

Center for Freedom and Prosperity Strategic Memorandum

Date: March 4, 2002

To: Supporters of Tax Competition

From: Daniel Mitchell, Heritage Foundation Senior Fellow

Re: Paris has Surrendered, Onward to Brussels

The OECD's attack against low-tax jurisdictions ended with a pathetic whimper. The February 28 deadline arrived and the Paris-based bureaucracy did not receive a single meaningful "commitment." Most low-tax jurisdictions ignored the OECD's imperialist demands. And the handful of regimes that did capitulate included the so-called "Isle of Man clause" in their commitment letter. This means that they are not obliged to acquiesce until and unless every single OECD member nation agrees to obey the same misguided practices.

The OECD, of course, is trying to downplay its stunning defeat. But no amount of "spin" can alter the facts. The "rich man's club" failed in its effort to create a fiscal cartel for the benefit of high-tax nations. But don't believe me. Go to the OECD website and read the "commitment letters" that arrived in June 2000 and compare those documents to the letters that arrived last week. They are all available at <http://www.oecd.org/EN/document/0,,EN-document-22-nodirectorate-no-4-4393-22,FF.html> (but don't be surprised if the OECD pulls down this webpage to mask its embarrassment).

While it is tempting to rest on our laurels and enjoy the OECD's humiliation, the war is far from over and attention now shifts to Brussels. Specifically, our top objective now is to derail the European Union's Savings Tax Directive. This misguided proposal would require unlimited and automatic information sharing between nations. Every EU nation would be expected to take part in this scheme, as would all EU territories and six non-EU nations (Switzerland, the United States, Andorra, Monaco, San Marino, and Liechtenstein).

Often referred to as the "OECD on steroids," the Savings Tax Directive is a sweeping assault on privacy, sovereignty, and competition. The Directive would run roughshod over civil liberties and due process legal protections. That is the bad news. The good news is that the Savings Tax Directive should be easy to defeat since it requires unanimous support in order to take effect. As this new battle begins, we urge supporters of fiscal competition and economic liberalization to focus on the following:

- Defeating the EU Savings Tax Directive – As mentioned above, the Savings Tax Directive is extremely vulnerable since 21 nations have a veto. The proposal collapses, for instance, if any of the 15 EU member nations object – and that means that Luxembourg, Austria, or Belgium can stop this foolish scheme and protect their national interests by using their veto. But it also means that six non-EU nations, including Switzerland and the United States, have unilateral power to stop the Directive. This is

very good news. The United States government, after all, already has announced that it is opposed to unlimited information exchange. And it is difficult to imagine that the other non-EU nations would willingly surrender their competitive advantage in the global economy. The only real mystery is guessing which nation will administer the coup-de-grace (forgive me for this display of nationalism, but I hope the United States exercises this honored role). And don't forget that the defeat of the EU Savings Tax Directive will mean the final collapse of the OECD's "harmful tax competition" scheme since low-tax jurisdictions will be able to exercise their "Isle of Man clauses" and withdraw their commitments.

- Don't let the OECD Recover – Speaking of the OECD, a wounded beast can still be dangerous. A specific concern is that the tax-free Paris bureaucrats almost surely will try to use the upcoming "Global Forum" as an opportunity to pressure and browbeat jurisdictions. This Forum supposedly will be an opportunity for the low-tax regimes that signed commitment letters to sit down – as equals – with OECD nations. Our friends (and we do have a few) at the OECD and in various Treasury Departments and Finance Ministries already are warning us, however, that high-tax governments want to use the Forum as a vehicle to invalidate the "Isle of Man clauses." It is imperative that low-tax governments reject this duplicitous ploy.

- A Tribute to Courageous Governments – Finally, we want to take this opportunity to applaud some real heroes. Twenty-two governments acted on principle and refused to surrender their sovereignty to the OECD. Lawmakers from these jurisdictions deserve immense praise and gratitude:
 1. Andorra
 2. Anguilla
 3. Commonwealth of the Bahamas
 4. Belize
 5. British Virgin Islands
 6. Cook Islands
 7. The Commonwealth of Dominica
 8. Liberia
 9. The Principality of Liechtenstein
 10. The Republic of the Maldives
 11. The Republic of the Marshall Islands
 12. The Principality of Monaco
 13. Montserrat
 14. The Republic of Nauru
 15. Niue
 16. Panama
 17. Samoa
 18. St Lucia
 19. The Federation of St. Christopher & Nevis
 20. Turks & Caicos
 21. US Virgin Islands
 22. The Republic of Vanuatu

As I contemplated how to express appreciation for the leaders of these nations, I had a difficult time capturing the proper sentiment. I kept thinking of famous quotations about courage and the willingness to fight for justice against steep odds – and famous quotations about those that fail important moral tests. So rather than re-invent the wheel, this memo will close with some remarks that should motivate all of us to display similar resolve in the global fight for freedom:

The hottest places in hell are reserved for those who, in a period of moral crisis, maintain their neutrality — **Dante Alighieri**

The only thing necessary for the triumph of evil is for good men to do nothing — **Edmund Burke**

They that can give up essential liberty to obtain a little temporary safety deserve neither liberty nor safety — **Benjamin Franklin**

If ye love wealth better than liberty, the tranquillity of servitude better than the animating contest of freedom, go home from us in peace. We ask not your counsels or arms. Crouch down and lick the hands which feed you. May your chains set lightly upon you, and may posterity forget that ye were our countrymen — **Samuel Adams**