Ad Hoc Committee - Meeting 3

29 April 2024

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[00:00:00] Excellencies, distinguished delegates, dear colleagues, I call to order the third meeting of the Ad Hoc Committee to draft terms of reference for a United Nations Framework Convention on International Tax Cooperation at its first session.

[00:00:22] Today's committee will commence its deliberation of item 2B of the agenda, Structural Elements of a Framework Convention, Substantive Scoping. Let me emphasize the committee. Item 2B is a scoping during this first session, not taking any decisions on the draft TOR. In this substantive scoping, the committee will first consider item 2B substantive elements.

[00:00:48] Under this item 2B, the committee will discuss a range of substantive issues as outlined in the organization of work. Item 2B will be covered in formal and informal [00:01:00] meetings. until Wednesday. This provides a space for all delegations to engage in open discussions on the substantive technical issues before this committee is delivering on its mandate to draft terms of reference for UN Framework Convention on International Tax Cooperation.

[00:01:20] There is also time set aside on day seven to come back to issues if necessary. Today in our morning meeting, the committee will have a first reading and discussion of the TOR skeleton. Put together by the Bureau as a document to assist our discussions. In our afternoon meeting, the committee will continue consideration of Item 2B, Substantive Elements, with a focus on the preamble, objectives, and principles of UN Framework Convention on International Tax Cooperation.

[00:01:56] The discussions will help clarify the committee [00:02:00] thinking as to how these issues should be addressed in the draft terms of reference. We will now turn to discuss, to discussion of the TOR skeleton, including Annex 1. The document put together by the Bureau to assess our committee discussions during this first session, The skeleton set out the items possibly to be included in the draft TOR while it's annex one set out possible elements of the framework convention.

[00:02:32] It bears reminding that our work in this ad hoc committee is not negotiating the framework convention. However, having some vision of what could be included in a framework convention is necessary in developing high quality draft terms of reference. Moreover, referring to a substantive issue in the TOR is essentially a commitment that the Framework Convention will address that issues in some manner.[00:03:00]

[00:03:00] For example, when the TOR for the Anti Corruption Convention adopted by the General Assembly included the word criminalization, member states had made a commitment that the convention end for approval would include a commitment to criminalize at least some acts of corruption. The details will be worked out during the negotiation of the actual convention.

[00:03:25] As the committee discussed possible individual elements of a framework convention on international tax corporation, we must also keep in mind the purpose of each element. And we need to ensure that each element ends up in the right place in the draft TOR. That means In our work on the draft TOR, we will not necessarily group elements in the same way as in the resolution 78 230.

[00:03:52] The terms of reference will be new. The TOR will build on, but also move forward from resolution [00:04:00] 78 230. Just as 78 230 built on and moved forward from resolution 77 244. of the same name, promotion of inclusive and effective international tax corporation at the United Nations. The Bureau's work in putting together that you are skeleton was informed by a review of the TOR of a number of you in multiliteral conventions and versus document developed in the process of negotiating such conventions.

[00:04:34] This helped it to identify elements that are commonly included in such agreements. Reviewing the QR and other resolutions that have provided guidance to negotiating committee. Also help it identify first which elements of the framework conventions were referred to in such QR second, which were co, were such common elements of framework [00:05:00] convention that they were not referred to in the qr.

[00:05:04] This explains. Why certain items appear in both TOR Skeleton and its Annex 1, which set out the elements of the Framework Convention itself, and why some items only appear in Annex 1. Of course, the draft TOR must do more than just identifying the elements of the Framework Convention. TOR guides how to get there, and so they must also provide some recommendations.

[00:05:34] regarding the approach to negotiation. Those matters are therefore listed in the TOR skeleton but not in annex one. The theme of relationships of general assembly resolution 78 to 30 to the draft TOR, the framework convention and its protocols is one to which we will keep returning. As a focus of our shared learning over [00:06:00] the course of our substantive is coping of the draft.

[00:06:02] You are during this session. Distinguished delegates, dear colleagues, as agreed by the committee on Friday, the consideration of agenda item to be is beginning this morning in a formal meeting with the statements on the main item from those in the meeting room. After this, the formal meeting will be adjourned and the discussion will be continued in informal mode.

[00:06:28] A few housekeeping remarks before I open the floor. Speakers are kindly requested to limit their statements to four minutes. When speaking on behalf of a group and to three minutes for individual statements, I invite delegations wishing to intervene to precept to press the button on their microphone.

[00:06:51] Council delegation speaking on behalf of a group should approach the aria in the room with this information. The floor [00:07:00] is open first for the statements by representatives of delegations, and then for statements by observers, starting with representative of intergovernment intergovernmental organizations, and then representatives of other relevant stakeholders.

[00:07:17] Does any delegation want to take the floor to make a statement on item two B of the agenda in this formal part of the meeting before we enter into our informal discussion of. the issues.

[00:07:34] So the floor is open now.[00:08:00]

[00:08:11] Distinguished Delegate of Japan, the floor is yours.

[00:08:21] Thank you, thank you Mr. Chair and hello everyone. Uh, let me speak on the, uh, skeleton, uh, issues and the,

[00:08:36] okay, so let me speak. So our initial aim should center on the role of the terms of reference in providing high level direction for formulating the Convention. From this perspective, we would like to comment on substantive items in the skeleton, specifically the objective, principle, and operative provisions.

[00:08:55] With regard to the objective, we should set a high level purpose. We should [00:09:00] clarify what we want to achieve by the Framework Convention. As many member states agree, we support enhancing domestic resource mobilization and capacity building as the objective. Regarding the principle, we should include the following three items.

[00:09:16] First, respecting the sovereignty of each member states on taxation area must be one of our guiding principles. Second, coherence, consistency with existing tax architecture is also an essential element of our guiding principles. Third, the collaborating with other international organizations, including regional organizations.

[00:09:41] For example, Japan has contributed to supporting the capacity building in Asian countries in taxation area through the Asian Development Bank. Strengthening collaboration with such international organization would help international tax corporation more inclusive and effective. These guiding principles are [00:10:00] critical to achieve a stable international tax system and an inclusive and effective international tax corporation.

[00:10:08] Regarding operator provisions, we suggest removing 2. 1 substantive elements in the skeleton. It is unclear what the substantive elements means. The section 2. 2 describes a high level commitment and would suffice. Furthermore, because the organizational work mentions introductory elements and operator provisions as substantive elements, uh, putting 2.

[00:10:31] 1 substantive elements seems to be redundant and confusing. In this context, we also would like to comment on possible topics for high level commitments provided in the organization of work, namely effective taxation of high net worth individuals, uh, ensuring that tax measures contribute, uh, addressing environmental challenges, equitable taxation of the income of, uh, national enterprises, and taxation of cross border transactions.

[00:10:59] All of [00:11:00] them are specific, uh, taxation measures and are used as method for achieving certain purposes. All topics are not suitable for the objective, principles, or high level commitments, hence they should be removed from the commitments. The substance of any issues for the International Tax Corporation should be discussed in the new forum under the Framework Convention.

[00:11:22] Thank you, Mr. Chair.

[00:11:27] Thanks to the distinguished delegate of Japan, now to the distinguished delegate of Russian Federation.

[00:11:38] Dear colleagues, The Russian Federation is grateful to the Chairman of the Committee, the Secretariat and the members of the Bureau for the work done to prepare the first sessions, including the analysis of the materials sent to the state members. There is a lot of work to be done, so allow me to immediately move on to the issues that are on the agenda today [00:12:00] and in the coming days, namely the structural elements of the Framework Convention.

[00:12:04] We believe that we must rely on the goals and tasks that were set in the UN General Assembly resolution on December 22, 2023. In this regard, it is important not to forget the prerequisites that were at the heart of this process and the creation of a special committee. Our common goal is to create a more inclusive and effective mechanism for international cooperation.

[00:12:32] What does this mean? The development of international tax relations has led to a situation in which the existing forms of cooperation proposed by the developing mechanisms of tax regulation do not fully meet the needs of many states. And in this regard, in our opinion, the probability of duplication in the work of the Committee is not considered, because we are faced with the task of developing other approaches and mechanisms different from the existing ones.

[00:12:58] The existence of [00:13:00] alternative approaches to participation in a particular direction or instrument constitutes the freedom of choice of each state in the formation of its tax policy. In this regard, the proposal of the Russian Federation on the resultative part of the Convention concerns the following issues.

[00:13:16] The use of all the best practices developed within the framework of the Committee of Tax Experts, in particular, the launch, that is, the opening of the so called fast tracking project, The development of a comprehensive methodology for assessing preferential tax regimes, the development of tax policy principles in the context of climate change, the organization of an e document on the payment of indirect taxes in case of cross border operations, and much more.

[00:13:53] In more detail, the Russian [00:14:00] delegation will explain in each direction in the process of discussing substantive elements. very much.[00:15:00]

[00:15:06] and indirectly on the structure and content of a future framework convention. Our understanding is that the purpose of the terms of reference is to establish the process for negotiating the convention and to set broad directions for the structure and contents of the convention in a manner that does not prejudge the outcomes of the negotiations.

[00:15:28] We thus expect the terms of reference to include provisions concerning the process for negotiating the convention Not only timelines and resources as already provided in the skeleton, but also rules of procedures More broadly including measures to ensure that the negotiations are inclusive open transparent and effective Regarding provisions on the structure and contents of the convention We believe the terms of reference should focus on setting broad directions and [00:16:00] avoid proposing specific texts for inclusions in the convention This would be in line with the mandate of this committee, which is to draft the terms of reference and not to negotiate the convention itself.

[00:16:11] This would also facilitate the work of drafting the terms of reference by focusing on our current mandate and minimizing the risk of having unfruitful debates at this preliminary stage on issues that are beyond our mandate. The terms of reference should also avoid formulated substantive commitments.

[00:16:31] It is not the mandate of this committee to negotiate such commitments. Our delegation does not have the mandate to negotiate such commitments at this stage, and we presume many other delegations may be in a similar position. In any event, it is our understanding that while the terms of reference Once adopted by the General Assembly, we propose rules for the upcoming negotiations and set directions for what should be in the Convention.

[00:16:58] The terms of [00:17:00] reference will not be binding on the negotiating committee and that any propositions and suggestions can only be made on a without prejudice basis. We believe this should be made clear in the terms of reference. Turning now to the structure of the terms of reference, we propose that the terms of reference have four distinct sections.

[00:17:19] A preamble, a section for provisions dealing with the process of negotiating the Convention, another section for provisions dealing with the structure and contents of the Convention, and finally the list of potential issues that could be considered for protocols. A clear separation between matters pertaining to the negotiation process and matters related to the structure and contents of the Convention would help the discussions and future negotiations and better identify the scope and status of the different provisions included in the Terms of Reference.

[00:17:51] Uh, we do. We will have later on for the comments on the various, uh, uh, content of the terms of [00:18:00] reference, and we're looking forward to make these comments as they continue or discussions continue today. Thank you. Thanks to the distinguished delegate of Canada.

[00:18:31] As I see no one is asking any more for the floor. So I would like to thank all the participants and I would like to now adjourn the formal part of the meeting and invite the committee to enter into its informal discussions after a short coffee break, uh, period. And this is very, I know we just started, but this is very needed for the just, uh, remote access and just the setup, the technological setup that will need to be done.

[00:18:59] [00:19:00] So the committee will continue its discussions in this room with also virtual participants joining online in 15 minutes. Please return for a prompt start. The formal meeting is adjourned.

[00:19:19] Yes. Thank you. We have just a small number of mostly member state delegates joining on the WebEx, so we'll get the message. We have just a small number of mostly member state delegations joining on the WebEx. But,

[00:19:37] it was, I think the Japanese guy, did he get what he said? We can also get a copy of his statement. Which guy? The first comment. The Japanese guy? Yeah. Okay. For the Canadian one, I think he's proposing a skeleton for the tour, which is almost the same, like in a different order. Yeah, he just shuffled, he [00:20:00] just shuffled.

[00:20:00] That was actually surprising. It's only, yeah. He said we should be reconsider protocols, and now he said the list of potential ones. So it's very good. The Japanese one, I didn't get that completely. These were the three guiding principles, and then he said removing 2. 1. That's where I was a little confused.

[00:20:19] That's why I Yeah. So he mentioned coherence as a principle. Sovereignty and working with other He wants objectives to be more high level, so it's to be very good. Right. Already he was seeing our discussion because he's, I think, observer in the peer review. So it's when I got confused after that, and then I said, It was confusing when you listed the areas, the substantive areas.

[00:20:43] Just like I put it in my head. I would ask. We can ask for that. I think he will come back again and[00:21:00] [00:22:00] [00:23:00] [00:24:00] [00:25:00] [00:26:00] [00:27:00]

[00:27:57] Testing one, two, three. Can [00:28:00] you hear me? I can hear you clearly. Thank you. Fantastic. Yep.

[00:28:07] Okay. Sounds good. Excellent. Standing by.[00:29:00]

[00:29:13] Hello, Vino. Can you hear me? Yep. I can hear you. Good test. Good test. Good audio test. Thank you.[00:30:00] [00:31:00] [00:32:00] [00:33:00] [00:34:00] [00:35:00] [00:36:00] [00:37:00] [00:38:00] [00:39:00] [00:40:00] [00:41:00] [00:42:00] [00:43:00] [00:44:00]

[00:44:32] We will start in one minute.[00:45:00]

[00:45:22] Dear distinguished delegates, let us now commence our informal discussions of agenda item 2B. I welcome all participants in the room here in New York and in the virtual meeting room. As well as those following on the UN web TV. Uh, we will now turn to a discussion of the T, uh, TOR skeleton including Annex 1.

[00:45:50] Uh, the skeleton set out the items possibly to be included in the draft TOR while Annex 1 set out possible elements of the framework [00:46:00] convention. participants please always mute your microphone except when you have been given the floor. For virtual participants requesting the floor please use a raised hand facility or if you cannot do that type H in the messaging chat facility accessed by the toolbar.

[00:46:17] The secretariat will monitor the chat and advise you that your hand has been noticed. I invite delegations in the conference room watching to intervene to press the button on their microphone, microphone console. All speakers are kindly requested to limit their interventions to three minutes. The floor can be taken more than once during our informal discussions.

[00:46:42] I encourage participants to feel free to respond to comments and questions made by other delegations and observers as we aim for a constructive discussion among all participants. The floor is now open for informal discussions on the [00:47:00] TOR skeleton.[00:48:00]

[00:48:11] So if I see no one is taking the floor, maybe I will take the floor. So maybe I just, I said it in the formal meeting in the morning, but let me elaborate a little bit how the peer work in developing the skeleton. Uh, actually we went through a comprehensive exercise just going through all the TORs and conventions, uh, elements and the contents, uh, just because the TOR is a new, uh, an instrument for, uh, for taxation.

[00:48:45] Uh, so we, we need just to, to make sure that we are aligned with the common practice in this area. Uh, because at the beginning there was sort of confusion between different members, uh, about what should be in the QR, what should [00:49:00] be in the convention. Actually, at the beginning of the discussion, everyone was, was going to what we are used for as a text expert, which is a convention.

[00:49:07] So we believe that we need to put in the QR, uh, a convention. And so, uh, which, which is not true, of course. Uh, so this, we did this exercise, uh, and, uh, then after that we decided that after even having the skeleton for the TOR or the proposed one at that time, we still see this type of confusion and many members still asking to, we need to insert this area, we need to cover it.

[00:49:36] Then we decided to have an annex for this, this annex, uh, actually has two purposes. The first one is distinguished with, between what, yes, good, it's presented here. So here you will find the elements of the skeleton. of the TOR by itself and when we turn to the annex you will find the possible elements for the convention [00:50:00] which of course more elements in the skeleton because covering more, still this is, uh, TOR.

[00:50:07] Anyway, these are presented right now. So, so all the time we find we are keep going uh. forward and backward between the skeleton of the TOR and the, uh, the convention. So, uh, the first thing just to give a clarification, what will be in the, in the TOR and what will be in the convention. Of course, at, at some point you may find a sort of similarity between the items But again, I think the purpose is different because in the skeleton, you are providing the guidance for this area and providing how, what's the outlines for it while in the convention is covered in more details.

[00:50:41] I think that's what we went through in our first session when we said, okay, so we have like almost three layers or three tiers in which we have the TOR, which is High level giving the guidance, governance and outlines for how the convention would work is in the convention. Go a little bit more deeper and the technical [00:51:00] and provide more, more, more like technical, but not deeply technical, uh, provisions for, for the different areas, then when after that, the protocols just come to, to go deeply in the technical solutions that cover each of these areas.

[00:51:17] Uh, so it's, it's normal that you can find. And what, what I said in my statement in the morning that you will find some similarity, but again, you will find some items that just sitting in that you are on some items that are just sitting in the, uh, in the convention due to its nature. Uh, so this giving clearance and giving also a commitment for the next committee that at least this, what we believe is the minimum requirements or the minimum elements that should be.

[00:51:48] convention. I think this is, yeah, this is the convention. Uh, so, uh, and I think it's already available on the website for, for the UN. So, [00:52:00] uh, since some days it's already there. Uh, so, uh, this is how we format the, the, the skeleton. Uh, it was almost agreed by the bureau members for the skeleton for the TOR. So, I think now we're focusing more on the TOR skeleton.

[00:52:16] Uh, because I think the convention is a common one, is a common skeleton that exists everywhere. And if I remember right, even we didn't take too much, uh, discussion about, uh, the skeleton of the convention and in the bureau meetings. Uh, but this, we have this sort of differentiation now, which may give more clarity.

[00:52:38] Uh, now we are presenting this skeleton for everyone. Uh, this is the point of view of the bureau. And, uh, still we are accepting comments, uh, enhancement, maybe changing, uh, amending some words, uh, doing some changes. Everything except because we need, uh, this is, we believe this is the first step to know what sections we are going to work and in this skeleton.

[00:52:58] So it needs to be [00:53:00] clear. So now we, we understand what is, uh, let's say the table of content of our TOR, of the report of the TOR, how it will look like, what will be the contents and that we are going to work under each section to, uh, fulfill it with the required, uh, substance. So, uh, again, I will pause here and again, just to remind you that the floor is open for everyone to, uh, to take it for any comments or discussions.[00:54:00]

[00:54:07] Okay, so, uh, I'm happy with this thought. Looks like everyone agree with the Bureau's proposal, which is something good. Uh, and, Uh, I think now someone don't think so, and there's a distinguished delegate of United States. Oh, okay. So the request disappeared. So now it's, yes. Oh, it's moved here to, yes.

[00:54:33] Distinguished delegate of United States of America, the floor is yours. Thank you, Mr. Chair. And thank you again for the opportunity to talk to you.

[00:54:47] I'd like to reiterate again, uh, the intention of the United States to participate constructively in this debate on inclusive international tax cooperation. Uh, we'll keep this intervention relatively brief, [00:55:00] although we would note again the points we made last week at the opening session. Uh, today, we would just like to continue to express.

[00:55:08] our concerns and the need to adhere to the scope of this committee's mandate. Like our colleagues from Canada, we would reiterate that the terms of reference needs to be in line with the mandate of the ad hoc committee, which is not to negotiate the framework convention itself. We have particular concerns about the point made at the opening of this morning's formal session, that inclusion of a topic in the terms of reference is essentially a commitment to include that topic in the framework convention.

[00:55:38] Again, we think our mandate is not to negotiate the convention itself. We also agree with our colleagues from Japan and Canada that the terms of reference should focus on process and making that process inclusive and effective. Finally, as we said last week, we think it's very important to respect the stage process necessary for meaningful work [00:56:00] product to be produced.

[00:56:02] We continue to believe it would be premature to negotiate substantive protocols. for the general objectives and principles have been agreed in the framework convention. We look forward again to a productive and inclusive discussion this week. Thank you again for the opportunity.

[00:56:24] Thank you.

[00:56:43] Distinguished Delegate of France, the floor is yours. Merci Monsieur le Président. The skeleton of the potential terms of reference. France would like to emphasize the importance of mentioning in [00:57:00] this structure the sovereignty of the states, and also the fact of ensuring a coherence and an adequacy with the existing international standards.

[00:57:07] On the form, it also seems essential to us that the terms of reference of the framework convention contain a section that is relative to the modalities of negotiation and adoption of this convention. Thank you. Speaking of substance, we also think that the Convention should focus on the less controversial topics and not pre empt the content of the Convention.

[00:57:31] Also, it is too early to discuss the structural elements of the Framework Convention as long as these terms of reference have not been adopted in accordance with what the resolution 78 231 provides. Thank you, Mr. President.[00:58:00]

[00:58:11] Thanks to the delegate from France.

[00:58:44] The floor is to the distinguished delegate of Australia. Thank you very much, Chair. Australia would like to associate itself with the comments of the United States, Japan, Canada and France [00:59:00] to the extent that We believe the terms of reference should focus narrowly on the process for negotiating the framework convention and that we should not be involved at this stage in making possible specific commitments.

[00:59:20] Um, because we don't have any negotiating mandate to do to do that at this stage, so we think we should have a much narrower focus on on process issues rather than substantive commitments. Thank you.

[00:59:50] Thanks, Delegate of Australia. I[01:00:00]

[01:00:15] think again, I'm going to take the floor as I don't see anyone asking for the floor. Uh, just to go through some discussion with with the colleagues, uh, from, uh, from, from the countries who, who, who, which took the floor and gave the comments because I think the, the comment is, is common. Almost you're raising the, the same point.

[01:00:36] Uh, but true, the, the, the TOR is not going to discuss the substantive matters. I think it's, it's clear for everyone. The TOR is not the place for it. The TOR, the TOR is like, you know, relatively it's just a short document more than anything else. So [01:01:00] if we are talking about discussing substantive, no, it will not be discussed in that you are that you are just provide the main commitments that we did guide or commit the next committee that this need to be discussed.

[01:01:15] Then where the technical discussion will take place, it will take place in the second committee. So like if we're going to talk about the illicit financial flows, , we're not gonna elaborate about it. We're not gonna find a solution for it. We're not gonna talk about it, uh, technically in, in many pages in the TR, but it'll be enough just to list it as one of the commitment for the next committee that this item need to be covered in the next committee.

[01:01:41] And I think it's, it, it's not about that you are, that you, r is is a more specific document than the resolution. And if you're gonna look at the resolution, you find that the solution already identified some areas. And now you can't skip it, which is illicit financial flows, a cross border transaction, as it named in the resolution, cross border services.

[01:01:59] [01:02:00] So again, this you can skip. So it was named there in the resolution. And I think that that you are need to be more specific in guiding the next process. So when we are talking about substantive commitments, we are not listing like full pages about each item, but again, it is items that And we can make the next committee that you need to cover.

[01:02:23] Uh, we believe it is the most, uh, important or relevant items that need to be covered in our current time, especially. And just to look at this, I think

[01:02:41] there is this committee actually is formed from tax experts. And this give you reflection that that was actually the aim of this committee. to talk about the substantive elements if it's just about process. So I think [01:03:00] maybe it was not too much relevant to tax experts to be the one who are forming this committee.

[01:03:06] So I, I, I think that because we are the tax experts who are in this committee because we know what is the most controversial and the most important items that exist in our tax landscape and, and we need to discuss it. Yes, it will not be discussed now in details, but we are the one who know about it. So if it's just a process and just let's imagine hypothetically that if the permanent missions was the one, uh, doing this on behalf of us.

[01:03:32] They are not aware about what areas need to be covered. What's essential, what's not essential, what's controversial, what's not controversial. No one will know about it. No one will be able to, to, to identify it. So I, I think the soul of, of, of this committee is more to go to the substance and this can be seen that we have the first session all, all the time, all of it, like nine days for the scoping.

[01:03:55] So, again, I'm . I, I don't see it to be scoping for the process. Again, it's [01:04:00] scoping for the scope that should be existing, should exist in the, uh, in the convention. The second point that when we come to the, uh, least controversial areas,

[01:04:13] then here, here, I, I will go back to the delegate. Who is this point to ask what, what, what exactly do you mean by the least controversial areas? Like if you can give us an example for it, what, what you mean by this? So, so we can understand like the point in this area.[01:05:00]

[01:05:03] Okay, so let's say that as I, I'm not receiving too much comments, actually no comments on the skeleton, so that means that the skeleton is almost agreed by everyone. So I think now we can use the time that we have moving to what actually was supposed to be in the second part of this day. Uh, which is discussing the objectives.

[01:05:24] preamble for objectives and principles. Uh, so, if no one has any, okay, now I'm receiving comments. So, it isn't all the objectives or in the skeleton, just to understand. So, in the skeleton. Okay, so, uh, the floor to all the distinguished uh, representatives of Belgium. Okay,

[01:05:53] Chair. Um, I wanted to come back on the skeleton, because it does says the possible specific [01:06:00] priority areas that should be addressed in simultaneous early protocols, but the resolution itself says to consider simultaneous developing early protocols, so there is like, Difference between what I'm reading in the, in the resolution and seeing in the skeleton.

[01:06:18] Um, so I would also like to align with what already France also said to focus on the least controversial, uh, Uh, topics. And as you already mentioned that, you know, what are the most important topics, then I would say within those, um, topics that you mentioned there, you must be aware of the least controversial.

[01:06:40] Also, maybe. And in our point of view, it is also important that there is a, And substantive technical analysis of the, uh, the, the things, the substance you would like to put into the early protocols, because now you mentioned it's just [01:07:00] example given, but we would like to have. technical analysis also on what you actually mean with the broader, um, naming like tax related illicit financial flows and the cross border services because they are very broad, um, wording.

[01:07:18] And so what is really meant with this? Thank you.[01:08:00]

[01:08:14] Thanks to Belgium. Uh, now to distinguish representative of Australia, uh, Australia. Thank you, Chair. Um, so I would like to echo what Belgium just said. I think what we see the terms of reference is, uh, where we gather our thoughts. We need to come to a common ground on on where we would like to go with the negotiations.

[01:08:39] And as you rightly pointed out, this is just the guiding principle of what is to come in the negotiation of a, of a potential framework convention. Um, and so we would support a very thorough analysis of what we are actually talking about. What, what are the concrete, um, [01:09:00] Issues that are behind all these points on on the terms of reference in the in each of the the items and and to see what what is really behind it.

[01:09:10] What do we mean with international tax corporation? Um, to begin with, and where, where we can find common ground to be able to find terms of reference, which will guide us then in the negotiation of of a, uh, of the convention. And I'd also agree with the fact that we have it has to be seen how we address the question of substance, how this will go into the convention as maybe as such or in potential protocols, but this is all part of a has to be a sequenced, um, approach.

[01:09:50] I think the first come to, to terms what we would like to have in a convention and then we can talk about, um, what can go into protocols. [01:10:00] Thank you.

[01:10:07] Thanks to Teria. Uh, now to the distinguished delegate of, uh, Ghana. Thank you, chairman. Um, I would like to First of all, look, I really want to do the terms of reference. The terms of reference has to be specific, because we are giving direction to the framework, whoever will be negotiating the framework convention, as to what we want in the convention.

[01:10:35] And so there has to be some level of, um, if I, if I may use the word, some substantive elements on what they should cover. Not the details, but yes, what do we require out of the convention. When we talk about the simultaneous early protocols, the examples given there are what are provided in the resolution.

[01:10:58] We haven't picked anything outside [01:11:00] of that. And so if we are talking about something which we haven't yet brought out, I wonder what we are really talking about. These ones are in the resolution and that's why we are using them as examples. The resolution is guiding, guiding us in what we need to do. And so, generally, looking at the terms of reference as they are there, I believe that, uh, skeleton is fine as we structure, as we flesh it out.

[01:11:26] That is what would lead to how we'll have the discussions, but there must be some commitment that we will, we are given the framework commission that we want to see in the convention. Thank you. Thanks.

[01:11:41] Thanks, Gana. Now to the distinguished delegate of Jam, Micah. Thank you very much. Um, chair, um, just wanting to give support to, uh, the colleague from from Ghana, um, as well as the speaker before him. I'm sorry I didn't get the. [01:12:00] But, uh, I think the first thing we have to determine is, um, what do we mean by international tax cooperation in this new, uh, dispensation?

[01:12:13] And, um, also speaking from a developing country's standpoint, international tax cooperation has to date, um, only been considered to international tax. And I think from, as far as developing countries are concerned, and well maybe I should speak on behalf of my own country, Jamaica, uh, as far as we are concerned, we believe that it should be wider than international tax.

[01:12:45] Developing countries have, um, a number of domestic tax issues that we consider to be very important to address. To our domestic resource mobilization and ultimately [01:13:00] sustainable development, and, um, it is our hope that that would be considered as a part of the, um, issues that should be on included in the in the terms of reference and eventually the, um, framework convention.

[01:13:18] Thank you, Chair.

[01:13:22] Thanks, Jamaica. Now to, uh, to our colleague from, uh, Distinguished Delegate of, uh, India. Thank you, Chair. Uh, as we have said in the past, we are generally in agreement with the, uh, the way the terms of reference, uh, the skeleton of the terms of reference and the NX1. And, uh, the way we see it, we, we do not see the work of this committee and, and the, the negotiation of the convention itself as, as two watertight compartment, uh, as steps.

[01:13:54] It is the work that this committee will do that will lead on to, to the, to the [01:14:00] framework, uh, to the negotiation of the convention. Now the, the terms of reference by its objectives, by its principles has to give some, some direction. As to what will be the principles on which the, the framework convention will be negotiated.

[01:14:15] What will be the, what will be the objective? Why, why does it need to have been, to, to, to, to be done and the way it has to be done? So therefore, it, it cannot, we see that the, the, the negotiation of the framework convention is a, is a logical extension of the work of, of this committee. So therefore, the way the, the, the structure of the terms of reference and the substance of it.

[01:14:39] Is something that, uh, that we, we, uh, broadly support and, uh, and even in the, on the matter of, uh, early protocols, if, if there are issues which are of, of large, of great importance to, to member countries, then, then the, they, they ought to be, to be, to be taken up or to be thought of as matters on which such, uh, [01:15:00] uh, discussion needs to be taken.

[01:15:02] So generally we, we are in agreement with this structure and, uh, we, we feel that, It needs to have reference as to how and in what manner and towards what end will the framework convention be eventually negotiated. Thank you.

[01:15:21] Thanks India. Now to the distinguished representative of ETAF.

[01:15:29] Thank you chair for giving us the floor. Um, we just want to make a few comments regarding the outline. We believe that terms of reference should be broad enough to paint a picture of the framework convention which we target in the light of resolution 78 to 30. We also believe that there should be a balance between the broadness and and some specific mentioning of item so as to serve as guide rail to the [01:16:00] negotiation committee.

[01:16:02] Now in saying that we also want to avoid situation where an item is negotiated twice in this committee And then the committee that will negotiate the text of the framework convention itself. And when I look at the outline, I see items like, uh, in 2. 2, high level commitment to capacity building. Um, I think that a bit will tie the hand of the committee that will negotiate the text of the convention itself.

[01:16:33] What if parties at that point want to have high level commitments on a lot of issues beyond capacity building? So for this item, for instance, if we said high level commitment, for me that's sufficient because it will enable the drafting committee to have a wiggle room to put in there a lot of things as parties may agree at a relevant time.

[01:16:55] And then I have also had people saying, let's concentrate [01:17:00] on items that are less controversial. I think that's not in accordance with Resolution 78230, which anticipate a broader approach to distance. And in general, I want to believe that any item that is mentioned in the terms of reference should only be indicative of such items that could come under such segment and not conclusive.

[01:17:25] Because if they become conclusive, then again, we are going back to tying hands. of the negotiators at that point, which we don't want to do. Thank you, Chair. That would be our comment for now.

[01:17:39] Thanks, Adaf. Now to the representative of, uh, Distinguished Representative of Korea. Uh, thank you, Chair. Um, with respect to the skeleton of, uh, TOR, um, I, I still I am supportive of the highlighting the high level commitment [01:18:00] to capacity building. Since it's very, uh, crucial and also it's not contentious, every country agree on this item.

[01:18:07] So, we may cultivate this item further, uh, in the, this, uh, TOR and the next, in the next committee. Uh, I'm very much supportive of this selection as, uh, substantive matters. Uh, turning to the, the whole structure of this TOR, I think there is, uh, um, uh, missing one element regarding decision making. Uh, it depends on the substantive matters.

[01:18:32] If we agree on non contentious issue. issue as a substantive matter, then I think it's no problem for us to follow the UN general principle regarding decision making process. But if we select the consensus matters, such as allocation of tax right, it's quite, uh, important, uh, which might, uh, undermine tax sovereignty, and also there is a requirement for, uh, for, uh, for this new, uh, Uh, UN Framework Convention to be [01:19:00] consistent with the existing international rules.

[01:19:02] Those things are very much important issues for us. Therefore, in terms of, um, enhanced inclusiveness from advanced countries, decision making rules, uh, needs to be a, uh, one of the elements of the TOR. Therefore, I would like to suggest, uh, to add the decision makings, uh, While it is depending on the, uh, the issues where, uh, under the substance matters, we, uh, would include, if we want to include the substance, uh, contentious issues.

[01:19:32] Turning to the protocol issue. I think through the discussion about the substance of matters, we may select a candidate for the protocol matters, uh, what would be the, uh, uh, could be, uh, strong, uh, or important issues as a protocol matters. We may decide at the later stage after finishing our discussion regarding substance of matters.

[01:19:54] Thank you.[01:20:00]

[01:20:08] Thanks Korea. Now to the distinguished representative of Germany. Mr Chair.

[01:20:17] Similar with many previous intervention by other speakers, Germany believes that the terms of reference should include general aims without preempting the future framework convention in terms of substance. Uh, rather the terms of substance according to Germany should be, should cater for clear modalities related to the negotiation, including decision making procedures as regards the framework expansion itself.

[01:20:52] Uh, the chair mentioned that we are tax experts here and therefore we are kind of dedicated to discuss [01:21:00] tax matters. That's true. Thank you. But because we are text experts, it is up to us to identify what modalities are needed to ensure that the convention is realistically able to achieve its objectives.

[01:21:16] Um, and speaking about objectives, um, it is true that the resolutions Uh, pointed out that work on some items is definitely due. Um, some of these parts are indicated in the resolutions, but the framework convention, as we understand it, has to be a framework convention, meaning like being future proof, being very broad in terms of scope.

[01:21:45] Um, I don't have the impression that these, this structure, this skeleton needs to be, expectations. Um,[01:22:00]

[01:22:01] I would, I would, would like to make a suggestion, uh, to accommodate some of the comments I've made in order also to take into better account, uh, modalities related to the negotiation body. Um, the item four, we would propose to rephrase it. Um, So that it would read structures and timeframe for negotiation.

[01:22:31] Um, and the item 4. 2 to read approaches to develop, uh, excuse me, uh, approaches to negotiating the convention. So to not narrow it down only on the protocols. Speaking about the protocols, I would like to echo what was said. Excuse me, was it? Just if you can, what's your proposal for this? Can you just repeat it again?[01:23:00]

[01:23:00] So item four, yes?

[01:23:05] Uh, it's, ah, no, thank you. Uh, we will propose to rephrase item four to read structures and time frame for negotiation instead of time frame for negotiations as it is drafted right now. We cannot see it on the large screen, but I think it is currently, it says only timeframe for negotiation. And the item 4.2, uh, to rephrase it so it would read approaches to develop, uh, uh, yet again, sorry, approaches to negotiating the convention course.

[01:23:49] Currently it is only about. development of protocols and their time frames. And speaking about, uh, the, the [01:24:00] protocols, it was said previously by other speakers, we would like to recall that according to the resolution, the simultaneous development of early protocols shall be considered. Okay? But, we believe that form has to follow function.

[01:24:18] And, uh, Uh, and second, we, we think, uh, that protocols won't be the only instrument provided for by the convention. So we think it would be worthwhile to analyze which other instruments, uh, would, would, would be there according to the convention because a protocol might not in all instances be the appropriate way to tackle a text related issue.

[01:24:47] There might be other instruments and we would, we would propose to analyze, uh, what the relationship between some of those instruments, [01:25:00] just to name some, like a recommendation for example, something that is more, have a soft law approach compared to a protocol, um, that the terms of reference should reflect on this.

[01:25:16] I stop here. Thank you very much. Thanks, Germany. Now the floor to distinguish delegate from Spain.

[01:25:35] Thank you very much, sir. Uh, well, uh, again, thank you for, for the proposal on, on the screen. Uh, I mean, like others before me, I mean, I just wanted to also highlight that, um, the terms of reference are, um, The, the indication for, for, um, for designing or drafting the, the, the multilateral or the [01:26:00] framework convention.

[01:26:00] So I think we are also missing in this, um, In this skeleton, some kind of a procedural, uh, issues. I mean, some other colleagues already mentioned that. And, and for me, one of the important procedural issues that we have to take into account for the negotiation of the convention, and don't forget that the terms of reference are going to be the, the guidance.

[01:26:25] The guide of, of, uh, of the negotiator of the convention will be the, the decision making process. I think it's, it's important to include in the terms of reference how we are gonna decide the, or how are we gonna negotiate that convention. I think it's one of the most important elements of the procedural that we need to take into account for the, for next, um, uh, and also I, and let me also share what, uh, my colleagues from, from Germany said, uh, talking about the Probably the we need to include something on on time frame for [01:27:00] negotiation because we are we are giving, um, guides to the negotiation of the convention to include maybe time frame or approaches to develop the negotiating of the convention and, um, then this is all for now.

[01:27:15] Thank you very much.

[01:27:28] Thanks pain. Now to the distinguished delegate, Obama's. Thank you, Mr. Chair. The Bahamas wishes to provide some input on the development of the substantive elements for the Framework Convention. It is important to agree these substantive elements that are to be included and to be addressed by the Convention in the terms of reference.

[01:27:50] Firstly, I think it important to recognize that we are here today because established protocols and tax frameworks are discriminatory, [01:28:00] they're not all inclusive. Nor do they apply the tax rules evenly across different countries. The International Tax Establishment does not take into consideration special and differential treatment for developing countries, low income countries, and countries with unique characteristics, such as small island developing states.

[01:28:20] As such, everything should be on the table for discussion. And this should be a broad based approach, not a narrow approach, as we're hearing some propose. We should discuss substantive elements that should comprise high level commitments. I want to note section 2. 2 in the proposed outline is entitled, High Level Commitment to Capacity Building.

[01:28:46] In my opinion, this should read, High Level Commitments. And those commitments should be listed, whether in the outline itself, or certainly for the terms of reference. Thank you. We've received many [01:29:00] inputs from member states, written inputs by civil society, that were all, I thought, very helpful.

[01:29:06] constructive and gave us a good broad based setting of what everybody is considering as important to their specific constituency group. And we should use these inputs to help define what our high level commitments are going to be for the development of these terms of reference. For example, commitments I would consider to include sovereign rights to taxation, environmental taxes to achieve sustainable development goals, the digital economy, Application of source rules, capacity building, imbalanced taxing rights, tax transparency, dispute resolution, the abolishment of blacklists.

[01:29:46] These are all high level commitments that we should be considering when we list them in this outline and ultimately in the terms of reference. These are areas where we should strive to have high level [01:30:00] commitments amongst us all and have them integrated so they can be properly addressed when we draft the terms of reference.

[01:30:07] So my, my substantive recommendation is in section 2. 2, we stop after the word commitment, make it commitments, and then list under there subparts of high level commitments that we are willing to agree to address in the terms of reference. We're not agreeing necessarily how we're going to address them.

[01:30:28] But I think we need to have certain high level commitments that we agree to address. And we've had inputs, as I say, from a wide constituency group that I think can be helpful in formulating this list. Thank you, Mr. Chair. Thanks, Bahamas. Now to the distinguished delegate, uh, from Italy.

[01:30:52] Thank you very much, Mr. Chair. Uh, first of all, I would like to echo, uh, The intervention of [01:31:00] my colleagues from Germany and Spain and the stress once again that, uh, making reference to decision making process in the T. O. R. Itself for the negotiation of the of the convention. It is key. It is essential because otherwise we would leave on an uncertainty on hope.

[01:31:23] Um, how this process will continue. On specific points, uh, on the, uh, on the skeleton 1. 3 principles, I would like to, to make a link with the zero zero drafts to me. Is not, is not clear why the principle, uh, listed here make explicit reference of paragraph six, a six B and six B six, a C of the, of resolution.

[01:31:55] 78, uh, to 30, but not [01:32:00] to six D, which has been then, uh, taken, but with what to me is, is a sort of downgrading only in the approaches. To me, the language of the, of the resolution has put all this input on the same level. And so, I'm wondering if it is possible to put insert the reference to six D in the same place where other part of the resolution of paragraph six and be contained.

[01:32:33] Thank you.

[01:32:47] Thanks Italy. Now to the distinguished representative of United Kingdom. Thank you, chair. Um, so. Um, I think we're all agreed that the role of the [01:33:00] terms of reference is to set out guidance for the negotiating committee for the convention. Um, and in that regard, we would support the suggestion from Germany to tweak the phrasing of 4 and 4.

[01:33:20] 2 to clarify that. The terms of reference will cover the structures for the negotiations as well as the timeframe. On the protocols, I think we're, there is a sense that we would all find it helpful to discuss the, what could go into the protocols in more detail so we can all understand what is intended.

[01:33:50] The question is perhaps over when. In the process, we would actually be drafting the content of any protocols. [01:34:00] And my suggestion would be that the negotiating committee for the convention cannot draft the protocols because the convention will establish a conference of the parties or some other structure that would then be responsible for the text of the protocols.

[01:34:18] And therefore, what the role is of the convention. Is to, um, provide guidance on the topics that the conference of the parties would cover. Um, and it is helpful for us whilst negotiating the terms of reference and negotiating the convention to be discussing what those protocols could involve. But not to attempt to put pen to paper at that point.

[01:34:46] Because as I said that would be for the structures that are established by the convention. If that is the case, and others agree with that, then it may make sense to tweak the [01:35:00] wording of point three in the skeleton, and happy to suggest some, some wording for what that could look like, but essentially to clarify that the terms of reference is not requiring the negotiating committee for the convention to provide draft protocols.

[01:35:21] Or agree protocols, but rather the drafting of the convention will be guided by the fact that we we are having these discussions about what protocols could look like after the convention. Thank you.

[01:35:54] Thanks. United Kingdom. Now to our colleague from Canada.[01:36:00]

[01:36:02] Mr. Chair. Uh, I would also like to express support for the, uh, the change proposed by Germany to, uh, modify the header to item four to structure in time frame. I think it would be appropriate because I would expect there will be other issues being discussed or procedural issues to be discussed under that section.

[01:36:24] I would also, uh, express support to, uh, the point made by Spain and Korea. That there should be something in that section about the decision making process would be important to us in line with our prior comments. If the terms of reference could, uh, say, uh, provide some directions as to, uh, uh, the form of decision making, uh, rule that we, uh, uh, recommend for the, uh, the committee that would negotiate the convention, although recognizing that, uh, this rule is, [01:37:00] uh, uh.

[01:37:00] Will have to be decided by the committee itself. Um, we also, I would also like to support the, uh, the, the proposal just made by, uh, the delegate from the United Kingdom to modify the, uh, the other two section three in the, uh, skeleton. Uh, it is our view that, uh, it would be. Uh, preferable not to negotiate protocols at the same time as the convention.

[01:37:29] Uh, we certainly agree that we, uh, it would be useful to have a discussion, uh, at this session of the issues that could be, uh, that could, uh, be the subject matter of future protocols. But we, uh, think that should be, uh, reflected in the wording of that, uh, I would agree that it should be reflected in the wording, uh, of that particular item on the, uh, skeleton.

[01:37:52] And maybe if I can add, uh, one last comment in the response to, uh, [01:38:00] uh, a point that was made by the delegate from Germany about the need to consider other instruments, uh, other than protocol that perhaps we may want to consider. Um, uh, uh, I would formulate somewhat a similar comment in respect. of high level commitments that would, that could be discussed under 2.

[01:38:23] 2. Uh, or, um, we, we believe that it would be preferable to minimize the number of specific obligations and commitments that would be eventually include in the convention in order to promote a broad implementation of the convention. Um, And we believe that it might be a better approach to include commitments that would relate to the operation of the convention itself, rather than substantive tax issues.

[01:38:54] As such, we would propose that this committee perhaps consider some, [01:39:00] uh, spend some time discussing the forms of commitment that perhaps we would want to see in the convention. Um, For instance, the terms of references should consider providing directions on some of these questions. Like, what roles would provisions on the objective, scope, and guiding principles of the Convention serve?

[01:39:26] And what would be the expected legal and practical implication of these provisions? Uh, another example of a question that we might want to consider at this session would be whether the convention should include biding commitments and obligation, and if so, whether such commitments and obligation should only pertain to the implementation of the convention or should also cover some substantive tax issues.

[01:39:50] Uh, When would it be appropriate for commitments and obligations to apply to all parties to the Convention? And when should each party be entitled to [01:40:00] separately choose commitments and obligations appropriate to their own circumstances? And perhaps one last example, when should an issue be addressed through legally binding mutual mutual commitments?

[01:40:13] And when would an issue best be addressed by alternative non binding means, such as best practices for domestic legislation? Thank you, Mr. Chair. Thanks, Canada. Thanks, Canada. Now, to the distinguished representative of Colombia.

[01:40:33] Thank you, Mr. Chair, and thank you for your explanation regarding the proposed skeleton. In general, we agree with the proposal, and regarding the possible specific priority areas, we understand that we are not negotiating the convention by pointing out substantive issues that this committee should discuss without preempting further issues to be included for discussion.

[01:40:59] [01:41:00] We received several inputs from member states and stakeholders, which should be taken into account to enrich the discussion, regardless of whether we are able in the future to agree on commitments on each of these topics. Thank you.

[01:41:21] Thanks. Distinguished delegate of Columbia, to the distinguished delegate of Kenya.

[01:41:31] Yeah. Uh, while we generally support the, the skeleton in terms of reference as they've been presented to us, we'd like to support the proposal as has been presented by the representatives from ATAF in the Bahamas. on item 2. 2. We believe that countries should be given the, um, the, should be given room to make high level commitments on other issues of international tax cooperation and not to just limit this to capacity building.

[01:41:59] So we [01:42:00] do support the proposal to just end 2. 2 at high level commitment and give room for other high level commitments to be made. Thank you.

[01:42:11] Thanks, Kenya. Uh, to the distinguished delegate of Estonia. Thank you, Chair. And I would also like to thank the colleague from Canada who has beautifully summarized, um, what many countries, uh, before have said. And I can say that we can echo the comments made by Canada. However, I would specifically like to point out that, uh, we also believe that the terms of reference should, uh, serve as a handbook for the negotiators of the convention.

[01:42:42] And the convention as such. Should be limited to the high level commitments in order to, um, achieve the widest uptake possible for us. Also, um, it is important and the convention should [01:43:00] contain the decision making processes as to the potential Protocols that we believe should be for the substantive issues.

[01:43:11] Uh, I would like to echo what my colleagues from Belgium and Austria have said that anything we put in the protocols should be based on a thorough analysis. And here I'm speaking like a tax expert who is used to drafting, um, the tax laws. And I can say that nothing will go past our government without a proper impact assessment.

[01:43:39] And for us, in order to put anything on the table or to get a mandate from our government, so that they would sign up to the convention and the protocols, needs to have numbers. They affect, um, that would justify the adoption of another [01:44:00] tax instrument. Thank you.

[01:44:06] Thanks, Estonia. Now to the distinguished delegate of India. Thank you, Chair. Uh, on the, on the suggestion to change the language of, uh, 4. 2, we would, uh, request caution on that point because if we change the language as suggested, The, we run the risk of dragging into it the section of procedural elements as procedural arrangements under annex one of the, now out of the TOR.

[01:44:40] Now, as was very rightly pointed out by the speaker before me, and by by us also sometime back, that the, the terms of reference must serve as a guide for, uh, the negotiation of the framework convention. But at the same time, it should not in any way impinge upon the work of the, of the [01:45:00] negotiation of that framework convention.

[01:45:02] So there is a, there is a delicate balance to be, to be struck over here. And we believe that balance is struck by, by the addition of NX1 to the terms of reference. Because anyone who reads the terms of reference will see the reference to NX1. And he will go on to NX1 and find that matters of the procedural arrangements are very much there.

[01:45:24] So, uh, uh, we, we believe that the, the current, uh, structure of the terms of reference takes care of, of these concerns. And the, the matters related to decision making, et cetera, are very much on the table, but at the right place. Now on the point that, uh, the second point on the, the point made by the, uh, distinguished delegate from Bahama.

[01:45:46] about, uh, ending 2. 2 at, uh, at high level commitments, that could be a possibility because if we link it up with the, the 0 0 draft that has been circulated, point number C of objectives [01:46:00] is actually something which refers to these commitments, which is already part of the, of the terms of reference. So if, if, if that, uh, that suggestion is taken up, we could, uh, borrow language from there and that will be consistent with, uh, what we have drafted so far.

[01:46:16] Thank you.

[01:46:28] Thanks, India.

[01:46:32] Maybe I think now it's as a no one is asking for the floor. So again, it's my turn to take the floor. Okay. Someone is asking for it. So now to Senegal. Distinguished representative of single place. Merci. Michelle president. Uh, no.[01:47:00]

[01:47:13] Capacity.

[01:47:22] Position

[01:47:42] perspective put in.[01:48:00]

[01:48:01] Thanks now to the distinguished representative of Netherlands. Thank you very much. Uh. Thank you very much. And it's very good to be here in this very important process. I would like to make a few comments. Some of them have already been mentioned amongst others by Belgium, Spain, Italy, Germany and Korea.

[01:48:29] Um, We think that before we really get into the substance, uh, that it's really important to have a good discussion on the modalities of the framework convention to make sure that we reach the objectives. Um, and I think with respect to discussing the substance, it's very important to us like what exactly do the, the different concepts.

[01:48:51] mean. For example, we have cross border services on the on the screen. And I think as some others have also mentioned, it's really important that we base [01:49:00] our discussions on like a thorough technical analysis. Um, some of our some delegates here have also mentioned the decision making process. Um, for us, this is also very important to to clarify.

[01:49:15] Um, and also the principles in the resolution should really be adequately reflected in the TR that we are currently drafting. And particularly, we'd like to draw the attention to 6D in the resolution. And, uh, looking at the screen on 3, where it says, uh, possible specific priority areas that should be addressed, we would prefer, uh, should to be changed into could.

[01:49:41] Thank you very much.

[01:49:58] Thanks, Netherlands.[01:50:00]

[01:50:18] Okay, so maybe I would like to start, can, can we move to the, because I think some of you mentioned the decision making and decision making is already in the skeleton. So it's, it's already there. Uh, so can you move to annex one please?

[01:50:35] So in, in the skeleton, because you, you can separate like the annex one from the skeleton, it's annex for the skeleton. So you'll find, no, I, I think go, go down a After the conference of party, voting procedures, decision making, so it's already there. So it's existence skeleton. Just for the decision making.[01:51:00]

[01:51:00] Uh, so just you, you need to read both of them. Uh, so not everything will go, maybe it's just your, but things can be kept there. So I, I think this is like good news. That's already for one of the comments that it's already there. Uh, and by the way, for Jamaican, I think it's still some discussions through the bureau are taking place, uh, even in while we, we are here in New York.

[01:51:27] So some meetings are planned to take place to, uh, to keep discussing this. So I think work is ongoing, but at least it's, it's already in the skeleton. Uh,

[01:51:53] so maybe I will, I will go for, for some questions. Because it's still, I, I don't, I don't understand. [01:52:00] And, uh, I'm gonna ask it. I, I know that maybe my, my colleague from from Belgium just returned some questions that I, ask it to me again. , but actually, I, I still want to ask it, uh, because actually I, I'm not asking, I'm not challenging.

[01:52:17] I just, I think when we elaborate about the points that we have, this will give everyone better understanding from where we're coming. Uh. When you elaborate more, I think opinions can, can change. Uh, and I think we did this practice before in the bureau, in the virtual meetings. It was one of the items and then I did like small presentation and I, I start to feel like, no, now they understand and start, uh, some members just change of opinion and yes, now we agree for this while they were not in agreement with this.

[01:52:50] So, that, that's why I'm asking for elaboration. Uh, So I'm not challenging anyone, just not to be misunderstood, but sometimes I ask, what do you [01:53:00] mean? Because maybe what you said, just I got it in a way that, okay, I disagree with it. But when you said it and elaborate more about it, then I understand it better.

[01:53:08] So now, now I agree for it. So this is, this is, I mean, this is the main point where we are talking about. Uh, that, that's why when I ask about, uh, that it should be about the process, not the substance. I ask it, what exactly is meant by this? So, because as I see, and I think many of members also see it, it's not about substance.

[01:53:36] Maybe it's listing, just listing substances, the items that need to be covered. That doesn't mean it's about substance. It's again given the guidance and the governing rules and the ground rules for Uh, for the convention. Uh, we are, we are putting the minimum requirements for the convention, but again, the convention committee can add to it.

[01:53:59] But at [01:54:00] least we are granting that it will not be less than, than, than what we listed here. So what we're going to list is what is going to be discussed. Something in, in the top of this can be discussed. Yes, of course it can be discussed. No, no one, no one can deny this, this fact. Uh, so, uh, Uh, we need to, to look at the TOR as from this side, from this perspective, rather than just looking at that, what is here that will not be changed.

[01:54:27] Maybe I will, I can go with my colleagues about the high level commitments, uh, about uh, the capacity building. Uh, again, it's a high level commitment. Again, we are putting the minimum. So a capacity building, that's mean that the, the convention can add and the company can add to it. Maybe I, I, I'm accepting because.

[01:54:48] Yes, it should not be in the, in the header of the item, so it can be high level commitments. Then we list under it capacity building. So now we are sure that capacity building is a minimum standard, is a minimum requirement that will go [01:55:00] under this section. So I, I think this, this, we can, uh, we, we can change it, but I'm taking this an example as an example just to, to show that this is, again, it is a minimum and still the door is open for the convention.

[01:55:16] To add more. And we, we don't know in the upcoming years what may be, may change so maybe new things will come and raise up and they can add it. So it is not an like closed end, uh, convention that will just cover certain topic and nothing else. That's why even in the protocols we are listing the protocols while having it open end.

[01:55:39] So this is a protocol that we believe should be covered. So what else should be covered? Of course. As we move forward, maybe things will, will come up and, and the convention committee need to, uh, to cover it, uh, about whether we, we need [01:56:00] to have a narrow score for the TOR or to be like more broad. I think what's guiding us in this would be more of the inputs that we received.

[01:56:10] I think that the inputs that we received was very broad covering a lot of areas and we need to go for this. And this is what we, we need to cover, to cover. Because simply if, if we're not going to cover the substance, as I understand some colleagues, maybe I understand wrong, that even they don't want the substantive elements or the operative provision section to be listed.

[01:56:31] That's what I get when they're saying it needs to be a process document, which for me, I see it like a procedural document. Uh, and the procedure aspects it's taken in the organizational sessions for any committee more than we need to have a full TOR and six months of working just to get out with a procedural element, uh, protocol.

[01:56:51] And I don't think this is what's meant by the, meant by the resolution, uh, 78 to 30. Uh, but [01:57:00] again, as I said at the beginning, every document. Every phase is taking us more forward, moving forward, closer to, to our, our, our objectives. So 77 just was a very more high level than 78 move forward with more specific nouns that you, or sticking us more specific and moving forward in the convention and so on and protocols and so on.

[01:57:24] Uh, so,

[01:57:30] This is just maybe my very quick, uh, response to, uh, to what he received till now. Uh, I think maybe it's the tickets. Yes, we are open to discuss the text in some areas. Maybe like, uh, as I don't know, some of our colleagues mentioned, uh, item four, it is timeframe for, for negotiation. I think it should be, yes, it can be amended for approaches and.

[01:57:59] [01:58:00] time frame, uh, if, if no one, uh, if one, anyone has like comment on, on this. So it, it can be because the header need to be more product. Uh, again, we, we can look at, at, at item, uh, 4. 2. But, uh, I, if I understood some of my colleagues right about the time for negotiation, I think time for negotiation is covered under the item to complete the convention.

[01:58:27] So this will allow what is the time for negotiation that will be listed under this, this item. So I think any time aspects will be included in the item, uh, 4. uh, 4. 1. or as relevant anyway under but anyway under section four. So all the time related matters will be covered in this area. So now again I will go to the list of colleagues who are asking for the floor.

[01:58:53] I will stop. I don't want to consume all the time talking. So just I talk when no one is asking for the floor. So [01:59:00] now to our distinguished delegate from Portugal. Thank you very much, uh, I, I, I would like to start by thinking this morning session because for sure it has been very, very useful and fruitful understanding what are the elements that we are discussing here among them distinguish between the possible structural elements of the TOR.

[01:59:24] And what is the content of the annex one of these documents, which are the structural elements that we will discuss as the skeleton of the convention itself. Saying this, uh, for sure, we have here listed already decision making processes. But, uh, as I understand it, this will be the decision making procedures.

[01:59:48] when the convention framework will be already in force. And, and, and for us, it's one point that's, that we find to be important under these discussions is to establish [02:00:00] also what will be the decision making procedures during the negotiation of the convention. And that part, I have, I have to support all the delegations that asked for it because for sure it is not here in the, in the, the main part of the skeleton.

[02:00:16] As it pertain to the terms of reference. That's, that, that will be one thing that we would like to, to, to have a better enlightenment in respect of. Uh, we would also, let, let, let, let me thank you already for, for the openness to, to receive the, the proposal made by our colleague from Germany in relation to point four.

[02:00:36] We also think that it is important. And we would also. would like to support interventions that were, uh, targets at the, the, the, the other of the number three. We, we, we, we think that, that should, it's probably, uh, uh, a very strong verb for what is in, in, in point here. Uh, especially when we look at the simultaneously [02:01:00] idea that is in this adding that is, is somehow puzzling when we, when we, when we have the big picture of what we have already in hand.

[02:01:09] Uh, uh, please note at this respect, the intervention of our Canadian friend was, was pretty, pretty rich on that aspect. It enlisted, uh, uh, uh, sort of, uh, a list of topics that is very important for us to care of during the, the elaboration of the terms of reference and for which we, we, we still have to, to, to, to, to, to group some ideas.

[02:01:31] Uh, uh, and for, for last, I, I would like to, to, to, uh, uh, to. better than when we start this section, understanding what is the difference between, uh, number two operative provisions and number three. Uh, but somehow it's, it precedes, uh, uh, uh, uh, at least for me, uh, difficulty understanding why we have these two, two different spaces in the document.

[02:01:56] And, uh, so I somehow [02:02:00] wonder if the problem in relation to number two is not also the adding, uh, uh, uh, uh, uh, uh, Since we are, since we are discussing terms of reference, uh, it's, it's, it's, it's a little bit puzzling to, to, to find a operative provisions in itself. I understand it quite well when we are talking about the structural elements of the convention for sure.

[02:02:19] But when we are talking terms of reference, it's not that clear what we want to be here. Thank you very much. Thanks to

[02:02:55] Burska. Now to our distinguished representative of Spain. [02:03:00] very much. very much, Chair, President. Um, well, I think Portugal has expressed exactly what I was thinking about the question of, I don't know if I can speak in Spanish, sorry. Um, yes, right? There is a translation. Sorry, I'll start again. I think the colleague from Portugal has expressed it exactly as I wanted to say.

[02:03:33] When you, President, have expressed or explained that as one of the elements of the, one of the possible structural elements of the Convention is precisely The question of decision making process. I raised the same question that I think we have discussed in some meetings of the Bureau, [02:04:00] that precisely that is an element that is in the framework convention for negotiation, for discussion once that convention has already come into force.

[02:04:11] But the question that we or that I was thinking at the beginning is precisely in that element in the negotiation process of the Convention. Therefore, I think it is an element that should be precisely in the reference terms, which is who is going to guide the negotiation of the framework agreement.

[02:04:29] Therefore, I think that this is a question that I do not know if it has been very clear to me.[02:05:00]

[02:05:01] Thanks, Spain, now

[02:05:10] well thank you. Thank you, chair. Um. First, I just want to, uh, commend my colleague from the Bahamas. Um, what he said made a lot of sense and provided some level of, of clarity, um, to me because I have to say that I'm a bit, um, unclear about, uh, what we're doing. Um, And that could be my, just, just my ignorance of this very different, um, space that we are in being accustomed to discussing more technical work related to taxation.

[02:05:45] Now, what I want to find out is, um, what are we expected to, um, deliver at the end of this week? What, what is the overall aim of what we're supposed to be, um, achieving this [02:06:00] week? Because, um, I'm hearing on one hand that we ought not to be too, um, detailed. And then I'm hearing on another hand that, um, this ought to be detailed enough to provide some guidance for the future work that we are to be engaged in.

[02:06:17] So I just want to get, um, some clarity on. What level of detail, if any, should be included in the, um, in the, in the terms of reference? Um, they, uh, and maybe I just need to speak to somebody from the secretariat or, um, yourself privately about that. But I have to say it's a, um, concern of mine. The other thing is, um, that keeps coming up is controversial, um, Issues that are controversial.

[02:06:50] And it appears to me that, um, one of those controversial issues is this whole issue of decision making and the process. [02:07:00] And I think, um, chair that it would be best that we, um, have a fulsome discussion on on that issue. Uh, it, um, I don't think it is best to delay a discussion on that issue. Now, to be honest with you, I don't know where it falls on the Um, in, you know, what we are, um, doing here right now, which is looking at the terms of reference.

[02:07:29] But I do think that there has to be, at some point, uh, a discussion and a decision taken, um, on that issue. Because, uh, uh, Um, colleagues are coming back to it as, um, almost as a condition precedent, my word. And so I think we should deal with that issue. Thank you, Chair.[02:08:00]

[02:08:14] Thanks, Jamaica. Now to, uh, Distinguished Representative of Korea.

[02:08:21] Thank you, Chair. With respect to decision making, I really appreciate protocol delegates clarification. That's my understanding. The decision making you suggested in the annex is after effectiveness of the convention. When there is some amendments, then this voting process would be applicable. In that case, uh, this decision making is, um, It is, uh, is, uh, applicable after the completion of the convention.

[02:08:54] But when it comes to the decision making in a TOR, uh, I would say this is, uh, [02:09:00] after a negotiation for the convention and, uh, This convention would go to the UN resolution, General Assembly. In that case, uh, whether General Assembly accepted the final result of the negotiation. In that case, we needed some decision making, uh, process, which is a different from, could be different from, uh, uh, traditional one because this, uh, convention would contain, would, if this convention would contain contentious issue like allocation of tax right.

[02:09:28] In, uh, in that case, uh, it afflicted. It's a member's tax sovereignty as well as a good conflict with existing international rule. In that case, in order to override the existing international rule, we need some general consensus about that. So for that purpose, we need a special decision making process, a process in the TOR stage.

[02:09:52] Thank you.

[02:09:57] Thanks, Korea. Now to the [02:10:00] distinguished representative of Syria.

[02:10:05] Thank you, Chair. Chair. So my comment would also be about the decision making. And I'd like to echo what previous speakers have said, and especially Jamaica, that we would also support to take on this, this little bit difficult discussion because, um, what I'm, uh, we would be a bit worried about is that we embark on the negotiation process and we'll probably have very tight timelines there.

[02:10:33] And then we have to start, uh, with the discussion. Um, all over. Um, and so it would be very useful to do this as soon as possible. Um, in order to make sure that with all the topics on the table and we, I, I'm sure we will discuss substantive issues now within this week and again in August. Um, and, and, and all of these issues on the table, we need to find a way forward to [02:11:00] get something into the convention, which is supported by as many.

[02:11:04] countries as, as possible, um, to have a broad, uh, impact of, of the, um, potential convention in the future. And so this whole decision making is more about what is on the agenda for the negotiation team, uh, for the negotiation committee. Sorry. Um, and, and, and so this is important that we discuss it upfront.

[02:11:25] Thank you.

[02:11:29] Thanks to you now. So to the language representative of Belgium.

[02:11:36] Thank you. Um, I would like to fully align what my colleagues of Portugal, Spain, Korea, Jamaica, Austria said about also the decision making process. Um, a lot remains unclear to me too. Um, and you gave some clarifications, Mr. Chair, about it should be here in the terms [02:12:00] of reference about the process and not about substance.

[02:12:03] So, then again, my question would be, if it's not about substance, then the way the protocols are mentioned is confusing to me in the, in this TOR skeleton. And another question, you referred to a presentation that you gave, but I'm not aware of that. Of this presentation. It was in the bureau, maybe, but, um, a lot of us are not present for the presentations of the bureau.

[02:12:28] So if you could clarify. Thanks a lot. No, no, I'm not talking about specific topic. I'm just saying that sometimes when you present me when you ever elaborate more about the topic, we would can understand you better. And I'm not talking about specific topics that are presented in the bureau. Giving examples that elaboration can can make the other side understand better than they can change your opinion.

[02:12:53] That's it. Thank you.[02:13:00] [02:14:00] [02:15:00]

[02:15:06] Now to our to the distinguished representative of Sweden.

[02:15:12] Thank you very much, Mr. Chair. I also want to echo those who are pointed out the importance of not delaying the process of discussing the decision making process. I think it's, it has been well, the reasons for that has been well explained by the others, but Um, I definitely think that, uh, that is something that might take some time to discuss, and I would think it's better to do that, uh, sooner rather than later, so that when we move to the next phase, we are, uh, sure, uh, about, uh, this, uh, very important issue.

[02:15:50] Thank you so much. Thanks, Sven. Now to the Distinguished Delegate of Canada. [02:16:00] Thank you. Thank you, Mr. Chair. Uh, I'll be brief. I just want to, uh, echo what others have said on decision making, in particular the comment from the distinguished delegate from Korea. What we're looking for is not, is not about the actual rule that will apply for the adoption of the, uh, of the convention, which is already set out in the Annex.

[02:16:22] We're more thinking of including in the terms of reference, uh, To the, to the same extent that the, uh, will be the terms of reference will be setting broad directions on commitments and other aspect of the convention. We think there, there should be something, uh, some broad directions on the decision making rule to highlight the importance of, uh, Of consensus to support the broad implementation of the convention.

[02:16:49] It's more that type of statement of Persian that we would propose to include in the terms of reference, either in the preamble or in the section three. [02:17:00] It was a four. Sorry for That's the nature of her proposal here. Thank you.

[02:17:10] Thanks, Canada. Now to distinguish representative of France.[02:18:00]

[02:18:28] I would like to say again that I think it is too early to be able to add the Annex 1, which deals with the terms of reference of the CAD Convention. And therefore, it seems to me also justified to be able to go back to the point on the decision modalities in the framework of the skeleton of the terms of reference, and not in the Annex 1, which is dedicated to the elaboration of the architecture of the Convention.

[02:18:53] [02:19:00] Thanks,

[02:19:22] France. Now, uh, to the United, uh, Distinguished Delegate of, uh, Tanzania.

[02:19:41] Uh,

[02:19:45] uh, I'm taking you back to the contents of the Convention in such a way that The sovereign powers of nations to to exercise their power within their [02:20:00] confines should not only be limited to the right to tax, but also should be extended to to the nation's power to use taxation laws to impose penalties to the criminals.

[02:20:20] Thank you, Chair.

[02:20:29] Thanks, Tanzania. Now to the representative of, uh, Liechtenstein.

[02:20:41] Thank you very much, Chair, as this is the first time I'm taking the floor. Uh, it's a pleasure, pleasure to be here. I would like to thank, uh, our colleague from, from Jamaica. Uh, for, for being very, very honest in, in, in telling us that it's sometimes rather hard to follow the discussions as we are jumping from topic [02:21:00] to topic.

[02:21:01] Uh, one, one topic now seems to stand out somehow, and that is the decision making process. And I agree with a lot of, a lot of our, my, my previous, uh, speakers, that we need to have clarity in the process to be able to come to any kind, kind of agreement And agreement on substantive issues is only possible if the decision making process, which is one of the most substantive questions, is clear.

[02:21:31] So I do not see any procedural benefit of avoiding the discussion now, and I think it's time to conclude the discussion as quickly as possible and maybe agree. On a on a decision making process for everybody. Thank you very much, Chair.

[02:21:57] Thank you for the intervention to [02:22:00] our. To the distinguished representative of Germany. Thank you, Mr Chair. First and on a very quick note, I would like to echo. The intervention by France, and I assume it was Belgian before that. Regarding the header, according to number three. the skeleton to replace the term should by could.

[02:22:24] Uh, and second, Germany shares entirely the sentiment expressed by a lot of other distinguished delegates regarding the decision making process and that it should be the terms of reference who deals with it rather than the annex only. As a Bureau member, Germany took note of the intention by the chair to further discuss, as he also said, the decision making aspects in the [02:23:00] Bureau.

[02:23:00] Um, um, it was not according, at least to our understanding, meant that these discussions would remain in the Bureau, but rather would then be continued, uh, in the whole Ad Hoc Committee. While we have understanding for the, for the intention by the chair, um, we see here, I think it is obvious that first, the discussion would have an impact on the terms of reference and the skeleton and second, uh, a discussion in the bureau cannot.

[02:23:37] With this, uh, the discussion within this wider group. So therefore, we would also advocate to not postponing the discussions product, but to have a full scale discussion and this committee. Thanks.[02:24:00]

[02:24:43] Thanks for the intervention. Uh, now to, uh, that's thing is delicate of Norway. Thank you. Thank you, Chair and first time taking the floor here as well. So, uh, thank you and, uh, Good afternoon, all colleagues. [02:25:00] Um, so just want to come back on the issue of analysis and several delegations before me have raised this issue as well.

[02:25:06] I want to support that call for analysis on material and substantive issues. I think that we're currently in an examination phase, uh, which we haven't even embarked properly on. Um, and, um, uh, and any convention the last decades basically has had some type of, uh, material and substantive analysis needs based analysis, if you will, before embarking on, on, on the discussions of substantive nature.

[02:25:33] So, I think that would be something that, um, we would welcome very much to, to see how we can include, either as part of one of the structural elements, either in the timeline or, or in terms of how the, um, under 0. 5 of resources where, I guess, is something we would, Uh, as member states would need to ask the Secretariat to, to, uh, to procure or to undertake, ideally in conjunction with other actors in the [02:26:00] multilateral system as well.

[02:26:01] Um, and um, so I think until we have this, our discussions of, of anything of, of substantive nature will be, uh, challenging to say the least. And, uh, I, I I've covered this topic for a while, and I know that depending on who you ask, the, the different issues that they will take, take out as most important will, uh, will vary greatly.

[02:26:22] And so, in order for us to, to, to, to gain some type of, um, Agreed notion of what those are. We should we should really have that analysis and also look at this input that has been provided and and some type of compilation or the synthesis of those input would also help us to to later on look at what are the Lowest hanging fruit if you will or what are the most and least Challenging that we can that we can take on when we get there, but really just to to stress that point And that would help us move forward.

[02:26:57] Thank you.[02:27:00]

[02:27:11] Thanks, Norway. Now to the distinguished delegate of, uh, Russian Federation.

[02:27:31] I would like to once again draw your attention to the fact that the General Assembly in its resolution issued a mandate to our committee to present a circular project for further consideration. In this regard, your comments, Mr. Chairman, on the fact that the General Assembly in its resolution issued a mandate to our committee to present a circular project for further consideration.

[02:27:58] The [02:28:00] issue of decision making is not part of the Vienna circle, but is part of the structural elements of the Convention itself. We believe that the consideration of this issue is necessary. The next step is to give the mandate to another committee, which will consider this issue. That is why we believe that the decision will be taken Um,[02:29:00]

[02:29:25] thanks Russia. Now to the of

[02:29:32] Thank you. Thank you, chairman. Um, on the issue of decision making, I believe that for this committee. We have taken a decision on decision making, and that's why we make decision making. The next set of decision making is part of the procedures of whichever committee will be responsible for the negotiations.

[02:29:54] And they should take that decision then, as to how they'll make their decisions. It shouldn't be for us to [02:30:00] determine what they should do. And so, where we've put it under procedures, which we'll be discussing sometime next week, Monday if I'm not wrong, let's leave it till we get there, then we'll have that discussion.

[02:30:11] It's already in the scope of work, and so let's look at it at that time and concentrate on the items we have for this week and complete them. Secondly, on the issue of the using could or should under three, I believe the word the resolution talks about is talks about specific priority areas. It was very clear on that, and so it is something that the resolution has already outlined for us.

[02:30:40] It's not something that we are now reinventing, if I should put it that way. And so, again, I would prefer that we continue to use the should as we have been doing. There has been some calls to, for analysis. And for [02:31:00] us, our job is to come out with terms of reference. Any analysis that will involve negotiating anything would then be for the next committee to decide on.

[02:31:11] They will do the analysis as to which protocols they should work on, and which way, what they should, the negotiation should become about. All these things are really, um, if I should put it, for a later period. We are somehow putting the cart before the horse, and I believe if we continue that way, we won't finish the work we are supposed to do as a committee.

[02:31:34] Let's consider the things that involve the terms of reference and finish them. Then the next committee will go on with the negotiations and how they also go about their work. They will determine their scope of work matters. Thank you, Chairman. Thanks. Now[02:32:00]

[02:32:00] to the United Arab Distinguished Representative of United Arab Emirates. Thank you, Chair.

[02:32:12] Thank you, Chair. We agree with other delegates on replacing the word should with the word could in item three. And on the decision making point, uh, we are hearing different views whether it should be in the terms of reference or not. So we ask the secretariat to clarify this point on where it should be.

[02:32:33] Thank you.

[02:32:59] [02:33:00] Thanks, uh, United Arab Emirates. Uh, I will get back to your question because we answered it before, where decision making should be. But after just listening to our other colleagues. Now to our colleague from Kenya.

[02:33:20] The issue of decision making, um, At least from my understanding, what is coming out is that there may be a gap in the decision making of this particular ad hoc committee to draft the terms of reference. But in the organizational session, this is on, is an, is an issue that was discussed. And, um, this is what had led to the, the, the, the sentence in the outline and modalities of this committee saying that the ad hoc committee is thus a subsidiary body of the assembly and the rules of procedure of the assembly apply.

[02:33:53] So my question really is the outline and modalities of the work of of this committee. Is that not a formal [02:34:00] document that he has given proper guidance on how decision making is going to be done by this committee? Because I don't think that there is a gap in in our decision making process. I think that was covered from the organizational session.

[02:34:13] Thank you, Chair.

[02:34:18] Thanks. Yeah, and maybe, um So I think it's good to answer it right now. Actually, it's a blissful decision making as a general assembly. It's not as a committee. And this was Cliff clarified before with, uh, by the, uh, was it's good to it, uh, so, but it, it will, I'm not sure if it will go here as a committee.

[02:34:39] So it will give us all the basic rules of the, uh, UN, but again, if they wish it's okay, so it's usually decided in the general assembly meeting in which established the committee will decide about it. So this is just to answer the United Emirates and Kenya about where decision making is decided [02:35:00] about.

[02:35:00] And as you see now, the resolution, uh, general, uh, general assembly resolution for this committee, it was decided what's the decision making and it will be the same for the next committee. And the next committee, I think it's not too far from this committee. So like if, if someone is like worried about when, so it will be like one month, I think after this committee raise the report.

[02:35:22] So it's not too far that everyone will be clear about it if they want to change it can be changed there if not, so it will be the same as it is in the, uh, the basic rules off the United Nations. But let's listen to, uh, the rest of our colleagues. So now to the distinguished representative off United Kingdom.

[02:35:45] Thank you, Chair. Um, so I agree with what you just said. That is possible for the, the General Assembly will be able to set the, uh, decision making process for the Negotiating Committee and [02:36:00] that there will, there's also an opportunity in the organizational session of the Negotiating Committee to discuss decision making for that committee.

[02:36:10] What I'd say though is that, We in drafting the terms of reference have the opportunity to provide guidance to the negotiating committee on how it should undertake its decision making and will be presenting the draft terms of reference, uh, that the General Assembly can then can then take on board. So, um, what I would be suggesting is that as per the comments of lots of other members is worth having that discussion.

[02:36:41] As part of either the session that we're currently in or the second session, because of the fact that there are lots of different views on it and it will take time to resolve. But if we aren't able to resolve it as part of the terms of reference [02:37:00] drafting, it could be that we simply say that there.

[02:37:05] Decision the choice of decision making process will carry over to the General Assembly or to the organizational session of the negotiating committee. So what I'm saying is that we don't necessarily need to conclude the discussion about decision making while drafting the terms of reference. But we have the power to.

[02:37:31] Have that discussion and to set out guidance for the negotiating committee, and therefore it would be sensible, I think, to use that power and the time that we've got in this session on the second session to begin that discussion. Thank you. Thanks. You're asking them and, uh, yet maybe I, uh, to some extent, of course, I agree with you because.

[02:37:57] Also to be keen about the time [02:38:00] and the limited time given for the TR, this topic will be almost consumed to talk about it, just whether to, it's here or there, just talk about it. It was consumed half the period for the payroll period. I mean, between the organization session, uh, the first session, uh, So it's, it's time consuming.

[02:38:21] If it's open for discussion, I think it will consume all the time. While again, it's not, maybe it's the right place about it to decide how to wizard, to provide guidance or even to have in still are that to be discussed in the general assembly. Of course, this can be, I think, an option that again, we can, we can discuss, but going and diving in this, in this area, uh, it can consume the first session and second session and everything.

[02:38:42] Anyway, the second session is about the procedural part more. This session is about the scoping. So hopefully we'll be focused more in the scoping and in the we have just small part next Monday about the procedural part. Uh, hopefully it will not be consumed in the other because I think there's other [02:39:00] procedural things that very important also to agree.

[02:39:03] So, uh, almost now we, we took like the first half of the day just in this topic. Unfortunately, I will take just the last two. Uh, I think the last one from Germany and another two from organizations. And we need to close because now we are we exceed the time and we are going to convene again afternoon.

[02:39:22] But yes, it's very time consuming and unfortunately to say it's not the right place for it. But again, we are opening the floor all the time for everyone to see their opinion. So again, maybe it's a good thing that we have just slide amendments to the skeleton here or there's just in some wordings. Maybe we need just to agree upon it.

[02:39:45] And, uh, then we, I think we'll be fine with the skeleton, which is by itself, it's, it's a good news. So now, uh, moving to our colleague, Farron, Distinguished Director of Germany.[02:40:00]

[02:40:00] Thank you, Mr. Chair. Uh, Germany does not agree with the view that this attack committee would go beyond its mandate. by stating anything with regard to decision making. On the contrary, we strongly believe that this, this, this ad hoc committee would fall short in delivering according to its mandate if we were to spare out this part.

[02:40:23] Um, this is also because the underlying resolution has some references to decision making, um, acknowledging the importance of this, uh, and it, it, uh, would simply be fatal not to reflect on this important part. Uh, and I think the importance is also emphasized here in the room right now. Thank you.[02:41:00]

[02:41:14] Okay. So because that's one o'clock and I think we, we need to release the interpreters. So just, we have two interventions from the civil society, uh, and, and the wonderful organizations. So please, I will ask you to be very short about it because we need to finish and. So now to the Civil Society 8, which is Eurodebt.

[02:41:38] Thank you, Mr. Chair. I'll try to be quick. I speak on behalf of Eurodebt and the Civil Society Financing for Development mechanism. We're going to have a closer look at this document. We're a very big group, so we will come back with more detailed comments, but we just wanted to share our overall first reflections.

[02:41:57] We support to have the high level [02:42:00] commitments address issues beyond capacity building, and in fact, we question that capacity building would not be a controversial issue. There's also the question of when we don't have the new tax convention, what would you be building capacity on? So it seems odd to only commit to building capacity on a tax system that is yet to be defined.

[02:42:25] Um, Similarly, on the issue of high level commitments, when we're talking about early protocols, it's important to bear in mind that protocols implement commitments from the Framework Convention. So any issue we're discussing for a protocol should be reflected in a high level commitment in the convention.

[02:42:45] So we think it's very important to broaden this issue. A relationship with other agreements, we're not clear on what that means, but one thing we note is that we don't have any other UN body that addresses this issue. [02:43:00] So, uh, we think it's very important to, uh, To be clear on the fact that the other agreements adopted by the UN are, of course, important to consider, but we shouldn't carry over processes that have been non inclusive.

[02:43:14] And we wonder why the issue of principles is not addressed in the section that addresses the convention. This seems like a key issue for us. And, uh, lastly, on the issue of, uh, decision making, yes, we note that we were here in February and we spend most of the time discussing decision making. We're discussing it again.

[02:43:34] We're a committee under the General Assembly. We will be reporting back to a body that has majority decision making. So, even if we change the decision making here, we're still reporting back to the General Assembly with its rules of procedure. It's very clear that We don't have a mandate here to change the rules of procedure on the General Assembly.

[02:43:55] But of course, as we negotiate a UN Framework Convention, [02:44:00] as the Secretariat also highlighted last time, It's very normal and very appropriate to discuss the decision making procedures under that new body. But we would really urge delegates to remember that we have a huge task at hand in delivering these terms of reference.

[02:44:18] Please, let's not spend all the time discussing a decision making procedure that ultimately we will not have the mandate to change. So thank you very much.

[02:44:31] Thanks to the Stimsh representative of Eurodata. Uh, now to a tough. Thank you for giving us the floor again. Chair. We will quickly make interventional respects to decision making and then the issue raised by distinguished representative of Norway on analysis. On decision making, Chair, we are better served as a committee if we take things in context.

[02:44:56] And there are three contexts that we see this playing [02:45:00] out. Number one is the context of the current committee, the context of the incoming negotiating committee, and the context of the framework convention itself. So this is to say that the distinguished representative of Kenya and other colleagues have pointed out that for this committee, that decision has been made.

[02:45:21] It was made in January in the organizational section of this committee, so we can't go back there. Then, in the second context, I think it would be inappropriate. For this committee to seek to ban the incoming committee on the decision which they themself could ordinarily take in their own organizational section or a decision which could be impacted by a decision that have already been taken in the context of the, this very current committee, that is to say this is a subsidiary committee under the UN General Assembly.

[02:45:55] The rules of the general assembly will naturally apply. Then the third [02:46:00] context, Chair, is where I agree there may be need to discuss this. And that is in the context of the decision making mechanism that will guide the COP and the body to be established by the framework itself. And in that context, this same committee have no business discussing it.

[02:46:20] It is the committee to negotiate and elaborate the text of the Framework Convention that should sit and. Put that in and negotiate with parties at that instance as to what that is going to be. Moving to analysis, I, I believe That the UN General Secretary report provided in depth and, if you, if you agree, somewhat technical analysis as to the basis of the work that this committee will be doing.

[02:46:47] I have also had the privilege to look at the written input submitted by parties, and I see some sort of analysis also coming in from those work. So, To say that [02:47:00] this committee should institute a technical analysis mission so as to move forward, I beg to disagree with that. And I believe that if analysis is required, that should be reserved for the incoming negotiating committee, who I believe the work will be significantly more difficult than the work of this committee.

[02:47:22] Thank you, Chair. Thanks. It off. Thanks to all the members for your interventions and for your engagement and participation. Uh, the committee has concluded its were its program of work for this morning and we're gonna again reconvene at three p. m. in the same room. Thanks to everyone.