

15 March 2024

Mr. Ramy Youssef

Chair of Ad Hoc Committee

Re: ICRICT statement in response to Chair's request to provide substantive inputs to the work of the Committee to Draft Terms of Reference for a United Nations Framework Convention on International Tax Cooperation

Dear Chair Youssef

As members of the Independent Commission for the Reform of International Corporate Taxation, ICRICT, we appreciate the opportunity to respond to your request for substantive inputs to the work of the Ad-Hoc Committee.

The Commission strongly commends the work of the Ad-Hoc Committee during the recent Organizational Session.

Faced with the challenges of financing the achievement of the Sustainable Development Goals and combating the global environmental crises, the international community must take urgent action to strengthen international tax cooperation. This process must be fully inclusive and effective so that all Member States can jointly generate financing for development in order to ensure services essential for the realisation of economic, social and cultural rights.

International tax agreements often result in cross-border externalities, where fiscal actions by one country affect other countries. These externalities can be negative or positive. The Commission's work shows that one country's tax policy, even if adopted for domestic reasons only, has an impact on other countries - both directly through profit shifting, and indirectly by smaller countries being forced to replicate the larger ones' policies. Our central example of negative externalities is the global "race to the bottom" of corporate tax rates, from which no country gains. The logical consequence is that through equitable cooperation, countries can all benefit.

Thus international tax cooperation is not only an issue of development finance but also a question of mitigating externalities. States are empowered to encourage or discourage certain conducts and correct externalities through specific fiscal policy instruments, and to adopt fiscal measures in order to guarantee human rights. To be effective, this requires an enabling global governance environment and international cooperation in fiscal matters.

Last, but not least, the 2015 Addis Ababa Action Agenda emphasized the importance of international tax cooperation, which should "be universal in approach and scope and should fully take into account the different needs and capacities of all countries".

We believe that the negotiation of a UN framework convention provides a historic opportunity to revisit the recent efforts and advances in the fight to stop tax avoidance and evasion by multinationals and individuals, towards more comprehensive and effective solutions, which fully take into account the needs and priorities of all countries, especially developing ones.

A UN Tax Framework convention can play a crucial role towards both strengthening domestic resource mobilization and reducing externalities. The Convention should have a holistic scope and sufficient flexibility to ensure it is able to reflect and prompt changes in the international tax cooperation landscape and to deal with today and tomorrow's challenges.

This means that, in drafting the Terms of References, there should be no restriction to ring-fence the scope of the framework convention.

The Convention should complement and draw lessons from the strengths and weaknesses of previous international tax cooperation initiatives, including the ongoing intergovernmental negotiations to complete the OECD/G20 Two Pillar Solution.

In particular, we believe that the scope of the framework convention, and the principles it establishes, should encompass work in the following areas:

- Taxation of multinationals' profits, including but not limited to:
 - A fair reallocation of taxing rights between countries, underpinned by the principle of unitary taxation and formulary apportionment of all multinationals' profits for all large multinationals across different jurisdictions. This would require the development of a nexus rule based on the principle of significant economic presence, whereby a taxable presence will be created in the country when a non-resident enterprise has a significant economic presence, defined as purposeful and sustained interaction with the economy of that country.
 - Coordinated taxation of windfall or excess profits.
 - The strengthening of anti-avoidance instruments such as a 25% global effective minimum tax on the profits of multinational corporations.
 - The development of coordinated mechanisms for digital services taxes.
 - Public country-by-country reporting of multinationals' economic activities based on the robust Global Reporting Initiative standard for public reporting on tax ([Tax:207](#)).
- Common principles and minimum standards for the taxation of the income and the wealth (both flows and stocks) of the super-rich, including anti-avoidance instruments such as a global minimum tax on the income and wealth of the super-rich.
- Common principles and minimum standards for ensuring transparency of wealth ownership, including through the creation of a global asset register of beneficial owners, combining public data components and components held privately for tax authorities and other enforcement bodies.

This is the first time that all countries can have an active part in the agenda-setting, in identifying which challenges the tax framework convention can address, the responses to these challenges, as well as the order of priority for dealing with them.

Inclusive and effective participation in international tax cooperation implies that procedures should consider 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.

In this endeavour, developing countries should be adequately supported and provided with sufficient resources and time for them to be able to engage effectively while participating in this process. The UN-DESA should be strengthened with both legal and economic expertise in order to support the preparation of the Convention.

We reaffirm the call by developing countries made during the opening session for Member States and other relevant stakeholders in a position to do so to provide financial support for developing countries to enable in-person attendance by senior taxation officials at the forthcoming sessions of the Ad-Hoc Committee.

As a minimum, the Ad-Hoc Committee should ensure that hybrid participation is available so as to ensure inclusive participation by all Member States and all other stakeholders.

We call on the multiple institutions involved in tax cooperation at the international, regional and local levels to support the work of the Ad-Hoc Committee and to provide technical assistance where appropriate.

As a commission, we will continue to follow and support the work of the Ad-Hoc Committee. We hope the Ad-Hoc Committee will find our comments constructive and helpful in a way that validates the utility of such consultations.

We are available to you to discuss any aspects of our comments in this letter.

Yours faithfully,

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