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**Committee of Experts on International
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Other areas for Committee consideration and guidance as part of its work program

Secretariat Note on Taxation of the Digitalized and Globalized Economy

Summary

This note is presented to the Committee for *information and discussion* at its Thirty-first Session.

The UN Tax Committee has made substantial changes to the UN Model Tax Convention in recent years addressing taxation of services in a digitalized and globalized economy, including new Article 12AA (consolidating services taxation) and Article 12B (automated digital services). The previous Committee Membership identified that practical implementation guidance remained incomplete on such work, and that work on remote workers remains unfinished. Stakeholder submissions demonstrate sustained interest in services taxation, with proposals ranging from implementation guidance for recently adopted provisions to suggestions for additional Model changes. The need for greater guidance on remote working was also raised as a persistent issue.

The Committee's primary task is to prioritize among these issues based on developing country demand, urgency for domestic resource mobilization and sustainable development efforts, readiness for resolution during the 2025-2029 term, availability of expertise, and linkages with other Committee work. This note presents two potential outputs for consideration:

Questions for Committee consideration:

- a) Which outputs to pursue during the 2025-2029 term: ***Output A only*** (an initial evaluation report (by the Thirty-third Session, October 2026) assessing whether 2025 UN Model provisions adequately address services permanent establishments, emerging technologies (including artificial intelligence) and remote working arrangements. – possibly to be followed by further action); ***Output B only*** (Practical implementation guidance on taxation of services (for completion by the Thirty-sixth Session, March 2028) covering treaty negotiation, domestic law implementation, and administrative aspects); ***both outputs***, or ***neither output***;
- b) What are the priorities for Committee guidance within selected outputs, recognizing that the Committee cannot address all issues raised by stakeholders in this Membership; and
- c) Whether to establish a Subcommittee to undertake the work and provide guidance on its composition.

I. Brief description

1. This note presents for Committee consideration a potential program of work addressing taxation issues relating to an increasingly digitalized and globalized economy.

Taxation of services

2. In the first instance this note addresses an area where the Committee has invested significant effort over the last decade or so. The Committee has made major changes to the UN Model in recent years, including (in the 2025 Model) Article 12AA (consolidating services taxation from former Articles 12A and 14) and (in the 2021 Model) Article 12B (automated digital services with fractional apportionment). These changes strengthen source country taxing rights without requiring physical presence.

Remote working

3. The previous Membership also commenced work on another aspect of taxation of the digitalized and globalized economy – the taxation of remote working. That Membership considered a possible new Article 15(4) to be included as an option in the Commentary to Article 15. It would have allowed, when included in a bilateral treaty, the State in which the employer is resident to impose tax on the employee's income from employment exercised outside the employer's State of residence, subject to the elimination of double taxation. At its Thirtieth session the Committee decided that the draft under consideration required further development and referred it for consideration by this Membership.

Stakeholder input

4. Stakeholder submissions demonstrate sustained interest in services taxation, with proposals ranging from implementation guidance for recently adopted provisions to suggestions for additional Model changes. The breadth of proposals highlights the Committee's task: prioritizing which services taxation issues to address during its term. The Submissions also addressed the importance of considering taxation issues relating to remote working, include developing country workers working from such developing countries, often for developed country employers. This addresses, inter alia, the concerns among employers that remote working will be seen as creating a permanent establishment in the country of working.

Proposed areas of work and outputs

5. This note presents two potential outputs for consideration as follows:

(Output A): an evaluation report due at the Thirty-third Session assessing whether the existing UN Model provisions adequately address current challenges (services permanent establishments, emerging technologies, remote workers), and potentially recommending further Model (Article and/or Commentary) changes (which the Committee could then decide whether to take action on); and

(Output B): practical implementation guidance helping developing countries apply the recently adopted services taxation provisions effectively, for completion by the Thirty-sixth Session.

6. The Committee is asked to decide which output(s) to pursue and how to prioritize among the various issues raised by Member States and other stakeholders.

II. Source of the proposals / demand from developing countries

7. The UNTC has been working on the issue of taxation of the digitalized and globalized economy for some years, including on Articles 12A and 12B of the UN Model and then the adjusted inclusion of former Articles 12A and 14 into the new Article 12AA. Modifications were also made to Article 5(3)(b) on services permanent establishments. Demand for further UN guidance on the taxation of services arises from multiple sources, as well as from capacity building requests and feedback. As part of these requests, there appears to be a strong call for consolidation of the recent changes and guidance on implementing them in practice, including the legislative aspects necessary to make fully operational the treaty allocation rules provided for in those changes.

8. The previous Membership of the Committee formed a Subcommittee on Taxation of the Digitalized and Globalized Economy. It completed the draft text of a fast-track-instrument to allow like-minded countries to more quickly adopt changes to the UN Model in this and other areas. In considering the relevance of physical presence tests, it also proposed a new provision on cross-border services consolidating articles 12A and 14, and this was ultimately accepted by the Committee as new Article 12AA, Article 5(3)(b) had at one stage been considered for inclusion in the new Article 12AA, but in the end that did not happen. It therefore remains an issue for possible consideration by the current Membership of the Committee.

9. The most recent Subcommittee participants and Committee Membership had also begun to look at issues relating to remote workers, and the proposal was put before the Committee for an additional article 15 (4) in the Commentary for countries wishing to address the taxation of income from employment derived by an employee resident in one contracting State and paid by an employer resident in the other contracting State. The matter was discussed in a closed meeting at the Thirtieth session. As later reported in an open meeting of the same Session, the Committee ultimately decided not to propose including that additional provision in the forthcoming version of the Model Convention, as it would benefit from further consideration by the Committee. The issue was therefore put forward to the next Membership (i.e., the current Membership) as an issue it might wish to consider and develop further.

10. Stakeholder submissions to the Committee in September 2025 (see the attached Annex) demonstrated sustained interest in taxation of the digitalized and globalized economy, with proposals falling into five broad (and sometimes related) categories, as follows:

Implementation guidance: Multiple stakeholders emphasized the need to consolidate recent UN Model changes with practical guidance. ATAF, the South Centre, and several individual experts specifically requested guidance on applying Articles 12AA and 12B in practice, including legislative implementation and administrative frameworks. This aligns with feedback from capacity-building activities where treaty negotiators report difficulty translating treaty provisions into actionable strategies. This obviously closely relates to any Subcommittee work on taxation of the digitalized and globalized economy.

Taxation of Artificial Intelligence, the Internet of Things etc.: To the extent these submissions relate to allocation of taxation rights they represent a subset of the taxation of digital services. This could closely relate to any Subcommittee work on taxation of the digitalized and globalized economy. Other aspects, such as the use of AI by tax administrations, are addressed in a separate note for this Session (CRP.25).

Remote workers: Several submissions urged further work on the issue of remote working, which could, for example, consider further consideration of proposed optional Article 15(4) - work deferred by the previous Membership. This would closely relate to any Subcommittee work on taxation of the digitalized and globalized economy.

Nexus and physical presence rules: Numerous submissions questioned whether current nexus rules adequately address digitalized services. Tax Justice Network, BMR Legal Advocates,

Gatti Pavesi Bianchi Ludovici, and others proposed reconsidering permanent establishment definitions or exploring alternatives such as Significant Economic Presence. Some suggested additional thresholds beyond physical presence (revenue-based, user-based, digital presence). This general issue would likely be dealt with better by another Subcommittee, except in so far as it relates to aspects such as taxation of services or remote working.

Formulary/fractional apportionment: South Centre and others proposed building on Article 12B's apportionment approach, potentially extending to broader services income or consolidating Articles 12AA and 12B into comprehensive services provisions. This general issue of formulary or fractional apportionment would likely be dealt with better by another Subcommittee, except in so far as it relates specifically to aspects such as taxation of services or remote working.

11. The breadth of stakeholder proposals demonstrates strong interest in taxation issues relating to an increasingly digitalized and globalized economy, but also highlights the Committee's prioritization challenge, further addressed below.

III. Prior UNTC work and identified gaps

Committee achievements (particularly as to the 2021-2025 Membership)

12. At the Twenty-third Session of the Committee in October 2021, the secretariat provided a paper on taxation in a digitalized and globalized economy ([E/C.18/2021/CRP.28](#)). That paper provided an outline of the work of the previous Subcommittee on Tax Challenges Related to the Digitalization of the Economy, including with regard to Article 12B on automated digital services and its Commentary, which was included in the 2021 United Nations Model Tax Convention.

13. At its Twenty-third Session, the Committee established a Subcommittee on Taxation Issues Related to the Digitalized and Globalized Economy. The Subcommittee was mandated to identify priority taxation issues related to the digitalized and globalized economy where the Committee may most usefully assist developing countries in differing situations, in particular.

14. The workstreams undertaken by the Subcommittee were expressed as:

- (a) Workstream A, which explored a more multilateralized implementation of specific Model Convention provisions, where States seek to implement them across a number of treaties;
- (b) Workstream B, which addressed the function and relevance of physical presence tests; and
- (c) Workstream C, which addressed cross-border taxation issues involving remote workers.

15. Workstream A led to a draft fast-track instrument to provide for the streamlined amendment of bilateral double taxation treaties that would allow like-minded countries to more quickly adopt changes to the UN Model in their treaties. As the Committee is an expert body and Members do not represent Member States, the draft would have to be agreed as a treaty before it becomes operative. That is now an issue for Member States of the UN to take forward, rather than a Committee issue.

16. Workstream B led to what is now Article 12AA of the 2025 UN Model Tax Convention. It combines former Articles 12A and 14 into a single Article, and further moves away from a requirement of physical presence to support a taxing right over services provided into one's market.

17. Workstream C led to a proposed Article 15(4) but work on that provision was not completed by the previous leadership and was left for consideration by this Membership. This Workstream addressed cases where an employee "exercises" the work as an employee from a country other than the country of the employer. The work under this workstream identified a mismatch in today's digitalized economy

where an employee resident in State A but working as an employee for an employer in State B, is taxed for employment income in State A, while State B will allow a tax deductible cost for the employee expense.

18. In addressing Workstream C, the Subcommittee considered the potential mismatch between deductibility in one State and taxing rights in the other with regards to Article 18 and pension taxation, where Alternative A provides for the residence state of the pensioner to exclusive taxing right while the State of employer has allowed for deductions of the employee cost, and Alternative B allows for the employer State to share the taxing right with the residence State of the pensioner (ex-employee).

19. The Subcommittee recognized situations where countries are attracting highly paid individuals to become residents in their countries by offering low taxes. In other countries there are many individuals that perform cross border employment and non-employment services, without being highly paid. In some countries cross border employment contracts are not available due to employment laws, social security legislation and unclear tax rules. In some other countries employees are not in a position to travel and perform employment activities outside the jurisdiction of the employer country due to (un)clear tax rules.

20. The Subcommittee concluded that at that stage it could not deal specifically with so called “digital nomads” or with digital independent service providers (so called “digital freelancers”) as they are outside the scope of Article 15. The work of the Subcommittee therefore confined its consideration to dealing with an “employee” (an individual with an employment contract) and the taxing of employment income in this workstream.

21. Having taken these and other factors into consideration, the Subcommittee presented a proposal for a new Article 15(4) to the Committee. Proposed Article 15(4) would have allowed the State in which the employer is resident to impose tax on the employee’s income from employment exercised outside the employer’s State of residence, subject to the elimination of double taxation.

22. A draft of Commentary text incorporating the draft Article 15(4) was provided at Annex D to the [paper](#) provided by the Subcommittee for the Thirtieth Session of the UNTC. As noted in the [report](#) of that session:

57. On the issue of a proposed additional article 15 (4) in the commentary for countries wishing to address the taxation of income from employment derived by an employee resident in one contracting State and paid by an employer resident in the other contracting State, the matter was discussed in a closed meeting. As later reported in an open meeting, the Committee decided not to propose including that additional article in the forthcoming version of the Model Convention, as it would benefit from further consideration by the Committee. It could therefore be put forward to the next Membership as an issue it might wish to consider and develop further.

Other Organizations’ guidance

23. Other international organizations, including the OECD, IMF, and World Bank, as well as regional bodies such as CIAT, and ATAF, have developed useful materials on aspects of the increasingly digitalized and globalized economy, especially on taxation of services. The UNTC work has consistently fulfilled an important role by advocating for source country/ market taxation rights in the highly influential UN Model. It has also been aware of the importance of withholding taxes, often but not always on a gross basis, as an approach that is simple to administer and does not lend itself to profit shifting. There is a clear contrast between these developments, which recognise that market states should have taxing rights even without a physical presence constituting a “permanent establishment,” and which generally allows for taxation on gross returns rather than profits, and the wording of the other major Model, the OECD Model Tax Convention.

24. The OECD Model Commentary takes a fundamentally different approach to taxation of services, stating explicitly that source countries should not tax services performed outside their territory (paras 139-140, Article 7 Commentary). The OECD position goes on to state that provisions allowing gross-basis taxation of services fees “do not seem to provide an appropriate way of taxing services.” This divergence means that while OECD technical work provides valuable analysis, OECD implementation guidance does not address developing countries’ priorities for operationalizing source-based taxation systems under the UN Model.

25. For similar reasons relating to the different approach to allocation of taxing rights, OECD work underway on tax treatment of remote working will be highly relevant but may lead to differing outcomes than under the UN Model.

IV. Proposed UNTC Outputs

26. This section presents two potential outputs for Committee consideration. They are complementary but not dependent - either can proceed without the other, or both can proceed in parallel under a single Subcommittee structure. (See also summary of options below in section VII.)

Output A (Year 1) - Evaluation Report on 2025 Model Provisions

Scope and purpose: A focused evaluation report addressing three specific questions:

- *Services permanent establishments:* do Article 5(3)(b) and Article 12AA optimally serve developing countries as currently structured, or would further integration strengthen developing country negotiating positions?
- *Emerging technologies:* do Articles 12AA and 12B adequately capture value creation from artificial intelligence, machine learning, the internet of things, and similar technologies? If so, what approach best serves developing countries?
- *Remote working:* should the Committee complete work on remote workers (perhaps building on draft Article 15(4) deferred by the previous Membership)? If so, what approach best serves developing countries?
- For each question, the report would: (a) summarize current UN Model treatment; (b) identify specific concerns from developing countries; (c) analyze adequacy; and (d) recommend whether current provisions are sufficient, Commentary guidance is needed, or UN Model Article changes (and accompanying Commentary) are warranted (with draft text if applicable).

Timeline: report for Committee decision at Thirty-third Session (October 2026). If Model changes are recommended and approved, drafting continues through subsequent sessions.

Output B (Years 1–approx. 3.5) - Practical Implementation Guidance on Taxation of Services

Scope and purpose: a substantial guidance document helping developing countries apply the services-related provisions of the 2025 UN Model effectively, covering treaty negotiation, domestic law implementation, and administrative aspects. The guidance would be written clearly with step-by-step explanations, avoiding assumptions about readers’ expertise. Real examples from developing country practice would illustrate each major point.

Timeline: Completion by Thirty-sixth Session (March 2028), allowing use in training programs during the final year of this Membership’s term.

V. Relationship to other work

27. This work will relate to the work on the UN Model and there will be potential connections with other areas covered by other subcommittees, notably any Subcommittee dealing with the UN Model. An effective guidance effort in this area will promote the balance of revenue needs and the development-focused investment climate which many countries seek, by promoting whole-of-government, informed and practical real-world approaches to the issues involved. This builds greater certainty for all stakeholders in tax systems.

28. The proposed work program would particularly support SDG 17 (Global Partnerships for the Goals, and target 17.1 of the SDGs on strengthening developing countries' capacity for revenue mobilization) and the Sevilla Commitment's emphasis on effective tax systems for sustainable development. By clarifying implementation of source-based taxing rights, it helps developing countries achieve fair shares of revenue from cross-border services while maintaining predictable investment frameworks.

29. The proposed Output A, an evaluation report on 2025 Model Provisions from the implementation perspective, may also provide helpful and practical input into current work of the Ad Hoc Intergovernmental Negotiating Committee on the UN Framework Convention on Intentional Tax Cooperation on a protocol on cross-border services in a digitalized global economy.

VI. Committee Decision Factors

30. This proposed work program aligns with the Committee's mandate to provide inclusive guidance on international tax matters affecting developing countries. Taxation in an increasingly digitalized economy remains a top priority for tax administrations because of its revenue significance and complexity. The Committee faces competing demands and must prioritize among them, however.

31. Several criteria help assess whether services taxation guidance merits attention: demonstrated developing country demand, urgency for revenue mobilization and sustainable development efforts, readiness for resolution, Committee expertise, building on recent Committee work, linkages with other work, and feasibility within the timeframe.

32. The proposed work program would allow the Committee to:

- **Demonstrate leadership** in taxation issues raised by an increasingly digitalized and globalized economy;
- **Deliver practical value** by providing guidance and other outputs that are not currently available from other fora; and
- **Enhance clarity and certainty** for developing countries, particularly the least developed, which have particular difficulty applying guidance developed by other fora.

33. Demand for services taxation guidance is specific and documented. Capacity-building sessions across regions identify this as a top concern. Treaty negotiators seek help negotiating Article 12AA provisions, understanding how the Article 12B net-based taxation option works in practice, and drafting domestic laws to support/ implement treaty provisions. Stakeholder submissions (Annex A) reflect these themes. Countries have articulated what guidance would be most useful, and implementation guidance, supported by capacity building is a common call.

34. Services taxation has implications for revenue mobilization and international tax cooperation. Services income represents a growing share of cross-border economic activity. Developing countries that cannot tax this income effectively face revenue losses. The work appears ready for resolution because the Committee has completed foundational elements. Articles 12AA, 12B, and 5(3)(b) are in the 2025 Model. The question for consideration is how to assist countries in using these provisions.

35. The Committee has relevant expertise for this work. Many Members have treaty negotiation experience and understand developing country implementation challenges. Implementation guidance would draw on the Committee's practical negotiation knowledge and implementation experience. The Committee has invested substantial effort developing Articles 12AA and 12B. Implementation guidance would leverage that investment. The evaluation would assess whether the 2025 provisions function as intended before considering additional major changes.

36. This work would connect with other Committee priorities. It may relate to any UN Model Subcommittee work (with effective liaison important), complement any UN Manual on Treaty Negotiation updates, and may link to any transfer pricing work. It would support DESA capacity building also. The timelines reflect past Committee experience as to what is feasible.

VII. Summary of Options for UNTC Consideration

37. Two outputs are presented above for consideration:

Output A: An evaluation report (by the Thirty-third Session, October 2026) assessing whether 2025 UN Model provisions adequately address services permanent establishments, emerging technologies, and remote working arrangements.

Output B: Practical implementation guidance on taxation of services (for completion by Thirty-sixth Session, March 2028), covering treaty negotiation, domestic law implementation, and administrative aspects.

38. The Committee is asked to make the following decisions:

Decision 1: Which, if any, outputs to pursue?

- Option 1: Output A only (evaluation report);
- Option 2: Output B only (implementation guidance);
- Option 3: Both outputs (evaluation report + implementation guidance);
- Option 4: Decide to take no action as part of the Committee workplan.

Decision 2: priorities within selected outputs?

If proceeding with either or both outputs, the Committee is asked to provide guidance on:

For Output A (evaluation):

- Should all the issues (services PE, emerging technology, remote workers) receive equal focus, or should one or two be prioritized?

For Output B (implementation guidance):

- Which areas are most urgent: treaty negotiation, domestic law, or administrative aspects, or are they all interconnected?
- Should guidance address all developing countries equally or provide differentiated guidance for different capacity levels?

Decision 3: Subcommittee establishment

Decide whether to establish a Subcommittee to undertake the work (on one or both outputs) and provide guidance on its composition.

Annex: Stakeholder Submissions

In response to the recent call for inputs on the 2025–2029 UNTC programme of work initiated by the Secretariat, several stakeholders highlighted the need to develop further guidance and or provisions in this area, as follows:

The **Directorate General of Taxation of Cameroon** noted the need to address the treatment of technical services bundled into turnkey contracts, as well as to revisit the permanent establishment definition to address the activities of companies operating remotely. They also mentioned that “the Committee should explore the possibility of taxing revenues generated from the monetization of user data, recognizing that the countries of origin of this data have a right to taxation”.

The **Federal Inland Revenue Service of Nigeria** suggested revisions to existing Article 12B, including strengthening paragraph 3 by requiring taxpayers to file returns as a condition for net basis taxation; and also suggested Commentary clarifications of the concepts of “paid by” and “arising in” Articles 12B and 12AA and other articles.

The **Southern African Development Community/ Regional Central Bank Initiative** suggested establishing equitable frameworks to allocate taxing rights fairly in the context of e-commerce, fintech, and digital services.

The **African Tax Administration Forum (ATAF)** recommended that the UNTC should prioritize the development of practical guidance on the taxation of emerging technologies, including AI and the Internet of Things, so that developing countries can have an early understanding and develop the requisite skills and policy framework needed to effectively mobilize domestic resources by taxing these technologies in an increasingly digitalized global economy. ATAF also mentioned: “Guidance on characterising and valuing novel transactions: clear, principles-based guidelines to help tax administrations distinguish between services, software, and data payments in complex tech transactions, and to apply appropriate transfer pricing and profit attribution methods when traditional approaches fail, or guidance on developing alternative profit attribution rules to transfer pricing. They also suggested “guidance on approaches to valuation of user data and user participation as a key factor in value creation in the context of a creative or digitised economy.””

The **International Bureau on Fiscal Documentation** similarly suggested more guidance on the taxation of automated digital services, including as to legislative implementation and also suggested that as the scope of Article 12B is confined to income generated from payments for automated digital services, whereas user participation and interactions are significant contributors to value creation and merit consideration for remuneration, the current provisions of Article 12B might need amendment to address this aspect.

The **South Centre** suggested that the UNTC explore formulaic apportionment methods building on fractional apportionment as contained in Article 12B and formulary apportionment as contained in Amount A of the OECD/ Inclusive Framework’s Pillar One and the Undertaxed Payments Rule¹ in the Global Minimum Tax. They also suggested more guidance on the apportionment allowed for in Article 12B. The South Centre also called for more guidance on administration of fractional apportionment and also on how withholding taxes can approximate net profits on income from services. On the issue of remote workers, the same organisation noted that “While some discussions took place in this regard on updating Article 15 of the UN MTC, they have not concluded and a solution to the underlying issue is still required.”

¹ Secretariat note: Often referred to as the Undertaxed Profits Rule, to reflect a broader scope than payments, or simply the UTPR.

DVS Advisory Group suggested the following actions to have “equitable value creation in the digital economy”: (a) a framework for value attribution models ensuring that every stakeholder jurisdiction captures a fair share of value; (b) digital market presence nexus rules, reflecting data usage, Artificial Intelligence interaction, and consumer engagement; and (c) domestic implementation toolkits for double tax treaties and laws.

Marcos Aurelio Pereira Valadão suggested that the Committee should ensure continuous updates to the UN Model, with particular attention to maintaining and strengthening source-based taxation provisions, such as those that led to the introduction of Articles 12A and 12B.

Valdimir Starkov considered that addressing taxation issues associated with the mobile workforce would clarify the application of the UN Model Tax Convention to sustained cross-border remote work arrangements, specifically, whether a certain combination of conditions can give taxation rights to the jurisdiction from where remote workers provide services. He also suggested combining Articles 12B and 12AA.

Similarly, the **Tax Executives Institute** submission suggested that a refocussing on the UN Model Tax Convention’s Articles 5, 9 and 15 and their respective Commentaries could contribute significantly to resolving the challenges presented by remote working, including in transfer pricing.

The **West African Tax Administration Forum (WATAF)** suggested that there could be greater guidance on the definitional aspects of Article 12B.

Steven Dean and Allison Christians proposed consideration of pro-source reforms, such as strengthened withholding taxes, treaty reforms, or digital services tax-like alternatives.

Radhakishan Rawal recommended further work on the issue of remote workers, the definition of Permanent Establishment (to be replaced by the concept of SEP) and the consistency between articles 14, 11, 12 and 12A.

Stefan E Weishaar suggested compiling relevant information for developing countries that outline the impact of data centres and potentially also the AI revolution for the fiscal domain and government income.

The **African Alliance for Health Research and Economic Development** suggested:

- “Model legislation for implementing Digital Services Taxes (DSTs) or alternative simplified measures
- A global minimum threshold for taxation of digital economic activity that allows developing countries to claim taxing rights
- Best practices for data sharing between digital platforms and national tax authorities”

The **BEPS Monitoring Group** suggested the UNTC work on clear criteria for the identification of a tax nexus, on defining a criterion for the attribution of the net profits to the nexus, and on related exchange of information issues. The BMR Legal Advocates submission also suggested work on nexus, including definitional work. Similarly, the Gatti Pavesi Bianchi Ludovici submission called for a reconsideration of the traditional concept of nexus under the Model Convention on Double Taxation— and, consequently, of the definition of permanent establishment.

The **Tax Justice Network** suggested a further examination of Article 5(3)(b) of the UN Model, including as to additional thresholds and nexus that trigger taxable presence beyond the physical presence of the service provider. The suggestion was also made that the Committee could explore the potential for fractional and formulary apportionment of profits from cross-border services to

jurisdictions with above-threshold presence. Vladimir Starkov suggested combining the content of Articles 12AA and 12B into a comprehensive article on cross-border services provided without a physical presence.

Nsatusile Beauty Mgode suggested that the Committee should develop a model tax framework for digital services, including e-services and digital financial assets, tailored for low-capacity tax administrations. This should include simplified VAT/GST rules and guidelines for taxing non-resident providers. A digital compliance toolkit with templates for tax registration and reporting should also be created. She also noted the importance of related, capacity-building workshops.

Bob Michel and Tatiana Falcão expressed the view that if countries can agree to Article 12B, they should agree that the allocation of taxing rights applies to income taxes but also to taxes with similar effect to income taxes. In other words, if countries agree on the inclusion of article 12B, they should also accept that this distributive rule also restricts their power to levy taxes with similar effect as a gross withholding tax on payments for automated digital services, like a DST.

Brian Arnold, who has been a consultant on much of the UNTC Services-related work, has noted the taxation of cross border income from employment as a possible topic. He notes that because income from employment is in substance just a type of income from personal services, the relationship between the taxation of income from services and income from employment is close, and the rules for the taxation of these two types of income should be coordinated so that the difference between them cannot be exploited and there are no serious administrative issues for tax administrations. He considers, for example, that the 183 day time threshold for Article 15 should be reconsidered given that Article 12AA has no time threshold. He noted that other issues that could be included in a study of Article 15 are remote employees, the situations in which employees might create a PE for an enterprise as well as the Article 15(4) proposed but not finalized by the last Membership of the Committee.

Aart Roelofsen (a former Committee Member) noted that any Market State tax allocation provisions should be implemented in model provisions in a coherent and consistent manner. He considered that a quasi-random attribution of taxing right to Market States only for selected services or transactions on the basis of the assumption that this serves developing countries will not find much support in real treaty negotiations, especially if it is implemented on a gross payment basis. Moreover, he considered that a lack of consistency and coherence will lead to tax planning structures and arbitrage and will ultimately prove to be hard to apply and administer.

The **International Chamber of Commerce** suggested pausing work on matters being negotiated as part of the UN Tax Convention, including this subject area. **Vladimir Starkov**, however, saw benefit in the UNTC inputting into the treaty negotiation process.