

Brazil - inputs - Draft Terms of Reference for a United Nations Framework Convention on International Tax Cooperation

Brazil welcomes and is pleased to respond to the call for inputs of the Secretariat of the Ad Hoc Committee to Draft Terms of Reference for a United Nations Framework Convention on International Tax Cooperation. We commend the UN for its commitment to shaping a fair, transparent, and efficient international tax system that supports the SDGs and fosters global economic growth, stability, and the reduction of inequalities.

In the call for inputs, the Secretariat asked to refer to the following guiding question for the Committee's deliberations and preparations: "*What are some specific problems that could be addressed by a UN framework convention on international tax cooperation?*" Against this backdrop, Brazil submits the following considerations:

I - Decision-making process:

This subject has been raised by different countries, and we want to use this opportunity to emphasize that the ToR of the United Nations Framework Convention on International Tax Cooperation (UNFCITC) should address the decision-making process to be used in the UNFCITC, as well as in its annexes. In this regard, the ToR should present the guidelines to be used in the absence of consensus in a reasonable timeline, including the use of the majority voting system, and define "a reasonable timeline".

II - Structure

In relation to the drafting of the UNFCITC, Brazil understands that the ToR should address possible structures, working rules and composition of subsidiary and technical groups.

It is also important to define in the ToR the final choice among different models of working bodies or technical groups to draft the UNFCITC and the Early Protocols. Inclusiveness and transparency must be key principles in their functioning.

We believe that technical groups to discuss the Early Protocols should focus on specific topics even if the broader coordination or the initial approval of the initial draft of such Protocols to the UNFCITC can be attributed to one body.

We are of the view that delegates of the subsidiary bodies or technical groups, including those in charge of the discussion of Early Protocols, should work in their capacity as government representatives.

Among the subsidiary bodies, we must consider during the ToR discussions whether the UNFCITC should establish monitoring bodies to assess the implementation of the Protocols to the UNFCITC.

Additionally, the ToR should address whether the UNFCITC would establish other types of instruments or recommendations (other than the Protocols) instead of, or in addition to, issuing Protocols for topics that are discussed in other forums or that at that moment could not be addressed in a Protocol.

III – Substantive scope

We understand that there are various topics of interest that are typically dealt with in Double Taxation Agreements or other instruments that could be considered in Protocols to the UNFCITC.

Brazil understands that we should work on Early Protocols simultaneously to the drafting of the UNFCITC. In relation to the substantive scope of the UNFCITC to be framed in the ToR, at this stage, we must take into consideration the limited capacity of countries for simultaneous discussions of many topics or Early Protocols.

Against this backdrop, Brazil suggests focusing on a selected number of subjects for the Early Protocols while keeping a flexible framework in the UNFCITC to be able to incorporate new subjects in the future. In this regard, we suggest the following issues to be discussed in the Early Protocols:

1. Taxation of super-rich individuals;
2. Illicit Financial Flows;
3. Taxation of cross-border services;
4. Global Cooperation on the Efficiency of Tax Benefits

IV - Consideration of simultaneously developing early protocols

Brazil understands that the prioritization of the themes or topics for the Early Protocols should be discussed by the Ad Hoc Committee in the ToR drafting process. Besides, we have to consider that some of the topics that have been raised for the Early Protocols are too broad and we must specify or delineate them in a feasible approach.