

Distr.: General
04 October 2022

Original: English

**Committee of Experts on International
Cooperation in Tax Matters
Twenty-fifth session**

Geneva, 18-21 October 2022

Item 3(d) of the provisional agenda

**Update of the United Nations Manual for the Negotiation of Bilateral Tax Treaties
between Developed and Developing Countries**

Co-Coordinator's Report

Summary

This note is provided to the Committee *for information* at its 25th Session.

At its 23rd Session in October 2021, the UN Committee of Experts on International Cooperation in Tax Matters considered note [E/C.18/2021/CRP.23](#) relating to the United Nations Manual for the Negotiation of Bilateral Tax Treaties between Developed and Developing Countries. The Committee's mandate requires it to keep the Manual under review and update it as necessary. The Committee established a Subcommittee on the Update of the United Nations Manual for Negotiation of Bilateral Tax Treaties between Developed and Developing Countries to undertake this work.

At its 24th Session in April 2022, the Subcommittee proposed that, during the first half of this membership of the Committee, its focus should be on an update of the Manual to reflect the changes made in the 2021 version of the UN Model. The Subcommittee also indicated its intention to produce guidance on the logistical issues and opportunities presented by conducting tax treaty negotiations through videoconference. The Committee approved the Subcommittee's proposed work program.

This note is provided to the Committee *for information* at its 25th Session. The Subcommittee has also produced a note for discussion, *Proposed Substantive Changes to the Manual for the Negotiation of Bilateral Tax Treaties between Developed and Developing Countries* (E/C.18/2022/CRP.26) and a second note for discussion and decision, *Proposed Guidance on Conducting Tax Treaty Negotiations by Videoconference* (E/C.18/2022/CRP.27).

Scope and Priority of Work as Established by the Committee of Experts

1. At its 23rd Session in October 2021, the UN Committee of Experts on International Cooperation in Tax Matters considered note [E/C.18/2021/CRP.23](#) relating to the United Nations Manual for the Negotiation of Bilateral Tax Treaties between Developed and Developing Countries (the Manual). The Secretariat explained that the Committee's mandate required it to keep the Manual under review and update it as necessary. The Manual had last been updated in 2019.

2. The Report of the 23rd Session describes the Committee's discussions regarding the scope and timing of the next update to the Manual:

32. Ms. Brown commented that, owing to the substantial changes made in 2021 to the United Nations Model Convention, including the addition of article 12B on automated digital services, the 2019 version of the Manual was out of date. She considered that updating the Manual to reflect only the changes made in 2021 was relatively straightforward but that the Committee might want to make other changes, including a discussion on conducting tax treaty negotiations through videoconferencing.

33. Members of the Committee emphasized the importance of the Manual and therefore of updating it as quickly as possible. However, the view was expressed that it would be good for the issuance of the Manual to coincide with any update of the United Nations Model Convention. Ms. Brown suggested that it might be possible to quickly complete a streamlined electronic update that reflected only the changes made in 2021, while the Committee worked on other changes that could be approved alongside the next update of the United Nations Model Convention. No decision was made on that point, although the draft mandate of the Subcommittee was modified to indicate that the next update of the Manual should be completed as soon as possible.

34. The Committee established a Subcommittee on the Update of the United Nations Manual for Negotiation of Bilateral Tax Treaties between Developed and Developing Countries, with Mr. Protto and Aart Roelofsen as Co-Coordiators, and with the following mandate:

The Subcommittee is mandated to propose updates to the United Nations Manual for the Negotiation of Bilateral Tax Treaties between Developed and Developing Countries, based on the following principles:

- That it reflect the current version of the United Nations Model Double Taxation Convention between Developed and Developing Countries and the relevant United Nations commentaries as well as ongoing decisions of the Committee leading to changes in them
- That it pay special attention to the experience of developing countries and reflect their realities and needs at their relevant stages of capacity development

- That it draw upon and feed into, as appropriate, the relevant work done in other forums, especially the work on the toolkit on tax treaty negotiation by the Platform for Collaboration on Tax

In undertaking its work, the Subcommittee may wish to consult with relevant stakeholders. The aim of the Subcommittee shall be to present to the Committee an update of the Manual for consideration with a view to adoption as soon as possible. Updates on the progress of the work shall be provided to the Committee at its Twenty-fourth session and each succeeding session. The Subcommittee may request the secretariat to develop necessary inputs and provide necessary support within its resources.

3. To summarize, the Committee was not opposed to expanding the matters to be covered in the next update of the Manual, but work on such additional matters should not delay the publication, at least in electronic form, of a version of the Manual that reflects the changes made in 2021 to the United Nations Model Convention.

4. The Subcommittee presented its proposed work programme ([E/C.18/2022/CRP.3](#)) at the Committee's 24th Session. It proposed that, during the first half of this membership of the Committee, the focus should be on an update of the Manual to reflect the changes made to the UN Model in 2021. The Subcommittee also noted that it was working on guidance regarding the logistical issues and opportunities presented by conducting tax treaty negotiations through videoconferencing. At that time, it did not yet have a view on the form that any guidance should take (whether a stand-alone document or simply part of the revision to Section II of the Manual).

5. The report of the 24th Session includes this description of the discussion regarding the Committee's priorities regarding the Manual:

24. Mr. Protto [and Mr. Roelofsen, the Co-Coordination of the Subcommittee] presented a conference room paper containing the proposed workplan in this area ([E/C.18/2022/CRP.3](#)). The workplan responded to the Committee's request, at its twenty-third session, to provide an update of the Manual as soon as possible to reflect the changes made in the 2021 version of the United Nations Model I Convention. Mr. Protto noted that doing so was the Subcommittee's focus during the first half of the current membership of the Committee.

25. During the second half of the current membership, the Subcommittee could prepare for the succeeding update of the Manual by drafting a revision to section II of the Manual, which addresses logistical issues relating to the conduct of tax treaty negotiations, and, to the extent possible, by agreeing on changes to the Manual in tandem with any agreed changes to the United Nations Model Convention.

...

29. The Committee confirmed that the Subcommittee would continue its work on the basis of the proposals in the conference room paper.

Progress Made by the Subcommittee on its Work Program

6. The Subcommittee has held two meetings since the 24th Session, on 9-10 June 2022 and 25-26 August 2022. At those meetings, and through written comments from participants between meetings, the Subcommittee agreed on the paper *Proposed Substantive Changes to the Manual for the Negotiation of Bilateral Tax Treaties between Developed and Developing Countries* (E/C.18/2022/CRP.26) that is presented to the Committee for a first discussion. This document consists primarily of changes necessary because of the changes made in the 2021 UN Model Tax Convention. In the course of going through those sections of the Manual, however, the Subcommittee agreed to address a handful of additional substantive issues arising from the existing text. The Subcommittee also agreed on some minor drafting improvements.

7. In addition to the changes made in this document, many footnotes and other references in the Manual need to be updated, primarily to reflect the new numbering of paragraphs in the Commentary on the 2021 UN Model. The Subcommittee's goal is to provide to the Committee those and any other editorial changes to the Manual early in 2023, along with any re-drafting necessary as a result of the Committee's comments on the document at the 25th Session.

8. At the same time, the Subcommittee was able to make substantial progress on a guidance regarding the conduct of tax treaty negotiations by videoconferencing. It has drafted *Guidance on Conducting Tax Treaty Negotiations by Videoconference* (E/C.18/2022/CRP.27), for the consideration of the Committee. It recommends that the Committee approve the contents of that note as a stand-alone document in order to provide guidance on the issue as soon as possible. The guidance would also be incorporated into the next revision of Section II of the Manual, which addressed logistical issues.

Future Meetings of the Subcommittee

9. The Subcommittee plans to meet virtually as necessary to complete the draft of the Manual and the guidance on videoconferencing before the 26th Session of the Committee.

Relevance of the Subcommittee's Work to the SDGs

10. At its 23rd Session, the Committee also agreed to discuss taxation and the Sustainable Development Goals regularly during its sessions, and to have subcommittees reflect on the links between their work and the SDGs. In its discussions, the Subcommittee regularly takes into account the role of the Manual in providing practical guidance to strengthen the technical expertise of developing countries' tax officials in connection with tax treaty negotiations. The work of the Subcommittee will promote the balance of revenue needs and the development-focused investment climate that many countries seek.

11. The Subcommittee also takes into account the fact that the Manual is the basis for the Toolkit on Tax Treaty Negotiations produced by the Platform for Collaboration on Tax, a joint project of the International Monetary Fund, the Organisation for Economic Co-operation and Development, the United Nations and the World Bank Group. Keeping the Manual current and supporting its effective use is an important element in FSDO's capacity development program. The Subcommittee recognizes that by promoting fair and effective tax systems, which support both revenue and trade and investment

for development, through guidance products and through advising UN DESA on capacity building activities, the Committee's work contributes to achieving the interlinked SDGs as a totality.

Requested Input from the Committee

12. The Subcommittee reached consensus on the drafting of the two documents submitted for discussion; it welcomes any Committee comments on those documents.

