

## Comments on C.6 draft (Dispute Avoidance and Resolution)

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As per Work Streams for up-dating of UN TP manual circulated by Stig on 21/10/2019, this Section or Chapter was planned to be drafted as follows:

- (1) Tailoring guidance on developing country situation;
- (2) Extract relevant texts on dispute prevention and resolution from other parts of Manual to avoid overlaps and repetitions;
- (3) Consider relationship between dealing with this topic in TP Manual and UN Handbook on Dispute Avoidance and Resolution dealt by other Subcommittee.

2. My comments on draft are as follows:

(i) This is a Chapter in TP Manual. Hence focus of disputes avoidance here should be from TP perspective and not general as far as possible. Earlier UN guidance on Disputes Resolution i.e. GMAP is being substituted by a comprehensive UN Handbook covering that topic extensively covering various aspects of Disputes Avoidance and Resolution. There may not be benefit in giving detailed guidance already in Handbook, especially the portion that is general (for instance C.6.4, C.6.5) and not TP centric. It may be helpful to give cross reference to new UN Handbook on Disputes Resolution rather than describing general aspects in C.6. In any case, it needs to be seen that there is no contradiction between the two.

(ii) I am not sure about relevance of C.6.3.7 (Joint Audits) in the Chapter on Disputes Avoidance and Resolution. This may be omitted.

(iii) Portions on MAP (C.6.5) need to be aligned with corresponding Chapter in UN Handbook on Disputes. Para C.6.5.1.5 is referring to GMAP whereas there is new Handbook now if both books are to be released simultaneously. C.6.5.1.11 may need alignment with BEPS Action 14 Best practices and minimum standards.

(iv) C.6.5.1.20 which is a para under heading “MAP under the IF initiative’ discusses arbitration and kind of recommends it. This para may be considered to be omitted here since there is full section (C.6.5.1.21 to C.6.5.1.27) ahead under heading ‘Arbitration’.

(v) Arbitration (C.6.5.1.21 to C.6.5.1.27): It needs to be seen if cross reference to Chapter on MAP Arbitration in UN Handbook on Disputes Resolution would suffice. In any case, alignment between the two can be ensured.

(vi) There appears to be mismatch between the heading “ Non-binding dispute resolution procedures’ and the content ie C.6.5.28 and C.6.5.1.29. If intention is to give background of work in specific Subcommittee, this can be brought under Introduction ie C.6.1.

(vii) Paragraphs C.6.5.2.3 and C.6.5.2.4 are about UN TP Manual versus OECD TP Guidelines. These paras do not fit in to Chapter C.6 where focus is on disputes avoidance and resolution and may be omitted.