

To: **Co-Chairs of the UN Tax Committee**12<sup>th</sup> March 2024

**Subject:** Revision of Article 8 of the UN Model Convention at the 28<sup>th</sup> Session of the Committee of Experts on International Cooperation in Tax Matters ("UN Tax Committee"), 19-22 March 2024

Esteemed Members,

The International Air Transport Association (IATA) appreciates the opportunity to engage in dialogue with the UN Tax Committee regarding the revision of Article 8 (on International Shipping and Air Transport) of the UN Model Double Taxation Convention Between Developed and Developing Countries ("**UN Model Convention**").

IATA is an international trade association representing 325 airlines spread over 128 countries, equivalent to 83% of global air traffic. It supports airlines in operating safely, securely, and economically under defined regulations, and advocates for aviation, formulates industry policies (including on tax policy matters), and enhances understanding of the air transport sector. In this context, IATA wishes to provide insights on the critical matter related to the proposed change of Article 8 of the UN Model Convention.

IATA appreciates the merit of the work developed by the UN Tax Committee and will continue to follow it closely, seeking to ensure that the Committee has all the elements necessary to make transparent, fair, and non-distortive decisions about the tax treatment of international air transport.

We respectfully submitted our recommendations to the UN Tax Committee and its Subcommittee as follows:

**I)** The UN Model Convention should **continue to include Article 8 (Alternative A)**, which provides for exclusive residence State taxation of income from international traffic. States should continue to benefit from this option/alternative on exclusive residence-based taxing rights as it is vital that this approach (in the form of Alternative A) remains the stated appropriate method of taxation of air transportation. **Therefore, we urge the Subcommittee to maintain Article 8 (Alternative A) in its current form.**

**II)** **Article 8 (Alternative B), paragraph 2, should only cover shipping.** The fundamental differences between shipping and air transport industries, along with the reasons and assumptions for having separate provisions—Alternative B, paragraph 1, for airlines, and Alternative B, paragraph 2, for shipping—remain relevant today. It is a fact that the argument formulation and all the extensive work done in redrafting Article 8 (Alternative B) and its Commentary by the proponent Subcommittee was initially intended solely for shipping. Bundling air transport to shipping in the redrafted Alternative B without any objectiveness contradicts the principles of policy-making practice, does not bring a clear and straightforward approach to taxing airlines, and leads to increasing risks of multiple taxation. **Thus, we recommend the Subcommittee to retain the residence-based taxation for airlines and reject the imposition of source-based taxation in the form of Alternative B on airlines.**

**III)** Should the UN Tax Committee and its Subcommittee persist in examining the potential of such proposed amendments for air transportation, we respectfully request **the establishment of a Technical Working Group. This group should formally consult UN-ICAO and IATA to generate a reliable, expert, scientific, and evidence-based report** that illustrates the impacts of the proposed change on trade, travel, and tourism, and the economic and financial consequences for airlines and tax administrations. Additionally, **we strongly urge the Subcommittee to involve ICAO and IATA as entities with subject matter expertise from the inception of any discussions about a proposal to transition from the carefully negotiated compromise of residence-based taxation for airlines to a source-based taxation approach over international air transport in the UN Model Convention.**

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We begin by underscoring airlines' critical socio-economic benefits to the global economy. Airlines play an indispensable role in bolstering international trade and forging connections among people, industries, and essential goods across the globe. **Considering the air transport's pivotal role and contributions to the economy, we trust that these insights will prove valuable in your deliberations.**

IATA conveyed, in detail, to the UN Tax Committee:

- The airline industry's profound concerns regarding the proposed change to the residency-based taxation for international air transport;
- Our comments on the assessments and statements documented in the Conference Room Papers ("CRPs") of the 28<sup>th</sup> Session, which continues the work documented in the CRPs of the 26<sup>th</sup> Session, and 27<sup>th</sup> Session of UN Tax Committee; and
- Further comments on the proposed changes to Article 8, addressing the specific questions posed in the March 2024 Papers (Appendix 1).

The ability of international airlines to conduct air transport operations hinges on a global consensus favouring the exclusive residence-based taxation of airlines' income from international traffic. This consensus is reflected in the UN Model Convention, the OECD Model Convention, and over 3,500 double taxation and air transportation agreements. These agreements are designed to mitigate compliance burdens and risks of multiple taxation.

However, the proposed revision of Article 8 overlooks several key factors: the unique challenges faced by international airlines as compared to shipping; the broadly accepted consensus on tax policies applicable to international air transportation, which has been agreed upon and adopted by the United Nations specialized agency for aviation, the International Civil Aviation Organization (ICAO) and its 193 Contracting States; and the economic benefits conferred by aviation to people, societies and the economy.

**We, therefore, urge the UN Tax Committee to keep Alternative A under Article 8; and maintain the residence-based taxation for airlines and reject the imposition of source-based taxation as Article 8 (Alternative B) for airlines – answers to the pending questions are addressed as Appendix 1 to this statement.**

Should the UN Tax Committee and its Subcommittee persist in examining the potential of such proposed amendments for air transportation, we respectfully request the establishment of a Technical Working Group, formally consulting with UN-ICAO and IATA subject matter experts to generate a reliable, expert, scientific, and evidence-based report that illustrates the impacts of the proposed change on trade, travel, and tourism, and the economic and financial consequences for airlines and tax administrations.

On behalf of our member airlines, IATA would be very grateful if the UN Tax Committee took note of our profound concerns regarding this proposal.

We would furthermore appreciate it if the Secretariat could make this statement available on the webpage of the next session of the UN Tax Committee, as part of the Conference Room Papers<sup>1</sup>, under "Statements and Other Documentation", before the 19 March meeting.

Respectfully,

**IATA Tax Policy  
International Air Transport Association**

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<sup>1</sup> 28th Session of the Committee of Experts on International Cooperation in Tax Matters, available at <https://financing.desa.un.org/events/28th-session-committee-experts-international-cooperation-tax-matters>



## Appendix 1

Addressing the following four pending questions:

- **(1) Whether Article 8 (Alternative B) and its draft Commentary accurately reflect the range of views in the Committee;**

The airlines' perspective and point of view should be considered by the UN Tax Committee and reflected in the draft Commentary. This submission contains several items which have not been reflected in the March 2023 Papers, October 2023 Papers, and March 2024 Papers. As a result, the proposed changes to Article 8 (Alternative B) and its draft Commentary are not appropriate. They should be redrafted to remove international air transport from the scope of the text proposed.

- **(2) Whether Alternative B, paragraph 2 should cover both shipping and international air transport (as in the draft in paragraph 4) or only shipping;**

**Shipping only.** Alternative B, paragraph 2 should only cover shipping. International air transport should be kept in Alternative A and Alternative B, paragraph 1, in its current form for the reasons we have outlined in this submission.

- **(3) If/when the revision to Article 8 (Alternative B) is finalized, should the UN Model continue to include Article 8 (Alternative A), which provides for exclusive residence State taxation of income from international traffic; and**

**Yes.** States should continue to benefit from this option / alternative on exclusive residence-based taxing rights. We strongly support Article 8 in its current form, having both Alternative A and Alternative B (applying only to shipping).

- **(4) If Article 8 is to continue to include Alternative A, should the order of the two alternatives be reversed.**

**No.** The order of the Alternatives A and B should be kept as is. We believe that Alternative A should take precedence over Alternative B in all cases, as it is the most appropriate method of taxation. In addition, there are numerous references to Alternative A and Alternative B, respectively, in air transport and shipping instruments and documents. Changing the order does not bring any material benefit, rather carrying legal uncertainty.