

Informal summary of the discussion on “Tax treatment of ODA projects” during the sixteenth session of the UN Committee of Experts on International Cooperation in Tax Matters (14-17 May 2018)

At its sixteenth session held on 14-17 May 2018, the Committee of Experts on International Cooperation in Tax Matters continued its discussion of the tax treatment of Official Development Assistance (ODA) projects.

The Secretariat introduced the topic by reminding the Committee of the work done on this issue at the first, second and third sessions (from 2005 to 2007), when the Committee first discussed a note that described existing practices as well as options for changes and subsequently examined a set of draft guidelines. The issue of the tax treatment of ODA projects was now attracting more attention in the context of efforts to increase domestic resource mobilization in order to achieve the 2030 Sustainable Development Goals. This was recognized by the Addis Ababa Action Agenda, which included the commitment to “consider not requesting tax exemptions on goods and services delivered as government-to-government aid, beginning with renouncing repayments of value-added taxes and import levies.”

At the fifteenth session of the Committee held in October 2017, a number of members and observers stressed the importance of addressing the issue and the Committee decided that the discussion should continue at the following session of the Committee. An annotated version of the 2007 draft guidelines was first discussed at an informal meeting that took place on 12 February in the margins of the first global conference of the Platform for Collaboration on Tax on *Taxation and the Sustainable Development Goals* (held at the UN Headquarters in New York on 14-16 February 2018). The issue of the tax treatment of ODA projects was also raised during the conference itself and the Platform Partners’ Statement that was released at the closing of the conference indicated that the Platform’s Partners (i.e. the International Monetary Fund, the Organisation for Economic Co-operation and Development, the United Nations and the World Bank) intended to “review current practice, and provide guidance and recommendations, on the tax treatment of ODA funded goods and services.”

The note prepared for the sixteenth session of the Committee included the annotated version of the 2007 draft Guidelines prepared for the informal meeting of 12 February and invited all interested parties to submit written comments with a view to preparing a revised version of the draft guidelines for discussion at the seventeenth session of the Committee on 16-19 October 2018.

The following points were raised during the discussion at the Committee:

- The importance of the issue was noted in a number of interventions but some members requested more time to examine the annotated version of the 2007 draft guidelines before considering possible next steps.
- One member observed that the present membership of the Committee had not yet taken a decision as to whether the issue of the tax treatment of ODA projects should be addressed and suggested that one approach could be to simply leave the issue to the Platform for Collaboration on Tax.
- Another member, however, expressed the wish that a Subcommittee on the tax treatment of ODA projects would be set up at the seventeenth session of the Committee in October 2018.

- At a more technical level, concerns were expressed about the part of the 2007 draft guidelines dealing with the income taxation of services performed in a partner country. It was suggested that the remuneration of any work performed in a country should be taxed in that country. It was noted, however, that the guidelines sought to reflect internationally-agreed standards concerning taxing rights and that in some limited cases, such as when services are performed by employees of a foreign State, it was generally agreed that the remuneration should not be taxed in the State where the services are performed.

A representative from civil society emphasized the fact that the tax treatment of ODA projects was an important issue for developing countries and referred to a recent publication that analyzes the issue and formulates recommendations, notably as regards transparency concerns. This representative also suggested that the Development Assistance Committee of the OECD could play a useful role in this area.

It was decided that the next step would be for all interested parties to send written comments to the Secretariat, before 31 July 2018, on the annotated version of the Draft Guidelines and on the issue of whether the Committee should continue its work in this area.