



# **The Commonwealth of The Bahamas Input on UN Framework Convention on International Tax Cooperation “Zero Draft” ToR**

**Submitted to**

**Chair of The Ad Hoc Committee  
Draft Terms of Reference  
United Nations Framework Convention  
On International Tax Cooperation  
United Nations Headquarters  
New York, NY 10017  
United States**

**June 21<sup>st</sup>, 2024**

## Contents

<b>INTRODUCTION</b>	<b>2</b>
<b>1. PREAMBLE</b>	<b>2</b>
<b>2. OBJECTIVES</b>	<b>3</b>
<b>3. PRINCIPLES</b>	<b>3</b>
<b>4. Substantive Elements Of The Framework Convention</b>	<b>4</b>
<b>5. Approaches and Time Frame for Negotiation</b>	<b>5</b>
<b>6. Resources to Support The Work of the Negotiating Body</b>	<b>5</b>

# Introduction

The Bahamas is fully committed to the work of the Ad Hoc Committee tasked with drafting the Terms of Reference for the UN Framework Convention on International Tax Cooperation. In this regard, we have reviewed the “Zero Draft” Terms of Reference (ToR) and submit our written comments for consideration as The Committee works to prepare a draft text for discussions and negotiations during the Second Session.

The Zero Draft Terms of Reference for a UN Framework Convention on International Tax Cooperation (FITC) is a significant step towards addressing the growing challenges of tax avoidance and evasion in the globalized economy. The draft offers a promising framework for cooperation.

## 1. Preamble

The 'Zero Draft' of the framework convention effectively acknowledges the need to be reflective of the key provisions of the following UN General Assembly Resolutions:

### **78/230 of 22 December 2023 on “Promotion of inclusive and effective international tax cooperation at the United Nations”**

1. The draft recognizes the importance of international tax cooperation to combat tax evasion, promote transparency, and ensure fair tax revenues.
2. It calls for strengthened collaboration among member states, international organizations, and other stakeholders to develop and implement effective tax policies.

### **77/244 of 30 December 2022 on “Promotion of inclusive and effective international tax cooperation at the United Nations”**

1. The draft reiterates the need for global cooperation in addressing tax challenges, including tax avoidance and harmful tax practices.
2. It emphasizes the role of the United Nations in facilitating dialogue and fostering consensus among member states on tax matters.

### **69/313 of 27 July 2015 on the Addis Ababa Action Agenda**

1. The draft aligns with the Addis Ababa Action Agenda's commitment to mobilize domestic financial resources for sustainable development.
2. It recognizes tax revenue as a crucial source of funding for public services and essential investments in areas such as health, education, and climate action.

## 2. Objectives

### **Tax Competition**

The Draft ToR importantly acknowledges the tax sovereignty of member states. While the acknowledgment of tax sovereignty is fundamental to the international legal order, it does not automatically imply an acceptance of tax competition. There is a need for the international tax system to accept there are legitimate reasons for tax competition.

The challenge lies in finding a nuanced approach that balances the right of states to set their own tax policies with the need to ensure that tax competition does not undermine the ability of governments to function effectively and address global challenges. The discussion and negotiation of the “Zero Draft” ToR should facilitate some dialogue, cooperation, and a commitment to crafting solutions that promote both fiscal stability and economic growth in a globalized world.

Tax competition promotes economic efficiency and incentivizes governments to improve their fiscal policies by forcing jurisdictions to compete for investment. In addition, it encourages fiscal discipline, promotes innovation and efficiency and boosts economic growth.

The specific mention of domestic resource mobilization is not appropriate in the “Zero Draft” ToR. Resolution 28/230 specifically addresses international tax cooperation.

## 3. Principles

### **Paragraph 9**

It is recommended that the language be amended to specifically refer to the different “resources” of countries. There is a reference to “capacities”. However, these concepts are distinct and understanding their differences is crucial for efficient planning and decision-making.

Resources refer to the assets a nation possesses while capacities represent the skills and systems that transform those assets. The “Zero Draft” ToR specifically addresses capacity building.

Although we agree with the mention of “countries in special situation” we would want that to be further expanded and provide an example of what these special situations might encompass. For example, we believe small island developing states have unique challenges, priorities and limited capacities and resources that should be acknowledged.

The suggested wording is as follows:

- be universal in approach and scope and should fully take into account the different needs, priorities, **resources** and capacities of all countries, in particular countries in special situations **such as small island developing states**;

We likewise agree with the recognition of fairness in allocation of taxing rights that contribute to achieving sustainable development, however, we think this section should specifically reference achieving the Sustainable Development Goals.

## 4. Substantive Elements of the Framework Convention

### **Paragraph 10**

All relevant substantive elements have been identified in paragraph

### **Paragraph 11**

It is recommended that this be headed “Participation and Decision Making” as opposed to “Capacity Building” to allow for focused attention on effective and inclusive participation with specific discussion and negotiation on the voting system and voting rights.

### **Paragraph 12**

It is recommended that this paragraph be headed “**Capacity Building**”. In addition, that there should be specific reference to the provision of technical assistance to support Member States, and especially developing countries.

### **Paragraphs 13- 15**

Adequately capture structural elements, priority areas and matters for future protocols.

We do believe, however, that “tax measures on environmental and climate challenges” listed in paragraph 15 should be moved and included as an early protocol and be identified as a priority issue to be addressed through such early protocols. We recognize that a main benefit of environmental and climate taxes is that they provide a clear financial incentive for companies and individuals to reduce their carbon emissions. This can lead to innovative solutions and technological advancements in clean energy and other sustainable practices. The tax regime can also help level the playing field for renewable energy sources, making them more competitive with fossil fuels. An environmental or climate tax regime also levels the playing field between high emitting developed countries and low emitting developing countries. Environmental and Climate tax regimes can help finance the implicit vulnerabilities small island developing countries experience.

## 5. Approaches and Time Frame for Negotiation

The stated approach and time frame are ambitious but achievable. We are committed to working to submit the final text of the framework convention and of early protocols to the General Assembly for consideration at its 81<sup>st</sup> Session.

We suggest that the intergovernmental negotiating committee should meet for a minimum of eight (8) sessions, of a duration of ten (10) working days each.

## 6. Resources to Support The Work of the Negotiating Body

We agree that a request should be made for the necessary facilities and resources to support this important work. In addition, it is imperative that developing countries be assisted to ensure their full and effective participation in the negotiation of the framework convention. We also recommend that countries in special situations also be included for special assistance.