



United Nations

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

**Report on the twentieth session
(Virtual Session - 22 June to 31 July 2020)**

**Economic and Social Council
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Chapter I

Introduction

1. Pursuant to Economic and Social Council resolutions 2004/69, E/2020/3 and E/2020/L.8, the twentieth session of the Committee of Experts on International Cooperation in Tax Matters (originally scheduled for 27-30 April 2020 in New York - E/2020/INF/4) was held virtually, with informal virtual meetings from 22-26 June 2020 and virtual follow-up during July 2020. The virtual meetings were attended by 25 Committee Members.
2. As an exceptional measure and for logistical reasons, Observers did not participate in the virtual meetings, but they were invited to provide comments on Committee papers. The comments made were referenced in discussions and provided valuable perspectives. The input papers for the Committee were in many cases provided by multi-stakeholder subcommittees.
3. This report summarizes Committee discussions and any decisions taken on the items set out in the provisional agenda of the twentieth session, as adopted by the Committee (E/C.18/2019/4):

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) Relationship of tax with trade and investment treaties;
 - (l) Other matters for consideration.
 4. Provisional agenda for the twenty-first session of the Committee.
 5. Closing of the twentieth session.
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Chapter II

Organization of the session

Opening of the twentieth session and adoption of the agenda

4. On 22 June 2020, the twentieth session of the Committee of Experts on International Cooperation in Tax Matters was opened in an informal virtual meeting by the Committee Co-Chairs, Carmel Peters and Eric Mensah. Navid Hanif, Director of the Financing for Sustainable Development Office of the Department of Economic and Social Affairs, gave welcoming remarks.

5. Mr. Hanif situated the Committee's work in the unprecedented times and urged recognition that the COVID-19 pandemic is not only a health crisis but also a human crisis: a jobs crisis; a humanitarian crisis and a development crisis, of unprecedented scale and dimension. It demands unprecedented responses. Mr. Hanif referred to two major recent virtual events – the High-level Event on Financing for Development in the Era of COVID-19 and Beyond held on 28 May and the Financing for Development Forum meeting on Financing and Policy Solutions to respond to COVID-19 held on 2 June. Both meetings recognized that addressing tax abuses is as important as ever in the current situation and in recovering from it.

6. Mr. Hanif noted that tax plays a critical role in avoiding and responding to crisis and its human and developmental costs. He emphasized the heightened need to scope the unexpected, its tax consequences, and the possibilities of tax systems to help avoid crisis, soften its blow, and contribute to recovery, in a way that also responds to inequalities within and between countries.

7. Mr. Hanif addressed the challenges and opportunities confronting the Committee. Encouraging tax systems that are fair to business and sufficiently support financing for sustainable development will be more important than ever. He highlighted the importance of work on environmental taxation, including an emphasis on climate-smart approaches to COVID-19 recovery. He addressed other issues before the Committee and their increased importance in the current context.

8. Mr. Hanif thanked those Member States that, recognizing the systemic importance of the UN's role in international tax cooperation, have generously given financial support in the last year, particularly Norway. He further urged those in discussions about assistance to follow through and reminded all in a position to contribute of the value the UN can offer, for relatively small investment, in furthering tax systems that are fair to all stakeholders and promote sustainable development.

9. The Co-Chair, Ms. Peters, thanked Mr. Hanif for his remarks and invited Committee Members to bear in mind those developments and suggestions in their work.

10. The Committee then adopted the provisional agenda and organization of work, as indicated in document E/C.18/2019/4, with one exception. The Secretariat proposed that agenda item (k): "Relationship of tax with trade and investment treaties" should not be further dealt with by the Committee during the current Membership, due to other urgent business, limited time for discussion due to the COVID-19 pandemic, and the inability to jointly work with the OECD Secretariat due to its other commitments. This proposal was accepted.

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. Stephanie Smith, coordinator of the Subcommittee on Procedural Issues, referred to paper E/C.18/2020/CRP.15 proposing that minority views be dealt with in two parts: part one consisted of identifying guiding principles for considering minority views in the UN Model, while part two proposed a detailed procedure for inclusion of minority views in the UN Model.

12. The guiding principles received support from the majority of Committee Members, but others spoke against the proposals and there was no consensus. The general issue of whether minority views should be subject to principles that did not apply to majority views was one issue raised.

13. After discussion, and on a majority view, it was agreed that the Subcommittee should work on a revised paper for further discussion and approval at the twenty-first session of the Committee. It should focus on redrafting the procedure for considering minority views.

14. A proposal on modalities for transmitting subcommittee documents to the Committee was considered but will be further discussed at the twenty-first Session. Lastly, editorial changes to the Committee's Practices and Working Methods proposed in the paper were approved.

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

15. The Co-ordinator of the Subcommittee on the Update of the UN Model Double Taxation Convention Between Developed and Developing Countries, Carmel Peters, introduced this topic. She invited the Committee to approve revised versions of three notes previously considered.

Beneficial owner

16. The first of these notes (E/C.18/2020/CRP.6) dealt with the concept of "beneficial owner". Ms. Peters explained that the Subcommittee, at its February 2020 meeting in the Netherlands and its May 2020 online meeting, had addressed issues raised, including at the nineteenth session. The Secretariat then referred to some written comments, referring to recent court decisions according to which the State of source does not have to enquire about the person who may be the beneficial owner in case the immediate recipient is not. The Secretariat considered that this did not conflict with proposed Commentary changes, which did not impose any obligations on the State of source to find the beneficial owner if the recipient of a payment did not qualify as such. The Secretariat noted that some other comments focussed on beneficial ownership of assets rather than on the specific issue discussed in the note, which was the beneficial owner of dividends, interest, royalties and fees for technical

services, a distinction explained in the proposed Commentary (e.g. paragraph 12.6 of the Commentary on Article 10).

17. The subsequent discussion focussed exclusively on the part of the note that explained why the Subcommittee had rejected suggestions to include a treaty definition of “beneficial owner” in the UN Model. While some Committee Members requested that such a definition be added, a show of hands indicated that a large majority of Members supported the Subcommittee conclusion on that issue. There being no other issues related to the note, the Chair concluded that the changes to the UN Model proposed in the note had been approved by the Committee.

18. One Member subsequently indicated a wish that a minority view should be included in the UN Model concerning addition of a definition of beneficial owner. There was some discussion about how such a comment would fit with the concept and practice of a minority view. The Chair invited the Member to draft what would be considered as a minority view on this issue for further consideration of whether this should be included in the UN Model, bearing in mind other discussions at this and the next session on the issue of minority views in the UN Model.

Application of Article 7 to Engineering and Procurement Contracts (EPC)

19. The Coordinator introduced the second note presented for approval, note E/C.18/2020/CRP.7 dealing with the application of Article 7 of the UN Model to engineering and procurement contracts. There were no comments or objections and the note was approved by the Committee.

Application of Article 13(5) to transparent entities

20. The third note presented for approval was note E/C.18/2020/CRP.8 dealing with the application of Article 13(5) of the UN Model in the case of alienation of participations held through transparent entities. Written comments received from one observer country, disagreeing with the conclusion put forward in the note, were noted; and one Member expressed support for that dissenting view and suggested that the two opposing interpretations of Article 13(5) be reflected in the UN Model. Others disagreed with that suggestion. The Chair concluded that the majority supported the proposed changes put forward in the note, which were therefore approved. The issue of including a minority view on that topic would be addressed in the context of broader issues of including minority views in the UN Model.

21. The Committee then considered five other notes presented for first discussion.

Changes related to collective investment vehicles

22. Ms. Peters introduced the first of these notes, note E/C.18/2020/CRP.9, including a number of proposed changes to the UN Model dealing with tax treaty treatment of collective investment vehicles.

23. The Secretariat referred to note E/C.18/2020/CRP.27, which included and explained two small technical corrections to note E/C.18/2020/CRP.9. These two corrections were agreed.

24. One Member proposed that the reference, in paragraph 7 of note E/C.18/2020/CRP.9, to “a recognized pension fund to which the definition of recognized pension fund in subparagraph 1(g) of Article 3 applies” could be replaced by a simpler reference to a “recognized pension fund”. This change was agreed.

25. Another Member referred to written comments sent on the note, which had previously been discussed by the Subcommittee, on aspects of beneficial ownership for CIVs and inclusion of recognised provident funds as a separate class of residents under Article 4.1 without fulfilling the condition of being liable to tax. The Chair,

however, indicated that there was no need to discuss these comments at this stage since the note would be revised to include the changes referred to above and would be released publicly for written comments to be sent by 15 August. These could then be addressed by the Subcommittee at its next meeting and by the Committee at its twenty-first session.

Proposed changes to the Commentary on Article 5

26. Ms. Peters and Jacques Sasseville of Secretariat introduced and explained note E/C.18/2020/CRP.10. Mr. Sasseville also described three small corrections proposed in note E/C.18/2020/CRP.26.

27. The Secretariat finally referred to two written comments sent by the African Tax Administration Forum (ATAF). ATAF expressed support for paragraph 13 of the revised Commentary, which deals with the interpretation of the phrase “any other place of extraction of natural resources” found in Article 5(2), but it also invited the Committee to consider including in the Commentary special provisions to address the application of the permanent establishment definition with respect to exploration and exploitation of natural resources. The Secretariat explained that the Subcommittee had already identified that question for future work, as indicated in paragraph 47 of note E/C.18/2020/CRP.12 (considered below).

28. The second written comment from ATAF dealt with the phrase “that are routinely concluded without material modification by the enterprise” in subparagraph (a) of Article 5(5) of the UN Model, which is explained in the Commentary. ATAF suggested that this phrase should be deleted, arguing that it conflicted with the initial policy objective of Article 5(5) as redrafted in 2017. After views were put for and against this proposal, it was decided that the Secretariat, in consultation with a Member who had expressed support for deletion of the phrase, would prepare a separate note on this suggestion for written comments and subsequent discussion by the Subcommittee.

29. The Chair indicated that the three corrections included in note E/C.18/2020/CRP.26 seemed uncontroversial and could therefore be adopted. This was agreed.

30. The discussion turned to the references to minority views in various boxes included in note E/C.18/2020/CRP.10. One Member argued that these views would need to be discussed by the Committee before it could be concluded that they were not shared by the majority. Member views differed, and it was agreed that written comments could be provided by Members before the next Subcommittee meeting, indicating whether they supported what the note referred to as minority views, and giving their reasons. The Chair concluded that work on note E/C.18/2020/CRP.10 would progress through written comments and would be presented for approval at the next session.

Capital gains on offshore indirect transfers

31. Ms. Peters then introduced the draft provision included in note E/C.18/2020/CRP.11 allowing source taxation of capital gains on certain offshore indirect transfers. The Secretariat referred to written comments sent by the observer for Spain opposing the proposal but welcoming the narrowing of the scope of the previous proposal and the description of double taxation issues now included in the note.

32. Two Members presented their written comments. The first Member referred to a proposal for changes to paragraph 23 of draft Commentary included in the note, reflecting some challenges of eliminating double taxation through the mutual agreement procedure under paragraph 3 of Article 25. The other Member expressed

support for that suggestion to amend paragraph 23 and also suggested that the phrases “resources that are naturally present in that state” and “resources that are inextricably linked to the territory of a State”, which are used in, or with reference to, the proposed new provision in paragraph 17 of the note, should be further clarified.

33. Another Member responded to comments made on paragraph 23 by suggesting that the paragraph should also refer to the possible use of the mutual agreement procedure under a combination of paragraphs 1, 2 and 3 of Article 25 in order to address a multilateral case, as envisaged in paragraph 38.4 of the OECD Commentary on Article 25. The Member suggested that, in order to better address risks of double taxation through the mutual agreement procedure, the Commentary on the new provision on OITs could invite countries using that provision to consider adding the alternative provision found in paragraph 55.2 of the OECD Commentary on Article 25. That Member will send a written proposal so that the Subcommittee can compare it with the proposal in the written comments and consider which version should be included in the next version of the note.

34. Various views were put on the value or otherwise of such a provision. One Member considered it acceptable for the new provision to cover property such as cell phone licenses but was not convinced there was a need, or support for it, to cover more.

35. Another Member suggested that changes should also be made to the example at paragraph 22 of the proposed Commentary to avoid referring to risks of double taxation of company B – an issue unrelated to double taxation of company A.

36. Finally, one Member supported the provision as drafted but thought additional guidance could refer to the definition of licenses or permits to use natural resources that was proposed by the UN and some other international organisations for the purposes of preparing national accounts.

37. The Chair, Mr. Mensah, concluded discussion of note E/C.18/2020/CRP.11 by inviting the Subcommittee to continue its work on that note through written comments. It was agreed to invite written comments on that note from stakeholders. It was clarified that no decision had been reached on whether the proposed new provision, if adopted, would be included in Articles of the UN Model or in its Commentary.

Technical changes proposed for the 2021 Update of the UN Model

38. The Coordinator of the Subcommittee introduced note E/C.18/2020/CRP.12. She explained that the first section of the note included proposals for changes to the UN Model whereas the second section included issues that could not be addressed within the remaining time of this Committee’s Membership but which the next Membership could be invited to consider.

39. The discussion of the note focussed on written comments sent by two Members concerning the following four proposals included in the note:

40. *Source rule for Art. 18 Alternative B:* The Member who provided written comments explained that, during its online meeting in May, the Subcommittee had changed its view on whether, in the absence of a source rule in Article 18 Alternative B, a country was effectively prevented from arguing that it could tax, under Article 21(3), a pension payment that arose in its territory according to its domestic law. The Member argued that this was a difficult technical issue that should be further considered, especially as it applied to other provisions of the UN Model. The Member further recommended against a definitive conclusion on the issue, which should rather be included in a list of issues for consideration by the next Membership. Views for and against this approach were expressed.

41. *Clarification that VAT/GST registration is irrelevant for determining a PE:* A Member who provided written comments disagreed with inclusion in the Model of the proposed Commentary change put forward in paragraph 9 of the note and explained that, in his country, a tax form used for VAT/GST registration purposes required the declaration of whether the taxpayer carried on business at a particular location in the country, which could be relevant for the application of the treaty definition of permanent establishment. Two other Members disagreed with that approach and thought that it was important to clarify that VAT/GST registration was irrelevant for determining the existence of a permanent establishment under a treaty. Another Member indicated that this was not a problem in her country as VAT/GST registration was irrelevant for treaty purposes and preferred leaving the text as is.

42. *Reference to a full credit in paragraph 63 of the Commentary on Article 23B:* A Member who had provided written comments on this issue disagreed with the proposed deletion of a reference to the full credit in paragraph 63 of the Commentary on Article 23B, as proposed in paragraph 24 of the note. The Member considered that it would be in the interest of developing countries to keep that option open. This view was supported by some Members, although another Member expressed doubt that any country would be willing to provide a full credit in the situation described.

43. The Chair concluded discussion of the note by inviting the Subcommittee to continue its work on note E/C.18/2020/CRP.12 through written comments.

Application of Article 12 of the UN Model to software payments

44. The Secretariat introduced this topic by indicating that the first part of note E/C.18/2020/CRP.13 provided an update of the work done on the issue of the application of Article 12 of the UN Model to software payments while paragraphs 16 to 18 of the note proposed specific issues and modalities for further work.

45. All Members speaking proposed continued work on this topic. Different views were expressed on what the focus of further work should be, however, and whether, given the practical importance of the work on this topic, the need for extensive consultation, the fact that the current membership of the Committee will be replaced in the middle of 2021 and the fact that live meetings are currently impossible, there was a need to recognize that there was a good chance that work on the issues mentioned above would not be completed before the Members' terms end. Many Members recommended that the Committee currently focus its attention on amending the existing definition of royalties so as to include a reference to software payments in that definition. For some of these, such a change could even be approved at the twenty-first session.

46. The Chair concluded that there was clear support for continuing the work on this topic. It was agreed, without prejudice to a final decision on the substantive issues, to use a written comment process to produce quickly a note on the specific issue of the inclusion of software payments in the definition of royalties. This note would include a drafting proposal (to be submitted by two of the Members supporting that suggestion, namely Rajat Bansal and Carlos Protto), plus a policy discussion of that proposal and a discussion of its practical application (which would be drafted on the basis of written comments by Committee Members on the drafting proposal). The resulting note would be circulated for written comments from stakeholders to be discussed at the next meeting of the Subcommittee, probably in September, with a view to presenting a note to the Committee at its next session.

C. Tax and the Sustainable Development Goals: Follow-up Report (agenda item 3(c))

47. Harry Tonino of Secretariat outlined work on taxation and the Sustainable Development Goals (SDGs). He noted that the ECOSOC Special Meeting on international cooperation in tax matters, scheduled for April 2020, was deferred to April 2021. The meeting was intended to focus on three areas: (i) taxation of the digitalized economy, including how different approaches could impact revenues, revenue collection and tax administration in developing countries; (ii) inequality, with special focus on redistributive policies, wealth taxation and SDG-supportive fiscal policies to promote inclusive sustainable development; and (iii) the informal economy and access to social protection for marginalized segments of the population in developing countries.

48. Mr. Tonino outlined FSDO plans for capacity-building activities at the intersection of taxation and SDGs, including: (i) a workshop on taxation of the digitalized economy (September 2020); (ii) a workshop on tax and inequality, to be organized in late 2020, focusing on taxation of the informal economy; gender-responsive fiscal policies; and wealth taxation; and (iii) a workshop on environmental taxation, to be organized back-to-back with a meeting of the Subcommittee on Environmental Tax Issues in late 2020 or early 2021.

49. Mr. Tonino recalled the words of Secretary-General António Guterres on how COVID-19 informed and reshaped the Organization's work, calling for coordinated, multi-stakeholder engagement with specific policy actions to be taken by both developed and developing countries. A Secretary-General's report had outlined five concrete actions with a common denominator: countries would need considerable resources to not only bounce back from the crisis, but also build a better society. The ensuing discussion made repeated reference to such resource-related concerns, and the need for coherence and certainty in tax policies and tax collection.

50. The Secretariat sought guidance on which areas of work on taxation and the SDGs would be most relevant for developing countries, in terms of policy guidance and capacity development, in light of COVID-19 response and recovery efforts. Areas that had been mentioned included: (i) tax treaty issues (including BEPS); (ii) transfer pricing; (iii) taxation of the digitalized economy; (iv) environmental taxation; (v) taxation of the extractive industries; and (vi) illicit financial flows. Committee Members also stressed the importance of addressing issues of: (i) inequality and wealth taxation-related aspects; (ii) tax reliefs and incentives; (iii) taxation of the informal economy; and (iv) indirect taxation.

51. Mr. Tonino said the 2021 ECOSOC Special Meeting's agenda would likely need to be informed by a variety of topics related to taxation and the SDGs, to address specific priorities of different countries, and their unique responses to revenue challenges posed by COVID-19.

D. Update of the UN Practical Manual on Transfer Pricing for Developing Countries (agenda item 3(d))

52. The Co-Coordinator of the Subcommittee on Article 9 (Associated Enterprises): Transfer Pricing, Ingela Willfors and Stig Sollund, introduced paper E/C.18/2020/CRP14, stressing the importance of transfer pricing for developing countries, especially in light of budget constraints enhanced by the COVID-19 pandemic. Ms. Willfors reported on the last two Subcommittee meetings, in Nairobi

from 2 to 4 December 2019, and Vienna from 17 to 19 February 2020, thanking the hosts.

53. Ms. Willfors presented revised Chapter B.2 on comparability analysis (Attachment B.2) previously discussed at the nineteenth session, for discussion and final approval.

54. Ms. Willfors noted that changes to this chapter included more practical guidance for developing countries, drawing especially from the work done in the *Toolkit for Addressing Difficulties in Accessing Comparables Data for Transfer Pricing Analyses* of the Platform for Collaboration on Tax¹ and expanding on that. She said this additional guidance was especially relevant for developing countries lacking any comparable data to use many of the tools presented in the Toolkit. After discussion, the text was approved as drafted subject (in this and other cases) to the usual process of editing supervised by the Co-Coordinator.

55. Ms. Willfors next presented revised Chapter B.5 on group synergies and additional guidance on centralized procurement functions (Attachment B.6), previously discussed at the nineteenth session, for discussion and final approval.

56. Ms. Willfors noted that the revised chapter provides guidance on group synergies and additional guidance on how to analyse the procurement function in the group and what transfer pricing methods can be used to determine arm's length remuneration for such functions. After discussion the text was approved as drafted.

57. Further, Ms. Willfors presented Chapter B.9.4 on financial transactions (i.e., the part relating to guarantees only - Attachment B.7). She noted that the main parts of this chapter had already been discussed and approved in previous sessions of the Committee and that only the remaining guidance on financial guarantees was now being presented for discussion and final approval. The examples in the Chapter are addressed separately below. After discussion the text was approved as drafted.

58. Lastly, Ms. Willfors presented Chapter C.1 (Attachment C). On the basis of discussion at the nineteenth session and other comments received, the Subcommittee had redrafted the text for discussion and final approval. This chapter merged and updated former chapter B.8 on the general legal environment and former chapter C.1, on establishing and updating transfer pricing regimes.

59. A Member submitted written comments proposing to delete paragraphs C.1.3.2.6 to C.1.3.2.7 about an international consultancy body, as this was not further developed in the chapter or elsewhere in the Manual. In response, it was noted that: the language was not prescriptive and did not impose any obligation; it did not address how such a body should be led or constituted, regionally or otherwise; and it was already referenced in the 2017 version of the Manual.

60. Another Member noted that this chapter should address the potential risk of double non-taxation on downward adjustments if information is not shared with the other country to the transaction. The Member drafted text to address this issue and after a brief discussion the chapter was approved with two new paragraphs on downward adjustments – their exact placement to be determined as part of the editorial process.

61. Mr. Sollund next presented the Subcommittee's work on Part A of the Manual on Transfer Pricing in a Global Environment (Attachment A) for first discussion. It had been revised from the 2017 Manual version to include more background on how multinational enterprises operate in an increasingly digitalized environment, and to provide additional guidance on value chain analysis. Examples from business sectors

¹ <http://documents.worldbank.org/curated/en/447901498066167863/pdf/116573-REVISED-PUBLIC-toolkit-on-comparability-and-mineral-pricing.pdf>

– on fast-moving consumer goods and on the oil and gas sector – were added for illustrative purposes only.

62. Written comments were submitted from an Observer, proposing adding a clear definition of value creation. While some Members felt a definition of value creation would be helpful, they generally expressed doubts whether this concept could be clearly defined in the Manual, there being no agreed global definition and distinct differences in approach to relevant bases for taxation.

63. Other written comments from a Member were also discussed with the agreement that they could be further discussed at subcommittee level and be reverted to at the twenty-first session.

64. Mr. Sollund next presented Introductory Chapter B.1 (Attachment B.1), for first discussion. This chapter was revised to: eliminate overlaps and repetitions, improve the flow, and increase practicability. He also presented revised Chapter B.2.4.7 on the relationship between transfer pricing and customs valuation (Attachment B.3) for first discussion. Changes made to this chapter updated existing guidance.

65. Mr. Sollund next presented for first discussion Chapter B.4.2.10.1-7 with additional guidance on central sales functions (Attachment B.5). He noted that additional guidance on sales and marketing functions was added to the chapter on intragroup services.

66. Mr. Sollund additionally presented the examples for Chapter B.9 on financial transactions (Attachment B.7), for first discussion. The main body of the financial transactions chapter had been approved by the Committee and only the examples were presented for first discussion. Mr. Sollund stressed that such examples were for illustrative purposes only. He next presented Chapter C.6 (formally C.4) on dispute avoidance and resolution (Attachment C), for first discussion. Mr. Sollund noted the work carried out by the Subcommittee on Dispute Avoidance and Resolution on the Handbook for Dispute Avoidance and Resolution and indicated that this was taken into account to avoid duplication or contradictions, with some participants represented in both subcommittees.

67. A couple of Members noted that more work should be done at the editorial level to coordinate Chapter C.6 with the work on the Handbook for Dispute Avoidance and Resolution, and cross references to the Handbook would be preferable to repeating material, especially where the material is not directly relevant to transfer pricing. Further guidance had been added on Advance Pricing Arrangements (APAs). Finally, attention was drawn to paragraph 14 of [E/C.18/2020/CRP14](#), noting the possibility of removing Part D (Country Practices) to the Tax Committee website to confirm that its content is not Committee reviewed and approved, unlike the rest of the Manual, to allow it to be updated more readily, and make the Manual itself a slimmer volume in paper form. Part D would still have the formal status of being part of the Manual. While no comment was made on this proposal at the virtual meetings, the matter remains open for further discussion at the twenty-first session.

68. The Chair concluded that the Committee had approved four texts: Chapter B.2 on comparability analysis, revised Chapter B.5 on group synergies and additional guidance on centralized procurement functions, Chapter B.9.4 on financial transactions (guarantees only), and Chapter C.1 (with the agreed addition of the paragraph on downward adjustments).

69. The Co-Coordinator invited the Committee to submit written comments on remaining texts and issues by 17 July 2020.

E. Update of the handbook on extractive industries taxation issues for developing countries (agenda item 3(e))

70. Eric Mensah, Co-Coordinator of the Subcommittee on Extractive Industries Taxation Issues for Developing Countries, presented a report of its activities and outlined its the work. He invited Co-Coordinator, Ignatius Mvula to present each chapter.

71. Mr. Mvula presented the chapter on tax incentives (E/C.18/2020/CRP.21) for a second review and approval. At the nineteenth session the Committee requested expansion of the chapter and contextualising tax incentives in the context of the BEPS project pillar two of the OECD/ Inclusive Framework reform proposals - with a minimum tax rate to avoid profit shifting from high-tax jurisdiction to lower-tax jurisdictions. A section to that effect was added. After discussion it was recommended not to expand the description on pillar two but rather to mention it without more detail, with the proposal still in discussion. Paragraph 77 would be removed.

72. Mr. Mvula informed the Committee of comments received from ATAF relating to so called “blacklisting”. After discussion, it was agreed that the Subcommittee will review this and other ATAF comments and as appropriate propose text, while avoiding controversial or political positions. Subject to that point, the paper on tax incentives in extractive industries was approved.

73. Mr. Mvula then presented E/C.18/2020/CRP. 22, on taxation of subcontractors and service providers. Issues covered included: new partnerships and operating models, and characterization of income to be taxed, e.g. income tax, PE rules for subcontractors, and tax treatment of temporary imported machinery. The Subcommittee was invited to refine the draft and seek approval at the twenty-first session.

74. Mr. Mvula introduced E/C.18/2020/CRP. 23 on production sharing contracts (PSCs). Such contracts are prevalent in gas and oil industries, although some countries are considering introducing them in the mining sector, he said. He invited Committee Members to provide country experiences of PSCs in mining especially, which could serve as examples in the Handbook.

75. Mr. Mvula recognized that the description of advantages and disadvantages for PSCs in many sections needs further refinement for a more balanced assessment of pros and cons, to be addressed before the twenty-first session.

76. Finally, Mr. Mvula introduced E/C.18/2020/CRP. 24 on financial transactions in the extractives industries, which dealt with issues such as intra-group financing, interest limitation rules, performance guaranties, and farm-in farm-out arrangements. The paper examined tax implications for each.

77. On all the papers public comments would be sought by 7 August.

78. He noted the Subcommittee’s intention to combine the auditing chapter with trade mispricing and the decommissioning chapter with a more general treatment of environmental issues.

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

79. The Chair, Eric Mensah, invited the Co-Coordinator of the Subcommittee on Dispute Avoidance and Resolution, Cezary Krysiak, to present the three notes under this agenda item.

80. Mr. Krysiak introduced Chapter 5 on MAP Arbitration (note [E/C.18/2020/CRP.2](#)) for approval. The chapter had been revised by the Subcommittee, at its last meeting in February 2020 in The Hague, considering written comments and previous discussions. He referred to additional written comments recently sent by two Members of the Committee, on which he invited discussion. The following summarizes the main points raised in discussion:

- *Paragraph 2*: In written comments, one Member expressed concerns about the reference, in paragraph 2 of the chapter, to arbitration being “an approach for which countries are showing increasing interest.” It was decided to delete that phrase from the paragraph.
- *Paragraph 12*: In his written comments, one Member had observed that paragraph 12 stated inaccurately that a taxpayer could choose not to accept an arbitration decision. It was decided that the paragraph would be amended to clarify that it was the mutual agreement implementing the arbitration decision that could be rejected by a taxpayer.
- *Section 5.3 on different views on the appropriateness of arbitration*: The written comments sent by one Member raised concerns with the structure and drafting of section 5.3, including the lack of counterarguments to some of the alleged benefits. Views of Members varied on this issue. After discussion, it was decided that the overall structure of the section would be kept but drafting changes would be proposed after consultation with the Member raising the concerns.
- *Paragraph 34*: At the request of a Member, it was agreed that paragraph 34 should be amended to avoid suggesting that the MLI does not require the conclusion of a competent authority agreement regarding the conduct of arbitration proceedings.
- *Paragraph 36*: In written comments, one Member suggested that the last part of paragraph 36 did not provide a satisfactory justification for the statement that the “competent authorities may wish to request the taxpayer’s consent before engaging in arbitration”. It was decided that the paragraph would be amended to provide justification based on avoiding spending resources on arbitration where the taxpayer is likely to reject the mutual agreement implementing the arbitration decision.
- *Paragraph 48*: At the request of a Member, it was agreed that paragraph 48 should clarify that *either* competent authority could make a request to the Chair of the Committee for appointment of a missing arbitrator.

81. Subsequent consultations allowed a revised draft of Chapter 5 to be presented and agreed, with the Committee approving the amended chapter.

82. The Co-Coordinator then introduced Chapter 6 on Possible Improvements to MAP (note [E/C.18/2020/CRP.3](#)) for Committee approval. With no suggested changes, the chapter was approved by the Committee.

83. The Co-Coordinator finally presented the draft of Chapter 2 on Approaches to Avoiding Disputes (note [E/C.18/2020/CRP.1](#)). for a first discussion. There were no comments, but a deadline of 15 August 2020 was set for written comments.

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

84. The Secretariat briefed the Committee on FSDO capacity-building efforts on domestic resource mobilization, including how the strategy and schedule were adapted due to the COVID-19 pandemic.

85. Harry Tonino of Secretariat provided an overview of events that were conducted according to schedule in late 2019. These included three technical cooperation workshops on double tax treaties held in Ecuador, Peru and Indonesia (November 2019). These events, benefitting from cooperation with partner organizations, including CIAT and the OECD, saw participation of over 80 tax officials. In addition, reference was made to a regional workshop on Transfer Pricing (Nairobi, Kenya, 5-6 December 2019), organized in cooperation with the Kenya Revenue. This event was held back-to-back with the meeting of the Subcommittee on Transfer Pricing and benefitted from the expertise of Subcommittee Members.

86. Mr. Tonino outlined the Secretariat strategy to implement events that could not be held in-person due to COVID-19. Given worldwide travel restrictions and the need for social distancing, the strategy was structured around two main pillars: virtual workshops and online courses. With regard to the former, the Secretariat launched a pilot program with a regional focus on Latin America (where several in-person events had been scheduled), in collaboration with Committee Members, the OECD, CIAT and other regional experts. The first session (Scope of Tax Treaties) was held on 17 June 2020 and attended by 60 tax officials representing 10 Latin American countries. Three remaining pilot sessions would be held on 1 July (Permanent Establishment), 15 July 2020 (Taxation of Services) and 29 July 2020 (Taxation of Business Profits). Through targeted questionnaires, the Secretariat would monitor participants' satisfaction in the pilots, and scale up a similar format for other regions and topics.

87. Building on the lessons learnt from the pilots, the Secretariat tentatively scheduled the following virtual events for 2020: (i) a workshop on taxation in the digitalized economy (9-11 September, originally planned for March 2020). Mr. Lennard highlighted that the objective of the workshop was to present developing country negotiators and advisers with the pros and cons of different approaches to tax the digitalized economy, as well as guidance to better protect their tax base; (ii) three joint UN-OECD courses on tax treaty negotiations (late 2020 or 2021, originally planned for summer 2020); (iii) a workshop on environmental taxation, organized in coordination with the Subcommittee on Environmental Tax Issues (late 2020 or 2021, originally planned for June 2020).

88. As far as online courses were concerned, a new online primer on Mutual Agreement Procedure (MAP) was developed based on the relevant chapter of the UN Handbook on Dispute Avoidance and Resolution, as well as on materials from previous in-person training events on MAP (Vienna and Dakar, 2019). As with other existing online courses on taxation developed by FSDO (on double tax treaties and transfer pricing), the course on MAP would serve both as a stand-alone module and as a prerequisite to future in-person training.

89. Daniel Platz of Secretariat updated the Committee on progress in the work of the Platform for Collaboration on Tax (PCT), a joint effort by the IMF, OECD, UN and World Bank secretariats. Since the nineteenth Session, the PCT made progress on three toolkits: (i) a toolkit on Taxation of Offshore Indirect Transfers was released in June after two rounds of public consultation; (ii) a toolkit on Transfer Pricing Documentation, opened for public consultation in September 2019 and would likely be published in July. Virtual workshops on Comparables Data for Transfer Pricing held in March and April demonstrated the strong appetite of tax authorities for this issue;

(iii) a Toolkit on Tax Treaty Negotiation would soon be released for public comments. An expanded outreach program surrounding the development and use of the toolkits would take place in August and September for all interested stakeholders. Additionally, a new Online Integrated Platform (OIP) was developed to serve as a single point of reference for tax-related capacity development projects across the four organizations, organized by country. Finally, a virtual workshop on Medium-Term Revenue Strategies (MTRS) would be held in collaboration with ATAF in 2020.

90. Mr. Platz also briefed the Committee on FSDO's capacity-building project on asset management, aimed at maximizing the service and revenue potential of government-owned assets in Bangladesh, Nepal, Uganda and Tanzania. Due to COVID-19, in-person training events were moved online and integrated with new training modules on crisis-resilient asset management. In 2020, FSDO and UNCDF will also develop an online course and publish a joint manual on the topic.

91. Several Committee Members commended the Secretariat for its ongoing work to build tax capacity in developing countries, and recognized the efforts needed to adapt work modalities and schedules to the changing circumstances brought on by COVID-19. Ensuing discussion highlighted the likely impact of COVID-19 on future capacity-building activities in developing countries, and the need for continuous dialogue among all relevant stakeholders.

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

92. The Coordinator of the Subcommittee on Environmental Taxation Issues, Natalia Aristizabal Mora, summarised activities since the Committee's nineteenth session, as outlined in paper E/C.18/2020/CRP16. The Committee was asked to consider three draft chapters for the forthcoming Handbook on Carbon Taxation.

93. Ms. Aristizabal presented Chapter 3 (Designing a Carbon Tax) (E/C.18/2020/CRP17) for final approval. It was discussed in the eighteenth and nineteenth sessions and redrafted according to comments received. The chapter concerns the design of a carbon tax and is at the core of the Handbook. It is divided into three subchapters: (i) subchapter 3A on the basic elements of a carbon tax and discusses who is going to levy the tax, what is going to be taxed (i.e. specific fossil fuels upon their production, sale, and or importation - under the so-called "Fuel Approach", which is based on a tax on volume or weight of fossil fuels, or actual carbon dioxide emissions released into the atmosphere - under the so-called "Direct Emissions Approach") and also touches upon the identification of the taxpayer and who bears the economic burden of the tax; (ii) subchapter 3B addresses setting a carbon tax rate; (iii) and subchapter 3C deals with addressing undesired effects on households and industries, which is effectively linked to the public acceptance of carbon taxation. She noted that the Chapter has benefitted from comments from Canada (on the system currently enforced therein) and business representatives.

94. Committee Members commended the Coordinator and Subcommittee for the progress of this ambitious project, new to the Committee's experience and especially relevant in view of the COVID-19 response and recovery. Ms. Aristizabal thanked all contributors and especially the Swedish government for supporting the work of the Subcommittee and providing personnel to work on the chapter. The Committee approved Chapter 3.

95. Ms. Aristizabal then presented for first discussion draft Chapter 2 of the Handbook (An Introduction for Policymakers) (E/C.18/2020/CRP19). This chapter gives an overview of environmental issues posed by carbon emissions and stresses the characteristics and opportunities related to these issues. It then discusses carbon

pricing and highlights two main approaches for carbon pricing (i.e. carbon taxes and emission trading systems).

96. The chapter states the main reasons for introducing carbon taxes, such as protection of the environment, promotion of non-carbon products and raising revenues, as well as the main policy considerations countries should consider when introducing carbon tax, such as administrability, carbon pricing certainty and potential unwanted effects on equity and commercial competitiveness.

97. Ms. Aristizabal asked Members to consider: (i) whether the definitions of environmental taxes and environmentally related taxes, currently referred to briefly in the main body of the Chapter, should be further expanded in an annex to the Chapter, and (ii) whether an annex on the international framework regarding environmental protection and climate, as the one presented to the Committee attached to the Chapter was required, recognising that the Chapter already includes references to such international frameworks (especially on how such measures fit within the SDGs and the wider UN work).

98. In discussions, it was recommended to (i) retain the simple definitions of carbon tax, environmental taxes, and environmentally related taxes, as they have been reflected in the main body of the Chapter, without the need to expand further more such concepts in an annex, and (ii) to keep the annex on the international framework regarding environmental protection and climate.

99. Further written comments on Chapter 2 of the Handbook (An Introduction for Policymakers) (E/C.18/2020/CRP19) from Committee Members and others could be submitted until 7 August 2020. Based on discussion in the session and the comments, the Subcommittee will produce another draft for second discussion at the twenty-first session.

100. Finally, Ms. Aristizabal presented for first discussion a draft of Chapter 4 (From Design to Administration: Practical Application of a Carbon Tax) (E/C.18/2020/CRP18). This chapter, linked to the Chapter on the design of a carbon tax, seeks to depict the most common aspects of administration of carbon taxes, drawing from the practical experience of countries adopting different approaches (e.g. the Swedish “fuel approach” and the Chilean “direct emissions” approach).

101. Further written comments on Chapter 4 (From Design to Administration: Practical Application of a Carbon Tax) (E/C.18/2020/CRP18) from Committee Members and others could be submitted until 7 August 2020. Based on discussion in the session and the comments, the Subcommittee will produce another draft for second discussion at the twenty-first session.

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

102. The Co-Coordinator of the Subcommittee on Taxation of the Digitalized Economy, Aart Roelofsen, opened the session by giving an update of the work of the Subcommittee, as outlined in paper E/C.18/2020/CRP25. Mr. Roelofsen further provided an update on relevant OECD/ Inclusive Framework developments. Babatunde Fowler, Co-Coordinator of the Subcommittee, and Mr. Lennard then outlined comments received on the work of the Subcommittee from various stakeholders.

103. Mr. Fowler highlighted that, while advertising services are important, it should not be the sole focus, as the UN should provide a wider view on how business operates and the type of taxes and revenues that can be derived by developing countries. Mr. Fowler noted that even in face of the COVID-19 pandemic, businesses have not

completely stopped, and many operations were maintained without the need for physical presence in local developing countries. He noted the importance for developing countries of the consumption or market side being given due consideration when taxing rights are considered, recognising particularly the interest of some countries in the “significant economic presence” approach.

104. It was noted that Rajat Bansal, Committee Member, has submitted a written proposal (Attached 2 of the note E/C.18/2020/CRP25). José Troya, also a Member, has also submitted a proposal for consideration by the Committee at the last session.

105. Mr. Bansal explained that his proposal drew upon elements of the OECD/ Inclusive Framework Unified Approach, but aimed to be simpler to administer and to provide a definite and significant amount of revenue for market countries. It seeks to remove complexities by having determination of the taxable amount for the market jurisdiction done at the level of the specific market country, as opposed to the multilateral procedure suggested by the unified approach. Moreover, double taxation relief is proposed on a bilateral basis, also taking corresponding adjustments under Art. 9(2) of the UN Model into consideration. Further, the proposal would only apply to automated digital services and no global threshold would be set. The approach proposed by Mr. Bansal would be facilitated by a new Article in the UN Model addressing the new nexus and taxing right allocation rules.

106. Mr. Troya said his proposal also follows the line of drawing on some elements of the unified approach, but entails a simplified approach for implementation by developing countries. In his view, the convergence between his proposal and the proposals presented by Mr Bansal and other Members would be a form of withholding tax. The proposal of drafting a new article for inclusion in the UN Model allowing for a withholding tax received the support of other Committee Members.

107. Issues raised in discussions included: the complexity of most current proposals, especially for developing countries to implement, the related need to consider withholding tax options set as a reasonable rate, whether consumer-facing businesses should be included in the scope of any new rules, the need for the Committee to provide an independent work regardless of the progress made by the OECD/ Inclusive Framework (but bearing wider developments in mind) and to bear in mind those countries not represented in the Inclusive Framework and their situations and concerns, as well as the urgent need for funding for COVID-19 response and recovery, which purely (and inherently slow) multilateral efforts may not sufficiently be able to respond to. Those favouring a move to drafting a treaty provision felt that the problem was sufficiently well-defined to move to drafting and work in other fora could be drawn upon where relevant to prevent unnecessary duplication.

108. Other Members counter-proposed that there are other sources of revenues that could be explored rather than imposing additional taxes on MNEs and pointed out that in practice corporate income taxes are not the main source of revenue for many countries. Moreover, withholding taxes proposals would need to deal with issues such as the treatment of losses, scope of application and interaction with Article 2, and double taxation relief. The point was made the Committee should avoid arriving at “unprincipled” solutions – clarity on what was being sought and its practicalities before drafting commenced was important, including a clear definition of the problem and the scope of application of the provision. Others expressed the view that what might first seem simple would become more difficult and complex as it was discussed in detail, and that the distinctly different views countries held on taxing rights would not easily be reconciled, whatever the proposal. One Member expressed the concern that the draft still to be developed might not be compatible with the expected outcome of the work of OECD/G20 Inclusive Framework on BEPS, which, given the fact that the Inclusive Framework comprises 137 members, could produce a difficult situation. Another Member expressed the alternative view that the UN Committee has decided

to work independently on these issues, while taking the work of other fora into account, and noted that the UN has a Membership of 193.

109. There was a widespread view that an effective solution in the context of the UN Model Tax Convention would need to be accepted not only by developing countries, but also by at least some of their treaty partners. The limited relevance of a Model Tax Convention provision for countries without wide treaty networks was noted, despite it having some indirect potential policy guidance role for domestic law – one Member noted that such a provision could play a role in reducing differences in unilateral measures and thereby helping reduce uncertainty and double taxation.

110. Many Members expressed support for drafting a new treaty provision. A group consisting of some of those Members was formed, under the co-coordination of Rajat Bansal and Carlos Protto, to first draft a proposal by the end of July 2020. It was agreed that only those Members that had expressed support for drafting a new provision would take part in the work.

111. The proposal will then be submitted and discussed by Committee Members more generally prior to discussion at the twenty-first session of the Tax Committee in October. It was subsequently decided that the Subcommittee (with the possibility of the participation of Committee Members who are not currently part of the Subcommittee) would meet to discuss these issues from 25-27 August 2020.

112. It was recognized that the work of this drafting group is without prejudice to the inclusion or otherwise of any provision in the UN Model and that it should take on board not only the calls in favour of such a provision, but also relevant discussions about clarifying objectives and recognizing practical complexities.

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

113. The Coordinator of the Subcommittee on the Tax Treatment of ODA Projects, Marlene Parker, first reported on the joint technical meeting between the Subcommittee and the OECD Development Assistance Committee (DAC), which took place in February 2020 in Paris and was followed by a three-day meeting of the Subcommittee. Session 1 of the joint meeting with DAC focused on the empirical data related to the impact of granting exemptions for ODA projects as well as the various policies adopted by donors in this area. Session 2 focused on what the DAC could do on various topics related to the issue of transparency of tax exemptions for ODA projects.

114. The DAC agreed to work on specific proposals to ensure greater transparency for the tax provisions of treaties or other agreements related to ODA. It was also agreed that a voluntary pilot project would be carried out for reporting the policies of DAC members on ODA project tax exemptions - helping recipient countries to determine the revenue impact of these exemptions. The last session of the meeting dealt with the work of the Subcommittee including the Guidelines. During that session, it was clarified that the Guidelines were non-binding and were intended to assist countries in deciding whether tax exemptions should be granted for ODA projects and, if they were, how they should be negotiated and designed.

115. The Coordinator indicated that the Subcommittee seeks a continued dialogue with the DAC. She also reported that Professor Attiya Waris of the University of Nairobi and Iain Steel of the Overseas Development Institute had recently joined the Subcommittee.

116. The Secretariat then introduced notes E/C.18/2020/CRP.4 (Revised version of the Guidelines on the Tax Treatment of ODA Projects) and E/C.18/2020/CRP.5 (Draft

Recommendation on the Public Disclosure of Provisions Granting Tax Exemptions with respect to Official Development Assistance Projects), which resulted from the three-day meeting of the Subcommittee. These were presented to the Committee for a first discussion and for the approval of the release of the revised Guidelines for public comments. The changes made to the Guidelines resulted from previous discussions in the Committee as well as written comments received on the previous version. These changes, among other things, reinforced the purely non-binding character of the Guidelines, replaced the proxy previously used to refer to the concept of permanent establishment by a reference to the definition of that concept in the UN and OECD models, made a clearer distinction between the Guidelines themselves and the internationally-agreed principles to which they referred as well as clarifying that the Guidelines did not affect in any way the application of tax treaties. Given the wide consensus that provisions of ODA treaties or agreements providing for tax exemptions with respect to development assistance projects should be publicly disclosed, the proposed recommendation included in note E/C.18/2020/CRP.5 was intended to reinforce Guideline 6 and provide stronger guidance in that area without imposing binding obligations.

117. One Member observed that the revised Guidelines referred to the 2030 Agenda for Sustainable Development. The Member commented that countries should not rely on that agenda to find new sources of revenues. The Secretariat recalled the Committee's approach to putting its work, including on tax exemptions for ODA projects, in the overall context of the 2030 Agenda and efforts to achieve the SDGs.

118. Another Member, while supportive, asked for a clarification. Noting that the mandate of the Subcommittee referred to "official development assistance" (ODA) projects and that the term ODA was developed by the OECD to refer to assistance projects that were covered by the OECD Development Assistance Committee (DAC) framework, the Member asked whether notes E/C.18/2020/CRP.4 and E/C.18/2020/CRP.5 applied only to assistance projects covered by the OECD DAC framework or whether they would also cover other cooperation projects. In response to that intervention, the Coordinator and the Secretariat indicated that the term "ODA" had been used to avoid the need to define government-funded assistance projects covered by the Guidelines. Issues as to the scope of the Guidelines would need to be clarified by the Subcommittee and Committee.

119. A third Member also indicated support for the work of the Subcommittee but raised the following concerns and questions:

- Whether there was any intended difference between the Guidelines and the proposed recommendation in note E/C.18/2020/CRP.5, with respect to which the Member had reservations, and whether such a recommendation would have any binding effect.
- the difficulty in understanding whether the proposed recommendation only dealt with one aspect of what the Guidelines referred to as transparency, which was the public disclosure in recipient countries of provisions granting tax exemptions. While there were good reasons to support such disclosure in recipient countries, it was more difficult to understand why the recommendation proposed the setting up of a central repository for that purpose.
- Guideline 5 raises concerns as it went beyond the public disclosure of provisions granting tax exemptions and encouraged donors to develop, review periodically and make publicly available their policies concerning the payment of taxes related to their ODA projects. Also, the explanations provided in relation to Guideline 5 (such as in paragraph 43) were not convincing or helpful.

120. In response to these comments, the Secretariat sought to clarify the difference between a Recommendation, which would establish the Committee's position on the issue of disclosure of provisions granting tax exemptions, and the Guidelines, which

were simply suggestions as to what countries should consider in their bilateral negotiations. The Secretariat and the Coordinator also provided the background for Guideline 5 and for the reference to a public repository in the proposed recommendation, which both resulted from discussions during the joint meeting with DAC.

121. Another Member expressed support for the Guidelines, as being important for small countries like his own, and urged the Committee to adopt them as soon as possible given that the current Committee Membership would be changing in 2021.

122. In response to these explanations, the Member who first expressed concerns about the proposed recommendation suggested deleting the last part of the preamble of the recommendation as well as the second paragraph of the recommendation and suggested changes to Guideline 5 and its explanations to make it more balanced and less prescriptive.

123. It was decided that, in order to address the various concerns raised during discussion, the Subcommittee, through exchange of emails, would revise both notes E/C.18/2020/CRP.4 and E/C.18/2020/CRP.5 and submit a revised version of note E/C.18/2020/CRP.4 to the Committee, under written procedure, for approval of its release for public comments in advance of the twenty-first session.

K. Relationship of tax treaties with trade and investment treaties (agenda item 3(k))

124. As noted, in considering its agenda the Committee agreed with the Secretariat that further work should not be done on this subject at Committee level, in view of other priorities and the other commitments of the UN and OECD Secretariats. It would therefore not be added to the agenda for the twenty-first session.

L. Other matters for consideration (agenda item 3(l))

125. The Committee endorsed the importance of Committee guidance, such as models, manuals and handbooks, being published as quickly as possible in the official working languages of the United Nations. It had been noted that conference services, including interpretation, had not been available for these informal virtual meetings, but the importance of interpretation for such meetings in future, if at all possible, was also noted by the Committee.

126. The Secretariat noted that the twenty-first session was scheduled for Geneva, 20-23 October 2020. The Secretariat would keep the Committee informed of any changes as a result of COVID-19.

Chapter IV

Matters calling for action by the Economic and Social Council

Draft decision recommended for adoption by the Council: Venue and dates of and provisional agenda for the twenty-first session of the Committee

127. The Committee of Experts on International Cooperation in Tax Matters recommends that the Economic and Social Council review and adopt the following draft decision:

Draft decision:

Dates of, and provisional agenda for, the twenty-first session of the Committee of Experts on International Cooperation in Tax Matters

The Economic and Social Council:

(a) Taking into account the continued impact of the coronavirus disease (COVID-19) on the working arrangements for the 2020 session of the Council and sessions of its subsidiary bodies, decides that the twenty-first 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 between the dates 20 October and 6 November 2020, with final modalities to be decided by the Co-Chairs, following consultations with the members of the Committee, and that decisions of the Committee of Experts shall be adopted through a silence procedure;

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

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;

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- (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.
