Written comments Kingdom of the Netherlands
21 July 2026 Co-Lead's Zero Draft of UN Framework Convention on International Tax Cooperation

Abstract

This written submission contains the comments from the Kingdom of the Netherlands on the 21 July 2026 Co-Lead 's Zero Draft of UN Framework Convention on International Tax Cooperation. In the first paragraph we thank the Chair, Co-lead of workstream I and the secretariat for the work done to facilitate the discussions and for publishing a revised Draft Framework Convention and include some general remarks. Following our general remarks, we include some article-by-article observations, comments and suggestions.

General Remarks

We thank the chair, co-lead and secretariat for their work on the draft text for a UN Framework Convention on International Tax Cooperation. The published draft allows Member States to get a holistic view of what is envisaged with the Framework Convention and allowed for more in-depth discussions during the fifth substantive session of the Intergovernmental Negotiating Committee (INC) in New York. We are committed to contribute to the work of the INC and above all, to ensuring that this important work results in broadly supported and effective outcomes. We therefore appreciate the opportunity to provide comments to improve the text.

Process

The UN process should be inclusive for all delegations and guided by transparency and predictability. To that end we would like to suggest including in future negotiation documents multiple drafting suggestions to facilitate a more in-depth discussion on the different ways forward. We believe the approach that is taken in the negotiations on the second protocol clarifies the differing opinions and makes it easier to bring the text forward and allows for a more transparent discussion among Member States. Additionally, we reiterate our support for the proposal to engage in in-depth article specific discussions in 'closed informal informal sessions' to facilitate an open conversation between member states. We think these procedural changes could facilitate the broadest possible support for a final text.

Substantive comments

In our view the Framework Convention should be of a high-level nature laying the basis for a governance structure and codifying general commitments whilst respecting States Parties sovereignty in tax affairs and their ongoing obligations under international and supranational law. In this context it must be emphasized that EU Member States are strictly bound by EU law and must take any appropriate measure to ensure fulfilment of their obligations now and going forward.

The current draft of the Framework Convention is too operational and detailed in several areas, risking duplication of existing agreements and ongoing discussions. This could create uncertainty and undermine the stability of the international tax order. It is crucial that INC takes existing instruments and ongoing work as a basis and instead of creating parallel tracks adds value to this important work.

Two additional points we would like to stress.

- First, the relationship between the Framework Convention, its protocols, and existing agreements needs clarification. Article 21 currently seems both to protect existing rights and to require alignment with the Convention, which could create legal uncertainty. A provision that would create an obligation – now or in the future – to override such supranational and international agreements without the possibility to make any reservations, creates legal uncertainty for individuals, public and private entities. Moreover, it must be emphasised that EU Member States are strictly bound by EU law and must take any appropriate measure to ensure the fulfilment of their obligations under EU law. On the basis of these points we underline the importance of a fundamental change of approach in the text.

- Second, the CoP should play a supporting role, with key decisions—especially those creating new obligations—taken only by consensus. The CoP should not create substantive obligations without express consent from all Parties. Observer participation should also be ensured in line with other framework conventions. These clarifications are necessary to ensure the widest possible support for the text.

<u>Article-by-article comments</u>

Preamble, articles 1 & 2

We suggest to include a preamble to the Framework Convention and to include the objectives and principles in that preamble. Moreover, current article 1 (c) refers to "the international tax system". However, as the ICTD stated in their Report to the Secretary General, there is no such all-encompassing international tax system. There is only a patchwork of domestic rules, bilateral agreements and (very few) multilateral agreements that determine the taxation of cross-border situations. The results of that patchwork on the same fact pattern can vary widely, depending on the states involved. It is therefore incorrect to suggest that a UN Framework Convention can change or establish an all-encompassing international tax system. What the Framework Convention aims to achieve is establishing a system of governance for international tax cooperation.

Article 3

We advise the CoP to refer to functions rather than specific persons or authorities when designating competent authorities, to ensure flexibility and future-proofing.

The definition of IFFs also needs clarification, as illicit financial flows, tax evasion, and tax avoidance are distinct concepts that should be clearly differentiated. The discussions showed varied interpretations and unclear links between these terms. Additionally, it is unclear why certain IFFs related to non-tax crimes are excluded, and the meaning of "legitimate revenue claim" should be specified if retained. As the G20 has tasked the OECD to report further on IFFs, it would be logical to await those findings before finalizing the definition in the Framework Convention.

Article 4

We suggest deleting "Taking into account their different capacities", as we believe all member states should be treated equally in their commitments. We would also like to reintroduce our suggested provision included in our comments on the 22 January 2026 draft: *"The parties agree to pursue international tax cooperation approaches that contribute to the achievement of sustainable development in its three dimensions - economic, social and environmental - in a balanced and integrated manner in both policy and practice, ensuring coherence across international frameworks and with full respect to promoting human rights and gender equality."*

Article 5

We do not agree to the approach to this article and cannot support it in its current form. Member States do not agree with the nexuses included in this article from a demand perspective. The drafting creates legal uncertainty and departs completely from the existing principles that in our view still form the foundation for the determination of taxing rights. We also refer to the request of many member states in the third and fourth plenary session to add residency as nexus and to clarify that this convention does not create or allocate taxing rights or prescribes to eliminate double taxation derogating from other agreements and domestic law and refer to the multiple approaches for a way forward that have been discussed. Finally, we should avoid that this commitment in the framework convention prejudges the outcome of the substantive discussions on the First Protocol. Therefore, we would like to reiterate our proposal for high level language of this article included in our written comments on the 22 January draft: *"The States Parties shall endeavour to adopt cooperative approaches that achieve a fair allocation of taxing rights."*

Article 6

We find the commitment in paragraph 2 too specific and unclear—it's not clear if it refers to existing MDR mechanisms or proposes a new one. To avoid duplication, the intentions should be clarified and existing mechanisms, such as from the Global Forum, referenced. Since these clarifications are lacking, we suggest deleting this paragraph. We also reiterate our proposal for high-level language: *"States Parties agree to consider and identify coordinated approaches to achieve effective taxation of high-net worth individuals and prevent high-net worth individuals from avoiding and evading taxes."*

Article 7

We support the article's aim, but further clarification is needed. The definition of IFFs in article 3 should make clear how commitments on IFFs differ from combating tax evasion and (aggressive) tax avoidance, to prevent legal uncertainty. A thorough analysis is also needed to identify gaps in tackling tax-related IFFs. We reiterate our proposal for high-level language: *"The States Parties agree to cooperate to identify, address and enhance mechanisms to combat tax related illicit financial flows, tax evasion and aggressive tax avoidance."*

Article 8

The Kingdom of the Netherlands participates as one of the 148 members of the Inclusive Framework in the Forum on Harmful Tax Practices and as a member of the European Union in the Code of Conduct Group to develop and apply common principles and standards to identify harmful tax practices and measures to deter them. In an effort to avoid duplication of efforts, we suggest to build on the extensive and successful work that has been undertaken in the past years and respect ongoing efforts that are being undertaken in these fora.

We would like to reiterate our proposal for high level language of this article included in our written comments on the 22 January draft: *"The States Parties agree to cooperate to identify, address and enhance mechanisms to combat Harmful Tax Practices."*

Article 9

Our reading of the article is that this provision concerns merely national disputes between a taxpayer and the tax administration.

Articles 10 & 11

A high-level commitment to effective mutual administrative assistance, as set out in the terms of reference, is in our view sufficient for the framework convention. Specific and detailed policy proposals can be addressed in future protocols, allowing existing achievements and evolving international standards—such as those from the Global Forum—to be taken into account. We propose using high-level language, as suggested in our earlier comments: *"The States Parties agree to cooperate to identify and reduce barriers that prevent effective mutual administrative assistance in tax matters, including with respect to transparency and exchange of information for tax purposes."*

Given the existing comprehensive international mechanisms for information exchange, a detailed article on this topic is not necessary in the main text. Article 13 already provides for information exchange related to the convention's implementation. Detailed provisions can be developed in protocols when needed. We therefore recommend deleting Article 11.

Article 12

The Netherlands values capacity building and technical assistance to strengthen domestic resource mobilisation, supporting various international organisations and programmes such as the African

Tax Administration Forum, the joint initiative of the UN, IMF, WB and OECD Platform for Collaboration on Tax and the UNDP and OECD Tax Inspectors Without Borders Programme, the OECD (Tax and Development, Global Relations Programme, Global Forum), the IMF and the World Bank. Our tax administration also provides for technical assistance all over the board.

Based on our experience, a demand-driven approach is most effective; we suggest adding "upon request" to paragraph 2. As the paragraph's main text already covers the examples in the subparagraphs, these can be replaced with: *"Such technical assistance can be material or financial, and may include, inter alia: institutional and legislative development, and setting up data analytics and information exchange frameworks."* The reference to technology transfer and paragraphs 3 and 4 are also redundant and may be deleted.

Article 13

Certain decisions should be made by consensus to strengthen legitimacy, legal certainty, implementation, and participation. Major deviations from this could undermine the Convention's legitimacy and participation. Furthermore, explicit inclusion of observer status at the COP is necessary. Regarding Article 13(4), we refer to our comments under Article 16. Subparagraph (d) is covered by Article 20, and (e) is redundant.

We therefore suggest the following text:

"1. A Conference of the States Parties to the Convention is hereby established.

2. The Secretary-General of the United Nations shall convene the first meeting of the Conference of the States Parties not later than one year following the entry into force of this Convention. Thereafter, ordinary meetings of the Conference of the Parties shall be held at regular intervals and in a venue [or venues] to be determined by the Conference of the Parties. Extraordinary meetings of the Conference of the Parties may be held at other times, in accordance with the Rules of Procedure.

3. The Conference of States Parties shall adopt by consensus its Rules of Procedure, including rules concerning the admission and participation of observers.

4. The Conference of the States Parties shall facilitate the implementation of this Convention by the States Parties. In particular, it shall:

(a) Facilitate the exchange of information on legal, policy and technological developments pertaining to international tax cooperation;

(b) Cooperate with relevant international and regional organizations and mechanisms and non-governmental organizations in the area of international tax cooperation to ensure the complementarity of its actions.

5. The Conference of the States Parties shall examine the most effective way of receiving and acting upon information, including, inter alia, information received from States Parties in accordance with Article [15] and from competent international organizations. Inputs received from relevant non-governmental organizations duly accredited in accordance with procedures to be decided upon by the Conference of the States Parties may also be considered."

Article 14

If setting up subsidiary bodies is deemed necessary, we suggest to replace paragraph 3 of this article with the following text:

"3. The Conference of the States Parties shall determine by consensus the rules of procedure for the mechanisms and bodies established pursuant to paragraph 2 of this Article. In determining the composition of standing bodies, the Conference of the States Parties shall ensure equitable geographical representation."

Article 15

We underline that the Convention's reporting framework should be proportionate, clearly defined and administratively feasible. It should not duplicate existing reporting obligations under other international agreements, should respect privacy and data protection rules and ensure that the rules are simple to administer and do not impose unnecessary administrative burdens.

In line with these comments, we suggest to replace in paragraph 1 *"Each State Party shall"* with "*States Parties agree to make efforts to*".

The commitment in paragraph 2 to share information is too open-ended, could lead to duplication of work and could impose a high administrative burden also given the existing repositories and forum of exchange. We therefore suggest to replace the paragraph with the following text:

"2. Upon request States Parties are invited to share with each other generic information, including statistics and analytical expertise whilst respecting tax payers rights and confidentiality requirements. Duplication with existing sources of information and forums of exchange shall be avoided."

Article 16

We do not agree that the COP should be able to impose additional obligations above and beyond those codified in the Convention itself. We do not see how the COP could effectively review the implementation of high-level commitments, but are open to leave the responsibility for evaluating the necessity of such process to the COP. Crucial for the Netherlands is that it is unthinkable that the COP could establish a potential review process in any other way than by consensus. In addition, the information provided should be relevant and non-confidential.

Article 18

Further discussion on the terms in this article is needed. As the meaning of several used terms are unclear, we suggest to replace in paragraph 2 (a) "*all relevant potential and existing resources*" with "*available resources"*. Additionally, we suggest to add in this article a sentence relating to technical assistance and financial resources, to ensure efficient use of resources and avoid undue duplication of efforts in order to boost impact.

Article 20

Stressing the preference for uniform application and to avoid different versions of the text applying across the board of participating member states, we suggest to include in the text amendments to the text require a certain qualifying majority.

We suggest to replace paragraph 4 in order to clarify and positively state that protocols are fully optional with the following text:

"4. A State Party to this Convention is not bound by a protocol unless it becomes a Party to the protocol in accordance with the provisions thereof. Nothing in this Convention imposes any obligation for a State Party to join any Protocol which may be adopted by the Conference of the Parties to implement or elaborate this Convention."

Article 21

We cannot support this Article in its current form. The Convention should be complementary to the many successful existing instruments of international tax cooperation that have been built over decades. UN Member States have concluded a myriad of multilateral or bilateral agreements to their mutual benefit and it is a decision of the respective parties whether they wish to continue these.

These forms of cooperation have proven vital in combating tax evasion and avoidance, ensuring legal certainty and boosting revenue collection, thereby contributing to the public good.

The draft Article 21 states that it will not affect pre-existing rights and obligations of Parties. The value of this paragraph is nevertheless unclear as, at the same time, the text requires progressive and meaningful steps to be taken towards aligning all existing agreements with the Convention. It also imposes an obligation to enter into negotiations to do so. Furthermore, the COP is given a role in assessing progress on this alignment, whereas the decision-making modalities in the COP in this respect are left open.

A provision that would create an obligation – now or in the future – to override international agreements, would create a degree of legal uncertainty that is not workable. Moreover, it must be emphasised that EU Member States are strictly bound by EU law and must take any appropriate measure to ensure the fulfilment of their obligations under EU law.

The current text risks destroying years of valuable international work, creating legal uncertainty. In our view the Convention should remain high-level in nature and look for added value to the existing international tax structure.

We therefore suggest to delete paragraph 1 (b), paragraph 3 and 4 and replace paragraph 2 with the following: *"This Convention shall not affect the rights and obligations of any party under a bilateral, regional or multilateral agreement into which a State Party has entered prior to and after the entry into force of this Convention."*.

Article 25

The current text does not allow reservations. To encourage broad participation and accommodate differences among UN Member States, reservations should be considered—provided they do not undermine the Convention's core purpose. EU Member States cannot derogate from the EU acquis now and going forward. An explicit permission to make reservations to certain aspects of the Framework Convention – concerning its scope or relation to other instruments and the EU acquis - could therefore facilitate its overall acceptance.