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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

15 March 2024

Subject: Joint civil society and trade unions submission in response to the call for inputs to the work of the Ad Hoc Committee to Draft Terms of Reference for a United Nations Framework Convention on International Tax Cooperation

Your Excellency,

We, the undersigned over 175 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 inputs to the work of the Ad Hoc Committee to Draft Terms of Reference for a United Nations Framework Convention on International Tax Cooperation ('the Committee').

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

Civil Society Financing for Development Mechanism (www.csoforffd.org)

Submission

Procedural elements

The FCITC must establish a fair, transparent and inclusive structure for global governance of international tax matters, including a **Conference of the Parties (COP)** and a **Secretariat**. Until now, there has not been any truly inclusive global tax forum where all countries are able to participate on an equal footing, and where the Secretariat is neutral and equally accountable to all countries. For this reason, it is also clear that there is no risk of duplication with other processes.

The FCITC could also establish the first **subsidiary bodies**. We suggest that the existing UN Expert Committee on International Cooperation in Tax Matters be incorporated as a subsidiary body of the FCITC. Furthermore, in order to monitor and support the implementation of the FCITC, we suggest the establishment of a UN public registry for tax and fiscal policies, a UN public registry for corporate transparency and a global asset register.

The FCITC should also address key points such as the **reporting requirements** of the Parties and **settlement of disputes**, as well as the issues of **enforcement and compliance**, including mechanisms to ensure effective implementation of the Convention.

Finally, although we believe that important lessons can be learned from **other international tax initiatives**, we stress the importance of ensuring that the FCITC is thoroughly anchored within the UN system and adheres fully to the rules, procedures and ways of working of the UN. All countries should participate on an equal footing, and the process should be Member-State led. While other international organizations can (and already do) participate as observers in the UN process, it is important to ensure that existing governance structures, which do not comply with the approaches of the UN, are not carried over into the FCITC. Furthermore, while tax standards that have been agreed in other (less inclusive) forums can be put forward for consideration within the UN process, they should not preclude any outcome of the negotiations.

Substantive elements

Objectives, principles, scope, definitions and key obligations

The Terms of Reference (ToRs) should give a first outline of the following elements and key priorities, to be further elaborated in the future FCITC:

Overall objectives:

- Promoting international tax cooperation;
- Ensuring that tax systems are fair, equitable, progressive, transparent and effective;
- Combating tax-related illicit financial flows;

- Addressing the unfair allocation of taxing rights that disproportionately affects developing 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, 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.

Overall principles:

- A principle stating that every State has the sovereign right to decide the policies and practices of its domestic tax system, and the responsibility to ensure that such policies and practices do not cause damage to, or undermine the effectiveness of, the tax base or system of any other State.
- A principle which balances the right to privacy with the right for citizens to access information of importance to assess the fairness, equitableness, progressivity, transparency and effectiveness of their domestic tax system, in addition to having in place structured mechanisms for citizens’ engagement in tax policy processes.
- A principle underlining that the participation of civil society is essential, in line with Article 71 of the UN Charter as well as UNGA Resolution 53/144 and ECOSOC Resolutions 1993/80 and 1995/304.
- A principle which recognizes that the costs of pollution and environmental damage should be borne by those causing it, not those suffering its impacts (polluter pays principle).
- An international single tax principle, stating that persons, and multinational enterprises, should be taxed on their worldwide income at least once, and only once, and in line with where their real activities occur.

Scope and key definitions, including, inter alia:

- A reference to the formal UN statistical definition of ‘illicit financial flows’, explicitly including tax avoidance as well as tax evasion.
- Definitions of a ‘corporate group’ and ‘corporate group control’ in line with those developed by the Accountability Framework initiative.
- A specification that all types of taxation should be included within the scope of the FCITC, including those referred to as levies, duties, tariffs, etc.

In terms of **key obligations of states**, these should cover the same issues as are covered under the objectives and principles. Furthermore, the FCITC should obligate states to review any tax-related treaties that they have entered into, and to renegotiate or terminate any treaties

that go against their commitments under the FCITC. This will increase the coherence of the international tax system and ensure effective implementation of the FCITC.

Cross-cutting issues

The ToRs and FCITC should capture:

- The links between **tax and gender equality**, and the importance of ensuring full and effective participation of women at all levels of tax policy making.
- The link between **tax and human rights**, including 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.
- **Ensuring that the FCITC promotes the achievement of the goals of other UN initiatives**, including, inter alia, the UN Framework Convention on Climate Change (UNFCCC), the Convention on Biological Diversity (CBD), the Sustainable Development Goals and the UN Human Rights Framework.

Transparency-related provisions

The ToRs and FCITC should cover the following transparency-related topics:

- **Automatic information exchange (AIE)**. While a UN system for AIE can incorporate lessons learnt from existing systems, it is important to address the fundamental problems that have made it difficult for developing countries to benefit from such systems. For example, the UN system should incorporate a transition period in which developing countries can receive information on a non-reciprocal basis. The FCITC can also include mechanisms to ensure sharing of technology and capacity support for developing countries to introduce and administer effective systems to protect confidential data.
- **Public beneficial ownership registers**. Transparency around the ultimate ("beneficial") owners of companies and trusts is vital for combating tax evasion through anonymous shell-companies.
- **Public country by country reporting (CBCR) by multinational corporations (MNCs)**. Public CBCR is essential for assessing the fairness and effectiveness of the corporate tax system, as well as for identifying risks of tax avoidance by MNCs.
- **Transparency around tax incentives and exemptions**, including publication of reports on tax expenditures by all governments. This is critical to enable citizens and policy actors to jointly assess the benefits of tax incentives and exemptions awarded to MNCs in various jurisdictions.

Tax-related provisions

The ToRs and FCITC should cover the following tax-related topics:

- **A fundamental reform of the international corporate tax system.** The failure of the transfer pricing system is costing governments hundreds of billions in lost tax income every year. The new FCITC should aim to replace this failed system with a new international corporate tax system that ensures that MNCs are taxed as coherent entities, on the basis of their global profit, and that a minimum effective corporate tax rate is introduced. The new corporate tax system must also include a fair reallocation of taxing rights between countries and ensure that corporations are taxed where business activity takes place. While the details of a new corporate tax system could be covered by a protocol, the FCITC itself should include the core approach of the system, as well as a mandate and timeline for concluding the negotiation of a protocol.
- **Taxation of cross-border services in a digitalized and globalized economy.** This area, which includes questions related to taxation of e-commerce and digital services taxes, is mentioned as a priority area in Resolution 78/230 (paragraph 6(e)). While the Resolution mentions this point in relation to development of early protocols, we would like to emphasize the importance of also including it as an essential and indispensable provision in the FCITC, which can then be further elaborated in a subsequent protocol.
- **Taxing the income and wealth of the richest.** The Addis Ababa Action Agenda (Resolution 69/313, paragraph 22) recognizes the need to build progressive tax systems that promote fairness. To reverse the decades of falling tax rates on the rich seen across many countries, and the rise in extreme inequality, the new FCITC should support countries in building fairer, more progressive tax systems that reduce inequality by taxing the income and wealth of the richest.
- **Effective taxation of extractives.** The importance of effective taxation of extractives at all levels is recognized in Resolution 78/230, reflecting that this is an issue which requires urgent attention. With this in mind, this issue 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, as well as to environmental sustainability.
- **Tax and Environment.** Article 6(b) of Resolution 78/230 underlines the importance of a holistic, sustainable development perspective that considers interactions with other important economic, social and environmental policy areas. Currently, the issue of environmental taxation, including windfall profit taxes for fossil fuel corporations, is emerging in tax discussions at the national, regional and global levels. With this in mind, we believe the ToRs should cover the issue of promoting progressive green taxes, which combine the pursuit of environmental objectives, including removing tax related fossil fuel and other harmful tax subsidies, and the aim to reduce inequalities;

- **Promotion of progressive taxation and intergovernmental actions in relation to all types of taxes**, including personal income tax, consumption taxes, withholding taxes, as well as the option of global tax initiatives.

Early protocols

While Framework Conventions are designed to be complemented by protocols, it is important to note that they commonly include a number of substantive elements. During the negotiation of the new FCITC, governments should cover all key overall components of international tax cooperation, and the provisions of the FCITC should be as precise and specific as possible. However, in order to avoid agreement on the overall FCITC being held up by specific issues that require more in-depth negotiation, such issues can be identified as topics for protocols. The negotiation of such protocols can commence immediately after the adoption of the FCITC, and be given a specific deadline for completion. Some topics of future protocols can be identified in the FCITC itself, as has for example been done in Article 19.3 of the CBD.

The Committee process

Participation of civil society organizations (CSOs) and trade unions

We welcome the adoption of Annex 2 during the first negotiation session in February 2024 and stand ready to make our contribution. In that context, we would like to highlight the importance of ensuring that the participation of CSOs and trade unions is fully inclusive and effective. All negotiation sessions should be transparent, with civil society provided an opportunity to be self-organized and to make statements from the floor.

Transparency of the negotiations

International taxation is an issue of high interest to the public, and we underline the importance of ensuring that the negotiations in the Committee are fully transparent. We therefore find it important that all intergovernmental negotiating sessions are live-streamed on UN Web TV.

Participation of developing countries

Lastly, we stress the importance of ensuring support for effective participation of developing countries, including the possibility of sending experts from their capitals to participate in the negotiations. We note that other UN processes have specific mechanisms set up for this purpose – such as the Trust Fund for Participation in the UNFCCC Process – and suggest consideration of similar mechanisms for the Committee process. We believe support for developing country participation should go through the UN Secretariat, and call on all developed countries to support such a mechanism.

Signatories

1. 11.11.11	Belgium
2. AbibiNsroma Foundation	Ghana
3. ACT Alliance	International
4. ActionAid International	International
5. Active Citizenship Foundation	Philippines
6. African Women's Development and Communication Network (FEMNET)	International
7. AfroLeadership	Africa
8. All Nepal Peasants Federation	Nepal
9. Alliance Sud	Switzerland
10. Alternative Information & Development Centre	South Africa
11. Amnesty International	International
12. APIT	Portugal
13. Asia Floor Wage Alliance (AFWA) - Indonesia	Indonesia
14. Asia Initiatives	United States
15. Asian Peoples' Movement on Debt and Development (APMDD)	Asia
16. Asociación Mujeres Emprendedoras de Alta Verapaz MEAV	Guatemala
17. Aspafrique-Jics	Togo République démocratique du Congo
18. Association de Développement Agricole Éducatif et Sanitaire de Mano	India
19. Association For Promotion Sustainable Development	Burundi
20. Association pour l'Intégration et le Développement Durable au Burundi, AIDB	Austria
21. Attac Austria	Bangladesh
22. Bangladesh Krishok Federation	Philippines
23. Bantay Kita - Publish What You Pay Philippines	Bangladesh
24. Beez Bistar Foundation (BBF)	Southern Africa
25. Bench Marks Foundation	Namibia
26. Breaking the Wall of Silence (BWS)	France
27. CADTM France	International
28. Campaign of Campaigns	Caribbean
29. Candid Concepts Development	France
30. CCFD-Terre Solidaire	International
31. Center for Economic and Social Rights (CESR)	Nepal
32. Center for Good Governance and Peace	Japan
33. Center for New Economic Order (CNEO)	Bangladesh
34. Centre for Environment, Human Rights & Development Forum – CEHRDF	Nigeria
35. Centre for Human Rights and Climate Change Research	Colombia
36. Centro de Estudios de Derecho, Justicia y Sociedad - Dejusticia	Pakistan
37. Cholistan Development Council	United Kingdom
38. Christian Aid	Pakistan
39. Christian Care Foundation Pakistan	Mozambique
40. Christian Council of Mozambique	Namibia
41. Civil Society Information Centre Namibia	Spain
42. Climate Strategy	Bangladesh
43. COAST Foundation	

44. Comision Nacional de Enlace	Costa Rica
45. Consejo de Jóvenes de Oaxaca - México	México
46. Council of Churches in Namibia	Namibia
47. Council of Churches in Zambia	Zambia
48. CRASH - Coalition for Research and Action for Social Justice and Human Dignity	Finland
49. Creatura Think & Do Tank ry	Finland
50. Croatian Platform for International Citizen Solidarity	Croatia
51. Crofter Foundation	Pakistan
52. Desk for Social Development of the Evangelical Lutheran Church in the Republic of Namibia	Namibia
53. Dibeen for Environmental Development	Jordan / Arab world
54. DISABILITY PEOPLES FORUM UGANDA	Uganda / Africa
55. DoTheDream Youth Development Initiative	Nigeria
56. DUKINGIRE ISI YACU (DIY)	Burundi
57. EJM of FOCCISA	South Africa
58. Equidad de Género: Ciudadanía, Trabajo y Familia	México
59. European Network on Debt and Development (Eurodad)	Europe
60. EUROPEAN NETWORK ON INDEPENDENT LIVING	Belgium
61. Farmworker Association of Florida	United States of America
62. Feminist Task Force	International
63. FENAB	Senegal
64. FIAN International	International
65. FIMARC	International
66. Financial Justice Ireland	Ireland
67. Financial Transparency Coalition	International
68. Finnish Development NGOs Fingo	Finland
69. Finnish Evangelical Lutheran Mission / Felm	Finland
70. Finnwatch	Finland
71. Focus on the Global South	Asia
72. Foro Internacional de Inversión en Juventud	América Latina
73. Freedom from Debit Coalition	Philippines
74. Fundación InternetBolivia.org	Bolivia
75. Gender and Development Network (GADN)	United Kingdom
76. Gender and Economics Research Center NPGE	Brazil
77. Gestos	Brazil
78. Global Alliance for Tax Justice (GATJ)	International
79. Global Call to Action Against Poverty (GCAP)	International
80. Global Policy Forum	International
81. Global Redistribution Advocates	International
82. Green Tax Youth Africa	Ghana
83. Greenpeace	International
84. Green Scenery	Sierra Leone
85. Groupe de Réflexion et d'Initiative pour l'Avancement de la Grand'Anse (GRIAG)	Haiti
86. GRUPO NACIONAL PRESUPUESTO PUBLICO	Peru
87. Indian Social Action Forum	India
88. Indigenous Peoples Global Forum for Sustainable Development, IPGFforSD	International
89. Indonesia for Global Justice (IGJ)	Indonesia
90. Initiative for Social and Economic Rights (ISER)	Uganda
91. Initiatives for Dialogue and Empowerment through Alternative Legal Services (IDEALS)	Philippines
92. Institute for Economic Justice	South Africa
93. Instituto de Estudos Socioeconômicos - Inesc	Brazil

94. International Budget Partnership (IBP)	International
95. IT for Change	India
96. JPIC Kalimantan	Indonesia
97. Kisan Karkeela Organization	Pakistan
98. KULU-Women and Development (KULU)	Danmark
99. Labor Education and Research Network	Philippines
100. Labour Education Foundation	Pakistan
	America Latina y El Caribe
101. Latindadd	International
102. LDC Watch	Finland
103. Liana	International
104. Make Mothers Matter (MMM)	Malawi
105. Malawi Economic Justice Network MEJN	India
106. Mines mineral and people	Togo
107. Misère Option Zéro (MOZ)	India
108. Mm&P (mines,minerals & PEOPLE)	Nigeria
109. Mothers pride and development initiative	India
110. Nadi Ghati Morcha-India	Namibia
111. NANGOF Trust	Nepal
112. National Campaign for Sustainable Development Nepal	India
113. National Hawkers Federation India	Namibia
114. National Union of Namibian Workers, NUNW	Africa
115. Nawi Afrifem Macroeconomics Collective	Norway
116. Norwegian Church Aid	Norway
117. Norwegian Forum for Development and Environment	Togo
118. Observatoire-OISHC	Togo
119. Ong 123 TOGO	Philippines
120. Oriang Women's Movement	International
121. Oxfam	Fiji, Pacific Region
122. Pacific Islands Association of Non Governmental Organisations	Pakistan
123. Pakistan Fisherfolk Forum	Indonesia
124. PRAKARSA	Uganda
125. Raising Hope initiative Uganda	Bolivia
126. Reacción Climática	America Latina y El Caribe
127. Red de Justicia Fiscal de America Latina y El Caribe	Canada
128. Refocus Consulting	France
129. Réseau Action Climat France	Togo
130. Reseau Africain pour le Droit a l'Alimentation Togo (RAPDA-Togo)	Philippines
131. SENTRO Labor (Philippines)	France
132. Sherpa	Finland
133. Siemenpuu Foundation	Germany
134. SocDevJustice	Bangladesh
135. Social Assistance and Rehabilitation for the Physically Vulnerable (SARPV)	International
136. Society for International Development (SID)	Netherlands
137. SOMO	Nepal
138. South Asia Alliance for Poverty Eradication (SAAPE)	
139. Southern Eastern Africa Trade Information and Negotiations Institute (SEATINI-Uganda)	Uganda
140. Stamp Out Poverty	United Kingdom
141. Success Capital Organisation	Botswana
	République démocratique du Congo
142. Syndicat Chrétien de Travailleurs du Congo	Congo
143. TAFJA Nepal, Food Sovereignty and Climate Justice Forum	Nepal
144. Tameer e Nou Women Workers Organization	Pakistan

145. Tax and Fiscal Justice-Asia (TAFJA)	Asia
146. Tax Justice Alliance - Uganda	Uganda
147. Tax Justice Aotearoa New Zealand	New Zealand
148. Tax Justice Europe	Europe
149. Tax Justice Netherlands	Netherlands
150. Tax Justice Network	United Kingdom
151. Tax Justice Network Africa	Africa
152. Tax Justice Norway	Norway
153. Tax Justice UK	United Kingdom
154. Temple of Understanding	United States of America
155. The Oakland Institute	United States of America
156. Third World Network	International
157. Trade Union Solildarity Center of Finland	Finland
158. Transnational Institute	International
159. Transparency International Slovenia	Slovenia
160. Vienna Institute for International Dialogue and Cooperation (VIDC)	Austria
161. VIVAT International	United States
162. VWA FANM AYISYÈN (VFA)	Haiti
163. WEED - World Economy, Ecology & Development	Germany
164. Wemos	Netherlands
165. WIDE - Network for women's rights and feminist perspectivs in development	Austria
166. WomanHealth Philippines	Philippines
167. Women Engage for a Common Future - WECF International	Netherlands
168. Women's association Alga	Kyrgyzstan
169. Women's Environment and Development Organization (WEDO)	International
170. Women's Working Group on Financing for Development	International
171. World Communion of Reformed Churches	Germany
172. Young Feminist Movement Namibia	Namibia
173. Young Women's Leadership Institute (YWLI)	Kenya
174. Youth for Tax Justice Network	Eastern & Southern Africa
175. ZIMBABAWE COUNCIL OF CHURCHES	Zimbabwe
176. ZIMCODD	Zimbabwe