

**South Centre Inputs on “Zero Draft Terms of Reference for a UN Framework
Convention on International Tax Cooperation”**

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I. Background

The [South Centre](#) is the intergovernmental organization of developing countries that helps developing countries to combine their efforts and expertise to promote their common interests in the international arena. The South Centre has [55 Member States](#) coming from the three developing country regions of Africa, Asia, and Latin America and the Caribbean. It was established by an [Intergovernmental Agreement](#) which came into force on 31 July 1995. Its headquarters are in Geneva, Switzerland.

The South Centre in 2016 launched the [South Centre Tax Initiative](#) (SCTI). This is the organization’s flagship program for promoting South-South cooperation among developing countries in international tax matters.

The South Centre submits the following inputs to the Chair of the Ad Hoc Committee to Draft Terms of Reference for a United Nations Framework Convention on International Tax Cooperation.

II. Overview

The South Centre congratulates the Chair and Members of the Bureau and welcomes the [Zero Draft Terms of Reference for a United Nations Framework Convention on International Tax Cooperation](#).

While the Zero Draft is a progressive starting point for the negotiations in the Second Session, there are certain aspects of the Zero Draft which can be further improved.

III. Comments on specific elements of the Zero Draft Terms of Reference for the UN Framework Convention on International Tax Cooperation

i. Principles

In paragraph 9, the phrase “while respecting the rights to privacy and other fundamental human rights” should be deleted. The expression could be misused to deny developing countries effective access to information.

In paragraph 9, the sub-para “recognize that every Member State has the sovereign right to decide the policies and practices of its domestic tax system, and the responsibility to ensure that such policies and practices *do not undermine the effectiveness of the tax base or system of other Member States*” may be redrafted to clarify that such policies or practices should not promote tax base erosion and profit shifting from other States and that taxes should be paid where economic activities occur.

ii. Objectives

In making clear the objectives of the Framework Convention, the word “establish” should be adopted in paragraph 7(a) of the zero draft. Apart from providing certainty to the Statement of Purpose under paragraph 7(a), this change is also for the purpose of consistency with paragraphs 7(b) and 7(c).

iii. Negotiating Committee

The Bureau for the intergovernmental negotiating committee in paragraph 18 should consist of only a Chair and there is no need for Co-chairs.

iv. Approaches for Negotiation

The decision to develop a United Nations Framework Convention on International Tax Cooperation was birthed as a result of the concerns expressed by many countries about the complexity and minimal gains associated with the rules being developed in other fora. Therefore, paragraph 20 of the zero draft should be re-drafted to replace the word “should” with “may” or “could”. In other words, the text should read as “Throughout its work, the intergovernmental negotiation committee “may” take into consideration the work of other relevant fora....”.

v. Secretariat and Conference of the Parties (CoP)

The composition and function of the Secretariat of the Conference of Parties (CoP) are of critical importance. There is a need for a strong, diverse and dedicated Secretariat of the CoP with sufficient technical expertise in view of the volume of work required for drafting the needed protocols and development of other international rules and standards.

vi. Early Protocols

The number of early protocols stated in paragraph 14 should be limited to ideally one, maximum two. This is to ensure that scarce negotiating resources are directed towards priorities of developing countries. The chief candidate for an early protocol should be the taxation of the digital economy. The second should be the taxation of cross-border services.

Given the importance of information exchange, in paragraph 15 the protocol on exchange of information for tax purposes should be re-drafted to read “effective exchange of information for tax purposes”, to ensure that the standards allow developing countries actually obtain the information and developed countries cannot escape by showing formal compliance.

vii. Capacity Building

Clearly, strengthening the capacity of tax officials is an essential ingredient for the effective implementation of principles, guidelines and rules; however, the aim to enhance the capacity of officials should not over-shadow specific priority issues that are to be addressed in an urgent manner such as taxation of multinationals and cross-border services.

viii. Time Frame for Negotiations

In paragraph 16, the number and duration of sessions should be kept as short as possible to derive maximum efficiency and reduce unnecessary travel costs for developing countries.
