Fifth Session, UN Tax Convention Negotiations
August 11, 2026

Protocol 1 - Article 9

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Thank you Ms. Co-Lead.

I am speaking today on behalf of Public Services International, which represents about 30 million workers in 153 counties, and the International Trade Union Confederation, which represents about 200 million workers in 170 countries and territories. We wanted to raise a political concern about the direction in which Protocol 1 is evolving, possibly moving beyond the mandate of this Protocol.

We should not reproduce the typical imbalances of free trade agreements under a new multilateral instrument at the United Nations, which is precisely trying to achieve a fair, equitable, multilateral treaty.

Thus, we are particularly concerned about Article 9 and the inclusion of the non-discrimination principle through the proposal that a State should not disadvantage cross-border service providers in comparison with domestic enterprises.

Non-discrimination can be an important principle in some contexts. But to introduce such a broad principle here is potentially inappropriate to the specific mandate of Protocol 1. We are concerned about the implications of this article regarding net taxation, since in many ways, domestic laws on net taxation provide slightly different treatment for domestic and foreign enterprises. This is especially evident in the deduction of allowable expenses. For instance, countries adopt several measures such as thin capitalisation rules ie.limitations on interest deductions and differences in treatment of dividends. This differential treatment is warranted as most of these measures exist to prevent harmful tax practices. We worry that the current text of article 9 may infringe on that.

This matters enormously for the Global South, since these countries legitimately use taxation not only to raise revenue, but also as an instrument of economic and industrial policy. There is, to support domestic producers, to guarantee the protection of strategic sectors, address deindustrialization, promote small and medium-sized enterprises, and pursue development objectives.

The UN Framework Convention was created precisely because the existing international economic order has failed to provide a sufficiently fair distribution of taxing rights and development opportunities. Countries in the Global South have experienced decades of unequal development, unfavorable terms of trade, extraction of natural resources and value, profit shifting, tax avoidance and illicit financial flows.

We call on Member States to keep the scope of Protocol 1 firmly centered on a fair allocation of taxing rights over cross-border services, with meaningful source and market taxation, appropriate nexus rules, and sufficient policy space for developing countries.

This Protocol must represent a step forward from the existing international tax architecture, not a multilateralization of its shortcomings.

Thank you.