POSITION PAPER OF THE GROUP OF 77 AND CHINA ON IMPROVED MONITORING AND REGULATION OF FINANCIAL MARKETS AND INSTITUTIONS PRESENTED BY MR. KHALED HUSSEIN ALYEMANY, MINISTER PLENIPOTENTIARY, PERMANENT MISSION OF YEMEN ON BEHALF OF THE GROUP OF 77 AND CHINA AT THE AD HOC OPEN-ENDED WORKING GROUP OF THE GENERAL ASSEMBLY TO FOLLOW UP ON THE ISSUES CONTAINED IN THE OUTCOME OF THE CONFERENCE ON THE WORLD FINANCIAL AND ECONOMIC CRISIS AND ITS IMPACT ON DEVELOPMENT (New York, 3 May 2010)

IMPROVED MONITORING AND REGULATION OF FINANCIAL MARKETS AND INSTITUTIONS

3 May 2010

1. The crisis has produced or exacerbated serious, wide-ranging yet differentiated impact across the globe. These impacts have affected developing countries negatively and includes inter alia, rapid increase in unemployment, poverty and hunger; growing budget deficits, falling tax revenues and reduction in fiscal space; reduced access to credit and trade financing and reduced ability to maintain social safety nets and provide other social services, such as health and education.

2. As a result, any solution of the present crisis will only be partial and inadequate unless policy makers from both developing and developed countries can promote an adequate level of coordination, towards mutually compatible policies on fiscal, monetary and exchange rates issues, including mechanisms of accountability and enforceability in the application of these policies.

Regulation and Supervision of Financial Sectors

3. In discussing the causes of the economic crisis, the outcome of the United Nations Conference on the World Financial and Economic Crisis highlighted "major failures in regulation, supervision and monitoring of the financial sector, and inadequate surveillance and early warning.

4. These regulatory failures, compounded by over-resilience on market self-regulation, overall lack of transparency, financial integrity and irresponsible behavior, have led to excessive risk taking, unsustainably high asset prices, irresponsible leveraging and high levels of consumption fuelled by easy credit and inflated asset prices.

5. The crisis also highlighted the fact that financial regulators, policy makers and institutions failed to appreciate the full measure of risks in the financial system or address the extent of the growing economic vulnerabilities and their cross-border linkages.

6. Despite there being organizations to regulate trade and banking standards, the global monetary system has no such agreed regulatory system for enabling trading partners to avoid distortions stemming from financial shocks, including exchange rate misalignment. The G77 and China favours the development of a framework for limiting the degree of exchange rate deviations from the fundamentals thereby providing an important tool in dealing with the crucial but neglected source of imbalance and instability in the globalized economy

7. G77 and China also recognizes the negative impacts of excessive short-term capital flows and requests the Secretary-General to prepare a report on the role of capital control measures in

mitigating the negative impact of those flows, while taking into account the sovereign rights of States

8. A coordinated and comprehensive global response to the financial and economic crisis is imperative, in order to foster good governance at all levels, including in the IFIs and financial markets. To this end, developed countries must resist actions that seem to impose unilateral solutions to the crisis.

9. In addition, due to the fact that global economic growth and a stable international financial system can support the capacity of developing countries to achieve national development goals and internationally agreed development goals, including the MDGs, the G77 and China stress the importance of cooperative and coordinated efforts by all countries and institutions to cope with the risks of financial instability.

10. Illicit financial flows are estimated to amount to several times global ODA and have a harmful effect on development. Measures to enhance regulation of and transparency in the shadow and regular financial system must therefore include steps to curb illicit financial flows and ensure the return of illicit funds to the legitimate country of origin.

11. Developing countries must be granted full and fair representation in reform efforts of standards and norm-setting and code formulating bodies outside the UN system, such as the Financial Stability board and the Basel Committee on Banking Supervision.

12. Any proposal to regulate financial markets should address the pro-cyclicality in international bank lending to developing countries, in particular in infrastructure lending, and the bias against developing countries and pro-cyclicality in ratings by international rating agencies.

International Surveillance Mechanism

13. The current crisis demonstrates the urgent need for introducing internationally harmonized norms and standards for financial regulation and supervision, so that financial leverage and regulatory arbitrage does not endanger the stability of the global system. In this regard, G77 and China strongly urges against the use of regulatory protectionism by developed countries, as an excuse to not providing to developing countries information about supervision and regulation of their financial institutions.

14. Surveillance remains IMF's key crisis prevention tool, however since the 1980s, the IMF has mainly been focused on problems in emerging and developing countries, devoting insufficient attention to major financial centres and vulnerabilities in global financial markets.

15. While acknowledging that some reform measures have been undertaken in respect of the IFIs, there is need for deeper, more meaningful, structural reform if the IFIs are to retain some level of legitimacy, particularly in light of the current global financial and economic crisis. Reform has largely been asymmetrical with far more progress and focus on efforts to be undertaken by developing countries (e.g. on codes and standards) and less progress in terms of institutional reform. In this context, the need for more effective and even handed multilateral surveillance must be underscored.

16. It is necessary to build an effective framework for enhanced multilateral surveillance and policy coordination against the backdrop of planned governance reform in IMF and other global institutions.

17. The G77 and China calls for the examination of an international insolvency regime governing the resolution of large cross-border financial firms, and early remedial action frameworks. Lack of action on these fronts would result in a resistance to financial globalization by national authorities.

18. There is need for a more transparent international credit rating system that takes fully into account the needs, concerns and peculiarities of developing countries.

19. Rating agencies should be required to provide information concerning their overall past performance, and or an independent government agency should provide such information, which would enhance positive competition among rating agencies.

20. There is a critical need for expanding the scope of regulation and supervision and making it more effective, with respect to all major financial centres, instruments and actors, including financial institutions, credit rating agencies and hedge funds. The need for tighter and more coordinated regulation of incentives, derivatives and the trading of standardized contracts is also apparent. In this context, developing countries must be given flexibility to adequately regulate their financial markets, institutions and instruments consistent with development priorities and circumstances.

21. The imposition of needlessly onerous regulatory requirements on developing countries must cease and there should be effective, credible and enforceable regulations at all levels to ensure the needed transparency and oversight of the financial system.

22. Recognizing that the primary long-term goal of an enhanced surveillance must be to prevent another crisis, there is a need for even-handed and effective IMF surveillance of systemically important countries, major financial centres, international capital flows and financial markets.

23. In this context, the G77 and China considers that additional mechanisms are needed to allow for the assessment of and the response to, systemic risk posed by unregulated or less regulated financial sector segments, centres, instruments and actors.

International Cooperation in Tax Matters

24. The G77 and China emphasizes the need to ensure that all tax jurisdictions and financial centers comply with adequate standards of transparency and regulation. To this end, inclusive and cooperative frameworks should be developed to ensure the involvement and equal treatment of all jurisdictions.

25. The Group further believes that international cooperation in tax matters must be encouraged, including within the United Nations, and other organizations at the regional and international level. Moreover, there must be consistent and non-discriminatory implementation of transparency requirements and international standards for exchange of information.

26. The United Nations General Assembly and the Economic and Social Council (ECOSOC) are well placed to promote the reform of the international financial system and architecture, including in areas related to the mandate, scope, governance, responsiveness and development orientation of key international mechanisms.

27. The G77 and China calls for expeditious action by ECOSOC on the strengthening of the United Nations Committee of Experts on International Cooperation in Tax Matters in particular. The conversion of the Committee into an Intergovernmental Subsidiary body of the ECOSOC would allow for enhanced international cooperation toward reducing skill, information and technological gaps in developing countries; and improving developing countries voice and participation in norm

development in tax matters.