

**Intergovernmental Negotiating Committee on the
UN Framework Convention on International Tax Cooperation
Workstream I
Co-Lead's Issues Note**

Czechia's Written Comments

Abstract

Czechia expresses appreciation for the efforts of the Workstream I Co-lead and Secretariat in preparing the Issues Note and emphasizes the importance of timely document distribution to enable meaningful discussions. Czechia reiterates its position that the goals and principles of the Framework Convention should be discussed prior to or alongside commitments to ensure coherence and avoid redundancy. It advocates for non-self-executing, broadly framed commitments to enhance inclusivity and allow flexibility for jurisdictions. Czechia stresses the need for alignment with existing international standards and mechanisms, particularly in tax dispute resolution, where it prefers opt-in arbitration and recognizes its existing bilateral and EU-level frameworks. Regarding the fair allocation of taxing rights, Czechia calls for general language that promotes equity, efficiency, and minimal administrative burden, while avoiding overlap with other workstreams. On sustainable development, Czechia finds the current commitment's description insufficient and calls for further elaboration and discussion to clarify its scope within the Framework Convention.

General comments

Czechia appreciates the work of all workstreams, the possibility of discussions and also welcomes the opportunity to comment in writing on the Issues Note of the Workstream I Co-lead. We would like to thank the Co-lead and Secretariat for their work, effort, and preparation of the documents. We would like to voice our views that the preparation and distribution of the documents should occur well in advance before the meetings and deadlines to allow the discussions to be more fruitful and in-depth.

First, we would also like to reiterate our remarks from the inter-sessional meetings that the INC should discuss the goals and principles of the Framework Convention before (or in parallel with) the commitments. Our reasoning behind this is that only when we, the UN Member States as well as stakeholders, understand what is the goal of the Framework Convention and what are the principles guiding the commitments and other provisions, we can assess which commitments are necessary to achieve these goals and the way we should draft these commitments to avoid omission or duplication of our efforts.

Second, Czechia strongly believes that the commitments in the Framework Convention draft text should not be self-executing. We believe that this approach could facilitate the adoption of the Convention by more Member States because Member States might not want to accept all commitments. In addition, and thus benefit broader inclusivity.

Third, in line with the second point, we think that any commitment should be kept broader, rather than detailed. This would allow jurisdictions to comply with the commitments in a manner that is

the most appropriate to the jurisdiction's needs and would avoid limiting drafters of the current and future protocols.

Last, Czechia also considers it necessary that the Framework Convention (and its protocols) are coherent with existing international standards and thus avoid duplication or overlaps. The work of other relevant fora, potential synergies and existing tools, strengths, expertise, and complementarities available in the multiple institutions involved in tax cooperation at the international, regional, and local levels should be considered as it is stated in the paragraph 22 of the Terms of Reference (ToR).

Please, find below our comments on specific paragraphs of the Co-Leads' Draft Issues Note for Workstream I.

Scope of the Initial Work

Paragraph 3:

As already stated above, we believe that the commitments should not be self-executing and be drafted in a broad way. This is important not only to ensure sufficient inclusiveness, as mentioned above, but also to avoid any conflict with the scoping of possible future protocols. The wording of the commitments in paragraph 10 of the ToR does not fully correspond to the wording of possible protocols in paragraphs 16 and 17 of the ToR. It is then not entirely clear to us how the last sentence of paragraph 3 of the Issues Note anticipates possible differences in the detail of the elaboration of commitments. We also understand that the scope of some commitments – as they are indicated in paragraph 10 of the ToR – may overlap.

Effective prevention and resolution of tax disputes

Paragraphs 6–10:

We would like to emphasize that it is still not entirely clear what scope of the commitment of the prevention and resolution of tax disputes should be elaborated in the Framework Convention. As described in the Issues Note, this very commitment is intended to cover the topic of prevention and resolution of tax disputes only in relation to the Protocol II. However, the area covered by this topic is much broader, which the Issues Note mentions. Moreover, as mentioned above, the Convention should be coherent with and not duplicate existing international standards.

First and foremost, any dispute prevention or resolution mechanism should be based solely on hard law binding all parties relevant to any dispute, as discussed during the informal meetings.

As we have previously stated, regarding the income taxes, Czechia has a network of bilateral tax treaties on the level of international law. Our double tax treaties usually follow the OECD Model Tax Convention and, therefore, our preferred way to resolve disputes is by the mutual agreement procedure according to Article 25 of the OECD Model Tax Convention. We do not have any bilateral tax treaty with arbitration and we think that any commitment should respect this and, if ultimately signing parties wish to do so, any provision with arbitration should be based solely on an opt-in basis. On the level of EU law, Czechia is bound by (i) the Council Directive (EU) 2017/1852 of 10 October 2017 on tax dispute resolution mechanisms in the European Union and (ii) the EU Arbitration Convention.

Hence, despite being sympathetic to needs of other, especially developing, Member States, Czechia does not have a need to add any new instrument to its portfolio to deal with dispute prevention and resolution. Therefore, we prefer a wording of the commitment that would ascertain that no party to the Framework Convention is obliged to sign the Protocol II.

Fair allocation of taxing rights, including equitable taxation of multinational enterprises

Paragraphs 11–15:

We agree that this commitment should be connected to the topic of the Protocol I, however, the scope of the commitment is not exactly the same as the one of the Protocol I. The commitment should include a relation to the Protocol I in order to avoid confusion or overlapping.

We would like to draw attention to the last sentence of paragraph 13, which indicates that the current system is viewed by many as unfair. Though, it does not specify where the unfairness is explicitly perceived and how it should be remedied by this specific commitment of the Framework Convention. We would appreciate if this could be further explained.

From our point of view, this commitment should be written in a general way, in line with our general comment, and should emphasize that it should also promote equity, economic efficiency, ease of administration and compliance, and should discourage tax avoidance. In particular, should not increase the administrative burden either for the tax administrators or taxpayers and should consider the effects on cross-border trade and investment as mentioned in paragraph 14.

On top of that, we would suggest for consideration an addition of a criterion stating that the solution should also consider possible tax avoidance.

In relation to the last sentence in paragraph 14 of the Issues Note, we think that the commitment in the Framework Convention should not contain any provision discussing how to determine where business activity takes place. Workstream II seems more appropriate for this discussion. Also, this commitment, in line with our general comment, should not presuppose a decision of any Member State to sign the Protocol I.

Sustainable development

Paragraphs 16–18:

We understand that the topic of “sustainable development” may be well-understood in other context as it is part of other fora at the UN and is therefore part of the ToR commitments without further details. However, we think that the description in the ToR is insufficient to properly understand the scope of this commitment in the Framework Convention.

The Issues Note proposes to leave the text of the commitment in a way that consists largely of language from the subparagraph c) of paragraph 1 of the ToR, which is not specific enough from our perspective.

Thus, we cannot agree with the idea that the concept of international tax cooperation approaches that will contribute to the achievement of sustainable development in its three dimensions, economic, social and environmental, in a balanced and integrated manner, is currently well-understood.

Hence, we think that it is necessary for this commitment to be further elaborated and for the INC to discuss its scope during the plenary session.