

Response of Czechia to the request for inputs made by the Chair of the Ad Hoc Committee to the Bureau's Proposal for Zero Draft Terms of Reference for a United Nations Framework Convention on International Tax Cooperation

Czechia respectfully acknowledges the request made by the Chair of the Ad Hoc Committee to the Bureau's Proposal for Zero Draft Terms of Reference for a United Nations Framework Convention on International Tax Cooperation (hereinafter "Zero Draft") and would like to respond to this request while duly considering the aspirations of the General Assembly resolution 78/230, previous discussions at the Ad Hoc Committee, the Sustainable Development Goals, and ongoing progress within other international tax bodies, notably the contributions from the Inclusive Framework on Base Erosion and Profit Shifting.

First, Czechia would like to appreciate the Chair's and Bureau's work reflected in the Zero Draft.

Second, Czechia would like to make a general remark that the Zero Draft uses several undefined terms, for instance, tax-related illicit financial flows, fair allocation of rights, and domestic resource mobilization. These terms are vague and have different meanings depending on the context (e.g., tax-related illicit financial flows can include tax evasion as well as tax avoidance). Therefore, it seems reasonable to include a glossary of these terms' definitions in the Zero Draft or to explicitly state that these terms do not have a specific meaning, and thus the meaning can be decided during the upcoming negotiations.

Third, Czechia would like to comment on specific parts of the Zero Draft:

Regarding the objectives, Czechia would like to appreciate the inclusion of full inclusiveness amongst the principles that should be reflected in the Framework Convention (par. 7, letter (a)). This principle ought to be the basis of future negotiations, so the Framework Convention reflects the needs of all Member States.

Concerning the principles, Czechia would like to particularly support the principles of simple administration, tax sovereignty, and respect for the rights to privacy and other fundamental human rights. Czechia would also like to suggest adding the principle of complementarity to the current international tax initiatives amongst the principles enumerated in the Zero Draft (par. 9).

As regards the substantive elements, Czechia would like to emphasize that any potential commitment (par. 10) should be high-level and complementary to already existing commitments. The list of possible commitments mentioned in the Zero Draft (par. 10) does not correspond to the list of possible commitments summarized by the chair after the discussion. Czechia would therefore like to know why the list includes (i) transparency and exchange of information and (ii) effective prevention and resolution of tax disputes since these were not mentioned in the chair's summary. In addition, Czechia would suggest including amongst the high-level commitments only those commitments that will be reflected in the Framework Convention or its protocols to avoid the existence of commitments without corresponding rules to implement these commitments.

Pertinent to capacity building, Czechia suggests adding the words "and low-capacity countries" after the words "especially developing countries" in par. 12. Drawing on Czechia's experience from international tax negotiations, many low-capacity countries would benefit from capacity building, and the negotiation's capacity is not necessarily related to how a country is developed but to many other variables.

On the matter of specific priority to be addressed in early (priority) protocols, Czechia would like to propose that the list of possible areas for early protocols should include guidance for the future committee stating that the committee should choose only one or two topics for any early protocols not to overwhelm Member States' negotiating capacities. On top of that, Czechia would like to note that the list of possible topics to be covered in future protocols includes harmful tax practices which was not mentioned in the chair's recapitulation of the discussion.

Relating to the approaches and time frame for negotiation, Czechia would like to reiterate, while respecting the procedure of the General Assembly of the United Nations, that Terms of Reference should contain a provision clearly stating that any successful international tax reform should be based on consensus. This matter should be inserted in the principles as well as in the part of the Zero Draft that discusses the approaches for negotiation. Overcoming the inability to achieve consensus by voting should be avoided as long as possible since only a consensus-based approach respects tax sovereignty and leads to full inclusivity.

Czechia would also like to add that the timeline of negotiations seems to be too ambitious. The current negotiations of the Zero Draft as well as negotiations on other fora have proved that even seemingly easy tax solutions are enormously complex to implement and putting time pressure on Member States, especially the low-capacity

Member States, would lead to suboptimal results of the negotiations. Therefore, Czechia suggests that the Zero Draft keeps the brackets (par. 16) since we do not know how much time we will need because we do not know what exactly we are going to negotiate. Czechia also suggests that the timeline regarding early protocols (par. 17) is rewritten in a way that it states that the negotiation of early protocols will begin in a specific timeframe (months, number of meetings) after the negotiation of the Framework Convention begins or, ideally, after the negotiation of the Framework Convention related to the functioning of protocols and other instruments is sufficiently specific. This will ensure that Member States are not wasting resources on negotiating protocols' provisions that would prove to be contrary to the Framework Convention. The deadline for negotiating any early protocols also should not be limited by a specific number of months (par. 17) but by a more flexible wording, for example, within a reasonable timeframe after concluding the negotiations of the framework convention depending on the number of protocols and on the subjects these protocols will cover.