



OTT

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The Tax Justice Network

20 Year evaluation

Outcome story 3: On the road to an establishment of a UN tax convention

Introduction

The following document presents a detailed narrative in the form of an outcome story of one of three milestones highlighted in OTT's independent assessment of the Tax Justice Network's 20 years of work from 2003 to 2023. Nine significant milestones were identified in the assessment, and three have been written up as outcome stories.

Through this approach, we seek to address the Tax Justice Network's contribution to the field by documenting and analysing outcomes in terms of the description of change (who is doing what differently?), the significance (why does that matter?) and the contribution (what is the Tax Justice Network's contribution to that change?).

Overall, the results are three outcome stories told in a simplified way that can be useful to introduce part of the Tax Justice Network's trajectory, successes, and critical junctures to a wider audience.

This is outcome story three.

Outcome 3: On the road to the establishment of a UN tax convention

The combination of technical capabilities, political influence, and perseverance has made the Tax Justice Network a central force for change in international tax governance. This story explores the Tax Justice Network's contribution to policy changes on tax issues at a global level through their long-standing battle for shifting international tax debates from the OECD to the UN, which is gaining more traction than ever and could be forging the next critical juncture in the history of tax justice.

The adoption of the draft resolution on the "Promotion of inclusive and effective international tax cooperation at the United Nations": On November 23rd, 2022, during the 77th session of the Economic and Financial Committee (Second Committee) of the UN General Assembly, the draft resolution tabled by the Africa Group under the leadership of Nigeria on the "Promotion of inclusive and effective international tax cooperation at the United Nations" was adopted by unanimous consensus.

The resolution initiates intergovernmental discussions at the United Nations headquarters in New York on ways to strengthen the inclusiveness and effectiveness of the architecture for international tax cooperation, including the proposal for a UN tax convention to be negotiated. This convention holds the potential to establish an inclusive intergovernmental tax body that sets the rules for the future, going beyond the Organisation for Economic Co-operation and Development (OECD) arrangements that have largely excluded lower-income countries.

It also requested the preparation of a report by the Secretary General to serve as a foundation for discussion at the Assembly's annual session, which was held in September 2023. The report encompassed an analysis of various international legal instruments and recommended three options: a legally binding UN tax convention but with limited scope; a legally binding UN tax convention with a wide-ranging scope; and a non-binding framework for an agenda on international tax cooperation. A degree of early consensus emerged during the September session in favour of the second option, although the road to this outcome remains uncertain as of writing.

A possible shift in the power dynamics

The adoption of this resolution has been described as a historic decision since it opens the door to negotiations to establish an international tax cooperation instrument within the UN, which represents the beginning of a potential shift in the power dynamics of the international tax architecture.

Over the last 60 years, the OECD has been the world's leading rule maker on global taxation, but it has been widely criticised for prioritising the interests of developed nations at the expense of developing ones. Nearly ten years after the OECD settled the first Base Erosion and Profit Shifting (BEPS) agenda, international tax abuses have continued to grow, and despite the establishment of the Inclusive Framework on BEPS, developing countries have expressed their discontent, arguing that they don't have an equal footing in decision-making processes.

Consequently, lower-income countries face a systematic disadvantage due to an eroded tax revenue base caused by prevalent financial structures and systems that facilitate widespread tax avoidance and evasion. Practices such as profit shifting and other methods employed by multinationals to avoid taxation hamper the capacity of all nations to invest in sustainable development, but disproportionately affect lower-income countries, and contribute to pervasive inequality and inequity, both within and between countries.

In this context, dissatisfaction has increased among developing countries regarding the current state of international tax cooperation which has led to the search for a globally inclusive forum for international tax cooperation at the intergovernmental level.

Serious proposals for a global tax body have been put forth since at least the 1990s but whenever the G77 countries or other nations have presented these proposals, the original OECD members have consistently rejected them. However, entities such as the FACTI Panel and the African Ministers of Finance, Planning, and Economic Development have reiterated the need to establish a tax convention within the United Nations in recent years.

The adoption by consensus of the draft resolution tabled by the Africa Group last November indicates a widespread endorsement for the establishment of a more inclusive framework for cooperation on international tax matters.

Contribution of the Tax Justice Network

Through its research, outputs, and advocacy efforts, the Tax Justice Network has raised fundamental concerns and promoted significant changes in the way tax issues are addressed globally, thus contributing to a potential establishment of a UN tax convention.

In its report "Tax us if you can," first published in 2005 and updated in 2012, the Tax Justice Network expressed the need to establish a "World Tax Authority" that represents

global interests rather than those of a few specific countries. In this regard, the Tax Justice Network explicitly advocated for the United Nations to assume this role due to its universal membership and all-inclusive character.

However, given that the OECD has held the power of setting the global tax rules over the last 60 years, the Tax Justice Network decided to engage with this institution at that time to increase its influence and promote policy measures for tax justice. In 2013, the OECD launched its BEPS programme, which responded partially to the Tax Justice Network's calls for moves to tackle tax avoidance through the adoption of country-by-country reporting. The OECD's version of this proposal was radically watered down from that originally developed by the Tax Justice Network, however.

Ten years after the implementation of the first BEPS agenda, the efforts of the OECD to redesign the international tax architecture, particularly regarding secrecy levels and illicit financial flows, have been described as inadequate and not consistent enough. The State of Tax Justice report (2022) makes a clear statement on the failure of the OECD to provide an inclusive and effective forum for tax rule setting and to publish aggregate country by country reporting data in a timely manner. In the same tone, the Tax Justice Network published an open letter to the leaders of the G20 group concerning the deficiencies of the OECD to deliver on their mandates.

These failures have led to widespread dissatisfaction among developing countries and have given new urgency to move tax rule-setting to the United Nations. Since 2017, the Tax Justice Network and GATJ jointly committed to make a UN tax convention a top shared priority of their advocacy and campaigning activities.

At the same time, the Financial Secrecy Index developed by the Tax Justice Network has played a crucial role in changing the rhetoric around corruption, emphasising the need to consider illicit financial flows as an impediment to development and the degree to which a jurisdiction's legal and regulatory systems facilitate such flows. Thanks to the ranking provided by the Financial Secrecy Index, it has become evident that the most complicit countries in allowing illicit financial flows are the same ones setting the rules of the international tax architecture. This further justifies the need to establish a new global intergovernmental process to deal effectively with tax matters where all countries are represented equally.

Importantly, the Financial Secrecy Index was used as a reference in the elaboration of the High-Level Panel Report on Illicit Financial Flows from Africa, led by former South African President Thabo Mbeki. The evidence provided by the Tax Justice Network supported the arguments presented in this influential report, which raised awareness about the critical importance of addressing corporate tax abuse and other forms of illicit financial flows.

In that sense, the Tax Justice Network has contributed to the potential establishment of a UN Tax Convention by promoting policy measures focused on changing the global order that privileges former imperial powers. It has also established a counter-narrative around corruption to challenge the simplistic notion of categorising countries as either tax havens or others, showing that each country has a responsibility in curbing illicit financial flows to some degree.