



WORKING PAPER

LEGAL COMMITTEE – 39TH SESSION

(Montréal, 25 – 28 June 2024)

Agenda Item 7: Any other business

**PROPOSED AMENDMENTS TO ARTICLE 8 OF THE UN MODEL CONVENTION:
IMPLICATIONS FOR INTERNATIONAL AIR CONNECTIVITY**

(Presented by the International Air Transport Association - IATA)

SUMMARY

Proposed amendments to Article 8 of the UN Model Double Taxation Convention are very likely to have unintended consequences for international air connectivity and raise the question of double taxation on international air transport income, among other concerns. IATA and its member airlines are convinced of the value of the current approach under Article 8 for all stakeholders, under which income derived from international air transport is taxed in the home jurisdiction of the airline enterprise. This approach has stood the test of time, provides for a degree of uniformity in the application of national tax laws and aligns with ICAO's Policies on Taxation (Doc 8632). Given the significant implications of a change to Article 8, IATA takes this opportunity to raise the issue with ICAO, ICAO Member States and the Legal Committee.

References:

UN Model Double Taxation Convention
ICAO's Policies on Taxation in the Field of International Air Transport (Doc 8632)
Co-ordinators' Reports: Proposal for a revision to Article 8 (Alternative B) of the United Nations Model Double Taxation Convention between Developed and Developing Countries:

- E/C.18/2023/CRP.14 (10 March 2023)
- E/C.18/2023/CRP.44 (27 September 2023)
- E/C.18/2024/CRP.12 (4 March 2024)

IATA Public Statement on "Revision of Article 8 of the UN Model Convention at the 28th Session of the Committee of Experts on International Cooperation in Tax Matters"

1. INTRODUCTION

1.1 The United Nations Committee of Experts on International Cooperation in Tax Matters (UN Tax Committee), a subsidiary body of the Economic and Social Council (ECOSOC), is considering amendments to Article 8 of the [United Nations Model Double Taxation Convention between Developed and Developing Countries](#) (UN Model Convention). The proposed amendments would grant source States the right to tax income from international air transport.

1.2 IATA is of the view that these amendments would harm international air connectivity.

1.3 IATA therefore wishes to raise this issue for the information of the Legal Committee and ICAO Member States and in particular emphasize the importance of defending the merits of the current framework of exclusive residence-based taxation for international air transport as outlined in ICAO's Policies on Taxation in the Field of International Air Transport (Doc 8632).

2. DISCUSSION

2.1 The UN Tax Committee discussed amendments to Article 8 (Alternative B) of the UN Model Convention at its 26th Session (March 2023, held in New York), 27th Session (October 2023, held in Geneva), and 28th Session (March 2024, held in New York). The proposed amendments, as detailed in the reports [E/C.18/2023/CRP.14](#), [E/C.18/2023/CRP.44](#) and [E/C.18/2024/CRP.12](#) would expand source-State taxing rights on income derived from international air transport. The Committee is expected to decide on this matter during its 29th Session, scheduled to take place in Geneva from October 15th to 18th, 2024.

2.2 The proposed amendments to Article 8 are very likely to have unintended and adverse consequences for international air connectivity. They depart from, and would effectively abolish, the well-established principle of exclusive residence-based taxation for international air transport as enshrined in ICAO's Policies on Taxation in the Field of International Air Transport (Doc 8632), and all prior iterations of Article 8, under which airline enterprises are taxed on their international air transport income only in their home jurisdiction (i.e. their jurisdiction of tax residence). This long-standing policy approach has been vital for avoiding scenarios of double and multiple taxation and has provided for a degree of uniformity, predictability and efficiency in tax matters beneficial for the growth and development of international air connectivity.

2.3 In IATA's view, the introduction of a source-based taxation principle would increase compliance complexity, compliance costs, administrative burden and also raise the question of double and multiple taxation.¹ A source-based approach would introduce problems associated with inconsistency in the application of tax rules, disagreements between State tax authorities, an increased number of investigations, audits and legal disputes on assessments *inter alia*, all of which are greatly reduced under Article 8 where an airline enterprise is assessed for income tax in only a single (home) jurisdiction.

2.4 On the other hand, the existing residence-based taxation approach has demonstrated its effectiveness, simplicity, fairness and administrative practicality over many years. Regulatory certainty on income taxation, akin to the other areas in which a uniform rule is provided for under ICAO's framework,

¹ IATA (2024). "Revision of Article 8 of the UN Model Convention at the 28th Session of the Committee of Experts on International Cooperation in Tax Matters." International Air Transport Association. Retrieved from: <https://www.iata.org/contentassets/36d370608c8b4e5ba838d1ea53f2a20d/iata-statement-art8-changes-un-model-convention-march-2024.pdf>. Accessed on 9 May 2024.

has played a key supporting role in expanding international air connectivity, which is a crucial driver of economic growth, job creation and social development.

2.5 In IATA's view, it would be highly desirable for ICAO and ICAO Member States to engage with the UN Tax Committee on the interaction of their deliberations with ICAO's Policies on Taxation in the Field of International Air Transport (Doc 8632), as well as the broader policy considerations relevant to international air connectivity and its benefits. ICAO's expertise and perspective can play a pivotal role in ensuring that these aspects are adequately represented and considered in the UN Tax Committee deliberations.

3. **ACTION BY THE LEGAL COMMITTEE**

3.1 The Legal Committee is invited to:

- a) note this Working Paper and the importance of ICAO and ICAO Member State involvement in UN Tax Committee deliberations on Article 8; and
- b) make further inquiries as appropriate.

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