CENTER for ECONOMIC and SOCIAL RIGHTS

Submission to Co-Leads of negotiations on UN Framework Convention on International Tax Cooperation in response to zero draft text

Abstract

This submission by the Center for Economic and Social Rights (CESR) responds to the Co-Lead's Zero Draft. It focuses on four matters: sustainable development under Article 4, the effective taxation of high-net-worth individuals under Article 6, gender equality, and stakeholder participation. Its premise is that the human rights principle carried over into Article 2(c) is not inconsequential. International human rights law has been interpreted by United Nations mechanisms in connection with taxation for more than three decades, principally through the duty to mobilise the maximum of available resources, and it therefore supports rather than constrains States' power to tax. Five obligations follow: resource mobilisation; equality and non-discrimination; international cooperation; extraterritorial obligations; and procedural guarantees of transparency, participation and accountability. The submission asks that Article 4 tie sustainable development to the full realisation of human rights in accordance with United Nations norms and standards, with periodic reporting and review; that Article 6 require Parties "to adopt" rather than explore coordinated approaches, recognise that high-net-worth individuals are not currently taxed effectively, and mandate the Conference to define them; that a commitment to gender equality be added and operationalised through disaggregated data; and that stakeholder participation be guaranteed in terms that are meaningful, timely and equitable. Throughout, commitments should be drafted with actionable verbs so that they can be monitored and reported on.

Submission of the Center for Economic and Social Rights

Workstream I — Co-Lead's Zero Draft of the UN Framework Convention on International Tax Cooperation (A/AC.298/CRP.32)

1. The human rights principle has determinate content

Article 2(c) carries over paragraph 9(c) of the Terms of Reference.[1] Its content is not open-ended. Since 1990, the Committee on Economic, Social and Cultural Rights has elaborated the duty to take steps, individually and through international cooperation, to the maximum of available resources; other treaty

[1] Co-Lead's Zero Draft of the UN Framework Convention on International Tax Cooperation, UN Doc A/AC.298/CRP.32 (21 July 2026); Terms of Reference for a United Nations Framework Convention on International Tax Cooperation, UN Doc A/AC.298/2 (2025) para 9(c), adopted by UNGA Res 79/235 (2024).

bodies and special procedures have followed.[2] Because that body of interpretation is built on economic, social and cultural rights, it is intended to **enable** States to raise revenue.[3] Five obligations bear directly on this Convention: resource mobilisation, including combating tax evasion, avoidance and illicit financial flows; equality and non-discrimination; the duty of international cooperation; extraterritorial obligations; and procedural guarantees of transparency, participation and accountability.[4]

Two consequences follow for the drafting. First, Article 2(c) should refer to obligations set **out in United Nations human rights treaties**. Second, the draft remains descriptive where it should be prescriptive. Three of its substantive commitments — Articles 5(2), 6(3) and 8(2) — oblige Parties only to "explore"; elsewhere Parties "recognise" and "agree" rather than undertake traceable action. Other United Nations framework conventions bind Parties to develop, establish, regulate, adopt and report.[5] Commitments phrased in actionable terms are also the precondition for any meaningful reporting to the Conference of the States Parties.

2. Article 4 — Sustainable Development

Article 4 restates the Terms of Reference without adding operative content. We propose three changes.

Human rights. Sustainable development should be pursued **in accordance with United Nations norms and standards**, and expressly linked to the full realisation of human rights, in particular economic, social and cultural rights and the right to development. The goals of the 2030 Agenda are themselves framed as realising the human rights of all and achieving gender equality.[6]

Reporting and review. Article 4 is unmonitorable as drafted, and the review mechanisms do not reach it: Article 16(2) confines periodic review to the objectives set out in Article 1, while Article 16(1) leaves the information Parties supply to be determined by the Conference of the Parties. Article 4 should carry its own obligation of periodic reporting, taking account of different needs, priorities and capacities, and Article 16(2) should extend review to implementation of Article 4.

Differentiation. The phrase "taking into account their different capacities" should be retained and strengthened by reference to common but differentiated responsibilities and respective capabilities and to the polluter-pays principle, and read together with Articles 2(a) and 2(f), which already tie sustainable development to fairness in the allocation of taxing rights.

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[2] ICESCR art 2(1); Convention on the Rights of the Child art 4; Convention on the Rights of Persons with Disabilities art 4(2); CESCR, 'General Comment No 3: The Nature of States Parties' Obligations' (1990) UN Doc E/1991/23, para 13.

[3] CESR, *Aligning Tax Cooperation with Human Rights in the UN Tax Convention: Technical Note* (2025) 7–9, 11–13.

[4] CESCR, 'General Comment No 24 on State Obligations under the ICESCR in the Context of Business Activities' (2017) UN Doc E/C.12/GC/24, paras 25, 37; Magdalena Sepúlveda Carmona, Report of the Special Rapporteur on Extreme Poverty and Human Rights, UN Doc A/HRC/26/28 (2014); *Principles for Human Rights in Fiscal Policy* (2021) principles 5–7.

[5] Convention on Biological Diversity (adopted 5 June 1992, entered into force 29 December 1993) 1760 UNTS 79, art 6; WHO Framework Convention on Tobacco Control (adopted 21 May 2003, entered into force 27 February 2005) 2302 UNTS 166, arts 6, 8.

[6] UNGA Res 70/1 (25 September 2015) para 10.

Extraterritorial effects. States are answerable for the human rights consequences of their fiscal decisions beyond their borders. Article 4 should therefore commit Parties to assess the extraterritorial effects of their tax measures, incentives and secrecy rules on other States' capacity to mobilise resources for rights, and to act on those assessments.[7]

Treaty-body practice already gives determinate meaning to terms used in Articles 1 and 4. Tax systems have been found wanting where revenue was too low, where indirect taxes accounted for an excessive share of revenue, where exemptions were unjustified, and where tax fraud was insufficiently prevented.[8] Definitions adopted under the Convention should cohere with those interpretations.

3. Article 6 — effective taxation of high-net-worth individuals

Article 6(3) requires Parties only to "explore" coordinated approaches. That verb should be replaced by **adopt**. The Article should also state plainly that high-net-worth individuals (HNWIs) are not at present taxed effectively, and should anchor effective taxation in the duty to pay according to ability to pay, which follows from equality and non-discrimination. The CESCR has indicated that States could consider a globally coordinated minimum income tax for ultra-high-net-worth individuals.[9] Member States have committed in parallel fora to enhance efforts to address evasion and avoidance by HNWIs and to ensure their effective taxation through international cooperation.[10]

Effective taxation of HNWIs is a human rights question before it is a technical one. Human rights law requires States to avoid discrimination and to secure substantive equality; it follows that everyone contributes according to ability to pay, that thresholds are set accordingly, and that States refrain from measures worsening the position of those who lack the resources to live in dignity. Where the wealthiest are undertaxed, the burden of financing public services shifts to those least able to bear it.

Two features of the current text further weaken it. Article 6(2) asks only for "general information regarding structures and techniques", which is too diffuse to support enforcement; Parties should share information sufficient to identify and tax the arrangements concerned. And the sovereignty proviso in Article 6(3) risks hollowing out the commitment it qualifies, since Article 2(b) already secures sovereignty as a general principle.

Three further points. First, the commitment should serve **both** as a stand-alone obligation and as the basis for a future protocol; these are not alternatives. Second, the Conference of the Parties should be mandated to define HNWIs on absolute and relative thresholds, since no commitment can be implemented against an undefined class. Third, effective taxation depends on information: registers of

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[7] *Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights* (2011) principles 19–22; CESCR, General Comment No 24 (n 4) paras 25–30.

[8] CESCR, 'Concluding Observations: El Salvador' UN Doc E/C.12/SLV/CO/3-5; 'Concluding Observations: Spain' UN Doc E/C.12/ESP/CO/6; 'Concluding Observations: Costa Rica' UN Doc E/C.12/CRI/CO/5; 'Concluding Observations: United Kingdom' UN Doc E/C.12/GBR/CO/6.

[9] CESCR, 'Tax Policy and the International Covenant on Economic, Social and Cultural Rights' (2025) UN Doc E/C.12/2025/1.

[10] *Compromiso de Sevilla*, outcome document of the Fourth International Conference on Financing for Development (Sevilla, 30 June–3 July 2025); G20 Rio de Janeiro Leaders' Declaration (18–19 November 2024).

assets and beneficial ownership, and publication of aggregate data on the effective tax rates borne by HNWIs, without which neither Parties nor the public can assess whether Article 6 is working.

4. Gender equality

The Zero Draft is silent on gender. Equality and non-discrimination are foundational to the Charter, the Universal Declaration and the core treaties, and are elaborated for women in the ICESCR and CEDAW.[11] Gender-blind tax rules entrench gender-based inequality in the ownership of income and wealth, because regressive taxation and tax abuse have distributional consequences that fall differently on women, and intersecting inequalities compound those consequences. CEDAW has addressed the effects of one State's financial-secrecy and tax rules on women's rights in other States.[12] Revenue lost to tax abuse is revenue unavailable for services that substitute for unpaid care work, which women perform disproportionately; therefore, mobilising resources equitably expands the fiscal space for gender-responsive provision.

We therefore propose a commitment to pursue gender equality through international tax cooperation, operationalised in two places: in Article 4, by directing that resources mobilised support gender-responsive public services; and in Article 15(1), by requiring that data be collected and analysed with sufficient disaggregation, including by sex, to assess the distributional impact of measures on different groups, and be made public in accessible and timely form. The anonymisation requirement in Article 15(3) protects taxpayer-specific information, not aggregate statistics.

5. Participation, transparency and accountability

Participation is a core principle of international human rights law, not a courtesy: those affected by fiscal decisions have a right to take part in the processes by which they are made, and transparency has been recognised as an essential element of democracy.[13] The Terms of Reference contemplate stakeholder contributions, but Part IV of the Zero Draft makes no provision for them: Article 13(3) leaves the rules of procedure to be settled later, and Article 14(1) opens the subsidiary body for implementation to government representatives alone.[14]

Concretely: Article 13(3) should require the rules of procedure to guarantee observer participation, including the ability to receive documents in advance and to present views, in formal sessions and in intersessional and online meetings alike; the information Parties provide under Article 16(1) should be public; and Article 14 should allow the subsidiary body and any technical working groups to receive stakeholder input. The transparency of the negotiation itself matters on the same principle: textual

[11] Charter of the United Nations (adopted 26 June 1945, entered into force 24 October 1945) 1 UNTS XVI, art 1(3); ICESCR arts 2(2), 3; Convention on the Elimination of All Forms of Discrimination against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13, arts 1–2.

[12] CEDAW Committee, 'Concluding Observations: Switzerland' (2016) UN Doc CEDAW/C/CHE/CO/4-5, paras 40–41.

[13] ICCPR art 25; Human Rights Committee, 'General Comment No 25: Article 25' (1996) UN Doc CCPR/C/21/Rev.1/Add.7, para 25; UNGA Res 59/201 (2004).

[14] Terms of Reference (n 1) para 21; Draft decision on participation of international organizations, civil society and other relevant stakeholders, UN Doc A/AC.298/CRP.30 (2026), as amended by UN Doc A/AC.298/CRP.35 (2026).

proposals and submissions by Member States should be published, so that positions can be understood and debated by those they affect. Participation must be equitable, multisectoral, and inclusive, and the recent deployment of the Latin American Platform for Tax Cooperation offers practical guidance. Inclusiveness also has an inter-State dimension: capacity-building and technical assistance under Article 12 should secure the effective participation of developing countries on an equal footing, which Article 12(2) rightly links to accountability in the use of mobilised resources, and which Article 16(3) already requires for reviews.

6. Recommendations

1. Clarify in Article 2(c) that international human rights law refers to the law set out in United Nations human rights treaties, and redraft the commitments throughout using actionable verbs.
2. In Article 4, add "in accordance with United Nations norms and standards" and an express link to the full realisation of human rights, including the right to development.
3. Add to Article 4 an obligation of periodic reporting, and extend the periodic review in Article 16(2) to Article 4.
4. In Article 6, replace "explore" with "adopt"; recognise that HNWIs are not effectively taxed; anchor effective taxation in ability to pay; and mandate the Conference of the States Parties to define HNWIs.
5. Add a commitment to gender equality, and require under Article 15(1) data disaggregated, including by sex, made public in accessible and timely form.
6. Require under Article 13(3) that the rules of procedure guarantee meaningful, timely and equitable stakeholder participation, and make Article 16(1) reporting public.
7. Fill the brackets in Article 19(3)–(4) with a two-thirds majority of States Parties present and voting, and require in Article 13(3) that the rules of procedure provide for decision by simple majority on procedural matters and two-thirds majority on matters of substance where all efforts at consensus have been exhausted.