

Colombia

Inputs to the Committee's first substantive session

Colombia welcomes the undergoing efforts at the United Nations to make the international tax system more inclusive, equitable and sustainable. We hope to contribute to this objective with the following remarks in preparation of the Committee's first substantive session.

1. Structural elements of a framework convention

1. Decision making modalities: the Terms of Reference (ToRs) should indicate that the UN Convention's decision-making modalities on matters related to its implementation and follow-up will follow the UNGA procedural rules, exhausting all possible efforts to achieve consensus, but allowing for voting when consensus has not been achieved. In any case, the modalities should not be based on arrangements that favor States lowering standards and sacrificing legitimate aspirations for the sake of consensus.
2. Institutional arrangements:
 1. COP: in order to guarantee the continuity and the relevance of the agreement, in a context of a rapidly changing economy, the ToRs should indicate that the UN Convention will establish a Conference of the Parties as a decision-making body where all states can constantly meet to update existing standards and agree to further commitments to address emerging tax challenges.
 2. Subsidiary bodies: the creation of the necessary subsidiary bodies to support intersessional work and advance COP's mandates should also be considered, including the potential advisory role of existing UN bodies, such as the UN Committee Experts. Furthermore, the ToR should establish that the UN committee of experts on tax matters will serve as an advisory body to the COP, issuing non-binding summaries and advice on the impact of proposed commitments.
 3. Secretariat: the ToRs should also announce the establishment of a secretariat and a proper institutional architecture for the implementation of the convention, including its functioning and nature, with responsibilities such as providing technical support to the Conference of the Parties to facilitate the implementation. The administration, operation, funding, budgetary matters, and dispute resolution mechanisms for this institutional architecture should be also addressed in the Convention.

Supplementary provisions: the ToR may indicate that the UN Framework Convention will include all necessary supplementary provisions to ensure a solid legal grounding for the obligations contained

therein. Moreover, the ToR should establish the need of creating a trust fund to finance the participation of representatives of developing countries during the process of negotiation of the Framework Convention.

3. Principles: a UN tax convention should address the large inequalities that have emerged not only between the richest individuals and companies and poorest citizens and legal entities, but also between the taxing powers assigned to traditional residence and source states. The guiding principles for a more even distribution of resources and taxing powers should be the progressivity, inclusiveness, fairness, transparency, and ability to pay. Ensuring an effective, fair and inclusive governance on tax cooperation, with the meaningful participation of developing countries in decision making and agenda setting, as well as contributing to the achievement of the Sustainable Development Goals and future endeavors for the sustainable development agenda, should also be considered as a principle.
4. Operational elements: we recognize the critical importance of adopting multilateral solutions to the challenges posed by taxation in a fully globalized, highly digitized economy that currently transcends the traditional notions of physical presence underlying current tax rules. Unilateral measures taken by our country at the national level have also shown that the mobility of capital, companies, functions, risks, and assets has reached a point where national borders are inadequate for taxing truly global taxpayers. We therefore suggest that the ToRs indicates that the Convention will consider the design and implementation of a global corporate income tax based on unitary taxation principles as well as progressive tax measures related to income and wealth taxation of high-net-worth individuals and ultra-high net worth individuals.
5. Sustainability: these measures allow countries to pool taxing rights at the global level to mobilize financial resources to fund the new institutional arrangement and to finance global public goods such as climate action. Given the global dimension of these challenges, it is appropriate to approve measures that would create the opportunity for ear marked collective international spending.
6. Synergies: the ToRs should indicate that the convention will address synergies and coordination mechanisms in relation to existing tax cooperation efforts and arrangements.
7. Enforcement: The ToR should mention the need to create a mechanism to verify the fulfillment of member states' rights and obligations under the convention and protocols. Accordingly, the ToR should mention the need to create a dispute resolution mechanism in the Framework Convention.
8. Capacity building: the ToR could mention that a Framework Convention should enable capacity building of developing countries in tax collection and strengthen international cooperation in this aspect, especially between tax administrations.

2. Consideration of simultaneously developing early protocols

9. Colombia supports addressing both substantive and procedural elements in the Framework Convention that could be further developed in early protocols. Concrete solutions to materialize the principles mentioned in paragraph 5 should be included in early protocols. In any case, consideration should be given to the timing of the negotiation of early protocols, taking into account the technical capacity and availability of countries, in particular developing countries.
10. In our view, the substantive issues that require urgent detailed commitments are:
 1. Taxation of high net worth and ultra-high net worth individuals.
 2. Non Pigouvian tax measures to finance climate action, such as a global corporate income tax.
 3. Measures to curb illicit financial flows related to tax and trade.
 4. Taxation of services.
 5. Tax incentivesMeasures to enhance transparency, the exchange of information and mutual administrative assistance.
11. Finally, we would like to emphasize on the novel character of the different issues and measures proposed in the paragraphs above. While these proposals may benefit and build upon the achievements of the OECD BEPS inclusive framework, they include commitments that have not been discussed previously and that could further international tax cooperation in a way that is beneficial to the accomplishment of the Sustainable Development Goals and the raising standards of living for all.