

## Switzerland

### Comments on the Co-Leads' issues note for workstream I

to the

### Intergovernmental Negotiating Committee on the UN Framework Convention on International Tax Cooperation

Bern, 21 July 2025

#### **Abstract**

*The issue note elaborated by the Co-Leads of workstream I provides a good starting point to inform the upcoming sessions of the Intergovernmental Negotiating Committee. The Swiss delegation proposes only minor additions. Regarding workstream I, it is proposed to steer the development of a commitment in respect of dispute prevention and resolution more towards the goal of operational changes to the current system of dispute resolution and, in the context of the fair allocation of taxing rights, the need to develop a common understanding of fairness and to determine the relevant business activities is highlighted.*

#### **Comments**

The Swiss delegation thanks the workstream's Co-Leads, bureau members of the Intergovernmental Negotiating Committee and all other delegations for having taken part in the past intensive discussions.

The issue note for workstream I provides an accurate overview of the discussions that took place in the workstream's virtual meetings and a good base for productive negotiations in the upcoming sessions of the Intergovernmental Negotiating Committee.

Given the interactions with the ongoing work of the other two workstreams, the issues note for workstream I sets the right priorities as it addresses in the first place the commitments that are relevant for the advancement of the other workstreams. In light of the controversy regarding those commitments and the limited time of the Intergovernmental Negotiating Committee, it seems appropriate to focus mainly on the commitments regarding the fair allocation of taxing rights and the prevention and resolution of disputes.

The issues note contains in para. 9 and 10 an instructive input for the discussion in the Committee of the commitment **regarding prevention and resolution of disputes**. However, the note should not only mention the inclusion of «*an undertaking to establish dispute prevention and resolution mechanisms that are fair, independent, accessible, and effective in resolving disputes in a timely manner for both taxpayers and the tax authorities involved*» as an option, but as a necessary commitment. To support any meaningful work in direction of an impact to the system through an early protocol regarding dispute prevention and resolution, the commitment should include a clear call for action. The other proposed content of the commitment being a statement regarding the importance of legal certainty seems not operational and strong enough to justify the development of an early protocol addressing dispute prevention and resolution.

The note accurately outlines the discussion regarding the commitment to a **fair allocation of taxing rights** in para. 11 to 13. To make such a commitment enforceable, the note should call for the development of a common understanding of fairness. The hope to identify «*aspects of*

*the current system that many view as unfair»* will not suffice to produce the required clarity. The concept proposed in para. 14 for the discussion would be a good starting point to define fairness. Furthermore, we would like to underline the importance of the question of where relevant business activities take place for the application of this concept. Therefore, we regret that the note does not recognize the indispensable need for the development of criteria in this respect.