

## Switzerland

### Comments on the Co-Leads' issue note for workstream II

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 II provides a good starting point to inform the upcoming sessions of the Intergovernmental Negotiating Committee. The Swiss delegation proposes only minor additions. Concerning workstream II, the issue of non-discriminatory taxation of income from services, including the question of the appropriate base and rate of tax, is added to the list.*

#### **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 II provides an accurate summary of the past discussions held in workstream II and a comprehensive list of issues to be considered for the development of future rules for the taxation of income from cross-border services. It is a good base for productive negotiations in the upcoming sessions of the Intergovernmental Negotiating Committee

In addition, we would like to add to the issues for discussion the need for **non-discriminatory taxation** of income from services rendered by non-residents in comparison to resident enterprises that engage in the same business activities. Paragraph 3 of Article 24 of both the UN and the OECD Model Double Taxation Convention asks for non-discriminatory treatment of business profits. Such an obligation would also be appropriate for the income of services that are under many tax treaties covered by the rule applicable to business profits and that are in their nature also rather comparable to business profits instead of passive income. Under this title, the determination of the acceptable (withholding-)tax rate and the question of taxation on a net base should be addressed.

Furthermore, we would like to add to the discussion the fact that the goal of the **elimination of barriers to cross-border trade** and investment as well as the goal of **economic efficiency** require unhindered access of service providers to markets. According to the predominant opinion in academia, tariffs are particularly harmful in that respect and are to the disadvantage of all parties involved. The note should advise the Intergovernmental Negotiating Committee accordingly on the development of a nexus for the taxation of income from services. the terms of reference and the General Assembly resolution A/RES/79/235.