



Note No: 375/2024

The Permanent Mission of the Federal Republic of Nigeria presents its compliments to the United Nations Department of Economic and Social Affairs (UN-DESA) and has the honour to refer to the invitation extended by the Chair of the Ad Hoc Committee to Draft Terms of Reference for a United Nations Framework Convention on International Tax Cooperation. This invitation calls for Member States and other stakeholders to provide substantive inputs to the Committee's work, particularly for its first substantive session scheduled for 26 April to 8 May 2024 in New York.

In light of the foregoing, the Permanent Mission of Nigeria, wishes to forward its inputs for the draft Terms of Reference for the UN Framework Convention on International Tax Cooperation.

The Permanent Mission of the Federal Republic of Nigeria avails itself of this opportunity to renew to the United Nations Department of Economic and Social Affairs, the assurances of its highest consideration.



New York, 15 March 2024

**United Nations Department  
of Economic and Social Affairs  
(UNDESA)**

## **Nigeria's Inputs into the Draft Terms of Reference for the UN Framework Convention on International Tax Cooperation**

### **General Comments**

1. Nigeria aligns itself with the inputs submitted on behalf of the African Group and wishes to buttress the following points in its national capacity.
2. Nigeria, along the African Group and other like-minded nations predominantly in the Global South, started this process with a profound sense of responsibility, a steadfast commitment to fairness and a vision for sustainable futures for both developed and developing countries. The key object of this endeavor is to establish a fair, transparent and inclusive international tax cooperation framework. We firmly believe such a platform will facilitate negotiations on crucial issues affecting jurisdictions globally, such as historical imbalances in taxing rights, Illicit Financial Flows (IFFs), aggressive tax planning, tax evasion, Base Erosion and Profit Shifting (BEPS), etc. Furthermore, it will mitigate obstacles hindering countries' efforts in domestic revenue mobilization.

### **Guide for the Framework Drafting Committee:**

3. In crafting the guidelines for the Convention Drafting Committee, this section of the ToR must clearly outline the governance procedures and key factors for consideration. Specifically, the committee is tasked with ensuring the convention's text reflects:
  - a) The diverse needs, essential priorities and varying abilities of all participating nations, giving special attention to the requirements of developing countries.
  - b) A comprehensive approach to sustainable development, which duly acknowledges the intersection of taxation with other critical areas.
  - c) The incorporation of adaptability and resilience in the global tax framework, aligning it with the dynamic nature of technological advancements, shifts in business paradigms and the ever-evolving landscape of international tax cooperation.
  - d) The contributions from other pertinent platforms, optimizing synergies and harnessing the collective resources, knowledge and unique contributions that are prevalent across institutions engaged in tax cooperation at all levels—international, regional and local.

### **Auxiliary Provisions**

4. The Terms of Reference are to empower the Convention drafting committee with the responsibility to develop supplementary articles for the Convention. The drafting of these articles, which shall not necessarily follow a specific sequence, encompasses the creation of an Introduction, Definitions of key terms, the Objectives the Convention seeks to achieve, the Principles upon which it will operate, Procedures for Voting and Amendments, Clauses for resolving disputes, Provisions for transition, as well as guidelines for the

Depository functions, and the processes surrounding Signature, Ratification, Accession and the Commencement of the Convention.

### **Institutional Arrangements**

5. The committee should elaborate the convention to establish a Framework with the following:
  - a) *Structure* – the framework should have a Conference of Parties (CoP), a technical secretariat and ad hoc technical working groups (TWG) to be established by the CoP on need basis, following a recommendation by the secretariat. The CoP should also have powers to establish any other auxiliary body as may become necessary for the realization of the object of the Convention. The United Nations Tax Committee (UNTC) members may be constituted into an advisory body to the Secretariat with a mandate to supervise, on behalf of the CoP, the technical work of the Secretariat.
  - b) *Functions* – the function of the Framework must be broad enough to cover all existing and emerging issues of international taxation.<sup>1</sup>
  - c) *Administration* – the convention must set out process and procedure for the general administration of the Framework including but not limited to the relationship between the organs of the framework, the framework and other organs of the UN and how the Framework will relate to stakeholders including national and regional organizations like Tax Administrations, ATAF, WATAF, OECD, PTLAC, CSOs and IGOs.
  - d) *Legacy Issues*: the convention should provide the treatment, by the Framework, of the existing instruments, rules or standards developed by the existing platforms as well as the relationship with the platforms themselves.<sup>2</sup>

### **Operational Clauses**

6. The committee is tasked with creating a convention that will give rise to a comprehensive Framework characterized by:
  - a) **Structure**: The Framework shall feature a Conference of Parties (CoP), a specialized secretariat, and the formation of ad hoc technical working groups as required, upon the CoP's discretion and upon recommendations from the secretariat. The CoP will also hold the authority to initiate any supplementary bodies necessary to fulfill the Convention's objectives. Additionally, the United Nations Tax Committee (UNTC) members are envisioned to form a consultative group to the Secretariat, endowed with the responsibility to oversee the technical operations under the CoP's guidance.

- b) **Functions:** The scope of the Framework's functions should be extensive, encompassing a wide spectrum of current and prospective international taxation issues.
- c) **Administration:** The convention will outline detailed administrative procedures and processes. These will include the governance of the Framework's internal mechanisms, its interactions with other UN entities, and its engagement with various stakeholders, such as national and regional taxation bodies, intergovernmental organizations, civil society organizations and international governmental organizations.
- d) **Legacy Issues:** The Framework shall address the handling of pre-existing instruments, guidelines, or norms established by prior platforms, as well as define the nature of the ongoing relationships with these entities.

### **Consideration of Simultaneous Development of Early Protocols**

- 7. Recognizing the directive of Resolution 78/230 regarding the early development of protocols, our proposal is as follows:
  - a) The drafting committee's task should culminate in the creation of a 'protocol' clause. This clause must delineate the methods by which protocols will be conceptualized, discussed, ratified, and eventually implemented under the auspices of the Framework in the years ahead.
  - b) In addition to the aforementioned 'protocol' clause, the drafting committee is advised to identify and enumerate a series of topics that the Framework should prioritize for the formulation of initial protocols. This inventory should not be exhaustive, permitting future expansion, and could potentially encompass areas such as:
    - i. Tax-related aspect of Illicit Financial flows (IFFs)
    - ii. Base Erosion and Profit Shifting
    - iii. Double taxation Agreement
    - iv. Tax Transparency and exchange of information for tax purposes.
    - v. Harmful tax regimes
    - vi. Tax Incentives
    - vii. Taxation of the digital economy
    - viii. Taxation of high network individuals
    - ix. Taxation of Cross-border services
    - x. Technical cooperation with respect to exchange of expertise and best practices
    - xi. Mutual administrative assistance
    - xii. Taxation of Blockchain Technology
    - xiii. Tax Treatment of Artificial Intelligence
    - xiv. Etc.