



**The Co-Leads,**

Workstream I

Intergovernmental Negotiation Committee on the United Nations Framework Convention on International Tax Cooperation and its Protocols,

United Nations Headquarters,

New York,

USA

**WRITTEN COMMENTS FROM THE AFRICAN TAX ADMINISTRATION FORUM (ATAF) ON THE CO-LEADS DRAFT ISSUES NOTE ON WORKSTREAM I – UNITED NATIONS FRAMEWORK CONVENTION ON INTERNATIONAL TAX COOPERATION**

1. This document presents the formal submission of the African Tax Administration Forum (ATAF) in response to the issue papers published on 27 June 2025 by Workstream 1 of the Intergovernmental Negotiating Committee (INC) for the United Nations Framework Convention on International Tax Cooperation (UNFCITC). ATAF, a tax-focused Intergovernmental Organisation with 44 African countries as members, welcomes the initiative and acknowledges the Co-Leads' efforts but expresses concern at the exclusion of multi-stakeholder perspectives, including its own, in the discussions leading to the formulation of the issue notes.
2. The submission provides both general and specific feedback on the structuring and substance of proposed commitments. ATAF supports the prioritisation of commitments by the issue notes but urges that all items in the Terms of Reference (ToR), particularly paragraph 13 of the ToR, be fully considered. It further recommends that commitments not be limited to paragraph 10 of the ToR, noting the importance of flexibility and inclusion of procedural elements.

3. In addressing specific issues, ATAF advises against overly detailed or motivational language in the commitments, arguing instead for broad, principle-based formulations that ensure adaptability. On tax dispute resolution, it calls for concise commitments that provide a foundation for detailed protocols. On the fair allocation of taxing rights, it advises against definitional detail and advocates for a high-level statement recognising the need for equitable taxation of multinational enterprises and rebalancing taxing rights in favour of source jurisdictions. Finally, ATAF endorses the proposed language on sustainable development.
4. The submission, in our view, reflects Africa's priority to embed flexibility, fairness, and inclusiveness in the evolving international tax cooperation architecture.

### General comments

5. We present our general comments as follows:
  - a. *Scope*: We note the prioritisation of commitments, issues flowing from commitments, before procedural issues.<sup>1</sup> In response, we commend the order of the priorities, but we call for the workstream to ensure that sufficient time and attention is given to all items specifically mentioned in the ToR. This should include all items mentioned in paragraph 13 of the ToR<sup>2</sup> including conference of the parties; secretariat; subsidiary bodies, etc, except for items like definition, which must necessarily come towards the end of the workstream.
  - b. *Commitments*: We call for the workstream to note that commitments must not be constrained to items listed in paragraph 10 of the ToR, as the use of the phrase *inter alia* rightfully implies that there should be more items on commitment. To this extent, we call for the inclusion of all items listed in paragraph 10 of the ToR, plus additional items as may be necessary, including commitments to procedural issues that would help in the implementation of the convention. Similarly, we emphasise that the language for commitments must be framed in a broad or generic form to allow for flexibility and adaptability to future circumstances. This approach will also ensure that members may deploy a basket of options in meeting their obligations under the convention. Those

---

<sup>1</sup> See paragraphs 2-4 of the Workstream I Co-Leads' Draft Issues Note

<sup>2</sup> See Terms of reference for a United Nations Framework Convention on International Tax Cooperation, A/AC.298/2 found at <https://financing.desa.un.org/document/terms-reference-united-nations-framework-convention-international-tax-cooperation>

options may include signing a detailed protocol on dispute prevention and resolution,<sup>3</sup> through an existing framework including domestic aspects or through a mechanism to be established as part of the UNFCITC. Language like ***“Parties commit to fair, inclusive, effective, efficient and timely prevention and resolution of disputes for taxpayers and tax authority, including through establishment of a mechanism for dispute prevention and resolution”*** would be enough with the elaboration on various approaches to achieving that left for the protocol under WSIII.

### Specific comments

6. The workstream, in paragraphs 10, 15 and 18 of the Issue Note, posed a specific question for which they requested a response. We respond as follows:

a. *Dispute Prevention and Resolution:*

- i. Whether the commitments described in paragraph 9 effectively address the concerns that have been expressed in the workstream with respect to effective prevention and resolution of tax disputes.

**Response:** No, the commitment section of a treaty, in our view, is not necessarily a place for the elaboration of motivation or justification for the commitment itself. The more effort to include motivation in the commitment, the more circumscribed it becomes, as the commitment will always be construed in the light of those motivations, thereby negating flexibility and adaptability to future circumstances and other related contexts.

- ii. Whether the commitments described in paragraph 9 would provide sufficient support for the early protocol being developed in Workstream III.

**Response:** In our view, a broadly framed language committing to fair, inclusive, effective, efficient and timely prevention and resolution of disputes for taxpayers and tax authority, including through the establishment of a mechanism for prevention and resolution, would give the needed base for Protocol 2.

---

<sup>3</sup> Like the one expected from WSIII

- iii. Whether there are additional concerns regarding effective prevention and resolution of tax disputes that should be addressed in that article of the Framework Convention.

**Response:** No, the dispute resolution commitments under the Framework Convention need not be too detailed or unnecessarily verbose. A broad-based language capturing the key element of the commitment would suffice, while the details are left for the Protocol.

b. *Fair Allocation of Taxing Rights:* questions were asked:

- i. Whether the elements included in paragraph 14 provide a useful outline of a commitment to this topic.

**Response:** We urge the workstream not to go into explanation of how to determine where business activity takes place or into any form of definition in the context of the commitments, including on fair allocation of taxing rights. We further urge the workstream to stick to what has been stated in the ToR or to be as close to what was stated as possible, e.g. *“Parties commit to Fair allocation of taxing rights, including equitable taxation of multinational enterprises”* What constitutes fair allocation of taxing rights and how to determine the same should be subject of discussion across different protocols, initiatives and instruments under the UNFCITC, each taking up its meaning from the context of its peculiarity.

- ii. Whether there are additional concerns regarding the fair allocation of taxing rights that should be addressed in that article of the Framework Convention.

**Response:** While not advisable, any specific mention of items under this commitment must show that those items mentioned are only indicative and not conclusive; it must also include rebalancing of taxing right under the digital economy, allocation of taxing rights based on real economic activity, including user participation and value creation in market jurisdictions and other measures that guarantees right to tax for source jurisdictions.

- c. *Sustainable development*: the question was whether there are additional aspects of international tax cooperation approaches that contribute to sustainable development that should be addressed in additional paragraphs of that article of the Framework Convention.

**Response:** We agree with the language draft provided in paragraph 17 of the Issue Note as sufficient to cover every aspect.

7. ATAF remains ready to collaborate on refining these proposals and ensuring the protocol delivers tangible benefits for all member states. We appreciate the opportunity to contribute to the process.