



Ad Hoc Committee to Draft Terms of Reference for a United Nations Framework Convention on International Tax Cooperation

The undersigned organizations welcome the opportunity to input on the zero draft for the terms of reference (ToRs) of a United Nations Framework Convention (the Convention) on international tax cooperation.

We welcome the Committee's ongoing work and this opportunity to redress discriminatory and regressive international tax rules. This submission reiterates the need to align the Convention ToRs and subsequent protocols with human rights standards. Human rights should be a foundation of the Convention and language regarding the link between taxation and maximum available resources, together with extraterritorial obligations, should be strengthened. The human rights principles of non-discrimination, participation, transparency, accountability, fairness, and solidarity should guide the ToRs.

1. Introducing human rights and sustainable development

We welcome the zero draft's references to sustainable development and related goals: paragraph 7c identifies a purpose of the Convention as "Establishing an inclusive, fair, transparent, efficient, equitable, and effective international tax system for sustainable development," and paragraph 9 states international tax cooperation efforts should "take a holistic, sustainable development perspective that covers in a balanced and integrated manner economic, social and environmental policy aspects" and should likewise "ensure fairness in allocation of taxing rights under the international tax system that contributes to achieving sustainable development."

This connection between international tax cooperation and sustainable development is welcome, and a significant advancement in the understanding of international tax cooperation. It also reflects concerns and priorities expressed by stakeholders during previous stages of the procedure. For example, the [Center for Economic and Social Rights' prior analysis](#) of member-states' submissions identified an appreciation for the linkages between international tax, climate mitigation, and sustainable development. 36 out of the 49 member state responses referenced the importance of an efficient international tax system

to support the achievement of developmental goals through resource mobilization and/or other means.¹

While these robust references to sustainable development should remain in the ToRs, human rights should also be explicitly referenced as a purpose of the Convention. Human rights are one of the fundamental pillars of the UN², and should therefore be essential to the Convention.

Stakeholders also recognized the importance of the interconnection between tax and human rights in previous stages of this process. The joint civil society and trade unions submission received 144 signatories. While the zero draft makes one explicit mention of “human rights” in paragraph 9, it does so only to restrain States' prerogatives within the Convention and to protect a discrete group of taxpayers, rather than to protect all rights holders equally.

Clear inclusion of human rights as a binding framework for the Convention is vital. All member states are bound by obligations set out in ratified human rights treaties, making human rights standards a critical benchmark for evaluating tax systems. Furthermore, human rights underscore the imperative of international tax cooperation: to address disparities within and between nations and to ensure governments possess the necessary resources to uphold human rights.

Emphasis on human rights language within the Convention is especially necessary given the increasing relevance of the intersection between human rights and taxation, particularly within the UN.³ The UN Committee on Economic, Social and Cultural Rights [noted](#) that corporate tax evasion undermines governments' obligations to prevent human rights abuses linked to business activities, even beyond their borders. Similarly, the Committee on the Elimination of All Forms of Discrimination against Women has [criticized](#) financial secrecy laws and inadequate corporate reporting standards as contrary to states' human rights responsibilities under international treaties. Recently, multiple UN experts have [raised concerns](#) that OECD tax reforms may violate human rights law by rolling back economic and social rights progress and conflicting with the Convention on the Elimination of All Forms of Racial Discrimination. We are concerned that the ToRs only mention human rights as a counterweight to taxpayer transparency and accountability, which is inappropriate and undesirable.

Because of this crucial relevance of human rights in the international tax realm, we restate our recommendation that the ToRs include resourcing and realizing human rights as key goals of the Convention. Human rights standards should also be listed as guiding and interpretative principles of the Convention. A just tax system is fundamental for mobilizing the necessary resources to uphold human rights and combat inequality.

¹ See <https://cesr.org/setting-the-stage-an-in-depth-analysis-of-the-103-submissions-to-the-untc/>

² UN charter, Preamble, art. 1.3; Universal Declaration of Human Rights, *inter alia*.

³ See <https://www.ohchr.org/en/press-releases/2022/11/human-rights-experts-support-call-un-tax-treaty>

2. Strengthening references to States' extraterritorial obligations

We are pleased to note multiple references to States' extraterritorial commitments in the zero draft. Paragraph 9 recognizes States' "responsibility to ensure [their] policies and practices do not undermine the effectiveness of the tax base or system of other Member States." Similarly, paragraph 22 directs States to assist in ensuring the full and effective participation of developing countries. While we welcome the recognition of states' extraterritorial responsibilities and believe they should be maintained in the ToRs, this language should be enhanced to make clear that states have extraterritorial obligations under human rights law. These include obligations to cooperate internationally, not to undermine other states' ability to raise maximum available resources, and to create an international environment enabling the realization of human rights. These obligations differ depending on states' resources, following the common but differentiated responsibilities and respective capabilities.

States' extraterritorial obligations under international law derive from the articles of the UN Charter, Article 22 of the Universal Declaration of Human Rights (UDHR), and the International Law Commission's Articles on State Responsibility (articles 16-18). The Maastricht Principles on Extraterritorial Obligations, strengthen these standards by unequivocally prohibiting states from facilitating or benefiting from transnational tax evasion, avoidance, or mitigation practices carried out by resident multinational corporations or high-net-worth taxpayers. Such practices result in substantial revenue losses, thereby diminishing fiscal capacity in other countries.

Incorporating mentions of states' extraterritorial obligations in the ToRs is essential because the international tax regime inherently extends beyond national borders. Tax policies implemented by one state can significantly impact others. Failing to acknowledge extraterritorial responsibilities may enable states to evade accountability for the substantial economic harm inflicted on the global community. Thus, we propose clarifying that Member States are bound by "extraterritorial obligations" rather than mere "responsibility," ensuring their policies and practices do not undermine the tax base or system of other Member States. This includes refraining from actions that diminish another State's ability to mobilize resources necessary to fulfill their human rights obligations. We reiterate our proposal that the Convention include a commitment to conducting assessments of the extraterritorial effects of decisions that may restrict the fiscal space of other Member States.

3. Commitments on taxation and environmental and climate challenges

We welcome the references to the nexus of climate and tax in the zero draft. Paragraph 10 states the Convention should include commitments to "ensuring that tax measures contribute to addressing environmental challenges", while paragraph 15 mentions the possibility of a future protocol under the Convention dealing with "tax measures on environmental and climate challenges". This nexus was recognized as a key priority by numerous stakeholders. Member state inputs to the Convention emphasized the issue, with

13 member state inputs explicitly referencing environmental taxation and ideas such as carbon pricing, carbon credits, and trading. The ToRs should maintain and reinforce the climate agenda's prioritization.

The Convention should include explicit references to human rights standards that environmental tax measures should observe. Standards such as the international legal principle of “common but differentiated responsibilities and respective capabilities” and the polluter pays principle, set forth by the 1992 UN Rio Declaration and the UN Framework Convention on Climate Change (UNFCCC), recognize that states which produce and have historically produced higher carbon emissions should bear a greater portion of the costs for managing their deleterious effects. This principle aligns with existing references in the zero draft that recognize differentiated capacities, responsibilities, and obligations of different member States.

The ToRs should also reflect [Article 2.1\(c\) of the Paris Agreement](#), which requires Member States to “make finance flows *consistent* with a pathway towards low greenhouse gas emissions and climate-resilient development”; and Article 9 which established that “Developed country Parties shall provide financial resources to assist developing country Parties with respect to both mitigation and adaptation in continuation of their existing obligations under the Convention”.

4. Strengthening commitments to equality, gender equality, and tax progressivity

We welcome the introduction in paragraph 10 on “effective taxation of high-net worth individuals” as an issue to be covered in the Convention, and paragraph 14's that “taxation of high-net worth individuals” be one of the early protocols. These commitments to equality and tax progressivity are vital given unprecedented levels of inequality in our global economy.

Equality and non-discrimination should be included as guiding principles to the Convention. These would guide the interpretation of measures taken in the Convention towards those goals, and not only those related to high-net worth individuals, but especially women and other disadvantaged groups. These are core UN Charter and UDHR principles that “all are equal before the law and are entitled without discrimination to equal protection” (article 7), and have subsequently featured in almost every major human rights instrument⁴. Authoritative interpretations of these provisions have argued for tax policies that are progressive and socially equitable.

⁴ Including the International Covenant on Civil and Political Rights (Art. 26) and the International Covenant on Economic, Social and Cultural Rights (Art. 2). There are also treaties written for the purpose of outlawing discrimination, such as the Convention on the Elimination of All Forms of Discrimination against Women.

We are concerned with the lack of language in the ToRs regarding the intersection of taxation, women's rights and gender equality. Gender inequality and discrimination are exacerbated by gender-blind tax negotiations and policy design. As a result, gender-based inequality in property ownership, wealth, enterprises, and offshore capital income is widespread and exacerbated through current tax regimes. Equally, women's disproportionate burdens of unpaid care and domestic work are persistent and have implications for work patterns, access to services, and social security mostly not considered in tax policies. This unpaid care and domestic work amount to the largest unrecognized subsidy provided to the economy. Integrating gender equality and human rights commitments made in the UN Convention on the Elimination of all forms of Discrimination Against Women is paramount to achieving the elimination of bias against women and girls in fiscal policies and legislation. The ToRs must provide the basis for a binding policy and regulatory framework that will redress the gendered impacts of regressive taxation and tax abuse (including IFFs, profit-shifting, and the unequal distribution of taxing rights).

Automatic exchange of information in international tax cooperation and a global asset register are crucial for enhancing transparency to make taxation of high-net worth individuals and corporations effective; therefore combating tax evasion and avoidance, and ensuring that taxpayers comply with their tax obligations across borders. The ToRs should be ambitious in enabling greater resourcing and alignment of gender equality and human rights through fiscal systems and tax cooperation.

5. Upholding participation in negotiations

Finally, groups affected by fiscal decisions have a fundamental right to meaningfully participate in the process by which those decisions are made. This is critical for historically disadvantaged groups and countries, disproportionately impacted by the rules that the Convention seeks to change.

We note with concern that the zero draft has no reference to participation, and propose this be corrected with explicit reference to democratic tax procedures in the upcoming negotiations. Inputs from civil society and other stakeholders were crucial in earlier stages of the negotiations, and the opportunity to engage meaningfully should be upheld until the end of negotiations (with an explicit reference included in paragraphs 19-20), as well as within the Convention's procedural elements (with an explicit reference to it in paragraph 13).

We thank the Committee for its work, and are available to provide further information as needed.

Sincerely,

Center for Economic and Social Rights

Southern and Eastern Africa Trade Information and Negotiations Institute

Tax Justice Alliance - Uganda

Financial Transparency Coalition

Women's Environment and Development Organization

Observatoire Tunisien de l'Economie

Centro de Derechos Económicos y Sociales

Christian Aid

Tax Justice UK

War on Want

Amnesty International

Global Campaign for Education

ActionAid International

Tax Justice Network

EmpowerAfrica Youth Network

MENAFem Movement for Economic, Development and Ecological Justice

Wemos

Mouvement Gabonais pour la Promotion de la Bonne Gouvernance

Green Economy Coalition

Oxfam

Integrated Social Development Centre (ISODEC)

Projekta

Norwegian Forum for Development and Environment

RÉSEAUX MAURITANIE DES PERSONNES VIVANT AVEC LE VIH SIDA

EquityBD

GRADE The Universities of St Andrews and Leicester

The Alternative Project

Global Alliance for Tax Justice Tax and Gender Working Group, Steering Committee, and Feminist Legal Studies Queen's, Queen's University, Ontario Canada

TaxEd Alliance

Brazilian Campaign for the Right to Education

Climate and Community Project

Kisora Kenya

Centre for Health Science and Law