

Brazil - inputs - Draft Terms of Reference for a United Nations Framework Convention on International Tax Cooperation – Version June 7<sup>th</sup>, 2024.

Brazil welcomes and is pleased to respond to the call for inputs of the Secretariat of the Ad Hoc Committee to Draft Terms of Reference for a United Nations Framework Convention on International Tax Cooperation – version June 7<sup>th</sup>, 2024. We recognize that the UN is committed to shaping a fair, transparent, and efficient international tax system that supports the SDGs and fosters global economic growth and stability.

In general, we support the current version of the ToR. Therefore, we will not reinforce the parts of the ToR that we agree with (v.g. majority in the decision-process, simultaneous discussions of Early Protocols etc.).

We understand much more will be developed and detailed in the drafting of the Convention and that the ToR is not supposed to cover every detail to be addressed in the Convention, many of which will be figured out on a later stage of the discussions.

We believe that the most relevant suggestion is to clarify what will be the role of a Bureau of the Drafting Committee (assuming there will be one), whether such Bureau will be in charge of preparing a first Draft of the Convention or whether the first Draft of the Convention will be prepared only by the Secretariat. Paragraphs (6) and (8) of A/RES/78/230 are not precise in relation to the procedures and workflow of the future Committee and its Bureau.

Additional suggestions are:

- Para. 7: - suggestion replacing (a), (b) and (c) for the following text:
  - a. *Set out the fundamental principles and rules of governance for international tax cooperation that ensure the full inclusiveness and effectiveness of ~~the~~ international tax cooperation in terms of substance and process.*
  - b. *Establish a system of governance for international tax cooperation capable of responding to existing and future tax and tax-related challenges on an ongoing basis, while respecting the tax sovereignty of each Member State and strengthening domestic resource mobilization for sustainable development;*
  - c. ~~*Establish an inclusive, fair, transparent, efficient, equitable, and effective international tax system for sustainable development, with a view to enhancing the legitimacy, certainty, resilience, and fairness of international tax rules, while addressing tax-related illicit financial flows and other challenges to strengthening domestic resource mobilization.*~~

Reason: the elements mentioned in paragraph 7(c) are principles (beliefs of fact, rectitude or causation) that should be mentioned in the Principles section.

- Para 9. From “Efforts to make international tax cooperation fully inclusive and more effective should:” to “9. *Efforts to make international tax cooperation fully inclusive and more effective should aim to:*”

- Para 9. From “recognize that every Member State has the sovereign right to decide the policies and practices of its domestic tax system, and the responsibility to ensure that such policies and practices do not cause damage to, or undermine the effectiveness of, the tax base or system of any other Member State” to “*recognize that every Member State has the sovereign right to decide the policies and practices of its domestic tax system, and the responsibility to ensure that such policies and practices do not foreseeably cause damage to, or undermine the effectiveness of, the tax base or system of any other Member State;*”

- Para. 10. It seems that this paragraph calls as “commitments” elements that are principles and broad topics for future Protocols. High-level commitments could be forms of conduct expected from countries to give full effect to the Convention, such as:

*“- Promoting domestic resource mobilization”;*

*“- governments must allocate appropriate levels of resources for the administration of the domestic tax systems and for international cooperation, including capacity building and the maintenance of the domestic structures necessary for the implementation of the Convention.”;*

*- “cooperate with the monitoring tax policies connected to the compliance of the Convention”;*

*- “funding the structure of the Convention”.*

Observation: We have to insert a principle or a high-level commitment that reinforces the need to allocate appropriate levels of resources for the tax administrations and for the international tax cooperation Convention. The complaint that there are no resources to promote international tax cooperation has to be addressed here.

- Para. 13. We believe that the following items should be added to this paragraph: The Framework Convention should also include: (i) explanation on its relation with other UN bodies and other organizations; (ii) a review/complaint/ombudsman body to monitor the implementation of the Convention; and (iii) which types of instruments (such as recommendations) will be produced in addition to “Protocols”.