



**МИНИСТЕРСТВО ФИНАНСОВ
РОССИЙСКОЙ ФЕДЕРАЦИИ
(МИНФИН РОССИИ)**

The Secretariat of the Ad Hoc Committee
The United Nations

**СТАТС-СЕКРЕТАРЬ –
ЗАМЕСТИТЕЛЬ МИНИСТРА**

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На № _____

The Ministry of Finance of the Russian Federation presents its compliments to the Secretariat of the Ad Hoc Committee of the United Nations and has the honor to submit the following proposal to the indicative list of matters to be addressed in the draft Terms of Reference (ToRs) for a United Nations Framework Convention on International Tax Cooperation:

- Development of an International Multilateral Convention reflecting the recent developments to the UN Model Double Taxation Convention (DTC),
- Development of Globally accepted Criteria for the review the Preferential Tax Regimes to ensure they are not harmful,
- Development of a Tax Policy on Environmental Tax Issue,
- Development of Electronic Documentary Exchange Concerning Indirect Taxes in Cross-border Transactions,
- Development of the UN Data Transmission System as alternative mean for automatic exchange of financial information,
- Creating a platform for the exchange of best practices and experience in the field of tax administration,
- Global Database (online service) of Non-Individual Taxpayers Residence.

The Ministry of Finance of the Russian Federation avails itself of this opportunity to renew to the Secretariat the assurances of its highest consideration.

Yours sincerely,

Alexey Sazanov
Deputy Minister of Finance
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Enc. 7 pages.

The Russian Federation proposal to the indicative list of matters to be addressed in the draft Terms of Reference (ToRs) for the UN Framework Convention (the UNFC) on International Tax Cooperation

1. Development of international multilateral conventions reflecting the recent developments to the UN Model Double Taxation Convention (DTC)

Significant amendments to the UN Model DTC represents a compromise between source and residence principles.

Preamble (principle)

Desiring to promote the implementation of recent and future developments into the existing bilateral tax treaties by the interested jurisdiction,

The UNFC could establish a procedure for the streamlined amendment of existing bilateral treaties in a fast and effective manner through the multilateral convention (MC).

Implementation

Article to the UNFC and the Protocol signed by countries that are interested in participating in MC.

MC relies on outcomes and deliverables of the Committee of Experts on International Cooperation in Tax Matters and develops in cooperation with it. MC is adhered by all states.

The following issues may be subjected to the MC through the series of Protocols:

- Gains in relation to natural resources and offshore indirect capital gains,
- Fees for technical services,
- Income from automated digital services,
- Arbitration,
- UN Model STTR rule,
- Capital gains deriving from the value of immovable property,
- Services permanent establishments and
- Other future amendments to the UN Model DTC.

Rationale

It is an effective instrument for developing countries that want to incorporate changes introduced in the UN Model DTC into their treaties.

2. Development of globally accepted criteria for the review the preferential tax regimes to ensure they are not harmful

The variety of national preferential tax regimes established in almost each state and the variety of methodologies undertaken on a different levels (international organizations: the OECD FHTP, regional associations: the European Union Code of Conduct Group on Business Taxation and national level) require the elaboration of the uniform methodology for the peer reviews of each particular regime to guarantee the fairness and transparency.

Implementation

Article in the UNFC establishing the UN Forum on Preferential Tax Practices and Co-operation (FPTPC) and Annex to the UNFC, which contains sample notification for the Competent Authorities' commitment to participate in the work of the UN FPTPC.

UN FPTPC should be open to all states (organisation and associations could have an observer status).

The purpose of FPTPC is to:

- elaborate an globally agreed methodology of review the preferential tax regimes,
- ensure the effective implementation of an agreed standard.

FPTPC should review the existing preferential tax regimes and evaluate the regimes against an agreed set of criteria.

Rationale

Recognizing that existing mechanisms do not provide a full and effective inclusion of all states, UN FPTPC will promote and strengthen tax good governance mechanisms, fair taxation and fight against tax fraud and evasion globally under the common international principles.

3. Development of a tax policy on environmental tax issues

The environmental taxation is an important track in international taxation policy.

The introduction of carbon taxation, carbon pricing or other method, that addresses carbon leakage, affects greatly the economy of the developing countries, especially industries to which such measures apply.

The UNFC should affect the carbon pricing issues. The ambitious goals of the developed countries in achieving the carbon neutrality require large investments in

the technical progress and the high level of average per-capita income. Such indicators of the developing countries are much lower.

Thus, the UNFC should focus on the potential impact of any Carbon Border Adjustment Mechanism on developing countries and their response to maintain a level playing field – i.e. to ensure that their industries are not adversely affected and their tax base protected.

Implementation

Article to the UNFC establishing the UN Forum on Carbon Pricing and Taxation and Annex to the UNFC, which contains sample notification for the Competent Authorities' commitment to participate in the Forum.

Forum bases on the outcomes and deliverables of the Committee of Experts on International Cooperation in Tax Matters and develops in cooperation with the Committee.

Rationale

The UN has three key climate change agreements foreseeing targets for the reduction of greenhouse gas emissions: the UN Framework Agreement on Climate Change, the Kyoto Protocol and the Paris Agreement.

These documents do not relate to the domestic revenue mobilisation, as well as environmental tax policy while these issues are becoming increasingly important in terms of financing development and are seen as important tools to achieve the Sustainable Development Goals.

4. Exchange of information on cross-border transaction (CBT) and indirect taxes

Contracting states exchange information on CBT of residents and amounts of indirect taxes paid to the budgets of the contracting states, tax incentives (exemptions for indirect taxes) (CBT&ITP standard).

Contracting states shall agree on the form, the procedure and timing for exchange of information by electronic means through encrypted transmission.

Implementation

Article to the UNFC and its Protocols signed by countries that are interested in the described information exchange.

Rationale

Proposed CDP&ITP standard simplifying international trade (administrative burden for participants reduced, export VAT refund fastened) and fights against VAT fraud (unlawful refund).

Current treaties, such as the Council of Europe/OECD MAC, do not cover electronic documentary exchange concerning indirect taxes paid in respect of CBT.

5. Development of the UN Data Transmission System (the DTS) as alternative mean for automatic exchange of information (AEOI)

Article 1 «Data transmission methods»

Contracting States shall exchange information in electronic form referred to in Article (Articles) [XYZ]¹ of the UNFC by using Extensible Markup Language (XML).

The Competent authorities of Contracting States will agree on methods for data transmission² including applicable encryption standards by means of Notification [X] in Annex [X] to the UNFC.

The Competent authorities may use the UN DTS to exchange the information specified under any other international treaties. The Competent Authorities express the types of information and the list of interested jurisdictions by means of Notification [Y] in Annex [X] to the UNFC.

Article 2 «The UN Data Transmission System»

Aiming to standardize and simplify exchange of information in electronic form between the Competent Authorities, as well as to minimize costs, the DTS development is assigned to the Secretariat of the Coordinating body of the UNFC (the Coordinating Body Secretariat).

The costs of the Coordinating Body Secretariat for the development and administration of the DTS distribute between Contracting States in proportion to their share in GDP according to the model specified in Annex [Z] to the UNFC.

¹ There could be mentioned different articles devoted to exchange of information in electronic form depending on the negotiation results of the operational scope of the Framework Convention.

² There is mentioned word «methods» in multiple number, it looks rationale to provide flexibility to the Framework Convention. We believe that Competent Authorities could use different systems depending on kind of information to be exchanged and concrete intended treaty partner.

Notwithstanding the provision above, qualifying jurisdictions³ will be exempt from sharing the costs for the development and administration of the DTS in accordance with the Rules of Procedure of the Coordinating Body of the UNFC.

Implementation

Articles to the UNFC and Annexes, namely:

- Annex [X] with samples of notifications that should be used by the Competent Authorities to reflect their intention to use the DTS or other transmission methods, types of information to be exchanged and interested jurisdictions,
- Annex [Y] with commitment by Contracting State to share costs for the development and administration the DTS with the model described in the Annex [Y].

Rationale

The development of the DTS is necessary for:

- 1) possibility to apply AEOI and other electronic exchange standards that different from the OECD developed, for example the abovementioned CBT&ITP standard or other standards that can be agreed by the Parties of the UNFC;
- 2) technological dependence of AEOI on the OECD decision, which may restrict countries to use the CTS by either making a decision to suspend services, or by limiting the list of authorized Certificate Authorities that do not issue EVSSL certificates to one or more concrete countries.

6. Creating a platform for the exchange of best practices and experience in tax administration

Article 1: «Cooperation on Capacity Building in Tax Administration»

Contracting States share knowledge and best practices on the administration or enforcement of tax legislation in such States.

Such areas include, but are not limited to:

- exchange of experience and technologies on of information systems and services;
- training of personnel on the basis of international and (or) national educational institutions, holding joint conferences and seminars;
- informing on changes in tax legislation, the launch of joint pilot projects and best practices in tax administration;
- exchange of tax administration statistics .

³ For example, there could be countries that qualified by the UN as low-income countries per capita.

The specific forms and procedures of cooperation on capacity building UNFC may be determined on a bilateral (multilateral) basis by the Competent Authorities.

Article 2: «The UN Forum on Leading Tax Practices and Capacity Building»

In order to standardize and improve the effectiveness of cooperation between Competent Authorities of the exchange of knowledge and best practices in accordance with Article [XYZ] to the UNFC, the Coordinating Body Secretariat organizes the UN Forum on Leading Practices and Capacity Building in the Field of Tax Administration (the UN Tax Forum).

The UN Tax Forum analyzes and systematizes information on tax administration in the UN countries, identifies relevant best practices, and supports the Competent Authorities in the development and improvement of their tax administration.

The activities of the UN Tax Forum accompany by a Digital platform for the exchange of knowledge and best practices.

The costs of the Coordinating Body Secretariat for organizing the work of the Forum and the Digital Platform distribute between Contracting States in proportion to their share in GDP according to the model specified in Annex [Y] to the UNFC.

The Competent Authorities of the Contracting States express their interest and participation in the work of the UN Tax Forum and the Digital Platform through Notification [Z] in Annex [Z] to the UNFC.

Implementation

Articles in the UNFC and Annex [Z] UNFC, which contains sample notification for the Competent Authorities' commitment to participate in the work of the UN Tax Forum and the Digital Platform.

Rationale

Currently the key platform with significant financial resources is the OECD and its bodies, the Forum on Tax Administration.

The project of the UN Tax Forum and its Digital Platform will begin the process of forming an alternative serving the interests and needs of all - especially developing - countries.

The Digital Platform will allow forming a showcase of the Forum's activities, providing online access to knowledge and leading practices for developing countries, and thereby increasing the relevance of Forum's work and strengthening the tax competencies of developing countries and increasing the importance of their voice in the international tax community.

7. Global Database (online service) of Non-Individual Taxpayers Residence

Contracting States have mutual access to the data on the legal entities (non-individual) taxpayers and their tax residence status in the framework of the UN Global Tax Residence Database (tax residence confirmation system, the UN GTRD).

Contracting States shall agree on the form, the procedures and access to the database.

Implementation

Article in the UNFC and the Protocol on establishment of the UN GTRD. The owner of the database (or respective on-line service) may be the Coordinating Body Secretariat.

Rationale

Advantages:

- 1) avoidance of multiple submission of paper (electronic) certificates to confirm their tax residence in each transactions for application of DTT ,
- 2) immediate confirmation of a counteragent's tax residence status for making initial decision on application of DTT in terms of audits or when withholding tax on foreign income.

Preparatory stage should precede developing a minimal standard for national data for all Contracting States (e.g. title, name, TIN, etc.). Contracting States shall commit to develop local registers following minimal standard, then data from these registers mirror into the UN GTRD.

Also a verification mechanism for downloaded electronic forms to be developed (meaning information downloaded from the database will contain a verification key/digital signature).