**Meeting Minutes**

**ICC Tax Commission Meeting**

**Thursday 21 March 2024 | 9.00 am – 4:30 pm**

1 Dag Hammarskjold Plaza 885 2nd Avenue – Microsoft UN Offices, New York City, United-States

* + - 1. **Opening Session & International Tax Developments**.

**1. Presentation of the Report 2023/2024 ICC Global Tax Commission (09.05 – 09.25)**

John Connors (ICC Chair of the Global Tax Commission)

* The report showcases the commission's work and vision and is accessible online. From the report and the activities, projects and initiatives carried out by the ICC Global Tax Commission it emerges how there have been clear shifts in the international tax agenda;
* National committees have also fed important issues into international agendas and today aim is to foster intersectional exchange. The chair has also encouraged national committees to get more involved.
* For 2024 there are important political developments coming up in the world, such as the European elections, the US Presidential election.
* In terms of a roadmap for 2024 Roadmap, the Chair has highlighted how there is currently a momentum for topics covered at the UN Tax Committee of Experts and that can raise some issues e.g. the latest proposal on Article XX.
* In 2023 there have also been important regional initiatives and developments such as the Platform for Taxation in Latin America and the Caribbean, where there have been some interesting discussions – developed a lot of thought input and have serious concerns about international tax issues, e.g. for environmental taxes and cross border taxes.

**2. OECD Update Two-Pillar Solution & next areas of work (9.35-9.55) and Q&A (9:55-10:10) – David Bradbury** (Deputy Director within the OECD's Centre for Tax Policy and Administration (CTPA)). – online

David Bradbury updated on the status and challenges of the global minimum tax and pillar one. He also announced his departure from OECD in June 2024 after ten years of service.

* **Global Minimum Tax:** 1st January started implementation under Pillar Two. It is expected that 35 jurisdictions will be implemented by the end of 2024. Differently from Amount A Pillar One, the Global Minimum Tax doesn’t require every jurisdiction to be implemented to be get in action.
* In terms of estimated impact, once it comes into effect with global coverage, it is expected that it will generate $155 - 192 million in additional revenue and will lead to dramatic reduction in profit shifting
* **Subject to tax rule:** STTR enables developing countries to tax certain intra-group payments, in instances where these payments are subject to a nominal corporate income tax rate below 9%.
* **Pillar One.** The signing ceremony for Pillar One will be planned for this year. Countries continue to engage in negotiation processes. There are still a number of concerns that have been raised and still need to be solved, but progress has been made. He is hopeful that positive news will be shared in the future.
* There is still need to resolving issues around the interdependence between amount a and amount b – different views amongst countries:

**Other current developed projects**:

* ***Carbon mitigation inclusive forum***: 58 member jurisdictions that have joined
* ***Inequality***: Published working paper on income and wealth distribution
* ***Tax Administration*** – Digitalisation of tax administration 3.0
* ***Global mobility:*** work will continue also in relation to this workstream after the stakeholders day that took place in September 2023. ICC also participated and its contribution has been appreciated by Inclusive Framework delegates.
* ***‘Tax inspectors without borders’***
* ***Crypto assets reporting framework***

Q: ***Certain Degree of scepticism on foreshadowed data. How reliable are the data?***

A: Each of the predictions were made with revenue assessment tools – predicted 2/3 direct revenue gains and 1/3 reduced profit shifting. It is highly likely that gains need time to materialise. Acknowledges that governments work with provided tools, but most of them cannot allow for indirect gains in forecasts. Analysis covered 7000 companies – but everyone has an idea of the in-scope companies that were originally targeted with this guideline. Is assured of the quality of estimations.

Q: ***How do you foresee the first peer review session process?***

A: It will be at solid pace. Of course, with transactional arrangements – peer assessment will be quickly. Looking to prioritise instances where question marks will appear. Objective would be to have transitional arrangements then to move to a fully review system.

**3. UN Update on Tax Committee of Experts Update and UN Resolution on International Tax Cooperation (9:25 – 9:25) and Q&A (9:25 – 9:35) - Michael Lennard** (Chief of International Tax Cooperation and Trade in the Financing for Development Office (FfDO) of the United Nations)

Michael Lennard could not ultimately participate due to a rescheduled meeting of the bureau of the UN Tax Committee on International Tax Cooperation. For this reason, the update was on the UN resolution on international tax cooperation and the UN Tax Committee of Experts work has been provided by Luisa Scarcella (ICC Secretariat).

**UN Resolution on International Tax Cooperation**

Information has been provided on the organizational session of the ad-hoc committee tasked with the drafting of the Terms of Reference (TOR) for the Framework Convention on International Tax Cooperation has described in the resolution adopted by the UN General Assembly in December 2023. During the organizational session, the Chair, the Rapporteur and the members of the Committee have been officially appointed. The agenda for the first substantive session which will take place from April 26th to May 8th has also been agreed and a Call for Input has been launched. The deadline for the Call for Input was March 15th and ICC has also participated. Inputs are available online in the UN dedicated website.

Information on stakeholder participation process has also been shared– CSO’s, academic institutions, private sectors and others can participate with a deadline of registering interest until 30th March 2024.

In the case of ICC – given it Permanent Observer Status – registration and approval process is not needed as Observers to the UN General Assembly is already granted through the UNGA resolution of December.

**UN Update on Tax Committee of Experts Update**

* **Workstream B: Article XX on taxation of cross-border business services - proposal** calls for the replacement of Articles 5(3) (b), 12A, 14 of UN Model Convention with a single new provision dealing with cross border business services.
* **Several concerns have been raised by ICC members.** First written comments have been submitted after the Geneva session where this proposal was first presented. Additional written comments have been submitted ahead of this March session where the Committee planned to present the proposal for approval.

***Q: Can businesses associations also apply?***

A: Business associations can apply. A letter will need to be attached indicating up to 3 persons that will be participating on behalf of the organization.

**4. European Commission (11:00 – 11:20) and Q&A (11:20 – 11:30) – Benjamin Angel** (Director for Direct taxation, tax coordination, economic analysis and evaluation, European Commission)

Benjamin Angel informed on the EU's progress on Pillar Two directive and the next Commission's priorities.

* **Pillar Two**:
	+ more than 450 questions from countries in relation to the directive – Estonia, Lithuania, Malta, Spain, Portugal, Poland are still behind but should fulfil in May 2024
	+ Good news: is that all member states should be implementing the directive in time.
	+ Five member states have opted for delaying the implementation process: Estonia, Lithuania, Latvia, Malta and Slovakia
	+ Administrative guidelines: some questions relating to the implementation remain still open
	+ Important to follow also the political development in other areas of the world such as United States
* **Pillar One**: number of supports shrinks at the globe, but EU still a supporter of it – signature in June 2024.
* **UN:** EU member states made a proposition which was different from the outcome of the resolution. Since then, a collective decision has been made to engage in constructive process in New York, aiming to not having a duplicative process between OECD and UN. It is important to look for widest achievable consensus as possible. Even in the case of simple majority, as it still is a convention other countries must ratify.
* **Other EU proposal:** There is a number of tax legislations still discussed in council.
	+ Technical discussion has started on Transfer Pricing proposal: received a lot of comments and concerns from member states, therefore the proposal will be less detailed and it will be more process-oriented target
	+ all member states acknowledge the importance of focussing implementation process, some rules might be ambiguous.
	+ Also for SMEs proposals there is need for more technical discussion

***Q: How do you feel about this year’s commission transition?***

A: The commissioners selection process might be delayed – shifted to end of November/December instead of usually September. Depends on whether the current commission will stay in power – it is possible that the great coalition will stay. With a shift to a right-coalition, it will be far more difficult for topics of taxation to be focusing on wealth and tax avoidance while more attention could be given on topics such as decluttering and tax administration.

**Q: *What keeps you currently up at night?***

A: On one hand, simplifying tax systems for businesses including SMEs and administrations in the EUwith OECD or UN proposal - EU was first to adopt a Directive on Pillar Two and the Member States are now adopting the necessary national legislation for coming into force on 1 January 2024. On the other, the topic of cross-border teleworkers which has been followed by a structural change since COVID-19.

**Q:** ***Proposed Outline for EU pre-enlargement - Principle about unanimity. What does the Commission thank about it?***

A:This is notentirely new question. Agenda is extremely ambitious for the enlargement process. Target to have enlargement done by 2030. In relation to Serbia, Albania, Ukraine, Moldova there have been new discussions but it is a challenging topic.

**5. Latin American and Caribbean Ministerial Tax Platform (11:50 – 12:15) Lorenzo Uribe** (Advisor to the Colombian Vice-Minister of Finance)

Lorenzo Uribe explained the Platform for Taxation in Latin America and the Caribbean goalsand activities to foster regional dialogue and coordination on international taxation.

**The Platform for Taxation in Latin America and the Caribbean (PTALC)’s Aim**

* Exchange experience and best practices
* Strengthen countries’ capacities and expertise
* Keep countries updated about latest development in international taxation
* Build unified positions at the international stage on the issues priorities by the region

Note: this is not a binding committee.

The platform has been launched during the Cartagena summit in July 2023, with Colombia holding the pretemporal presidency. In November, three working groups have been established: progressivity in taxation, environmental taxation and tax benefits.

**Governance:** PTLAC is built on a bottom-up approach – agenda of the working groups comes from the proposals of private and civil society organisations represented by advisory councils

* + Pyramidic structure: Advisory group --| working groups --| ministerial meetings

**What’s next**:

* Colombia will hand over presidency in May 2024 and new working plan will need to be prepared for the next year by the new presidency
* Output is generated by each working group will be presented to high level governments during the ECLAC Fiscal seminar schedule for May 2024 in Santiago, Chile
1. Finalizing outputs of reach working group
2. Sharing information and exchange views on ongoing discussions regarding international taxation at the OECD and the UN
3. Strengthening the PTLAC’s engagement on an international level

Q: ***Expansion of network engagement. Which challenges you face?***

A: Through technical work you can build consensus slowly – kind of similar economic structures – show countries regardless of political views that taxation should be addressed with a united framework. E.g. once Costa Rica got explained what the groups working practice and target is, they got excited – every country wants to profit from information frameworks and contribute from them.

Q: ***Possible impact of Pillar Two to South American countries: activities that consider Pillar Two consensus positions for Latin American?***

A: There were not many discussions on Pillar Two. The main interest is to share information in the forum.

**14:30 - 16.20 Commission working groups, projects and initiatives**

**6. Developments on indirect tax issues (15.10 – 15.50) – Marlon Van Ameersfoort** (Co-chair of the ICC Indirect Taxation Working Group) - online

* Members of ICC Indirect Tax had opportunity to participate last meeting of the UN Subcommittee on Indirect Taxation - also had the opportunity to provide comments, suggestions and share best practices.
* Reports being presented as drafts at the upcoming UN Tax Committee of experts sessions are:
	+ Overview of VAT/GST in developing countries
	+ VAT/GST treatment of small enterprises
	+ VAT refunds; and
	+ The use of new technologies to improve VAT/GST compliance (IT systems. E-invoices/big data)
* upcoming reports to be focused on specific sectors have been postponed to the next mandate of the UN Committee of Experts.
* Many of the points that ICC has raised have been taken onboard by the Subcommittee

**EU VIDA Proposal**

* ICC provided the comments to European Commission
* lots of progress behind the screens has been made, possible vote in May 2024
* Demand of clear time frame for implementation for businesses (at least a year)

**7. Tax implications of cross-border teleworking (14.30 – 14.50) – Tom Roesser** (ICC Vice-Chair Global Tax Commission and Chair of the ICC Taxation of Cross-border Teleworkers Working Group) – in person

Luisa Scarcella

* 67% of respondents indicated that they allow employees to work remotely – 82% have been asked by employees and/or prospective employees about the possibility to work remotely
* Highlights that lack of tax uncertainty influences whether companies allow employees to work remotely from abroad

Solutions that could be easily implemented in the framework:

* **Safe-Harbour** that does not trigger any tax/duties/levies, payroll, social security or related wage withholding registrations or liabilities:
	+ Definition of a day
	+ Multiple persons abroad in the same country
* **Compliance Simplification**

**Latest Developments**

* **UN:** so-calledWorkstream C under the Digitalised & globalised Subcommittee agenda has been paused. Topic might be picked up by next Commitee's mandate
* **OECD:** aware that the OECD Colleagues are starting to look at this topic. The ICC Working Group will have a meeting with Achim Pros, Jasna Voje and Yves Van Brussels on April 8th
* **Regional Developments:** PTLAC & EU

ICC Report draft will start in April, expression of interest from members is appreciated.

**8. Tax & Sustainability**

**This new working group has started working on the update of the Tax & SDG ICC Report from 2017 with the aim to present the updated version to the UN Summit of the Future.** This will takeplace in NYC (22-23rd September) - as of now, the Pact for the Future also includes references to taxation and the UN resolution in Chapter 5

The 2017 Position Paper structure will be changed according to the suggestions received by members via email and during the first call. For instance, references to former BEPS project are outdated or SDGs are missing – a formerly provided track-changes document provides information which parts are planned to be updated.

**9. Other presentations on NCs related projects: ICC Spain proposal for a statement on Windfall Taxes; Australian Public CbCR proposal, EU ICC NCs on tax decluttering.**

**Statement on Windfall Taxes**

This statement was proposed by ICC Spain and discussed by Rocio Bermudez, Vice-Chair of the ICC Global Tax Commission. Some members have raised doubts on the utility of having this public statement because the topic is not directly concerning the OECD or UN, proposal. Thus, it has been alternatively suggested to prepare a document that can offer ICC national committees talking points on this issue that can be used at national level if relevant and ensuring consistency across the ICC network.

**EU ICC NCs on tax decluttering**

Planned to ask the European national committees to provide input to this matter. It will be an initiative involving the EU national committees. Based on the first call with colleagues from the ICC national committees and their national tax commission, a survey will be shared in order to facilitate the collection of input and suggestions from members of the ICC network.

**Australian Public CbCR proposal** is mentioned and updated on by Luisa Scarcella on the latest public consultation.

**6.20 - 16.30 Upcoming events, date and location next Meeting**

**9. Date and location of next meeting and closing of the meeting**

A date and location have not been discussed yet.