

Colombia's Comments
Workstream II - Issues Note 27 June 2025
Intergovernmental Negotiating Committee

Colombia would like to thank the INC/Tax Secretariat for the hard work, for the commitment to reach to an agreement on the scope of the Protocol and for considering our views throughout the discussion and negotiation process. We acknowledge the good progress made this far and we will continue to provide constructive input to collaborate on this historical process.

Colombia supports an inclusive and equitable international tax system that empowers all countries to protect their tax bases and participate equally in global governance. We advocate for fair taxation cross-border services in an increasingly digitalized and globalized economy.

Accordingly, we believe there are strong reasons for changing current rules for taxation of income from cross-border services, as digitalization and globalization are permanently transforming business models allowing services to be performed without a physical presence in a local market.

General Comments

Colombia reiterates it is essential to ensure the expansion of taxing rights in the digital economy and cross-border services, particularly for emerging economies and service-importing countries. This expansion will protect their domestic tax revenue and avoid tax base erosion at source which will contribute to domestic resource mobilization.

We highlight the importance of ensuring that the Protocol on the taxation of cross-border services reflect the diversity of national legislations and recognize the legitimate claim of developing countries in the protection of their tax bases.

In this regard, Colombia has reiterated the need to adopt the Significant Economic Presence (SEP) approach as a mechanism to tax non-residents from income derived from cross-border services. We consider a flexible and practical approach, such as SEP, is one of the most effective solutions that can address the modern tax challenges generated by digitalization.

Specific Comments:

- **On paragraph 7:** We suggest this paragraph could be further developed, by explaining how the gross-basis withholding mechanism contributes to tax compliance and revenue collection, especially in jurisdictions with limited administrative capacity. From the tax administration perspective, this method provides a predictable and straightforward mechanism for the tax collection, reducing the need for resource-

intensive audits. From the taxpayer's perspective, it offers certainty and avoids the burden of formalities and compliance. These arguments were presented by the delegates during the meetings, but we think part of them were not included in the first part of this paragraph.

- **On paragraph 8:** We respectfully suggest clarifying the rationale behind the sentence: *“some countries with this system noted that they believe that taxation based on physical presence on a net basis is more economically correct, efficient, and fairer.”* While the sentence attributes this view to certain countries, the use of strongly normative language could unintentionally introduce value judgments into the document. To avoid this and to ensure that the text does not prejudge the Committee's view on this method, it may be helpful to provide additional context explaining the reasons or policy considerations underlying these countries' views.
- **On paragraph 19:** We suggest an alternative wording for a better understanding of SEP:

*“Several participants mentioned the adoption in their countries of a new ~~nexus rule of the~~ “significant economic presence” ~~test~~. This ~~test~~ **new rule**, which applies to both goods and services, allows taxation when a non-resident enterprise's activities in the jurisdiction: **i)** produce more than a specified thresh-old of revenue, **and ii)** it conducts certain marketing activities ~~there~~ **in said jurisdiction** or there are other indicia of deliberate targeting **of users or clients located in** the jurisdiction's market. The monetary thresholds can be tailored to the size of the relevant economy. The workstream did not discuss the approach in great detail but is likely to come back to it after the August 2025 Sessions.”*

Finally, Colombia reaffirms its commitment to participate actively in these discussions and will be available to the INC/Tax Secretariat if further clarifications or contributions are required.
