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Committee of Experts on International Cooperation in Tax Matters

Report on the seventeenth session (16–19 October 2018)

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Note

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Chapter I
Introduction

1. Pursuant to Economic and Social Council resolution 2004/69 and decision 2018/262, the seventeenth session of the Committee of Experts on International Cooperation in Tax Matters was held in Geneva from 16 to 19 October 2018.

2. The seventeenth session was attended by 23 Committee members and 177 observers.

3. The provisional agenda and documentation for the seventeenth session, as adopted by the Committee (E/C.18/2018/8), was as follows:

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) Other issues:
     - (i) Update of the United Nations Practical Manual on Transfer Pricing for Developing Countries;
     - (ii) Update of the Handbook on Selected Issues for Taxation of the Extractive Industries by Developing Countries;
     - (iii) Update of the Manual for the Negotiation of Bilateral Tax Treaties between Developed and Developing Countries;
     - (iv) Treatment of collective investment vehicles;
     - (v) Dispute avoidance and resolution;
     - (vi) Capacity-building;
     - (vii) Environmental tax issues;
     - (viii) Tax consequences of the digitalized economy — issues of relevance for developing countries;
     - (ix) Taxation of development projects;
     - (x) Other matters for consideration;
     - (xi) Tax issues of royalties.
4. Provisional agenda for the eighteenth session of the Committee.
5. Adoption of the report of the Committee on its seventeenth session.

Chapter II
Organization of the session

Opening of the seventeenth session and adoption of the agenda

4. On 16 October 2018, the seventeenth session of the Committee of Experts on International Cooperation in Tax Matters (the Committee) was opened by the Committee Co-Chairs, Carmel Peters and Eric Mensah. The Director of the Financing for Sustainable Development Office of the Department of Economic and Social Affairs of the Secretariat, Navid Hanif, gave welcoming remarks on behalf of the Secretary-General.

5. Mr. Hanif underscored the critical importance of the work of the Committee in the context of sustainable development and the 2030 Agenda for Sustainable Development. He emphasized the role of development-oriented tax policies and efficient tax administration in increasing domestic resources for financing sustainable development. He noted the importance of the year 2019 in that context, with major events to be held, including the High-level Dialogue on Financing for Development and the high-level political forum on sustainable development. The latter's theme will be "Empowering people and ensuring inclusiveness and equality". He urged the Committee to take advantage of those opportunities by proposing action on taxation for the Sustainable Development Goals that embodied a global approach and could be endorsed by world leaders. He drew attention to the Secretary-General's recent strategy for financing the 2030 Agenda (2018–2021) and the key role of improved international tax cooperation in that strategy.

6. Mr. Hanif introduced the Development Cooperation Forum, which would be held next in 2020, as an important global and multi-stakeholder platform for advancing development cooperation. He pointed out the key role that improved tax cooperation could play in such a platform and invited the Committee to continue to consider and provide comments on how its work did and might further feed into various aspects of sustainable development, including achieving the Sustainable Development Goals as part of the 2030 Agenda.

7. Mr. Hanif referred to some of the key items on the agenda of the seventeenth session of the Committee, including the updating of the United Nations Model Double Taxation Convention between Developed and Developing Countries and the accompanying Manual for the Negotiation of Bilateral Tax Treaties between Developed and Developing Countries. He noted the importance of other work streams on extractive industries, environmental taxation, development projects, dispute avoidance and resolution and practices and procedures. He invited the Committee to reflect on how its work on the digitalized economy could help to shape the current thinking on adjusting taxation rules and legislation to the new developments, challenges and opportunities of the digitalized global economy. He also mentioned the need to modernize tax administrations by using digital tools to increase tax collection efficiency and increase domestic resources for development.

8. Mr. Hanif recognized the importance of the policy and administrative guidance provided by the Committee, in the form of models, handbooks and manuals, which included such guidance documents being translated into concrete action to assist countries, especially developing ones, through the capacity development work of the Financing for Sustainable Development Office. He concluded by noting the continuing resource constraints on the work of supporting the Committee, at a time when increasing assistance was sought, and pledged to continue to support the work of the Committee, notwithstanding those constraints.

9. Committee members taking the floor expressed satisfaction at the encouraging words of Mr. Hanif and his availability to help on the logistical front, as evidenced by the organization of a series of subcommittee meetings while members were present for the session.

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

A. Procedural issues for the Committee

10. In a closed session, the Coordinator of the Subcommittee on Practices and Procedures, Stephanie Smith, presented a conference room paper on procedural issues for the Committee based on the rules of procedure of the Economic and Social Council, discussions at the sixteenth session and the rules and practices established during previous Committee sessions. The Secretariat undertook to consult internally to facilitate the work of the Subcommittee.

11. Following a discussion, it was decided that a further draft would be prepared for comment by Committee members and that further discussions would be held within the Subcommittee and with the various interested parts of the Secretariat, with a view to completing a set of draft rules for approval by the Committee at its next session.

B. Environmental tax issues

12. The Coordinator of the Subcommittee on Environmental Taxation Issues, Natalia Aristizabal Mora, presented a conference room paper on carbon taxation (E/C.18/2018/CRP.14). She began by recalling the discussion held during the sixteenth session, in New York in May 2018. At that session, the Subcommittee sought approval from the Committee to initially focus on issues related to carbon taxation, while keeping other aspects of environmental taxation in its future work programme. A Subcommittee meeting held in Brussels in February 2018, very effectively hosted and financially supported by the European Commission, had helped to take forward that work, and a proposed summary outline for a guidance document was annexed to the paper under consideration.

13. Susanne Åkerfeldt addressed the contents of the proposed summary outline and sought input from the Committee and participants. The outline highlighted some of the key topics to be studied, including how to levy a carbon tax, who should pay the tax, how any tax exemption would work and what would be the best tax rate. The issue of appropriate definitions for “environmental taxation”, “environmentally related taxation” and “carbon tax” had been raised, and a small team within the Subcommittee was looking at such definitional issues.

14. The Coordinator invited Committee members and observers to provide country experiences on carbon tax policy and implementation for inclusion in the guidance. She indicated that, whether or not a policy was deemed successful, sharing the experience would be informative for countries still in the process of defining their carbon tax policies.

15. Members and observers taking the floor expressed their satisfaction with both the direction that the Subcommittee was taking and the summary outline, and some promised to contribute their countries’ experiences once the format for such input was conveyed. The Coordinator promised to examine that request and inform participants on how to provide county experiences.

16. The Coordinator indicated that the Subcommittee would provide some substantial drafting for consideration by the Committee during its next session, in New York in April 2019. The Committee thanked the Subcommittee for the progress made.

C. Tax consequences of the digitalized economy — issues of relevance for developing countries

17. The Co-Coordinators of the Subcommittee on Taxation Issues Related to the Digitalization of the Economy, Aart Roelofsen and Babatunde Fowler, were invited to present conference room paper E/C.18/2018/CRP.12, dealing with tax issues related to the digitalized economy.

18. Mr. Roelofsen introduced the topic by stressing the need for the Subcommittee to decide on the focus and timetable of its work and to avoid duplication of the work done at the Organization for Economic Cooperation and Development (OECD) and in other forums, such as the European Union. The concerns of developing countries should therefore be the focus of the work of the Subcommittee.

19. Mr. Roelofsen reviewed E/C.18/2018/CRP.12, which set up the context in which the Subcommittee would carry its work and which outlined recent developments related to taxation on the digitalization of the economy, including the March 2018 OECD interim report on the tax challenges arising from digitalization, the various documents related to the same topic that the European Commission had also released in March 2018 and some relevant provisions of the Tax Cuts and Jobs Act of 2017 of the United States of America, which became effective in 2018. The conference room paper also includes a draft questionnaire intended to seek the input of all United Nations Member States on various tax issues related to the digitalization of the economy.

20. Mr. Fowler commented on the impact of the digitalization of the economy on developing countries and on the composition of the Subcommittee, which was currently drawn only from Committee members. He observed that the Subcommittee intended to solicit input from other stakeholders, including business, through other means.

21. Some members stressed that the Subcommittee should focus on the question of the allocation of taxing rights, which was not a new issue for the Committee. It was suggested that a solution to the difficulties of taxing new business models could be found within the context of the United Nations Model Double Taxation Convention between Developed and Developing Countries, such as by allocating taxing rights to the market jurisdiction on the basis of what the United Nations had already recommended with respect to royalties and payment for services. Various suggestions were made, including a “significant economic presence” or “digital permanent establishment” test. The question that would then need to be addressed, however, would be how to attribute business profits in such a case.

22. Various views were expressed on the suggestion to allocate taxing rights to the market jurisdiction. Some participants took the view that taxation should take place when value was created, which, in their opinion, did not occur in such cases, and that income and consumption taxes were different. Others interpreted the concept of “value creation” differently or did not see the term as helpful in finding solutions, while others questioned the revenue potential for the digitalized economy for most developing countries.

23. Many members referred to the work already done by OECD, but opinions differed on whether that work necessitated that the Committee act quickly or adopt a “wait and see” approach. The observer for OECD referred to the large number of countries that were working together within the context of the OECD Inclusive Framework on Base Erosion and Profit Shifting, with a view to finding a solution that could be implemented easily. She noted that the Committee could contribute to that work by identifying the specific needs of developing countries and that a new form

of permanent establishment could not be adopted without knowing which profits would be attributed to such a permanent establishment.

24. The observer from the International Monetary Fund (IMF) described the work currently being done there on the taxation of the digitalized economy and noted a forthcoming paper (scheduled to be published in February 2019) on the issue.

25. One observer from the business sector referred to the work of OECD on the collection of a value added tax (VAT) through online platforms as a promising avenue to ensure that taxes on consumption were collected. She and others noted the importance of not seeking to "ring fence" a digitalized economy, as opposed to the "non-digital" economy.

26. Mr. Roelofsen noted with thanks the many views and suggested that the Subcommittee could prepare a decision tree that would identify the various issues, the risks that they presented and the possible ways of addressing them.

27. A large number of interventions focussed specifically on the draft questionnaire included in annex 1 to E/C.18/2018/CRP.12. Mr. Fowler suggested that the questionnaire could include questions for tax authorities and businesses. Further thought needed to be given to the final form of and the modalities of sending the questionnaire. Various comments were made on the proposed questionnaire, including that it be preceded by expert advice sought on possible measures that countries could adopt (i.e., a consultant's report on options); that it better draw a distinction between tangible and intangible assets; that it be used to explicitly seek suggestions on provisions of the United Nations Model Double Taxation Convention between Developed and Developing Countries that might assist in dealing with the digitalized economy; that it address the compliance burden and impact on business of unilateral measures; and that it include questions about the difficulties of the registration and collection of VAT and a goods and services tax from foreign suppliers.

28. Some members questioned the need for a questionnaire. For them, it was not clear how it would better inform and guide the work of the Subcommittee.

D. Update of the United Nations Practical Manual on Transfer Pricing for Developing Countries

29. The Co-Coordinators of the Subcommittee on Article 9 (Associated Enterprises): Transfer Pricing, Ingela Willfors and Stig Sollund, reported on the progress made since the last meeting and on the next steps for the work of the Subcommittee.

30. Ms. Willfors recalled that the Subcommittee comprised 27 members organized in several drafting groups. The Subcommittee held two meetings in New York, in February and May 2018, in which the work streams and formation of drafting groups were decided. A third meeting was held in Quito in October. The Government of Ecuador was thanked for hosting the meeting very effectively.

31. Ms. Willfors noted that the following items were discussed at the meeting held in Quito: (a) a new chapter on financial transactions; (b) centralized procurement functions; (c) comparability issues; (d) a general update of the United Nations Practical Manual on Transfer Pricing for Developing Countries; (e) an update and revision of specific chapters of the Manual; (f) part D of the Manual, on country practices; and (g) the relationship between transfer pricing and customs valuation.

32. A Subcommittee member, Monique van Herksen, presented the outline of a new chapter on financial transactions. She noted that the chapter would deal with the importance of corporate financing decisions among multinational groups and how

those decisions could lead to tax base erosion. It was noted that the chapter would comprise a detailed discussion of intragroup loans and financial guarantees. She also reported that the Subcommittee was planning to have a draft for circulation and review at the next meeting of the Committee.

33. Ms. Willfors indicated that the Subcommittee was also working on a substantial revision to the guidance contained in the Manual on the transactional profit-split method. She mentioned that the focus was on aligning that guidance with the work done in the context of the Inclusive Framework on Base Erosion and Profit Shifting, while providing more practical examples. She also noted that the revision would provide further guidance on when and how to use the profit-split method.

34. It was also noted that the revision of the chapter in the Manual dealing with comparability analysis would include further examples and suggestions to address the lack of comparables. To that end, the revised chapter would also draw upon the guidance contained in the toolkit for addressing difficulties in gaining access to comparable data for transfer pricing analyses, which had been developed by the Platform for Collaboration on Tax, a joint initiative of the United Nations, IMF, OECD and the World Bank aimed at strengthening cooperation and capacity-building support to developing countries in tax matters.

35. Mr. Sollund provided an update on the status of the work on centralized procurement functions, which had been identified, during a workshop held in Eswatini in December 2017, as a pressing problem for tax administrations in developing countries. He reported that the Subcommittee was planning to provide broader and more in-depth analysis and guidance on the issue and on centralized sales functions. He noted that the Subcommittee would work on updating specific chapters in the Manual, including those dealing with transfer pricing in a global economy, the general legal environment, audits and risk assessment and establishing transfer pricing capability in developing countries.

36. Mr. Sollund noted that the Subcommittee would also work on a general review and revision of the Manual aimed at eliminating any overlap and repetition, improving the natural flow of themes and issues, cutting back on text where appropriate and considering the inclusion of more examples of significant relevance to developing countries.

37. It was reported that the Subcommittee was planning to hold its next meeting in Vienna in February 2019, with a view to discussing new and revised drafts of chapters of the Manual that would be presented for discussion, not for approval, at the next meeting of the Committee.

38. Several Committee members took the floor to welcome, support and stress the importance of the work of the Subcommittee and the relevance of the scope of the its mandate and to support the programme of work. They also stressed the importance of continuing the work in support of countries strengthening their technical capacity on transfer pricing. Other participants expressed their interest in working with the Subcommittee.

E. Update of the handbook on extractive industries taxation issues for developing countries

39. The Co-Coordinator of the Subcommittee on Extractive Industries Taxation Issues for Developing Countries, Ignatius Mvula, reported on the outcome of the Subcommittee meeting held in Madrid on 20 and 21 June 2018, in which the discussion focused on how to address topics for expansion of the United Nations Handbook on Selected Issues for Taxation of the Extractive Industries by Developing

Countries. Additional priority areas for developing countries were identified, including tax incentives, the tax treatment of financial transactions related to extractive industries, trade mis-invoicing issues, production-sharing agreements, the tax treatment of service providers and subcontractors, practical guidance on auditing mining and oil and gas activities, and environmental tax issues.

40. Mr. Mvula reported that the Subcommittee had agreed to develop six new chapters (with the exception of environmental taxation, for which work would be on hold, pending the work of the relevant Subcommittee) and presented the outlines of such chapters (see E/C.18/2018/CRP.18), as produced by working groups within the Subcommittee.

41. With respect to tax incentives in the oil and gas and mining industries, Mr. Mvula indicated that the new chapter on the tax incentives would focus on policy aspects and the effectiveness of tax incentives, including an analysis of examples to determine whether their net effect had been positive. He also stated that the chapter on the tax treatment of financial transactions would not only deal with specific issues, but also contextualize them in the overall value chain. It would also provide guidance in terms of tax policy options available to address risks arising from financial transactions, including debt financing, hedging, finance leasing and thin capitalization. Work already performed by OECD and the Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development would be considered in drafting the chapter. As far as trade mis-invoicing and trade mispricing were concerned, Mr. Mvula highlighted that the chapter would deal only with non-transfer pricing issues.

42. Susana Bokobo, the lead of the working group on production-sharing agreements, reported on the progress made on the relevant new chapter, which would address issues of the government “take” in the oil and gas and the mining sectors. Other issues addressed in the chapter would include practical guidance on some of the most common tax aspects of production-sharing agreements; the relationship between such agreements and the domestic and international tax legal framework; tax stability clauses; and profit and cost splits. She also mentioned that practical examples would be included in the chapter, potentially including from Brazil, Indonesia, Nigeria and Viet Nam and called for input from the Committee on other relevant country experiences.

43. Hafiz Choudhury, the lead of the working group on the tax treatment of service providers and subcontractors, presented the outline of the new chapter, noting that it would be particularly relevant owing to the frequent lack of clarity on the taxation of subcontractors and service providers, which was a very specific issue to the extractives sector. He highlighted that the issue was often addressed in a fragmented way by governments and that the tax administrations of developing countries faced challenges in dealing with the topic. For those reasons, he stressed that the new chapter would provide specific and practical guidance and deal only with issues not covered elsewhere in the literature. After soliciting Committee feedback on whether the outline should include a discussion of payroll taxes, he received general support for the inclusion of such issue, although the Subcommittee would need to further define its relevance and scope.

44. Mr. Mvula reported that a short Subcommittee meeting would be held in Geneva on 20 October 2018 and that the subsequent full meeting, to take forward the work on the update and expansion of the Handbook, would be held in Viet Nam on 7 and 8 March 2019, owing to the generous hosting of the Government of Viet Nam, the day after a one-day regional capacity development seminar. It would be a pilot project to hold capacity development events and subcommittee meetings consecutively to

better draw upon country experiences and expertise in the work of the Subcommittee and improve its relevance.

F. Taxation of development projects

45. Mr. Mensah noted that, on 10 September 2018, the decision to proceed with the guidance on the taxation of official development assistance (ODA) projects was taken through written procedure.

46. The Secretariat referred to the proposal, in paragraph 9 of conference room paper E/C.18/2018/CRP.15, that a subcommittee on the tax treatment of ODA projects be set up. Doing so would allow a full discussion of the substantive issues raised in the written comments on a previous note (see E/C.18/2018/CRP.5) that had been received from two Committee members following the sixteenth session. It would also ensure that work in that area benefited from the input from various stakeholders, including members from developing countries who had practical experience with various tax exemptions for ODA projects.

47. The Committee members who commented on that suggestion supported the creation of a subcommittee to deal with the issue, and the Committee so decided. Mr. Mensah concluded that there was clear support for setting up a subcommittee on the tax treatment of ODA projects and invited the Committee to discuss the mandate suggested in paragraph 11 of E/C.18/2018/CRP.15.

48. One Committee member suggested that the proposed mandate should be broadened to include the question of whether it was appropriate to grant tax exemptions for ODA projects. While an observer asked whether the mandate should refer to changes to the United Nations Model Double Taxation Convention between Developed and Developing Countries that could result from the work in that area, some Committee members and one observer responded that there was no need to refer to treaty changes, given that the issue concerned primarily tax exemptions granted under domestic law.

49. It was agreed that revised wording of the mandate would be presented for approval during a closed session.

50. Marlene Nembhard-Parker was proposed as Coordinator for the new subcommittee, supported and unanimously approved by the Committee.

51. Natalia Aristizabal Mora, Abdoulfatah Moussa Arreh, Margaret Moonga Chikuba, Dang Ngoc Minh, Patricia Mongkhonvanit, Ms. Peters, Mr. Roelofsen, Elfrieda Stewart Tamba and Christophe Waerzeggers all expressed an interest in joining the subcommittee. The Secretariat indicated that, given the work on the same issue being carried on by the Platform for Collaboration on Tax, it would make sense to invite officials from the Platform partners to join the subcommittee.

52. The mandate and composition of the subcommittee was finalized in a subsequent closed session and noted in an open session. The composition is as noted above and the mandate is as follows:

> The Subcommittee is mandated to address the issues arising from the tax treatment of ODA projects and, in particular, to update and finalize the 2007 draft guidelines on the tax treatment of ODA projects that were attached to note E/C.18/2018/CRP.5, taking into account, among other things, the annotations included in that document and the written comments sent by Committee members. In carrying on that work, the Subcommittee shall:
>
> (a) Pay special attention to the experience of developing countries and of governmental and inter-governmental donor agencies;

(b) Ensure that its work draws upon and feeds into, as appropriate, the relevant work on the issue done in other forums, especially the Platform for Collaboration on Tax.

The aim of the Subcommittee shall be to present to the Committee a revised version of the 2007 draft guidelines for consideration, with a view to their adoption at the first meeting of the Committee in 2020. Updates on the progress of the work shall be provided to the Committee at each preceding session. The Subcommittee may request the Secretariat to develop necessary inputs and provide necessary support within its resources.

G. Dispute avoidance and resolution

53. Mr Mensah briefly described the progress on the work on dispute avoidance and resolution since the last meeting of the Committee. The Subcommittee on Dispute Avoidance and Resolution met in Vienna in July 2018. Following that meeting, the Secretariat worked on the preparation of a revised draft version of the chapter on mutual agreement procedure of the proposed handbook on dispute resolution and avoidance. The preliminary draft of the chapter included in conference room paper E/C.18/2018/CRP.13 was presented to the Committee for discussion and guidance, with a view to preparing a final draft of the chapter for final discussion at the next session. Work on the other chapters of the handbook was expected to be finalized later.

54. The Co-Coordinators of the Subcommittee, George Omondi Obell and Cezary Krysiak, were invited to present the conference room paper. Mr. Krysiak recalled that, at the sixteenth session of the Committee, it had been decided that the chapter should take account of the report on action 14 of the OECD Action Plan on Base Erosion and Profit Shifting, where relevant, and that chapter 4 of the handbook, on special issues faced by developing countries, should be merged with the chapter on mutual agreement procedure. When the Subcommittee met in Vienna in July 2018, it discussed how to do so and agreed to add references to the minimum standards and best practices of the report; incorporate into the chapter on mutual agreement procedure the parts of the chapter on special issues faced by developing countries that dealt with the procedure; and incorporate the rest of the chapter on special issues into chapter 1 (introduction and overview).

55. Mr. Krysiak invited the Committee to discuss the preliminary draft of the chapter on mutual agreement procedure included in E/C.18/2018/CRP.13, which had been prepared by the Secretariat in accordance with those decisions and, in particular, the specific issues identified in paragraph 6 of the conference room paper. Below are summaries of those issues and the guidance that was provided by the Committee.

Mutual agreement procedure under European Union Law

56. Both the Convention on the Elimination of Double Taxation in Connection with the adjustment of Profits of Associated Enterprises and European Council Directive 2017/1852 of 10 October 2017 on tax dispute resolution mechanisms envisage a mutual agreement procedure that is parallel to or overlaps the procedure under tax treaties. Given that the scope of these instruments is limited to disputes between European Union member States, this form of mutual agreement procedure had not been addressed in the chapter on the procedure. The Committee was invited to indicate whether it agreed with that approach. While one member considered that it could be useful to discuss those instruments in the chapter, most members who spoke on the issue considered that the chapter should focus exclusively on the mutual agreement procedure under tax treaties, noting that the Convention and the Directive

did not apply to the mutual agreement procedure involving non-European Union countries. It was nevertheless agreed that a reference to the existence of those instruments should be added in a footnote or a short paragraph.

Action 14 of the Action Plan on Base Erosion and Profit Shifting

57. The Committee was invited to discuss whether the chapter on mutual agreement procedure correctly reflected the decision taken at the sixteenth session of the Committee concerning the inclusion in the proposed handbook on dispute resolution and avoidance of references to the report on action 14. The members who intervened on the issue agreed that the chapter accurately reflected that decision. It was also agreed that, although the chapter already indicated that the minimum standards outlined in that report applied to countries that had joined the Inclusive Framework on Base Erosion and Profit Shifting, it should be further emphasized that countries that were not part of the Inclusive Framework were not bound to follow those minimum standards.

Typical steps of an article 25 (1) mutual agreement procedure

58. The Committee was invited to discuss whether it agreed with the description of the five typical steps of an article 25 (1) mutual agreement procedure that had been presented on the diagram included in paragraph 36 of the chapter on mutual agreement procedure. Members intervening on the question agreed, in general, with the description of the five steps. Some suggestions were nevertheless made about the visual presentation of those steps. While it was suggested, for example, that the headings of the five steps could be introduced before the diagram, it was later observed that that had already been done in paragraph 35 of the chapter.

59. It was also observed that, in practice, a competent authority of one State might approach the competent authority of another before reaching a decision on whether a case was acceptable. The Secretariat indicated that the diagram was aimed at providing a step-by-step description of the mutual agreement procedure, even though some of the steps might, in practice, be omitted or might occur simultaneously. It also added that the diagram made a clear distinction between the first step of the mutual agreement procedure, which related to “accepting” a request, and the second and third steps, which dealt with the evaluation of the merits of the request. Several members thought that the phrase “accept the request” used in the description of the first step could be misleading, given that it could be read to suggest a decision on the merits of the request. Various suggestions were made for replacing the reference to “accepting” a request in the first stage of the mutual agreement procedure (e.g., by referring to the “eligibility of the request” or to “access to the mutual agreement procedure”), and it was agreed to examine the possibility of making such a change.

60. While one member stressed the importance of the time limits for making a mutual agreement procedure request and for resolving a case, the Secretariat indicated that those were different issues, which were discussed separately in the chapter on the mutual agreement procedure. It also indicated that there was no time limit for concluding a mutual agreement procedure case (except for the purposes of arbitration, if provided for in a treaty), even though the report on action 14 made reference to an average target time frame for completing such cases.

Flow chart of main action involved in each step of the mutual agreement procedure process

61. The Committee was also invited to discuss the simple flow chart, included in paragraph 36 of the chapter on mutual agreement procedure, of the main action involved in each steps of a typical mutual agreement procedure. Most comments on

the flow chart were made as part of the comments on the diagram included in the same paragraph (see above). One intervention dealt with the visual presentation of the flow chart, which appeared to suggest that the unilateral phase of the mutual agreement procedure was more important than the bilateral one. While one member expressed the view that there was no need to change the flow chart, it was agreed to examine possible ways of addressing that concern.

Tentative timetable for the mutual agreement procedure process

62. The Committee was invited to comment on the tentative timetable, included in paragraph 87 of the chapter on mutual agreement procedure, for the action involved in a typical mutual agreement procedure under article 25 (1). In response to a question, the Secretariat explained that the timetable was not intended to be prescriptive and was prepared on the basis of mutual agreement procedure practice of some countries, of what had previously been included in the guide on mutual agreement procedure and of recommendations derived from action 14. At the request of a few members, it was agreed that the word "suggested" should be added before "timetable" in the heading of the table.

63. In response to a question about whether different timetables should be used for transfer pricing cases and other cases, the observer from OECD responded that it would be difficult to do so, given that each transfer pricing case was different. One member indicated that the action 14 arbitration subgroup had reached the same conclusion.

64. Most of the comments focussed on the one-week period suggested in the timetable for one competent authority that wished to do so to confirm that it had received a notification from the competent authority of the other State that a mutual agreement procedure request had been received. The question was asked whether that suggestion should be made a recommendation and whether the suggested time period should be expanded to reflect the resource constraints of developing countries. While it was agreed, in general, that the chapter on mutual agreement procedure should include recommendations that countries send such a confirmation of the receipt of the notification, members expressed different views on the suggested time period. Some members thought that the period should not be changed because it was non-binding and confirming the receipt of a notification was a simple task. Other members thought that the period should be extended to two weeks, three weeks or one month because the notification might not be received by the persons in charge of mutual agreement procedure cases and the persons who received the notification might wish to consult before responding. Mr. Krysiak concluded the discussion of the issue by inviting the Subcommittee to consider amending the relevant part of the timetable in the light of the various comments and suggestions that had been made so that the Committee could reach a decision on the issue at its next meeting. One member expressed the view that the same issues arose with respect to the one-month period suggested in the timetable for the entity that had made the mutual agreement procedure request to indicate whether it accepted a proposed agreement.

65. After the discussion of those issues, the Secretariat, referring to paragraph 9 of E/C.18/2018/CRP.13, briefly described the next steps for the finalization of the chapter on mutual agreement procedure and of the other parts of the handbook. The observer for the World Bank Group stressed the importance of including the relevant parts of chapter 4 in the chapter on mutual agreement procedure and encouraged the Subcommittee to reach out to developing countries to reflect their experience in the handbook.

66. Another observer and Mr. Krysiak referred to the earlier decision of the Subcommittee to include the main part of chapter 4 in chapter 1 of the handbook. In

response to a question, the Secretariat reminded members and country observers that written comments on the preliminary draft of the chapter on mutual agreement procedure should be sent to the Secretariat before 30 November 2018, as indicated in paragraph 7 of E/C.18/2018/CRP.13.

H. Capacity-building

67. Jacques Sasseville and Harry Tonino of the Secretariat provided an update on the progress made in implementing and further developing the Department for Economic and Social Affairs capacity development programme in international tax cooperation. They noted global and country-level training and technical cooperation activities, including a course on base eroding payments and general anti-avoidance rules, held in Port of Spain from 11 to 14 June 2018, in cooperation with the Inter-American Center of Tax Administrations; a technical assistance mission undertaken in Ulaanbaatar from 18 to 22 June 2018, in cooperation with Strengthening Extractive Sector Management in Mongolia, an initiative funded by Global Affairs Canada; practical workshop on the negotiation of tax treaties, held in Vienna from 16 to 20 July 2018, in cooperation with OECD; a workshop on tax base erosion and multilateral instruments and a course on double tax treaties held in Quito from 30 July to 3 August and from 6 to 9 August 2018, respectively; a course on tax treaty interpretation and administration held in Santo Domingo from 27 to 31 August 2018; and a course on tax treaties held in Panama City from 24 to 28 September 2018.

68. Mr. Tonino reported on the progress made in further developing and disseminating capacity-building publications, including the translation into French of the United Nations Handbook on Selected Issues in Protecting the Tax Base of Developing Countries; the translation in all six official United Nations languages of summaries of the practical portfolios on protecting the tax base of developing countries dealing with services (E/C.18/2018/9), interest (E/C.18/2018/10) and rent and royalties (E/C.18/2018/11); the development of the practical portfolio on general anti-abuse rules; and the release in print, both in English and in Spanish, of the publication entitled “Design and assessment of tax incentives in developing countries: selected issues and a country experience”. He also reported that the online primer on double tax treaties had been made available and opened for registrations, both in English and in Spanish, and that work on the French version was in progress. He also noted that work had also already begun on the development of the online primer on transfer pricing, which would be made available in English, French and Spanish. A tentative programme of work for the period from October 2018 until the next session of the Committee was also presented.

69. Mr. Tonino provided also an update on the work carried out in the context of the Platform for Collaboration on Tax. Activities were organized under three main workstreams, namely, a Platform-wide coordination of capacity development initiatives, analytical work, including the development of toolkits, and outreach and engagement. He outlined the work plan for the biennium 2019–2020 for each of those work streams.

70. Mr. Tonino indicated a proposed strategy to ensure greater and mutually reinforcing synergies between tax policy and capacity-building work to allow for a more inclusive, strategic and effective approach in addressing tax-related issues in support of and feeding into the Secretary-General’s strategy for financing the 2030 Agenda. The strategy is aimed at increasing the active participation of country representatives in Committee and Subcommittee work, including by organizing Subcommittee meetings and capacity development workshops consecutively, where possible, thereby facilitating understanding and consideration of relevant issues.

71. Several members of the Committee and observers commended the capacity development work, welcomed the launch of online courses and encouraged the Financing for Sustainable Development Office to continue and expand that work. Support was also expressed for increasing the dynamic interaction between tax policy and capacity-building work.

I. Update of the United Nations Manual for the Negotiation of Bilateral Tax Treaties between Developed and Developing Countries

72. The Coordinator of the Subcommittee on Tax Treaty Negotiation, Ms. Mongkhonvanit, referred to the mandate that had been given to the Subcommittee to prepare a revised version of the United Nations Manual for the Negotiation of Bilateral Tax Treaties between Developed and Developing Countries. She briefly described the scope of the work that had been done by the Subcommittee, including its meeting in September in Paris, hosted by OECD, and the process followed to prepare the draft revised version of the Manual included in conference room paper E/C.18/2018/CRP.11, which the Committee was invited to discuss, focussing in particular on the issues identified in its paragraph 6.

73. The Secretariat thanked those Committee members who had sent written comments on the preliminary draft (see E/C.18/2018/CRP.4) discussed at the sixteenth session of the Committee. It then presented each of the issues on which the Committee's guidance was requested.

74. Outlined below are summaries of those issues and the guidance that was provided by the Committee.

Changes to the United Nations Model Double Taxation Convention between Developed and Developing Countries that will result from other work

75. The conclusion of the Subcommittee that there was no reason to delay the completion and publication of the revised Manual, pending the ongoing revision of the United Nations Model Double Taxation Convention between Developed and Developing Countries, was discussed. There were no objections to that approach.

Guidance on the prioritization of countries with which a country should negotiate treaties

76. Paragraph 80 of the draft revised Manual indicates that "[o]nce a country has developed its tax treaty policy framework and its country model as discussed above and has determined an order of priority of the countries with which it intends to have tax treaties, it will be in a position to start preparations for actual negotiations with another country". In written comments, one member had suggested that more guidance about that prioritization should be given. The Subcommittee did not provide guidance on that issue, given that many tax and non-tax factors intervene in the decision to undertake tax treaty negotiations with one country rather than another. The Committee was invited to discuss whether and, if so, what guidance on that issue should be added to the Manual. One member expressed the view that, while that was an important issue, it might more appropriately be addressed in the toolkit on tax treaty negotiation on which the Platform for Collaboration on Tax was working. Other members supported that suggestion. Different views were subsequently expressed by members and observers, but most of those interventions focused on possible guidance on whether treaties should be negotiated with countries whose tax systems had specific features, such as preferential regimes, rather than on the priority that should be given to negotiating treaties with some countries rather than others. The Secretariat concluded that guidance on the issue of whether a tax treaty should be entered into

with a country was already included in the Manual on the basis of what was already found in the introduction to the United Nations Model Double Taxation Convention between Developed and Developing Countries and that it appeared to be appropriate to follow the suggestion to leave it to the Platform to provide any guidance necessary on that issue.

Non-negotiable provisions

77. It was recommended in paragraph 97 of the draft revised Manual that provisions that treaty negotiators present as "non-negotiable" be communicated to the other negotiation team in advance of a negotiation meeting. The Committee was invited to discuss whether that recommendation should be included in the Manual. One member and one country observer expressed the view that a country should not be expected to communicate its non-negotiable provisions ahead of a negotiation meeting and therefore suggested the deletion of the recommendation. Other members and observers, however, considered that the recommendation should be kept. It was agreed, however, that it should be clear that the recommendation applied only to positions that were truly non-negotiable and, therefore, that the example of the inclusion of article 26 as the international standard on exchange of information should be added to the paragraph to illustrate what was a non-negotiable provision for most countries.

Countries that cannot agree on the use of a single working draft

78. The last bullet of paragraph 105 of the draft revised Manual refers to the situation in which the two countries cannot agree on a single working draft at the beginning of the negotiation meeting and indicates that each country would then have to work with its own draft. While a few members indicated a preference for deleting the last bullet point, most members who spoke on the issue preferred to keep it but to make it clear that the use of different working drafts would create difficulties. It was agreed to amend the last bullet of paragraph 134 accordingly.

Use of agreed minutes during treaty negotiations

79. Paragraph 134 of the draft revised Manual refers to the practice of some countries of producing agreed minutes during treaty negotiations without recommending that countries follow that practice. The Committee was invited to discuss whether the Manual should recommend the use of agreed minutes. Most members who spoke on the issue supported the idea of recommending the use of agreed minutes. Various suggestions were made regarding what the agreed minutes should include and how they should be prepared. It was therefore agreed to amend paragraph 134 to recommend the use of agreed minutes and explain what could be included in them.

Registration of treaties with the Secretariat

80. Paragraph 162 of the draft revised Manual indicates that "some countries register this treaty with the Secretariat of the United Nations in accordance with Article 102 of the Charter of the United Nations". The Committee was invited to discuss whether that paragraph should remain as drafted or whether the Manual should include the recommendation that countries register their tax treaties with the United Nations. Various views were expressed on that issue. Some members supported including such a recommendation, while others preferred to keep the paragraph as drafted and one member suggested the deletion of the paragraph. While one observer suggested that the registration of tax treaties would increase transparency and facilitate access to tax treaties, it was noted that, because treaties were registered in their authentic texts without translation, registration with the

Secretariat would not be a substitute for the use of commercial databases that included more tax treaties and their English translations. Following the discussion, it was agreed to redraft the paragraph to quote paragraph 1 of Article 102 of the Charter of the United Nations and to refer to the need to agree on which country and which ministry (typically the ministry in charge of foreign affairs) would deal with the obligation imposed under that Article.

Substantive change concerning the application of the OECD Model Tax Convention on Income and on Capital to payments of royalties made to recipients who are not beneficial owners

81. Paragraph 394 of the draft revised Manual does not reproduce the following two sentences found in the current version of the Manual: “Article 12 of the OECD Model does not apply to royalties arising in one state that are paid to, but not beneficially owned by, a resident of the other state. Such royalties will generally fall instead under article 7 or article 21 of the OECD Model”. The Subcommittee proposed deleting those sentences because it doubted that countries that followed the wording of the OECD Model would agree that article 7 or 21 of the OECD Model would apply to such royalties.

Substantive change concerning source taxation limits or exemptions for film rentals and copyright royalties

82. Paragraph 400 of the draft revised Manual includes the following sentences: “The Commentary discuss the pros and cons of such reduced limits or exemptions for film rentals and copyright royalties. When considering a reduction or exemption for royalties for the use or right to use literary, artistic or scientific work, treaty negotiators should first review the scope of their domestic copyright law since computer software is treated as literary work under the copyright law of many countries.” In the current version of the Manual, however, the sentence reads: “Such a lower rate, or exemption, could apply to specified categories of royalties, such as film rentals, copyright royalties or equipment leasing payments, where significant expenses may be incurred in deriving the income”. The Subcommittee replaced the sentence found in the current version of the Manual because, in many countries, copyright royalties would include payments for the use or the right to use the copyright of a software (e.g., a payment made in order to acquire the right to modify copyrighted software and distribute the modified software) and that treaty negotiators might not always realize that an exemption for “copyright royalties” would cover such payments.

83. Ms. Mongkhonvanit concluded the discussion by indicating that changes would be made to the draft revised Manual to reflect the guidance provided by the Committee on the above-mentioned issues. She invited Committee members and country observers wishing to send written comments on other aspects of the draft revised Manual to do so by 31 January 2019. A revised draft of the Manual would then be prepared by the Subcommittee and be presented for final discussion and approval by the Committee at its eighteenth session, in April 2019.

J. Issues related to the update of the United Nations Model Double Taxation Convention between Developed and Developing Countries (including the treatment of collective investment vehicles)

84. Mr. Mensah referred to the following notes for discussion: conference room paper E/C.18/2018/CRP.8, the report of the Subcommittee on Updating the United Nations Model Double Taxation Convention between Developed and Developing

Countries, which identified possible topics to be addressed in the next update of it; conference room paper E/C.18/2018/CRP.9, which dealt with the tax treaty definition of royalties; and conference room paper E/C.18/2018/CRP.10, which dealt with tax treaty issues related to collective investment vehicles. He invited the coordinator of the Subcommittee, Ms. Peters, to go through the list of topics that the Subcommittee had identified as possible topics that could be dealt with as part of the work on the next update of the Convention.

85. Ms. Peters briefly summarized the main topics that had been addressed in the 2017 update of the United Nations Model Double Taxation Convention between Developed and Developing Countries. She indicated that the topics identified in E/C.18/2018/CRP.8 first referred to several unresolved issues carried over from the work of the previous Committee membership (e.g., the work on royalties and collective investment vehicles). There might also be other areas that would be identified through the work being done by other Subcommittees (e.g., the Subcommittees on Taxation Issues Related to the Digitalization of the Economy, on Dispute Avoidance and Resolution and on Practices and Procedures). Other topics that could be addressed through the next update of the Convention included various additions to the OECD Model Tax Convention on Income and on Capital that had been made over the years, but which were not previously considered by the Committee for possible inclusion in the United Nations Model Double Taxation Convention. There were also other topics that had been suggested by members of the Subcommittee.

86. One of the topics that resulted in additions to the OECD Model Tax Convention on Income and on Capital that had not previously been considered by the Committee was the tax treaty treatment of collective investment vehicles. Christoph Schelling was invited to present the note prepared on this issue (see E/C.18/2018/CRP.10).

87. Mr. Schelling described what was referred to as a “collective investment vehicle”, which is a fund that pools the investment of many investors and is therefore widely held, holds a diversified portfolio of securities and is subject to investor-protection regulation in the country in which it is established. He stressed the economic importance of those collective investment vehicles and the magnitude of investment made through them, including in developing countries. He noted that they had grown in importance in the past 10 years, with multiple reasons to invest through them, including cost-efficiency, diversification of risk and economies of scale.

88. Mr. Schelling referred to the varying and often complex collective investment vehicle legal structures and distribution channels. He summarized the tax treaty issues that related to the collective investment vehicles, including issues related to treaty entitlement, transparency, the treaty treatment of income derived through the collective investment vehicles, the treaty treatment of the remuneration of fund managers and the application of treaties to investment funds that did not qualify as such collective investment vehicles.

89. Noting that a great deal of work had been done by OECD on those issues, with consequent changes to the OECD commentaries, Mr. Schelling suggested that, given the importance of investment by collective investment vehicles in emerging economies, it would be important to address those issues from the perspective of the United Nations Model Double Taxation Convention between Developed and Developing Countries, focusing on questions related to the following:

(a) Treaty residence of collective investment vehicles and the granting of treaty benefits to them and their members;

(b) Possibility of the collective investment vehicles claiming treaty benefits on behalf of their members;

(c) Application of limitation-on-benefits rules (art. 29) to the collective investment vehicles;

(d) Granting of benefits in the case of members who are equivalent beneficiaries;

(e) Development of alternative treaty provisions dealing with those issues.

90. Mr. Schelling noted that addressing those issues would involve examining the OECD changes and their suitability for the United Nations Model Double Taxation Convention between Developed and Developing Countries and considering whether any other changes might be appropriate. All the Committee members who intervened on the topic supported the suggestion to continue work on the tax treaty treatment of collective investment vehicles. It was commented that, notwithstanding the growing importance of those issues for developing countries, they were rarely addressed in tax treaties concluded by those countries. The relevance to both developing and developed countries was also mentioned.

91. Turning to the proposal for follow-up work on article 13 (5) of the United Nations Model Double Taxation Convention between Developed and Developing Countries, which had been proposed by a member of the previous Committee, Ms. Peters invited Rajat Bansal to present on that issue. He indicated that the proposal was to amend article 13 (5), similar to the terms of article 13 (4) on gains from the alienation of shares and similar interests that derived their value primarily from immovable property, to cover so-called “indirect transfers of shares”. Such a change would address concerns related to both the allocation of source taxation rights and the risks of treaty abuse.

92. Several members supported the proposal to do work on that topic. One member noted that, notwithstanding the absence of a treaty provision allowing the taxation of such gains, some countries were attempting to tax them, which created risks of double taxation. Another member suggested that it would be important to reach agreement on what was the source of a gain on an indirect transfer. Reference was also made to the work already done on the topic by the Platform for Collaboration on Tax, which was aiming to finish its toolkit on indirect transfers before 2019. That work dealt with both policy and administrative issues related to the taxation of such gains.

93. Ms. Peters presented two additional topics that had been suggested by Yan Xiong. The first was also related to article 13 (5) and concerned the application of that provision in which shares were held through a partnership that was treated as transparent for tax purposes. In such a case, it was asked whether the level of shareholding would be determined at the level of the partnership or at the level of members. The second topic dealt with the limited force-of-attraction rule of article 7 (1) (b) and (c) and was related to concerns that the concept of goods or other activities of the “same or similar kind” might be applied too broadly and to concerns that some countries might attempt to apply the limited-force-of attraction principle in the absence of article 7 (1) (b) and (c). Another question was whether article 7 (1) (b) and (c) could be applied to some digitalized economy transactions.

94. Ms. Peters addressed the question of the prioritization of work on the various topics proposed for the next update. She indicated that the Subcommittee intended to give priority to the additional guidance on the definition of permanent establishment that was included in the OECD Model Tax Convention on Income and on Capital in 2017 and the meaning of the phrase “beneficial owner”, which had been clarified in the Convention in 2014. It was important for the United Nations Model Double Taxation Convention between Developed and Developing Countries to provide guidance on those questions to avoid unintended differences of interpretation between

the two Models and to address the problems created by conflicting court decisions. A paper on those topics should be available at the next meeting of the Committee.

95. All the Committee members who intervened on those two topics supported the suggestion to address them. It was indicated that it was important for the Committee to identify the areas in which it agreed or disagreed with the guidance produced by OECD on those two topics. The Secretariat reminded the Committee that a note on the meaning of beneficial owner had been discussed by the Committee some years ago. That note would be brought to the attention of the current members of the Committee.

K. Royalties

96. Mr. Bansal, Coordinator of the subgroup established within the Subcommittee on Updating the United Nations Model Double Taxation Convention between Developed and Developing Countries to examine the issue of software-related payments as royalties, introduced conference room paper E/C.18/2018/CRP.9, dealing with that issue, with a view to seeking the guidance of the Committee to the subgroup on its work going forward.

97. First, he recalled that the United Nations Model Double Taxation Convention between Developed and Developing Countries focused on protecting source taxation rights and allowed source taxation of royalties, thus departing from the principle of exclusive taxation in the residence State provided under the OECD Model Tax Convention on Income and on Capital. He then noted that several OECD member States had recorded reservations to exclusive taxation of royalties in the residence State and that both OECD and non-OECD member States had made observations on the commentary to article 12 of the OECD Model Tax Convention in respect of treatment of software-related payments as royalties. He further noted that that was a difficult issue and that further guidance should be provided in the commentary to article 12 of the United Nations Model Double Taxation Convention between Developed and Developing Countries.

98. To that end, Mr. Bansal suggested that the subgroup could examine and propose further guidance to be included in the commentary to article 12 of the United Nations Model Double Taxation Convention between Developed and Developing Countries on three issues: (a) the classification of software as literary, artistic or scientific work; (b) a distinction between the use of or the right to use software from the use of or the right to use the copyright underlying software; and (c) arrangements between software copyright holders and distribution intermediaries.

99. During the ensuing discussion, several Committee members recognized that those issues were of considerable importance for developing countries, given the rapid development of technology and the extent of its transfer across borders. The need to clarify how the existing definition of royalties should apply to software-related payments was identified as a key issue with respect to the classification of software as literary, artistic or scientific work. Some Committee members also suggested that an alternative approach could be to provide for taxation of those payments in the source State independently from their classification as royalties, given the increasing importance for developing countries of preserving their taxing rights over those payments.

100. Mr. Bansal thanked the Committee for the comments and suggestions provided and noted that they would be taken on board by the subgroup in continuing its work.

L. Role of taxation and domestic resource mobilization in the achievement of the Sustainable Development Goals

101. Mr. Tonino presented the Secretariat conference room paper, entitled “The role of taxation and domestic resource mobilization in the implementation of the Sustainable Development Goals” (E/C.18/2018/CRP.19). He noted that the mobilization and effective use of domestic resources were considered to play a central role in sustainable development. Domestic and international taxation could play a role beyond the financing element, in particular by reducing inequality and promoting inclusive sustainable development. Examples include promoting gender equality through fiscal incentives targeting economic sectors in which women are predominantly employed and by improving a country’s administrative capacity to implement sustainable development.

102. Mr. Tonino indicated that, in an increasingly interconnected global economy, domestic policies could not sufficiently support sustainable development without international tax cooperation among countries, hence the special connection to the role of the Committee. He highlighted some of the areas in which the work of the Committee was particularly relevant to the 2030 Agenda, including in curbing international profit shifting, reducing international trade barriers (e.g., double taxation), promoting investment, new technologies and skills, and countering tax evasion and tax avoidance.

103. Mr. Tonino also discussed the role of the Committee in analysing and providing guidance on issues related to the digitalization of the economy, tax treatment of donor-funded projects and environmental sustainability through carbon emission taxation.

104. Mr. Tonino invited the Committee to further consider the links between its work and the 2030 Agenda and how they could be framed and communicated broadly, how the Committee could help to raise awareness of taxation and its role in implementing the 2030 Agenda and how its work could better take into account specific developmental needs from various countries and support them in working towards achieving the Sustainable Development Goals.

105. All those taking the floor appreciated the efforts that the Financing for Sustainable Development Office was making not only to promote and facilitate the work of the Committee, but also to make its work more visible within the broader framework of the sustainable development agenda of the United Nations. Some noted that those links were self-explanatory for some aspects of the work of the Committee, such as environmental taxation, extractive industries taxation or taxation of the digitalized economy. Others observed that, although such links between the work of the Committee and the 2030 Agenda needed to be highlighted, the Committee would benefit by staying focused on its core mandate and take advantage of its comparative advantage, while contributing in international forums in which other aspects of the Sustainable Development Goals were discussed.

106. Six Committee members volunteered to work closely with the Financing for Sustainable Development Office to continue to further define, draw and communicate the links between the tax cooperation mandate of the Committee and sustainable development, including the Sustainable Development Goals. Doing so could assist in including Committee ideas into sustainable development-related forums, events and strategies, including the implementation of the Secretary-General’s strategy for financing the 2030 Agenda.

M. Other matters

107. José Troya presented a paper on issues related to international tax evasion and avoidance schemes, including the use of shell companies. He suggested that the Committee could do further work in that area, specifically in capacity-building and proposing a new standard for the automatic exchange of information on the beneficial ownership of companies.

108. Reference was made to the work of the Committee itself and to the work of the Global Forum on Transparency and Exchange of Information for Tax Purposes and of the Inclusive Framework on Base Erosion and Profit Shifting. Some Committee members suggested that one priority could be to translate the newly developed standards and relevant guidelines into practical steps that countries could follow, and that capacity-building would be critical to supporting developing countries in that effort. The Committee did not take any decision with respect to work on the topic, but the Secretariat would support Mr. Troya with the development of his two proposals.

109. During the Session, Committee members and observers recognized the important contribution of the Subcommittee meeting hosts, as well as the European Commission and the Government of India, which had contributed financially to supporting such meetings, especially through the participation of Subcommittee members from developing countries.

110. The importance of Committee guidance, such as models, manuals and handbooks, being published quickly in the official United Nations languages, was also noted by the Committee.

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 eighteenth session of the Committee

111. 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
Venue and dates of and provisional agenda for the eighteenth session of the Committee of Experts on International Cooperation in Tax Matters

The Economic and Social Council:

(a) Decides that the eighteenth session of the Committee of Experts on International Cooperation in Tax Matters will be held in New York from 23 to 26 April 2019;

(b) Approves the following provisional agenda for the eighteenth session of the Committee:

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, including:
        (i) Taxation of royalties;
        (ii) Taxation of collective investment vehicles.
    (c) Tax and the Sustainable Development Goals: follow-up report;
    (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) Update of the Manual for the Negotiation of Bilateral Tax Treaties between Developed and Developing Countries;
    (g) Dispute avoidance and resolution;
    (h) Capacity-building;
    (i) Environmental tax issues;
    (j) Tax consequences of the digitalized economy — issues of relevance for developing countries;
    (k) Taxation of development projects;

(l) Relationship of tax treaties with trade and investment treaties;

(m) Other matters for consideration.

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