INTERNATIONAL LAW ASSOCIATION

VIENNA CONFERENCE (2026)

COMMITTEE ON INTERNATIONAL TAX LAW

The 82nd Biennial Conference of the International Law Association, held in Vienna, Austria, 17-21 August 2026

HAVING CONSIDERED the Report of the Committee on International Tax Law submitted to the 82nd Conference,

APPRECIATING the work done by the Committee, implementing its phase 2 mandate that emphasised the international law of jurisdiction to tax (tax nexus), which considered 'a wide range of technical issues connected with the jurisdiction to tax, focusing on prescriptive jurisdiction', including 'how States currently exercise their international tax nexus concerning different types of measures', 'how global tax governance affects international tax nexus' and to 'determine interferences on the tax sovereignty of countries worldwide';

ENDORSES the views of the Committee about the principles and rules of customary and conventional international law governing the exercise of jurisdiction to tax, as set out in its report;

TAKING NOTE of the observations submitted by the Committee demonstrating significant developments in State practice and in work done at international fora in the context of jurisdictional rules of tax law, as set out in its report;

ENDORSES the recommendations by the Committee, as set out in its report;

REQUESTS the Secretary-General of the International Law Association to forward this Resolution and the Committee's report to the Secretary-General of the United Nations with the request that it be brought to the attention of the UN Member States, the Intergovernmental Negotiating Committee established by the General Assembly to draft a United Nations Framework Convention on International Tax Cooperation, the Under-Secretary-General for Economic and Social Affairs for the attention of the Committee of Experts on International Cooperation in Tax Matters, the United Nations Commission on International Trade Law, the UN Human Rights Council, the International Law Commission, as well as other relevant UN bodies and agencies;

ALSO REQUESTS the Secretary-General of the International Law Association to forward this Resolution to international and regional organizations and associations of the interested States, in particular the African Union (AU), the Economic Community of West African States (ECOWAS), the European Union (EU), the Association of Southeast Asian Nations (ASEAN), the Organization of American States (OAS), the Southern Common Market (MERCOSUR), the Caribbean Community (CARICOM), the Organisation for Economic Cooperation and Development (OECD), the Council of Europe, the International Monetary Fund (IMF), the World Bank (WB), the International Centre for Settlement of Investment Disputes (ICSID), the International Labour Organization (ILO), the African Tax Administration Forum (ATAF), the Commonwealth Association of Tax Administrators (CATA), the West-African Tax Administration Forum (WATAF), the Inter-American Center of Tax Administrations (CIAT), the Intra-European Organisation of Tax Administrations (IOTA), the International Fiscal Association (IFA), the International Bureau for Fiscal Documentation (IBFD), and judicial bodies, namely the International Court of Justice, the Permanent Court of Arbitration, the Court of Justice of the European Union, the African Court of Human and Peoples' Rights, the European Court of Human Rights and the Inter-American Court of Human Rights.

I. Principles

A. International law sets limits to States' exercise of jurisdiction to tax.

B. A State's exercise of tax jurisdiction requires a sufficiently close connection (i.e., "adequate nexus") between the State and the taxable object or subject, whether a taxpayer, a transaction, or property. Connecting factors generally accepted in practice for purposes of taxation rely on the personality or territoriality principles for prescriptive jurisdiction.

C. In their exercise of tax jurisdiction on the basis of a sufficiently close connection, States must take into account, in good faith, the interests of any State affected by the relevant tax measure.

D. Within the limits under international law, States establish their own rules to determine what manifestations of a sufficiently close connection suffice to exercise tax jurisdiction.

II. Observations

A. There is a trend of experimenting with new manifestations of a sufficiently close connection in current State practice and at international fora, for example to address tax avoidance concerns or societal and technological developments such as automation or digitalization. To this end, State practice and international fora rely on concepts such as the market or the country of destination to develop new connecting factors. These practices range across different tax measures such as consumption-based taxes, direct taxation of services in the digital economy, and novel taxes aimed at responding to other States' tax measures.

B. Jurisdictional conflicts may arise when tax measures using new manifestations of a sufficiently close connection exceed (or risk exceeding) the limits of international law. This may lead to defensive domestic tax or other measures by affected States, and/or to unresolved double or multiple levels of taxation for taxpayers. A coordinated approach among States, for instance within international fora, is more likely to lead to outcomes that avoid or resolve these jurisdictional conflicts and reduce inefficiencies.

C. Some States are performing economic and tax policy impact assessments, studying the effects on taxpayers and other States of domestic tax measures that use new manifestations of a sufficiently close connection.

D. There is a trend to consider the specific needs of developing countries in tax reform debates at international fora concerning new manifestations of a sufficiently close connection.

III. Recommendations

A. States should cooperate through international fora to coordinate concurrent jurisdictional claims to tax by way of multilateral or bilateral treaties in order to achieve a fair and balanced exercise of tax jurisdiction. The aim should be to develop treaty-based relief measures for taxpayers who suffer multiple tax claims, or to address tax avoidance concerns, especially if harm is caused to the economic and development goals of States.

B. State practice concerning jurisdiction to tax should be comprehensively studied to inform cooperation between States (see Recommendation A). In particular, those studies should consider the structural effects and the definitions of commonly used manifestations of a sufficiently close connection, such as 'residence', 'source', 'market', 'place of consumption', 'place of supply' or 'place of pollution', etc.

C. It is recommended that international fora adapt and improve working methods to coordinate concurrent jurisdictional claims to taxation through processes that produce and publish preparatory work. Such processes should be inclusive and sufficiently resourced. They could be led by independent expert bodies and experts, who should produce scientific analyses and assist in the drafting of any resulting legal instruments.

D. It is recommended to conduct impact assessments about the effects of new manifestations of a sufficiently close connection on taxpayers and other affected States. On that basis, States are recommended to analyse whether the connecting factors chosen are reasonable and proportionate to the legitimate purpose and aim of the relevant tax measure. Thereby, States duly consider the potential effects of a tax measure on other States (Principle C). Publication of such assessments is recommended to demonstrate the lawfulness of jurisdictional claims under international law.

E. In shaping new manifestations of a sufficiently close connection, it is recommended that tax reform efforts adopt a holistic development perspective, with a focus on strengthening domestic resource mobilization, maintaining a policy environment conducive to investment, and promoting broader development objectives, notably those reflected in the UN Sustainable Development Goals.

End.