

Practices and Working Methods for the Committee of Experts on International Cooperation in Tax Matters



UN Tax Committee



United Nations

PRACTICES AND WORKING METHODS FOR THE COMMITTEE OF EXPERTS ON INTERNATIONAL COOPERATION IN TAX MATTERS

I. Preliminary

1. These Practices and Working Methods are intended to facilitate the work of the United Nations Committee of Experts on International Cooperation in Tax Matters in Meeting its mandate. The Working Methods are designed to be read in conjunction with the Rules of Procedure of the Economic and Social Council (ECOSOC) as amended from time to time. To the extent of any inconsistency, it follows that those Rules prevail.

II. Agenda

(a) The provisional agenda

2. The provisional agenda for a regular meeting will be drawn up by the Secretariat, in consultation with the Chairperson/Bureau and Members, and approved (in its provisional form) by the Committee at the end of the regular meeting immediately preceding the meeting in question. To facilitate discussion of the provisional agenda, a draft of the provisional agenda will be circulated to all Members the day before it is scheduled to be discussed and approved.

3. Discussion of the provisional agenda will take place in a closed consultation with only Members in attendance, unless members decide otherwise.

4. In general, the provisional agenda will allow for periods of time when the meeting is closed to consider agenda items of a sensitive nature.

5. The approved provisional agenda is to be included in the Report on the meeting and provided to ECOSOC for its approval.

6. The Secretariat, in consultation with the Chairperson/Bureau, will propose revisions, if necessary, to the provisional agenda at least one month prior to the opening of a meeting and the redrafted provisional agenda will be circulated to all Members one month prior to the opening of a meeting. Each agenda item will set out clearly whether the item is for information, for discussion, or for approval and who will be presenting the item.

(b) Modifications

7. Any proposed modifications to the provisional agenda, including additions and topics to be considered under “Other items”, should be proposed by Committee Members or the Secretariat in writing, and circulated to all Committee Members, at least one week prior to the opening of the meeting.
8. Modifications to the provisional agenda, including additions, may be made if a Committee Member has proposed an addition, justifying its importance and urgency, and such modifications are agreed to by a majority of the Members present and voting at the beginning of the meeting.

III. Closed Consultations

(a) Conduct of closed consultations

9. Closed consultations, with only Committee Members in attendance, will be scheduled to discuss items of a sensitive nature or where a closed consultation will facilitate the efficiency and effectiveness of the functioning of the Committee.¹
10. Closed consultations should not, however, impede obtaining relevant input from Observers.
11. A closed consultation may be proposed by a Member or the Secretariat. As a best practice, closed consultations should be scheduled in advance of the meeting and be reflected in the agenda that is posted and made available to the public on the UN website.
12. If a closed consultation is proposed in advance of the meeting, and has not already been agreed to in the prior meeting, a decision will be taken by Members in accordance with the Committee’s working methods. If a closed consultation is proposed at any time during the meeting, the proposal must be discussed in a closed consultation called by the Chairperson and decided by a majority of the Members present and voting. If a proposal for a closed consultation is made during an open meeting, the Chairperson will decide when the closed consultation will take place to debate the merits of a closed consultation for the particular issue.
13. Scheduling of closed consultations should take into account the impact on the flow of work and the attendance of Observers.

¹ Where it would facilitate an open discussion of all issues, the Committee may decide to invite observer States to join the closed consultations.

IV. Committee Report

(a) Preparation of reports on sessions

14. The Committee reports its activities to the UN Economic and Social Council (ECOSOC) twice each year, following each regularly scheduled meeting.

15. The Secretariat will prepare a first draft of the Report, which sets out the course of the discussions, and decisions taken, in open meetings.²

16. The Report should capture differing views and clearly identify when a decision was made by vote.

17. The Report will only record such decisions taken during closed consultations as are reported in open meetings; it will not provide a summary of the discussions that took place in a closed consultation.

18. Unless otherwise agreed, Members will have a minimum of two weeks to review and provide comments on the draft Report. The Secretariat, in consultation with the Chairperson/Bureau as needed, will consider the comments received and finalize the Report. A final version of the Report will then be circulated to all Members and published on the website.

(b) Summary of closed consultations

19. A separate summary of the discussions that took place in closed consultations will be prepared by the Secretariat and circulated to Members within the same timeframes as provided for the Report. This summary will only be distributed and made available to Members.

V. Conduct of Business

(a) Role of Chairperson

20. In addition to the powers of the Chairperson provided for in Chapter X of the ECOSOC rules, the Chairperson is responsible for:

- Deciding, based on urgency, to reduce the normal three-week period for items to be approved under a written procedure, to a period not less than one week;

² At its 16th Session, the Committee agreed to eliminate the role of a rapporteur to streamline the reporting process and ensure timely submission of the Report to ECOSOC.

- Deciding, in the case of an extended out-of-office e-mail notification, to extend the three-week period for items to be approved under a written procedure;
- Summarizing the conclusions reached by the Committee.

21. As a general rule, all Members should be given priority to speak or intervene before the floor is given to Observer States and other Observers, in that order while recognizing that comments from particular Observers may help focus the discussion or bring it to an appropriate conclusion.

(b) Committee decision-making

22. In addition to the rules of Decision-making set out in Chapter XI of the ECOSOC Rules:

- It is desirable for the Committee to strive to achieve consensus for all decisions.
- Only Committee Members are entitled to vote. Each Committee Member will have one vote.

23. To facilitate the efficiency and effectiveness of the work of the Committee it may be necessary, in exceptional cases, to seek decisions when the Committee is not in Session. In such cases the written procedure set out below may be used.

- The Secretariat would send an e-mail to all Committee Members³ with the proposal or document, in electronic format, for approval within a specified time period.
- Unless otherwise decided by the Chairperson, and conveyed to the Members, a minimum of three weeks would be allowed for Members to agree, disagree and/or provide comment. Any comments should be forwarded to all Members at the same time they are sent to the Secretariat.
- If no Member indicates disagreement and/or no Member conveys comments on the document seeking modification within the timeframe provided, the proposal or document would be considered approved. If a Member indicates disagreement, or objects to the use of the written procedure, the document or proposal would be discussed at the next regular meeting of the Committee.

³ It is the responsibility of each Committee Member to provide the Secretariat with any change of e-mail address.

- Where there are comments on a proposal or document by one or more Members, the Secretariat, in consultation with the Chairperson, the Member having made the comments and/or the concerned Subcommittee Coordinator, as necessary, would prepare and circulate a revised draft or proposal within one-week of the end of the three-week period. Members would have a further one-week to comment on the revised draft or proposal.
- If no Member indicates disagreement with the revised draft or proposal, the revised document or proposal would be considered approved. If any Member indicates disagreement, the draft or proposal would be discussed at the next regular meeting of the Committee.
- In respect of the written procedure, silence on the part of a Member, with one exception, will be regarded as acceptance. Silence will not be regarded as acceptance if the Member has an “out of office” reply to e-mails, and that “out of office” message covers the entire three-week period or substantially the whole period. In such a case the Chairperson may, at his or her discretion, extend the period for comment in the case of such Member.

(c) Information provided to the Committee by Observers⁴

24. Input or information from Observers or other stakeholders should be given appropriate consideration in the work of the Committee, especially where comments have been requested by the Committee.
25. Where comments have not been requested, information from Observers and other stakeholders will be reviewed and analyzed by the Secretariat and the Chairperson/Bureau to determine the relevance of the material in furthering the agenda and priorities of the Committee. Materials will only be circulated to Members where it is determined by the Secretariat, in consultation with the Chairperson/Bureau, to be of significant relevance and usefulness to the work of the Committee.
26. The Secretariat may nevertheless circulate to individual Members materials (other than materials intended for the Committee as a whole) that they understand likely to be of particular interest to those Members.

⁴ This section is not intended to apply to papers prepared by the Secretariat.

27. Unless otherwise agreed by the Secretariat and the Chairperson, materials received from Observers and other stakeholders should only be circulated to Members by the Secretariat, the Chairperson or the relevant Coordinator of a Subcommittee.

(d) Restriction on reporting on work of the Committee

28. There shall be no live reporting of a meeting.⁵

29. Any report on the work of the Committee⁶, including academic articles, should be done in a way that protects the identity of the speaker or discussants.

30. Members act in their personal capacity and their views should not be taken to be made on behalf of the State that nominated them.

31. The registration form for each session will include a notice on the restrictions on reporting on the work of the Committee.

VI. Organization of Work

(a) Provisional organization of work

32. The provisional organization of work will be drawn up by the Secretariat, in consultation with the Chairperson and the concerned Coordinator.

33. The provisional organization of work will identify the documents that will be discussed for each agenda item.

34. The provisional organization of work will clearly identify closed consultations, and indicate whether or not Observer States are invited to the closed consultation. To the extent possible, closed consultations should be planned in advance and communicated to Observers. As a general rule, one closed consultation will be scheduled on the first day to facilitate planning for the meeting.

35. The provisional organization of work will be circulated to Members with the Agenda, no later than one month prior to the opening of the session.

⁵ This means, for example, live updating of social networks during the course of the meetings is not permitted.

⁶ This includes the work of Subcommittees.

(b) Proposed modifications and changes

36. Any proposed modifications to the provisional organization of work, should be proposed, in writing, by Members or the Secretariat, and circulated to all Members, at least one week prior to the opening of the session.

37. The provisional organization of work, with any proposed modifications, should be approved by Members at the beginning of the session. At that point it ceases to be provisional.

38. The organization of work is to be respected, including following the order and basic timing. The Chairperson may propose changes during the course of the session with a view to improving the efficiency and effectiveness of the meeting. Members should be given as much advance notice as possible of such a proposal. If the proposal is objected to by one or more Members, the change will only be made if agreed by a majority of the Members present and voting.

(c) Documents

39. All documents referred to in the organization of work will be circulated to Members at least two weeks prior to the opening of a session and each document should include a summary and a clear outline of the action expected from the Committee.

40. A document not circulated at least two weeks prior to the opening of a session may be presented for information or for discussion, with the approval of the majority of the Members present and voting, but it cannot be presented to the Committee for approval except in exceptional circumstances and where all Members present, and voting agree that it may be presented for approval.

41. As a best practice, the Committee should not be invited to approve a document that is presented (or circulated under written procedure) for the first time. In this context, a document that was previously presented (or circulated), and has been revised, is not considered to be presented (or circulated) for the first time. If approval is sought, it should (as best practice) be circulated to Members at least one month prior to the opening of the session.

VII. Subcommittees

(a) Purpose of Subcommittees

42. Subcommittees assist the Committee in fulfilling its mandate by working both at and between plenary meetings to prepare and determine

supporting documentation for the agenda items to be considered at the Committee's plenary meeting.

43. Subcommittees make recommendations to the Committee, but it is the Committee itself that takes final decisions and approves documents.

(b) Creation and Termination

44. Any Member may propose the creation or abolishment of a Subcommittee.

45. If there is sufficient support to approve the creation of a Subcommittee, a discussion should follow to determine the scope and any necessary timing of work to be undertaken by the Subcommittee, as manifested in a mandate.

46. A Subcommittee will cease to exist upon the fulfilment of its mandate or, prior to the fulfilment of its mandate, by a decision of the Committee.

47. Subcommittees may be reconfigured during the course of their life to maximize their ability to meet their mandate, in the same manner in which they were originally formed.

(c) Election of Coordinator

48. Once a Subcommittee has been created, and the Mandate agreed, a Coordinator⁷ of the Subcommittee should be elected by the Committee. If a Subcommittee is formed during the first year of a four-year mandate of Members, the Coordinator may be elected at a future meeting. Until a Coordinator is elected, the Secretariat will coordinate the Subcommittee work.

49. A Coordinator must be a Member. On an exceptional basis, where the Subcommittee has Co-coordinators, one of the Co-coordinators may be a non-member from an Observer State.

(d) Composition of Subcommittees

50. Subcommittees may be composed of Committee Members and Observers to the work of the Committee. Observers will be considered for participation in a Subcommittee to the extent that they have relevant

⁷ All references to a Coordinator should be understood to include Co-Coordinators in the event that the Subcommittee has chosen Co-coordinators.

experience and expertise in the particular subject matter. The Committee may decide to limit participation in a Subcommittee to only Members or to Members and Observer States.⁸

51. All Members, as of right, may become a participant of any Subcommittee.

52. A Member may join a Subcommittee at any time during the existence of the Subcommittee but, for joining after the Subcommittee has commenced its work, the Coordinator must agree.

53. As a best practice, Members should limit their participation to four active Subcommittees at any given point in time.

54. A Member may withdraw from a Subcommittee at any time, but should advise the Coordinator and the Secretariat immediately of such decision.

55. The composition of Subcommittees should include a majority of Members and State Observers unless, on a recommendation from the Coordinator of a particular Subcommittee, the Committee agrees to a different composition of the particular Subcommittee.

56. As a best practice, Subcommittees should be representative of a wide cross-section of stakeholders but should be small enough to allow work to progress (in the range of 10-20 people). It is important to ensure sufficient regional diversity, as well as sufficient developing country representation.

57. The Secretariat will circulate a list of the participants of Subcommittees to all Members. This list should be updated, and re-circulated, as changes are agreed to the composition of a Subcommittee.

(e) Role of Coordinator

58. The Coordinator is responsible for coordinating and directing the work of the Subcommittee with a view to fulfilling the Subcommittee's mandate.

59. The Coordinator is responsible for determining the Observers who are participants in the Subcommittee in consultation with the Chairperson, Members who are, or have expressed interest in, participating in the Subcommittee and the Secretariat. The initial list of participants in a Subcommittee must be presented to the Committee for approval.

⁸ In addition, Observers may include representatives from International Organizations. Those participating in a Subcommittee need not have participated as Observers in Committee Sessions.

Subsequent changes to the list of participants do not have to be approved by the Committee unless the proposed addition or removal of an Observer is opposed by a Member who is participating in the Subcommittee.

60. The Coordinator is responsible for informing the Secretariat of any changes to the participants of a Subcommittee as soon as possible.

61. The Coordinator is responsible for identifying significant issues, and particularly those that are contentious, that arise during Subcommittee discussions and for bringing those issues to the attention of the Committee for guidance and/or approval.

62. The agenda for a Subcommittee meeting will be prepared by the Coordinator of the Subcommittee, after consultation with the Secretariat, and the participants of the Subcommittee, as necessary.⁹

63. Participation of ad hoc observers in a meeting will be approved in advance by the Coordinator, in consultation with the Secretariat, and participants in the Subcommittee should be advised of such decision in advance of the meeting.

64. The Coordinator will ensure that the agenda and the documents are circulated to participants of the Subcommittee and ad hoc observers, if any, in advance of the meeting.

(f) Operation of Subcommittees

65. Where possible Subcommittees will advance work through the use of conference calls and e-mails/electronic means to ensure the participation of as many participants of the Subcommittee as possible. It is recognized, however, that face-to-face meetings may also be necessary for the efficient operation of the Subcommittee.

66. Meetings and conference calls should be organized at times and locations so as to have the participation of the maximum number of Subcommittee participants and in particular participants from developing countries. Where possible, Subcommittees should also plan meetings on the margins of Committee meetings.

67. A comment from a Subcommittee participant, provided for discussion by the Subcommittee, should not be included in a Subcommittee document provided to the Committee and made public, without the agreement of the

⁹ Representatives of the government hosting the meeting should be consulted regarding practical arrangements.

participant having made the comment, and in the terms of such agreement.

(g) Duties of Subcommittee participants

68. Subcommittee participants are expected to actively participate in, and support, the work of the Subcommittee in fulfilling its mandate

VIII. Role of Observers¹⁰

69. Observers are invited to participate in the work of the Committee and its Subcommittees without the right to vote.

70. Observers are also subject to the rule on reporting on the work of the Committee (see section V(d)).

IX. Role of UN Secretariat

71. In addition to the particular tasks otherwise set out in the Rules of Procedure and Practices and Working Methods, the role of the UN Secretariat is to support the work of the Committee and Subcommittees.

¹⁰ Observer States refer to delegates sent by a government to officially represent a particular State. “Other Observers” refer to those not officially representing the government of a particular State. These other Observers may include: academics and representatives from International Organizations, civil society or the business sector. When the term “Observers” is used it is intended to refer to Observer States and other Observers.

