



**Mr. Ramy Youseff, Chair of the Intergovernmental Negotiating Committee (INC)
to draft a United Nations Framework Convention on International Tax Cooperation
and two early protocols**

Abstract

This submission makes two core arguments. First, it stresses the need to include enforceable and actionable commitments, even if not detailed, within the Framework Convention. It draws from examples from other Framework Convention to show how the future text can look much more prescriptive and less descriptive than it reads now; and stresses the risk of fragmentation if achievement of the Convention's objectives depends solely on additional protocols. Second, the submission discusses some implications of aligning tax cooperation with international human rights law (paragraph 9.c of the approved terms of reference). Noting how several human rights mechanisms in the United Nations have interpreted human rights' law in connection with taxation for decades, the submission discusses the interpretive guidance that the "human rights principle" provides, and some concrete implications for the Framework Convention (for example, in connection with extra-territorial obligations).

CC: Organizations of the Initiative for human rights in fiscal policy

I. Introduction and purpose of the submission

The organizations of the Initiative for human rights in fiscal policy (the Initiative)¹ are pleased to make this submission in response to the call for inputs with regards to Co-Lead's of the Workstream I Draft Framework Convention Template (A/AC.298/CRP.21-24, hereinafter "the draft"). We welcome the work carried out by the co-leads and the opportunity to input into the drafting process.

The submission has two main objectives: i) stressing the need to include enforceable commitments, even if not detailed, within the Framework Convention itself; ii) discussing some

¹ ACIJ, CELS, CESR, Dejusticia, Fundar, GI-ESCR, Inesc, and the Red de Justicia Fiscal de América Latina y el Caribe.



implications of aligning tax cooperation with international human rights law (paragraph 9.c of the Convention’s Terms of reference). In so doing, we build on the Initiative’s previous work on Framework Conventions and Protocols², and on the Principles for Human Rights in Fiscal Policies³, respectively.

II. An enforceable convention

Framework Conventions are binding treaties with commitments like any other treaty, even though often broader or less detailed than other treaties. Including the term "framework" in the name of a treaty has no legal consequences, and there may be such conventions even if they do not carry the word “framework” explicitly in their title. Considering the binding nature of the Convention, the current draft appears to be too descriptive, instead of prescriptive and establishing legal commitments. The drafted articles have several references to issues Parties “recognize” and “agree” to, but these are not necessarily paired with verbs that entail taking enforceable, traceable action towards’ the Convention’s objectives. Advancing promptly towards the Convention’s objectives is essential given the urgent need, mostly for countries in the South, to achieve fairer, more inclusive and more effective tax cooperation.

Other framework conventions, instead, utilize much more actionable verbs in connection with concrete measures Parties must take. The UN Convention on Biological Diversity, for example, binds contracting parties to *develop* national strategies, plans, programs and guidelines in accordance with its particular conditions; to *identify* relevant national level information and processes and take *monitoring* actions accordingly; to *establish* systems; to *regulate*; to *take preventative measures* to avoid the harms the Convention addresses, and to “develop or maintain necessary legislation and/or other regulatory provisions”.

² Available at https://derechosypoliticafiscal.org/wp-content/uploads/2025/02/Protocols_to_the_United_Nations_Framework_Convention_on_Tax_Cooperation.pdf

³ See <https://derechosypoliticafiscal.org/en/home/>



Furthermore, including more actionable measures can lead to the future Conference of Parties (COP) taking a wide range of valuable actions to achieve the Convention’s objectives, without depending solely on protocols for the treaty to have any meaningful impact. Take, for example, the World Health Organization (WHO) Framework Convention on Tobacco Control, under which the Conference of Parties issues guidelines and policy options and recommendations for implementing commitments contained in the Conventions itself (not its protocol)⁴. Guidelines include definitions of key terms, general principles, summary of the state of the art on issues such as tobacco taxes, and a set of concrete recommendations to discharge the Convention’s commitments.

For example, in connection with price and tax measures to reduce the demand for tobacco, article 6 of said convention states that “....each Party should take account of its national health objectives concerning tobacco control and adopt or maintain, as appropriate, measures which may include: (a) implementing tax policies and, where appropriate, price policies, on tobacco products so as to contribute to the health objectives aimed at reducing tobacco consumption...”. COP guidelines developed in connection with this article⁵ include recommendations for parties to “...implementing specific or mixed excise systems with a minimum specific tax floor, as these systems have considerable advantages over purely ad valorem systems”; to “establish coherent long-term policies on their tobacco taxation structure and monitor on a regular basis...”, and to tax all tobacco products in a comparable ways, considering the risk of substitution.

Similarly, article 8 of the Tobacco Convention protects against exposure to tobacco smoke, and binds Parties to adopt and implement “effective legislative, executive, administrative and/or other measures, providing for protection from exposure to tobacco smoke in indoor workplaces, public transport, indoor public places and, as appropriate, other public places”. COP guidelines⁶

⁴ See generally <https://fctc.who.int/convention/treaty-instruments>. “Eight guidelines for implementation have been adopted so far by the COP, covering Articles 5.3, 6, 8, 9 and 10, 11, 12, 13 and 14 of the WHO FCTC”.

⁵ See <https://fctc.who.int/resources/publications/m/item/price-and-tax-measures-to-reduce-the-demand-for-tobacco>

⁶ See <https://fctc.who.int/resources/publications/m/item/protection-from-exposure-to-tobacco-smoke>



interpreted this article as creating “an obligation to provide universal protection by ensuring that all indoor public places, all indoor workplaces, all public transport and possibly other (outdoor or quasi-outdoor) public places are free from exposure to second-hand tobacco smoke” that allows for no exemptions on the basis of health or law arguments, and only “minimal” exceptions on other basis. Guidelines similarly found in article 8 an obligation to move as quickly as possible to remove any exemptions and make the protection universal.

Similar examples can be drawn from other United Nations Framework Conventions (see, e.g., article 21 of the Convention on Biological Diversity envisioning a financial mechanism for developing country parties, and decision CBD/COP/DEC/16/34 of said Convention’s COP “Establishing the permanent arrangement for the financial mechanism envisioned under Article [21](#) of the Convention”, and agreeing on a Strategy for resource mobilization).

Overall, a binding Convention with actionable commitments calls for a Conference of Parties that can engage in a wide range of measures that facilitate the achievement of the Conventions’ objectives (see Terms of Reference paragraph 7 that, notably, refers to inclusive and effective international tax cooperation “in terms of **substance** and process”). As a baseline, COPs’ regular task of receiving reports on implementation of a Convention calls for commitments that are sufficiently tangible to be monitored and reported on, and to track progress on implementing measures.

Finally, a descriptive, un-enforceable Convention that relies solely on additional protocols increases risks of normative fragmentation and institutional incoherence that run contrary to the goals of efficiency and certainty included in the Convention’s objectives (paragraph 7, Terms of Reference), as adhering to a protocol is not mandatory for the Convention’s parties. Comparative evidence illustrates this: the United Nations Conventions assessed in the Initiative’s report on protocols⁷ show that Framework Conventions have a discrete number (largely one to five) of

⁷ See https://derechosypolitica.fiscal.org/wp-content/uploads/2025/02/Protocols_to_the_United_Nations_Framework_Convention_on_Tax_Cooperation.pdf



protocols associated (and not a myriad of protocols to make enforceable each of the Conventions' commitments), which often have also high levels of ratification among the parties to the Framework Conventions themselves.

III. A human rights-aligned convention

Article 2 of the draft alludes to “Principles” of the Convention being taken from the approved terms of reference. Importantly, the terms of reference include a principle (paragraph 9.c.) stating that “Efforts to achieve the objectives of the framework convention (should...) be aligned, in the pursuit of international tax cooperation, with States’ obligations under international human rights law”. International human rights law has been interpreted consistently by United Nations human rights’ mechanisms in connection to tax (mostly around economic, social and cultural rights⁸, and therefore supporting -rather than preventing- States’ power to tax).

The human rights’ principle plays a broad interpretative function for all of the Convention’s provisions and has concrete implications for the mechanisms of the future treaty. For example, Paragraph 13 of the terms of reference stipulates that the Convention should cover “data collection and analysis”. “Aligning” this provision with existing interpretations of human rights law means that data should be produced, collected, and analyzed with sufficient disaggregation to allow for an assessment of the impacts of measures on different groups (including their distributional consequences) such as women. Data should also be made available to the public in an accessible, timely manner.⁹

Similarly, United Nations human rights’ mechanisms (most notably human rights’ treaty bodies) have repeatedly applied certain terms currently used in the terms of reference (particularly

⁸ See, e.g., <https://www.ohchr.org/en/press-releases/2025/02/fair-and-effective-tax-policies-needed-advance-economic-socialand-cultural>

⁹ See https://cesr.org/sites/default/files/2025/Aligning_tax_cooperation_with_human_rights_in_the_UN_Tax_Convention.pdf



under paragraph 7.c) and interpreted them in connection with the tax policies of specific countries. For example, they have made recommendations for tax systems to be “equitable¹⁰”, “just/fair¹¹” or “effective¹²”. Being mindful of these interpretations in the drafting of the Convention, and of the circumstances in which tax systems have been found to be unfair, is of utmost importance¹³.

Similarly, the draft states that “The States Parties agree that any tax incentives provided by States Parties should be substance-based, linked to investment or performance, and not merely profit-based” (art. 8.2.). In light of core human rights principles of transparency and accountability, and the duty to mobilize maximum available resources, tax incentives should also promote human rights-aligned goals and be periodically assessed against those goals (for which transparency on incentives is essential). Similarly, in light of their extra-territorial obligations Parties should assess the impact of their incentives on other jurisdictions’ capacities to mobilize the maximum available resources for rights’ realization (since, while States have a sovereign power to tax, they also have the responsibility to ensure that activities within their jurisdiction or control do not cause damage other States’ capacities to fulfil human rights).

Finally, and in connection with article 4 of the draft on allocation of taxing rights, it’s worth noting that the UN Committee on Economic, Social and Cultural rights has encouraged States to “explore the possibility to tax multinational groups of companies as single firms”¹⁴, in light of States extraterritorial obligation to fulfil human rights.

¹⁰ See, e.g., E/C.12/GBR/CO/6; E/C.12/GTM/CO/3; E/C.12/SLV/CO/3-5.

¹¹ See, e.g., E/C.12/SLV/CO/3-5; E/C.12/ESP/CO/6; E/C.12/CRI/CO/5

¹² See, e.g., E/C.12/DOM/CO/4

¹³ See

https://cesr.org/sites/default/files/2025/Aligning_tax_cooperation_with_human_rights_in_the_UN_Tax_Convention.pdf

¹⁴ E/C.12/GC/24, paragraph 37.