



**From:** The Youth for Tax Justice Network (YTJN)

**For the Kind Attention Of:** Mr. Ramy M. Youseff, Chair of the Intergovernmental Committee to draft a United Nations (UN) Framework Convention on International Tax Cooperation and Two Early Protocols (INC); and Liselott Kana (Chile), Co-Lead of Workstream II (Taxation of Services)

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**Subject: Written Submission by the Youth for Tax Justice Network (YTJN) on Workstream II on the Co-Lead's Draft Options Paper published on 23 January 2026, and Discussed during the 4th Intergovernmental Negotiations of the UNTC in New York, USA in February 2026.**

Kindly find below written submissions by the Youth for Tax Justice Network (YTJN), presented on behalf of the children and youth of Africa.

The [Youth for Tax Justice Network \(YTJN\)](#) is a Pan-African youth-led and youth-driven organization advancing meaningful youth engagement and representation in influencing the mobilization, allocation, and utilization of public resources for the benefit of young people in Africa and beyond.

YTJN is a member of the CSOs working group on the UN Tax Convention coordinated by [Global Alliance for Tax Justice \(GATI\)](#), which is a South-led global coalition of civil society organizations, trade unions and experts working to ensure a fair, inclusive and ambitious UN Framework Convention on International Tax Cooperation. We are also part of the [FfD Children and Youth Constituency](#) of the [Major Group for Children and Youth \(MGCY\)](#). The constituency serves as the official and formal space for young people's engagement within the United Nations Financing for Development process, coordinating inputs that reflect the priorities, lived experiences and policy expertise of youth across regions.

This submission consolidates key reflections from a youth perspective and builds upon ongoing youth engagement in the global economic governance process, with a focus on strengthening the [Co-Lead's Draft Options Paper](#).

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## Abstract

The [Youth for Tax Justice Network \(YTJN\)](#) submits this input on behalf of 1.8 billion young people, a significant proportion [\(78% according to the ILO\) of whom are engaged in the gig and digital economy](#). Rules developed under this Protocol will directly shape youth employment conditions, digital access, and the availability of public revenues for education, digital infrastructure, and climate adaptation.

We emphasize a foundational principle: no Protocol can function effectively without a strong and coherent Framework Convention. Efforts to shift substantive commitments into standalone protocols risk creating fragmentation and systemic incoherence. In particular, without clear Convention provisions, especially on the allocation of taxing rights, this Protocol lacks an adequate legal and normative foundation.

YTJN therefore advances the following key recommendations:

1. The Protocol must be firmly anchored in Convention principles, including fair allocation of taxing rights and clear treaty-override provisions.
2. Nexus rules should be based on significant economic presence, without requiring physical presence.
3. Gross-basis withholding taxes should be permitted as transitional measures toward more comprehensive unitary taxation.
4. Public country-by-country reporting, including sales by final destination and user-based metrics, should be mandated to address information asymmetries.
5. Revenues mobilized should support youth-centered investments in education, digital literacy, and climate adaptation.
6. The framework must prevent fragmentation and the use of intermediaries designed to circumvent tax obligations.

A robust Convention can deliver systemic reform; fragmented protocols cannot. The urgency of youth priorities demands coherence, ambition, and structural fairness.

## **Introduction**

The Youth for Tax Justice Network (YTJN) represents 1.8 billion young people, a significant proportion of whom participate in the gig and digital economy. We note that the rules developed under this Protocol will directly determine whether young people have access to dignified work, whether digital platforms contribute fair taxes, and whether sufficient public revenues exist to fund education and climate adaptation.

We further recognize the urgency many States face in mobilizing revenues. Unilateral measures, including digital services taxes adopted by countries such as France, reflect legitimate efforts to respond to gaps in the current system. However, piecemeal measures do not constitute a coherent international tax framework; they are corrective responses to structural deficiencies.

No Protocol can function effectively without a strong and clearly articulated Framework Convention. Proposals to defer substantive commitments entirely to protocols risk creating fragmentation and legal incoherence. Without agreed Convention principles, particularly on the allocation of taxing rights and the criteria determining who may tax and on what basis, this Protocol cannot deliver equity, certainty, or predictability. Advancing the Protocol in the absence of these foundations places the cart before the horse. Some of our key rebuttals are as follows;

<b>Weakening Arguments (INC4)</b>	<b>YTJN Rebuttal <i>(see submissions below for further analysis and some of our key recommendations)</i></b>
All substance belongs in protocols	Without strong Convention provisions (Article 5, 15), Protocol lacks foundation; creates incoherent system
Physical presence remains appropriate nexus	PE rules designed for 1930s economy; digital services need no physical presence; study shows only 29% of DTAs contain Article 12A
Gross-basis withholding taxes cause excessive taxation	Liu et al. (2025) prove they don't reduce genuine services imports – only curb profit shifting
Align with OECD Pillar 1	Pillar 1 applies only to largest MNEs; stalled; doesn't address developing country needs
Public CbCR violates confidentiality	No right to secrecy in human rights law; transparency is essential for public accountability
Bilateral renegotiation is sufficient	Impractical and slow; multilateral approach minimizes competitiveness concerns

## **Outdated Nexus Rules are the Foundational Problem**

**Our Analysis:** The concept of Permanent Establishment (PE) was developed for a brick-and-mortar economy characterized by physical premises, in-person transactions, and tangible delivery of goods and services. In today's digital economy, sustained economic participation no longer requires physical

presence; internet access, digital interfaces, and remote service delivery are sufficient. Traditional sectors, including transport, communications, accommodation, and education, can now operate remotely. Yet outdated PE rules continue to constrain source-country taxing rights despite substantial economic engagement within their markets.

Attempts to address these limitations through payment-based nexus rules, such as [Article 12A on technical services](#), have achieved limited uptake. Empirical analysis indicates that only a minority of double taxation agreements incorporate such provisions, underscoring resistance to bilateral reform. This fragmentation demonstrates the necessity of a multilateral, harmonized approach to modernizing nexus.

**General Recommendations:** To address the structural inadequacies of existing nexus standards, YTJN recommends that the Framework Convention establish a modernized and universally applicable nexus rule grounded in economic reality rather than physical presence.

1. **Adopt Significant Economic Presence (SEP) as the Primary Nexus Standard.** Taxing rights should arise where a multinational enterprise maintains sustained and purposeful economic engagement within a jurisdiction, regardless of physical presence. Indicators may include revenues derived from the jurisdiction, number of users, digital interaction intensity, or sustained market participation.

*According to our analysis, several countries, particularly in Latin America, including Colombia, have already implemented income taxation based on significant economic presence (SEP). Their experience demonstrates both the feasibility and necessity of a multilateral, harmonized approach to ensure consistency, predictability, and fairness across jurisdictions. In Colombia, services delivered through the digital economy represent approximately 3–4% of GDP, with a substantial portion derived from cross-border transactions. Despite this, revenues generated under the SEP framework account for only about 1% of total national tax revenue, highlighting the considerable untapped potential for source-country taxation. This case underscores the need for an international standard that recognizes economic presence as a sufficient basis for taxing rights. A multilateral approach would reduce fragmentation, prevent treaty shopping, and enhance the effectiveness of dispute prevention mechanisms, while ensuring developing and emerging economies can secure fair revenue from digital economic activity.*

2. **Eliminate the Physical Presence Requirement.** The requirement of Permanent Establishment based on physical presence should no longer serve as a precondition for source-country taxing rights in the digitalized economy.

*The concept of Permanent Establishment (PE) is outdated, especially for cross-border services. It was designed when services had to be physically performed in the source country. Today, with digitalisation and globalisation, this is no longer necessary, but international tax rules have been slow to adapt. Current rules restrict source-country taxing rights through rigid conditions, such as requiring a “fixed place of business” or meeting minimum time thresholds (e.g., 183 days) for services PE or independent personal services. There have been attempts to introduce new nexus rules that go beyond the fixed-place requirement. Notably, during the Fourth Negotiating Session, several Global South states proposed that if physical presence remains relevant, then **any presence** – regardless of its duration or permanence – should be sufficient to trigger source-country taxing rights.*

3. **Protect Source Country Taxing Rights.** Nexus standards must reflect the legitimate right of market jurisdictions, particularly developing countries, to tax economic activity occurring within their markets.
4. **Ensure Legal Certainty and Administrative Simplicity.** The Convention should provide clear thresholds, standardized definitions, and coordinated implementation guidance to reduce

disputes and prevent double taxation.

#### **Proposed Article X: Nexus for Cross-Border Services**

1. A State Party shall have the right to tax income from cross-border services where the provider has a significant economic presence, regardless of physical presence.
2. Significant economic presence shall be determined by factors including:
  - a. Revenue from users/customers in the State, exceeding a COP-determined threshold;
  - b. Number of users/customers in the State;
  - c. Volume of data collected from users in the State;
  - d. Use of local payment methods or currency;
  - e. Marketing targeting residents
3. Thresholds shall consider different economy sizes, ensuring developing countries are not excluded.
4. States Parties shall adopt simplified profit allocation methodologies when transfer pricing is impractical.

#### **Anchoring the Protocol in Convention Principles**

**Our Analysis:** Great care must be taken to ensure that the Protocol shall not in any way contradict the provisions of the Framework Convention. Indeed, the Protocol must serve to implement the Framework Convention and cannot operate without strong foundations within the latter. We acknowledge the difficulties of ensuring that both instruments are in harmony with each other since their development is happening simultaneously.

As such, we emphasize that the Protocol must be expressly and unambiguously anchored in the Framework Convention. As an implementing instrument, it cannot operate autonomously or develop parallel normative standards. Its legitimacy, coherence, and effectiveness depend on clear alignment with the Convention's objectives, principles, and substantive commitments.

**First, Article 5** must establish that jurisdictions where value is created, markets are located, and economic activities take place have a right to tax. This Protocol operationalizes that principle for cross-border services.

**Second, Article 15** must clarify that inconsistent double tax treaties must be renegotiated or terminated. Without this, existing treaties limiting source taxation will override Protocol rules.

**Third,** the commitment to equitable taxation of MNEs must be reflected in both the Convention and the Protocol. The current fragmentation, where MNEs choose which entities pay tax and where, must end.

**Justification:** These structural challenges cannot be resolved through the Protocol alone. The Protocol may provide technical or procedural mechanisms, but it cannot correct the foundational design flaws embedded in the existing international tax architecture. Only a strong and comprehensive Framework Convention can address the root causes, outdated nexus standards, inequitable allocation of taxing rights, fragmented treaty networks, and systemic information asymmetries. By establishing common principles and uniform standards, the Convention can reshape the architecture that made these problems inevitable.

### **Method of Taxation: Transitional Measures**

**Our Analysis:** [Liu et al. \(2025\)](#) show that withholding taxes on cross-border services do not reduce total services imports; rather, they primarily curb tax-driven profit shifting. Transactions unlikely to be used for tax planning are largely unaffected. Regarding the **justification**, Gross-basis withholding taxes are administratively simpler and provide immediate revenue. They can serve as an effective transitional measure while States Parties move toward a more comprehensive unitary taxation framework.

#### **Proposed Article Y: Method of Taxation**

1. States Parties may impose taxation on either a gross or net basis, subject to Protocol limits. As a transitional measure pending unitary taxation, States Parties may apply withholding taxes on gross payments at COP-agreed rates, provided:
  - a. Rates ensure meaningful source taxation while preserving residual residence taxing rights;
  - b. Different rates may apply to different service categories, including intra-group payments;
  - c. Withholding taxes shall not be eliminated by inconsistent treaty provisions
2. States Parties shall work toward unitary taxation with formulary apportionment for MNEs providing cross-border services, allocating profits based on sales by final destination, users, assets, and employees.

### **Public Country-by-Country Reporting for Services**

**Analysis:** No form of unitary taxation can function without consolidated financial information. Effective source-country taxation requires visibility into market size, revenue flows, and user engagement. User data is particularly important for identifying non-payment or tax avoidance risks. Currently, country-by-country reporting (CbCR) is often limited to jurisdictions where MNEs have a legal presence, leaving many market jurisdictions, especially in developing countries, without access to essential information. Public reporting is the only mechanism that ensures equal access for all States Parties.

#### **Proposed Article Z: Transparency and Reporting**

1. States Parties shall require MNEs providing cross-border services to file public country-by-country reports disclosing per jurisdiction:
  - a. Revenues, distinguishing third-party and intra-group transactions;
  - b. Sales by final destination;
  - c. Geographic distribution of users;
  - d. Profit/loss before tax;

- e. Income tax paid and accrued;
  - f. Number of employees;
  - g. Tangible assets
2. Reports shall be publicly available in a central COP-maintained database.
  3. Developed countries shall implement within two years. Developing countries shall have immediate access to all reports.

### **Earmarking Revenues for Youth Priorities**

**Our Analysis:** In our [June 2025 submission](#), we emphasized the importance of allocating revenues from cross-border digital services taxation to youth-centered priorities, including education, digital literacy, and climate adaptation.

#### **Proposed Article W: Use of Revenues**

1. States Parties are encouraged to allocate a significant portion of revenues from cross-border digital services taxation to:
  - a. Digital literacy programs and affordable e-learning access for youth;
  - b. Youth employment and skills development in the digital economy;
  - c. Climate adaptation and just transition initiatives;
  - d. Universal public services including education and healthcare

### **Preventing Fragmentation and Circumvention**

**Our Analysis:** In the absence of explicit safeguards, multinational enterprises can fragment income across affiliates or employ intermediaries to circumvent tax obligations, undermining the effectiveness of the Protocol.

#### **Proposed Article V: Anti-Avoidance**

1. States Parties shall adopt rules preventing income fragmentation among affiliated entities to avoid taxation under this Protocol.
2. States Parties shall ensure intermediaries, platforms, or marketplaces do not circumvent tax obligations.
3. States Parties shall establish simplified registration and compliance systems for non-resident taxpayers, supported by international administrative cooperation.

### **The Treaty Override Question**

**Analysis:** To ensure the effectiveness of the Protocol, it must prevail over any inconsistent bilateral or multilateral tax treaty provisions. Relying on renegotiation of treaties is often impractical and slow, particularly for developing countries. A multilateral approach provides consistency, reduces disputes, and minimizes competitiveness concerns among States Parties.

#### **Proposed Article U: Relation with Other Agreements**

1. Where any bilateral or multilateral tax treaty provision between States Parties is inconsistent with this Protocol, the provisions of this Protocol shall prevail.
2. States Parties shall take appropriate measures, including renegotiation or termination, to eliminate treaty provisions that limit source-country taxation of cross-border services in a manner inconsistent with this Protocol.
3. States Parties without bilateral or multilateral tax treaties may apply this Protocol directly as the legal basis for taxing cross-border services.

**Conclusion:** The UN Tax Convention process must deliver an international tax system that is fair, transparent, and coherent by design. This Protocol cannot achieve its objectives without a robust and clearly articulated Convention as its foundation. We urge Member States to resist the temptation of quick-fix measures that risk fragmentation and fail to address the structural drivers of inequity and inefficiency.

Youth can wait no longer ... and neither can the world.