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South Centre Inputs on Workstream I: Framework Convention (Co-Lead's Draft Framework Convention Template 24 October 2025)

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I. Background

The South Centre is an intergovernmental organization of developing countries that helps developing countries to combine their efforts and expertise to promote their common interests in the international arena. The South Centre has 55 Member States coming from the three developing country regions of Africa, Asia, and Latin America and the Caribbean. It was established by an Intergovernmental Agreement which came into force on 31 July 1995. Its headquarters are in Geneva, Switzerland.

In 2016, the South Centre launched the South Centre Tax Initiative (SCTI). This is the organization's flagship project for promoting South-South cooperation among developing countries in international tax matters.[1]

II. Abstract

The draft is a good starting point. This submission provides comments and inputs on the draft commitments of the Framework Convention. The commitments should support a fair allocation of taxing rights, strengthen international cooperation and transparency, and capacity building. It is essential that the Convention is not subordinated to existing instruments developed outside truly inclusive multilateral processes. The allocation of taxing rights should correct the historical injustice of prioritizing developed countries through overt emphasis on residence-based taxation and supply-side factors.

The text of the Convention should include strong commitments to address tax evasion and avoidance by high-net-worth individuals. The text should also reinforce international cooperation in mutual administrative assistance in tax matters, including all forms of exchange of information and encourage public country by country reporting. In addition, the definition of Illicit Financial Flows should rely on the formulation adopted by the United Nations Statistical Commission that includes both tax evasion and tax avoidance.

Harmful Tax Practices need to be addressed through a transparent and inclusive multilateral process that is seen as fair and proportionate. International cooperation in tax administrative matters and capacity building should accommodate different capacities and needs of countries.

[1] Queries may be addressed to taxcooperation@southcentre.int

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Specific pointers have been made on text that should be added, removed or modified along with the accompanying rationale. For ease of the delegates, where appropriate the revised text of the Article has also been provided with ~~deletions~~ and **additions** indicated accordingly.

III. General Comments

The South Centre congratulates the Intergovernmental Negotiating Committee (INC) for the progress achieved and welcomes the Co-Lead's Draft Framework Convention Template (24 October 2025) prepared by Workstream I under the leadership of Ghana.

As an overarching principle, the Convention should not to be subject to existing instruments or frameworks.

IV. Specific Comments

Below are specific comments and inputs for Articles 4 to 11:

Article 4: Fair Allocation of Taxing Rights

The Article should cover broad taxation rights that ensure that jurisdictions where economic activity, revenue generation, value creation, or market engagement occur have taxing rights. Thus, the meeting of any one of these conditions should trigger taxing rights. The specific recognition of the market, revenue generation and in general demand side factors is a welcome correction of the historical injustice that prioritized taxing rights to industrialized developed countries through the combination of residence-based taxation and profit attribution that took into account exclusively supply-side factors factors through the "Functions Assets Risk" based approach as contained in the "Authorized OECD Approach".

This formulation is "fair" in that the role of the demand side is also accounted for which is essential for developing countries who are net importers of goods, services and capital.

The term "taxpayer" may also cause confusion since the Article is about allocation of taxing rights, and by definition taxpayers come into existence only *after* taxing rights are established and not before. It may hence be deleted from the text.

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It is also reiterated that taxing rights are generated by domestic law, not by international agreements. This Convention is therefore not "creating" or "granting" taxing rights and will only impact how taxing rights are allocated between contracting parties.

The revised text could thus be:

The States Parties agree that every jurisdiction ~~where a taxpayer conducts business activities, including jurisdictions~~ where value is created, markets are located, revenues are generated **or** economic activities take place, have a right to tax the income generated **or attributable thereto**~~such from such business activities~~.

Article 5: High-Net-Worth Individuals

In the Article exchange of information plays a key role to ensure effective taxation of high net worth individuals. This exchange can be potentially hampered by the conditionality "becomes feasible" at the end of para 1. The phrase can be accordingly deleted.

The suggested draft text in Paragraph 1:

"…..expanding exchange of information to additional types of assets and instruments ~~as such exchange becomes feasible~~."

Article 6: Mutual Administrative Assistance

The Article's start with the recognition that domestic resource mobilization depends on enforcement appears unnecessary, does not add much value and may be deleted. The wording can also be simplified and clarified by using the phrase "mutual administrative assistance in tax matters" to ensure broad coverage. Different types of administrative assistance can be mentioned in the text. The rather stringent language on confidentiality can also be toned down.

The Article should have binding commitments on mutual administrative assistance in tax matters, including Public Country by Country Reporting (PCbCR) and capacity building. PCbCR in particular can have huge impact on reducing tax avoidance and increase revenue generation for developing countries. The Article should also take into account the different capacities of countries.

On this basis, the suggested text of the Article is:

1. ~~The States Parties recognize that domestic resource mobilization depends on the ability of all States to enforce their domestic tax laws. Accordingly~~ States Parties

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shall afford one another the widest measure of mutual administrative assistance **in tax matters** ~~(including through exchange of information for tax purposes), to support the administration or enforcement of the domestic laws regarding taxes of every kind and description by another State Party~~.

2. Such administrative assistance will include the exchange of information, ~~regarding revenues, expenses, profits, taxes paid, tax planning strategies, tax structuring arrangements, the nature of activities, and any other relevant information~~ **Assistance in Tax Collection, Simultaneous Tax Examination, Tax Examination Abroad, Service of Documents and any other form of mutual administrative assistance as the Conference of the Parties may from time to time determine**.
3. The States Parties agree to cooperate to identify and eliminate administrative barriers that prevent effective mutual administrative assistance, ~~including with respect to transparency and exchange of information for tax purposes~~**in tax matters.**
4. Any information obtained by a State Party under Articles 5 and 6 of this Convention shall be treated as secret and protected in the same manner as information obtained under the domestic law of that State Party ~~and, to the extent needed to ensure the necessary level of protection of personal data, in accordance with the safeguards which may be specified by the supplying Party as required under its domestic law~~.
5. The States Parties agree to expand assistance in collection of tax debts ~~to the extent possible, taking into account the needs and capacities of the States Parties, as well as national constitutional restrictions~~. **In implementation of this article, the States Parties shall take into cognizance the needs and capacities of developing countries and countries in special situations as well as such limitations as the Conference of the Parties may from time to time determine.**

Article 7 – Illicit Financial Flows, Tax Avoidance and Tax Evasion

The Article should recognize the definition of Illicit Financial Flows (IFFs) universally adopted by the Member States of the United Nations Statistical Commission, which includes both tax evasion and aggressive tax avoidance. SDG 16.4 measures progress taken in reducing IFFs. The statistical measure clearly indicates that tax avoidance is one of the four types of activities that generate IFFs. To quote,

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"Illicit flows can also be generated from legal economic activities through aggressive tax avoidance. This can take place through the manipulation of transfer pricing, strategic location of debt and intellectual property, tax treaty shopping and the use of hybrid instruments and entities."

The statistical approach is articulated in the Conceptual Framework for the Statistical Measurement of IFFs by the custodian agencies, UNODC and UNCTAD. UN Member States have welcomed the strengthened international cooperation to combat IFFs and the work of the UN system[2], including the statistical measure that has been used to estimate IFFs in different countries[3].

This Article, by making it clear that tax avoidance is included in the definition of IFFs can upgrade the UN's definition from a statistical indicator to one that is legally agreed by the Parties to the UN FCITC. This can decisively end the argument that tax avoidance is acceptable because it is legal. It would also influence judicial interpretation, strengthen administrative enforcement, and discourage aggressive tax planning strategies that disproportionately harm developing countries.

The agreed UN definition could be incorporated directly in the Framework Convention, or in a dedicated Protocol on Illicit Financial Flows, or in both to ensure consistency in interpretation.

The Article can also emphasize implementation of existing tools.

Article 8: Harmful Tax Practices

The Article should have a definition of Harmful Tax Practices (HTP) developed through a transparent and inclusive multilateral process. Definition of HTP can be considered through the lens of resource mobilization for development and economic substance.

Measures in response to HTP within the context of the Framework Convention need to be designed in a careful manner that is seen as fair and proportionate.

[2] UN General Assembly Resolution A/RES/74/206 in 2020
[3] UN Report (2017), TD/B/EFD/1/3 page 4 Available at: https://docs.un.org/en/td/B/EFD/1/3; UN (2023) Statistical Measurement of Tax and Commercial Illicit Financial Flows, Pilot testing methodologies for SDG indicator 16.4.1, Available at: https://unctad.org/system/files/official-document/stat2023d1_en.pdf

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The mention of tax incentives within the context of harmful tax practices is also problematic as it indicates that tax incentives by their very nature are harmful, which is not true. They remain a legitimate policy tool for many South Centre Member States.

Para 1 is declaratory in nature and largely unnecessary.

Paras 1 and 2 can thus be **deleted** from the text.

On para 3, if 'minimum taxes' has to be mentioned, it should be defined so as not to be confused with the OECD's Global Minimum Tax, which has not been adopted by most developing countries, including the vast majority of the South Centre's Member States, because of its highly complex design and non-existent revenue benefits.

Article 9: Sustainable Development

The existing text is sufficient and comprehensive and no further work is necessary.

Article 10: Prevention and Resolution of Tax Disputes

The scope of Articles 10 and 20, and the Dispute Prevention and Resolution Protocol need further refinement.

Article 11: Capacity Building and Technical Assistance

This should be a standalone article given the central importance of capacity building for developing countries. The capacity building should be needs-driven, reflecting each country's specific challenges and priorities. The scope may include knowledge transfer, technology transfer, access to databases, and the creation of centres of excellence and knowledge hubs.

It is essential to ensure sustainability to prevent knowledge drain to the private sector. Coordination with existing capacity building initiatives, and stronger regional collaboration to avoid duplication and promote peer learning can ensure sustainability.

The UN secretariat can act as a coordinator and provider of sustainable capacity building.