



June 21, 2024

United Nations Secretariat  
Bureau of the Ad Hoc Committee  
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**Re: NFTC Comments on the United Nations Zero Draft Terms of Reference**

The National Foreign Trade Council (the “NFTC”) is providing written comments on the Bureau of the Ad Hoc Committee’s Proposal for Zero Draft Terms of Reference (“TOR”) for the United Nations Framework Convention on International Tax Cooperation released on June 7, 2024. We appreciate the opportunity to comment on the Zero Draft TOR.

The NFTC, organized in 1914, is an association of U.S. business enterprises engaged in all aspects of international trade and investment. Our membership covers the full spectrum of industrial, commercial, financial, and service activities. Our members value work that focuses on establishing and maintaining international tax and transfer pricing norms that provide certainty to enterprises conducting cross-border operations.

**General Comments**

We support efforts to create a system that is more inclusive and believe that widespread adoption will be essential. Therefore, careful consideration of this complex work without rushing into decisions or creating arbitrary deadlines is critical to its long-term success. Furthering the UN’s goals for an inclusive, sustainable, and equitable global tax system must also consider the importance of pro-growth policies that attract investment and will allow for widespread adoption.

We recognize that other projects focus on developed economies, so we are supportive of additional global mechanisms that allow for multilateral and regional tax cooperation, coordination, provisions of technical tax resources and administrative best practices. Such multilateral mechanisms of coordination will allow developing countries across the world to form cohesive and coherent policies worldwide that meet individual needs as well as fit in with international taxation schemes.

## **Specific Comments**

### *Scope and Definitions*

We request additional clarity on the terms and scope of the TOR. The scope of the project should be clearly stated and examined to ensure that it is achievable in the timeline provided. Without such specificity it is difficult to fully discern the breadth of the project. Furthermore, detailed descriptions of terms will aid in ensuring the objectives are appropriately addressed and that there is a common understanding of the work.

### *Double Taxation*

Any international tax framework convention should ensure that there is no double taxation and no discriminatory treatment of industries. We value tax certainty as well as an international tax system that is stable, rules-based, and administrable. As the international tax framework is developed, we urge countries to prioritize pro-growth policies that help encourage investment and ensure that there is no double taxation. Double taxation is unprincipled and increases tax disputes and compliance costs which are costly to both tax administrators and taxpayers. We request that elimination of double taxation be explicitly stated in the TOR principles.

### *Tax Certainty*

NFTC members value tax certainty as well as an international tax system that is stable, rules-based, and administrable. This includes ensuring that any protocol does not increase uncertainty, conflict, or otherwise interfere with existing global tax agreements or tax treaties. Minimizing disputes and ensuring an efficient and streamlined tax administration and dispute resolution are shared goals of governments and taxpayers. Thank you for the inclusion of tax certainty in the TOR, we are very supportive of this principle.

### *Decision-Making*

Another crucial aspect of the Ad Hoc Committee is to determine the decision-making process for the Framework Convention on International Tax Cooperation. The TOR does not address this topic, even though it was a dominant discussion topic at the First Session of the Ad Hoc Committee held this spring. We continue to support consensus-based decision making in the Ad Hoc Committee. In order to achieve a global solution, there must be acceptance from as wide a range of countries as possible. Consensus-based decision making is crucial to achieve the acceptance needed to attain the goal of International Tax Cooperation.

## **Conclusion**

Thank you for the engagement with stakeholders not only at meetings, but also through consultation periods such as the current review of the TOR. We encourage the Ad Hoc Committee to continue sharing documents, providing anticipated timelines, and establishing transparent processes. We continue to urge the UN to work collaboratively with the OECD and the Inclusive Framework to resolve concerns about international taxing rights in a manner that is principled, avoids undue complexity, and avoids double counting or double taxation of the same income. We believe that any outcome which fails to meet these objectives will cause instability in the international tax system.

We encourage engagement with the business community on the TOR and broader work on International Tax Cooperation. We continue to recommend the Committee consider creating a business advisory group to allow for consistent dialogue. An international tax system should work for both governments and taxpayers. We are happy to answer any questions or provide clarification on any of the issues raised.