SPANISH INPUTS to the call from the Chair of the Ad Hoc Committee to Draft Terms of Reference for a United Nations Framework Convention on International Tax Cooperation

By leveraging its broad memberships and strengths, the proposed UN Framework Convention on International Tax Cooperation should aim to catalyze global dialogue and create policy synergy.

In recognition of the call for more inclusive and effective international tax cooperation, the convention should aim to gather countries to exchange effective practices on mobilizing domestic resources through both tax policy formulation and the strengthening of enforcement mechanisms. This effort underscores the pivotal role of the UN in supporting UN member states to mobilize domestic revenues and finance development strategies, aligning closely with the aspirations outlined in General Assembly resolution 78/230.

Consistency with ongoing work and consensus achieved in the OECD and other international fora (such as the Inclusive Framework on BEPS and the Global Forum on Transparency and Exchange of Information for Tax Purposes) should be a guiding principle, aiming to build on these strengths and engage in effective cooperation to ensure a synergistic approach to global tax challenges. The convention should seek to avoid duplication of work and unnecessary extra budget claims, advocating for a decision-making process that strives for consensus.

This effort should also seek to ensure that these endeavors are in line with the Sustainable Development Goals (SDGs), promoting a more equitable and sustainable approach to international tax cooperation. The work should therefore start with a thorough analysis of issues that strengthen the inclusiveness and effectiveness and that support the Sustainable Development Goals and domestic resource mobilization.

I. PRINCIPLES:

Principle of Sovereignty.

It is key to recognize that States will preserve their national tax sovereignty. The Framework should be respectful of the principle of tax sovereignty and national capacity. Spain supports effective cooperation to ensure a synergistic approach to global tax challenges, while recognizing that tax policy decisions remain primarily at the level of the States.

Principle of Coordination with other international fora

Coordination with other international organizations, to avoid duplication or the existence of uncoordinated policies. It is possible to work in collaboration with other international organizations that have the experience and the knowledge, without ceasing to consider the UN as the framework for action that covers all members and their needs. We would support integrating the work previously done by other international Fora, mainly the OECD, the Inclusive Framework on BEPS and the Global Forum on Transparency and Exchange of Information for Tax Purposes. We would also encourage engaging these organizations in the current United Nations Framework, in order to ensure consistency in the international scenario.

II. DECISION MAKING

We believe that a simple majority is not appropriate for establishing international tax rules, which cannot be imposed by a majority over a minority of member states. Instead, consensus should be required in the negotiation and adoption of the text of the UN Framework Convention on International Tax Cooperation and its protocols, as well as for the work of the Committee.

The legal basis lies in Rules 83 and 85 of the Rules of Procedure of the General Assembly, which provide for a 2/3 majority for important issues.

At the organizational session of the Ad-Hoc Committee, a Working Modalities document (Annex I) was adopted, highlighting the importance of the issue of international tax cooperation, which could allow the application of Rule 83 as a legal basis.

There are precedents of legal instruments where the simple majority criterion was not adopted:

- <u>Cybercrime</u> Convention (Resolution 75/282 adopted by the General Assembly on 26 May 2021 (5. *Also decides*……*all decisions of the Committee on substantive matters without approval by consensus shall be taken by a two-thirds majority of the representatives present and voting, before which the Chair, upon a decision of the Bureau, shall inform the Committee that every effort to reach agreement by consensus has been exhausted*);

III. TAX PROPOSALS IN RELATION TO THE UNITED NATIONS SUSTAINABLE DEVELOPMENT GOALS

The Sustainable Development Goals encompass a wide range of policy objectives, including several with clear interlinkages to tax policy measures, such as reducing inequalities, good health and well-being, as well as protecting biodiversity and the environment, and ensuring a strengthened global response to the threat of climate change in line with the Paris Agreement.

Many of the underlying issues are global in nature and/or involve spillover effects between countries and regions. A better understanding of how fiscal policies at the national and international levels could contribute to these objectives can pave the way for international cooperation in these areas in the future.

The report of the United Nations Committee of Experts on International Cooperation in Tax Matters on its twenty-seventh session (Geneva, 17-20 October 2023) highlighted that taxes and tax incentives could play a key role in supporting various aspects of the Sustainable Development Goals, such as macroeconomic stability and resources for critical areas, including social protection, environmental conservation, education and healthcare.

IV. FISCAL POLICY PROPOSALS

Spain has an interest in several areas of tax policy, for instance, in relation to the environment. Spain believes that climate change, biodiversity loss and pollution must be addressed in a comprehensive and integrated way through enhanced multilateralism and global action. Spain participates in the "*Sherpa Taskforce on international taxation to scale up development and climate action*" whose objective is to work to explore "new avenues of international taxation to fulfil our climate commitments". It analyses different fiscal instruments, such as the Tax on International carbon pricing.

Secondly, Spain believes that tax authorities should be able to benefit from existing data and should share new data to improve the enforcement of tax rules and help combat tax fraud and evasion more effectively. Spain endorses the strengthening of transparency with the exchange of information. The exchange of information could be intensified to include such of beneficial ownership, ownership of real estate (fight against undeclared offshore assets) and trusts in the context of tax policy or tax control measures to combat inequality.

And third, Spain considers it could be useful to reflect also on how to improve strategies to realize taxation of high-net worth individuals. We believe that work can be promoted to achieve greater international cooperation in this area.

V. PROPOSALS FOR TAX ADMINISTRATIONS AND DIGITALIZATION

In seeking to mobilize resources, it is important to ensure that tax administrations are modernized and digitized. Digital transformation is crucial in this regard.

Knowledge Sharing Platform for Tax Administrations could provide shared tax knowledge around the world, which Spain sees with interest:

a. Decentralising tax administration services and embedding tax services and processes in the systems used by taxpayers (such as phones, tablets and computers) would improve tax compliance and free up taxpayers' time for other activities, including growing their businesses.

b. Improving risk management so that tax administrations are able to take a more upfront approach to risk management, supporting honest taxpayers and taking action against fraud.

c. Freeing up resources through technology to exploit data reducing the need for human intervention. Artificial intelligence and machine learning creating efficiencies, robotic process automation would allow staff to focus on more complex tasks.

Training programs for officials and staff, as well as taxpayer education, are also needed. This training could be carried out under the umbrella of the UN but through the different regional organizations or the Platform for Tax Cooperation in which several international organizations that carry out technical assistance and training actions participate.

VI. TRANSITIONAL STANDARDS

To guarantee international cooperation, we should be aware of the issue some countries face to implement international standards and other agreements in the framework of other Forums, e.g. OECD.

A good example is the negotiation on Amount B that has taken place in the OECD, in the framework of the discussions of Pillar I. Amount B provides benchmarks that may be used by low-capacity jurisdictions. The results of the benchmarks would constitute an arm's length profit margin that would be considered reasonable for local limited-risk distributors and contract manufacturers. It will help countries to easily apply the agreed benchmarks and to avoid undertaking the cumbersome and difficult comparability analysis, which involves costly digital tools, trained personnel, as well as local comparables. Amount B will increase tax certainty, reduce compliance and administrative costs and in particular assist low-capacity jurisdictions that often suffer from the absence of local market comparables.

Helping countries to implement international standards would promote a common application and consistency and would encourage States to adhere to the international process and participate in new initiatives.