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## Comments from the Netherlands on the 22 January 2026 draft of the Co-Lead's Draft Framework Convention

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### Abstract

This written submission contains the comments from the Kingdom of the Netherlands on the 22 January 2026 draft of the Co-Lead's Draft Framework Convention for the Intergovernmental Negotiating Committee on the United Nations Framework Convention on International Tax Cooperation. In the first paragraph we thank the co-leads of the workstreams and the secretariat for the work done to facilitate the discussions and for publishing a revised Draft Framework Convention and include some general remarks. In the second paragraph, we suggest alternative provisions to those included in the 22 January Co-Lead's Draft Framework Convention.

### **I. General remarks**

We thank the co-lead and the secretariat for publishing and the opportunity to comment on the 22 January Co Lead's Draft Framework Convention. Textual proposals facilitated a constructive discussion during the fourth substantive session of the Intergovernmental Negotiating Committee in New York.

We would like to take this opportunity to reiterate that the Kingdom of the Netherlands supports any effort to strengthen inclusive, effective and sustainable international tax cooperation. We are dedicated to contributing to the work of the Intergovernmental Negotiating Committee and above all, to ensuring that this important work results in broadly supported and effective outcomes. To achieve this, it is important that the Terms of Reference explicitly state that Protocols are separate legally binding instruments and that each party to the framework convention has the option whether or not to become party to a protocol on any substantive tax issues, either at the time they become party to the framework convention or later. Signatories to the Framework Convention have the discretionary power to decide how they should fulfil the commitments included in the Framework Convention. In this context, and considering that undermining and/or duplicating international work that is already well advanced should be avoided, the introduction of a paragraph that addresses the interaction with existing international agreements is of utmost importance. Such an article could be drafted along the following lines:

- Outline that States Parties can decide how to comply with the commitments, including through existing instruments;
- Make sure not to supersede existing legal instruments, in particular existing tax treaties, unless the States Parties otherwise agree in a Protocol to this Convention or other international treaties;
- Provide flexibility for regional groups to uphold their regional obligations (for example EU-law).

Additionally, the Netherlands supports and applauds the emerging consensus that the commitments in the framework convention should be kept high-level. To safeguard broadly supported and effective outcomes and given the wide range of views, we would urge raising the current proposed language in the draft to a higher level, avoiding specific policy proposals. We can get back to formulating specific policy proposals when discussing the protocols.

This approach is in line with the object of a Framework Convention, which is the mandate of the Intergovernmental Negotiating Committee given by the General Assembly based on the chosen option 2 of the Secretary-General's Report regarding the promotion of inclusive and effective international tax cooperation at the United Nations of 26 July 2023.<sup>1</sup>

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<sup>1</sup> Report of the Secretary-General on the Promotion of inclusive and effective international tax cooperation at the United Nations, A/78/235.

Only by including high level commitments, a robust framework can be created for an overall system of international tax governance. According to the report of the Secretary-General of the United Nations, a framework convention should outline *“the core tenets of future international tax cooperation, including the objectives, key principles governing the cooperation and the governance structure of the cooperation framework.”* Additionally, *“protocols to the framework convention could provide additional, “regulatory” aspects, with more detailed commitments on particular topics, giving countries the ability to opt-in and opt-out on the basis of their priorities and capacities.”*

The significant difference with option 1 of the report of the Secretary-General of the United Nations is that a Framework Convention does not establish a legally binding convention that would potentially cover a wide range of tax issues.<sup>2</sup> A Framework Convention is not regulatory in the sense that it does not set out specific rules creating obligations, including rules that potentially place limits on exercising taxing rights,<sup>3</sup> contrary to a multilateral convention on tax such as the OECD Multilateral Instrument (MLI) or the Multilateral Convention on Mutual Administrative Assistance (MAAC), nor does it include similar obligations as those laid down in existing bilateral tax treaties.

Committed to work constructively together to achieve a broadly supported UN Framework Convention on international tax cooperation, we would like to submit the following alternative high level commitments.

## **II. Suggested alternative provisions**

### *Article 4 sustainable development*

The parties agree to pursue international tax cooperation approaches that contribute to the achievement of sustainable development in its three dimensions - economic, social and environmental - in a balanced and integrated manner in both policy and practice, ensuring coherence across international frameworks and with full respect to promoting human rights and gender equality.

### *Article 5 Fair Allocation of Taxing Rights*

The States Parties shall endeavor to adopt cooperative approaches that achieve a fair allocation of taxing rights.

### *Article 6 High-net worth individuals*

States Parties agree to consider and identify coordinated approaches to achieve effective taxation of high-net worth individuals and prevent high-net worth individuals from avoiding and evading taxes.

### *Article 7 Tax-related Illicit Financial Flows, Tax Evasion and Aggressive Tax Avoidance*

The States Parties agree to cooperate to identify, address and enhance mechanisms to combat tax-related illicit financial flows, tax evasion and aggressive tax avoidance.

### *Article 8 Harmful tax practices*

The States Parties agree to cooperate to identify, address and enhance mechanisms to combat Harmful Tax Practices.

### *Article 9 & 10*

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<sup>2</sup> Report of the Secretary-General on the Promotion of inclusive and effective international tax cooperation at the United Nations, A/78/235 (par. 53).

<sup>3</sup> Report of the Secretary-General on the Promotion of inclusive and effective international tax cooperation at the United Nations, A/78/235 (par. 53).

### *Mutual Administrative Assistance*

The States Parties agree to cooperate to identify and reduce barriers that prevent effective mutual administrative assistance in tax matters, including with respect to transparency and exchange of information for tax purposes.

### *Article 12*

#### *Capacity building and technical assistance*

1. The States Parties recognize that inclusive and effective participation in international tax cooperation requires procedures that take into account the different needs, priorities and capacities of all countries to meaningfully contribute to the norm-setting processes and support them in doing so, including by giving them an opportunity to participate in agenda-setting, debates and decision-making, either directly or through country groupings, according to their preference.
2. Accordingly, the States Parties shall coordinate efforts to the extent possible with each other, as well as with international and regional organisations, to respond to demands for technical assistance and capacity building.