



# **Tax Justice Network submission to the**



Call for contributions on  
the Draft Issue Note of  
Workstream I of the  
Intergovernmental  
Negotiating Committee on  
the UN Framework  
Convention on  
International Tax  
Cooperation

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*For the kind attention of:*

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Cc: Permanent Representatives and Observers to the UN in New York

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## Abstract

The Tax Justice Network (TJN) welcomes the opportunity to provide input on the Draft Issue Note of Workstream I, as presented on 27 June 2025. As an independent, international organisation advocating for greater transparency, accountability, and fairness in tax systems, TJN supports the overall direction of the Workstream's approach to developing the UN Framework Convention on International Tax Cooperation (FCITC). We align ourselves with the joint submission made by the Global Alliance for Tax Justice. The present submission outlines our comments on the method of work, cross-cutting considerations for the Convention's development, and comments on the specific commitments to be prioritized, with a focus on ensuring a robust, inclusive, and forward-looking framework that addresses pressing global tax challenges while laying the foundation for a transformative international tax system. We broadly endorse the categories of provisions outlined in paragraph 2 of the Draft Issue Note but emphasise the need to discuss procedural provisions, particularly institutional mechanisms and the relationship with existing instruments, following an initial focus on commitments. We argue that the Convention must provide a clear direction for future tax cooperation while addressing immediate challenges through principles and objectives that guide states toward equitable and sustainable tax systems. Finally, we propose specific recommendations for prioritised commitments, including fair allocation of taxing rights, dispute prevention and resolution, sustainable development, and transparency, ensuring alignment with the principles highlighted in the terms of reference.

## 1. Comments on the Method of Work

The Tax Justice Network commends Workstream I's structured approach to developing the UN Framework Convention on International Tax Cooperation (FCITC), as outlined in the Draft Issue Note. We agree with the provision categories in paragraph 2, which provide a logical framework for a comprehensive Convention addressing systemic tax cooperation issues. To enhance the method, we recommend prioritizing substantive commitments first, followed by procedural provisions, especially institutional architecture and relationships with existing tax instruments, to ensure effective implementation. The prioritization of substantive commitments must be guided, in any case, by the principles outlined in the ToRs.



## Institutional Provisions

Robust institutional mechanisms are vital for the Convention's success. After clarifying commitments, the Committee should detail these provisions, establishing a Conference of Parties (COP) with authority to make binding decisions, review progress, and operationalize commitments without amending the Convention text, as seen in the UNFCCC.


A permanent Secretariat should manage COP arrangements, publish reports, assist Parties with FCITC compliance, and coordinate with regional bodies like ATAF and CIAT. A subsidiary body for technical advice and implementation should support the COP, comprising government experts and potentially integrating the UN Committee of Experts on International Cooperation in Tax Matters to leverage its expertise.

Another subsidiary body should manage global registries, analyse data, and provide quantitative evaluations, aligning with proposals like the FACTI Panel's Centre for Monitoring Taxing Rights. Additional bodies, such as a transparency committee or an environmental taxation group, could support specific commitments.

## Relationship with Existing Instruments

The Draft Issue Note does not explicitly address how the FCITC will interact with existing international tax instruments, such as the OECD/G20 Inclusive Framework or bilateral tax treaties. We believe this is a critical procedural issue that warrants early discussion. The Convention should clarify its precedence over conflicting provisions in existing instruments and provide a roadmap for harmonizing or phasing out outdated frameworks, such as those reliant on the flawed transfer pricing system. A clear delineation of the Convention's scope and authority will prevent fragmentation and ensure that it serves as the primary global framework for tax cooperation.

As mandated by paragraph 9.c of the Terms of Reference, the FCITC must align with States' obligations under international human rights law in pursuing international tax cooperation. The UN Committee on Economic, Social and Cultural Rights has emphasized that States *"have a duty to strengthen international cooperation to establish an inclusive, fair, and effective global tax governance and to combat tax-related illicit financial flows with a view to creating an international environment conducive to the fulfilment of economic, social, and cultural rights"*.<sup>1</sup> They are also obliged to uphold extraterritorial obligations and to ensure that tax policies promote substantive equality and non-discrimination by tackling horizontal and vertical inequalities. International human rights law should serve as a critical framework for resolving disputes in the negotiations, such as differing interpretations of "fair" in the FCITC's principle of "fair allocation of taxing rights." In doing so, negotiating parties should give special consideration to the needs of low- and middle-income countries to eliminate barriers that the lack of an effective and international tax cooperation and the tax policies and



practices of other States impose on their ability to mobilize resources for fulfilling their human rights obligations.

## Participation of Observers

We echo concerns about limited observer participation in Workstream meetings, especially online sessions. Paragraph 21 of the Terms of Reference encourages civil society contributions, but exclusion from discussions hampers timely input. We urge inclusive participation in all meetings, as in other UN processes, to enhance the Convention's legitimacy and effectiveness.

## 2. Cross-Cutting Considerations for the Development of the Convention

The FCITC offers a historic opportunity to address systemic inequities in the global tax system. It must balance a long-term vision with practical steps for immediate challenges, supported by robust institutions, comprehensive information access, and alignment with sustainable development, human rights, and equity.


### Providing a Clear Direction for Future Cooperation

The Convention should articulate a transformative vision, moving from fragmented systems to one prioritizing fairness, transparency, and sustainability, anchored in the Terms of Reference principles. Commitments should provide a clear direction for states to work toward specific goals, such as replacing the transfer pricing system with unitary taxation, implementing progressive environmental taxes, and ensuring effective taxation of high-net-worth individuals.

To achieve this, the Convention should include also a preamble that explicitly references key UN frameworks, including the 2030 Agenda for Sustainable Development, the *Compromiso de Sevilla*, the Universal Declaration of Human Rights and the Declaration on the Right to Development. These references will ensure that the Convention's objectives are aligned with global priorities, such as reducing inequality (SDG 10), promoting gender equality (SDG 5), and addressing climate change (SDG 13).

### Addressing Immediate Challenges

While the Convention should set a long-term vision, it must also address immediate challenges faced by states, particularly developing countries, which have higher relative annual losses to cross-border tax abuse. This requires commitments that are actionable from the outset, supported by mechanisms for implementation and monitoring. For example,



commitments on transparency, such as an enhanced standard on automatic information exchange and public country-by-country reporting, can be implemented quickly. Similarly, commitments on dispute prevention can provide immediate relief by reducing costly and protracted tax disputes.

## **Institutional Architecture and Information Access**

The success of the Convention depends on its institutional architecture and the availability of information to support informed decision-making. The establishment of a COP with decision-making authority is critical to operationalize commitments and adapt to new challenges. Additionally, the Convention should mandate the creation of global transparency mechanisms, such as a central public database for country-by-country reports and a global asset register. These tools will empower states to make evidence-based decisions and combat tax abuse effectively. The principle of common but differentiated responsibilities (CBDR) should also guide the Convention's development, ensuring that developing countries receive support, such as non-reciprocal access to information during a transition period. As principle 9.a of the ToRs mandates negotiating States to consider the different needs, priorities, and capacities of all countries, this should be operationalised through a differential treatment in the scope of some obligations, particularly for low- and middle-income countries, and countries in special situations. This will enable all states to participate meaningfully in the framework from the outset.


## **Balancing Ambition and Feasibility**

The Convention must strike a balance between ambition and feasibility. While commitments should push for transformative change, such as the adoption of unitary taxation, they must also provide clear pathways for implementation. This could include phased approaches<sup>1</sup>, technical assistance, and capacity-building programs to support states, particularly those with limited resources. By embedding flexibility within a robust framework, the Convention can ensure that all states can progress toward shared goals. In conclusion, the Convention should provide a clear direction for future tax cooperation while addressing immediate challenges through actionable commitments. A strong institutional architecture and access to information are essential to support implementation and ensure inclusivity.

## **3. Comments on the Commitments to Be Prioritized**

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<sup>1</sup> See <https://www.southcentre.int/tax-cooperation-policy-brief-no-36-26-october-2023/>



Building on the cross-cutting considerations above, we provide specific recommendations for the drafting of the commitments prioritised by the INC. As the Draft Issue Note highlights, the lack of information is one of the primary barriers developing countries noted for the implementation of other commitments, we suggest also to prioritise the commitment on transparency.

## **Fair Allocation of Taxing Rights, Including Equitable Taxation of Multinational Enterprises**


The current transfer pricing system, based on the arm's length principle, is fundamentally flawed, enabling multinational enterprises (MNEs) to exploit loopholes and shift profits to low-tax jurisdictions. This results in significant revenue losses, particularly for developing countries. We strongly recommend that the Convention include a commitment to replace the transfer pricing system with a unitary taxation system based on formulary apportionment. Under this system, MNEs would be taxed as single entities based on their global profits, with taxing rights allocated to countries according to a balanced formula that reflects economic activity, such as sales, employment, and resource extraction. The formula should also account for digital presence to address the challenges of the digital economy. To ensure fairness, a global minimum effective corporate tax rate should be introduced to prevent a race to the bottom. To facilitate implementation, the Convention should mandate the development of a standardized formula through the COP, with input from technical experts and civil society.

## **Dispute Prevention and Resolution**

Tax disputes, often arising from the complexities of the transfer pricing system, impose significant costs on states, particularly those with limited resources. We emphasize that prevention should be prioritized over resolution to reduce the burden on states. A commitment to adopt unitary taxation would inherently reduce disputes by simplifying the allocation of taxing rights. Additionally, the Convention should establish a transparent and inclusive dispute resolution mechanism under the COP, ensuring that developing countries have equal access to fair processes. This mechanism should prioritise mediation over litigation/arbitration and include safeguards to prevent power imbalances between states. A reference to the commitment of addressing tax-related illicit financial flows, tax avoidance, tax evasion and harmful tax practices should underpin the work on dispute prevention and resolution.

## **Sustainable Development**

The ToR emphasises the objective of establishing an international tax system for sustainable development. We strongly support the inclusion of a more ambitious commitment to align international tax rules and domestic tax systems with sustainable development goals, including



reducing inequality, promoting gender equality, and protecting the environment. This commitment should draw on the Compromiso de Sevilla, particularly its calls for progressive taxation (paragraph 27(e)), effective taxation of natural resources (paragraph 27(f)), and gender-responsive taxation (paragraph 27(g)). It should also mandate an alignment with the Rio Conventions and the Paris Agreement. We support the inclusion of a specific sub-commitment on progressive environmental taxation to operationalize the polluter pays principle. This could include a global surtax on the profits of fossil fuel companies, with revenues allocated to climate finance mechanisms, such as a global fund for adaptation and mitigation. The commitment should also incorporate CBDR to ensure that developing countries are not disproportionately burdened by environmental tax measures.

## Transparency

Transparency is a cornerstone of effective tax cooperation. We endorse the inclusion of a commitment on the “ABC of transparency”: automatic information exchange, beneficial ownership transparency, and public country-by-country reporting (CBCR). These measures are critical to combatting tax evasion and avoidance. To operationalize this commitment, the Convention should mandate the creation of a central public database for CBCR and a global beneficial ownership register (and specifically, a global asset registry), as called for in the Compromiso de Sevilla (paragraphs 28(f) and 28(g)). These mechanisms, as well as an improved standard on automatic exchange of information, should be accessible to all states, with non-reciprocal access for developing countries during a transition period. Aggregate, bilateral data on the assets and income streams reported under automatic information exchange should be recorded with and published by the Centre for Monitoring Taxing Rights or equivalent subsidiary body. Additionally, the Convention should address transparency around tax incentives and the role of enablers, such as accountants and law firms, in facilitating tax abuse.

## Conclusion

The Tax Justice Network supports the development of the UN Framework Convention on International Tax Cooperation as a transformative step toward a fair, transparent, and sustainable global tax system. We commend Workstream I for its structured approach but urge greater focus on procedural provisions, particularly institutional mechanisms and the relationship with existing instruments, following the clarification of commitments. The Convention must provide a clear long-term vision while addressing immediate challenges through actionable commitments supported by robust institutions and transparency mechanisms. We propose prioritizing commitments on fair allocation of taxing rights (through unitary taxation), dispute prevention and resolution, sustainable development (including environmental taxation) and transparency. These commitments should be guided by principles of inclusivity, fairness, and





CBDR, ensuring that all states, particularly developing countries, benefit from the framework. Finally, we reiterate the importance of full and effective participation of civil society in all stages of the process, including online Workstream meetings. We stand ready to contribute our expertise to ensure the Convention delivers on its transformative potential.