



Permanent Mission of Ghana to the United Nations
19 East 47th Street, New York, NY 10017
www.ghanamissionun.org



**COMMENTS BY GHANA ON THE ZERO DRAFT TERMS OF REFERENCE FOR A
UNITED NATIONS FRAMEWORK CONVENTION ON INTERNATIONAL TAX
COOPERATION**

20th June 2024
New York

General Comments

1. Ghana aligns its comments with the comments presented by the African Group and wishes to make the following additional comments in its national capacity.
2. Ghana appreciates the efforts of the Bureau in providing a concise and action oriented zero draft. The zero draft is a good starting point and captures many important concerns expressed by delegations during the organizational and first session of the Committee. It displays high ambitions for the process although some aspects of the draft need improvement.
3. In respect of our specific comments, we state the following:

Objectives

4. General comment: Objectives are the core section of the TOR as they establish the general aims and mechanism of the overall Framework Convention and almost, if not all, other sections/aspects of the TOR will follow from the objectives, are based on or logical extensions of these objectives. Ghana believes that the objectives of the ToRs as drafted are generally strong and open and provide a solid basis for permanent action under the Convention.
5. Specific language proposal: While we support the objectives, we wish to propose minor amendments to paragraph 7(a) to read as follows: *Establish fully inclusive and more effective international tax cooperation in terms of substance and procedures and set out the fundamental principles of such cooperation for all parties, including developing countries*”
6. We also propose slight edits to paragraph 7(c) by adding the word “simplicity”. The paragraph will thus read as follows: *Establish an inclusive, fair, transparent, efficient, equitable, and effective international tax system for sustainable development, with a view to enhancing the legitimacy certainty, resilience, **simplicity** and fairness of international tax rules, while addressing tax related illicit financial flows and other challenges to strengthening domestic resource mobilization.*
7. We wish to stress our strong opposition to the inclusion of any element relating to “complementarity” in the objectives. The inclusion of such elements would permanently reduce the Convention to a second-tier instrument filling gaps left by other fora.

Principles

8. While Ghana shares the view that the right to privacy is important, this should be balanced with the need for transparency and access to information. It should not be used as a built-up barrier towards access to information on country-by-country reports, beneficial ownership information and public reporting of tax information.
9. *Specific language proposal:* The last bullet point of paragraph 9 should be amended as follows: *require transparency and accountability of all taxpayers.*
10. *Specific language proposal:* We propose the inclusion of substantive tax principles on issues of tax abuses such as “avoiding double taxation, double non-taxation, tax avoidance and evasion,” “furthering economic neutrality and providing a robust framework to prevent profit shifting and harmful tax competition,” “aiming at special and differential treatment of developing countries that takes into account the respective development stages;” and procedural principles such as: “ensure that all parties to the Convention can meaningfully participate in setting the agenda and in determining the outcomes of the processes under this Convention

Substantive Elements of the Framework Convention

11. Aside being broad-based, paragraph 10 must include a commitment on IFFs and recovery and repatriation of taxes relating to such illegal transfers.
12. On paragraph 13 we propose the inclusion of ‘procedures for development, adoption and amendment of protocols.’

Specific Priority Areas to be Addressed in Early Protocols

13. We call for the prioritization of ‘tax-related illicit financial flows’, ‘the taxation of cross-border services’ and ‘the taxation of the digital economy’ as the early protocols to consider.
14. The UN FACTI report found that despite years of efforts by the international community to curb illicit financial flows, they remain a chronic and even growing problem for both developed and developing countries, causing a huge gap in financing investment in sustainable development. Developing countries suffer most deeply, losing billions annually to corporate tax avoidance and other base erosion/ profit shifting practices, tax evasion by the wealthy, corruption and financial crime hence the need for protocols to curb these harmful practices.

15. The taxation of the digital economy as one of the early protocols has become necessary because not all countries are covered by the Inclusive Framework and most member states will not benefit from the implementation of the Pillar 1 Amount A solution leading countries to start proliferation of rules to tax cross-border services including the digital economy by way of significant economic presence rules and alternative taxes. As such, prioritizing the taxation of the digital economy will be a quick win for all parties as it will stop fragmentation of international tax rules in this respect and provide respite for countries unable to tax this sector owing to the ineffectiveness of the existing rules.

Approaches and Timeframe

16. Paragraph 20 should be slightly amended by replacing the word “should with “may”:
“Throughout its work, the intergovernmental negotiating committee **may** take into consideration the work of other relevant forums, potential synergies and the existing tools, strengths, expertise and complementarities available in the multiple institutions involved in tax cooperation on at the international, regional and local levels.

17. All countries share the common goal that there is the need for a coherent and stable international tax system that is acceptable to as many participants in the global economy as possible. We reiterate that UN rules of procedure are inherently aimed at consensus but are built on the recognition that the majority of countries need to be able to address issues, if differences prevail. As a subsidiary body of the General Assembly, this principle guides the work of this Committee as reflected in Annex I of A/AC.295/2024/2. We therefore reiterate our position that the rules of procedure of the Assembly apply (A/520/Rev.20) should continue to apply to any subsidiary body of the General Assembly.

18. In terms of timeframe, Ghana believes that 18 months would be sufficient for simultaneously developing the framework convention and the early protocols.

Resources to support the work of the negotiating body

19. We request the Secretary-General to provide the intergovernmental negotiating committee with the necessary facilities and resources to support the work of the Committee. We stress that these resources must include technical secretary from the Department for General Assembly and Conference Management (DGACM) as well as a substantive secretariat from DESA.

Conclusion

20. Ghana reiterates its support for the work of the Ad Hoc Committee to Draft Terms of Reference for a United Nations Framework Convention on International Tax Cooperation and welcomes the progress made by the Committee so far in its work. We also commend the work of the Bureau and look forward to the successful completion of the process towards developing a United Nations framework convention on international tax cooperation and call upon all countries to engage constructively.