

**Colombia's Response to the Call for Input on Workstream I (Framework Convention)
Co-Lead's Draft Framework Convention Template A/AC.298/CRP.21 of October 24,
2025**

Abstract

Colombia emphasizes the importance of achieving a common understanding among States regarding key concepts and provisions under the international tax cooperation framework. The comments below aim to ensure legal certainty, coherence, and effective implementation of measures designed to prevent tax avoidance, evasion, and illicit financial flows, while respecting domestic realities and international commitments.

In addition, Colombia underscores the need for a framework convention that is inclusive, equitable, and responsive to the priorities of developing countries, ensuring that commitments under the Convention contribute to resource mobilization, sustainable development, and the protection of fiscal sovereignty.

Colombia thanks the Co-Leads on drafting the Framework Convention's Template, and for their continued work in this historical opportunity.

General Remarks

Colombia considers that clarity in definitions and scope is essential to avoid divergent interpretations and to strengthen cooperation among tax administrations. Furthermore, Colombia supports the incorporation of high-level principles in the Convention text, leaving technical details to protocols, as widely discussed during the plenary sessions. This approach will allow flexibility while ensuring that the Convention provides a solid foundation for effective implementation.

Colombia also emphasizes the importance of including a standalone article on capacity building and another on information exchange, as these are cross-cutting elements, critical for developing countries to implement commitments effectively.

Specific Comments

On Article 4 – Fair allocation of taxing rights

Colombia suggests replacing the term "business activities" with "*economic activities*" due to its broader and more inclusive nature. This term encompasses all forms of value generation (business, commercial, professional, and any income-producing operation), thereby avoiding restrictive interpretations and ensuring consistency in the application of international agreements.

Colombia stresses that the allocation of taxing rights must correct asymmetries between source and residence jurisdictions, prioritizing fairness and simplicity. The Convention should also clarify its relationship with existing tax treaties to avoid conflicts and ensure complementarity.

Finally, we consider unnecessary to include the reference of “*including where value is created*”. We consider that the value creation could work when dealing with situations that involve transfer pricing cases. However, the main idea of fair allocation of taxing rights goes beyond transactions between related parties and aims precisely to reallocate taxing rights to market jurisdictions that, due to rules such as value creation, are precluded from having taxing rights. Therefore, we strongly believe that the reference to value creation is contrary to the purpose of the Framework Convention and should be eliminated from this Article 4.

On Article 5 – High-net worth individuals

Colombia considers that is crucial to define if it would be convenient to have a comprehensive definition of what is exactly HNWI. Having a definition could prevent divergent interpretations that could undermine fiscal regimes and international obligations. On the contrary, defining this term could also trigger opportunities for tax planning to escape the scope of such definition. However, we believe a clear and harmonized definition is necessary to have legal certainty and coherence when adopting measures to detect individuals from avoiding and evading taxes.

Regarding paragraph 2, Colombia considers that this type of information exchange is too limited in scope and should be broader to accommodate not only the structures but to any relevant information that might led to identify HNWI. This approach would strengthen technical international cooperation, promote best practices, enhance transparency and harmonize criteria.

Article 6 – Mutual Administrative Assistance

Paragraph 1: We believe the phrase “*taxes of every kind and description*” could be too broad and lacks clarity regarding which taxes are included. This ambiguity could lead to uncertainty and divergent interpretations. Colombia recommends explicitly defining the taxes covered to ensure legal certainty and respect for domestic tax systems.

Paragraph 3: While this paragraph mentions that information shall be treated as secret and protected under domestic law, it does not clearly define the scope of confidentiality obligations or specify mechanisms for safeguarding sensitive data during exchange and storage. To foster consistency and mutual trust, it may be advisable to incorporate a more standardized confidentiality framework. This could be achieved by incorporating an explicit reference to uniform minimum standards for data protection, but also requiring tax

administrations to have robust mechanisms and safeguards for data protection following international standards on this matter.

Article 7 – Illicit Financial Flows, Tax Avoidance and Tax Evasion

Colombia stresses the need for a clear and agreed definition of Illicit Financial Flows (IFF). The absence of such a definition might lead to inconsistent interpretations and hinders uniform application of the article. A harmonized definition would provide a common basis for identifying, preventing, and sanctioning these practices, ensuring legal certainty and coherence in implementing international policies.

Therefore, we propose that the definition of IFF under this framework should explicitly incorporate a clear differentiation to distinguish between illicit flows, tax evasion, and tax avoidance. While tax evasion constitutes an illegal act, tax avoidance is not inherently unlawful, although it may raise concerns regarding fairness and adherence to the spirit of the law. Including this distinction within the definition will enhance conceptual clarity and promote consistent interpretation among States Parties.

Article 8 – Harmful Tax Practices

Colombia calls for the definition of harmful tax practices to be dynamic and adaptable, rather than static. This could be achieved by establishing a set of observable indicators that allow States to identify when a practice becomes harmful. For instance, a combination of factors such as lack of economic substance, lack of transparency, and excessive erosion of the tax base should serve as clear signals. Such an approach would help overcome institutional inertia, recognizing that harmful tax practices tend to evolve more rapidly than international consensus on their characterization.

On this initiative, it would be valuable to build on what the Forum of Harmful Tax Practices and WP11 on Aggressive Tax Planning of the OECD has worked in recent years. We stress the importance of a joint collaboration between the UN and the OECD in order to avoid duplicity of work.
