

To the Honorable Intergovernmental Negotiating Committee
U.N. Framework Convention on International Tax Cooperation

Ref.: **Workstream III: Dispute prevention and resolution**

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ABSTRACT: (1) introducing a suspensive effect for Mutual Agreement Procedures (MAP) would suspend domestic litigation deadlines during MAP proceedings, preventing litigation and strengthening MAP conclusion. (2) A Joint Consultation mechanism would enable taxpayers to obtain binding pre-rulings from competent authorities on treaty interpretation, reducing litigation through early alignment, with special procedural accommodations for developing countries. (3) A centralized transparency platform would publish anonymized Joint Consultation outcomes, MAP decisions, and common treaty interpretations, addressing information asymmetries and promoting consistent application. Together, these measures would: **(1)** prioritize treaty-based dispute resolution over domestic litigation; **(2)** prevent disputes through proactive clarification; and **(3)** enhance predictability through knowledge-sharing.

Considering the need to for the Protocol to implement mechanisms on prevention and resolution of tax disputes, in line with the UN's commitment to fostering inclusive and effective dispute resolution mechanisms¹, I here present three suggestions:

- 1) **MAP with suspensive effects:** the MAP should have a “suspensive effect” over domestic deadlines to initiate administrative or judicial court proceedings while the MAP procedure is ongoing.
- 2) **Joint-Consultations:** the Protocol should establish a “joint consultation” mechanism, in which a taxpayer may request a joint answer about a cross-border situation in which it has doubts about the correct application of the Convention or existing Tax Treaty clauses.
- 3) **Common Understandings platform:** The UN Tax Framework Convention should establish a common website, in which Member States can publish their Joint-

¹ UN Resolution A/RES/77/244

Consultation Responses and their common understandings on the application and interpretation of the Convention or existing Tax Treaty clauses.

(1) MAP with suspensive effects

Many developing countries report that taxpayers are forced into costly domestic litigation due to short deadlines, even when MAP is ongoing, leading to irreconcilable outcomes (e.g., double taxation).

This creates inefficiencies and risks conflicting outcomes, and maybe is the reason why some MAPs cannot be concluded by Member-States who cannot deviate from their domestic court rulings (administrative or judicial).

A suspensive effect — to suspend domestic litigation deadlines — ensures that both the Tax Administrations and the taxpayer will focus on concluding the MAP, avoiding additional domestic litigation and thus reinforcing collaboration to the resolution of disputes under the Convention or existing Tax Treaties, as highlighted in the OECD/G20 BEPS Action 14 (Best Practices n. 8)².

Suggested Protocol wording:

"Where a taxpayer initiates a Mutual Agreement Procedure under Article (X), any domestic time limits or statutes of limitation for administrative or judicial appeals shall be suspended until the earlier of: (a) mutual agreement resolution, or (b) 24 months from initiation unless extended by competent authorities."

(2) Joint-Consultation mechanism

The idea is to establish a joint consultation process where taxpayers can request a coordinated response from competent authorities on the correct application of the Convention or existing Tax Treaty provisions in cross-border situations.

The INC Issues Overview notes divergent treaty interpretations as a leading cause of disputes, particularly affecting multinational enterprises and SMEs operating across borders.

Unlike MAP (which is reactive), joint consultations allow early alignment between tax authorities, reducing later conflicts. To address concerns about resource constraints, the

² "Jurisdictions should take appropriate measures to provide for a suspension of collections procedures during the period a MAP case is pending. Such a suspension of collections should be available, at a minimum, under the same conditions as apply to a person pursuing a domestic administrative or judicial remedy." (OECD (2023), BEPS Action 14 on More Effective Dispute Resolution Mechanisms – Peer Review Documents, OECD/G20 Base Erosion and Profit Shifting Project, OECD, Paris. Available at: <www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-reviewdocuments.pdf> p. 10).

Protocol could: **(i)** allow developing States to opt for simplified procedures (e.g., written consultations only) and **(ii)** provide UN Secretariat support for coordination.

The creation of such a mechanism accomplishes the UN's emphasis on cooperative dialogue and promotes transparency and trust between tax administrations while giving taxpayers a proactive tool to avoid costly disputes and future litigation.

A "Joint Consultation" scope would also strengthen the correct application and interpretation of Treaty provisions, giving more context and respect to the *pacta sunt servanda* of both States, in line with Articles 30, 31 and 32 of the Vienna Convention on the Law of Treaties³.

Suggested Protocol wording:

"A taxpayer may request a Joint Consultation where uncertainty exists on the interpretation of this Convention or an applicable Tax Treaty and its protocol provisions. Competent authorities shall, within 120 days, issue a joint response or decline with reasoned explanation."

(3) Common Understandings platform

The UN Tax Convention should establish a centralized website where Member States publish such Joint Consultation responses and outcomes (anonymized where necessary), common interpretations, and agreed applications of the Convention or Tax Treaties, or MAP arbitration decisions (if applicable).

The INC document highlights lack of transparency in how treaties are applied, leading to inconsistent enforcement and asymmetric information (as a disadvantage to developing States).

A centralized repository of databases would reduce repetitive disputes, ambiguity and promote uniform application on the same issues (e.g., permanent establishment, withholding taxes, transfer pricing issues) and would assist developing countries in understanding treaty practices and end information asymmetries. This aligns with the UN's Sustainable Development Goal n. 16 (Peace, Justice, and Strong Institutions) by improving the predictability of tax systems (international legal certainty).

This "joint website" can be held either by both Member States related to the Treaty / Convention signed, or by the UN Secretary itself, allowing taxpayers to access and

³ Vienna Convention on the Law of Treaties, 1969: Application of successive treaties relating to the same subject matter; General rule of interpretation; and Supplementary means of interpretation.

ascertain how those two or more States are resolving cross-border disputes or applying the Tax Treaty.

Such a Common Understandings website can highlight how the UN Convention or existing treaties are being applied worldwide, creating a database for future discussions or alignments between the Member-States. Thus, avoiding divergence, fighting inequality of access to information and qualifying the international tax framework.

Conclusion

These proposals — MAP with suspensive effect, Joint Consultations, and a Common Understandings website — would significantly strengthen the UN Tax Convention's dispute prevention and resolution framework. They align with existing UN resolutions and best practices while ensuring fairness, efficiency, and cooperation among Member States.

The proposals directly respond to challenges identified in the INC Issues Overview, including developing country capacity constraints, divergent treaty interpretations, and enforcement inconsistencies. By incorporating suspensive MAP provisions, preventive consultations, and transparency tools, the Protocol would establish a more equitable and efficient framework that balances the needs of all Member States while advancing the UN's goals of inclusive international tax cooperation and SDG 16's institutional strengthening objectives.

Together, these measures would: **(1)** prioritize treaty-based dispute resolution over domestic litigation; **(2)** prevent disputes through proactive clarification; and **(3)** enhance predictability through knowledge-sharing.

I kindly ask the Committee to consider these measures in the spirit of global tax solidarity and multilateral problem-solving

Most cordially,



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