

South Centre Inputs on Draft Issues Note on Workstream I: Framework Convention

11 July 2025

I. Background

The [South Centre](#) is the intergovernmental organization of developing countries that helps developing countries to combine their efforts and expertise to promote their common interests in the international arena. The South Centre has [55 Member States](#) coming from the three developing country regions of Africa, Asia, and Latin America and the Caribbean. It was established by an [Intergovernmental Agreement](#) which came into force on 31 July 1995. Its headquarters are in Geneva, Switzerland.

The South Centre in 2016 launched the [South Centre Tax Initiative](#) (SCTI). This is the organization's flagship project for promoting South-South cooperation among developing countries in international tax matters.¹

II. Abstract

The workflow must give more time and a higher priority to the governance related provisions in the Terms of Reference which are primarily contained in para 13. They are fundamental to the success of the Convention and require adequate time for negotiation given the divergent views held by developed and developing countries over each of them. Of prime importance is the composition, powers and functions of the Conference of Parties and its mode of decision-making.

Commitments must remain high-level and avoid going into too much detail. This can be not only unhelpful, it can be actively counterproductive and reduce the appeal of the Framework to countries. Details should be rather fleshed out in the protocols, which is the appropriate place.

¹ Queries may be addressed to taxcooperation@southcentre.int

III. General Comments

The South Centre congratulates the Intergovernmental Negotiating Committee (INC) for the progress achieved and welcomes the [Draft Issues Note on the Framework Convention](#) prepared by Workstream I under the leadership of Ghana.

While the Draft is a helpful starting point for the negotiations in the First and Second Session, there are certain aspects which can be further improved.

In particular, the overt emphasis on commitments in the workflow has the risk that there will not be enough time to adequately discuss items related to the governance of the Framework, particularly those contained in para 13 of the Terms of Reference (ToR).

The South Centre has repeatedly stated² that the central problem of international tax cooperation is bad governance, through the opaque, undemocratic, non-inclusive and unaccountable OECD-led regime which has no statutory basis or rules of procedure and therefore functions in a totally arbitrary manner. Bad governance is the key reason why the tax rules that are produced by this system are inequitable for developing countries.

The Framework Convention can solve the essential problem of governance by providing a statutory basis for international tax cooperation that is based on the principles contained in para 9 of the ToR.

This requires adequate attention to the governance-related components of the ToR, which are mainly contained in para 13. Of prime importance are the composition, powers and functions of the Conference of Parties and its mode of decision-making. Other important components are the mode of amendment (to ensure the Framework and its protocols can be easily updated and remain relevant), relationship with other agreements, instruments and domestic law (to ensure coherence with the status quo and address the concern of 'duplication') and exchange of information combined with review and verification (to ensure the Framework and the protocols' provisions are actually implemented).

² See: <https://www.southcentre.int/wp-content/uploads/2024/03/South-Centre-Inputs-on-UN-Tax-Convention-Terms-of-Reference.pdf>

Each of these are highly complex issues over which developed and developing countries have starkly opposing views and which require adequate time to find common ground. Further, these are critical to solving the essential problem of governance and therefore critical to the success of the Framework itself.

The workflow may be therefore reconsidered so that a higher priority and more time can be provided to the components in para 13.

IV. Specific Comments

i. Questions on Commitment on Prevention and Resolution of Disputes

In general, the Framework's commitments can remain high level and do not need to go into too much detail. In fact too much detail can be counterproductive as it may imply the content is exhaustive rather than indicative, take up scarce negotiating time and reduce the appeal of the Framework Convention to countries. The UN Framework Convention is meant to be universal and therefore requires broad-based appeal, which can be jeopardized the more detailed and substantive the commitments become. Specifics of the commitments should be left to the protocols.

ii. Questions on Commitment on Fair Allocation of Taxing Rights

Regarding question a), para 14 speaks of "tax neutrality". A key concern of developing countries is foreign Multinational Enterprises (MNEs) paying less taxes than domestic companies, leading to unfair competition. The term "level playing field" is usually used in this context to refer to the need for foreign companies to pay at least the same level of taxes as domestic companies.

Suggestion: The term "level playing field" could replace the term "tax neutrality" which has multiple meanings.

Para 14 also suggests the need to explain how to determine where business activity takes place. This is unnecessary detail which can become a very complex exercise, may not have universal applicability to all business activities, can become quickly outdated in the face of evolving business models and will end up wasting precious negotiating time.

Suggestion: The explanation on how to determine where business activity takes place can be deleted from the commitment and this can be better dealt with on an issue-specific basis in the relevant protocols.

Regarding question b) while not advisable, any specific mention of items under this commitment must show that those items mentioned are only indicative and not exhaustive; it must also include rebalancing of taxing rights under the digital economy, allocation of taxing rights based on real economic activity, including user participation and value creation in market jurisdictions and other measures that guarantee right to tax for source jurisdictions.
