

Federal Republic of Germany

Submission to the United Nations Intergovernmental Negotiating
Committee

on the Framework Convention on International Tax Cooperation
(UNFCITC)

Workstream III

Co-Leads' Draft Issues Note

I. Abstract

Germany welcomes the Co-Leads' efforts on Workstream III and strongly supports the development of a protocol dedicated to the effective prevention and resolution of tax disputes. As international tax matters grow increasingly complex, the ability to manage cross-border disputes in a coordinated and cooperative manner is central to ensuring legal certainty and efficient tax administration.

From Germany's perspective, the protocol offers a significant opportunity to create a unified legal basis for a wide range of dispute prevention and resolution mechanisms. These may include risk assessment procedures, simultaneous as well as joint audits, Advance Pricing Agreements (APAs), Mutual Agreement Procedures (MAPs), and MAP arbitration. Embedding such mechanisms in a single instrument allows for coherent procedural rules and for addressing the interaction between different approaches. In addition, we support the inclusion of administrative assistance provisions to reduce burdens and strengthen cooperation.

Germany advocates for a focus on international tax disputes and supports mechanisms that facilitate bilateral and multilateral resolution. While we remain open to discussing domestic disputes outside treaty frameworks, we see limited scope for inclusion. Germany also supports a broad application of the protocol's provisions - not limited solely to disputes under the Framework Convention and its protocols, but extended to tax treaties and similar tax-related instruments. We recognize the value of broad participation and understand the rationale for incorporating a degree of optionality, provided that states can opt in as capacity and readiness develop.

Germany remains committed to constructive dialogue and to shaping a pragmatic, inclusive, and coherent dispute resolution framework.

II. Input on Scope and Approach of the Protocol

1. Relevance and Added Value of the Protocol

Germany views the development of a dedicated protocol on dispute prevention and resolution as timely and necessary. The growing complexity of global tax arrangements and the rise in cross-border disputes underscore the need for reliable, accessible, and coordinated

mechanisms. A protocol that consolidates and supports diverse tools - such as APAs, MAPs, arbitration, simultaneous and joint audits, and cooperative compliance - will strengthen legal certainty and administrative efficiency for all Member States.

We believe the protocol should support both the implementation and interaction of these tools, offering guidance on how results achieved in one procedure may inform or influence others, even in cases without formal agreement. Administrative support provisions and digital solutions should also be considered to reduce procedural burdens and facilitate practical implementation.

III. Responses to Issues for Discussion

(a) Does Section III describe the primary barriers to prevention and resolution of tax disputes?

The Draft Outline provides a comprehensive and accurate description of the main challenges, particularly those faced by developing countries: complexity of rules, information asymmetries, limited treaty networks, and lack of access to efficient multilateral mechanisms. It also captures the limitations of existing processes and the diverging capacities of tax administrations.

(b) Should the protocol include purely domestic tax disputes?

Germany considers the inclusion of mechanisms for purely domestic tax disputes as less appropriate. These issues are better addressed through national administrative and legal procedures. However, we remain open to continued discussion of possible best practices and experiences in this area, especially for capacity-building purposes.

(c) Is the concept of optionality acceptable?

Germany supports the inclusion of optionality within the protocol. Not all jurisdictions may be in a position to adopt the full spectrum of mechanisms at the outset. Allowing states to opt in or out of specific mechanisms, as appropriate, as their administrative and legal systems evolve is a pragmatic approach that supports broad participation while preserving national sovereignty.

IV. General Remarks

Germany supports a pragmatic and inclusive approach to developing the protocol. In our view, mechanisms should be geared primarily toward preventing and resolving international tax disputes, particularly those arising from the application of the Framework Convention and its protocols as well as bilateral or multilateral tax treaties.

We also stress the importance of procedural fairness, independence, and accessibility in dispute resolution. To this end, we welcome further exploration of safeguards for arbitration (e.g., panel composition, transparency), non-binding mediation options during the MAP and support for capacity-building, particularly in developing countries.

The protocol should promote interoperability among different tools while leaving flexibility for national implementation. In parallel, Germany believes the protocol should not aim to

displace existing material treaty obligations but rather complement them and the procedures set out therein through coherence, efficiency, and capacity-building.

V. Conclusion

Germany remains committed to working constructively within the Intergovernmental Negotiating Committee to advance a robust, equitable, and inclusive framework for the prevention and resolution of tax disputes. We appreciate the thoughtful and detailed preparatory work within Workstream III and look forward to continued collaboration on this essential component of the Framework Convention.