

UK written submission to the call for input ahead of the first substantive session of the Ad Hoc Committee to Draft Terms of Reference for a UN Framework Convention on International Tax Cooperation

Introductory remarks

The UK is committed to working in partnership with other jurisdictions to create a stronger and more inclusive international tax system, building on existing international cooperation. A UN Framework Convention could have an important role to play in achieving this ambition, and we welcome the opportunity to participate in shaping this new global instrument.

The UK has a strong and longstanding record of supporting multilateral tax cooperation and of working with developing countries. We want to continue to improve the inclusiveness of the international tax architecture and strengthen the international tax system to make it fairer and more effective, as highlighted in our November 2023 International Development White Paper.

A UN Framework Convention has the potential to further advance international cooperation on tax matters, and to do so in an inclusive way. Its success will depend on the specific ways of working under the Convention, and we are keen to work collectively to agree those.

We are also keen that the process both brings in the respective expertise of all relevant international organisations and builds on the progress made in other broad-based international fora. These include the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting, and the Global Forum on Tax Transparency and Exchange of Information, both of which have over 140 member jurisdictions and have achieved considerable progress in combating offshore evasion and illicit financial flows. Furthermore, the OECD's Forum on Tax Administration has developed an inclusive global response to identifying and supporting the delivery of international good practices to tackle tax administration issues, including sharing information.

Ensuring that new initiatives are complementary to existing work is the most effective way to reap the rewards of their implementation, to make the international tax system certain and credible for all, and to maintain tax sovereignty for all countries.

Principles for a fair and effective Framework Convention on International Tax Cooperation

To inform which specific problems could be best addressed by a Framework Convention on International Tax Cooperation, we think the Terms of Reference should agree a set of core principles.

Maximising Participation and Coverage

In order to maximise the effectiveness of any international agreement, it is important that it should reflect the views and interests of a diverse range of countries, so that it can attract the widest possible support for implementation. For taxation agreements in particular, it is often the case that a critical mass of countries is needed for them to be effective, since otherwise there could be opportunities for exploitation that lead to illicit financial flows and damage members' economies.

This would be best achieved by reaching a broad-based consensus in negotiations. As noted by the GA rules and procedures (Annex IV, Part D, Section 3, clause 104), consensus contributes to the effective and lasting settlement of differences, thus strengthening the authority of the United Nations. It also increases the legitimacy of any international agreement, and increases the chances of all jurisdictions being properly included in discussions.

In that light, further consideration should be given to how non-state jurisdictions, such as the British Overseas Territories and Crown Dependencies, with separate tax administrations, can contribute, so that their views can be appropriately reflected in the development of the Convention as part of an inclusive process.

Comparative advantage

We believe a UN Framework Convention should focus its work on where it can add most value, over and above effective work happening elsewhere.

This would avoid a situation where multiple international organisations are duplicating each other's work; ensure countries can make best use of limited resources and expertise, especially given the resource-intensity of international tax negotiations; and provide tax certainty for individual and corporate taxpayers, as well as tax administrations.

It would also avoid the risk of fragmentation of global tax standards and consequent legal ambiguity, which in turn would create more opportunities for regulatory arbitrage and illicit financial flows. The impacts of these risks could fall most heavily on developing countries.

Subsidiarity

International cooperation on tax matters can take different forms. In some cases, it involves sharing best practice and building capacity; in other cases, it involves more substantial coordination, for example through common approaches or rules. We think it is important that the discussions look to focus on issues for which there is the greatest need for international cooperation.

A UN Framework Convention should therefore consider the nature of cooperation that would be most effective and most proportionate in achieving the objectives identified. It is a fundamental principle of tax sovereignty that, where possible, decisions on tax design should be for sovereign jurisdictions to take. It follows that international agreements should focus on issues that cannot be effectively addressed at national level.

As set out above, in some cases coordination is needed: for example, to tackle issues relating to cross-border avoidance and evasion or to avoid double taxation in respect of cross-border trade. For instance, internationally coordinated efforts on tax transparency have reduced opportunities to conceal assets to avoid taxation and unlocked an additional 41 billion Euros for developing countries since 2009.

The Terms of Reference should look to identify which sorts of tax issues would benefit most from international cooperation and coordination, and what sort of international coordination is needed; and differentiate that from areas where the primary focus should be on sharing of best practice or capacity building, in particular in areas of tax administration.

Appropriate timelines

A central feature of an inclusive process is that the views of all members should be heard and considered. If discussions are rushed, they would decrease the chance of a broad agreement, particularly given the inherent technicalities of tax policy-making and the importance of tax sovereignty. This means ample time for contributors to review proposals and documents, time for discussion to resolve disagreements, and time to find common ground.

We would therefore encourage a sequential approach, using the process of drafting the Terms of Reference, then the Convention itself, to discuss and resolve differences, and to then negotiate

protocols from the strong foundation of a common approach. We think the short timeline this year also means this sequential approach would be sensible.

Topics for discussion

As noted above, the selection of topics should be guided by clear principles. We look forward to further discussion with other Member States on what the aims and priorities for a UN Framework Convention should be, consistent with those principles. However, there are some initial areas for consideration where the UN could build on existing progress and catalyse wide support behind tackling shared international tax challenges.

As was widely acknowledged in the inputs to the recent Secretary General Report on the Promotion of inclusive and effective international tax cooperation at the United Nations, achieving the Sustainable Development Goals will require all member states to maximise their Domestic Resource Mobilisation. International cooperation already has a strong record of delivery in this area: for example, through the joint United Nations Development Programme/OECD Tax Inspectors Without Borders initiative, which has contributed to increases of \$4.94 billion in additional tax assessed and \$2.07 billion in additional tax revenues collected, primarily received by developing countries. Lower-income countries could collect up to \$260 billion more tax revenue each year with the right policy and administrative reforms, helping them to self-finance service provision and public investment.

We believe the Framework Convention should build on the success of this partnership work, as well as other work on Capacity Building and the Digitisation of Tax Administrations undertaken by the UN Committee of Experts on International Cooperation in Tax Matters. The Platform for Collaboration on Tax can play a role in further strengthening capacity building efforts, with the UN taking a greater lead to ensure that the support is well targeted towards developing countries' needs. It could also include promoting Domestic Resource Mobilisation through assistance in tax reform and through supporting the development of sustainable long-term sources of revenue, for example through well-designed and well-administered consumption and excise taxes.

Previous UN work has highlighted the importance of Value Added Taxes/Goods and Services Taxes for revenue mobilization in developing countries, and the need to improve the performance of those taxes. The Convention provides an opportunity for all members to further develop their approaches to VAT, GST and other indirect taxes. The adoption of OECD International VAT/GST Guidelines delivers a solid framework for tax administrations in designing their VAT/GST systems. There is scope to focus on sharing of best practice and experiences through better administrative cooperation that supports developing countries to address their individual needs. This has had some positive and quick revenue impacts in a range of countries, such as Thailand, South Africa, Egypt, and Chile. While a UN Framework Convention might not be expected to impose new rights and obligations in this area, it could encapsulate high-level aims and provide a basis for future action and collaboration in achieving those aims.

Procedural considerations

Resolution 77/230 highlights the need for international tax cooperation to be fully inclusive in procedural terms. One way to achieve this would be for the Terms of Reference to establish inclusive procedures for elaborating and agreeing the text of the Framework Convention.

Inclusive decision making

Following our proposed principle of maximising participation, and to reflect the commitment in Resolution 77/230 to transparent decision-making structures, the UK suggests that the Terms of

Reference include an obligation on all parties to make every effort to reach a broad-based consensus at all stages of the negotiating process, with the Bureau to make an evidence-based decision when these efforts have been exhausted. This would be in line with other UNGA negotiating processes¹ and reflect the spirit of the compromise reached at the organizational session on the rules of procedure of the Ad-Hoc Committee.

Considering synergies with existing, effective work

Following our proposed principle of maximising comparative advantage, and to give effect to paragraph 6(d) of Resolution 77/230, the UK considers that the Terms of Reference should provide for the UN secretariat, working together with other organisations and experts, to produce a research product on the existing, effective work of other international fora and how any legally binding obligations under the UN Framework Convention would fit within the existing international tax architecture.² This would act as a guide to negotiators. We believe that the Terms of Reference should also require that the text of the Framework Convention itself contain articles establishing its relationship with existing international tax norms.

We look forward to working with the secretariat and other members on this.

¹ General Assembly Resolution 75/282 in respect of the Ad Hoc Committee to Elaborate a Comprehensive International Convention on Countering the Use of Information and Communications Technologies for Criminal Purposes

² We note the report of UN Environment Programme “Overview of information to promote cooperation and coordination with relevant regional and international conventions, instruments and organizations” prepared for the Intergovernmental Negotiation Committee to Develop an International Legally Binding Instrument on Plastic Pollution (UNEP/PP/INC.1/10).