



AHC to Draft TORs for a UN Framework Convention on Int'l Tax Cooperation

Presentation on procedural elements of a framework convention

21 February 2024, UN HQ, New York

Draft indicative list of matters to be addressed in Terms of Reference

1. Structural elements of a framework convention (identified at high level)
 - a. Procedural elements (common in multilateral conventions, including framework conventions)
 - b. Substantive elements to be covered in a framework convention
2. Approaches to, and possible specific priority areas that could be addressed in, early protocols
3. Modalities relating to the negotiation process of the framework convention
4. Resources to support the work of the negotiating body



Common structural elements of multilateral conventions

1. Introductory elements
2. Operational articles
3. Institutional arrangements
4. Procedural arrangements



Elements: Standard convention vs. framework convention

- ❖ Standard convention will contain all procedural and substantive elements
- ❖ Framework convention will contain most, if not all, procedural elements with substantive commitments spread across convention and its protocols



Introductory elements (subject-matter specific)

- ❖ Preamble
- ❖ Principles
- ❖ Objectives
- ❖ Relationship with other agreements, instruments, and domestic law
- ❖ Definitions



Operational articles (subject-matter specific)

- ❖ Substantive Commitments (in framework convention, protocols or combination of both)
- ❖ Review and verification
- ❖ Exchange of information
- ❖ Data collection and analysis
- ❖ Capacity building
- ❖ Financial resources and mechanisms



Procedural elements found in many multilateral conventions (both framework and standard)

Institutional arrangements, such as:

- ❖ Conference of the Parties
- ❖ Secretariat
- ❖ Subsidiary bodies
- ❖ Dispute settlement mechanisms



Procedural elements found in many multilateral conventions (both framework and standard)

Procedural arrangements, such as:

- ❖ Voting procedures
- ❖ Annexes and protocols
- ❖ Amendments
- ❖ Formal matters (signature, ratification, etc.)



Example of terms of reference on convention elements: anti-corruption convention (standard convention)

3. Requests the Ad Hoc Committee, in developing the draft convention, to adopt a comprehensive and multidisciplinary approach and to consider, inter alia, the following indicative elements: definitions; scope; protection of sovereignty; preventive measures; criminalization; sanctions and remedies; confiscation and seizure; jurisdiction; liability of legal persons; protection of witnesses and victims; promoting and strengthening international cooperation; preventing and combating the transfer of funds of illicit origin derived from acts of corruption, including the laundering of funds, and returning such funds; technical assistance; collection, exchange and analysis of information; and mechanisms for monitoring implementation;

A/RES/56/260 (9 April 2002)



Example of structural elements: cybercrimes convention (standard convention)

Preamble

1. General provisions
2. Criminalization
3. Procedural measures and law enforcement
4. International cooperation
5. Technical assistance, including exchange of experience
6. Preventive measures
7. Mechanism of implementation
8. Final provisions

A/AC.291/7 (24 March 2022)



Some conclusions from examples

- ❖ Very high-level
- ❖ Lists subjects to be covered, not conclusions
- ❖ Focuses on issues specific to subject matter, not procedural elements
- ❖ Because examples are from standard convention, refers to areas for substantive commitments that could be covered in either convention or protocols in framework/protocol approach



Thank you!

