

**United Kingdom response to the call for input on Workstream III (Dispute Prevention and Resolution) for the First and Second Sessions of the Intergovernmental Negotiating Committee on the United Nations Framework Convention on International Tax Cooperation**

**21 July 2025**

**ABSTRACT**

The United Kingdom strongly supports multilateral initiatives aimed at enhancing cross-border tax dispute prevention and resolution mechanisms. These efforts are essential for ensuring legal certainty, minimizing double taxation, and fostering international trade to support the Sustainable Development Goals. While acknowledging the value of new developments, the UK emphasizes the importance of building upon existing frameworks, including double taxation agreements (DTAs), multilateral tax initiatives, and trade agreements. We therefore advocate for strengthening and coordinating these mechanisms, addressing gaps, and improving efficiency and inclusivity.

The UK supports mandatory binding arbitration as a critical tool to aid Mutual Agreement Procedure (MAP) discussions, noting its effectiveness in encouraging resolution more than its actual use. Simultaneously, the UK recognizes the constitutional constraints faced by some Member States and supports exploring non-binding alternatives, such as its own long-standing Alternative Dispute Resolution (ADR) programme.

Coordination with dispute resolution provisions in the Framework Convention and other protocols is vital, and may require a layered approach. Capacity building is also key, and the UK offers to share our experience in supporting developing countries through bilateral and multilateral initiatives.

The UK stresses the importance of engaging the business and taxpayer communities, given the significant impact of unresolved disputes on trade, and recommends creating a taxpayer forum for consultation.

On key issues: we support limiting the protocol to cross-border disputes, endorse in principle optionality to accommodate diverse national contexts, and suggest to also consider challenges in accessing treaty benefits. These positions aim to ensure a practical, effective, and widely adopted protocol.

## GENERAL REMARKS

The UK fully supports multilateral efforts to develop and improve provisions to prevent and resolve cross-border tax disputes. Such work is crucial to provide legal certainty for taxpayers and tax authorities alike, reduce unnecessary costs and burden, minimise double taxation, and to encourage cross border trade to increase domestic revenues with a view to achieving the Sustainable Development Goals.

While we believe that there is valuable work to be done in this area we would emphasise that there already exists an extensive framework of dispute prevention and resolution frameworks that have been developed and operated over many decades. This framework stems from, inter alia, double taxation agreements (DTAs), multilateral taxation agreements (including current work at the OECD/G20 Inclusive Framework on dispute resolution for the Global Minimum Tax), bilateral free trade and investment agreements, and multilateral trade agreements such as the World Trade Organisation's General Agreement on Trade in Services. We believe that the discussions at the Intergovernmental Negotiating Committee on the protocol should focus on strengthening and coordinating the existing legal frameworks, addressing gaps and developing new tools where necessary, and ensuring that they function in the most effective, efficient and inclusive manner possible.

### *Mandatory binding arbitration*

Following the OECD report into Base Erosion and Profit Shifting the UK has sought to agree mandatory binding arbitration provisions in our bilateral Mutual Agreement Procedure (MAP) provisions in DTAs. Despite a growing number of such arbitration agreements the use of it has been extremely rare, which supports our belief that it acts as an important backstop to encourage Competent Authorities to reach an agreement on MAP cases. We therefore consider it a vital tool to ensure the certainty required for both tax payers and tax authorities, and look forward to discussing this more with Workstream participants to share our experiences and explore how the concept can be improved.

While we understand that some countries have had negative experiences of arbitration in the context of Investor-State disputes under bilateral investment agreements, we do not think that such arbitration is comparable to arbitration to resolve MAP cases or that similar concerns will apply to MAP arbitration. That will only apply to the particular case in dispute and so less likely to have wider ranging implications, and the nature of MAP arbitration is such that typically it would need far fewer resources from each tax authority to take the case in arbitration. In fact, if it results in resolution of long-running disputes, or encourages earlier settlement of disputes, then it should save resources in the longer-run.

### *Non-binding dispute resolution*

Notwithstanding our support for binding arbitration, we respect the position of Member States who are unable to enter such agreements due to constitutional barriers or other concerns. We therefore think that non-binding dispute resolution measures could also be considered by the workstream and Committee. In the UK we have operated an Alternative Dispute Resolution (ADR) programme for over a decade<sup>1</sup>, and have recently consulted with stakeholders<sup>2</sup> on how this approach can be improved. We expect to report back on this in the coming months, and would be willing to share our experiences with this process and explore with other participants whether such an approach could be used in a cross-border context.

### *Interaction with Framework Convention provisions and other protocols*

We agree that the interaction of the protocol with the dispute resolution provisions of the Framework Convention requires careful coordination with Workstream 1. One possible approach would be for the dispute resolution provisions of the framework convention to apply to disputes between the signatories of the convention, while the dispute resolution protocol could apply to the operative provisions of all protocols and so encompass disputes involving taxpayers. As the dispute resolution protocol is itself optional, it would therefore be necessary for other protocols to also contain dispute resolution protocols, which could either mirror or apply the dispute resolution protocol by reference. We look forward to discussing these issues further in the Workstream and wider Committee.

### *Capacity Building*

As noted in the Draft Issues Note, the provision of effective capacity building is crucial to ensure that all countries are able to efficiently implement the proposals agreed. The UK has provided support to a number of development partners in the dispute avoidance and resolution area, both bilaterally and in partnership with the OECD and the OECD/UN DP Tax Inspectors Without Borders programme. This has included assistance in implementing APA programmes, upskilling on the handling of MAP cases, and advising on approaches to domestic dispute resolution. We would be happy to share our experiences in these areas.

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<sup>1</sup> <https://www.gov.uk/guidance/tax-disputes-alternative-dispute-resolution-adr>

<sup>2</sup> <https://www.gov.uk/government/consultations/the-tax-administration-framework-review-improving-hmrca-approach-to-dispute-resolution/the-tax-administration-framework-review-improving-hmrca-approach-to-dispute-resolution>

### *Consulting the business and taxpayer community*

While cross-border tax disputes can place significant strain on national tax administrations, they are also of major concern to taxpayers. The costs and absence of certainty of protracted time periods can materially impact international trade and often have knock-on effects to domestic supply chains and ultimately domestic resource mobilisation. It is therefore crucial that the Workstream and Committee listen to the experience and concerns of the business community and to other organisations who support the rights of taxpayers, and we recommend constituting a taxpayer forum that this workstream should consult and involve regularly.

### Issues for the Committee

#### ***(a) whether Section III describes the primary barriers to prevention and resolution of tax disputes that Member States encounter;***

We largely agree with the list of areas of concern in paragraph 10 of the Draft Issues Note, although we would point out that issues involving transfer pricing and permanent establishment are substantially more prevalent than the others listed for corporate taxpayers.

One area not mentioned is assisting taxpayers in obtaining benefits under DTAs and other agreements such as beneficial treaty rates agreed between the states, due to disagreements over qualification or other administrative issues.

#### ***(b) whether the protocol should address only tax disputes involving cross-border transactions, or whether it might be appropriate to include mechanisms for the prevention or resolution of purely domestic disputes;***

It is our view that the scope of the protocol, insofar as it will be legally binding on Member States that choose to sign and ratify it, should be restricted to disputes that are cross-border in nature. That is to say, disputes which encompass more than one Member State's tax authorities which have chosen to sign and ratify the protocol, and where both have positively assented to any relevant options within the protocol (should such optionality be present).

We do not see any benefit of the protocol itself being directly applicable to domestic disputes, it being an instrument of international law. The UN Handbook on Dispute Avoidance and Resolution already includes detailed guidance on resolution of

domestic disputes<sup>3</sup>. If a Member State wished to import any principles, modalities or tools from the protocol into its domestic dispute prevention and resolution framework it would be free to do so by introducing domestic legislation which either mirrors or refers to it.

***(c) whether the concept of optionality with respect to mechanisms provided in the protocol is generally acceptable to the Committee (with specifics to be elaborated as the protocol is drafted).***

We welcome the discussion on potential optionality within the protocol. We believe that for such a protocol to be effective it should be adopted by the widest possible range of Member States, but this has to be balanced against the ambition to agree a protocol that will have a genuine impact on the efficacy and inclusivity of cross-border tax dispute prevention and resolution.

Given the various constraints applying to many Member States, both legal and in terms of capacity, we believe that in principle having optionality with the protocol would be a viable way to balance the tension. For instance, this would allow countries willing to consider binding arbitration to progress that, without excluding the participation of other Member States from investigating alternatives that may work for them.

We recognise the concern that this may create additional complexity for both Member States and taxpayers in terms of understanding which provisions are applicable, but we consider that over time it could lead to greater harmonisation of approach as experience is gained and trust is improved.

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<sup>3</sup> [United Nations Handbook on Dispute Avoidance and Resolution | DESA Publications](#)