YTJN New York Tax Talks Day Two Roundup: Fifth Session of the Intergovernmental Negotiating Committee to Develop a UN Framework Convention on International Tax Cooperation

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The Big Picture: The Battle Over the Heart of the Convention

Day 2 of the fifth session began where Day 1 left off with stakeholders having their say on Article 5, the article that could fundamentally reshape who gets to tax what. But the real fireworks came when delegates moved to Article 6 on high-net-worth individuals and Article 7 on illicit financial flows.

The theme of the day? Weakening vs. strengthening**.** Throughout the afternoon, a clear pattern emerged: some countries argued that key articles had been "*watered down*" from earlier drafts, while others welcomed the changes as more balanced and cooperative.

Article 5: The Heart of the Convention (Stakeholder Interventions)

1. *A fair allocation of taxing rights among jurisdictions shall reflect the real economic contribution of each relevant jurisdiction, including jurisdictions where value is created, markets are located, revenues are generated and users or data are located, and taking into account such other factors that may become relevant as business models evolve, whether or not such activities involve physical presence in a jurisdiction.*
2. *The States Parties shall explore and pursue cooperative approaches to support the fair allocation of taxing rights with a view to reducing the risks of double taxation and non-taxation.*

The Stakeholder Debate

Stakeholders weighed in strongly on Article 5, with many supporting the African Group's proposal for a more robust text.

The African Union delivered a powerful statement, calling Article 5 "*the promise at the heart of this convention*" and warning that "*an idea in and of itself cannot be relevant unless it generates tax revenue*." They noted that Africa "*has already seen decades of exploration*" and what they're seeking now is "*actual commitments*."

The African Tax Administration Forum (ATAF) broke down what a proper Article 5 should do: provide triggers that grant taxing rights, supply guardrails for how those triggers are applied, and give guidance for implementation. They argued that the current text "*confers and safeguards no taxing right*" and that "*an undertaking to explore and pursue is not a rule a tax administration can apply*."

Courtesy Photo; A cross section of the participants in the Negotiations.

Civil society organizations (CSOs) made several key points:

- **The Global Alliance for Tax Justice** warned that the concept of "*value creation*" is "*too vague and subjective*" and has been used to facilitate profit shifting to low-tax jurisdictions. They recommended focusing on "*real economic activity*" instead.

- **The Climate Change Finance Group for Latin America and the Caribbean** called for a specific article on extractive industries, noting that illicit financial flows from commodities amount to at least $40 billion in Africa.

- **Public Services International (PSI)** , speaking for 30 million workers worldwide, noted that "*without humans, there is no economic creation, there is no profit, there is no value*" and called for labor to be recognized as a key factor in value creation.

- **The DMUN Foundation**, speaking for children and youth, supported the forward-looking language on evolving business models but called for "*technical clarification*" of the factors listed.

- **The International Chamber of Commerce (ICC)** expressed concern that the article "*marks a significant departure from the traditional nexus principles*" and warned that allowing taxation based solely on market location or users "*risks creating overlapping claims to taxation*."

- **The International Air Transport Association (IATA)** offered the aviation sector as a practical example of how internationally coordinated allocation rules can work across multiple jurisdictions.

A key moment: The UN Independent Expert on foreign debt raised the issue of landlocked countries, noting that they are often overlooked when discussing taxation of activities like those on the high seas. They also suggested that the evolution of business models is something the Conference of Parties should be tasked with monitoring.

A breakthrough proposal: Centre for Fiscal Studies (CFS) offered a practical solution to the "and vs. or" debate that had consumed much of Day 1. They proposed the paragraph could say:

"*Including jurisdictions where **one or more** of the following elements are present: value is created, markets are located, revenues are generated, or users and data are located.*"

They noted that "*each factor alone is sufficient. None of them excludes the others*."

Switzerland proposed holding an **"*informal-informal*"** meeting on Article 5 to try to narrow down the growing number of proposals and find consensus.

India supported this, noting that "*it is time to start synthesizing the proposals that we have rather than trying to have a multiple number of proposals*."

Article 6: High-Net-Worth Individuals

> 1. *States Parties shall cooperate to enhance measures to detect, deter and prevent tax avoidance and evasion by high-net-worth individuals.*
> 2. *The States Parties shall share general information regarding structures and techniques used by high-net-worth individuals to avoid and evade taxes.*
> 3. *The States Parties shall explore coordinated approaches to ensuring effective taxation of high-net worth individuals while respecting each State Party's sovereign right to determine the design, structure and level of taxation within its national tax system.*

The Main Debate: Was the Article "Watered Down"?

The discussion on Article 6 revealed a clear divide between those who felt the article had been weakened and those who welcomed the changes.

India led the charge against the changes, pointing out three specific problems:

1. **Paragraph 1:** "*Develop and implement*" had been replaced with "*cooperate to enhance*." India asked: "*Have we lost our proactive nature?*"

2. **Paragraph 2:** The word "**general**" had been added before "*information*." India asked: "*Have we lost our specificity? Have we lost that key tool that we had found for ourselves to combat avoidance and evasion by HNIs*?"

3. **Paragraph 3:** Language on "*level of taxation*" had been added. India warned this created "*a contradiction within the language of this paragraph itself*" and expressed concern that it could be interpreted as setting a minimum level of taxation something India has consistently opposed.

Brazil echoed India's concerns, calling the text "*way less proactive than it used to be before*" and proposing a return to "*shall develop and implement measures*."

Zambia, speaking for the Africa Group, stated bluntly that the article "*has been watered down compared to the last draft*" and called for the original language to be restored.

The Africa Group's proposed amendments:

- **Paragraph 1:** Replace "*cooperate to enhance*" with "*shall develop and implement*"
- **Paragraph 2:** Delete the word "*general*"
- **Paragraph 3:** Replace "*explore*" with "*adopt*" and delete the reference to sovereignty

Nigeria made a powerful point about sovereignty and treaties: "When you sign treaties, you are more or less subjecting a override of your treaty of your domestic law by the treaty."

The Other Side: Support for the Current Text

Switzerland welcomed the new language, thanking Norway for the suggestion to use "*cooperate to enhance*" instead of "*develop and implement*."

Germany also welcomed the "*greater emphasis that is being placed on cooperation*" and supported the inclusion of sovereignty language in paragraph three.

Norway supported the changes and proposed that paragraph two should read: "*such measures may include as appropriate exchange of information, experiences, and best practices.*"

The Republic of Korea appreciated the revisions, noting that "*cooperate to enhance places greater emphasis on cooperation among states parties.*"

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CIVIL SOCIETY FINANCING FOR DEVELOPMENT Mechanism — The CS FfD Mechanism is an open civil society platform including several hundreds of organizations and networks from diverse regions and constituencies around the world. CS FfD Mechanism's core principle is ensuring that civil society can speak with one collective voice.

YES – THAT'S WHAT AMBITION LOOKS LIKE!

We civil society are often told we're always negative. Here's an article to prove you wrong!

Yesterday's discussion on High-net Worth Individuals was a heartwarming and much needed reminder of what ambition looks like. Brazil, India, the Africa Group, Spain, Pakistan and several other Member States delivered a strong push for reintroducing much stronger and more action-oriented language in Article 6. Thank you, champions!

This could not be more timely. Governments around the world are struggling to fund healthcare, education, environmental protection, gender equality, and the fulfillment of human rights.

Meanwhile, the exclusive club of dollar-billionaires keeps hoarding wealth and power at record speed, and the world has just seen the emergence of the world's first trillionaire. This extreme concentration of wealth must urgently be addressed!

On the backrows, we felt a very strong urge to applaud yesterday. Sadly, we remain aware that this practice was banned in the UN Tax process in 2024 when a European delegate (who wasn't receiving any applause) complained that she was "not used to that". But we hope you all felt our positive energy of appreciation, when ambition finally reemerged in Conference Room 2.

WHY DOES PROGRESSIVITY MATTER?

As we all know tax progressivity is a cornerstone of fair and effective tax systems because it aligns tax obligations with the ability to pay. It means that individuals and corporations with greater economic capacity contribute a larger share of their income or wealth, helping to reduce inequality while generating the public resources needed to finance sustainable development and the progressive realization of human rights. Progressive taxation is therefore not only a matter of equity, but also of economic efficiency and social cohesion.

Under the current global tax rules, national efforts to implement progressive taxation are constrained by the mobility of capital, multinational enterprises, and high-net-worth individuals. As a result of tax competition, profit shifting, hidden offshore wealth, and unfair arbitration, those with the greatest capacity to contribute minimize or avoid taxation, shifting the burden onto workers, consumers, and small domestic businesses. Because of this, countries, particularly developing countries, face significant revenue losses that weaken their ability to fulfill human rights obligations.

For this reason, as several Member States stressed yesterday in the Article 6 discussion, progressivity should become a central objective of international tax cooperation rules.

International cooperation enables countries to protect and strengthen progressive tax systems by reducing opportunities for cross-border tax avoidance and evasion. Effective taxation of multinational enterprises, transparency of beneficial ownership, automatic exchange of information, administrative cooperation, and effective taxation of high-net-worth individuals all contribute to ensuring that our tax systems can be progressive. Without international coordination, countries acting alone often face a "race to the bottom," lowering tax rates or granting preferential regimes to attract mobile capital, which ultimately undermines their own fiscal sovereignty. Addressing these challenges requires multilateral solutions that close loopholes and establish a fair allocation of taxing rights among countries.

Finally, embedding progressivity within international tax cooperation reflects a broader commitment to fairness, solidarity, and sustainable development. It recognizes that globalization should not enable those with the greatest economic power to escape their tax responsibilities while ordinary citizens bear a disproportionate share of the tax burden.

It's high time for Member States to embrace the concept of progressivity in the UN Tax Convention.

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The Definition Problem

A recurring theme was the lack of a definition for "*high-net-worth individual*."

France called it "*extremely important to agree on the definition*" and suggested an "*analytical note detailing various options*" before the next session.

Singapore questioned whether a definition was even necessary, noting that "*the term is context specific*" and that different countries use different thresholds. They suggested that if a future protocol creates an operational obligation, "*the necessary definition can be provided in that instrument*."

Papua New Guinea (PNG) raised a practical concern: "*the high threshold in the definition of high-net worth individuals will be unworkable for PNG because it will be impossible to capture taxpayers.*"

The Co-Lead made a practical suggestion: "*If we believe there's a definition we can use, we include the indicative definition to help all of us work on it*."

The Sovereignty Article Debate

Belgium proposed a separate article on "*protection of sovereignty*," noting that other UN conventions (like the UN Convention Against Corruption) have such provisions.

Brazil disagreed, arguing that repeating sovereignty in individual articles "*is unnecessary and may unintentionally weaken the operational commitments*."

Honduras agreed with Brazil, stating that sovereignty is "*already adequately reflected in the guiding principles*" and that repeating it "*may detract from the operational focus*."

A Proposal to Restructure

Jamaica suggested that paragraph three should be moved to the beginning of the article because "*that is the main intent of Article 6 – to explore coordinated approaches*."

Mexico offered a compromise for paragraph one: "*state parties shall cooperate to support the development, enhancement, and implementation of measures*."

The Youth Voice

The DMUN Foundation, speaking for children and youth, expressed "*great concern that the current text in several aspects favours discretion and flexibility over binding, resilient and sustainable solutions*." They called for:

- Deleting the word "*general*" in paragraph two
- Adding "*on a regular basis*" to strengthen information sharing
- Stronger language like "*adopt*" instead of "*explore*"

- A standardized definition of high-net-worth individuals

They concluded: "*Children and youth firmly believe that ensuring effective and universal taxation for high-net-worth and ultra-high-net-worth individuals remains an essential imperative and prerequisite for accelerating the SDGs*."

Article 7: Illicit Financial Flows, Tax Avoidance and Tax Evasion

"The States Parties shall cooperate to combat tax- related illicit financial flows, including tax avoidance and tax evasion. Such cooperation shall include developing effective tools for the detection and prevention of such tax- related illicit financial flows, to be enforced through mutual administrative assistance and exchange of information and any other agreed forms of international co- operation, to ensure the effective taxation of income and profits from tax- related illicit financial flows by, and in accordance with the national laws of, the jurisdiction whose tax base has been reduced as a result of the tax- related illicit financial flow."

The Definition Debate: What Exactly Are We Talking About?

The discussion on Article 7 was perhaps the most contentious of the day, revolving around a single question: what is a **"*tax-related illicit financial flow*"?**

The Africa Group (Zambia) proposed breaking the article into two paragraphs and strengthening the language:

- **Paragraph 1:** "*State parties shall develop and implement measures to combat tax-related illicit financial flows, including tax avoidance and tax evasion. Such measures shall include implementation of effective tools for the detection and prevention*."

- **Paragraph 2:** "*Measures taken by parties under this article shall ensure that effective taxation of income and profits connected to tax-related illicit financial flows by and in accordance with the national laws of the jurisdiction where the tax base has been reduced thereby*."

They also proposed deleting the exclusion of non-tax crimes (like smuggling) from the definition, arguing that "*smuggling in most instances has got tax implications*."

The Czech Republic took the opposite view, proposing to delete "*including tax avoidance and tax evasion*" from the article and title, arguing that the relationship between these terms and IFFs is "*complicated*" and "*confusing*."

Germany agreed, stating that "*tax avoidance describes any action taken by a taxpayer to lessen tax liability*" and is "*by itself completely legal*." They argued that the convention should "*clearly distinguish unlawful conduct from legitimate tax planning*."

The United Kingdom (UK) echoed this, noting that "*tax evasion is criminal, whereas avoidance is not necessarily criminal*" and that "*grouping both concepts under the term illicit risks obscuring that distinction*."

Singapore pointed out that the definition appears to be borrowed from a UN Office on Drugs and Crime framework developed for statistical measurement not for legal instruments. They warned against "*importing a broad statistical concept into a legal convention*."

Portugal raised several technical questions, asking whether the definition encompasses "*aggressive tax avoidance*" or "*transfer pricing*" and what "*primarily*" means in the phrase "*consists primarily of non-tax crimes*."

India offered a definition suggestion: "*tax related illicit financial flows means cross border movements of funds or assets that are generated, transferred, or used through illegal or abusive practices for the purposes of tax evasion or tax avoidance*." They also suggested that a protocol could be developed on this issue.

Brazil proposed a creative compromise: instead of treating tax avoidance and evasion as subcategories of IFFs, list all three separately. Their proposed text would say: "*to combat tax avoidance, tax evasion, and tax related illicit financial flows*."

Nigeria made a powerful linguistic argument: "*illicit*" is broader than "*illegal*." They noted that "*illicit*" includes things that are "*morally wrong, even if no law is broken*." They argued that tax avoidance "*may not be illegal, but also offensive to effective taxation*."

Algeria supported this distinction, stating that "*legality of form does not cure illegitimacy of outcome*."

Mexico proposed restructuring Article 7 to mirror Article 8 (on harmful tax practices), with a list of activities that fall under IFFs rather than a single definition.

Jamaica made a practical plea: "*If somebody could just give us an example of what it is that is intended to be targeted.*"

The Co-Lead clarified that the definition is "*indicative*" and "*not a final thing,*" noting that "*we are crafting it*" and "*it's going to come from all of us*."

The Tax Avoidance Problem

Austria noted that IFFs "*pertain more to the nature of their origin rather than their potential outcome*" and that "tax avoidance and tax evasion are legally distinct concepts."

Estonia asked whether "*legitimate government revenue claim*" is "*wider than taxes or is it a synonym for tax?*"

Norway expressed concern that the definition "*could prove both under and over inclusive*" and that concepts like "*legitimate government revenue claim*" and "*principal purpose*" could "*give rise to uncertainty and differing interpretation*."

Azerbaijan proposed that IFFs "*should cover tax avoidance only where arrangements are artificial, lack genuine economic substance or contrary to purpose and object*."

The Philippines noted that under the Terms of Reference, "*we are also tasked to develop a protocol on measures against tax-related illicit financial flows*" and that "*this provision should necessarily stem from that.*"

The Civil Society Perspective

The Tax Justice Network reminded delegates that there is already "*a full and I should add very clear definition*" of IFFs agreed by all UN member states in the UN Statistical Framework. They expressed surprise that "*this agreed definition seems to be unfamiliar to some of the delegates from OECD countries*."

Centre for Fiscal Studies (CFS) offered a practical suggestion to resolve the avoidance placement challenge: amend the first sentence to read "*state parties shall cooperate to combat tax-related illicit financial flows and to combat tax avoidance and tax evasion*."

The African Union reminded delegates that a High-Level Panel on Illicit Financial Flows from Africa defined IFFs as "*money that is illegally earned, transferred or used*."

Article 8: Harmful Tax Practices (Partial Discussion)

1. *The States Parties shall cooperate, at international and regional levels, to develop and apply*

common principles and standards to identify harmful tax practices and measures to deter them, enabling all countries to tax income in accordance with their domestic laws and policies.

2. *The States Parties shall explore appropriate measures and tools to address harmful tax practices including those that provide for:*
    a) *Enhanced transparency;*
    b) *Monitoring and identifying emerging harmful tax practices; and*
    c) *The effective taxation of economic activities that benefit from harmful tax practices.*

The Debate

The Czech Republic asked for a definition of harmful tax practices based on objective criteria and noted they "*don't fully understand what the first paragraph is trying to achieve*."

Iran raised concerns about duplication with existing international frameworks, asking whether "*the common principle and standard to identify harmful tax practices under this convention is intended to be the same as, complementary to, or different from*" existing frameworks.

The Africa Group (Zambia) called the article "*more progressive*" but proposed several enhancements, including:

- Stronger language: "*shall enhance and implement*" rather than "*explore*"
- Criteria for monitoring harmful tax practices should be established by the Conference of Parties
- The Conference of Parties should determine what constitutes "*effective taxation*"

India proposed new language for paragraph one: "*The state parties shall develop and apply on a non-discriminatory basis, common principles and standards to identify harmful tax practices and effectively tax income benefiting from such practices that distort cross-border taxation or erode the tax base of another jurisdiction*."

Austria proposed adding the word "*enhance*" to reflect existing frameworks and stressed the importance of coordination.

Singapore suggested inserting language that state parties "*shall take into account the work of relevant forums*" to avoid duplication.

Indonesia proposed deleting the reference to "*regional*" cooperation since "*the obligation under this convention are established at international level*."

China noted that "*common principles and standards*" does not appear to "*accommodate the varying circumstances of individual states*."

Green Peace International proposed a definition: "*Tax practices in one jurisdiction are considered harmful if they undermine the fairness or effectiveness of the tax system in another jurisdiction*." They also proposed giving the Conference of Parties a mandate to carry out assessments.

What Do YOU Think?

These negotiations will shape your future. Here are some questions to chew on based on Day 2's debates:

On Article 5 (fair allocation of taxing rights):

- Should countries be able to tax profits based on where their users and data are located even if the company has no physical presence there? Some say this is essential for fairness in the digital economy. Others warn it could lead to double taxation and legal uncertainty. Where do you stand?

- The term "real economic contribution" is being debated. Should we use "economic activity" instead? What's the difference and does it matter?

On Article 6 (high-net-worth individuals):

- Should the convention include a global definition of "*high-net-worth individual*"? Or should each country decide for itself? Some argue a common definition is needed for effective cooperation. Others say it's too context specific. What do you think?

- Some countries want to require states to "*develop and implement*" measures to tax the super-rich. Others prefer "cooperate to enhance" existing measures. Which approach do you think is more effective?

- Should the convention set a minimum tax rate for billionaires? Or is that a matter for each country to decide?

On Article 7 (illicit financial flows):

- Should "*tax avoidance*" (which may be legal) be treated the same as "*tax evasion*" (which is illegal)? Some say both drain public resources and should be tackled together. Others say conflating them creates legal confusion.

- Should smuggling and trafficking be included in the definition of tax-related illicit financial flows? These activities generate income that often goes untaxed—but they're primarily criminal, not tax, offenses.

- Is "*illicit*" broader than "*illegal*"? And does that matter for how we design the convention?

On Article 8 (harmful tax practices):

- Should the UN create its own standards for identifying harmful tax practices, or should it build on work already done by the Organization for Economic Co-operation and Development (OECD) and other forums? Some say we need a fresh start because existing frameworks weren't inclusive. Others say duplication wastes resources.

- Should the Conference of Parties have the power to determine what counts as a "harmful tax practice"?

On sovereignty:

Some countries want a separate article protecting national sovereignty over tax matters. Others say this is already covered in the principles and repeating it in every article weakens commitments. Who's right?

On the big picture:

- The Africa Group has consistently argued that key articles have been "watered down" from earlier drafts. Is cooperation language (like "cooperate to enhance" or "explore") enough? Or do we need stronger commitments (like "develop and implement" or "adopt")?

- Several countries have called for "*informal-informal*" meetings to narrow down proposals and find consensus. Is this a sign of progress or a sign that the negotiations are stuck?

We want to hear from YOU! Share your thoughts on these questions. Tag us on social media or write to us. Your voice matters in building a tax system that works for people not just profits.

What's Next?

Day 3 will complete stakeholder interventions on Article 8 (Harmful Tax Practices) before moving to the operational heart of the convention: Articles 9, 10, and 11 on dispute resolution, mutual administrative assistance, and exchange of information. These three articles form the "machinery" of the convention, the practical tools that will make the commitments in Articles 4–8 actually work in practice.

Key Questions to Watch:

- **Article 8:** Will the final text acknowledge existing international frameworks on harmful tax practices or create a parallel UN system? Should the Conference of Parties have the power to define what counts as "harmful"?
- **Article 9:** Should dispute resolution be mandatory or optional? Should taxpayers be able to initiate procedures directly, or should this be left to governments?
- **Article 10:** Should the UN create its own system of administrative assistance, or build on existing OECD/Global Forum frameworks? Should assistance in tax collection be mandatory?
- **Article 11:** Should countries automatically exchange information or only upon request? Should this cover tax avoidance schemes or only illegal tax evasion?
- **The Big Picture:** These three articles are the machinery of the convention. Should they be strong and binding or flexible and voluntary? And should the convention include concrete support for capacity building in developing countries?

Stay Engaged

The UN Framework Convention on International Tax Cooperation is one of the most important negotiations of our time. Young people have a stake in the outcome. Follow YTJN for daily updates and use your voice to demand a tax system that works for people not just profits.