



United Nations

Committee of Experts on International Cooperation in Tax Matters

**Report on the twenty-eighth session
(New York, 19–22 March 2024)**

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Note

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Contents

<i>Chapter</i>	<i>Page</i>
I. Matters calling for action by the Economic and Social Council	4
Draft decision for adoption by the Council	4
Venue, dates and provisional agenda of the twenty-eighth session of the Committee of Experts on International Cooperation in Tax Matters	4
II. Introduction	6
Provisional agenda.....	6
III. Organization of the session.....	7
Opening of the twenty-eighth session and adoption of the agenda	7
IV. Discussion and conclusions on substantive issues related to international cooperation in tax matters	8
A. Procedural issues for the Committee	8
B. Taxation and the Sustainable Development Goals	8
C. Issues related to the United Nations Model Double Taxation Convention between Developed and Developing Countries	8
D. Update of the United Nations Manual for the Negotiation of Bilateral Tax Treaties between Developed and Developing Countries.....	10
E. Transfer pricing	11
F. Taxation of the extractive industries	11
G. Environmental taxation.....	12
H. Dispute avoidance and resolution.....	13
I. Taxation issues related to the digitalized and globalized economy	14
J. Taxation of cryptoassets	16
K. Digitalization and other opportunities to improve tax administration.....	17
L. Increasing tax transparency	17
M. Wealth and solidarity taxes	18
N. Indirect tax issues	18
O. Health taxes	19
P. Relationship of tax, trade and investment agreements	20
Q. Capacity-building	21
R. Other matters for consideration	22

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-ninth session of the Committee of Experts on International Cooperation in Tax Matters

The Economic and Social Council

(a) Decides that the twenty-ninth session of the Committee of Experts on International Cooperation in Tax Matters will be held in Geneva from 15 to 18 October 2024;

(b) Approves the provisional agenda for the twenty-ninth session of the Committee, as set out below:

Provisional agenda of the twenty-ninth 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;
 - (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) Taxation of cryptoassets;
 - (k) Digitalization and other opportunities to improve tax administration;
 - (l) Increasing tax transparency;

- (m) Wealth and solidarity taxes;
 - (n) Indirect tax issues;
 - (o) Health taxes;
 - (p) Relationship of tax, trade and investment agreements;
 - (q) Capacity-building;
 - (r) Other matters for consideration.
4. Provisional agenda of the thirtieth session of the Committee.
 5. Arrangements for adopting the report of the Committee on its twenty-ninth session.

Chapter II

Introduction

2. Pursuant to Economic and Social Council resolutions 2004/69 and [2017/2](#) and decision 2024/305, the twenty-eighth session of the Committee of Experts on International Cooperation in Tax Matters was held in New York from 19 to 22 March 2024. The session was held in hybrid form – in person but with provision for online participation. The in-person meetings were attended by 21 members of the Committee and 242 registered observers. Three members of the Committee and 346 registered observers participated online.

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-eighth session, as adopted by the Committee ([E/C.18/2024/1](#)), as follows:

Provisional agenda

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;
 - (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) Taxation of cryptoassets;
 - (k) Digitalization and other opportunities to improve tax administration;
 - (l) Increasing tax transparency;
 - (m) Wealth and solidarity taxes;
 - (n) Indirect tax issues;
 - (o) Health taxes;
 - (p) Relationship of tax, trade and investment agreements;
 - (q) Capacity-building;
 - (r) Other matters for consideration, including taxation and foreign exchange.
4. Provisional agenda of the twenty-ninth session of the Committee.
5. Arrangements for adopting the report of the Committee on its twenty-eighth session.

Chapter III

Organization of the session

Opening of the twenty-eighth session and adoption of the agenda

4. The Acting Director of the Financing for Sustainable Development Office, Shari Spiegel, delivered an address as a representative of the Secretary-General.

5. Ms. Spiegel welcomed members and observers to the session and noted the importance of the occasion, as the third from last session of the current membership. She observed that the role of international tax cooperation in financing sustainable development had received increasing attention in recent years and that it would form an important part of the Fourth International Conference on Financing for Development, to be hosted by Spain in 2025. She said that taxation and the Committee's work in that area would also be relevant to the Financing for Development Forum in April 2024 and the Summit of the Future in September 2024 and indicated that the current call for more inclusive and effective tax cooperation systems and outcomes was related to system-wide issues such as the need to address climate change, extreme inequality and profound technological change.

6. The Co-Chair, Liselott Kana, thanked Ms. Spiegel for her remarks and the Secretariat for its support for the work of the Committee. She then presided over the adoption of the agenda, which was adopted without amendment. It was agreed that written comments could be submitted on all agenda items, with an overall deadline of 15 April 2024 unless a later date was specified.

Chapter IV

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

A. Procedural issues for the Committee

7. It was noted that, in a closed meeting of the Committee of Experts on International Cooperation in Tax Matters, the Co-Coordinator of the Working Group on Procedural Issues, Ms. Kana and Carlos Protto, had indicated that there remained a small number of further issues relating to the Committee's practices and working methods, which would be presented for consideration at the twenty-ninth session.

B. Taxation and the Sustainable Development Goals

8. Ms. Spiegel delivered remarks on taxation and the Sustainable Development Goals. She highlighted the critical role of financing in achieving the Goals, while noting that progress toward many Goals had stalled, with some regression. She drew attention to the particular impact of the challenging international macroeconomic landscape on developing countries and countries with limited resources for Goals-related investment and social spending.

9. Turning to the issue of taxation and inequality and referencing discussions at the 2024 Economic and Social Council special meeting on international cooperation in tax matters, she stressed the importance of fiscal policies in tackling inequality and highlighted the need to examine both revenue and expenditure aspects of budgets, along with the positive and negative effects of incentives on behaviour, as they related to environmental and health taxes, which were examples of relevant Committee workstreams. She noted that the taxing of wealth and real property could generate additional revenue and make redistribution possible.

10. The Co-Chair, Mathew Gbonjubola, agreed with Ms. Spiegel's observation that several elements of the Sustainable Development Goals were regressing while others remained on track and drew attention to the severe impact of funding challenges on progress towards achievement of the Goals. In that context, one member noted that the Goals were sometimes viewed merely as projects, posing obstacles to their full achievement.

11. Ms. Spiegel underscored the importance of perceiving the Sustainable Development Goals in a holistic manner and of Governments incorporating the Goals and their financing into their planning processes. Noting that inclusive collaboration was crucial for attainment of the Goals, she stressed the importance of involving civil society in that process. In that regard, a Committee member commented that taxation was a key factor contributing to the achievement of the Goals, which were of extensive relevance to the Committee's work.

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

12. One of the three Co-Coordinator of the Subcommittee on Updating the United Nations Model Double Taxation Convention between Developed and Developing Countries, Mr. Protto (along with Rasmi Das and Stephanie Smith), provided an update on the Subcommittee's progress on its workplan. He noted that several projects relating to the taxation of cross-border services had been placed on hold until decisions had been made on article xx, after which the Subcommittee would work on

various consequential changes to the Model Convention, including in particular its commentaries.

13. He then presented a note on the treatment of income arising from extractives and other natural resources (E/C.18/2024/CRP.14), which included a proposed new article 5A and draft commentary establishing lower thresholds for source State taxation relating to certain natural resource activities. He acknowledged the benefit of close coordination with the Extractives Subcommittee as that provision was being developed.

14. There was general support for the proposed provision, although one observer State suggested that the provision should be included as an alternative in the commentary rather than in the text of the Model Convention, as it might not be applicable to all developing countries. The same observer indicated a preference for limiting the provision to specialized services, rather than applying it to all services that supported natural resource activities. It was noted that that view had already been addressed in the commentary.

15. Another observer suggested that several provisions that were included in the commentary as alternative provisions, because they had not received sufficient support from participants in the Subcommittee, should form part of the text of the Model Convention. Members and observers also made a number of technical comments with regard to the proposed provision, many of which had already been discussed by the Subcommittee. It was agreed that the Subcommittee would consider the comments and make any appropriate modifications before the twenty-ninth session of the Committee.

16. Mr. Das presented a note proposing a revision to article 8 (alternative B) of the Model Convention (E/C.18/2024/CRP.12). The note set out a possible revised version of article 8 (alternative B) that would allow taxation at source of international transport income. Some members of the Committee raised the question as to whether the Model Convention should continue to include alternative A, which provided for exclusive residence State taxation of income from both international shipping and international air transport, but the issue was not discussed comprehensively. Of those who did speak on the issue, the majority were in favour of retaining alternative A.

17. The discussion focused mainly on whether the new source rule should apply only to income from shipping or also to income from international air transport. The Committee had received many submissions from airlines opposing the inclusion of international air transport in proposed alternative B. During the debate, the members and observers that intervened generally expressed support for covering both shipping and air transport in alternative B. Observers from some airlines based in developing countries voiced their concern that allowing source State taxation of international air transport could negatively affect developing countries that received significant revenues from their national carriers or that relied heavily on tourism. Some observers also expressed concerns regarding the proposal to cover air transport and the potential impact on the economies of developing countries.

18. Observers from the International Air Transport Association and certain airlines also argued that source State taxation would create administrative burdens, over-taxation and give rise to tax disputes that could reduce connectivity for some smaller countries. A number of members opposed the inclusion of international air transport in alternative B for those and other reasons, including lack of clarity on how the sourcing rule would allocate revenue to multiple jurisdictions for a flight with several connections. One member expressed the view that very few tax treaties provided for source taxation of international air transport. Those supporting the inclusion of international air transport noted that the provision would prevent double taxation by setting out clear source rules and requiring the residence State of the airline to provide

credits for the taxes imposed by the source State. One member queried why the air transport industry should be treated differently from all other industries in respect of source State taxation. The Secretariat indicated that it would communicate with the International Civil Aviation Organization on that issue.

19. It was agreed that the issue would be considered again at the twenty-ninth session of the Committee and a decision would be taken on it at that session. The Subcommittee would also consider a number of technical comments relating to the drafting of the provision, including the need to ensure that so-called “wet leases” were addressed appropriately and to explain the rationale for why the definition of “income from the operation of ships or aircraft in international traffic” specifically excluded certain commissions, but not other expenses.

20. Mr. Protto presented a note on the treatment of income from cross-border insurance activities (E/C.18/2024/CRP.13). The note set out the Subcommittee’s proposal to delete paragraph 6 of article 5, under which a permanent establishment was deemed to exist where an insurance enterprise of a State collected premiums from, or insured risks in, the other Contracting State, and, in response to comments at the twenty-seventh session, to introduce a new stand-alone article 12C, which would allow taxation of the relevant premiums on a gross basis.

21. There was general, but not unanimous, support in the Committee for inclusion of such a new article. The discussion then moved on to questions regarding the scope of the proposed article, including the definition of insurance. In particular, some observers from the business sector pointed out that many insurance contracts were essentially savings products, so that a gross-basis withholding tax on the premiums would effectively be a tax on the investment, not on income.

22. The Subcommittee had also asked for input regarding how the beneficial owner concept should be applied in the case of reinsurance contracts. Observers from the business sector noted that the manner in which the reinsurance market distributed risk, which was adverted to in the note, would render it very difficult to trace reinsurance premiums through various reinsurance arrangements. One observer suggested that a source rule regarding the location of risk, currently included in the draft commentary, should be included in the text of article 12C, in response to which an observer from the business sector remarked that it was very difficult to determine the location of risk. Several observers from the business sector undertook to submit written comments from their organizations before 15 April 2024, the general deadline for comments on Committee papers.

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

23. Mr. Protto, one of the Co-Coordiators of the Subcommittee, along with Aart Roelofsen, provided a brief update on this topic. The updated manual that had been approved at the twenty-sixth session had since been published and distributed at the twenty-eighth session. He suggested that the Subcommittee should meet later in 2024 to start drafting the next version of the Manual, addressing the changes made to the Model Convention by the current membership of the Committee.

E. Transfer pricing

24. The Co-Coordinator of the Subcommittee on Transfer Pricing, Ingela Willfors, presented the progress report on the work performed by the Subcommittee as contained in the Co-Coordiators’ report (E/C.18/2024/CRP.1). She then presented

the interstitial guidance on transfer pricing for agricultural products and on the pharmaceutical industry for approval by the Committee. She highlighted that, in drafting the practical guidance, the aim had been to illustrate the application of the arm's length principle to cross-border transactions in those sectors and industries. She remarked that the papers both described and discussed the global value chain of the respective sector or industry and pointed out that the guidance on agricultural products used coffee and soybeans as case examples.

25. She thanked members and observers for their feedback and input provided during and after the twenty-seventh session. In that context, she noted that the guidance on agricultural products incorporated some additional sections on the use of hub structures for centralized activities, environmental regulation, abusive transfer pricing practices and the influence of contract dates on pricing. The guidance on the pharmaceutical industry had been amended to include clarifications and additions regarding the scope of the paper, strategic alliances, value drivers and business models. In addition, case examples had been added to the paper.

26. The work undertaken by the Subcommittee in the workstream on dispute avoidance and resolution was presented for first consideration. Ms. Willfors explained that the aim of that work had been to provide practical guidance on bilateral advance pricing arrangements. The guidance was structured in the form of frequently asked questions covering, first, why and when advance pricing agreement programmes should be implemented; second, what legal framework they should have; third, how the programme should be integrated into a country's tax administration; and, fourth, procedural issues. She also noted the cooperation with the Working Group on Dispute Avoidance and Resolution.

27. Members and observers thanked the Subcommittee for its work and noted that the guidance was highly relevant. The Committee approved the papers presented for approval subject to editorial work and the inclusion in the paper on the pharmaceutical industry of the suggestion by one member regarding the impact of price controls.

F. Taxation of the extractive industries

28. Nana Mensah, the Co-Coordinator of the Subcommittee on Extractive Industries Taxation, presented a report on the subcommittee's activities since the previous session (E/C.18/2024/CRP.19). She emphasized the subcommittee's focus on the energy transition workstream, with the presentation of a paper on that topic for initial consideration.

29. Hafiz Chaudhury, the lead drafter, provided an overview of the paper, emphasizing its concentration on tax issues related to the transition in energy production. He said that, while it extended beyond the traditional extractives sector, the paper maintained a focus on taxation measures, briefly mentioning other policy measures where they intersected with taxation. It addressed the decarbonization of energy production, emphasizing the transition to renewables, hydrogen, carbon capture and storage, and sustainable biomass. The paper's scope was limited to interaction with carbon taxation and pricing and fossil fuel subsidies, deliberately avoiding broader climate change issues, market-based or regulatory measures, and discussions on local and subnational taxation.

30. Members and observers expressed support for the paper, with one member offering insights on financing the energy transition in developing countries, a measure which, it was suggested, could enhance the document's practical value. Concerns were raised about ensuring a balanced approach, considering the different responsibilities of developing and developed countries, while caution was expressed about examples in the document that might not be applicable to developing countries.

One observer noted that some examples needed updating and offered to provide suggestions.

31. Ms. Mensah acknowledged those comments, indicating that they would be incorporated into the next version of the paper, with a view to achieving greater balance and practical relevance to developing countries. The Secretariat highlighted the paper's focus on energy production, noting that energy consumption issues fell within the purview of the Subcommittee on Environmental Taxation.

32. Regarding the workstream on trade mispricing, Ms. Mensah informed the Committee about the drafting of a paper based on country experiences, scheduled for review at the Committee's next session.

33. Lastly, concerning tax incentives, the Committee recognized the Subcommittee's efforts and looked forward to the incorporation in that work of suggestions put forward by members at the current session. They also asked the Secretariat to consider the work by the Subcommittee when taking up tax incentive issues with the Platform for Collaboration on Tax and in other capacity-building activities.

G. Environmental taxation

34. The Co-Coordinator of the Subcommittee on Environmental Taxation Issues, Muhammad Ashfaq Ahmed and Susanne Åkerfeldt, presented their report on the Subcommittee's progress and future steps (E/C.18/2024/CRP.7).

35. With regard to workstream 1, focused on the interaction of carbon taxation with other national measures, they presented part C (as set out in annex C to report E/C.18/2024/CRP.7) on phasing out fossil fuel subsidies for discussion and first consideration. They explained that the paper on part C provided an overview of assessing fossil fuel subsidies, elucidated international methodological differences, highlighted interpretational limitations and explored practical implications and key messages.

36. In addition, a draft outline for part B, which aimed to address the interaction between carbon taxes and other taxes, was presented for information and comments (provided as an appendix to report E/C.18/2024/CRP.7). The Subcommittee had undertaken to finalize the papers for the Committee's consideration and approval at its twenty-ninth session, with part A of that workstream having already been approved by the Committee at its twenty-seventh session.

37. Workstream 2, examining the role of carbon taxes and other measures in supporting the energy transition, was presented for final approval (as set out in annex A to report E/C.18/2024/CRP.7). Grounded in country case studies from Chile, Ghana, Indonesia and Jamaica, the paper discussed practical ideas such as tax incentives to support activities and behaviour conducive to energy transition, using carbon pricing as a market signal for behavioural change, cash transfers to support low-income households and strategies for renewable energy promotion. Furthermore, it addressed administrative capacities, incentives for renewable energy adoption and the phasing out of fossil fuel subsidies, among other matters.

38. Workstream 3, exploring the interaction between carbon taxes and carbon offsetting programmes (as set out in annex B to report E/C.18/2024/CRP.7), was presented for final approval. The paper elaborated on the use of carbon offset credits to aid countries, in particular developing countries, in understanding and implementing relevant policies. It provided country examples to offer practical lessons for countries considering such measures.

39. In workstream 4, focusing on border carbon adjustment mechanisms and how developing countries could mitigate undesired spillover effects, part C, on potential responses to carbon border adjustments (as set out in annex D to report E/C.18/2024/CRP.7), was presented for discussion and first consideration. The paper reviewed existing literature on the subject, noting that, at the current time, there was only one active mechanism in place, the European Union carbon border adjustment mechanism. It was agreed that the paper on part C would be updated in the light of discussions and comments, with a view to its final approval at the twenty-ninth session. Parts A (the theory of carbon leakage and ways to address it) and B (border carbon adjustment measures) of that workstream had previously been approved by the Committee at its twenty-seventh session.

40. Workstream 5 covered other environmental taxes, focusing on specific measures in such areas as air pollution, plastics, pesticides, water and sanitation, waste management and indirect taxation of energy apart from carbon (as set out in annex E-1 to report E/C.18/2024/CRP.7). It also included an inventory of various measures implemented by countries across the world, serving as lessons for countries considering other such environmental measures (as set out in annex E-2 to report E/C.18/2024/CRP.7). It was agreed that the draft would be updated on the basis of the feedback received, with a view to its final approval at the Committee's next session. For that workstream, the Co-Coordinator sought comments, in particular on the information relating to country examples, by no later than 20 May 2024.

41. While the papers were generally deemed to be of high quality, suggestions were made on ways of enhancing their usefulness and clarity. For instance, it was recommended that a section be included in workstream 1 on peer review exercises and existing data on carbon emissions. Concerns were also raised regarding the apparent promotion in workstream 4 of such contentious measures as the carbon border adjustment mechanism, with some members urging the Subcommittee to maintain its focus on taxation issues.

42. Furthermore, it was emphasized that it was important to strike a balance between energy access for sustainable development and cleaner energy promotion, avoiding excessive taxation on such essential functions as cooking or employment activities. In addition, it was suggested that e-waste should be included in discussions of environmental tax measures.

43. Where workstream 4 was concerned, as in previous sessions, the Co-Coordinator stressed the need to maintain neutrality, with particular regard to border carbon adjustments, to avoid being seen as endorsing or rejecting any particular mechanisms. They highlighted the comprehensive nature of the analysis in the papers, which explored alternative measures beyond carbon taxation for developing countries. They noted also that part C of workstream 4 would be further aimed at addressing any pending concerns within the scope of that workstream.

H. Dispute avoidance and resolution

44. The Co-Coordinator of the Working Group on Dispute Avoidance and Resolution, Aart Roelofsen, provided the Committee with an update on the group's activities (E/C.18/2024/CRP.6).

45. He highlighted the continuing collaboration between the Working Group and the Subcommittee on Transfer Pricing. That work was aimed at improving guidance and providing clarity about pricing arrangements, with a view to preventing disputes.

46. In addition, the other Co-Coordinator, Mr. Protto, informed the Committee that the Working Group was closely following developments relating to taxation of the

digitalized economy. Those efforts were aimed at identifying issues related to dispute avoidance and resolution within other forums. In particular, the Working Group was evaluating the tax certainty aspects of the pillar 1 initiatives of the Inclusive Framework on Base Erosion and Profit Shifting the Organisation for Economic Co-operation and Development, to ascertain their relevance and consider their potential inclusion in the *United Nations Handbook on the Avoidance and Resolution of Tax Disputes*.

47. In closing, the importance of the Working Group's efforts and progress was underscored, along with its commitment to continue monitoring relevant developments and incorporating feedback from capacity development activities, in line with its mandate.

I. Taxation issues related to the digitalized and globalized economy

48. The Co-Coordinator of the Subcommittee on Taxation Issues related to the Digitalized and Globalized Economy, Ms. Kana, presented the Co-Coordinators' report outlining the Subcommittee's progress in its three workstreams (E/C.18/2024/CRP.8).

49. She highlighted that, for workstream A, annex A was being submitted for a second reading and finalization at the earliest possible stage and invited Phillip Baker to present the fast-track instrument highlighting the work done on the annex following the first reading. Mr. Baker indicated that the Subcommittee had worked on the following issues as requested at the previous session:

- (a) Simplification of the fast-track instrument;
- (b) Drafting changes;
- (c) Clarification on streamlining the amendment procedure.

50. Where simplification of the fast-track instrument was concerned, as called for by some members, a number of steps had been taken. First, the number of separate documents had been reduced from three to two, namely, the instrument itself (plus its schedules) and the amending protocols set out in the schedules. Second, the output was in the form of a single document: an amending protocol, rather than comprising, as before, protocols plus amending agreements. Third, there were only two procedures: the standard matching of positions set out in lists of covered tax agreements and enhanced matching, for those countries that wanted automatic amendments. In addition, an enhanced role was provided for the secretariat.

51. The Subcommittee made a number of drafting changes, including an option outlining conditions for agreeing on amendments and clarifying that the role of the secretariat would be at the discretion of Member States. The changes also clarified that the wording of the Model Convention could only be amended by the Committee of Experts on International Cooperation in Tax Matters and also provided that countries would have up to two years to prepare lists of covered tax agreements. For the streamlining of the amendment procedure, members were informed that the fast-track instrument established both a process and a setting. The process was aimed at producing standardized documentation to simplify and narrow down the amendment process and also provided for future changes to the Model Convention, while the setting would be an intergovernmental conference of the parties, with the secretariat assisting the process.

52. Members congratulated the Subcommittee on the work accomplished and thanked Mr. Baker for his assistance in making the fast-track instrument an improved document that met the Committee's objective of facilitating the multilateral

implementation of specific provisions of the Model Convention. A majority of members acknowledged that the instrument was now simpler and noted that it facilitated the incorporation of new changes, although some members expressed scepticism as to whether there was a need for the instrument at all and wondered how widely it would be used. It was noted, however, that the instrument would be open for uptake by countries that found it useful and there was no need at the current stage to evaluate how many might wish to avail themselves of it.

53. Some concerns were raised regarding the enhanced role proposed for the secretariat of the fast-track instrument. It was clarified that the enhanced role of the secretariat would only be applicable to countries that requested it, to enable them to take the process forward. In addition, members were informed that the provision of assistance to Member States would be the responsibility of the secretariat, while the Depositary would handle the receipt of documents such as notices and country lists of covered tax agreements.

54. Observers generally supported that work, noting that the fast-track instrument had the potential to greatly facilitate treaty negotiations, especially for developing countries. They also acknowledged the efforts to improve legal certainty and simplicity in the current version of the draft.

55. Upon concluding their work on that issue and recognizing that a minority of them remained opposed to the fast-track instrument, members were informed that the next step was the distinct stage of submitting the finalized text to the Economic and Social Council, a procedure which usually took the form of a draft resolution, enabling interested States to call for the negotiation of the instrument at an intergovernmental level. It was agreed that a transmitting document in a form appropriate to the Council would be circulated to members for comment under the written procedure before the instrument was finally submitted to the Council.

56. On workstream B, Ms. Kana presented for a second reading the Subcommittee's proposal for the text of the proposed article xx and, for a first reading, a proposed article xx commentary. She highlighted the following as the issues under consideration:

- (a) The relationship with articles 5 (3) (a), 5 (3) (b), 12A, 12B and 14;
- (b) Whether article xx would be an option in the commentary or added as a new article in the Model Convention;
- (c) If article xx was included in the commentary, whether article 12A should be extended to services more generally.

57. Although there was broad support for the proposed new article xx, several members raised concerns about it, remarking that it had very wide scope, which might lead to excessive taxation. To mitigate that eventuality, it was proposed that taxation in the article should be on a net basis. Some members pointed out, however, that a net option would be challenging for many developing countries to apply. Queries were raised as to why the proposed article xx excluded article 12B. Concerns were also expressed that dispensing with articles 5 (3) (b) and 14 might lead to a reduction of taxing rights, when that process was supposed to streamline the taxation of services and not to create new taxing rights or reduce existing taxing rights. One member expressed the view that the taxation of services at source would be unprincipled if the sale of goods was not taxed in a similar manner, since the compensation for the acquisition of a good was in essence a compensation for the service of preparing that good. Another member responded that cross-border sales of goods were in fact subject to excise taxes, so that source state taxation of services was consistent with the principles.

58. Finally, it was observed that there might be need for further study as to whether the proposal would have any real impact and what effect it would have on meeting the Sustainable Development Goals.

59. Observers welcomed the work on this issue, noting its importance as physical presence tests became increasingly less relevant in the current business environment. The proposed article would provide a way to restore lost taxing rights. It was also observed, however, that the proposal covered different incomes and it might be instructive to bear that in mind while endeavouring to streamline the taxation of services. In addition, attention was drawn to the risk of overtaxation, as the article's scope was very broad.

60. During the course of the meeting, Ms. Kana presented a redrafted version of article xx, noting that she and certain other members supporting the provision had sought to take into account some of the issues raised. It was agreed that the redrafted article would be discussed further by the Subcommittee and presented and decided on at the twenty-ninth session. Brian Arnold was thanked for assisting the Subcommittee in its work on article xx.

61. As noted in its report, the Subcommittee would also report on workstream C (remote workers) at the twenty-ninth session.

J. Taxation of cryptoassets

62. Rasmi Das, a member of the ad hoc group on the taxation of cryptoassets, presented its report (E/C.18/2024/CRP.3). He said that, following the decisions made by the Committee during its twenty-seventh session, the ad hoc group had been developing a toolkit for the evaluation of cryptotax risks and that the first part of that toolkit was being presented for first consideration by the Committee.

63. He explained that the primary objective of the toolkit was to assist countries accurately to identify the risks that cryptoassets posed in their domestic tax system. The toolkit was structured around three categories of cryptotax risks: first, cryptoreporting and tax crimes; second, cryptolosses and deductions; and, third, cryptofunctional substitute risks, with the first two risks addressed in the initial part of the draft presented.

64. He detailed the following main topics covered in each section of the toolkit:

(a) A snapshot that succinctly addressed key questions regarding cryptoassets, their importance and the target users of the toolkit;

(b) An introduction, highlighting the toolkit's role in offering a framework for risk assessment;

(c) A guide on the use of the toolkit, presenting a step-by-step overview, a map of cryptotax risks to be used for categorizing risks, and a worked example to demonstrate the toolkit's use;

(d) Questionnaires for each category of risk;

(e) Commentaries providing in-depth background and recommendations for best practices.

65. Members and observers thanked the ad hoc group, and in particular the consultant, Vincent Ooi, for their efforts, noting the toolkit's practical approach. One member suggested the inclusion of a more detailed analysis of specific crypto-related activities, such as cryptomining. Another member noted that the toolkit's approach to comparing losses from cryptoassets to gambling losses would not be suitable for all

countries in accordance with their domestic legislation. The group requested additional input and feedback, to be submitted in writing by 15 April 2024.

K. Digitalization and other opportunities to improve tax administration

66. The Co-Coordination of the Working Group on Digitalization and Other Opportunities to Improve Tax Administration, Elisângela Rita and Waziona Ligomeka presented the Co-Coordination's report (E/C.18/2024/CRP.4). Mr. Ligomeka presented an overview of the group's work and Ms. Rita outlined the specific issues that were up for discussion. The group presented for first reading and discussion chapter 1 (introduction); part 2 on the legal governance framework (namely, chapters 3 and 4); part 4 on innovative technologies (chapter 7); and the annex, containing case studies from different jurisdictions.

67. Ms. Rita said that chapter 1 presented an introduction to and overview of the digitalization of revenue authorities, outlining the benefits of digitalization and highlighting the challenges faced by countries looking to digitalize revenue administration. Part 2, on the other hand, comprising chapters 3 and 4, addressed the legal governance framework, focusing on possible adjustments to the legal framework and considerations that a tax administration might make when undertaking or stepping up its digitalization in response to the needs of the current and future digitalized global economy. Chapter 3 reviewed existing laws, while chapter 4 dealt with new and updated laws. She also presented part 4, which delved into innovative technologies, delivering a comprehensive overview of technologies and techniques actively shaping the tax landscape, both in current practice and with regard to future transformations. Case studies from different jurisdictions were included in the annex to the guide, outlining the background and the technology used, the impact on tax administration and taxpayers and lessons learned in the process.

68. Members noted that significant progress had been achieved in the work on a guide to digitalization. On chapter 1 they observed that, while addressing the digital technological infrastructure, it might be a good idea to add innovative solutions for situations where Internet access could not be guaranteed, as was the case in developing countries. It was noted that small and medium-sized enterprises sometimes grew into large businesses and it was therefore necessary to address their difficulties in technology access and examine the impact of digitalization on their operations.

69. Observers noted that the guide provided much-needed guidance and support to developing countries and that the case studies were instructive in their digitalization journeys. There was a call for countries that had shared their experiences to provide updated information on the latest stages of those journeys, where possible. It was also pointed out that it was not enough for digitalization to happen within the revenue authorities only; instead a whole-of-government approach would be more beneficial. It was proposed that the working group should include employee experience in the case studies to further enhance the guide.

L. Increasing tax transparency

70. In a closed meeting, the Co-Coordination of the Subcommittee on Increasing Tax Transparency, Ms. Mensah and José Troya, presented to the Committee a paper on work by the Subcommittee in discharge of its mandate. It was agreed, and noted in open session, that the Committee approved the release of a paper soon after the session for public comment. A revised version of that paper, taking into account the Committee's feedback and public comments, would be presented for consideration at the twenty-ninth session.

M. Wealth and solidarity taxes

71. The Coordinator of the Subcommittee on Wealth and Solidarity Taxes, Mr. Troya, introduced the Coordinator's report (E/C.18/2024/CRP.2). He presented the guidance set out in the report on the policy options available to tax jurisdictions when considering how to adequately tax wealth, with a focus on net wealth taxes, for approval by the Committee.

72. He gave an overview of the content of the guidance and highlighted the changes made since the twenty-seventh session in response to the feedback received. Those changes included text on the need to consider the economic impact of a net wealth tax, additional boxes containing information on the experience of Uganda with a high-net-worth individual tax unit and insights into the use of technology in the area of valuation. He explained that the experience gathered by Colombia with net wealth taxes had been added to appendix C of the guidance.

73. He also noted that a drafting group had commenced work on model net wealth tax legislation for individuals. He invited members and observers to provide feedback and input on the structure of the model legislation.

74. Members and observers thanked the Subcommittee for its work and noted that, in the light of rising inequality, the guidance on how to tax wealth was particularly relevant to developing countries. The Committee approved the guidance subject to editorial work and changes requested by two members.

75. With regard to the structure of the model legislation for a net wealth tax on individuals, some members highlighted the need for such guidance in the context of developing countries. Other members cautioned that it would not be possible to design one-size-fits-all model law and that countries should not be given the impression that the proposed model net wealth tax legislation could be implemented without being tailored to the specific country context. Accordingly, the Subcommittee was asked to change the title of the model net wealth tax and to insert disclaimers. Subject to those proposed amendments, the Committee approved further work on this topic.

N. Indirect tax issues

76. The Co-Coordinator of the Subcommittee on Indirect Tax Issues, Mr. Ligomeka, presented the Co-Coordinators' report (E/C.18/2024/CRP.10) and subsequently presented for a second reading draft papers on the following workstreams, contained in annexes A–D, respectively:

(a) Workstream A: overview of value added tax (VAT)/goods and services tax in developing countries;

(b) Workstream B: VAT/goods and services tax treatment of small enterprises;

(c) Workstream C: VAT refunds;

(d) Workstream D: the use of new technologies to improve VAT/goods and services tax compliance (information technology systems, E-invoices and big data).

He sought comments and guidance on the draft papers, explaining that the aim was to refine them for final approval by the Committee at its twenty-ninth session.

77. He also asked members to approve the following steps: first, renaming workstream C on VAT refunds: "Introduction to VAT/goods and services tax refunds", more accurately reflecting the content of the paper; and, second, discontinuing the work on the remaining workstreams, namely, workstream E on interaction between VAT/goods and services tax and other taxes; workstream F on VAT/goods and services

tax and specific sectors (tourism and construction); and workstream G on VAT/goods and services tax and government entities, charities and donor-funded projects, as a matter of prioritization.

78. Members and observers expressed their appreciation for the Subcommittee's efforts and welcomed the draft papers. They emphasized the critical role played by VAT in tax systems, in particular in developing countries, where it served as a significant source of revenue. Suggestions and comments were put forward on various matters, including whether and in what circumstances VAT was regressive and the digitalization of tax administrations. One observer raised the topic of VAT refunds for the petrochemical products industry and it was suggested that views on that issue should be submitted to the Subcommittee for its consideration. In addition, one member suggested that work on the specified workstreams should be suspended rather than discontinued, allowing them to be revisited by future memberships of the Committee. In response, it was noted that a future membership could always revive an issue that had been discontinued, as had happened in the past.

79. It was decided to approve the renaming of workstream C and to suspend the work on the remaining workstreams, as suggested by the Co-Coordinator. The other Co-Coordinator, Kapembwa Namuyemba-Sikombe, thanked the drafters for the work undertaken and all members and observers for their constructive feedback. In closing, Mr. Ligomeka thanked members and observers for their views and assured them that the Subcommittee would take their comments into consideration in its continued work.

O. Health taxes

80. Trude Steinnes Sønvisen, one of the Co-Coordiators (along with Ms. Namuyemba-Sikombe) of the Subcommittee on Health Taxes, provided an update on the Subcommittee's progress on the handbook on health taxes for developing countries, the primary work product of the Subcommittee's work programme. She said that, before the current session, the Committee had approved two chapters. As of the current session, the Subcommittee had provided drafts of one chapter for a second reading and approval and five chapters for a first reading. The Subcommittee planned to provide the remaining four substantive chapters, plus the overview chapter, for consideration at the twenty-ninth session.

81. Ms. Steinnes Sønvisen then presented chapter 2 of the proposed handbook, entitled "An introduction for policymakers: looking at health taxes through different lenses" (E/C.18/2024/CRP.16). The text of chapter 2 presented in the note was identical to that in conference room paper E/C.18/2023/CRP.49, which had been discussed by the Committee at its twenty-seventh session, except for the correction of some minor typographical errors and the addition of the marked references to recent events in section I.b, on the urgent need to increase the fiscal space. The Committee approved the chapter.

82. The Committee then held a first discussion of the Co-Coordinator's note on new chapters (E/C.18/2024/CRP.17). The note included drafts of chapter 3, "Role of health taxes in national budgets"; chapter 8, "Addressing potential secondary effects of health taxes"; chapter 10, "How to generate public acceptability for health taxes"; chapter 11, "Specific issues with respect to tobacco taxation"; chapter 12, "Specific issues with respect to alcohol taxation"; and chapter 13, "Specific issues with respect to excise taxation to support improved nutrition".

83. In connection with chapter 10, some members recommended a deeper discussion of non-fiscal measures, such as preventing tobacco advertising, which might be less controversial than fiscal measures. It was also suggested that chapter 13 might stress the potential environmental benefits to be derived from health taxes,

noting that the production of a small amount of soft drinks required many multiples of that same amount of still water, at a time when many countries were encountering water shortages.

84. Several observers from the business sector indicated their intention to submit written comments on the chapters before 15 April 2024. Welcoming the comments from members and observers, Ms. Steinnes Sønvisen said that they would be passed on to the Subcommittee. She also noted that chapter 9 would address the issue of interactions with non-fiscal measures in greater depth.

P. Relationship of tax, trade and investment agreements

85. The Co-Coordinator of the Subcommittee on the Relationship of Tax, Trade and Investment Agreements, Mr. Ligomeka, presented the Co-Coordination's report on the Subcommittee's progress on its key areas of focus (E/C.18/2024/CRP.9). He provided an overview of the Subcommittee's mandate, objectives, guiding principles and workstreams.

86. With regard to workstream A, on taxation policy and administration measures and their relationship with international investment agreements, draft guidance for tax and investment officials was presented. The Committee was requested to provide feedback on the draft, with a view to presenting a second draft for approval at the twenty-ninth session. Mr. Ligomeka emphasized the significance of the guidance, outlining the key reasons and criteria that justified its necessity. Members and observers recognized the importance of the work and acknowledged the assistance rendered by Alain Castonguay as a consultant to the Subcommittee.

87. One member suggested highlighting the importance of tax officials' involvement in the stages before arbitration, citing provisions in existing international agreements. Some observers advocated greater emphasis on such topics as tax incentives and stability provisions. The Secretariat noted that existing relevant work on those issues was referenced in the paper, but it was agreed that the issues could be highlighted further in a manner consistent with the intent of the paper and its proposed length. It was agreed that a revised version of the paper would be presented to the Committee at its next session with a view to final approval.

88. The other Co-Coordinator of the Subcommittee, Ms. Kana, then presented an overview of workstream B, on the relationship between tax treaties and the General Agreement on Trade in Services of the World Trade Organization. Discussions focused on three main aspects: endorsement of the incorporation of the General Agreement provision in the Model Convention; whether the existing wording of the commentary, citing the commentary of the Organisation of Economic Co-operation and Development, should remain unchanged; and consideration of the introduction of a broader provision to encompass other trade and investment agreements.

89. The inclusion of the General Agreement provision in the text of the Model Convention itself received a great deal of support and was approved. Members highlighted the need to give greater prominence to the potential benefit of such a provision for countries, which would give them a better awareness and understanding of the issue. In the discussion of the introduction of a new commentary, there was broad support for the idea, provided that the new commentary was aimed at enriching the existing guidance with additional content, rather than offering an alternative interpretation. That approach was designed to ensure clarity and consistency, thereby mitigating the risk of misinterpretation.

90. Lastly, with regard to the extended provision, strong support was also expressed, although a minority of members raised concerns in relation to its scope, its

interactions with other trade agreements and questions about its applicability in European Union member States, owing to possible inconsistencies with European Union law. Some members also expressed the concern that the extended provision essentially sought to override trade and investment agreements and was inconsistent with the whole-of-government approach endorsed under the first workstream. One of those members further questioned the legal effectiveness of the extended provision and noted that, while it appeared in a very small number of existing treaties (mostly with one other country), it had never been applied in practice. Other members recognized that the provision would only be implemented in the form of a treaty entered into by countries and, in entering into such a treaty, they would be taking government-level decisions about the relationship with their trade and investment treaties that should be respected.

91. Members also stressed that the rationale behind an extended provision was that tax disputes were resolved by tax authorities and that such a provision was already being used in treaty practice. A draft text was discussed and in principle agreed upon by members that favoured such an inclusion. It was agreed that the decision as to whether the extended paragraph would be included as a new article in the Model Convention or, instead, would be an option provided for in the commentary, would be taken at the twenty-ninth session.

92. The Committee also discussed the appropriateness of directly citing the commentary of the Organisation for Economic Co-operation and Development. While some members preferred such a reference, it was decided that, in the current instance, there was no particular interpretation issue and that the text of the United Nations commentary should be drafted without reference to the relatively outdated commentary of the Organisation of Economic Co-operation and Development, thereby also ensuring that it was more closely aligned with the text currently being incorporated in the relevant article of the Model Convention itself.

93. Members and observers were thanked for their comments. Ms. Kana noted that agreement had been reached on the proposed inclusion of the General Agreement on Trade in Services provision in the text of article 25 and that, at the twenty-ninth session, it would be decided whether the paragraph of the extended version, on which agreement in principle had been reached, would also be in the Model Convention or just in the commentary. A proposed draft commentary would be presented at the twenty-ninth session.

Q. Capacity-building

94. The Chief of the Capacity Development Unit in the Financing for Sustainable Development Office, Emily Muyaa, provided an update on the Secretariat's capacity development programme regarding tax and domestic resource mobilization since the twenty-seventh session, along with forthcoming activities leading to the twenty-ninth session.

95. Ms. Muyaa provided a brief overview of the Office's current Development Account project on identifying and addressing vulnerabilities to aggressive tax avoidance in developing countries. She said that the project, which was launched in 2024, would be implemented over the period up to 2027. The project would develop and refine a risk assessment tool to help countries in identifying and addressing vulnerabilities, working with three pilot countries and focusing in those countries on areas at high risk for, and industries prone to, aggressive tax avoidance. The Committee's practical guidance most closely related to aggressive tax planning would be disseminated throughout the project and its main outcomes and lessons would be shared with the Committee.

96. She also briefed the Committee on activities carried out in November and December 2023, notably two online workshops on transfer pricing and one on taxation and gender, and an in-person regional workshop, held in Addis Ababa, on the treatment of services in the United Nations Model Double Taxation Convention between Developed and Developing Countries. She outlined forthcoming workshops on various topics, including tax treaty negotiation, transfer pricing and others. She also highlighted developments in online training tax courses on transfer pricing, the recent publication of the *United Nations Handbook on Selected Issues for Taxation of the Extractive Industries by Developing Countries* and the preparation of capacity development materials based on that handbook. In addition, she underscored the collaborative efforts made within the framework of the Platform for Collaboration on Tax.

97. Members and observers commended the capacity-building work carried out and its significance for developing countries. Comments by observers included a suggestion that elements of the various sources of Committee guidance that had been finalized should be incorporated into the current capacity development work. Those included the guidance already approved by the current membership on transfer pricing (agriculture and pharmaceutical guidance) and the forthcoming updates to the Model Convention, such as the subject-to-tax rule and the taxation of software.

98. Ms. Muyaa thanked the members and observers for their comments, noting that those inputs would be taken into account in future work. She also confirmed that some aspects of the concluded guidance by the Committee had already been disseminated through collaborative events organized with partner organizations.

99. The key role played by countries in contributing funds for that work was highlighted by the Secretariat and further commended by Ms. Kana. Contributions from Denmark, India, Norway, Sweden and the European Union were noted with gratitude and a call was made for further contributions to amplify and extend the benefits of the Committee-related and capacity development work.

R. Other matters for consideration

100. No additional matters were raised for consideration. The Secretariat noted that it had always been the practice of the Committee for the editing of the text finalized by the Committee to be conducted under the supervision of the relevant coordinators and that the process did not entail the making of substantive changes.

Agenda item 4: Provisional agenda for the twenty-ninth session

101. The provisional agenda proposed for Economic and Social Council approval by the Committee is set out in chapter II of the present report. Members were informed that the dates and venues of the next sessions would be as follows:

(a) Twenty-ninth session: 15–18 October 2024 (Geneva);

(b) Thirtieth session: 24–27 March 2025 (New York), to be followed on 28 March by the 2025 Economic and Social Council Special Meeting on International Cooperation in Tax Matters.

Agenda item 5: Arrangements for adopting the report of the Committee on its twenty-eighth session

102. The Secretary noted that arrangements for the report on the session would, as usual, be as provided in the Committee document entitled “Practices and working methods for the Committee of Experts on International Cooperation in Tax Matters”.

Closing remarks

103. The Co-Chairs thanked Committee members and observers for their participation in the session, both in-person and online, acknowledging the valuable contribution of observers and also of those countries financially supporting the work of the Committee. They also thanked the Secretariat and those providing interpretation and conference services in New York. The Secretariat thanked all those participating, in particular the Co-Chairs for their skilled handling of the session. After a final closed meeting, the session was formally concluded.

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