Promoting Innovation Worldwide

March 17, 2023

His Excellency
António Guterres
Secretary General
United Nations
New York, NY 10017

Secretary General Guterres:

Thank you for seeking stakeholder input to contribute to the Secretariat's development of a report to inform deliberations on international tax cooperation as outlined in the resolution on the "Promotion of inclusive and effective tax cooperation at the United Nations." ITI[1] has appreciated past opportunities to engage with the UN Tax Committee's workstreams.

As noted in the resolution, the successful administration of cross-border tax policy requires governments to collaborate and co-ordinate to address common tax challenges in a way that ensures income is taxed once. The proliferation of unilateral tax measures that result in double or multiple taxation and target non-resident companies (e.g., digital services taxes (DSTs), significant economic presence measures, etc.) and the increasing frequency of tax disputes have underscored the need for multilateral action to alleviate fragmentation and restore certainty and predictability.

Our global membership – which features industry leaders headquartered in the United States, Germany, India, Japan, Korea, and more – views the negotiations taking place under the auspices of the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting (IF) as the best forum for addressing the tax challenges arising from the digitalization of the global economy. **The introduction of parallel intergovernmental tax policy forums will exacerbate the fragmentation that is already destabilizing the international tax system, to the detriment of tax administrations and taxpayers alike.**

The IF announced in October 2021 a compromise for cross-border taxation in the 21st century global economy: reallocate – and coordinate – certain taxing rights to market jurisdictions and provide for the withdrawal of tax measures that destabilize the international tax system. The October 2021 Statement notably included a commitment to refrain from the imposition of newly enacted DSTs or other relevant similar measures until the earlier of December 31,

[1] The Information Technology Industry Council (ITI) is the premier global advocate for technology, representing the world's most innovative companies. Founded in 1916, ITI is an international trade association with a team of professionals on four continents. We promote public policies and industry standards that advance competition and innovation worldwide. Our diverse membership and expert staff provide policymakers the broadest perspective and thought leadership from technology, hardware, software, services, and related industries.

2023, or the coming into force of the Multilateral Convention. The moratorium alleviates pressure around negotiations and discourages perverse incentives so that governments can concentrate on resolving political and technical decisions to implement the compromise. Absent such a commitment, the continued introduction of unilateral tax measures would distract from the ongoing IF negotiations.

The Secretary-General should encourage governments to refrain from introducing unilateral tax measures that contravene long-standing international tax principles and instead continue pursuing a sustainable, multilateral solution to relevant tax challenges in the IF. While the OECD is providing significant technical work to the project, more than 140 governments are contributing to the development of policies to address common tax policy concerns. And the IF continues to grow in membership, with Azerbaijan joining in December 2022 and Mauritania in November 2021. ITI hopes more governments will formally join the IF and adopt BEPS reforms to better promote certainty and predictability in the international tax system.

ITI also notes the resolution's emphasis on the "timeliness and importance of strengthening international tax cooperation." The IF has identified mid-2023 as the timeline for opening a Pillar One Multilateral Convention for signature. If this timeline slips to later in 2023 or even 2024, the delay reflects the challenges associated with overhauling certain international tax norms that have underpinned the international tax system since the League of Nations and the importance of getting these reforms right, both in terms of policy and administration. ITI encourages the Secretary-General and participating jurisdictions to further engage in the project. The introduction of a parallel intergovernmental forum on international tax policy would create additional uncertainty and further delay the finalizing and coming into force of a multilateral approach that addresses common tax policy challenges.

If the Secretary-General does recommend the UN pursue intergovernmental consideration of international tax policies, even though such an approach would further exacerbate fragmentation and tax and trade disputes, it should do so in line with long-standing international tax principles and comprehensive stakeholder engagement. Although ITI strongly believes that governments should first support the efforts in the IF, if policy makers still intend to meet to discuss alternatives, it will be imperative that discussions respect the core principles of international taxation. For example, any new approach should not lead to double or multiple taxation. Any system which does not result in clear agreement as to which country has taxing rights, and which countries must have mechanisms to avoid double taxation through credits or exemptions, is a system that will simply escalate into trade tensions, decreased economic investment, slowed growth, and stunted technological development. It is critical that governments develop policies with broad agreement across all their major trading partners to avoid double taxation and do not operate unilaterally at the risk of producing these unintended consequences.

Economic Impact Assessments
The Secretary-General's Report should acknowledge that currently available data, including the OECD's January 2023 economic impact assessment of the Two-Pillar Solution, may not reflect the impact of significant tax policy changes in recent years (e.g., ongoing implementation of BEPS reforms intended to address tax avoidance, implementation of the U.S. Tax Cuts and Jobs Act, etc.).[2]

If the Secretary-General considers producing independent economic analysis, ITI encourages analysis based on empirical data that includes estimated impacts on competitiveness and trade and investment flows, and estimated outcomes under a 'worst-case scenario' where even more jurisdictions adopt overlapping unilateral measures that generate tax and trade disputes.

The Role for Technical Assistance and Capacity Building
Our perspective should not be understood as saying the UN has no role in supporting cross-border taxation policy. Rather, the UN, along with the OECD, the World Bank Group, the African Tax Administration Forum (ATAF), and other regional and international organizations and institutions, has a critical role to play in supporting the successful negotiation and implementation of BEPS reforms. This can include providing technical assistance and/or capacity building for interested tax administrations, developing complementary programming, supporting stakeholder engagement for domestic implementation and administration, etc. ITI has contributed extensively to IF public consultation opportunities through the lens of improving administrability, providing certainty, and eliminating double counting. We welcome further engagement as governments seek to implement reforms.

Conclusion
Thank you for your consideration of our perspectives. We welcome the opportunity to discuss further.

Sincerely,

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[2] https://www.oecd.org/tax/beps/webinar-economic-impact-assessment-two-pillar-solution.htm.