# ICC comments on the UN Ad Hoc Committee Bureau's Proposal for the Zero Draft Terms of Reference for a United Nations Framework Convention on International Tax Cooperation.

The International Chamber of Commerce (ICC) represents over 45 million businesses in more than 100 countries across the world. On behalf of our Members, we submit these comments to the "Bureau's Proposal for Zero Draft Terms of Reference for a United Nations Framework Convention on International Tax Cooperation" (the "Zero-draft").

Effective international tax cooperation plays an important role in mitigating and eliminating international double taxation and in achieving greater tax certainty on a global scale. ICC has always championed transparent, efficient, predictable, and stable tax regimes which enhance long term investment, job creation, and economic growth. ICC also supports inclusivity in international tax cooperation and multilateralism more broadly.

As Permanent Observers to the UN General Assembly, we look forward to our role as an active participant throughout the overall process and we appreciate the opportunity to present our views on the Zero-draft.

## General Comments

ICC and its Members are ready to engage constructively with the UN on this process. Our goal has always been to develop principles-based international tax and trade policies that facilitate investment and the achievement of the Sustainable Development Goals (SDGs). For our members, tax policy is not just a necessary lever for raising government tax revenues; it should also encourage economic growth and sustainable development through the investment in jobs, infrastructure, and technology, and promote free trade, direct investment, and fair competition. Sustainable growth will generate incremental resources for national budgets. We believe the best tax systems offer a level playing field for all businesses, eliminate double taxation, and simplify administrative processes.

In general, we are concerned about the lack of clarity in some of the terms and in the scope of the Zero-draft. The resolution clearly aims to establish a framework convention on International Tax Cooperation, but it does not yet adequately define what this encompasses. More detailed definitions of key terms in the Zero-draft are needed to better understand the scope of this new initiative. Currently, the zero-draft refers to very broad and vague concepts that, without definition, are difficult to apply and measure for validity over time (e.g., fair, equitable, illicit financial flows, domestic resource mobilization). We would welcome greater specificity and definition for key terms throughout the Zero-draft.

We also note the absence of references to the decision-making process in the zero-draft (which process was indeed the primary topic of the deliberations in the first substantive session). In relation to this point, we would like to reiterate the importance of a consensus-based decision-making process. We understood this to be the broadest buy-in from governments, which is imperative if this process is to achieve its aim of enhancing international tax cooperation and ensuring tax certainty on a global scale.

**On the "Objectives" section:**

We propose that broad terms used in this section be more specifically defined (e.g., fair, equitable, illicit financial flows, domestic resource mobilization, etc.). Without defined standards, it will be difficult to craft a workable convention.

In relation to objective 7a, ICC supports the goal to "ensure the full inclusiveness and effectiveness of the international tax cooperation." To that end, we believe a stable international tax framework only comes from building an inclusive approach that involves all stakeholders, including the business community. For this initiative, we recommend including modalities that will ensure a more structured dialogue framework for receiving and considering business input, both in the form of regular meetings and public consultations, in order to allow sufficient time to generate meaningful feedback and comments in our ICC global network.

In the immediate future, we propose increased engagement with the ICC Global Tax Commission leadership and secretariat to develop a formal and effective framework for receiving inputs and consulting the global business community. A formal business working group will be of incredibly importance given future technical work. Businesses can provide technical insights which are necessary to develop any tax policy. As ICC, we are committed and remain available to leverage our global network to facilitate the coordination of business input.

The international business community can provide invaluable insights into the practical aspects of the international tax system that are sometimes overlooked and can be easily misunderstood, even by sophisticated tax experts at international organizations and experienced tax authorities, if they lack knowledge of the business models and complex value chains at issue.

A framework for dialogue with the business community is also helpful to fulfil paragraph 7b, which aims at "*responding to existing and future tax and tax-related challenges on an ongoing basis*," as well as the principle listed in paragraph 9 referring to international tax cooperation as being sufficiently flexible, resilient, and agile to ensure equitable results as technology and business models evolve and the international tax cooperation opportunities advance.

ICC is ready to help the UN intergovernmental committee understand how businesses like those of our members operate and how complex value chains are created in different. sectors. Iin our view, this input will be essential to advance the international tax policy discussion to workable solutions.

### On the "Principles" section:

Paragraph 9 lists among the principles that should inspire international tax cooperation under the aegis of the UN the need to ensure tax certainty for taxpayers. Tax certainty is crucial for fostering a stable and predictable fiscal environment, which in turn encourages investment and economic growth. Tax certainty allows businesses to plan their activities with greater confidence, reducing the risks associated with ambiguous tax rules and unexpected changes in tax legislation. This is particularly important for enterprises operating across multiple jurisdictions, as it mitigates the risk of double taxation and complex compliance requirements.

Certainty will be best ensured if any new convention works on the basis of meaningful consensus. The potential inconsistent application and/or fragmentation of tax frameworks would lead to increased complexity and administration, greater uncertainty, an increase in tax disputes and have a chilling effect on valuable cross-border investment. By prioritizing tax certainty, the UN can contribute to a more equitable and effective international tax system that supports sustainable development and global economic stability.

We agree with the priority that tax rules be as simple and easy to administer as the subject matter allows. Simple and easily administrable rules are always very welcome by taxpayers and tax administrations alike. Thus, we recommend specifically mentioning that the simplicity and easy administrability of the rules should also apply to the taxpayers who comply with them.

Additionally, we recommend adding one of the key principles of tax policy: avoiding and eliminating double taxation in design and in practice. For an effective international tax system that promotes investment and trade, which are fundamental for sustainable economic growth, sales and profits should be taxed once and only once according to a clear set of rules.

**On the "Substantive elements of the Framework Convention" and "Specific priority areas to be addressed in early protocols" sections:**

We appreciate the high-level commitment included in the Terms of Reference on the effective prevention and resolution of tax disputes. A drive towards cooperative compliance, embracing inclusive mutual agreement processes and dispute resolution mechanisms, sharing best practices, appropriate capacity building and training, and increased commercial awareness would benefit both governments and taxpayers alike.

For topics listed both in relation to the Convention's high-level commitments as well as early protocols which relates to corporate income taxes, consideration should be given to the fact that these are not the most economically efficient ways to mobilise domestic resources. Taxing based on gross revenue—not net income—leads to double and even multilayer taxation and disputes, and it does not consider a business's operating costs. When taking based on gross income, a company with a low profit margin would face a significantly higher effective tax rate than a company with a high profit margin. Gross revenue taxes also distort business decisions, and tend to create adverse impacts to small businesses and consumers, particularly because they often bear the cost of the tax.

Regarding the reference to protocols in the Zero-draft, we reiterate that the formal work on protocols should only commence once agreement is reached on the overarching convention, and not be developed simultaneously, making the process unnecessarily more complex. This sequence of drafting is in fact consistent with established UN practice in the context of its framework conventions.

This is particularly relevant as there are overlaps between the topics that should be included as high-level commitments and those that should be addressed in protocols.

We would also like to draw your attention to the fact that multinational businesses with robust governance procedures, external audits, and regulatory obligations, as well as SMEs compliant with established rules and standards, are still disadvantaged in many areas of the world by the informal economy. This informal economy is neither taxed nor regulated and suppresses economic growth, wages, health and safety, and undermines efforts to deliver greater equality and sustainable development goals.

Formalizing the informal economy has important beneficial implications in terms of domestic resource mobilization and should be prioritized. We suggest the committee focus on proposals aimed at formalizing a larger proportion of the economy through policies that encourage investment in skills and technology, social protection, and financial inclusion, rather than penalizing established and regulated businesses through additional taxes or administrative burdens.

### On the "Approaches and time frame for negotiation" section:

The final part of paragraph 17 states that early protocols would be finalized up to six months after the conclusion of negotiations on the Convention. However, in its current version, the TOR are incredibly ambitious and cover too many topics to be finalized within a two-and-a-half-year timeframe.

We would also like to highlight how some of the topics have concrete and immediate implications for local economies in terms of both the investment environment and international trade. For this reason, proposal drafting, and related decisions should not be rushed. Rushed decisions on these key topics risk being counterproductive, causing damage to both developed and developing economies.

We encourage the undertaking of economic impact analyses in relation to policy proposals put forward throughout this process. Sufficient time should be allocated to carefully evaluate the impact of these policies.

We welcome and appreciate the inclusion of paragraph 20, which emphasizes that "*throughout its work, the intergovernmental negotiating committee should 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 at the international, regional, and local levels*."

International institutions should avoid both duplication of effort and contradictory approaches to the same issues. Developing parallel and overlapping international tax frameworks will create instability and uncertainty for taxpayers, resulting in reduced economic growth and development due to diminished cross-border investment. Duplication with existing international agreements and standards is also not beneficial for tax authorities around the world. Drawing on the tax expertise, including best practices, from peer and partner organizations will further strengthen collaboration on domestic resource mobilization and ensure the UN finds workable solutions for administrators and taxpayers based on well-established tax policy principles. We therefore encourage even greater coordination among intergovernmental organizations in the area of international tax cooperation, such as through the Platform for Collaboration on Tax, a joint initiative of the International Monetary Fund, the Organization for Economic Co-operation and Development (OECD), the United Nations, and the World Bank Group in order to mitigate the risk of failure in purpose.

Under this section on approaches and timeframe, we also note that there is no mention of other stakeholder participation. We believe that in this process, it is vital to get the input and views of taxpayers. Public consultations and dialogues with the business community are essential to evaluate any concrete implications deriving from a new policy, and this is part of best practices at both the national and international levels.

As ICC, we remain available to the Ad-Hoc Committee Bureau to share the business community perspective on international tax cooperation matters.