

ZAMBIA'S COMMENTS OF THE ZERO DRAFT TOR FOR THE UNITED NATIONS FRAMEWORK CONVENTION ON INTERNATIONAL COOPERATION IN TAX MATTERS

Zambia supports the zero draft Terms of Reference (TOR) and the progressive elements of the document as contained in the preamble, objectives, principles, capacity building and structural elements, among other notable sections in the draft. Therefore, Zambia supports the adoption of the draft TOR with a few possible modifications as follows:

1. Paragraph 9

Sixth bullet point

It is recommended that this sentence should be amended to say:

- 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 promote tax base erosion and profit shifting from other states;**

Justification

The term “undermine the effectiveness of the tax base or system of other Member States” is vague and may lead to calls for uniform taxation among member states at different stages of development and with different constraints, such a poor or no basic infrastructure. Such constraints may require reasonable incentives to level the investment playing field. The proposed wording could be counter-productive to the calls for enhancing sustainable domestic revenue mobilization by stifling increased economic growth.

2. Paragraph 9

Last bullet point

Zambia is of the view that this bullet should be amended as set out below:

Option 1: “require transparency and accountability of all taxpayers, while respecting the **fundamental rights of taxpayer confidentiality and data protection**”

Option 2: “require transparency and accountability of all taxpayers, **without prejudice to taxpayer confidentiality and data protection**”

Justification

While Zambia acknowledges the need for protection and appropriate use of tax payer information, bank secrecy and personal privacy have long since been stumbling block to transparency and exchange of information on tax matters. Therefore, the inclusion of this provision in the TOR would be counter-productive to the assertion in the first part of the statement.

3. Paragraph 14

Another sentence should be included under paragraph 14 to states that:

The finalisation of the Framework Convention will not be delayed by the lack of completion of early protocols. However, negotiations of protocols can continue even after the finalisation of the Convention

Justification

The sentence is proposed in order to emphasise that the processes of development of the Framework Convention and the early protocols, while linked, SHOULD NOT BE dependent on each other. Therefore, if for some reason, development of an early protocol is delayed this should have no impact on the conclusion and enactment of the Framework Convention.

4. Paragraph 17

The words “some or all of” should be included in the paragraph as follows:

“The intergovernmental negotiating committee should begin negotiating **some or all of** the early protocols described above at the same time as it begins.....

Justification

While recognising the urgent need for swift, effective, inclusive and fair solutions to the matters to be tackled by the early protocols. Zambia is also cognisant of the fundamental challenge of limited resources, particularly for developing countries. As such, we do not support that negotiations of all the 5 recommended early protocols commence simultaneously with the negotiation of the Framework Convention.

Zambia recommends that while early protocols SHOULD BE negotiated they should only be negotiated in batches of 2 or 3. We further propose that, taxation of the digitalized and globalized economy; taxation of income derived from cross-border services; and taxation of high-net worth individuals should be the first batch.

5. Paragraph 21

The words “be requested to” should be deleted from this paragraph

Justification

Zambia of the view that this paragraph needs to be categorical on the Secretary General providing funding to the intergovernmental negotiating committee hence the proposed deletion.