



Mr Antonio Guterres
The Secretary General
United Nations

RE: Tax Justice Network Africa's inputs to the Tax Report 2023 on Promotion of inclusive and effective tax cooperation at the United Nations

The Tax Justice Network Africa, a network of African civil society organizations working on tax justice and illicit financial flows (IFFs), would like to submit the below in reference to the General Assembly resolution 77/244 of 30 December 2022.

1. The importance of the UNGA resolution to African countries

The lack of a universal and inclusive global tax architecture has been highlighted as a problem by African countries for many years. In 2015, the High-level Panel on Illicit Financial Flows from Africa, commissioned by the African Union and the United Nations Economic Commission for Africa (UNECA) Conference of African Ministers of Finance, Planning and Economic Development found that the global architecture for tackling illicit financial flows (IFFs) was incomplete. It encouraged the establishment of an overarching global framework under the auspices of the United Nations.¹

Historically, African countries' engagement in processes to foster international tax cooperation has been ineffective due to the domination of developed countries in setting the agenda, financial and technical capacity mismatches, and the inadequate prioritization of the needs of African countries. This has resulted in global solutions to tackle tax-related illicit financial flows (IFFs) that are out of touch with the most pressing tax issues within the continent.²

The growing discontent with the lack of an inclusive and fair process has been reflected at high levels within the continent. In 2022, the African Union Conference of African Ministers of Finance, Planning and Economic Development called for the support of a United Nations-led international tax body.³ African civil society organisations expressed support for this call by African Ministers of Finance and most recently, this very resolution was tabled by Nigeria and its adoption was championed by the African group.⁴

¹Report of the High Level Panel on Illicit Financial Flows from Africa:

<https://au.int/en/documents/20210708/report-high-level-panel-illicit-financial-flows-africa>

² Financial Integrity For Sustainable Development: Report of the High Level Panel on International Financial Accountability, Transparency and Integrity for Achieving the 2030 Agenda <https://factipanel.org/reports.html>;

³ UNCTAD, *Tackling Illicit Financial Flows for Sustainable Development in Africa Economic Development In Report 2020* (UNCTAD, 2020) <https://unctad.org/publication/economic-development-africa-report-2020>

⁴ General Assembly resolution on "Promotion of inclusive and effective tax cooperation at the United Nations" (A/RES/77/244)

2. A Multilateral Convention establishing an Intergovernmental Body

There is need for a multilateral convention that promotes cooperation in addressing tax-related IFFs particularly tax evasion and aggressive tax avoidance. Efforts to address these exist in several bilateral agreements and international instruments spearheaded by the Organisation for Economic Development (OECD). However, as expressed in the preceding section, many of these agreements drive the interests of developed nations to the detriment of African countries. This has affected the implementation of efforts to cooperate on international tax matters. A UN Tax Convention that is negotiated through a truly inclusive process will cement the political legitimacy of efforts to cooperate on international tax matters and enhance its effectiveness.

In line with this, the UN Tax Convention needs to establish an intergovernmental body with the mandate of setting standards on promoting international tax cooperation. We re-echo the recommendation of the High-Level Panel on International Financial Accountability, Transparency and Integrity for Achieving the 2030 Agenda (FACTI Panel) and recommend the upgrade of the Committee of Experts on International Cooperation on Tax Matters (UN Tax Committee) to an intergovernmental forum leading the way in setting the standards for tax cooperation and providing an equal footing for all countries to negotiate.⁵ The UN Tax Committee already attempts to provide geographical equity and most notably the United Nations Model Convention on Double Taxation provides developing countries with an alternative to the OECD model to secure their taxing rights. For this to take place effectively, the mandate of the UN Tax Committee shall have to be broadened, a well-resourced Secretariat shall need to be provided for the UN Tax Committee and its membership reviewed.⁶

3. Addressing existing initiatives and institutions

Without a doubt, the Organisation for Economic Cooperation and Development (OECD) holds a distinct influence on matters of international taxation. The OECD has influenced the development of a number of international tax law principles that have been codified into a number of bilateral double taxation agreements and multilateral instruments. OECD-driven initiatives such as the Inclusive Framework on Base Erosion and Profit Shifting (BEPS) and the Global Forum on Financial Transparency and Exchange of Information boast more than 130 jurisdictions and 160 jurisdictions respectively and continue to set standards on matters of international taxation and cooperation.

⁵ Jose Antonio Ocampo & Heidemarie Wieczorek-Zeulan, *Intergovernmental Tax Body at the United Nations Implementation Note on FACTI Panel on Recommendation 14b* (FACTI Panel 2021) <https://factipanel.org/docpdfs/Implementation%20Note%20-%20Intergovernmental%20tax%20body%20-%2014B.pdf>

⁶ *ibid*

African participation in these processes and initiatives have borne unsatisfactory results in certain instances.⁷ Many African countries signed onto the OECD Inclusive Framework deal which had little revenue gain and unfavourable implications for African countries as opposed to other more favourable policy options.⁸ African countries as capital importing countries have had little bargaining power in these processes and bilateral relations. For years, OECD countries have set the standards for international taxation while their member countries have simultaneously been some of the biggest perpetrators of tax abuse. In order to establish a truly universal and inclusive forum for international tax cooperation, the political economy of the global tax architecture cannot be ignored and it is necessary that this is taken into consideration within the tax report as we move towards a UN led forum for international tax cooperation.

It is critical from the onset of the process of the implementation of the UNGA resolution to ensure that normative and political legitimacy is deferred to the UN-led forum from other existing institutions that are concerned with international taxation and transparency standards. A clear roadmap of this process should be formulated.

4. Collaboration with other UN institutions

Shifting conversations to the UN will also foster collaboration with other UN institutions particularly the United Nations Conference on Trade and Development (UNCTAD) and the United Nations Office on Drugs and Crime (UNODC) which were charged with the mandate of developing statistical information on IFFs on tax and trade and criminal related IFFs respectively. This was in line with target 16.4 of the Sustainable Development Goals: “By 2030, significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime”. Indicator 16.4.1, “Total value of inward and outward illicit financial flows.”

5. Participation of civil society and other stakeholders

We commend the decision to open consultations to multiple stakeholders including civil society. While often overshadowed, civil society has played a key role in the call for a UN led forum for international cooperation through offering expertise, sustained campaigns and advocacy. Members of the Civil Society Financing for Development Group have led and collaborated in these processes. For instance, the European Network on Debt and Development (EURODAD) and

⁷ Kenya Revenue Authority, *Navigating Complex Tax Consultations An Assessment of Kenya’s Engagement in the Inclusive Framework (IF)*: <https://kra.go.ke/images/publications/FY-2021-2022-Tax-Case-Study---Kenya-and-the-Inclusive-Framework.pdf>

⁸ Vladimir Starkov and Alexis Jin, ‘A Tough Call? Comparing Tax Revenues to Be Raised by Developing Countries from the Amount A and the UN Model Treaty Article 12B Regimes’ (1 June 2022) Research Paper 156 <https://www.southcentre.int/research-paper-156-1-june-2022/>



the Global Alliance for Tax Justice (GATJ) developed a proposal for the UN Tax Convention.⁹ Further to this, the role of media in exposing the weaknesses of the global tax architecture cannot be overlooked either.¹⁰ We welcome and encourage the continuous inclusion of civil society by the UN in its processes, including in the of establishing international taxation and cooperation rules.

Yours sincerely,
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⁹Tove Ryding, *Proposal for a United Nations Convention on Tax* (EURODAD, March 2022)

https://www.eurodad.org/un_tax_convention

¹⁰ ICICJ, 'Offshore Havens and Hidden Riches of World Leaders and Billionaires Exposed in Unprecedented Leak'

<https://www.icij.org/investigations/pandora-papers/global-investigation-tax-havens-offshore/>