Co-Lead's Draft
Framework Convention Template

Article 1
Objectives

[From ToR]

Article 2
Principles

[From ToR]

Article 3
Definitions

[To come]

Article 4
Sustainable Development

Taking into account their different capacities, the States Parties agree to pursue international tax cooperation approaches that will contribute to the achievement of sustainable development in its three dimensions, economic, social and environmental, in a balanced and integrated manner.

Article 5
Fair Allocation of Taxing Rights

The States Parties agree that all jurisdictions in which value is created, markets are located, revenues are generated or economic activities take place have a right to tax a portion of the income generated from such activities and shall take such actions as are necessary to ensure a fair allocation of taxing rights among all such jurisdictions, including renegotiation of existing tax agreements that are inconsistent with this article.

Article 6
High-net worth individuals

1. States Parties shall develop and implement measures to detect, deter and prevent tax avoidance and evasion by high-net-worth individuals.

2. The States Parties shall share information regarding structures and techniques used by high-net worth individuals to avoid and evade taxes.

3. The States Parties shall explore coordinated approaches to ensuring effective taxation of high-net worth individuals.

Article 7
Tax-Related Illicit Financial Flows, Tax Avoidance and Tax Evasion

The States Parties shall develop and implement measures to combat tax-related illicit financial flows, including effective tools for the detection and prevention of tax-related illicit financial flows, enforced through mutual administrative assistance and exchange of information and any other agreed forms of international co-operation, to ensure effective taxation of income and profits from tax-related illicit financial flows.

Article 8
Harmful Tax Practices

1. The States Parties shall cooperate, at international and regional levels, to identify and deter harmful tax practices to neutralize their distortive effects and enhance the ability of all countries to tax income in accordance with their domestic laws and policies.

2. The States Parties shall develop, enhance and implement effective tools to address harmful tax practices including tools that provide for:

(a) enhanced transparency;

(b) monitoring and identifying emerging harmful tax practices; and

(c) the effective taxation of economic activities that benefit from harmful tax practices.

Article 9
Mutual Administrative Assistance

1. States Parties shall afford one another the widest measure of mutual administrative assistance in tax matters to facilitate the effective assessment of taxes and to combat tax evasion and avoidance, including through:

(a) exchange of information in accordance with Article 10;

(b) assistance in tax collection;

(c) simultaneous tax examination;

(d) tax examination abroad;

(e) service of documents; and

(f) any other form of mutual administrative assistance as may be agreed by the States Parties from time to time through protocols or other instruments.

2. The States Parties shall cooperate to identify and eliminate administrative barriers that prevent effective mutual administrative assistance in tax matters.

3. The requested State shall act on requests for assistance as soon as possible. If the request is declined, the requested State shall inform the requesting State of that decision and the reason for it as soon as possible to allow the requesting State to take further action if necessary.

[Article 10
Exchange of Information

1. The competent authorities of the States Parties shall exchange such information as [may be][is foreseeably] relevant for the administration or enforcement of the domestic laws of the State Party concerning taxes of every kind and description imposed on behalf of the State Parties (but not including social security contributions). In particular, information shall be exchanged that would be helpful to a State Party in preventing avoidance or evasion of such taxes, including:

(a) information regarding types of assets and instruments that in the future have been identified by the States Parties as providing opportunities to circumvent then-existing automatic exchange of information mechanisms;

(b) transaction information to allow the matching of exports and imports of goods and services to facilitate the detection and prevention of tax-related illicit financial flows; and

(c) such other information as may be agreed by the States Parties from time to time through protocols or other instruments.

2. Any information received by a State Party under paragraph 1 or Article 9 shall be treated as secret in the same manner as information obtained under the domestic laws of that State and, to the extent needed to ensure the necessary level of protection of personal data, in accordance with the safeguards which may be specified by the requested Party as required under its domestic law. It shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes referred to in paragraph 1. Such persons or authorities shall use the information only for such purposes. They may, however, disclose the information in public court proceedings or in judicial decisions.

3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a State Party the obligation:

(a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other State Party;

(b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other State Party; or

(c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (*ordre public*).

4. If information is requested by a State Party in accordance with this Article, the other State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to

permit a State Party to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a State Party to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

6. In implementing this article, the States Parties shall take into account the needs and capacities of developing countries and countries in special situations as well as such limitations as may be agreed by the States Parties from time to time through protocols or other instruments.]

Article 11
Data Collection and Analysis

[to come]

Article 12
Capacity Building and Technical Assistance

1. Each State Party shall take the necessary measures, including legislative and administrative measures, to ensure the implementation of its obligations under this Convention.

2. The States Parties recognize that inclusive and effective participation in international tax cooperation requires procedures that take into account the different needs, priorities and capacities of all countries to meaningfully contribute to the norm-setting processes and support them in doing so, including giving them an opportunity to participate in agenda-setting, debates and decision-making, either directly or through country groupings, according to their preference.

3. Accordingly, the States Parties shall make concrete efforts to the extent possible and in coordination with each other, as well as with international and regional organizations, to respond to demands for technical assistance and capacity development:

(a) To enhance their cooperation and provide technical assistance at various levels with other State Parties as necessary, with a view to strengthening the capacity of all States Parties to participate in international tax cooperation as described in paragraph 2 and to implement this Convention as described in paragraph 1;

(b) To enhance financial and material assistance to support efforts to fight illicit financial flows, tax avoidance and tax evasion successfully; and

(c) To provide technical assistance to other States Parties as necessary to allow them to establish automatic information reporting systems to allow them to track cross-border payments and participate in information reporting and information exchange.

4. To the extent possible, these measures shall be without prejudice to existing foreign assistance commitments or to other financial cooperation arrangements at the bilateral, regional or international level.

5. States Parties may conclude bilateral or multilateral agreements or arrangements on material and logistical assistance, taking into consideration the financial arrangements necessary for the means of international cooperation provided for by this Convention to be effective.

Article 13
Prevention and Resolution of Tax Disputes

[To come]

Article 14
Review and Verification

[To come]

Article 15
Relation with Other Agreements, Instruments and Domestic Law

[To come]

Article 16
Conference of the States Parties to the Convention

[To come]

Article 17
Secretariat

[To come]

Article 18
Subsidiary Bodies

[To come]

Article 19
Financial Resources

[To come]

Article 20
Amendments to the Convention

[To come]

Article 21
Relation with Protocols

1. This Convention may be supplemented by one or more protocols.

2. The requirements for the entry into force of any protocol shall be established by that instrument.

3. In order to become a Party to a protocol, a State must also be a Party to this Convention.

4. A State Party to this Convention is not bound by a protocol unless it becomes a Party to the protocol in accordance with the provisions thereof.

Article 22
Settlement of Disputes arising under the Convention

[To come]

Article 23
Depositary

[To come]

Article 24
Signature, ratification, acceptance, approval and accession

[To come]

Article 25
Reservations

[To come]

Article 26
Entry into force

[To come]

Article 27
Withdrawals

[To come]

Article 28
Authentic Texts

[To come]