

Comments to the Ad Hoc Committee to Draft Terms of Reference for a United Nations Framework Convention on International Tax Cooperation

March 15, 2024

The Information Technology Industry Council (ITI) appreciates the opportunity to provide input for the first substantive session of the Ad Hoc Committee to Draft Terms of Reference for a United Nations Framework Convention on International Tax Cooperation (Ad Hoc Committee).¹

ITI maintains serious concerns about the potential for a United Nations (UN) Framework Convention on International Tax Cooperation (Framework Convention) to conflict with ongoing efforts in the Organisation for Economic Co-operation and Development (OECD)/G20 Inclusive Framework (IF). Taxpayers and tax administrations alike are already suffering from uncertainty and instability in the international tax system, which the IF's outcomes intend to relieve. The pursuit of parallel intergovernmental tax policy discussions will likely exacerbate existing challenges and risk undermining past and ongoing efforts in the IF to address uncertainty and base erosion and profit shifting. Notably, the IF membership continues to grow and now totals 145 jurisdictions working on multilateral, consensus-based reforms to the international tax system.

As ITI noted in its submission to inform UN Report 2023, our perspective should not be understood as saying the UN has no role in supporting cross-border taxation policy. Rather, the UN, along with the OECD, the World Bank Group, the African Tax Administration Forum (ATAF), and other regional and multilateral organizations have a critical role in play in supporting the successful negotiation and implementation of the IF's outcomes. This can include providing technical assistance and/or capacity building for interested tax administrations during negotiations and implementation, developing complementary programming, supporting stakeholder engagement for domestic implementation and administration of international outcomes, etc. ITI encourages the Ad Hoc Committee to consider facilitating greater engagement with existing efforts in the IF as means of creating a more cohesive and stable international tax system and addressing country-specific policy and administration objectives within a multilateral, consensus-based forum.

ITI puts forward several principles to guide the Ad Hoc Committee's future work:

- **Clearly define scope to ensure any negotiations and outcomes in the UN would not be duplicative nor conflicting with negotiations and outcomes in the IF.** The successful administration of cross-border tax policy requires governments to collaborate and coordinate on a single set of rules, as the IF has been doing for several years. To have a separate, parallel set of rules governing cross-border taxation through the UN would generate

¹ The Information Technology Industry Council (ITI) is the premier global advocate for technology, representing the world's most innovative companies. Founded in 1916, ITI is an international trade association with a team of professionals on four continents. We promote public policies and industry standards that advance competition and innovation worldwide. Our diverse membership and expert staff provide policymakers the broadest perspective and thought leadership from technology, hardware, software, services, and related industries.

uncertainty and more disputes in the international tax system, hence the importance of ensuring clear scoping for the Ad Hoc Committee’s work.

- **Uphold and strengthen long-standing international tax and trade principles**, such as “neutrality, efficiency, certainty and simplicity, effectiveness and fairness, as well as flexibility.”² These principles have fostered predictability and stability in the international tax and trade systems.
- **Pursue meaningful and comprehensive stakeholder engagement.** Taking deliberate steps to exchange views with stakeholders on tax policy approaches helps governments to achieve their policy objectives, ensures adherence to international best practices, and strengthens trust and accountability between the government and all impacted parties. While ITI welcomes the opportunity to provide input through this consultation, we encourage the Ad Hoc Committee to consider longer time periods for soliciting responses in the future.
- **Proceed on a consensus basis.** It is critical that governments develop policies with broad agreement across all their major trading partners to avoid double or multiple taxation, and that governments do not operate unilaterally.
- **Tax income once.** Any system which does not result in a clear agreement as to which jurisdiction has taxing rights – and which jurisdictions must have mechanisms to avoid double taxation through credits or exemptions – is a system that will simply escalate into trade tensions, decreased economic investment, slowed growth, and stunted technological development. ITI also underscores the importance of imposing tax on income rather than gross revenue, as gross-basis taxation does not take into account the costs of operating the business (i.e., payroll, research and development, intermediary inputs, etc.) and can yield double or multiple taxation.
- **Prepare and update economic impact assessments.** As the Ad Hoc Committee considers different approaches, ITI encourages developing analysis based on empirical data that includes estimated impacts on competitiveness and trade and investment flows, and estimated outcomes under a ‘worst-case scenario’ where even more jurisdictions adopt overlapping unilateral measures that generate tax and trade disputes.

² “Addressing the Tax Challenges of the Digital Economy,” OECD/G20 Base Erosion and Profit Shifting Project, September 16, 2014, at 30, <https://www.oecd.org/ctp/addressing-the-tax-challenges-of-the-digital-economy-9789264218789-en.htm>.