

Italy's comments on INC – Workstream Three - Issues Note

Protocol II - Prevention and resolution of tax disputes

Abstract

Italy would like to thank the Secretariat, the Chair and the co-Leads for the work done in preparation of the Issue Notes.

In relation to the second protocol on prevention and resolution of tax disputes, its focus should be on legal certainty for taxpayers, without creating excessive administrative burdens, so to encourage investments. Moreover, tax dispute prevention and resolution are key to level the playing field between developed and developing countries and are grounded in the principles of the TOR.

The protocol should encompass disputes relating to the Framework Convention and to the associated protocols only, while regulating the relationship with other instruments already in force and also creating the legal basis to prevent and resolve disputes in cases of absence of double tax treaties.

Please find below our comments on the Issues Note.

General comments

1. Legal certainty for taxpayers, without creating overly administrative burdens, is the objective we would like to achieve. A predictable legal framework would encourage investments.

Tax dispute prevention and resolution are key to level the playing field between developed and developing countries and is grounded in the principles of the TOR.

2. The Framework Convention and the Protocols represent an opportunity to establish a dispute prevention and resolution system, that could integrate existing domestic and international legislation. However, the protocol should encompass disputes relating to the Framework Convention and to the associated protocols only.

3. The protocol should clearly regulate the relationship with other instruments already in force but also constitute the legal basis to prevent and resolve disputes also in the absence of double tax treaties.

Specific comments

4. Our inputs to the questions in paragraph 32 of the Issues Note are as follows.

(a) Section III presents the issues the workstream thoroughly discussed.

(b) INC should discuss which is the best way to set a legal basis in the Framework Convention or/and in the protocol for the prevention of tax disputes, which is more an issue of domestic law.

(c) Italy is in favor of exploring optional mechanisms to complement the mutual agreement procedure with more legally binding instruments, whenever it is feasible for the contracting state's legal constraints.