



## CONCEPT NOTE

### Peer Exchange Discussion during 19<sup>th</sup> Session of UNTC

15 October 2019, Geneva

#### Context

The 19<sup>th</sup> Session of the UN Committee of Experts on International Cooperation in Tax Matters will take place at a seminal moment in international taxation. Long held shibboleths, once considered unassailable, have now opened up for change and reform. Events are moving at a rapid pace but there is the ever-present danger that the burden of the past may yet impose itself on the future. On the digital economy front, the OECD has come out with its latest response to Pillar 1, combining elements of the US' proposal (marketing intangibles) with the G24 proposal (significant economic presence). Do these indeed address the fundamental problems of the arm's length method, or is the residual profit split yet another layer of complexity to an already tottering system? Will developing countries gain as is claimed, or will the proposals be ineffective, and if so what can be an appropriate response that safeguards the interests of source countries and market jurisdictions in a balanced way? Can the UN Committee play an independent role, for example by re-examining relevant provisions in its own model treaty, notably article 5.3.b for a services PE, or article 7 on attribution of profits?

At the same time, the UN Model Convention is undergoing some significant modifications that would codify rules on some of the most important sources of revenue for the South. There are the proposed changes to Article 13 (Capital gains) which would impact the taxation of offshore indirect transfers of assets other than immovable property situated in the source country. This strikes at the heart of the perennial charade of mergers and acquisitions taking place through tax havens and countries which try to counter this avoidance being taken to investor-state dispute arbitral tribunals. What are the changes discussed, and how should developing countries respond?

Then there is the tale of collective investment vehicles. Insurance and pension funds in particular form an enormous aspect of international finance and dwarf the GDP of many countries. Effectively taxing them is a vexed issue that has hurt many a developing country. The discussion centres around how tax treaties affect the tax treatment of collective investment vehicles. How can treaties be modeled in a way that ensures that these massive funds do indeed enrich the future of the 99% rather than the 1%? These are some of the questions the participants will discuss in this Peer Exchange. It forms part of the South Centre's Tax Initiative that aims at strengthening the voice of Southern countries in shaping the international tax agenda. It is also

supported by the international tax programme of the International Centre for Tax and Development (ICTD), working in conjunction with the BEPS Monitoring Group, an international network of independent researchers on international tax supported by civil society organisations.

### **Concept**

The event is conceptualized as a 1 day expert-level peer exchange organized by the South Centre to be attended by:

1. Developing Country Members of the UN Committee of Experts on International Cooperation in Tax Matters;
2. Member States of the Group of 77 and China (G77) in Geneva;
3. Experts or developing country officials working with or nominated by the South Centre and the ICTD.

The discussions will be held off-the-record, so that participants can speak freely. The aim is to better inform participants in the meetings of the UN Committee of Experts in International Tax and its subcommittees. However, the outcomes may be used by any participants in reports they may compile, although without attributing any views to individuals, countries or organizations without the prior written permission of those concerned.

The proposed date for the peer exchange is 15 October 2019, with the venue to be in Geneva, Switzerland.