

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

We thank the Chair of the Ad Hoc Committee for drafting Terms of Reference ("Zero Draft TOR") for a United Nations Framework Convention on International Tax Cooperation (the "Convention") and for the opportunity to provide our inputs on the Zero Draft TOR.

The UAE is committed to working alongside other jurisdictions to create a more inclusive international tax system. The UAE believes that the Convention will have an important role to play in achieving this objective and in helping to ensure that every member state feels that the Convention is an effective mechanism which allows their voice to be heard. As a Bureau member we will ensure that we are actively participating in designing this new global initiative and TOR for the benefit of all member states. In particular, the UAE, acknowledges the existing international tax progress made to date and as with other regulations or guidelines that currently co-exist between the UN and other international taxation bodies, e.g., transfer pricing guidelines, model tax conventions, etc. the UAE respectfully requests that wherever possible; the work of the Convention also acknowledges such efforts, and that the Convention is focused on areas that will deliver the most benefits to all member states whilst respecting jurisdiction sovereignty and the right of each country to choose protocols that are in the interest of their own tax base and taxpayers.

Our comments on the Zero Draft TOR are as follows:

Substantive elements of the Framework Convention

Paragraph 10 includes a number of complex and broad topics. We believe there should be a focus on areas where consensus can be reached and therefore will be of benefit to all member states. A streamlined focus of topics such as taxation measures to enable effective multilateral dispute prevention is more likely to result in lasting success and adoption by jurisdictions, whilst delivering significant value for taxpayers.

Capacity building

To ensure full inclusivity and a level playing field, we believe that capacity building should be available to all jurisdictions where there are specific requirements and needs, and that language of this nature should be included in this section.

Specific priority areas that should be addressed in early protocols

Given potential resource constraints that jurisdictions are likely to have, we recommend reducing the early protocols to a few streamlined priority areas as opposed to the current comprehensive list and that the prioritized protocols are the ones that will provide the most impact or benefit to those that need it, e.g. Digitalization. A focus on a few areas (potential bridging areas) rather than a long list of priority areas will show the progress that this convention can achieve (i.e. address gaps) in a manner that is fair and inclusive to all member states. To ensure balance, we support a pragmatic position where the early protocols are developed after a certain period in which work on the convention has already been performed (for example 12 months). This amendment to timeline will ensure that the timeframe of the Convention takes into consideration the need for engagement and genuine attempts for consensus on areas of divergence to ensure the long-term success and wide adoption of any protocols "agreed."

Items that are removed from paragraph 14 could be then included in 15 as potential topics of discussion for future protocols.

Approaches and time frame for negotiation

We recommend not to have simultaneous development of early protocols, and recommend a staggered approach be adopted. Given we do not know the number of early protocols that will be set or how complex these may be, we do not recommend providing a fixed timeline of 6 months (paragraph 17) after the negotiation of the framework convention. Rather, we recommend that this timeline is extended to ensure a realistic timing of developing and completing the protocols, as well as performing detailed analysis so that items can be addressed in a manner that will be beneficial for all member states. This is compounded by the capacity building issue for developing countries, but also for other member states that are undergoing significant tax reforms.

Conclusion

As a Bureau member, we will continue to participate actively in the technical and procedural discussions, and we look forward to collaborating and collectively working towards a draft TOR for the Framework Convention that all member states can support and adopt.