

For the kind attention of:

Mr. Ramy M. Youssef, Chair of the Intergovernmental Negotiating Committee to draft a United Nations Framework Convention on International Tax Cooperation and two early protocols (INC), Ms. Marlene Nembhard-Parker and Mr. Michael Braun, Co-Leads of Workstream III.

Cc: Permanent Representatives and Observers to the UN in New York

11 July 2025

Subject: Joint civil society and trade unions submission regarding the Draft Outline of Issues Overview and Scope of Workstream III (Prevention and resolution of tax disputes) of the Intergovernmental Negotiating Committee on the UN Framework Convention on International Tax Cooperation.

Abstract

Please find below a joint submission on behalf of the **Global Alliance for Tax Justice (GATJ) and over 100 organizations and trade unions**. GATJ facilitates the CS FfD Mechanism's Tax Justice Workstream with the support of one of its members, the European Network on Debt and Development (Eurodad). GATJ is a Southern-led global coalition in the tax justice movement.

We **welcome the overall approach** that the Workstream has taken, as well as the suggested **timeline**.

Furthermore, we provide specific comments on the potential **goal** of the future Protocol, and stress that this should be fully aligned with the Terms of Reference.

We also provide comments on specific issues, including the relation between the Protocol and **existing international tax disputes**, and we highlight that the **transfer pricing system** is a key cause of such disputes. In line with the submission we have made to Workstream I, we call for this system to be replaced with a **unitary system**.

We also provide inputs on the issues of **comparables**, **advance pricing agreements** and the need for **public country by country reporting**. Furthermore, we call for truly multilateral solutions to reform and replace the role that **bilateral tax treaties** play today, and caution against **opt-in opt-out** approaches. We also highlight our strong concerns concerning **mandatory arbitration**.

Lastly, we stress the importance of **full and effective participation** of civil society organizations and trade unions in the work of the committee, including the online meetings of the Workstreams.

Comments on the Draft Outline of Issues Overview and Scope of Workstream III

Overall comments

We welcome the approach that the Workstream has taken, and we find that the suggested **timeline** is appropriate. We also welcome that Workstream III aims to move at a somewhat slower pace than Workstream I, since we believe the work on elaborating the commitments of the Convention will provide important clarity for Workstream III.

While we welcome the opportunity to submit comments, we have **strong concerns regarding the lack of participation of observers in the work of the Workstream**. We have elaborated on this point at the end of this submission.

Specific comments

Ultimate goal

Paragraph 9 outlines the ultimate goal of the work on effective prevention and resolution of tax disputes and defines it as “*to increase domestic resource mobilization by increasing cross-border trade and investment*”.

Considering the objectives stated in paragraph 7 of the Terms of Reference (ToR), we note that only one element from these objectives – namely the concept of domestic resource mobilization (DRM) – has been picked up in paragraph 9. We believe that the issue of dispute prevention and resolution has the potential to contribute to a much wider range of the elements outlined in the objective of the ToR, including ensuring inclusive and effective international tax cooperation; ensuring a system of governance capable of responding to existing and future challenges; and promotion of a fair, transparent, efficient, equitable and effective international tax system for sustainable development, as well as enhancing the legitimacy, certainty, resilience and fairness of international tax rules.

Secondly, we note that the goal stated in paragraph 9 picks up an element that is not mentioned in the ToR, namely “*cross-border trade and investment*”, and specifies this as a method to increase DRM. We want to highlight that it cannot be automatically assumed that cross-border trade and investment will lead to increased DRM. For example, in the case where domestic firms are crowded out by multinational corporations engaged in profit shifting and international tax avoidance, “cross-border trade and investment” can easily lead to a drop in corporate tax income, which is a very central component of DRM, especially in developing countries.

In conclusion, **we believe the goal outlined in paragraph 9 of the Issues Overview should be redrafted to ensure that it is fully aligned with the objectives as stated in the ToR**. As an alternative, Workstream III could simply refer directly back to the objectives outlined in paragraph 7 of the ToR.

Existing disputes

During the online stakeholder consultation, we got the understanding that Workstream III does not aim for the Protocol to address pre-existing tax disputes about individual taxpayers. We support this approach.

Corporate tax and dispute prevention vs. resolution

The Issues Overview notes, in paragraph 10, that the most common type of dispute concern relates to multinational corporations, including issues related to the current international corporate tax rules. We agree with this assessment and find this to be one out of many strong arguments to carrying out a fundamental reform of the current international system.

As described in our submission to Workstream I, **we believe that the UN Tax Convention should aim to replace the transfer pricing system (including the arm's length principle) with a unitary system with formulary apportionment, supplemented by an ambitious minimum effective corporate tax rate. We note that this has the potential to prevent many of the issues that are currently causing disputes.**

With this in mind, we would argue that **Workstream III does not need to invest resources in trying to develop methods to resolve transfer pricing disputes** - firstly because the problems go far beyond what can be resolved with dispute resolution tools, and secondly because the focus should be on dispute prevention, through a replacement of the entire system.

Comparables

The Issues Overview mentions the issue of “comparable transactions”, which is a well-known problem in relation to transfer pricing. Rather than an issue of information sharing, we believe this is a problem of false assumptions. The fundamental problem is that multinational corporations carry out internal transactions for which there are no comparable transactions between independent companies. This fact points to one of the fundamental flaws in the transfer pricing system, namely the idea that multinational corporations can be taxed as independent entities. **We believe the way to resolve this issue is by replacing the transfer pricing system** with a system that taxes multinational corporations as coherent entities, on the basis of their global profits.

Access to country by country (CBC) reports

The Issues Overview also mentions the problems that countries have with accessing CBC reports. This is an issue of high concern for us, but also one that can easily be resolved by making these reports publicly available. Public CBC reporting would significantly increase the opportunities for tax administrators to cooperate across borders, since everyone would have access to the same information. At the same time, public CBC reporting would make vital information about the fairness and effectiveness of the corporate tax system available to other key actors, including decision-makers, journalists, civil society and the broader public.

As mentioned in our submission to Workstream I, **we welcome the fact that the outcome document of the 4th UN Financing for Development Conference includes a decision to evaluate the creation of a central public database for CBC reports, and we believe that such a database should be established under the UN Tax Convention.** We also find it important that this element becomes operational as soon as possible, not least to inform the rest of the work of the Tax Convention.

Advance pricing agreements

The Issues Overview mentions the possibility of using advance pricing agreements (APAs) to address the problems related to tax disputes and uncertainty. However, we would like to express our strong concerns about using this approach.

The fundamental challenge with the transfer pricing system is that the rules are very ill-defined and unclear. APAs are sometimes used as a tool to negotiate an agreement between individual multinational corporations and a specific tax administration (so-called unilateral APAs) about how these unclear rules will be interpreted and applied.

But APAs are highly controversial, not least after the LuxLeaks scandal in 2014, where they quickly became known as “Sweetheart Deals”. Around the same period, a number of APAs became the subject of several state aid cases initiated by the European Commission. In 2024, the most famous of these cases – the so-called “Apple case” – ended with two APAs being struck down by the European Court of Justice, and the court ordered Ireland to reclaim approximately €13 billion in unpaid taxes from Apple.

With this in mind, we would firstly challenge the view that APAs guarantee tax certainty.

But APAs also bring a number of other concerns. Despite the fact that these agreements contain important information about the realities of the corporate tax system, they are usually secret to the public. At the same time, they are agreed in “advance” and usually binding for the tax administration. If the administration later discovers that the corporation is engaged in large-scale tax avoidance, the advance agreement can limit the administration’s chances of intervening. Lastly, they are usually requested by individual corporations and issued specifically to them. This introduces the risk of special treatment for powerful and influential corporations.

We believe the uncertainties of the corporate tax system should be addressed through a fundamental reform of the system, rather than through secret agreements between multinational corporations and tax administrations.

Bilateral tax treaties

As the Issues Overview highlights, the primary legal framework of the international tax system today consists of over 3,000 bilateral tax treaties. We find that a key function of the future UN Tax Convention should be a **fundamental reconsideration of the purpose and design of the tax treaty system, with a view to its replacement by a framework for coordination and cooperation enabling all states to tax activities where they take place**. This approach can solve many problems, including the fact that the complex network of treaties is, in itself, a source of fragmentation, inconsistencies and inefficiency. Furthermore, the bilateral treaty approach makes it very difficult for all countries, but in particular for least developed countries, to become an integrated part of the global tax system, since this will require negotiation of a very high amount of treaties. At the same time, it can be difficult for less powerful countries to obtain fair arrangements in bilateral negotiations with more powerful countries.

Thus, we would urge all Workstreams, including Workstream III, to consider solutions that entail the introduction of a real multilateral system.

Mandatory arbitration

Paragraph 24-25 of the Issues Overview recaptures the discussion about mandatory arbitration. On this point, **we fully agree with the countries that have raised strong concerns** about this approach and suggested that this option should be rejected as a possible solution to disputes. We also agree that the negative experiences with investor-state arbitration serves as a strong warning and an example not to be followed.

Opt-in / opt-out

Paragraph 30 of the Issues Overview introduces the idea of opt-in or opt out agreements within the Protocol. While such agreements are relatively common within OECD tax agreements, it is not common practice in UN treaties.

We believe a key mission of the UN Tax Convention should be to build broad agreement and create a consistent and coherent international system. For that reason, we do not support the idea of “agreeing to disagree”, and **we believe the opt-in opt-out idea should be taken off the table.** Furthermore, we believe it is important that the Convention itself (and thus Workstream I) includes strong provisions on dispute resolution – not least to avoid that countries opt out by refraining from signing the Protocol.

Illegitimate blacklisting and other types of pressure

We believe the issue of **illegitimate blacklisting and other types of pressure** is highly concerning and **should be addressed within the framework of the UN Tax Convention.** However, it is not clear to us whether this issue belongs in Workstream III or Workstream I. Rather than an issue of disputes about taxation of individual taxpayers, it is usually an issue of disputes between countries in terms of overall tax rules and systems. However, since it does relate to the issue of disputes, we are surprised that it does not seem to have come up in the discussions within Workstream III.

Observer participation

Paragraph 21 of the ToR states that “*civil society and other relevant stakeholders are encouraged to contribute to the work of the intergovernmental negotiating committee in accordance with established practices.*” We are very committed to responding to this invitation and as a global network of civil society organizations and trade unions, we bring extensive knowledge on taxation and finance, including from the national and regional levels, and from our consistent engagement in a broad range of UN processes.

However, **our contribution can only be meaningful if it is well-informed and timely.** We find it deeply concerning that observers have not been invited to participate in the online meetings of the Workstreams, since this leaves us with a limited understanding of the specific discussions Member States have had, and significantly reduces our ability to feed into and respond to the debate.

Regarding the **established practice**, we note that in particular as regards “informal-informals” it is inconsistent, but that observer participation in such meetings is by no means uncommon - it occurs within a wide range of UN processes, and it has also already occurred within the UN Tax Convention processes. There are also precedents for observer participation in online meetings – for example from the work of the UN Expert Committee on Tax. We stress the

importance of allowing for full and effective participation of civil society and trade unions in all meetings of the committee going forward.

Signatories

1	11.11.11	Belgium
2	Initiatives for Dialogue and Empowerment Through Alternative Legal Services (IDEALS)	The Philippines
3	ABED - Associação Brasileira de Economistas pela Democracia	Brazil
4	ACT Alliance	International
5	ActionAid International	International
6	Active Citizenship Foundation, Inc. (ACF)	The Philippines
7	Alliance for Development	Ghana
8	Alliance Sud	Switzerland
9	Alternative Information & Development Centre	South Africa
10	Amnesty International	International
11	Arab NGO Network for Development (ANND)	Lebanon
12	Asia Development Alliance	Asia
13	Asian Peoples' Movement on Debt and Development (APMDD)	Asia
14	Association For Promotion Sustainable Development	India
15	Attac Österreich	Austria
16	Attac Deutschland	Germany
17	AwazCDS-Pakistan	Pakistan
18	Botswana Council of Churches	Botswana
19	Brazilian Campaign for the Right to Education	Brazil
20	Bretton Woods Project	United Kingdom
21	CADIRE CAMEROON ASSOCIATION	Cameroon
22	CCAP Blantyre Synod (AACC Champion for Malawi)	Malawi
23	Center for Economic and Social Rights	International
24	Centre for Citizens Conserving Environment & Management (CECIC)	Uganda
25	Changemaker	Norway
26	Christian Aid	International
27	Club Unesco du Centred'Action Femme et Enfant en sigle ONG CUCAFE	République Démocratique du Congo
28	CNCD-11.11.11	Belgium
29	COAST Foundation	Bangladesh
30	Comité Catholique contre la Faim et pour le Développement - Terre Solidaire	France
31	Connected Advocacy	Nigeria
32	COUNCIL OF CHURCHES IN ZAMBIA	Zambia
33	Daayyaa Generation Network (DGN)	Ethiopia
34	Dejusticia - Centro de Estudios de Derecho, Justicia y Sociedad	Colombia
35	DISABILITY PEOPLES FORUM UGANDA	Uganda
36	DMUN Foundation	Republic of Korea
37	DUKINGIRE ISI YACU (DIY)	Burundi
38	Echoes of Women in Africa Initiatives	Nigeria

39	EcoEquity	United States of America
40	Economic Justice Network of FOCCISA	South Africa
41	Equidad de Género: Ciudadanía, Trabajo y Familia	México
42	European Network on Debt and Development (Eurodad)	Europe
43	FASE - Solidariedade e Educação	Brazil
44	Financial Justice Ireland	Ireland
45	Financial Transparency Coalition	International
46	Finnish development NGOs Fingo	Finland
47	Finnwatch	Finland
48	Free Trade Union Development Center	Sri Lanka
49	Freedom from Debt Coalition	The Philippines
50	Fundar, Centro de Análisis e Investigación	México
51	Futuros Mejores	Argentina
52	Global Alliance for Tax Justice	International
53	Global Call to Action Against Poverty (GCAP)	International
54	Global Initiative for Economic, Social and Cultural Rights (GI-ESCR)	International
55	Global Policy Forum Europe	Europe
56	Global Redistribution Advocates	International
57	Global Witness	United Kingdom
58	Greenpeace International	International
59	Inesc - Institute for Socioeconomic Studies	Brazil
60	Initiative for Social and Economic Rights (ISER)	Uganda
61	Kanisa la Mennonite Tanzania	Tanzania
62	Labor Education and Research Network (LEARN)	The Philippines
63	Latin American Campaign for the Right to Education	Latin America
64	Lutheran World Federation (LWF)	International
65	MenaFem Movement for Economic, Development And Ecological Justice	Mena/Egypt/Morocco
66	Mothers Rise Up	United Kingdom
67	National Campaign for Sustainable Development Nepal	Nepal
68	Netzwerk Steuergerechtigkeit	Germany
69	Norwegian Church Aid	Norway
70	Norwegian Church Aid	United Republic of Tanzania
71	Norwegian Church Aid	Malawi
72	OLABODE YOUTH AND WOMEN INITIATIVES (OYAWIN)	Nigeria
73	Open Ownership (Global Impact)	International
74	Oxfam	International
75	Pakistan Development Alliance	Pakistan
76	People's Alternative Studies Center for Research and Education in Social Development (PASCRES)	The Philippines
77	Plataforma Portuguesa das ONGD (Portuguese Platform of Development NGOs)	Portugal
78	Positive Money	United Kingdom
79	Quest For Growth and Development Foundation	Nigeria
80	REBRIP - Rede Brasileira pela Integração dos Povos	Brazil
81	Red de Justicia Fiscal de América Latina y El Caribe - RJF ALC	América Latina y El Caribe
82	Red Latinoamericana y del Caribe por Justicia Económica, Social y Climática (LATINDADD)	América Latina y El Caribe
83	Rural Area Development Programme (RADP)	Nepal
84	SENTRO	The Philippines
85	Sinatsisa Lubombo Women and girls empowerment Organsiation	Eswatini
86	Sindicato Nacional Empleados Impuestos y Aduanas Colombia	Colombia

87	SOMO	Netherlands
88	Southern and Eastern Africa Trade Information Negotiations Institute	Uganda
89	SPELL-Sustainability and Participation through Education and Lifelong Learning	The Philippines
90	Synergie SOECDD/RDC	République Démocratique du Congo
91	Tax Justice Aotearoa New Zealand	New Zealand
92	Tax Justice Network	International
93	Tax Justice Network Africa	Africa
94	Tax Justice Norway	Norway
95	Tax Justice UK	United Kingdom
96	taxmenow - Initiative für Steuergerechtigkeit e.V.	Germany / Austria / Switzerland
97	The African Youth Cafe	Africa
98	The Latin American and Caribbean Network for Economic, Social, and Climate Justice (LATINDADD)	Latin America and the Caribbean
99	Third World Network	International
100	Trade Justice Pilipinas	The Philippines
101	Vienna Institute for International Dialogue and Cooperation (VIDC)	Austria
102	VIVAT International	International
103	Wemos	Netherlands
104	Women's Environment and Development Organization (WEDO)	International
105	Working Group on Intellectual Property (GTPI)	Brazil
106	World Young Women's Christian Association	International
107	Youth For Tax Justice Network	Uganda
108	Zimbabwe Council of Churches	Zimbabwe