Ad Hoc Committee - Meeting 4

29 April 2024

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[00:34:06] Excellencies, distinguished delegates, dear colleagues, welcome to the fourth meeting of the first session of the Ad Hoc Committee to draft the Terms of Reference for United Nations Framework on International Tax Cooperation. Welcome to all participants here in New York in the virtual platform and following on UN Web TV.

[00:34:28] This afternoon, the committee continues our consideration of Agenda Item 2B, With informal discussions of the preamble objectives and the principles of a UN framework convention on international tax cooperation in order to clarify the thinking of the committee as to how these issues should be addressed in the draft terms of reference.

[00:34:50] At the outset, allow me to recall three key points from our first reading this morning, morning of that you are skeleton first. We [00:35:00] remember that our work in this ad hoc committee is not negotiating the Framework Convention. Yet, having some vision of what could be included in a Framework Convention is necessary in developing draft EOR.

[00:35:14] Second, we will not necessarily group elements or use language in the same way as in Resolution 78 230. This is not a cut and paste committee. The draft terms of reference will be new. Thank you. The TOR will build on and move forward from Resolution 78 230 on promotion of inclusive and effective international tax cooperation at the United Nations.

[00:35:40] Third, let's keep clear about the relationships of Resolution 78 230 to the draft terms of reference, the Framework Convention, and its protocols, a theme of our shared learning over the course of this session. This afternoon, we focus on some of what will be the introductory [00:36:00] elements of the Framework Convention, the preamble, objectives, and principles.

[00:36:05] The preamble paragraphs establish the political and the legal context for the provisions of an convention. They can describe the background to the convention and establish linkage to other legal instrument resolutions or action programs. The objective set out the fundamental purposes of a convention.

[00:36:29] They serve a function that is different from what of the preamble and also different from the more concrete commitments, which we will be, which we will begin discussing tomorrow. The principles of a convention serve a variety of important functions. They may describe the intent and goals of their parties and their objectives.

[00:36:50] More specifically, give guidance and direction to action under the convention and provide important context to the interpreting, interpreting [00:37:00] a convention. They usually do perform functions that cannot be similarly addressed by the preamble paragraph alone.

[00:37:09] If drafted carefully, the sections of the TOR covering this introductory element of the framework convention, the preamble objectives and the principle, will clearly set out tasks involved in negotiating a particular framework convention. I look forward to our discussions. Virtual participant, please always mute your microphone except when you have given the, you have been given the floor.

[00:37:36] For virtual participants requesting the floor, please use the raise hand facility or if you cannot do that, type H in the messaging chat facility accessing by the toolbar. The secretariat will monitor the chat and advise you that your hand has been noticed. I invite delegations in the conference room wishing to intervene to press the button on [00:38:00] their microphone console.

[00:38:02] All speakers are kindly requested to limit their intervention to three minutes. The floor can be taken more than once during our informal discussion. I encourage participants to feel free to respond to interventions made by other delegations and observers as we aim for a constructive discussion among all participants.

[00:38:26] So now the floor is open for any comments in the, uh, on the introductory elements.[00:39:00]

[00:39:17] I was just joking with my colleague here saying if I said I'm going to close the floor now, so I, hands will start to raise. And it looks serious, now I have a hand here.

[00:39:30] So, now, uh, the floor is to the distinguished delegate of United Kingdom. Thank you, Chair. Um, so I, I understand we're discussing, uh, by the introductory elements, we're discussing the preamble objectives and principles. Is that correct? Great. Um, so, um, our comments then are on the principles specifically. Um, where we would suggest [00:40:00] adding three principles to the list.

[00:40:03] The first one is on the list. Maximizing participation and coverage. We want to make sure that the, as a principle, the convention should be looking to reflect diverse views and interests of all member states. Second, comparative advantage. So we think the convention should be looking to prioritize areas where it can add the most value over and above work that is happening elsewhere.

[00:40:32] And the third, subsidiarity. So, the principle that where things can be decided at national level, they should be decided at national level, and cooperation should focus on those areas which require cooperation rather than being decided solely at national level. Um, I don't think that, uh, in this forum we want to be, um, discussing line by [00:41:00] line, um, drafting of principles, um, but let me know if you Disagree with that, and we would be happy to provide drafting if that would be useful.

[00:41:09] But those three principles as a broad aim would be what we suggest. I'm sorry, but can I ask you to come back on the third one? The third one, uh, subsidiarity. So, uh, the, the idea that you would have an emphasis on national sovereignty for the things that can be decided at national level and Decide things, uh, multilateral level only where they can't be decided or, um, need to be decided at multilateral level rather than a national level.[00:42:00]

[00:42:12] Thanks UK. Now to the distinguished representative of Korea. Chair, for giving me the floor. As far as the objectives are concerned, regarding the system of governance in Paragraph B under the objective, given that the UN Resolution do not have the term governance, Korea would like to suggest replacing system of governance with the international legal basis, the existing wordings in the text of the UN Resolution or multilateral system.

[00:42:46] In addition, when it comes to establishing the legal basis for the international tax corporation, it is essential not only to respect the tax sovereignty of each country, but also to conform to [00:43:00] existing international tax rules for which many member states benefit. In this context, Korea would like to suggest adding giving due consideration to the value of a coherent and consistent international tax rules at the end of the sentence in B.

[00:43:19] Turning to principles with respect to the ensure fairness in allocation of tax rights in the second para from the bottom under the principles, Korea is of the view that it is a bit premature to mention about the allocation of tax rights here. That is because it can give us some prejudice that it has been already agreed on the inclusion of the allocation of tax rights and subject matters to be addressed.

[00:43:50] Prior to putting this sentence into the principles, Korea believes that consensus should be made on this issue. Furthermore, even if the [00:44:00] allocation of a tax right is agreed, Korea would suggest replacing under the international tax system with a new one. in accordance with the international laws in the same sentence.

[00:44:11] It is because the allocation of a taxi rights are determined by existing bilateral and or multilateral agreements and the UN Framework Convention would become one of our international tax rules. Thus it would be crucial for the UN Framework Convention to be inconsistent with international laws.

[00:44:33] Lastly, but not least, given the Given that our work for Framework Convention is, uh, to fill the gaps that the existing instruments have not fulfilled, complementarities should be one of the principles. In this regard, Korea would like to ask the Secretary, uh, Chair, to add the following sentence to the bottom of the principle.

[00:44:57] Consider the work of the relevant [00:45:00] forums, potential synergies, and existing tools. expertise and complementarities available, which it exists in the optical, uh, operational paragraph six D, uh, of the UN resolution. Thank you.

[00:45:20] Thanks Korea.

[00:45:47] Maybe just, uh, I'm going to give a note because I, I saw like some colleagues are referring to, to some tickets that we talk. Actually in the peer, we, we developed a document which [00:46:00] is like Let's say it's a initial draft to our, uh, that even we name it like zero zero draft. So it's not even zero draft. So it's before the zero.

[00:46:11] So uh, so maybe some of the bureau members, when they come to comments, they just comment on this document while these documents still work in progress and it will be enhanced it and refined again with a scoping committee. Then after that, at some stage it will be presented to the whole committee, but I think it's not, uh, mature enough to document itself to now to go for the whole committee.

[00:46:36] It's just, we can say like initial thoughts of the bureau members to have like a ground in which we can start moving from it and to advance the progress of the work of the committee and make sure that as we are approaching, uh, the deadline, we already start to have a document. Of course, it will be too much enhanced based on the discussion.

[00:46:56] So just be careful if you are referring to any programs [00:47:00] that we, for the peer members that we used to read together or to work on it because maybe other members didn't see it. I know that most of you just shared it with the original groups, but still I am not sure if all the members saw it or not. So just, we need to be a little bit careful on this and just discuss, uh, or, or just Uh, orally in, uh, say what, what we want to say in more clear way so everyone can understand it.

[00:47:26] So just a small note for, uh, the members who are just trying to read or comment to the text that we have. It's still just work in progress and it's not a live document now to be shared with everyone to the floor, to the distinguished delegate of Philippines.

[00:47:45] Thank you, Mr. Chair. Good afternoon, colleagues. Uh, on behalf of our. delegates who are, um, attending virtually and may have technical difficulties conveying their interventions. Um, may I convey, um, the following [00:48:00] observations. Based on this morning's, um, proceeding, um, they agree that there is some difficulty following discussions, um, due to, um, the different, um, the shifting of topic from one topic to another.

[00:48:18] And then, um, we also understands that the items in the TOR will be discussed more thoroughly in the next meetings. Um, we would like to confirm if this is what is going to happen. And also on the decision making, um, as discussed, um, we also understand that there are several resolutions already mentioning about decision making.

[00:48:41] Um, We, it is also our position that the TOR, um, should have a reference to, um, decision making and leave it to the General Assembly to decide. Um, the Ad Hoc Committee should keep within the bounds of Resolution 78 [00:49:00] 230, not only on the substantive items but also on the timeframe stated therein. The TOR is our agenda setting tool to guide the discussions During the negotiations for the framework convention, the TOR should be broad and flexible enough to allow us to discuss items that may not be listed in the outlines, but are relevant to this or would be relevant in the future time.

[00:49:24] The TOR should not preempt or commit parties to what will finally be included in the framework convention. On the specifics of the TOR, we'll look forward to the clarifications on the coverage of item two. on operation, on operative provisions, specifically item 2. 1 on substantive elements. We also echo Jamaica's earlier statement, underscoring the importance of aligning our interpretation of international tax cooperation.

[00:49:55] It is imperative that the discussion be [00:50:00] inclusive to address the domestic tax issues faced by developing countries. Thanks, Fulby.

[00:50:31] Okay. It was a distinguished delegate off United States.

[00:50:37] Thank you, Mr Chair. I wanted to make two points at the opening of this session. Uh, the first is that while we understand the desire not toe re litigate prior procedural decisions, I think we would like to get on the record hoc committee can provide direction to negotiators of the framework convention.[00:51:00]

[00:51:00] Uh, and I associate myself with the, uh, comments of the distinguished delegate from Jamaica as a representative of our, uh, finance ministry of our Treasury Department. Uh, this is a bit of an unfamiliar process to me, but as those who work on international tax know well, uh, substance and support follows process.

[00:51:23] Uh, it's not entirely clear to us why we need to remain silent on process here. Second, uh, and in order, uh, to better understand what's expected of our work here, uh, I think it's important to get a bit more clarity on the chair and secretariat's views on exactly what we should be reacting to and providing inputs on, and with what specificity.

[00:51:47] Uh, I think that will, uh, Aid in the progress that I know many in this room are, would really like to make. Uh, and I think the principles of the, uh, the discussion on principles we're having [00:52:00] right now may be indicative of this. We're very fortunate enough to have, uh, bureau members who did share the paper you refer to with us, um, and we would be prepared to provide comments on that.

[00:52:11] Uh, but if the discussion here is meant to be a broader conversation, uh, that does not refer to that document. We would be willing to have that, too. I just think it would be more productive to have a little bit more direction and a little more transparency into what to expect, uh, both to make our conversations as constructive as possible, but also to make this entire process transparent, uh, to our governments and other observers who have an interest in it.

[00:52:40] So thank you for considering those comments.

[00:52:48] Now to, uh, the distinguished delegate of Austria.

[00:52:54] Thank you. I did not expect to be called up that quickly. Um, but, um, so [00:53:00] just a couple of thoughts on, on that first part. So, um, I think for me, um, the question of the, the preamble is something that is probably a little bit too early. Because for me, when I think about a preamble, that is usually some kind of an Also an executive summary of what is happening in a convention.

[00:53:19] So we, we might start off with a couple of issues in the preamble, but I think we will always have to come back to the preamble at the very of the discussions about substantive issues, at least that's how I've seen it was done in other areas. So that's, for example, what we did when we now negotiated the multilateral convention for amount A.

[00:53:43] So maybe that is just something that we might have to come back to the preamble at a later stage. Um, the, the objectives I think here, um, could probably be very, very high level. At least that's what I would see how the objectives of a convention [00:54:00] could be phrased. Um, and, and, and here I think we can pick up on the, on the, on the themes that, um, we have a common ground on, which is, I think, um, the enhancing domestic resource mobilization, um, Of all UN member states, but in particular of developing countries, as well as, um, I think that what is a common, um, uh, common, uh, understanding that we would like to foster the achievement of sustainable development goals, um, in, in that context.

[00:54:33] So. May, maybe we could start from these very broad objectives of the convention and then see in the more, in the, in the substantive part of the TOR or then in the more substantive, uh, parts of the discussions, how we can achieve that and through which commitments we can achieve those objectives. Um, finally, when it comes to the principles, um, at, at least that's how I've tried to, um, kind of [00:55:00] structure, uh, that, uh, in my head, um, is that.

[00:55:04] more about how we would like to work together here in, in, in the, in this group and, and maybe that, that is how we can phrase the, the principles. And I think I've heard from, from the, uh, from previous delegates or UK and Korea that there are some, some principles that we, we can, can put here. I'd like to add some, some more, which is for example, So that we would like to have inclusive participation, inclusive agenda setting, inclusive, um, uh, working together.

[00:55:37] Um, and uh, yeah, eventually, um, that's, that's kind of where, where the, the principles um, can start from. Thank you. Okay.[00:56:00]

[00:56:44] So I will give it to the next delegate. Maybe I would like to take the floor after India. Uh, because I think we need to have like a little bit of better ordering, uh, for our work. Uh, [00:57:00] and also to make sure that, uh, the delegations who are following up online are not confused. So now it's to the distinguished delegate of India, followed by the chair.

[00:57:15] Thank you. I have a couple of, uh, comments. The first is a drafting suggestion. Uh, on the objectives, if you notice B and C, they use the word establish. B says establish a system of governance. C says confirm the commitment of the parties to establish. Now establish is very rightly used that it is, it is a signal to affirmative action.

[00:57:40] Such a word I find is missing in A. It simply says ensure the commitment of the party. So maybe we can use a word similar to establish so that there is, there is some. clear, some clarity as to what, as to how this commitment is going to be put into practice. That was the first point. [00:58:00] The other was with regard to certain comments made by distinguished delegates.

[00:58:04] One was on the issue of national sovereignty and the other was with regard to, uh, taking into account, uh, existing, existing laws. If we look at B in the objectives, it, it speaks of tax sovereignty of each member state. I mean, it is our belief that tax sovereignty is a, is a wide enough umbrella to take care of, of these, uh, these, uh, uh, fears or these concerns.

[00:58:33] And in any case, the principles should be seen as a logical, um, logical extension of the objectives. Whatever is written into the objectives should also be read into the principles. So if, if tax sovereignty is an objective, it will inform the way we operate the, the principles. And the last point is about including the, the work of taking into consideration the work of other relevant forums as [00:59:00] part of the principles.

[00:59:00] Uh, I think that we've had this discussion once earlier that taking into account the work of other forum while it, it may be necessary is, is, is more of an approach. It is not a principle. Uh, a principle is something that we, we commit to something that we will not, uh, that we will not waver from in our approach and taking into account the consideration of, uh, uh, other relevant fora is a tool.

[00:59:26] It is the manner in which we may choose to do our work. So, therefore, uh, we believe that it's, uh, positioning of this, uh, sentence in, uh, in approaches is, is correct, though we, we have, uh, some views on the, on the way it has been drafted, but we'll discuss that when we come to that section of the draft.

[00:59:45] Thank you. Thanks India.

[00:59:54] I think just to organize our work, we have three things that we're working on preamble [01:00:00] objectives and principles. So let's take it one by one instead of like, I feel like we're jumping from one item to another and we are not able to match our, our, the different opinions to, to match it together and just to have a collective, like full picture for one item of them.

[01:00:18] So now I'm going to just open the floor for the preamble. So. I'm going to hear the opinions about the preamble, not objectives, not principles right now. So let's go for the preamble. Let's see what should be there. After that, we can move to the objectives after, after that, the principles. After that, we can also go back to any item in a general discussion, maybe based on what we're going to discuss in the principles, we need to change something in the objectives, in the preamble.

[01:00:45] So again, we have an overlook for, for this section in general. But I think first of all, we need to be a little bit organized. So now we're opening the floor for the preamble. So if there's any comments, [01:01:00] uh, or any, not, it's not comments now or any contribution, uh, intervention of what we can have in the preamble, uh, yes, please go ahead now for the preamble.

[01:01:11] So I have some civil society. I'm not sure you are going for the preamble or okay. Now. Okay, so I think you can have your comments when we reach the section you want to comment on. And now the floor to our colleague from Spain, please.

[01:01:35] Thank you very much, Chair. Um, well, if we're talking about the preamble, I think, um, I mean, Probably sharing what Austria already said, some of the sentences made in the introduction, I think they could be included in the preamble. In the preamble, in the way, the way I see that is normally [01:02:00] in documents and draft, legislation draft should include like Like a history of why, what we're doing here and why, uh, what is the, the, the members of this document.

[01:02:14] So I would suggest taking some of the paragraphs on, on the introduction and including in the preamble as a introduction, if I can say like that, uh, to the resolution that is already mentioned in this, in this point. So I think the preamble should be a little bit more, um, Full of explanation of what are we doing in this, in this process.

[01:02:38] Thank you very much, sir.[01:03:00]

[01:03:26] To, to our colleague, uh, again, please, maybe if, if we are referring to a certain sentence or paragraph in his introduction, if you can just read it, so everyone who don't have the document in front of him just know what exactly we are referring to, to bring in the, uh, preamble or to have it in the preamble.

[01:03:44] So, just. Yeah, we are okay for now, but I think like next time if you're reading from just if you can highlight it, that would be good for the understanding of everyone. Now the floor to our colleague from [01:04:00] Canada.

[01:04:06] Thank you, Mr. Chair. I have one remarks on the one remark to make on the preamble, but I would like to inquire before since, uh, Um, Many delegates seem to be providing suggestions, forwarding suggestions based on the, uh, text that, uh, maybe not all delegations have seen. Um, while it doesn't seem that you're necessarily seeking that type of input at this point.

[01:04:36] I would, I would just like to inquire whether we will have the opportunity at some point in the process to provide written comments on on these or draft for another draft, whether it's going to be later in this session or the second session at the end of the summer. If you could speak to that.

[01:04:50] clarified whether we will, we will have that option later on that that will be useful. But, uh, coming to my comment on the preamble, uh, [01:05:00] building on the comment that was made by the, uh, the delegate from Austria, that, uh, it might be a bit premature to, uh, to discuss the text of the preamble of the convention.

[01:05:12] Uh, we were, in my comments this morning, I was, uh, I had in mind more that we would propose to have a preamble to the Terms of Reference itself. It would seem that this would be more aligned with the mandate of this committee rather than discussing what should be in the, in the preamble of the, uh, of the convention itself.

[01:05:33] I recognize that it, that might be much overlap ultimately between the, the preamble of the Terms of Reference and the one of the convention, but perhaps we should, uh, start by the first, dealing with the mandate that we have, which is for the terms of reference. That said, we do have a few suggestions as to state statements that we could include in the terms of reference in the printable of the terms of reference.

[01:05:59] Uh, [01:06:00] we would propose to have a statement about the need to ensure that the process of negotiating the framework convention is inclusive, open, transparent, and effective. I could also have a statement to emphasize the need for the committee that will be negotiating the convention to seek consensus to the largest extent possible on substantive matters.

[01:06:21] Um, another option, another proposal could be to have a statement that would emphasize, uh, that the negotiating committee in developing the convention should seek synergies with existing institution and organization to ensure coherence with instruments and arrangements that are part of the international tax system.

[01:06:43] And the last proposal, as I noted earlier in my comment today, again, It might be useful to have a statement recognizing that it will be, in the terms of reference, a statement recognizing that it will be to the negotiating [01:07:00] body to agree on its rule of procedure and on the text of the Framework Convention, just to make that crystal clear to everyone.

[01:07:07] Mr. Chair. But our colleague from Canada, I guess you don't mean that this should be in the preamble. Do you mean the list you just mentioned now should go to the preamble?

[01:07:30] That was my proposal, yes, we could, I was also of the view that we could, uh, as just expressed by Spain, I think, that we could, uh, integrate what is, uh, in the, uh, in the introduction, in the introduction and the preamble of the, uh, 00 graph, we could just integrate that in the preamble to the terms of reference.[01:08:00] [01:09:00]

[01:09:23] Okay, thank you, our colleague from Canada. Now to our colleague from Sweden.

[01:09:31] Thank you, Chair. Um, I wanted to give my support for what was said by the distinguished delegate from Austria, because also in my experience while negotiating, uh, I mean, different, uh, agreements, uh, in different international context. I think that this preamble is maybe not what you start with. And I think the discussion that we are having right now, uh, shows exactly that, [01:10:00] because now there is at least for me, a confusing discussion between what is the objectives, what are the principles?

[01:10:07] I mean, I could say that I support some things that were said by Canada, but then again, what's that not? rather objective or, uh, and therefore, I mean, I would suggest that we would, uh, actually leave the preamble, uh, to, to later on when we have settled the other issues first. Thanks.

[01:10:37] To our colleague from Sweden. Yes, I agree with you. But I prefer that the beginning just to, uh, to just have some highlights to listen. From the floor. So just I'm opening, you know, every item to listen for it. Usually, as you said, remember may come later. That's why I said after we finished going through items, sure, we'll go again to [01:11:00] review and see the overall picture, how it looks like.

[01:11:03] So, yes, I agree. And just I think we have another two interventions. We are going to listen. Then I think we are going to move to the objectives. But if you are feeling like a little bit confused, I think it's like a normal feeling because also in the P. O. while we were discussing this, all of us get confused between the objectives and principles, how then we start setting something in objectives.

[01:11:27] No, it should be principle. No, it should be objective. All the time it's normal to have like a little bit of confusion between what should go this direction or elsewhere. And even we used to confuse it with other sections in that. in the, in the two hour while, while drafting. So like, it's, it's something like normal because we are still like in the first taking first steps with the document.

[01:11:50] But as we are going to advance, everything will start to be clear. And I think that's this experience for the bureau, because as we moved, we almost complete the rest of the document, [01:12:00] the first initial thoughts about it and the start to be more stable than to get confused between different elements. But this, um, require us some time to go through it and everyone to, to understand, uh, everything.

[01:12:13] So, uh, I'm, I'm gonna take the following interventions and we can move to the next part, which, which is objectives. And I think this, everyone need to think what is the main objective, where we want to go, where we went to land, the final destination, what we want to achieve. This I think is more like the objectives.

[01:12:34] Maybe the principal is, is, is, is, is, it will be the guiding or the principles we, we need to consider while we go. But objectives, I think, more clear where we want to, to land this, this convention. Uh, at the end, this is, uh, just to think about it, which will be the next topic that we move for now to the distinguished direct delegate of Bahamas.

[01:12:58] Thank you, Mr. Chair. Um, [01:13:00] I appreciate that clarification. I think we need to, as a group, be a little careful not to make some of this more than what it really is. This is a preamble to a terms of reference. Generally, a preamble is an introductory statement that gives an expression of where we're going in a document.

[01:13:21] Um, I think Spain had, had a, um, a legitimate observation in that it should give a little bit of the history on how we got here and then an introduction on where we are and maybe reference the resolutions that have been passed that are applicable to the work we're doing. And, and, and that should probably sum up what a preamble is.

[01:13:43] This is a, you know, it's a very Basic introduction, a storytelling of where we are. And remember, this is a preamble to a terms of reference. It's, it's far from a preamble to a convention or, or anything to that effect. Um, so I think we need to be mindful of that. [01:14:00] Um, and that would be my, my input on what the preamble should look like, Mr.

[01:14:03] Chair.

[01:14:09] Thank you for, for the intervention. We'll set, yes, that's exactly brief of how the preamble should, should look like. Of course. Agree. And now to our colleague from Austria. Thank you. And thank you for clarifying this just to also put my previous comment into the Right. Context. When I was talking about the preamble, I was referring to the agenda item to be, which says structural elements of a framework convention preamble.

[01:14:37] And so my comments were actually were about a preamble of a convention. I totally agree with Canada and Spain and also now what the Bahamas said. I think when we're talking about the preamble of the TOR, then this can be like what you just said. But when we talk about the preamble of a convention, I think it is a bit premature to talk about anything in there because we first have to see what the preamble, what [01:15:00] the convention will contain.

[01:15:01] And then we can talk about the preamble, I think, just to clarify that. And maybe, I don't know, some others in the room were confused. We're talking about the preamble of the convention or preamble of the TOR just so yeah. Thank you.

[01:15:18] Thanks, Justyna. Now, to our colleague from Norway. Thank you. Thank you for the previous speakers as well for clarifying a few of the points. The issues of as to what a preamble should contain. I think I very much agree with what has been said, uh, in terms of the historical context, um, the developments, the events that led to this, but also, uh, the need for a clear overarching statement of purpose, uh, is something that, uh, we would welcome very much to see.

[01:15:47] And in terms of, um, our timeline for this, uh, it's also very, we have guiding frameworks in the Agenda 2030 that we reference, uh, uh. Often [01:16:00] when it comes to this issue, and I think that we should definitely look to uphold those principles and the values that are enshrined in that, but also then look beyond that, because obviously we're working on something now, which will, uh, uh, with, uh, hopefully with the longevity and the legitimacy that will, uh, make it a lasting, lasting process for that exceeds that.

[01:16:19] So, uh, so that's a couple of things to keep in mind. Thanks Norway.

[01:16:29] So I think now we are going to open the second topic. So I have two hands in the preamble. Okay. So, but I have, okay, so the floor to the distinguished representative of Brazil. Thank you, Chair. It's more of a reminder. I believe that we have some elements in the report of the organizational session that could be brought into the preamble.

[01:16:57] Um, and that includes [01:17:00] some references to participation of different types of stakeholders and some parts of the procedure. I think that has a broad context that can be brought into the preamble of the TOR. Thank you.

[01:17:33] Thanks, Brazil. Now to our colleague from Colombia. Thank you, Chair. Um, so regarding the preamble of the TOR, we want to support using language that has been previously used in Resolution 78 230 and other resolutions that are its present. We consider also important to, uh, refer to other [01:18:00] Other issues that have been raised in the inputs, including, uh, the fair allocation of taxing rights.

[01:18:08] So that's, that's all for now regarding the preamble of the TOR. Thank you.

[01:18:56] Okay. Thanks for all the members for your [01:19:00] interventions. Now I think we are opening the floor for the objectives. Uh, how it should look like and what do you see to be in the objectives? The floor is open.

[01:19:26] The Distinguished Delegate of France. Mr. President. With regard to the objectives of the TOR preamble, I would like to call your attention to the fact that it seems necessary that these objectives are balanced, and that, in particular, they take up the whole of what is mentioned in resolution 78 of 130, and, more particularly, our wish that the D of point C of the resolution which calls on the committee to hold[01:20:00]

[01:20:34] Uh, yes, it'll be circulated for all the members. So it's, it's a two r of the committee, so of course it'll be circulated. And of course there is a room for the written comments. But this, this document actually, uh, actually the bureau are doing good work and they advances the, the, the work that they should do.

[01:20:52] Something good. But, uh, again, this should be the conclusion of this scoping session. That's why, as I said at [01:21:00] the beginning, it will be enhanced with all these discussions. And that's why we are taking notes of everyone who talks here. And then we are going to enhance this document, not as the chair and secretariat.

[01:21:11] Maybe you are going to do some proposals. Yeah, I think the Bureau members understand the way how we work now and provide the initial document all the time. for discussion in the Bureau. Then after that, uh, the Bureau also will start elaborating on this document and then it will be circulated. But this document actually, while we're not sharing, it's just like good efforts from the Bureau, but still it should come as a conclusion off of our discussions.

[01:21:38] So just we were just advancing the work to make sure that we are ahead of the process. Uh, so sharing it right now, we will go just in comments and criticizing the document more than, and that's why we need to get all the inputs again in discussions from you in this discussion and in the scoping, reflect what should be reflected in the document.[01:22:00]

[01:22:00] Then after that, through the peer work, then after that, it will be circulated and given some time for written comments. And again, these comments will be grouped again and we discussed in the second session as a final comments. to enhance the document, like it's a fine tuning for the document. I mean, after that, to be ready for, uh, to go to the general assembly.

[01:22:21] So simply this is in a very high level, how the process or how the plan is moving. Um, so I hope this answer, uh, the questions of the delegates. Uh, now to our, uh, to the distinguished delegate of Kenya.

[01:22:40] Chair. On the issue of, um, objectives, we support the objectives as they have been drafted and presented to us. We'd like to make a comment on the issue of whether, um, we should make reference to the existing frameworks within the objectives, and sorry for making reference to the principles, [01:23:00] but our comments are going to cover both the objectives and the principles.

[01:23:04] Um, We don't think that covering this or making reference to the existing frameworks should either be an objective or a principle of the framework convention or the terms of reference. We believe that this is an approach that should be adopted by the committee while, while elaborating on the framework convention.

[01:23:22] The resolution has called for the committee to take these existing frameworks into consideration, not to be bound by them, not to be consistent with them, uh, not to adopt them. The existing frameworks, while yes, they can be said to be beneficial to some countries, um, we cannot say that they were inclusive.

[01:23:41] They were not developed within or on an inclusive platform, and they can also not be said to be, um, global in their effectiveness. Um, so the framework convention in our mind or the terms of reference should not be complimentary or comparable to these existing approaches. The committee has [01:24:00] been given the flexibility to look at these existing frameworks and not, the committee is not bound to, to adopt these existing frameworks.

[01:24:09] Um, we also don't believe that the committee should be restricted to only looking at maybe what are being called gaps. in the existing frameworks because as we have said, um, it's not what one country can consider as being fully addressed by the existing frameworks can also be considered as presenting gaps by many other countries, especially those that were not involved in the development or in their implementation.

[01:24:37] So we do believe that making reference to the existing frameworks should be adopted as an approach. But not as a principle or an objective of the framework convention. Thank you, Chair.[01:25:00]

[01:25:08] Thanks to Kenya. Now to our colleague from Jamaica. Thank you, Chair. Um, in relation to, uh, the, um, objectives, I, I think we should determine, um, as I said earlier, um, today and, and Ghana, that I think we should determine. Um, our understanding of international tax cooperation. Um, I think one of the, the messages, for want of a better, um, word that we'd want to send in stating the objective is that, um, this is a transformational process.

[01:25:52] Uh, we know what, uh, does not work. Thank you. And, um, and so the objective [01:26:00] is to, uh, you know, broadly speaking, to find, uh, find what works, um, for, um, for, for, for most countries. Because I, I think we also have to be pragmatic that it's, I don't think that we'll ever be able to find the solutions for. of the, um, tax challenges that, um, countries have, and I, I don't think that that is one of our objectives.

[01:26:31] But generally speaking, when we think of inclusivity and, um, and transparency, I think we have to, um, be mindful of the fact that, um, we , if it is that we are only referring to, um, international taxation, that leaves out quite a number of, um, members. [01:27:00] The fact is that in most developing countries, the international tax footprint is, is negligible.

[01:27:09] And they rely more on their domestic, um, taxes in order to raise revenue. And so I think that part of the objective of, um, Of of this. This outcome is that International Tax Corporation has to have the same understanding by all of the persons who are participating in this process.[01:28:00]

[01:28:22] Thanks, Jamaica. Now to the distinguished representative of Bahamas. Thank you, Mr Chair. Um The position put forward by Kenya. Um, we, we, the objective of the terms of reference and, and, and, and thus, The final objective of the convention originates from resolution 78 230. And therefore, at the very basis of what we're doing, our objectives have to be consistent with what's in the resolution.

[01:28:58] Um, [01:29:00] recognizing that, I think we have to be very careful not to get too specific in the context of the objectives and try to keep the description of what we want to achieve in a more broad terminology because, for a number of reasons. Um, but two primarily are that Resolution 78 230 references two other United Nations resolutions that we should take into consideration.

[01:29:22] 77 244 and 69 313, both which have direct applicability to international tax at the United Nations and are effectively adopted by Resolution 78 230. Therefore, if you get too specific in your listing or itemizing what should be the objective of a terms of reference, you run the risk of, um, Not including or creating a document that would be, um, Would not allow for the inclusion of a much broader application of what we may want to achieve.

[01:29:58] Um, so I just [01:30:00] think as a, as a structure, yes, we originate the objectives from Resolution 78 230 because that is what is directing us to do what we're doing. But we shouldn't be so specific as to itemize. because we run the risk of, um, not being as inclusive as the resolution dictates us to be as a committee.

[01:30:22] And so, on a structure point of view, I just wanted to weigh in on that and lend my support to the position that Kenya put forward. Thank you.

[01:30:33] Thanks, Thomas.

[01:30:41] Okay, it's a floor to, uh, the distinguished representative of Australia.

[01:30:49] Thank you for giving me the floor again. Um, while I already mentioned some, some comments on, on objectives, I would like to follow up on the previous speakers. And I think just a [01:31:00] thought on, um, so on, on, on what, what France said, we would like to echo that it's important to look at what is already out there.

[01:31:08] Not so much because I find this, I mean, we, we, we see some, um, mechanisms that work for some countries already and I think we also have to be pragmatic about that we cannot start from scratch with everything. Um, because we have all of us, all administrations have a limited resource, um, in terms of human capital and just time to achieve something completely new.

[01:31:33] So what I, what I would find very important is to not throw everything into a trash bin because there are some elements out there that can be improved and make used. make them usable for, for all countries in the room. And I think we recognize that not everybody here on the table was part of drafting these rules, but nevertheless, um, I think we also have to see some, some validity in, in those instruments that can, [01:32:00] can be made use for, for other countries as well.

[01:32:04] And. Maybe a better use of our resources if we improve existing things, in some areas at least, um, than starting from scratch. And, um, maybe also support Jamaica's intervention when we talk about international tax cooperation. It is important that we see that it's not only about international tax rules, but there might also be other areas that, um, More countries would be also willing to support in helping to enhance domestic resource mobilization, uh, which is related to domestic tax policies.

[01:32:38] So here, definitely an, an, an objective that could be formulated for the Framework Convention. Thank you. Thanks, Austria. But, uh, before moving to the next delegate, just I, maybe I, I would like to, uh,[01:33:00]

[01:33:00] to open some, some points. I think our colleague from Australia mentioned that we should not start from scratch. I don't think anyone here in the room is talking that we need to start the international cooperation from scratch. Like, if someone does, like, let's say from scratch, with the meaning of being from scratch, I don't think anyone, uh, wants this.

[01:33:21] Uh, but I think what, because it looks like we are all have the same, uh, you know, idea. we are talking different languages. We are not able to, to get to each other in this because, again, I see it from here that it, it is the same. Like everyone is saying the same, but in a different way. And then after one, everyone is believe that the other want something else.

[01:33:49] So I don't think that all the time or it's ever been like anyone asked for starting from scratch. Even it's not pragmatic. It's, it's, it's not doable. [01:34:00] It's very difficult to be, uh, to be done if not impossible. But I think the colleagues who are asking for, uh, that the door should be left open. It is more that the uncovered area, I think it's not area for discussions.

[01:34:17] Uncovered areas. Um, of course work need to be done. Then the committee need to work in it. It's already, Uh, no one touch it or still new areas to be covered, but what exists, I think it, it go for one of three alternatives, either what exists, the company will see that it's good enough, reasonable from like, I mean, from effectiveness and the fairness perspective, then maybe they're going to approve it.

[01:34:45] Maybe they will see there is some shortage. Or back draws from, for, for, for this new, for, for this, an estimate or, or this solution or whatever you're gonna name it. Then maybe they will go for fixing some of these rules, or maybe [01:35:00] it's beyond fixing or it's unfair to large extent, or there's a better solution.

[01:35:06] Then they can go for replacement. I think if anyone can correct me if there's anything, rather than to approve, fix, or replace. I think this is the, this is the three options that exist or have something new for the new areas. So, but again, I think maybe the supporters to the idea of like that to have the hands of the committee, not tied in to only the gaps.

[01:35:46] Because again, how are we going to identify gaps? As our colleague, I think from Kenya mentioned, what can be seen gaps from someone can be seen like working good for, for, for the other one. Then I think this is analysis and this is discussions [01:36:00] that will take there, will take place there and the convention committee that are going to talk about more and do all the required analysis and arrangements and agreements about whether this and assessment may be for some items they see it.

[01:36:15] Whether it's working good or still not in its best shape. But I think it would make sense that if we left like the hands of the committee, not tied into to just to be focused in something like when we say complimentary or whatever, or how we're going to define it, they need, because all the way down, it's just one of three options, nothing else to approve.

[01:36:42] And I think many things will go for, for, to be approved because I think our international landscape now already consists, contains many things which is working good or to fix it a little bit, changing in some rules to make it more fair, more effective, less [01:37:00] complicated, whatever, which is, as I think acceptable, it will be for, for, for everyone.

[01:37:08] And I think it will be agreed by all the members. that we need to fix these rules in a certain way, or it's not working, or beyond to be fixed, or the whole concept needs to be changed, or then maybe this solution and instrument that exists, it needs to be replaced. So I, I think like this is the main three areas that to be covered in, in, in this regard.

[01:37:32] And I think that everyone is talking the same, the same language, the same concept, but like in, in a different ways so that maybe. Every side believes that the side, the other side wants something else. But actually I think all of you just aiming to the same thing. Like, that's how I see it from here. Now to our colleague from Belgium.

[01:37:54] Um, thank you chair. Um, and thank you for your explicate, uh, explanations. [01:38:00] Um, I would like to align myself with what, uh, my distinguished colleague of Austria sets. Um, and on what you just said, it's like complimenting or replacing, um, That might be the case, but if you look at the draft terms of reference objectives, then I think it would be only fair that somewhere it is also, um, put in that what's in the resolution, which says also to take into consideration the work of other relevant fora.

[01:38:33] So somewhere it has to be, it's part of the objectives that were set. In the resolution towards the ad hoc intergovernmental committee to take into account as an objective in elaborating the draft terms of reference. So I, we, I don't see it now in the, the zero zero draft that we have. So, It looks to me that it would be only fair that it [01:39:00] is somewhere, uh, also mentioned in the objectives in one way or another.

[01:39:05] And I would also like to confirm with what the distinguished colleague of Jamaica said in like to find, um, a way to determine our common understanding of international tax cooperation and what works for most countries that that is clear also. or more elaborated upon within the objectives. Thank you.

[01:39:32] Thanks, Belgium. Now to the distinguished representative of Ghana.

[01:39:39] Thank you Chairman. Um, I want to touch on two things really. The general one is, the first one is basically a question. I keep hearing, um, the mention of domestic resource mobilization and I would like to have some [01:40:00] clarity What we really mean when we are talking about domestic resource mobilization. It'd be good for those who've been mentioning it to give us some clarity on what really they are looking at in bringing it in as an objective.

[01:40:14] Since generally, even with the international task, whatever we are doing, we are trying to enhance domestic, uh, resource mobilization. So really, what does it bring as an objective? That's the first one. Second one, and it's something which has been reiterated, The issue of reviewing all the other, um, documents that we have or systems we have already is more of an approach than an objective.

[01:40:40] It's a methodology. It will put it in that way. It's part of what we are going to do in order to. But with the resolution envisages an integrated document that has everything in it. Not just parts of something, gaps that are being filled, but a document that starts from the beginning, [01:41:00] covers everything to the end.

[01:41:02] And it becomes one document we are working with. Either than that, it means we are going to have different systems that we are with. We need to be referring to different things at the same time. But I want one thing, or one document that we can all refer to. So I believe that is the way we should be approaching this work.

[01:41:18] Thank you. Thanks, Ghana. And, uh, Let me just, to the point of Ghana, maybe Ghana, when I'm saying that some, uh, some parts of international tax, or items, or whatever, we're going to name it, can be approved. Again, it doesn't, it doesn't go to go against what you are saying. So if you approve this mechanism in, in the national text, it can go again in the convention.

[01:41:49] We are going to adapt it. If, if, if you agree with what I'm saying, uh, if we're going to fix something again, we can take it as a whole with a new rules that has been adjusted or [01:42:00] amended or whatever to the convention. Because I think this is the right approach is to have one document covering everything.

[01:42:06] It's just the One document for all the countries covering all the issues and the more issues that will come up again to be reflected in this. So, the international text is guided and governed with one document. So, if I'm not wrong, I think maybe we are talking the same language. You can go ahead. Back to Ghana?

[01:42:30] Yes. Chairman, that's exactly what I'm saying. That is one, that's exactly what I'm saying. That is one document. The convention should cover everything. We don't need to. It's not to fill gaps. It's not supposed to be complimentary. It is one doc, one convention, which you cover everything. So that's what I say.

[01:42:50] Thanks. Now to our colleague from, uh, from Macedonia, [01:43:00] please.