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Article 7 – Tax-Related Illicit Financial Flows, Tax Avoidance and Tax Evasion

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Thank you, Mr Co-Lead.

I speak on behalf of the Tax Justice Network and the wider civil society group coordinated by the Global Alliance for Tax Justice.

Illicit financial flows are a grave challenge, and the evidence consistently shows that crossborder tax abuse - both tax avoidance and tax evasion - is the largest component. International tax cooperation is therefore crucial to fight the damage that illicit flows cause to public finances and to governance, in countries at all levels of income.

Unlike many terms in the draft Convention text, illicit financial flows has a full and very clear definition that has been agreed by all member states in the United Nations' formal statistical definition, the "Conceptual framework for the Statistical Measurement of Illicit Financial Flows". This of course includes both crossborder tax avoidance and tax evasion. It is surprising and disappointing to hear that this agreed definition seems to be unfamiliar to some of the delegates from OECD countries who have spoken on this article today.

All illicit financial flows, however motivated, are likely to give rise to revenue claims. All illicit financial flows can therefore be mitigated by international tax cooperation. The Convention can and should provide powerful tools to fight all illicit flows.

We are concerned therefore about the narrowing of article 7, in conjunction with the proposed definition in article 3, as highlighted already by Jamaica, Nigeria and Kenya.

Narrowing the focus to ‘tax-related illicit financial flows’ takes an approach that, perhaps inadvertently, is in opposition to the Convention principles of effective and inclusive cooperation. The current text explicitly excludes those illicit flows that “give rise to a revenue claim” but may be driven primarily by non-tax motives. This would create a needless impediment to cooperation.

Imagine Senegal was to share information with France about taxable assets of a former French politician. Would it make sense to prevent French authorities from using that information to investigate potential corruption? Or imagine that Mauritius was to notify the United Kingdom of transactions by one of its multinational companies that evidence trade misinvoicing and bribery: would the UK turn a blind eye and be content to investigate the tax implications only?

The Convention should ensure international tax cooperation that can tackle all illicit financial flows effectively. We therefore propose that Article 7 be titled ‘Illicit financial flows, including crossborder tax avoidance and evasion’. We further propose that the artificial limitation to ‘tax-related’ flows should be removed throughout the text. Finally, Article 3 can then use the full, agreed *United Nations definition.*

Thank you!