

Colombia

Inputs to the Bureau's Proposal for Zero Draft Terms of Reference for a United Nations Framework Convention on International Tax Cooperation

Colombia welcomes the ongoing efforts at the United Nations to make the international tax system more inclusive, equitable, and sustainable. We hope to contribute to this objective with the following remarks on the zero draft Terms of Reference for a United Nations Framework Convention on International Tax Cooperation in preparation for the Committee's second substantive session.

1. General Comments

Colombia, overall, supports the proposed draft. The following comments are intended to clarify and strengthen the current version to facilitate the discussions during the second substantive session.

First, to ensure the inclusiveness and effectiveness of the Framework Convention on International Tax Cooperation, Colombia stresses the importance of guaranteeing procedures that enable universal participation and lead to substantive decisions. All appropriate means should be put in place to ensure actual universal participation. Decision-making to negotiate and adopt the Framework Convention should follow the UNGA procedural rules, exhausting all possible efforts to achieve consensus but allowing for voting when consensus has not been achieved. Once adopted, decision making modalities to implement the Framework Convention should not be based on arrangements that favor states lowering standards and sacrificing legitimate aspirations for the sake of consensus.

Second, the Terms of Reference should ensure that the Framework Convention includes the necessary tax arrangements to finance solutions to the most important economic, social, and environmental challenges the world faces, such as economic inequality and the climate, biodiversity, and pollution crises. Therefore, the Terms of Reference should include explicit commitments to develop common standards to tax high and ultra-high net-worth individuals and tax instruments to finance the actions needed to address the environmental crisis.

2. Specific Comments

Paragraph 7.c:

1. Aiming for simplicity in the standards that make up the international tax system would strengthen legal certainty for firms and individuals and greatly improve the inclusiveness and effectiveness of both the process and the outcome of a Framework Convention. Thus, in addition to the characteristics already listed, Colombia suggests adding simplicity, as follows: "Establish an inclusive, fair, transparent, efficient, equitable, **simple**, and effective international tax system for sustainable development (...)"

2. Colombia believes domestic resource mobilization is a means to an end. In that sense, we suggest replacing the expression “strengthening domestic resource mobilization” with “generating financing for development”, which covers a broader set of objectives, as follows: “(...) addressing tax-related illicit financial flows and other challenges to generating financing for development, including but not limited to strengthening domestic resources mobilization.”

Paragraph 9:

1. Colombia believes the term “countries in special situations” is not fully adequate for tax matters and should be defined more precisely, as it includes a variety of countries with multiple characteristics that may or may not be relevant for tax purposes. Colombia suggests using the following wording: “(...) be universal in approach and scope and should fully take into account the different needs, priorities, and capacities of all countries, in particular developing countries.”

2. Colombia believes that referring to the sovereign rights of States is not necessary as it a well-known international established principle. The caveat might aim to jeopardize efforts towards effective international tax cooperation. Therefore, we suggest deleting the following sentence: “~~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 undermine the effectiveness of the tax base or system of other Member States.~~”

3. Colombia believes the right to privacy is one of the fundamental human rights and, therefore, there is no need in making the distinction between the two. Thus, we suggest the following wording: “require transparency and accountability of all taxpayers, while respecting ~~the rights to privacy and other~~ fundamental human rights.

Paragraph 10: Colombia agrees with the suggested items. To ensure consistency across existing international agreements, we suggest the following wording: “(...) ensuring that tax measures contribute to addressing environmental challenges and global environmental commitments.” In addition, we believe that a global asset registry should be part of the commitments in terms of transparency and exchange of information for tax purposes. Thus, we suggest the following wording: “(...) transparency and exchange of information for tax purposes, including a global asset registry (...)”.

Paragraph 14: Early protocols should prioritize areas that are critical at the global level and where consensus is most likely to emerge. Thus, Colombia suggests including as a priority issue and as an early protocol “tax measures on environmental and climate challenges”.

Paragraph 15: It is important to clarify that the protocols listed under paragraph 14 are, by definition, also part of this paragraph to avoid any misunderstanding in case the discussions

during the early protocols are extended or delayed. Thus, Colombia suggests adding the following sentence at the end of this paragraph: “**Early protocols that are not completed by the initial deadlines will automatically be considered as part of the protocols listed in this paragraph.**”

Paragraphs 16 and 17: The timing of the negotiations should ensure that substantive agreements are reached in a relatively short period of time, while ensuring that the possibility of reaching consensus on substantive issues is not affected by time constraints. Thus, Colombia suggests organizing 3 sessions each year of at least 8 working days with the possibility of adjusting the duration as the process develops. In addition, given that paragraph 17 currently states that early protocols should be submitted no later than six months after the conclusion of the negotiation of the framework convention, and to allow enough time to complete the early protocols, Colombia suggests submitting the framework convention to the General Assembly for consideration at its 81st session and the early protocols at the 82nd session. Thus, the following wording is suggested for paragraph 16:

“The framework convention should be elaborated by a Member State-led negotiating committee, in accordance with established practice. The intergovernmental negotiating committee would be convened in New York and meet for [3] sessions each year, of a duration of at least [8] working days each, **with the possibility of adjust the duration as the process develops**, and make all efforts to complete its work and **submit the final text of the framework convention to the General Assembly at its 81st session and the early protocols at its 82nd session.**”

Paragraph 18: Colombia believes the current arrangement of the bureau in charge of drafting the terms of references has been successful in reflecting the diversity of views among geographical regions. Therefore, we believe the composition of the bureau of the intergovernmental negotiating committee should consist of at least 2 delegates per region and suggest the following wording:

“18. The bureau of the intergovernmental negotiating committee should consist of a chair, **eight** vicechairs and a rapporteur, elected on the basis of equitable geographical representation.”

Paragraph 22: Colombia suggests clarifying that effective participation of developing countries includes in-person participation in all the sessions, as follows:

“Member States and other relevant stakeholders in a position to do so should be encouraged to assist in ensuring **the full in-person and effective participation in all the sessions** of developing countries.”