



Objectives, scope and principles of the Terms of Reference for UN Framework Convention on International Tax Cooperation and the next steps

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The United Nations Framework Convention on International Tax Cooperation (UN FCITC): Objectives

- Establish fully inclusive and effective international tax cooperation in terms of **substance and process**.
- Establish a system of governance for international tax cooperation capable of responding to **existing and future tax and tax-related challenges on an ongoing basis**.
- Establish an inclusive, fair, transparent, efficient and equitable, and effective international tax system for sustainable development.

Principles of the UNFCITC

Nine (9) principles, including:

- Be universal in approach and scope and fully consider the different needs, priorities and capacities of all countries
- Provide for rules that are as simple and easy to administer as the subject matter requires
- In the pursuit of international tax cooperation be aligned with states' obligations under international human rights law
- Contribute to achieving sustainable development by ensuring fairness in allocation of taxing rights under international tax system
- Ensure certainty for taxpayers and governments; and
- Require transparency and accountability of all taxpayers

Next steps

- Negotiating committee to lead series of meeting in 2025, 2026 and 2027, at least **3 sessions per year**, of a duration of no more than **10 working days per session**.
- ❖ Organizational session is scheduled for 3 to 6 February, 2025
- ❖ During the organizational session, the negotiating committee will discuss and conclude **decision making rules** for the committee and 2nd early protocol

Expected Output (based on the adopted ToR)

- Full text of the UN Framework Convention
- **2 early Protocols:**
 - ✓ Protocol on **Taxation of Cross-Border Services in a highly digitalized economy**
 - ✓ Second protocol - to be decided from list of specified items

Expected timelines (based on the adopted ToR)

- **3 years – submission of final text of the Convention to the UNGA in the first quarter of 2027**

The governance structure of the Convention

- The convention seeks to establish an international tax system of governance.
- Para. 13 of Draft ToR covers governance aspects: definitions; relationship with other instruments and domestic law; governance structures, such as **Conference of the Parties**, Secretariat and subsidiary bodies, among others.
- The Framework Convention (rather than the protocols) is the true prize for the Global South as it can redesign the fundamental governance architecture of *who makes decisions and how* and thus requires our main attention.
- Badly designed Framework will produce unequal and unfair international tax standards as happens through the existing system.
- Developing Countries need to urgently start thinking of what they want the governance of the UN FCITC to look like
- The South Centre in partnership with WATAF, African Union, PTLAC and other Global South organizations will organize multiple briefings on this topic in the coming months: delegates encouraged to attend

The governance structure of the Convention

- Developed countries pushing for consensus as the decision-making process as it is designed to neutralize numerical majority of the Global South
- Democratic decision-making through voting as per UN General Assembly rules of procedure must be a red-line and non-negotiable for developing countries
- Accepting “consensus” will allow developed countries to hold it hostage, defeat and dilute all proposals of developing countries and effectively kill UN FCITC process
- EU threat of “disengaging” from negotiations an empty threat; developed countries will lose if they are absent from negotiations and thus will participate to the fullest even if “consensus” and other demands not met
- Organizational session in February critical and developing countries must ensure democratic decision-making prevails

The governance structure of the Convention

- **Scope of the protocol:** Framework should be able to address any tax issue, regardless of whether regional bodies like OECD are working on it or already have existing standards
- **'Complementarity'** can be understood as bringing existing standards like AEOI, CRS, etc to UN and making them universally acceptable, with or without amendments
- However **'complementarity'** defined as making UN's work subordinate to regional bodies like G20 or OECD unacceptable and harmful for developing countries

Taxation of Cross Border Services (first protocol)

- Developing countries, most of which are net importers of services are disproportionately impacted by changing business models, underpinned by technology.
- The first protocol can provide an equitable global solution for taxation of digital services
- Especially given unlikely adoption of Amount A of the OECD Two-pillar solution for taxation of the digital economy
- However, for this it is of critical importance to **include Automated Digital Services (ADS)** within the scope of the protocol.

Taxation of Cross Border Services (first protocol)

- Bulk of revenue of Big Tech firms like Google, Amazon, etc comes Automated Digital Services like online advertising and platform intermediation.
- The negotiation of the 1st early protocol could be guided by the provisions of Article 12B and potentially standardize DST and SEP models.
- Unilateral measures such as DSTs are uncoordinated and may lead to uncertainty and increased compliance costs for businesses
- South Centre Policy Brief contains more suggestions [on design of protocol of Cross Border Services](#)

Second early protocol

- Global South unity, particularly between Africa and Latin America, has been the key to success thus far
- Unity must be preserved at all costs for the success of the Convention
- Preserving South unity can be a guiding principle which can guide discussions within the Global South on choice of second early protocol
- The Framework is the true prize, and there can be no protocols without a Framework

Conclusion

1. At organizational session, developing countries must push for democratic decision-making as per UN General Assembly rules of procedure
2. Framework Convention must have open-ended scope and be able to address any tax issue as deemed fit by Conference of Parties
3. First protocol must include Automated Digital Services in scope
4. Global South unity must be a guiding principle in discussions within the South on second early protocol
5. Delegates encouraged to continue attending briefings on UN FCITC negotiations



THANK YOU

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