

**Question & Answers**

**ON THE UNITED NATIONS AND  
INTERNATIONAL TAX COOPERATION**

---

**UN General Assembly Resolutions  
and the proposal for a UN Convention on Tax**

7 November 2023

# Contents

<b>Why do we need a UN Convention on Tax?</b> .....	4
1. What should a UN Tax Convention do? .....	4
<b>About the UN Tax Process</b> .....	5
2. What is the 2022 Resolution on International Tax Cooperation? .....	5
3. Have the UN Member States now committed to an intergovernmental UN tax process? .....	5
4. What have countries not committed to? .....	6
5. What has happened since the 2022 Resolution was adopted? .....	6
6. What is the Secretary-General’s Tax Report 2023? .....	6
7. What is the 2023 Draft Resolution On International Tax Cooperation?.....	7
8. What was the 2022 “ <i>US amendment</i> ”? .....	8
9. Where can I find government statements on UN and tax issues? .....	9
10. What happens next? .....	10
11. What will be decided at the UN in November 2023? .....	10
12. What should governments do now?.....	10
13. Can governments be “ <i>Bridge-builders</i> ” without supporting a UN Tax Convention? .....	11
14. What if “ <i>legally binding</i> ” is a “ <i>red line</i> ” for a government? .....	11
15. What should the new intergovernmental UN tax process ideally look like? .....	11
16. Isn’t ‘global tax standards’ a controversial idea? What about national sovereignty? .....	12
17. Why do we need an intergovernmental UN body when we already have an expert body under the UN? And isn’t the existing expert body working well? .....	13
18. Won’t this new UN tax negotiation be very expensive?.....	13
19. How much money is lost due to international tax abuse? .....	14
20. Why the UN? Why not establish a new World Tax Organisation?.....	14
<b>About the UN in general</b> .....	15
21. Are there any other intergovernmental processes or structures in the UN that include all governments in a negotiation?.....	15
22. If all countries are members, won’t the UN body be unable to make decisions? .....	15
23. In these times of war and conflict, won’t the UN be paralyzed? .....	15
24. What is a “ <i>Framework</i> ” Convention? .....	15
25. Won’t it take many decades to negotiate a UN Tax Convention? .....	16
<b>The OECD, the UN and Tax Issues</b> .....	16
26. We already have the OECD – why do we need another intergovernmental tax body? .....	16
27. Which countries are members of the OECD’s Inclusive Framework? .....	17

28.	Have developing countries been able to participate on an equal footing in the OECD’s Inclusive Framework? .....	18
29.	Won’t the UN just be duplicating the OECD?.....	18
30.	The political realities haven’t changed – won’t the UN negotiations just be a replay of what we’ve seen at the OECD?.....	19
31.	Has the OECD produced a global tax convention?.....	19
32.	What is the role of “ <i>Tax Haven Blacklists</i> ”? .....	20
33.	Isn’t the OECD much more efficient than the UN?.....	21
34.	What if there are some parts of the OECD decisions that we would like to keep? And why abolish the OECD now that they have built up such great capacity and expertise? .....	21
35.	Are there differences between the way intergovernmental tax negotiations happen at the OECD and the way they will happen at the UN?.....	22
36.	Tax issues are very technical and OECD has the expertise – isn’t this too complicated for the UN?.....	23
37.	Could we split the decision-making on international tax issues between the OECD and the UN, or do a joint UN/OECD process? .....	25
38.	Many of the countries in the UN are tax havens. Won’t that be a problem? .....	25
39.	Shouldn’t we just focus on capacity building for developing countries? .....	26
	<b>Key country groups and actors</b> .....	26
40.	Which country blocks are united and which are divided?.....	26
41.	Do OECD countries have an interest in supporting a UN Tax Convention? .....	27
42.	What if the US blocks the negotiations? .....	27
43.	If so many countries reject the idea of an intergovernmental UN tax body, isn’t it an impossible dream?.....	28
44.	What would be the role of Finance vs. Foreign Ministries in relation to tax? .....	28
45.	What is the role of Parliamentarians? .....	29
46.	Do multinational corporations have any interest in a UN Tax Convention? .....	29
47.	Is this issue relevant for climate groups and activists?.....	29
	<b>Contact information</b> .....	30

# Why do we need a UN Convention on Tax?

## 1. What should a UN Tax Convention do?

If a Tax Convention was to be negotiated at the UN, it would be the world's first truly global agreement on international tax cooperation. Furthermore, it could fill a number of important gaps that currently exist in international tax governance.

In 2022, The Global Alliance for Tax Justice and the European Network on Debt and Development published a [proposal](#) for what a UN Tax Convention could look like.

The proposal draws on existing UN conventions as examples of how a UN Tax Convention could be designed and explains why such a convention would have an important added value. For example, the proposed UN Tax Convention would:

- **Create an inclusive global tax body.** In the form of a Conference of the Parties, the Convention would 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 illicit financial flows.** The Convention would allow governments to take further action to fight international tax abuse.
- **Promote fairness towards developing countries.** The proposed Convention seeks to replace existing tax standards and rules that are biased in favor of richer and larger countries. Instead, the proposal aims to introduce a system that fully includes the interests, concerns and needs of developing countries.
- **Create strong links to development, human rights, equality and environmental protection.** The Convention aims to promote progressive tax systems, and link global tax governance and other governmental commitments and obligations, including those relating to human rights, the UN Sustainable Development Goals, equality and environmental protection.
- **Create global coherence and reduce complexity.** The Convention is designed to 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 would 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 would ensure that international decision-making on tax is transparent, participatory and allows citizens to hold their governments to account. This is unlike the situation today, where intergovernmental tax negotiations are often highly secretive and the possibilities for public participation are very limited.
- **Introduce a framework with a stepwise approach towards more detailed intergovernmental agreements.** The Convention would be a framework convention, which would introduce the basic structures, commitments and agreements, and then allow for more detailed elements to be developed over time.

# About the UN Tax Process

## 2. What is the 2022 Resolution on International Tax Cooperation?

The General Assembly Resolution on "*Promotion of Inclusive and Effective Tax Cooperation at the United Nations*" (A/RES/77/244) was put forward by Nigeria on behalf of the Africa Group in the 2<sup>nd</sup> committee of the UN General Assembly in Autumn 2022. It was adopted by consensus in the 2<sup>nd</sup> Committee on 23 November 2022.

The vote of the 2<sup>nd</sup> Committee was later confirmed by the plenary of the UN General Assembly, in line with the usual procedure. Furthermore, the budget for implementing the Resolution was approved in line with the analysis of Programme and Budget Implications (document A/C.2/77/L.75, published 21 November 2022), which had been produced by the UN Secretariat.

The Resolution included two implementation steps.

- During Step 1 – running from January to September 2023 – the UN Secretary-General prepared a report on international tax cooperation, which was mandated by paragraph 3 of the Resolution (for more detail see below under Question 6: What is the Secretary-General's Tax Report 2023?). The final version of the report (document A/78/235) was published in September 2023.
- Step 2 is an intergovernmental UN tax process, which was mandated by paragraph 2 of the Resolution. The modalities for this process are being discussed as a part of a follow-up Resolution (See also Question 7: What is the 2023 Draft Resolution on International Tax Cooperation?) in the 2<sup>nd</sup> Committee of the UN General Assembly from October to November 2023.

The approved budget covers Step 1 but not Step 2. The budget for Step 2 will be up for approval (in the 5<sup>th</sup> Committee of the UN General Assembly) once a follow-up resolution that defines the frame for the intergovernmental UN tax process has been adopted (in the 2<sup>nd</sup> Committee of the UN General Assembly).

## 3. Have the UN Member States now committed to an intergovernmental UN tax process?

Yes. Through Resolution A/RES/77/244, all countries have now committed to:

*"...begin intergovernmental discussions in New York at United Nations Headquarters on ways to strengthen the inclusiveness and effectiveness of international tax cooperation through the evaluation of additional options, including the possibility of developing an international tax cooperation framework or instrument that is developed and agreed upon through a United Nations intergovernmental process, taking into full consideration existing international and multilateral arrangements".*

Source: UN General Assembly Resolution A/RES/77/244.

It should be noted that the notion of having an intergovernmental UN tax process has been very controversial for decades. This is a big shift in positions.

#### **4. What have countries not committed to?**

While the countries have committed to discussing ways to strengthen international tax cooperation by evaluating additional options, including a “*tax cooperation framework or instrument*,” they have not yet committed to actually producing such a “*framework or instrument*.” They have also not agreed on what a “*framework or instrument*” is. It could be interpreted as a UN Tax Convention, but other types of frameworks also exist (see also Question 6: *What is the Secretary-General’s Tax Report 2023?*). It should also be noted that in an earlier draft of the Resolution, the Africa Group has included the words “*Tax Convention*” instead of “*framework or instrument*,” but this was taken out as a part of the negotiations leading up to the vote.

#### **5. What has happened since the 2022 Resolution was adopted?**

As foreseen in the Resolution, the Secretary-General has produced a report outlining the options for moving forward (see Question 6: *What is the Secretary-General’s Tax Report 2023?*), and the Africa Group has tabled a follow-up resolution at the 2<sup>nd</sup> Committee of the UN General Assembly (see also Question 7: *What is the 2023 Draft Resolution On International Tax Cooperation?*).

#### **6. What is the Secretary-General’s Tax Report 2023?**

Article 3 of the 2022 Resolution requested the UN Secretary-General to:

*“prepare a report analysing all relevant international legal instruments, other documents and recommendations that address international tax cooperation, considering, inter alia, avoidance of double taxation model agreements and treaties, tax transparency and exchange of information agreements, mutual administrative assistance conventions, multilateral legal instruments, the work of the Committee of Experts on International Cooperation in Tax Matters, the work of the Organisation for Economic Co-operation and Development/Group of 20 Inclusive Framework on Base Erosion and Profit Shifting and other forms of international cooperation, as well as outlining potential next steps, such as the establishment of a Member State-led, open-ended ad hoc intergovernmental committee to recommend actions on the options for strengthening the inclusiveness and effectiveness of international tax cooperation;”*.

As a part of the preparation for the report, the Secretary-General carried out a public consultation. Over 80 written submissions were made from governments, civil society organisations, business representatives and other actors. All submissions can be found online [here](#).

In September 2023, the final version of the [report](#) (document A/78/235) was published.

The report considers potential ways for making international tax cooperation fully inclusive and more effective and outlines the following three options:

**Option 1: A multilateral convention on tax.** This would be a legally binding instrument that would potentially cover a wide range of tax issues. It would set out specific objectives, definitions of the key terms and mandatory obligations, including rules on reporting and exchange of information for tax purposes. It would also establish a monitoring mechanism to ensure adherence to the rules and dispute resolution procedures.

**Option 2: A framework convention on international tax cooperation.** This would also be a legally binding multilateral instrument, but compared to Option 1 it would contain fewer substantial elements and be more focused on establishing an overall system of international tax governance. A framework convention would still include objectives, key principles governing the cooperation and the governance structure of the cooperation framework. It would also include the procedures for developing additional legally binding agreements in the form of protocols to the convention. Compared to Option 1, Option 2 would allow governments to take a stepwise approach towards negotiating more substantial agreements on different tax issues – starting with a framework, and adding protocols later on.

**Option 3: A framework for international tax cooperation.** The central point that differentiates Option 3 from the two other options is that it would not be legally binding. Instead, it would be a non-binding multilateral agenda for coordinated actions on improving tax norms and capacity.

While the Secretary-General's report outlines these as three separate options, it also be noted that options that fall in-between these options would also be possible. For example, the UN Framework Convention on Climate Change and the Convention on Biological Diversity are framework conventions (Option 2) which includes a number of substantial elements (making them, in some ways, more like Option 1).

## **7. What is the 2023 Draft Resolution on International Tax Cooperation?**

On 11 October 2023, a new draft Resolution on Promotion of inclusive and effective international tax cooperation at the United Nations (document number [A/C.2/78/L.18](#)) was tabled by Nigeria on behalf of the Africa Group. The Resolution follows up on the 2022 Resolution and proposes that the UN Member States should:

*[Decide] to establish a Member State-led, open-ended ad hoc intergovernmental committee for the purpose of elaborating a comprehensive convention on international tax cooperation.*

The Resolution also specifies that this committee should finalise its work – “preferably not later than June 2025”.

The term “open-ended” entails that all countries would be able to participate. In line with common practice, the Resolution also includes the establishment of a bureau with ten members. The role of the bureau would be to oversee the process, but the negotiation of the convention would take place in the full, open-ended committee where all UN Member States can participate on an equal footing.

The Resolution also specifies that the process should be open to contributions from civil society and international organisations. In this context, it is worth noting that the term “*international organisations*” would include, among others, the Organisation for Economic Co-operation and Development (OECD).

In terms of the type of convention proposed in the Resolution the term “*comprehensive*” makes it in line with Option 1 of the Secretary-General’s report (see also Question 6: *What is the Secretary-General’s Tax Report 2023?*). At the same time, the Resolution also specifies that the convention should ensure “*sufficient flexibility and resilience in the international tax system to continuously ensure equitable results as technology and business models and the international tax cooperation landscape evolve*”, which adds in the option of taking further measures down the road (and thus a stepwise approach, as foreseen in Option 2).

In terms of the scope, the Resolution specifies that when developing the comprehensive convention, the intergovernmental committee should:

- Take into account the needs, priorities and capacities of all countries, in particular developing countries and countries in special situations;
- Adopt a holistic, sustainable development perspective that considers the interaction of international tax rules with other important economic and social policy areas, such as trade and investment, inequality, the environment, gender, health and intergenerational aspects;
- Elaborate measures against tax-related illicit financial flows and the taxation of income derived from the provision of cross-border services in an increasingly digitalised and globalised economy, as well as examine other priority issues.

## **8. What was the 2022 “US amendment”?**

On 23 November 2022, immediately before the vote on the Africa Group’s 2022 draft Resolution, there was a vote on a proposal for an amendment to the Resolution. The proposal for an amendment (document A/C.2/77/CRP.2, dated 22 November 2022) had been put forward by the US delegation and suggested the following deletion in the Africa Group’s draft Resolution:

*“Decides to begin intergovernmental discussions in New York at United Nations Headquarters on ways to strengthen the inclusiveness and effectiveness of international tax cooperation through the evaluation of additional options, including the possibility of developing an international tax cooperation framework or instrument that is developed and agreed upon through a United Nations intergovernmental process, taking into full consideration existing international and multilateral arrangements”.*

It is relevant to note that even in the US amendment, the commitment to have an intergovernmental UN tax process was maintained. The US proposal was voted down and the voting result, as recorded in the minutes from the meeting, was as follows:

A recorded vote of 97 to 55, with 13 abstentions.



***In favour:***

Albania, Andorra, Australia, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Guinea, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Japan, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Micronesia (Federated States of), Monaco, Montenegro, Netherlands, New Zealand, North Macedonia, Panama, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, San Marino, Serbia, Seychelles, Slovakia, Slovenia, Spain, Sweden, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America.

***Against:***

Algeria, Angola, Antigua and Barbuda, Bahamas, Bahrain, Barbados, Belize, Benin, Bolivia (Plurinational State of), Botswana, Brazil, Brunei Darussalam, Burkina Faso, Burundi, Cabo Verde, Cameroon, Central African Republic, Chad, China, Comoros, Côte d'Ivoire, Cuba, Democratic People's Republic of Korea, Djibouti, Dominican Republic, Ecuador, Egypt, Equatorial Guinea, Eritrea, Eswatini, Ethiopia, Fiji, Gabon, Gambia, Ghana, Grenada, Guatemala, Guinea-Bissau, Guyana, India, Indonesia, Iran (Islamic Republic of), Iraq, Jordan, Kazakhstan, Kenya, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Libya, Madagascar, Malawi, Malaysia, Maldives, Mali, Mauritania, Mauritius, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Nicaragua, Nigeria, Oman, Pakistan, Papua New Guinea, Paraguay, Philippines, Qatar, Russian Federation, Rwanda, Saint Kitts and Nevis, Saudi Arabia, Senegal, Sierra Leone, Singapore, Solomon Islands, Somalia, South Africa, Sri Lanka, Sudan, Syrian Arab Republic, Thailand, Timor-Leste, Togo, Trinidad and Tobago, Tunisia, Uganda, United Arab Emirates, United Republic of Tanzania, Viet Nam, Yemen, Zambia, Zimbabwe.

***Abstaining:***

Argentina, Bangladesh, Bhutan, Chile, Colombia, Costa Rica, El Salvador, Mexico, Norway, Peru, Suriname, Türkiye, Uruguay.

Furthermore, the minutes note that:

*“Subsequently, the Secretariat was informed by the delegations of Bangladesh, Belarus, Guinea and Seychelles that they had intended to vote against. In addition, the Secretariat was informed by the delegation of Kazakhstan that they had intended to abstain.”*

After the US Amendment had been voted down, the Africa Group's draft Resolution was adopted by consensus without any amendments. This is the document that we now refer to as the 2022 Resolution, or – in full - General Assembly Resolution on "Promotion of Inclusive and Effective Tax Cooperation at the United Nations" (A/RES/77/244).

## **9. Where can I find government statements on UN and tax issues?**

Check out this great [database](#) produced by Society for International Development and the Civil Society Financing for Development Mechanism. It covers over a decade of government statements in support of an intergovernmental UN tax process and UN Tax Convention.

## **10. What happens next?**

The 2023 draft Resolution is now being negotiated in the 2<sup>nd</sup> Committee of the UN General Assembly. The official deadline for finishing the negotiations is by 22 November 2023.

The draft Resolution sets out the purpose and process for the intergovernmental UN Tax Process, which was agreed as a part of the 2022 Resolution. As described above (see Question 7: What is the 2023 Draft Resolution on International Tax Cooperation?), the draft has been tabled by the Africa Group and proposes that a comprehensive UN Tax Convention should be negotiated.

If a 2023 Resolution is adopted, it will be passed on to the 5<sup>th</sup> Committee of the UN General Assembly, which will decide on the budget for implementing the Resolution. Prior to that, during the last phase of the discussion in the 2<sup>nd</sup> Committee, the UN Secretariat will produce a Programme and Budget Impact analysis of the latest draft of the Resolution.

## **11. What will be decided at the UN in November 2023?**

The upcoming negotiations at the 2<sup>nd</sup> Committee of the UN General Assembly will centre around the 2023 draft Resolution that the Africa Group has tabled. As can be seen in the draft, these negotiations will not include any detailed decisions about tax matters, but rather be about the following overall questions:

- 1) Should the UN start negotiations for the world's first truly global agreement on international tax cooperation?
- 2) Should all countries have the right to participate on an equal footing when decisions are made on global tax matters?
- 3) Should the international tax negotiations consider links to issues such as sustainable development, inequality, environment, gender, health and intergenerational aspects.

## **12. What should governments do now?**

It is vital that governments support the Africa Group's proposal to negotiate a UN Tax Convention and speak out in the 2<sup>nd</sup> Committee of the UN General Assembly in favour of the resolution that the Africa Group has tabled.

Furthermore, governments should enter into a more detailed discussion about what a UN Tax Convention could look like. In the 2023 draft Resolution, the Africa Group has included an overall outline of what governments should keep in mind when negotiating the Convention, and this is a good start. In 2022, the Global Alliance for Tax Justice and the European Network on Debt and Development also published a specific proposal for a UN Convention on Tax, which explains what the added value of a convention would be and draws on existing UN conventions as examples of how a UN Tax Convention could be designed. The proposal can be found [here](#).

### **13. Can governments be “*Bridge-builders*” without supporting a UN Tax Convention?**

No. Any country that refuses an invitation to negotiate an international convention on an issue is clearly not a “*bridge-builder*” since international negotiation is the very essence of building bridges between different countries and positions. With its proposal to negotiate a UN Tax Convention on international tax cooperation, the Africa Group has invited the world’s governments to build bridges. Any country that refuses that invitation would be a “*blocker*” – not a “*bridge-builder*”.

### **14. What if “*legally binding*” is a “*red line*” for a government?**

It would be difficult to envision that international tax cooperation could be secured with guidelines or non-binding measures, and this has also never been the approach. Since international tax cooperation started over a century ago, it has been built on bilateral and –in some cases multilateral– treaties, which means legally binding instruments.

In line with this, there also doesn’t seem to be any governments arguing against multilateral tax conventions as such. A number of OECD countries have raised concerns about having a legally binding agreement at the UN, but those same countries have no objections against legally binding agreements being produced at the OECD. In fact, during the month of October 2023 alone, the OECD published no less than two proposals for legally binding multilateral tax conventions (The Multilateral Convention to Facilitate the Implementation of the Pillar Two Subject to Tax Rule (3 October 2023) and The Multilateral Convention to Implement Amount A of Pillar One (11 October 2023)). But one very important difference between the conventions published by the OECD and the proposed UN Tax Convention is that the latter would be negotiated in a forum where all countries participate on an equal footing, whereas that was not the case with the former (see also Question 27: *Which countries are members of the OECD’s Inclusive Framework?*). It should also be noted that just because governments agree that the OECD can produce and publish a tax convention, it does not necessarily mean that those same governments plan to sign and ratify it (see also Question 31: *Has the OECD produced a global tax convention?*). Lastly, it is important to stress that although the OECD has published several multilateral tax conventions, major gaps remain unaddressed (see Question 1: *What should a UN Tax Convention do?*). One obvious gap is the fact that although there are several international tax conventions, not a single one is a global agreement.

### **15. What should the new intergovernmental UN tax process ideally look like?**

A key element of the 2023 discussion is about how the intergovernmental UN process, which was agreed as a part of the 2022 Resolution, will be carried out and what its purpose will be. This discussion is taking place as a part of the discussion about the Africa Group’s 2023 draft Resolution.

During 2022, a broad coalition of civil society organisations have called for the UN Tax Process to:

- Be intergovernmental: It should consist of representatives negotiating on behalf of governments. This is already included in the [2022 Resolution](#) (paragraph 2) as well as in the Africa Group's 2023 [draft Resolution](#).
- Have universal membership: All countries should be able to participate on an equal footing. This is included in the Africa Group's 2023 [draft Resolution](#).
- Be adequately resourced: It must have the secretariat capacity and resources to operate effectively. If a 2023 Resolution is adopted, this question will be discussed during December 2023 in the 5<sup>th</sup> Committee of the UN General Assembly. Prior to that, during the last phase of the discussion in the 2<sup>nd</sup> Committee, the UN Secretariat will produce a Programme and Budget Impact analysis of the latest draft of the Resolution.
- Be transparent. In particular, it is important that civil society is able to participate as observers and input into the process. This is included in the Africa Group's 2023 [draft Resolution](#).
- Include sufficient intergovernmental meeting time to allow for in-depth discussions of the options. This is included in the Africa Group's 2023 [draft Resolution](#) which mandates negotiation-sessions of up to 15 working days at the time.
- Include a road ahead towards the negotiation of a UN Tax Convention within a few years. At the moment, governments have only committed to discussing the option of having a UN tax "*framework or instrument*". The 2022 Resolution also includes some hints about what the next steps could be, since paragraph 3, which calls on the UN Secretary-General to write a report that will feed into the process, specifies that this report should include "*potential next steps, such as the establishment of a Member State-led, open-ended ad hoc intergovernmental committee to recommend actions on the options for strengthening the inclusiveness and effectiveness of international tax cooperation*". However, it is vital that a clearer road ahead is outlined in the 2023 Resolution and that the Resolution gives a mandate for the actual intergovernmental negotiations of a UN Tax Convention to begin. This is included in the Africa Group's 2023 [draft Resolution](#).

## **16. Isn't 'global tax standards' a controversial idea? What about national sovereignty?**

We already have several bodies adopting tax standards that all countries are expected to follow, but the current bodies are led by the OECD. The OECD has even developed international legally binding agreements – 'multilateral conventions' – on tax matters. Therefore, we are not suggesting something new. We are simply suggesting that these decisions on global tax standards should happen in a process where all governments negotiate as equals.

It should also be noted that national tax systems and the international tax system should not be seen as alternatives. In fact, the failure of the global tax system typically leads to emergence of tax havens and harmful tax practices which undermine national tax systems.

But national sovereignty is a key concern when it comes to global tax standards, and that is a strong argument for why all countries should be able to negotiate as equals when such standards are adopted.

**17. Why do we need an intergovernmental UN body when we already have an expert body under the UN? And isn't the existing expert body working well?**

It is true that the UN already has an Expert Committee on International Tax Matters, and under the circumstances, it is working surprisingly well. It has, for example, managed to develop the UN Model Double Taxation Convention which among other things includes article 12b on taxation of digital services. This is an issue that the developing country experts of the committee pushed hard for – and won.

However, an intergovernmental body and an expert body are two very different things. The current UN expert body consists of members speaking in their personal capacity. Therefore, the body is not suited to making political decisions on behalf of governments, and especially not on an issue as sensitive as tax. Furthermore, the outcomes of the work are not intergovernmental decisions – they are expert decisions. For example, the Model Tax Convention provides guidance on how countries can do tax treaties, but it is not an intergovernmental agreement.

Lastly, due to the strong resistance that there has been among OECD countries towards having the UN work on international tax matters, the UN Expert Committee has an extremely small secretariat and strict restrictions on available resources and meeting time. Despite these challenges the committee has, as mentioned above, been surprisingly productive.

**18. Won't this new UN tax negotiation be very expensive?**

What's expensive is to carry on without repairing the global tax system. As described under the Question 19: How much money is lost due to international tax abuse? the failure of the global tax system is costing countries hundreds of billions of dollars in lost tax income every year.

The UN system is already established. What we are asking is for governments to use this system to solve the global tax problems. The exact costs will depend on the final setup of the UN tax process. Of course, the extra meetings and staff time will come with expenses, and as mentioned above there will be a need to allocate more resources to the UN Secretariat. But those costs will first of all be shared among the UN member states. Second, they will be very small compared to the enormous sums of money that would be saved by fixing the tax system.

Of course, countries that are currently profiting from being tax havens will lose that income if the system is repaired. However, the overall tax payments from multinational corporations and wealthy individuals will increase dramatically once they start paying their fair share of taxes rather than hiding their fortunes in secret bank accounts.

## 19. How much money is lost due to international tax abuse?

Currently, trillions of dollars have been hidden away in tax havens and hundreds of billions are lost every year due to tax avoidance and evasion. For example, in the 2023 State of Tax Justice report, Tax Justice Network estimated that:

- Countries are losing US\$ 480 billion in tax a year to global tax abuse.
- Of the US\$ 480 billion lost a year, US\$ 311 billion is lost to cross-border corporate tax abuse by multinational corporations and US\$ 169 billion is lost to offshore tax abuse by wealthy individuals.
- Lower income countries continue to be hit harder by global tax abuse. While most annual tax losses are suffered by higher income countries (US\$ 433 billion), these losses are equivalent to 9 per cent of higher income countries public health budgets. Lower incomes countries' tax losses (US\$ 47 billion) are equivalent to half (49 per cent) of their public health budgets.
- If countries stay the course followed for the past 10 years on international tax rules, countries will lose US\$ 4.8 trillion over the next 10 years.

## 20. Why the UN? Why not establish a new World Tax Organisation?

The UN is the only place where all governments – including the poorest – are able to participate and negotiate on an equal footing. The group of 'Least Developed Countries' all have permanent missions established to represent them at the UN and have formed their own UN negotiating group (the LDC Group). If a tax body was established as a new body outside the UN system, it would be very difficult to ensure that the poorest countries would be able to participate as effectively as they can in the UN, where all their basic structures are now in place.

Furthermore, establishing a new organisation would be a very time and resource-consuming process. Before the organisation could start working it would have to develop its organisational setup, adopt procedures, mobilise funding, get members, etc. This would take many years. At the UN, on the other hand, these structures are already in place.

When it comes to the discussion about whether the UN is 'dysfunctional', it is worth noticing that some developed countries, and in particular the EU, are on the one hand arguing against the UN as a forum to discuss tax, but on the other hand arguing strongly for using the UN to negotiate agreements on, for example, sustainable development goals and climate change. The US is a different story – see Question 42 *What if the US blocks the negotiations?*

Lastly, positioning the tax negotiations at the UN can also strengthen the links between international tax negotiations and other key issues that are mainly handled by the UN – including the Sustainable Development Goals, Human Rights, Gender Equality, and Climate Change.

## About the UN in general

### 21. Are there any other intergovernmental processes or structures in the UN that include all governments in a negotiation?

There are many examples of this: for example, the UN Climate Convention and the UN Convention on Biological Diversity (near-universal membership), or the UN's Forum on Forests (a subsidiary body under the Economic and Social Council (ECOSOC) with universal membership).

### 22. If all countries are members, won't the UN body be unable to make decisions?

There are several examples of UN bodies with universal or near-universal membership that have been able to negotiate and adopt legally binding agreements, including the UN Framework Convention on Climate Change and the Convention on Biological Diversity. In fact, a body with universal membership can be more efficient than a body with limited membership. This is because decisions taken by an exclusive group of governments can easily be challenged by all the countries that weren't at the table when it was negotiated, and thus there is a high risk that the decisions will have to be renegotiated. In a body with universal membership, no government can claim to have been excluded from the process.

### 23. In these times of war and conflict, won't the UN be paralyzed?

No, this does not seem to be the case. The dynamics of geopolitics is a complex issue, but increased levels of tension in one area can sometimes create a greater willingness to cooperate in other areas. In this context, it is worth noting that the UN is currently being quite productive and global tax cooperation is not the only area where major progress has happened within the last year. Other examples include:

- The United Nations High Seas Treaty, also known as the Agreement on Biodiversity of Areas Beyond National Jurisdictions, is a legally binding agreement that was adopted in June 2023. The negotiations were initiated in 2018 and until recently, it was considered a very difficult task to achieve a global agreement on this complex and highly political issue.
- In November 2022, an international agreement on Loss and Damage was reached under the UN Framework Convention on Climate Change. This is another example of a recent agreement achieving progress that was previously considered politically impossible.
- In December 2022, the Kunming-Montreal Global Biodiversity Framework was adopted under the UN Convention on Biological Diversity, following four years of consultations and negotiations.

### 24. What is a “Framework” Convention?

A Framework Convention is a legally binding agreement that sets up a governance framework on an issue and allows for further legally binding agreements to be negotiated later on (in the form of protocols). It is commonly used on areas where there are still a number of outstanding issues to be agreed upon, because it allows governments to take a stepwise approach as opposed to aiming to resolve all issues

at once. It also allows flexibility to adapt to changing circumstances and address new issues as they arise. While the emphasis of Framework Conventions is to establish the overall governance framework, they can also contain substantial elements on issues where political agreement can be reached among governments already before the Convention is finalised. This is, for example, the case in the UN Framework Convention on Climate Change and the Convention on Biological Diversity. Another example of a Framework Convention with substantial elements is the [proposal for a UN Convention on Tax](#), which has been put forward by The Global Alliance for Tax Justice and Eurodad. For more information, see Question 6 [What is the Secretary-General's Tax Report 2023?](#)

### **25. Won't it take many decades to negotiate a UN Tax Convention?**

No, it is definitely not true to say that UN negotiations always take decades. For example, it took the UN [fifteen months](#) to negotiate the United Nations Framework Convention on Climate Change.

As regards the negotiation of a UN Tax Convention, the Africa Group has, in the [draft 2023 Resolution](#), proposed that the negotiations should be finished “*preferably not later than June 2025*”.

Some other UN negotiations have taken longer time, but those negotiations have typically been marked by stark differences in positions and a lack of political will to find compromises. The latest UN climate agreement was mandated in Bali in 2007 and was supposed to have been finalised at the Copenhagen Summit in 2009. However, due to the fact that the negotiations experienced a dramatic breakdown in Copenhagen, the process had to be restarted and the agreement instead ended up being adopted in Paris in 2015 – eight years after the original mandate had been approved.

Ultimately, the speed of the negotiations is a question of political will – if the negotiations move very slowly, it's because some governments are blocking progress and it's important to call them out on it. If we assume that UN negotiations always take very long, we can end up making it easier for countries to block and obstruct the negotiations and thus create a self-fulfilling prophecy.

## **The OECD, the UN and Tax Issues**

### **26. We already have the OECD – why do we need another intergovernmental tax body?**

The first problem with the current system is that it is highly undemocratic. At the OECD in Paris, decision-making on 'global' tax and transparency standards happens behind closed doors. While countries are able to join bodies such as the OECD's Inclusive Framework, they can only do so if they comply with specific conditions, and it remains a challenge that the Secretariat of the process –the OECD– is mainly accountable to the OECD members. At the moment, over a third of the world's countries have decided not to join the OECD's Inclusive Framework (see also



Question 27: Which countries are members of the OECD's Inclusive Framework?. Among the Least Developed Countries (LDCs), over two thirds are not part of the Framework. For more information, see this [briefing, for example](#).

Secondly, the decision-making process in the OECD's Inclusive Framework has been highly concerning. For example, the [2021 decision](#) on Pillar 1 and Pillar 2 was taken despite the fact that four developing countries which were part of the negotiations – Kenya, Nigeria, Pakistan and Sri Lanka – did not support the outcome.

Overall, the OECD's track record shows that the interests of developing countries are often not taken into account (for an analysis of the OECD's Pillar 1 and Pillar 2 proposals – see this [article, for example](#)). In other cases, OECD decisions have direct negative financial impacts on developing countries. This is the case, for example, with OECD standards that argue in favour of allocating taxing rights to the countries where multinational corporations (MNCs) have their headquarters – mainly OECD countries – at the expense of the countries where these companies have their economic activity. In reality, this means that taxing rights, and therefore income, is transferred from developing countries to developed countries.

## **27. Which countries are members of the OECD's Inclusive Framework?**

A framework does not become inclusive just because you call it inclusive. As of October 2023, the [membership](#) of the OECD's Inclusive Framework is as follows:

The Inclusive Framework has 143 members, but only 126 of these are countries. The remaining 17 members (making up 12% of the total Inclusive Framework membership) are not countries but rather “*jurisdictions*” such as Aruba, Curacao, etc. The country that has the most “*jurisdictional members*” is the UK, which in addition to its own “*country-membership*” has the following seven overseas territories as individual members of the Inclusive Framework: Anguilla, Bermuda, British Virgin Islands, Cayman Islands, Gibraltar, Montserrat, Turks and Caicos Islands.

### Some other stats:

- The United Nations has 193 countries that are members as well as two “*Non-Member States*” (Palestine and the Holy Sea) that are recognised as permanent observers to the UN. Of these 195 states, over one third (69 out of 195 = 35%) are not members of the Inclusive Framework.
- The group of Least Developed Countries has 46 countries as members. Of these, over two thirds (34 out of 46 = 74%) are not members of the Inclusive Framework.
- Of the 54 African states, exactly 50% (27 out of 54) are not members of the Inclusive Framework.
- Within the Group of 77 (G77), 64 out of 134 member countries (= 48%) are not members of the Inclusive Framework.
- The dataset with an analysis of the Inclusive Framework membership can be found [here](#).

## **28. Have developing countries been able to participate on an equal footing in the OECD's Inclusive Framework?**

While the OECD has stated that developing countries would be allowed to participate on an equal footing in the OECD-led negotiations under the Inclusive Framework, there are clear indications that this has not been the case.

From the onset of the OECD's latest corporate tax reform, the developing country negotiating group known as the Group of 24 (G24) submitted a detailed and thorough input to the negotiations, but this does not seem to have had any substantial effect on the proposed reforms that were later developed by the OECD Secretariat.

In terms of the outcome of the OECD negotiations, several actors have highlighted that the interests and concerns of developing countries do not seem to have been reflected in a balanced way. For example, in a recent South Centre policy brief authored by Emmanuel Eze, Sol Picciotto, Muhammad Ashfaq Ahmed, Abdul Muheet Chowdhary, Bob Michel and Tommaso Faccio it is highlighted that the OECD Pillar 2 rules "*disproportionally favour the developed countries, and its implementation has potential negative impact on the tax bases of developing economies*".

As mentioned under Question 31 Has the OECD produced a global tax convention? several of the outcomes from the OECD negotiations have also been adopted despite rejections from several developing countries, including Kenya, Nigeria, Pakistan and Sri Lanka.

Lastly, it is important to note what government representatives from developing countries are saying on this issue. For example, a representative of Nigeria highlighted the following in a statement at the 2<sup>nd</sup> Committee of the UN General Assembly in 2022:

*"Most countries also find it difficult to accept the legitimacy of international norms or forums that they had no effective voice in shaping. We also have not had a single globally inclusive forum on international tax cooperation. Unfortunately, the enormous pressure put on sovereign countries by the Secretariat of another, less inclusive, international organization is regrettable, but something we hope we can all move past as we forge ahead, together. The African countries have undertaken to promote a resolution through the United Nations platform, as a global Organization with the legitimacy, convening power and normative impact."*

## **29. Won't the UN just be duplicating the OECD?**

No. If a Tax Convention is developed through an inclusive, open-ended, intergovernmental process at the UN, it would be a historic moment because we have never before had a truly global Convention on Tax. Even in the case where the UN would end up adopting exactly the same decisions as the OECD, it still would not be duplication because a significant part of the Member States of the UN have not participated in the OECD-led negotiations, and thus not adopted the outcomes (see also Question 27: Which countries are members of the OECD's Inclusive Framework?).

It should be noted that the discussion about "*duplication*" is often brought forward by the OECD and its Member States. However, the real worry might not actually be the risk that the UN process ends up duplicating the OECD, but rather that the UN

arrives at a different outcome – i.e., does not duplicate the OECD. The fact of the matter is that developing countries have more leverage at the UN than at the OECD, and they have no interest in duplicating tax standards that are biased against their interests.

### **30. The political realities haven't changed – won't the UN negotiations just be a replay of what we've seen at the OECD?**

The political dynamics at the UN is often quite different compared to other forums such as the OECD. At the UN, developing countries are better organised and have more leverage.

The most recent example of this concerns the role of African countries. At the OECD-led negotiations, the influence of the African countries that participate has usually seemed to be very low. For example, as mentioned above, the 2021 outcome document of the OECD's Inclusive Framework was adopted despite the fact that Kenya and Nigeria didn't support it.

At the UN, on the other hand, the Africa Group has not only been influencing the tax process – they have very clearly been setting the agenda.

### **31. Has the OECD produced a global tax convention?**

An agreement does not become global just because you call it a global agreement, and by now, it is clear that OECD will not be able to achieve global consensus on what the global tax system should look like. Despite many attempts to get countries to join the OECD Inclusive Framework, over a third of the world's governments have decided not to do so (see also Question 27: *Which countries are members of the OECD's Inclusive Framework?*).

Furthermore, even among the countries that have joined the Inclusive Framework, OECD has repeatedly been unable to achieve a consensus. The 2021 OECD Outcome Statement was adopted despite the fact that Kenya, Nigeria, Pakistan and Sri Lanka at the time did not approve it. In July 2023, another Outcome Statement was adopted despite the fact that Canada, Belarus, Pakistan, Russia and Sri Lanka did not approve it. In October 2023, the OECD published its The Multilateral Convention to Implement Amount A of Pillar One despite the fact that India, Colombia and Brazil have raised objections to several of the articles (see footnotes in the Multilateral Convention). Furthermore, also in October 2023, the United States government expressed that the US is not ready to sign the agreement.

It should also be noted that even the countries which have not officially objected to the OECD agreements are not legally bound to sign, ratify and implement them, and it is in fact likely that more of the countries in the Inclusive Framework will decide not to do so.

In conclusion, it is highly unlikely that the OECD agreements will be implemented globally, and keeping in mind that both Canada and the US have expressed resistance, it even looks unlike that the OECD will achieve 100 per cent implementation among its own Member States.

### 32. What is the role of “Tax Haven Blacklists”?

Over the years, many countries have developed different types of “blacklists” of countries they consider to be problematic from a tax perspective. However, since there is no agreed global standard, there also aren’t any common criteria for these blacklists. Furthermore, the blacklisting processes are commonly known to be deeply political, with countries refraining from blacklisting other countries that they would like to keep good relations with, or blacklisting countries based on factors that are not related to tax at all.

The most famous blacklist is the EU’s “*List of Non-Cooperative Jurisdictions for Tax Purposes*” – also known as the “*EU’s Tax Haven Blacklist*”, and it has become deeply controversial for several reasons. Firstly, the EU has a firm policy of never blacklisting any of its own Member States, which has raised questions about double-standards, not least since many EU Member States themselves have regimes and tax rules that can be considered harmful and “*non-cooperative*”. For example, Tax Justice Network’s Corporate Tax Haven Index has no less than four EU Member States included in the Top 15 worst countries and jurisdictions globally (The Netherlands (4), Luxembourg (6), Ireland (11), Cyprus (14)). Similarly, Tax Justice Network’s Financial Secrecy Index has four EU Member States in the Top 15 globally (Luxembourg (5), Germany (7), The Netherlands (12), and Cyprus (15)).

Furthermore, the EU has never blacklisted powerful OECD countries such as the United States or Switzerland, despite that these countries also have very concerning tax and secrecy policies (the United States holds first place in the Financial Secrecy and Switzerland is second. Furthermore, Switzerland holds the 5<sup>th</sup> place in the Corporate Tax Haven Index).

On the other hand, the EU has blacklisted a number of other countries and jurisdictions – even countries that have never before been considered tax havens. For example, Mongolia was blacklisted in 2017 with the official reason that:

*“Mongolia is not a member of the [OECD-led] Global Forum on Transparency and Exchange of Information for Tax Purposes, has not signed and ratified the OECD Multilateral Convention on Mutual Administrative Assistance as amended, does not apply the [OECD’s] BEPS minimum standards and did not commit to addressing these issues by 31 December 2019.”*

Since the blacklisting, Mongolia has signed on to the mentioned OECD agreements, joined the OECD’s Inclusive Framework and has now been taken off the list. However, the EU’s approach has given rise to the concern that developing countries are being pressured into signing OECD agreements.

As of October 2023, the following countries and jurisdictions are included on the EU’s List of Non-Cooperative Jurisdictions for Tax Purposes: American Samoa, Anguilla, Antigua and Barbuda, The Bahamas, Belize, Fiji, Guam, Palau, Panama, Russian Federation, Samoa, Seychelles, Trinidad and Tobago, Turks and Caicos Islands, US Virgin Islands and Vanuatu.

Concerning the issue of blacklists, the Africa Group highlighted in its submission to the Secretary-General's Tax Report 2023 that: "*Efforts such as regional blacklisting exercises aimed at coercing countries that were not part of the OECD negotiations to begin with, has repeatedly proven to be politically biased and inefficient. A UN Tax Convention will ensure a level playing field that is central to a coherent international tax system.*"

### **33. Isn't the OECD much more efficient than the UN?**

It's true that including the developing countries at the table, and including their concerns and interests in the development of global tax standards, will make the decision making more complex than if a smaller group of countries get together and make all the decisions.

But it's important to remember that the aim should not just be to get any kind of decision about global tax standards. The objective should be to make balanced and sustainable decisions that will actually be implemented and create global coherence.

Countries can, and should, not be expected to implement tax related decisions taken in meetings they were not able to participate in on an equal footing. It is therefore unlikely that OECD decisions on 'global' tax standards will actually be implemented globally. Instead, we are likely to continue seeing more countries exercise their right to take unilateral action and thus, a proliferation of different national tax laws and an incoherent and fragmented global tax system. This will both lead to more double-taxation and double-non-taxation. Furthermore, the complexity will increase the administrative burden and undermine the legal certainties for business. This is anything but 'efficient' and it will not lead to sustainable solutions to the problems we see in the global tax systems.

Specifically regarding the OECD's latest tax standards –the so-called Pillar 1 and Pillar 2– it should also be noted that even OECD countries are hesitating. It currently seems unlikely that all OECD countries will end up introducing both pillars as national law (see Question 31: *Has the OECD produced a global tax convention?*).

Lastly, it is worth bearing in mind that the OECD has, for over half a decade, been leading the development of the current international tax system, which is widely recognised as being highly complex and inefficient. Despite an international urge to reduce the complexity, Pillar 1 and Pillar 2 have in fact worsened the situation by suggesting new structures to be added on top of the existing rules, as opposed to a fundamental reform of the existing system.

### **34. What if there are some parts of the OECD decisions that we would like to keep? And why abolish the OECD now that they have built up such great capacity and expertise?**

Firstly, the OECD will still exist and can still provide technical support and advice to governments. What is being challenged is the idea that the OECD Secretariat should lead global decision-making on tax matters. The OECD Secretariat can also participate as an observer at the UN (in fact, they already do).

Secondly, in the event that there are OECD standards and decisions that are helpful and worth keeping, any government is free to table these in the UN negotiations and call for the UN to adopt the same decisions. In fact, UN adoption would mean that these standards achieve much broader government support than is currently the case at the OECD, where not all governments are at the table.

However, it should be stressed that any OECD standards that are tabled at the UN will be subject to review and potentially re-negotiation. This is due to the fact that not all countries have adopted the OECD decisions and thus cannot be expected to sign on without the option to make changes to the standards.

It should also be stressed that OECD standards are not the only proposals that can be tabled at the UN. Other standards or proposals developed at regional levels, or by country groupings such as the G24, can also be tabled for negotiation.

### **35. Are there differences between the way intergovernmental tax negotiations happen at the OECD and the way they will happen at the UN?**

Yes, there are some important differences between the ways of working of the OECD and the UN.

#### Member State-led vs. Secretariat-led

At the UN, both the [2022 Resolution](#) and the [draft 2023 Resolution](#) include the concept of a “*Member State-led*” intergovernmental process. This is common practice at the UN, where the Secretariat tends to play a facilitative and supporting role, while the Member States are driving the content of the discussions by tabling proposals and negotiating with each other. One example of this is the fact that the draft 2023 Resolution has been tabled by the Africa Group, not by the UN Secretariat.

At the OECD, the negotiations tend to be “*Secretariat-led*”, with the OECD Secretariat drafting and tabling proposals and engaging more directly in the negotiations. This approach comes with several downsides, including the risk that governments will have a low level of ownership of the outcomes (and thus, ultimately, be less likely to sign, ratify and implement the agreements).

The difference in the ways of working is also an important reason why international tax cooperation cannot be achieved through coordination between the secretariats of the UN and the OECD. As a Member State-led institution, the UN Secretariat is not in a position to represent its members, and due to the inclusive membership of the UN this would also mean representing all country positions as once (all of the OECD-countries as well as non-OECD countries). Therefore, the UN Secretariat cannot enter into discussions with the OECD Secretariat about how international tax rules and standards should be designed. From a democratic point of view, it would also be problematic to have such rules be negotiated between secretariats of international institutions, as opposed to between governments. This point is relevant when considering initiatives such as the [Platform for Collaboration on Tax](#), which was established in April 2016 and brings together the secretariats of the International

Monetary Fund (IMF), the World Bank Group (WBG) the OECD and the UN. It is important to stress that this initiative cannot function as an alternative to a Member State-led intergovernmental process at the UN, where all countries will be able to participate on an equal footing.

#### Transparency and democratic participation

The OECD-led negotiations tend to have a very low level of transparency compared to UN processes. Negotiating texts are usually not made public before they have been agreed, and in fact, it seems that some country delegations participating in the OECD negotiations have also had trouble accessing the latest negotiating texts. Furthermore, key actors, including, for example, civil society organisations are also not allowed to observe the negotiations or even be present in the building while OECD negotiations happen.

This is very different compared to the UN where observers often play a very active role, and both the 2022 Resolution and the draft 2023 Resolution stress the importance of contributions from civil society. The higher level of transparency at the UN is important for ensuring that governments can be held to account for their positions and that political momentum for progress can be built. Transparency is also important for ensuring that other key actors, such as Parliamentarians, are able to follow the negotiations of tax standards that they will ultimately be asked to endorse and implement.

#### Links to the broader UN agenda

At the UN, there is also a common practice of creating linkages between different issues and agendas that the organisation is working on. A UN-led negotiation is therefore likely to strengthen the coherence between international tax policy and other global priorities and goals. For example, the 2023 draft Resolution specifically mentions issues such as sustainable development, environment, gender, inequality and health. These types of interlinkages would be an important shift compared to the way that international tax standards have been developed at the OECD.

### **36. Tax issues are very technical and OECD has the expertise – isn't this too complicated for the UN?**

Firstly, it should be noted the international tax negotiations are not simply a question about technicalities. The decisions on global tax standards are extremely political and have very direct implications on all countries and their citizens. Therefore, technical expertise should not be the only concern in the discussion about which forum can host the decision-making on global tax issues. It is also important to have a forum that allows all countries to negotiate on an equal footing and provides a neutral Secretariat.

As concerns the question of technical expertise, it is often argued that the OECD has more expertise than the UN and is therefore the correct place to conduct global tax negotiations. However, it is important to ask “*expertise on what?*” The OECD does indeed have a lot of expertise on the OECD transfer pricing system and the existing standards. But among civil society there is broad agreement that fundamental reform

is needed and that the transfer pricing system will need to be replaced. Those who are experts on the old system are not necessarily the best placed to lead the negotiations on a new system. In fact, the OECD's ownership over the transfer pricing system might be one reason why it has proven so difficult for the OECD to let it go. One important thing to note about the two last reviews of the system – the BEPS agreement (2015) and Pillar 1 and Pillar 2 (2021) – is that they both build on, but do not replace, the transfer pricing system.

The UN, on other hand, has important experience on international cooperation, including on how to conduct intergovernmental negotiations and design Conventions – including on highly technical issues such as climate mitigation and international regulation of genetic resources – to name a few. On this point, the UN is far more experienced than the OECD.

That is not to say that tax expertise will not be important for the UN tax negotiations and there are a few important ways to ensure that expertise will be available:

- The UN Secretariat should be given the resources to scale up their capacity and expertise on tax matters. One important difference at the UN compared to the OECD is that the UN to a larger extent hires experts from all countries – as opposed to primarily OECD countries. Therefore, a UN secretariat might end up having more expertise on issues such as tax challenges in developing countries than is currently the case for the OECD secretariat.
- In an intergovernmental UN negotiation, the countries can decide to include national experts in their negotiating delegation. Furthermore, specific support is sometimes provided to Least Developed Countries to ensure that they can afford to have experts from capitals at the negotiations.
- Observer participation increases the information flow to the negotiations. Civil society, academia and other observers are able to provide important expert inputs when they are allowed to observe and participate in the negotiations – as is most commonly the case at the UN. At the OECD, the ability of observers to provide technical expertise to the negotiations is hampered by the fact that the negotiations are highly secretive and that observers are not allowed to be present when governments are negotiating, and commonly do not even have access to the negotiating texts. Therefore, at the OECD, observers often don't know what is being negotiated when, or by whom. The secretive process at the OECD can lead to a concentration of knowledge within the Secretariat – including knowledge about country positions and the political reasons behind the technical solutions that are developed. Within a transparent and participatory UN process, expertise can be built and provided by a much broader group of actors, including civil society.
- The UN Expert Committee on Tax can provide input. In the GATJ/Eurodad proposal for a UN Tax Convention, it is suggested that the existing UN Expert Committee on tax should operate as a subsidiary body of the Convention to provide technical input – which is a model that exists in several other UN Convention (see details in the proposal for a UN Tax Convention, Article 16).
- OECD experts can still participate and provide inputs to the UN process – on an equal footing with other observers.



### **37. Could we split the decision-making on international tax issues between the OECD and the UN, or do a joint UN/OECD process?**

This would be a very problematic approach. Firstly, it would mean that the problems that we have seen in the OECD processes on global tax issues, including decision-making that is biased against the interests of developing countries, would continue to exist.

Secondly, there would be a clear risk of undermining the prospect of getting a successful process under the UN. Having a double-track approach – where some tax issues are handled by the UN and others by the OECD – will most likely create problems with issues falling between the chairs, and slow down the processes in both forums as governments would spend a long time discussing the interrelations between the two processes.

A joint UN/OECD process would also be very problematic. Firstly, it would mean that OECD countries are represented twice while all other countries are only represented once, and thus the negotiations would not be on an equal footing. Secondly, since the two institutions have very different mandates and procedures, it will be very difficult to operate in tandem. For example, while the UN's mandate – the Charter of the United Nations – makes it equally accountable to all the UN Member States, the OECD's mandate – the Convention on the OECD – puts special emphasis on the interests of OECD countries and stresses that the OECD shall promote policies designed to “*achieve the highest sustainable economic growth and employment and a rising standard of living in Member countries.*” Furthermore, the confusion about decision-making processes and roles would again create a high risk that governments will end up discussing procedures, international legal matters and organisational mandates rather than tax issues.

Lastly, there has been a proposal to have the UN play a coordinating role and for the OECD to lead intergovernmental negotiations on some global tax issues. This approach would also be problematic. Not only would it entail all the aforementioned problems, it also could put the UN Secretariat in a problematic role. The UN is normally more Member State-led than, for example, the OECD. It should therefore be for the UN Member States to coordinate their own positions in different forums, rather than for the UN to coordinate different intergovernmental forums. There can also be grey-zones where some coordination issues are in fact of a highly political nature. At the UN, it should not be for the UN Secretariat to decide on political matters – it should be for the Member States, negotiating on an equal footing.

### **38. Many of the countries in the UN are tax havens. Won't that be a problem?**

It is a problem that some countries benefit financially from harmful tax practices and profit shifting, but leaving decision-making to the OECD rather than the UN is not the solution. Firstly, some of the countries that are a key part of the global problem are members of the OECD and therefore already have a seat at the table. Of the countries and jurisdictions that feature in the Top 10 of the Corporate Tax Haven Index from Tax Justice Network, three (Netherlands, Switzerland and Luxembourg) are members of the OECD and all ten are members of the OECD's Inclusive Framework.

Secondly, excluding countries from global agreements on tax might make them even less likely to cooperate and as such, more inclined to focus on their own short-term

interests rather than on ensuring a functional global tax system. In fact, the current exclusive decision-making system might act as an incentive for some of the countries excluded from the process to consider becoming tax havens.

### **39. Shouldn't we just focus on capacity building for developing countries?**

Capacity building is not an alternative to a seat at the table when global tax standards are being negotiated. In fact, if groups such as the least developed countries are able to participate effectively in the negotiation of global standards (such as would be the case at the UN), the global standards are more likely to reflect the administrative realities in those countries, which would reduce the need for capacity building. It should also be kept in mind that international tax dodging is a problem that occurs in all countries – also those with relatively high levels of capacity within their tax administrations. In fact, while lower income countries lose a higher share of their incomes due to international tax dodging, the largest losses in absolute terms occur in high-income countries (see also Question 19: *How much money is lost due to international tax abuse?*). Therefore, the fundamental problems are not always a question of capacity, but rather of a broken global system.

Capacity building and support for developing countries can be positive, and if negotiations of a UN Tax Convention begin, it will, for example, be important to ensure that developing countries have the resources to bring in experts from their own capitals. But it should solely be driven by demand from the receiver countries. It should not be linked to any political agenda or economic interests of the donor country (or of any multinational corporations based in this country).

## **Key country groups and actors**

### **40. Which country blocks are united and which are divided?**

With the [2023 draft Resolution](#), it is the second year in a row that a united Africa Group has set the agenda on international tax cooperation. The group has also been making clear and joint calls for a UN Tax Convention since 2019 (for more information, browse this [database](#) produced by the Civil Society Financing for Development Mechanism).

While the Africa Group has been consistent and united, the same cannot be said for the group of OECD Member States. In November 2022, when the US put forward a proposal for an amendment to the Africa Group Resolution, the voting record showed a split in the group. While most OECD Member States voted with the US, OECD Members Chile, Colombia, Costa Rica, Mexico and Norway abstained. Since then, several OECD Member States have been sending mixed signals regarding their stance on the UN Tax Convention. For example, both [Colombia](#) (in April) and [Mexico](#) (in September) have taken positions in favour of a UN Tax Convention, whereas a [joint statement](#) by Colombia, Mexico and Chile (in October) indicated a more unclear position.

#### **41. Do OECD countries have an interest in supporting a UN Tax Convention?**

Yes, they do. In particular the OECD countries that aren't tax havens and are losing large sums of revenue due to international tax abuse have an interest in this. Regardless of whether they are positive or negative towards the OECD Pillar 1 and Pillar 2 agreement, it ought to be clear that much more needs to be done, and OECD governments should start seeing the possibilities of achieving more progress under the UN.

It should also be noted that due to a late change in the rules (the introduction of the so-called Qualified Domestic Top-up Tax), Pillar 2 of the OECD agreement is now likely to benefit traditional tax havens such as Switzerland, at the expense of high-tax OECD countries that now stand to gain significantly less resources than originally anticipated. This phenomenon has caused civil society organisations to rename Pillar 2 a Tax Haven Rewards Programme. At the same time, the loopholes in the agreement mean that the so-called minimum 15% tax rate will, in fact, allow multinational corporations to reduce their tax payments to well below the "*minimum*" rate (for more information, see for example [this article](#)).

As regards the OECD's Pillar 1, the multilateral convention is designed in a way that makes it impossible for it to enter into force unless the US signs, and this continues to seem unlikely to happen. It is also worth noting that a high-tax EU-country such as Denmark has estimated that it is likely to lose tax income if it signs on to Pillar 1, and that the EU will not be able to adopt new rules on tax unless all Member States agree unanimously.

With this in mind, the OECD countries that aren't tax havens have an interest in pursuing more international action to stop tax dodging. One key approach could be through a global coalition of progressive countries (a "Race to the Top Alliance") that could put more pressure on tax havens. Such progressive coalitions that span across developed and developing countries often take form in UN negotiations, but have never materialised in the OECD negotiations.

Furthermore, all countries – including all OECD countries and even tax havens – have an interest in achieving a global consensus and stopping the current situation, where countries continue to introduce conflicting measures, and where the international tax landscape continues to be very uncertain and constantly changing. Truly global tax cooperation can increase the consistency between the national tax legislation of different countries, and this will strengthen the ability of tax administrations to work together, reduce the occurrence of tax avoidance and evasion, and create a more enabling environment for business.

#### **42. What if the US blocks the negotiations?**

It is very true that the US can be a difficult actor in UN negotiations, but we should never rule out the option that the US shifts position and decides to cooperate. One interesting example of this is the 2022 Resolution on international tax cooperation, which the US – at the end of the day, and to everyone's surprise – agreed to support, despite originally being strongly against it.

However, in case the US doesn't cooperate, there are several examples of how countries have previously responded to the US blocking international negotiations at the UN. One option is to pressure the US to change its position. One example of this is the climate negotiations in Bali in 2007, where Papua New Guinea challenged the US to "lead or get out of the way". Another option is to move forward without the US and either count on them to catch up and adapt as the rest of the world develop joint standards, or simply acknowledge that a global system without the US is better than no global system at all. This has been the approach of the UN Convention on the Law of the Sea, the UN Convention on Biological Diversity, Kyoto Protocol, and several other international agreements. In some cases, the US has eventually had to comply with the de facto global standards as all other countries have implemented them. As regards rules to regulate multinational corporations it is also relevant to bear in mind that global standards can be imposed on US corporations as a condition for accessing other countries.

#### **43. If so many countries reject the idea of an intergovernmental UN tax body, isn't it an impossible dream?**

This is a question we had in a Q&A that we produced in 2015 on the issue of setting up an intergovernmental UN process. It's no longer relevant since the 2022 Resolution includes the concept of an intergovernmental UN tax body and was adopted by consensus. But we included the question here as a reminder that sometimes, political progress does actually happen.

#### **44. What would be the role of Finance vs. Foreign Ministries in relation to tax?**

At the OECD, the government involvement in the tax related negotiations is commonly led by the Finance Ministries, whereas the Permanent Representations that governments have at the UN usually fall under the portfolio of the Foreign Ministries. However, in addition to the Permanent UN Representations, it is common for governments to bring in representatives from several different ministries when specific issues are being negotiated at the UN. For example, government delegations in the climate negotiations commonly include representatives from, among others, environment ministries, foreign ministries and finance ministries (in particular on the issue related to climate finance).

It is likely that Finance Ministries will continue to play a central role in international tax negotiations – even in the case where the process would take place at the UN. However, it is important to note that Foreign Ministries also have important contributions to make. These ministries can bring in important experience on international cooperation and global governance, which are key issues that need to be strengthened in international tax cooperation. In addition, the Foreign Ministries can help to strengthen the links to other UN agendas such as the Sustainable Development Goals, Human Rights and Gender Equality.

#### **45. What is the role of Parliamentarians?**

Since the tax negotiations at the OECD have been highly opaque and secretive, it has been difficult for Parliamentarians to follow the discussions and play a role. This is different from the UN, where Parliamentarians often participate as observers or members of the national delegations of countries.

Tax is a vital component of national sovereignty, and for democratic reasons, it is important that Parliamentarians are not kept in the dark when international tax negotiations take place. Furthermore, the involvement of Parliamentarians is important for building ownership and increasing the willingness of Parliamentarians to support and implement the international rules at the national level.

As explained above, the role of Parliamentarians is likely to be strengthened if the global tax negotiations take place under the UN. Furthermore, in the proposal for a UN Convention on Tax, published by Eurodad and the Global Alliance for Tax Justice, it is suggested that the Convention should include an explicit mention of the rights that Parliamentarians have to participate as observers in the negotiations under the Convention (Article 14.8).

#### **46. Do multinational corporations have any interest in a UN Tax Convention?**

Multinational Corporations have an interest in avoiding that individual countries start creating their own unique rules to combat tax avoidance and evasion. The lack of a fair and inclusive global decision-making body and a global agreement on tax increases the likelihood of more radical and unilateral action from countries, and thereby a proliferation of different national tax laws and an incoherent and fragmented global tax system. This will both lead to more double-taxation and double-non-taxation and the complexity will increase the administrative burden and undermine the legal certainties for business.

But it should also be kept in mind that many MNCs are very well connected to the OECD and its Member States, and for that reason they might be very reluctant to start supporting the idea of moving decision-making power to the UN. However, since it is unlikely that the OECD standards will really reach global – or even near-global – implementation, it can be argued that the only alternative to a UN process is to continue not having a coherent and truly global system.

#### **47. Is this issue relevant for climate groups and activists?**

Yes, it is highly relevant. While governments reached agreement on Loss and Damage at the 27<sup>th</sup> Conference of the Parties of the UNFCCC, the question of financing remains a major gap in the agreement. This comes on top of the financing-gaps that currently exist in the delivery of international climate finance for adaptation and mitigation, as well as the domestic financing needs that governments face when implementing climate action.

Tax is the most important tool for governments to mobilise public resources, and a UN Convention on Tax could reinforce climate action in several ways:

- Additional global measures to combat tax havens would boost the level of public resources in countries all around the world. As described under Question 19: *How much money is lost due to international tax abuse?*, this is a problem that is costing governments hundreds of billions of dollars annually.
- Placing international tax governance at the UN could strengthen the links between tax and environmental issues, as proposed in the 2023 draft Resolution tabled by the Africa Group.
- The discussion about the climate finance gap has reignited a discussion about the potential of international taxation as a source of climate finance. A UN Tax Convention could provide a suitable forum for international negotiations on these issues.

## Contact information

For questions or comments, please contact:

- **Dereje Alemayehu**, Executive Coordinator, The Global Alliance for Tax Justice. E-mail: [dereje@globaltaxjustice.org](mailto:dereje@globaltaxjustice.org)
- **Chenai Mukumba**, Executive Director, Tax Justice Network Africa. E-mail: [cmukumba@taxjusticeafrica.net](mailto:cmukumba@taxjusticeafrica.net)
- **Jeannie Manipon**, Senior Program Manager, Asian Peoples' Movement on Debt and Development (APMDD). E-mail: [aidajeannm@gmail.com](mailto:aidajeannm@gmail.com)
- **Luis Moreno**, Coordinator Justicia Fiscal, La Red Latinoamericana por Justicia Económica y Social (LATINDADD), [luismoreno@latindadd.org](mailto:luismoreno@latindadd.org)
- **Erica Beauchesne**, Communications Coordinator, Canadians for Tax Fairness, [EricaBeauchesne@taxfairness.ca](mailto:EricaBeauchesne@taxfairness.ca)
- **Tove Maria Ryding**, Policy and Advocacy Manager for Tax Justice, European Network on Debt and Development (Eurodad). E-mail: [tryding@eurodad.org](mailto:tryding@eurodad.org)

---

*This publication has been produced with the financial assistance of the Norwegian Agency for Development Cooperation. The contents of the publication are the sole responsibility of the authors of the report, and can in no way be taken to reflect the views of the funder.*