

For the kind attention of:

Mr. Ramy M. Youssef, Chair of the Intergovernmental Negotiating Committee to draft a United Nations Framework Convention on International Tax Cooperation and two early protocols (INC) and Ms. Liselott Kana, Co-Lead of Workstream II.

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

11 July 2025

Subject: Joint civil society and trade unions submission regarding the Draft Issue Note of Workstream II (Taxation of income derived from the provision of cross-border services in an increasingly digitalized and globalized economy) of the Intergovernmental Negotiating Committee on the UN Framework Convention on International Tax Cooperation.

Abstract

Please find below a joint submission on behalf of the **Global Alliance for Tax Justice (GATJ) and over 100 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 **welcome the approach** and the suggested **timeline** of the Workstream, as well as the focus on strengthening **source country taxation**.

Furthermore, **strengthening taxation of the digitalized economy can provide important additional revenues already in the short term**. However, as outlined in our submission to Workstream I, we also believe the **transfer pricing system** should be replaced with a **unitary system**. We suggest that **Workstream II gives consideration to solutions that can be applied both before and after such a reform**.

In the submission, we also provide comments on specific issues, including **nexus rules, value creation** and the role of **capacity building**. As regards the many problems associated with **bilateral tax treaties**, we call for truly multilateral solutions to reform and replace the role that these treaties play today.

Furthermore, we provide comments on the potential **goals** of the future Protocol, and stress that these should be fully aligned with the objectives of the Terms of Reference.

Lastly, we stress the importance of **full and effective participation** of civil society organizations and trade unions in the work of the committee, including the online meetings of the Workstreams.

Comments on the Draft Issue Note of Workstream II

Overall comments

We welcome the approach that the Workstream has taken, and we find that the suggested **timeline** is appropriate. We also welcome that Workstream II aims to move at a somewhat slower pace than Workstream I, since we believe the work on elaborating the commitments of the Convention will provide important clarity for Workstream II.

That said, we are highly aware that unfair allocation of taxing rights is severely undermining the effectiveness of domestic tax systems, especially developing countries. Not least given the deeply pressing need for public resources, there is an urgent need to find a fair and effective solution to this problem. Thus, the timely finalization of the Framework Convention on International Tax Cooperation (FCITC) and both of the early protocols must be an issue of highest priority.

While we welcome the opportunity to submit comments, we have **strong concerns regarding the lack of participation of observers in the work of the Workstream**. We have elaborated on this point at the end of this submission.

Specific comments

Scope

We support that the Protocol takes a broad scope and addresses all aspects of the digitalized economy, including traditional services provided through digital means.

Short vs. medium term solutions, and the need to replace the transfer pricing system

Strengthening the ability of countries to tax the digitalized economy can provide important additional revenues already in the short term, and this could be an important achievement for the Protocol.

However, we also welcome the points raised in paragraph 12 of the Issues Note, which states: *“Some have questioned why they should incur those costs to apply transfer pricing rules that, in their view, put too much weight on activities that take place in the State of residence (...); they believe that there may be simpler and fairer rules that could be considered.”*

We agree with this point, and as outlined in our submission to Workstream I, we believe that a fundamental reform of the corporate tax system must be carried out with the aim of introducing a simpler and fairer system. Specifically, we suggest that the **Convention should include a commitment to replace the failed transfer pricing system by developing and implementing a new international corporate tax system that taxes MNCs as coherent entities, on the basis of their global profit** (also known as unitary taxation with formulary apportionment), supplemented by the introduction of an ambitious minimum effective corporate tax rate. We argue that the new system should include a balanced formula that fairly allocates taxing rights to countries on the basis of the level and significance of economic activity that the corporation has in each country. This system should include all corporate

profits – also those that are not generated by service provision (i.e. the focus of Workstream II). Therefore, it would be an issue to address in Workstream I (the Convention).

With that in mind, **we suggest that Workstream II gives consideration to solutions that can be applied both before and after such a reform.** The future Protocol could, for example, aim to promote tools to tax the digitalized economy within the current corporate tax system, but at the same time include provisions that will apply once a new and reformed system is introduced. We also find it important that the Convention itself includes a commitment related to taxation of services and the digitalized economy, not least to ensure that the overall framework becomes coherent and consistent.

Source country taxation and digital services taxes

We strongly welcome the discussions about how to promote source country taxation and we believe this will be a vital element of creating a fairer international tax system. The aim should be to **ensure that source countries do not have to choose between maintaining their taxing rights or being a part of the global system.**

We also **welcome a special focus on digital services taxes**, which we find to be an important and effective tool that is relatively easy to administer and can bring important additional revenue even in the near future. Similarly, we welcome the recognition of the important role that **gross-basis withholding taxes** play in relation to domestic resource mobilization, especially in developing countries.

Comparables

On the issue of comparables, we refer to our submission to Workstream III.

Bilateral tax treaties

The Issues Note correctly points out that **bilateral tax treaties can have strong negative effects** on domestic tax systems, including by limiting taxing rights. At the same time, the Note flags that *“it is difficult for [developing countries] to modify or terminate treaties once they are in force”*.

We are thankful to the Workstream for highlighting this important problem and find that **a key function of the future UN Tax Convention should be a fundamental reconsideration of the purpose and design of the tax treaty system, with a view to its replacement by a framework for coordination and cooperation enabling all states to tax activities where they take place.** In addition to the strong concerns outlined in the Issues Note of Workstream II, we would also underline that the complex network of treaties is a source of fragmentation, inconsistencies and inefficiency. Furthermore, the bilateral treaty approach makes it very difficult for all countries, but in particular for least developed countries, to become an integrated part of the global tax system, since this will require negotiation of a very high number of treaties. At the same time, it can be difficult for less powerful countries to obtain fair arrangements in bilateral negotiations with more powerful countries, and thus, the problems that Workstream II has highlighted can become even worse.

For that reason, **we would urge all Workstreams, including Workstream II, to consider solutions that entail the introduction of a real multilateral system.**

Goals of the Protocol

Paragraph 14 outlines the potential goals of the Protocol and mentions the primary goals as being “*to support domestic resource mobilization by providing for a fair allocation of taxing rights*”. It also highlights the following elements as secondary goals: “*eliminate barriers to cross-border trade and investment, economic efficiency and ensuring tax neutrality, and simplicity and administrability*”.

We agree that domestic resource mobilization (DRM) should be included as a primary goal of the Protocol but would add that a fair allocation of taxing rights could be an important contribution to a number of other components that are central to the objectives as stated in paragraph 7 of the Terms of Reference (ToR). Therefore, rather than only mentioning one component from these objectives, namely DRM, we believe the Protocol should incorporate a wider range of these components in its goals. This includes ensuring inclusive and effective international tax cooperation; ensuring a system of governance capable of responding to existing and future challenges; and promotion of a fair, transparent, efficient, equitable and effective international tax system for sustainable development, as well as enhancing the legitimacy, certainty, resilience and fairness of international tax rules.

In terms of the **secondary goals** listed in paragraph 14, we note that these bring up a number of new elements that have not been mentioned in the ToR. Since the ToR already includes a rich and thorough outline of the objectives, we see no need to add even more components and would therefore **suggest that these be replaced with a reference to the objectives (i.e. paragraph 7) of the Terms of Reference.**

Value creation

Paragraph 18 of the Issues Note very helpfully brings forward the confusion related to the term “**value creation**”, including the point that this concept does not bring any independent economic meaning. **We agree that this term is ill-defined, and would add that it also brings some specific concerns related to international corporate tax avoidance.** The term value creation is sometimes equaled to concepts such as value appropriation or value capture, which brings links to intangible assets such as user data, patents, trademarks, etc. In that context, we want to remind the committee that intangible assets commonly play a key role in relation to harmful tax practices (including, for example, patent boxes).

However, at the same time, we believe that it is **important that tax rules reflect and correctly capture the value derived from users of, for example, social media.**

With that in mind, we urge Workstream II to take a cautious approach to this term, but at the same time aim to develop tax approaches that match the modern economy, including the role of users.

New nexus rules – permanent establishment and the “significant economic presence” test

We strongly welcome the recognition of the fact that **the term “permanent establishment” is deeply outdated** and unsuited for today’s digitalized economy. We believe it is very important that countries have the right to tax MNEs that generate revenues in their countries, regardless of whether there is a “permanent establishment” or not.

We also **welcome the new and more modern approaches, including the “significant economic presence” test.** In this context, we want to express our deep support for the fact that paragraph 19 of the Issues Note underlines that “*The monetary thresholds can be tailored to*

the size of the relevant economy". We believe this will be very important, especially for least developed countries and small economies.

Capacity building

The Issues Note highlights that *"Developed countries often argue that the key to improving domestic resource mobilization in developing countries is capacity building and technical assistance."* We are very aware of this and agree with the countries that have expressed concerns on this point. In this context, we would like to highlight that **international tax abuse, including corporate tax avoidance, is a problem that hits both developed and developing countries hard, and under the current transfer pricing system, no country has managed to resolve it.** Thus, we do not believe there is any "capacity" to transfer from developed to developing countries. Rather, **we see a joint interest between all countries in developing a better international system.**

Observer participation

Paragraph 21 of the ToR states that *"civil society and other relevant stakeholders are encouraged to contribute to the work of the intergovernmental negotiating committee in accordance with established practices."* We are very committed to responding to this invitation and as a global network of civil society organizations and trade unions, we bring extensive knowledge on taxation and finance, including from the national and regional levels, and from our consistent engagement in a broad range of UN processes.

However, **our contribution can only be meaningful if it is well-informed and timely.** We find it deeply concerning that observers have not been invited to participate in the online meetings of the Workstreams, since this leaves us with a limited understanding of the specific discussions Member States have had, and significantly reduces our ability to feed into and respond to the debate.

Regarding the **established practice**, we note that in particular as regards "informal-informals" it is inconsistent, but that observer participation in such meetings is by no means uncommon - it occurs within a wide range of UN processes, and it has also already occurred within the UN Tax Convention processes. There are also precedents for observer participation in online meetings – for example from the work of the UN Expert Committee on Tax. We stress the importance of allowing for full and effective participation of civil society and trade unions in all meetings of the committee going forward.

Signatories

1	11.11.11	Belgium
2	Initiatives for Dialogue and Empowerment Through Alternative Legal Services (IDEALS)	The Philippines
3	ABED - Associação Brasileira de Economistas pela Democracia	Brazil
4	ACT Alliance	International
5	ActionAid International	International
6	Active Citizenship Foundation, Inc. (ACF)	The Philippines

7	Alliance for Development	Ghana
8	Alliance Sud	Switzerland
9	Alternative Information & Development Centre	South Africa
10	Amnesty International	International
11	Arab NGO Network for Development (ANND)	Lebanon
12	Asia Development Alliance	Asia
13	Asian Peoples' Movement on Debt and Development (APMDD)	Asia
14	Association For Promotion Sustainable Development	India
15	Attac Österreich	Austria
16	Attac Deutschland	Germany
17	AwazCDS-Pakistan	Pakistan
18	Botswana Council of Churches	Botswana
19	Brazilian Campaign for the Right to Education	Brazil
20	Bretton Woods Project	United Kingdom
21	CADIRE CAMEROON ASSOCIATION	Cameroon
22	CCAP Blantyre Synod (AACC Champion for Malawi)	Malawi
23	Center for Economic and Social Rights	International
24	Centre for Citizens Conserving Environment & Management (CECIC)	Uganda
25	Changemaker	Norway
26	Christian Aid	International
27	Club Unesco du Centred'Action Femme et Enfant en sigle ONG CUCAFE	République Démocratique du Congo
28	CNCD-11.11.11	Belgium
29	COAST Foundation	Bangladesh
30	Comité Catholique contre la Faim et pour le Développement - Terre Solidaire	France
31	Connected Advocacy	Nigeria
32	COUNCIL OF CHURCHES IN ZAMBIA	Zambia
33	Daayyaa Generation Network (DGN)	Ethiopia
34	Dejusticia - Centro de Estudios de Derecho, Justicia y Sociedad	Colombia
35	DISABILITY PEOPLES FORUM UGANDA	Uganda
36	DMUN Foundation	Republic of Korea
37	DUKINGIRE ISI YACU (DIY)	Burundi
38	Echoes of Women in Africa Initiatives	Nigeria
39	EcoEquity	United States of America
40	Economic Justice Network of FOCCISA	South Africa
41	Equidad de Género: Ciudadanía, Trabajo y Familia	México
42	European Network on Debt and Development (Eurodad)	Europe
43	FASE - Solidariedade e Educação	Brazil
44	Financial Justice Ireland	Ireland
45	Financial Transparency Coalition	International
46	Finnish development NGOs Fingo	Finland
47	Finnwatch	Finland
48	Free Trade Union Development Center	Sri Lanka
49	Freedom from Debt Coalition	The Philippines
50	Fundar, Centro de Análisis e Investigación	México
51	Futuros Mejores	Argentina
52	Global Alliance for Tax Justice	International

53	Global Call to Action Against Poverty (GCAP)	International
54	Global Initiative for Economic, Social and Cultural Rights (GI-ESCR)	International
55	Global Policy Forum Europe	Europe
56	Global Redistribution Advocates	International
57	Global Witness	United Kingdom
58	Greenpeace International	International
59	Inesc - Institute for Socioeconomic Studies	Brazil
60	Initiative for Social and Economic Rights (ISER)	Uganda
61	Kanisa la Mennonite Tanzania	Tanzania
62	Labor Education and Research Network (LEARN)	The Philippines
63	Latin American Campaign for the Right to Education	Latin America
64	Lutheran World Federation (LWF)	International
65	MenaFem Movement for Economic, Development And Ecological Justice	Mena/Egypt/Morocco
66	Mothers Rise Up	United Kingdom
67	National Campaign for Sustainable Development Nepal	Nepal
68	Netzwerk Steuergerechtigkeit	Germany
69	Norwegian Church Aid	Norway
70	Norwegian Church Aid	United Republic of Tanzania
71	Norwegian Church Aid	Malawi
72	OLABODE YOUTH AND WOMEN INITIATIVES (OYAWIN)	Nigeria
73	Open Ownership (Global Impact)	International
74	Oxfam	International
75	Pakistan Development Alliance	Pakistan
76	People's Alternative Studies Center for Research and Education in Social Development (PASCRES)	The Philippines
77	Plataforma Portuguesa das ONGD (Portuguese Platform of Development NGOs)	Portugal
78	Positive Money	United Kingdom
79	Quest For Growth and Development Foundation	Nigeria
80	REBRIP - Rede Brasileira pela Integração dos Povos	Brazil
81	Red de Justicia Fiscal de América Latina y El Caribe - RJF ALC	América Latina y El Caribe
82	Red Latinoamericana y del Caribe por Justicia Económica, Social y Climática (LATINDADD)	América Latina y El Caribe
83	Rural Area Development Programme (RADP)	Nepal
84	SENTRO	The Philippines
85	Sinatsisa Lubombo Women and girls empowerment Organsiation	Eswatini
86	Sindicato Nacional Empleados Impuestos y Aduanas Colombia	Colombia
87	SOMO	Netherlands
88	Southern and Eastern Africa Trade Information Negotiations Institute	Uganda
89	SPELL-Sustainability and Participation through Education and Lifelong Learning	The Philippines
90	Synergie SOECDD/RDC	République Démocratique du Congo
91	Tax Justice Aotearoa New Zealand	New Zealand
92	Tax Justice Network	International
93	Tax Justice Network Africa	Africa
94	Tax Justice Norway	Norway
95	Tax Justice UK	United Kingdom
96	taxmenow - Initiative für Steuergerechtigkeit e.V.	Germany / Austria / Switzerland
97	The African Youth Cafe	Africa

98	The Latin American and Caribbean Network for Economic, Social, and Climate Justice (LATINDADD)	Latin America and the Caribbean
99	Third World Network	International
100	Trade Justice Pilipinas	The Philippines
101	Vienna Institute for International Dialogue and Cooperation (VIDC)	Austria
102	VIVAT International	International
103	Wemos	Netherlands
104	Women's Environment and Development Organization (WEDO)	International
105	Working Group on Intellectual Property (GTPI)	Brazil
106	World Young Women's Christian Association	International
107	Youth For Tax Justice Network	Uganda
108	Zimbabwe Council of Churches	Zimbabwe