The last chance

Why 2026 is the critical moment for governments to end appeasement, and stand up for our tax sovereignty

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TAX JUSTICE NETWORK

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Executive summary

Last year saw two quite different types of negotiations in international tax. In one, the countries of the world have been negotiating at the United Nations, to agree how they can cooperate to end the vast tax abuse of multinational companies and wealthy individuals with hidden offshore assets. These negotiations are conducted in full public view, and with the stated aim of delivering much fairer outcomes. One country, the United States, has withdrawn, refusing to participate in a transparent process where each country has an equal voice.

In the other negotiation, which took place entirely behind closed doors, the rich countries that form the OECD simply caved in. They abandoned the attempt to tax US multinationals fairly, in an effort to appease Donald Trump. They have given up billions of dollars of revenues that would otherwise fund public services without so much as a parliamentary debate, never mind public scrutiny or a vote. And because this submission took place in the OECD, which has no voting mechanism, no transparency over decision-making and no meaningful voice for most countries of the world, the rich countries’ refusal to stand up for their own people will also strip revenue from all others.

But for one thing, the last chance we all now have. The first set of negotiations continues this year. These are scheduled to deliver a UN Framework Convention for International Tax Cooperation to the United Nations General Assembly in 2027. The critical decisions on the substance of the Convention will be taken this year, 2026, across three negotiating sessions in New York and Nairobi.

If our governments do not stand up for their own taxing rights now, and ensure the Convention meets the intended ambition, the chance to deliver fair taxation will be gone – perhaps for a generation.

If ever there was a moment to demand better from our governments – to demand they work collectively to defend national tax sovereignty, in support of democracy – it is surely now. If ever there was a time to end the policy of appeasing the bully in the White House, it is now.

1. One public negotiation for the public good

In mid-November 2025, delegates from (almost) every country in the world met in Nairobi to continue negotiating the United Nations Framework Convention for International Tax Cooperation. The convention aims to strengthen the ability of every country to raise their own revenues fairly, to support their own people's aspirations for stronger societies and better lives. The negotiations will be livestreamed around the world, allowing all of us to see the level of ambition that our governments show.

The primary commitment, agreed in the terms of reference for the negotiations, is to achieve 'a fair allocation of taxing rights [between countries], including equitable taxation of multinational enterprises'. Given the documented inability of transfer pricing to deliver such a 'fair allocation', this would ultimately be delivered by taxing multinationals on their global profits (instead of the profits declared by individual subsidiaries, as at present); and ensuring that those profits are taxed in the same place as the underlying real economic activity – that is, the location of the workers and the sales that produce the profits.

At current corporate tax rates, this would raise an additional US$350bn in global tax revenues each year (Tax Justice Network, 2024). Simply by ending the ease with which multinationals exploit the current failed rules in order to shift profits to low-tax jurisdictions, the convention can set the path for a fair allocation of taxing rights and a much more effective corporate tax system.

Multinational companies based in the United States are by far the most aggressive in shifting their profits away from the places they make their money. The data show that multinationals from other countries shift around 17% of their global profits. US multinationals shift 24% of their global profits, and account for 29% of the global revenue losses – some US$100bn each year (Tax Justice Network, 2025b).

Under Donald Trump, the United States has withdrawn from the UN negotiations. But the rules agreed would still apply to US multinationals and indeed all other multinationals operating in signatory countries. After all, these companies' profits are generated by workers employed all over the world, and by global consumers/users who buy and use their services. The collective commitment to a different approach will provide the strongest possible defence to the inevitable threats from the US that will follow.

Inevitable threats, because the consistent theme of Donald Trump's second administration, since it began in February last year, has been the use of threats. In particular, Trump has threatened any country or international organisation that has shown any intention to take measures to reduce the tax abuse of US multinationals.

The UN convention is the best, and perhaps the only chance, for the rest of the world to act together in collective defence of each country's tax sovereignty.

A key step towards tax transparency

One significant step on the road to achieving a fair allocation of taxing rights would be a commitment to introduce, globally, the requirement that multinational companies publish their country by country reporting. This is information currently provided privately to tax authorities, showing the scale of economic activity as well as the profits declared and tax paid, in each country where each major multinational operates. Despite aggressive lobbying from US multinationals, and astonishingly from the OECD itself (Agyemang & Fildes, 2023), the European Union and Australia have this year started to require partial publication of this data.

A global commitment agreed in the UN negotiations would ensure that all countries have access to the data – whereas today most countries outside the OECD cannot access it in a timely fashion, if at all. In addition, this measure would allow the public to hold accountable not only the multinationals but also their own governments, for ending profit shifting. This is the data that can ensure that a fair allocation of taxing rights is both put in place, and seen to be so.

Where some companies have been required to make this data public, the result has been striking. An average increase of a few percentage points in the effective tax rates paid, as companies reduce their most egregious profit shifting behaviour in the face of transparency. Had public reporting been in place in the first six years for which companies were required to provide the data privately, the estimated revenue gains stand at US$475bn – around 28% of the losses due to multinationals' tax abuse.

Evidently transparency is not sufficient alone. Those potential gains still fall well short of the comprehensive curbing of tax abuse that could be brought about through the introduction of unitary taxation with formulary apportionment: that is, taxing multinational groups as a single unit, and apportioning their global profits as tax base between countries according to the share of their economic activity in each country. But this transparency offers immediate revenues and the guarantee of future scrutiny of continuing misalignments between where profits are declared and where economic activity takes place – so that countries can ultimately be held to account for delivering on a fair allocation of taxing rights.

With all countries standing to gain, and the majority of OECD member countries having already introduced some version of the requirement, it seems clear that global, public country by country reporting must form a building block of the new tax architecture that the UN convention is putting in place.

Such a measure will have particular value since one country's multinationals have just been granted an exemption from significant elements of the current international rules – and it is vital that there is public and policymaker visibility about the divergence in taxing rights that is sure to result. Public country by country reporting will allow, finally, the people of each country to assess the revenue losses associated with the failures of the OECD's rules – including that exemption, which has shamefully rushed through with neither scrutiny nor transparency.

2. One private meeting against the public good

At the same time as delegates met in Nairobi, a smaller and completely opaque meeting took place in Paris. The OECD (the Organisation for Economic Cooperation and Development) is a group of fewer than 40 of the world's richest countries. It was set up in 1960 by members including the US, UK and major European powers, in order to set international tax rules – and more specifically, to stop that role being played by the globally inclusive and broadly democratic United Nations (Dean, 2025; Teo, 2023).

The OECD has always been dominated by the US. Certainly, the recent OECD attempt to address the widely-accepted failure of its international tax rules, has been characterised by an almost laughable degree of US control. The OECD's original plan was to agree new rules in just two years, 2019-2020, grouped into two 'pillars'.

Why such a short time for potentially major reforms? It was partly in order to agree on a common approach to the challenges of digitalisation, which had made it so much easier for multinationals to extract profit, untaxed, from countries where they might not even have an address, or employees. The aim of this first pillar was to avoid the proliferation of digital services taxes (DSTs), a rather crude tax on the sales (rather than the profits) of major tech companies.

But the schedule was also rushed because policymakers knew that in 2021, there might be a new US president. And so the OECD sought to reach agreement with the first Trump administration, to avoid the outcome that eventually came to pass. That is, a change of president, which brought with it a complete reversal of US positions on both 'pillars' of the proposal. President Biden's administration ripped up all the work on the first pillar, aimed at digitalisation, and also pushed a much higher level of ambition for the second pillar, which attempts to create a global minimum tax rate for multinationals.

Embarrassingly, after repeatedly shifting the goalposts of their own process to accommodate the shifting outcomes of bilateral negotiations between the Trump administration and France on the first pillar, the OECD secretariat now had to tell other countries that the basis of their alleged 'consensus' had changed, and the work would now follow the new US approach (Tax Justice Network et al., 2024; Tax Justice Network, 2025a).

Sadly for Biden, he did not have sufficient support in his own Congress and Senate to make his proposals stick. So after arm-twisting other countries to agree a multilateral convention to deliver the first pillar, the OECD secretariat introduced a condition that prevented any country from implementing it if the US did not also ratify – knowing that this was politically out of the question, and therefore ending any medium-term possibility of the work ever being delivered.

While deeply flawed in multiple aspects and badly lacking in ambition, the first pillar did nevertheless represent an important shift. Specifically, it embodied the principles of unitary taxation. Multinational groups were now to be treated as single units with profits assessed at the global level, with the taxing rights over (part of) those profits allocated between countries according to the location of (some of) the underlying real activity. This represents a crucial break with the century-old arm's length principle, which is built on the fiction that each subsidiary creates and maximises profit on its own and transacts with other group entities like a complete stranger - despite being part of a single, centrally managed business.

The OECD negotiations had begun in response to the demands of US multinationals not to be exposed to multiple digital services taxes (DSTs), and the demands of countries to end the non-taxation in their own countries of much of those services. The solution was to be a common approach that would ensure a new taxing right based on the location of the activity, replacing DSTs. But as the political dial shifted in the US, those multinationals realised they could demand even more – an end to DSTs, backed by the threat of US tariffs, *and* the elimination of DSTs' replacement. This would be achieved by ensuring a US veto over implementation of the first pillar, delivered by the pliable OECD secretariat through a hasty, late change to the multilateral convention.

The second pillar, the global minimum tax, was presented to the world as if it did not require a multilateral convention. Instead, because signing treaties with the US is known to be impossible, the system is based on "coordinated unilateralism": individual countries could simply adopt it and begin to reduce the space for multinationals to benefit by shifting profits into jurisdictions with effective tax rates lower than 15%. Despite its many weaknesses, including a deliberate bias so that new revenues would go overwhelmingly to OECD member countries, this second pillar could have gone some way to curb the worst excesses of multinational tax abuse for the richest countries at least. Nonetheless, the approach builds on and ignores the current, unfair allocation of taxing rights, doing nothing to challenge those outcomes.

But then in 2025, the US presidency changed again. And once again, the OECD has sought to accommodate its biggest member – even at the expense of every other country.

An international organisation bent to one man's will

From his first day back in office, Trump singled out the OECD proposals, threatening countermeasures against any country that would dare to apply the rules to US multinationals.

He then doubled down. The new finance law (the 'One Big Beautiful Bill Act', OBBBA) provided an even bigger tax giveaway to US multinationals than the Tax Cuts and Jobs Act of the first Trump administration. This was aimed at finishing the process of making the US the most attractive place for those multinationals to shift the profits from all of their foreign activity, instead of longstanding 'havens' such as Ireland, Netherlands, Switzerland and Bermuda.

By the end of 2024, major US tech multinationals were commonly paying effective tax rates in the US of around just 10%. As a result, huge volumes of profit are now shifted into the US – leaving tax losses for countries all around the world. The rates paid in the US have fallen so low that the US, too, actually receives less tax than before Trump's first term. And in even clearer opposition to any aims of that administration, the US share of employment by those multinationals has barely moved – so neither revenue nor jobs came the US's way either (Tax Justice Network, 2025b).

The new act offers even greater scope for US multinationals to reduce their tax rate at home – and so even greater incentive for profit shifting from abroad, where they sell their services and physically operate major elements of their businesses. The effect is that the additional costs for these multinationals, if other countries were to implement a global minimum tax rate, have now become even higher.

And so, the multinationals' allies in the US Congress introduced a new threat: the 'revenge tax', section 899 of what would become OBBBA. This would allow the US to target with new taxes any companies from countries that had sought to tax US multinationals more fairly. With Trump having used the full range of his threats to introduce tariffs already, the aim of section 899 was explicit: a further economic weapon to bully other countries into submission.

The threat was swiftly successful. Even though most OECD members including the European Union and the UK had already legislated for the second pillar, the G7 group of countries in July 2025 announced a political agreement to take US-headquartered multinationals out of scope. With no consultation, and apparently no thought for the technical and legislative work that would be required to deliver, nor the major revenues at stake, the heads of state simply caved in to Donald Trump.

Section 899 was withdrawn, and the bill passed without it. But the OECD was left on the hook, once again to ensure that the rest of the world would accommodate a reversal of the US position – and in this case, one that would cost them billions of dollars.

Working Party 11

That brings us to the opaque 'Working Party 11'. This is a subgroup of delegates from the OECD Inclusive Framework – but in practice very largely from OECD member countries – who are tasked with agreeing technical measures for the implementation of the second pillar.

In mid-November, the delegates met in person at OECD headquarters in Paris. The expectation was that they would find a way to make the G7 agreement into a technical reality.

The heat was on, because the US Congress was expected to reintroduce section 899 if insufficient progress is made. But the issues are complex, even if governments seemed set on giving up their people's revenues.

Above all, the US arrangements for minimum taxation clearly do not meet the conditions of the global minimum tax. The US rules quite deliberately make it possible to engineer far lower effective tax rates than the already low 15% percent required under the second pillar. Accepting the US approach 'side by side' as a legitimate alternative could not be justified on a rational basis.

But nor were OECD members willing to present the exemption of the US bluntly as what it was. That may have been because they recognised that doing so could be politically toxic at home, especially for governments already struggling with fiscal pressures exacerbated by the Trump-led race to multiply defence spending.

And so delegates struggled to come up with technical ways to define the US regime, such that the exemption can be applied to regimes that meet the definition – rather than simply saying the US is exempt. This raises its own difficulties. What if there are other countries that meet the definition? Will their multinationals be exempt also? Or what if countries introduced legislation to match the US approach – would they then be exempt too?

All of this left the delegates with a difficult dance. And it doesn't end there. The exemption of US multinationals creates an obvious incentive for other countries' multinationals to invert, shifting their headquarters to the States. Or more simply, to challenge the legal basis for the exemption (for example in the European Union), and to demand equal treatment. The EU's commitment to a level playing field seems to make it likely that such a challenge would lead to all multinationals effectively becoming exempt – in other words, to the second pillar becoming defunct. The resulting revenue giveaway would be even greater.

In the end, it took until 5 January for Working Group 11 and the OECD to deliver a technical definition of the basis for the exemption which could include the US and – they hope – no other current regimes.

Public resources given away, uncounted

Perhaps the most extraordinary feature of the exemption is that it has been forced throughout without any assessment of the revenue implications. There has been no public assessment of the costs from the OECD, in stark contrast to the organisation's repeated trumpeting of its (questionable) estimates of the revenue gains to earlier proposals.

As of this writing, one country – the Netherlands – has published a national assessment. The Netherlands might be thought to be more vulnerable than others to US tax havenry, since it is a direct competitor for profit shifting. Alternatively the Netherlands might be relatively protected, since its own tax havenry also means that it does not suffer the usual pattern of revenue losses due to profit shifting. There are reasons therefore to think that the Netherlands' estimate may be either lower or higher than the actual rate of losses for other countries.

The Dutch government finds that exempting the US will result in a 25% reduction of the revenues associated with the global minimum tax: some €120 million of the original gain hoped for, of €466 million (Dutch Ministry of Finance, 2025; 2026). That percentage figure hews closely to the share of global revenue losses due to corporate tax abuse for which US multinationals are estimated to be responsible, some 29%.

As such, the estimate is plausible, and supports the likelihood that the share of revenues given away by our governments is of a similar range (although as the Netherlands operates as a corporate tax haven, it is unlikely to be fully representative).

The absence of an assessment of the revenue losses is intimately linked to the equally striking absence of public and parliamentary debate in OECD countries. There has then been little or no scrutiny *in any country* of the shadowy decision to give away public revenues that could otherwise go to cash-strapped public services.

This subjugation of countries to the US also thereby reveals a dangerous democratic deficit. In these times of heightened threat to our democratic institutions and to the basis of trust that underpins the social contract, OECD governments are acting with dangerous short-sightedness.

Appeasing a bully today, at your own people's expense and without their consent or even their knowledge, is a recipe for joining the US in its slide into authoritarian corruption.

3. What's on offer in the UN negotiations

The negotiations of the UN Framework Convention for International Tax Cooperation (UNFCITC) are wide-ranging, with three main elements. First, the Convention will establish the governance and structures for the future framework body. Second, it will create the core commitments that will be embedded in the new institutions, and with these a degree of substance necessary to deliver. And third, through the early protocols being negotiated concurrently, the process will allow for direct progress on two key areas of substance. Together, this represents the only chance for advancing fair and effective taxation around the world – including for multinationals and the extremely wealthy individuals who will otherwise exploit the protection of this US administration.

Governance

Framework conventions such as the UNFCITC, and the UNFCCC on climate change, are distinguished by the fact that they create a framework body, with the scope for Conferences of the Parties where further decisions can be taken.

The Convention creates the institutions that will support the framework body. For its effective and inclusive functioning, this must include, minimally, three institutions. First is a **well-resourced secretariat**. The current experience of the resource-starved secretariat for the negotiations provides a salutary lesson. It also serves as evidence that the good faith of OECD member countries cannot be relied upon, since many have been happy to raise questions over UN capacity while at the same time failing to meet their own obligations to the global institution, nor to provide specific funding to support the secretariat. Indeed, strategic underfunding of international tax work at the UN by the richest countries in the world has historically been used as a strategic weapon to cement OECD dominance (and thus their own global influence) in this field. Legal commitments to resourcing should be considered.

The second institution needed is a **technical subsidiary body** with tax, law and accounting expertise to assess proposals, and to generate proposals as required by the Parties. This role could potentially be played by the existing UN tax committee (the Committee of Experts on International Cooperation in Tax Matters). In any event, the relationship of the committee with the new framework body should be clearly defined. So too should those of less inclusive membership bodies (e.g. the African Tax Administrators Forum or the OECD). This will allow such bodies to provide support from their narrower perspectives as useful, and may also clarify any hierarchical issues.

Finally, a further technical subsidiary body is required with responsibility for data collation, analysis and publication, including quantitative assessment of the Convention's ongoing progress and of individual proposals. A body on these lines was proposed as a **Centre for Monitoring Taxing Rights** by the UN FACTI Panel (2021). Situated within the Framework Convention it would now be tasked with three main roles:

- **Data**. The core task would be the collation and management of data on national and international aspects of taxation. Ranging from the administration of a global public country by country reporting database, to the curation of a global asset register including public data (e.g. on the beneficial ownership of companies and trusts) and data held privately for relevant authorities (e.g. on the beneficial ownership of bank accounts). The emphasis would be on providing data publicly in order to deliver accountability for all stakeholders including the wider public around the world. In cases where it is warranted to maintain certain data private, the body should publish high-quality, partially aggregated data to support accountability as far as possible. For example, partially aggregated data on offshore financial holdings would ensure accountability for jurisdictions over their fair taxation of tax residents and/or their rigorous use of automatically exchanged information on such.
- **Reporting**. A related task would be the delivery of regular publications, built on these data sources, to provide regular and consistent analyses of the scale of various issues (from profit shifting to anonymous ownership, for example). These reports would support public accountability of the Convention, as well as informing discussions of future priorities for the Parties.
- **Evaluation**. Lastly, the Centre for Monitoring Taxing Rights would be tasked with meeting the need for timely, robust evaluations of proposals under negotiation. This role is vital to ensuring that the Convention delivers on the possibility of genuinely inclusive decision-making on international tax questions, by allowing informed public debate in every country over each major change under consideration. The clearest possible demonstration is provided by the abject failure of the OECD in this regard, and the resulting disenfranchisement of publics all around the world, as well as of many states (above all, those outside the OECD membership who continue to be denied full access to data).

Commitments and substance

The terms of reference for the negotiations already include globally agreed commitments at a high level:

> *10. The framework convention should include commitments to achieve its objectives. Commitments on the following subjects, inter alia, should be:*
>
> *(a) Fair allocation of taxing rights, including equitable taxation of multinational enterprises;*
>
> *(b) Addressing tax evasion and avoidance by high-net worth individuals and ensuring their effective taxation in relevant Member States;*
>
> *(c) International tax cooperation approaches that will contribute to the achievement of sustainable development in its three dimensions, economic, social and environmental, in a balanced and integrated manner;*

(d) Effective mutual administrative assistance in tax matters, including with respect to transparency and exchange of information for tax purposes;

(e) Addressing tax-related illicit financial flows, tax avoidance, tax evasion and harmful tax practices;

(f) Effective prevention and resolution of tax disputes.

The challenge for negotiators is to finalise these for the Convention itself, in ways that provide the strongest possible basis for future negotiations. There should be no watering down of the already agreed basis. At the same time, the Convention provides the space to take these further – to provide additional detail and clarity so that future negotiators within the Conferences of Parties have the most useful guide for their work.

This may be especially true in reference to two types of commitment: those central elements to the Convention that call most clearly for further elaboration, and those aspects that were more lightly brushed over in the terms of reference, where further discussion is warranted.

Most obvious in the first category is the commitment (a), to a **fair allocation of taxing rights**, including equitable treatment for multinationals. This is understood to entail, as with the failed first pillar of the OECD proposals, that taxing rights should be allocated according to the location of real economic activity.

This applies evidently for multinationals, with respect both to the allocation of taxable profits between the countries where the multinational has group companies, as well as to the allocation of profits of multinationals in markets where they do business without a local company presence. It also applies in respect of other crossborder tax issues, such as the taxation of wealth where the tax residence of a wealthy individual is only one, possibly minor aspect of the location of taxing rights. An important question for negotiators is how far to clarify this basis for a fair allocation of rights. Comprehensive definition could go so far as to set down a common basis for unitary taxation with formulary apportionment, where the formula would specify precisely the basis on which taxing rights would be apportioned for this to be considered fair.

This level of substance may be left for the Conferences of the Parties to confirm however. In this case, the main issue for the Convention text would be to specify a broader understanding of the types of economic activity that would be the basis for a fair allocation, without going so far as to commit to full, unitary taxation.

One issue would be whether to reference ‘value creation’. This is very often inserted by corporate lobbyists alongside the location of real economic activity, in order to provide room for intangible assets – a key element of profit shifting techniques – to be included. However, some countries have seen the language as useful to ensure that their taxing rights can be exercised in relation to non-paying digital services such as the formally ‘free’ provision of email or social media accounts, where the user and their data are the valuable product. ‘Value creation’ may open an avenue to recognising associated taxing rights; but only if it can be framed sufficiently carefully to avoid leaving open any new rules to the abuse of intangible assets for profit shifting as is currently rife under OECD rules.

Equally important are the technical cooperation steps necessary to deliver across the range of agreed commitments. In particular, transparency is vital here, alongside a step change in mutual administrative assistance.

As we set out last year (Tax Justice Network, 2025a):

> The conditions for taxation – for individual states to be able to exercise their sovereign taxing rights in relation to the economic activity in their jurisdictions – relate above all to the ability to access the necessary information to ensure taxes can be applied effectively. To be able to tax high net-worth individuals (commitment (b)), to combat tax-related illicit financial flows (e), and to ensure equitable taxation of multinational enterprises (a), depend – in addition to national policies and resources – on the degree of international cooperation and transparency above all. The core set of measures to create this context are the 'ABC' of tax transparency.
>
> **Automatic exchange of information**, which is critical to overcome the scourge of bank secrecy, and the associated undeclared offshore accounts. By 2022, more than 110 jurisdictions had signed up to automatic exchange under the OECD Common Reporting Standard. This includes all the major financial centres except the USA, which nonetheless faces no countermeasures. Many of those signed up still restrict the provision of information to lower-income country signatories, and most lower-income countries still remain outside altogether due to spurious requirements for reciprocity. The case to replace CRS with a genuinely multilateral and automatic instrument, capable of capturing the full range of financial accounts and equivalent arrangements, is clear.
>
> **Beneficial ownership** of companies, trusts, foundations and partnerships is increasingly made transparent through **public registers**. Registers such as that for UK companies have proven pivotal in uncovering major corruption, including multiple 'laundromat' schemes, but still lack robust verification and instead demonstrate daily the ease of abuse. A global standard for robust public registers can provide a critical infrastructure against tax abuse and other corrupt practices by ending the threats posed by anonymous ownership.
>
> **Country by country reporting, publicly** by multinational companies is necessary to reveal the misalignment between where their real economic activity takes place, and where profits are declared for tax purposes. The technically weak OECD standard requires some data to be provided to home country tax authorities, but most lower-income countries never get access to the data because arrangements for information exchange continue to be discriminatory. The EU and Australia have now begun to require publication of some data. Australia encourages alignment with the much more robust Global Reporting Initiative standard under which a growing number of major

multinationals already report publicly, on a voluntary basis. Creating a global standard for public country-by-country reporting based on the GRI standard would greatly simplify the reporting for businesses which may face multiple requirements under different standards, as well as ensuring the full benefits. Publication is already proven to raise significant revenues through increased effective tax rates for reporting companies (Tax Justice Network, 2022b).

In addition, a **global asset register** has been proposed (see e.g. ICRICT, 2022) and features in the 'zero draft' of the outcome document for the Fourth Financing for Development summit scheduled for June 2025 (UN, 2025). This would combine data on the ownership of high-value assets including financial accounts, with differential access for the public and for government authorities, depending on the sensitivity and requirements of the data. As well as providing a powerful tool against corruption, the register would be central in ensuring the possibility for countries to introduce effective taxes on wealth and other property.

The convention can also set the terms for the **dispute prevention and resolution mechanism/s** that will be necessary to ensure that the terms of the convention are respected, and any uncertainties or conflicts are swiftly and fairly resolved (in combination with the dispute protocol, discussed below).

In the second category, of commitments or principles that were underdeveloped in the terms of reference, the most obvious elements are those relating to the critical importance of fair and inclusive taxation to deliver on responses to the climate crisis, and on aspects of the globally agreed Sustainable Development Goals including those central to women and girls' rights.

Commitment (c) provides an umbrella for these, but arguably offers insufficient specificity to guarantee any kind of progress at Conferences of the Parties. The challenge for negotiators is to craft a more detailed consensus text that makes the commitments sufficiently concrete to ensure that *fair taxation* and *sustainable development* are made meaningful in terms of the Convention's ultimate impact on human rights and on planetary wellbeing.

Early protocols

The negotiations also encompass two early protocols. The substantive content of the Convention will bind all signatories, and it is therefore critical that the text includes the core commitments expected of all Parties. The protocols meanwhile are optional.

In a sense this gives the protocols less power, since no Party can be required to commit. But the protocols also offer the space to deliver much more detailed commitments for those who wish to do so on a particular topic, and these will ultimately be the delivery vehicle for most of the substantive changes that the UNFCITC enables in future.

The first early protocol addresses **cross-border services** in an increasingly digitalized and globalised economy. The taxation of cross-border services poses challenges that go to the heart of the prevailing orthodoxy on international tax rules. Digitalisation has driven an enormous growth of services as a share of GDP to 66% by value-added worldwide, as well as enabling their cross-border delivery with little or no physical presence (Amaro & Picciotto, 2025).

Countries have generally allowed income from cross-border services to be taxed exclusively in the country where the service provider is *located*, unless the provider has a permanent and fixed presence in the country where the services are *provided*. The digitalisation of the economy has made it much easier for service providers to avoid triggering taxable presence in the markets where they provide their services. Reliance on the old rules has locked countries into a reality which results in an outdated and blatantly unfair division of taxing rights, when the global economy has changed: so now should the tax rules. The crux of the matter is the rules should reflect that there are valid claims to tax based on both the location of the services provider and that of the customer or user. This requires a new approach to two of the basic principles of international tax: the nexus for taxable presence, and the allocation of rights to tax the net income.

Services that are deliverable digitally now comprise some 70% of cross-border services. Attention has been focused on highly digitalised activities that generate extraordinary profits, but it should be noted that these comprise only a small share (some 13%) of cross-border services; an additional 22% can also be categorised as automated digital services, and the wide range of technical and professional services that are also digitally deliverable amount to some 25% of cross-border services (all statistics from Amaro and Picciotto, 2025). The opportunity is for the protocol to cover an extensive range or indeed *all* services.

Much of the focus on digitalisation has been led by European market jurisdictions who feel monopolised and exploited by US big tech multinationals. And yet these same countries were not heard to complain about taxing rights on services when it was their own multinationals monopolising the global South with the export of technical services, transport services, engineering, procurement and construction services, and more, without a technical presence. France, for example, was one of the early instigators of getting the topic of source taxation of digital services on the BEPS agenda of the OECD after it was confronted with the impossibility to tax profits from the local provision of digital services by US big tech. At the same time, as a net exporter of traditional services, France has aggressively negotiated away any withholding tax on incoming services fees paid by operators in the Global South (Michel, 2019; Millán-Narotzky L. et al., 2021).

The UN Model tax treaty has sought to address this issue since the 1980s. Now, finally, the negotiations provide an inclusive space in which these wider concerns can be addressed, with widely shared benefits – including by implementing a fair allocation of taxing rights on *traditional* services.

The negotiations have clarified that two approaches are possible: allowing an appropriate level of taxation at source of *gross* revenues, or a taxation of a share of *net income* based on revenue from sales. Both these options should be pursued, based on more detailed studies and evaluations. Gross income withholding taxes have significant practical advantages. However, the protocol has the potential to achieve an effective and sustainable solution that can transcend the conflict between residence and source taxing rights.

This would involve a decision to apportion taxing rights according to the location of real economic activity, in line with the central commitment of the UNFCITC. Building on the international consensus of the need to go beyond the arm's length principle, and recovering some of the important technical work carried out for the OECD's failed first pillar, this would involve **apportioning global profits** from the provision of cross-border services, according to a formula including the location of final destination sales.

This could involve, effectively, a 'bulk update' of the myriad double tax treaties that currently constrain countries all around the world from obtaining fair taxing rights with respect to cross-border services in particular.

The second early protocol, on **prevention and resolution of tax disputes**, offers an equally important opportunity to deliver a bulk update of entirely inappropriate and unjust treaties that are currently in place.

The negotiators have shared experiences of the problematic current arrangements from countries at all income levels and from all regions. It is clear that a universal dispute resolution mechanism is needed. It is also clear, however, that such a mechanism can only be effective if the protocol reflects agreement on **common legal ground** among participating states. This common ground cannot be found in the OECD Transfer Pricing Guidelines, which even OECD member countries do not uniformly support. Rather, the common legal ground should be identified in the objectives, principles and commitments of the Convention itself: not least, in the commitment to achieve a fair allocation of taxing rights.

Dispute resolution is a lost battle if there is no underlying agreement on a fair allocation. Hence, for example, mandatory arbitration under the current Mutual Agreement Procedure is not an option because the key objection is not to the unfair procedure itself, but to the absence of a fair, common legal ground.

The protocol provides an important opportunity to eliminate the most unfair of all current arbitration procedures – namely, that associated with Investor State Dispute Settlement (ISDS), which has been used to elicit deeply flawed findings on multiple tax cases. Just as the cross-border services protocol could be used to update in bulk some harmful elements of bilateral tax treaties, the dispute protocol can provide for a universal dispute settlement mechanism which updates in bulk any existing investment treaties that impose ISDS.

4. The last chance: Multilateralism in the name of tax sovereignty

Tax is our social superpower. Effective tax systems allow us to raise revenues to fund public services and well-functioning governments. They facilitate redistribution so that we can curb the overlapping inequalities that scar our societies. Tax allows us to reprice social 'bads' like tobacco consumption and carbon emissions, that otherwise damage us all. And above all, research shows that tax plays a central role in sustaining and building effective political representation, for healthy democracies.

The alternative to submitting to bullying – and perhaps the only true bright spot for multilateralism in these troubled times – is the path offered by the UN tax negotiations. The framework convention is critically important to re-establish the potential for progressive taxation around the world. The negotiators have the task of establishing the basis for fully inclusive and effective international tax cooperation, so that all countries can exert their taxing rights fairly. And so that ultimately, we can all benefit from the social superpower of tax that allows us all to live better, healthier, happier lives together in our societies.

The broader signal of the negotiations is that even now, we can hold our governments to account for acting boldly in our common interests. The negotiations can create collective action to defend national tax sovereignty against the bully. The convention stands for the principle of international cooperation for the common good – of genuinely global multilateralism.

We must demand that our governments stand up for *our taxing rights* and *our revenues*. To stand together against threats. And to leave behind the shadowy meetings of the OECD rich countries' club, and instead to negotiate openly at the United Nations, for our collective, common interest.

The people of every country in the world stand to benefit from international tax cooperation facilitating effective national tax systems – which are crucial for our democracies and our societies. With the OECD's cave-in to Trump's bullying, the UN negotiations are the last chance to **reject appeasement** and to **defend tax sovereignty.**

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