



**United Nations**

# **Committee of Experts on International Cooperation in Tax Matters**

**Report on the twenty-first session  
(virtual session, 20–29 October 2020)**

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*Note*

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## Chapter I

### Introduction

1. Pursuant to Economic and Social Council resolutions 2004/69 and 2017/2 and decision 2020/233, the twenty-first session of the Committee of Experts on International Cooperation in Tax Matters was held virtually, with informal virtual meetings from 20 to 29 October 2020. The virtual meetings were attended by 25 Committee members and 240 observers.
2. 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-first session, as adopted by the Committee (E/C.18/2020/2) 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 substantive issues related to international cooperation in tax matters:
  - (a) Procedural issues for the Committee;
  - (b) Report of the Subcommittee on Updating the United Nations Model Double Taxation Convention between Developed and Developing Countries;
  - (c) Tax and the Sustainable Development Goals;
  - (d) Update of the United Nations Practical Manual on Transfer Pricing for Developing Countries;
  - (e) Update of the Handbook on Selected Issues for Taxation of the Extractive Industries by Developing Countries;
  - (f) Dispute avoidance and resolution;
  - (g) Capacity-building;
  - (h) Environmental tax issues;
  - (i) Tax consequences of the digitalized economy – issues of relevance for developing countries;
  - (j) Tax treatment of official development assistance projects;
  - (k) Other matters for consideration.
4. Provisional agenda for the twenty-second session of the Committee.
5. Arrangements for adopting the report of the Committee on its twenty-first session.

## Chapter II

### Organization of the session

#### Opening of the twenty-first session and adoption of the agenda

3. On 20 October 2020, the twenty-first session of the Committee of Experts on International Cooperation in Tax Matters was opened in a virtual informal meeting by the Committee Co-Chairs, Carmel Peters and Eric Mensah.

4. Following the approval of the agenda, the Director of the Financing for Sustainable Development Office of the Department of Economic and Social Affairs, Navid Hanif, gave welcoming remarks.

5. Mr. Hanif focused on four aspects of the Committee's work. First, he highlighted the importance of that penultimate Committee session with its current membership in fulfilling the Committee's mandate and workplan. He pointed out that the eyes of the world were, quite rightly, on the role of taxation in responding to the coronavirus disease (COVID-19) pandemic and building resilience against such shocks in the future.

6. Second, Mr. Hanif recognized an increasing number of other United Nations processes that have a tax element, which provide insights and inputs to the Committee's work. He referred to the September 2020 high-level meeting on financing the 2030 Agenda for Sustainable Development, at which the Secretary-General and many others emphasized the need to address plummeting tax revenues while funding COVID-19 response and recovery efforts and to develop fair and effective tax systems that provide domestic resource mobilization for sustainable development. He also mentioned the interim report of the High-Level Panel on International Financial Accountability, Transparency and Integrity for Achieving the 2030 Agenda, which stressed the urgency of fighting against tax abuses to help shift the world towards a more sustainable and resilient path.

7. Third, Mr. Hanif pointed to the Committee's work in advancing the implementation of the Sustainable Development Goals, noting that the multifaceted COVID-19 crisis had revealed deeper inequalities within and between countries, as well as between stakeholders in tax systems. He noted the need to direct fiscal policy towards protecting the vulnerable and building progressive tax systems. He also highlighted the role of the Committee in articulating the problem and helping to find and promote solutions, including in the area of the relationship of taxation to the environment, gender equity and social progress.

8. Fourth, Mr. Hanif reviewed the Committee agenda and addressed expectations for the session. He recognized the Committee's unique mandate and role, including through complementing the important work being done at the Organization for Economic Cooperation and Development (OECD)/Group of 20 (G20) Inclusive Framework on Base Erosion and Profit Shifting level and at the regional level.

9. Mr. Hanif stressed the role of capacity development in assisting countries to play their proper part in proposing, negotiating and implementing international tax norms. He emphasized its relevance on current and future work, illustrated by a very successful recent event on taxation of the digitalized economy, organized by the Department of Economic and Social Affairs.

10. Lastly, Mr. Hanif thanked Member States providing financial assistance for the work, in particular Norway. Such investments provided a valuable contribution to building fairer and more resilient tax systems that benefited all stakeholders.

## Chapter III

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

#### A. Procedural issues for the Committee (agenda item 3(a))

11. In a closed meeting, the Committee discussed conference room paper [E/C.18/2020/CRP.39](#), which was submitted for discussion and approval. The outcome of the closed meeting was as outlined below.

12. The Committee agreed to a process, guiding principles and standardized terminology for new minority views going forward, to improve transparency. The terminology (based on 25 Committee members participating) would be:

- (a) A single member (when the view is held by only one member);
- (b) A small minority of members (when the view is held by two to four members);
- (c) A medium-sized minority of members (when the view is held by five to nine members);
- (d) A large minority of members (when the view is held by 10 to 12 members).

13. A form of date-stamping for such minority views in the United Nations Model Double Taxation Convention between Developed and Developing Countries would also be introduced in the next update of the Model Convention, indicating the session, month and year when the minority view was included. It was also agreed that paragraph 23 of the introduction to the Model Convention would be revised to reflect the changes related to minority views.

14. The Committee also approved the following text to be added to the rules on the operation of subcommittees in the Committee's practices and working methods:

A comment from a Subcommittee participant, provided for discussion by the Subcommittee, should not be included in a Subcommittee document provided to the Committee and made public, without the agreement of the participant having made the comment, and in the terms of such agreement.

15. In response to one member suggesting that the Subcommittee on Practices and Procedures take up the issue of appointment of Subcommittee members (other than Committee members) in a transparent manner, the Secretariat indicated this would more easily be considered by the next membership. It promised to bring the comment to their attention for consideration.

16. The Subcommittee having concluded its work, appreciation was expressed for its work and that of the Coordinator. It was noted that this work would speed up and give greater predictability to Committee proceedings in the future.

#### B. Issues related to the update of the United Nations Model Double Taxation Convention between Developed and Developing Countries (agenda item 3(b))

17. Eric Mensah, Committee Co-Chair, welcomed Carmel Peters in her capacity as Coordinator of the Subcommittee on the Update of the United Nations Model Double Taxation Convention between Developed and Developing Countries. Ms. Peters then introduced the following notes.

### **Minority view on a definition of “beneficial owner”**

18. The first note ([E/C.18/2020/CRP.32](#)) included a proposed minority view, to be included in the commentary on article 3 of the United Nations Model Double Taxation Convention between Developed and Developing Countries, indicating that three members considered that a definition of the term “beneficial owner” should be included in tax treaties. Ms. Peters indicated that the Committee, at its twentieth session, approved commentary changes that explained the meaning of that term as used in the Model Convention and rejected the suggestion to include a definition of beneficial owner in the Model Convention, given the risks identified with such an approach.

19. Three members indicated that they supported the minority view. The Committee therefore approved the inclusion of the minority view. It agreed that this minority view would refer to “a small minority of members” and that a footnote would indicate its adoption at the “twenty-first session (October 2020) of the Committee”.

### **Minority view on the application of article 13(5) to transparent entities**

20. The second note presented for approval was note [E/C.18/2020/CRP.33](#), which included a proposed minority view on the new commentary changes, adopted at the twentieth session, that deal with the application of article 13(5) of the Model Convention in the case of the alienation of participations held through transparent entities. The Committee was also invited to have a first discussion of the proposed drafting change to article 13(6) of the Model Convention included in paragraph 5 of the note. The member proposing the minority view did not receive additional support. It was therefore agreed to include it (subject to the consequential change referred to above if the wording of article 13(6) was amended) as the view of “a single member”, date-stamped to the session. Members expressed differing views concerning the proposed drafting change to article 13(6) of the Model Convention, or noted the need for further consideration. The Chair concluded that the Subcommittee would continue to work on the proposal, with a view to presenting it at the twenty-second session.

### **Changes related to collective investment vehicles**

21. Ms. Peters introduced note [E/C.18/2020/CRP.34](#), which included a number of proposed changes to the Model Convention dealing with the tax treaty treatment of collective investment vehicles.

22. The subsequent discussion focused on the three proposed minority views in the shaded boxes on pages 10, 23 and 26 of the note. The member who proposed the minority views presented their rationale. The Secretariat explained that the Committee was asked to approve the changes included in the note, together with the minority views in the shaded boxes. It was also proposed, however, to modify the wording of the minority view on page 26 to read as follows:

[One member of the Committee] did not agree with the inclusion of ‘recognized pension fund’ in paragraph 1 of article 4 as a separate class on same footing as State, political sub-division or local authority, without condition of ‘liable to tax under laws of that State on criterion of domicile, residence, place of management etc.’ being necessarily met. According to th[at member], the problem is not in regarding cases of ‘limited or complete exemption from taxation in that State’ (see quoted paragraph 8.6) as residents but where the fund may not be ‘liable to tax’ in the first place itself. The issue of not regarding limited or partial exemption as ‘liable to tax’ is in any case not unique to recognized pension funds but may be relevant for other exempt entities. Hence this cannot be the justification for waiving the condition of being liable to tax

to qualify for becoming resident. The insertion in article 4(1) does not appear to be acceptable technically.

23. One member who supported the changes included in the note asked for additional explanations on the last three sentences of the revised version of the minority view presented above. The member who prepared that revised version explained that these sentences reflected his view that recognized pension funds should be subject to the “liable to tax” condition of article 4(1).

24. One other member indicated limited support for the view, which was reflected in the minority view on page 26 of the note, that recognized pension funds should be subject to the “liable to tax” condition of article 4(1).

25. The Chair concluded that the note, including the minority views, had been approved by the Committee subject to updating the wording to reflect the decision on the terminology of minority views. This meant that the minority views on pages 10 and 23 would refer to “a single member”, while the minority view on page 26 would refer to “a small minority of members”. A footnote to each minority view would indicate its adoption at the twenty-first session.

#### **Proposed changes to the commentary on article 5 (permanent establishment)**

26. The Coordinator of the Subcommittee explained the background to the changes to the commentary on article 5 included in part 1 of note [E/C.18/2020/CRP.35](#). The Secretariat then referred to the minority views that appeared in boxes under paragraphs 14, 19, 31 and 55 of the quoted OECD commentary included in that part of the note.

27. Two members supported the minority view that appeared after paragraph 14 of the note, while three members supported the minority views under paragraphs 19, 31 and 55.

28. The commentary changes included in part 1 of the note, with the minority views expressed, had been approved by the Committee as the view of “a small minority of members”, date-stamped to the twenty-first session.

29. The Committee then discussed the recommendation in part 2 of the note to reject the suggestion, made at the twentieth session, to delete the phrase “that are routinely concluded without material modification by the enterprise” from article 5(5)a of the Model Convention. While one member disagreed with that recommendation, all other members intervening on this topic endorsed the recommendation, which was approved. It was also agreed that a minority view on this matter could not be included in the Model Convention because paragraph 24 of the commentary on article 5 already reflected the option of deleting the phrase from article 5(5)a.

#### **Capital gains on offshore indirect transfers**

30. The Secretariat introduced note [E/C.18/2020/CRP.36](#). The Committee was asked to approve the draft changes to paragraph 18 of the existing commentary on article 13 included in section 1 of the note. There were no interventions. The Committee therefore approved the proposed changes.

31. The Secretariat explained that section 2 of the note included a draft new paragraph to be added to article 13 of the Model Convention, plus related commentary changes, which would allow the taxation of gains from certain offshore indirect transfers by the contracting State in which the underlying local assets are situated. After interventions for and against the change, the Committee approved the new paragraph to be added to article 13 and the related commentary changes included in section 2.

32. Turning to section 3 of the note, the Secretariat explained that the Committee was invited to approve the draft provision and commentary which would allow the direct taxation of gains from the alienation of certain rights granted by the Government of that State, and to decide whether that new provision should be included in article 13 of the Model Convention or in its commentary.

33. All members intervening expressed support for the new provision, with general support for including the new provision in article 13. After one member noted that the Subcommittee had previously agreed to add the phrase “under a proper construction of paragraph 2 of article 6” at the end of the penultimate sentence of paragraph 4 of the commentary on the new provision, it was agreed to add this wording to that sentence.

34. The Committee therefore approved the changes included in section 3, subject to the noted addition to paragraph 4 of the commentary, and to add the new paragraph included in that section to article 13 of the Model Convention.

### **Technical changes proposed for the 2021 update of the United Nations Model Double Taxation Convention between Developed and Developing Countries**

35. Ms. Peters introduced note [E/C.18/2020/CRP.37](#) and explained that section 1 of the note included proposals for changes to the Model Convention, whereas section 2 included topics that could not be addressed within the remaining time of this Committee membership but which the next membership could be invited to address.

36. The Secretariat indicated that the only issue that remained to be discussed by the Committee was whether it supported the proposed addition to the commentary on article 5 included in section 1(D) of the note, according to which treatment under value added tax and/or goods and services tax (VAT/GST) is irrelevant for the purposes of the interpretation and application of the Model Convention’s definition of permanent establishment.

37. Members intervening supported the addition, with the exception of one member who expressed the view that information submitted for value added tax (VAT) registration could be relevant to the determination of a permanent establishment and that the suggested addition could therefore be misinterpreted. The Committee agreed to add the following footnote to the proposed addition (square bracketed in order to show that it was not part of the quoted paragraph):

[Clearly, however, facts and information obtained under VAT/GST legislation could be relevant in applying the treaty definition of permanent establishment.]

38. Subject to this change, the Committee approved the changes to the Model Convention included in section 1 of note [E/C.18/2020/CRP.37](#) and the suggestions for future work included in section 2 of that note.

39. One member observed that, based on the final decision that would be made concerning the proposed change to article 13(6) as outlined in note [E/C.18/2020/CRP.33](#), there might be a need to make consequential changes to the commentary on article 13 and to the changes to that commentary included in notes [E/C.18/2020/CRP.36](#) and [E/C.18/2020/CRP.37](#).

### **Inclusion of software payments in the definition of royalties**

40. Ms. Peters introduced note [E/C.18/2020/CRP.38](#) on the application of article 12 of the Model Convention to software payments. The Secretariat recalled the discussion of the topic at the twentieth session, when it was decided that work should focus on a proposal for changing the definition of royalties in order to include a reference to payments for the use of, or the right to use, software payments. A note

including the proposed change and the arguments for and against it was subsequently drafted by the Subcommittee and released as a discussion draft on 1 September 2020. The comments received by 4 October were presented at the virtual meeting of the Subcommittee held on 7 October, when it was decided to ask for a Committee decision at this session on whether and how to pursue the work on this topic.

41. A number of members and observers intervened on the issue. While a large majority of members supported continuing the work on the proposal, there were differing views on the proposal.

42. While some members considered that it was time to reach a decision on the proposal, a number of members indicated that they needed more time to consider the issues raised by the comments in particular and the impact of the proposal on the commentary to the Model Convention.

43. One observer who supported the proposal argued that the commentary should specify that the proposed change was merely a clarification, which would ameliorate issues arising from the wording of existing treaties. He also suggested adopting a broad interpretation of the phrase “in consideration of” so that article 12 could apply to situations in which software was provided free of charge.

44. The Secretariat noted that the great majority of members and observers having made interventions supported continuing the work on the proposal, with a view to reaching a decision on the proposed change to the definition of royalties and the consequential commentary changes at the twenty-second session. It also proposed that such work be carried on by the Subcommittee on the basis of a paper to be prepared by the Secretariat. That paper would include proposed commentary and could also include changes to the proposal intended to address technical issues, such as the treatment of software that forms part of tangible goods and the fact that the domestic law of some States differed on the question of whether the transfer of software to an end-user should be considered as the acquisition of property or as a license.

45. The paper would be presented for first discussion by the Subcommittee at a meeting that would ideally take place in February 2021, which would allow further changes to be made before the proposal would be presented to the Committee for decision.

### **C. Tax and the Sustainable Development Goals: follow-up report (agenda item 3(c))**

46. The Director of the Financing for Sustainable Development Office, Mr. Hanif, gave a presentation on the role of taxation in COVID-19 response and recovery, highlighting three messages: (a) fiscal policies were a crucial component of COVID-19 response and recovery; (b) the pandemic was an opportunity to put in place fiscal policies and reforms that accelerate the achievement of the Sustainable Development Goals; and (c) the United Nations system, including the Committee, could take a leadership role in the context of fiscal policies aimed at strengthening the COVID-19 response and building more resilient systems in the long run.

47. Mr. Hanif outlined the role of fiscal policies in the United Nations Framework for the Immediate Socioeconomic Response to COVID-19. He highlighted that targeted revenue and expenditure policies would be needed to support the health response and ensure socioeconomic recovery in the short term, as well as to build back better and more resilient societies. He noted, in particular, rising inequality, tax evasion and climate change as key concerns that fiscal policies can help alleviate, through a number of measures, including better social protection, formalization of the

informal economy, environmental (including carbon) taxation and increased international cooperation.

48. Mr. Hanif highlighted the fact that discussions on these issues would be continued during the Economic and Social Council special meeting on international cooperation in tax matters, scheduled for 29 April 2021. The meeting would focus in particular on Sustainable Development Goals 3 (good health and well-being), 9 (decent jobs and economic growth) and 13 (climate action). These issues had also been incorporated in the Financing for Sustainable Development Office capacity development programme, including through a workshop on environmental taxation, to be held in the fourth quarter of 2020, and a workshop on taxation and the Sustainable Development Goals, to be held in the first quarter of 2021.

49. Finally, Mr. Hanif requested feedback from the Committee and observers on emerging and priority issues in the area of tax and Sustainable Development Goals, in particular in the light of the COVID-19 pandemic.

50. Committee members and observers thanked Mr. Hanif for his presentation and welcomed further work on these issues. Several Committee members highlighted that inequality in capital and income was a growing concern for all countries, which could be addressed through tax policies encompassing both corporate and wealth taxation, and expenditure policies that favour redistribution, education and social protection. One Committee member also noted that formalizing the informal sector was a key step towards equitable recovery and mentioned one Caribbean country that took the pandemic as an occasion to incentivize small and medium-sized enterprises to formalize, in order to obtain access to relief. Another priority raised by Committee members and observers was the need for additional capacity development on harmful tax incentives and subsidies, in view of their often negative impact on achieving the Sustainable Development Goals.

51. Additional issues raised during the discussion included the need for capacity-building on customs and administration in order to combat illicit financial flows, especially in African countries; the need for more and better data analytics to increase transparency and effectiveness; and the need to address the impacts of climate change, including through environmental and carbon taxation. The interaction of bodies and their mandates such as the Committee, the High-Level Panel on International Financial Accountability, Transparency and Integrity for Achieving the 2030 Agenda, other United Nations initiatives on illicit financial flows and the Platform for Collaboration on Tax was also briefly discussed.

52. Mr. Hanif concluded by thanking all participants for their suggestions and inputs, which will help inform the Financing for Sustainable Development Office work on tax and the Sustainable Development Goals and its support to the Committee on these issues.

#### **D. Update of the United Nations Practical Manual on Transfer Pricing for Developing Countries (agenda item 3(d))**

53. The Co-Coordinator of the relevant Subcommittee, Ingela Willfors and Stig Sollund, were invited to present agenda item 3(d). Ms. Willfors started by reporting that the Subcommittee was presenting [E/C.18/2020/CRP.40](#), the attachments of which comprised parts A to C of the United Nations Practical Manual on Transfer Pricing for Developing Countries. This included parts presented for final approval and other already approved parts, included for context. She also reported that [E/C.18/2020/CRP40/Add.1](#) included the latest versions of part D on country practices. As the country practices do not purport to be agreed Committee text, she

noted that they do not require approval by the Committee and were provided only for information. One further update was expected, from India, and that would be provided for information to Committee members once received. Ms. Willfors further reported on the composition, mandate and workstream of the Subcommittee and thanked the hosts of Subcommittee meetings and participants.

54. Mr. Sollund then presented parts A, B and C of the Manual in more detail. Part A, “Transfer pricing in a global environment”, comprised a broad and general introduction on how multinational enterprises function, providing insight on how they organize their business models, especially given the rapid development in the way that international businesses operate in the light of the digitalized economy.

55. Part B comprised substantive chapters and topics dealing with the design of transfer pricing legislation and the arm’s length principle, and topics dealing with transfer pricing comparability analysis and transfer pricing methods, services and intangibles. Part C gave guidance on transfer pricing legislation design and implementation.

56. Mr. Sollund noted that the update of the Manual included many new examples. Some repetition between the different parts of the Manual had also been removed.

57. He pointed out that to allocate profits to a sales function, a proper understanding was required as to the extent to which rewarding that function or risk was appropriate. Mr. Sollund noticed that some written comments on centralized sales functions were received and included on the Committee website. They were aligned with the core of the substance of the Manual, he stated, and they would serve as an input for the next membership.

58. Ms. Willfors presented for discussion and final approval the 16 examples for the chapter on financial transactions that were first presented during the twentieth session. They were then approved. The final item presented for approval by Ms. Willfors was chapter C.6 on dispute avoidance and resolution. She highlighted that the chapter has been updated and further work would have to be done to deal with any overlaps with the guidance provided in the handbook for dispute avoidance and resolution.

59. The Chair opened the floor for discussion seeking approval of the six items presented:

- (a) Part A: Transfer pricing in a global environment;
- (b) Chapter B.1: Introduction (to avoid unnecessary overlaps and repetitions);
- (c) Revised chapter B.4.2.7: Relationship between transfer pricing and customs valuation;
- (d) Chapter B.4.2.10.1-7: Additional guidance on centralized sales functions;
- (e) Chapter B.8 (previously referred to as B.9): Financial transactions (examples only);
- (f) Revised chapter C.6: Dispute avoidance and resolution (attachment C).

60. Some Committee members reiterated their request for editorial changes. Mr. Sollund noted that those requests will be addressed during the editorial revision of the Manual. The Secretariat clarified that the annexes for the twenty-first session had not been updated with editorial suggestions made during the twentieth session because they would be addressed as part of the editorial process and did not require Committee consideration.

61. The Chair concluded that the Committee had approved the items. All parts of the Manual requiring Committee approval had therefore been approved.

62. Finally, on part D, Ms. Willfors stated the importance of country practices for the Manual and requested that the Committee decide on whether the country practices should be included in the printed version or in the electronic version only. Ms. Willfors highlighted that country practices are not being endorsed by the Committee, but rather referenced as practical examples on how countries deal with transfer pricing. After discussion, it was agreed that part D will be included in both the printed and electronic versions, with a note that the Committee website should be checked for any updates after the date of finalization of the Manual. This outcome was seen as best assisting developing countries.

63. Committee members commended the Co-Coordinators and the Subcommittee for the update of the Manual.

### **E. Update of the Handbook on Selected Issues for Taxation of the Extractive Industries by Developing Countries (agenda item 3(e))**

64. The Co-Coordinator of the Subcommittee on the Handbook on Selected Issues for Taxation of Extractive Industries by Developing Countries, Ignatius Mvula, presented the work of the Subcommittee since the last session, as summarized in the report of the Co-coordinators (E/C.18/2020/CRP.48). He introduced the six papers for the update of the handbook. Four of the papers were presented for final approval, while the remaining two were for first consideration only.

65. The paper on tax incentives (E/C.18/2020/CRP.49) was presented by Alexandra Readhead and Chris Sanger. The chapter had been previously presented and approved at the twentieth session subject to two comments, one from a Committee member requesting further consideration of how pillar 2 of the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting is referenced. After some discussion, the Committee agreed that the chapter would briefly mention pillar 2 without further details, as the issue was still evolving.

66. The second set of comments at the twentieth session was from the African Tax Administration Forum. The Subcommittee was requested to review and consider the comments in the context of the theme of the chapter. The Forum had expressed concerns about listing “non-cooperative jurisdictions”, particularly with respect to the requirement to implement the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting minimum standards. Those concerns were now acknowledged by a note in the draft. The drafters and the Subcommittee were congratulated for the completion of the now approved chapter.

67. Hafiz Choudhury presented the chapter on tax treatment of subcontractors and service providers (E/C.18/2020/CRP.50). The chapter had been discussed at the previous session, but the new version added some details. The chapter was approved.

68. The production sharing contracts chapter (E/C.18/2020/CRP.51) was presented by Alvaro de Juan Ledesma. Compared with the previous version seen by the Committee at its twentieth session, the new draft had a substantially redrafted and updated content. The new text was more balanced in considering interests of both the government and investors, responding to some suggestions at the previous session. After a brief discussion, the chapter was approved.

69. André Nsabimana presented the chapter on financial transactions (E/C.18/2020/CRP.52). The chapter provided guidance on the main issues tax officials in developing countries face when dealing with taxation aspects of financial transactions in extractive industries. The chapter was well received, and members agreed to form a working group composed of members of the Subcommittee on Transfer Pricing and the Subcommittee on the Handbook on Selected Issues for

Taxation of Extractive Industries by Developing Countries to review the transfer pricing guidance in the extractive industries and work on cross-referencing between the transfer Pricing Manual and the Handbook. As the Working Group's input was expected to be only editorial, the chapter was approved by the Committee.

70. The next two documents were presented for first consideration. Nana Okoh presented a detailed outline of the chapter on issues and best practices in auditing oil, gas and mining activities (E/C.18/2020/CRP.53). Jim Robertson then presented an update of the chapter on decommissioning (E/C.18/2020/CRP.54).

71. The Subcommittee was thanked for its wide-ranging work.

## **F. Dispute avoidance and resolution (agenda item 3(f))**

72. The Co-coordinator of the Subcommittee on Dispute Avoidance and Resolution, Cezary Krysiak, introduced the two remaining chapters of the proposed handbook on dispute avoidance and resolution.

73. Mr. Krysiak first introduced chapter 2, on approaches to avoiding disputes (E/C.18/2020/CRP.29), which was presented to the Committee for approval. It was updated since the twentieth session to address some written comments. Ria Sotiropoulos, as lead drafter for the chapter, thanked the Subcommittee participants and contributors.

74. Three Committee members supported the approval of the chapter. One of those members, however, commented that the phrase "e.g. if the advice has been exploited in an abusive or unintended way", found in footnote 2 to paragraph 32, did not seem to be a proper illustration of what the paragraph described as situations in which, in Australia, a taxpayer would be legally protected if they relied on tax administration advice that is subsequently found to be incorrect or misleading. After a brief discussion, Ms. Sotiropoulos' suggestion to delete that phrase was accepted. Although the same member also suggested clarifying that the reference to the "availability of losses" in paragraph 6 of the note referred to the carry-back and carry-forward of losses, members decided not to make that change after it was explained that "availability of losses" could also refer to the possibility of using accrued losses after the change of control of an entity. Following these interventions, the Committee approved chapter 2 as amended.

75. Mr. Krysiak then presented the outline of chapter 1 (Introduction and Overview), included in note E/C.18/2020/CRP.28. He explained that when the Subcommittee discussed a first draft of that chapter during its virtual meeting of 6 October 2020, it concluded that the proposed draft needed a substantial overhaul and agreed that a brief outline of what the chapter should cover should be presented to the Committee for discussion. He proposed the following next steps for the finalization of chapter 1:

(a) After discussion of the outline, the Subcommittee would prepare a complete draft of the chapter before the end of 2020, inviting written comments before 31 January 2021;

(b) At its next meeting, which would be held in February or March 2021, the Subcommittee would revise the draft in the light of the comments received;

(c) The revised version of the chapter would be distributed in advance of the twenty-second session, when the chapter would be presented for approval, together with the consolidated version of the Handbook on Avoidance and Resolution of Tax Disputes.

76. The Secretariat indicated that comments would be especially welcome on section 1.4 of the outline, which referred to challenges faced by developing countries, in particular least-developed countries, in relation to the avoidance and resolution of tax disputes. Three members from developing countries offered the following comments in response to that invitation:

(a) One member observed that one such challenge was how to ensure that the competent authority remained independent from the tax administration;

(b) Another member suggested that section 1.4 should refer to the other side of the issue of the protection of taxpayer's rights, which was the level of exposure of some countries to tax abuse;

(c) A third member observed that some developing countries face difficulties with respect to the adoption and implementation of alternative dispute resolution mechanisms, in particular as regards the attitude of authorities in charge of oversight.

Mr. Krysiak thanked Committee members for those comments.

## **G. Capacity-building (agenda item 3(g))**

77. Mr. Mensah invited the Secretariat to give a presentation on its capacity-development programme and activities. Caroline Lombardo then provided an overview of the Financing for Sustainable Development Office approach to its capacity development programme, indicated how it adjusted to the COVID-19 circumstances and outlined activities that had been delivered and those planned for 2021. She indicated new areas of support proposed, including Sustainable Development Goal investment and the design and implementation of integrated national financing frameworks, and highlighted how the Financing for Sustainable Development Office capacity development work was supporting the United Nations in strengthening its distinctive role in the international tax space.

78. Ms. Lombardo mentioned the Department of Economic and Social Affairs multi-donor project supported by the Norwegian Agency for Development Cooperation aimed at enabling greater participation and engagement of developing countries in the Committee work. She then underscored that the Financing for Sustainable Development Office swiftly adjusted to COVID-19, replacing in-person workshops and trainings with virtual workshops, which had allowed a substantial number of tax officials from all regions of the world to access the Office's capacity-building activities. Lastly, she informed the Committee of the onboarding of two new inter-regional advisors on international cooperation in tax matters.

79. Irving Ojeda Alvarez addressed the virtual workshops on tax treaties held in June and July 2020, which were attended by 60 tax officials and treaty negotiators from 10 Latin America countries. The workshops were held in Spanish and in collaboration with Committee members, OECD, the Inter-American Center of Tax Administrations and other regional experts. Participants expressed substantial support for the Secretariat continuing with the programme and including other topics for discussion, such as transfer pricing, base erosion and profit shifting and dispute avoidance and resolution.

80. Michael Lennard outlined the main features and outcomes of the virtual workshop on practical and policy aspects of taxation in a digitalized economy, held in September 2020. More than 160 participants attended the event (with at least 100 from developing countries) including Committee members, representatives of international organizations, the private sector, academia and non-governmental organizations.

81. Mr. Lennard underlined the importance of having developing countries involved early in the discussions on taxation of the digital economy, creating a space to maximize their ability to have their views taken on board. From the perspective of the participants, gathered through a survey, the outcomes of the workshop were extremely positive in helping them address and advise on current issues and options. Building on the successful outcomes of the workshop, the Financing for Sustainable Development Office planned to convene events focusing on the topic in the future.

82. Jacques Sasseville informed the Committee of the launch of the online primer on the mutual agreement procedure in July 2020, briefly describing main elements of the course based on chapter 4 of the mutual agreement procedure of the Handbook on Dispute Avoidance and Resolution, as well as on materials from training events on mutual agreement procedures.

83. Elena Belletti and Cecilia Sodre provided updates on the progress of events anticipated to take place in late 2020 and 2021. Ms. Belletti briefed the Committee on the preparations for the workshop on carbon taxation to be held in the fourth quarter of 2020, with the support of the Subcommittee on Environmental Taxation. It would be the first workshop based on the approved chapters of the Committee's forthcoming handbook on carbon taxation. Additional activities include United Nations/OECD courses on tax treaty negotiations and technical cooperation at the country level that were deferred to 2021.

84. Under agenda item 3(c), a workshop on taxation and the Sustainable Development Goals is planned to be held in the first quarter of 2021. To that end, Ms. Sodre noted that the fruitful exchange of Committee members with Mr. Hanif during the work on that item would further inform the Financing for Sustainable Development Office work on that event. Taxation and reduction of inequalities, gender-responsive fiscal policies, and taxation and the informal economy are among the topics to be addressed, in addition to the impact of tax incentives on the Sustainable Development Goals, and inequality in capital and income.

85. Farid Hasnaoui underscored the importance of updating the existing online courses in accordance with the Committee's latest guidance. He pointed out the plans to update the online primer on tax treaties and the online primer on transfer pricing based on existing tax treaties publications, the update of the United Nations Model Double Taxation Convention between Developed and Developing Countries and on the manual on transfer pricing that was approved during the current session, respectively. Mr. Hasnaoui indicated that a translation of the online primer on the mutual agreement procedure into French and Spanish was under way and that a course on the topic of attribution of profits to permanent establishment would be developed.

86. In briefing Committee members on the activities of the Platform for Collaboration on Tax and key priorities for 2021, Daniel Platz underscored the Platform's response to the challenges posed by the COVID-19 pandemic and its outreach activities. The medium-term revenue strategies and tax and the Sustainable Development Goals were high priorities for Platform partners. Toolkits and webinars on the taxation of offshore indirect transfers, transfer pricing and tax treaty negotiations were among the analytical outputs planned for the current year. One example was the webinar on the toolkit on tax treaties that was scheduled for 4 November 2020, to present key features of the tool, which was largely based on the Manual for the Negotiation of Bilateral Tax Treaties between Developed and Developing Countries of 2019.

87. Mr. Platz also provided updates on the Financing for Sustainable Development Office infrastructure asset management project. Implemented in four pilot countries (Bangladesh, Nepal, Uganda and the United Republic of Tanzania), the project

consists of workshops and the development of a handbook on asset management that will be translated into multiple languages and disseminated.

88. Committee members commended the Department of Economic and Social Affairs for the various activities that had been delivered since the twentieth session. Some suggested training on transfer pricing following the modalities used in the Financing for Sustainable Development Office workshop held in Nairobi in 2019. A “train the trainers” event and training on tax treatment of services where the need is high were also suggested. Regarding online courses, members welcomed the course on the mutual agreement procedure and the proposed course on the topic of attribution of profits to a permanent establishment.

## **H. Environmental tax issues (agenda item 3(h))**

89. The Coordinator of the Subcommittee on Environmental Taxation Issues, Natalia Aristizábal Mora, summarized the Subcommittee’s activities since the twentieth session and the status of its work, in particular: (a) chapter 3 on carbon tax design had been approved during the twentieth session ([E/C.18/2020/CRP.17](#)); section 5.5.2, dealing with maritime carbon emissions, would be updated to reflect the recent work of the International Maritime Organization; (b) to avoid duplications, the Subcommittee proposed not to include chapter 7 on country experiences, but rather to provide references to existing literature; (c) an introductory chapter 1 would be presented at the twenty-second session, consisting of a summary of the other chapters; and (d) the handbook would also include a glossary of terms, as part of the editorial work, as well as a foreword, to be drafted by the Secretariat and highlighting the role of carbon taxation in COVID-19 response and recovery. Several Committee members and observers expressed support, including on the last point.

90. The Committee was then asked to consider five draft chapters for the forthcoming handbook on carbon taxation. Ms. Belletti presented chapter 2 of the handbook, “An introduction for policymakers”, and its annex 1, “Carbon taxation in the context of the United Nations” ([E/C.18/2020/CRP.45](#)), for final approval. The chapter and annex had been previously discussed at the twentieth session and revised according to comments received, in particular to improve the chapter’s flow and to provide a more detailed and balanced discussion of alternative carbon pricing mechanisms. Annex 1 contextualized carbon tax in the broader United Nations efforts (including the Paris Agreement and the Sustainable Development Goals). Committee members commended the work of the Subcommittee and approved chapter 2 and annex 1 of the handbook.

91. Ms. Aristizábal then presented chapter 4, “From design to administration: practical application of a carbon tax” ([E/C.18/2020/CRP.44](#)), for final approval. The chapter had been discussed in the twentieth session and revised to improve readability and include additional examples. Chapter 4 described different procedures and steps necessary to implement a carbon tax, following its design. Committee members commended the work. Two members proposed minor edits to the text, related to country examples. The Secretariat, in consultation with the Subcommittee, included those comments in the handbook during the session, and the Committee approved chapter 4 of the handbook as amended.

92. Ms. Belletti presented chapter 5, “Revenue use” ([E/C.18/2020/CRP.46](#)), for first discussion. Chapter 5 was intended to provide a guide to those involved in the implementation of a carbon tax, from policymakers to those at the technical level, to understand the complexities related to the use of revenues from carbon taxation and some issues to be further investigated in their specific national framework. Ms. Belletti requested views from the Committee, particularly on the overall structure

of chapter 5 and on the discussion of potential revenue uses. Committee members noted the relevance of the chapter and called for its dissemination through capacity development. One member proposed edits to improve the clarity of discussion on the double dividend of a carbon tax, overall economic efficiency and the relationship between revenues raised with energy taxes versus carbon pricing.

93. Ms. Aristizábal presented chapter “XX”, “Public acceptability of a carbon tax: conceptual model and policy implications” (E/C.18/2020/CRP.43), for first discussion. At its twentieth session, the Committee discussed the need for a piece on acceptability of a carbon tax. After careful discussion within the Subcommittee, it was decided that the piece on acceptability of a carbon tax should be an independent, self-standing chapter of the handbook (its placement within the Handbook remained to be defined, hence its generic numbering). Chapter “XX” was prepared by three academics (Sverker C. Jagers, Niklas Harring and Simon Matti), based on a presentation given at the Subcommittee meeting in February 2020.

94. Ms. Aristizábal requested views from the Committee on whether chapter “XX” should include a section on real-world examples and invited members to contribute to this section. Committee members agreed that the chapter would need a more practical approach and that examples might be a way to improve readability. One Committee member proposed the re-draft of the example of Canada, for greater accuracy.

95. Finally, Ms. Belletti presented chapter 6, “Interaction of the carbon tax with other rules and instruments” (E/C.18/2020/CRP.47), for first discussion. Chapter 6 sought to address the interaction between a carbon tax and a range of other instruments that, implicitly or explicitly, put a price on carbon or conversely that reduce the cost of products that contain carbon. The chapter assessed the interactions by using a goal-oriented approach.

96. Ms. Belletti requested the Committee’s feedback on whether they agreed with the scope and approach of chapter 6. She inquired in particular whether section 6.4 should be expanded to include more practical guidance on the concrete policy and implementation aspects for developing countries to consider when introducing a carbon tax in conjunction with a more fundamental reform of fossil subsidies.

97. Committee members urged the Subcommittee to ensure the chapter contained practical and concise guidance for developing countries by focusing on issues most relevant to developing countries, such as subsidies, and to reduce its discussion of less crucial aspects, such as cap-and-trade schemes.

98. Ms. Aristizábal and Ms. Belletti concluded by thanking all the Subcommittee participants for their work and Committee members and observers for their comments. Mr. Munyaneza of the Secretariat was also thanked for his contribution as focal point to the Subcommittee in the preceding year. They remarked that additional comments on chapters discussed would be welcomed until the first week of December.

## **I. Tax consequences of the digitalized economy: issues of relevance for developing countries (agenda item 3(i))**

99. The Co-Coordinator of the Subcommittee on tax consequences of the digitalized economy, Aart Roelofsen, introduced the document for discussion “Update on work on taxation issues related to the digitalization of the economy” (E/C.18/2020/CRP.41). He stated that the document was divided into three parts. The first part was the coordinators report that detailed the work done, including the

decision arrived at the last meeting to form a drafting team led by Rajat Bansal and Carlos Protto.

100. The second part had a brief summary of comments received from members and the responses from the drafting group. The last part comprised four annexes. The first annex was the proposal put forth by the drafting group, the second and third annexes were comments from members and replies from the drafting group, grouped by the time they were received. The fourth annex contained comments received from the United States Council for International Business and responses from the drafting group.

101. Mr. Roelofsen guided participants through key aspects of the various parts of the proposal, highlighting the decisions that were required from the session. These decisions included whether there should be an article 12B in the 2021 update of the United Nations Model Double Taxation Convention between Developed and Developing Countries, whether this provision should be an article in the text of the Model (with commentary) or merely an alternative in the commentary. His fellow Co-Coordinator, Babatunde Fowler, then thanked the drafting group and everyone who made comments.

102. Mr. Protto then provided a general overview of article 12B, outlining definitions and the interaction with other Model Convention articles. The drafting group and the Subcommittee were commended, notwithstanding the disparate views on the proposal, for a job well done and for the speed with which they had delivered a proposed solution to what was a highly contentious issue globally.

103. Committee members deliberated on the proposal and various observations were made in support of the proposal. It was noted that the proposal might simplify the process for many developing countries, making it easier to address the challenges of taxing the digitalized economy. Also, it might help to create a level playing field by ensuring that all market players pay taxes. It was observed that developing countries would receive much-needed resources from revenues obtained from taxing the digitalized economy, to help to achieve the Sustainable Development Goals. It was suggested that the proposed provision could be a useful guide to countries looking to develop domestic legislation on taxation of automated digital services, even without their having an extensive treaty network.

104. On the other hand, concerns were raised about the proposal. Key among them was the scope. Some questioned the scope and the proposal's ability to deal effectively with the challenge of taxing the digital economy. It was pointed out that, even where withholding tax had obvious advantages, such as ease of administration, the sourcing rule was applied without taking into consideration user location and was focused on payment location, as opposed to where the service was rendered. In addition, it was suggested that the proposal to cover payments by individuals would add significant administrative complexity and was not consistent with the approach taken in article 12A to exclude payments by individuals. It was also suggested that tax incidence may be borne by source-country residents.

105. Further, some pointed out that this was a bilateral provision, which required negotiations that were resource-intensive and time-consuming, with no guarantee of arriving at an agreement. The view was expressed that revenue from this proposal was likely to be low and the cost might outweigh the benefit. It was also observed that the proposed article was unlikely to be effective, as it was a bilateral provision that sought to address a multilateral problem.

106. General comments were also made on the proposal, including that the proposal was open to improvement. It was observed that, although revenue might be low for countries to begin with, this was likely to change in the future with an increasingly

digitalized world and rising populations. In addition, although revenue raised by some countries might be low, some countries were likely to raise considerable income from it. A member pointed out that what had been proposed took into account work carried out by other groups and specifically the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting. However, some thought it was better that the outcomes of that work be awaited to ensure that any United Nations alternative would be consistent with a multilateral approach.

107. After discussing the way forward, members voted to include an article 12B on automated digital services in the 2021 Model Convention at its twenty-first session, in line with the drafting group proposal. At its twenty-second session, the Committee would be asked to finalize the text of the article and commentary.

108. Mr. Roelofsen then led discussions on technical aspects. Members made a number of observations on paragraphs 1 and 2. It was pointed out that there was no threshold provided in paragraph 2, making the provision a little harsher in application than a digital service tax would be: it could apply to very small payments. It was also suggested that it would be advisable to wait for a business to grow and become profitable before applying the level of taxation envisaged by the article. It was noted that the requirement for everyone to withhold made the proposal complex, especially when financial intermediaries were involved. It was also noted that it would be better not to burden a business with withholding of small payments.

109. Mr. Bansal responded by clarifying that the issue of thresholds could be addressed, with the equalization levy in India as an example. This would have to be localized to each country. The local threshold would also resolve the issue of small amounts and coverage of individuals. However, some members believed the threshold should be set in the treaty provision itself. Some members expressed concern about how the withholding by credit card companies would work, considering that there would be many different payments being made at different rates. Mr. Protto indicated that there were workable options available to countries, mentioning Argentina's "PAIS" tax.

110. On paragraph 3, it was pointed out that the paragraph was highly innovative and flexible, as it provided the option of net basis of taxation, which would go a long way in avoiding excessive taxation. It was observed that there was a need to address issues of timing of the request by the taxpayer to be subjected to net basis taxation. Further, it was noted that application may pose a challenge if the terms were not defined more clearly. Members also pointed out that there was a need to look at the minority view proposed in the draft on the determination of the profitability ratio. Concern was expressed that the 30 per cent rate was too high. The determination of profitability of a group also needed to be examined, especially in cases in which companies did not have consolidated accounts. Concerns were also raised that residence States may not grant relief for routine functions performed elsewhere when the paragraph was applied. One member suggested a carving out of routine profits from the profitability ratio. Members were encouraged to give suggestions on definitions that would assist in the application of this article. Written submissions were welcomed, and they would be discussed by the Subcommittee. In response, the drafting group representatives explained the reasoning for the 30 per cent figure and why, in their view, it would not lead to a high taxation effectively. It was explained that the drafting group proposal did not differentiate between routine and non-routine profits.

111. On paragraph 4, it was noted that issues of scope and the sourcing rule were addressed, and it would be important to outline what service was being provided. It was also pointed out that there were some services such as advertising on social platforms that were not covered in the paragraph. It was therefore suggested that there might be a need to broaden the scope to bring in the "user" jurisdiction to cover those

jurisdictions with high numbers of users and not focus only on jurisdictions of payment. It was noted that services to individuals were excluded in article 12A, so a contradiction arose in article 12B. A suggestion was made to broaden the definition of payment. Members were also asked to consider listing digital services at the end of the paragraph.

112. On paragraph 5, a concern was raised that the paragraph presented a possible loophole whereby a permanent establishment could be created with minimal functions to avoid falling within article 12B and instead be dealt with by article 7. It was, however, suggested that this could be addressed by anti-abuse provisions.

113. On paragraph 6, with regard to basing the sourcing rule on the payer's situation, it was pointed out that this was to simplify application and administration. It was suggested, however, that if sourcing rules were different to cover all angles, it would make it difficult to resolve double taxation.

114. The Subcommittee and drafting group were thanked for their work. It was agreed that drafting issues would be considered at a Subcommittee meeting in November or December 2020, to which all Committee members would be invited.

## **J. Tax treatment of official development assistance projects (agenda item 3(j))**

115. The Coordinator of the Subcommittee on the Tax Treatment of Official Development Assistance Projects, Marlene Parker, reported on the Subcommittee meeting held on 22 and 23 September 2020. As paragraph 58 of the Addis Ababa Action Agenda of the Third International Conference on Financing for Development referred to "government-to-government aid" and the draft guidelines prepared in 2007 referred to donor-financed projects, the Subcommittee unanimously concluded that the Guidelines included in note [E/C.18/2020/CRP.30](#) (Revised Guidelines on the Tax Treatment of Government-to-Government Aid Projects) and the proposed recommendation included in note [E/C.18/2020/CRP.31](#) (Recommendation on the Public Disclosure of Provisions Concerning the Tax Treatment of Government-to-Government Aid Projects) should refer to "government-to-government aid" instead of "ODA" (official development assistance); this would serve to avoid any doubt that government-to-government assistance was covered by the Guidelines and the recommendation regardless of which countries provided that assistance.

116. She also reported on some other changes made to the Guidelines resulting from the Subcommittee meeting, including the clarifications made to the explanations provided with respect to abuse of VAT exemptions and use of automated customs management systems in order to manage exemptions with respect to imported goods.

117. Turning to the proposed recommendation, she observed that it was the Subcommittee's view, shared by the participants in the February 2020 joint workshop with the OECD Development Assistance Committee, that there should be more transparency surrounding tax treatment of government-to-government aid. Following discussion of a first draft at the twentieth session, the recommendation was modified to accommodate some concerns expressed during that discussion. While it was clearly non-binding, the recommendation elevated and emphasized guideline 6 on disclosure of tax-related provisions of assistance agreements in a way that respected the need for confidentiality of taxpayer information.

118. Ms. Parker finally reminded the Committee that the Guidelines were not binding, although hopefully those negotiating assistance agreements would find them useful and would follow the example of growing numbers of donors no longer requesting tax exemptions for government-to-government aid.

119. Yan Xiong expressed support for the Guidelines. With respect to the Guidelines applying to all government-to-government aid projects, however, she observed that while she did not object to that change, it should be kept in mind that official development assistance and South-South cooperation were fundamentally different, should not be confused and should generally be treated differently.

120. She also expressed some concern with the part of the Guidelines dealing with transparency, noting that some donors and recipient countries may have a different policy concerning the publication of the provisions of assistance agreement. For that reason, she suggested that guideline 6 could provide more leeway for both donors and recipients. Ms. Parker responded that since the Guidelines were non-binding, such a change would not seem appropriate. After a brief discussion, it was agreed that the Secretariat, in consultation with Ms. Xiong and Ms. Parker, would draft a proposed change to the Guidelines' explanations that would clarify that guideline 6 did not suggest public disclosure of the provisions of an assistance agreement that were not related to taxation.

121. Committee members and observers intervening generally supported approval of the Guidelines and the recommendation but also agreed that the explanations could be amended as suggested above.

122. One member, however, doubted the need for a separate recommendation on public disclosure of provisions concerning tax treatment of government-to-government aid projects. She questioned the basis for the reference to a "wide consensus" in the recommendation and wondered whether the Committee should adopt recommendations, an approach which it had not used before. In response, the Coordinator and Secretariat explained that the wide consensus reflected unanimous views expressed during the joint Subcommittee/OECD Development Assistance Committee workshop and indicated that the Committee was now invited to agree that such a consensus existed. The Secretariat also observed that a previous Committee membership had already adopted a recommendation in the form of the Code of Conduct on Cooperation in Combating International Tax Evasion. Other members and one observer who intervened supported adopting the recommendation.

123. The Committee approved the recommendation in note [E/C.18/2020/CRP.31](#) and, subject to amendment of the explanations as mentioned above, the Guidelines in note [E/C.18/2020/CRP.30](#).

124. The Secretariat presented a first draft of proposed changes to paragraph 48 of the Guidelines' explanations intended to address the concern expressed by Ms. Xiong. After a short discussion, a revised version was presented. The new version indicated that "as is the case for all the Guidelines, guideline 6 does not impose any binding commitment on recipient countries and donors". The new version was approved by the Committee after Ms. Xiong indicated that she could accept the proposed addition.

125. The Subcommittee was thanked for its work, which had concluded successfully.

## **K. Other matters for consideration (agenda item 3(I))**

126. Mr. Bansal suggested that it would be useful for the Secretariat to conduct a consultation with developing countries and civil society about priority topics to inform the agenda and work plan of the new Committee membership. Several Committee members and observers supported this and pointed out that, in addition to assisting the next membership, it would also help to target capacity development. The Secretariat said it would explore ways to best inform the next membership, to supplement their own experience as experts.

127. Mr. Bansal asked about the possibility of having an additional Committee session before the April session to facilitate completion of remaining work in view of the COVID-related challenges. It was noted that, while the Secretariat would look into possibilities, such a request would require a decision of the Economic and Social Council, and that, despite the pandemic challenges, it was important that the Committee remained on track with its workplan.

128. The Committee recognized the importance of seeking simultaneous interpretation at the twenty-second session and of translating Committee guidance such as models, handbooks, manuals and guidelines into the working languages of the United Nations as quickly as possible.

## Chapter IV

### **Matters calling for action by the Economic and Social Council**

#### **Draft decision for adoption by the Council**

129. 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-second session of the Committee of Experts on International Cooperation in Tax Matters**

The Economic and Social Council, taking into account the continuing impact of the coronavirus disease (COVID-19) on the working arrangements for the 2020 and 2021 sessions of the Council and the sessions of its subsidiary bodies:

(a) Decides that the twenty-second session of the Committee of Experts on International Cooperation in Tax Matters shall be held in a scaled-down format, using a virtual platform, with informal meetings to be held in April 2021, and final modalities to be decided by the Co-Chairs, and following consultations with the members of the Committee, and that the decisions of the Committee shall be adopted through a silence procedure;

(b) Approves the provisional agenda of the twenty-second session of the Committee, as proposed by the Committee of Experts and as set out below:

#### **Provisional agenda of the twenty-second 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 substantive issues related to international cooperation in tax matters:
  - (a) Procedural issues for the Committee;
  - (b) Report of the Subcommittee on Updating the United Nations Model Double Taxation Convention between Developed and Developing Countries;
  - (c) Tax and the Sustainable Development Goals;
  - (d) Update of the United Nations Practical Manual on Transfer Pricing for Developing Countries;
  - (e) Update of the Handbook on Selected Issues for Taxation of the Extractive Industries by Developing Countries;
  - (f) Dispute avoidance and resolution;
  - (g) Capacity-building;
  - (h) Environmental tax issues;

- (i) Tax consequences of the digitalized economy: issues of relevance for developing countries;
  - (j) Other matters for consideration.
4. Provisional agenda of the twenty-third session of the Committee.
  5. Arrangements for adopting the report of the Committee on its twenty-second session.
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