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## **KPMG comments on the Bureau's Proposal for the 'zero draft' Terms of Reference for a United Nations Framework Convention on International Tax Cooperation**

Thank you for the opportunity for KPMG to comment on the *Bureau's Proposal for the 'zero draft' Terms of Reference for a United Nations Framework Convention on International Tax Cooperation* ('the UN Framework Convention'). We welcome the spirit of consultation involving a wide range of participants.

We would like to stress that KPMG acknowledges the concerns of many countries and regional groups giving rise to the discussion of a potential UN Framework Convention and General Assembly resolution 78/230.

Further, as significant participants in the international tax system, we see the potential benefits arising from the establishment of fundamental principles to ensure fully inclusive consultation on substance and process, a system of governance for international tax cooperation and ultimately and hopefully the establishment of an inclusive, fair, transparent, efficient and equitable international tax system. In addition, and very importantly in our view, there is the need for increasing tax certainty, consideration of the impact of taxation on growth and welfare, meeting requests for technical assistance by developing countries and exchange of information mechanisms.

We would like to make the following brief observations:

- 1. Tax certainty and dispute resolution.** Improving tax certainty is one of the most significant win-wins for revenue authorities and taxpayers, and we strongly support its inclusion in the early protocols. For revenue authorities, it will enable greater devotion of resources to areas of high risk giving rise to greater systemic compliance, and for businesses it will reduce the level of deadweight cost which diminishes business activity. This is one avenue that can increase global growth and assist in the world in meeting sustainable development goals. While it is not a simple area, it is one where there should be substantial goodwill from all countries and participants.
- 2. Principles of international taxation and complexity.** One of the fundamental principles of international taxation is that the interaction of multiple tax systems should not allow for double taxation and double non-taxation. This should be an objective of international tax cooperation. This does not say anything about the rate of taxation or the allocation of taxing rights which are separate, though related issues. This could be reflected in paragraph 9. This paragraph and paragraph 10 on commitments could also acknowledge that taxation issues can be very complex and in applying principles of international taxation there is a need to bring together deep tax technical skills, economic analysis, and diplomatic skills which could be found in multiple bodies and institutions.
- 3. Tax-related illicit financial flows.** In the last decade considerable benefit to the global tax system has been achieved through the exchange of information giving rise to a reduction in evasion. More could be done in both the collation and use of this information which would be of substantial benefit to many lower income jurisdictions. International cooperation is needed to help countries be able to receive and appropriately use the relevant information. Protection of

data, including meeting confidentiality and privacy standards, is critical to trust in the taxation system and needs to be factored into the processes undertaken. In our view the concept of *tax-related illicit financial flows* should be focused on illegality. That is, fraud and evasion

4. **Meeting requested technical assistance.** Many countries have indicated that they believe it is critical to raise their technical capacity. This can range from understanding and applying transfer pricing guidelines to consideration of options for tax reform or, say, the introduction of technology for VAT collection. We believe the draft of the ToR could better acknowledge the breadth of assistance that many countries feel they need and put in place institutional frameworks to deal with these needs. Properly done, this could be one of the most effective actions for less developed countries. It is important that assistance is managed and controlled by the country requesting assistance for it to be effective.
5. **Cross-border services and withholding taxation.** It would appear that this topic may be under consideration for an early protocol. It is a complex issue and regard should be had to the economic impact of such taxation, from a jurisdictional and a global perspective, both in the short term and the long term. Also consideration should be given to the demographics of many developing countries which may benefit from a future workforce that is able to provide services through the internet in the global economy. Ultimately, the impact on growth should be a key consideration. As we all know, sustainable growth is the key to improved future welfare.

Once again we appreciate the opportunity to provide input to this process and wish the Bureau and other participants well in their deliberations.

Kind regards,

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