Statement of the Global Tax Advisers Platform (GTAP) on the Recent Developments in International Tax Policy (prepared by CFE Tax Advisers Europe)

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CFE Tax Advisers Europe together with the Asia-Oceania Tax Consultants' Association ("AOTCA") and the West African Union of Tax Institutes ("WAUTI"), established the Global Tax Advisers Platform ("GTAP") in 2013. GTAP is an international platform, representing more than 600,000 tax advisers in Europe, Asia and Africa, that seeks to bring together national and international organizations of tax professionals from all around the world. The principal aim of GTAP is to promote taxpayer and tax advisers' interests by ensuring the fair and efficient operation of the global tax framework, including recognition of the rights and interests of taxpayers, and the role of tax professionals. For further information, please contact Piergiorgio Valente, Chairman of GTAP or Aleksandar Ivanovski, Secretary General of GTAP, at gtap@taxadviserseurope.org. For further information regarding CFE GTAP please visit our web page http://www.taxadviserseurope.org/about-us_gtap/

CFE Tax Advisers Europe Office I 188A, Avenue de Tervueren, 1150 Brussels, Belgium
Tel. +32 2 761 00 92 I info@taxadviserseurope.org I www.taxadviserseurope.org

Preamble

GTAP is an international organisation uniting tax professionals from around the world in developed and developing countries. The term "tax professionals" includes persons engaged at a professional level with tax practice, as lawyers, as accountants or as advisers, and accredited as such pursuant to applicable national law. The principal purpose of GTAP is to promote public interest in taxation by ensuring fair and efficient operation of national and international tax systems. This includes recognising the rights, interests and responsibilities of taxpayers, tax administrators and tax professionals.

We believe that the days of cross border taxation being seen as a source of conflict or profit are at an end. There is a pressing need to create a cooperative global tax environment fit for the purposes of the 21st Century. This must not lose sight of, but rather build upon the good principles enshrined in the current system. It must mend the weaknesses currently endemic in that system, make it strong against abuse and make full provision for the current and future digital world we inhabit. It must be capable of handling all cross-border tax disputes, direct and indirect, capital and income.

Lastly, we think that a new global system will not be of use if it does not create an environment which nurtures the social and economic growth of all countries and the myriad forms of activity manifest in them. It must be a healthy, nutritious and self-sustaining, well aware of environmental needs and solicitous for the growth of all nations without fear or exploitation.

We are strong advocates of the view that taxation is the most equitable tool to foster and fund equality of nations and individuals and, as such, probably one of the most precious resource humans have.

Background

On 22 December 2023, the General Assembly of the United Nations adopted the Resolution 78/230, "Promotion of inclusive and effective international tax cooperation at the United Nations."[1] With this resolution, the UN formed the **Ad Hoc Intergovernmental Committee** with a mandate to develop the United Nations framework convention on international tax cooperation.

At present, under the mandate of the G20 and the BEPS programme, the work on international taxation reform, in particular with relation to the taxation of the digital economy and minimum taxation of MNEs, has been spearheaded by the OECD. Most of the Global South jurisdictions are not members of the OECD. They have however participated in the Pillar 1 and Pillar 2 BEPS discussions by virtue both of their membership of the Inclusive Framework and the Global Forum on Tax Transparency, which works under OECD auspices.

Global South jurisdictions led by Nigeria, submitted Resolution 78/230 specifically to shift the forum for international tax reform discussions from the OECD to the UN, an international organization perceived as representing all sovereign countries of the world. The Resolution was approved by the UN General Assembly on 22 December 2023, with opposition from most of the developed countries active within the OECD.[2]

[1] Resolution of the General Assembly of the United Nations: Promotion of inclusive and effective international tax cooperation at the United Nations - A/RES/78/230, https://financing.desa.un.org/document/promotion-inclusive-and-effective-international-tax-cooperation-united-nations-ares78230 [accessed 2 February 2024]

[2] 125 states voted in favor, 48 member states voted against it, and nine abstained. Most OECD countries voted against it, except for Chile and Colombia, which voted in favor, and Costa Rica, Iceland, Mexico, Norway and Turkey, which abstained; Kevin Pinner , "UN Could Further OECD's Progress In Global Tax Diplomacy", Law360 January 19, 2024; [accessed 2 February 2024]

Comments

The work on reform of the international tax framework to make it fit for purpose in the 21st century requires measured and dispassionate cooperation among a broad range of actors, not only governmental and non-governmental bodies but also taxpayers, tax advisers, tax administrators NGOs and Charities.

The first attempts to bring about a coherent framework for international tax governance date back to the League of Nations, the predecessor to the UN, with the Economists' Report.[3] Despite a propitious start, however, momentum was lost, and international tax cooperation shifted away from its focus at a global, international and governmental level to a pragmatic, more regional and technical approach, embodied in the work of the OECD.

This did result in the development of the OECD Model Tax Convention, which, for all its faults, served as a flexible blueprint for many countries as they ventured into cross border operations. It was, though, a product of its time and the resulting global treaty regime lent itself to growing misuse as the digital world evolved.

In particular, the network of double tax treaties based on the OECD Model Tax Convention was seen as an inhibition on the ability of developing nations to impose taxation on cross-border income derived in their jurisdictions.[4]

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[3] Report on Double Taxation Submitted to the Financial Committee, League of Nations Doc. E.F.S.73. F.19 (1923); The first multilateral treaty ever signed dates back to 1922, signed by the successor states of the former Austro-Hungarian Empire and Italy; On 6 April, 1922, in Rome, representatives of Austria, Hungary, Poland, Romania, and the Kingdom of Yugoslavia (the successor states of the Austro-Hungarian Empire), and Italy signed a multilateral tax treaty for the avoidance of double taxation on income and capital; Avi-Yonah, Reuven S. and Lempert, Eran, "The Historical Origins of the Multilateral Tax Convention" (2023); Michigan Law & Economics Working Papers 244, p. 14.

[4] Avi-Yonah argues that after a century, the usefulness of DTCs has run its course, and that distinction between income taxes and VATs becomes increasingly blurry as income taxes shift toward a hybrid income/consumption tax model by allowing expensing of capital expenditures, and as it is increasingly unclear who bears the economic burden of either income taxes or VAT. (Avi-Yonah (2023), *op.cit.* p. 39).

With this in mind, we have no doubt that the only way forward must be inclusive. GTAP is supportive of all cooperative efforts to increase the legitimacy, stability, resilience and fairness of international tax rules. We consider it essential to develop a global framework within which all countries can survive, thrive and grow to their full potential. This objective is in the common interest of all stakeholders and is a necessary requisite for further advancement in a digital age.[5]

In addition, inclusive international tax cooperation will allow all sovereign countries to participate in developing the rules, and, thereby, positively adapt and implement them in accordance with their needs, abilities and taxation policy choices and preferences.[6] As a new global tax settlement is reached there can be no space for exploitation or abuse.

International cooperation without pressure but with goodwill is essential if this process is to yield a successful outcome. At this stage we do not hazard a guess what that might be, but we are certain that the right outcome will not be achieved unless there is positive cooperation. That includes co-working with the UN and the OECD to leverage on the work already done by the OECD Secretariat, for example Pillar 2, already implemented by the EU.

GTAP notes the position adopted by the European Union and its Member States on tax cooperation at the United Nations. This, submitted jointly by the Presidency of the Council of the EU and the Commission on 22 September 2023 stated that the EU and its Member States recognize the important roles played by the UN:

- its efforts to support developing countries in mobilising their domestic revenues
- in increasing their ability to finance their own development strategies,
- its work on the attainment of the Sustainable Development Goals, a long-term commitment that concerns all countries around the world:

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[5] The UN Resolution (2023) asserts that this process requires scaling up international tax cooperation by establishing the legal basis for fully inclusive and more effective international tax cooperation in terms of substance and process, giving due consideration to the value of coherent and consistent international tax rules while also respecting the tax sovereignty of each Member State; *Resolution of the General Assembly of the United Nations: Promotion of inclusive and effective international tax cooperation at the United Nations - A/RES/78/230*

[6] Idem.

It is GTAP's wish that the EU and its Member States continues to support actions that aim to ensure the development of a fair and effective international tax system for sustainable development. In particular, in doing so full account must be taken of the specific concerns and needs of countries with limited resources or administrative capacities.[7]

Much work has been done on Pillar 1 but it does not seem to have any momentum in those countries where its adoption is critical if it is to have any status as a global force. It is one area where cooperation is essential if progress is to be made. The alternative is a regression into unitary digital service taxes with provisions which create obstacles to cross border development and taxes not covered by Double Taxation Treaties.

Conclusion

GTAP urges all international stakeholders, in the event of an increase in the role of the UN in forming global cross border tax policy, to work together constructively. We think it essential that the huge work already undertaken by the OECD is not only recognised but also becomes a key foundation for further developments.

We urge all governments and stakeholders to require the UN and the OECD to work in harmony and to facilitate cooperation with the objective of achieving an inclusive international cooperation framework.

In the event of developing the structure and the bodies of the UN/OECD tax cooperation, we urge the inclusion of all relevant stakeholders including taxpayers, but in particular those professionals who work daily on matters of taxation, the advisers, the consultants and the administrators. As tax professionals, we stand ready to contribute in establishing a framework which is simple, easy to

[7] Position on behalf of the European Union and its Member States on tax cooperation at the United Nations submitted jointly by the Presidency of the Council of the EU and the Commission 12967/23 of 22 September 2023

understand and administer by all jurisdictions, as well as being reflective of a spirit of compromise among countries.

Chairman of the Global Tax Advisers Platform (GTAP)

Piergiorgio Valente

President of Asia-Oceania Tax Consultants Association (AOTCA)

Jeremy Choi

President of CFE Tax Advisers Europe

Ian E Hayes

President of West Africa Union of Tax Institutes (WAUTI)

George Kwatia

Secretary-General, Global Tax Advisers Platform

Dr Aleksandar Ivanovski