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Ault Panel on Tax Treaty Dispute Resolution

Boston College Law School

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Ault Panel on Tax Treaty Dispute Resolution

9/16/08--PROFESSOR AULT LED A PANEL ON TAX TREATY DISPUTE RESOLUTION AT A CONFERENCE CELEBRATING THE 50TH ANNIVERSARY OF THE ORGANIZATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT ("OECD") MODEL TAX CONVENTION.

9/16/08--Professor Hugh J. Ault of Boston College Law School led a panel on tax treaty dispute resolution at a Conference celebrating the 50th Anniversary of the Organization for Economic Co-operation and Development ("OECD") Model Tax Convention, held in Paris on September 8 and 9.

The Conference, attended by over 650 participants from 100 countries, examined a number of issues which arise under the OECD Model Tax Convention. The Model is the basis for over 2500 bilateral treaties for the avoidance of double taxation and prevention of fiscal evasion.

Professor Ault's panel dealt with situations when the parties to a bilateral treaty cannot agree on the application or interpretation of the treaty. Until recently, there was no further recourse available in such situations, as the parties' obligation under the treaty was only to "endeavor" to resolve differences. If agreement could not be reached, the case remained undecided. However, in amendments made to the Model in 2008, the Model now contains an article that requires the mandatory binding arbitration of any unresolved issues if the countries have not been able to reach an agreed solution after two years of negotiations. The provision is extremely important to persons and companies involved in international commerce and investment, as it helps to ensure a uniform and consistent resolution of tax treaty disputes.

The panel, with government and private sector representatives from China, the United States, the United Kingdom and The Netherlands, examined a number of practical and interpretative issues in the new article, including its impact on tax relations with developing countries. Professor Ault, in his role as Senior Advisor to the OECD's Centre for Tax Policy and Administration, had heavily been involved in the development of this new provision for the past several years.