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Article 10- Prevention and Resolution

Intervention by Robert Mwale from Centre for Trade Policy and Development in Zambia

Thank you Chair for the opportunity to speak.

I am Robert Mwale from the Centre for Trade Policy and Development in Zambia, I will be speaking on behalf of the Tax and Education Alliance (TaxEd), Education International as well as the African CSOs Working Group on the UN Tax Convention.

Distinguished Delegates, The African Civil Society Working Group appreciates the intent of Article 10; however, we note with concern that its current formulation remains unclear and potentially overlapping with Article 20 and Protocol 2. It is not evident which types of disputes the Article seeks to address, between whom, or on what legal basis, nor why particular emphasis is given to disputes related to cross-border trade and investment. This ambiguity risks creating duplication and legal uncertainty within the framework Convention.

In our view, the UN Tax Convention article 10 should primarily focus on preventing disputes from arising, by strengthening cooperation, and enhancing transparency including [Automatic Exchange of Information, mandatory Country-to-Country Reporting, Making Beneficial Ownership Register Public and ultimately implementation of a Global Asset Register] among Member States.

While we recognize the importance of effective dispute resolution, we are cautious about the introduction of arbitration-style obligations within Article 10. Experience from existing international frameworks [investment treaty arbitration and investor–state dispute settlement (ISDS)] has demonstrated that such mechanisms can be extremely costly, unpredictable, and sovereignty-constraining for developing countries. Furthermore, arbitration cases cost governments in Africa and Latin America tens to hundreds of millions of dollars in legal fees and awards, diverting scarce public resources from essential development priorities such as Education, Health, and infrastructure development. Moreover, arbitration often lacks transparency, limits state policy space, and provides little opportunity for equitable participation by developing country administrations.

For these reasons, we recommend that Article 10 be clearly delineated from Article 20, limiting its scope to dispute prevention, including transparency and fair and effective tax rules as well as democratic accountability. All provisions relating to dispute resolution should fall exclusively under Article 20, which can provide a coherent, state-to-state mechanism grounded in inclusivity and mutual respect for sovereignty.

In essence, Chair, Article 10 should promote prevention rather than parallel arbitration, ensuring that the UN Tax Convention remains a tool for fairness, cooperation, and sustainable international tax governance.

Thank you once again for the opportunity to speak.