Litany of failure: the OECD's stewardship of international taxation

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I. Introduction

Negotiations on a new framework tax convention are moving forward at the United Nations following the approval of a resolution brought forward by the Africa Group.[1] This development effectively breaks the Organisation for Economic Cooperation and Development's (OECD) 60-year dominion over standard-setting in international taxation.

However, the Africa Group's initiative to bring tax rulemaking to the UN was met with strong opposition from the OECD and some of its most powerful members, including the United States, the United Kingdom and the European Union. Indeed, the vigour with which some OECD members have sought to block the effort led to accusations that they were attempting to "kill" the UN process and were negotiating in "bad faith".[2]

The most ubiquitous argument deployed by those opposed to the UN convention process has been that it would risk duplicating negotiations at the OECD.[3] The OECD process has been robustly criticised over both the exclusionary character of the talks and the unjust content of its proposed agreement, however, and the Africa Group's determination to break away from it was grounded in an observation that the process needed to radically change in order to ensure more substantive and procedural equity in future global tax policy making.

It is arguably unsurprising that the OECD has proven incapable of delivering a just and effective solution to the problem of cross border tax abuse, as it is mandated only to prioritise the interests of its member states, which comprise 38 of the world's most advanced economies and, importantly, many of the countries which benefit most from abusive international tax practices.

As the following sections will demonstrate, the OECD's stewardship of international tax negotiations has become increasingly problematic in recent years, just as the urgency of confronting crossborder tax abuse has risen up the political agendas of governments and institutions from Global North and South alike. Increasingly, concerns over failures of inclusivity and effectiveness at the OECD have been accompanied by critiques that it has fallen short in adhering to standards of professionalism. Moreover, there is growing evidence that abusive tax practices are a key driver of chronic human rights abuses. Modelling by the Government Revenue and Development Estimations initiative at the Universities of St Andrews and Leicester demonstrates that, were it not for the revenue lost to crossborder tax abuse each year:[4]

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[1] UNGA Second Committee, 15 November 2023, Promotion of inclusive and effective international tax cooperation at the United Nations : revised draft resolution, https://digitallibrary.un.org/record/4027784?ln=en
[2] The Financial Times, 12 November 2023, Developing countries and Europe in dispute over global tax role for UN. https://www.ft.com/content/552052ab-8650-44b3-a4d2-6affca339132?emailId=92167a0b-8d03-4274-b161-d73b148cdd3f&segmentId=22011ee7-896a-8c4c-22a0-7603348b7f22
[3] All inputs to the UN process can be found at: https://financing.desa.un.org/inputs
[4] GRADE, 2023. The impact of tax abuse on human rights on all countries. https://medicine.st-andrews.ac.uk/grade/wp-content/uploads/sites/39/2023/10/GRADE-PB_-SOTJ2023_ALL_annual.pdf

- 15 million people would have their right to basic water.
- 32 million their right to basic sanitation.
- 3.2 million additional children would attend school.
- 101 additional children would survive every day: 36,900 each year.
- 11 additional mothers would not die during childbirth: 3,999 each year.

As such, it is unsurprising that the OECD's stewardship of international tax negotiations has likewise come under fire from United Nations special mandate holders.[5]

II. Human rights framework and applicability

The nexus between taxation and human rights is complex, manifold and determinative of human rights outcomes.[6] Taxation and fiscal policy play a critical role in redistributing wealth and resources, tackling poverty and inequality, and addressing historical legacies of oppression rooted in slavery, colonialism and apartheid.

Through their adherence to the major United Nations human rights treaties, states parties are bound to a matrix of human rights norms and standards, underpinned by a set of core principles, that oblige them to progressively realise the full spectrum of human rights.

The International Covenant on Economic, Social and Cultural Rights (ICESCR) mandates states parties to devote the maximum available resources to advancing enjoyment of economic, social and cultural rights. A related obligation is to refrain from any measures which could constitute a retrogressive step in the enjoyment of economic, social and cultural rights. ICESCR moreover imposes extraterritorial obligations on states to evaluate measures they adopt domestically in terms of their spillover effects on persons residing beyond their jurisdiction.

The International Convention on the Elimination of all forms of Racial Discrimination (ICERD), meanwhile, is anchored in the principle of substantive racial equality. This obliges states to combat not just intentional or purposeful racial inequalities, but also to take concrete steps to combat unintentional and *de facto* discrimination. The obligations imposed by ICERD to combat racial discrimination in all its forms require states to address fiscal policies which might undermine the achievement of substantive racial equality. This not only applies to addressing racial inequality within states but between states as well. In its recent statement on vaccine inequity, the Committee on the Elimination of all forms of Racial Discrimination (CERD) made it clear that the obligation to tackle structural discrimination requires states to address the contemporary structures of historical oppression rooted in slavery, colonialism and apartheid which remain largely unaccounted for today. The CERD moreover

[5] Mandates of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights; the Special Rapporteur on the right to education; the Special Rapporteur on the right to food; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Independent expert on the promotion of a democratic and equitable international order; the Independent Expert on human rights and international solidarity; the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and the Working Group on discrimination against women and girls, 22 December 2023.
https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=28676

[6] For in-depth explanation of the linkages between human rights norms and standards and fiscal policy, see: Center for Economic and Social Rights, the Global Initiative for Economic, Social and Cultural Rights, Principles for Human Rights in Fiscal Policy, 2021. See: https://www.cesr.org/principles-human-rights-fiscal-policy/

acknowledged the extraterritorial obligations which flow from ICERD to give effect to substantive racial equality by regulating the conduct of multinational corporations headquartered in their countries which may impede realisation of economic, social and cultural rights for those residing in the Global South.

Taken together, ICESCR and ICERD demand global solidarity to ensure that every person can enjoy a dignified life and that fiscal policy be used as a key tool in making this a reality. Rights-aligned fiscal policy can tackle poverty and inequality and is equally relevant in realising the right to a healthy environment.

The Durban Declaration and Program of Action, adopted by the UN General Assembly in 2001, recognises that the racist impacts of the colonial era continue to ramify through societies today, resulting in 'underdevelopment' of formerly colonised states and starkly unequal human rights outcomes.[7] Similarly, the Declaration on the Establishment of a New International Economic Order likewise affirms the continuing currency of colonial economic dynamics anchored in the ongoing economic extraction of the Global South by former colonial powers.[8]

Furthermore, the Declaration on the Right to Development[9] makes it clear that self-determination includes the inalienable right to full national sovereignty over natural wealth and resources. It further reiterates the duty of all states to cooperate internationally so as to remove obstacles to development and to the exercise of sovereignty over natural wealth and resources.

Fiscal policy should therefore be regarded as a key tool in giving effect to the principles which undergird international human rights law such as dignity, substantive equality, intersectionality and participatory democracy. Rights-aligned fiscal policies entail policies which might address the contemporary structures of disadvantage and discrimination which frustrate the achievement of equality both within and between states. Moreover, rights-aligned fiscal policies require a system of global coordination and cooperation which expands the fiscal space of countries in the Global South to meet their obligations in respect of the realisation of economic, social and cultural rights. Such an approach has the potential to reverse the colonial extraction model which results in the deliberate expansion of poverty and underdevelopment in the Global South as articulated by the Special Rapporteur on Racism.

Just taxation and financial transparency policies are often categorised using the framework of the '5Rs'- revenue, redistribution, repricing, representation, and reparations.[10]

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[7] OHCHR, the Durban Declaration and Program of Action, 2002. See: https://www.ohchr.org/sites/default/files/Documents/Publications/Durban_text_en.pdf
[8] United Nations General Assembly, Declaration on the Establishment of a New International Economic Order, 1974. http://www.un-documents.net/s6r3201.htm
[9] United Nations General Assembly, Resolution 41/128: Declaration on the Right to Development (1986)- https://www.ohchr.org/sites/default/files/Documents/Issues/Development/RTD_booklet_en.pdf
[10] For in-depth explanation of taxation's human rights function in revenue, redistribution, repricing and representation, see: Tax Justice Network, Tax Justice & Human Rights: The 4 Rs and the realisation of rights, 2021. See: https://taxjustice.net/reports/tax-justice-human-rights-the-4-rs-and-the-realisation-of-rights/ See also, Gurminder K. Bhambra (ed), Imperial Inequalities: The Politics of Economic Governance across European Empires, Manchester University Press, 2022. https://manchesteruniversitypress.co.uk/9781526166142/imperial-inequalities/

Governments require adequate revenue in order to provide for the enjoyment of human rights.[11] Tax policies, as one of the most significant drivers of equality outcomes, must also be designed and implemented in such a way as to avert levels of international and intra-national socioeconomic inequality that would undermine the enjoyment of human rights.[12] Another of the chief roles of taxation is to reprice goods and services, so as to incentivise or disincentivise activities and behaviours – such as tobacco or excessive fossil fuel consumption – that negatively impact the enjoyment of human rights.[13] Taxation is also a key pillar of the social contract between governments and citizens in representative democracies; it is well documented that higher-tax economies are linked to more robust standards and expectations of governmental accountability, while low tax economies and rentier states tend to experience weaker social contracts.[14] Finally, a just and transparent international financial architecture that precludes high levels of cross-border tax abuse is a key precondition to providing reparations for the full spectrum of human rights violations rooted in colonial systems of economic extraction.

In the context of international tax negotiations, the duty of international cooperation[15] together with the principles of non-discrimination and maximum available resources,[16] impose duties on states to ensure that their participation in international fora such as the Organisation for Economic Cooperation and Development (OECD) serves to facilitate, rather than impede, the generation of resources for the progressive realisation of economic, social and cultural rights in all countries. The extra-territorial dimensions of these human rights obligations also make it clear that states parties' responsibilities do not stop at their national frontiers, but also apply to human rights outcomes in third countries which they are in a position – for example through their involvement in fora such as the OECD – to influence.[17]

Moreover, the OECD itself, as an intergovernmental organisation, is also subject to international law and faces duties to ensure both its processes and activities are in compliance with human rights norms and standards.[18]

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[11] Tax Justice Network, Tax Justice & Human Rights: The 4 Rs and the realisation of rights, 2021. See: https://taxjustice.net/reports/tax-justice-human-rights-the-4-rs-and-the-realisation-of-rights/

[12] See, for example, Towards a global fiscal architecture using a human rights lens, Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, Attiya Waris, 2022. https://www.ohchr.org/sites/default/files/2022-11/Foreign-Debt-user-friendly.pdf

[13] Tax Justice Network, op cit 2.

[14] See, for example, Yvette Lind, "Initial findings on how individuals may indirectly influence tax and spend in Sweden, Germany and the United States" (Intertax, vol. 48 no. 5, 2020, pp. 482-497),

[15] This obligation is core to the entire United Nations human rights framework, and is detailed, *inter alia,* in the Charter of the United Nations, Articles. 1(3), 55, 56; The International Covenant on Economic, Social and Cultural Rights, Articles 2(1), 11, 22, 23; and the Committee on Economic, Social and Cultural Rights' General Comment No. 3: The Nature of States Parties' Obligations, UN Doc. E/1991/23 (1990), see also Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights (2011), principle 13.

[16] ETO Consortium, Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights. See: fidh.org/IMG/pdf/maastricht-eto-principles-uk_web.pdf

[17] Ibidem.

[18] Commitee on Economic Social and Cultural Rights, Substantive Statement: Public debt, austerity measures and the International Covenant on Economic, Social and Cultural Rights, 2016. See: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Download.aspx?symbolno=E%2FC.12%2F2016%2F1&Lang=en ; See also: OHCHR, Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, Report: Responsibility for complicity of international financial institutions in human rights violations in the context of retrogressive economic reforms, 2019. https://www.ohchr.org/en/documents/thematic-reports/a74178-responsibility-complicity-

III. Failures of inclusivity

As an institution whose membership is limited to 38 of the world's most developed economies, the OECD does not provide an inclusive or democratic forum for addressing an issue such as just governance of international taxation which is, but its very nature, a complex global phenomenon which impacts Global South nations more severely than their Global North counterparts.[19] The OECD, as a *de facto* global rule-setting body representing the interests of its advanced economy members, usurps the sovereignty of Global South countries and reifies neo-colonial patterns of wealth extraction. In so doing, it has replicated colonial-era racial hierarchies rooted in slavery, colonialism and apartheid.

The OECD is responsible for two major, global public goods in the sphere of tax transparency. The first is the OECD Common Reporting Standard which is the multilateral instrument for automatic exchange of information about financial accounts held by tax residents of other countries – a key tool in combatting offshore tax evasion. The second is the OECD standard for country-by-country reporting which acts as an important plank of tax transparency for multinational companies. Both measures were introduced by the OECD only after the G8 and G20 groups of countries directed it to do so, following a decade of campaigning by the tax justice movement. But in both cases, the OECD has limited the flow of information so that the benefits accrue predominantly to member countries, while many former colonies remain excluded. For example, as the Financing for Sustainable Development Report 2022 notes, only eight African countries are included in either measure.[20]

The human rights failures embedded in the OECD's leadership of international tax negotiations have their roots in colonial-era power imbalances. The 'arm's length principle' - which states that different entities within a multinational group should be taxed as wholly separate companies, thus making profit shifting and thereby tax avoidance relatively straightforward – was established by the imperial powers at the League of Nations in the inter-war period of the 1920s and 1930s.

Following its establishment in 1961 by 17 European nations along with the United States, Canada and Turkey, the OECD took on leadership of global tax negotiations and maintained the pre-eminence of the arms-length approach. It was not until 2013, amidst growing concern over exploding levels of cross-border tax abuse by multinational corporations, that the Base Erosion and Profit Shifting (BEPS) initiative was established. Though some weak provisions were brought forward to formalise country-by-country reporting – which obliges multinationals to report on their profits and costs in each jurisdiction – the BEPS Action Plan failed to deliver any meaningful reforms. Lower income countries were then invited to participate in the BEPS process through a newly-established 'Inclusive Framework'

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international-financial-institutions ; See also, International Law Commission, Draft articles on the responsibility of international organizations, 2011. https://legal.un.org/ilc/texts/instruments/english/draft_articles/9_11_2011.pdf,

[19] Tax Justice Network, the State of Tax Justice, 2021. See: https://taxjustice.net/reports/the-state-of-tax-justice-2021/

[20] Inter-Agency Task Force, 2022, *Financing for Sustainable Development Report 2022*,'Table III.A.3 Participation in international tax cooperation instruments, 2021', p.48.

mechanism, but under the condition that they must implement in its entirety an Action Plan which they played no part in designing.

Following the failure of the original BEPS process, BEPS 2.0 got underway in January 2019 with a mandate to go beyond the century-old arms-length approach. Initially the Inclusive Framework countries were to be empowered to set the workplan for the new negotiations.[21] The participating Global South nations presented a proposal designed by the G24 for a comprehensive shift to unitary taxation.[22] This was included as one of three alternatives of which the Inclusive Framework mandated the OECD secretariat to carry out an evaluation[23] but just a few months later this was blocked by G7 nations in favour of pursuing an alternative approach[24] When US-French negotiations stalled, and the US electorate voted out President Trump, the new administration of President Biden brought forward another, entirely different approach. This forms the basis of the current 'Pillar One' proposal, in which the arms-length approach has been maintained for all but a fraction of the profits of a handful of the largest multinationals.

Although the Inclusive Framework members were informed their proposal would be properly evaluated, there is no indication that any such evaluation actually took place. Instead, the US-France deal was presented as a 'unified proposal' notwithstanding the fact that the content of the G24 proposal was ignored in its entirety. A response to the proposal issued by the South Center confirmed that the G24's input did not appear to have been considered in the final proposal.[25]

> *"The OECD Secretariat, an organisation of, by and for the OECD member states, has prepared the 'Unified Proposal' claiming to include elements from the three proposals under consideration, which were by the US, UK and G24. However there seems to be a disproportionate emphasis on elements drawn from the US' proposal. This may significantly bias the trajectory of the ongoing discussions and is hence a matter of concern."*

Indeed, the G24 likewise raised concerns over developing countries' participation in the process publicly, affirming the need that they be "actually, not notionally, participating in the decision-making process on an equal footing".[26]

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[21] OECD, Programme of Work to Develop a Consensus Solution to the Tax Challenges Arising from the Digitalisation of the Economy, 2019. Available at: https://www.oecd.org/tax/beps/programme-of-work-to-develop-a-consensus-solution-to-the-tax-challenges-arising-from-the-digitalisation-of-the-economy.pdf

[22] At the heart of the problem of corporate tax abuse lies the practice of 'profit shifting', through which individual entities within a multinational group buy and sell to one another at distorted prices so as to pretend an inflated proportion of their profits are 'made' in tax havens rather than in the countries of genuine economic activity. The solution to this is unitary taxation, which taxes a multinational as a single entity and apportions the tax owed to the various countries in which it operates.

[23] OECD, Programme of Work to Develop a Consensus Solution to the Tax Challenges Arising from the Digitalisation of the Economy, 2019. Available at: https://www.oecd.org/tax/beps/programme-of-work-to-develop-a-consensus-solution-to-the-tax-challenges-arising-from-the-digitalisation-of-the-economy.pdf

[24] The Financial Times, US and France agree deal on digital tax, 20 February 2022. See: https://www.ft.com/content/76cf4008-3db1-11ea-b232-000f4477fbca

[25] The South Center, Comments on the OECD Secretariat Proposal for a "Unified Approach" under Pillar One, July 2020. Available at: https://taxinitiative.southcentre.int/wp-content/uploads/2020/07/OECD-Tax-Pillar-One-Comments-South-Centre-Tax-Initiative-v4.pdf

[26] Intergovernmental Group of 24, Comments of the G-24 on the OECD Secretariat Proposal for a Unified Approach to the Nexus and Profit Allocation Challenges Arising from the Digitalisation (Pillar 1), 9 November 2019. Available at:

The OECD deal also includes the establishment of a minimum tax rate for multinational companies, but as detailed below this is so low that it is likely to prove counterproductive and requirements for its implementation are so complex that they are effectively unworkable for most low-income countries, a fact that has also been highlighted by the G24.[27] It also privileges countries which headquarter multinational companies, leaving most Global South nations exposed to continued profit shifting. A series of carveouts,[28] would allow aggressive jurisdictions to reduce the actual imposable rate to around 10 percent, and many are even proposing simply to return any taxes raised to multinationals by separate subsidies.[29]

Resulting disquiet among Inclusive Framework members led to allegations of coercion from some quarters.[30] The G24 made a submission to the OECD highlighting that, from the perspective of its members, the proposal was likely to be unsustainable,[31] while the South Centre affirmed that “there are several aspects of the agreement which when seen from the perspective of developing countries make it not just deeply disappointing but downright unacceptable”.[32] Finally, four Inclusive Framework members - Kenya, Nigeria, Pakistan, and Sri Lanka - took the decision to break ranks by refusing to sign on to the proposal.

Amid growing frustration over the exclusionary dynamics of the OECD process, the Economic Commission for Africa’s conference of finance ministers in May 2022 issued a call for the United Nations to develop a tax convention, with all countries negotiating on an equal footing.[33] This led in turn to the Africa Group tabling its historic resolution at the United Nations in November of the same year calling for the start of discussions on international tax and mandating the Secretary-General to provide a report on the issue

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https://www.g24.org/wp-content/uploads/2019/12/G-24_Comments-on-OECD-Secretariat-Proposal-for-a-Unified-Approach.pdf

[27] Intergovernmental Group of 24, Comments of the G-24 on the Progress Report on Amount A of Pillar One, 15 August 2022. Available at: https://www.g24.org/wp-content/uploads/2022/08/Comments-of-the-G-24-on-the-Progress-Report-on-Amount-A-of-Pillar-One.pdf

[28] A ’carveout’ is effectively a partial exemption determined according to certain criteria. For more on this, see: Gabriel Zucman, Mona Barake, Paul-Emmanuel Chouc, and Theresa Neef, Minimizing the Minimum Tax? The Critical Effect of Substance Carve-Outs, EU Tax Observatory, 2021. https://www.taxobservatory.eu/publication/minimizing-the-minimum-tax-the-critical-effect-of-substance-carve-outs/

[29] Dominik Gross, 2023, ’The global tax rate is now a tax haven rewards programme, and Switzerland wants in first‘, *Tax Justice Network*: https://taxjustice.net/2023/04/06/the-global-tax-rate-is-now-a-tax-haven-rewards-programme-and-switzerland-wants-in-first/

[30] African Tax Administration Forum, The place of Africa in the shift towards Global Tax Governance: Can the taxation of the digitalised economy be an opportunity for more inclusiveness, 2019. https://events.ataftax.org/index.php?page=documents&func=view&document_id=35

[31] Intergovernmental Group of 24, Comments of the G-24 on the Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy agreed by 134 jurisdictions of the Inclusive Framework on the 1 of July 2021. Available at: https://www.g24.org/wp-content/uploads/2022/03/Comments-of-the-G24-on-the-IF-July-Statement.pdf

[32] The South Center, Statement by the South Centre on the Two Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy, October 2021. Available at: https://www.southcentre.int/wp-content/uploads/2021/10/SC-Statement-on-IF-Two-Pillar-Solution-3-Oct-2021.pdf

[33] Tax Justice Network, African Ministers call for UN tax convention to protect against financial secrecy supplied by the richest nations, 27 May 2022.https://taxjustice.net/2022/05/27/african-ministers-call-for-un-tax-convention-to-protect-against-financial-secrecy-supplied-by-the-richest-nations-as-africa-improves-in-the-financial-secrecy-index-2022/

which,[34] significantly, was approved by consensus. That was followed by the Africa Group resolution of December 2023[35] which created the current Ad Hoc Committee to Draft Terms of Reference for a UN Framework Convention on International Tax Cooperation, as the final step to formal negotiations.[36]

From a decolonial perspective the right to self-determination taken together with the right to development require global processes of tax coordination and cooperation to be cognisant of power imbalances between countries in the Global North and Global South which are rooted in the legacies of slavery and colonialism. Instead of ensuring meaningful participation by those most affected by illicit financial flows and other aggressive tax avoidance practices, the OECD process engaged in subterfuge that only enabled participation in form but not substance. In addition, the OECD treats "jurisdictions" such as the British Virgin Islands (which is not a sovereign nation state) on an equal footing as bona fide sovereign nation states. As a result many former colonial powers such as France, the UK and the Netherlands had an outsized share of votes when the GTA was agreed upon.

Moreover, the OECD is not a legitimate forum for negotiations of this kind because its key members are a group of some of the world's richest and most powerful nations (including many former colonial powers). It has failed to adhere to basic standards of participation, accountability and transparency and, in so doing, has maintained, reified and arguably exacerbated international structures of exploitation and subjugation anchored in a racist colonial architecture of economic extraction. The predictable outcome of this opaque and exclusionary approach to the governance of a critical public good – tax revenue – is an agreement that will severely prejudice the human rights of predominantly non-white peoples of the Global South.

IV. Failures of effectiveness

The OECD's Base Erosion and Profit Shifting initiative (BEPS) was initiated in 2013 with the stated aim of tackling cross-border tax abuse by multinational companies. The BEPS process comprises two 'Pillars', with Pillar One focusing on the distribution of taxing rights between countries, while Pillar Two centres on establishing a globally-agreed minimum corporate tax rate so as to put an end to the 'race to the bottom'.[37]

In both areas, its final proposal manifestly fell short of anything that could deliver the meaningful changes needed to confront the injustices embedded in crossborder tax abuse. While its proposal under Pillar One was supposed to deliver unitary taxation - which taxes a multinational as a single entity and apportions the tax owed to the various

[34] United Nations General Assembly, United Nations convention on international tax cooperation, December 2022. See: https://undocs.org/A/C.2/77/L.11

[35] For more on this, see: https://financing.desa.un.org/document/promotion-inclusive-and-effective-international-tax-cooperation-united-nations-ares78230

[36] Full details on the UN process can be found at: https://financing.desa.un.org/un-tax-convention

[37] The 'race to the bottom' refers to the collapse in corporate tax revenue over the past 40 years due to countries competing to outdo each other in their efforts to attract multinational investment through ever-decreasing corporate tax rates and an ever-increasing range of tax incentives. For more on this, see: https://taxjustice.net/topics/tax-competition-and-the-race-to-the-bottom/

countries in which it operates[38] - the final proposal is limited to a small fraction of the profits of a few dozen of the largest multinationals. Its proposed threshold for taxing multinational companies – applying only to those with a turnover of above US $20 billion - is likewise wholly inadequate.[39] Furthermore, extractive industries are excluded from the proposal, thereby prejudicing the many former colony states that are disproportionately reliant on the extractive sector.

There are a variety of approaches that can be taken to calculating how multinationals' profits should be apportioned. Pillar One makes two problematic choices. First, by focusing solely on a narrowly defined measure of 'residual' profits with no obvious economic basis, the approach ensures that most profits will remain under the arm's length approach – despite the recognition that arm's length pricing is not fit for purpose in the 21st century, and the motivating commitment for the OECD's whole process having been to 'go beyond arm's length'.

Second, the basis of apportionment matters. Which measures of multinationals' economic activity should determine where their profits are taxed? By excluding employees as a component of economic activity, and giving weight solely to sales, the OECD proposal ensured its proposal would favour the wealthy consumer economies of its member states while offering little to the 'producer' economies of the Global South.[40] In so doing, it further ensured that its 'solution' to the problem of corporate tax abuse would maintain and reify international structural economic inequalities rooted in colonial injustices of the past.

Lastly, and on top of each of these failings, the Pillar One proposal appears to be dead in the water in practical terms – because of a further choice taken by the OECD secretariat. The Biden administration – which had joined the negotiations halfway through and had its own, new approach adopted in place of all the preceding proposals – is expected to be unable to ratify the proposed Pillar One. Rather than seek ways for others to move ahead regardless, the OECD has instead designed a criterion for enactment of the measure that guarantees the US an effective veto on any progress by others – so that after more than 5 years of tying the 'Inclusive Framework' process to the fluctuating US position, the OECD has ensured that even this highly circumscribed Pillar One is likely to come to nothing.[41]

It is worth reflecting that even the OECD's 'unified proposal' of 2019 (based on the US-French negotiations under President Trump) was highly problematic. Analysis by the Independent Commission for Reform of International Corporate Taxation demonstrated that the proposals would exacerbate global inequalities while making little impact on

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[38] At the heart of the problem of corporate tax abuse lies the practice of 'profit shifting', through which individual entities within a multinational group buy and sell to one another at distorted prices so as to pretend an inflated proportion of their profits are 'made' in tax havens rather than in the countries of genuine economic activity. The solution to this is unitary taxation, which taxes a multinational as a single entity and apportions the tax owed to the various countries in which it operates.

[39] The South Center, Two Pillar Solution for Taxing the Digitalized Economy: Policy Implications and Guidance for the Global South, 2022. https://www.southcentre.int/wp-content/uploads/2022/07/RP161_Two-Pillar-Solution-for-Taxing-the-Digitalized-Economy_EN.pdf

[40] Tax Justice Network, OECD reform weak on corporate tax havens, harsh on poorer countries, 7 October 2019. https://taxjustice.net/press/oecd-reform-weak-on-corporate-tax-havens-harsh-on-poorer-countries/

[41] BEPS Monitoring Group, 2023, Taxing Multinationals: The BEPS Proposals and Alternatives, https://www.bepsmonitoringgroup.org/news/2023/7/5/the-beps-proposals-and-alternatives.

rampant cross-border tax abuse.[42] The reduction in corporate profits booked in tax havens was projected to be just 5 percent. This compares to a reduction of 43 percent that could be achieved by a reform proposal put forward by the International Monetary Fund, and a drop of 60 percent had the proposal designed by the G24 group of developing nations been implemented.[43]

The aforementioned ICRICT analysis showed that the reform would increase the tax base of OECD countries by US $5 billion – itself a meagre sum when considered in a context where close to US $500 billion is lost every year to cross-border tax abuse – while the tax base of G24 countries would see an increase of just US $0.7 billion and G77 countries a paltry US $0.3 billion. Some 80 percent of the redistributed profits would flow to high-income countries, while lower middle-income countries would actually see their tax base reduced by 3 percent. In contrast, the proposals put forward by tax justice campaigners would see the tax base of OECD countries expand by US $27 billion, that of G24 countries by US $29 billion and the tax base of the G77 by US $19 billion.

Under Pillar Two, meanwhile, the original ambition – and with it, the potential for reclaiming revenues lost to tax abuse under the current rules – also collapsed. The proposed minimum effective tax rate of 15 percent is well below the existing corporate tax rate of all but a few of the most aggressive tax havens, and threatens to exacerbate the race to the bottom by serving as a 'ceiling' rather than a 'floor'. A range of carveouts[44] insisted on by corporate tax havens in the EU now mean that effective rates even below 10% are likely still to be possible. Most importantly, as the BEPS Monitoring Group notes, the OECD Pillar Two proposed rules "give priority to the home countries of multinational enterprises (MNEs) to apply an 'income inclusion rule', while the right of host countries to apply an 'undertaxed profits rule' is only a back-up. The new provision for a 'domestic top-up tax' would benefit only countries where MNEs declare relatively high levels of profit that are taxed below the effective tax rate. These are essentially tax havens that offer preferential tax regimes to attract 'conduit' intermediary entities, used to channel profits shifted out of source countries. This gives lowest priority to ensuring an appropriate level of tax at source, where profits arise. While this bias affects all countries, it particularly discriminates against lower-income countries, which are generally only

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[42] ICRICT, ICRICT response to the OECD Consultation on the Secretariat Proposal for a "Unified Approach" under Pillar One, 11 november 2019.
https://static1.squarespace.com/static/5a0c602bf43b5594845abb81/t/5dcec01c17474f00d8b349e7/1573830698684/ICRICT+submission+to+OECD+11+11+19.pdf
See also: ICRICT, ICRICT response to the OECD Consultation on Global Anti-Base Erosion Proposal ("GloBE") - Pillar Two, 2 December 2019.
https://static1.squarespace.com/static/5a0c602bf43b5594845abb81/t/5de8b6f61087c66fa6c68ef7/1575532279706/ICRICT+submission+to+OECD+02+12+2019.pdf
See also: ICRICT, International Corporate Tax reform, October 2019.
https://www.icrict.com/international-corporate-taxation-reform
[43] Tax Justice Network, OECD reform weak on corporate tax havens, harsh on poorer countries, 7 October 2019.
https://taxjustice.net/press/oecd-reform-weak-on-corporate-tax-havens-harsh-on-poorer-countries/
[44] A 'carveout' is effectively a partial exemption determined according to certain criteria. For more on this, see: Gabriel Zucman, Mona Barake, Paul-Emmanuel Chouc, and Theresa Neef, Minimizing the Minimum Tax? The Critical Effect of Substance Carve-Outs, EU Tax Observatory, 2021. https://www.taxobservatory.eu/publication/minimizing-the-minimum-tax-the-critical-effect-of-substance-carve-outs/

hosts to MNEs, and are also more highly dependent on corporate income tax, thereby disadvantaging poor countries."[45]

The OECD's standard setting on tax governance has also been characterised by persistent failures of transparency.

The imposition of highly-technical implementation criteria which few developing countries have the capacity to enact has been one aspect of this. The OECD Common Reporting Standard (CRS), ostensibly including over 100 jurisdictions, is intended to enable the sharing of information on offshore bank accounts between governmental authorities in different countries. Under its current design, the requirement of reciprocity renders it useless to poorer countries which lack the resources or technical capacity of their wealthier counterparts.[46] This exclusionary system has been maintained despite the common critique that it is highly-unlikely that Swiss tax-resident billionaires, for example, are hiding their assets in, for example, Benin. The world's largest provider of financial secrecy, the United States, meanwhile refuses to cooperate with the CRS. To date, only a handful of countries, such as Australia and Germany, publish aggregate bilateral statistics on balances and income streams under the CRS.

Added to this, the OECD has failed even to meet its own pledges on publishing aggregate country-by-country reporting data – a critical public good in the fight against international tax abuse - in a timely fashion.[47] In so doing, it has failed to fulfil the mandate on precisely this issue that it was given by the G20 in 2013.[48]

[45] BEPS Monitoring Group, 2022, 'Comments on the Implementation Framework of the Global Minimum Corporate Tax', pp.2-3: https://www.bepsmonitoringgroup.org/news/2022/4/11/the-implementation-framework-for-the-global-minimum-tax.

[46] Andres Knobel, Statistics on automatic exchange of banking information and the right to hold authorities (and banks) to account, Tax Justice Network, 2019. https://taxjustice.net/2019/06/21/statistics-on-automatic-exchange-of-banking-information-and-the-right-to-hold-authorities-and-banks-to-account/

[47] Tax Justice Network, The State of Tax Justice 2022, 2022. See: https://taxjustice.net/wp-content/uploads/2022/11/State-of-Tax-Justice-2022-Tax-Justice-Network.pdf

[48] Tax Justice Network, Open letter to G20: OECD failure to deliver on G20 mandates, 2022. See: https://taxjustice.net/2022/11/15/open-letter-to-g20-oecd-failure-to-deliver-on-g20-mandates/

v. Failure to address structural racism

The Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and racial intolerance has demonstrated in detail how the patterns of resource extraction and economic domination and subjugation established during the colonial era continue to this day, resulting in racially discriminatory human rights and developmental outcomes for the Global South.[49]

Research by Tax Justice Network has meanwhile shown that the global tax agreement delivered by the OECD will serve only to reify structures of racial discrimination by maintaining massive outflows of revenue from Global South nations and into the financial centres of the Global North.[50] What meagre impact it would have in curbing cross-border tax abuse by multinational corporations would accrue almost entirely to the same OECD member states which are responsible for facilitating massive levels of international tax abuse in the first place.[51]

By constraining the fiscal space of governments, the OECD tax deal systematically prevents countries – especially those in the Global South – from meeting the responsibility of progressive realisation of economic, social and cultural rights.[52] Independent evaluations of its proposed tax agreement demonstrate that it is likely to exacerbate inequalities within and between countries,[53] and in so doing to further exacerbate racial inequalities.

Infamously, the OECD's early 2000s 'blacklist' of uncooperative tax jurisdictions[54] failed to include any of its own member states - many of which are among the most pernicious tax havens[55] - and instead singles out a limited number of smaller nations which, by comparison, are responsible for a far smaller share of international tax abuse.[56] Shockingly, the only country the OECD targeted for sanctions on the basis of its tax haven policies is the

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[49] OHCHR, Global extractivism and racial equality - Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, 2019. See: https://www.ohchr.org/en/documents/thematic-reports/ahrc4154-global-extractivism-and-racial-equality-report-special

[50] Tax Justice Network, OECD reform weak on corporate tax havens, harsh on poorer countries, October 2019. https://taxjustice.net/press/oecd-reform-weak-on-corporate-tax-havens-harsh-on-poorer-countries/

[51] Tax Justice Network, OECD reform weak on corporate tax havens, harsh on poorer countries . https://taxjustice.net/press/oecd-reform-weak-on-corporate-tax-havens-harsh-on-poorer-countries/

[52] OHCHR, CESCR General Comment No. 3: The Nature of States Parties' Obligations, 1990. Available at: https://www.refworld.org/pdfid/4538838e10.pdf

[53] ICRICT, ICRICT response to the OECD Consultation on the Secretariat Proposal for a "Unified Approach" under Pillar One, 11 november 2019. https://static1.squarespace.com/static/5a0c602bf43b5594845abb81/t/5dcec01c17474f00d8b349e7/1573830698684/ICRICT+submission+to+OECD+11+11+19.pdf ; See also: ICRICT, ICRICT response to the OECD Consultation on Global Anti-Base Erosion Proposal ("GloBE") - Pillar Two, 2 December 2019. https://static1.squarespace.com/static/5a0c602bf43b5594845abb81/t/5de8b6f61087c66fa6c68ef7/1575532279706/ICRICT+submission+to+OECD+02+12+2019.pdf ; See also: ICRICT, International Corporate Tax reform, October 2019. https://www.icrict.com/international-corporate-taxation-reform

[54] Further detail on the OECD tax haven 'blacklist' can be found at: https://www.oecd.org/daf/anti-bribery/theoecdissuesthelistofunco-operativetaxhavens.htm

[55] Tax Justice Network, 2023, *State of Tax Justice 2023*, https://taxjustice.net/reports/the-state-of-tax-justice-2023/.

[56] Tax Justice Network, 2018, Blacklist, whitewashed: How the OECD bent its rules to help tax haven USA. https://taxjustice.net/2018/07/27/blacklist-whitewashed-how-the-oecd-bent-its-rules-to-help-tax-haven-usa/

tiny African state of Liberia; a fact that has prompted allegations of racial bias.[57]

Just as the OECD continues to give a pass to those of its majority-white member nations who facilitate crossborder tax abuse, low-income countries remain trapped by odious and often illegitimate debts that drive them towards a vicious cycle, taking on of further debts, often with strict conditionalities, a concomitant constriction of fiscal and policy space, and a weakening of sovereign autonomy.[58] The debt cycle now being experienced by many predominantly non-white nations across the Global South further fuels cuts in social spending and the privatisation of public assets, in turn driving ordinary households into poverty and related human rights deprivations.

It must be emphasised that, by continuing to allow the effective pilfering of government coffers in the Global South and channelling that revenue to tax havens and financial centres in the Global North, the OECD deal undermines the full spectrum of human rights, not just economic, social and cultural rights. The realisation of civil and political rights requires the development of robust state institutions, which is rendered impossible in many cases by the relentless loss of revenues through abusive cross-border tax practices.

Tax has been called 'our social superpower', because its role in the social contract can be pivotal in the emergence and maintenance of accountable governments, working for better lives for all. The failure of international tax rules to end the drain to the Global North drives not only a continuing financial loss but the corrosive undermining of prospects for statehood in the Global South.[59]

This failure also impedes efforts to formalise national workforces, thereby preventing the development of more progressive income tax regimes that are necessary to reduce inequalities and sustain equitative socio-economic development at national level. The misappropriation of government revenue through international tax abuse thus results in a pernicious multiplier effect inhibiting the generation of resources for the fulfilment of human rights obligations at national level, and trapping lower-income countries in a 'poverty trap'.

In this regard, the still-pervasive narrative suggesting that the 'underdevelopment' of former colony states is due to political corruption in those states, must also be challenged. Political corruption and transnational organised crime run on the architecture of global financial secrecy, provided by a handful of nations in the Global North, which the OECD BEPS process has signally failed to remedy.

Indeed 'the UK Spider's Web' – comprising the City of London together with the network of UK crown dependencies and overseas territories – is responsible for nearly a third of global revenue losses to corporate tax abuse.[60] Together with the other countries making up 'the Axis of Tax Avoidance' – former colonial power the Netherlands, along with Switzerland

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[57] Steven Dean, Attiya Waris, 2021, Ten Truths About Tax Havens: Inclusion and the 'Liberia' Problem. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3822421
[58] Center for Economic and Social Rights, Sovereign Debt and Human Rights, 2022. https://www.cesr.org/sites/default/files/2022/Sovereign_Debt_and_Human_Rights.pdf See also, Cephas Lumina, Sovereign Debt and Human Rights. 2018. Available at: https://www.ohchr.org/sites/default/files/Documents/Issues/Development/RTDBook/PartIIIChapter21.pdf
[59] Alex Cobham, 2024, *What do we know, and what should we do about Tax Justice?*, London: SAGE.
[60] Tax Justice Network, The State of Tax Justice 2021. See: https://taxjustice.net/wp-content/uploads/2021/11/State_of_Tax_Justice_Report_2021_ENGLISH.pdf

and Luxembourg – it is responsible for 46 percent of total corporate tax revenue losses.[61] The United States, as the world's largest provider of financial secrecy services, meanwhile tops the Financial Secrecy Index ranking as the largest provider of 'financial secrecy services' in the world.[62]

VI. Failures of accountability

In December last year, a group of eight UN special procedures issued a letter to the OECD challenging it to account for the human rights shortcomings of both the 'two-pillar solution', which it has presented as a deal to definitively confront international tax abuse, and the exclusionary character of negotiations that went into delivering the same.[63]

In the letter the group, which included the Independent Expert on Debt and Human Rights, the Special Rapporteur on Racism and the Special Rapporteur on the Right to Food, they sharply criticised the OECD's two-pillar solution, warning that it could have adverse consequences for the realisation of human rights.

The intervention is notable firstly because it grounds its analysis against the contemporary effects of the historic racial injustices of slavery, colonialism and apartheid which remain largely unaccounted for today. In a similar vein to a 2022 statement on vaccine inequality issued by the UN Committee on the Elimination of Racial Discrimination,[64] the special procedures warn that "in reifying patterns of economic extraction with historical origins in systems of colonialism and slavery, the deal has the potential to prejudice the predominantly non-white nations of the Global South". They argue that the two-pillar solution has the potential to undermine the achievement of substantive gender and racial equality. This finding is groundbreaking from a human rights perspective, because it shifts the narrative about what is required to enable a truly anti-racist, feminist and decolonial financial architecture which is fit for purpose.

Second, the UN special procedures critiqued the impact of the two-pillar solution on the fiscal capacity of countries, especially in the Global South, to resource rights such as health, food, water, education, social security and an adequate standard of living. In this regard, they found that the proposal might constitute a "retrogressive step", and therefore be incompatible with the human rights obligations set out in the International Covenant on Economic, Social and Cultural Rights.

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[61] Ibidem.

[62] Tax Justice Network, The Financial Secrecy Index 2022. Available at: https://fsi.taxjustice.net/

[63] Mandates of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights; the Special Rapporteur on the right to education; the Special Rapporteur on the right to food; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Independent expert on the promotion of a democratic and equitable international order; the Independent Expert on human rights and international solidarity; the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and the Working Group on discrimination against women and girls, 22 December 2023.
https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=28676

[64] Committee on the Elimination of Racial Discrimination, 2023, Statement on the lack of equitable and non-discriminatory access to COVID-19 vaccines. Available at: https://www.cesr.org/sites/default/files/2022/INT_CERD_SWA_9548_E.pdf

Third, the UN special procedures illustrated the structural factors which impede the realisation of human rights and the structural reforms necessary to transform the global financial architecture. In their letter, they highlight “the strengthened neoliberal turn of the past forty years,” which, they argue, “has demonstrably increased poverty and inequality both between and within nations.” As for structural reforms, they call for “feminist and human rights-based approaches” that “enable the creation of progressive, redistributive global financial governance frameworks” and call upon “the OECD and its member states to support ongoing efforts for UN-led global tax reforms, which represent a once-in-a-lifetime opportunity to fix discriminatory and regressive international tax rules”.

The special procedures also called upon the OECD to conduct a human rights impact assessment of its two-pillar solution, including its racial and gender impacts.

At the time of writing, the OECD has still not responded to the concerns raised in the special procedures’ letter, even though explanation and clarification were explicitly requested. This apparent failure to adhere to professional and institutional norms has become characteristic of the OECD’s comportment as efforts to initiate globally inclusive negotiations on tax cooperation have gained traction at the United Nations. Prior to discussions at the 77th General Assembly, the OECD took the unprecedented step of sending letters to ambassadors of various of its members questioning the UN’s fitness to oversee international tax negotiations and pressing them to block the aforementioned Africa Group resolution.[65]

VII. Failures to adhere to professional standards

In recent times, the OECD has also been mired in repeated controversies over failures to adhere to professional standards, particularly with regard to perceptions of the autonomy and independence of some of its most senior figures.

In late 2022 the longstanding head of the OECD's Centre for Tax Policy and Administration (CTPA), Pascal Saint-Amans, departed the organisation and immediately took up a role with the private sector lobbying firm Brunswick Group. The move provoked concerns over a revolving door between public and private office, and highlighted the absence of safeguards to protect against conflicts of interest at the OECD.[66]

Mr Saint-Amans' successor, Manal Corwin, joined from a long career in tax advice with the big four accounting firm KPMG. In her first major interview upon taking the role, Corwin indicated a clear desire to distance herself:

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[65] Tax Justice Network, UN resolution for an intergovernmental tax framework: What does it mean, and what’s next?, 15 December 2022. https://taxjustice.net/2022/12/15/un-resolution-for-an-intergovernmental-tax-framework-what-does-it-mean-and-whats-next/

[66] Financial Transparency Coalition, 14 October 2022, FTC denounces OECD’s relationship with private sector lobbyists and calls for urgent ethics review. https://financialtransparency.org/ftc-denounces-oecds-relationship-private-sector-lobbyists-calls-urgent-ethics-review/

“Well, when I accepted the role, I felt very strongly about making sure that I incorporated guardrails to avoid any actual or perceived conflicts... I also incorporated into my contract a cooling-off period, a one-year cooling-off period with respect to engaging with any former clients on OECD tax matters and tried to follow the best practices in other institutions, including the U.S. government, for that.” [67]

Indeed, other international governance organisations generally have standards in place to prevent conflicts of interest arising. The EU Commission, for example, requires extended ‘cooling off’ periods before senior staff who move on from their positions can engage in any kind of lobbying of the institution.[68] The Commission's Code of Conduct states that these wait periods should be at least three years for the President, two years for Commissioners, and one year for Directors-General, Deputy Directors-General, Directors and Heads of Cabinet. By contrast, Mr Saint-Amans‘ role with Brunswick Group began the day after he left the OECD and a press release issued by the firm made it clear that he would be expected to engage in lobbying activities.[69]

Ms Corwin has meanwhile been linked to a significant controversy concerning abusive tax practices; during her time with the accountancy firm KPMG Ms Corwin co-authored a 'tax planning' proposal[70] for Microsoft which would lead to a major scandal.[71] The scheme involved Microsoft shifting billions of dollars of its profits to a small factory in Puerto Rico, but led the IRS to conduct what ProPublica have labelled 'the largest audit in U.S. history', resulting in a massive bill for unpaid taxes. In late 2023, US Senators Elizabeth Warren, Bernie Sanders and Sheldon Whitehouse wrote to KPMG to demand further details of their role, although no reply has so far been published.[72]

More recently, another major controversy erupted over revelations that OECD Secretary General Mathias Cormann profited from secretive dealings with Luke Sayers, who was head of Price Waterhouse Coopers Australia during what became known as the TaxLeaks scandal. According to media reports, a company founded by Sayers received over $10 million in Australian government contracts, while Cormann - who was Australia's Finance Minister from 2013 to 2020 - was secretly a co-owner.[73] Sayers had left PwC after presiding over shocking events which have seen the accounting firm accused of using their access to Australian government policy processes to garner and exploit information *specifically* about the OECD‘s tax reform process. The chief executive of the Tax Practitioners Board, an Australian regulator, testified to the parliamentary enquiry

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[67] Tax Notes, 2023, ’Manal Corwin Takes The Helm: Updates On The OECD Tax Reform Plan’, *Forbes*, https://www.forbes.com/sites/taxnotes/2023/08/01/manal-corwin-takes-the-helm-updates-on-the-oecd-tax-reform-plan/.

[68] Code of Conduct for the Members of the European Commission, 2018. https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32018D0221(02)

[69] Brunswick Group, 19 September 2022, Pascal Saint-Amans joins Brunswick Group as a Partner. https://www.brunswickgroup.com/pascal-saint-amans-joins-brunswick-group-as-a-partner-i22150/

[70] KPMG leaked emails concerning 2004 Pitch to Microsoft. https://www.documentcloud.org/documents/6556275-KPMG-2004-Pitch-to-Microsoft.html

[71] Paul Kiel, 2023, ’ How a Maneuver in Puerto Rico Led to a $29 Billion Tax Bill for Microsoft’, ProPublica, https://www.propublica.org/article/irs-microsoft-audit-back-taxes-puerto-rico-billions.

[72] ProPublica, 30 November 2023, Senators Question KPMG Role in Microsoft Profit-Shifting Scheme https://www.propublica.org/article/senators-question-kpmg-role-in-microsoft-profit-shifting-scheme

[73] The Klaxon, 22 January 2024, Firm secretly owned by OECD boss given taxpayer millions. https://theklaxon.com.au/firm-secretly-owned-by-oecd-boss-given-taxpayer-millions/

into the PwC scandal that the leaks were used “to gain advantage in shaping what would happen in [the OECD’s corporate tax project]”.[74].

It is unclear what standards the OECD applies to ensure that it is hiring professionals of good character and commitment to fair taxation. It is not known whether the recruitment processes for the two most senior posts in respect of its international tax work took place in full awareness of the individuals’ roles in major tax scandals, or whether there has been any subsequent consideration of these positions.

Ultimately, it is difficult to conclude that the institution has appropriate policies in place to maintain professional standards in its work on international tax.

[74] Neil Chenoweth, 2024, ’Offshore tax leaks went beyond the ‘dirty six’, Senate told’, *Australian Financial Review*, https://www.afr.com/companies/professional-services/offshore-tax-leaks-went-beyond-the-dirty-six-senate-told-20240214-p5f51b.