



Note No. 010/2023

The Permanent Mission of Australia to the United Nations presents its compliments to the United Nations Secretariat's Department of Economic and Social Affairs (DESA), and has the honour to refer to its note (reference: DESA-23/00487) of 27 February 2023, requesting input into the Secretary-General's report on the *Promotion of Inclusive and Effective International Tax Cooperation at the United Nations*.

The Permanent Mission of Australia to the United Nations has the honour to convey a submission by the Australian Government.

The Permanent Mission of Australia would welcome further opportunities to provide input to this process, including participating in consultations by the Financing for Sustainable Development Office of DESA with member states.

The Permanent Mission of Australia to the United Nations avails itself of this opportunity to renew to the United Nations Secretariat's Department of Economic and Social Affairs the assurances of its highest consideration.



NEW YORK

17 March 2023



SUBMISSION – INCLUSIVE AND EFFECTIVE TAX COOPERATION AT THE UNITED NATIONS

Thank you for the opportunity to provide input to inform the work of the United Nations under GA Resolution 77/244 on inclusive and effective tax cooperation.

Australia **strongly supports the existing international system for tax cooperation** including the role of the G20/OECD Inclusive Framework on Base Erosion and Profit Shifting as a multilateral, consensus building approach. It is important that the UN's forward program complements and strengthens this existing body of work.

Existing forums are inclusive and effective

The success of the international tax system relies on a network of positive relationships, guided by the principles of a global level-playing field, co-operation and reciprocity. It is in the interests of all jurisdictions to ensure the international tax system for cooperation continues to function effectively and multilaterally, and that we avoid fragmentation of the system.

The existing international system for negotiating tax reforms through the OECD brings together a range of countries to mutually address and resolve issues of common concern. Over the past decade, OECD-led efforts have made significant progress in establishing inclusive and effective tax cooperation. All countries can participate in the OECD based reform efforts regardless of OECD membership. As of December 2022, 142 jurisdictions – the majority of UN members – have joined the Inclusive Framework representing strong geographic and economic diversity. Membership and diversity in the OECD process is expanding with countries continuing to join the Inclusive Framework and participate in the reform efforts.

Governance mechanisms and consensus-based decision making processes are also integrated into the OECD's frameworks which further demonstrates that the work is inclusive of developing country participation. Outcomes that are broadly supported will be more achievable through a consensus-based approach that encourages dialogue, rather than a majority decision making process.

Progress has been made

Strengthening the architecture and the integrity of the international corporate tax system is a challenging and long-term undertaking, however much progress has been made. The OECD has developed considerable expertise and delivered tangible progress through outcomes such as the BEPS Action items and the OECD Model Tax Convention on Income and on Capital.

These complex reforms have been developed through broad representation and with a particular focus on ensuring that the circumstances and capacities of developing countries are well considered. Other efforts from the OECD aim to actively engage and support developing countries. This includes the G20/OECD *Roadmap on Developing Countries and International*

Taxation, which identifies actions to support developing countries' contribution to, and continued participation in, a changing international tax system.

The Inclusive Framework's current focus on the Two-Pillar Solution represents a coordinated reform approach on a scale never seen in relation to taxation. This approach contains numerous benefits and design features for developing countries. These include profit allocation to market jurisdictions, reducing the scope for tax competition, and benefiting from the OECD's extensive and well-established capacity building programmes to ensure that developing countries have the resourcing and expertise to implement the agreed reforms.

With mid-year deadlines for the conclusion of key aspects of the international negotiations on the Two-Pillar Solution, now is not the time to launch an overlapping process. Global efforts should focus on expanding access to the existing framework rather than establishing new duplicative architecture.

Considerations for the report and future UN work

The UN work to deliver on this Resolution will most likely benefit all countries if it consistent with the purpose and spirit of the global reform agenda negotiated at the OECD and avoids establishing opportunities for further divergence in future international tax reform directions.

1. Resourcing

If countries are pressed to engage in two concurrent international tax reform processes this will stretch already limited resources and compromise outcomes. Most countries do not have experts in tax matters based in New York. Engagement in the UN process will heavily rely on communication with Treasury Departments and Tax Administrators in home countries. Even well-resourced countries will be under strain and for some countries (like Australia) there are additional challenges that affect engagement including significant time zone differences and travel expenses. The OECD work needs total focus at this critical point for delivery of key implementation mechanisms. There is also work progressing on how to assist countries to implement or build capacity for implementation so as to take full advantage of the potential outcomes of the Two Pillars.

2. Support for further reform

A new international cooperation framework and process can succeed only if it has widespread support among UN members. Australia has a strong history of multilateral engagement to support international tax reform. This multilateral engagement has offered widespread coherence and benefits that are not seen in smaller reform processes with narrower support, engagement and resourcing. We question whether the UN resolution would be able to achieve any significant further reform when there is limited support to do so at the current time.

Australia was among a number of countries who expressed reservations about the UN Resolution and joined a significant show of support for an amendment that would have reduced its scope. While ultimately the amendment was not passed, this is a strong indicator to be considered by the UN as the report and discussions progress. The resolution, particularly being progressed alongside the OECD-led work at a critical point of delivery, and the UN's next steps, should be commensurate with the level of international support that it has.

3. Clarity of objectives and outcomes

Any options for a broader or more wholesale reform discussion **should be based on clearly articulated and agreed objectives**. As the OECD BEPS and Two Pillar projects have shown, there are many different priorities and drivers among jurisdictions. UN based work in this area should seek to clearly define specific reform objectives before moving on to outcomes and commencing negotiations on any new instruments. The process for the report should ensure that time is specifically allowed to agree objectives and articulate the future direction.

4. Scope

The Resolution requires analysis of a significant number of ‘relevant’ international legal instruments, other documents and recommendations that address international tax cooperation. The scope should be developed through consultation with Member States to consider and agree what is meant by “relevant”. **Identification and consideration of the application of these instruments and any gaps will require intensive resources and sufficient time.**

The scope of the report could be expanded to explore options beyond corporate income tax. Participation in existing processes could also be improved if existing avenues were examined to determine if there was more opportunity for further utilisation of such processes by developing countries.

5. Consultation

Full and thorough consultation with Member States on the report is essential. The process for developing the report and next steps should allow sufficient time for consultations and take into account the possibility that it will take more time than is currently provided for in the resolution. Consultation with Member States across all stages of this process is welcomed. Consultation not only at this preliminary stage but also during the drafting will deliver better outcomes for all. Sufficient time should be allowed for each stage of consultation, acknowledging that countries engaged in other significant international processes will have limited resources to provide meaningful input.

6. Evaluation and next steps

A suitable and transparent evaluation framework could be developed to identify effective options for future collaboration and to give priority and reliance to existing mechanisms that facilitate international tax cooperation. Prioritising existing work programs will ensure that there is sufficient engagement and support to drive ongoing international efforts and avoid duplication of efforts. Next steps should focus on targeting effective incremental improvements and how developing countries can better benefit from those specific improvements, as opposed to wholesale change.

A decade of lessons and progress from the OECD Inclusive Framework should be recognised and actively considered as any new process will undoubtedly be as complex and challenging. Ongoing international tax reform efforts, regardless of the forum, would benefit immensely from complementing and not duplicating the significant work of the OECD.

Australia looks forward to providing further information and views as part of the intergovernmental discussions, evaluation of options and determination of next steps.