The Right Forum: A New Era in International Tax Cooperation

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On Wednesday, November 27, 2024, the United Nations General Assembly's overwhelming vote to approve the Terms of Reference (ToR) and begin formal negotiations on a UN Framework Convention on International Tax Cooperation marked a watershed moment in the global tax reform movement. For decades, the international tax system has been shaped by the Organisation for Economic Co-operation and Development (hereafter, OECD)—a body dominated by the world's wealthier nations—leading to increased inequalities that disproportionately harm developing countries. A new chapter begins, now offering a historic opportunity to create an inclusive, transparent, and equitable tax governance system.

What Makes the UN the Appropriate Forum to Negotiate International Tax Cooperation

The decision to shift the global tax discussion to the UN addresses the longstanding call for a universal and representative platform to deal with international fiscal matters. Unlike the OECD, whose processes have been criticised for being opaque and biased toward developed nations, the UN embodies universal membership and sovereign equality as a core element of its institutional framework and day to day functioning.

The UN's commitment to transparency, democratic processes, and human rights obligations offers a stark contrast to the shortcomings of the OECD. UN processes aim to create a space where all countries have an equal say in shaping global tax rules, regardless of their level of development.

- The UN General Assembly, where each of the 193 member States has an equal vote, serves as a platform for truly multilateral global discussions.

- The UN process is designed to be "Member State-led", with all governments having the possibility to take the lead in proposing and negotiating the terms of any agreement. This differs from the OECD, where leadership in the discussion of global issues is held by its Council, comprised only of the representatives of the 38 Member States and an ambassador from the European Union.

- The potential for bloc positions and aligned voting within the UN system empowers developing countries to exert greater influence in negotiations.

- The procedural transparency in UN processes allows all countries to shape the agenda and influence outcomes, while also involving civil society and international organisations, and allowing them to provide input, contribute to discussions and influence outcomes.

- The UN process' broader mandate and commitment to address interconnected global challenges allows it to consider the interlinkages between international tax policy and other global priorities, such as sustainable development, inequality, environment, gender, health, and intergenerational equity.

By providing a platform for all countries to participate in setting global tax rules, the UN Framework Convention aims to create a long overdue levelled playing field on the fiscal scenario and prevent the continued exploitation of developing countries through the undermining of their fiscal spaces (that is, the amount of available resources that a State has in order to fund public policy) through recurrence to tax havens and other harmful tax practices.

The Shift From OECD Dominance

For the past sixty years, the OECD has held a monopoly over agenda-setting and rule-making within the international tax regime, drawing significant criticism for its opaque and exclusive processes.[1] As the primary body for developing and promoting international tax standards, the OECD's influence extends far beyond its Member States, with its standards often treated as de facto rules even by non-member countries that have had little to no voice in shaping them.

This concentration of power has led to concerns that the system disproportionately benefits developed nations, as the OECD's membership largely consists of wealthy, industrialised countries, while developing nations remain underrepresented in key decision-making processes.[2] Although in recent years it has established the "Inclusive Framework on BEPS" to broaden participation, this framework still falls short of universal membership: among the Least Developed Countries (LDCs)[3], over two-thirds are not part of the Framework. This framework continues to be dominated by OECD Member States and lacks transparency in its decision-making.

[1] These criticisms have been voiced repeatedly over the years by civil society organizations, tax experts, and academics alike. Concerns about the OECD's dominant role in global tax governance and its lack of inclusiveness have been echoed by several key figures and institutions. For instance, in early 2023, Colombia's then-Minister of Finance highlighted the exclusion of developing countries from meaningful participation in tax policy debates, emphasizing the need for regional collaboration and shared solutions. Similarly, Ahmed Zainab, Nigeria's Minister of Finance, expressed concerns at a Special Meeting on International Cooperation in Tax Matters about the lack of equal footing for developing nations in global tax discussions, pointing to punitive unilateral actions and blacklisting by bodies in which these countries have little representation. Further, during a June 2023 conference organized by the International Centre for Tax and Development (ICTD), stakeholders—including countries, regional tax organizations, academia, and civil society—stressed the urgent need for inclusiveness in international tax negotiations and proposed several reforms. Valderrama (2023) also underscores that while the BEPS Inclusive Framework was established to enhance legitimacy, questions remain about its impact on developing countries. Moreover, concerns about both input and output legitimacy persist in ongoing discussions about OECD/G20 tax reforms, with many questioning whether these initiatives truly address the unique needs of developing countries. For a detailed discussion, see Mosquera Valderrama, I. J. (2023). Global Tax Governance: Legitimacy and Inclusiveness. Why It Matters. Leiden. Retrieved from https://hdl.handle.net/1887/3621136

[2] The OECD is made up of 38 Member States: Australia, Austria, Belgium, Canada, Chile, Colombia, Costa Rica, Czechia, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea, Latvia, Lithuania, Luxembourg, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Türkiye, United Kingdom, and United States.

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[3] As classified by the Committee for Development Policy (CDP), a group of independent experts that reports to the Economic and Social Council (ECOSOC) of the United Nations.

A clear example of these challenges is the 2021 adoption of the OECD's Pillar 1 and Pillar 2 proposals, which aim to address the tax challenges posed by digitalisation. Pillar 1 seeks to reallocate a portion of multinational profits to market jurisdictions, while Pillar 2 introduces a global minimum tax rate. Despite these proposals' potential impact on developing economies, they were adopted without adequately considering the specific needs of these countries. Moreover, many developing nations opposed the initiatives but faced external pressure to comply, often through coercive mechanisms. Additionally, developing nations often lack the resources to participate effectively in all relevant meetings, thereby materially hindering effective representation in the decision-making process.

One prominent example of such coercive mechanisms is the European Union's blacklist of non-cooperative jurisdictions for tax purposes, which penalises countries that fail to meet OECD tax standards on transparency, exchange of information, and fair tax competition. This blacklist was introduced as part of the EU's broader framework on tax governance, which links compliance with OECD standards to access to EU financial aid, trade agreements, and economic partnerships. Countries placed on this list face reputational damage and potential economic repercussions, as blacklisting can deter investment and hinder economic relations with EU member States. Critics, however, argue that the EU's blacklist is ineffective and disproportionately targets smaller economies while ignoring major financial secrecy jurisdictions, including several within the EU itself.[4]

The exclusion of developing countries from meaningful participation in global tax rule-making, combined with the lack of inclusivity, transparency, and balanced representation in OECD decision-making, underscores the urgent need for a more democratic and equitable forum for international tax discussions. Recent developments, such as the UN vote on advancing tax cooperation, have further highlighted the limitations of the OECD-led framework. Opposition from a small group of influential countries—such as the US, UK, and others—reflects their vested interest in preserving the status quo. Despite being responsible for significant global tax losses, these nations resist reform, revealing a broader commitment to conserving a system that benefits them. This resistance makes it increasingly clear that shifting decision-making to a more inclusive and representative global forum is essential.

Challenges and Fallacies Around the UN Process

The UN Framework Convention on International Tax Cooperation seeks to establish a system that aligns global tax policy with sustainable development goals and human rights principles. Its negotiation process is set to be transparent, inclusive, and multilateral, enabling countries to collaboratively address emerging tax challenges, as has already been evidenced by the negotiations for the ToR. Key objectives of the Convention include ensuring multinational enterprises pay taxes where economic activities occur by fairly allocating taxing rights, addressing tax evasion and avoidance, particularly by high-net-worth individuals and corporations exploiting tax havens, and creating a framework to adapt to future challenges.

As GI-ESCR has illustrated in previous articles, the UN's inherent focus on sustainable development and human rights considerations aligns with the broader objective of creating a more just and equitable global tax system. The UN Framework Convention seeks to explicitly link international tax policy with these crucial agendas, a perspective often missing in OECD-led negotiations.

Nevertheless, the road to get here has not been a smooth one. Critics have argued, and many

[4] *For more detailed information on the EU's blacklist, how it functions, and the consequences for countries included on the list, please refer to the research carried out by the Tax Justice Network. "EU's Tax Haven Blacklist Blocks Just 1% of Financial Secrecy Services Threatening EU Economies".*

still maintain, that a UN framework duplicates OECD efforts or that it undermines States' sovereignty by allowing non-consensus-based decision-making. These arguments ignore the UN's potential to address the OECD's systemic shortcomings. First, the UN framework does not duplicate, but rather complements existing efforts by addressing critical gaps in inclusivity and fairness. This is precisely the reason why this Convention is so significant. Second, while OECD defenders demanded consensus for the approval of the Terms of Reference —effectively seeking to use it as a veto mechanism to stall progress— they simultaneously argue for "other relevant fora," namely the OECD, to take precedence in the UN negotiations. This position is profoundly contradictory, as the UN process was specifically launched to address the lack of inclusivity and fairness inherent in the OECD's proposed consensus-based approach. As the African Group aptly highlighted during negotiations, these are actually "procedural roadblocks" which reflect the reluctance of conservative OECD countries to relinquish control of global tax governance.

Fortunately, the UN process includes mechanisms to prevent a handful of countries benefiting from the status quo from imposing consensus rules to obstruct the urgent tax reforms necessary to achieve broader goals, such as sustainable finance and equitable global development.

The overwhelming support for this resolution demonstrates a global appetite for tax reform. Civil society organisations and advocacy groups, long excluded from OECD processes, now have an opportunity to play a vital role in shaping the negotiations. Their contributions will ensure that the framework aligns with broader global priorities like reducing inequality, fostering sustainability, and guaranteeing human rights.

Seizing the Momentum

This pivotal moment must not be squandered. As negotiations proceed through 2025 to mid-2027, stakeholders must remain committed to creating a tax system that reflects the needs of all nations. The UN Framework Convention on International Tax Cooperation can be a decisive step toward economic justice and equity on a global scale.

The recent vote underscores a global consensus for change and an acknowledgement of the OECD's limitations. By prioritising inclusivity, transparency, and equity, the UN framework offers a historic chance to rewrite the rules of international taxation in favour of fairness and sustainability. Now is the time for civil society and the global community to rally behind this effort and advocate for a future where tax systems work for everyone—not just the privileged few.