Third Session, UN Tax Convention Negotiations
November 12, 2025
Article 8- Harmful Tax Practices

Intervention by Jaco Oelofsen from AIDC

Thank you chair. I am Jaco Oelofsen speaking on behalf of the Alternative Information & Development Centre from South Africa, also a member of the African CSO Working Group on the UN Tax Convention.

As recognised in Article 8, transnational actors like MNEs are highly mobile, taking advantage of egregious tax and secrecy benefits offered by some jurisdictions through shifting their profits to these locations, while placing pressure on other states to compete in the tax race to the bottom, undermining their own tax base. Distinguished delegates, we want to focus our intervention on Article 8 through how this relates to the extractives sector in particular.

We believe that the extractives sector deserves special consideration with regards to this article as well as other articles, such as article 7 and 9, because of its unique impacts. Unlike most other economic activities, extractive industries lead to the permanent loss of countries' non-renewable resources, unavoidable environmental degradation, and tend to crowd out other economic sectors ("Resource Curse", which comes from the international division of labour/production). The impact of harmful tax practices in the extractives sector goes beyond the erosion of the tax. These practices enable the shifting of profits from other jurisdictions, they reduce the capital base for productive reinvestment, local development, wages and environmental rehabilitation. When harmful tax practices take the form of excessive or unjustified tax incentives, they can subsidise some of the most polluting activities while entrenching reliance on raw mineral exports and in turn, the international power dynamics that reproduce this. In summary, you cannot discuss harmful tax practices in Africa without speaking to the extractives sector. To this end we wish to make three points, supporting the proposal put forward by the Africa Group to add a specific commitment in the Convention relating to extractive industries:

1. Article 8.2 addresses tax incentives, but this could be strengthened with language reflecting a commitment towards more effective, transparent and rational tax expenditure, aligned with sustainable developmental goals. In practice, the scope of the article could be extended to all forms of incentives, stability clauses, deductions and preferential rates, while committing parties to undertake cost benefit analysis and to publish regular timely public tax expenditure reports reflecting the costs to society, enabling democratic oversight.

2. In recognition of the climate emergency currently discussed at COP30, we also call for this article to align with commitments to reduce emissions by including a commitment to refrain from providing tax incentives for investment in fossil fuels and the mining of raw minerals for export, guided by the principles of Common But Differentiated Responsibilities and Respective Capabilities. To avoid placing the burden on developing countries, this would need to be combined with redistributive measures such as a global surtax on polluting industries, connecting to the long-standing discussions around climate reparations, in line with the polluter pays principle.

3. While recognising the desire to avoid overloading the Convention with sectoral considerations, we believe that the extractives sector does deserve special consideration, and should constitute a separate article in the convention text. This would allow for more nuanced consideration of important issues raised in Articles 7, 8, and 9. This commitment should also include a reference to enabling diversification and the reduction of raw mineral exports in line with climate commitments.

4. Lastly, article 8.3b introduces the possibility of a minimum level of taxation for business activities originating from jurisdictions with harmful tax practices. A more effective solution should also address the ability of MNEs to take advantage of these practices. In line with the ToRs, we call for a specific Article on Equitable Taxation of Multinational Enterprises. This Article should introduce a transition towards unitary taxation with formulary apportionment, supplemented by a minimum effective corporate tax rate. This should be seen as a long term solution to this issue, putting an end to aggressive tax planning which may be arguably legal, but certainly immoral.

Thank you