

Negotiating the UN Framework Convention – what next for the European Union?

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1. Introduction

For those following tax developments at the UN, February 2025 was always going to be an exciting time. The Organizational Session for the Intergovernmental Negotiating Committee for the UN Framework Convention on International Tax Cooperation was scheduled to take place from 3 to 6 February 2025.

The UN process till then had had its fair share of drama and disagreement. Even so, the first day of the Organizational Session gave delegates rather more than they had bargained for.

The Session began on a dramatic note: the representative of the United States read out a denunciation of the goals of the UN Framework Convention. He then announced that his country would play no further part in the discussions or negotiations. Not stopping there, he informed the stunned audience that the United States would oppose the outcomes of the Framework Convention, and called on others to join them in opposition. The United States then left the Session.

No-one took up the invitation. The United States walked out alone.

But might that change?

Given the European Union's growing dissatisfaction with the UN process, could it (and its Member States) also disengage at some point?

This article addresses that question.

Right from the beginning of the UN process, the European Union has taken a consistent stance. This has run thus: warm words of support for the UN process, a restatement of the European Union's commitment to fair and effective international tax cooperation, and a clear demand for certain key requirements. By and large, EU Member States have echoed this commitment to the UN process (see, for example, the written inputs by Belgium, the Czech Republic, Denmark, Estonia, Germany and Latvia for the First Session of the Ad Hoc Committee to Draft Terms of Reference for a United Nations Framework Convention on International Tax Cooperation).

The European Union has not wavered much from this stance. What has changed, though, is the temperature around the statement. While the expressions of support are still (almost routinely) made, the original warmth that surrounded those words has long since gone. In its place now is a sense of regret for how matters have proceeded, and an almost perceptible air of exasperation.

So, how did things get to this point, and what might the European Union do next?

This article addresses the European Union's approach to the current UN process, and, in particular, how the European Union has responded to two of its key requests not having been fully met. Although the European Union has professed its support for the work at the UN, will it finally run out of patience and follow the United States out the door?

A look back at events over 2024 will give us some insights.

2. The 2024 events

In December 2023, the UN General Assembly [established](#) an open-ended Ad Hoc Intergovernmental Committee to draft the Terms of Reference for a UN Framework Convention on International Tax Cooperation.

The Organizational Session of the Ad Hoc Committee took place from 20 to 22 February 2024.

The Organizational Session was followed by two substantive Sessions – the First and Second Sessions.

In the lead-up to the First Session, the UN called for written input from interested parties.

The written inputs submitted by EU Member States were similar in certain respects. Many of them requested the following:

- that the UN process should be consistent with the work being done at the OECD and the OECD Inclusive Framework, and that there should be no duplication of that work (see, for example, the written inputs submitted by Belgium, the Czech Republic, Denmark, France, Hungary, Ireland, Italy, Lithuania, Luxembourg, Malta, the Netherlands, Sweden and Spain); and
- that decision-making should be by consensus (see, for example, the written inputs submitted by the Czech Republic, Denmark, Estonia, France, Germany, Italy, Latvia, Luxembourg, Malta, Slovakia and Spain), rather than by majority voting.

These two issues would eventually lie at the heart of much of the European Union's disappointment with the UN process.

In April 2024, before the First Session, the Council of the European Union set out the [position](#) of the European Union and its Member States. Among other things, the European Union highlighted its desire for the process to avoid duplicating work being done elsewhere, and for consensus-based decision-making. These points were repeated by the European Union during the Session. The European Union [stated that](#) the Framework Convention should be "a valuable addition to the international tax environment avoiding inconsistent and competing lines of work".

This is, of course, a contentious position. It was precisely because of the shortcomings of the OECD Inclusive Framework process that developing countries (with the African Group at the forefront) pushed for matters to be brought to the UN. Many developing countries had envisaged a powerful role for the UN, one that went far beyond simply complementing the work of the OECD Inclusive Framework.

As such, the EU position was never going to be accepted by all.

The EU support for consensus-driven decision-making was not without merit. Throughout the UN process, the European Union has repeatedly championed consensus as the surest way of ensuring inclusiveness and effectiveness. It is also not lost on the European Union that a system of majority voting would likely give disproportionate weight to the interests of

developing countries, with potentially disadvantageous results for developed countries (including EU Member States). Given the sensitivity of the task facing the UN – i.e. balancing the competing interests of developed and developing countries within a new global tax framework – the choice of decision-making method had taken on great importance.

Even so, the EU mood music remained broadly positive. A few weeks after the First Session, the European Union [reaffirmed its support](#) for the UN process. However, it also mentioned some areas of concern, including what it saw as “the risk of overlap with the OECD’s two-pillar solution”.

Following the First Session, the Zero Draft Terms of Reference were published. There was again a call for written inputs.

In their written inputs on the Zero Draft, several EU Member States reiterated the need to avoid duplication (see, for example, the written inputs submitted by Belgium and Sweden), and for consensus-driven decision-making (see, for example, the written inputs submitted by Bulgaria, the Czech Republic, Denmark, Estonia, Slovenia and Spain).

By the time of the Second Session, a slight edge could be detected in the European Union’s language. Although still expressing support for the UN process, there were obvious signs of dissatisfaction. While acknowledging the substantial work done on the Zero Draft, the European Union re-emphasized the importance of consensus-based decision-making. It also restated its view that the UN work should be “as complementary and coordinated as possible with the ongoing work at other international fora”. In perhaps the first sign of the EU language beginning to harden, the European Union [warned that](#) UN process should “avoid inconsistencies or undermining” the work taking place elsewhere.

The outcome of the Second Session was not altogether to the European Union’s liking. The European Union’s key requests were not satisfactorily reflected in the Draft Terms of Reference. In a somewhat [forlorn Statement](#), the European Union expressed regret over that outcome. It had abstained on the vote on the Draft Terms of Reference, although it continued to support the UN process.

There was, by this stage, a noticeable hardening in the EU language. However, this was nothing compared to what was to come.

The Draft Terms of Reference having been adopted, they were submitted to the 79th Session of the UN General Assembly.

In what had by now become a familiar mantra, the European Union [expressed its broad support](#) for the UN process, while restating its key requests. However, it also expressed regret that the Terms of Reference did not address some of its key concerns.

In November 2024, the UN General Assembly Second Committee adopted the Terms of Reference. The European Union abstained on that vote.

This development brought us the sternest words thus far from the European Union. The European Union [warned that](#) its continued engagement with the UN process “must not be taken for granted”. It also mentioned its “serious outstanding reservations” and stated that its efforts to engage had been “met with distrust”. Although committing to the UN process, it stated that it had not ruled out withdrawing if its serious concerns were not addressed. It also stated that it would not, under any circumstances, accept simple majority voting for decision-making.

In December 2024, the UN General Assembly [established](#) the Intergovernmental Negotiating Committee, to develop the text of the UN Framework Convention on International Tax Cooperation, plus two early protocols. The Committee was

tasked to set up an Organizational Session in February 2025. That would then be followed by several substantive sessions.

And so, matters proceeded to the Organizational Session.

3. The 2025 events

Given the European Union's stern words about potentially disengaging from the process, in what spirit would it turn up for the Organizational Session?

The threat of disengagement already hung heavy in the air, and so perhaps the European Union did not see the need to dwell much on it. Rather, despite the earlier fighting talk, it turned up to the Session in a collaborative, and, one might say, hopeful mood.

As usual, the European Union reiterated its support for the UN process, while repeating its key requirements. On consensus-driven decision-making, the European Union upped the stakes, claiming that any other approach would "jeopardise the process". It also issued a gentle warning, not as stark as the November statement, but no less clear for all that: imposing simple majority voting for decision-making might affect the "willingness" of EU Member States to participate in the Convention.

And so, with those words, the European Union continued its engagement with the UN process. Despite the broad invitation from the United States to join in their walkout, the European Union stayed put.

Quite predictably, perhaps, the outcome of the Organizational Session was not entirely to the European Union's liking.

During the proceedings, a proposal for consensus-driven decision-making was put to the vote. It was roundly defeated. Certainly, the irony here (of a proposal essentially against majority voting being itself defeated by a majority vote) was not lost on the European Union.

Ultimately, the Committee decided that, on all matters of substance, every effort should be made in good faith to reach consensus, while considering the available time frame for negotiations. Failing that, decisions on matters of substance relating to a protocol would be taken by a two-thirds majority of members present and voting. Decisions on whether a matter is one of substance will be taken by a majority of members present and voting.

The European Union's comments on the Organizational Session were tinged with disappointment. In a statement during the Session, it voiced its dissatisfaction with the outcome of the Session. It stated that its time, energy and resources had not been utilized efficiently, and that it had been left with many unanswered questions. The European Union also stated that there were still some key elements missing, which, in its view, were essential for success. However, it expressed its commitment to the process.

4. Conclusion

For now, the European Union remains engaged in the UN process. However, it has made no secret of its disappointment.

The question now is, what happens next?

The European Union is clearly not satisfied with the outcome of the Organizational Session. Will this dissatisfaction grow even bigger during the upcoming Sessions? Take the decision-making method, for example: what will happen when this is

put to the test, as it surely will be? What will happen the first time the Committee finds itself using two-thirds majority to decide a matter of substance relating to a protocol? How much more disappointment will the European Union be able to take?

The jury is still out; time alone will tell.

IBFD references:

- > EU tax law developments are reported on the daily IBFD [Tax News Service](#) page.
- > For all relevant official documentation and IBFD resources on the UN Tax Framework Convention, see the [UN Tax Framework Convention Tax Dossier](#).
- > G.S. Mukundan, [The Illusion of Inclusivity: Analysing the Psychological Factors Affecting Developing Countries in Consensus-Driven International Tax Negotiations](#), 79 Bull. Intl. Taxn. 3 (2025), Journal Articles & Opinion Pieces IBFD.
- > B. Michel, [Driving a Hard Bargain: A Sneak Preview of the UN Framework Convention Negotiations](#), 37 (2024), Journal Articles & Opinion Pieces IBFD.