

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

21 June 2024

Subject: Joint civil society and trade unions comments on zero draft Terms of Reference for a United Nations Framework Convention on International Tax Cooperation

Your Excellency,

We, the undersigned over 150 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 comments on the zero draft of the Terms of Reference of the FCITC.

Please find below a joint submission on behalf of the Global Alliance for Tax Justice (GATJ) and all of the undersigned organizations and trade unions. GATJ facilitates the CS FfD Mechanism's Tax Justice Workstream with the support of one of 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,

The Global Alliance for Tax Justice, tax justice workstream coordinator of the Civil Society Financing for Development Mechanism (www.csoforffd.org)

Comments on the zero draft Terms of Reference

Overall comments

We welcome the zero draft Terms of Reference (ToR) and find it to be a good basis for negotiations. We believe it covers the **main overall components** necessary to deliver the fair, ambitious and efficient UN Framework Convention on International Tax Cooperation (FCITC), as foreseen in Resolution 78/230, including objectives, principles, commitments, protocols and key institutions.

The suggested **timeline** in the zero draft (paragraph 16) properly reflects the urgency of the matter – not least bearing in mind that international tax abuse is costing governments hundreds of billions of dollars in lost tax income every year. The deeply pressing need for public resources, including to fulfill the international commitments related to development, human rights and environmental protection, must make the timely finalization of the FCITC an issue of highest priority.

The zero draft brings the negotiations an important step forward, and allows Member States the basis needed to deliver on the Ad Hoc Committee mandate, namely Resolution 78/230. Some Member States that voted against the resolution at the end of 2023 have subsequently put forward proposals that either fall outside of the scope of the mandate (ex. changing the decision-making rules of the UN General Assembly), or outright go against it (ex. proposals for introducing a narrower scope than contained in the resolution). The Ad Hoc Committee is on a tight timeline to complete its mandate, and the available time should be focused on moving forward towards this aim. Therefore, **we welcome the fact that proposals that fall outside of, or go against, the mandate of the Ad Hoc Committee have not been included** in the draft ToR for the FCITC.

Regarding **decision-making procedures**, we welcome a discussion about such procedures under the FCITC as a part of the negotiation of the convention. This issue is usually included within framework conventions under the articles relating to the Conference of the Parties, Amendments and Adoption of protocols. Therefore, we find, and support, that this issue is included in the zero draft.

In the text below, we have outlined our specific inputs. Furthermore, as a **summary of our high priority issues**, we would like to highlight the following:

Essential elements to maintain:

- **Holistic objectives** with clear links the overall goal of sustainable development and fairness of international tax rules;
- **Clear principles**, including a principle that links the tax sovereignty of States to the obligation to respect the same right of other States;
- **Substantive elements**. We welcome this section, and believe it should be expanded to cover, at the minimum, all issues mentioned as potential future protocols;
- **Key tax-related issues**, including:

- Fair allocation of **taxing rights** and equitable taxation of **multinational enterprises**;
- Effective taxation of **high-net worth individuals**;
- **Illicit financial flows**
- Ensuring that tax measures contribute to addressing **environmental challenges**.

Elements that should be added:

- The principle of **special and differential treatment** of developing countries;
- The goal of **reducing inequalities** within and among countries (SDG10);
- A principle and commitment to promote **progressive tax systems**, in line with paragraph 22 of the Addis Ababa Action Agenda;
- Tax and **gender equality** to redress the disproportionate tax burden placed on women through regressive/ consumption taxes;
- Taxation and **extractive industries**;
- Specific commitments on transparency, including effective and inclusive **Automatic Information Exchange**, public **Beneficial Ownership** and **asset** registers, comprehensive public **Country by Country Reporting** and public transparency around **tax incentives**.
- **Participation of civil society**;
- Exploring the option of **international tax initiatives** as innovative sources of financing for development and environmental protection;
- Clear **links to other key global commitments** of States, including those contained in the UNFCCC, CBD, CEDAW, the SDGs and the UN Human Rights Framework, and related commitments to international resource mobilization.
- The text relating to **human rights** should be amended to include all relevant aspects of the issue and included in both the section on principles and commitments. Furthermore, the section on human rights should be detached from the section on “*tax payers*”, not least since this term includes corporations, which are duty bearers – not rights holders.

Specific comments

Objectives (paragraph 7)

We suggest:

Maintaining: Point a.

Amending points b and c:

“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, comprehensive, and effective international tax system for sustainable development, 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 (paragraphs 8-9)

We suggest:

Maintaining: All elements currently listed.

Amending the following principles:

- “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 ~~in special situations~~;
- “Take a holistic, ~~sustainable development~~ perspective aligned with human rights, including the right to development, that covers in a balanced and integrated manner economic, social and environmental policy aspects, and supports states to fulfill their obligations to promote universal respect for, and observance of, all human rights and fundamental freedoms;
- “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;
- “Require transparency and accountability of all **taxpayers**, and full cooperation in complying with tax laws. while respecting the rights to privacy and other fundamental human rights. States must also ensure the rights of all people to access information of importance to assess the fairness, equitableness, progressivity, transparency and effectiveness of their domestic tax system.”

Adding principles related to:

- **Special and differential treatment** of developing countries. Specifically, we suggest moving the following text from the section on Capacity building to the section on Principles: “Recognizing that respect for tax sovereignty implies that inclusive and effective participation in international tax cooperation requires procedures that take into account the different needs, priorities and capacities of all countries to meaningfully contribute to the norm-setting processes, without undue restrictions, and support them in doing so, including giving them an opportunity to participate in agenda-setting, debates and decision-making, either directly or through country groupings, according to their preference.”

- Underlining that the **participation of civil society** is essential;
- Recognizing that the costs of pollution and environmental damage should be borne by those causing it, not those suffering its impacts (**polluter pays principle**), as well as the **common but differentiated responsibilities and respective capabilities** of countries in relation to addressing international environmental challenges;
- Ensuring that tax systems are **progressive** and serve to reduce inequalities within and among 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 (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.

Substantive elements of the Framework Convention (paragraph 10)

We suggest:

Maintaining: the commitments related to:

- Effective taxation of **high-net worth individuals**;
- **Fair allocation of taxing rights**, including equitable **taxation of multinational enterprises**.

Maintaining and amending the following commitments:

- *“**Transparency and exchange of information for tax purposes, including effective and inclusive automatic information exchange, public registers of beneficial owners, comprehensive public country by country reporting and public transparency around tax incentives.**”*
- *“Ensuring that tax measures contribute to addressing **environmental challenges** and promoting global public goods”*

Adding commitments related to:

- Issues that are missing:
 - A commitment to provide for full **cooperation**, mutual assistance and support between states to ensure fair and effective taxation;
 - A commitment to ensuring fair and effective taxation of **extractive industries**. This is recognized in Resolution 78/230 and 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 and environmental sustainability.

- A commitment to promote **progressive tax systems**, in line with paragraph 22 of the Addis Ababa Action Agenda, and linked to a reconfirmation of the obligations of states to ensure non-discrimination and substantive equality and to use the maximum available resources, including through international cooperation, to ensure the fulfillment of **human rights**. This includes the extraterritorial duties of states to ensure that their actions do not lead to violation of people's rights abroad.
 - A commitment to ensuring that tax systems promote **gender equality** through eliminating regressive taxation policies that disproportionately affect women, ensuring maximum available resources for the fulfillment of gender equality and ensuring the full and effective participation of women at all levels of tax policy making;
 - Exploring the issue of **international tax initiatives** as innovative sources of finance, including for development and to address environmental and climate challenges.
- Issues mentioned as protocols, but not as commitments:
- Taxation of the **digitalized and globalized economy**;
 - Taxation of income derived from **cross-border services**;
 - Tax related **illicit financial flows**;
 - **Mutual administrative assistance on tax matters**;
 - A commitment to ending **harmful tax practices**.

These elements do not all have to be separate commitments, since some issues can be grouped together. However, including them as commitments in the Convention will be important for providing clear mandates for the future protocols.

The section on commitments should also reflect the principle of **special and differential treatment** of developing countries. For example, future global standards on automatic information exchange should incorporate a transition period in which developing countries can receive information on a non-reciprocal basis.

Capacity building

We welcome paragraphs 11 and 12, but suggest that the text in paragraph 11 should be moved to the section on Principles.

Structural elements of the Framework Convention (paragraph 13)

We suggest:

Maintaining: paragraph 13 as is.

Adding:

13.bis The framework convention should include the following **subsidiary bodies**: the UN Expert Committee on International Cooperation in Tax Matters; a UN public registry for corporate transparency and a global asset register.

Specific priority issues to be addressed in early protocols

For paragraphs 14-15 we suggest moving “*tax measures on environmental and climate challenges*” and “*harmful tax practices*” from paragraph 15 to 14, in recognition of the fact that these must be high priority issues. Furthermore, we suggest moving “*prevention and resolution of tax disputes*” from paragraph 14 to 15.

Approaches and time frame for negotiation

We welcome paragraph 16, including the suggested **timeline**. Furthermore, we suggest adding the following 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. (...)”

We welcome paragraphs 17-20 and suggest keeping them as they are.

Resources to support the work of the negotiating body (paragraphs 21-22)

We suggest amending the paragraphs as follows:

*“21. The Secretary-General should be requested to provide the intergovernmental negotiating committee with the necessary facilities and resources to support their work, including through the establishment of a **Trust Fund** for Participation of developing countries in the negotiations.”*

*“22. Member States and other relevant stakeholders in a position to do so should be encouraged to assist in ensuring the full and effective participation of developing countries, including in particular the least developed countries, in the negotiation of the framework convention, including by making contributions to the **Trust Fund** for Participation ~~covering travel and local expenses and through capacity building.~~”*

Signatories

1	11.11.11	Belgium
2	21st Century Community Empowerment for Youth and Women Initiative	Nigeria
3	ACT Alliance	International
4	Action for Economic Reforms	Philippines
5	ActionAid International	International
6	ActionAid Vietnam	Vietnam
7	Actions des femmes marginalisées pour le Développement "AFMD ASBL"	République Démocratique du Congo
8	Active Citizenship Foundation (ACF)	Philippines
9	Africa Development Interchange Network (ADIN)	Cameroun
10	Africa Network for Environment and Economic Justice (ANEEJ)	Nigeria / Africa
11	AFRODAD	Kenya
12	Aid Organization	Bangladesh
13	AidWatch Canada	Canada
14	Akbayan Citizens' Action Party	Philippines
15	Aksi! for gender, social and ecological justice	Indonesia
16	Alliance Sud	Switzerland
17	Alternative Information & Development Centre	South Africa
18	Amnesty International	International
19	APIT	Portugal
20	Asia Indigenous Peoples Network on Extractive Industries and Energy (AIPNEE)	Asia
21	Asian Peoples' Movement on Debt and Development (APMDD)	Asia
22	Aspafrique-Jics	Togo
23	Associação Cultural José Martí do RS	Brazil
24	Association de Développement Agricole Éducatif et Sanitaire de Mano	République Démocratique du Congo
25	Association for Proper Internet Governance (Richard Hill, President)	Switzerland
26	Association Nigérienne des Scouts de l'Environnement ANSEN	Niger
27	Association pour l'Intégration et le Développement Durable au Burundi (AIDB)	Burundi
28	Attac Austria	Austria
29	Attac-Deutschland BAG Finanzmärkte & Steuern	Germany
30	Attac Finland	Finland
31	Bangladesh Krishok Federation	Bangladesh
32	BDCSO	Bangladesh
33	Bench Marks Foundation	Southern Africa
34	Bereg Nature and Environment Association	Hungary
35	Brot für die Welt	Germany
36	CAFAGB CELLULE ASSOCIATIVE DES FEMMES ACTIVES POUR LA GOUVERNANCE LES DROITS HUMAINS ET LE BIEN ETRE	Cameroun
37	Candid Concepts Development	Caribbean
38	Center for Economic and Social Rights	International
39	Centre for Environment, Human Rights & Development Forum - CEHRDF	Bangladesh
40	Centre for Environmental Justice	Sri Lanka
41	Centre for Trade Policy and Development	Zambia
42	Centro de Estudios de Derecho, Justicia y Sociedad - Dejusticia	Colombia
43	Centro de Políticas Públicas y Derechos Humanos Perú Equidad	Perú

44	Centro Sociojurídico para la Defensa Territorial SIEMBRA	Colombia
45	CERDYSOC	République Démocratique du Congo
46	Changemaker	Norway
47	Christian Aid	United Kingdom
48	Christian Aid Ireland	Ireland
49	CHRISTIAN COUNCIL OF MOZAMBIQUE	Mozambique
50	Civil Society SDGs Campaign Zambia	Zambia
51	CLADE	America Latina y el Caribe
52	CNCD-11.11.11	Belgium
53	CNEO (Center for New Economic Order)	Japan
54	Coalición Colombiana por el Derecho a la Educación CCDE	Colombia
55	COAST Foundation (EquityBD)	Bangladesh
56	Comision Nacional de Enlace Costa Rica	Costa Rica
57	Comité Catholique contre la Faim et pour le Développement - Terre Solidaire	France
58	Committee on Fiscal Studies	Kenya
59	Community Empowerment and Social Justice Network (CEMSOJ)	Nepal
60	Consejo de Jóvenes dd Oaxaca - México	México
61	Construisons Ensemble le Monde	République Démocratique du Congo
62	Council of Churches in Namibia	Namibia
63	Council of Churches in Zambia	Zambia
64	CRASH - Coalition for Research and Action for Social Justice and Human Dignity	Finland
65	Creatura Think & Do Tank ry	Finland
66	Croatian Platform for International Citizen Solidarity (CROSOL)	Croatia
67	Daayyaa Generation Network (DGN)	Ethiopia
68	Desk for Social Development of ELCRN	Namibia
69	Development Alternatives with Women for a New Era (DAWN)	Global South
70	Development Impact Pathfinders Initiative	Nigeria
71	DISABILITY PEOPLES FORUM UGANDA	Uganda/ Africa
72	DUKINGIRE ISI YACU (DIY)	Burundi
73	East African Tax and Governance Network (EATGN)	Kenya
74	EcoEquity	United States of America
75	Espacio de Trabajo Fiscal para la Equidad	Argentina
76	European Network on Debt and Development (Eurodad)	Europe
77	Fair Tax Foundation	International
78	Federation of Environmental and Ecological Diversity for Agricultural Revampment and Human Rights (FEEDAR & HR)	Cameroun
79	Felm (Finnish Evangelical Lutheran Mission)	Finland
80	Feminist Legal Studies Queen's	Ontario, Canada
81	FIAN INTERNATIONAL	International
82	Financial Justice Ireland	Ireland
83	Financial Transparency Coalition	United Kingdom
84	Finnish Development NGOs Fingo	Finland
85	Finnwatch	Finland
86	Freedom from Debt Coalition	Philippines
87	Fundación Nacional para el Desarrollo	El Salvador
88	Gender and Economy Research Center NPGE	Brazil
89	Gestos (soropositividade, comunicação e gênero)	Brazil
90	GFLAC	America Latina y el Caribe
91	Global Alliance for Tax Justice (GATJ)	International
92	Global Call to Action Against Poverty (GCAP)	International
93	Global Campaign for Education	International
94	Global Initiative for Economic, Social and Cultural Rights (GI-ESCR)	International
95	Global Peace and Development Organization	Liberia

96	Global Policy Forum Europe	Europe
97	Global Redistribution Advocates	International
98	Global Rights	Nigeria / United States of America
99	Global Social Justice	Switzerland
100	Green Action Association	Hungary
101	Green Advocates International	Liberia
102	Green Liberty	Latvia
103	Green Tax Youth Africa	Ghana
104	Greenpeace	International
105	Groupe de Réflexion et d'Initiative pour l'Avancement de la Grand'Anse (GRIAG)	Haiti
106	Growthwatch	India
107	Halley Movement Coalition	Mauritius
108	HAND Association	Hungary
109	HDS Natural systems design science	United States of America/ International
110	IBON International	Global South
111	ICDC- Nepal	Nepal, South Asia
112	Ilias Centre	Bangladesh
113	Indian Social Action Forum	India
114	Indigenous Peoples Global Forum for Sustainable Development (IPGFforSD)	International
115	Inesc - Instituto de Estudos Socioeconômicos	Brazil
116	Initiative for Social and Economic Rights (ISER)	Uganda
117	Initiatives for Dialogue and Empowerment through Alternative Legal Services (IDEALS)	Philippines
118	INSAF	India
119	Institute for Economic Justice	South Africa
120	Instituto ClimaInfo	Brazil
121	Instituto Equit	Brazil
122	Instituto Justiça Fiscal	Brazil
123	Intercontinental Network for the promotion of Social Solidarity Economy (RIPESS)	Spain
124	International Budget Partnership	International
125	International Federation of Social Workers	Switzerland
126	International Women's Rights Action Watch Asia Pacific (IWRAP AP)	Global South
127	Italian Federation Christian Organisations international volunteers Focsiv	Italy
128	KFUK-KFUM Global	Norway
129	Kopin - Malta	Malta
130	Közép-magyarországi Zöld Kör	Hungary
131	KRuHA	Indonesia
132	KULU-Women and Development (KULU)	Denmark
133	Latindadd	America Latina y el Caribe
134	LDC Watch	International
135	Liana ry	Finland
136	Ligue des droits et libertés	Cameroun
137	Lumière Synergie pour le Développement	Senegal
138	Lutte nationale contre la Pauvreté	République Démocratique du Congo
139	Make Mothers Matter	International
140	MATE	Argentina
141	Mecanismo Sociedad Civil Desarrollo Sosrenible,Grupoo Tematico z Migrantes y Ddesplazadas	America Latina y el Caribe
142	Migrant Forum in Asia	Asia-Pacific, MENA
143	mines, minerals & PEOPLE (mm&P)	India
144	MiningWatch Canada	Canada

145	Misère Option Zéro	Togo
146	Monitoring Sustainability of Globalisation	Malaysia
147	Mothers pride and development initiative	Nigeria
148	MY World México	México
149	Nash Vek PF	Kyrgyzstan
150	National Campaign for Sustainable Development Nepal	Nepal
151	National Society of Conservationists - Friends of the Earth Hungary	Hungary
152	NAWO	India
153	Netzwerk Steuergerechtigkeit	Germany
154	New Economics Foundation	United Kingdom
155	NGO: ADET	Togo
156	Nigeria Network of NGOs	Nigeria
157	Norwegian Church Aid	Norway
158	Norwegian Forum for Development and Environment	Norway
159	Oil Change International	United States of America/ International
160	ONAPED (Organisation Nationale pour la Promotion de l'Education et le Développement)	Cameroun
161	Oriang Women's Movement Inc	Philippines
162	OVJNU GLOBAL COLOMBIA	Colombia
163	Oxfam	International
164	Oyu Tolgoi Watch (OT Watch)	Mongolia
165	Pakistan Fisher folk forum	Pakistan
166	Pakistan Kissan Rabita Committee	Pakistan
167	Partners In Health	International
168	Peace Point Development Foundation-PPDF	Nigeria
169	People's Alternative Studies Center for Research and Education in Social Development (PASCRES)	Philippines
170	POLYCOM DEVELOPMENT PROJECT	Kenya
171	Project on Organizing, Development, Education, and Research (PODER)	México
172	Public Administration New Initiative NGO	Mongolia
173	Publish What You Pay (PWYP) Indonesia	Indonesia
174	Reacción Climática	Bolivia
175	REACHOUT SALONE	Sierra Leone
176	Rebrip - Rede Brasileira pela Integração dos Povos	Brazil
177	Red de Justicia Fiscal de América Latina y el Caribe	America Latina y el Caribe
178	Red Mexicana de Acción frente al Libre Comercio (RMALC)	México
179	Religious of the Sacred Heart of Mary NGO	International
180	RENICC	Nicaragua / America Latina y el Caribe
181	Réseau Africain de l'Economie Sociale et Solidaire (RAESS)	Africa
182	Revolutionary Reparations	International
183	Rural Area Development Programme (RADP)	Nepal
184	Rural Reconstruction Nepal (RRN)	Nepal
185	SA TV	Bangladesh
186	Sentro ng mga Nagkakaisa at Progresibong Manggagawa	Philippines
187	SKOP (The National Platform of Maltese NGOs)	Malta
188	SocDevJustice	Germany
189	Society for International Development (SID)	International
190	South Asia Alliance for Poverty Eradication (SAAPE)	Nepal
191	Southern and Eastern Africa Trade Information and Negotiations Institute (SEATINI -Uganda)	Uganda
192	Spire	Norway
193	Stamp Out Poverty	United Kingdom
194	Stichting Onderzoek Multinationale Ondernemingen (SOMO)	Netherlands
195	Sustainable Holistic Development Foundation (SUHODE Foundation)	Tanzania

196	Syndicat Chrétien de Travailleurs du Congo	République Démocratique du Congo
197	Tax and Fiscal Justice -Asia (TAFJA)	Asia
198	Tax Justice Alliance - Uganda	Uganda
199	Tax Justice Aotearoa New Zealand	New Zealand
200	Tax Justice Europe	Europe
201	Tax Justice Netherlands	Netherlands
202	Tax Justice Network	International
203	Tax Justice Network Africa	Africa
204	Tax Justice Norway	Norway
205	Tax Justice UK	United Kingdom
206	TaxEd Alliance	International
207	taxmenow - Initiative für Steuergerechtigkeit e.V.	Germany, Austria and Switzerland
208	The African Women's Development and Communications Network (FEMNET)	Africa
209	The PRAKARSA	Indonesia
210	Third World Network	International
211	Timorese Association for Progressive Information and Technology (ITP-TL)	Timor-Leste
212	Trade Justice Pilipinas	Philippines
213	Transparency International Slovenia	Slovenia
214	UNAM/Latindadd	México
215	Vikas Adhayayan Kendra	South Asia
216	VWA FANM AYISYÈN (VFA)	Haiti
217	War on Want	United Kingdom
218	WEED - World Economy, Ecology & Development	Germany
219	Wemos	Netherlands
220	WomanHealth Philippines	Philippines
221	Women for a Change	Cameroun
222	Women for Peace and Gender Equality Initiative	Nigeria
223	Women Leader Foundation	Mongolia
224	Women's Environment and Development Organization (WEDO)	United States of America/ International
225	Youth for Tax Justice Network	Africa
226	Zambia Tax Platform	Zambia
227	Zimbabwe Coalition on debt and development	Zimbabwe
228	ZÖLD KÖR	Hungary