



For the kind attention of:

Mr. Ramy Youseff, Chair of the Ad Hoc Committee to Draft Terms of Reference for a United Nations Framework Convention on International Tax Cooperation

Cc: Permanent Representatives and Observers to the UN in New York

15 March 2024

**Subject: Joint civil society and trade unions submission in response to the call for inputs to the work of the Ad Hoc Committee to Draft Terms of Reference for a United Nations Framework Convention on International Tax Cooperation**

Your Excellency,

We, the undersigned over 140 civil society organizations and trade unions, strongly welcome the UNGA Resolution 78/230, including the work to develop a UN Framework Convention on International Tax Cooperation (FCITC). Furthermore, we appreciate the opportunity to submit inputs to the work of the Ad Hoc Committee to Draft Terms of Reference for a United Nations Framework Convention on International Tax Cooperation ('the Committee').

Please find below a joint submission on behalf of the Civil Society FfD Mechanism and all of the undersigned organizations and trade unions. The submission was coordinated by the Global Alliance for Tax Justice (GATJ), which facilitates the CS FfD Mechanism's Tax Justice Workstream with the support of one its members, the European Network on Debt and Development (Eurodad). GATJ is a Southern-led global coalition in the tax justice movement.

We remain at your disposal if you would like to receive more information, or would be very happy to meet to discuss this issue further.

Yours sincerely,

Civil Society Financing for Development Mechanism ([www.csoforffd.org](http://www.csoforffd.org))

## Submission

### Procedural elements

The FCITC must establish a fair, transparent and inclusive structure for global governance of international tax matters, including a **Conference of the Parties (COP)** and a **Secretariat**. Until now, there has not been any truly inclusive global tax forum where all countries are able to participate on an equal footing, and where the Secretariat is neutral and equally accountable to all countries. For this reason, it is also clear that there is no risk of duplication with other processes.

The FCITC could also establish the first **subsidiary bodies**. We suggest that the existing UN Expert Committee on International Cooperation in Tax Matters be incorporated as a subsidiary body of the FCITC. Furthermore, in order to monitor and support the implementation of the FCITC, we suggest the establishment of a UN public registry for tax and fiscal policies, a UN public registry for corporate transparency and a global asset register.

The FCITC should also address key points such as the **reporting requirements** of the Parties and **settlement of disputes**, as well as the issues of **enforcement and compliance**, including mechanisms to ensure effective implementation of the Convention.

Finally, although we believe that important lessons can be learned from **other international tax initiatives**, we stress the importance of ensuring that the FCITC is thoroughly anchored within the UN system and adheres fully to the rules, procedures and ways of working of the UN. All countries should participate on an equal footing, and the process should be Member-State led. While other international organizations can (and already do) participate as observers in the UN process, it is important to ensure that existing governance structures, which do not comply with the approaches of the UN, are not carried over into the FCITC. Furthermore, while tax standards that have been agreed in other (less inclusive) forums can be put forward for consideration within the UN process, they should not preclude any outcome of the negotiations.

### Substantive elements

#### Objectives, principles, scope, definitions and key obligations

The Terms of Reference (ToRs) should give a first outline of the following elements and key priorities, to be further elaborated in the future FCITC:

#### **Overall objectives:**

- Promoting international tax cooperation;
- Ensuring that tax systems are fair, equitable, progressive, transparent and effective;
- Combating tax-related illicit financial flows;

- Addressing the unfair allocation of taxing rights that disproportionately affects developing countries;
- Underlining the link between tax policies and the mission of mobilizing financing to fulfil international goals, obligations and commitments, including those related to human rights, gender equality, quality public services for all, promotion of well-being and quality of life, sustainable development and environmental protection, including climate action, as well as increasing equality within and between countries.

**Overall principles:**

- A principle stating that every State has the sovereign right to decide the policies and practices of its domestic tax system, and the responsibility to ensure that such policies and practices do not cause damage to, or undermine the effectiveness of, the tax base or system of any other State.
- A principle which balances the right to privacy with the right for citizens to access information of importance to assess the fairness, equitableness, progressivity, transparency and effectiveness of their domestic tax system, in addition to having in place structured mechanisms for citizens' engagement in tax policy processes.
- A principle underlining that the participation of civil society is essential, in line with Article 71 of the UN Charter as well as UNGA Resolution 53/144 and ECOSOC Resolutions 1993/80 and 1995/304.
- A principle which recognizes that the costs of pollution and environmental damage should be borne by those causing it, not those suffering its impacts (polluter pays principle).
- An international single tax principle, stating that persons, and multinational enterprises, should be taxed on their worldwide income at least once, and only once, and in line with where their real activities occur.

**Scope and key definitions, including, inter alia:**

- A reference to the formal UN statistical definition of 'illicit financial flows', explicitly including tax avoidance as well as tax evasion.
- Definitions of a 'corporate group' and 'corporate group control' in line with those developed by the Accountability Framework initiative.
- A specification that all types of taxation should be included within the scope of the FCITC, including those referred to as levies, duties, tariffs, etc.

In terms of **key obligations of states**, these should cover the same issues as are covered under the objectives and principles. Furthermore, the FCITC should obligate states to review any tax-related treaties that they have entered into, and to renegotiate or terminate any treaties

that go against their commitments under the FCITC. This will increase the coherence of the international tax system and ensure effective implementation of the FCITC.

### Cross-cutting issues

The ToRs and FCITC should capture:

- The links between **tax and gender equality**, and the importance of ensuring full and effective participation of women at all levels of tax policy making.
- The link between **tax and human rights**, including the obligations of states to ensure non-discrimination and substantive equality and to use the maximum available resources to ensure the fulfillment of human rights, as well as the extraterritorial duties of states to ensure that their actions do not lead to violation of people's rights abroad.
- **Ensuring that the FCITC promotes the achievement of the goals of other UN initiatives**, including, inter alia, the UN Framework Convention on Climate Change (UNFCCC), the Convention on Biological Diversity (CBD), the Sustainable Development Goals and the UN Human Rights Framework.

### Transparency-related provisions

The ToRs and FCITC should cover the following transparency-related topics:

- **Automatic information exchange (AIE)**. While a UN system for AIE can incorporate lessons learnt from existing systems, it is important to address the fundamental problems that have made it difficult for developing countries to benefit from such systems. For example, the UN system should incorporate a transition period in which developing countries can receive information on a non-reciprocal basis. The FCITC can also include mechanisms to ensure sharing of technology and capacity support for developing countries to introduce and administer effective systems to protect confidential data.
- **Public beneficial ownership registers**. Transparency around the ultimate ("beneficial") owners of companies and trusts is vital for combating tax evasion through anonymous shell-companies.
- **Public country by country reporting (CBCR) by multinational corporations (MNCs)**. Public CBCR is essential for assessing the fairness and effectiveness of the corporate tax system, as well as for identifying risks of tax avoidance by MNCs.
- **Transparency around tax incentives and exemptions**, including publication of reports on tax expenditures by all governments. This is critical to enable citizens and policy actors to jointly assess the benefits of tax incentives and exemptions awarded to MNCs in various jurisdictions.

## Tax-related provisions

The ToRs and FCITC should cover the following tax-related topics:

- **A fundamental reform of the international corporate tax system.** The failure of the transfer pricing system is costing governments hundreds of billions in lost tax income every year. The new FCITC should aim to replace this failed system with a new international corporate tax system that ensures that MNCs are taxed as coherent entities, on the basis of their global profit, and that a minimum effective corporate tax rate is introduced. The new corporate tax system must also include a fair reallocation of taxing rights between countries and ensure that corporations are taxed where business activity takes place. While the details of a new corporate tax system could be covered by a protocol, the FCITC itself should include the core approach of the system, as well as a mandate and timeline for concluding the negotiation of a protocol.
- **Taxation of cross-border services in a digitalized and globalized economy.** This area, which includes questions related to taxation of e-commerce and digital services taxes, is mentioned as a priority area in Resolution 78/230 (paragraph 6(e)). While the Resolution mentions this point in relation to development of early protocols, we would like to emphasize the importance of also including it as an essential and indispensable provision in the FCITC, which can then be further elaborated in a subsequent protocol.
- **Taxing the income and wealth of the richest.** The Addis Ababa Action Agenda (Resolution 69/313, paragraph 22) recognizes the need to build progressive tax systems that promote fairness. To reverse the decades of falling tax rates on the rich seen across many countries, and the rise in extreme inequality, the new FCITC should support countries in building fairer, more progressive tax systems that reduce inequality by taxing the income and wealth of the richest.
- **Effective taxation of extractives.** The importance of effective taxation of extractives at all levels is recognized in Resolution 78/230, reflecting that this is an issue which requires urgent attention. With this in mind, this issue should be included in the ToRs with a view to finding effective solutions, while giving special attention to the challenges faced by developing countries. Furthermore, consideration should be given to the rights and needs of communities impacted by extraction, the need to reduce inequalities, as well as to environmental sustainability.
- **Tax and Environment.** Article 6(b) of Resolution 78/230 underlines the importance of a holistic, sustainable development perspective that considers interactions with other important economic, social and environmental policy areas. Currently, the issue of environmental taxation, including windfall profit taxes for fossil fuel corporations, is emerging in tax discussions at the national, regional and global levels. With this in mind, we believe the ToRs should cover the issue of promoting progressive green taxes, which combine the pursuit of environmental objectives, including removing tax related fossil fuel and other harmful tax subsidies, and the aim to reduce inequalities;

- **Promotion of progressive taxation and intergovernmental actions in relation to all types of taxes**, including personal income tax, consumption taxes, withholding taxes, as well as the option of global tax initiatives.

### **Early protocols**

While Framework Conventions are designed to be complemented by protocols, it is important to note that they commonly include a number of substantive elements. During the negotiation of the new FCITC, governments should cover all key overall components of international tax cooperation, and the provisions of the FCITC should be as precise and specific as possible. However, in order to avoid agreement on the overall FCITC being held up by specific issues that require more in-depth negotiation, such issues can be identified as topics for protocols. The negotiation of such protocols can commence immediately after the adoption of the FCITC, and be given a specific deadline for completion. Some topics of future protocols can be identified in the FCITC itself, as has for example been done in Article 19.3 of the CBD.

### **The Committee process**

#### **Participation of civil society organizations (CSOs) and trade unions**

We welcome the adoption of Annex 2 during the first negotiation session in February 2024 and stand ready to make our contribution. In that context, we would like to highlight the importance of ensuring that the participation of CSOs and trade unions is fully inclusive and effective. All negotiation sessions should be transparent, with civil society provided an opportunity to be self-organized and to make statements from the floor.

#### **Transparency of the negotiations**

International taxation is an issue of high interest to the public, and we underline the importance of ensuring that the negotiations in the Committee are fully transparent. We therefore find it important that all intergovernmental negotiating sessions are live-streamed on UN Web TV.

#### **Participation of developing countries**

Lastly, we stress the importance of ensuring support for effective participation of developing countries, including the possibility of sending experts from their capitals to participate in the negotiations. We note that other UN processes have specific mechanisms set up for this purpose – such as the Trust Fund for Participation in the UNFCCC Process – and suggest consideration of similar mechanisms for the Committee process. We believe support for developing country participation should go through the UN Secretariat, and call on all developed countries to support such a mechanism.

## Signatories

1. 11.11.11	Belgium
2. ACT Alliance	International
3. ActionAid International	International
4. Active Citizenship Foundation	The Philippines
5. African Women's Development and Communication Network (FEMNET)	International
6. AfroLeadership	Africa
7. All Nepal Peasants Federation	Nepal
8. Alliance Sud	Switzerland
9. Alternative Information & Development Centre	South Africa
10. Amnesty International	International
11. APIT	Portugal
12. Asia Initiatives	United States
13. Asian Peoples' Movement on Debt and Development (APMDD)	Asia
14. Asociación Mujeres Emprendedoras de Alta Verapaz MEAV	Guatemala
15. Aspafrique-Jics	Togo
16. Association For Promotion Sustainable Development	India
17. Association pour l'Integration et le Developpement Durable au Burundi, AIDB	Burundi
18. Attac Austria	Austria
19. Bangladesh Krishok Federation	Bangladesh
20. Bantay Kita - Publish What You Pay Philippines	Philippines
21. Bench Marks Foundation	Southern Africa
22. Breaking the Wall of Silence (BWS)	Namibia
23. Campaign of Campaigns	International
24. Candid Concepts Development	Caribbean
25. CCFD-Terre Solidaire	France
26. Center for Economic and Social Rights (CESR)	International
27. Center for Good Governance and Peace	Nepal
28. Center for New Economic Order (CNEO)	Japan
29. Centre for Human Rights and Climate Change Research	Nigeria
30. Centro de Estudios de Derecho, Justicia y Sociedad - Dejusticia	Colombia
31. Cholistan Development Council	Pakistan
32. Christian Aid	United Kingdom
33. Christian Council of Mozambique	Mozambique
34. Civil Society Information Centre Namibia	Namibia
35. Climate Strategy	Spain
36. COAST Foundation	Bangladesh
37. Comision Nacional de Enlace	Costa Rica
38. Consejo de Jóvenes de Oaxaca - México	México
39. Council of Churches in Namibia	Namibia
40. CRASH - Coalition for Research and Action for Social Justice and Human Dignity	Finland
41. Creatura Think & Do Tank ry	Finland
42. Croatian Platform for International Citizen Solidarity	Croatia
43. Crofter Foundation	Pakistan
44. Desk for Social Development of the Evangelical Lutheran Church in the Republic of Namibia	Namibia

45. DISABILITY PEOPLES FORUM UGANDA	Uganda
46. DoTheDream Youth Development Initiative	Nigeria
47. DUKINGIRE ISI YACU (DIY)	Burundi
48. EJN of FOCCISA	South Africa
49. Equidad de Género: Ciudadanía, Trabajo y Familia	México
50. European Network on Debt and Development (Eurodad)	Europe
51. EUROPEAN NETWORK ON INDEPENDENT LIVING	Belgium
52. Feminist Task Force	International
53. Financial Justice Ireland	Ireland
54. Financial Transparency Coalition	International
55. Finnish Development NGOs Fingo	Finland
56. Finnish Evangelical Lutheran Mission / Felm	Finland
57. Finnwatch	Finland
58. Focus on the Global South	Asia
59. Freedom from Debit Coalition	The Philippines
60. Fundación InternetBolivia.org	Bolivia
61. Gender and Development Network (GADN)	United Kingdom
62. Gender and Economics Research Center NPGE	Brazil
63. Gestos	Brazil
64. Global Alliance for Tax Justice (GATJ)	International
65. Global Call to Action Against Poverty (GCAP)	International
66. Global Policy Forum	International
67. Global Redistribution Advocates	International
68. Green Tax Youth Africa	Ghana
69. Greenpeace	International
70. GRUPO NACIONAL PRESUPUESTO PUBLICO	Peru
71. Indian Social Action Forum	India
72. Indigenous Peoples Global Forum for Sustainable Development, IPGFforSD	International
73. Indonesia for Global Justice (IGJ)	Indonesia
74. Initiative for Social and Economic Rights (ISER)	Uganda
75. Initiatives for Dialogue and Empowerment through Alternative Legal Services (IDEALS)	The Philippines
76. Institute for Economic Justice	South Africa
77. Instituto de Estudos Socioeconômicos - Inesc	Brazil
78. International Budget Partnership (IBP)	International
79. IT for Change	India
80. Kisan Karkeela Organization	Pakistan
81. KULU-Women and Development (KULU)	Danmark
82. Labor Education and Research Network	The Philippines
83. Labour Education Foundation	Pakistan
84. Latindadd	America Latina y El Caribe
85. LDC Watch	International
86. Make Mothers Matter (MMM)	International
87. Malawi Economic Justice Network MEJN	Malawi
88. Mines mineral and people	India
89. Misère Option Zéro (MOZ)	Togo
90. mm&P ( mines,minerals & PEOPLE)	India
91. Mothers pride and development initiative	Nigeria
92. Nadi Ghati Morcha-India	India
93. NANGOF Trust	Namibia
94. National Campaign for Sustainable Development Nepal	Nepal
95. National Hawkers Federation India	India
96. National Union of Namibian Workers, NUNW	Namibia
97. Nawi Afrifem Macroeconomics Collective	Africa



98. Norwegian Church Aid	Norway
99. Norwegian Forum for Development and Environment	Norway
100. Observatoire-OISHC	Togo
101. Oriang Women's Movement	Philippines
102. Oxfam	International
103. Pakistan Fisherfolk Forum	Pakistan
104. PRAKARSA	Indonesia
105. Raising Hope initiative Uganda	Uganda
106. Red de Justicia Fiscal de America Latina y El Caribe	America Latina y El Caribe
107. Refocus Consulting	Canada
108. Réseau Action Climat France	France
109. SENTRO Labor (Philippines)	The Philippines
110. Sherpa	France
111. Siemenpuu Foundation	Finland
112. SocDevJustice	Germany
113. Society for International Development (SID)	International
114. SOMO	Netherlands
115. South Asia Alliance for Poverty Eradication (SAAPE)	Nepal
116. Southern Eastern Africa Trade Information and Negotiations Institute (SEATINI-Uganda)	Uganda
117. Stamp Out Poverty	United Kingdom
118. Success Capital Organisation	Botswana
119. TAFJA Nepal, Food Sovereignty and Climate Justice Forum	Nepal
120. Tameer e Nou Women Workers Organization	Pakistan
121. Tax and Fiscal Justice-Asia (TAFJA)	Asia
122. Tax Justice Alliance - Uganda	Uganda
123. Tax Justice Aotearoa New Zealand	New Zealand
124. Tax Justice Europe	Europe
125. Tax Justice Netherlands	Netherlands
126. Tax Justice Network	United Kingdom
127. Tax Justice Network Africa	Africa
128. Tax Justice Norway	Norway
129. Third World Network	International
130. Trade Union Solildarity Center of Finland	Finland
131. Transparency International Slovenia	Slovenia
132. Vienna Institute for International Dialogue and Cooperation (VIDC)	Austria
133. VIVAT International	United States
134. WEED - World Economy, Ecology & Development	Germany
135. Wemos	Netherlands
136. WIDE - Network for women's rights and feminist perspectives in development	Austria
137. Women Engage for a Common Future - WECF International	Netherlands
138. Women's Environment and Development Organization (WEDO)	International
139. Women's Working Group on Financing for Development	International
140. World Communion of Reformed Churches	Germany
141. Young Women's Leadership Institute (YWLI)	Kenya
142. Youth for Tax Justice Network	Eastern & Southern Africa
143. Youth for Tax Justice Network	Uganda
144. ZIMCODD	Zimbabwe