GLOBAL ALLIANCE FOR TAX JUSTICE

CIVIL SOCIETY FINANCING FOR DEVELOPMENT Mechanism

Session 2, UN Tax Convention Negotiations
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Intervention by Henrique Alencar - Oxfam

Thank you, Madam Chair. The discussions held yesterday confirmed the view that both developed and developing countries are severely restricted when designing and implementing taxes on the income from cross-border services, particularly digital services.

A main reason for such limitations is exactly the widespread use of double taxation agreements (DTAs) between countries, as highlighted by the issues note. While the traditional narrative from wealthy countries and international organizations has consistently promoted double taxation agreements, as the key to unlock foreign direct investment, provide legal certainty to investors, generate economic activity and additional revenue for developing countries, the concrete impact of such agreements is much more controversial.

Analysis from academia, civil society organizations and developing countries have repeatedly concluded that double taxation agreements are instrumental to profit shifting by creating loopholes and tax avoidance opportunities for multinational corporations. severely limiting or fully preventing some forms of taxation and reducing effective tax rates. The main stated purposes of these agreements is avoiding double taxation. However, methods to avoid double taxation are not limited to such agreements. There are other approaches that are commonly utilized. As recognized by delegates during yesterday's sessions, many of these agreements were actually entered into by countries in the past decades without a full understanding of their practical effects on the limitation of domestic taxation rights. The fact that some agreements were signed during colonial times and continue to be in effect long after independence also reflects the need to rethink the role of such agreements moving forward. A bias towards residence taxation of services and outdated concepts of permanent establishments were disseminated through these instruments, creating the very issues we are currently trying to fix.

Just as many countries, both developed and developing, are questioning the impact of bilateral investment treaties and the limitations that investor state dispute settlement mechanisms have on progressive policies, this Framework Convention on International Tax Cooperation provides a unique opportunity to reevaluate the role and practical impacts that double taxation agreements have over developing countries.

Finally, on the question of having a similar structure to the MLI, civil society organizations do not consider that a positive approach, as it would surely lead to a high degree of complexity. Thank you very much.