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Through the Chair, Mr. Ramy M. Youssef

Bureau's Proposal for Zero Draft Terms of Reference for a United Nations Framework Convention on International Tax Cooperation

Date : 18 June 2024

Dear Mr. Youssef,

We appreciate the opportunity to contribute to this important process and commend the committee for its efforts in developing the draft Terms of Reference.

Our comments focus on two key areas: the principles that should guide the framework convention, and the substantive elements that should be included in the convention itself. We believe that addressing these issues is essential for creating a fair, equitable, and sustainable international tax system that benefits all countries, particularly developing nations.

In the next two pages, we propose the inclusion of three additional principles in Section 9 of the Terms of Reference. These principles recognise the value of data as an economic asset, ensure a fair and equitable distribution of taxing rights over commercialised data, and promote the use of public data for R&D purposes while ensuring a fair return to the public. We believe that incorporating these principles will help the framework convention address the challenges posed by the digital economy and ensure that all countries can benefit from the value generated by data-driven activities.

Furthermore, we propose that Section 10 of the draft Terms of Reference include a commitment to exploring the establishment of a global wealth fund as a means of effectively taxing high net worth individuals (HNWI). By requiring HNWI to contribute a portion of their global wealth to a centralised fund, the framework convention can create a mechanism for pooling and redistributing tax revenues among countries in a fair and equitable manner. This approach would help to promote global tax justice, reduce inequality, and support sustainable development efforts, particularly in developing countries.

We believe that incorporating these proposals into the draft Terms of Reference will significantly strengthen the UN framework convention on international tax cooperation and contribute to the development of a more inclusive, equitable, and sustainable international tax system.

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Principles

The rapid growth of the digital economy and the increasing value of data as a key economic asset have created new challenges for international taxation. Multinational corporations (MNCs) are able to collect, analyse, and monetise vast amounts of personal and non-personal/public data from users across the globe, often without adequately compensating the countries where the data originates.
This includes not only data generated through the use of their own platforms and services but also public data that is made available by governments and other public institutions for R&D purposes. While the use of public data by private entities can drive innovation and economic growth, it is crucial that the benefits derived from the commercial use of this data are fairly shared through effective taxation.

To consider these tech driven economic realities, we propose the ad hoc IGC consider the following for inclusion under section 9:

1. Recognising the value of data as an economic asset:
The Principles section should explicitly recognise the value of data as a key economic asset in the digital economy. This includes acknowledging that data is a valuable resource that can be collected, analysed, and monetised by MNCs, and that the value created from data should be subject to fair and effective taxation. By recognising the economic significance of data, the framework convention can help to ensure that countries, particularly developing countries, can assert their taxing rights over the value generated from data-driven activities within their jurisdictions.

2. Ensuring a fair and equitable distribution of taxing rights over commercialised data:
The Principles section should emphasise the importance of ensuring a fair and equitable distribution of taxing rights over commercialised data. This includes developing new principles and rules for allocating taxing rights over the value generated from data-driven activities, taking into account factors such as the location of users, the volume and quality of data collected, and the extent to which the data is monetised by MNCs. By promoting a fair and equitable approach to taxing commercialised data, the framework convention can help to address the current imbalances in the international tax system and ensure that all countries, particularly those in developing countries, can benefit from the value created by the digital economy.

3. Promoting the use of public data for R&D purposes and ensuring a fair return to the public:
The Principles section should recognise the importance of ensuring a fair return to the public when private MNCs use public data for commercial R&D purposes. This includes acknowledging that public data is a valuable resource that has been generated through public investment and should be used for the benefit of society as a whole. When private MNCs use public data to develop new products, services, or technologies that generate significant profits, it is essential that a portion of these profits is returned to the public through fair and effective taxation. The framework convention should, therefore, include principles and mechanisms for ensuring that the commercial use of public data by private MNCs is subject to appropriate taxation, and that the revenues generated from this taxation are used to support public goods and services, particularly in developing countries and local communities that have contributed to the generation of the data.

Substantive elements of the Framework Convention

Section 10 of the zero draft Terms of Reference acknowledges the importance of effectively taxing HNWI. Given the global nature of HNWI wealth, it is imperative that the framework convention commit to ensure that HNWI contribute their fair share to the countries where they derive their wealth.

The establishment of a global wealth fund represents a promising solution to this challenge. By requiring HNWI to contribute a portion of their global wealth to a centralised fund, the framework convention can create a mechanism for pooling and redistributing tax revenues among countries in a fair and equitable manner. This approach would help to address the difficulties associated with attributing HNWI wealth to specific jurisdictions and ensure that all countries, particularly developing nations, receive a fair share of the tax revenues generated by HNWI economic activities.

The global wealth fund would operate alongside existing national tax systems, complementing rather than replacing them. HNWI would continue to be subject to domestic tax laws, but their contributions to the global wealth fund would be credited against any domestic tax liabilities to avoid double taxation. This would ensure that the fund does not unduly burden HNWI while still securing their fair contribution to the countries where they generate their wealth.

The allocation of revenues from the global wealth fund should be guided by a set of agreed-upon principles that take into account factors such as the location of HNWI assets, the countries where HNWI derive their wealth, and the relative economic needs of different nations. Special consideration should be given to developing countries, particularly those in Africa, to ensure that they receive a fair share of the tax revenues generated by HNWI wealth. This would help to promote global tax justice, reduce inequality, and support sustainable development efforts in these countries.

By including a commitment to exploring the establishment of a global wealth fund in Section 10 of the Terms of Reference, the UN framework convention on international tax cooperation can take a significant step towards addressing the challenges associated with taxing HNWI effectively and ensuring a fair distribution of tax revenues among countries.

We thank you for opening the discussion on the draft Terms of Referenc for public engagement.