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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.

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.