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Article 11 - Exchange of Information

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Thank you, Mr. Chair.

ICRICT welcomes the inclusion of Article 11 on the Exchange of Information in the Co-Leads' draft. However, as it is currently written, it has several problems.

First, we support the inclusion of this article in the Framework Convention. This architecture is correct because the Framework Convention will serve as the framework for international cooperation. Moreover, an early negotiation of 2 protocols is taking place at this moment. The article on exchange of information will provide the necessary legal basis for exchange of information under the convention and its protocols. It would be impractical to create a new exchange mechanism for each Protocol. So, a solution needs to be created to address this problem. The framework must be operational from the outset to support these instruments.

Second, the future Conference of the Parties (COP) should have the mandate to deepen and elaborate on the details of the exchange framework as needed.

Third, the text in Article 11 should allow for exchange of information from and with subnational level governments not to limit its scope for exchange of information to be in practice allowed among countries with CIT or Personal Income tax, or even DSTs, at different levels of government.

Fourth, the exchange of information must be available for all taxes that fall within the Convention's ambit, and its protocols.

We support the comments made by the Indian delegate in respect of aligning this article with other articles of this Convention, in consideration of the fact that this is a multilateral convention that is being negotiated; and as has also been highlighted by Zambia in the name of the Africa Group, it includes specific commitments, such as those on IFFs. And I would add on HNWI, and it will include a number of protocols, of which 2 are currently in negotiation. Thus, the bilateral framework from which most of the text has been taken from is not sufficient to support the exchange of information which will need to take place under this convention.

In this respect, we insist on the inclusion of a robust "wider use" clause, as has been also suggested by Nigeria. The current draft does not foresee the use of exchanged information for purposes other than tax, such as combating smuggling or other illicit financial flows. Without it, we limit the Convention’s potential to tackle the full spectrum of illicit financial flows. As my colleague Alex Cobham, from TJN mentioned yesterday, there are cases in which a tax audit results in a parallel investigation on money laundering, customs violations, corruption, trafficking. Inter-agency cooperation is key to address such crimes, and the wider use of information is the key allowing such inter-angency cooperation in an international framework.

Thank you for your consideration.