



# Ad Hoc Committee to Draft Terms of Reference for a UN Framework Convention on International Tax Cooperation

**Second Session**

**Day 3 - 31 July 2024**

**3&4 cont': (iv) Sections of the draft ToR addressing structural elements of the framework convention:  
Background presentation by the Secretariat**



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# Overview



## I. Structural elements of the Framework Convention

- 1) General purpose of the structural elements
- 2) Relationship with other agreements, instruments, and domestic law



# Structural elements

*(para. 13, revised draft ToR)*

# General purpose



- Section contains **additional** elements a framework convention on international tax cooperation should include and **complements other sections** of draft ToR.
- Section was developed from Annex 1 of the Skeleton Draft ToR and incorporated into main body of draft ToR to increase **clarity and simplicity** of the document.
- Section serves to provide **certainty** that these additional elements should be covered by the framework convention, without unduly limiting flexibility of a negotiating body.

# Relationship with other agreements, instruments and domestic law (para. 13)



- As a **new legal instrument** on international tax cooperation, a framework convention should address its relationship with other agreements, instruments and the domestic law of the parties.
- Broadly speaking, there are two general approaches:
  - **Omnibus clause:** Addressing the relation for the entirety of the treaty
  - **Itemized clauses:** Specifically addressing relation per item of the treaty



# Example of an “omnibus clause”

- WHO Framework Convention on Tobacco Control (Art. 2):

**“The provisions of the Convention and its protocols shall in no way affect the right of Parties to enter into bilateral or multilateral agreements, including regional or subregional agreements, on issues relevant or additional to the Convention and its protocols, provided that such agreements are compatible with their obligations under the Convention and its protocols.”**



# Example of “itemized clauses”

The United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances addresses the interaction between the Convention and domestic legislation under:

- **Article 2. Scope of the convention**
- **Article 3. Offences and sanctions**
- **Article 5. Confiscation**
- **Article 6. Extradition**
- **Article 7. Mutual legal assistance**
- **Article 10. International co-operation and assistance for transit states**
- **Article 22. Functions of the board**
- **Article 24. Application of stricter measures than those required by this convention**
- **Article 25. Non-derogation from earlier treaty rights and obligations**



# Article 6. Extradition

“3. If a Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another Party with which it has no extradition treaty, **it may consider this Convention as the legal basis for extradition in respect of any offence to which this article applies.** (...)”

5. Extradition shall be **subject to the conditions provided for by the law of the requested Party or by applicable extradition treaties,** including the grounds upon which the requested Party may refuse extradition. (...)”

11. The Parties **shall seek to conclude bilateral and multilateral agreements to carry out or to enhance the effectiveness of extradition.** (...)”





**Thank you!**



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