



To: 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

21 June 2024

Subject: Save the Children International comments on zero draft Terms of Reference for a United Nations Framework Convention on International Tax Cooperation

Mr. Youseff,

Save the Children International strongly supported the adoption of A/RES78/230 and Member States' commitment to develop a UN Framework Convention on International Tax Cooperation (FCITC). We also greatly welcome para 4 of that Resolution enabling civil society's contribution to the process and the modalities set out in Annex II of A/AC.295/2025/2 agreed during organizational session of the open-ended ad hoc intergovernmental committee.

In light of those modalities, and the invitation included in your letter dated 7 June 2024, Save the Children is pleased to submit the attached comments on the zero draft of the Terms of Reference of the FCITC. As you will see, we add our support to many of the inputs outlined in the joint submission by the Global Alliance for Tax Justice (GATJ) and the submission's undersigned organizations and trade unions.

Yours sincerely,

Mohamad Alasmar, UN Representative and Director, New York Advocacy Office
Save the Children International

Save the Children International's Written Comments on the Zero Draft Terms of Reference for a United Nations Framework Convention on International Tax Cooperation

Save the Children welcomes the zero draft Terms of Reference and offers the below comments and suggested revisions. In particular, we call for greater recognition of and emphasis on States' human rights obligations, including extraterritorial obligations, and the linkages between taxation and mobilizing resources for the fulfilment of those obligations and addressing inequality.

Preamble

In addition to the included resolutions, the preamble should also reflect obligations under international law, including international human rights law.

We suggest adding:

"It should reflect that it is guided by the purposes and principles of the Charter of the United Nations, including full respect for international law, and it is grounded in the Universal Declaration of Human Rights, in international human rights treaties, and informed by other instruments such as the Declaration on the Right to Development." (Based on the 2030 Agenda for Sustainable Development)

Objectives

We suggest revising para 7a as follows:

a. Set out the fundamental principles that ensure the full inclusiveness and effectiveness of the international tax cooperation, on the basis of equality of all states, in terms of substance and process.

We echo suggested edits made in the joint submission by GATJ to para 7, subparas b and c, and offer an additional amendment on 7c to reflect human rights.

"b. Establish a system of governance for international tax cooperation capable of responding to existing and future tax and tax-related challenges on an ongoing basis, while respecting the tax sovereignty of each Member State and emphasizing that taxation is a key tool for governments to fulfil international goals, obligations and commitments, including those relating to human rights, environmental protection, equality, including gender equality, and sustainable development;"

*“c. Establish an inclusive, fair, transparent, efficient, equitable, and effective international tax system for sustainable development **and the fulfillment of human rights**, with a view to enhancing the legitimacy, certainty, resilience, and fairness of international tax rules, while addressing **inequalities within and among countries**, tax-related illicit financial flows and other challenges to strengthening domestic **and international** resource mobilization.”*

Principles

We support the elements of principals currently included and suggest the following amendments and additions, including many from the aforementioned joint submission:

Amend current principles to reflect the following:

- *Be universal in approach and scope and should fully take into account the different needs, priorities, and capacities of all countries, in particular **developing** countries;*
- *Ensure fairness in allocation of taxing rights under the international tax system that contributes to achieving sustainable development **and enables the full realization of human rights**;*

Add principles related to:

- **Special and differential treatment** of developing countries;
- **Robust participation of civil society and citizens in tax dialogue**. This is essential for domestic and international resource mobilization to be accountable and enhance development and governance. It also requires transparency and access to tax information;
- **‘Polluter Pays’ principle and common but differentiated responsibilities and respective capabilities** as enshrined in the Rio Declaration and the UNFCCC. This is integral to achieving climate justice through finance and addressing the costs of the climate and environmental crisis;
- **Commitment to the fulfillment of human rights**, recognizing the link between the fulfillment of human rights and the mobilization of resources, as articulated in international human rights law, including the Universal Declaration of Human Rights and other human rights instruments and treaties and by their respective committees.¹ Fair and effective tax systems at the national and international level are critical to the mobilization of resources to meet States’ human rights obligations. States also have extraterritorial obligations under international law prohibiting them from engaging in behavior violating rights beyond their national borders;

¹ See Article 22 of the UDHR, Article 4 of the UN Convention on the Rights of the Child and Article 2 of the International Convention on Economic, Social and Cultural Rights obligate states to undertake measures to implement the rights contained therein to the maximum extent of their available resources and through international cooperation.

- Further underline 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 (including health and education), 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;
- Ensuring that tax systems are **progressive** and serve to reduce inequalities, within and among countries.

Substantive Elements

We welcome the elements currently included in this section and suggest inclusion of the following additional commitments in para 10:

- **Transparency** around beneficial ownership, including through mandatory public beneficial ownership registries and automatic information exchange, like mandatory country-by-country reporting, and tax incentives;
- A commitment to provide for full **cooperation**, mutual assistance and support between states to ensure fair and effective taxation;
- Agreement to explore the issue of **international tax initiatives** as innovative sources of finance, including for development and to address environmental and climate challenges, such as windfall taxes and/or levies on high-polluting activities and industry sectors such as aviation and fossil fuels;
- Commitment to promote **progressive tax systems**, in line with paragraph 22 of the Addis Ababa Action Agenda;
- Ensuring that tax systems promote **gender equality**, including by eliminating regressive tax policies that disproportionately affect women like consumption taxes, including value-added tax, as well as full and effective participation of women at all levels of tax policy making;
- A reconfirmation of 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.

Capacity building

We welcome paragraphs 11 and 12 and suggest text in para 11 on CBDR be moved to the section on Principles.

Structural elements of the Framework Convention

We welcome paragraph 13 and suggest including the following as subsidiary bodies:

- the UN Expert Committee on International Cooperation in Tax Matters;
- a global asset registry linking all assets to their beneficial (real) owners.

Specific priority areas to be addressed in early protocols

We support moving “*tax measures on **environmental and climate** challenges*” to para 14 on early protocols given the urgency of addressing the climate and environmental crisis and scaling up climate finance.

Approaches and time frame for negotiation

We are supportive of the paras included in this section and suggest adding to para 16 explicit reference to the contribution of civil society, in line with the wording of Resolution 78/230:

*16. The framework convention should be elaborated by a Member State-led negotiating committee, **with the contribution of international organizations and civil society**, in accordance with established practice. (...)*