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From:	General Secretariat of the Council
To:	Delegations
Subject:	First Session of the Ad Hoc Committee to Draft Terms of Reference for a United Nations Framework Convention on International Tax Cooperation (New York, 26 April - 8 May 2024) - Information by the Presidency

First Session of the Ad Hoc Committee to Draft Terms of Reference for a United Nations Framework Convention on International Tax Cooperation

(New York, 26 April - 8 May 2024)

Information by the Presidency

1. On 22 December 2023, the 77th session of the UN General Assembly adopted Resolution 78/230 on "Promotion of Inclusive and Effective International Tax Cooperation at the United Nations". The resolution was adopted by a majority vote and received widespread support from developing countries, particularly the Africa Group and the G77. It outlines a process for establishing a UN Framework Convention on International Tax Cooperation.

2. The push for a new multilateral tax convention seeks to establish a more effective and inclusive international tax system that better addresses the needs of developing countries, promotes transparency, and ensures that all countries are on an equal footing in the agenda setting and the formulation of global tax policies and rules. This shift aims to rectify the perceived imbalances and shortcomings of the existing system of international tax cooperation.

3. Based on the UN mandate, the terms of reference for the framework convention on international tax cooperation are to be drafted by a member state-led, open-ended Ad Hoc Intergovernmental Committee. The Ad Hoc Committee held its organizational session in New York on 20-22 February 2024. Two substantive sessions were scheduled to carry on the mandated work: the first from 26 April to 8 May 2024, and the second from 29 July to 16 August 2024, both in New York, by which time the work should be concluded. Negotiations on the text of the convention will proceed in the subsequent stage.

4. Under the Belgian Presidency, the Working Party on Tax Questions – High Level, regularly monitored the developments of the UN process and coordinated the positions of the European Union and its Member States within the Council. The Belgian Presidency made a proposal for a position on behalf of the Union and its Member States and took into consideration all views of the Member States to achieve a common position. The position on behalf of the European Union and its Member States for the first substantive session of the Ad Hoc Committee was approved on 25 April 2024¹. The position advocates for a robust international tax cooperation framework under the United Nations to ensure a fair, inclusive, and effective global tax system. The position emphasizes the importance of a rules-based international order, inclusive and equitable tax cooperation, and fostering global dialogue to create policy synergies. The EU supports aligning the proposed Convention with existing international tax initiatives to avoid duplication and ensure coherence. The EU and its Member States advocate for consensus-based decision-making to include all countries' perspectives and stress the importance of supporting the Sustainable Development Goals (SDGs) through effective tax policies.

¹ ST 9129/24 REV 1

5. The discussions during the first substantive session of the Ad Hoc Committee focused on the possible structure of the terms of reference, including substantive elements of the convention and potential topics for high-level commitments. The session also considered the issue of simultaneously developing early protocols.

6. On substantial issues, key discussions focused on the concept of domestic resource mobilization (DRM) and the role of capacity building, the importance of effectively taxing high-net-worth individuals and possible tax measures to address environmental challenges. The most controversial issues were the equitable taxation of income of multinational enterprises (MNEs) and the taxation of cross-border transactions. There also lies the risk of overlap with the OECD's two-pillar solution. Another divisive issue was the possible development of early protocols, specifically whether to first develop the framework convention (FC) and only then the protocols, or to develop simultaneous protocols on urgent issues. Possible issues for early protocols raised by delegations included: illicit financial flows, taxation of cross-border services, taxation of the digital economy, dispute prevention and resolution, taxation of high-net-worth individuals, environmental challenges, exchange of information and tax incentives.

7. The Ad Hoc Committee Chair proposed a timeline for the next steps, including the circulation of a zero-draft of the terms of reference and opportunities for written submissions from UN Member States and stakeholders in the lead-up to the second substantive session.

8. The European Union and its Member States played an active role in the discussions at Ad Hoc Committee. The agreed position was delivered by the EU delegation to the United Nations on behalf of the EU and its Member States and by Belgium as Member State exercising the Presidency of the Council on behalf of the EU Member States during the opening of the first substantive session of the Ad Hoc Committee on 26 April 2024. The common position was supported and complemented by other Member States participating in the session. During the session, the Belgian Presidency, the EU delegation and the Commission services cooperated closely to hold regular EU information sharing and coordination meetings. Virtual participation for delegations from the capitals and for Brussels-based fiscal counsellors/attachés was also allowed. These meetings have been held alternately with those of the UN regional group of the WEOG, following which all EU Member States were updated on the latest discussions. Outreach activities to third countries, as well as meetings with relevant stakeholders such as civil society organizations also took place as discussed on the spot.

9. The first substantive session of the Ad Hoc Committee marked a crucial step in preparing the draft terms of reference for the new legally binding instrument on international tax cooperation. While affirming the importance of inclusive, effective, and fair international tax cooperation, the session highlighted notable differences in the positions of various UN Member States and groups, particularly between developed and developing countries. Significant work remains to make progress and hopefully achieve a consensus on some of the issues, ensuring that the framework effectively addresses the needs of all countries.