



**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), Marlene Nembhard-Parker, Co-Lead of Workstream III (Prevention & Resolution of Tax Disputes) and Michael Braun, Co-Lead of Workstream III (Prevention & Resolution of Tax Disputes)

Friday 27th February, 2026

**Subject: Written Submission by the Youth for Tax Justice Network (YTJN) on Workstream III on the Co-Leads' Concept Note on Potential Approaches and Elements for the Draft Protocol 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 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 (GATJ), 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-Leads' Concept Note on Potential Approaches and Elements for the Draft Protocol](#).

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## Abstract

The [Youth for Tax Justice Network \(YTJN\)](#) submits this input on behalf of 1.8 billion young people. Hundreds of billions of dollars remain locked in protracted cross-border tax disputes, delaying critical revenues needed for education, healthcare, climate adaptation, and decent work. Every unresolved dispute shifts the fiscal burden onto younger generations.

We align firmly with the Africa Group in rejecting arbitration that undermines fiscal sovereignty and entrenches structural imbalances. Arbitration transfers decision-making from public institutions to private actors, is costly, procedurally complex, and systematically favors well-resourced countries. Dispute prevention, not privatized adjudication, must be central. This requires a strengthened Mutual Agreement Procedure (MAP) with clear timelines, transparency, and accountability.

We are concerned that the protocol is being developed as a standalone instrument, effectively building a roof without foundations. Tax disputes stem from corporate tax design, therefore, without a common legal framework ensuring fair allocation of taxing rights, any resolution mechanism is unstable.

In light of this background, our key demands are as follows:

1. A categorical rejection of mandatory or binding arbitration;
2. A strengthened MAP with concrete, binding procedural reforms;
3. Provision for voluntary, non-binding mediation and conciliation only;
4. UN-hosted knowledge repositories and sustained capacity-building support;
5. Clear treatment of “no treaty” situations through mutual agreement mechanisms only;
6. Dispute prevention measures aligned with principles of fair allocation of taxing rights, and not reliance on flawed transfer pricing rules.

Intergenerational justice, which is among the key principles we advocate for in the convention, requires tax systems that are equitable, transparent and democratically governed.



## **Introduction**

The [Youth for Tax Justice Network \(YTJN\)](#) represents 1.8 billion young people across the globe. Hundreds of billions of dollars remain immobilized in cross-border tax disputes, delaying revenues critically needed to advance youth priorities. Each unresolved dispute shifts fiscal responsibility onto younger generations.

The current protocol risks constructing a framework without foundational support. Substantive global tax rules agreed under the Convention must provide a common legal basis. Dispute resolution provisions should be integrated within the Convention itself to establish a coherent and enforceable system.

Evidence indicates that most cross-border tax disputes originate from the design of corporate tax rules. Provisions ensuring the fair allocation of taxing rights and the equitable taxation of multinational enterprises are therefore essential. Developing this protocol while the foundational elements of the Convention remain unsettled is premature and risks presenting the instrument as standalone, disconnected from the broader global tax architecture.

We caution against perpetuating the centrality of bilateral tax treaties within this emerging framework. Any protocol must be anchored in Convention-based rules that uphold transparency, equity, and intergenerational fiscal justice, ensuring that revenues are protected and fairly distributed across all stakeholders.

## **The Arbitration Question: Categorical Rejection**

**Our Analysis:** The Concept Note presents arbitration as a potential optional mechanism. Many Global South countries oppose arbitration due to negative experiences under ISDS, constitutional constraints, and structural power asymmetries. Even when framed as “*optional*,” arbitration creates political and economic pressure on some states to accept participation. While proposed as state-to-state arbitration rather than ISDS, the underlying challenges remain similar:

1. Arbitration transfers core tax decision-making from public institutions to private arbitrators, whose reasoning may not align with domestic policy objectives or development priorities.
2. Careful selection of arbitrators does not prevent unpredictable outcomes or decisions unguided by precedent.
3. Arbitration is costly, procedurally complex, and often inaccessible to many states, systematically favoring well-resourced countries.
4. Arbitration addresses disputes without resolving underlying causes, such as reliance on the arm’s length principle and transfer pricing, and operates without a shared legal framework. A universal dispute resolution mechanism requires common legal foundations within the Convention itself, beginning with fair allocation of taxing rights.

Until such foundations are fully developed, dispute resolution mechanisms must remain cautious and restrained.

### **Proposed Article X: Rejection of Arbitration**

*Dispute resolution under this Protocol shall be conducted exclusively through state-to-state mechanisms that respect fiscal sovereignty. Arbitration, in any form ( mandatory, optional, binding, or advisory) shall not be included. Arbitration is incompatible with fiscal sovereignty, democratic accountability, and equitable access. No provision of this Protocol shall be interpreted as creating any obligation for States Parties to submit to arbitration in tax matters.*

### **On Strengthened Mutual Agreement Procedure (MAP)**

**Analysis:** YTJN's December 2025 submission outlined concrete reforms required to enhance MAP effectiveness, particularly for developing countries.

### ***Proposed Article Y: Mutual Agreement Procedure***

- 1. Competent authorities shall endeavor to resolve by mutual agreement any difficulties arising from the interpretation or application of the Convention or this Protocol.*
- 2. Cases must be submitted within three years of the action resulting in taxation not in accordance with the Convention provisions.*
- 3. MAP shall be conducted according to realistic, capacity-sensitive timelines, reflecting the resources of developing countries. The Conference of the Parties (COP) shall develop indicative guidelines on appropriate timeframes.*
- 4. States Parties shall ensure that access to MAP is not unduly restricted by domestic procedural requirements. Initiation of MAP shall not require suspension of domestic remedies, and MAP agreements shall be implemented notwithstanding domestic time limits.*
- 5. The COP shall establish an enhanced transparency mechanism for MAP practice, including anonymized data on case outcomes, timelines, and resolution rates.*
- 6. States Parties shall provide mandatory, adequately funded capacity-building support to developing countries to enable effective MAP participation.*

These reforms ensure that MAP functions as a fair, accessible, and effective mechanism for dispute resolution, addressing root causes while preserving state sovereignty and promoting equitable participation across all States Parties.

### **Mediation and Conciliation as Voluntary, Non-Binding Tools**

**Analysis:** YTJN supports mediation and conciliation as voluntary, non-binding mechanisms, available only where Parties mutually agree to their use.

### ***Proposed Article Z: Mediation and Conciliation***

- 1. States Parties may voluntarily submit disputes to mediation or conciliation.*
- 2. Mediation and conciliation shall be strictly non-binding. The mediator or conciliator shall assist Parties in reaching a mutually acceptable solution but shall not issue binding decisions. Parties remain free to accept, reject, or modify any proposed solution.*
- 3. Mediation and conciliation may be applied in:*

- (a) Cases under MAP not resolved within indicative timeframes;*
  - (b) Particularly complex or sensitive disputes;*
  - (c) Any circumstance where Parties mutually agree.*
4. *The COP shall establish:*
- (a) Lists of qualified mediators and conciliators with demonstrated expertise, independence, and impartiality;*
  - (b) Model procedural guidelines;*
  - (c) Confidentiality rules and safeguards;*
  - (d) Cost-sharing arrangements, including financial support for developing countries.*
5. *The UN Secretariat shall facilitate mediation and conciliation upon request, ensuring independence, confidentiality, and targeted support for developing countries.*

### **Addressing “No Treaty” Situations**

**Analysis:** The Concept Note proposes a narrowly scoped mechanism for Parties without bilateral tax treaties. YTJN supports such an approach, subject to specific safeguards.

#### ***Proposed Article W: Cooperation in the Absence of Treaty***

- 1. States Parties without a bilateral or multilateral tax treaty may, by mutual agreement in each specific case, engage in consultations on identified cross-border tax issues.*
- 2. Such consultations shall be:*
  - (a) Voluntary and non-binding;*
  - (b) Conducted within the boundaries of each Party’s domestic law;*
  - (c) Subject to robust confidentiality safeguards;*
  - (d) Without creating new substantive obligations or altering existing taxing rights.*
- 3. Consultations may address cases where both Parties apply broadly similar rules and one administration has made an adjustment while the other maintains its original position.*

### **Dispute Prevention: Beyond Transfer Pricing**

**Our Analysis:** YTJN supports strong dispute prevention tools. However, **Advance Pricing Agreements (APAs)** sit inside the transfer pricing model and assume lack of clarity can be solved through pre-clearance. This doesn't address the underlying problem. Multinational groups operate as integrated firms. Internal pricing often lacks reliable comparables. Basing prevention on transfer pricing means basing it on a fundamentally flawed method.

APAs also raise systemic transparency risks. They rely on confidential assumptions about value creation, functions, and risks. The core design remains negotiated, case-specific, and difficult for affected jurisdictions to scrutinize. Affected source countries risk exclusion from decisions shaping their tax base. Effective prevention requires timely access to relevant data including but not limited to beneficial ownership information, country-by-country reporting, standardized reporting for cross-border service payments.

### ***Proposed Article V: Dispute Prevention***

1. States Parties shall establish a legal basis for cross-border administrative cooperation in tax dispute prevention, including:
  - i. Simultaneous audits and joint examinations
  - ii. Exchange of information on risk assessment insights
  - iii. Cooperative compliance arrangements
2. Dispute prevention mechanisms shall be aligned with the Framework Convention's goal of establishing fairer allocation of taxing rights and moving toward unitary taxation. Prevention tools shall not rely on transfer pricing methodologies that are fundamentally flawed.
3. States Parties shall ensure prevention mechanisms do not operate through confidential processes excluding affected source jurisdictions.
4. The COP shall develop guidelines for transparent, inclusive prevention mechanisms providing timely data access for all affected jurisdictions.
5. Capacity-building under Article 12 shall include support for developing countries to participate effectively in prevention mechanisms.

### **The Central Role of the United Nations**

**Our Analysis:** YTJN strongly supports an expanded and institutionalized role for the United Nations within the dispute prevention and resolution framework.

### ***Proposed Article U: Role of the United Nations***

1. The United Nations Secretariat shall provide facilitative and technical support under this Protocol, including:
  - a. Hosting and facilitating mediation and conciliation panels upon request of the Parties concerned;
  - b. Developing and maintaining centralized knowledge repositories, including model procedures, best practices, operational guidance, and anonymized data on dispute resolution practice;
  - c. Coordinating a mandatory and adequately funded capacity-building programme, co-designed by developed and developing countries, to strengthen effective participation in dispute prevention and resolution mechanisms;
  - d. Monitoring and reporting on the performance of MAP, mediation, and conciliation mechanisms, including timelines, uptake, and outcomes, through anonymized and aggregated data collection.
2. Support provided by the United Nations shall be strictly facilitative in nature and shall not extend to adjudicating or deciding individual disputes. All functions shall be exercised in full respect of State Party sovereignty, equality of rights, and domestic legal frameworks.

### **Access to Information: Beyond Comparables**

**Analysis:** The challenge in cross-border tax disputes is not solely limited access to information, but also the structural limitations of the arm's length principle itself. Multinational enterprises frequently engage in intra-group transactions for which no genuine market comparables exist. Expanding databases of

comparables cannot resolve this structural constraint. Public country-by-country reporting (CbCR) would more directly address information asymmetries and strengthen dispute prevention.

#### ***Proposed Article T: Access to Information***

- 1. States Parties recognize that effective dispute prevention and resolution require timely, comprehensive, and reliable access to relevant tax information.*
- 2. Such information shall include, inter alia:*
  - (a) Beneficial ownership information;*
  - (b) Country-by-country reports;*
  - (c) Standardized reporting relating to cross-border service payments and other high-risk transactions.*
- 3. The Conference of the Parties (COP) shall establish mechanisms to ensure that all States Parties, in particular developing countries, have equitable access to the information necessary to prevent and resolve cross-border tax disputes effectively.*
- 4. Pending full implementation of public country-by-country reporting under the Framework Convention, the COP shall facilitate access to existing information sources, consistent with confidentiality safeguards and domestic legal frameworks*

#### **Optionality and Fragmentation**

**Analysis:** Optionality within the Protocol would be inconsistent with established United Nations treaty practice and risks undermining the core function of the Convention: to build broad-based common agreement and a coherent international tax system. Allowing differentiated application through opt-ins, opt-outs, or reservations could fragment the framework, weaken legal certainty, and perpetuate asymmetries among States Parties.

#### ***Proposed Article S: Consistency and Uniformity***

- 1. The provisions of this Protocol shall apply uniformly to all States Parties. No reservations, optional regimes, or differentiated application mechanisms shall be permitted where such measures would result in inconsistent implementation.*
- 2. The Conference of the Parties (COP) may develop interpretative and implementation guidance to support effective application of this Protocol. Such guidance shall not establish optional frameworks, parallel regimes, or mechanisms that undermine coherence, predictability, or the integrity of the international tax system established under the Convention.*

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

**Our Analysis:** The Protocol must be expressly anchored in the principles and obligations of the Framework Convention. To ensure coherence and legal certainty, the Convention must prevail over inconsistent treaty arrangements between States Parties.

### ***Proposed R: Relationship with the Framework Convention***

- 1. This Protocol implements and elaborates the provisions of the Framework Convention, in particular commitments relating to the fair allocation of taxing rights, mutual administrative assistance, and effective dispute prevention and resolution.*
- 2. This Protocol shall be interpreted and applied in a manner consistent with the objectives, principles, and commitments of the Framework Convention.*
- 3. In the event of any inconsistency between this Protocol and any bilateral or multilateral tax treaty in force between States Parties, the provisions of this Protocol shall prevail to the extent of the inconsistency.*
- 4. States Parties shall take appropriate measures, including renegotiation, amendment, or termination of inconsistent treaty provisions, to ensure full conformity with this Protocol and the Framework Convention.*

### **Conclusion**

The UN Tax Convention process must build a system that reduces disputes because it is fairer, clearer, and more coherent by design. We, therefore, urge Member States to:

1. Reject arbitration in all forms
2. Strengthen MAP with concrete reforms
3. Establish voluntary, non-binding mediation and conciliation with UN facilitation
4. Empower the United Nations as neutral facilitator
5. Address "no treaty" situations through mutual agreement only
6. Ensure dispute prevention aligns with fair allocation, not flawed transfer pricing
7. Reject optionality that fragments the system
8. Anchor the Protocol in Convention principles with treaty override

The ability of countries to fund public services, build climate resilience, and sustain confidence in governance hinges on getting this right.

**Youth can wait no longer. Neither should the world.**