

Slovak Republic's comments regarding the Bureau's proposal on the Zero Draft Terms of Reference for a United Nations Framework Convention on International Tax Cooperation

Our comments are based on the desire to promote an efficient and effective process at the UN level in the area of international tax cooperation that will help us to promote stability and reliability within the international tax architecture. In this context, the terms of reference for a UN framework convention on international tax cooperation are crucial to clarify and determine the governance structure to guide future work, including high-level commitments and procedural rules. Additionally, we hope that the Ad Hoc Committee (AHC) will strive to build bridges, find common ground, and foster mutual understanding.

In general, there is a need for greater clarity on the procedures that will be followed by the negotiating committee in the terms of reference, similar to what has been done in other UN processes. We reiterate the importance of consensus-based decision making and this should clearly be reflected in the terms of reference. Consensus should be required in the negotiation and adoption of the text of the framework convention and its protocols, as well as for the work of the Ad Hoc Committee, with the objective of achieving a generally accepted result.

We stress that developing early protocols in parallel to the negotiation of the framework convention remains an open issue to be further discussed by UN Member States. Furthermore, we recall the wording used in the report of the Secretary General on Promotion of inclusive and effective international tax cooperation at the United Nations: "If there is sufficient agreement on certain action items, some of these protocols could be negotiated at the same time as the framework convention." This option was merely suggested as a possible course of action and should be reflected as such in the draft terms of reference. We strongly prefer that only a limited number of early protocols be developed after the negotiations of the framework convention are concluded. Therefore, we propose the following amendment to the draft terms of reference: "Early protocols on a small number of specific priority areas could be developed after the negotiation of the framework convention."

We recommend that the negotiation of any such protocols be completed within a reasonable timeframe after concluding the negotiations of the framework convention. The timeframe to be foreseen for the negotiations of early protocols will depend on the number of protocols and on the subjects they cover. There should not be a single deadline for finalising all substantive protocols. The topics of protocols should focus on areas with the broadest consensus and agreement, therefore, least controversial topics, avoiding issues that are already under negotiation or those with internationally agreed standards. Therefore, it is appropriate to first conduct an assessment and discuss an exhaustive analysis of a small number of issues and prioritise certain topics over others.

The proposed timeline in the zero draft terms of reference, which suggests that the intergovernmental negotiating committee should begin negotiating the early protocols, while also starting negotiations of the framework convention, will place excessive demands on Member States' resources.

Throughout its work, the intergovernmental negotiating committee should avoid duplicating the work of other relevant forums. It should consider potential synergies and leverage the existing tools, strengths, expertise and complementarities of the multiple institutions and processes involved in tax cooperation at the international, regional and local levels.

The commitments mentioned in the zero draft should be high-level, illustrative, and complementary to already existing commitments. (Therefore we would suggest including domestic resource mobilization, capacity building and fostering tax compliance.)

Considering the lack of a common understanding of certain concepts of the draft terms of reference among UN Member States to date, there is a need to delineate these concepts in the terms of reference, for instance 'tax-related illicit financial flows'. Guiding notes on this or other unclear concepts or topics should be prepared for the second session of the Ad Hoc Committee.

The terms of reference should reflect that they do not prejudge the outcomes of the negotiating committee and should clarify that the work of the negotiating committee should be based on substantive technical analysis before starting to work on any potential measures in a targeted and efficient manner. In addition, other instruments besides protocols should be explored (e.g. best practices or soft law).