

Intergovernmental Negotiating Committee on the UN Framework Convention on International Tax Cooperation
– Workstream III – Co-Leads’ Draft Issues Note –
Comments from France (July 2025)

First of all, France wishes to express its appreciation to the Chair, the co-leads, and the Secretariat for their continued efforts in facilitating discussions on this complex and important matter. Recognizing the value of multilateral dialogue, it is and will continue to be constructively engaged in this process.

1. General comments on the issue of dispute prevention and resolution

France supports the objectives of the UN works regarding the strengthening, the simplification and a wider access to tax disputes prevention and resolution mechanisms. By preventing double taxation and providing for tax certainty for cross border business activities and investments, these mechanisms contribute to reducing opportunities for international tax evasion and avoidance and are essential to building a stable international tax system that promotes global economic growth.

In general terms, France believes that dispute prevention instruments (such as advance pricing arrangements, whether bilateral or multilateral) and mandatory arbitration mechanisms for dispute resolution should be more widely used. Encouraging the use of such instruments would clearly provide more certainty to taxpayers and reduce the burden for tax administrations.

Regarding the scope of the second Protocol of the UN Framework Convention, France considers that it should not create additional instruments whose rules diverge from the existing substantive and procedural rules, in particular those laid down by the UN and OECD Model Tax Conventions models. A deviation from existing standards would undermine these objectives by adding complexity and tax uncertainty.

Besides, France would like to stress that the scope of the Protocol should neither prevail over existing dispute resolution or prevention instruments, nor overlap with them. If new tools were to be developed under the second Protocol, they should only complement other existing instruments.

Indeed, French taxpayers already have access to multiple instruments for the resolution of tax disputes – bilateral tax treaties or agreements based on article 25 of the UN or OECD Models, EU Directive 2017/1852 and European Arbitration convention 90/436/EEC.

Therefore, France strongly recommends that:

- the mechanisms provided in the protocol should be optional, by virtue of an *opt-in* or *opt-out* clause which will provide more flexibility and ease the articulation of the protocol with other existing instruments;
- the scope of the protocol should only cover disputes arising under the future Framework Convention and its protocols, as to avoid adding complexity for taxpayers and administrations in an environment already burdened with numerous multilateral and national rules and procedures.

Lastly, France would like to stress that mandatory arbitration is a critical dispute settlement mechanism that could be more widely used. Indeed, arbitration is the most effective ultimate way to find a solution when mutual agreement procedures have failed, especially when the case is complex and consensus cannot be reached. Arbitration allows both taxpayers and tax authorities to benefit from the competence and expertise of a panel of independent and impartial personalities who contribute to reach a fair and neutral solution, while preserving the sovereignty of States. It is worth noting that in order to facilitate the constitution of arbitration panels, France is currently negotiating, along with 9 EU Member States, a Convention to establish an International Tax Dispute Resolution Commission. The convention should be open for accession to non-EU member states and is intended to provide permanently available panels of independent personalities to conduct the arbitration phase of MAPs in a swift and efficient manner, assisted by a Secretariat. The negotiating group seeks to conclude the negotiation of the Convention in 2025.

2. Specific questions raised by the issue note

“(a) whether Section III describes the primary barriers to prevention and resolution of tax disputes that Member States encounter”

France considers Section III of the “Issues overview” note to be an accurate reflection of the discussions that took place at the WS III meetings. It provides a good description of the challenges and difficulties faced by States when it comes to the prevention and resolution of tax disputes.

“(b) whether the protocol should address only tax disputes involving cross-border trans-actions, or whether it might be appropriate to include mechanisms for the prevention or resolution of purely domestic disputes”

For the reasons explained above, France strongly recommends that the protocol addresses only tax disputes involving cross-border transactions arising under the future Framework Convention and its protocols, with the exception of domestic disputes.

“(c) whether the concept of optionality with respect to mechanisms provided in the protocol is generally acceptable to the Committee (with specifics to be elaborated as the protocol is drafted)”

As mentioned above, it is crucial for France that the scope of the protocol does not overlap or prevail over existing instruments. France is therefore highly in favour of optional mechanisms.