CFE Forum Reports on European Taxation – 4

**Sharing information across borders in indirect and direct tax – 2010**
**The permanent establishment in international tax law – 2011**

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CONFEDERATION FISCALE EUROPEENNE

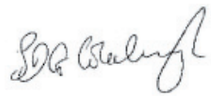
## Dear Reader,

The Confédération Fiscale Européenne (CFE) is the European association of the tax profession, representing 180,000 tax advisers throughout Europe. It was founded in 1959 and today has 33 member organisations from 24 European states. The CFE holds an annual Forum in Brussels on current international tax issues which bring together professional tax advisers, senior officials from the European Commission and from member states, leading academics and other experts in the fields of politics, business and public administration.

This book reports on the main topics of the CFE Fora 2010 and 2011.
The CFE Forum 2010 took place on 15 April and dealt with sharing of information between tax authorities across borders in both direct and indirect tax, in the light of the recent EU and OECD initiatives to increase administrative cooperation.
In the following year, the CFE Forum took place on 7 April, dealing with the issue of permanent establishment in international tax law, again both in indirect and direct tax, taking into account the amendments of the OECD Model Tax Convention and Commentary in 2010 and the EU VAT Implementing Regulation in 2011 as well as the recent EU proposal for a Common Consolidated Corporate Tax Base.

The contributions contained in this booklet are based on the speeches rendered at the CFE Forum or related to the issues discussed.

The CFE would like to thank all of the contributors to the Forum and to this book, and especially Prof. Servaas van Thiel who, for the fourth time, has made this publication possible.



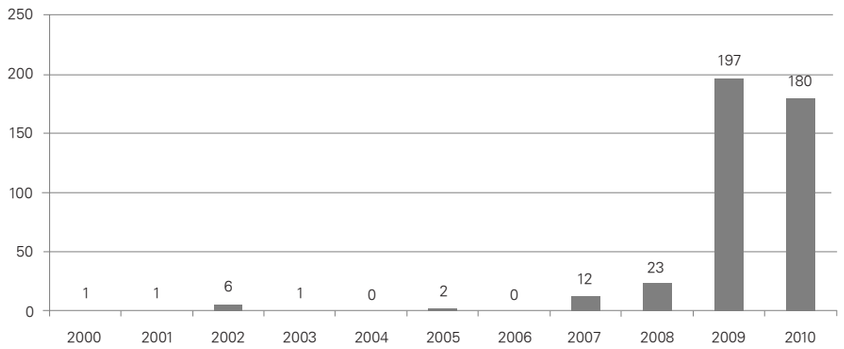
**Stephen Coleclough**
**President of the CFE, June 2011**

# 7. Tax information exchange agreements

*by Georg Kofler, Michael Tumpel and Gustav Wurm* [133]

## 7.1. Background and recent developments

The global economic crisis and recent tax evasion scandals („Liechtenstein-CD") have spurred calls for fairness and transparency of the tax system. As a consequence, the political pressure on tax havens to meet the OECD's standards of transparency requirements has been increased. The result was a significant increase in the number of signed Tax Information Exchange Agreements[134] ("TIEA") in the years 2009 and 2010.




*Graph:* As of 22 November 2010, 423 Tax Information Exchange Agreements (TIEAs) have been concluded globally.[135] The specifically high number of bilateral agreements in 2009 (197 TIEAs) and 2010 (180 TIAs until 22 November 2010) is based on the increasing pressure by the G8, G20 and OECD to move towards a global standard of tax transparency.[136]

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[134] "Agreement on Exchange of Information on Tax Matters".

[135] This graph is based on the OECD's list of TIEAs and the dates of signatures at *http://www.oecd.org/document/7/0,3343,en_2649_33767_38312839_1_1_1_1,00.html* (22 November 2010).





TIEAs are generally based on a model convention,[137] that was developed by the OECD Global Forum Working Group on Effective Exchange of Information. This model convention grew out of the work undertaken by the OECD to address harmful tax practices. The 1998 OECD Report on "*Harmful Tax Competition: An Emerging Global Issue*" identified "the lack of effective exchange of information" as one of the key criteria in determining harmful tax practices. This report recommends that countries should undertake programs to intensify exchange of relevant information concerning transactions in tax havens and preferential tax regimes constituting harmful tax competition. These programs should also facilitate the access to banking information for tax authorities. A TIEA is a legal instrument for this purpose that can be used to establish effective exchange of information in order to prevent harmful tax practices.

International tax competition by states can be seen as the counterpart to aggressive tax planning by taxpayers. The OECD[138] and the EU[139] started to deal with the problem of harmful tax competition in the mid-1990s.[140] Both came to the conclusion that certain standards of transparency and exchange of information in tax matters are required in order to ensure fair competition in a global economy and an equitable tax burden

[136] See also Annex II of the OECD Report on "Promoting Transparency and Exchange of Information for Tax Purposes – A Background Information Brief" (15 July 2010).

[137] See the "Agreement on Exchange of Information on Tax Matters", and the OECD's Report on "Tax Co-operation: Towards a Level Playing Field – 2008 Assessment by the Global Forum on Taxation" (2008).

[138] See the OECD Reports on "Harmful Tax Competition: An Emerging Global Issue" (1998), "Towards Global Cooperation: Progress in Identifying and Eliminating Harmful Tax Practices" (2000), "The OECD's Project on Harmful Tax Practices: The 2001 Progress Report" (2001), "Guidance in Applying the 1998 Report to Preferential Tax Regimes (Consolidated Application Note)" (2004), and "The OECD's Project on Harmful Tax Practices: The 2006 Update on Progress in Member Countries" (2006); see also *Katsushima*, Harmful Tax Competition, Intertax 1999, 396 (396 et seq.).

[139] See the Communication from the Commission "Towards tax co-ordination in the European Union – A package to tackle harmful tax competition" COM(97)495 final, Communication from the Commission "A package to tackle harmful tax competition in the European Union", COM(97)564 final, Conclusions of the Ecofin Council Meeting on 1 December 1997 concerning tax policies, OJ C 2/1 (6 January 1998), the Primarolo report on the code of conduct (business taxation), 4901/99. See also *Bratton/McCabery*, Tax Coordination and Tax Competition in the European Union: Evaluating the Code of Conduct on Business Taxation, CML Rev. 2001, 677 (677 et seq.); *Nijkamp*, Landmark agreement on EU tax package: new guidelines stretch scope of EU Code of Conduct, EC Tax Rev. 2001, 147 (147 et seq.); *Meussen*, The EU-fight against harmful tax competition: future developments, EC Tax Rev. 2002, 157 (157 et seq.); *Schön*, Tax Competition in Europe – General Report, in: *Schön* (Et. al.), Tax Competition in Europe (2003) 1 (1 et seq.); *Cattoir*, A history of the "tax package": The principles and issues underlying the community approach, Taxation Paper No 10 (2007).

[140] See *Pinto*, EU and OECD to Fight Harmful Tax Competition: Has the Right Path Been Undertaken? Intertax 1998, 386 (386 et seq.); *Schön*, Tax Competition in Europe – General Report, in: *Schön* (Et. al.), Tax Competition in Europe (2003) 1 (6 et seq.); *Osterweil*, OECD Report on Harmful Tax Competition and European Union Code of Conduct Compared, ET 1999, 198 (198 et seq.).

weighing on compliant taxpayers.[141] Furthermore they emphasized that all states share a collective responsibility to fight tax havens, tax evasion and illicit capital flight. In a report issued in 2000, the OECD identified a number of uncooperative jurisdictions as tax havens.[142] Since then cooperative tax haven jurisdictions have aimed at achieving a level playing field with the "old" OECD Member States in order to avoid competitive disadvantages. The Global Forum on Taxation has since investigated more than 80 jurisdictions (including OECD Member States) and released a first report on "Tax Co-operation: Towards a Level Playing Field"[143] in 2006, which has been followed by annual updates.[144]

In striving to achieve a global standard of transparency, national bank secrecies and other tax evasion issues came more and more in the international limelight. National bank secrecies are deemed to be contradictory to the need for a cross-border information exchange that complies with internationally agreed tax standards. After a first report on "Improving Access to Bank Information for Tax Purposes"[145] in 2000, the OECD has subsequently dealt with this issue in the context of the development of the 2002 model for a "Agreement on Exchange of Information on Tax Matters". Article 5(4)(a) of this model agreement stipulates that each contracting party has to ensure that its competent authorities have the authority to obtain and provide upon request information held by banks, other financial institutions, and any person acting in an agency or fiduciary capacity including nominees and trustees.[146] In 2005, this standard of exchange of information has also been implemented in Article 26 of the OECD Model Tax Convention on Income and Capital ("OECD MTC"). According to Article 26(1) contracting states have an obligation to exchange information that is foreseeably relevant to the correct application of a tax convention as well as for purposes of the administration and enforcement of domestic tax laws of the contracting states.[147] There are some limitations

[141] See also the "Overview of the OECD's Work on Countering International Tax Evasion" (2009), and the Proposal for a Council Directive on administrative cooperation in the field of taxation, COM(2009)29 final.

[142] "Towards Global Cooperation: Progress in Identifying and Eliminating Harmful Tax Practices" (2000), 17.

[143] "Tax Co-operation: Towards a Level Playing Field – 2006 Assessment by the Global Forum on Taxation" (2006).

[144] See *OECD*, "Tax Co-operation: Towards a Level Playing Field – 2009 Assessment by the Global Forum on Taxation (the 2009 Assessment)" (2009); *OECD*, "Promoting Transparency and Exchange of Information for Tax Purposes – A Background Information Brief" (15 July 2010), para. 16.

[145] "Improving Access to Bank Information for Tax Purposes" (2000); "Improving Access to Bank Information for Tax Purposes – The 2003 Progress Report" (2003), and "Improving Access to Bank Information for Tax Purposes – The 2007 Progress Report" (2007).

[146] See Art. 5(4)(a) OECD Model TIEA.

[147] Art. 26(1) OECD MTC.





to this obligation in Article 26(3). Therefore, a contracting state has no obligation to carry out administrative measures at variance with the laws and administrative practice of that or of the other contracting state.[148] However, paragraphs 4 and 5 of Article 26, which were added in the update 2005, make it clear that a state cannot refuse a request for information solely because it has no domestic tax interest in the information[149] or solely because it is held by a bank or other financial institution.[150] Thus, fully meeting the standard of Article 26 and at the same time maintaining strict national bank secrecy rules are an impossible task.[151] However, in order to guarantee that the private sphere is respected in these cases, Article 26 (2) provides strict confidentiality rules.[152]

These OECD standards of tax transparency and exchange of information were met with great approval by the G20 and the G8.[153] Moreover, and based on these OECD standards, the European Commission has recently presented a proposal for a council directive on administrative cooperation in the field of taxation.[154] Furthermore, the G20 countries have decided to define a blacklist for tax havens at the G20 summit in London in 2009. This list has been drawn up by the OECD and distinguishes between three types of jurisdictions:[155]

- Jurisdictions that have substantially implemented the internationally agreed tax standard ("white" list)
- Jurisdictions that have committed to the internationally agreed tax standard, but have not yet substantially implemented ("grey" list)

[148] Art. 26(3) (a) OECD MTC.

[149] Art. 26(4) OECD MTC.

[150] Art. 26(5) OECD MTC.

[151] It is therefore not surprising that Austria, Belgium and Luxemburg had initially entered reservations to Art. 26(5) OECD MTC; these reservations were only withdrawn in 2009.

[152] Art. 26(2) OECD MTC.

[153] See "Overview of the OECD's Work on Countering International Tax Evasion" (2009), "Improving Access to Bank Information for Tax Purposes – The 2007 Progress Report" (2007), 8 and 11 et seq.; "Promoting Transparency and Exchange of Information for Tax Purposes – A Background Information Brief" (15 July 2010).

[154] COM(2009)29 final.

[155] This list is available at *www.oecd.org/tax/progressreport* (progress made as at 23 November, 2010).

- Jurisdictions that have not committed to the internationally agreed tax standard ("black" list).

In order to comply with the OECD standards a jurisdiction had to conclude at least 12 treaties according to the OECD model treaties, it had to ensure an effective domestic implementation of these standards and should conduct additional bilateral treaties in the future. In the course of the Global Forum on Transparency and Exchange of Information for Tax Purposes, which met in Mexico on 1-2 September 2009, it was decided that the progress in implementation of the standards of transparency and exchange of information for tax purposes should be evaluated via a peer review process.[156] These reports should provide an in-depth analysis of the legal and regulatory frameworks for transparency and exchange of information of the investigated jurisdictions. The first 8 peer review reports have already been presented at the Global Forum on Transparency and Exchange of Information for Tax Purposes when it met in Singapore on 29-30 September 2010.[157] In the future it is planed that more than 40 reviews should be completed every year. Immediate reports by the OECD should assure the transparency of this peer review process. Due to the increased international political pressure and the introduction of the blacklist of tax havens in 2009 there has been a significant increase in the number of signed TIEA. Thus, many states put emphasis on accomplishing the required number of at least 12 signed treaties by September 2009 and in the meantime all jurisdictions surveyed by the OECD Global Forum have committed to the internationally agreed tax standard.[158]

### 7.2. Necessity and functionality

The necessity of Tax Information Exchange Agreements results from the fact that under international law there is a divergence between material universality and formal territoriality. In case of a genuine link with the country, states are in principle not limited in the exercise of their fiscal sovereignty. As a consequence, especially direct taxes are

[156] For a detailed explanation see the OECD's Background Brief on "The Global Forum on Transparency and Exchange of Information for Tax Purposes" (23 November 2010).

[157] Reviews of Bermuda, Botswana, Cayman Islands, India, Jamaica, Monaco, Panama and Qatar are available at *www.oecd.org/tax/transparency*.

[158] See "A progress report on the jurisdictions surveyed by the OECD global forum in implementing the internationally agreed tax standard" (23 October 2010) at *www.oecd.org/tax/progressreport*.





levied according to the principle of universality and therefore resident taxpayers are taxed on their worldwide income.

However, the principle of formal territoriality under international law restrains national tax authorities from conducting tax audits in other states as they are not allowed to perform sovereign acts on foreign territory. Hence, there is a tension between the universal tax liability and the formal enforcement of this tax liability. States try to solve this problem via an increased duty to cooperate for taxpayers in cases involving foreign elements. Nevertheless, the limited enforceability in that cases leads to increased tax evasion.

Without mutual assistance agreements national tax authorities depend on the information submitted by the taxpayers and on voluntary information of foreign tax authorities. In recent years, some states tried to receive additional information via the acquisition of stolen bank data (e.g. "Liechtenstein-CD"). However, in general, the possibilities of national tax authorities to gather information without mutual assistance are still very limited.

Even in the case of a mutual assistance in tax matters, domestic laws of the foreign state may restrict the exchange of information (e.g. bank secrecy). The effective tax collection can also be limited in cases, where a bank secrecy could be lifted in connection with a criminal proceeding. The problem in this case is, that national tax authorities need a reasonable ground of suspicion in order to initiate a criminal proceeding and therefore they would need information from foreign tax authorities. As a consequence, national tax authorities would not be able to receive information in this case as they could not initiate a criminal proceeding in order to lift the bank secrecy of the foreign state.

Another reason for the conclusion of Tax Information Exchange Agreements is to pierce lack of transparency of tax havens. For instance, tax havens provide special legal forms in order to shield the identity of the beneficiaries. Furthermore, tax havens do not levy income or property taxes in most cases and therefore have no domestic interest for determining tax bases. The conclusion of Tax Information Exchange Agreements should ensure that tax havens would determine and transmit the requested information.

Therefore, the main purpose of a TIEA is the determination of relevant information on income and property of individuals that are resident in the requesting state and the rapid transmission of the requested information. This should ensure an effective taxation in the resident state of the taxpayer.

Furthermore TIEA should guarantee the effective prosecution of tax and economic crimes. On the one hand, tax havens do not levy income or property taxes in most cases and therefore have no domestic interest in preventing tax evasion. On the other hand they have no interest in preventing tax evasion for competitive reasons. Tax Information Exchange Agreements should commit tax havens to provide the necessary information so that the requesting state is able to prosecute tax and economic crimes.

### 7.3. OECD Model Agreement on exchange of information in tax matters

*A. Outline*

Tax Information Exchange Agreements are usually based on the "Agreement on Exchange of Information in Tax Matters"[159], that has been released by the OECD in 2002. The OECD Model TIEA is presented both as a multilateral instrument and as a template for bilateral treaties. However, it is not a model for a multilateral treaty in the traditional sense but it provides the basis for an integrated bundle of bilateral treaties.[160] Furthermore, there are detailed commentaries on each Article in the appendix to the OECD Model TIEA. In addition, the OECD has also provided guidelines concerning the implementation of exchange of information provisions for tax purposes.[161]

The aim of both TIEAs and Article 26 of the OECD MTC is to promote international co-operation in tax matters through exchange of information. However, compared to Article 26 of the OECD MTC the provisions of TIEAs are more detailed on the subject of information exchange. For instance, the OECD Model TIEA explicitly provides provisions concerning tax examinations abroad (Article 6 OECD Model TIEA).

The first articles of the OECD Model TIEA deal with the object and the scope of the agreement (Article 1), the jurisdictional scope (Article 2), the covered taxes (Article 3) and the definitions of terms for purposes of the agreement (Article 4). The core provisions concerning the exchange of information upon request are to be found in Articles 5 et seq. This section of the OECD Model TIEA provides rules concerning the possibility of declining a request in certain situations (Article 7), confidentiality rules

[159] "OECD Model TIEA"; see also the Report on „Tax Co-operation: Towards a Level Playing Field – 2008 Assessment by the Global Forum on Taxation" (2008).

[160] See also the Introduction of the OECD Model TIEA.

[161] "Manual on the Implementation of Exchange of Information Provisons for Tax Purposes" (23 January 2006).





(Article 8), rules regarding the costs of obtaining and providing information (Article 9), obligations of the contracting parties to enact any necessary legislation to comply with the terms of the agreement (Article 10), rules determining the language that will be used in making and responding to requests (Article 11) and rules regarding the relation to other international agreements or arrangements (Article 12). Moreover, Article 6 of the OECD Model TIEA provides provisions concerning tax examinations abroad. Article 13 of the OECD Model TIEA stipulates a mutual agreement procedure for resolving difficulties arising out of the implementation or interpretation of the Agreement.[162] In case of a multilateral TIEA, Article 14 of the OECD Model TIEA provides rules concerning the depositary's functions. Article 15 and Article 16 of the OECD Model TIEA deal with entry into force and the termination of a TIEA.

*B. Exchange of information upon request, limitations and confidentiality*

According to Article 5 (1) of the OECD Model TIEA the competent authority of the requested party has to provide information upon request for the purpose referred to in Article 1. Therefore, the OECD Model TIEA only covers exchange of information upon request and does not cover automatic or spontaneous exchange of information.[163] Furthermore, the scope of the OECD Model TIEA is limited to exchange of information that is foreseeably relevant to the administration and enforcement of the laws of the requesting state concerning the taxes covered by this agreement.[164] Such information includes information that is foreseeably relevant to the determination, assessment and collection of such taxes, the recovery and enforcement of tax claims, or the investigation or prosecution of tax matters.[165] Article 1 of the OECD Model TIEA also stipulates that the received information should be treated as confidential in the manner provided in Article 8. Thus, any information received by a contracting state has to be treated as confidential and may only be disclosed to persons and authorities (including courts and administrative bodies) involved in the assessment or collection of, the

[162] Art. 13 para. 103 Commentary on the OECD Model TIEA.

[163] Art. 5 para. 39 Commentary on the OECD Model TIEA.

[164] Art. 1 para. 3 Commentary on the OECD Model TIEA.

[165] Art. 1 OECD Model TIEA.

enforcement or prosecution in respect of, or the determination of appeals in relation to taxes covered by the agreement.[166] Therefore, the received information may not be disclosed to any other person or entity or authority or any other jurisdiction without the express written consent of the competent authority of the requested state. However, this information may be disclosed in public court proceedings or in judicial decisions.[167]

Article 5 (2) of the OECD Model TIEA provides that information has to be exchanged upon request without regard to whether the requested state needs the information for its own tax purpose.[168] Therefore, in principle, the requested state has to take all relevant information gathering measures to provide the requesting state with the requested information. However, Article 2 of the OECD Model TIEA stipulates some exceptions as a requested state is not obliged to provide information which is neither held by its authorities nor is in the possession or control of persons within its territorial jurisdiction.[169] In order to satisfy the evidentiary or other legal requirements of the requesting state Article 5 (3) of the OECD Model TIEA provides that, upon request, the competent authorities of the requested state have to provide information, to the extent allowable under its domestic laws, in the form of depositions of witnesses and authenticated copies of original records. The exchange of information should take place as promptly as possible.[170]

According to Article 5 (4) of the OECD Model TIEA, the contracting parties have to ensure that its competent authorities have the authority to obtain and provide banking information and information regarding the ownership of companies and other legal entities. Therefore Article 5 (4) extends the exchange of information to information held by banks and trustees (Article 5 (4) (a)) and to information regarding the ownership of companies, partnerships, trusts, foundations and other persons (Article 5(4)(b)). However, in the case of publicly traded companies and public collective investment funds or schemes, the competent authorities must only provide ownership information that the requested state can obtain without disproportionate difficulties.[171]

[166] Art. 8 para. 96 Commentary on the OECD Model TIEA.

[167] Art. 8 OECD Model TIEA.

[168] Art. 5 para. 43 Commentary on the OECD Model TIEA.

[169] Art. 2 OECD Model TIEA.

[170] Art. 5 (6) OECD Model TIEA.

[171] See Art. 5 para. 46 et seq. Commentary on the OECD Model TIEA.





In order to prevent "fishing expeditions", Article 5(5) of the OECD Model TIEA lists the information that the requesting state has to provide to the requested state in order to demonstrate the foreseeable relevance of the information requested to the administration or enforcement of the requesting states tax laws.[172] For instance the requesting state has to name the identity of the person under examination or investigation, the tax purpose for which the information is sought or to the extent known, the name and address of any person believed to be in possession of the requested information. Furthermore, the requesting state has to declare that it has pursued all means available in its own territory to obtain the requested information, except those that would give rise to disproportionate difficulties.[173] Therefore, in case that the requesting state has not pursued all means available in its own territory to obtain the requested information, the requested state has no obligation to exchange information.

Article 7 of the OECD Model TIEA stipulates certain situations in which a requested state is not required to supply information in response of a request. Thus, a requested state must not obtain or provide information that the requesting state would not be able to obtain under its own laws for purposes of the administration or enforcement of its own tax laws.[174]

Furthermore, according to Article 7(2) of the OECD Model TIEA a contracting party is not obliged to provide information which would disclose any trade, business, industrial, commercial or professional secret or trade process. However, information referred to in Article 5(4) of the OECD Model TIEA should not be treated as such a secret or trade process merely because it is held by a bank or merely because it is ownership information. In the context of Article 7(1) of the OECD Model TIEA it might be doubted whether a requested state has to provide banking information in cases where the requesting state is in principle not able to obtain banking information under its own laws due to bank secrecy. However, given the concept of Article 5(4) and Article 7(2) of the OECD Model TIEA, it seems undisputed that the requested state is obliged to forward the requested information also in these situations.[175]

[172] Art. 5 para. 57 Commentary on the OECD Model TIEA.

[173] Art. 5 (5) OECD Model TIEA.

[174] Art. 7 (1) OECD Model TIEA.

[175] See Art. 5 para. 46 et seq. Commentary on the OECD Model TIEA.

In addition, Article 7(3) of the OECD Model TIEA provides that a contracting state has no obligation to supply information, which would reveal confidential communications between a client and an attorney, solicitor or other admitted legal representative where such communications are produced for the purpose of seeking or providing legal advice or produced for the purpose of use in existing or contemplated legal proceedings. Furthermore, the requested state could decline a request if the disclosure of the information would be contrary to public policy (e.g. a tax investigation were motivated by political or racial persecution or the requested information constitutes a state secret).[176] However, a request for information cannot be refused on the ground that the tax claim giving rise to the request is disputed (Article 75) OECD Model TIEA). Finally, a non-discrimination clause can be found in Article 7(6) OECD Model TIEA.

### 7.4. Tax examinations abroad

Article 6 of the OECD Model TIEA concerns tax examinations abroad. The requested party may allow representatives of the applicant party to enter the territory of the requested party to interview individuals and to examine records (Article 6 (1) of the OECD Model TIEA). Furthermore, a contracting party may permit upon request of the other contracting party, that tax officials of the requesting party are allowed to be present at the appropriate part of a tax examination initiated by the requested party in its jurisdiction (Article 6 (2) of the OECD Model TIEA).[177] However, there is no obligation of the requested state to allow such examinations of the foreign tax authorities.[178]

### 7.5. Conclusions

It is quite remarkable that in less than two years, since the beginning of 2009, more than 370 TIEAs have been concluded globally, bringing the total number TIEAs to 423. In addition, a number of jurisdictions have concluded new DTCs or protocols to existing DTCs that incorporated the standard on exchange of information in tax matters. Not surprisingly, therefore, the OECD emphasizes the dramatic progress made in this area and its relation to increasing international pressure:

[176] Art. 7 para. 91 Commentary on the OECD Model TIEA.

[177] Art. 6 para. 67 Commentary on the OECD Model TIEA.

[178] Art. 6 para. 66 et seq. Commentary on the OECD Model TIEA.





Up to the G20 Washington Summit on 15 November 2008 a total of 44 tax information exchange agreements (TIEAs) had been signed. Very few of the jurisdictions identified as not having substantially implemented the internationally agreed tax standard in the Progress Report issued in conjunction with the G20 Summit in London on 2 April had signed any double taxation conventions (DTCs) that met the standard. The 23 TIEAs agreed in 2008 were double the total number of agreements that had been signed since the Global Forum began in 2000. Following the G20 summit in Washington and in the run-up to the London Summit in April 2009 TIEA signings skyrocketed, as well as the negotiation of new DTCs or protocols to existing DTCs that incorporated the standard on exchange. A further 21 TIEAs/DTCs were agreed in just four months, and between the London Summit and the G20 meeting in Pittsburgh in September 164 more agreements were in place. The pace continued and by the end of the year a total of 36 jurisdictions working to substantially implement the standard had signed 200 TIEAs and upgraded 118 DTCs. Since January 2010, 147 TIEAs and 46 upgraded DTCs have been signed."[179]

Whatever one may think about exercising political pressure in international tax matters, the path taken was indeed quite successful: In a matter of months, all jurisdictions surveyed by the OECD Global Forum have committed to the internationally agreed tax standard,[180] putting the focus on the peer review process on evaluating the progress in implementation of the standards of transparency and exchange of information for tax purposes.[181] It remains, however, to be seen if achieving a global standard on exchange of information was a mere trial of strength or if it will truly change states' and taxpayers' approaches in international tax issues.

[179] See Annex IV to the OECD's Background Brief on "The Global Forum on Transparency and Exchange of Information for Tax Purposes" (23 November 2010).

[180] See "A progress report on the jurisdictions surveyed by the OECD global forum in implementing the internationally agreed tax standard" (23 October 2010) at *www.oecd.org/tax/progressreport*.

[181] For a detailed explanation see the OECD's Background Brief on "The Global Forum on Transparency and Exchange of Information for Tax Purposes" (23 November 2010).