

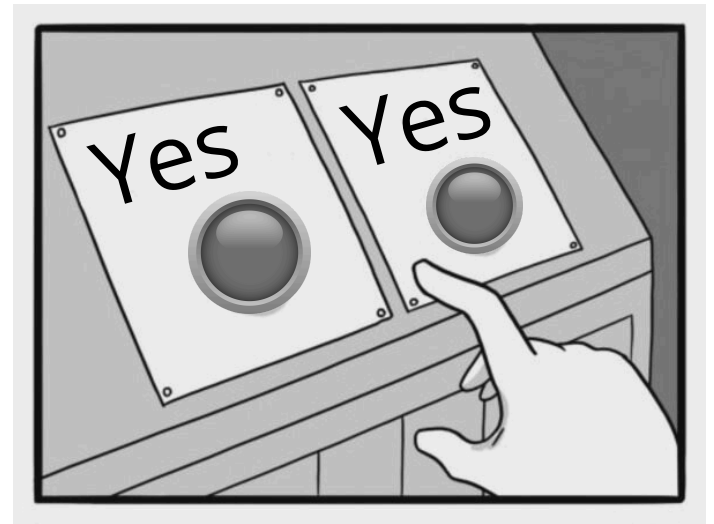


**CIVIL SOCIETY
FINANCING FOR
DEVELOPMENT**
Mechanism

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.

Chronicling the Negotiations for the UN Tax Convention Terms of Reference



**How to: Vote on the Terms of
Reference for the UN Tax
Convention**

Step 1: Push yes
Step 2: Celebrate

The FfD Chronicle

CIVIL SOCIETY FINANCING FOR DEVELOPMENT MECHANISM | FEBRUARY 20, 2024 | YEAR II | ISSUE 5

A TRULY HISTORIC DAY FOR DEMOCRATIC, INCLUSIVE GLOBAL TAX GOVERNANCE



AS CIVIL SOCIETY ORGANIZATIONS, IT IS OFTEN our role to challenge governments to increase ambition, change positions, stop blocking and speed up. But celebrating progress when it actually happens is also an important – and very heart-warming – part of our duties. On this historic day, we would therefore like to open The FfD Chronicle by saying that we are absolutely delighted to see you all here – at the opening of the new intergovernmental UN Tax Process. If only we had a (tax) dollar for every time we were told that this day would never come.

But after decades of intense debates, discussions, delays, disruptions and deeply distressing disappointments, it is finally happening. We once again express our heartfelt appreciation and immense admiration for the leadership, determination and tireless efforts that the Africa Group has put into making this historic breakthrough happen.

This baby has already had many names: the Global Tax Body, IGBOT (Inter-Governmental Body on Tax,) the UN Tax Commission, or simply “the UN Tax Thing”. With the UN’s usual flair for creating tongue-bending titles, this process has finally seen the light of day under the headline “Ad Hoc Committee to Draft Terms of Reference for a United Nations Framework Convention on International Tax Cooperation” (AHCNTRUNFCITC???) While this name is perhaps not the easiest to pronounce, it carries an important reminder that this process was created with a very important mission, namely to draft the Terms of Reference for a new UN Framework Convention on Tax. In this context, we want to express our appreciation and thanks

to the 125 governments – an overwhelming majority of the un Member States – who pressed the green button when this important issue came up for a vote in the 2nd committee of the un General Assembly last November.

And to those governments who tried to block progress and delete the word “Convention”, we want to issue a strong reminder of the words from the Addis Ababa Action Agenda, which you all signed up to in 2015. You said: “We commit to scaling up international tax cooperation” and “We stress that efforts in international tax cooperation should be universal in approach and scope”. With its near-universal membership, the UN is the only forum where you can – at long last - deliver on that promise. Furthermore, we note with great concern that the governments which wanted to delete the word “Convention” from the UN text last November are at the same time advocating for tax conventions to be negotiated in other – much less democratic and inclusive – fora.

Now is the moment for all governments to stop blocking progress and engage constructively in the negotiation of the new UN Framework Convention on Tax. We are finally seeing the end of the era where “global” tax standards were negotiated behind closed doors in non-inclusive forums that did not allow countries to participate as equals. With the proposal to negotiate a UN Framework Convention on International Tax Cooperation, the Africa Group has stretched out a hand and invited the world’s governments to sit down, build bridges and find common solutions to the problems that undermine the effectiveness and fairness of tax systems all around the world.

AND NOW, LET'S GET TO WORK !

THE FAILURE OF INTERNATIONAL TAX COOPERATION is costing governments hundreds of billions of dollars in lost tax income every year. As loopholes, harmful practices and tax havens are allowing the world's wealthiest individuals and corporations to continue to dodge taxes, global inequalities, whether between or within countries, keep escalating. The devastating impacts of illicit financial flows are hardest felt in Global South countries, but the crisis in the global tax system is causing an ongoing bleeding of public resources in countries all around the world. This money is desperately needed to fund vital public services such as health care and education, as well as ensure that commitments on achieving sustainable development, gender equality and ecological integrity are met.

The new UN Tax Process has been given the mission to deliver draft terms of reference for a new UN Framework Convention on International Tax Cooperation by the end of August 2024 – less than seven months from now. It is time for governments to move forward with the urgency, efficiency and spirit of cooperation that this issue deserves. Distinguished delegates, as of now every day counts, we have no time to lose!

QUICK REMINDER WHY WE NEED A UN CONVENTION ON TAX

The new UN Framework Convention on International Tax Cooperation will be the world's first truly global tax agreement. With this in mind, it is clear that there is no risk of duplication, and in fact, there are a number of important gaps that this new Convention needs to fill. For example, it should:

CREATE AN INCLUSIVE GLOBAL DECISION-MAKING BODY ON TAX. In the form of a Conference of the Parties, the Convention should create a global tax governance structure where all countries can participate on an equal footing.

DEFINE OBJECTIVES AND KEY PRINCIPLES FOR INTERNATIONAL TAX COOPERATION. Despite the fact that international tax cooperation has been discussed among governments for over a century, we still do not have a global framework that defines the key objectives and principles.

STRENGTHEN THE GLOBAL FIGHT AGAINST TAX-RELATED ILLICIT FINANCIAL FLOWS. The Convention will be a key tool to scale up the global fight against international tax abuse.

PROMOTE FAIRNESS TOWARDS DEVELOPING COUNTRIES. The new Convention should replace existing tax standards and rules that are biased in favor of richer and larger countries. Instead, it should introduce a system that is fair and balanced, and fully includes the interests, concerns and needs of developing countries.

CREATE STRONG LINKS TO DEVELOPMENT, HUMAN RIGHTS, EQUALITY, AND ECOLOGICAL INTEGRITY. Through the Addis Ababa Action Agenda, governments committed to “enhancing revenue administration through modernized, progressive tax systems.” The Convention will be a key tool to implement this commitment, as well as other key governmental obligations, including those relating to human rights, the UN Sustainable Development Goals, reducing inequalities, including gender inequalities, and ensuring ecological integrity.

CREATE GLOBAL COHERENCE AND REDUCE COMPLEXITY. The Convention should gradually replace the incoherent and highly complex network of bilateral and multilateral tax treaties and agreements, which make up the current global tax system. The aim should be to introduce one coherent overall global framework, and thereby increase the effectiveness of the global tax system and remove opportunities for international tax dodging.

INCREASE GOVERNMENT ACCOUNTABILITY AND PUBLIC PARTICIPATION. The Convention should ensure that international decision-making on tax is transparent, participatory and allows citizens to hold their governments to account.

INTRODUCE A FRAMEWORK WITH A STEPWISE APPROACH TOWARDS MORE DETAILED INTERGOVERNMENTAL AGREEMENTS. As a Framework Convention, it should introduce the basic structures, commitments and agreements, and then allow for more detailed elements to be developed over time, including in the form of protocols to the convention.



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The IFD Chronicle

CIVIL SOCIETY FINANCING FOR DEVELOPMENT MECHANISM | FEBRUARY 22, 2024 | YEAR II | ISSUE 6

GOOD, NOW WE ARE TALKING



YESTERDAY, WE WITNESSED THE FIRST REAL intergovernmental negotiation in the new UN Tax Convention Committee. As it should be, it happened in a transparent, inclusive and open fashion, with the web cameras on, civil society in the room and with all governments participating on an equal footing. While this is anything but unusual within the conference rooms of the United Nations, it is nothing short of a revolution within the world of global tax governance.

In a positive tone, carried by the many governments from both the Global South and North who stressed their commitment to working together to promote truly global tax cooperation, the atmosphere in the room went from timid and slightly tense to positive, open and constructive. Credit should be given to the newly elected Chair of the Committee, the Permanent Representative from Egypt, Ramy Youssef, who led the way, initiating and facilitating a very helpful and solutions-oriented negotiation.

We now call on all governments to maintain this spirit of cooperation and ensure that this week results in the adoption of the procedural outcomes needed to allow this Committee to get on the road. The UN General Assembly has given it a very urgent and important task – namely to produce Terms of Reference for a new UN Framework Convention on International Tax Cooperation. We look forward to being a part of this journey, and also want to echo the calls from several developing country delegations, who stressed the importance of ensuring that resources and finance is available to allow all countries to send representatives from capitals to participate in this important process.

WE ARE READY TO JOIN THE CONVERSATION

RESOLUTION 78/230 UNDERLINES THE IMPORTANCE of civil society contributions as an integral part of the new inclusive UN tax process, and of course, we couldn't agree more. We were also happy to hear several delegations reiterating the importance of civil society participation in their opening statements, and to learn that there seems to be broad agreement on Annex 2 of the Annotated Agenda, namely the modalities for stakeholder engagement.

We are here, and we are ready to join the conversation! However, to those who might be wondering why you have not yet heard from us in the plenary debate, we want to point out that since Annex 2 has still not been formally adopted, we are not yet permitted to speak. Therefore, we would like to stress to all governments: we are keen to make our contribution to this process – please adopt the modalities to allow us to do so!

Here is why this UN process will never amount to duplication

IN THE OPENING STATEMENTS, SOME DELEGATIONS mentioned the importance of ensuring that the intergovernmental UN tax process will not result in duplication of other processes. To those delegations we want to say – rest assured, what is happening here is quite unique. With its inclusive and transparent process, and with all countries participating on an equal footing, this UN process is finally starting to deliver on the commitment from the Addis Ababa Action Agenda to ensure that “efforts in international tax cooperation should be universal in approach and scope.”

Despite the name, the OECD’s Inclusive Framework has never been inclusive. A third of UN Member States are not represented at that process, and among least developed countries, the number of countries that are not members is well over two thirds. Furthermore, in order to join the Inclusive Framework, countries are required to sign on to the OECD/G20 decision on Base Erosion and Profit Shifting. This package – which amounts to almost 2000 pages – was negotiated from 2013-2015 in a process where over 100 developing countries were never invited to join. When it comes to the OECD’s Global Forum on Transparency, over 20 per cent of UN Member States are not at the table. Furthermore, it is worth noting that only 44 countries and the EU were involved when the 2014 “global” standard on automatic information exchange was agreed.

Until this point, we have not had a truly global framework for international tax cooperation, and it is in the interest of all countries to fill that void. The new UN Framework Convention on Tax will be a great leap forward towards inclusive and effective international tax cooperation, as well as a fair and coherent international tax system.



The Carousel Bureau

AS CIVIL SOCIETY, WE STRONGLY WELCOME THE overwhelming interest that governments have shown when it comes to engaging in the new UN Tax Convention Committee. So overwhelming, in fact, that the twenty seats in the Bureau proved to be no match for the number of interested Member States. This resulted in a creative (and somewhat peculiar) solution of “rotating” Bureau-memberships – with members from the Asian and Latin American regional groups taking turns to sit on the popular seats for a limited amount of time, and then resigning and handing over to the next.

We appreciate the great willingness that governments are showing in terms of investing time and resources in bringing this process forward, but as we saw in yesterday’s plenary negotiation, it is important to remember that while the Bureau plays an important role in facilitating progress, it is for all Member States to deliver the outcomes of this Committee through a transparent and fully inclusive process.

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Getting down to business: Objectives and principles of the new UN Tax Convention

WITH 23 WORKING DAYS LEFT TO DELIVER THE Terms of Reference for the new UN Framework Convention on International Tax Cooperation, it is high time to get moving!

And what better way to kick off than to answer the question “what should be the overall point of this Convention”?

Objectives

Firstly, as the name of the convention suggests, promoting international tax cooperation should obviously be a central element of the objectives, along with the aim of combating illicit financial flows.

Furthermore, in line with the global commitment to reducing inequalities within countries, the objectives must include the element of ensuring that tax systems are fair, equitable, progressive, transparent and effective. Similarly, with the aim of reducing inequalities between countries, the Convention must aim to address the unfair allocation of taxing rights that disproportionately affects developing countries.

Lastly, a central objective of the Convention should be to underline the link between tax policies and the mission of mobilizing financing to fulfil international goals, obligations and commitments. This includes the government commitments related to human rights, gender equality, quality public services for all, promotion of well-being and quality of life, sustainable development and environmental protection, including climate action.

Overall principles

It is also high time to open the discussion about the central principles that should underpin the new convention.

Building on the overall commitment to strengthen international tax cooperation, the Convention should include a principle stating that every State has the

sovereign right to decide the policies and practices of its domestic tax system, and the responsibility to ensure that such policies and practices do not cause damage to, or undermine the effectiveness of, the tax base or system of any other State. This balancing of sovereign rights and international obligations is a classic approach in international law, which can, for example, also be found in principle 2 of the Rio Declaration on Environment and Development.

Secondly, the convention should include a principle which balances the right to privacy with the right for citizens to access information of importance to assess the fairness, equitableness, progressivity, transparency and effectiveness of their domestic tax system, in addition to having in place structured mechanisms for citizens’ engagement in tax policy processes. This principle has strong links to the ABC of transparency (see page 2).

Thirdly, in line with Article 71 of the UN Charter as well as UNGA Resolution 53/144 and ECOSOC Resolutions 1993/80 and 1995/304, the convention should include a principle underlining that the participation of civil society is essential.

Fourthly, with an aim to establishing and solidifying the links between taxation and environmental policy, the tax convention should include the well-known principle, which recognizes that the costs of pollution and environmental damage should be borne by those causing it, not those suffering its impacts (also known as the “polluter pays principle”).

Lastly, the convention should establish an international “single tax principle”, stating that persons, and multinational enterprises, should be taxed on their worldwide income at least once, and only once, and in line with where their real activities occur.

How does the ABC of tax transparency relate to domestic resource mobilization and illicit financial flows?

TAX TRANSPARENCY, PARTICULARLY THROUGH measures pertaining to the ABC (Automatic exchange of information, Beneficial ownership transparency, and Country by country reporting for multinational corporations), plays a pivotal role in curbing illicit financial flows (IFFs) and enhancing domestic resource mobilization. The intersection between tax transparency and these critical economic dynamics is a very central element of international tax cooperation. The ABC is the formula for bringing the light of transparency to the opaque world of secrecy, where the rich and powerful corporations operate with impunity, while the rest pay their fair share of taxes.

In essence, the ABC of tax transparency embodies principles and mechanisms aimed at revealing hidden economic activities, particularly those utilized to evade taxation or engage in illicit financial practices. Automatic exchange of information stands as a cornerstone, enabling countries to automatically share financial data of taxpayers with their respective tax authorities. This practice significantly diminishes the effectiveness of bank secrecy, making it more challenging for individuals and entities to conceal offshore accounts and evade taxes. However, challenges persist, such as the exclusion of lower-income countries due to stringent criteria e.g. for reciprocity, and the reluctance of some jurisdictions, notably the United States, to participate fully.

Beneficial ownership transparency represents another critical component, addressing the pervasive abuse of anonymous ownership structures. By mandating public registers that disclose the true owners of companies and other legal vehicles, this measure aims to eliminate the cloak of secrecy often utilized in illicit financial activities. While progress has been made, there are still plenty of trusts, foundations and companies around the globe hiding their beneficial owners, helping the wealthiest to escape taxation (among many other users with other nefarious purposes). Furthermore, because local investors often need to disclose their ownership, the lack of public BO registers distorts competition and harms local direct investors.

Country-by-country reporting for multinationals adds another layer of transparency, requiring companies to publish detailed financial information for each jurisdiction in which they operate. This transparency sheds light on profit shifting practices and reveals misalignments between economic

activity and tax payments. However, the OECD has subjected its CBCR standard to tax secrecy, making it nearly impossible for most lower income countries to access it, and in addition has artificially constrained usefulness of this data by forbidding to use it for adjusting upwards the tax base in lower income countries. This hampers domestic resource mobilization and needs urgent fixing by making CBCR data public for all.

The benefits of making the ABC of tax transparency truly inclusive and effective within the UN Tax Convention are multi-fold. Beyond immediate reductions in illicit financial flows, enhanced transparency generates valuable data that informs policy decisions and enforcement measures globally. Furthermore, transparency fosters greater accountability among both states and private sector entities. It also supports efforts to address wealth inequalities by enabling fairer taxation policies and enhancing revenue collection, ultimately contributing to socioeconomic development.

In light of these considerations, integrating the ABC of tax transparency into the core commitments of a UN framework convention on international tax cooperation is paramount to counter IFFs and enhance domestic resource mobilization.

Such integration underscores the fundamental importance of these measures and ensures their widespread adoption and implementation. Moreover, it reaffirms the commitment of all participating nations to combat illicit financial flows and promote global tax transparency for sustainable development.



The IFA Chronicle

CIVIL SOCIETY FINANCING FOR DEVELOPMENT MECHANISM | APRIL 30, 2024 | ISSUE 12

TIME TO START NEGOTIATING TAX!

INTERNATIONAL TAX ABUSE IS COSTING COUNTRIES OVER A BILLION DOLLARS PER DAY IN LOST TAX INCOME.

The decision to establish the Ad Hoc Committee to decide on the ToRs for a Tax Convention did not include a decision to review the decision-making rules of the overall decision-making body – namely the UN General Assembly. Despite this, a number of delegations decided to make the decision-making rules their number one priority during the organizational session in February, and seem to have decided to take the same approach to the first session. So much so, in fact, that some of us in the back row might soon decide to take a nap if we hear the word “decision” spoken yet again. The facts are simple: The decision-making rules of the new convention will very obviously be a matter to be determined when the convention is negotiated. Equally obvious is the fact that the decision-making rules of the UN General Assembly will not be up for renegotiation is an Ad Hoc committee that was set up to negotiate TAX. In the somewhat absurd and very unlikely scenario where a future Ad Hoc Committee to negotiate the Tax Convention would be given different decision-making rules than the UN General Assembly, the fact would still remain that that body would be reporting back to that very same General Assembly,

which would obviously continue to operate with the same decision-making rules as usual, and would thus be able to decide to change any decision it would receive from an Ad Hoc Committee.

Dear delegates. International tax abuse is costing countries over a billion dollars per day in lost tax income. It has been painful to see so much time and energy has already been lost DISCUSSING decision-making rather than EXERCISING decision-making. We also cannot help but notice that some of the delegations that are most keen to discuss decision-making are also those that decided to vote against even starting the negotiation of a UN Tax Convention.

But in February this year, you all reached consensus on the importance of striving for consensus in the process to develop draft Terms of Reference for a UN Convention on International Tax Cooperation. We now call on all governments to negotiate in good faith and show themselves worthy of the trust this decision entailed. Stop changing the topic, start negotiating tax!

COMPLEMENT THIS

It holds a certain irony that the delegations that are highly concerned about ensuring “complementarity” and avoiding “duplication” seem to have no problem duplicating and repeating each other’s (and even their own) statements over and over again.

But we – the civil society following these repetitive interventions - have reassuring news to the “duplication-delegations”. After digging through the existing international conventions and instruments, we can assure you that the world currently does not have one single globally inclusive convention on international tax cooperation. The knock-on effect of this is that those who might be searching for a fair and balanced global tax standard will also end up emptyhanded. The intergovernmental UN tax negotiation that we are all now part of is not only historic, but also unique, and thus, the risk of duplication is zero.

What we were able to find, on the other hand, were numerous UN Conventions, global goals as well as government obligations and commitments on development, equality, environmental protection, and protection of basic rights such as education and health care – to name a few. And these all had one very concerning element in common – namely the desperate lack of public funding.

The fact of the matter is that governments’ abilities to fulfill their obligations are being undermined by the failed global tax system, which translates into a failure of national tax systems all around the world.

Dear governments, it is high time to provide the fair, ambitious and effective UN Convention on International Tax Cooperation that can complement all your unfinanced global goals and commitments.

TAX SYSTEMS AND THEIR ROLE IN PROMOTING EQUAL DEVELOPMENT FOR ALL

For the world to achieve fair, effective, transparent and inclusive realities, it is urgent and essential that such principles lead international tax cooperation mechanisms and regulatory frameworks. In the middle of the poly-crisis that we continue to face, it is time to recognize the impact of tax systems (and their resulting resources) to achieve justice in all its dimensions: economic, social, political, cultural, racial and environmental, among others.

Gender justice is not an exception. The world recognized that when SDG 5 was agreed but has done little to accomplish it. The official deadline is 2030, but at the current rate of “improvement”, it will take us 286 years to close the current legal protection gaps and remove discriminatory laws. Thus, governments and their fiscal actions must pioneer schemes that restore the historically stolen opportunities of women - and other identity minorities. As such, the Terms of Reference of the new UN tax convention should include the commitment to actively pursue the ending all forms of discrimination, violence and any harmful practices against women and girls in the world.

Currently, most women and men are supposedly taxed under the same rules. However, the structure of tax systems and the sexual distribution of work generate economic dynamics that have differential impacts on women, through both explicit and implicit gender biases. Thus, we urge all governments to promote a gender-sensitive approach alongside other structural changes suggested for a new UN tax convention.

The cruciality of this need was particularly highlighted during the pandemic. At that time, women needed the world as much as it relied on us to provide care: quarantines allowed for domestic violence to increase five-fold and the caregiving workload significantly increased.

Sure, there were “actions” from the public sphere to mitigate this (1000+ reported interventions), but these only represented 15% of the total Covid-19 expenditure. Therefore, we need fiscal policies that provide enough resources to respond to these issues and demand a gender-sensitive approach to their design and implementation, so that men and women can equally enjoy our rights.

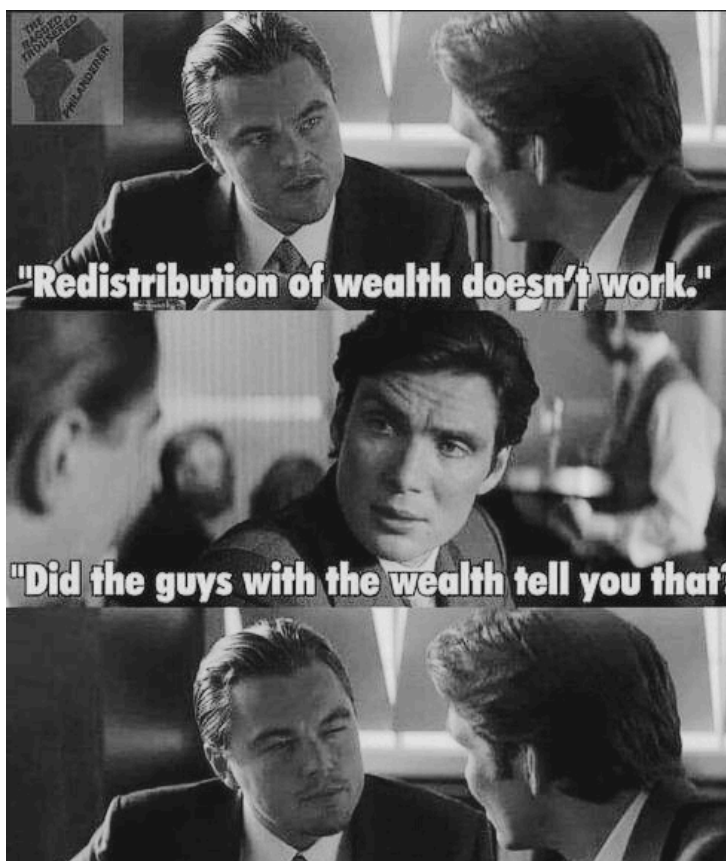
Fiscal systems can guide our countries toward labor markets with decent conditions and adequate salaries. Fiscal systems can stop women’s systematic exclusion from social security and protection schemes.

Fiscal systems must address the unjust social organization that assigns domestic and care work to women (unfairly remunerated, at best, unpaid for the majority), recognizing that the functioning of our societies depends on it.

If our fiscal systems do not take the lead now in correcting for all these externalities and social inefficiencies, we are risking all that women have achieved in recent decades.

The UN tax convention should champion global tax measures that are sensitive to gender inequalities and promote regulatory frameworks recognizing women in all our diversity. Likewise, we call for the adoption of intersectional strategies that respond to our specific needs, focusing particularly on the feminization of time and economic poverty.

Reaching fairer realities and equal development for all requires coherence and commitment from global tax policies and systems. The UN tax convention process and the resulting ToRs cannot disregard governments’ responsibilities to eliminate gender discrimination and promote affirmative measures that drive the world toward an appropriate distribution of economic power between men and women. It is time for the global tax system to acknowledge its role in providing opportunities for women of present and future generations to see our dreams of an inclusive and life-centered world materialize.



The IFA Chronicle

CIVIL SOCIETY FINANCING FOR DEVELOPMENT MECHANISM | MAY 01, 2024 | ISSUE 13

The global minimum tax rate is now a tax haven rewards programme

Originally, the OECD's idea of the new minimum tax was to make the international corporate tax system a little fairer. A few years later Switzerland was among the front-runners to implement the new GLoBE rules (Global Anti Base Erosion Model Rules). In a referendum last year, Swiss voters – not known for giving money away for no good reason – adopted the OECD pillar 2 with an overwhelming majority of 67%. Why was an infamous corporate tax haven so keen to introduce new international rules supposed to stop the race to the bottom?

Former Swiss Finance Minister Ueli Maurer, was one of the longstanding big figures of the nationalistic right-wing “Swiss peoples party”. He made the calculation quickly: “If Switzerland doesn't take the extra money, others will.”

What made the finance minister and obviously also a vast majority of the Swiss voters so sure to be on the right side of the balance sheet is called the “the national supplementary tax”, the Swiss version of OECDs “domestic minimum top-up tax (DMTT)”. This will see multinational enterprises (MNEs) in Switzerland, which have so far benefited from an effective corporate tax rate of less than 15 per cent, subjected to a top-up tax that will raise the effective tax rate to the OECD minimum of 15 per cent. A commodity trader like Glencore in the Swiss canton of Zug that has been enjoying a very low tax rate of 11 per cent will in the future have to pay a supplement of 4 per cent on its profits reported in Zug. So far so good. Much of this additional taxable income shouldn't be Swiss income in the first place though, given that it also includes profits shifted away from subsidiaries in countries where Glencore is operating its mines.

To make matters even more absurd, the minimum effective corporate tax rate of 15% actually allows corporations to continue paying less than 15% in tax – as long as they make use of loopholes such as the so-called “carve-outs”.

What this means is countries currently losing out on tax revenue to MNEs using Switzerland's tax havenry services won't be empowered by the OECD's global minimum tax rules to recover that lost tax revenue.

Instead – shamefully – the OECD's new rules will reward Switzerland's decades-long harmful behavior while MNEs continue to underpay tax, particularly in the global south, as usual. In 2019, a study by the economists Petr Janský and Miroslav Palanský reported that at least about €80 billion in profits are being shifted annually from developing countries to low-tax jurisdictions like Switzerland.

The Swiss government instead is estimating, that the OECD's minimum tax will bring 1 to 2.5 Billion USD in additional revenue from corporate income tax. This adds up to the \$112 billion in profits shifted to Switzerland by multinationals in 2022. 39 per cent of the \$22.7 billion corporate tax revenue Switzerland collected came from profit shifted into the country. But due to the secrecy of the Swiss corporate tax haven we have to assume that not even Gabriel Zucman and colleagues are able to catch everything that flows into this small country in western Europe.

The question remains as to what Switzerland is doing with all the extra money that the minimum tax is pouring into its coffers. The answer should be obvious: it has found ways to give this tax revenue back to those, who it came from: the multinational companies themselves. The new OECD rules offer different ways to do this, as they contain mechanisms that are recognisable for what they are, even if they are for example called ‘qualified refundable tax credit’: Subsidies for the world's largest corporations, financed with additional taxation from shifted profits.

It is quite obvious: while Pillar 1 of the OECDs BEPS 2.0 Reform is very unlikely to ever enter into the state of implementation, also an implemented minimum tax under Pillar 2 doesn't make the global tax system more equitable at all. It is just a very, very complicated and therefore costly mechanism to keep everything there, where it already has been: low tax jurisdictions stay low tax jurisdictions, rich multinationals stay rich, poor countries poor and the SDGs underfunded.

The OECD has obviously not delivered. Now it's the UN tax convention's turn.

Glossary of OECD Country Tax Terms

OECD's global standard on Base Erosion and Profit Shifting (BEPS)

A non-global corporate tax standard which was, according to the OECD, "developed by 44 countries". The BEPS standard was adopted in 2015 and was presented as a simplification of the corporate tax rules. In reality, this agreement, which runs to almost 2000 pages, significantly increased the complexity of the (already very complex) OECD transfer pricing system.

Inclusive Framework

A non-inclusive framework set up by the OECD after the adoption of the 2015 BEPS agreement. While all countries have been invited to become members of the Inclusive Framework, it is on the condition that they commit to implementing the BEPS agreement, as well as to paying an annual membership fee of around 20,000 Euros to the OECD. As of today, 128 out of the 193 UN member states have chosen to join the Inclusive Framework while 65, or roughly one-third, have not. The official number of members of the Inclusive Framework is higher than 128 (namely 145). This is because the Inclusive Framework has jurisdictions such as the British Virgin Islands, the Cayman Islands and Jersey as individual members, even though they are territories of another member (ie, the United Kingdom). In 2019, the Inclusive Framework started negotiating another review of the corporate tax rules (the so-called Pillar 1 and Pillar 2). While the OECD has presented the Inclusive Framework as being 'consensus-based', the central agreement on Pillar 1 and Pillar 2 was adopted in October 2021 despite the fact that four developing country members of the Framework, namely Kenya, Nigeria, Pakistan and Sri Lanka, did not endorse the outcome.

OECD's global standard on automatic information exchange

A standard that was developed by the (at the time) members of OECD in collaboration with the G20 and a small group of additional countries. When a ministerial declaration to endorse the standard was negotiated and adopted in 2014, it was only signed by 44 countries and the EU. The standard failed to incorporate a number of elements that could have made it function better for developing countries.

Minimum effective corporate tax rate of 15%

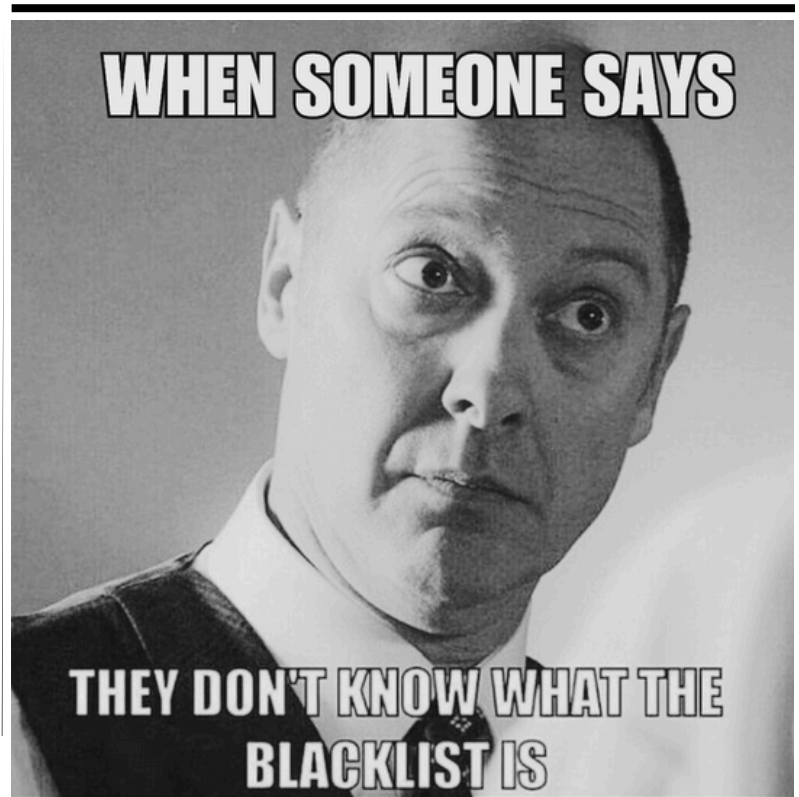
OECD rules that allow corporations to continue paying less than 15% in corporate income tax. Due to loopholes (including so-called "carve-outs") in the agreement, corporations are in fact still able to reduce their effective tax rates to 0%.

OECD's Global Forum

A non-global forum working on tax transparency, including the implementation of the OECD's Automatic Information Exchange Standard. Of 193 UN member states, 152 are members of the Global Forum and 41, or over 20 per cent, are not. Meanwhile, the official number of members of the Global Forum is 171, which is due to the fact that the OECD has allowed jurisdictions such as the British Virgin Islands, the Cayman Islands, the Isle of Man and Jersey to become individual members.

Promoting international tax good governance

A deeply questionable type of tax governance exercised by the EU. This governance style includes "blacklisting" of so-called "non-cooperative jurisdictions", which roughly seems to mean jurisdictions that do not follow rules set up by the OECD and the EU. In accordance with the EU's rules for blacklisting, no EU Member State can be blacklisted by the EU.



The FfD Chronicle

CIVIL SOCIETY FINANCING FOR DEVELOPMENT MECHANISM | MAY 03, 2024 | ISSUE 14

TAX DEMOCRACY IS COMING

The charter of the United Nations does not begin with “We the Member States of the United Nations”. It begins with “WE THE PEOPLES”! This reflects the important fact that the UN is an institution created by and for the peoples of the world.

The UN deals with global issues that have very direct impacts on the daily lives of people around the world – from human rights to development, environmental crises, equality and now also, finally and at long last, tax! The legitimacy of the UN to make decisions on these global issues is strongly linked to the fact that Member States of the UN have long recognized the democratic rights, value and crucial role of civil society in the UN processes, and this civic space is vital to preserve and promote.

Thanks to its democratic culture, the UN is a vibrant and colorful space where we as civil society can do our job, namely highlight problems, present solutions and – very importantly – hold governments to account! In the newly born UN tax negotiations, we have so far only used a very limited number of the many tactics that we usually have in the UN toolbox, and to those of you who are new to the UN, we want to provide this little “introduction to UN democracy”.

Newsletters

As a civil society newsletter, the FfD Chronicle has “sister-publications” in many other UN processes. The most famous one is the “ECO” which gets published on a daily basis in the UN climate and biodiversity negotiations. It provides our analysis, response and comments on the negotiations, and we know that many delegates value it highly as a source of information and inspiration – but also daily entertainment (we do our very best to be both sharp and funny).

Interventions from the floor

As you will have heard by now, we make interventions from the floor. Just like delegations, we do this to influence the negotiations and do our best to promote an ambitious and effective outcome. We want to be relevant to the discussion, and therefore it is a great advantage for us to be able to respond during the negotiations, as opposed to at the end when the discussion is over and delegates have already packed up their bags and started leaving the room.

We therefore warmly welcome the suggestion that the Chair made when he asked whether the Member States would allow him to give the floor to observers as we appear on the list of requests for the floor, rather than always bumping us to the very end of the list. It was therefore extremely concerning to us when France immediately announced opposition to the Chair’s proposal. It was also outright shocking to see an EU Member State, which normally prides itself of being a strong defendant of democracy, take this very undemocratic stance.

Applause!

Applause is a common feature in UN negotiations – in fact, the whole room applauded when a consensus agreement was reached during the organizational session of the tax negotiations in February. We – as civil society – also do it in response to the negotiations. Those who attended the FfD Forum just last week will know that economic justice discussions often come with frequent applause (much more than we have seen in the UN tax negotiations so far). And those of you who have – for example – attended the UN climate negotiations will also know that governments who block those negotiations can actually expect to face “booing” in the negotiation room.

While we can understand that governments might feel envious of the delegations that get more applause than they do, we would like to remind everybody that democracy is a full-time commitment – it is not something you can switch off as soon as you disagree with civil society. And tying the hands of civil society (literally!) is highly undemocratic and undermines the civil space at the UN. Similarly to the case of France, it was highly surprising and concerning to see that the concerns about applauding was raised by an EU Member State – namely the Netherlands. As the delegate announced that she was “not used to applause”, we were left wondering whether this might also be related to the fact that Netherlands continues to be one of the world’s largest conduits of the world, and thus a major concern in relation to international tax abuse.

Campaigning

One thing you have not yet seen in the tax negotiations is campaigning, but we include it here because it is an important part of the civil space at the UN. Those of you who have been at the climate negotiations will know the “Fossil of the Day”, which is awarded by civil society to governments that play an unhelpful role in the negotiations. Similarly, the biodiversity negotiations come with the “Captain Hook Awards” for biopiracy.

Public debate

And of course – the transparency of the UN negotiations creates the space for a very important public debate. As we take the floor at the UN, the world can watch us live on UN Web TV. Journalists, social media users and commentators can follow what we do and respond. But given that the UN negotiations result in decisions that impact people all around the world, it would be highly undemocratic to do it any other way, and public debate should not only be acceptable to governments, but in fact highly appreciated – even when it includes criticism.

Is the UN tax negotiation just a special case?

We have heard some delegations argue that the tax negotiations might just be a special case that warrants less democracy than usual at the UN. To this we would argue: Quite the contrary! Tax is a core element of democracy, and international decisions on tax have very direct impacts on people. Some have also argued that the fact that we are now negotiating a convention and protocols makes it a special case. To that, we will simply stress that all of the examples mentioned above refer to negotiations about legally binding agreements.

The dark and undemocratic past of global decision-making on tax

As civil society, we are very aware that global decision making on tax has – until now – been taking place in a forum where the level of democracy, transparency and participation is very far behind the levels we know from the UN. At the OECD, the negotiations take place behind close doors, and civil society is not only banned from the room, but in fact from the entire building. We have been left in the dark in terms of what our governments have been saying on our behalf, and completely unable to keep them to account.

Time to walk the talk on democracy!

To the delegations that took an active role in limiting the space of civil society yesterday, we want to say: It is not too late to show that you are the defenders of democracy that you claim to be. Tax is a core issue of democracy, and observers – as well as the public – have a strong interest and right to follow the intergovernmental UN tax negotiations. We – as civil society – have done our homework and come to these negotiations with strong analysis, specific proposals for solutions, and a strong commitment to hold governments to account and work for a successful outcome – namely a fair, effective and ambitious UN Framework Convention on Tax. Stop preventing us from doing our job!



The Climate Action Network-International presents the Fossil of the Day Awards at the COP28 climate summit.

JOIN OUR SIDE EVENT TODAY

UN committee on tax convention: end of week reflections from civil society

**3rd May, Friday, CR-6, 1:30 pm - 2:30 pm NY
(in-person only)**

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IT'S TIME TO GET THE JOB DONE!

New York is lovely in the summer, but make no mistake we are not here to drink rosé or go shopping. Our task giver – the UN General Assembly – made it very clear that we are here “for the purpose of drafting terms of reference for a United Nations Framework Convention on International Tax Cooperation” and that we should finish that job “by August 2024”.

What is “international tax cooperation”?

The General Assembly also gave us a helping hand by outlining a number of issues that belong within the framework of “international tax cooperation”. In Resolution 78/230, the term “illicit financial flows” is mentioned no less than five times. Elements such as tax and the digitalized economy, cross border services, corporate tax and effective taxation of extractives are also clearly included.

Nothing to duplicate

The Resolution also requests us all to “To take into consideration the work of other relevant forums, potential synergies and the existing tools, strengths, expertise and complementarities available in the multiple institutions involved in tax cooperation at the international, regional and local levels.” But the word “duplication” is not mentioned even once. The reason for that is quite obvious: there is no risk of duplication because there has never previously been a truly inclusive tax body where all countries could participate on an equal footing.

Our job is NOT...

Our job is to develop a ToR that responds to the mandate we have been given. It is not our job to renegotiate that mandate. There are a number of tasks that were clearly not included in our mandate. For example, we were not sent here to renegotiate the decision-making rules of the General Assembly. The written inputs from governments indicate that there might still be Member States that wish we had been given a different job, and some seem to have suggested changes to the negotiating text that would go against Resolution 78/230. Let us be clear: The negotiating text must aim to deliver the outcome requested in the Resolution, and cannot include inputs from governments that contradict the mandate we have been given.

Let's get to work!

Resolution 78/230 clearly specifies that the work should happen “with the contribution of” civil society. We are here and ready to contribute to getting the job done, and we demand nothing less from our government negotiators! Dear delegates, we expect you all to negotiate in good faith and show that you are also here to deliver.

TAX QUIZ

How was the "Declaration on the 2 Pillar Solution" adopted by the OECD's Inclusive Framework in October 2021?

1. By consensus among all UN Member States
2. By consensus among all the States that were members of the Inclusive Framework at the time
3. Without consensus, since 4 of the States that were members of the Inclusive Framework did not agree to the declaration

(Did you get it right? The correct answer can be found on page 2!)

Debunking Fallacies

Our governments, for the first time, have the opportunity to deliver a Framework Convention for international tax cooperation that can finally end tax abuse. What should we expect from our negotiators? With \$5 trillion of revenue that could be recovered over the next decade to fund development, the realisation of human rights and address the climate emergency, we expect states to cooperate with each other to produce the most ambitious Framework Convention.

And yet, some rich OECD countries, in a very short-sighted interpretation of their own people's interest, wield a repertoire of fallacies to oppose the kind of ambitious Framework Convention the world needs. Let us review how to respond to some of these fallacies so as not to be distracted from the purpose of restoring faith in multilateralism and giving the peoples of the world global tax rules that they deserve.

1. **The fallacy of duplication.** It is not true that the Framework Convention should focus on issues that have not been addressed by other fora, simply because so far there is no universal instrument in which the principles and commitments that should govern international tax cooperation were agreed. As the Secretary General's report acknowledges, existing international tax standards are neither inclusive nor effective.
2. **The fallacy of fragmentation and uncertainty.** What can put an end to the fragmentation and lack of certainty created by the proliferation of double taxation treaties and standards adopted in fora without universal acceptance is a Framework Convention. There is no functional and predictable global tax governance system today. The Framework Convention is the instrument that can create it.
3. **The fallacy of focusing on the less controversial topics.** What the world expects from this process is not low-hanging fruit victories, but structural solutions to problems resulting from failures in international tax cooperation (yes, like tax-related illicit financial flows!), regardless of how controversial and challenging these problems may be.
4. **The fallacy of consensus-only solutions.** The UN General Assembly's rules of procedure strive for consensus, but wisely recognise that to advance the solutions the world urgently demands, other decision-making mechanisms may be necessary when consensus is not possible. The field of international taxation should be no exception to this.

5. **The fallacy of requiring even more analysis to take any meaningful step.** We are here because most countries have found that the status quo of international taxation is not working and there is ample evidence of this. Demanding that we start from scratch and carry out even more analysis before making even the most basic decisions on the topics the Framework Convention should cover, seems to stem more from an interest in denying what is evident today than from a desire to move forward promptly on solutions that work for all countries.

It is time to stop making excuses and start solving the problems.

TAX QUIZ

Answer: #3 - without consensus.

Kenya, Nigeria, Pakistan and Sri Lanka were all members of the Inclusive Framework but did not agree to the declaration.

Similarly, in July 2023, a statement was adopted by the OECD's Inclusive Framework without the support of Belarus, Canada, Pakistan, Russia and Sri Lanka (all members of the Inclusive Framework).

The United States supported the outcome statements but has still not agreed to implement the related OECD rules (Pillar 1 and Pillar 2).

Roughly a third of the UN Member States are not members of the OECD's Inclusive Framework and have therefore never been a part of the negotiations.

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WITHOUT TAX JUSTICE, NO RIGHTS CAN BE FULFILLED

Taxes and human rights may seem unrelated. This is a misperception. The reality is that human rights and taxation are closely interconnected as stated by United Nations committees, such as the Committee on Economic, Social and Cultural Rights (CESCR). The way tax policies are structured and implemented has a significant impact on our lives. A human rights-based approach to tax policy-making ensures that countries have the necessary resources for health, education, healthcare, housing, and combating inequality.

The Need for Strong Principles

Rights do not exist in a vacuum; they require an environment that allows for their full realization. The International Covenant on Economic, Social and Cultural Rights (ICESCR) of 1966, signed by UN member states, emphasized that the maximum mobilization of resources is essential for the progressive realization of human rights. The Universal Declaration of Human Rights states that everyone has the right to a just international order that enables the fulfillment of their rights. As recognized by the CESCR, this order includes international tax norms.

Thus, it is not appropriate to write the Framework Convention without highlighting the importance of human rights as a principle underpinning international tax cooperation.

Critical Challenges in International Tax Cooperation

1. Extraterritorial Obligations of States

Articles 55 and 56 of the UN Charter state that countries have a responsibility to contribute to the achievement of the aims of the UN. This means that all countries should adopt tax measures that ensure the realization of human rights at both national and international levels.

2. Creating an International Environment that Guarantees Rights

As part of the duty to create a just international order, states must intensify tax cooperation. International tax rules should protect and expand the fiscal space of countries, particularly developing countries. Harmful tax competition and an inequitable distribution of taxing rights between countries are incompatible with human rights norms.

3. Rights Must Be Properly Weighed, Prioritizing the Collective Over the Individual

The need to fund social rights such as health and education implies that measures which restrict fiscal transparency, and thus the efficiency of tax systems, are unacceptable.

Integrating human rights principles into the Framework Convention is a practical necessity for achieving effective and equitable tax cooperation. The latest draft negotiating text states that the efforts undertaken within the Framework Convention should "be fully aligned" with international human rights law and States' existing commitments. It is extremely difficult to see why any government could have concerns with this very basic wording.

It is crucial that international efforts align with human rights commitments to build a global system that benefits everyone equally. We urge all governments to support the inclusion of clear and strong references to human rights principles in the Terms of Reference of the new Framework Convention.

THERE IS NO TAX BASE ON A DEAD PLANET

During the first two days of negotiations, we've witnessed strong attacks on the part of the ToR that relates to sustainable development and environment - including the fight against climate change. "There shouldn't be mentions of sustainable development or environmental protection in the framework convention," - so said the country leading the biggest fossil fuel cartel in history.

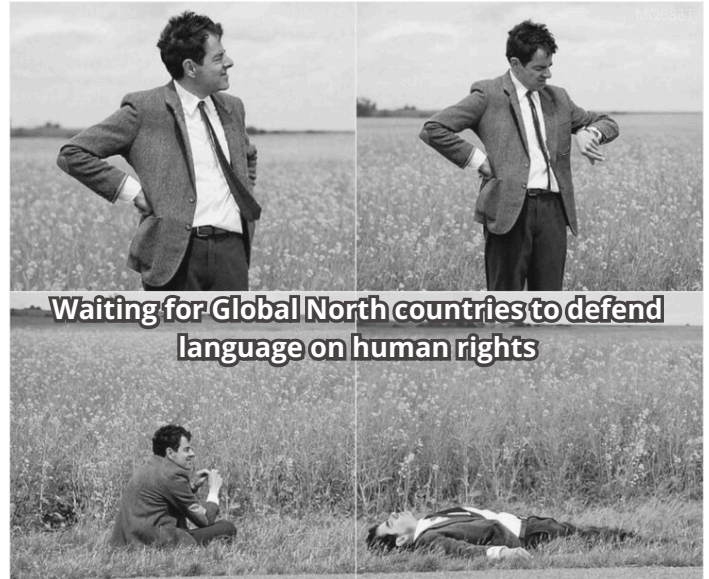
What you, distinguished delegates, must remember is: there is no tax base on a dead planet.

Planet Earth is in dire straits. Environmental degradation and the climate catastrophe are putting people's health and wellbeing at risk already today, causing trillions of dollars in damage. But the worst can still be avoided with urgent action. Taxation and tax policy must play its part. This is why the substantial element stated in the Draft Terms of Reference, the commitments on ensuring that tax measures contribute to addressing environmental challenges, is vital and must be maintained.

The question is not 'if' taxation can help to tackle the environmental crises, but 'how.' The countries and marginalised groups who have historically contributed the least to climate change and environmental destruction, suffer the worst of its effects. This is why the UN Tax Convention must adhere to Environmental and Carbon Tax Justice principles.

These are the Common But Differentiated Responsibilities and Respective Capabilities (CBDR - RC) principle and the Polluter Pays Principle. CBDR-RC establishes the common responsibility of the states to cooperate, including on the protection of the environment. It is acknowledging the different capabilities and differing responsibilities of individual countries in addressing environmental challenges, taking into account each country's specific circumstances, their role in contributing to a particular environmental issue and their overall ability to address the environmental harm. The polluter-pays principle recognizes that the costs of pollution and environmental damage should be borne by those causing it - including those who are historically responsible.

All countries have to prove their commitment to sustainable development by supporting Carbon and Environmental Tax Justice which is key to reducing inequalities within and between countries. These elements must be thoroughly integrated into the ToR for the new Framework Convention on International Tax Cooperation.



Missing:
"Tax-related Illicit Financial Flows"
 Was last seen in paragraph 7C of the
 zero draft ToR.



Please help us find it!
**Reward: Hundreds of billions in
 tax revenue annually**

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WITH WHAT "CONTRIBUTION OF CIVIL SOCIETY"?

On the 1st day of negotiations on the ToR, CSOs were granted 3 speaking slots. On the 2nd, CSOs had one intervention. On the 3rd, zero. That makes 12 minutes of democratic open space within 1080 minutes of negotiations - or 1.1%.

We are here to implement a mandate about promoting inclusive international tax cooperation, which explicitly states the committee shall work "with the contribution of civil society". We have Modalities for stakeholder participation (the famous "Annex 2") that states that observer participation "could consist of (...) making oral statements, at the end of discussions by Member States, time permitting, on each substantive agenda item."

It is up to the UN Member States to decide what your time permits. But we would like to stress that:

- **CSO participation is a core pillar of UN's democracy and legitimacy.** The level of participation at the UNHQ is already well below most other UN processes. If we set an even worse precedent here, it can undermine CSO participation in all the UN's work areas and processes.
- **As CSOs, we have expertise, insights, capacity and experience that can inform and improve the quality of the outcome.** On Tuesday this week, we were left in a situation where Member States kept stressing the need for more information on tax and human rights, and on the back row, we had CSO experts on that very same topic waiting for hours without being able to answer the requests for more information. At the end, we were given a very brief chance to speak - but only AFTER the discussion had been concluded.
- **We are coordinated.** The Modalities state: "Stakeholders may consider selecting spokespersons from among themselves, in a balanced and transparent way, taking into account equitable geographical representation, gender balance and diversity of participants." We have carefully selected expert spokespeople ready to give relevant statements.

How did we end up in this situation?

At the Session in April, the Chair asked for permission to grant the floor to stakeholders during the discussions - as opposed to after. To our shock, an EU Member State - France - objected. Since then, we have been further pushed to the margins - no longer able to speak on each substantive agenda item, but instead given a "multistakeholder slot" on Friday afternoon. This approach is an extremely strict interpretation of the term "time permitting" and de facto makes us unable to contribute meaningfully to the discussions of the committee before the conclusions are reached.

Negotiation-time has been wasted on going in circles: 'duplication', 'consensus', 'complementarity', 'should or could', 'the level of commitments' (high, low, no), 'opt-in and opt-outs'. As CSOs however, we are prepared, sticking to the rules, committed to see the mandate successfully implemented, and keen to inform the debate. We want to be part of the process and we can help overcome discussion bottlenecks. This is in the general interest of the whole exercise.

It is unacceptable and undemocratic to put CSOs on the sidetrack. Whenever specific topics are discussed there must be space for CSOs to directly and immediately contribute to the debate - before decisions are made. It's not too late to correct this failure.



COMMITMENT ISSUES

Day three's discussions about paragraph 10 turned into a UN-version of couples therapy, as a number of – primarily – wealthy OECD countries expressed strong hesitations about committing to... well, anything, really. Bordering the absurd, some of these countries expressed strong concerns about “tying” the people who will be negotiating the future Framework Convention to anything specific, while knowing that those people will – to a large extent – be exactly the same people as those who are now negotiating the ToR.

But let's take a closer look at what these commitment-phobe countries are actually saying. Are they arguing for a world where no country is bound to any international tax rules and everyone just exercises their “national sovereignty” however they like? No, this is absolutely not what they're saying. In fact, some of the wealthy OECD countries that now express shock about the idea of “committing” have long been strong advocates of ensuring that everyone else commits to international tax rules.

Forced commitment

“BEPS implementation: The country must have committed to implement the OECD's Base Erosion and Profit Shifting (BEPS) minimum standards”. This is a criterion in the EU's system for blacklisting countries as “uncooperative” on tax matters. But unlike the UN Tax Convention negotiations – where all countries are able to participate on an equal footing – the OECD-led negotiations that resulted in the BEPS package were non-inclusive. In the OECD's own words, the BEPS rules were “developed by 44 countries including all OECD and G20 Members participating on an equal footing, as well as through widespread consultations with more than 80 other jurisdictions”. It's easy to do the math. 193 UN Member States = 149 countries were not part of the exclusive group of “rule developers”. However, having been excluded from the BEPS negotiations did not exclude countries from being blacklisted by the EU.

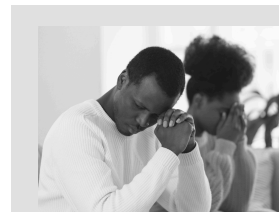
Take the example of Mongolia. Nobody would argue that this country is a tax haven, or even the slightest bit “uncooperative” on tax matters. And yet, in 2017, Mongolia was blacklisted by the EU with the argument that Mongolia had not “committed” to following the OECD's BEPS rules. Mongolia subsequently committed to following the OECD's BEPS rules and was taken off the list.

Enforcement without inclusivity

What we need is a UN convention that contains globally agreed commitments supported by enforcement mechanisms. Until now, we have never had an inclusive body where all countries participated on an equal footing, and thus we also do not have any globally agreed commitments. Despite that, we have harsh compliance mechanisms – including blacklisting – that countries use to force rules on others.

The idea of commitment to international tax rules is not new. What is new here is that countries will be able to decide for themselves whether to commit or not, as well as participate in defining what these commitments should look like. But if countries refuse to commit here at the UN, global tax governance is likely to continue being a world of “rule makers” and “rule takers”.

Signs you could be suffering from commitment issues:



Not opening up



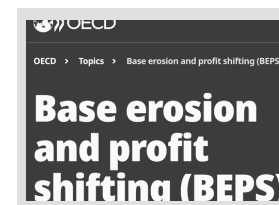
Not communicating properly



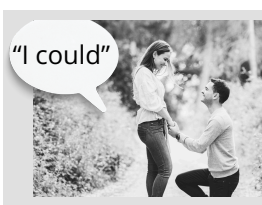
Relationship anxiety



Running away from serious issues



Focusing on past relationship



Feeling hesitant to talk about the future



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UN TAX CONVENTION TOR CHECK-LIST

As we begin week 2 of the negotiations, we present the Civil Society check-list for the Terms of Reference:

Fairness: Fairness is currently mentioned under Objectives (para 7). Some countries have raised questions about whether to delete it. **A reference to fairness must be kept in para 7.**

Progressivity: Currently not mentioned in the text, but Colombia has suggested a high-level commitment on progressive taxation to be added to the Substantive elements (para 10). This would be in line with the commitment from the Addis Ababa Action Agenda. **In line with Colombia's suggestion, a high-level commitment on progressive taxation must be added to para 10.**

Illicit financial flows: In the 1st draft negotiating text, IFFs were mentioned in the objectives (para 7) and as a topic for an early protocol. In the 2nd draft, the reference in the objectives had been deleted. **A reference to IFFs must be reinserted into para 7 and kept as an issue for early protocols.**

Addressing unfair allocation of taxing rights that disproportionately affects developing countries: This is a key part of the mandate (Resolution 78/230) and is currently included in principles (para 9) and under Substantive elements (para 10). **Addressing unfair allocation of taxing rights must be kept in para 9 and 10.**

Sustainable development: This is a central element in the Objective (para 7) and principles (para 9). **Language on "sustainable development" must be kept in para 7 and 9.**

Human rights: The 2nd draft ToR included a very balanced and focused paragraph on human rights under Principles (para 9). Some countries have raised questions and asked for more information, which civil society is happy to provide. Some countries have suggested human rights to be mentioned in the preamble. **The para on human rights can be referenced in the preamble but must also be kept in para 9 on Principles.**

Gender equality: This issue is not mentioned in the draft ToR. Some governments have argued that this would be covered by "human rights". **The issue of gender equality must be explicitly mentioned in the ToR.**



The richest countries in the world saying they don't have the resources to negotiate early protocols

THE CHECK-LIST, CONTINUED

Increasing equality within and between countries: Inequalities are not mentioned in the text, despite the fact that addressing inequalities is a key aim of taxation. **Language on addressing inequalities within and between counties must be added to the ToR.**

All issues suggested for protocols must also be covered by articles in the Convention: Colombia suggested linking para 10 on Substantive elements to the paragraphs on protocols, to reflect that protocols aim to implement the Convention, and that issues suggested for protocols must therefore have an anchor in the Convention. **In line with Colombia’s suggestion, all issues mentioned as topics for protocols must be covered by para 10 on Substantive elements (para 10 must be linked to the paragraphs on protocols).**

Taxation of high-net worth individuals: Taxation of high-net worth individuals is mentioned under Substantive elements (10) and early protocols (14). **Taxation of high-net worth individuals must be kept in para 10 and as an early protocol (para 14).**

Effective taxation of extractive industries: This issue is clearly mentioned in Resolution 78/230 but not in the ToR. Zambia has called for it to be included. **This issue must be added to the ToR, in line with Zambia’s suggestion.**

Tax and Environment (including climate) & the principle of Common But Differentiated Responsibilities: Climate / environment is included in the ToR under principles (para 9) and Substantive elements (para 10), as well as under “late” protocols (para 15). Common but differentiated responsibilities is not mentioned in the text. There are discussions about adding environmental issues to the preamble. The principle of Common But Differentiated Responsibilities must be added to para 9. **Environmental issues, including climate action, can be added to the preamble, but must also be kept in para 9 (principles) and 10 (Substantive elements) and added as an issue for an early protocol (para 14).**

Participation of civil society: It is clearly mentioned in Resolution 78/230 that the committee shall work with the contribution of civil society. However, it is not currently included in the ToR. **Text on civil society participation must be added to the ToR.**

Reform of the international corporate tax system & Taxation of cross-border services in a digitalized and globalized economy: Equitable taxation of multinational enterprises is under Substantive elements (para 10). Taxation of digitalized and globalized economy is under early protocols, and so is taxation of cross-border services (para 14). **Equitable taxation of multinational enterprises must be kept as an issue in para 10, and taxation of the digitalized and globalized economy, as well as taxation of cross-border services, must be kept as issues for early protocols (para 14).**

We look forward to ticking off this checklist with the support of all UN member states’!

Duplication Bingo

Duplication	Complementarity	Taxpayer rights
Capacity building	Consensus	Existing fora
Non-binding	Opt-in Opt-out	Could

How to Play:

Listen to the negotiations.

When a delegation mentions one of the words on the plate, cross it out.

When you have a full plate, yell "BINGO!"



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THE PREAMBLE & PRINCIPLES: A PLACE FOR HUMAN RIGHTS

If there is one set of binding norms that calls on states to cooperate internationally in tax matters, it is international human rights law. The Universal Declaration of Human Rights guarantees everyone a social and international order favorable to realizing their rights.

Virtually all States have already signed up to binding human rights treaties that contain an obligation to **cooperate to fulfill human rights within and beyond borders**, among other tax related duties.

In clarifying how States' human rights obligations apply to international taxation issues, the UN human rights mechanisms have noted that States must:

- Ensure that they **do not obstruct another State from complying with its obligations to mobilize resources for rights** by imposing unfair conditions in tax treaties.
- Ensure that **business actors they can regulate or influence do not undermine the efforts of the States** in which they operate to fully realize rights — for instance by resorting to tax evasion or tax avoidance strategies in the countries concerned.
- Create an **enabling international environment for allowing other States, particularly developing countries, to mobilize resources** to fulfill rights, including through diplomatic and foreign relations measures.
- **Combat harmful transfer pricing** practices and deepen international tax cooperation and explore the possibility to tax multinational groups of companies as single firms.
- **Curb harmful tax competition.**

When monitoring the implementation of these obligations, **human rights mechanisms have often strengthened the accountability of the biggest enablers of illicit financial flows.** For example:

- In 2016, the United Kingdom and its overseas territories and dependencies were scrutinized by the CESCR because of the impact that financial secrecy legislation and permissive rules on corporate tax have on the ability of developing countries to mobilize resources to fulfill human rights.
- In 2017, Switzerland was called upon for restricting the ability of developing countries to mobilize resources to protect women's rights by the CEDAW Committee.
- In 2022, the CRC urged Ireland to ensure that its tax policies do not contribute to tax abuse by companies registered there but operating in other countries, leading to a negative impact on the availability of resources for the realization of children's rights in those countries.

To ensure policy coherence and consistency, we need a commitment to international human rights in the principles and the preamble. While the preamble sets the parameters, embedding human rights in the principles provides concrete guidance which ensures the Convention aligns with the most relevant human rights standards for taxation. Treaties like the ICESCR, the CRC and the CRPD are central in this regard. International human rights law provides support and opens new pathways to achieve fairer tax systems.

Member States, we call on you to include human rights in the principle and preamble to achieve effective international tax cooperation.

GENDER EQUALITY CHAMPIONS AMONG MEMBER STATES, WHERE ARE YOU?

Our regressive tax systems are currently deepening gender inequality. **Member States, particularly those of you who claim to champion gender equality, we need YOU to step up.**

Last week, experts from civil society and academia pointed out how the deeply flawed international tax system is failing women and girls, making the internationally agreed targets on gender equality under Agenda 2030 even more difficult to achieve. Yesterday, during the deliberations on the Preamble text, we proposed a concrete recommendation to include the Beijing Declaration in the list of UN resolutions and international commitments that frame the Framework Convention. The Beijing Declaration and the Platform for Action, adopted unanimously by 189 countries at the Fourth World Conference on Women held in Beijing, China in September 1995, is an agenda for women's empowerment and considered the key global policy document on gender equality. It sets strategic objectives and actions for the advancement of women and the achievement of gender equality in 12 critical areas of concern, including "women and the economy." Para 19. emphasizes that "It is essential to design, implement, and monitor with the full participation of women, effective, efficient and mutually reinforcing gender-sensitive policies and programmes, including development policies and programmes, at all levels that will foster the empowerment and advancement of women".

We call on all governments to champion gender equality, and take action on our recommendations to include the Beijing Declaration and Platform for Action in the Preamble, as well as to add the commitments to gender equality, "substantive equality" and "non-discrimination" to the principles.

Tax is a gender issue. Women and girls bear the costs of deeply flawed international and national tax systems and regressive tax policies. If we are serious about terms such as "universality", "inclusivity" and a "holistic approach", gender equality and women's human rights must be made visible in the substantive text of the ToR.

Proposed Language

Civil society's full suggestions on language can be [found here](#).



Gender

Principles

9. c. be fully aligned with international human rights law and States' **existing gender equality commitments and human rights obligations** under human rights conventions to respect, protect and fulfil all human rights for all people in all countries;

d. take a holistic, sustainable development perspective that covers in a balanced and integrated manner economic, social and environmental policy aspects, **with consideration for any potential gender biases or gender inequality outcomes that may arise;**

CSO Participation

Resolution 78/230 (para 4) stressed that the work on developing a UN Framework Convention on International Tax Cooperation should be carried out with the contribution of international organizations and civil society. We call on all delegations to ensure that this wording is also included in the ToR.

16. The framework convention should be elaborated by a Member State-led negotiating committee. The intergovernmental negotiating committee would be convened in New York and initially in 2025 and 2026 meet for [number] sessions, of a duration of [number] working days each, and make all efforts to complete its work and submit the final text of the framework convention and of early protocols to the General Assembly for consideration [at its [81st] Session]. **The committee should carry out its work with the contribution of international organizations and civil society, in accordance with established practice.**





**CIVIL SOCIETY
FINANCING FOR
DEVELOPMENT**
Mechanism

The FfD Chronicle

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COMMITTING TO COMMIT... AT SOME POINT

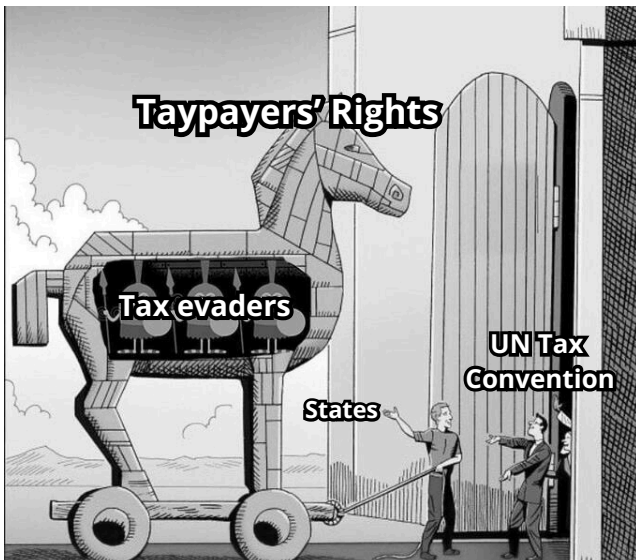
Yesterday’s discussion about para 10 on “Substantive elements” (i.e. Commitments) revealed that we have a high number of procrastinators in the room. Negotiators were eager to leave “flexibility for the future committee”, despite the obvious fact that this mysterious “next committee” will in fact be the very same people meeting in 2025 to negotiate the Convention.

The refusal to commit resulted in a very concerning race to the bottom, with negotiators taking turns to suggest deletions of even very basic and unambitious commitments from para 10. Some delegations are now unwilling to agree that taxing rights should be allocated fairly. **Para 10 is a very central element of the ToR, and it is vital to stop stripping it of content.**

DÉJÀ VU - DÉJÀ ADOPTÉ

Once upon a time in New York, the UN Member States gathered at a Conference Room at the UNHQ and agreed to stress that “**international tax cooperation should be universal in approach and scope**”. They also decided that: “**We commit to enhancing revenue administration through modernized, progressive tax systems**”. This was in 2015, and the outcome became the Addis Ababa Action Agenda (AAAA).

Those of us who were there can testify that the road to the Addis Ababa conference was long, and the agreed language was carefully written, discussed, negotiated and **AGREED BY CONSENSUS**. AAAA language should now be uncontroversial and fully acceptable to all Member States. Instead of going around in circles discussing already agreed-upon language, let’s send our warm thanks to the negotiators who helped us make progress in 2015 by adding language on universality and progressive tax systems to the UN Tax Convention ToR.



Human rights belong in BOTH the Preamble AND the Principles

As we described in yesterday’s FfD Chronicle and our intervention, human rights have strong links to the issue of fair taxation. Furthermore, it is a core pillar of the Charter of the United Nations and the UN values.

The Preamble and Principle serve two different functions, and it is vital to maintain human rights language in both. We urgently call on all delegations to support maintaining para 9C in the section on Principles!

MONEY, MONEY, MONEY, IT'S A RICH MAN'S WORLD

It is a cruel reality that those with the least ability to pay taxes pay the most - while the effective taxation of the super-rich dwindles. With the help of facilitators and the financial systems, the super-rich - or high net-worth individuals - benefit from the loopholes in the current international tax architecture to structure their wealth to generate little to no taxable income.

This is regressive and unacceptable. While millions of people go hungry, the super-rich refuse to pay their fair share, taking resources that should be going to providing quality public services, development, and more. This deep **inequality undermines all of our efforts to address global crises** but also the principles of equity and justice, threatening social cohesion and potentially leading to economic, political and social instability.

The effective taxation of high net-worth individuals is critical for tax justice. Marginalized people, including women, Indigenous Peoples, and racialised groups have been structurally denied the same access to wealth. To deliver on creating a more equitable world, the effective taxation of high-net worth individuals is key.

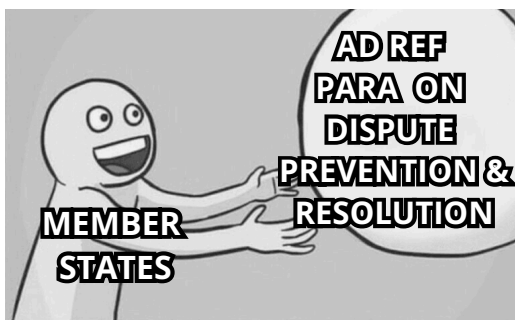
Achieving progressive, fair, effective and transparent international tax cooperation is urgent - but it requires that States effectively tax the wealth of the super-rich. **Distinguished delegates, continue to support this in the substantive elements and early protocols.**

RESOLUTION OF WHICH DISPUTES? BETWEEN WHOM?

Absurdly, yesterday's discussion revealed that delegations have concerns about all aspects of para 10 except for the part that is actually deeply concerning - namely the text on dispute resolution. Para 13 on Structural elements already contains language on "Dispute settlement mechanisms" to resolve disputes within the Framework Convention. That's all clear, and a very standard function of a Framework Convention. But if para 13 addresses disputes WITHIN the Framework Convention, what disputes is para 10 talking about?

We need a Framework Convention because today's international tax world is a junk drawer of different national rules, bilateral treaties, unclear guidelines and non-inclusive, non-global agreements. The lack of a truly global tax system has - as could be expected - resulted in confusion, inconsistencies, incoherence and - of course - an enormous amount of disputes. The UN Framework Convention can give us a clear and coherent system and prevent disputes going forward. But any suggestion that the Convention should address disputes that have arisen before it even came into existence gives rise to strong concerns and a lot of questions. Disputes between whom? Disputes about which rules? And how? On what legal basis should the Convention resolve such disputes?

When discussing para 10, it is not the top-level commitments to fair taxation that governments should be concerned about, but rather the blank-check subparagraph on dispute resolution.



All protocol-issues must be covered by para 10

Protocols are meant to implement commitments contained in the Framework Convention, and therefore, para 10 must - at minimum - include clear commitments that cover all items for which Protocols will be developed - regardless of whether the Protocols would be "simultaneous", "early" or "late".



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AMBITION IS NOT BUILT BEHIND CLOSED DOORS Civil society should be present in informal informals

Upholding a transparent negotiation process is key to ensuring an ambitious outcome: The presence of civil society ensures there is accountability for member states' positions. This is especially important in a process made to ensure effective taxation of rich corporations and individuals. Needless to say, these are powerful sections of society and national political processes can be easily captured by corporate/business interests. The best chance of agreeing an ambitious outcome is to keep cameras on during negotiations. Where there is a need for some 'informal informals' without an official record, observers should be allowed access to ensure accountability in, and contribute to, the process.

Civil society can be present in 'informal informals': There are several UN precedents and examples of civil society not just being able to observe informals but speak in them as well. This decision is at the discretion of the Chair and Member States and even when sometimes a Member State might oppose, the support of other Member States can prevail. This approach means that the Chair or any Member State could propose that we participate as observers and see if anyone else objects. This shifts the burden on those objecting, also allowing us to have individual conversations with those concerned with our participation in an attempt to bridge positions. This is how civil society is often in the room even during 'informal informals' (eg: HLPF, FfD, Rio Conventions etc). The UN tax convention process should follow these precedents that uphold transparency rather than opt for more restrictive approaches.

Civil society should be included in distribution lists for negotiation drafts, inputs and compilation texts: All negotiation drafts, inputs and compilation texts should always be posted online to allow everyone in different regions and countries to follow the process. In addition, civil society focal points/coordinators should be added to any distribution list used to share negotiation drafts, inputs and compilation texts. Receiving them in a timely manner along with Member States enables national and regional civil society organizations to follow-up with their respective delegations and regional groups.

We call on UN member states to reinforce good process UN precedents and uphold a fully inclusive, transparent negotiation process. This is the only way to ensure agreement of ambitious ToRs towards a UN Framework Convention on International Tax Cooperation.

We feel the same, Costa Rica

After two weeks of unrequited feelings from UN Member States, Costa Rica finally sent us some words of appreciation. Costa Rica formally proposed adding "the committee should carry out its work with the contribution of international organizations and civil society, in accordance with established practice." While we have previously received this same appreciation, in para 4 of Resolution 78/230, we are delighted to see that this language is now proposed for the terms of reference and are happy that Costa Rica's proposal was then echoed by Brazil, Bolivia, Colombia and Argentina. CSOs look forward to reading the next ToR Sunday knowing that Costa Rica and Latin American countries were heard by the Committee.

**EXCLUSIVE – ONLY IN THE FFD CHRONICLE:
Leaked draft statement on behalf of the G20 to the
UN Tax Convention Committee**

Mr. Chair, distinguished delegates,

I [could] have the honor to speak on behalf of the Group of 20.

The OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting (BEPS) has demonstrated the [potential][failure] [complete and utter lack] of international tax cooperation over the past decade.

We remain [committed to] [dubious about] [strongly against] finalizing and swiftly [implementing] [forgetting about] the Two-Pillar Solution, which respects the [sovereignty] [interests] of [the richest and most powerful] [IF][OECD] members.

The implementation of Pillar Two [will] [could] [stabilize] [further complicate] the global tax landscape, [reduce] [escalate] profit shifting, and [curb] [coordinate] [increase] harmful tax competition by [limiting] [maintaining] [mainstreaming] [exacerbating] the possibility of a race to the bottom on corporate tax rates.

We [note] [welcome with enthusiasm] [regret] [deeply despise] the work being undertaken to develop the Terms of Reference for the UNFCITC. The negotiations of the UNFCITC represent a [further opportunity] [regretful pressure on us] to [promote] [very reluctantly accept] inclusive and effective international tax cooperation.

We [expect] [will try to pressure] the UNFCITC to focus on [as little as possible] [international tax cooperation initiatives that can be] [opted out of] [effectively implemented] and support a [stable] [residence country focused] [source country focused] and predictable international tax system, considering valuable contributions from academia, the business sector, [and civil society organizations].

Promoting [in]effective, [un]fair, and [progressive] [regressive] tax policies remains a significant challenge that international tax [cooperation] [hegemony] and targeted [domestic reforms] [international pressure] could help address.

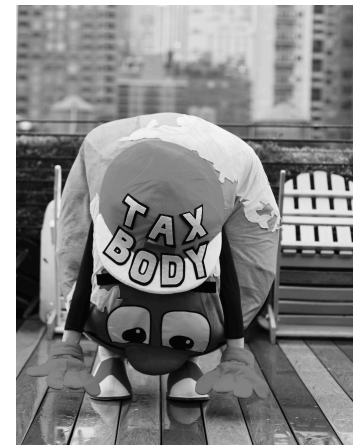
Thank you



Addis Ababa Financing for Development Summit, 2015



**UN Tax Convention ToR negotiations, 2024
The Global Tax Body has been waiting a long time for
this moment. Don't let it down!**



**We heard Member States' calls for flexibility...
but even the Global Tax Body has its limits!**



**We urge ALL Member States to develop an
ambitious ToR.**



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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?



Arturo Holmes/Getty Images

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



Dear Distinguished Delegates,

It's been a pleasure writing tax history together with you the past six months!

Take care and see you soon in [New York] [Nairobi] [Bangkok] [Geneva] [Santiago] [Your city of choice].

We'll always have Conference Room 2,
Civil Society