



NOTE NUMBER: 03/23/08

The New Zealand Permanent Mission to the United Nations presents its compliments to the Secretariat of the United Nations 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 New Zealand Permanent Mission has the honour to enclose New Zealand's input into the report.

The New Zealand Permanent Mission would welcome further discussions with the Financing for Sustainable Development Office of the Department of Economic and Social Affairs as the report is developed.

The New Zealand Permanent Mission to the United Nations takes this opportunity to renew to the Secretariat of the United Nations the assurances of its highest consideration.



New Zealand Permanent Mission to the United Nations  
NEW YORK

16 March 2023

Encl. 2



The General Assembly's resolution 77/244 of 30 December 2022 requests the Secretary General to "prepare a report analysing all relevant international legal instruments, other documents and recommendations that address international tax cooperation ... as well as outlining potential next steps, such as the establishment of a Member State-led, open-ended ad hoc intergovernmental committee to recommend actions on the options for strengthening the inclusiveness and effectiveness of international tax cooperation".

As a small open economy, New Zealand has benefited from multilateral tax cooperation both as a guide to best practice and as a forum for the development of ideas and initiatives with the potential to benefit all member states.

New Zealand welcomes the opportunity to provide input into this report. Our submission seeks to encourage recognition of existing steps being taken to promote inclusive and effective international tax cooperation. Future steps should support the goal of enhancing international tax cooperation, taking care to ensure that existing measures and mechanisms are not inadvertently undermined.

### ***New Zealand's role in promoting international tax cooperation***

New Zealand has a long-standing commitment to multilateral cooperation. This commitment includes periods of service as members of the UN Committee of Experts on International Cooperation in Tax Matters (UN Tax Committee). We are also active participants in the work of the OECD's Committee on Fiscal Affairs, chairing several subsidiary bodies over time.

The New Zealand Government commits significant resources relative to its size to promote bilateral and multilateral instruments that facilitate trade and investment and prevent tax avoidance and evasion. In this context, we note that the shift towards the adoption of multilateral instruments in place of bilateral instruments in recent years has been dramatic. This shift has taken place via both the UN and the OECD. Please see appendix attached which lists these multilateral achievements.

#### *OECD Committee*

The growth of multilateralism as a complement to bilateral measures began with measures to facilitate transparency and better exchange of information and to deter countries from engaging in tax competition by adopting harmful tax practices. This work was followed by the ambitious Base Erosion and Profit Shifting (BEPS) project which resulted in the Multilateral Convention to Implement Tax Treaty Related measures to Prevent BEPS (the MLI) as well as multilateral initiatives involving the spontaneous exchange of summaries of tax rulings and the international exchange of country-by-country reports as to the allocation of profits of major multinational enterprises. Apart from the MLI, the BEPS achievements are reflected in both the UN Model Double Taxation Convention between Developed and Developing Countries and the OECD Model Tax Convention on Income and on Capital.

In the tax transparency arena, there has been exponential growth in the exchange of information between tax treaty partners, commencing with revisions to the overarching instrument, the Multilateral Convention on Mutual Administrative Assistance in Tax Matters, that now has over 140 signatories. This has led to the widespread implementation of the Common Reporting Standard to exchange financial account information globally, the international exchange of information as to sellers on digital platforms, and the recent multilateral consensus on a Crypto-Asset Reporting Framework to address the tax risks arising from the growth in crypto-asset markets.

In the period following the initial BEPS project, many UN member states have been engaged in more fundamental discussions over the allocation of taxing rights – especially in relation to the digital economy. This work has been undertaken by the OECD/G20 Inclusive Framework on BEPS.

### *UN Tax Committee*

The UN Tax Committee's work is wide-ranging. Its tasks include keeping the UN Model Tax Convention fit for purpose. The UN Tax Committee also supports capacity building in developing countries with a view to strengthening tax systems.

We commend the excellent technical and practical work undertaken by the UN Tax Committee. We support this work and seek to ensure such valuable contributions to international tax cooperation will continue, noting the risk that the creation of additional tax bodies would compromise the Committee's ability to deliver these outputs.

### *Growth of multilateralism*

The many benefits of multilateral cooperation include:

- A consensus-based framework that balances the interests of participating jurisdictions;
- A common set of principles and rules for allocation of taxing rights, facilitation of trade and investment and preventing tax avoidance and evasion (among other things);
- A common approach to dispute resolution in the event of disagreement on how the relevant rules apply.

However, there are also challenges that result from the increase in multilateralism. These include the following:

- **Participation:** The need to participate in the development of the multilateral process which requires significant technical resources;
- **Compromise:** The need to compromise to achieve a consensus-based result;
- **Ratification:** Governments need to ensure the ratification of agreements, to ensure the commitments made have effect in practice;
- **Implementation in domestic law:** Multilateral agreements need to be supported by domestic law changes to secure the benefits of those agreements;
- **Capacity building:** The need to develop the capacity to utilize multilateral instruments.

There is no question that the move to multilateralism is, unambiguously, a positive outcome. However, the speed with which countries have signed up to many multilateral initiatives has created considerable challenges in terms of realizing the benefits from these agreements.

### ***Focus of the Secretary General's Report***

We agree that the general focus and scope of the Secretary General's report should be to analyse the instruments and other measures that address international tax cooperation. We consider that there is value in understanding the contribution of substantive instruments and measures to the international tax framework.

In our view, the documents alone may not provide insight into the practical challenges faced by countries which may affect the ability of states to benefit from these agreements. As such, we recommend the report analyses the considerable practical challenges arising from the sharp increase in multilateralism in the last 15 – 20 years. The goal of this work as a whole should be to ensure that all member states are able to make multilateral agreements work so that the benefits of existing and future multilateral initiatives are realised.

### ***Potential Next Steps***

As a general matter, New Zealand does not support the creation of another international tax body. Currently, the UN Tax Committee, the OECD/G20 Inclusive Framework, the International

Monetary Fund, the World Bank, various regional development organisations (such as the Asian Development Bank) and the Platform for Tax Cooperation all contribute to the international tax framework. We do not see that another body is necessary to strengthen international tax cooperation or to make it fully inclusive and effective. Instead, there is the potential for duplication of effort and resource. This will be particularly detrimental to the ability of small and developing countries who may struggle to participate effectively in many fora.

New Zealand would struggle to participate in a new committee in terms of our own resources. This is not a matter of financing, but of resource availability. We expect other member states with similar characteristics as us will also face these constraints.

In addition, for the reasons stated above, we do not support the creation of another multilateral tax convention that would inevitably cover the same ground as those currently in place. In our view, a UN convention would not necessarily avoid the need for compromise in order to create an instrument that member states are prepared to ratify and implement. Further, countries engaging in the creation of an international tax convention at the UN will face the same barriers to participation as they currently do for the OECD/G20 Inclusive Framework on BEPS. However, it may be beneficial for the UN to develop guidance on entering into multilateral treaties as a stand-alone product.

Finally, we have a concern that a further multilateral initiative could have unintended consequences, including putting at risk existing efforts to enhance inclusivity and develop the international tax framework by consensus. For example, there is a risk that work undertaken in other fora, such as the G20/OECD Inclusive Framework on BEPS, does not progress due to the diffusion of countries' resources across multiple workstreams. It is necessary to consider how a new instrument or body interacts with, inhibits or supports, other processes promoting tax cooperation before committing to next steps. A multiplicity of fora and instruments is unlikely to provide clarity and certainty or enable all countries to participate on an equitable basis.

In our view, the UN Tax Committee would benefit from increased secretariat resources. A better resourced Committee could allow for a wider range of activities that support their work programme, without creating new bodies or instruments.

## **Conclusion**

New Zealand recommends the Secretary General's report analyses the challenges for developing countries to make multilateral agreements work so that member states are better able to realise the benefits of existing and future multilateral initiatives.

New Zealand does not recommend that the potential next steps include the creation of a further intergovernmental committee, as it is not clear that this will necessarily improve or enhance inclusiveness, effectiveness and cooperation in the international tax sphere.

New Zealand recommends that member states are offered the opportunity to comment on the Secretary General's report before it is finalised. Meaningful consultation at each stage of the process will result in better outcomes for member states.

We would welcome future opportunities for consultation on the contents of this report and are available to participate in this project.

**Appendix:***OECD multilateral initiatives include:*

Model Tax Convention on Income and on Capital

Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations

OECD/G20 Base Erosion and Profit Shifting (BEPS) Project

Country-by-Country Reporting

Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS

OECD/G20 Inclusive Framework on BEPS

Convention on Mutual Administrative Assistance in Tax Matters

Global Forum on Transparency and Exchange of Information for Tax Purposes

Exchange of Information on Request

Common Reporting Standard for the Automatic Exchange of Financial Account Information in Tax Matters

Common Transmission System

International VAT/GST Guidelines

Mechanisms for the Effective Collection of VAT/GST

The Role of Digital Platforms in the Collection of VAT/GST on Online Sales

Model Rules for Reporting by Platform Operators with respect to Sellers in the Sharing and Gig Economy

Ten Global Principles for Fighting Tax Crime

*UN Tax Committee initiatives include:*

Model Double Taxation Convention between Developed and Developing Countries

Manual for the Negotiation of Bilateral Tax Treaties between Developed and Developing Countries

Practical Manual on Transfer Pricing for Developing Countries

Handbook on Avoidance and Resolution of Tax Disputes

Handbook on Carbon Taxation for Developing Countries

Handbook on Selected Issues for Taxation of the Extractives Industries by Developing Countries

Guidelines on the Tax Treatment of Government-to-Government Aid Projects