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

18-21 October 2022

Item 3 (c) of the provisional agenda

Update of the Practices and Working Methods – Co-ordinators Report

Summary

This report is *for information, discussion and seeking decisions on the draft text and on specific issues highlighted in paragraph 8 below*. The report also indicates the workstream of the small Group on Practices and Procedures that was formed at the 23rd Session of the Committee.

Background and Subcommittee Mandate

1. At its [23rd Session](#), the Committee of Experts on International Cooperation in Tax Matters considered note E/C.18/2021/CRP.20, prepared by the Secretariat on the work relating to “Procedural issues for the Committee, including options for Committee consultation”. The note summarized the work done by the previous membership of the Committee that had resulted in the document entitled “[Practices and Working Methods](#)”.
2. The Practices and working methods provide a streamlined description of the working methods of the Committee, as aligned with rules of procedure of the Economic and Social Council (ECOSOC). As the Committee is a subsidiary body of the ECOSOC, the Committee’s modalities and rules of procedure are subject to the relevant mandates and provisions of the Council.
3. The note E/C.18/2021/CRP.20 presented by the Secretariat highlighted issues not addressed by the previous membership, and the Committee established a small Group on Procedural Issues (the Group) for the purposes of helping the Committee to work on those issues and of reporting on them at its 24th session.
4. The Committee agreed that Ms. Liselott Kana and Mr. Carlos Protto would act as Co-ordinators of the group. Additionally, the [Report of the 23rd Session](#) notes the following issues would form the core of the work of the Group
 - (a) How to record the minority view when there were fewer than 25 members present;
 - (b) Appropriateness of recording just one dissenting view in the text on the United Nations Model Double Taxation Convention between Developed and Developing Countries;
 - (c) Composition of Subcommittees;
 - (d) Guidance on the formation and function of small groups; and
 - (e) Decision-making process for online meetings.

5. At the 24th Session of the Committee, at a closed session, it was agreed that only Committee members would be involved in this group. In addition, areas that required updating on the current Practice and Working methods were identified to ensure that the Committee works in a manner consistent with the rules set out by ECOSOC for subsidiary bodies but also strives to strike a balance between the political requirements and the technical work requirements.

Progress Made by the Subcommittee on its Work Program

6. The Group has held two virtual meetings since the 24th Session, on 8-9 June 2022 and 23 and 29 August 2022. In its discussions, the Group has focused on major changes to the Practices and Working Methods that is the first document presented for the consideration of the Committee at its 25th Session.
7. The Group expects to prepare a revised paper based on comments received at the 25th Session of the Committee for its approval during its 26th Session in 2023.

Requested Input from the Committee

8. The Group looks forward to the Committee's comments on the draft document attached as Annex, submitted for discussion, with special attention to the drafting of paragraphs 48, 53 and 57, where the Committee is invited to decide:
 - whether documents not circulated with due anticipation (two weeks), may be presented for approval by the Committee if either (a) in exceptional circumstances and where all Members present and voting agree; or (b) unless one or more Members present and voting object.

In case the Committee favors alternative (a) above, consideration should also be given to whether to maintain the requisite for "exceptional circumstances". In such a case, the Committee is invited to determine that documents not circulated with due anticipation (two weeks) cannot be presented to the Committee for approval except (a.1) where all Members present and voting agree that it may be presented for approval, or (a.2) in exceptional circumstances and where all Members present and voting agree that it may be presented for approval;
 - to create an Ad Hoc Group, whether it is required that (a) at least three members support and express their interest in participating in such a Group, or (b) if it is enough to create such a Group if at least three members support such a creation; and
 - to allow a second Co-coordinator of a Subcommittee to be (a) any person, or (b) a current or former government official from an Observer State.

Future Meetings of the Subcommittee

9. The Group plans to meet once before the 26th Session of the Committee.