.
- **Reforming the international monetary system.** The OECD has provided analytical work that examines how structural reforms can promote financial integration, reduce global imbalances, and limit the volatility of capital flows.
- **Pursuing the agenda on financial regulation.** The OECD developed high-level principles on financial consumer protection, which were endorsed at the Cannes 2011 Summit. It also supports the G-20 agenda on financial inclusion and small and medium-size enterprise (SMEs) financing.
- **Taxation.** The OECD has worked with the G-20 to combat tax evasion through a peer review process that includes over 100 countries and a joint OECD/Council of Europe Convention on Mutual Administrative Assistance in Tax Matters, which provides for automatic exchange of tax information.
- **Anticorruption.** The OECD has engaged in the G-20 Anticorruption Working Group in the areas of foreign bribery, whistleblower protection, public sector integrity and enhanced dialogue with business.
- **Reinvesting in agriculture, combating price volatility, and promoting food security.** The OECD coordinated with the Food and Agriculture Organization of the United Nations (FAO) in preparing the policy report on “price volatility in food and agricultural markets policy responses,” which provided the basis for the G-20 Agriculture Ministers to developed their Action Plan. The OECD is involved in the follow-up and assigned staff to the AMIS initiative (Agricultural Market Information System). The OECD, with its partner organizations, is making specific recommendations to G-20 members in the area of agricultural

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<sup>4</sup> Members of the G-20 consist of the following countries: Argentina, Australia, Brazil, Canada, China, France, Germany, India, Indonesia, Italy, Japan, Mexico, Russia, Saudi Arabia, South Africa, South Korea, Turkey, the United Kingdom, the United States, and the European Union. The Group of Twenty, or G-20, is a forum for advancing international economic cooperation among 20 major advanced and emerging-market countries. The G-20 was originally established in 1999 to facilitate discussions among the G-20 finance ministers. The prominence of the G-20 increased with the onset of the global financial crisis in the fall of 2008, and the G-20 started meeting at the leader level. In September 2009, the G-20 leaders announced that, henceforth, the G-20 would be the “premier” forum for international economic cooperation.

<sup>5</sup> The OECD published a report on its role titled, *OECD Strategic Response to the Financial and Economic Crisis: Contributions to the Global Effort*, OECD Report C(2008)191/Final, December 23, 2008. A copy of the report is available at: <http://www.oecd.org/dataoecd/33/57/42061463.pdf>

productivity and the environment conducive to promoting private investment in agriculture.

- **Phasing out fossil fuel subsidies.** The OECD is supporting countries in implementing their commitments to the G-20 fossil fuel subsidy initiative and released in October 2011 the first-ever Inventory of Estimated Budgetary Support and Tax Expenditures for Fossil Fuels. The OECD is one of the 4 international organizations that contributed to the joint report to Leaders in June 2010 summit in Toronto and November 2010 in Seoul and coordinated the International Organization report for the November 2011 summit in Cannes.
- **Implementing the Seoul consensus on development.** The OECD worked closely on six of the nine pillars of the Multiyear Action Plan – domestic resource mobilization; human resource development; food security; trade; investment and job creation and knowledge sharing – and is actively contributing to their implementation. The OECD also provided relevant inputs to the other pillars – infrastructure, growth with resilience/social protection and financial inclusion – to the G-20 countries and International Organizations that are leading their implementation.

## Tax Havens and the OECD

The OECD also has addressed the issue of tax havens in various forms since it began in 1961. It issued its first convention on tax havens in 1963, with the *Draft Double Taxation on Income and Capital*. In 1977, the OECD issued its first major update of its Draft with the *Model Convention and Commentaries* to reflect the experience of OECD members with bilateral treaties, the increasingly sophisticated methods for tax evasion, and the development of new and more complex international business activities and relations. In 1991, the OECD again updated its tax convention to reflect the liberalization in capital markets and the globalization in business activities with the *Model Tax Convention on Income and Capital*, the forerunner to the current convention.

The United States, as an OECD member country, recognizes and abides by the provisions of the OECD model tax convention. Nevertheless, the United States has its own model income tax convention, last updated in 2006, which it uses to sign bilateral tax conventions with partner countries. Currently, the United States has signed bilateral tax treaties with nearly 70 other countries, including an income tax treaty with Malta that took affect in July 2010. According to the U.S. Department of the Treasury, the United States has reservations with the first twelve articles in the OECD model tax convention that deal with taxes on income. In general terms, the U.S. reservations focus on differences in the way the U.S. and OECD tax conventions identify certain terms and the way certain taxes are applied to various forms of income, such as royalties, certain types of deferred payments, taxes on branch profits, and state and local taxes.

Tax havens have attracted increased attention from policymakers as a result of new efforts to curtail the use of tax havens for tax avoidance, combined with efforts since the terrorist attacks of September 11, 2001 to track financial flows that may be diverted to illegal activities. Also, some policymakers are targeting tax havens as part of their efforts to increase government revenues during the current economic downturn and to improve the integrity of the financial system in the wake of the financial crisis. At the G-20 Summit meeting in London in April 2009, the G-20 leaders announced that they were adopting measures to curtail tax havens and to target “non-



cooperative jurisdictions.” In particular, the Summit communiqué stated that the G-20 members, “... stand ready to take agreed action against non-cooperative jurisdictions, including tax havens. We stand ready to deploy sanctions to protect our public finances and financial systems. The era of banking secrecy is over.”<sup>6</sup>

In addition, on May 4, 2009, President Obama announced a set of proposals to, “crack down on illegal overseas tax evasion, close loopholes, and make it more profitable for companies to create jobs here in the United States.”<sup>7</sup> The Administration’s proposal reportedly was intended to ensure that the U.S. tax code did not “stack the deck against job creation” in the United States and that it reduced “the amount of taxes lost to tax havens.”

In addition, at the G-20 June 2010 summit in Toronto, the members declared that, “corruption threatens the integrity of markets, undermines fair competition, distorts resource allocation, destroys public trust and undermines the rule of law,” and they established a Working Group to provide recommendations on actions the G-20 members could take to address tax havens and tax evasion.<sup>8</sup> At the November 2010 Seoul summit, leaders adopted the G-20 Anti-Corruption Action Plan<sup>9</sup> developed by the Working Group that provides a common approach to an effective global anti-corruption regime. The Plan includes a group of standards that the G-20 members adopted, including:

1. Implementing the UN Convention Against Corruption;
2. Adopting and enforcing measures against bribery.
3. Preventing corrupt officials from accessing the global financial system and from laundering their proceeds of corruption.
4. Developing a cooperative framework to deny entry and safe haven to corrupt officials.
5. Strengthening international cooperation in the areas of extradition, mutual legal assistance, and asset recovery.
6. Adopting measures related to preventing and detecting transfers of the proceeds of crime, direct recovery of property, freezing and confiscating of property, and cooperation in voluntary disclosure and return and disposal of assets.
7. Implementing whistleblower protection rules by the end of 2012.
8. Strengthening the effective functioning of anti-corruption bodies or enforcement authorities in the prevention and fight against corruption and enable these authorities to carry out their function free from undue influence.
9. Promoting integrity, transparency, accountability, and the prevention of corruption in the public sector, including in the management of public finances.

On May 18, 2012, the OECD released its latest progress report on jurisdictions that have agreed to comply with the internationally agreed tax standard, that was adopted by the G-20 in 2004 and

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<sup>6</sup> *Global Plan for Recovery and Reform; the Communiqué From the London Summit*, G-20, April 2, 2009.

<sup>7</sup> *Remarks by the President on International Tax Policy Reform*, May 4, 2009.

<sup>8</sup> *The G-20 Toronto Summit Declaration*, G-20, June 27, 2010, paragraph 40.

<sup>9</sup> G-20 Anti-Corruption Action Plan, Annex III, *The Seoul Summit Document*, G-20, November 2010.

the United Nations in 2008.<sup>10</sup> In this latest version of the progress report, there are no jurisdictions that are listed as non-cooperative jurisdictions. The standard set by the G-20 is that a jurisdiction must sign agreements with at least 12 other jurisdictions to be considered to have substantially implemented the agreement.

According to the OECD, standards on transparency and exchange of information developed by the OECD were endorsed by all of the key countries, including jurisdictions which had opposed exchanging bank information. This standard has been universally accepted and endorsed by the United Nations, which has incorporated the OECD standard in the UN Model Tax Convention. In 2012, more than 700 agreements were signed by jurisdictions which previously had been identified by the OECD as not substantially implementing the standard.<sup>11</sup> In September 2009, the OECD restructured and strengthened the Global Forum on Transparency and Exchange of Information for Tax Purposes to “monitor and trigger effective exchange” of information.<sup>12</sup> The Global Forum is comprised of 108 members, including all G20 members, all OECD countries and all offshore jurisdictions. It has a three year mandate to peer review all the members and other jurisdictions which may require special attention. The peer reviews will encompass two phases: Phase 1 will review the legal and regulatory frameworks while phase 2 will assess the practical implementation of the standard. The reports will include recommendations to improve the situation in the reviewed jurisdictions.

In addition to the issue of tax havens, the OECD has worked to build international support for a set of standards for transparency and the exchange of information in tax matters. The principles of transparency and exchange of information are believed to be essential to ensure that economic activity is conducted in a fair and transparent manner by combating tax fraud and tax evasion. Both OECD and non-OECD countries jointly produced the 2002 *Model Agreement on Exchange of Information on Tax Matters*. The standards of transparency and exchange of information that comprise the basis for the Model Agreement on Exchange of Information on Tax Matters subsequently were adopted by the G-20 Finance Ministers in 2004 and by the UN Committee of Experts on International Cooperation in Tax Matters in October 2008. The standards are the same as those specified in Article 26 of the OECD’s Model Tax Convention.

## Issues for Congress

Among some consumer groups, there is growing concern over the economic impact of globalization. At times, these concerns have spurred some groups to single out the OECD for criticism as a result of the OECD’s leading role as a proponent of free trade, open markets, and globalization. Others, concerned over the size of the U.S. government budget deficit, question the value of the U.S. contribution to the OECD. Some critics contend that the OECD represents a danger to national sovereignty, because they claim it is one among a number of international bodies that exceeds the authority of national governments, yet is accountable to no one. Others view the OECD as an economic cartel dominated by the United States and serving mainly the

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<sup>10</sup> *A Progress Report on the Jurisdictions Surveyed by the OECD Global Forum in Implementing the Internationally Agreed Tax Standard*, the Organization for Economic Cooperation and Development, May 18, 2012.

<sup>11</sup> *The Global Forum on Transparency and Exchange of Information for Tax Purposes: Information Brief*, the Organization for Economic Cooperation and Development, April 16, 2012.

<sup>12</sup> *Ibid.*

economic and political interests of the United States.<sup>13</sup> These groups also argue that the OECD is pursuing free trade and open markets at the expense of the poorest and least developed countries; that the pursuit of free market economics worsens further the disparity of income between the richest and the poorest countries; and that the OECD is promoting the expansion of multinational corporations at the expense of national governments and national economic interests.

The OECD is the creation of its member countries and, therefore, reflects their interests and views of its members and is independent of any other international organization. As such, it contends that it has no hidden or independent agenda of its own, but that its agenda is set by its members. It also argues that free trade and open markets have proven to be the best route to economic development and to higher national incomes and that its members promote better understanding of the economic and social problems of developing countries. OECD members have also committed to make the benefits of free trade and open markets more accessible to developing economies. The United States plays a leading, but not a commanding, role within the OECD. This means that, at times, the United States carries a larger than average portion of the burden for determining the agenda of the OECD and in helping to direct the course of policy developments. This also means that the United States often is a target for criticism from groups that object to the policies or the performance of the OECD.

The United States plays an active role in the full array of OECD activities, including chairing 29 committees. In support of the needs of developed countries in the WTO negotiations, the OECD has pursued analytical research into: the impact regional trade agreements are having on the multilateral trading system; the agricultural policies of OECD countries; the issue of labor mobility; the impact of barriers to trade in services; and the trade policy implications of changes in the structure of national economies. U.S. delegates actively participated in efforts to strengthen competition and antitrust policies within OECD countries, and to extend and strengthen the OECD's anti-bribery convention. In addition, U.S. delegates have supported efforts within the OECD to review national regulatory reform efforts, because they argued that targeted regulatory reform, especially transparency, can benefit domestic and foreign stakeholders alike by improving the quality of regulation and enhancing market openness.

In 2002, U.S. delegates pressed for greater support for the OECD's Arrangement on Guidelines for Officially Supported Export Credits, which restricts the use of tied aid financing in promoting exports. They gained support in 2002 for a U.S. proposal to merge and update two agreements that banned tied aid in Central and Eastern Europe and key countries of the former Soviet Union, respectively, and formally incorporated the new agreement into the Arrangement. The United States also proposed applying the rules governing the use of tied aid to untied aid and a formal review of the use of "market windows," or quasi-government financial institutions that support national exports, but are not subject to multilateral rules. U.S. negotiators oppose the efforts by some OECD members to shift the issue of export credit controls to the World Trade Organization (WTO), because U.S. negotiators believe that a consensus favoring controls on export financing would be unlikely since the WTO forum would include those very developing countries that benefit the most from export credit subsidies.

U.S. delegates have also placed a high priority on international investment issues in the OECD. As part of the OECD's Declaration on International Investment and Multinational Enterprises, each OECD member has designated national contact points (NCPs), or the government agencies

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<sup>13</sup> See *The OECD's Crocodile Tears* at <http://www.flyingfish.org.uk/articles/oecd/tears.htm>

designated by each country to monitor implementation of the Guidelines within their territory. The U.S. national contact point is the Director of the Office of Investment Affairs, the Department of State. The United States also pressed for and contributed to a working paper on the general treatment and expropriation obligations in international investment agreements in order to clarify the content of those obligations for arbitrators, investors, and the international community. U. S. efforts also focused on the OECD's High Level Process on Steel to address overcapacity in the global steel market and any market-distorting practices that contribute to excessive and inefficient steel capacity. In December 2002, participants agreed to develop the elements of an agreement for reducing or eliminating trade-distorting subsidies in steel and to explore developing a voluntary commitment to refrain from introducing new subsidy programs that may maintain or enhance steel capacity. The United States also supported efforts to establish a joint trade capacity building database to assist trade negotiators from developing countries.

Another area of concern for U.S. delegates has been the issue of tax havens. During the last half of the 1990's, the OECD member countries initiated efforts to curtail the use of tax havens for illicit tax purposes as part of their efforts to curb "harmful tax competition."<sup>14</sup> The OECD member countries defined harmful tax competition as attempts to attract foreign investment in financial and other mobile services by providing preferential tax treatment to such investment through a regime that excludes local residents from benefitting from the regime or that limits access to the local market, thereby protecting the local market from foreign competition, coupled with a lack of transparency and a lack of effective exchange of information for tax purposes. OECD member countries initiated these efforts because they were concerned that certain kinds of tax competition for internationally mobile capital were anticompetitive. This project has evolved over time. The main focus now has shifted to improving the transparency of tax and regulatory regimes and to establishing effective exchange of information for tax purposes. U.S. delegates led the efforts to refocus the project on advancing the longstanding policy of promoting the exchange of information for tax purposes.

The issues of bribery and tax havens have been major concerns among the OECD's members and have prompted certain changes in U.S. laws. International flows of capital and goods and services around the world, a phenomenon referred to as globalization, have grown dramatically over the last decade and are producing significant challenges for the OECD member countries, including the United States. International flows of capital are the prime mover behind exchange rates and global flows of goods and services, and represent the heightened growth of foreign investment and cross-border business transactions. One outcome of this global expansion of business transactions, however, has been the increased use by multinational corporations and nations of voluntary, legally enforceable, and industry-specific codes of conduct. One such code promoted by the OECD is the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, which focuses on a set of issues related to the bribing of public officials.<sup>15</sup> Since the Convention entered into force on February 15, 1999, 37 countries, including the United States,<sup>16</sup> have passed national legislation implementing the Convention. The U.S. delegates also pushed to have the OECD update its landmark 1998 study on Counterfeiting

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<sup>14</sup> *Harmful Tax Competition: An Emerging Global Issue*. Organization for Economic Cooperation and Development, Paris, 1998. [http://www.oecd.org/daf/fa/harm\\_tax/harmfultax\\_eng.pdf](http://www.oecd.org/daf/fa/harm_tax/harmfultax_eng.pdf)

<sup>15</sup> *Convention on combating Bribery of Foreign Public Officials in International Business Transactions and Related Documents*, Organization for Economic Cooperation and Development, 2011.

<sup>16</sup> P.L. 105-366, November 10, 1998.

and Piracy to determine the extent and current impact of these activities and to improve law enforcement efforts among OECD countries.

Since the terrorist attacks of September 11, 2001, the Financial Action Task Force on Money Laundering (FATF), the body within the OECD that has pursued improvements in the anti-money laundering mechanisms in tax havens and among its own member countries, redirected its efforts to focus on terrorist financing. On October 31, 2001, the FATF revised its Forty Recommendations for combating money laundering and issued a new set of guidelines and a set of nine Special Recommendations on terrorist financing<sup>17</sup> (updated in 2004). In the accompanying statement, the FATF indicated that it had broadened its mission beyond the issue of money laundering to focus on combating terrorist financing and that it was encouraging all countries to abide by the new set of guidelines.

On February 15, 2012, the FATF members adopted a revised and updated set of the FATF Forty Recommendations,<sup>18</sup> which added the proliferation of financing of weapons of mass destruction to FATF's areas of surveillance and updated and extended the FATF's mandate through 2020.<sup>19</sup> The new mandate is intended to: 1) deepen global surveillance of evolving criminal and terrorist threats; 2) build a stronger, practical and ongoing partnership with the private sector; and 3) support global efforts to raise standards, especially in low capacity countries. In addition, the revised recommendations address new and emerging threats, while clarifying and strengthening many of the existing obligations. In addition, the new standards address the challenge of terrorist financing by integrating standards for combating terrorist financing throughout the Recommendations, thereby eliminating the need for the nine Special Recommendations. On April 20, 2012, the FATF members adopted a new mandate for the FATF and renewed FATF's mandate through December 31, 2020.

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<sup>17</sup> *FATF Cracks Down on Terrorist Financing*. Washington, FATF, October 31, 2001, p. 1.

<sup>18</sup> *The FATF Recommendations: International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation*, Financial Action Task Force, February 2012.

<sup>19</sup> *Financial Action Task Force Mandate (2012-2020)*, Financial Action Task Force, April 20, 2012.