



The FfD Chronicle

The CS FfD Mechanism is an open civil society platform including several hundreds of organizations and networks from diverse regions and constituencies around the world. CS FfD Mechanism's core principle is ensuring that civil society can speak with one collective voice.

WITH NATIONAL SOVEREIGNTY COMES INTERNATIONAL RESPONSIBILITY

Para 9b – in its original form – introduced a principle that is very familiar and fundamental in international cooperation. The point is that the national sovereignty of States can only be effectively protected if there is international cooperation and a related obligation of States to take responsibility for domestic policies or practices which have significant transboundary spillover effects on other States.

A similar principle exists within, and constitutes a central backbone of, international environmental law, in Principle 2 of the Rio Declaration. The principle says:

“States have (...) the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States...”

The essence of such a principle is to establish the link between national sovereignty and the related international responsibility to cooperate in order to ensure that other countries are de facto able to enjoy the same right. It does not suffice to only establish that all countries have national sovereignty.

Wild West approach - sovereignty without international responsibility

In the latest draft negotiating text, para 9b has been thoroughly obstructed and now seems to say the opposite of what was originally intended.

The text now reads:

“b. recognize that every Member State has the sovereign right to decide its tax ~~the policies and practices of its domestic tax system~~, and the responsibility to respect the sovereignty ~~ensure that such policies and practices do not undermine the effectiveness of the tax base or system of each other Member States~~ in such matters.”

So, instead of linking national sovereignty to international responsibility to avoid harm to other States, it now presents a circular argument with double emphasis on “national sovereignty”.

The logic behind introducing this change to para 9b is unclear. It has been obvious that some countries – especially in the Global North – are not keen on accepting the idea of international responsibility, but none of them have presented a real argument against it. What they have done is raise questions about how “harm” will be defined and how this principle will be implemented. But that is not the question being debated here. The question is whether we do - in principle - agree that national sovereignty comes with international responsibility to avoid harming other States, and that is extremely difficult to argue against.

We call on all governments to reject the changes to 9b and keep the para in its original form.

COMMITTING TO EFFECTIVE AND INCLUSIVE INTERNATIONAL TAX COOPERATION CANNOT BE OPTIONAL

The UN Tax process is akin to building a car. The Framework Convention is the body and the Protocols are the wheels. If Protocols become completely “separate” instruments, instead of “under” the Convention, then we have wheels with no attachment to the car. The body and the wheels are constituent parts of the system and the ‘car parts’ need to be connected.

The wheels must be attached to the car. Likewise, there must be an existing commitment or provision within the Framework Convention that is being implemented through the Protocol.

Lastly, the freedom to enter into agreements is a well-established principle of international law. Parties may choose not to be bound to the Framework Convention, let alone Protocols. Consent to be legally bound is vital and adequately protected. But the question here is whether the “opt in/opt out” debate is really about the legal nature of Protocols. Listening to some of the interventions from Global North OECD countries leaves us wondering whether some delegations are still trying to opt out of effective and inclusive international tax cooperation altogether.



Who is going to speak on behalf of the EU?



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Countries claiming it is not possible to mention IFFs in UN agreements