



Summary Record

Thursday 3 May 2022 | 13.00 - 16.00 CET
HYBRID MEETING

1. Welcome and Opening of the Meeting

Commission Chair, Christian Kaeser, welcomed participants to the meeting, noting broad participation from more than 28 countries, from Albania to Zambia.

Mr Kaeser noted the hybrid format of the meeting and expressed the hope to have other hybrid meetings in the future.

2. ICC Global Policy Department – strategic priorities 2022/2023

Andrew Wilson, Global Policy Director and Permanent Observer to the United Nations, announced ICC's global policy strategic priorities for 2022/2023 in the context of the conflict in Ukraine and updated participants on structural changes within the organisation.

- In the past year ICC has invested in restructuring and re-energising the ICC Policy Commissions, building a unique, focused value proposition in areas where ICC can have a significant impact, with the flexibility to also take on new projects, as needed.
- 35 new officers for Commissions have been appointed, with special attention devoted to ensuring gender, regional and sectoral diversity.
- Focus on cross-Commissions transversal projects, such as the carbon pricing working group, have been effective in delivering quality content.
- There has been 300% growth in media coverage which is a considerable recognition of ICC's work.
- With regards to current priorities, ICC has been actively engaged in response to the current conflict in Ukraine, focusing on sanctions, potential spill-over effects, and compliance issues. ICC has been invited to participate in a unique UN Secretary General Global Crisis Response Group on the critical issue of food supply, food security and international financial stability, and is the only private-sector representative institution.

Mr Wilson also announced relevant changes in the ICC Secretariat team:

- Melanie Laloum has recently been appointed as Lead Economist.
- Raelene Martin has been appointed as Head of Sustainability and will therefore soon transition from the Taxation Commission once a suitable replacement has been identified. Mr Wilson recognized Ms Martin's efforts in leading ICC's work on international taxation policy.

He also noted the high level of engagement within the Commission and the active role of the leadership in advancing the work. The Commission Chair thanked Mr Wilson for his intervention and Mrs Martin for the years of good service to the Taxation Commission. Mr Kaeser also welcomed the recently appointed Commission Vice-Chair, Veerinderjeet Singh, who will join the leadership team as of the 1st of July.

3. BRITACOM and the Belt and Road Initiative

Commission Chair, Christian Kaeser noted that the Belt and Road Initiative Tax Administration Co-operation Forum (BRITACOF) is currently scheduled to take place from 5-7 September 2022 in Algeria, in a hybrid format, which coincides with the International Fiscal Association (IFA) Conference will be hosted in Berlin from 4-8 September. The Forum will be dedicated to various items of the Nur-Sultan Action Plan.

Suhua Huang, Deputy Director General of the International Taxation Department, State Taxation Administration, People's Republic of China, presented further developments on BRITACOM and its commitment to the establishment of long-term taxation co-operation for participants of the BRI, including insights regarding the Nur-Sultan Action Plan (2022-2024).

- A two-year BRITACOM Action Plan for 2022 to 2024 was released in September 2021, which serves as a road map for BRITACOM over the next two years.
- The Plan identifies 4 main areas, namely raising tax certainty, promoting tax administration digitalization, improving tax environment and reinforcing capacity building of tax administration. Four task forces have been established to address these issues.
- The Action Plan also includes BRITACOM capacity building programmes, such as seminars, trainings, workshops and short courses.
- Throughout the year, the Tax Academy hosted 13 virtual workshops on dispute resolution, tax design etc., with over 700 tax officials from 80 jurisdictions in attendance.
- In addition, a series of elementary level video courses have been made and uploaded on the website.
- The BRITACOM Tax Journal was released last December and focuses on recent reforms in tax systems and tax administration including, approximately 20 articles, one of which was a contribution made by the ICC Taxation Commission Chair on taxes and investment climate.
- It was noted that the proposed dates for the next BRITACOM conference in Algeria will likely be revised, in view of conflicts with other international events such as the IFA Congress.

4. OECD: Developments on taxation of the digitalised economy

Eric Robert, Senior Tax Advisor, OECD, provided updates regarding ongoing work to develop international rules based on the OECD Inclusive Framework agreement on [Pillar One](#).

- In October 2021, the key components of Pillar One were agreed, which includes Amount A (new taxing right) and Amount B (simplification in the application of existing transfer pricing rules).
- The Task Force on the Digital Economy (TFDE) has been mandated to conduct the work on Amount A and Working Party 6 (WP6) together with the Forum of Tax Administration (FTA) MAP have been mandated with working on Amount B.
- Amount A will be implemented through a Multilateral Convention (MLC) and, where necessary, domestic law changes, whereas Amount B will be specified with technical guidance.
- Five building blocks have been identified, namely: Scope, Nexus, Profit Allocation, Tax Certainty and Elimination of double taxation.
- Elimination of double taxation is an important building block of Amount A, which will ensure the new taxing right will apply alongside the existing rules and avoid double taxation arising from this new taxing right.
- The Inclusive Framework will proceed with public consultations on a rolling-basis, with a block-by-block approach, which gives stakeholders more time to review and submit their proposals. ICC's contribution to the various consultations was recognized.
- The revenue sourcing rules public consultation is a good example of an area where public input has provided a basis to reconsider certain aspects of the rules. Based on the received input, the OECD is currently considering some soft-landing options that would, for example, enable in some cases the use of allocation keys where this is justified by the specific circumstances of a business.

Jeffrey Mitchell, Adviser - Aggressive Tax Planning, Digitalisation of the Economy, OECD, provided updates regarding ongoing work to develop international rules based on the OECD Inclusive Framework agreement on [Pillar Two](#).

- Model Rules released in December 2021 and the Commentary released in March 2022 followed by the Implementation Framework are the core building blocks under Pillar Two.
- The implementation framework seeks to provide guidance and other assistance to jurisdictions that intend to implement the GloBE rules.

- The working process is strongly linked to the public consultations.
- On the 25th of April a public consultation was held to cover the issues: further administrative guidance, information collection and reporting, safe harbours, rule co-ordination and tax certainty. ICC's contribution on these issues was duly noted and an ICC representative had the opportunity to intervene in the session on tax certainty.
- With respect to further administrative guidance, the comments received focused primarily on rule status & consistency, prioritizing guidance and specific guidance needs. In this regard, the next steps of work are to prioritise needed guidance, develop guidance processes and publish them on a rolling basis.
- Information collection and reporting reflected common views expressed by stakeholders: standardized return, centralised filing and grace period. In terms of next steps, a task force will begin work on standardized return and information exchange.
- The comments on design of safe harbours, in particular, included the Country-by-Country Reporting Data (CbCR) use, Qualified Domestic Minimum Tax (QDMTT) and Jurisdictional issues were noted. Next steps: develop easy safe harbours and simplifications and subsequently move from the easy to the more "complicated" safe harbours.
- Comments on rule co-ordination and tax certainty highlighted qualified rules, dispute prevention and dispute resolution. Next steps: develop a fast-track process for reviewing proposed legislation & future process for evaluating administration of rules.
- Overall, 73 submissions with 500+ pages of comments were received. The majority of these were received from Business Associations (38%) and Advisors (19%).

Commission Vice-Chairs, Matthew Herrington and Rocio Bermudez, shared an overview on implementation of the Pillar Two rules for the business community and latest developments regarding the EU Directive for implementation of the Pillar Two rules.

- On December 22nd, the European Commission published the legislative proposal for a directive, to ensure global minimum taxation for multinational groups across the EU.
- Since then, the proposal has been discussed three times by the ECOFIN in the meetings held in January, March and April. However, no consensus has been reached yet.
- In view of that, the French Presidency issued a new compromise text, in an effort to resolve some of the issues raised. For the moment, Poland is still blocking the agreement and negotiations continue.
- A new ECOFIN meeting will be held on the 24th of May to discuss the agreement and the next steps.
- From a business perspective, most focus is around safe harbours as well as the coordination and certainty questions. Administrative guidance, information collecting and compliance with the rules on a year-by-year basis is essential for business.
- To date, the main question for many businesses is when the rules will be implemented and how to secure compliance for the first year with potentially different stages of implementation by jurisdictions.

5. UN Committee of Experts in Tax Matters

Michael Lennard, Chief of International Tax Cooperation, Financing for Development Office (FfDO) of the United Nations provided an update on the work of the UN Committee of Experts on International Cooperation in Tax Matters.

- The UN Committee of Experts in Tax Matters meeting was held in April where the work programme for the coming years was elaborated upon.
- The subcommittees will consist of the permanent members, ad hoc members, who will join on the issues where the particular expertise is needed, and there will be opportunities for business engagement. There is recognition that the viewpoints of business and other stakeholders are important to take into account.
- All the workstreams are approved as proposed by the subcommittees.
- There are two workstreams on the UN model: the perennial of payments for computer software and a subject to tax rule in the UN model – for update in October.
- There is ongoing work on an extractives article reflecting some country practice.

- A closer look will be given to the function and relevance of physical presence tests that was initially conceived as relating to corporates, however there will be broader consideration including issues such as employment.
- The Environmental Subcommittee will look at energy transition to determine what guidance can be given to countries that want to/need to transition from fossil fuels to more sustainable energy sources over time. In addition, further work will be done on carbon taxes, particularly the interaction of carbon taxes with other national measures.
- There is also further work on options for developing countries on wealth, taxes and the work on dispute settlement and avoidance where concrete work will be proposed at the next meeting in October.
- A handbook on health taxes is expected to be released to assist developing countries in implementation of health taxes, including the social issues that arise.
- With respect to indirect taxes, there will be more general consideration on good practices in design, compliance and administration issues in VAT and GST.
- The Tax, Trade and Investment Subcommittee will primarily look at tax, trade and investment treaties. There has already been some good work done by UNCTAD, which will be useful in order to determine on how to bring together the tax, trade and investment communities to the table to discuss some of these issues. There is recognition of the need for some degree of certainty for industry.
- Transfer pricing - the main focus is on the guidance on primary products, with a toolkit on transfer pricing, risk assessment and auditing, as well as COVID considerations.

6. European Commission

Commission member, Sune Hein Bertelsen, updated members on broader tax-related developments within the European Commission, including an overview of key priorities as well as ongoing discussions within the Platform for Tax Good Governance.

- Mr Bertelsen provided further comments on the EC proposal directive on Pillar Two and noted that it is unlikely that the proposal will be approved during the French presidency which ends in June.
- The EU would like to postpone the implementation date of the rules to the beginning of the next financial year, the 31st of December 2023.
- Another ongoing EU area of work: proposal against misuse of shell entities for improper tax purposes, known as the *Unshell Initiative*. Some members do not appear to see a particular need for this proposal moving forward as it is perceived as an unnecessary administrative burden. The main criticism is that the proposal covers only shell entities within the EU and the Member States would prefer it to cover shell entities outside of the EU.
- Other new proposals include a post-directive on the debt-equity bias and reduction allowance, which is seen as a business-friendly proposal. A lot of concern has been expressed about the complexity of this proposal by Member States with respect to avoidance rules and the narrow nature of the proposal coverage.
- The Commission has also expressed the intention to work on taxpayers' rights, which should include elements of direct taxes and indirect taxes.
- There is also some ongoing work on cooperative compliance based on two schemes: one applying to smaller companies and the other to the multinationals. Pilot programmes have been launched this year.
- Regarding the proposal on the directive related to cryptocurrency or crypto assets, there has been much interest expressed by the Member States.
- At the end of the year, a proposal for a Directive on implementing Pillar One is expected.
- The Commission has started some work on new procedures for withholding tax relief and there seems to be preference for a centralized approach, supported by common procedures.
- There is also a proposal for a Standing Committee for Dispute Resolution.
- The EU Platform for Tax Good Governance addresses the similar subjects related to EU proposals put forward for further discussion.

7. Tax implications of remote working

Commission member, Georg Geberth, updated members on developments and ICC engagement related to tax implications of remote working abroad.

- The ICC paper tax reform for remote working abroad was presented at the Platform on Tax Good Governance in October last year and was well received.
- Earlier this year a discussion was held with David Bradbury from the OECD, where it was mentioned that it would be useful to have further ICC input on the economic impact and consideration for companies as well as on the different regulations in place.
- The desirable outcome is to have harmonization of rules and processes which would be useful to better facilitate remote working for employees abroad as well as to have some online tools to monitor employees' travels.
- BIAC is also working on this topic and a panel discussion was held at the recent Committee meeting, including David Bradbury, Microsoft, Airbnb and NBI representatives.
- OECD supports the idea that this area of work is important, but it is currently not a priority area in view of the ongoing work on Pillar One and Pillar Two.
- ICC is looking to provide further insights and input on the topic in the coming months, given the relevance of the issue.

8. Developments on indirect tax issues

Commission members Marlon van Amersfoort and Joe Marden provided an update on, recent VAT/other indirect tax developments across the globe, EU VAT Forum/EU VAT Expert Group and potential areas for ICC engagement on indirect taxes

- The European Commission and particularly the current EU VAT Expert Group continue to have strong focus on the VAT in the digital age initiative, including such matters as the digital reporting requirements, VAT treatment of the platform economy and broadening of the use of a single EU VAT registration.
- There are some road maps and impact assessments to be provided and circulated for comments in July. In Q3 there may be specific directive proposals.
- The EU has agreed on an adjusted regime for VAT rates ([EUR-Lex - 32022L0542 - EN - EUR-Lex \(europa.eu\)](#)).
- There have been many changes around VAT & Excise rates in order to address the rise in energy prices. Consideration as to whether VAT rates is the right tool to steer behaviour.
- VAT Forum is currently working on the paper seeking to describe the practical issues, which come with 'quick fixes', and which should be finalised before the Summer and then published in the Autumn.
- In the ICC subgroup on Indirect Tax, among other ongoing projects on indirect tax, recent focus was devoted to the assessment of the global impact from the sanctions imposed against Russia, the Brazil tax reform in progress, as well as some cross-cutting areas within the ICC's work (carbon pricing and the joint work with the Customs group).

9. Co-operative compliance

Commission member, Jeffrey Owens, updated members on the work of the University of Vienna/ multistakeholder group on co-operative compliance, including the recent conference: "Co-operative Compliance: A multi-stakeholder and sustainable approach to taxation".

- ICC was an important partner and contributor for the work on a corporate compliance handbook, which was published last year.
- Brazil and Malaysia along with some other countries and international organizations (WB, IMF) have already expressed their interest in using the Handbook as the basis for their first consultation with business.
- The current work concentrates on deepening the analysis from different perspectives: monitoring countries' developments on that matter and trying to link it to the debate of the tax gap by establishing pilot studies in Africa and Latin America, Asia, as well as the emphasis on multinationals corporate compliance design.

Next steps: new working groups will be created on the following topics:

- **Audit Assurance Standards for Tax Control Frameworks (TCF)**
Agenda: The aim is to develop a framework for external assurance of a company's TCF that could be sufficient and reliable for both companies and tax administrations.
- **Cost and Benefits of Cooperative Compliance Programs**
Agenda: The aim is to deepen the analysis of the costs and benefits of Cooperative Compliance programs and how to measure them.
- **Multilateral Cooperative Compliance Programs**
Agenda: The aim is to study the possibilities of moving from bilateral to multilateral Cooperative Compliance programs (project-based) as well as to take a closer look at the existing multilateral cooperation in the area of tax certainty.
- ICC members are welcome to express interest to participate in these groups.
- The next conference is tentatively scheduled for 24-25 October 2022.

10. Transversal Projects

Carbon Pricing

An Theeuwes, co-Chair of the ICC Working Group on Carbon Pricing Mechanisms, provided an overview regarding progress to develop a set of key design features for carbon pricing mechanisms to be deployed within the context of COP27.

- Ms Theeuwes presented on the important work of the ICC Working Group on Carbon Pricing that is currently developing best practice guidance on the smart design of carbon pricing systems, building on the existing [ICC Carbon Pricing Principles](#) successfully launched at COP26, as well as taking into account ongoing technical discussions on Article 6 of the Paris Agreement and its implementation.
- The Working Group aims to develop a set of critical design features for carbon pricing at COP27 in November 2022.
- The group is currently looking at the following domestic carbon pricing systems – Canada, EU Emissions Trading System (ETS), Indonesia, South Africa, New Zealand – in order to identify key design features that work well, as well as identify any areas for improvement, including testing them against ICC's 10 carbon pricing principles. Any contributions to the above case studies would be welcomed.
- The OECD initiative on developing an "Inclusive Framework on Carbon Pricing" is set to be launched in June 2022. Facing the risk of carbon leakages and the lack of evidence that carbon border adjustments work effectively, OECD considers carbon pricing as a key priority for its work. The framework aims to better measure different decarbonisation efforts, including policies that establish explicit and implicit carbon prices, with the goal of setting a commonly agreed, coherent framework.
- Business at OECD released some initial considerations for the discussions and presented these to the OECD Environment Ministerial meeting at the end of March 2022. The ICC Secretariat and Working Group Co-Chairs are planning to have a follow-up discussion with Business at OECD in the coming weeks to explore further collaboration.

Tax digitalisation/CTC Working Group

Commission member, Georg Geberth, updated members on engagement and developments related to tax digitalisation, including in the context of the Institute for Digitization of Tax Law.

- The Institute now constitutes 150 members with 8 committees and three working groups, with approximately 350 people working in the different groups. They have started producing papers on e-invoicing, artificial intelligence as well as a glossary on terms that are being used.
- The topic is garnering more attention and a new working group has also been established within Business@OECD to develop principles which will be useful to comment on specific use issues. The OECD will start working on topics such as cross-border digital identifies and e-invoicing.

Charly Gordon, Global Policy Lead, Small Businesses, shared insights on relevant work streams in the context of the ICC Working Group on Continuous Transaction Controls.

- One of the objectives of the group is to promote consistency and compatibility of CTC processes across borders to reduce the administrative burden for businesses and ensure tax administrations can perform their missions, as well as build a compelling set of policy recommendations, which, in turn, can help to realise the benefits of CTCs.
- In 2020, the Working Group published the report “ICC Continuous Transaction Control (CTCs) Practice Principles” as well as a stocktaking report on the Implementation of CTCs.
- Building on this work, the Working Group is currently focusing on links between i) CTCs SAF-T and e-accounting - to channel views from the business community on the evolution of SAF-T; and ii) examining CTCs B2C transactions - to analyse the various models that are in place. The group is in the process of collectively building the CTC landscape for B2C transactions.
- Next steps:
The goal is to conduct a comparative exercise and develop concrete recommendations that could take the form of an annex to the practice principles document and focus on the implementation of the CTCs.

11. Any other business/Future engagement opportunities

- Commission member, Carsten Schmid, shared perspectives on substance requirements for transfer pricing.
- Economic substance is a doctrine in tax/transfer pricing law under which a transaction must have an economic purpose and not solely for the reduction of tax liability in order to be considered valid. This doctrine is used to determine whether tax/transfer pricing structures or strategies used are considered abusive.
- Following the implementation of BEPS in the OECD TPG 2022 and in national law, new developments (e.g., ATAD 3), the issue continues to grow in importance.
- The principle of "economic substance" or "economic activity" is relevant in various areas of national and international tax law, such as rules for tax treaty entitlement, transfer pricing regulations, anti-treaty shopping rules, GAAR and VAT.
- Interest for the ICC business community
 - There is a difficulty to control the mixture of concepts and regulations and thus an obstacle/risk for the business community,
 - The aim is to have consistent and uniform definition of standards,
 - Aligned economic substance definitions for CIT, VAT and TP,
 - Appropriate dispute resolution mechanism,
 - Avoidance of burdensome additional documentation requirements.
- ICC previously developed a statement on this topic in 2016, that could be revisited.
- Next steps: any members interested in pursuing this topic may contact the ICC Secretariat. A follow up call will be organised to discuss the topic further.

Date and location of next meeting and related events

- The next meeting of the UN Meeting of the Committee of Experts on International Cooperation in Tax Matters is scheduled for 18 – 21 October 2022 in Geneva, so there may be consideration to exploring a meeting on the margin of the UN meetings. Members will be informed in due course as to the location and date of the next meeting.
- Precise dates for the ITC Munich Conference, “Towards a ‘Sustainable’ World Tax Order?”, will be communicated in the coming weeks. The two-day conference programme is expected to include 6 panels on key topics of relevance.