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GLOBTAXGOV
A NEW MODEL OF GLOBAL GOVERNANCE IN INTERNATIONAL TAX LAW MAKING

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St.Gallen/Leiden – 2 December 2025

Comments on the "Co-Lead's Draft Framework Convention Template" on Workstream I as of 24 October 2025.

ABSTRACT

In our view, the Framework Convention should remain focused on establishing a flexible framework for international tax cooperation. To maintain broad participation and preserve flexibility, we suggest placing all commitments in the Preamble rather than in binding provisions.

We believe that the draft borrows too heavily from the UNFCCC model, whose commitment-based structure does not fit the tax context. Unlike climate governance, tax cooperation lacks a single measurable objective, and rigid commitments could impede future developments. Accordingly, we encourage negotiators to keep the Convention open, adaptable and focused on institutional foundations.

We also raise concerns about several draft articles. We view **Article 4** on the allocation of taxing rights as politically sensitive and potentially disruptive to existing tax treaties; we recommend transforming it into a preambular element. **Article 5** on high-net-worth individuals is, in our view, too indeterminate and should be elaborated through a protocol. **Articles 6–8** appear to duplicate OECD instruments on administrative assistance, transparency and harmful tax practices; we suggest referencing or incorporating these tools via protocols to avoid redundancy and legal uncertainty.

More broadly, we find that the draft creates normative ambiguity regarding its interaction with existing treaties and standards. We therefore urge negotiators to prioritize institutional design and clarify this relationship before addressing specific substantive provisions.

Dear Sir/Madam

We appreciate the opportunity to comment on the "Co-Lead's Draft Framework Convention Template" on Workstream I as of 24 October 2025.

1. General Remarks

In our view, the Framework Convention should remain focused on its core objective: establishing a new, robust framework for international cooperation. The goal of the Framework Convention should be to create a framework for cooperation — nothing more and nothing less.

As the goals of such cooperation will inevitably evolve, negotiators should be cautious not to include overly far-reaching commitments that might undermine broad participation in the Convention. To preserve the spirit of the commitments while allowing for wider agreement among states, we propose to include all commitments in the Preamble as outlined in section 5 rather than as binding clauses. This approach maintains the shared vision while providing the necessary flexibility for consensus.

2. No Need for Commitments

Commitments must be concrete; otherwise, they are merely empty words. This exact risk exists here. In the UNFCCC context, precise commitments were feasible. For example, states can be concretely obliged to maintain an inventory of anthropogenic GHG emissions or to reduce GHG emissions by a certain percentage. In the tax field, however, this seems impossible or at least not meaningful. Furthermore, unlike the UNFCCC, where cooperation is focused on a main objective (combatting climate change), tax cooperation is pursued for its own sake. We do not know in which areas states will want to cooperate in tax matters in 20 or 50 years. Therefore, the Framework Convention should be drafted in an open and flexible manner. Commitments might even harm future cooperation as agreed commitments would again need to be deleted by the signatory countries in the future if they are not relevant anymore.

3. Specific Remarks

Article 4 – The Allocation of Taxing Rights

Article 4 is arguably the most consequential and politically sensitive provision of the draft. It addresses the "fair allocation of taxing rights" among jurisdictions and asserts that every state has a legitimate right to tax income derived from activities or market participation within its territory.

If interpreted literally, Article 4 could function as a normative claim of precedence over existing bilateral tax treaties, potentially overriding any treaty obligations between the parties. Such a shift would have profound implications for the current international tax regime. In its present form, the provision risks destabilising the existing treaty network and could significantly affect cross-border investment. It should therefore be deleted and transformed into a preambular provision.

Article 5 – Taxation of High-Net-Worth Individuals

Article 5 focuses on the taxation of high-net-worth individuals (HNWIs). It calls upon states to enhance cooperation and exchange of information to combat tax evasion and avoidance in this area. The policy intent is commendable; however, the provision remains remarkably indeterminate.

It offers no indication of the mechanisms through which such cooperation would be operationalised. Does the article envisage the expansion of the Automatic Exchange of Information (AEOI) framework under the Common Reporting Standard? Does it propose the creation of a new multilateral instrument or a minimum disclosure standard?

In its present form, Article 5 risks being interpreted as a mere political declaration without normative force. To enhance clarity and feasibility, the drafters might consider relocating the technical aspects of HNWI cooperation to a protocol to the Convention. This would allow for greater flexibility and progressive elaboration over time. As currently drafted, however, the article adds little value to the Convention

Articles 6–8 – Mutual Administrative Assistance, Illicit Financial Flows, and Harmful Tax Practices

Articles 6 through 8 deal with information exchange, mutual assistance, and cooperation with respect to illicit financial flows, tax avoidance and tax evasion, and the elimination of harmful tax practices. At first glance, these provisions mirror existing instruments such as the Multilateral Convention on Mutual Administrative Assistance in Tax Matters, the tools developed by the Global Forum on Transparency and Exchange of Information for Tax Purposes, and BEPS Action 5.

This raises a fundamental question of functional duplication — a concern voiced by several countries during the earlier negotiation rounds. If the UN Framework Convention merely reiterates commitments that are already well established under OECD auspices, what added value does it bring? Repackaging existing obligations risks creating greater legal uncertainty and institutional opacity.

A pragmatic solution would be to incorporate or reference existing OECD instruments through cross-referenced protocols. This would preserve continuity with established standards while enhancing legitimacy and universality through the UN framework. For instance, the Multilateral Convention on Mutual Administrative Assistance in Tax Matters could become a protocol to the UNFCC and be refined over time by the Conference of the Parties and the Secretariat.

Normative Ambiguity and Interaction with Existing Instruments

Beyond its structural deficiencies, the draft suffers from broader normative ambiguity. It remains unclear how the proposed framework would interact with the existing network of bilateral tax treaties or with OECD-based multilateral instruments.

If the Convention were to assert primacy — even implicitly — over prior obligations, this would raise complex questions of treaty hierarchy and conflict resolution under international law. Conversely, if it were merely to coexist alongside existing arrangements, its practical effect might be limited to declaratory influence rather than binding change.

This tension reflects a deeper political struggle: should the UN process serve as an alternative to, or a complement of, the OECD's normative authority in international tax governance? The current draft offers no clear answer. Negotiators should therefore prioritise agreement on the institutional foundation before delving into specific substantive provisions. Our suggestion would be to institutionalize some of the work of the OECD through the UN Framework Convention.

4. Conclusion

The draft represents an important milestone in the ongoing effort to institutionalise global tax governance. The draft raises, however, more questions than it answers — particularly regarding its interaction with existing instruments. It is to be hoped that the upcoming negotiations will focus on institutional questions and that the Convention will be relieved of the pressure to transform every political commitment into a binding legal obligation. So far, it has not served the negotiations well that the structure was copied from the UNFCCC, given that the objectives and existing legal regimes differ fundamentally.

5. Wording of the Preamble

There are many ways of how the preamble could be drafted. In the following you will find a proposal that should incorporate the idea behind most commitments. Such preamble – we believe – could be signed by most jurisdictions.

Preamble

The States Parties to this Convention,

Recalling the purposes and principles of the Charter of the United Nations and reaffirming their commitment to international cooperation and solidarity,

Recognizing that a fair, effective and transparent international tax system is essential for promoting sustainable development, economic stability and social equity,

Affirming that every jurisdiction has the sovereign right to tax income derived from economic activities carried out within its territory or from value created therein, in accordance with other international law obligations,

Concerned that tax avoidance and tax evasion erode national tax bases, distort global competition and undermine public confidence in the integrity of tax systems,

Acknowledging that harmful tax practices disproportionately affect developing countries by limiting their capacity to mobilize domestic resources and finance public goods and services,

Recognizing that effective taxation of Ultra High Net Worth Individuals, whose assets and income often span multiple jurisdictions, requires enhanced international cooperation, coordination and information exchange to ensure fairness and prevent base erosion, *Convinced that strengthened international cooperation, including mutual administrative assistance, exchange of information and coordinated measures to counter illicit financial flows, is indispensable to ensuring fairness and effectiveness of taxation,*

Have agreed as follows:

* * * *

We would like to thank you for the opportunity to provide our feedback. We hope that successful negotiations will lead to a global consensus and enable international tax cooperation to help societies prosper.

Kind regards

Peter Hongler   Irma Mosquera