

Bogotá, Colombia. June 21, 2024

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

Subject: Comments on zero draft Terms of Reference for a United Nations Framework Convention on International Tax Cooperation

1. General considerations

We applaud the zero draft Terms of Reference (ToR) as a solid foundation for negotiations. We believe it effectively includes the essential elements needed for a United Nations Framework Convention on International Tax Cooperation (Framework Convention). The draft represents a strong basis for fulfilling the mandate of the Ad Hoc Committee under Resolution 78/230.

We particularly support the inclusion of early protocols simultaneous with the negotiation of the Framework Convention, as this would allow for significant progress in advancing international tax cooperation.

Additionally, we endorse the consolidated comments sent to His Excellency, both by the Initiative for Human Rights in Fiscal Policy and by the Joint Civil Society and Trade Unions.

2. Specific Comments

We agree prima facie with the principle proposed according to which all efforts to make international tax cooperation fully inclusive and more effective “*require transparency and accountability of all taxpayers, while respecting the rights to privacy and other fundamental human rights.*” We agree that the search of transparency and accountability must respect human rights, including the right to privacy. However, we are worried that an overprotection of privacy, combined with a very broad definition

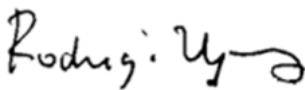
of privacy in tax matters, might undermine all efforts to achieve tax transparency, as some business or wealthy persons tend to consider that any tax information is sensitive and personal and thus protected by privacy.

Besides, some courts (such as the Grand Chamber of the Court of Justice of the European Union (“CJEU”) in the joint cases C 37/20 and C 601/20) have developed a too strict protection of privacy in fiscal matters, that are undermining important efforts to combat tax fraud, especially because some States have gone even beyond the ruling of the CJEU in the protection of privacy. Thus, we think that the draft should find language and rules for an adequate harmonization of protection of privacy and the achievement of effective accountability and transparency.

For instance, the draft should recognize clearly (which goes in the spirit of the CJEU ruling) that civil society and media have a legitimate interest in accessing the data and should also stress the critical role that independent actors, like investigative media and civil society organizations play in fighting money laundering and promoting financial integrity.

We remain at your disposal should you require further information and contributions.

Sincerely,



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