

UN Tax Convention – Structure, Function and Way Forward

Prepared for presentation at the
Conference on South-South Cooperation in International Tax Matters,
Geneva, 27-28 November 2023

By
Dr. Iyabo Masha,
Director, G-24 Secretariat

OUTLINE

1. Background on the G-24 Engagement on International Tax Cooperation

2. The 2022 UNGA Resolution and the Subsequent SG Report

3. 2023 UNGA Resolution and Prospects

4. Way Forward for Developing Countries

5. Conclusion

1.

Background on the G-24 Engagement on International Tax Cooperation

The G-24



The G-24 coordinates position of developing countries on monetary and development issues in the deliberations and decisions of the Bretton Woods Institutions (BWI) and other relevant international for a.



28 members + special observer (China)
11- Africa
8 - Asia
10- Latin America/Caribbean

G-24 participation in international tax initiatives, as of November 2023

	Organisations			BEPS	Information exchange		
	G20	OECD	UN Committee of Experts	Inclusive framework	Global Forum	Multilateral convention (ratified)	Common Reporting Standards
Algeria							
Argentina	X		X	X	X	X	X
Brazil	X			X	X	X	X
China*	X		X	X	X	X	X
Colombia		X		X	X	X	X
DR Congo				X			
Cote d'Ivoire				X	X		X***
Ecuador			X		X	X	X***
Egypt				X	X		
Ethiopia							
Gabon				X	X	(Signed)	X***
Ghana			X		X	X	X
Guatemala					X	X	X***
Haiti				X	X		X***
India	X		X	X	X	X	X
Iran							
Kenya				X	X	(Signed)	X***
Lebanon					X	X	X
Mexico	X	X	X	X	X	X	X
Morocco				X	X	X	X***
Nigeria			X	X	X	X	X
Pakistan			X	X	X	X	X
Peru				X	X	X	X
Philippines				X	X	(Signed)	X***
South Africa	X			X	X	X	X
Sri Lanka				X			
Syria							
Trinidad & Tobago				X	X		X
Venezuela							
	6	2	8	20	22	15	21

*China is a Special Observer

The G-24 position on the reform of international tax cooperation

On Financial Times:

"The G-24 supports a transparent, equitable global tax negotiation led by a universal body that will foster fairness for developing nations, enhance state accountability and elevate sustainable development in global tax discussions".

"The current system led by the OECD-G-20 displays exclusive membership, top-down agenda setting, undemocratic decision-making and policy options beyond countries' implementation capacity," ... "G-24 concurs with the U.N. SG that this hampers global tax reform effectiveness".

The G-24 Working Group on Tax Policies and International Tax Cooperation

The G-24 Working Group has been in existence since 2018. The membership is drawn from G-24 members' tax policy and administration departments.

Its work has largely focused on six priority focus areas, which were approved by the G-24 Ministers and Governors. These are:

- Tax issues of extractive industries
- Tax challenges arising from digitalization of economies
- Transfer pricing and illicit financial flows
- Implementation of Automatic Exchange of Information regime
- Taxation issues concerning the informal economy
- Devising efficient risk assessment methods

These issues are addressed through:

- Peer-learning and capacity building
- Advocacy on emerging international taxation cooperation issues

The Tax Working Group regularly engages with global economic governance organizations on international tax cooperation issues.

G-24 Inputs and Position Papers on Emerging Tax Issues

2019	G-24 Working Group on tax policy and international tax cooperation Proposal for Addressing Tax Challenges Arising from Digitalization
2020	Comments of the G-24 on the OECD Secretariat Proposal for a Unified Approach to the Nexus and Profit Allocation Challenges Arising from the Digitalization (Pillar 1)
2021	Comments of the G-24 on the ongoing work under G20/OECD Inclusive Framework under BEPS on the work for Addressing tax challenges arising from the Digitalization under Pillar One and Pillar Two
2021	Comments of the G-24 on the Pillar One and Pillar Two proposals being discussed by OECD/G20 Inclusive Framework on BEPS
August 2022	Comments of the G-24 on the Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalization of the Economy agreed by 134 jurisdictions of the Inclusive Framework
November 2022	Comments of the G-24 on the Progress Report on Amount A of Pillar One
November 2022	Comments of the G-24 on the Progress Report on the Administration and Tax Certainty Aspects of Pillar One
March 2023	Comments of the G-24 on the Promotion of Inclusive and Effective Tax Cooperation at the United Nations
September 2023	Comments on OECD Public Consultation Document on Amount B of Pillar One

Source: <https://www.g24.org/working-group-on-tax/>

2.

The 2022 UNGA Resolution and the Subsequent UNSG Report

UNGA adopted a resolution championed by the African Group

- In December 2022, the UNGA adopted a resolution calling on the SG to scale up efforts to combat tax evasion and illicit financial flows.
- The main agreements on the resolution are:
 - to begin intergovernmental discussions at United Nations on ways to strengthen the inclusiveness and effectiveness of international tax cooperation;
 - to evaluate options, including the possibility of a tax cooperation framework or instrument developed and agreed upon through a United Nations intergovernmental process;
 - to take into full consideration existing international and multilateral arrangements.
- The U.S. **led a failed attempt** to remove the resolution's call for the U.N. to begin discussing the possibility of developing an international tax cooperation framework or treaty instrument. More than 44 developed economies voted for the U.S. amendment, but six OECD members — **Chile, Colombia, Mexico**, Costa Rica, Norway and Turkey — abstained.

The subsequent UNSG Report of August 2023

The UNSG Report identified certain shortcomings of the existing international tax architecture:

- **barriers to engagement in the OECD's process for Pillars One and Two**
- **high technical quality of documents** produced by the OECD but limited adoption by developing countries
- **significant barriers to meaningful engagement in agenda-setting and decision-making.**
- **Existence of pre-conditions (commitment to minimum standards and payment of annual fees) to participate in the process.**

Against this backdrop the Report finds that the UN's role in shaping tax norms and setting tax rules can be enhanced to make international tax cooperation "fully inclusive and more effective." The plan would be to build on the cooperation between the UN and the OECD without duplicating existing processes.

The report proposed following three options:

- a multilateral treaty with specific measures

- a framework convention

- a nonbinding framework that signifies political agreement.

- **Option 1: Multilateral convention on tax.** This would be a legally binding option covering a broad spectrum of regulatory tax issues (e.g., information exchange, modification of taxing rights), with provisions similar to those in bilateral tax treaties.
- **Option 2: Framework convention on international tax cooperation.** This option would aspire to establish an overall system of international tax governance and the core elements of future international tax cooperation. The system could be developed further via additional protocols, with more detailed commitments.
- **Option 3: Framework for international tax cooperation.** This option would be similar to Option 2 in establishing core principles of international tax cooperation without being legally binding.

3. 2023 UNGA Resolution and Prospects

The UNGA adopted Option 2 at its Second Committee meeting on November 22

The adoption of option 2 followed a period of considerable headwinds:

- Strong opposition to the draft resolution from OECD members as well as the US, UK and EU.
- Africa caucus watered down their draft resolution, which called for a United Nations convention on global tax (option 2). The final resolution, [A/C.2/78/L.18/Rev.1](#) aimed at building consensus as well as flexibility to wealthier countries and called for “the development of ToR” for option 2.
- A last-minute attempt by the UK to reject the resolution and propose option 3, was defeated by nearly 2 to 1: 107 countries rejected the UK resolution; 55 countries supported it.
- Countries adopted by a landslide majority the resolution to begin the process of establishing a framework convention on tax by a vote of 125 in favor to 48 against, with 9 abstentions.
- The result of the UN vote is historical, as the last attempt to bring decision-making on tax rules to the UN was in the 1970’s.
- The adopted resolution called for ***a United Nations framework convention on international tax cooperation*** to strengthen international tax cooperation and make it fully inclusive and more effective.
- It called for the establishment of a Member State-led, open-ended ad hoc intergovernmental committee for the **purpose of drafting terms of reference** for a United Nations framework convention on international tax cooperation. This is a weaker version of the original draft resolution, which called for the establishment of a “***Member State-led, open-ended ad hoc intergovernmental committee for the purpose of elaborating a comprehensive convention on international tax cooperation***”

Structure, Principles, and Timeline

Creation of an ad hoc intergovernmental committee open to all U.N. member states

- A bureau of no more than 20 members, elected with gender and regional balance
- Tasked with establishing the terms of reference for “a United Nations framework convention on international tax cooperation”
- Work to be completed by August 2024, in time for consideration at the 79th UNGA session.

Guiding principles

- **Work must take into account** “the needs, priorities and capacities of all countries, in particular developing countries”.
- **Should** take a “holistic” approach to setting the terms of reference, considering “interactions with other important economic, social and environmental policy areas,” while also focusing on specific priorities “such as measures against tax-related illicit financial flows.”
- **Should submit a report to the General Assembly at its seventy-ninth session**, containing the draft terms of reference for a United Nations framework convention.
- **UNGA to consider the report of the ad hoc intergovernmental committee at its seventy-ninth session** and to include in the provisional agenda of its seventy - ninth session.

Negotiations on the framework convention on tax cooperation can begin only once the terms of reference are agreed to.

The pros / advantages of option 2 from the standpoint of developing countries.

- **The framework convention permits gradual problem-solving.** Talks could begin under that option even without robust political consensus on particular solutions. So political credibility and accountability would flow from having all U.N. member states on an equal footing.
- **The framework convention secretariat** would act upon 'conference of parties' (CoP) which would promote government commitment to implementing resultant tax standards. A conference of parties is a regularly scheduled meeting between governments that join a framework convention that can agree to issue mandates.
- **The Framework convention carries all parties along.** The OECD has never been a universal organization. One-third of U.N. member states are not part of the inclusive framework discussions, which currently involve 143 countries, and there are doubts about whether even the U.S. or the European Union will implement Pillar One. OECD countries could seek approval for their proposals within a potential U.N. process. The OECD framework can be tabled and if it gets adopted at the U.N. that would constitute a global endorsement.
- **All activities will have universal participation,** sound political legitimacy and a broad mandate. A Framework would be both more equitable and more effective than the different ad-hoc institutions with differing mandates that exist today. At the same time, it would enable a more inclusive and effective creation of new measures and initiatives.

4. Way Forward for Developing Countries

How developing countries can coordinate efforts going forward

- **Make effective use of regional tax advocacy organizations**, think tanks intergovernmental and civil society organizations.
- **Enhance cooperation between countries** at different income level and identify the provisions of the OECD framework that merits adoption.
- **Implement regional agreements and cooperations.**
 - Regional cooperation can be a complement to the global reform process. The EU directive on Pillar 2, for example, ensures even application throughout the EU, which is simpler and preferable to a country-specific approach.
- **Once approved, a new tax reform agenda could target lower income, capital importing economies.**
 - It could build on and go beyond the scope of the initial BEPS agenda and the two-pillar reform, which is slanted in favor capital exporting large economies.

Global cooperation required for durable results

- It is important to note that a minority, but powerful group of countries prefer a different outcome.
- Given that some issues such as IFF, transfer of resources from South to North, are better addressed in a global system, there is need for enhanced multilateral cooperation to achieve durable results.
- A UN FCTC would function similarly to the UN Framework Convention on Climate Change (UN FCCC), through a Conference of Parties (COP) which would give the existing institutions such as the UN Tax Committee and Inclusive Framework mandates to work on.
- A UN FCTC thus provides a practical and realistic way forward for a genuinely universal, intergovernmental framework for international tax rule making under the auspices of the United Nations.

5. Conclusion

Conclusion

- The architecture of international taxation at present is fragmented among multiple institutions. The UN Tax Committee, the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting (BEPS) and the Global Forum on Transparency and Exchange of Information for Tax Purposes are some of the key institutions which set multiple and overlapping inter-national tax standards.
- The new UN resolution will bring the existing plethora of institutions under unified, universal and democratic control through a UN Framework Convention on Tax Cooperation (UN FCTC).
- An Intergovernmental body on tax matters. All parties to the UN FCTC would be represented at the CoP. In that sense it is analogous to the pre-sent system where G20 and OECD countries mandate the OECD Secretariat to find solutions to the tax problems they face, with the crucial exception that instead of the mandate coming from a select few, it would come from a CoP with universal participation.
- The design of the UN FCTC should also take account of its specific context and learn from the experience of the UN FCCC. Hence, it should also become an umbrella for existing multilateral tax conventions and instruments in the field of tax cooperation.

*Statement by the
Intergovernmental
Group of Twenty-Four
(G-24) on the Adoption
of the UN General
Assembly Resolution
on Promotion of
Inclusive and Effective
International Tax
Cooperation at the
United Nations.*

*Issued Wednesday 22,
2023*

A Postscript

- The G-24 expresses its appreciation for the adoption of the UN General Assembly Resolution on the promotion of inclusive and effective international tax cooperation. This resolution, endorsing the UN Secretary General's option B, advocates for the establishment of intergovernmental structures tasked with initiating the development of a framework convention on international tax cooperation. This momentous resolution signifies the commencement of a transformative journey toward a new tax agreement crafted collectively by all stakeholders, encompassing both developed and developing nations, under the auspices of the United Nations.
- As the process of delineating the parameters of this groundbreaking agreement commences, the G-24 acknowledges the concerns voiced by countries favoring alternative outcomes. These concerns should now be integrated into the ongoing process of negotiation and consensus-building in the period ahead. The G-24 calls for a concerted effort towards consensus-building and genuine inclusivity among nations with differing perspectives. This collaborative approach is not only imperative for shaping a new tax paradigm that garners universal support from both affluent and less affluent nations but also holds the potential to significantly impact the lives of the global underprivileged.
- The G-24 stands ready to lend its support to the process.

<https://www.g24.org/wp-content/uploads/2023/11/G-24-Statement-on-the-Adoption-of-the-UNGA-Resolution-on-International-Tax-Reform.pdf>

References

OECD and UN tussle for control over international tax affairs.

<https://www.ft.com/content/e05b0767-cab5-44de-9fbf-af5ce841a026>

UN Finds Support For Convention On Global Tax Reform

<https://www.law360.com/tax-authority/international/articles/1709610/un-finds-support-for-convention-on-global-tax-reform>

2022 *Promotion of inclusive and effective international tax cooperation at the United Nations : Resolution adopted by the General Assembly on 30 December 2022.* <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N23/004/48/PDF/N2300448.pdf?OpenElement>

2023 *Promotion of inclusive and effective international tax cooperation at the United Nations: Report of the Secretary-General, July 2023*
<https://financing.desa.un.org/sites/default/files/2023-08/2314628E.pdf>

2023 *Promotion of inclusive and effective international tax cooperation at the United Nations [submitted by Nigeria (on behalf of the Group of African States)]* <https://undocs.org/en/A/C.2/78/L.18/Rev.1>

Amendment to draft resolution [submitted by United Kingdom of Great Britain and Northern Ireland] <https://undocs.org/en/A/C.2/78/L.18>

Thank You!

