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Article 5 – Fair Allocation of Taxing Rights

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Thank you, Mr. Chair,

I speak on behalf of the Climate Group for Latin America and the Caribbean (GFLAC).

Extractive industries from natural resource commodities represent a large share of revenues for Global South countries. While a fair allocation of taxing rights should foremost be ensured, which is currently done in Article 5, special characteristics of this industry should also be addressed separately. In Africa, illicit financial flows (IFFs) amounting to at least 40 billion USD were linked to extractive commodities according to the 2020 UNCTAD study on IFFs in Africa. This reveals this sector's specific vulnerability towards IFFs. Considering the finite nature of these resources, it is critical to urgently address this.

Extractive industries do not pay for the damage they leave behind; this includes damages from forest deforestation, land degradation, water pollution, ocean contamination, greenhouse gas emissions, and impacts to affected communities and to Indigenous Peoples; damages that countries later have to pay. Thus, these MNEs not only don't pay a fair share of taxes to the countries in which they extract resources, but they are not made accountable for the expenditure Global South countries have to engage to cover the damages: this means a double loss. For this reason, tax systems should not incentivize activities that generate environmental harm. Yet evidence from the SFI in Latin America and the Caribbean shows that carbon-intensive sectors, primarily extractive industries, receive preferential treatment that as a consequence generate revenues approximately 19 times greater than those associated with sustainable activities. This creates negative incentives that are inconsistent with the objective of aligning financial flows under Article 2.1(c) of the Paris Agreement.

We finally propose a commitment with text that will ensure effective taxation of extractive industries in source countries, including by ensuring a fair allocation of taxing rights that prioritizes jurisdictions where extraction takes place, as well as combating sector-specific illicit financial flows and harmful tax practices, including harmful tax incentives. The COP should be provided with the mandate to develop specific methods to ensure effective resource rents that factor in the long-term cost of permanent losses of non-renewable natural resources, as well as the environmental and social impacts of extraction, including environmental degradation and the impacts on local communities. These valuation methods should serve as the basis for determining fair tax measures for extractive industries. We are happy to provide exact specific written text on this.

Thank you, Mr. Chair.