

How can we implement today
**a Multilateral and Multi-jurisdictional
Tax on Financial Transactions?**



Les financements innovants pour le développement
Groupe Pilote

How can we implement today a Multilateral and Multi-jurisdictional Tax on Financial Transactions?

International Expert Report
Draft version

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PREFACE TO THE BLUEPRINT

1. Origins of the Treaty

➔ The Blueprint for an International Treaty on a Multilateral and Multi-jurisdictional Tax on Financial Transactions has two basic aims:

1. To introduce an innovative financing mechanism for global development. The mechanism is an internationally coordinated tax in the financial sector for a common or coordinated Development policy.
2. To contribute to global financial stability, to increase policy autonomy of States and to enhance the proper functioning of real economy by discouraging financial speculation.

This blueprint is part of a process, highlighted in the *Report of the Committee of Experts to the Taskforce on International Financial Transactions and Development of the Leading Group on Innovative financing to fund development: Globalizing Solidarity: The Case for Financial Levies (2010)*¹ towards the realization of international mechanisms to address the vast shortfall in finance required to meet international global developmental and environmental challenges and commitments.

This blueprint therefore aims to facilitate the political decision-making process by addressing in a consultative document for discussion the technical-legal feasibility issues of an international system of tax collection.

2. Recommendations

➔ The G-20 is a most appropriate platform to initiate the process of implementation, for two reasons:

- in order to avoid economic distortions in globally integrated financial markets and not to unduly restrict free movement of capital,
- the erosion of the tax sovereignty of States acting with inefficient solitary tax mechanisms without combined efforts in a world of global capital markets

We therefore draw the following conclusions:

- The blueprint includes the central recommendation of the Expert Committee for a centrally collected multi-jurisdictional transaction tax. It explains the basic features of this broad based financial transaction tax. It introduces a solid international system of tax collection at the level of (central) financial market infrastructure including, for currency transactions the point of global settlement. The draft treaty does not list specific institutions but provides for functional criteria that permit unbiased objective mandates
- This international system is based on national tax sovereignty and is supervised by a political body of all Contracting States (the FTT-Council). Contracting States will govern, through the FTT-Council, upon advice of Developing States and Civil Society, the commonly generated revenue. The functioning however of this body requires further political decisions on choice for which inspiration on operational principles can be sought in the Expert-report of 2010 (Sec 4.2.3)
- The proposed Treaty suggests a harmonised tax approach towards the markets without borders : the build up should preferably follow up on a G20 declaration (call) and be

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adopted by a large number of countries, either (i) as an EU initiative (possibly through a limited group² of Member States that engage in an enhanced cooperation³) supplemented with EU agreements with other States⁴, or (ii) as a multilateral treaty among a number of States, to which some EU members would participate or (iii) as a multilateral treaty, to which economic regions such as the EU could adhere as a whole.

- The innovative mechanism can be gradually put in place and be reviewed after a period of transition.
- The political arbitrage, possibly with a phase-in approach, is required typically to agree on the scope of the FTT. Therefore the blueprint mentions several options on financial markets and assets, and on the tax-rates to be applied and refers to economic policy advisors that can facilitate with their recommendations the political decision-making.
- The catch-all approach of the draft guarantees market neutrality for the mechanism to be in conformity with the provisions for free movement of capital and payments for goods and services including financial services embodied in the instruments of international and regional law (Gats, EU, etc). Selectivity reducing the scope may be thus risk the mechanism to be at odd with those principles of international economic law.
- The Treaty sets up a mutual legal mandate and cooperation between financial authorities so that a mandate can be given to the central settlement and payment institutions to collect the taxes according to the commonly agreed design. This cooperation would rely on existing instruments for international tax-collection, where necessary expanded to the broad FTT.
- For the highly centralized global currency-market, “participating States that would call upon central settlement institutions such as

the CLS bank, could impose a third party collection system through the mutual mandate to those States that have the territorial jurisdiction over the settlement institutions.⁵”

- The FTT, being set up in several countries, may lead to double taxation. A proposed electronic-FTT-tag device may be a core instrument to avoid this risk of multiple taxation.

3. Resolving the global solidarity dilemma

➔ This multilateral and multi-jurisdictional mechanism, making real the main conclusion of the expert report, shall help “resolve the global solidarity dilemma. Although the financial sector, which benefits disproportionately from the globalisation of economic activity, would pay a significant contribution, the burden of payment would also ripple out from settlement institutions across global financial and economic activity. Revenue would not be raised in an asymmetrical manner by the nations with global financial centers, but would be spread across global activity to pay for global public goods. Global collection mechanisms also avoid the domestic revenue problem, enhancing stability⁶.”

For those in charge now : Noblesse Oblige !

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20 September 2011

2- A Eurozone approach would be recommendable when FTT is to apply on currency exchanges involving the euro.

3- Requiring the participation of minimum 9 EU Member States. The EU enhanced cooperation system is governed by Articles 20 and following of the Treaty on European Union (consolidated version O.J. 30 March 2010, C83/13).

4- E.g. the EU Savings Tax Directive and associated agreements with Switzerland, the understanding with the USA and the many agreements concluded with States that host off shore financial centres.

5- *Report of the Committee of Experts to the Taskforce on International Financial Transactions and Development of the Leading Group on Innovative financing to fund development: Globalizing Solidarity: The Case for Financial Levies (2010).*

6- *Report of the Committee of Experts to the Taskforce on International Financial Transactions and Development of the Leading Group on Innovative financing to fund development: Globalizing Solidarity: The Case for Financial Levies (2010).*

1. BACKGROUND AND THE WAY FORWARD

➔ The proposed Treaty materialises Contracting States' ambition to create a new source of revenue for development funding purposes by levying a tax on financial transactions. As set out in the Preamble, the choice to tax financial transactions is made in view of the substantial benefits that the financial markets have gained from the process of globalisation (guaranteed by the regulatory and stabilizing efforts of the Contracting States to safeguard financial markets) while, at the same time, financial globalisation is having significant adverse effects on developing countries' economies. It is also expected that taxing financial transactions will temper speculative activities that have caused much instabilities in international finance in the recent time.

The idea of taxing financial transactions is not new. In the past, Keynes (1936⁷) and Tobin (1978⁸) proposed a tax on securities transactions and a tax on currency trades (respectively) with a view to reduce speculation and market volatility. A financial transaction tax – for development purposes or else – is now attracting a renewed interest at the level of political leaders, as could be observed during the recent G-20 summits in Pittsburgh and Toronto.

Earlier this year, the European Parliament called for the introduction of a low-rate financial transactions tax which, according to the MEP's, could

raise around €200 billion per year in the European Union and would also discourage speculative trading by making it more costly. If imposing this tax worldwide proves too difficult, then the European Parliament takes the view that the EU should impose it at European level⁹. In the aftermath, the European Commission presented a proposal for a reform of the European own resource system, including the introduction of a financial transaction tax that could reduce the existing Member State's contributions, give national governments extra room for maneuver and contribute to the general budgetary consolidation efforts. According to the Commission, this new tax could constitute a first step towards the application of a financial transaction tax at a global level¹⁰. Last August, President Sarkozy and Chancellor Merkel also defended the introduction of a tax on financial transactions in the broader framework of stabilization measures for the Eurozone.

Building on recent Tax&Regulatory Policy developments

➔ Levying a tax on financial transaction raises several key policy issues that have already been widely discussed (recent analyses include apart from the pioneering research by Schulmeister¹¹, the Expert Report to the Task Force on International Financial Transactions of the

7- Keynes, J. M., *The General of Employment, Interest and Money*, MacMillan, London, 1936.

8- Tobin, J., "Proposal for International Monetary Reform", *Eastern Economic Journal*, 1978, 4, pp. 153-159.

9- See "MEPs call for the introduction of a tax on financial transactions", European Parliament Press release following their plenary session of 8 March 2011 (<http://www.europarl.europa.eu/en/pressroom/content/20110308IPR15028/html/MEPs-call-for-the-introduction-of-a-tax-on-financial-transactions>).

10- European Commission "Proposal for a Council Decision on the system of own resources of the European Union", 29 June 2011, COM(2011) 510 final 2011/0183 .

11- S. Schulmeister, "A General Financial Transaction Tax: A Short Cut of the Pros, the Cons and a Proposal", Österreichisches-Institut für Wirtschaftsforschung Working Paper 344/2009 (hereafter "Schulmeister").

Leading Group for the Finance of Development¹², the IMF Working papers by Matheson¹³ and Brondolo¹⁴, and exploratory work by the European Commission¹⁵). The proposed Treaty considered these contributions addressing both the conceptual and practical difficulties of taxing the financial markets (defining the taxable persons, taxable base, organising collection), and the challenges related to tax evasion and avoidance in an environment where the ingenuity of the financial industry may complicate enforcement (cross-border collection and audits, mutual assistance). Inspiration has been sought in Patomäki & Denys' Consultative Document "Draft Treaty on Global Currency transaction Tax" of 2002-2005 whose principles have been integrated in present draft.

Recent developments on which the Treaty strongly rely include the rapidly developing financial markets regulatory framework¹⁶, providing for an expanding role of clearinghouses in settling financial transactions, the proliferation of automated trading platforms, the large degree of automation of financial markets activities in general, and the strengthening in the regulation of complex financial products such as derivatives.

Building on experiences in tax coordination on a multilateral and multi-jurisdictional basis

➔ The proposed Treaty takes advantage of the vast experience gained with several international instruments such as : the Uniform

EU Customs Code applicable in 27 States of the EU Customs Union, the almost universally introduced Value Added Tax which is transaction based and internationally harmonised in its basic design and tax concepts, the extra-territorial harmonised savings tax scheme¹⁷ implemented in the 27 Member States of the EU and coordinated with its major financial partner-States (i.e. Switzerland and the United States, as well as with its associated offshore centres around the EU, and the authoritative US experience of levying withholding taxes abroad through foreign Qualified Intermediaries.

The proposed Treaty also takes advantage of the G20 induced wave of tax cooperation and transparency conventions that emerged since the 2008 global financial crisis, in particular the impressive outcome of the OECD Global Forum on transparency and exchange of information for tax purposes.

The way forward for implementation: Tax Challenges in financial markets require a combined cross border international approach

➔ In order to avoid economic distortions in globally integrated financial markets and not to unduly restrict free movement of capital, but faced with the erosion of the tax sovereignty of States acting with inefficient solitary tax mechanisms without combined efforts in a world of global capital markets the proposed Treaty could

12- Report of the Committee of Experts to the Taskforce on International Financial Transactions of the Leading Group on Innovative Mechanisms for the Finance of Development, "Globalizing Solidarity: The Case for Financial Levies", June 2010 (hereafter "Leading Group Report"); the section on the FTT is enclosed in annex .

13- T. Matheson, "Taxing Financial Transactions: Issues and Evidences", IMF Working Paper WP/11/54, 2011 (hereafter "Matheson").

14- J. D. Brondolo, "Taxing Financial Transactions: An Assessment of Administrative Feasibility", IMF Working Paper, WP/11/185, 2011 (Hereafter "Brondolo").

15- European Commission, "Proposal for a Council Decision on the system of own resources of the European Union", 29 June 2011 COM(2011) 510 final. See also European Commission Staff Working Paper "Financing the EU budget: Report on the operation of the own resource system", Accompanying the "Proposal for a Council Decision on the system of own resources of the European Union", 29 June 2011 SEC(2011) 876 final.

16- In particular the EU MIFID (Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC O.J. L 145 of 30 April 2004); the European Commission Proposal for a Regulation of the European Parliament and OTC derivatives, central counterparties and trade repositories", 15 September 2010, COM(2010) 484 final (See also the European Commission Working Document "Public Consultation on Derivatives and Market Infrastructures", http://ec.europa.eu/internal_market/consultations/docs/2010/derivatives/100614_derivatives.pdf), Oxera Report (prepared for DG Internal Market and Services) "Monitoring prices, costs and volumes of trading and post-trading services", May 2011, (MARKT/2007/02/G), and "The Code of Conduct on Clearing and Settlement: three years of experience", European Commission, Internal market and services DG, 6 November 2009.

17- Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments, O.J. 26 June 2003, L 157/38 (hereafter "EU Savings Tax Directive").

develop gradually a harmonised tax approach towards the markets without borders : the build up should preferably following up on a G20 declaration (call) and be adopted by a large number of countries, either (i) as an EU initiative (possibly through a limited group¹⁸ of Member States that engage in an enhanced cooperation¹⁹) supplemented with EU agreements with other States²⁰, or (ii) as a multilateral treaty among a number of States, to which some EU members would participate or (iii) as a multilateral treaty, to which economic regions such as the EU could adhere as a whole.

The proposed tax is, however, designed to safeguard and maintain an economic level playing field, and to avoid competitive disadvantages for the Contracting States thanks to a very broad jurisdictional reach reinforced by international cooperation in the collection of the tax, still in compliance with the traditional principles of tax sovereignty and tax territoriality. Also with the purpose of avoiding economic distortions, the proposed multilateral tax has a broad scope of application, which embraces all financial transactions and financial assets, all markets and market participants, thereby not only preventing tax driven delocalization and asset-substitutions, but also avoiding risks of double and multiple taxation.

The proposed Treaty is open to all States to join on equitable terms. Participation will not prevent them from combining the tax with other financial levies aimed at serving different purposes, provided these do not jeopardize its application.

Finally, the Blueprint is meant to facilitate discussions and negotiations and is thus presented as a working document for consultation. It therefore includes a number of options (indicated as []) to be considered for discussion, for example the question whether the Treaty should be open for revision with respect to its basic features only after a reasonable time of e.g. three years after implementation, or should rather be adopted on a temporary basis.

18- A Eurozone approach would be recommendable when M-FTT is to apply on currency exchanges involving the euro.

19- Requiring the participation of minimum 9 EU Member States. The EU enhanced cooperation system is governed by Articles 20 and following of the Treaty on European Union (consolidated version O.J. 30 March 2010, C83/13).

20- Cfr. the EU Savings Tax Directive and associated agreements with Switzerland, the understanding with the USA and the many agreements concluded with States that host off shore financial centers.

2.

OUTLINE OF THE M-FTT TREATY: SUMMARY MEMORANDUM

A. Basic features

A tax on financial markets

➔ The proposed multilateral financial transaction tax (“**M-FTT**”) targets all sectors of the financial markets and not domestic financial centres as such .

To support global development

➔ The M-FTT aims at generating substantial revenue to the benefit of global development. Contracting States could automatically transfer a percentage of the M-FTT revenue to a [Multilateral, Common] **M-FTT Development Fund**. The remaining percentages shall be kept by the Taxing State or, as the case may be, shared with a Collecting State.

A national, broad-based and low-rated tax

➔ The M-FTT is designed as a national tax with a possibly exceptionally wide- still comprehensively defined- base. Nearly all financial products, all market players and the entire financial infrastructure connected to the territories of the Contracting States(the M-FTT Zone) fall within the scope. As a result, distortive effects on financial flows (e.g. substitution of financial products or delocalisation) can largely be foregone. In that context, low rates of taxation also ensure that the volumes and functioning of the financial markets are left practically intact, while still generating a substantial level of revenue.

A multi-jurisdictional & multilateral, centrally collected, stamp/ withholding tax

➔ The M-FTT as a tax on financial markets without territorial borders is introduced simultaneously in several jurisdictions that coordinate their tax collection for a common, multilateral purpose. Its collection is market-based and mostly centralised. An important practical feature is that the M-FTT could be implemented, in virtually all cases, on the basis of experienced procedures. In practice, and depending on the type of transactions, it will function as *withholding tax* imposed by national tax authorities but collected by and at the level of (third party) financial intermediaries (i.e. payment and settlement-infrastructure, banks and financial and trading intermediaries).

In the exceptional situations where no financial market infrastructure or intermediary can be relied upon, and thus no withholding tax could be levied (i.e. where no third party intermediary at all is subject to the extended extraterritorial reach of the taxing States, see *infra*) the M-FTT will function as a *stamp tax*. In that case, collection will take place on a *self-assessment* and *reverse charge* basis (i.e. by the parties to the financial transaction themselves, supported by the existing international tax collection instruments and the regulatory monitoring, and induced a.o. by the risks of multiple taxation and the legal non-enforceability of the transactions in case of non-compliance).

Multi-phased implementation, global opening

➔ Although the M-FTT should eventually be levied at a global level encompassing all important financial markets in order to maximise both revenue flows and neutrality, there is no immediate need for a universal consensus. In a first phase, the system shall be built on the presence of financial market infrastructure, banking sector, market participants or financial products, where there is at least one connecting link to the M-FTT Zone and on experienced national taxes on securities, modelled according to the substantive provisions of this treaty and enhanced by international coordination

Governance/Implementation of the Treaty and monitoring

➔ An M-FTT Expert Committee from multiple jurisdictions will assist the national authorities to enact appropriate domestic rules and procedures, including as regards bookkeeping, and to interpret the Treaty in a harmonised fashion with a view to ensure a comprehensive collection of the tax. However, the objective of the Treaty is to allow, as much as possible, for collection through existing regulated intermediaries, and to apply (and expand where needed) the existing framework of international cooperation (with extraterritorial reach) for the collection of tax claims. Contracting States are also expected to cooperate with international financial supervisory authorities.

Finally, the implementation of the Treaty will be supervised by a Council (decision making body consisting of the representatives of the Contracting States), a Permanent Secretariat, and the consultative committees, e.g. of Development Countries and Civil Society representatives for executive policy of the Development Fund and the M-FTT Committee of experts (in charge of technical advice, and composed of independent experts appointed on the basis of nominations by Contracting States, [Developing Countries], the stakeholders of the financial markets and Civil Society).

B. Outline of the design of the M-FTT

Taxable transactions and instruments

➔ The M-FTT applies to any trade in financial instruments on the secondary capital market. The financial instruments whose transfer will be taxed include shares, bonds, [money market instruments], [currency] and the derivatives thereof [as well as derivatives of commodities, gold, emission trading etc]. The M-FTT covers all kind of financial markets, transactions and products, and all market players. Such a broad tax base guarantees the economic and legal neutrality of the tax, as well as its revenue potential.

Tax Rates

➔ M-FTT rate is fixed as a percentage of the taxable amount. A differentiated set of rates applies, depending on the nature of the underlying asset to the transaction. The draft suggests a general rate of 0,05 and one or two increased rates: either 0,2% for equity, or 0,1% for long term debt instruments and 0,5% for equity. An option not generally supported, could be to exempt in a transitional phase short term cash-like transactions (including spot currency market).

A technically “double transaction” with an intermediary acting in his own name such as at some regulated exchanges will be taxed twice because the intermediary will technically acquire and sell the assets. Accordingly, a rate adjustment is proposed.

Taxable Amount

➔ The taxable amount under the M-FTT consists of the consideration (payment) by the transferee (buyer) received by the party transferring the taxable financial instrument (seller). The M-FTT will be levied on a transaction per transaction basis (i.e. before netting).

Taxable event

➔ In rule, the M-FTT is due when the trade is settled (i.e. delivery of the financial instrument versus payment).

Taxable persons and tax collection

➔ Ultimately the taxpayers are the parties to the transaction, including dealers/traders and central counterparties acting in their own name. They will in principle bear an equal share of the tax burden. They may mutually agree otherwise without however affecting the rights of the State having taxing rights over the transaction (the **Taxing State**) – e.g. typically an Exchange will generally “withhold” the tax from the payments to and from investors and other market players. This may generally be the case for central counterparties.

Tax collection liability will, in most cases, lie on **third parties**: the providers of financial infrastructure or intermediaries. They will collect the M-FTT whenever they intervene in the clearing, payment or settlement of a taxable transaction or, if no such post-trading phase is envisaged, in the trading itself.

Where there is no third party tax collection the taxable parties will be fully liable, including, on a reverse charge basis, for the tax to be borne by the other non resident taxable person(s).

When the third parties collecting the FTT are resident in another State of the M-FTT zone, their State of residence (the **Collecting State**), will monitor and enforce the collection **on behalf of the Taxing State**.

Upon the taxable event, the third party financial intermediary will thus collect and remit the tax to the tax authorities in accordance with the applicable allocation of taxing rights rules. Where appropriate, **Taxing and Collecting States will share the “collection” fee** part of the revenue and could transmit the X% part for development purposes to **the M-FTT Development Fund**.

If the third party collection is performed from outside the M-FTT zone mutual assistance for tax collection may be requested under the existing international instruments – that have a vast network of assistance in collecting taxes – to verify compliance and when needed enforce the tax claims.

Because financial intermediaries, also from abroad, may be required (under regulatory pressure) to submit returns and remit the M-FTT to several tax authorities, **a one-stop-scheme** is set up, under which compliance obligations may

be centralized in one single country of their choice (“**Collecting State of choice**”) that will redistribute the tax revenues according to the treaty rules. Depending on the person liable for the collection of the tax, the reliance to the one-stop-scheme will either be optional or compulsory.

Liberalising electronic “FTT-tag”

➔ A crucial feature of the M-FTT collection is that a *liberalising* electronic “tag” will be attached to any financial transaction on which the M-FTT has been paid, relieving the other intermediaries in the transaction chain, and thereby ensuring legal certainty and avoiding double and non-taxation. A non-tagged transaction entails the risk of multiple taxations, thus encourages tax compliance. This feature requires the adoption of a high fraud-proof electronic device approved by the Contracting States.

Territorial reach of the tax, allocation of taxing rights and coordination of cross border tax collection

➔ For efficiency and neutrality reasons, the M-FTT is designed to apply on the largest possible scale, still in compliance with the traditional principles of sovereignty and territoriality, as extended by international instruments for cooperation in tax matters. With that purpose, the Treaty provides for **abroad range of territorial connecting factors** triggering the application of the tax, i.e. allowing for the adoption of legislative norms to impose the tax and to supervise / enforce its collection, across the borders where necessary, with the assistance of other States (including Contracting and Non-Contracting States) who committed to cooperate either on the basis of the Treaty or on the basis of any other international instruments providing for cooperation in tax matters. A vast multilateral network of cross border tax collection has been build up: since 2010 it covers the entire EU and other multilateral and bilateral conventions expand this extraterritorial tax collection.

In practice, the M-FTT will apply on any taxable transactions whenever at least **one of the parties to the transaction** is established or resides in one of the Contracting States, or when at least **one of the intermediaries** is established in one of the Contracting State, or on the basis of the

nationality/territoriality of the financial instrument e.g. when the institution issuing the taxable instrument(e.g. sovereign bonds, corporate shares and bonds) is established in one of the Contracting State.

Backing up the (self-interest driven) self-acting third party tax collection of the financial intermediaries and their market infrastructure, a comprehensive set of multilateral rules governing the allocation of taxing rights and competences between the Contracting States (hence defining the “**Taxing State**” and “**Collecting State**”) organises the application of these respective connecting factors, with a view to avoid evasion, double (multiple) or unintentional non-taxation, and to ensure a correct and coherent application of the M-FTT between the Contracting States. To that effect, mutual authorisations to mandate cross border (third party) tax collection are foreseen.

Tax evasion

➔ The Treaty takes the view that the more appropriate way to minimize tax avoidance and evasion is to render fraud a low return, high-risk activity. The first aspect (low return) is achieved thanks to the low tax rate structure of the M-FTT minimizing the incentive to avoid the payment of the tax. The second part (high risk) implies to provide for severe consequences in case on non-compliance. In that respect, the Treaty provides for the **unenforceability of financial transactions** on which tax has not been paid. Those are easily recognizable by the absence of the electronic tag mentioned above. In practice, a non-taxed, and therefore non-tagged, financial transaction, cannot be enforced. This means that the financial transactions will not give right to delivery nor payment, nor will the instrument entitle to dividends, interests or voting rights, nor will it be tradable. This also ensures compliance for instruments traditionally considered as hard-to-tax such as derivatives and OTC transactions, as a non-legally enforceable transaction will not be considered eligible for central clearing (nor settlement), which is becoming a regulatory requirement for all exchange traded instruments.

In addition to non-enforceability, extraterritorial collection on the basis of existing international instruments, as well as a consolidated single taxpayer approach (defeating tax evasion through

the reliance on offshore entities), the external auditing role with global financial groups, and cooperation with financial market authorities will prevent financial institutions from circumventing the M-FTT. No-compliance and fraud will be subject to severe sanctions.

Finally, and more generally, the Treaty also provides that Contracting States should agree to share tax information regarding the financial markets and to apply their existing supervisory mechanisms for M-FTT purposes (including money laundering prevention instruments).

3.

DRAFT TREATY ON A TAX ON FINANCIAL TRANSACTIONS

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Preamble

The high contracting parties ...

Recalling the far-reaching adverse effects of distortion in Global Development increased by financial instability and speculation,

Desiring to mobilise resources generated by capital flows on the financial markets that benefit from global financial stability guaranteed by the Contracting States,

Desiring to create revenues that can be used for developmental purposes,

Determined therefore to implement a Multi-jurisdictional Financial Transactions tax,

Have decided to establish a Multi-jurisdictional Transaction Tax and to introduce an international Council of States to organise a common development policy and advisory committees to assist the Contracting States in the implementation,

Have decided to conclude this Convention, and to this end have designated a their Plenipotentiaries:

Who, having exchanged their Full Powers, found in good and due form,

Have agreed as follows

Part I General provisions

Introduction of the M-FTT system

Article 1

By this Treaty, the Contracting Parties agree to introduce a common and coordinated, multilateral and multi-jurisdictional system of taxation on financial transactions hereinafter called "Tax on Financial Transactions" (M-FTT or FTT).

Purpose of the Treaty

Article 2

This Treaty and the M-FTT shall aim at the following objectives:

1. To generate revenues to be utilised for the global common good and in particular for Global Development [in the participating Developing Countries listed in Annex].
2. To organise international cooperation and coordination for the application of a Multi-jurisdictional and Multilateral Financial Transaction Tax.

Implementation

Article 3

§1 Contracting States shall introduce a common and coordinated Financial Transaction Tax according to principles as determined in art. 4 to 16 of this Treaty.

Contracting States shall adopt the necessary laws, regulations and administrative provisions so that the Financial Transaction Tax system enters into force at the earliest opportunity and in accordance with article 27.

§2 Any term not defined in the treaty shall, unless the context otherwise requires, have the meaning that it has under the law of the State that applies the treaty, the meaning under the applicable tax and financial law prevailing over the meaning under other law.

Allocation of M-FTT revenue

Article 4

§1 Contracting States shall, on a regular basis, use a percentage [X% or as will be agreed] of revenue from the FTT to finance [international] Development or to fund the Common FTT- Development Fund established under article 17 [as will be agreed].

§2 Contracting States shall retain the remaining [Y%] of the revenue [if the place of the financial transaction determined according to art 12 is within their jurisdiction or, subject to art 14,

transfer two thirds of that amount to the other Contracting State if the place is within the jurisdiction of that other Contracting State on whose behalf the FTT has been collected in the Contracting State].

Part II

Design of the common M-FTT tax system

Scope and territorial application

Article 5

Shall be subject to FTT any financial transaction within the territory of the Contracting States by a taxable person, hereafter **"a taxable transaction"**.

Article 6

For the purposes of this Convention the territory shall be the territory of the Contracting State as stipulated in annex.

Taxable persons

Article 7

§1 **"Taxable person"** shall mean any person [not being an employee acting as such] who carries out, even on an occasional basis, a taxable transaction within the territory of a Contracting State.

Taxable person shall also include ultimate beneficiaries on whose benefit as beneficial owner or on whose behalf, directly or indirectly, a transaction is carried on.

Intermediaries acting in their own name

§2 Taxable person shall also include persons acting in their own name on behalf of another person.

Group of associated entities

§3 For the purpose of simplification, prevention of evasion, avoidance or abuse, a Contracting State shall [may] for the application of art 8,

12, 13, and 15 treat as a one Person, hereafter a **"Single Entity"**, taxable persons [or persons liable to pay the FTT as FTT Collection Agents according to art 13], whether or not established in the same country, who, while legally independent, are part of a group of persons closely bound to a taxable person resident in one of the Contracting States by financial, economic and organisational links amounting to control of that person over the other group entities .

Taxable transactions

Article 8

"Taxable Financial Transaction"

§1 A taxable **"Financial Transaction"** shall mean the transfer of a financial instrument, including a financial derivative contract, for consideration, whether immediate or on deferred terms.

§2 The **transfer** of a financial instrument shall mean the transfer of the right to dispose of the financial instrument as owner.

§3 The **transfer** of a financial instrument shall also mean the entering or conclusion, the exercise or execution a financial **derivative contract**, and the transfer, assignment or novation of a financial derivative contract.

§4 For the purpose of the application of art 12, art 13 and 15 a transaction in which a financial instrument is exchanged for another financial instrument shall constitute two separate taxable transactions.

§5 Where multiple transactions, or parts thereof, are combined or converted into one net claim or net obligation before payment and final settlement [on the basis of net positions between taxable persons], each transaction shall be taxed as a separate taxable transaction.

Where transactions are paid or settled after establishing a net claim or net obligation, the taxable persons, or the person clearing or establishing the net positions shall, under risk of liability to pay the FTT, inform [short-circuit] the person liable to pay the FTT tax, as the case may be as a third party provider of the final payment services or final settlement services, of the gross transactions for the purpose of the calculation of the FTT.

§6 Where a person acting in his own name and on behalf of another person [or by interposing between taxable persons] carries out a financial transaction or intermediates, he shall be considered to transfer or receive the financial instrument or the consideration.

[All transactions of a **Single Entity**, whether within the group or with other taxable persons, shall be deemed to be carried on by the taxable person, resident within a Contracting State that has control over the group entities.]

§7 Shall not be considered a taxable financial transaction, the **issuance** of shares or debt instruments, the granting of credit and the reimbursement of paid-in capital other than transactions with units in investment undertakings. A transfer of financial instruments in consideration of such non taxable transaction shall be a taxable transaction.

§8 In the event of a transfer, whether for consideration or not as a **contribution** to a company resident in one of the Contracting States, of a financial instrument, part of a **totality of assets** in the framework of a restructuring of entities through a merger, including an exchange of shares resulting in a controlling participation, a demerger or an incorporation of a branch or establishment, Contracting States shall consider that no taxable transfer of financial instruments has taken place and that the person to whom the instruments are transferred is to be treated as the successor and substitute to the transferor.

A contracting State may refuse the application of this paragraph where it appears that the restructuring has as one of its main objectives to avoid the application of the M-FTT.

§9.1 For the purpose of preventing evasion, avoidance or abuse, a taxable financial transaction shall also be taken to mean a **transaction** that has **equivalent effect** as a transfer of a financial instrument for consideration ; such transaction shall also mean an exchange of instruments that imply risks proper to the fluctuation in value of financial instruments or market elements and an exchange of goods, substituting for transfer of financial instruments.

§9.2 For the purpose of preventing evasion, avoidance or abuse, a taxable financial transaction shall also be taken to mean a transfer of a financial instrument not for consideration to an entity or establishment which is not a taxable person.

§10 Financial instruments

A “ financial instrument” shall mean an element negotiable on a financial market including a security, whether materialised or not, as specified hereafter .

[*Optional*

A “financial instrument” shall also mean a financial **derivative contract** relating to an underlying financial instrument or [financial] market element that fluctuates in value, that establishes [or transfers] a right or obligation to purchase or to sell or to transfer or to deliver a financial instrument or an exchange of payments based on a financial instrument, a rate, an index, an event, element or measure relating to the financial market or a risk associated with a financial instrument or the fluctuation in value of any of the preceding.]

§10.1 Financial instruments shall [however only] include:

A.) Shares and interests in companies or associations, including securities equivalent to shares in companies, partnerships or other entities, units in investment undertakings and depository receipts in respect of shares;

B.) Bonds or other forms of debt instruments [*Optional*: and **money-market instruments**] whether

(B.1) Instruments with a maturity of [one year] or more

(B.2) Other instruments

Contracting States may consider under the conditions they prescribe, to be B.1 instruments, units in investment undertakings that hold the majority of their investments in instruments of category B.1 .

[*Optional*

Debt instruments mentioned sub (B.2) with a maturity of less than six months are excluded from the scope.]

[*Optional*

C.) derivative contracts relating to financial instruments listed in A or B.1 and B.2 [and other financial instruments sub numbers of this paragraph §10.1] including securities giving right to acquire such financial instruments, or contracts giving right to a cash settlement determined by reference to such instruments, interest rates or yields,

indices, measures, events or other market elements that fluctuate in value, and including any other derivative contract relating to financial instruments, rights, obligations, indices and measures not otherwise mentioned in this article, which may not involve a transfer of ownership but have an equivalent effect (as a transfer of financial instruments) or has the characteristics of other derivative financial instruments and are traded as such;

[*Optional*: other than currencies]²¹;

[*Optional*: other than commodities, (investment) gold, climatic variables]²²

D.) Derivative instruments for the transfer of credit risk;

[*Optional*

E.) Currency of a State ;

Currency of a State shall mean the currency, bank notes and coins used as legal tender in a State with the exception of collection items; "collection items" shall be taken to mean gold, silver or other metal coins or bank notes which are not normally used as legal tender or coins of numismatic interest.

Contracting States of the European Economic and Monetary Union or the States who have a single currency are considered to be a State.]

[*Optional*

F.) **Derivative contracts relating to currencies** including securities giving right to acquire or dispose of currencies or giving right to a cash settlement determined by reference to such currencies;

[*Optional*

G.) **Derivative contracts relating to commodities [and immovable property]** including securities giving right to acquire commodities [or immovable property] or giving right to a cash settlement determined by reference to commodities[or immovable property];

[*Optional*

H.) **Derivative contracts relating to investment gold** including securities giving right to acquire investment gold or giving right to a cash settlement determined by reference to investment gold;

[*Optional*

I.) **Derivative contracts relating to climatic variables, including emission allowances** including securities giving right to acquire emission allowances or giving right to a cash settlement determined by reference to climatic variables .

§10.2 Financial instruments listed above shall include instruments giving the holder thereof de jure or de facto rights of ownership or possession over such financial instruments or part thereof [or over the derivative contracts related thereto].

Consideration and taxable amount

Article 9

§1 The taxable amount shall be everything which constitutes the consideration which has been or is to be obtained by the transferor from the transferee or a third party in the execution of the transaction, whether in cash, in kind or otherwise. Where reciprocal payments are compensated the taxable amount shall be the amounts before compensation.

Amounts expressed in cash shall be converted into the currency of the Taxing State [published by the Central Bank of that State on the day before the payment].

[The taxable amount shall not be a notional value that serves as a reference in a derivative contract unless the value is effectively at risk of one of the counterparties].

In an exchange of financial instruments where the (payment of) consideration is not expressed in cash, the consideration is valued according to [the fair market value] of the financial instrument received at the time of the chargeable event.

§2 In the case of cancellation, refusal of total or partial non-payment, or where the consideration is reduced after the transaction takes place, the taxable amount shall be reduced accordingly under conditions which shall be determined by the Contracting State that levied the tax. However, in the case of total or partial non-payment, Contracting States may derogate from this rule.

21- Could be deleted if option sub E is applicable

22- Could be deleted if option sub G, H, I is applicable

Taxable event and chargeability of tax

Article 10

§1 The taxable event shall occur and the tax shall become chargeable to the taxable persons or the persons liable to tax when the transaction is settled. A transaction is settled when the financial instrument is transferred and the consideration is paid.

§2 Where the terms of the transaction provides for successive payments or instalments the tax shall become chargeable at each payment.

§3 Where transactions are netted as defined in art 8§5 the taxable events of the transactions that have been netted occurs at the time of the netting and the tax on the transactions that are netted, shall become chargeable when the net payment or settlement takes place.

Rates

Article 11

§1 The standard rate of tax shall be fixed as a percentage of the taxable amount and shall, per transaction not be less than [0,05% or as may be agreed] for all transactions [other than transactions relating to instruments listed above in art 8§10 [sub E (currency) [where the rate will be not less than 0,01 [[that will be exempt [in a transitional phase] to the extent that the transactions are settled in cash within [three] days]]and] sub A (equity) where the rate will be not less than [0,2% or as may be agreed].

[Option: The standard rate of tax shall be fixed as a percentage of the taxable amount and shall, per transaction not be less than [0,05% or as may be agreed] for all transactions other than :

- for transactions relating to instruments listed above in art 8.10 sub A. (equity) where the rate will be not less than [0,5% or as may be agreed]
- for transactions relating to instruments listed above in art 8.10 sub B.1 (long term debt instruments) where the rate will be not less than [0,1% or as may be agreed]
- for transactions relating to instruments listed above in art 8.10 sub E (currency) where the rate will be not less than [0,01 %or as may be agreed]

[OPTION: For transactions where a provider acting as a regulated Central Counterparty authorised to operate as such interposes itself between transferors and transferees and is registered as such with the Contracting States, the rate is reduced by half.]

§2 The rate applicable to taxable transactions shall be that in force at the time of the chargeable event.

§3 In the event of changes in the rates, Contracting States may:

- effect adjustments in the case provided for in paragraph 1 in order to take account of the rate applicable at the time of the entering or conclusion of the transaction.
- adopt all appropriate transitional measures.

§4 Where the taxable person transfers from being taxed in the normal way to a special rate or scheme or vice versa, Contracting States shall take all necessary measures to ensure that the taxable person neither benefits nor is prejudiced unjustifiably.

Tax territoriality of financial transaction

Allocation of taxing rights among Taxing States

Coordination of tax collection among Collecting States

Article 12

Taxing rights and tax collection competences

§1 A transaction taking **place within the territory** of a Contracting State shall be taxed by that State (the **Taxing State**) according to the principles in this article and **the tax shall be collected** within the territory of the State (**Collection State**) of residence of the person liable to tax or within the territory, according to the principles in art 13 and art 15, or in other States that agreed or obliged to assist the Taxing or Collecting States in the collection of their taxes .

Allocation - Avoidance of multiple taxation

§2 In order to avoid double taxation or multiple taxation the rights of taxation and the competence of tax collection of the Contracting States shall be allocated in the order of localisation of the transaction according to art 12 §6.

Contracting States shall exempt [or give a tax credit for FTT paid in] a transaction effectively taxed in another Contracting State that takes priority according to art 12§6.

Where transactions of a Single Entity are taxed as transactions of a Single Taxable Person, Contracting States shall in mutual agreement avoid double and multiple taxation according to the localisation of transactions as defined in art 12, apply simplified procedures according to art 14 and share the retained revenue according to art 3.

[§3 Nothing in this treaty prevents Contracting States to agree in bilateral or multilateral agreements to allocate their the rights of taxation and the competence of tax collection in a different way provided the different allocation does not affect the transfer of the revenues to the FTT Development Fund.]

§4 For the purpose of applying the rules concerning the place of a taxable transaction the person transferring the financial instrument and receiving the consideration shall be the **transferor** and the person to whom the financial instrument is transferred and paying the consideration shall be the **transferee**.

§5 An intermediary acting in own name shall be transferor or transferee as the case may be.

§6 The place of a taxable transaction

Territoriality counterparties

1. When **the transferor** of the financial instrument is resident within the territory of the Contracting States, the place of a taxable transaction shall be deemed to be the place where the transferor has his residence.
2. When the transferor is resident outside the territory of the Contracting States and the transferee is resident within the territory of a Contracting State, the place of the taxable transaction shall be deemed to be the place where **the transferee** has his residence.

Territoriality of transaction with bank intermediation

3. When the transferor and the transferee do not have their residence in the territory of one of the Contracting States and **the bank-intermediary** [that intermediates for the payments] is resident within the territory of one of the Contracting States, the place of a taxable transaction shall be deemed to be the place where the bank-intermediary has his residence or has a fixed establishment to which the bank-intermediation with respect to the financial transaction can be allocated, the Contracting State of the residence of the bank-intermediary of the transferor taking priority.

Territoriality of transaction with other financial intermediaries and providers of financial market infrastructure

4. When the place of the transaction is not according to art. 12§1(1) to (3) situated within the territory of a Contracting State, the place of a taxable transaction shall be deemed to be the place where the institution, that performs one or more of the following functions with respect to the financial transaction, has its residence, if such place is situated within the territory of one of the Contracting States, **in the following successive order:**

- **in the post-trading phase:** the final settlement, the payment, the clearing,
- **in the trading phase:** the dealing or the brokerage [on behalf of clients], the [regulated] trading platform operated as a Central Counterparty, a Multilateral Trading Facility [or an Electronic Communications Network/ Crossing Network] that does not legally interposes itself as transferor or transferee;
- the booking in the accounts of an organised **registry of financial instruments;**
- **the messaging [system].**

Territoriality of the financial instrument

5. When the place of the transaction is not according to art. 12§1(1) to (4) situated within the territory of a Contracting State, the place of a taxable transaction shall be deemed to be within the territory of **the Contracting State that issued** the financial instrument [or in

case of a currency exchange transaction, within the territory of **the Contracting State which currency** is a currency in the transaction,] or the Contracting State of which the person that issued the financial instrument is resident [and in case of a derivative contract, the Contracting State of which **the person that issued** the underlying financial instrument is resident] or when none of the criteria in this art 12§6(5) apply, the Contracting State of which the person that provides the domicile of the financial instrument is resident.

§7 [The place of transaction of a person acting whether or not in the name but **on behalf of another person** shall be the place where the intermediated underlying transaction has its place if the place of that underlying transaction is according to art 12§6 within the territory of a Contracting State; if the place of the intermediated underlying transaction is not within the territory of a Contracting State and the person acting on behalf of another person is resident within the territory of a contracting State, the place of the transaction will be that Contracting State.

§8 [For the purpose of preventing evasion, avoidance or abuse or in order to prevent double taxation, non-taxation or distortion of competition,] a Contracting States may, with regard to a transaction for which the determination of the place is governed by this article, consider the place of transaction, if situated outside the territory, as being situated within their territory if the **ultimate beneficiary** of the transaction has his residence within the territory of the State.

§9 For the purpose of preventing **evasion, avoidance or abuse**, Contracting States shall take the measures necessary to ensure that a transaction which would have been a taxable transaction if but for the evasion, avoidance or abuse it had been carried out within their territory by a taxable person or with the intermediation of a person listed in art 12§6 is treated as a transaction within its territory if the arrangement is made such that is less taxed, although it has the same or a similar effect as a taxable transaction.

Residence

§10 For the application of this treaty being **resident** or having a **residence** or establishment means having a residence, understood in the meaning of the residence concept of the OECD

Model Tax Conventions, or a permanent address or a fixed establishment to which the transaction can be allocated.

Where a group of entities are treated as **one single taxable person** for the purpose of the FTT, the residence of the group entities is the Contracting State where the group entity is resident that can exercise ultimate control over the financial transactions of the group entities.

§11 Definitions: For the application of this treaty shall mean

- **Settlement:** the establishment, with the aim of completing a financial transaction, that the transfer by a transferor of a financial instruments and the payment in consideration by a transferee is effected
- **Clearing:** the process of establishing settlement positions, including the calculation of net positions, and the process of checking that financial instruments, cash or both are available. Clearing may involve netting, clearance and the settlement instruction
- **A banking – intermediary:** the institution that provides bank services and receives the payment or transfers the payment
- **Central counterparty:** an entity that interposes itself, directly or indirectly, between the transaction counterparties in order to assume their rights and obligations, acting as the direct or indirect buyer to every seller and the direct or indirect seller to every buyer
- **Trading platform:** the location of trading, which may refer to an exchange, MTF or an Electronic Communication Network / Crossing network
- **Exchange:** a trading platform where financial instruments are listed and trading takes place according to specified rules, providing a liquid market for trading
- **MTF or Multilateral Trading Facility:** a trading platform, other than an exchange, which provides trading in securities
- **Dealer:** an intermediary that provides trading services by trading on his own account
- **Broker:** an intermediary that undertakes trading activities on behalf of his clients

- **The domicile** of the financial instrument: the residence of the Issuer (International) Central Security Depository where the security is initially issued, or for financial instruments listed in art 8§10.1 (A) the residence of the financial centre of the primary market in which the equities are listed and for financial instruments listed in art 8§10.1 (B) the country code in the ISIN of the security.

Tax collection – persons liable for payment

Article 13

§1 Notwithstanding any provision in this treaty, Taxing States, with the assistance of Collecting States shall be entitled to collect and enforce the tax from any person liable to pay the tax as they see fit.

Persons liable for the tax of a taxable person are entitled to charge the tax to the taxable person, subject to agreement otherwise.

Counterparties as taxable persons

§2 Taxable persons, wherever resident, who carry out taxable transactions shall be jointly and severally liable to pay the FTT to the authorities of the Contracting State (the Taxing State) of the place where the transaction takes place, [subject to the provisions of §3 or §5].

Without prejudice to joint and several liability towards the Taxing State, each taxable person shall pay an equal share of the tax, subject to an agreement otherwise that shall not affect their rights of the State.

Reverse charge – acting on behalf of taxable persons – single entity as taxable person

§3 Where a taxable person is resident outside the Contracting States, the Contracting States will adopt arrangements whereby a person within their tax jurisdiction is liable to pay the tax of the non resident taxable person according to the provisions of this treaty.

An authorised resident tax representative of the non resident taxable person, the resident person on whose behalf the taxable transaction is carried out, the resident ultimate beneficiary or the resident taxable person who is a counterparty

[under a **reverse charge mechanism**] shall be designated as such other person and shall be liable to pay the tax.

Where a group of entities is treated as **one single entity taxable person** all entities are jointly and severally liable to pay the FTT of the group entities. The liability to pay the FTT of the group entities is primarily upon the taxable person resident within the territory of the Contracting State and that can exercise the ultimate control over the taxable financial transaction.

Joint and several liability of the intermediaries in the transaction chain

(Third party tax collection: FTT-Collecting Agents)

§4 Persons [whether resident or not within the taxing jurisdiction] other than the taxable persons shall be jointly and severally liable with the taxable persons for payment of the tax

- when the other persons act on behalf of a taxable person, execute, pay or settle wholly or partly the transaction or
- when they are according to art 12 §6 (3) and (4) a connecting factor to determine the place of a taxable transaction within the territory of the Taxing State,

These other persons shall be **designated “FTT Collecting agents”**.

Persons **netting** the transactions, transfers or considerations before settlement shall be jointly and severally liable if the provider of the final settlement of the transaction has not been informed of the taxable transactions, transfers or considerations before netting by the person netting the transactions, transfers or considerations before settlement .

Single entity as FTT- Collection Agents

Where a group of entities is treated as **one single person liable for the payment of the tax** all entities are jointly and severally liable for the payment.

Without prejudice to the joint and several liability of the group entities towards the Taxing State, the liability to pay the tax of the group entities is, unless otherwise agreed, upon the taxable person

that can exercise the ultimate control over the taxable financial transaction and is resident within the territory of the Contracting State.

Non resident FTT-Collection Agents resident in a Collecting State within the M-FTT zone

Where the FTT-Collection Agent is not resident of the Taxing State the tax collection on behalf of the Taxing State shall be monitored and enforced by the Contracting State where the FTT-Collection Agent is resident, the Collecting State. In such case, and without prejudice to art 14§2 on the One Stop Scheme, the FTT can be paid to the **Collecting State**.

The FTT may also be collected by other States that have agreed to or are bound by international instruments for the assistance of tax collection across the border.

Successive order of obligation to collect and remit the FTT by FTT- collecting agents

§5 Where one of the taxable persons or the person acting on his behalf in the realisation of the taxable financial transaction, directly or indirectly called upon the intermediation of a financial intermediary, including a provider of financial market infrastructure, as listed in art 12§6(3) and (4) which is according to art 13§4 a FTT-Collection Agent, and except where a taxable person is a financial intermediary or provider of the financial market infrastructure that is a **counterparty** in the transaction in which case this taxable person **shall withhold and remit the FTT**, the FTT shall, at the discharge of the obligation of the taxable persons to remit the tax to the tax authorities, be collected and be remitted on behalf of the taxable persons by the FTT-Collection Agents, **whether resident or not according to the following successive order** and without prejudice to the joint and several liability towards the Taxing State:

1. the bank-intermediary as meant in art 12§6(3) irrespective of its residence, the bank-intermediary of the transferor taking precedence,
2. the person that performs one or more of the following functions with respect to the financial transaction, **in the post-trading phase**: the final settlement, the payment, the clearing, **in the trading phase**: the dealing or the brokerage [on behalf of clients], the [regulated] trading platform operated as a central counterparty, a Multilateral

Trading Facility or an Electronic Communication Network/ Crossing Network that are not legally interposed as transferor or transferee;

3. the person that performs the booking in the accounts of an organised **registry of financial instruments**;
4. [the person that operates **the messaging [system]**].

Notwithstanding any agreement otherwise, an FTT-Collection Agent shall be entitled to withhold the tax from the taxable transaction or be entitled to have the tax remitted by the taxable persons or the persons acting on their behalf. The FTT-Collection Agent shall not be entitled to realise his financial intermediation or provision of infrastructure if the FTT cannot be so withheld or remitted.

The Contracting State may subject the FTT-Collecting Agent [and taxable persons] to guaranties.

§6 Contracting States shall adopt mutual arrangements to avoid double and multiple taxation a.o. by providing for the registration of the taxes paid through a common electronic mechanism, a [liberalising] **electronic FTT- tag** relieving in the transaction chain the other intermediaries or providers of infrastructure listed in §5 from their obligation towards the tax authorities to collect and remit the FTT and the taxable persons mentioned in §1 and §2, and without prejudice to the right of the tax collecting agent who remitted the tax, to withhold or have the tax remitted by the taxable persons, unless otherwise agreed.

§7 Tax Collection and Compliance

- (1). Every person liable for payment of the tax shall submit a return to the Taxing States within an interval to be determined by each Contracting State [but not less than ten days after the end of the past quarter of a calendar year]. Contracting States may fix shorter periods for different categories of persons, taxable transactions or financial instruments. The return must set out all the information needed to calculate the tax that has become chargeable and in so far as it seems necessary for the establishment of the tax basis, the total amount and volume of the transactions before netting. Contracting States may prescribe to submit returns electronically.

- (2). Every person liable for payment to the tax authorities of the Taxing or Collecting States or, under the control of the authorities of the Taxing States to the FTT-Development Fund shall pay the tax when submitting the return, or at the time an electronic FTT-tag is attributed. The Contracting States may, however, fix an earlier date for the payment of the amount or may require an interim payment.
- (3). Contracting States (Collecting States) shall take the necessary measures to ensure that those persons who are considered to be liable to pay the tax instead of a taxable person established in another country or who are jointly and severally liable for the payment, shall comply with the above obligations relating to declaration and payment to any of the Taxing or Contracting States.

Optional schemes for simplification

Article 14

§1 Contracting States which might encounter difficulties in applying the normal system of taxation to taxable persons by reason of the non-resident status of the taxable persons or persons liable to tax, the single entity approach or the activities on the retail market, shall have the option, under such conditions and within such limits as determined in annex of applying simplified procedures such as schemes and special rates for collection and remittance of the tax in one or more Collecting States of Choice, through a tax representative, at the **single entity level** or at a **whole sale market level**, including for the currency transactions a fiat-rate schemes for charging and collecting the tax at the whole sale market, provided the schemes do not lead to a reduction of the tax .

§2 One stop compliance system in a State of Choice

Contracting States shall permit a taxable person, a group of taxable persons, a single entity or a person liable to tax that operate in several other Contracting States, or intermediate in transactions that take place in other Contracting States than the State where it is resident, or that have no residence in the territory of the Contracting

State and who is liable to pay the tax to fulfil its obligations per type of transaction or category of financial instruments listed in art 8 or per category of functions listed in art 12 in one or more Contracting State of its choice, the **Collecting State of Choice**, in which the person registers as such and complies with the obligations relating to declaration and payment of the FTT as provided in this treaty and by the Taxing States concerned and the Contracting State of Choice.

The person shall submit by electronic means to the Collecting State of Choice a FTT return for each calendar quarter which shall show, for each State where transactions in which FTT is due, the value, exclusive of FTT, of taxable transactions carried out during the tax period and the amount of the corresponding FTT, the applicable rates of FTT and the FTT due. The FTT return shall be made out in their national currency by applying the exchange rates published by the Central Bank of the Collecting State of choice.

The person shall pay the FTT to the Collecting State of choice [when the electronic FTT-tag is attributed or] when submitting the FTT return.

The person shall keep records of the transactions covered by this special scheme. Those records must be sufficiently detailed to enable the tax authorities of the Taxing or Collecting State where the FTT is due to verify that the FTT return is correct. The records must be made available electronically on request to the Collecting State of choice and to the Contracting State (Taxing and Collection State) where the FTT is due.

§3 The Collecting State of choice shall forward half of the Y percentage of the revenue as meant in art 4§2 to the State where the FTT is due and X% as agreed under art 4§1 to that State or to the Common FTT- Development Fund.

§4 Contracting States may **release** taxable persons or persons liable for payment :

- from certain compliance obligations,
- from the payment of the tax due where the amount of tax is insignificant or the annual volume of financial transactions is below the threshold of the money laundering legislation²³.

[Option: Contracting States shall grant an exemption from tax not withheld by third parties liable to pay the tax, to taxable persons whose annual taxable amount is at the maximum equal to the equivalent in national currency of 10.000 euro or 1000€ tax per annum at the conversion rate of the day on which this convention enters into force.]

[Option: Contracting States may exclude [for a transitional phase under the conditions the Contracting State may determine] from the scope of the FTT transactions by retail investors, i.e. individuals who invest in securities in their own account, and retail financial transactions related to non-financial transactions [in both situations up to transactions below USD 1 million].

Measures to ensure the correct application of the tax and the prevention of fraud – international cooperation

Article 15

§1 National measures of enforcement and measures against tax avoidance & evasion

Without prejudice to the provisions to be adopted pursuant to article [13] and this article, Contracting States apply and introduce all measures and impose all obligations which they deem necessary for the correct levying and collection of the FTT and for the prevention of tax avoidance and fraud, including the imposition of administrative fines and penal prosecution and shall apply their national provision for the enforcement of national taxes equally to the enforcement of the FTT, including to collect as Collecting State the FTT on behalf of a Taxing State as agreed in this treaty.

§2 International cooperation for the control and collection of the tax

2.1. Contracting States shall fully co-operate with other Contracting States, the FTT advisory committee and other institutions or persons duly authorised for the proper application and enforcement of the FTT. The cooperation under this treaty shall take place on the basis of reciprocity.

2.2. Contracting States agree to assist the other Contracting States in the investigation, assessment and collection of the FTT according to the

rules contained in the Council of Europe /OECD Convention on Mutual Administrative Assistance in Tax Matters, concluded in Strasbourg on 25 January 1988 as amended on 27 May 2010 and in the provisions on mutual assistance and collection in the bilateral and multilateral tax conventions according to the OECD and UN Model Conventions and other binding regional and international instruments and apply these rules mutatis mutandis to the FTT [or agree to include the M-FTT in the scope of these agreements].

The Contracting States agree to expand and organise the automatic and spontaneous exchange of information, including electronically, of the [existing] international instruments for the exchange of tax information, to information relevant for the application of the FTT .

2.3. The Contracting States shall (as Collecting State) mandate and instruct the persons within their jurisdiction liable to the FTT of the other Contracting States (Taxing States) to withhold or have them transmitted the FTT and to transfer the FTT to the appropriate other State or the FTT Development Fund.

The Contracting States authorise as Collecting States other persons, including its own authorities, within its jurisdiction to provide all information relevant for the assessment of the FTT to the other Contracting States as Taxing States.

2.4. Contracting States (Collecting States) agree, under their authority and subject to their supervision and as to the investigation on its territory, upon authorisation on a case by case basis, to the [cross border] investigation, assessment and collection of the FTT of other Contracting States (Taxing States) payable by persons liable to the FTT.

2.5. The Contracting States agree to co-operate, and to have the persons within its jurisdiction cooperate with the bodies established by the Council for advise, coordination, inspection, evaluation and investigation of the application of the FTT.

§3 Cooperation with financial authorities

The Contracting States shall enter into appropriate arrangements with institutions and other persons [that are vested with public authority over the financial markets and financial actors] for the cooperation on compliance, reporting of data on

the financial transactions and intermediation, control and enforcement of the tax .

Contracting States shall authorise and mandate those institutions and authorities within its jurisdiction to cooperate to that effect with the other Contracting States and institutions so designated.

§4 Legal FTT prerequisites for the licence to participate to the financial markets and to market financial instruments

Contracting States shall introduce in the regulation of authorisation to participate on the financial markets and to market financial instrument the requirement that the financial market participant secures the payment of the FTT on all financial transactions where the financial market participant intermediates and that all financial instruments marketed on the financial markets are subject to FTT upon their transfer.

Notwithstanding other appropriate regulatory and other measures to sanction compliance, the Contracting States, where appropriate through their market authorities, shall where a pattern of non compliance is established, suspend or withdraw the authorisation to market financial instruments [or to operate as a financial market participant and to distribute the financial instrument].

§5 Non-enforceability of untaxed transactions

Contracting States shall not recognise in law nor assist the enforcement of a transaction, the conclusion or execution thereof nor the transfer of ownership nor agreements to act on behalf of a taxable person with respect to any financial transaction unless the payment of the FTT has been secured within the period of compliance. Payment of FTT will be considered to be a substantial condition of form of the transaction. Consideration paid without FTT compliance may be considered undue. Intermediaries are not authorised to settle and or clear the obligations of the contracting parties nor use the financial instrument as collateral if FTT is not paid.

In cases beyond the will of the taxable persons or persons liable to pay the tax or otherwise but subject to dissuasive compensatory payments, Contracting States may regulate, including penalise, a delayed payment preventing the application of this paragraph.

§6 Audit responsibilities of the external auditor of the (consolidated) annual accounts

The Contracting States shall impose on the external auditors of taxable persons and persons liable to tax including Single Entities, to certify according to general audit standards and specific regulations, if provided for, that the audited persons are in compliance with the M-FTT obligations.

Auditors resident in the Contracting States who are part of an international network of auditors shall require from their colleagues who audit the consolidated accounts of the main establishment of the consolidated group of enterprises the certification that the consolidated group or those entities of the group within the territories of the M-FTT, including those entities that are under control of the entities resident within the territories of the Contracting States, are in compliance with the M-FTT obligations. Where no such certification can be given the competent Financial Authorities shall be informed and those authorities shall inform the competent Tax Authorities.

§7 Information duties of the investment advisors and consulting professions

Contracting States will extend the applicability of existing regulations and international agreements on the duty of investment advisors and consulting professions to inform the Financial Intelligence Agencies on serious financial crimes to serious breaches of the M-FTT legislation.

§8 Measures and International Cooperation [against] organised financial M-FTT crimes

1. Contracting States will extend the applicability of the regulations and international agreements to combat *money laundering* and financing of terrorism to serious breaches of the M-FTT regulations and authorise the Financial Intelligence Units, organised under those regulations and agreements, to preventive monitor and investigate and to cooperate internationally to support a proper application and enforcement of the M-FTT legislation and the prosecution of serious breaches thereof.
2. Contracting States will extend the applicability of existing regulations and international agreements on *judicial and administrative*

cooperation on criminal matters to serious breaches of the M-FTT regulations.

3. For the purpose of the application of this paragraph “serious breaches” shall mean the organised financial crimes as defined under the national measures and international agreements referred to in previous paragraphs, extended and applied *mutatis mutandis* to violations of the M-FTT regulations.

Technical advisory committee on FTT

Article 16

1. An advisory Committee on FTT, hereinafter called “the Committee”, is hereby set up.
2. The Committee shall consist of, [15] experts appointed by the Council of which 8 designated from among tax authorities and financial authorities of the Contracting States and 2 designated from among representatives of the Civil Society and 2 designated from the financial sector. The chairman of the Committee shall be a representative of the Council. Secretarial services for the Committee shall be provided by the Council .
3. The Committee shall adopt its own rules of procedure.
4. The committee shall examine questions concerning the application of the Treaty provisions on FTT raised by its chairman, on his own initiative or at the request of one Contracting State or one fifth of the members of the Committee.

Part III The common fund for the finance of development

Article 17

§1 To pursue the objectives of this Treaty, Contracting Parties establish a FTT Development Fund for the finance of development under the management of the Council.

§2 The funds of the Global Fund shall be used to finance Development and the provision of global common goods undertaken by States or other legal persons as decided by the Council.

Part IV Governance

Council of States

Article 18

§1 There shall be a Council of States comprised of the representatives of the Contracting States.

§2 The Council shall facilitate the purpose and the operation of this Treaty. To this end, it shall:

- a. carry out the functions assigned to it under this Treaty
- b. at the request of a Contracting State, clarify the interpretation or application of this Treaty
- c. consider any matter that may affect the operation of this Treaty; and
- d. take such other actions as it deems necessary to fulfil its mandate;

§3 In carrying out the functions specified in paragraph 2 the Council may consult governmental and non-governmental organisations or persons [and shall consult with a body of representatives of civil society, that organise themselves on the basis of a regulation decided by Council, and with representatives of Developing Countries as agreed upon by Council before final decisions on the use of the funds are taken].

§4 The Council shall elect a Chair, who shall serve in a personal capacity. Meetings shall be held at intervals to be determined by the Council. Council shall establish its rules and procedures.

§5 The Council shall make decisions by consensus. Such decisions may include a decision to adopt a different voting rule for a particular question or category of questions. A Contracting State may abstain and express a differing view

without barring consensus. Each Contracting State shall have one vote if their population amounts to less than 10 million people, two votes if more than 10 million but less than 100 million people and 3 votes if more than 100 million people.

§6 The Council shall be assisted by a Secretariat.

Financial regulations

Article 19

§1 Except as otherwise specifically provided, all financial matters related to the Council, including subsidiary bodies, and the meetings of the Council including its Bureau shall be governed by this Treaty and the a Financial Regulations and Rules adopted by the Council.

§2 Expenses of the Council, including subsidiary bodies shall be paid from the Global fund.

§3 The contribution of Contracting States shall be assessed in accordance with agreed scale of assessment, based on the scale adopted by the United Nations for its regular budget and adjusted in accordance with the principles on which that scale is based.

§4 Without prejudice to paragraph 3, the Fund may receive and utilise, as additional funds, voluntary contributions from Governments, international organisations, individuals, corporations and other entities, in accordance with relevant criteria adopted by the Council.

Part V Final clauses

Article 20 Settlement of disputes

Any dispute between two or more Contracting States relating to the interpretation or application of this Treaty which is not settled through negotiations within three months of their commencement shall be referred to the Council. The Council may itself seek to settle the dispute or may take

recommendations on further means of settlement of the dispute, including referral to the Council or to the International Court of Justice in conformity with the Statute of that Court.

Article 21 Reservations

No reservations may be made on this Treaty other than under art 27 §3.

[Nothing in this Treaty shall be construed to restrict an obligation of a Contracting State Party under the Treaty establishing the European Community, concluded on 25 March 1957 in Rome, as amended from time to time]

Article 22 Amendments

§1 After the expiry of three years from the entry into force of this Treaty, any Contracting State may propose amendments thereto. The text of any proposed amendment shall be submitted to the Secretary-General of the United Nations, who shall promptly circulate it to all Contracting States.

§2 No sooner than three months from the date of notification, the Council, at its next meeting, shall, by a majority of those presents and voting, decide whether to take up the proposal. The Council may deal with the proposal directly or convene a Review Conference if the issue involved so warrants.

§3 The adoption of an amendment at a meeting of the Council or at a Review Conference on which consensus cannot be reached shall require a two-third majority of Contracting States.

§4 Except as provided in paragraph 5, an amendment shall enter into force for all Contracting States one year after instruments of ratification or acceptance have been deposited with the Secretary-General of the United Nations by seven-eighths of them.

§5 Any amendment to articles of this Treaty shall enter into force for those Contracting States, which have accepted the amendment one year after the deposit of their instruments of ratification or acceptance.

§6 If an amendment has been accepted by seven-eighths of Contracting States in accordance with paragraph 4, any Contracting State which has not accepted the amendment may withdraw from this Treaty with immediate effect, notwithstanding article 28 §1 but subject to article 28 §2, by giving notice to the Secretary General of the United Nations of a two years period of re-consideration.

§7 The Secretary-General of the United Nations shall circulate to all Contracting States any amendment adopted at a meeting of the Council or at a Review Conference.

§8 Amendments to provisions of this Statute, which are of an exclusively institutional nature, may be proposed at any time, notwithstanding article by any Contracting State. The text of any proposed amendment shall be submitted to the Secretary-General of the United Nations or such other person designated by the Council who shall promptly circulate in to all Contracting States.

§9 Amendments under this article §8 on which consensus cannot be reached shall be adopted by the Council or by a Review Conference, by a two-third majority of Contracting States. Such amendments shall enter into force for all Contracting States six months after their adoption by the Council or, as the case may be, by the Conference.

Article 23

Review of the Treaty

§1 When the Contracting States account for at least [---%] of the Global Financial Markets as established by the Council, its Bureau shall convene a Review Conference to consider any amendments to this Statute. The Conference shall be open to those participating in the Council and on the same conditions.

§2 At any time thereafter, at the request of a Contracting State and for the purposes set out in paragraph 1, the Secretary-General of the United Nations shall, upon approval by a majority of Contracting States, convene a Review Conference.

§3 The provisions of article 23, shall apply to the adoption and entry into force of any amendment to the Statute considered at a Review Conference.

Article 24

Signature, ratification, acceptance, approval or accession

This Treaty shall be open for signature by all States in New York, at the United Nations Headquarters.

§1 This Treaty is subject to ratification, acceptance or approval by signatory States. Instruments of ratification, acceptance or approval shall be deposit with the Secretary-General of the United Nations.

§2 This Treaty shall be open to accession by all States. Instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 25

The Preparatory Group

§1 Until the entry into force of the Treaty there shall be a Preparatory Group comprised of the Signatories to the Treaty.

§2 The Preparatory Group shall:

- a. prepare for entry into force of the Treaty
- b. prepare for the establishment of the Council and the secretariat of the Council.

The Preparatory Group shall elect a chair, who shall serve in a personal capacity.

§3 The Preparatory Group shall establish its rules and procedures. Meetings shall be held at intervals to be determined by the Preparatory Group.

§4 The Preparatory Group may receive and utilise volunteer contributions from governments, international organisations, individuals, corporation and other entities. It shall make public in annual accounts the reception and utilisation of the funds.

Article 26

Entry into force provisional period

§1 This Treaty shall enter into force on the first day of the month after the [---]th day following

the date of the deposit of the [---]th instrument of ratification, acceptance, approval or accession with the Secretary-General of the United Nations, or on the date on which the Preparatory Group has [established] that the Contracting States who have ratified the Treaty account for at least [---] % of the global financial markets, whichever is later.

§2 For each State ratifying, accepting, approving or acceding to this Treaty after the deposit of the Xth instrument of ratification, acceptance, approval or accession, the Statute shall enter into force on the first day of the month after the [---] th day following the deposit by such State of its instrument of ratification, acceptance, approval or accession.

§3 Any Contracting State may declare before the treaty enters into force into its jurisdiction that it reserves the right to apply the treaty for a provisional period [of not less than --- years] which that State determines and which that State may upon an evaluation, prolong by a period of not less than [---] years. The reservation and the prolongation shall be addressed by notification to the Secretary-General of the United Nations.

Article 27

Withdrawal

§1 A Contracting State may, by written notification addressed to the Secretary-General of the United Nations, withdraw from this Treaty. The withdrawal shall take effect two years after the date of receipt of the notification, unless the notification specifies a later date.

§2 A Contracting State shall not be discharged, by reason of its withdrawal, from the obligations arising from this Treaty while it was a Party to the Treaty, including any a Financial obligations, which may have accrued. Its withdrawal shall not affect any co-operation in connection with investigations and proceedings in relation to which the withdrawing State had a duty to co-operate and which have commenced prior to the date on which the withdrawal became effective, nor shall it prejudice in any way the continued consideration on any matter which was already under consideration prior to the date on which the withdrawal became effective.

Article 28

Authentic texts

The original of this Statute, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposit with the Secretary-General of the United Nations, who shall send certified copies thereof to all States

In witness whereof, the undersigned, being duly authorised there to by their respective Governments, have signed this Statute.

