
*Comments from the Kingdom of the Netherlands on the 27 June 2025 drafts of
the Co Leads Draft issues notes*

Abstract

This written submission contains the comments from the Kingdom of the Netherlands on the published co-leads draft issues notes of workstream I, II and III of the Intergovernmental Negotiating Committee on the United Nations Framework Convention on International Tax Cooperation. In the general section we thank the co-leads of the workstreams and the secretariat for the work done to facilitate the discussions and for publishing a draft issues note for the separate workstreams and include some general remarks. In the paragraphs following the general section, we have some specific and concrete suggestions regarding the text of the Draft issues notes.

General remarks

We thank the co-leads and the secretariat for all the work that has been done to facilitate the discussions in the Intergovernmental Negotiating Committee and the preparation of the Draft issues notes. We appreciate the possibility to express our views on the Draft issues notes.

We would like to take this opportunity to reiterate that the Kingdom of the Netherlands supports any effort to enforce inclusive, effective and sustainable international tax cooperation. We are dedicated to contributing to the work of the Intergovernmental Negotiating Committee and above all, to ensuring that this important work results in broadly supported and effective outcomes. To achieve this, we recall paragraph 22 of the Terms of Reference that guide the Intergovernmental Negotiating Committee in drafting the Framework Convention to take into consideration ongoing and existing work of other relevant forums. Consistency with ongoing work and consensus achieved in international forums (such as the Inclusive Framework on BEPS and the Global Forum on Transparency and Exchange of Information for Tax Purposes) should guide the discussions in the workstreams, aiming to build on these strengths and engage in effective cooperation to ensure a synergistic approach to global tax challenges. We remain of the opinion that the Convention should seek to avoid duplication and fragmentation of work. At the same time, we actively support reforms to existing fora, such as the OECD/G20 Inclusive Framework, specifically aimed at strengthening their inclusivity and effectiveness through improved operating processes and governance. By doing so, the comfort and commitment to work towards a broadly supported outcome will be solidified.

We also believe that timely and transparent preparation of documents supports the inclusiveness and effectiveness of the process. It also helps to improve the quality of our discussions as it allows all participants to prepare and participate on an equal footing. In the following paragraphs you will find our suggestions and concrete drafting proposals on the Draft issues notes as referred to above.

On Workstream I

The workstream had extensive discussions on how specific the commitments in the Framework Convention should be formulated. Many participants were of the opinion that the commitments included in the Framework Convention should be high level commitments, to achieve a broadly supported outcome. We suggest to include this view in the issues note.

On §8 and 9: the final two sentences of §8 and the reference in §9 to “the relevant” could raise some questions which could be avoided by elaborating more on situations with and without a treaty. What could be the dispute and what could be the relevant solution in each of these cases.

On §12: as in other instances we object to the use of the word “eroded” in §12.

On §14: in the last sentence we believe “might” should be replaced by “will” as this is one of the main sources of disagreement in WSII.

On Workstream II

On §8: we propose to delete the part in parenthesis in the 3rd sentence ("even if...") as it seems ambiguous and partly incorrect to us.

On §10: we don't see the relevance of the first two sentences and do not think that the members of the Ad Hoc Group of Experts can be referred to as 'delegates' since all the experts that were part of this group were appointed in their personal capacity. We therefore propose to delete these sentences. The rest of the paragraph is factual and correct. If the first two sentences were to remain it seems fair to reflect that a minority of the Committee of Experts disagrees with the inclusion of articles 12AA, 8, 12B and 12C. We reiterate our proposal to refer to the net base (formulary apportionment) alternative in art 12B.

In § 11 we propose to change "they are prevented from imposing" to "they have agreed not to impose".

On §12: in the last sentence we repeat (and insist on) our proposal to add "where the services **or goods** are consumed".

In § 17 we insist on deleting the reference to possible low taxation in the residence state of the service provider. It is suggestive and not fact based.

In § 18 we repeat our suggestion to add "or where the goods are produced" after "where the services are physically performed".

On § 22: we strongly disagree with the first sentence as formulated. We could accept "The workstream will continue to consider whether consensus could be reached based on shared taxing rights with respect to services.. etc...".

On Workstream III

On § 22, we believe there is a reference missing at the end of the first and second sentence.

In § 28, we suggest to include a reference to the EU Arbitration Convention.