

Preferred Treaty Language for Draft Articles 13 and 14

Comparative Legal Assessment - Stakeholder Submission

Global Initiative for Economic, Social and Cultural Rights (GI-ESCR)
Workstream I – Framework Convention | 28 August 2026

For the kind attention of:

Mr. Ramy M. Youssef, Chair of the Intergovernmental Negotiating Committee to draft a United Nations Framework Convention on International Tax Cooperation and two early protocols (INC) and Mr. Daniel Nuer, Co-Lead of Workstream I.

Abstract

This submission provides a technical drafting proposal on stakeholder participation under Articles 13 and 14 of the draft United Nations Framework Convention on International Tax Cooperation. It presents GI-ESCR's preferred full treaty-level guarantee, informed by comparative practice under the UN Framework Convention on Climate Change (UNFCCC), the WHO Framework Convention on Tobacco Control (FCTC), and the United Nations Convention against Corruption (UNCAC).

The comparison shows that the strongest models do not leave participation to be created entirely by future Rules of Procedure. The UNFCCC places a presumption of observer admission directly in the Convention, while the FCTC and UNCAC provide complementary treaty-level bases for participation arrangements, cooperation with non-governmental organisations and the receipt of accredited stakeholder inputs.

GI-ESCR therefore recommends a combined formulation for the UNFCTC: Article 13(3) should establish a presumption of admission for qualified bodies, subject to a defined objection threshold; Article 13(5) should guarantee meaningful opportunities to attend open meetings, access non-confidential documents, submit written material and make oral statements; and Article 14(3) should extend participation to subsidiary bodies and technical working groups.

Detailed modalities, including accreditation procedures and proportionate safeguards for confidentiality and conflicts of interest, would remain subject to the Rules of Procedure. The proposed language preserves State decision-making authority while securing meaningful participation at treaty level.

1. Scope and recommended drafting approach

This submission is confined to the institutional drafting of stakeholder participation under Articles 13 and 14. It does not restate the policy case developed during the negotiations. Instead, it translates GI-ESCR's comparative research into a single recommended treaty formulation designed for direct use in the draft Convention¹

GI-ESCR recommends a full treaty-level guarantee rather than a model in which participation is created only through future Rules of Procedure. The preferred architecture places the core entitlement and minimum participation guarantees in Articles 13 and 14 themselves, while leaving accreditation mechanics, speaking order, document circulation and other operational modalities to the Rules of Procedure. The recommended text below is presented as one integrated package.

2. Comparative treaty practice

The three comparators use different techniques, but they point to a clear distinction between treaty-level guarantees and procedural implementation. The UNFCCC provides the strongest direct admission model; the WHO FCTC and UNCAC demonstrate how the treaty can additionally mandate participation arrangements, cooperation with non-governmental organisations and the receipt of non-State information. The Rules of Procedure then operationalise those treaty commitments.

Regime	Treaty Level Guarantee	Procedural Implementation	Relevance for the UNFCITC
UNFCCC	Article 7(6) creates a presumption of admission: a qualified national or international, governmental or non-governmental body may be admitted as an observer unless at least one third of the Parties present object. Admission and participation remain subject to the Rules of Procedure. ²	The Rules of Procedure regulate modalities; established practice applies the participation framework to the COP and subsidiary bodies.	Strongest comparator for a direct treaty-level guarantee. Supports a presumption of admission while leaving operational details to procedural rules.

¹ GI-ESCR, [Focused Comparative Research on Participation Modalities at the UNFCITC](#) (5 August 2026)

² United Nations Framework Convention on Climate Change, Article 7(6).

WHO FCTC	Article 23(6) requires the COP to establish criteria for observer participation. Article 23(5)(g) also authorises the COP to request cooperation and information from relevant bodies, including non-governmental organisations. ³	Rules 29–31 regulate observer categories, accreditation and participation, including participation in subsidiary bodies.	Supports treaty-level recognition of participation and information channels, supplemented by detailed procedural rules.
UNCAC	Article 63(3) requires rules concerning admission and participation of observers; Article 63(4)(c) provides for cooperation with NGOs; Article 63(6) expressly permits consideration of inputs from duly accredited NGOs. ⁴	Rule 17 regulates NGO accreditation, attendance, written and oral contributions and access to Conference documents.	Closest structural comparator for draft Article 13. Confirms that observer participation and accredited NGO inputs can be expressly embedded in the governing-body provision.

3. Comparative drafting conclusion

For the purposes of Articles 13 and 14, the strongest comparative model is not a bare delegation to future Rules of Procedure. It is a treaty-level framework that establishes a presumption of admission for qualified bodies, identifies minimum forms of meaningful participation, and expressly enables stakeholder participation in the technical and subsidiary work of the Convention.

The UNFCCC is the principal model for admission. Article 7(6) permits qualified governmental and non-governmental bodies to be admitted as observers unless at least one third of the Parties present object. This creates a treaty-level presumption of admission while expressly leaving the modalities of admission and participation to the Rules of Procedure.

³ WHO Framework Convention on Tobacco Control, Articles 23(5)(g) and 23(6); Rules of Procedure of the Conference of the Parties, Rules 29–31.

⁴ United Nations Convention against Corruption, Article 63(3), 63(4)(c) and 63(6); Rules of Procedure for the Conference of the States Parties, Rule 17.

The WHO FCTC and UNCAC supply complementary drafting elements. The FCTC requires the COP to establish criteria for observer participation and authorises it to request cooperation and information from non-governmental organisations. UNCAC, whose Article 63 is a particularly close structural comparator for draft Article 13, requires rules concerning admission and participation of observers, provides for cooperation with NGOs, and expressly permits consideration of inputs from duly accredited NGOs.

Taken together, these regimes support a combined approach for the UNFCITC: the Convention itself should contain the core participation guarantees, while the Rules of Procedure should regulate how those guarantees operate in practice. GI-ESCR therefore recommends incorporating the strongest elements of the comparator regimes rather than relying on procedural rules alone.

Preferred package at a glance

Provision	Recommended function
Article 13(3)	Treaty-level admission mechanism and a presumption in favour of qualified participants.
Article 13(5)	Minimum opportunities to attend, submit written material and make oral statements, plus an express information channel.
Article 14(3)	Participation guarantees carried into subsidiary bodies, mechanisms and technical working groups.

4. GI-ESCR's preferred treaty language

The text below presents GI-ESCR's preferred full treaty-level guarantee.⁵

A. **Article 13(3) – Accreditation and admission**

Recommended revised text

3. The Conference of the States Parties shall adopt Rules of Procedure and rules governing the activities set forth in this Article, including transparent rules governing the accreditation and meaningful participation of relevant stakeholders, including civil society organizations. Any body or organization, whether national or international, governmental or non-governmental, that is qualified in matters covered by this Convention and has informed the Secretariat of its wish to participate in a session of the Conference of the States Parties may be admitted unless at least one third of the States Parties present

⁵ GI-ESCR, *UNFCITC Draft Treaty Language on Stakeholder Participation: Rationale and Language Proposals* (5 August 2026). That note also presents a compact or hybrid alternative for delegations preferring to leave more detail to the Rules of Procedure; GI-ESCR's preferred recommendation is the full treaty-level guarantee advanced in this submission.

object. The Rules of Procedure shall regulate the modalities of accreditation and participation.

Drafting rationale

This formulation follows the UNFCCC model by placing the admission rule in the Convention itself. The one-third objection threshold creates a presumption in favour of admission for qualified bodies while preserving State control. Detailed accreditation procedures remain for the Rules of Procedure.

B. Article 13(5) – Information and meaningful participation guarantees

Recommended revised text

5. The Conference of the States Parties shall examine the most effective way of receiving and acting upon information, including, inter alia, information received from States Parties in accordance with Article [15], competent international organizations and relevant stakeholders, including civil society organizations. Accredited stakeholders shall, in accordance with the Rules of Procedure, have meaningful opportunities to attend public or open meetings, receive timely access to official non-confidential documents, submit written information, recommendations and proposals, make oral statements, and provide information and expertise concerning the implementation, review and further development of this Convention. Such participation shall not confer voting rights or formal decision-making authority. Where meetings or portions thereof are closed, the Rules of Procedure shall provide for the timely publication of non-confidential summaries of the matters considered and outcomes reached, subject to the protection of taxpayer-specific and other legitimately confidential information.

Drafting rationale

This paragraph combines UNCAC's express channel for accredited NGO inputs with meaningful treaty-level participation guarantees. It preserves the distinction between participation and decision-making while ensuring that access to meetings, documents and opportunities for written and oral contributions do not depend entirely on later procedural choices.

C. Article 14(3) – Subsidiary bodies, mechanisms and technical working groups

Recommended revised text

3. The Conference of the States Parties shall determine the Rules of Procedure for the subsidiary body established pursuant to paragraph 1 and for the mechanisms and bodies established pursuant to paragraph 2 of this Article, including technical working groups. Such rules shall provide meaningful opportunities for relevant stakeholders accredited

pursuant to Article 13 to participate in their work relating to this Framework Convention and its protocols and to submit information and expertise relevant to their respective mandates. Such participation shall not confer voting rights or formal decision-making authority. The Rules of Procedure may establish transparent and proportionate safeguards concerning conflicts of interest and the protection of confidential information, provided that such safeguards are not applied in a manner that unduly restricts meaningful participation. In determining the composition of standing bodies, the Conference of the States Parties shall ensure equitable geographical representation.

Drafting rationale

Participation should follow the substantive and technical work of the Convention. Cross-referencing Article 13 avoids duplicative accreditation systems, while the safeguards clause allows legitimate confidentiality and conflict-of-interest concerns to be addressed without becoming a basis for disproportionate restrictions on participation.

5. Technical drafting notes

The phrase “relevant stakeholders, including civil society organizations” is intentionally non-exhaustive. It allows the Rules of Procedure to address other relevant categories, including academia, trade unions, professional associations and organisations representing affected communities, while avoiding an automatic treaty-level entitlement for any particular private-sector category in the absence of appropriate conflict-of-interest safeguards.

The formulation also deliberately separates participation from formal authority: accredited stakeholders would have no voting rights or decision-making power. The one-third objection threshold is drawn from UNFCCC Article 7(6) and is intended to operate as a presumption of admission rather than a requirement that each observer obtain affirmative approval from States Parties.

For ease of insertion, the proposed text uses the current draft terminology, “Conference of the States Parties”. The participation guarantees are independent of the final choice between that term and “Conference of the Parties”.

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