

# Workstream I

## Written Comments on the Co-Lead's Draft Framework Convention Template submitted by Germany

### **Abstract**

Germany welcomes the opportunity to submit comments on the Co-Lead's Draft Framework Convention Template prepared under Workstream I. We value the engagement of the Secretariat and Member States and recognize the importance of establishing a coherent, balanced and implementable international framework for tax cooperation.

Our submission aims to support further refinement of the draft with a view to strengthening legal clarity, ensuring administrability, and safeguarding the fiscal and regulatory autonomy of States, while enabling effective cooperation. We support a fair allocation of taxing rights grounded in real economic activity and internationally agreed principles. On high-net-worth individuals, we encourage continued development of cooperation mechanisms, accompanied by proportionate safeguards and transparent data-protection provisions.

We understand the need for a broad mutual administrative assistance. We want to point out the need to incorporate clear standards for data protection and conditions of use. Greater definitional clarity will be required regarding "tax-related illicit financial flows." With respect to harmful tax practices, we support international coordination while emphasizing that domestic tax incentives reflecting sovereign policy decisions must remain permissible where they are substance-based and transparent.

We recognize the potential of tax cooperation to contribute to sustainable development and encourage careful drafting to ensure that any link does not create unintended obligations. Finally, Germany supports strong dispute-prevention and dispute-resolution provisions that complement domestic systems and respect judicial autonomy.

We remain committed to constructive, inclusive engagement to develop a Framework Convention that is practical, balanced and capable of effective implementation by all States, taking into account existing practices and standards to avoid duplications or inconsistencies.

### **1. General Remarks**

Germany appreciates the work carried out by the Secretariat and Member States in preparing the Co-Lead's Draft Framework Convention Template. Our comments aim to contribute constructively to the further development of the text.

### **2. Article-Specific Observations**

#### **Article 4 – Fair Allocation of Taxing Rights**

Germany supports the underlying principle that taxing rights should correspond to genuine economic activity, value creation, and participation in markets. This approach enhances fairness and reduces incentives for artificial profit shifting.

To promote certainty, we encourage reinforcing the link to internationally recognized criteria - such as established or updated nexus rules, transfer-pricing principles and treaty-based

allocation mechanisms. A clearer operational definition of “business activity” and “value creation” would help ensure consistent interpretation and avoid overlap with existing standards. We also support reflecting the importance of preventing both double taxation and double non-taxation.

## **Article 5 – High-Net-Worth Individuals**

We welcome efforts to enhance cooperation in addressing tax avoidance and evasion by high-net-worth individuals. However, information exchange must be subject to clear legal bases and proportionality assessments. Germany strongly encourages:

- transparent definitions of the information categories covered;
- safeguards to ensure lawful, purpose-limited and secure data use;
- interoperability with existing multilateral exchange frameworks.

We note in particular that the OECD-led information-exchange system already provides for participation across a broad range of jurisdictions, including developing economies. Its effectiveness should not be diluted by parallel or inconsistent architectures.

Given the need to build capacity, considerations in this regard should remain an integral part of the process so that new commitments can be effectively implemented by all States Parties.

## **Article 6 – Mutual Administrative Assistance**

Germany recognizes the importance of wide-ranging administrative cooperation for domestic resource mobilization. To specify the intended implications, we suggest clarifying:

- the relationship to existing frameworks and transparency standards,
- the applicable data-protection requirements, including conditions under which exchanged information may be used and procedures for onward transfer or storage limitation,
- the kind of information to be exchanged and the mechanisms (AEOI, SEOI, EOIR) to be applied.

Here, again, we would like to emphasize the need for interoperability with existing multilateral exchange frameworks developed by the OECD as already mentioned regarding Article 5.

Concerning data-protection requirements, we propose including a mechanism for prior notification of applicable safeguards by the supplying State. This would enhance mutual trust, ensure compliance with domestic legal regimes, and promote a consistent understanding of privacy obligations.

Given the need to build capacity, considerations in this regard should remain an integral part of the process so that new commitments can be effectively implemented by all States Parties

## **Article 7 – Illicit Financial Flows**

Germany supports stronger international action against illicit financial flows. However, the draft currently lacks a precise definition of “tax-related illicit financial flows.”

We recommend working toward a shared definition that:

- distinguishes illegal flows from lawful cross-border transactions;
- offers clear guidance for enforcement agencies;
- aligns with existing research and international standards.

A common definitional basis will facilitate coherent implementation and avoid operational uncertainty.

## **Article 8 – Harmful Tax Practices**

We agree that tackling harmful tax practices remains essential to maintaining the integrity of international tax systems. At the same time, domestic tax incentives often form part of legitimate public-policy strategies. Germany therefore encourages:

- a clear distinction between substance-based, investment-linked incentives and harmful preferential regimes;
- a proportionate approach recognizing States' sovereign right to shape domestic tax policy;
- alignment with work already completed or underway in other multilateral fora to avoid duplication or inconsistency.

A balanced approach will help maintain trust and ensure that cooperation does not unduly limit legitimate fiscal policy choices.

## **Article 9 – Sustainable Development**

We recognize the important role of tax cooperation to foster sustainable development, including through strengthened, domestic revenue mobilization in line with environmental and climate goals. To avoid unintended legal implications, we recommend clarifying that:

- the article articulates guiding principles, not binding obligations;
- the scope of the link to sustainable development is clearly defined;
- administrative burdens remain proportionate.

This clarity will support broad acceptance among States with differing development priorities.

## **Article 10 – Dispute Prevention and Resolution**

Germany strongly supports effective dispute-prevention and dispute-resolution mechanisms that enhance certainty for both taxpayers and administrations. We encourage maintaining a focus on:

- clear domestic legislation;
- accessible guidance to reduce interpretative uncertainty;
- well-functioning domestic review mechanisms.

Any international mechanism developed under the Framework Convention should complement national systems and respect judicial autonomy. Early consultation tools and cooperative procedures could also help prevent disputes before they escalate.

We acknowledge that many developing countries face capacity constraints, limited administrative resources, and in many cases the absence of comprehensive double tax agreement networks. Therefore, any dispute-prevention and dispute-resolution mechanisms under the Framework Convention should offer alternative, development-sensitive options that complement existing national and bilateral arrangements while supporting the strengthening of domestic institutions.

### **3. Conclusion**

Germany reaffirms its commitment to constructive cooperation throughout the negotiation process. We support strengthening legal clarity, maintaining essential domestic policy space, and ensuring that the Framework Convention remains practical, balanced and capable of effective implementation by all States.