



# Subcommittee on Taxation of the Digitalized and Globalized Economy – Report

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Paper [CRP.8](#)  
28<sup>th</sup> Session  
UN Tax Committee  
19-22 March 2024

# PROGRESS

- Paper is [CRP.8](#).
- 4 Meetings since the 27<sup>th</sup> Session.
- Substantial work on workstreams A and B in this period.
- Particular thanks to consultants for greatly assisting the Subcommittee's work.

# WORKPLAN

## Workstream A –

A more Multilateralized  
Implementation of  
specific UN Model  
provisions

- **Workstream A** - options for a more multilateralized form of implementing specific UN Model Tax Convention provisions.
- Special focus to be given to issues for developing countries (though potentially relevant for most or all countries).
- Annex A is the latest draft FTI text – including potential schedules (at pp. 9-42 of [CRP.8](#)).

## **(1) Simplifying the FTI**

- **In October 2023 many members of the Committee supported the basic approach of the FTI but some members called for simplification.**
- **Several simplifications were discussed in meetings and are reflected in the latest draft.**

## **(1) Simplifying the FTI**

- 1. The number of separate documents is reduced from 3 to 2:
  - a) the FTI itself (plus Schedules);**
  - b) the Amending Protocols set out in the Schedules.****
- 2. The “output” is in the form of a single document – an “Amending Protocol” – (not the previous “protocols” plus “amending agreements”).**

## **(1) Simplifying the FTI**

**3. There are only two procedures – standard matching of positions set out in lists of CTAs, and enhanced matching (for those countries that want automatic amendments – subject to a one-month *locus poenitentiae*).**

**4. An enhanced role for the Secretariat, if countries request assistance.**

## **(2) Drafting Changes**

- **Helpful changes to the draft based on suggestions from members of the Sub-Committee.**
- **New (optional) Art 4(ii) – conditions for agreeing amendments.**
- **Role of Secretariat is at request of States.**

## **(2) Drafting Changes**

- **Clarifying that only the UN Tax Committee may amend the wording of the UN Model.**
- **Up to 2 years to prepare lists of CTAs.**
- **Clarificatory amendments (not changing the substance).**



### **(3) Does the proposal truly streamline the amendment procedure?**

- If the “output” is Amending Protocols, does this streamline the procedure?
- The FTI establishes a process and a setting.
- The process aims to produce standardised documentation to simplify and narrow-down the amendment process (and provides for future changes to the UN Model).

**(3) Does the proposal truly streamline the amendment procedure?**

- The setting is the intergovernmental Conference of the Parties.
- The Secretariat will assist the process.

**(3) Does the proposal truly streamline the amendment procedure?**

- **The enhanced matching procedure provides automatic amendments for those countries wishing to follow that route.**
- **Standardised wording (including the UN Model options) should increase uniformity.**

**(3) Does the proposal truly streamline the amendment procedure?**

- **Amending Protocols means that established procedures for parliamentary scrutiny and ratification can apply – no need to create new procedures.**
- ***Will it work?* Only time will tell. No better alternative has been suggested.**

## **Workstream B –**

### **Function and Relevance of Physical Presence Tests**

## **Workstream B**

- **Workstream B is to: Consider the function and relevance or otherwise of physical presence tests in the context of an increasingly digitalized and globalized economy.**
- **At Annex 2: The Subcommittee supports the option of combining Articles 5(3)(b), 12A and 14 into a new provision (provisionally referred to as Article xx) dealing with cross-border business services.**

# WORKPLAN

## Workstream B –

Function and Relevance  
of Physical Presence  
Tests

## Treatment of services

- The Subcommittee *submits for a second consideration the text of the proposed Article xx as provided in Annex B1 (pp. 43-44 of [CRP.8](#)).*
- The Subcommittee *submits for a first consideration the Commentary for proposed Article xx as provided in Annex B2 (pp. 45-63 of [CRP.8](#)).*

# WORKPLAN

## Workstream B –

Function and Relevance  
of Physical Presence

Tests

## Some issues for consideration

- Relationship with Article 5(3)(a)
- Relationship with Article 12B
- Shipping, air transport and insurance excluded
- Relationship of Article xx with Articles 5 (3)(b), 12A and 14
- Article XX as an option in Commentary or change in the Model?
- If Article XX is included in Commentary should Article 12A be extended to services more generally?

# WORKPLAN

**Workstream C** – Cross-border taxation issues relating to remote workers

## Workstream C

- Because of its concentration on Workstreams A and B since the Twenty-seventh Session, no text is put forward for consideration at this Session on Workstream C (Remote Workers).
- The Subcommittee proposes to revisit that Workstream in its report to the Twenty-ninth Session.

**Thank you!**