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## ECOSOC Special Meeting on International Cooperation in Tax Matters New York, 29 April 2019 Informal Summary

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### Key Messages

- Fiscal policies need to be strengthened, both on tax revenue collection and expenditure sides, and aligned with national sustainable development strategies.
- Progressive and redistributive tax policies and fairer tax administration and enforcement, complemented by more inclusive expenditure programmes, can help to reduce both social and economic inequality.
- Environmental taxation can play a key role in supporting transition towards a greener economy by promoting more sustainable production and consumption patterns.
- Pollution disproportionately affects the poorest and most vulnerable. Coherent environmental taxes, targeted to the specific socio-economic situation of each country, can also help to address poverty and inequality.
- Reforms of corporate tax rules applicable to cross-border transactions, including digital transactions, should consider the revenue implications for all countries and their impact on broader sustainable development objectives.
- Effective participation of all countries in the ongoing international debate on taxing the digitalized economy is critical to reach a truly global consensus.
- The United Nations' role in international tax cooperation and standard setting is key to promote multilateral approaches and ensure inclusive processes.
- Redoubled efforts are needed to combat illicit financial flows that continue to drain resources for sustainable development.

### I. Introduction

1. The Economic and Social Council (ECOSOC) held a special meeting on international cooperation in tax matters, with the participation of policymakers and practitioners from all regions. The meeting engaged Members of the United Nations Committee of Experts on International Cooperation in Tax Matters, side by side with other senior experts from governments, academia, private sector, civil society and international organizations.

2. The meeting was held immediately following the 18<sup>th</sup> session of the United Nations Tax Committee (New York, 23-26 April 2019). It aimed to bring forward the latest thinking and innovations in tax cooperation to help mobilize public resources to finance the Sustainable Development Goals (SDGs) and to strengthen the positive impact of fiscal policies on sustainable development. It focused on three frontier issues: i) taxation and the digitalization of the economy; ii) role of taxation in promoting environmental protection; and iii) role of fiscal policies in reducing inequality.

## II. Opening of the meeting

3. H.E. Ms. I. Rhonda King, President of ECOSOC, opened the meeting by recognizing the role of taxation as a tool to strengthen the mobilization of domestic resources and as a fiscal policy instrument to support progress towards the SDGs. She noted the impact on the SDG agenda of not only how much taxes were raised but also how they were raised and spent.

4. In his statement, Chief Economist and Assistant Secretary-General for Economic Development Mr. Elliot Harris highlighted the importance of rethinking tax rules in sustainable development terms and ensuring participation of all countries and non-state actors in the discussions on revising the international tax architecture. He stressed that any reforms of corporate tax rules applicable to cross-border transactions, including digital transactions, should consider the potential revenue implications for all countries and their impact on broader sustainable development objectives. He underlined the importance of looking at the effects of both taxes and expenditures in implementing SDG-oriented fiscal measures and ensuring their consistency with national sustainable development strategies. He also elaborated on the role of fiscal policies in supporting climate change mitigation and adaptation and in combating inequality.

## III. Taxation and the digitalization of the economy

5. The session on taxation and the digitalization of the economy featured presentations by Mr. Eric Nii Yarboi Mensah, Co-Chairperson, United Nations Tax Committee, and Assistant Commissioner, Revenue Authority, Ghana; Mr. Brian Jenn, Deputy International Tax Counsel, Department of the Treasury, United States of America; Mr. Carlos Protto, member of the United Nations Tax Committee and Director of International Tax Relations, Ministry of Treasury, Argentina; Ms. Marilou Uy, Director, Intergovernmental Group of Twenty-Four on International Monetary Affairs and Development (G-24); and Mr. Irving Aw, Counsel, Legal Department, International Monetary Fund (IMF).

6. Ms. Kosha Gada, Contributor, Forbes and Consumer News and Business Channel (CNBC), moderated the session. In her opening remarks, she explained that the panel would deal with three different aspects of the current efforts to find a multilateral solution to the tax challenges of an increasingly digitalized economy: i) the extent of agreement on the underlying principles that ring-fencing the digital economy was not feasible and that international consensus was needed to avoid unilateral measures; ii) the obstacles to reaching international consensus; and iii) next steps and goals in the twelve months ahead.

7. Mr. Irving Aw observed that the problems encountered in taxing digital economy transactions were symptomatic of fundamental challenges with the one hundred-year old rules used to share taxing rights over profits from cross-border transactions. The IMF had recently examined different options for fundamental reform of the corporate tax system, in its policy paper *Corporate Taxation in the Global Economy*. Mr. Aw indicated that, without making recommendations, the paper analyzed the pros and cons of various options, with focus on each option's effect on low-income countries. Mr. Aw stressed the importance of finding a consensual solution, which would be assisted by improving the inclusiveness of the process. He noted that unilateral measures adopted or proposed thus far had been presented as interim solutions and it was hoped would be replaced once consensus was reached on a multilateral solution.

8. Mr. Eric Nii Yarboi Mensah observed that no country could ignore the digitalisation of the economy, as a worldwide phenomenon. The existing rules for taxing cross-border transactions were inadequate. Nexus and allocation rules needed to be changed, particularly to

take account of the facts that both supply and demand contribute to profits and that user participation often contributes to the profitability of new business models. This could mean that the significant economic presence of a foreign enterprise in a developing country should be sufficient to allow taxation by that country, even in the absence of any physical presence under the existing rules. Mr. Mensah noted that different bodies, such as the United Nations, the Organisation for Economic Co-operation and Development (OECD) and the African Tax Administration Forum (ATAF) were working on these issues. Solutions would need to be simple and easy to apply, taking into account the different administrative capacity of countries. Withholding taxes were one example of such simple solutions. Mr. Mensah explained how the UN Tax Committee was working on the issue through its relevant Subcommittee, taking an independent yet informed approach, including looking at proposals developed in other fora. He mentioned that a note on the issue would be discussed at the October 2019 meeting of the Committee, which would comprise an explanation and evaluation of proposals developed both internally and in other fora, describing the respective advantages and disadvantages, including in terms of administrability, fairness and certainty, giving special attention to the interests of developing countries and taking into account different economies and market forces.

9. Ms Marilou Uy set the work of the Group of 24 (G24) on this issue in context, explaining how avoidance of corporate tax represented a greater risk for development countries, where corporate taxes typically represented a higher proportion of GDP than in developed countries. The G24 wanted to ensure the participation of developing countries in the process towards a multilateral solution. Its working group had proposed – as a possible solution to address the nexus issue – the concept of “significant economic presence”, mentioned previously in the 2015 report on Base Erosion and Profit Shifting (BEPS) Action 1. While more work was needed to define the concept, it could be based on factors such as revenues, user base, online contracts and the volume of digital contents. Empirical work would be needed to assess the relevance and impact of these factors and come up with a concrete design. Beyond this, new rules would be needed to allocate profits. One approach was allocating corporate profits based on the principle that the market, the producer and the users of digital contents all contribute to corporate profits. Another approach was fractional apportionment, even though it would require a lot of coordination. Administrability was an important factor in all cases; this was why the G24 had recommended simple rules and withholding taxes for further consideration. Ms. Uy stressed that, without speculating on what would happen if no consensus was reached, one should recognize the need for flexibility to take account of countries’ different circumstances.

10. Mr. Carlos Protto stressed the critical importance of fiscal policies not only to enhance domestic resource mobilization to finance expenditures needed to meet the SDGs but also to influence the behaviour of people and others to further support these goals. Mr. Protto observed that the challenge of taxing an increasingly digitalized economy, in which new business models relied heavily on intangible assets, could be understood as the so-called “scale without mass” problem. Ring-fencing of the digital economy was not feasible. Referring to the interim report discussed at the March 2019 public discussion held by the OECD Task Force on Digital Economy, Mr. Protto explained that the proposals contained in the report related to two different pillars: i) concerns related to the existing nexus and profit allocation rules; and ii) base erosion and profit shifting concerns not previously addressed. Some of the proposals related to the first pillar would require complex rules, such as distinguishing between routine and non-routine profits derived from the use of marketing intangibles in a country. In order to reach an effective global solution, the needs of all countries must be taken into account. This was why the work of the UN Tax Committee, with its focus on simplicity, administrability and certainty, was important. Coordination would be crucial and nobody should be left behind. Political endorsement of the work being done at the technical level would also be very important.

11. In response to a question from the moderator on implications for start-ups with business models based on intangibles, Mr. Protto stressed the importance of taking account of the special

circumstances of start-ups, which typically realize tax losses. The solution must consider these losses, which may be complex. While a fair treatment may increase complexity and reduce certainty, a balanced approach would be needed.

12. Mr. Brian Jenn recalled how debate had shifted from the BEPS issues towards the taxation of digital businesses: from low-taxation to where the corporate tax should be paid, with some countries arguing that the “user jurisdiction” should be entitled to a share of that tax. The conclusion was then reached that the digital economy could not be ring-fenced, which explained why the current debate at the OECD was broad-based and focused on the fundamental question of how to allocate taxing rights. The evolution in the debate reflected a widespread concern that the existing rules for allocating profits were no longer appropriate. This concern showed in the adoption by some countries of unilateral measures that tended to focus on some companies with highly visible brands. It also showed in the audit practices of some tax administrations, which were increasingly proposing diverging interpretations of the arm’s-length principle in a way that increased uncertainty for business, created additional compliance costs and increased risks for both taxpayers and tax administrations. This had a negative impact on cross-border trade.

13. Mr. Jenn observed that, at the March 2019 public discussion held by the OECD, there was general acknowledgment that changes were needed and agreement to explore a two-pillar approach. On pillar one, even with no formal consensus, there was general recognition of the need to explore approaches that would give more taxing rights to the market jurisdiction. That work would focus on a number of proposals for possible changes to the existing nexus and profit allocation rules. This may result, for instance, in a proposal to grant the market country some taxing rights: a sensitive issue involving a change to fundamental principles on which the existing rules are based. Yet, Mr. Jenn saw a willingness to cooperate to build a consensus on any such changes because of the threat posed to global trade and wealth by unilateral measures.

14. Responding to the moderator, Mr. Jenn suggested that failure to reach a consensus would likely result in a spike of unilateral measures, which would in turn require countries to go back to the negotiation table to find a solution that would solve the problems. Mr. Protto agreed; although he was optimistic that a solution could be found, he warned that uncoordinated actions could have a major negative impact on cross-border trade and investment. In response to questions from the floor, both underscored that a partial solution would not be acceptable to the many countries which would want to have a clear idea of the overall changes before committing to anything.

15. A representative from civil society underscored the importance of inclusiveness in the process of working toward a global consensus. She noted, on the one hand, the origin of the Inclusive Framework to implement the BEPS rules, and, on the other hand the request of the Group of 77 of developing countries to discuss such issues at the United Nations, where all countries could participate in the discussions. In response, Mr. Jenn noted that the work on digital economy through the Inclusive Framework included 129 countries, all participating on an equal footing. Mr. Protto recalled the work on taxation and digital economy taking place at the United Nations. Even with the Committee composed of 25 members serving in their individual expert capacities, they reflected a wide regional diversity and all member States could participate in the Committee discussions as observers. While there was a need for coordination of the work, it was also important to make sure that no one was excluded. Mr. Aw also referred to the Platform for Collaboration on Tax through which the IMF, the OECD, the United Nations and the World Bank Group could provide input on how developing countries would be affected by and able to apply the proposals under discussion.

16. A member of the UN Tax Committee stressed the importance of distinguishing between the BEPS work and work on taxation and the digitalization of the economy. The BEPS work benefited all tax administrations, as shown by the inclusion in the United Nations Model Double

Taxation Convention between Developed and Developing Countries of the treaty measures developed as part of the BEPS project. The work on the digitalization of the economy focused not on corporate tax avoidance but on rules for the allocation of cross-border profits. This made it crucial to have developing countries involved in that work and explained why the United Nations Tax Committee had decided to adopt an independent yet informed approach, taking into account the work of the Inclusive Framework.

17. Another member of the UN Tax Committee observed that the focus should not be on ring-fencing, that is to say on tax measures that would only affect some multinationals providing social media and digital products and services. Rather, it would be important to more broadly define new nexus rules to tax companies that carry out business in a country without local personnel or any form of physical presence. Referring to the criticism of the interim measures adopted by some countries, the member also observed that, while these measures might have defects, they would typically have a restricted scope and have the advantage of emphasizing the urgency of the problem. As regards the forum where the work was being carried out, the member stressed the importance of doing work at the United Nations and to work on a simple solution that would be fair.

18. In their remarks at the close of the session, the panellists emphasized that the following twelve to eighteen months would be crucial to advance the work. Mr. Aw noted the importance of seeking inputs from all international organizations during that period. Mr. Jenn outlined some of the key milestones, indicating that the BEPS Inclusive Framework would be invited to approve a detailed workplan at its May 2019 meeting. Mr. Protto observed that the political will to achieve a consensual solution seemed to be present and stressed the need for a solution that would be easy to administer and that would avoid a proliferation of unilateral measures. Ms. Uy emphasized the need for the voices of developing countries to be heard and expressed support for the work of the UN Tax Committee, as well as of the Platform for Collaboration on Tax.

#### **IV. Taxation and environmental protection**

19. The session on taxation and environmental protection featured presentations by Mr. Kurt Van Dender, Head of the Tax and Environment Unit at the Centre for Tax Policy and Administration of the OECD; Mr. Gervais Coulombe, Senior Director of the Excise and Sales Tax Division at the Department of Finance of Canada; Mr. Rodrigo Pizarro, Professor at the University of Santiago and former Head of the Environmental Economics Division of the Ministry of the Environment of Chile; and Ms. Natalia Aristizabal Mora, member of the United Nations Tax Committee and Coordinator of the Subcommittee on Environmental Taxation Issues.

20. Prof. Janet Milne moderated the session. In her opening remarks, she noted that the panel would discuss how environmental fiscal policies could be used to achieve environmental protection and the SDGs and as a more effective instrument for environmental protection than regulatory measures. Prof. Milne described the building blocks of environmental taxation as similar to those of any other tax. She noted, however, that environmental protection was the main objective to be taken into account in the policy design, along with equity, fiscal and economic impact, and administrative feasibility. She highlighted that, while environmental taxation could be an important tool to promote sustainable development, its success would hinge on policy coherence and on tailoring those taxes to the specific socio-economic situation of each country.

21. Mr. Kurt van Dender noted that environmental taxes were often the most efficient measure from both an environmental and a fiscal point of view, with high revenue potential and more cost-effective than other policies in reducing carbon emissions. He also stated, however that environmental fiscal reform had not been exploited to its full potential by most countries:

at the current pace, the carbon pricing gap under the Paris Agreement on Climate Change would only be closed in 2095. Finally, he suggested that one option to unlock the potential of this versatile instrument might be the pragmatic design of coherent, context-dependent policy packages to ensure support from citizens, business and across Government.

22. Mr. Gervais Coulombe provided an overview of the Federal Carbon Pollution Pricing System of Canada, with its primary goal of limiting pollution rather than raising revenue. He stressed how the need of the private sector for certainty and information, including clarity on the future evolution of such system, had to guide the system design. For this reason, starting from the design stage, extensive consultations were conducted among Government agencies and with businesses. Mr. Coulombe emphasized that, now that the system was in operation, most of the revenues were redistributed to households in the form of tax-free transfers. As a result, seventy per cent of households were better off with such system.

23. Mr. Rodrigo Pizarro presented the environmental fiscal reform conducted in Chile through the coordinated introduction of three different taxes, respectively on the sales of new cars; on local contaminants; and on carbon dioxide. He discussed how Chile introduced an administratively more complex approach, based on emissions rather than on the carbon content of fuels. This had enabled the government to generate a stronger incentive to reduce emissions and to obtain additional information about production and consumption patterns, which could be used in other environmental reforms.

24. Ms. Natalia Aristizabal Mora shared the work of the Subcommittee on Environmental Taxation. This include preparation of a Handbook on Carbon Taxation aimed to provide, particularly for developing countries, practical guidance on how to design and implement a carbon tax. The goal was to present, in a non-prescriptive way, some of the options available and a framework for policy makers in countries considering the implementation of fiscal measures for environmental protection, based on real country experiences.

25. During the interactive discussion, the panellists debated the importance of visibility of environmental taxes for end users, given their role in changing behaviours and patterns of consumption and production. They highlighted the centrality of public awareness in the context of environmental fiscal reforms, as well as transparency in revenue use, to ensure support to those measures. They also discussed equity considerations and noted the key role played by impact analysis. They stressed that, given the disproportionate impact of pollution on the poorest segments of the population, environmental taxation would often provide high benefits to the most vulnerable.

26. Participants reaffirmed that the ultimate goal of environmental taxation would be the decarbonisation of the economy, and the shifting of consumer behaviour to more sustainable patterns. For this reason, they highlighted that environmental taxes would achieve better results in a coherent policy framework, complemented with other measures and supported by appropriate administrative infrastructure. Participants also noted that each country should define its own approach, while ensuring compliance with the Paris Agreement on Climate Change.

## **V. Taxation and inequality**

27. The session on taxation and inequality featured presentations by Ms. Elfrieda Tamba, United Nations Tax Committee; Mr. Alvin Mosioma, Executive Director, Tax Justice Network Africa (TJNA); and Mr. Ricardo Fuentes-Nieva, Executive Director, OXFAM Mexico.

28. Prof. Wilson Prichard, University of Toronto, moderated the session. In his opening remarks, Prof. Prichard highlighted that tax equity called for progressive tax policies, better tax enforcement and collection, as well as more effective and inclusive expenditure programmes.

He noted that on the revenue side, ensuring equitable tax systems comes with significant challenges. In developing countries, those often include low personal income taxes, weak taxation of wealth, and data and capacity challenges to enforcing international rules and norms at the domestic level.

29. Mr. Alvin Mosioma noted that the negative trends in income inequality on the African continent were exacerbated by the fact that forty per cent of the total revenues generated were collected through regressive consumption taxes. Moreover, tax competition to promote Foreign Direct Investment (FDI) had resulted in a race to the bottom, with further detrimental effects on equality. Illicit financial flows posed another challenge to raising domestic revenue for sustainable development. Nonetheless, some countries had made progress in using fiscal policy to tackle inequality, particularly through targeted efforts to tax high-net-worth individuals. Beyond more effective taxation of wealth, such as the taxation of high-profit generating businesses in the informal sector, investments in information technology and the promotion of citizen participation in the design of tax policies could also prove to be important drivers for more equitable, inclusive and sustainable tax systems.

30. Ms. Elfrieda Tamba emphasized that a well-balanced mix of progressive and targeted tax and expenditure policies, complemented by fairer implementation and administration of tax provisions, could reduce both social and economic inequality. She noted that policies must address both poverty alleviation and income inequality. For example, investments to reduce poverty through quality education, increases in productivity and greater access to health care must be accompanied by progressive taxation of wealth and social protection programmes to ensure that no one is left behind. The speaker mentioned such innovative initiatives at the country level like the social development fund in Liberia and the national health insurance scheme in Ghana. She also underscored the looming challenges that population growth would pose for the implementation of effective tax policies and tax administration.

31. Mr. Ricardo Fuentes-Nieva stressed that inadequate or lack of taxation of the wealthy in many parts of the world was threatening the social contract between the Government and citizens and eroding public trust. Rebuilding that trust would require rethinking and redesign of tax systems, in addition to further international cooperation to combat illicit financial flows. Redistributive policies could correct for inequalities in the tax system. Reducing corruption, increasing accountability and ensuring effective public expenditure would be crucial to increase tax morale. The speaker noted that greater collection of taxes at the municipal level could have the potential to increase tax morale through forging a direct and regular dialogue on tax equity and public expenditures between citizens and local governments. He stressed that more research was needed on how federal, state and municipal taxes and transfer programmes affect inequality.

32. In the ensuing discussion, speakers highlighted the need to improve the coordination between different levels of government authorities in levying taxes in order to improve accountability at all levels of government and increase trust between government and citizens. Some stressed that complementary efforts in civic education through school and university curriculums could help minimize corruption, increase tax compliance and reduce illicit financial flows. Several speakers stressed that taxing high-net-worth individuals held great potential, yet would be difficult due to their political clout and enforcement challenges. In this context, it was stressed that improved information exchange across countries should facilitate broader taxation of wealth. Participants called for increased international cooperation to address illicit financial flows, as those flows put a serious drain on resources needed for sustainable development. Some speakers lamented the fragmented international efforts to increase tax collaboration and called on the United Nations to take a more proactive role.

## VI. General discussion

33. Eight delegations, including two groups,<sup>1</sup> took the floor during the general discussion. Delegations welcomed the holding of the ECOSOC special meeting on international cooperation in tax matters; recognized the efforts to make the international tax discussions more participatory; and noted the important role of the United Nations as a forum for international tax dialogue that puts developing and developed countries on an equal footing. Some participants reiterated their call to upgrade the United Nations Committee of Experts on International Cooperation in Tax Matters into an intergovernmental body and, in the meantime, to strengthen the financial support to the Committee.

34. Many speakers noted the progress made by the UN Tax Committee in supporting countries in their efforts to mobilize domestic resources in support of sustainable development. Delegations emphasized the importance to strengthen both tax revenue collection and expenditure sides of fiscal policies to achieve inclusive and equitable growth, poverty eradication and sustainable development, while reducing aid dependency in the long run.

35. Several delegates stressed the need to further promote international cooperation on tax matters to address issues like BEPS, transfer mis-pricing and taxation of the digitalized economy. It was noted that more effective taxation of multinational enterprises (MNEs), including digitalized businesses, could boost domestic resource mobilization. Speakers also welcomed the agreement in the outcome document of the ECOSOC Forum on Financing for Development (New York, 15-18 April 2019) that any consideration of tax matters in response to the digitalization of the economy should include a thorough analysis of the implications on developing countries, with special emphasis on their unique needs and capacities.

36. A number of delegates noted that the international community needed to redouble its efforts to combat illicit financial flows, which continued to drain resources for sustainable development, with a disproportionate effect on developing countries. Some delegations called on the UN Tax Committee to fulfil its mandate to consider new and emerging issues, including illicit financial flows, tax evasion and corruption, with a view to supporting countries to address these issues through strengthened national regulation and increased international cooperation. Some delegates also highlighted the importance of the Global Forum on Transparency and Exchange of Information for Tax Purposes, in ensuring the implementation of standards of transparency and exchange of information in the tax area.

37. Many speakers emphasized the need for capacity building to develop more effective tax systems. References were made to initiatives to strengthen capacity building and coordination among development partners, including the Addis Tax Initiative, as well as the Platform for Collaboration on Tax.

## VII. Closing of the meeting

38. The meeting concluded with closing remarks by the President of ECOSOC summarizing the key points of the discussions and highlighting the need for continued efforts to build an international tax architecture aligned with national, regional and global sustainable development priorities. She noted that a summary of the meeting would be made available and encouraged participants to continue to use the Council to generate and raise awareness, exchange experiences, highlight specific needs for capacity support and mobilize multi-stakeholder action on international tax cooperation matters.

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<sup>1</sup>State of Palestine on behalf of the G77 and China; Romania on behalf of the EU, Brazil; India, Liechtenstein; Nigeria, Norway; and Thailand.