



Subcommittee on the Relationship of Tax, Trade and Investment Agreements – Report

Paper [CRP.23](#)
29th Session
UN Tax Committee
15-18 October 2024

WORKPLAN

Workstream A – Tax and Investment Agreements (IIAs)

Guidance on tax and investment agreements

- Draft guidance on tax (policy and administrative measures) and its relationship with International Investment Agreements (IIAs) for tax officials:
 - Guidance for *negotiations* of IIAs;
 - ***Domestic law interactions with IIAs;***
and
 - Guidance for ***dispute prevention and guidance in the event of a dispute.***

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Workstream A – Tax and Investment Agreements (IIAs)

What is presented and is being sought

- The Subcommittee presented draft guidance at Attachment A to paper [E/C.18/2024/CRP.9](#) at the Twenty-eighth Session for Committee consideration and comment.
- ***Attachment A to [this paper](#) updates the proposed text to take into account comments at the Twenty-eighth Session and after, with a view to finalization at this Session.***

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Workstream A – Tax and Investment Agreements (IIAs)

What is presented and is being sought

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- The main changes relate to adding some more discussion on general issues relating to **investment incentives**, and on so called “**stabilization clauses**”. The guidance also emphasizes or clarifies other matters, such as the **importance of tax officials being involved at the early stages of an emerging dispute.**

WORKPLAN

Workstream B -

Relationship of Tax

Treaties and WTO

General Agreement on

Trade in Services (GATS)

GATS provision in tax treaties

- Relevant to developing and developed countries.
- The Committee **agreed at the 27th Session** that the GATS provision currently found in the UN Model Tax Convention Commentary on Article 25 (at para 53) should be given **greater visibility by including it directly into the text of the Model Article.**

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Workstream B -

Relationship of Tax

Treaties and WTO

General Agreement on

Trade in Services (GATS)

GATS provision in tax treaties

- Draft provision is *presented for approval of the GATS provision, and the provision for which approval is sought at this session is the same in both Attachments B.1 and B.2*, reflecting what was previously in the Commentary as an option.

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Workstream B -

Relationship of Tax

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Trade in Services (GATS)

A possible extended provision

- The Subcommittee has also been **exploring the possibility of an extended provision that encompasses other agreements such as Free Trade Agreements** in the Model Article of the Commentary.
- At the last session it was agreed to include such a provision in the Model, **but the decision as to whether the extended paragraph would be included as a new provision in Article 25 of the Model Convention or, instead, would only be an option provided for in the Commentary, would be taken at this current (Twenty-ninth) session.**

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Workstream B -

Relationship of Tax

Treaties and WTO

General Agreement on

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Attachments B.1 and B.2

- This paper has **two alternative options for addressing the interaction of taxation with non-tax agreements.**
- As noted, Attachments B.1 and B.2 take the ***same approach as to the GATS clause***, in terms of including it for the first time in the text of Article 25 itself.

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Workstream B -

Relationship of Tax

Treaties and WTO

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Attachments B.1 and B.2

- The *difference between the two attachments* is that:
 - Attachment B.1 does not include the “extended provision” in the text of Article 25, but only provides for it as *an option in the Commentary*.
 - Attachment B.2 includes *both the GATS clause and the extended provision in the text of Article 25*.

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Workstream B -

Relationship of Tax
Treaties and WTO

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Summary of what is sought

- The Subcommittee submits draft text to the Twenty-ninth Session for:
 - ***(i) finalization of the text of the GATS clause placed in Article 25*** as first considered at the Twenty-eighth Session; as well as
 - ***(ii) a first reading of commentary for the GATS clause, with a view to finalization at the Thirtieth Session; and***

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Relationship of Tax

Treaties and WTO

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- (iii) A *decision whether an extended provision* addressing the relationship with non-tax treaties such as free trade agreements *should be included as either an option in the Commentary only (Attachment B.1) or as a provision in the text of the Article itself (Attachment B.2)* with a view to *finalization of the text at the Thirtieth Session.*

QUESTIONS AND COMMENTS?