

INDIA - Inputs for the Secretary General's Report

1. India believes that the UN Resolution adopted by the General Assembly on 30th December 2022, to “begin intergovernmental discussions on ways to strengthen the inclusiveness and effectiveness of international tax cooperation, including the possibility of developing an international tax cooperation framework or instrument that is developed and agreed upon through a United Nations intergovernmental process” is an important step towards making international tax cooperation fairer and more inclusive.
2. The level of interconnectedness in the global economy is rapidly increasing, which has led to an escalating number of cross-border tax disputes. This makes it an opportune time to find ways to leverage the collective capacities of UN Member States towards greater cooperation to avoid and/or reduce tax disputes.
3. In this backdrop, India sees significant potential in the development of an international tax cooperation framework through an intergovernmental body facilitated by the UN. This body should accord the highest priority to comprehensive capacity building efforts for developing Member States in the field of international taxation.

Governance

4. The choice of structure for the body that will facilitate discussions for inclusive and effective tax cooperation should build on the existing experiences of various Member States in the field. To that end, the existing Committee of Experts on International Cooperation in Tax Matters (the “UN Tax Committee”) could continue to provide technical inputs and operate in an advisory capacity to the proposed intergovernmental body. This Committee, based on its technical expertise and experience in international negotiations, could contribute meaningfully to decision-making at the intergovernmental level. Further, a dedicated and well-resourced UN Tax Secretariat would help institutionalize a representative and stable tax cooperation framework.

Capacity building

5. It is widely acknowledged that to ensure inclusivity in multilateral discussions, there is a need to build capacity among jurisdictions. For this purpose, it is important that the ongoing work at different forums is leveraged, and a holistic capacity building program is designed which can be customized to address the capacity gaps of jurisdictions, especially low-income countries. The proposed UN Tax Secretariat, with subcommittees or working groups dedicated to various domains in international taxation, could drive such a capacity building programme.

Work agenda

6. India believes that there are several areas of work which could be steered by the new intergovernmental body. The workstreams proposed below are areas that are likely to

be of special interest to developing countries, but which affect taxation at a global level. This work should build on the existing work being steered by other forums like the OECD/ G20 Inclusive Framework on BEPS.

Some of the potential workstreams could be:

- Nexus rules beyond physical presence: The traditional nexus rules based on physical presence have become outdated, which is also recognized in the ongoing work on Pillar One in the OECD/ G20 Inclusive Framework on BEPS. There is need for a comprehensive review of Articles 5 and 7 of the UN Model Tax Convention, and to introduce the concept of “significant economic presence” which would go beyond the principle of physical presence-based nexus for taxing rights on business profits in source jurisdictions.
- Taxation of Services: With increasing digitalization, modes of delivery of services have changed considerably. Accordingly, revised rules to tax incomes from services need to be developed.
- Taxation of Mobile Workers / Remote Workers: The share of mobile workers in all economies is increasing, and remote working is becoming increasingly prevalent, especially after Covid. In view of the same, there is a need to revisit existing rules to tax the incomes of such mobile/remote workers to ensure that every jurisdiction where economic activity is being carried out through such workers gets its fair share of taxes.
- Taxation of High-Net-worth Individuals: Offshoring of wealth by high-net-worth individuals (HNWIs) contributes to the already increasing wealth and income inequalities globally, which is a cause of concern for all countries. There is a need to begin work on developing a uniform way to tax HNWIs, especially to address the problem of “stateless” individuals who can arrange their affairs in a manner that they do not pay taxes anywhere.
- Fostering synergy in domestic tax policy: The new UN body could provide a forum for tax policy discussions among interested Member States to foster synergies in their domestic tax policies on issues of common interest.
- Standardization of the Arm’s Length Price and development of benchmarks: Simplification of transfer pricing is an important area of work which will help in reduction of tax disputes and help low-capacity countries to increase compliance.
- Rules relating to “Offshore indirect transfers”: Offshore indirect transfers (OITs) refer to transfer of shares offshore, though they may derive their value substantially from assets situated in the source jurisdiction. Existing rules for taxation of such transfers in most bilateral treaties make a reference to immovable property situated

in the source country, which limits the taxing rights in the source jurisdiction. A global consensus on the same could be attempted by the new intergovernmental body, based on paragraph 7 of Article 13 of the updated UN Model Tax Convention (2021).

These workstreams could be independently pursued by the subcommittees/working groups within the UN Tax Secretariat, whose key deliverables and political solutions could be put up to vote at the intergovernmental body. Depending on the nature of the recommendations made, some solutions could constitute a “minimum standard” which Member States should commit to implement, and others could be in the nature of best practices which Member States can implement if they so choose.