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United Nations

Committee of Experts on International Cooperation in Tax Matters

Report on the twenty-third session (virtual session, 19–28 October 2021)

Economic and Social Council

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Chapter I

Matters calling for action by the Economic and Social Council

Draft decision for adoption by the Council

1. The Committee of Experts on International Cooperation in Tax Matters recommends that the Economic and Social Council review and adopt the following draft decision:

Venue, dates and provisional agenda of the twenty-fourth session of the Committee of Experts on International Cooperation in Tax Matters

The Economic and Social Council, taking into account the continuing impact of the coronavirus disease (COVID-19) on the working arrangements for the sessions of the Council and of its subsidiary bodies:

(a) Decides that, if feasible, the twenty-fourth session of the Committee of Experts on International Cooperation in Tax Matters shall be held from 4 to 7 April 2022, in New York, and otherwise shall be held in informal meetings in a scaled-down format using a virtual platform in April 2022, with the decisions of the Committee adopted through a silence procedure and the final modalities decided by the Co-Chairs of the Committee following consultations with the members of the Committee;

(b) Approves the provisional agenda of the twenty-fourth session of the Committee, as proposed by the Committee of Experts and as set out below:

Provisional agenda of the twenty-fourth session of the Committee of Experts on International Cooperation in Tax Matters

1. Opening of the session by the Co-Chairs.
2. Adoption of the agenda and organization of work.
3. Discussion of issues related to international cooperation in tax matters:
   (a) Procedural issues for the Committee, including options for Committee consultations;
   (b) Taxation and the Sustainable Development Goals;
   (c) Issues related to the United Nations Model Double Taxation Convention between Developed and Developing Countries;
   (d) Update of the United Nations Manual for the Negotiation of Bilateral Tax Treaties between Developed and Developing Countries;
   (e) Transfer pricing;
   (f) Taxation of the extractive industries;
   (g) Environmental taxation;

(h) Dispute avoidance and resolution;

(i) Taxation issues related to the digitalized and globalized economy;

(j) Digitalization and other opportunities to improve tax administration;

(k) Increasing tax transparency;

(l) Taxation and coronavirus disease (COVID-19): pandemic and post-pandemic issues;

(m) Wealth and solidarity taxes;

(n) Indirect taxes,

(o) Health taxes;

(p) Relationship of tax, trade and investment agreements;

(q) Capacity-building;

(r) Other matters for consideration.

4. Provisional agenda of the twenty-fifth session of the Committee.

5. Arrangements for adopting the report of the Committee on its twenty-fourth session.

Chapter II
Introduction

2. Pursuant to Economic and Social Council resolutions 2004/69 and 2017/2 and decision 2021/231, the twenty-third session of the Committee of Experts on International Cooperation in Tax Matters was held virtually, with informal virtual meetings from 19 to 28 October 2021. The virtual meetings were attended by 25 members of the Committee and 470 registered observers.

3. The present report serves to summarize Committee discussions and decisions taken on the items set out in the provisional agenda of the Committee at its twenty-third session, as adopted by the Committee (E/C.18/2021/3), as follows.

Provisional agenda

1. Opening of the session by the representative of the Secretary-General.
2. Election of the Chair or Co-Chairs and Vice-Chairs of the Committee.
3. Remarks by the Chair or Co-Chairs of the Committee.
4. Adoption of the agenda and organization of work.
5. Discussion of issues related to international cooperation in tax matters:
   (a) Procedural issues for the Committee, including options for Committee consultations;
   (b) Taxation and the Sustainable Development Goals;
   (c) Issues related to the United Nations Model Double Taxation Convention between Developed and Developing Countries, including:
      (i) Article 12 (Royalties): possible amendments in relation to payments related to software and digital products;
      (ii) List of matters suggested by the previous membership for possible further work;
   (d) Review and possible update of the Manual for the Negotiation of Bilateral Tax Treaties between Developed and Developing Countries;
   (e) Transfer pricing;
   (f) Taxation of the extractive industries;
   (g) Environmental and environmentally related taxation;
   (h) Dispute avoidance and resolution;
   (i) Taxation issues related to the digitalized and globalized economy;
   (j) Digitalization and other opportunities to improve tax administration;
   (k) Increasing tax transparency;
   (l) Taxation and coronavirus disease (COVID-19): pandemic and post-pandemic issues;
   (m) Wealth and solidarity taxes;
   (n) Indirect taxes, including health taxes;
   (o) Relationship of tax, trade and investment agreements;

(p) Capacity-building;

(q) Other matters for consideration.

6. Provisional agenda of the twenty-fourth session of the Committee.

7. Arrangements for adopting the report of the Committee on its twenty-third session.

Chapter III
Organization of the session

Opening of the twenty-third session, election of the Bureau and adoption of the agenda

4. On 19 October 2021, the twenty-third session of the Committee of Experts on International Cooperation in Tax Matters was opened by the Secretary of the Committee, Michael Lennard. The first meeting was closed for the purposes of electing the Co-Chairs and Vice-Chairs.

5. The Committee elected by acclamation Marlene Parker as Chair, with the understanding that the full Bureau would be elected later in the session. Subsequently, Ms. Parker presided over the Bureau elections, and Mathew Olusanya Gbonjubola and Liselott Kana were elected by acclamation as Co-Chairs, taking that role immediately and until 30 June 2025. The following were elected by acclamation as Vice-Chairs for the same term: Rasmi Das, Carlos Protto, Elisângela Rita and Stephanie Smith.

6. At the first open meeting of the session, in her role as Chair, Ms. Parker welcomed all participants and noted that the Committee was commencing a new chapter with promises of a very productive tenure building on the work of the previous membership of the Committee.

7. Ms. Parker recognized that the Committee had the responsibility to consider what it could do to help to optimize the tax systems of developing countries and support their domestic revenue mobilization efforts. She looked forward to a productive tenure that would deliberate on issues that were especially significant for developing countries, especially as they worked to rebuild from the pandemic's effects.

8. The Director of the Financing for Sustainable Development Office, Navid Hanif, delivered welcoming remarks on behalf of the Secretariat. He congratulated Ms. Parker on her election as Chair of the session.

9. Mr. Hanif underlined the ambitious and realistic Committee agenda and its opportunity and responsibility in framing the work programme and outputs in the sustainable development context, especially the 2030 Agenda for Sustainable Development and the Addis Ababa Action Agenda of the Third International Conference on Financing for Development.

10. In this report entitled *Our Common Agenda* (A/75/982), the Secretary-General gave taxation significant prominence as a key part of a renewed social contract and one of the most powerful tools of government, critical to investing in public goods, reducing extreme inequalities in wealth and incentivizing sustainability. He underscored the need for stronger international cooperation on aggressive tax avoidance, money-laundering and illicit financial flows.

11. Mr. Hanif outlined the importance of upholding the Committee's practice of working in a collegial and cooperative manner to deliver balanced outcomes. He especially welcomed the input and participation of observers from Member States, international organizations, academia, civil society and the private sector.

12. Ms. Parker thanked Mr. Hanif for outlining the responsibilities of the Committee to ensure that its work was synchronized with the Sustainable Development Goals and their financing.

13. The agenda of the twenty-third session of the Committee was approved. Mr. Das raised the issue of a possible "subject-to-tax" rule, to be considered as an issue related to the United Nations Model Double Taxation Convention between Developed and Developing Countries.

Chapter IV
Discussion and conclusions on substantive issues related to international cooperation in tax matters

A. Procedural issues for the Committee, including options for Committee consultation

14. The secretariat summarized the work done by the previous membership of the Committee that had resulted in the document entitled "Practices and working methods for the Committee of Experts on International Cooperation in Tax Matters". The document provides a streamlined description of the working methods of the Committee, as aligned with rules of procedure of the Economic and Social Council.

15. Various issues not addressed by the previous membership were presented, and the Committee established a small group on procedural issues for the purposes of helping the Committee to work on those issues and of reporting on them at its next session. The Committee agreed that Ms. Kana and Mr. Protto would act as Coordinators of the group and that the following issues would form the core of the work:

(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;

(e) Decision-making process for online meetings.

B. Taxation and the Sustainable Development Goals

16. Mr. Hanif presented a conference room paper on the relationship between taxation and the Sustainable Development Goals (E/C.18/2021/CRP.21),[1] in order to stimulate discussion reflecting how a perspective on taxation and the Goals could help the Committee to prioritize issues for its workplan.

17. Mr. Hanif highlighted that a perspective on tax and the Goals took into consideration social, economic and environmental priorities. The approach was particularly critical for developing countries and took into account a broad spectrum of cutting-edge issues (e.g. digitized and globalized economy, wealth and health, the informal sector), and cross-border issues (e.g. double taxation and non-taxation, harmful tax avoidance and abuse). He remarked that strong fiscal policies and international tax cooperation were critical to recovery from the pandemic and to avoiding a decade of lost development, as recognized by the Secretary-General in his report entitled "Our Common Agenda". It was important to integrate tax and Goal-based approaches in all Committee workflows.

18. Mr. Hanif addressed how the Committee had contributed, and could contribute, to supporting countries in achieving the Goals. The Committee contributed directly

[1] The documents of the twenty-third session of the Committee are available at www.un.org/development/desa/financing/events/23rd-session-committee-experts-international-cooperation-tax-matters.

to Goal 17 (global partnership for sustainable development) by promoting international tax cooperation through an inclusive and transparent body, and by balancing the needs of multiple stakeholders while providing specific support to developing countries. However, the Committee's work also contributed significantly to a number of other Goals, including:

(a) Goal 16 (effective, accountable and inclusive institutions), by building strong tax administrations through guidance products and advising on capacity-building activities;

(b) Goals 6, 12, 13, 14 and 15 (environmentally related goals), by developing tools such as the *United Nations Handbook on Carbon Taxation for Developing Countries* and the United Nations Handbook on Selected Issues for Taxation of the Extractive Industries by Developing Countries;

(c) Goal 10 (reduced inequalities), by helping fostering trade and investment through the avoidance of double taxation, raising resources to fight inequality by combatting tax avoidance and evasion, and improving the effectiveness of domestic resource taxation;

(d) Goal 5 (gender equality), by strengthening the role of women in tax policy development and through gender-sensitive capacity development measures;

(e) Goal 3 (good health and well-being), the importance of which has been made clearer by the pandemic;

(f) Goal 1 (no poverty), by advising on capacity development work for knowledge transfer of effective tax policy and administration, and by providing guidance on effective domestic resource mobilization.

19. Mr. Hanif invited discussion on the following questions:

(a) What is the role of the Committee in building back better from the pandemic, in order to avert a lost decade of sustainable development?

(b) How can a perspective on tax and the Goals help the Committee to prioritize issues to be included in its workplan?

(c) How will the Committee measure the potential impact of its work on Goals?

20. Several Committee members and observers expressed their appreciation for the presentation and the work conducted to date. They noted the importance of a perspective on tax and the Goals informing the Committee's work, and identified several topics of particular relevance to developing countries, including: taxation of the informal economy; taxation to promote gender equality; tax and health; tax transparency; and illicit financial flows. They also stressed the importance of developing practical and easily applicable guidance, and of including a perspective on the Goals in all Committee workstreams.

21. Elena Belletti of the secretariat presented proposed modalities of the work on taxation and the Goals. The Committee was supportive of the proposal and decided accordingly that the workstream would be:

(a) To continue to discuss taxation and the Sustainable Development Goals regularly during sessions, as a permanent agenda item;

(b) To request the secretariat to provide regular updates on taxation and the Sustainable Development Goals, at each session:

(i) To preserve the focus of the Committee's work in the area;

(ii) To identify any gaps in guidance;

(iii) To establish priorities for technical work to be carried out by the secretariat;

(c) To have subcommittees reflect on the link between their work and the Goals.

22. It was agreed that, at its next session, the Committee would consider whether to conduct a public consultation to receive feedback about priority topics concerning taxation and the Goals for developing countries.

C. Issues related to the United Nations Model Double Taxation Convention between Developed and Developing Countries

23. Patricia Brown of the secretariat presented a conference room paper on the work relating to the United Nations Model Double Taxation Convention between Developed and Developing Countries (E/C.18/2021/CRP.22). She explained that the Committee's mandate was to keep the United Nations Model Convention under review and update it as necessary. The previous membership of the Committee had completed a substantial update of the United Nations Model Convention, including the introduction of article 12B on automated digital services, and had addressed a number of important technical issues. It was not necessary for each membership of the Committee to complete a revision, although the United Nations Model Convention had been updated under recent memberships.

24. Ms. Brown listed issues that the previous membership had identified in conference room paper E/C.18/2020/CRP.37 but had not had a chance to address or, in two cases, to finish. She detailed the past work on whether payments for computer software should be treated as royalties and explained why there was a need to complete that work.

25. Ms. Brown divided the remaining issues described in the conference room paper into three groups: (a) those that would incorporate changes that had been made to the Organisation for Economic Co-operation and Development (OECD) Model Tax Convention on Income and on Capital; (b) those that would make substantive changes to existing United Nations Model Convention rules; and (c) those that would address technical issues under specific United Nations Model Convention provisions.

26. Ms. Brown referred to four issues identified by Committee members as possible areas of work: a technical issue relating to a revision of article 13 (6); determining profits of a permanent establishment under article 7; introduction of a subject-to-tax-rule; and modification of the distributive rules of articles 6 and 13 (1) for income and gains from immovable property.

27. Ms. Brown reiterated to the Committee the issues requiring decision: whether to form a subcommittee to pursue work on an update of the United Nations Model Convention and what its mandate would be; and the issues to be prioritized in the work of the subcommittee.

28. The Committee established a Subcommittee on the Update of the United Nations Model Double Taxation Convention between Developed and Developing Countries, with Mr. Das, Mr. Protto and Ms. Smith as Co-Coordinators, and with the following mandate:

> The Subcommittee is mandated to consider, make recommendations and provide proposed drafting for the next update of the United Nations Model Double Taxation Tax Convention focusing on issues of the most relevance to developing countries.

The Subcommittee will report on its work to the Committee at its twenty-fourth session, in 2022, and at each session thereafter, with a view to making a recommendation as to the timing and content of the update no later than the twenty-ninth session, to be held in 2024.

In undertaking its work, the Subcommittee may wish to consult with relevant stakeholders.

29. With regard to priorities, there was general agreement that the Committee should focus on issues with the most impact for developing countries as well as technical issues arising from specific United Nations Model Convention provisions. Low or no priority should be given to changes to align with the OECD Model Convention unless they represented an issue of practical importance for developing countries.

30. The initial priorities of the Subcommittee were identified as follows:

(a) Carrying forward the work on computer software;

(b) Tax treaty provisions related to exploration and extraction of natural resources;

(c) Whether article 8 should be fundamentally revised, particularly with respect to income from shipping activities;

(d) Provision of services, particularly the physical presence tests of articles 5 (3)(b), 14 and 15, and guidance regarding the interaction of those provisions with articles 7, 12, 12A and 12B;

(e) Possible introduction of a subject-to-tax rule;

(f) International insurance activities;

(g) Technical issue on interaction of article 21 (3) and the source rule of article 18, alternative B.

D. Update of the United Nations Manual for the Negotiation of Bilateral Tax Treaties between Developed and Developing Countries

31. Ms. Brown presented a conference room paper on the United Nations Manual for the Negotiation of Bilateral Tax Treaties between Developed and Developing Countries (C.18/2021/CRP.23). The secretariat explained that the Committee’s mandate required it to keep the Manual under review and update it as necessary. The Manual had last been updated in 2019.

32. Ms. Brown commented that, owing to the substantial changes made in 2021 to the United Nations Model Convention, including the addition of article 12B on automated digital services, the 2019 version of the Manual was out of date. She considered that updating the Manual to reflect only the changes made in 2021 was relatively straightforward but that the Committee might want to make other changes, including a discussion on conducting tax treaty negotiations through videoconferencing.

33. Members of the Committee emphasized the importance of the Manual and therefore of updating it as quickly as possible. However, the view was expressed that it would be good for the issuance of the Manual to coincide with any update of the United Nations Model Convention. Ms. Brown suggested that it might be possible to quickly complete a streamlined electronic update that reflected only the changes made in 2021, while the Committee worked on other changes that could be approved

alongside the next update of the United Nations Model Convention. No decision was made on that point, although the draft mandate of the Subcommittee was modified to indicate that the next update of the Manual should be completed as soon as possible.

34. The Committee established a Subcommittee on the Update of the United Nations Manual for Negotiation of Bilateral Tax Treaties between Developed and Developing Countries, with Mr. Protto and Aart Roelofsen as Co-Coordinators, and with the following mandate:

> The Subcommittee is mandated to propose updates to the United Nations Manual for the Negotiation of Bilateral Tax Treaties between Developed and Developing Countries, based on the following principles:
>
> • That it reflect the current version of the United Nations Model Double Taxation Convention between Developed and Developing Countries and the relevant United Nations commentaries as well as ongoing decisions of the Committee leading to changes in them
>
> • That it pay special attention to the experience of developing countries and reflect their realities and needs at their relevant stages of capacity development
>
> • That it draw upon and feed into, as appropriate, the relevant work done in other forums, especially the work on the toolkit on tax treaty negotiation by the Platform for Collaboration on Tax
>
> In undertaking its work, the Subcommittee may wish to consult with relevant stakeholders. The aim of the Subcommittee shall be to present to the Committee an update of the Manual for consideration with a view to adoption as soon as possible. Updates on the progress of the work shall be provided to the Committee at its Twenty-fourth session and each succeeding session. The Subcommittee may request the secretariat to develop necessary inputs and provide necessary support within its resources.

E. Transfer pricing

35. Ilka Ritter of the secretariat presented a conference room paper on transfer pricing (E/C.18/2021/CRP.24). She highlighted the substantial work of the Committee undertaken since 2009 through a multi-stakeholder Subcommittee that had resulted in the publication of the United Nations Practical Manual on Transfer Pricing for Developing Countries in 2013 and updates in 2017 and 2021. In the light of the importance of transfer pricing for domestic resource mobilization efforts, she recommended that the Committee continue its successful work on transfer pricing through a multi-stakeholder Subcommittee, including business participation.

36. Ms. Ritter presented some potential topics for consideration by the Subcommittee, including guidance on specific topics during the four-year term ("interstitial guidance") as well as a potential update to the United Nations Practical Manual on Transfer Pricing for Developing Countries. She recommended following the outcome of the OECD/Group of 20 Inclusive Framework on Base Erosion and Profit Shifting in the context of possible implications for Committee work.

37. Several Committee members supported the prioritizing of interstitial guidance over an update of the United Nations Practical Manual on Transfer Pricing for Developing Countries. Interstitial guidance would allow the Subcommittee to focus on key urgent topics. Ultimately, the Committee agreed that the Subcommittee should make proposals on that issue as part of its mandate. While the significance of the

work of the Inclusive Framework was widely acknowledged, it was noted that not all States Members of the United Nations were Inclusive Framework members.

38. It was also noted that developing countries, especially the least developed, should be consulted on what they considered to be priority topics. An evaluation of the practicality of the current guidance and the need for continued capacity development in that area was also mentioned.

39. The Committee established the Subcommittee on Transfer Pricing as a multi-stakeholder body (as in the past) with Mr. Gbonjubola and Ingela Willfors as Co-Coordinators, and with the following mandate:

The Subcommittee is mandated to consider, report on and propose guidance on transfer pricing issues, on the basis:

- That it reflect article 9 of the United Nations Model Convention, and the arm's length principle embodied in it, and be consistent with relevant commentaries of the United Nations Model Convention
- That the Subcommittee identify and consider the transfer pricing topics where guidance from the Committees was the most useful
- That it reflect the realities for, and the needs of, developing countries, at their relevant stages of capacity development
- That it give due consideration to relevant work in other forums, including the Inclusive Framework on Base Erosion and Profit Shifting, and may consult broadly

The Subcommittee shall report on its work at each session.

F. Taxation of the extractive industries

40. Olivier Munyaneza of the secretariat introduced a conference room paper on the taxation of the extractive industries (E/C.18/2021/CRP.25). He outlined the past work of the Committee that had resulted in the publication of the United Nations Handbook on Selected Issues for Taxation of the Extractive Industries by Developing Countries.

41. Mr. Munyaneza described the 2021 update of the Handbook, indicating that it addressed new topics, including tax incentives, tax treatment of subcontractors, tax treatment of production sharing, financial transaction instruments and tax audit systems. Some chapters, such as on decommissioning, transfer pricing and an overview, had also been updated.

42. He mentioned the initiative of the Secretary-General to establish a working group to develop proposed policies and actions that could be implemented by countries to enhance their domestic resource mobilization through extractive sectors. It was decided, at a global round table on the role of extractive industries in the recovery from the economic downturn induced by the COVID-19 pandemic and in supporting investment in the Sustainable Development Goals, that such a working group should be created.

43. Mr. Munyaneza proposed continuing the work on extractive industries taxation through a subcommittee. The Committee members and observers who took the floor commended the work done by the previous Subcommittee and agreed to establish a Subcommittee on Extractive Industries Taxation, with Nana Akua Mensah as Coordinator, and with the following mandate:

Bearing in mind the mandates of other Subcommittees and working closely with them as necessary, as well as taking stock of the work done by the previous

Subcommittee on the United Nations Handbook on Selected Issues for Taxation of the Extractive Industries by Developing Countries, the Subcommittee shall:

- Work on tax policy guidelines to curb trade mispricing and undervaluation of resources in extractive industries
- Work on tax issues related to tax incentives and permanent establishment, with the view to minimizing tax losses and contraction of the tax base
- In collaboration with the Subcommittee on Environmental Taxation, review and reflect on adequate tax policies that can assist countries in transitioning from fossil fuel energy to renewable and environmentally friendly sources
- Work on any other tax matters that may arise in the extractive industries as directed by the Committee

In undertaking its work, the Subcommittee may wish to consult broadly and engage with others active in the field. The Subcommittee shall report on its work at each session.

G. Environmental and environmentally related taxation

44. Ms. Belletti presented a conference room paper on environmental and environmentally related taxation issues (E/.C.18/2021/CRP.26) and outlined the work done by the previous membership of the Committee, which had resulted in the publication in 2021 of the *United Nations Handbook on Carbon Taxation for Developing Countries*, helping to fill a gap in guidance on carbon taxation tailored to the needs and situations of developing countries.

45. Ms. Belletti noted the difference between environmental and environmentally related taxation and outlined the features of a carbon tax, as outlined in the conference room paper. She indicated possible topics for consideration that were either not addressed in the Handbook, or were partially addressed and could be further expanded, including carbon tax within a broader tax reform; co-benefits of a carbon tax on non-climate environmental protection and health and the economy; carbon border adjustment mechanisms and their implications for trade, interactions between carbon tax and other energy taxes; introduction of carbon tax in countries with fossil fuel subsidies, and potential interactions with an emission trading system and creation of hybrid instruments.

46. Ms. Belletti noted that the Committee was well placed to continue to work on environmental taxation, as a United Nations body (which provides multiple opportunities for broad consultation and intergovernmental dialogue) that was experienced in providing guidance adapted to the needs of developing countries, which are especially affected by climate change.

47. Ms. Belletti proposed the establishment of a multi-stakeholder, multidisciplinary subcommittee. In the discussion that ensued, several Committee members and observers expressed support for the proposal.

48. The Committee decided to establish a Subcommittee on Environmental Taxation, with Muhammad Ashfaq Ahmed as the Coordinator, and with the following mandate:

The Subcommittee is mandated to consider, report on and propose guidance on environmental and environmentally related tax issues and opportunities. In particular, the Subcommittee shall:

- Produce practical guidelines on targeted, additional and emerging issues in the area of carbon taxation, which are not covered or fully developed in the

United Nations Handbook on Carbon Taxation for Developing Countries. The guidelines could initially be released as stand-alone materials, and later be assembled in a publishable format. Relevant issues might include: (a) the interactions of a carbon tax with other environmental and environmentally related taxes; (b) the role of a carbon tax in a broader fiscal reform, including the consideration of distributional effects; and (c) in collaboration with the Subcommittee on Extractive Industries Taxation (if one were to be created), work on practical tax policies, measures or incentives with the potential to accompany efforts by countries to transition from fossil fuel energy to renewable sources.

- Pay particular attention to the needs and priorities of, and the barriers faced by, developing countries, and report on relevant cases of current country practices, policy considerations and administrative issues.
- Work on any additional relevant environmental taxation issues as requested by the Committee.

In undertaking its work, the Subcommittee may wish to consult broadly and engage with others active in the field. The Subcommittee shall report on its work at each session.

H. Dispute avoidance and resolution

49. Josephine Muchiri of the secretariat presented a conference room paper on dispute avoidance and resolution (E/C.18/2021/CRP.27). The note focused on the work of previous memberships of the Committee in that area.

50. The previous Subcommittee had worked on the following key issues to improve efficiency of the mutual agreement procedure and to clarify some terms and procedures used in the context of an alternative dispute resolution mechanism:

(a) Potential changes to article 25 of the United Nations Model Convention with regard to non-binding dispute resolution;

(b) Changes to the United Nations Model Convention, deriving from the final report on action plan 14 of the Inclusive Framework on Base Erosion and Profit Shifting;

(c) Proposed outline for a United Nations handbook on dispute resolution;

(d) Potential improvements and proposed outline to the revised "Guide to the mutual agreement procedure under tax treaties".

51. The *United Nations Handbook on Dispute Avoidance and Resolution* represents the outcome of that work of the Subcommittee, as approved by the Committee.

52. Ms. Muchiri recommended that a small group of members be formed to review feedback on the use of the newly launched *United Nations Handbook on Dispute Avoidance and Resolution* and on the related capacity development work, and to monitor any wider developments that might necessitate updating the Manual.

53. The Committee established a small group on dispute avoidance and resolution, with Mr. Protto and Mr. Roelofsen as Co-Coordinators, and with the following mandate:

The mandate of the group is to monitor the developments in the digitalization work; consider any feedback received from the capacity development work; and determine the necessary action. The small group is to report back to the

Committee during the Twenty-fourth Session on its findings and recommendations, including a proposed plan of work.

I. Taxation issues related to the digitalized and globalized economy

1. Taxation of the digitalized and globalized economy

54. Michael Lennard of the secretariat presented a conference room paper on taxation issues related to the digitalized and globalized economy (E/C.18/2021/CRP.28). The conference room paper provided an outline of the work of the previous Subcommittee on Tax Challenges Related to the Digitalization of the Economy, namely with regard to article 12B on automated digital services and its commentary, which formed part of the 2021 United Nations Model Convention.

55. The conference room paper contained a proposal for further work to be undertaken by the Committee on the topic of digitalization and globalization. Mr. Lennard noted that this might include, for example:

(a) Issues for those seeking to evaluate any new multilateral conventions;

(b) Issues unaddressed by any multilateral conventions;

(c) Issues for non-parties to any multilateral conventions;

(d) Issues relating to articles 12A and 12B of the United Nations Model Convention, for example, the domestic law needed;

(e) Newer issues such as taxation of online gambling or the gig economy.

56. Mr. Lennard stressed the suitability of the Committee to taking up such issues, given its diversity, focus on developing countries, market country orientation, existing relationship to other international and regional groupings and its support for withholding taxes and for simple and administrable solutions.

57. Despite the growing importance of the topic, the uncertainty surrounding taxation of the digitalized and globalized economy was also noted, especially regarding Inclusive Framework developments. It was thus proposed by the secretariat that the Committee consider forming a small representative group to explore issues and developments in the area and report back to the Committee at its twenty-fourth session with recommendations on the value added of the Committee to the area.

58. Committee members and observers agreed on the urgency of the topic and encouraged the formation of either a small group or a subcommittee to undertake the work. Those in favour of a small group cited its resource effectiveness and appropriateness in the multiple contexts of the current environment. Others preferred a Subcommittee, as they saw only a subtle difference between a small group and a subcommittee, with greater procedural uncertainty and no obvious benefits with the former. Any group was likely to be of a large size. They considered that a subcommittee would be equally flexible, clearer procedurally and more time-efficient in the long run.

59. Several members indicated the importance of keeping the work focus on priorities for developing countries, especially the most vulnerable (e.g. least developed countries, landlocked countries and small island States), as many still struggled to analyse and implement or administer solutions. The secretariat confirmed that capacity-building activities for developing countries would be taking place and had been highly successful in the past. They were relevant to meeting that need.

60. Some members noted that not all countries had or would necessarily join the Inclusive Framework or join the outcomes of its current work. Some members

stressed that the Committee should provide guidance and independent but informed views on how solutions proposed by the Inclusive Framework could be implemented by developing countries in differing situations, and how they related to, for example, articles 12A and 12B in the United Nations Model Convention. A member cautioned against taking up work that was more fitting for the Subcommittee on the Update of the United Nations Model Convention or other Subcommittees. The need to balance Subcommittee roles was noted; it was also noted that Subcommittees other than the Subcommittee on the Update of the United Nations Model Convention had in the past drafted article 12A, 12B and parts of the commentary on article 9, for example.

61. The Committee established a Subcommittee on Taxation Issues Related to the Digitalized and Globalized Economy, with Mr. Gbonjubola and Ms. Kana as Co-Coordinators. The mandate is as follows:

The Subcommittee is mandated:

- To identify priority taxation issues related to the digitalized and globalized economy where the Committee may most usefully assist developing countries in differing situations, in particular
- To initially report to the Committee on such issues no later than its twenty-fourth session, in 2022, with recommendations for consideration and a proposed general programme of work

The Subcommittee may consult broadly, taking into account relevant work by other bodies.

2. Taxation of cryptoassets

62. Ms. Ritter of the secretariat introduced a conference room paper on taxation issues relating to digital assets (E/C.18/2021/CRP.29), such as payment tokens, utility tokens, security tokens, stable coins, central bank digital currency. She highlighted their relevance for developing countries since they facilitated trust-free and low-cost transactions and worked well in environments with relatively low technology and banking services that were difficult to access. Possible topics for consideration followed the lifecycle of cryptoassets (e.g. creation, verification, distribution, use, payment, transfer) as they interacted with different areas of taxation (e.g. indirect tax, capital gains tax, income tax and wealth, inheritance or transfer tax).

63. With regard to the topic of cryptoassets, Ms. Ritter recommended the establishment of a small working group that would draft a workplan and next steps.

64. Several Committee members and observers noted the issue’s significance, while recognizing its complexity. Some Committee members were cautious about taking on the topic owing to the Committee’s limited time and resources, and the possibility of duplicating work by other organizations.

65. Other members noted the Committee’s mandate to consider how new and emerging issues could affect international cooperation in tax matters and develop assessments, commentaries and appropriate recommendations, especially as they related to developing countries. The lack of internal expertise in the area could be mitigated by limiting the scope to taxation issues (rather than covering broad areas that included monetary and regulatory concerns which might be outside the mandate) and focusing on raising awareness and identifying gaps in needed guidance, which the Committee could subsequently fill.

66. Several observers suggested that taxation of cryptoassets should be a Committee priority. One noted the exponential growth of cryptoassets in developing countries across South America, Africa and Asia, and the potential risk of cryptoassets for countries without a solid tax policy (e.g. widening of the national tax gap).

67. Ms. Ritter presented two possible options: taking cryptoassets off the agenda; or keeping the topic on the agenda and having the secretariat prepare a more detailed paper on issues and options for the Committee at its twenty-fourth session.

68. The Committee preferred the second option and decided on the following mandate for the secretariat work:

> The secretariat will prepare a paper for the twenty-fourth session on the issues and challenges faced by tax administrations, especially those from developing countries, with regard to the taxation of cryptoassets and possible options, by drawing upon discussions held at the twenty-third session and liaising with interested members and experts in the field, including from other international and regional organizations.

J. Digitalization and other opportunities to improve tax administration issues

69. Ms. Muchiri presented a conference room paper on digitalization and other opportunities to improve tax administration (E/C.18/2021/CRP.30), outlining the need for digitalization in designing effective and transparent tax systems adaptive to increasingly digitalized business environments. While the topic had been considered by the previous membership of the Committee, it had not been prioritized (its importance was recognized, but other urgent issues were considered) and was brought to the attention of the Committee again, at the twenty-third session, for its consideration.

70. Key issues for consideration were identified by the secretariat as the development of a road map; providing guidance on technical support; data management; relevant technology; and digitalization of processes. Other issues to consider included increasing tax transparency through digitalization and other opportunities to improve tax administration. The secretariat recommended the formation of a multi-stakeholder subcommittee. It was noted that the Committee had the opportunity to add value to existing work by other bodies since the Committee’s work could be more broadly inclusive and focused on developing countries in various regions than much of the work of other bodies could be, useful though it was.

71. While agreeing that digitalization was an important and ongoing issue for tax administration in developing countries, views differed on whether it was a priority issue for Committee guidance.

72. Members expressing support for the formation of a subcommittee and the suggested mandate emphasized the timeliness of the mandate and its importance for developing countries. They recognized the need for practical support for countries seeking to digitalize their tax administration, the need for simplicity for both the tax administration and taxpayers, and for cooperation with regional tax administration organizations. It was also observed that consideration should be given to the differences between countries in the process, both in resources available and current level of digitalization.

73. Other members expressed concern about the ability of the Committee to properly undertake the work or noted a risk of duplicating the existing and ongoing work of regional and other international bodies.

74. Some members observed that the Committee’s work was mainly focused on policy and that the workstream was more focused on administration. The secretariat emphasized that the Committee mandate was broad and covered both policy and administration and that much of the Committee guidance had reflected the linked

nature of those aspects. Some members preferred to look at tax administration as a whole workstream, instead of focusing primarily on digitalization.

75. After the discussion, the Committee established a small group on digitalization and improvement of tax administration, with the coordinator or coordinators to be determined, and with the following mandate:

> The mandate of the group is to review the work done in other forums on the digitalization of tax administration, to identify existing gaps and consider the possible value added to this work by the Committee, to consider other means of improving tax administration and to suggest how to carry the work on digitalization and improvement of tax administration forward. The small group is to report back to the Committee at the twenty-fourth session on its findings and recommendations.

K. Increasing tax transparency

76. Ms. Muchiri presented a conference room paper on increasing tax transparency (E/C.18/2021/CRP.31). The importance of increasing tax transparency for tax administrations was highlighted in harnessing much-needed tax revenues to finance public expenditures. Information asymmetry between taxpayers and tax authorities owing to a lack of tax transparency was identified as a challenge that encouraged abuses. A number of high-profile tax leaks and scandals had also undermined public confidence in the fairness of tax systems, leading to a demand for effective counteractions and tax transparency.

77. Furthermore, in its report, *Financial Integrity for Sustainable Development*, the High-level Panel on International Financial Accountability, Transparency and Integrity for Achieving the 2030 Agenda highlighted that tax avoidance and evasion remained widespread as corporate tax rates had fallen in many jurisdictions. To address those challenges the Panel had set out several recommendations in its report, including:

- Creation of a centralized registry that held beneficial ownership information on all legal vehicles
- Publication of accounting and financial information on a country-by-country basis to improve tax transparency by private multinationals
- Ending information asymmetries in relation to information-sharing for tax purposes
- Promoting the exchange of information internationally among law enforcement, customs and other authorities

78. Addressing the challenges was especially vital for developing countries in order to help them to increase their revenue streams and to efficiently mobilize domestic resources.

79. The issues for consideration by the Committee were outlined, including designing a tax information-sharing system that served the needs of developing countries; raising awareness on interventions and cooperation required to effect tax transparency and the exchange of information; making existing standards fit for purpose for developing countries; and providing guidance on business models to be adopted by developing countries when considering and implementing the exchange of information.

80. Ms. Muchiri recommended establishing a Subcommittee on Increasing Tax Transparency. Some members agreed that increasing tax transparency was an

important issue for all countries but suggested that it would be more viable to create a small group as opposed to a subcommittee to consider the issue in order to determine the value added by the Committee.

81. Members highlighted that there were several challenges that developing countries faced, key among them the issue of reciprocity when it came to the automatic exchange of information. Effective practical use of available exchange of information provisions was another challenge. There was recognition, however, of the volume of work done by other bodies, and it was important that the Committee identify what value it would add to that work without duplication while still assisting developing countries in better utilizing the exchange of information. For example, there had been a very recent update to the *Model Manual on Exchange of Information for Tax Purposes*, published jointly by the Global Forum on Transparency and Exchange of Information for Tax Purposes, the World Bank and the African Development Bank, which was very detailed and might meet the needs of developing countries for more practical guidance on exchange of information identified in the secretariat's paper.

82. Some members agreed that capacity development in that area was vital for developing countries to ensure that they derived maximum benefit from exchange of information and the information they received. Other members noted the possibility of examining the fitness of prevailing standards for developing countries and considering possible modifications.

83. Members agreed to establish a Subcommittee on Increasing Tax Transparency, with Ms. Mensah and José Troya as Co-Coordinators, and with the following mandate:

The Subcommittee is mandated:

(a) To address the issue of increasing tax transparency in developing countries by:

(i) Identifying gaps in existing work done in other forums as they relate to exchange of information in developing countries and identifying challenges faced in the implementation of international standards in exchange of information;

(ii) Proposing solutions to address the identified gaps and challenges, including possible new standards and domestic measures;

(iii) Advising on ways to provide technical support to developing countries to address those challenges;

(b) To report back to the Committee no later than the twenty-fourth session on its findings and recommendations, including a proposed plan of work.

In undertaking its work, the Subcommittee may wish to consult broadly and engage with others active in this area.

L. Taxation and coronavirus disease (COVID-19): pandemic and post-pandemic issues

84. Farid Hasnaoui of the secretariat presented a conference room paper entitled "Taxation and COVID-19: pandemic and post-pandemic issues" (E/C.18/2021/CRP.32). He pointed to some actions taken by Governments to limit the spread of the virus and support the economy. Those actions included lockdowns, curfews, social distancing,

the shutdown of some businesses and the limitation of international travel, as well as subsidies and tax incentives.

85. Moreover, he mentioned that during the pandemic period, while the demand had increased in some industries, in others it had completely collapsed mainly as a result of the disruption of supply chains. He added that some enterprises had reviewed their contractual terms and changed the way they conducted business owing to lack of staffing, lack of resources, border closings, stock shortages, sourcing and procurement issues and tariffs. He noted that many employees had started working virtually. All those developments might have tax consequences.

86. Mr. Hasnaoui outlined the work done on taxation and COVID-19 by different entities, including regional and other international organizations.

87. Mr. Hasnaoui highlighted various pending issues on tax treaties and transfer pricing and the possible value added of the Committee in fulfilling its mandate to keep under review and update, as necessary, the United Nations Model Convention, as well as to provide transfer pricing guidance such as in the United Nations Practical Manual on Transfer Pricing for Developing Countries.

88. Some members noted the importance of not overlapping with the work of other Subcommittees. Others noted the importance of not duplicating the work of other organizations.

89. After discussions, the Committee decided to establish a small group on taxation and the COVID-19. The coordinator or coordinators would be determined later, and the mandate would be as follows:

The mandate of the group is:

- To identify gaps not covered by existing guidance where possible targeted practical guidance can be provided by the Committee in a short time frame but will have high value added for developing countries
- To report back to the Committee at the twenty-fourth session on its activities and recommendations

In undertaking its work, the small group shall be comprised of Committee members, observers from tax administrations or ministries of finance as well as members from international and regional organizations.

M. Wealth and solidarity taxes

90. Ms. Ilka Ritter of the secretariat introduced a conference room paper on wealth and solidarity taxes (E/C.18/2021/CRP.33). She recalled the rising wealth inequality in recent decades, even before the impact of COVID-19. Public debt had risen, but many of the wealthiest had increased their wealth, including during the pandemic. The Secretary-General had pointed to the need to use tax as a means of reducing inequality, including through wealth taxes, as had others, such as the World Bank Group.

91. Ms. Ritter noted that many OECD member countries had abandoned their wealth taxes over time and that those remaining had tended to only bring in small amounts as compared with other taxes. Times had changed, however – information was now more readily obtainable by tax authorities, with fewer “secrecy jurisdictions”, mutual assistance was also more common than in the past, exit taxes were more widely used, and public opinion against wealth and tax inequality and a perceived excessive tax burden on labour compared with capital, had grown stronger, especially during the pandemic.

92. Members discussing the issue agreed on the importance of the subject, with the differences being mainly on whether a subcommittee was justified (with most agreeing that it was). One member noted the high profile and political nature of wealth tax discussions and the relevance of the issue to the Goal of reducing inequality, An important issue to further consider was whether it was an efficient, equitable and administrable tax, especially for developing countries. The member stated that it was relevant to consider early on what other tools a country had to tax capital. That was important to the issue of considering how a wealth tax fit within the broader tax policy framework of a country. There were issues of wealth tax avoidance but also of potential double taxation. Design issues related to a wealth tax could be considered after those preliminary matters.

93. Others agreed with the assessment made by the member of the way in which the work should be addressed, but also felt the problem of domestic inequality was a key issue and that support from the Committee by investigating the issue would be helpful, with the social contract under threat. The need for close consideration of the impact on investments was noted by another member who supported the establishment of a subcommittee.

94. The secretariat proposed adjusting the proposed mandate to clarify that a first stage was to consider the tax environment, other related taxes and how capital was taxed more broadly, to ensure policy coherence and a relevant focus.

95. A member, while not certain of whether the issue was a priority issue, indicated no opposition to a subcommittee, but suggested that a close look at solidarity taxes such as that applied in Japan might be helpful.

96. An observer noted that wealth tax was not merely a moral issue but an economic one – inequality undermined social cohesion and therefore undermined economic policies. Wealth taxes, as already noted, needed to be seen in the context of other taxes, such as inheritance and capital taxes, in order to be properly evaluated. Some of the potential issues noted could be dealt with through the design features of a tax. Greater tax transparency and better technology in current times could address some of the historic problems of the past. The observer also reminded participants that there was an international element because of the possibility of double taxation.

97. The Committee decided to establish a Subcommittee on Wealth and Solidarity Taxes, with Mr. Troya as the Coordinator, and with the following mandate:

> The Subcommittee is mandated to consider, report on and propose issues for guidance on wealth and solidarity taxes, on the basis that it:
>
> - Analyse the advantages and disadvantages of wealth taxes in their different forms and how they interact with other taxes, especially on capital
> - Identify and consider the tax policy design topics where guidance from the Committees is the most useful in this area and initially report to the Committee with proposals no later than at the twenty-fourth session, in 2022
> - Ensure that its work reflects the realities for, and the needs of, developing countries in various situations, at their relevant stages of capacity development
> - Provide draft guidance on such issues as are approved by the Committee at its sessions, with a view to the approval and release of targeted guidance at various points during the current membership of the Committee

N. Indirect taxes, including health taxes

1. Indirect tax issues, other than health taxes

98. Mr. Lennard introduced a conference room paper on indirect tax issues (E/C.18/2021/CRP.34). He indicated that while there had been some prior indirect tax-related Committee work (e.g. a chapter in the United Nations Handbook on Selected Issues for Taxation of the Extractives Industries by Developing Countries and the *United Nations Handbook on Carbon Taxation for Developing Countries*), it was the first time that the formation of a dedicated group on indirect taxes had been proposed to the Committee. Mr. Lennard noted the increased relevance of value added tax, especially for developing countries, owing to the decline in trade tariffs in particular, but also to the complexity of the tax, and many issues surrounding design and implementation (e.g. simplification, small business thresholds, dealings with non-residents and other countries, dispute avoidance and settlement).

99. Mr. Lennard suggested that since the Committee had a diverse membership with a developing country focus and strong links to other international and regional groupings, it was well suited to take up that work and advocate for simple and administrable solutions. To maximize resource effectiveness, timeliness, potential impact and relevance to developing countries, he recommended creating a multi-stakeholder subcommittee that would liaise with experts in value added tax and other stakeholders, such as business interests.

100. The secretariat invited two experts on value added tax to address specific matters for potential guidance. Marius van Oordt, African Tax Institute, highlighted systemic problems with regard to value added tax and the practical vision for the Committee to provide guidance on such aspects as the perception, limitations, design, administration and refunds of value added tax. Rebecca Millar, of the University of Sydney, and an independent consultant on indirect tax issues, identified as examples three possible areas of value added by the Committee: (a) evaluation of responses to evasion and/or refund fraud; (b) implementation of the destination principle; and (c) consideration of value added tax and the tourism industry, in the light of the pandemic and complex supply chains.

101. Support for the creation of a subcommittee was expressed by several members and observers. A member noted that many of the other Subcommittees to date had focused on international tax matters. However, it was noted that the Committee should also foster international cooperation for domestic tax issues because many developing countries lacked guidance on such matters. The secretariat reminded the Committee that international cooperation in domestic as well as international tax issues was part of its mandate, although issues concerning value added tax often encompassed both. An observer remarked that work on value added tax would be very helpful since it was one of the main sources of funding for developing countries. Other suggestions included:

- Focusing value added tax work on improving existing tax instruments to make them be more efficient
- Looking at cross-border value added tax issues
- Clearly defining the scope of the project by identifying gaps in existing guidance

102. Some members asked whether the Committee could support the work given its priorities and limited resources. The secretariat confirmed that the Subcommittee would focus on specific topics and that the secretariat had resources to fully support the Committee on the issue.

103. The Committee agreed to establish a Subcommittee on Indirect Tax Issues, with Kapembwa Elizabeth Namuyemba-Sikombe and Waziona Ligomeka as Co-Coordinators, and with the following mandate:

The Subcommittee is mandated:

- To identify priority issues where guidance from the Committee may most usefully assist, in particular, developing countries in differing situations, on taxation issues related to indirect taxation, with an initial focus on value added tax/goods and services tax issues
- To initially report to the Committee on such issues at its twenty-fourth session, in 2022, with recommendations for consideration and a proposed plan of work

The Subcommittee may consult broadly, taking into account relevant work by other bodies.

2. Health taxes

104. Ms. Brown presented a conference room paper on health taxes (E/C.18/2021/CRP.35). She noted that the consumption of tobacco, alcohol and sugar-sweetened beverages was related to the incidence of many non-communicable diseases, such as cardiovascular disease, cancer, chronic respiratory disease and diabetes, which resulted in millions of premature deaths a year, the vast majority of which occurred in low-middle income countries. Well-designed excise taxes on such products (health taxes) had been shown to be an effective measure to reduce consumption of those products so as to improve health outcomes while also increasing government revenues.

105. Anne-Marie Thow, of the University of Sydney, and. Erika Siu, of the Institute for Health Research and Policy at the University of Illinois at Chicago, made a short presentation that focused on areas where the Committee's expertise might be particularly helpful in developing guidance for countries considering the introduction or reform of health taxes. Jeremias Paul, of the World Health Organization (WHO), then described briefly the technical support that WHO could provide to such countries.

106. There was strong support in the Committee for undertaking work in that area through the formation of a subcommittee. Members stressed the importance of the issue for developing countries. Concern was also expressed regarding the need to address administrative issues, including the risk of smuggling.

107. Accordingly, the Committee agreed to establish a Subcommittee on Health Taxes, with Ms. Namuyemba-Sikombe and Trude Steinnes Sønvisen as Co-Coordinators, and with the following mandate:

The Subcommittee is mandated:

- To identify priority issues where guidance from the Committee may most usefully assist developing countries, in particular, on health tax issues and initially report to the Committee on such issues at its twenty-fourth session, in 2022
- To pay particular attention to the application of excise taxes on tobacco, alcohol and sugar-sweetened beverages and report on current country practices, policy considerations and administrative issues
- To provide draft guidance on such issues as are approved by the Committee at its sessions

In undertaking its work, the Subcommittee may wish to consult academia, specialist agencies (such WHO) and other international organizations, and civil society active in the field. The Subcommittee will also make drafts of its proposed reports and other publications available for written comment in order to receive input from industry stakeholders. The Subcommittee shall report on its work at each session.

O. Relationship of tax, trade and investment agreements

108. Mr. Lennard presented a conference room paper on the relationship of tax, trade and investment agreements (E/C.18/2021/CRP.36). He briefed members and observers on the history of the work that had been carried out to date by the secretariat. The valuable work of the United Nations Conference on Trade and Development (UNCTAD) in that area was also noted in the conference room paper. Mr. Lennard noted that the issue was very prominent as increasing numbers of (often high profile) tax issues had been subject to treaty arbitration claims.

109. Mr. Lennard noted that a rise in multilateral tax efforts and a push for third-party dispute resolution made those issues more relevant. The need for risk informed approaches to identifying the whole of a country's interlocking rights and responsibilities was highlighted, including the various rights and responsibilities in trade and investment agreements.

110. Mr. Lennard noted the value added of the Committee as the diversity of its membership; the developing country focus that was part of its mandate; the relevance of the United Nation Model Convention; the expertise in-house, including United Nations expertise on trade and on investment, in particular in the Department of Economic and Social Affairs, UNCTAD and the regional commissions; and the contributions from, and relationships with, other international organizations (e.g. OECD, World Trade Organization and International Monetary Fund) and regional tax organizations. Conference room papers on key matters might be especially valuable.

111. Richard Bolwijn of UNCTAD referred to UNCTAD work in the area, such as the publications entitled *World Investment Report 2015: Reforming International Investment Governance*, which provided an analysis of possible reforms of the international investment regime, *Investment Policy Framework for Sustainable Development 2015* and the *International Investment Agreements and Their Implications for Tax Measures: What Tax Policymakers Need to Know*, which was released in March 2021. All were relevant to the interaction of tax with international investment agreements. UNCTAD will publish a briefing note about tax-related dispute settlements soon. He noted that the linkage between tax and investment agreements was topical and that UNCTAD was keen to work with any subcommittee formed.

112. Jeffrey Owens and Joy Waruguru Ndubai of the Institute for Austrian and International Tax Law, noted that the Institute had been working on the topic for almost 10 years and that progress had been slow. The time had come to have the dialogue on investment, tax community and trade and real opportunities to contribute to the debate. Investment actors had difficulties in understanding the terminology applied by those working on tax and vice versa. Developing a whole-of-government approach for investment and trade agreements would be desirable. There was a need for greater clarity with regard to the interaction between tax treaties, investment and trade agreements, and a series of dialogues to explain basic concepts in tax to the investment community could be one of the outputs of the Committee, it was suggested.

113. Some members noted that the Committee had internal expertise to advance the issue and could bring a relevant government perspective to the discussion. A member emphasized the importance of having flexibility in place for the domestic tax policy to operate effectively over time. It was an area in which developing countries would need guidance. The importance of bridging tax and investment interests and expertise was underlined. Some observers spoke, supporting the formation of a subcommittee. An intersection between tax treaties and trade in the area of carbon taxation was pointed out.

114. The Committee agreed to establish a Subcommittee on the Relationship of Tax, Trade and Investment Agreements, with Ms. Kana, Mr. Ligomeka, and Mr. Roelofsen as Co-Coordinators, and with the following mandate:

The Subcommittee is mandated:

- To identify priority issues where guidance from the Committee may most usefully assist developing countries in differing situations, in particular, on the relationship of tax with investment and trade agreements, and initially report to the Committee on such issues at its twenty-fourth session, in 2022
- Within the above context, to make proposals for consideration by the Committee, with a view to providing guidance at various points during the current membership of the Committee

The Subcommittee may consult broadly, taking into account relevant work by other bodies in this area.

P. Capacity-building

115. Maria Cecilia Sodre of the secretariat delivered a presentation on the topic of capacity-building based on the relevant conference room paper (see E/C.18/2021/CRP.37).

116. Ms. Sodre emphasized the central role of capacity-building in assisting developing countries in mobilizing domestic resources through taxation; the importance of capacity-building in assisting developing countries in achieving the Sustainable Development Goals; and the Committee's valuable contribution to the Organization's capacity development programme in tax through its advice and recommendations.

117. Ms. Sodre provided a summary of the capacity development programme of the Department of Economic and Social Affairs and its background, pointing out that the programme was aimed at strengthening tax administrations and ministries of finance in developing countries in order to devise and implement more efficient and effective tax systems.

118. The role of the Committee in providing guidance and feedback for the work related to capacity-building was mentioned. The contents of the publications produced by the Committee were used for the development of courses, the preparation of workshops and training (either virtual or in-person). They have been also used in self-paced online courses in the context of addressing specific thematic areas, and in technical cooperation projects.

119. The accessibility and broad dissemination of the work were highlighted as essential. Translating the products quickly and accurately (as was now happening) would amplify that role. The important role of the Platform for Collaboration on Tax was also noted, as was the importance of working with regional organizations.

120. Reference was made to donor funding, in particular, from the Norwegian Agency for Development Cooperation, India and the European Commission. The generous contribution from donors had not only helped the Committee membership during the period from 2017 to 2021 to conclude its work on seven guidance products addressing major issues in tax but had also assisted the secretariat in carrying out a range of related capacity-building activities.

121. Ms. Sodre emphasized that the Committee had played and could continue to play a crucial role in generating recommendations and advice on capacity-building and technical assistance on tax and domestic resource mobilization. She noted the importance placed on two-way communication between the development of Committee guidance and the capacity-building by the Secretariat. Capacity-building would also help to disseminate information about the workplan, activities and products of the Committee, as well as promote an open dialogue with key stakeholders.

122. Ms. Sodre explained that the formation of a subcommittee or a small group was not recommended. The secretariat did not see an advantage for a subcommittee or small group on capacity-building at the current stage and proposed a more flexible engagement.

123. Members of the Committee congratulated the secretariat on the capacity-building work in tax matters, including by working with other organizations. A member highlighted the importance of the two-way communication to fill the gaps in knowledge. It was also noted that the role of capacity-building should be broadened and inputs from least developed countries should be taken into consideration.

124. It was agreed that the secretariat would report on capacity development at each session and seek views and inputs from the Committee and observers in order to help to focus and improve work in that area.

Q. Other matters for consideration

125. There were no matters for consideration not previously raised in the meetings. The arrangements for the report would be as provided in the Committee document entitled "Practices and working methods for the Committee of Experts on International Cooperation in Tax Matters".

126. The Co-Chairs thanked all the members and observers for their participation and the secretariat for its support. Caroline Lombardo, on behalf of the secretariat, thanked all participants and the Co-Chairs for their skilled chairing, as well as Ms. Parker, who had chaired so effectively in the first week.

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