

THE COUNCIL,

Having regard to Article 5 b) of the Convention on the Organisation for Economic Co-operation and Development of 14th December 1960;

Having regard to the Recommendations of the Council of 11th April 1977 concerning the avoidance of double taxation [C(77)40(Final)] and of 21st September 1977 concerning tax avoidance and evasion [C(77)149(Final)];

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\* Adopted under the written procedure [C(84)122].

Having regard to the report of the Committee on Fiscal Affairs of the 25th June 1984 on taxation issues relating to international hiring-out of labour [DAFFE/CFA/84.11];

Considering the need to remove the obstacles that double taxation presents to the free movement of goods, services, capital and manpower between Member countries of the OECD by the conclusion of conventions between them for that purpose;

Considering that the OECD Model Double Taxation Conventions have helped Member countries to harmonize existing bilateral conventions on the basis of uniform principles, definitions, rules and methods, to agree on a common interpretation and to extend the existing network of such conventions;

Considering the need to proceed to periodic reviews of situations where double taxation may occur, in the light of experience gained by Member countries, and to make appropriate proposals for its removal;

Considering the need to take action against tax avoidance and evasion schemes as they are contrary to fiscal equity, have undesirable budgetary effects and distort competition;

I. RECOMMENDS the Governments of Member countries:

1. When applying existing bilateral conventions, to explore the applicability of the provisions of paragraph 2 of Article 15 of the 1977 OECD Model Double Taxation Convention on Income and Capital to hiring-out of labour and to define, by mutual agreement, the ways in which it should be applied in such situations, taking account of considerations set out in paragraphs 55 to 81 of the above-mentioned report;
2. When concluding new conventions or revising existing ones, to include provisions according to which the employer within the meaning of paragraph 2 b) of Article 15 is the user of the labour when conditions such as those referred to in Annex II of the above-mentioned report are met.

II. INSTRUCTS the Committee on Fiscal Affairs to take into account suggestions made in the above-mentioned report when the Model Convention is next revised.

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In adopting this Recommendation, the Council:

1. NOTED the Note by the Secretary-General [C(84)105];

2. NOTED the report by the Committee on Fiscal Affairs on Taxation Issues relating to International Hiring-out of Labour and AGREED to its derestriction [DAFFE/CFA/84.11];

3. AGREED to the derestriction of the Recommendation.