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\*\* In cooperation with  
Trench, Rossi e Watanabe  
Advogados

March 16, 2023

Department of Economic and Social Affairs  
UN Secretariat  
New York, NY 10017  
via e-mail to: [taxreport2023@un.org](mailto:taxreport2023@un.org)

**Re: Stakeholder Input on Resolution for Promotion of inclusive and effective international tax cooperation at the United Nations**

Dear Sirs / Madams:

We represent the Digital Economy Group (DEG), an informal coalition of leading global digital service providers based in the U.S. and Europe. Our goal is to promote an international tax system based on sound economic principles and which avoids double taxation of the same profits. We are pleased to offer comments on the plan of work to be pursued pursuant to the General Assembly's resolution for promoting inclusive and effective tax cooperation at the United Nations.

DEG member companies welcome global mechanisms that allow for efficient tax cooperation, and we support multilateral solutions to achieve tax certainty. Further work to achieve greater international tax cooperation certainly is needed at the moment, in light of the proliferation of unilateral tax measures, the resulting double taxation and trade tensions those unilateral measures create, and the increase in cross-border tax disputes. Global consistency should be a key goal of any tax process, and we appreciate a global solution focused on restoring tax certainty.

Accordingly, we look forward with interest to the results of the Secretary-General's project to review existing international legal instruments and other materials that address international tax cooperation. We expect the Secretary-General's review of existing tax treaties and related instruments will show the importance of these agreements in promoting consistency in the application of taxing rights to profits arising from cross-border transactions, protecting against double taxation, improving tax certainty, and creating multilateral processes to resolve disputes. These are all core purposes of international tax agreements, and we strongly endorse the continued adoption of these agreements by countries around the world.

We note that the goal of this project is to strengthen international tax cooperation. We endorse that goal, noting that the existing network of tax treaties and associated agreements has been effective in removing barriers to cross-border transactions,

encouraging investment, and supporting economic development in all states. We believe that discussions focused on strengthening the effectiveness of international tax cooperation should be pursued within the framework of how best to achieve those goals of encouraging sustainable economic and social development, while reducing double tax risks and compliance costs.

We also note that given the complexity and importance of the issues to be considered, it is critical that the UN Secretary-General engage in extensive consultations with stakeholders at all stages of the process. We appreciate this opportunity to provide comments at the commencement of the project. We believe that stakeholders have important contributions to make with regard not only to setting the scope of the project, but also in response to any tax policy proposals raised during the process, and to the potential implementation of any such proposals. We suggest that the work under this project be conducted according to a timeline that allows for full reflection and contributions from stakeholders. International tax issues involving all UN member states necessarily will be complex and consensus may not emerge immediately, meaning that sufficient time must be allowed for collaborative discussion with stakeholders.

DEG members support international tax policies designed to promote growth in all economies, and to support more inclusive, resilient, and sustainable economies and societies. We believe that corporate income taxation rules based on concepts of source should be designed as net income-based taxes that are directly related to business activities actually conducted in a state. Proposals to increase taxation rights in market states should address consequences in those states surrendering the corresponding taxation right. Failure to adequately consider both sides of the transaction will lead to conflicting taxation claims, trade disputes, and destabilization of the international tax system. Accordingly, all proposals which determine what profits are attributable to a source state must be agreed by a consensus process including agreement by residence states, in order to avoid double taxation and destabilization of the international tax framework. We also strongly believe that dispute resolution needs to be integrated into any international tax framework design, as a tax system is only workable if effective mechanisms exist to ensure dispute prevention and resolution in order to avoid double taxation.

We note with caution that this UN Resolution comes at a time when work is still underway to implement the OECD / Inclusive Framework Two-Pillar solution for stabilizing the international tax framework. The Inclusive Framework now comprises 142 countries from around the world, all participating on an equal footing. That project constitutes an historically unprecedented opportunity for UN member states to provide input into reforms of the international tax system. We are

concerned that a parallel process at the United Nations pursued without coordination with the OECD / Inclusive Framework process will not serve the goals of achieving consistency and stability in global tax rules, and will not promote more inclusive, resilient, and sustainable economies and societies. Accordingly, we recommend that this project take into account the work of the OECD / Inclusive Framework, to ensure that any recommendations arising from this project are consistent with the work being done through the Inclusive Framework.

We note that the General Assembly Resolution left open for further discussion “the possibility of developing an international tax cooperation framework or instrument”. We recommend caution in promoting proposals which could result in parallel, but different, global tax agreements. We note that the UN, through the UN Model Double Taxation Convention, already provides an effective forum for UN member states to express views on how they may seek to approach the negotiation of tax treaty provisions to protect the interests of developing countries. In our view, maintaining the UN Model as a separate model from the OECD Model has been effective to allow a forum for UN member states to discuss and resolve issues important to developing countries. We do not expect that adopting a separate legal instrument, independent of existing tax treaties and of the OECD Inclusive Framework, will result in consistent taxation policies globally.

Over 3,000 tax treaties exist in the world today. That network memorializes consensus agreements on the allocation of taxation rights, and creates a robust framework for the resolution of disputes and the prevention of double taxation. We believe that building upon the foundation of the existing treaty network will be the most effective approach to expanding tax certainty around the world, as opposed to creating new instruments which may conflict with the existing treaty framework.

Those existing treaties enhance cross-border trade, which enhances economic development in both states. The agreements embodied in those treaties minimize trade friction, thereby contributing to sustainable economic growth.

This project can be a success even if it does not result in a novel international tax cooperation framework or instrument. This process can provide useful inputs to advance global cooperation. The UN General Assembly resolution has already created a forum for countries and stakeholders to exchange ideas and formulate policy. The Secretary-General’s report could serve as an important resource to develop ideas and suggestions on how to improve existing tax, trade or other agreements to facilitate international trade, support sound income tax principles and reduce tax and trade friction. We believe that focusing on those goals will ensure

the success of the work undertaken pursuant to this resolution for the promotion of inclusive and effective international tax cooperation.

We look forward to making further contributions during this process.  
Sincerely,

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