



March 16, 2023

Department of Economic and Social Affairs
United Nations Secretariat
New York, NY 10017
taxreport2023@un.org

Re: Comment Letter on the Promotion of inclusive and effective tax cooperation at the United Nations

The National Foreign Trade Council (NFTC), organized in 1914, is an association of U.S. business enterprises engaged in all aspects of international trade and investment. Our membership covers the full spectrum of industrial, commercial, financial, and service activities. NFTC welcomes the opportunity to comment on the need for strengthened international tax cooperation.

Furthering the UN's goals for an inclusive, sustainable, and equitable global tax system must also consider the importance of policies that attract investment. We recognize that the OECD has traditionally focused on developed economies, so we are supportive of additional global mechanisms, such as the efforts led by Colombia in the Cartagena Summit that allows for regional tax cooperation, coordination, and discussion by pulling together technical tax resources and administrative best practices. Such multilateral mechanisms of coordination will allow developing countries across the world to form cohesive and coherent policies worldwide that meet individual needs as well as fit in with international taxation schemes. In order to balance developed and developing country needs, the OECD developed the inclusive framework and expanded input from OECD members to over 140 countries.

As work continues to finalize and implement the OECD/G20 Inclusive Framework's Two-Pillar Approach, it is important that countries respect the move towards consistency that has characterized the process while working to make corresponding changes to their domestic tax legislation. The UN could play a pivotal role in helping to advance regional cooperation and technical assistance for countries as they implement these changes. Separately, providing a forum for developing countries to exchange ideas, coordinate regional rules and formulate policy for relations between developing countries would be beneficial.

However, advancing a new independent dialogue that seeks to compete instead of coordinate with the OECD would jeopardize the consistency in approaching an important milestone in redrafting the international tax system. More specifically, adopting such an agenda would compromise the goal of working towards achieving the common goals set out by both the UN and OECD for an inclusive and sustainable global tax system. Instead, the move would create confusion and lead to overly complex taxation and a tax system that is neither administrable or equitable for countries or the companies that operate in those countries. For instance, Article 12B of the Model UN Tax Treaty, Income from Automated digital services, directly contradicts the work of the Inclusive Framework. Developing countries cannot expect to get Pillar One revenue and an additional taxing right under Article 12B.

In the event that the introduction of these rules is not coordinated or that any new taxation right is not aligned with an exemption or credit from the parent jurisdiction, the outcome would create economic distortions. This would ultimately lead to a decrease in investment in countries imposing these additional tax burdens and will eventually stifle development, correspondingly decrease the tax base, and exacerbate trade tensions. We strongly urge that any new rules should not be implemented on a unilateral or regional basis. Furthermore, coordination with all major trading partners is needed to avoid potentially damaging unintended consequences.

NFTC favors net income-based taxes that are directly related to the activities in the particular country and that are not discriminatory by industry or country since the large businesses in the scope of Pillars One and Two will be required to prepare national tax returns, information returns, and tax filings for Pillar One, together with new obligations for Pillar Two. We urge that any new domestic measures take into account existing anti-avoidance rules and balance the need for any further anti-avoidance rules against the need to have rules that are practical and administrable by both tax authorities and taxpayers. Additionally, abstention from tax rate harmonization will allow each country to determine its respective tax rate.

Furthermore, we urge countries to refrain from the imposition of new digital services taxes or relevant similar measures or the expansion of existing provisions. The inconsistency of the approach taken in Article 12A and Article 12B directly contravenes the OECD approach to Pillar One. We also note that any taxes imposed on companies, whether they are incurred via withholding at source or filing of a tax return, should not result in market distortions or double taxation.

We believe these measures are key to maintaining and developing investment and employment in each country and may serve to foster the competitiveness of developing regions as compared to the status quo.