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Between Revolution and Rhetoric

The UN Vote and the Future of International Tax Cooperation

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SWEET & MAXWELL

Current Notes

Between revolution and rhetoric: the UN vote and the future of international tax cooperation

A potentially pivotal vote

On 22 November 2023 in New York, the Economic and Financial Committee of the United Nations General Assembly voted by majority to pursue an unprecedented UN-led framework convention on international tax cooperation.[1] The vote marks a potentially significant change in international taxation, positioning the United Nations as a real alternative to the world's de facto global tax organisation for the past 60 years, the Organisation for Economic Co-operation and Development (OECD). The resolution, tabled by Nigeria, was supported by 125 countries (largely developing and emerging economies) and opposed by 48 (largely OECD members and developed nations). The voting split is instructive of the underlying fractures in international relations that led to the vote. While the resolution entails a series of procedural and institutional decisions, the crux of the matter is a dissatisfaction with existing governance arrangements at the OECD and their economic and legal outcomes:

> *"The General Assembly …*
> *Emphasizes* that developing a United Nations framework convention on international tax cooperation is needed in order to strengthen international tax cooperation and make it fully inclusive and more effective."[2]

Hailed by tax campaigners as a "historic victory"[3] and by developing countries as the realisation of a "decades-long fight of Global South countries",[4] the vote also drew harsh criticism from opponents. Unusually, the OECD Secretary General, Mathias Cormann, issued a statement on the day of the vote, defending the organisation's "record of achieving consensus-based solutions to address tax evasion and avoidance, stabilise the international tax system and support developing countries",[5] while Benjamin Angel, the head of direct taxation at the European Commission's tax directorate, indicated that the UN work might be a "giant waste of time".[6]

[1] United Nations, *Promotion of Inclusive and Effective International Tax Cooperation at the United Nations* (November 2023), *https://documents-dds-ny.un.org/doc/UNDOC/LTD/N23/356/75/PDF/N2335675.pdf?OpenElement*.
[2] United Nations, *Inclusive and Effective International Tax Cooperation* (2023), p.4.
[3] Tax Justice Network, "UN Adopts Plans for Historic Tax Reform" (22 November 2023), *https://taxjustice.net/press/un-adopts-plans-for-historic-tax-reform/*.
[4] Emma Agyemang, "Developing Countries Secure Bigger International Tax Role for UN" (22 November 2023), *Financial Times*, *https://www.ft.com/content/5a7353e8-6aec-4896-b6e5-fa88033c399a*.
[5] Mathias Cormann, "Statement by the Secretary General on International Tax Cooperation" (22 November 2023), *https://www.oecd.org/tax/Statement-by-the-Secretary-General-on-International-Tax-Cooperation.htm*.
[6] Elodie Lamer, "UN Shouldn't Tinker With Two-Pillar Plan, EU Official Says", *Tax Notes*, 20 December 2023, *https://www.taxnotes.com/tax-notes-today-international/corporate-taxation/un-shouldnt-tinker-two-pillar-plan-eu-official-says/2023/12/20/7hpsb?highlight=benjamin%20angel*.

These reactions are suggestive of the magnitude of importance of the resolution. Could the UN vote herald a real revolution in international tax policy-making? Could it provide a setting where true inclusivity is realised, and where historically marginalised voices, principally those of developing countries, can gain traction? As Philip Baker writes in a recent *Current Note* in this *Review*, it is "tempting" to identify the resolution as "the dawning of a new era in international tax co-operation".[7] However, substantively, the resolution suggests no particular legal or policy content of a UN framework convention, itself a broad template legal instrument with contents *to be determined*, which imposes very limited commitments onto countries. So, the project could yet prove to be no more than rhetoric. As Baker writes further in this *Review*, the UN vote is merely the latest in a long-running struggle, tracing back "almost 100 years",[8] between developing and developed nations, and between different organising fora, for control over the right to define new international tax rules. Jumping to conclusions is alluring; yet to understand the significance of the UN role and, importantly, its implications for future policy-making, requires an understanding of how we got here, and how the UN vote might reflect or impose change in established ways of rule-making in international taxation.

Developing-developed conflict is at the heart of the international tax system

While some analyses of the UN vote tend to underline the novelty of conflict between developed and developing nations in international taxation, such conflict has marked the international tax system since its inception in the early-20th century at the League of Nations. As Martin Hearson and I have written elsewhere:

> "'Developing countries issues' were already considered at the earliest attempts at international tax cooperation (Jogarajan, 2018, p.251).[9] Just as the OECD today, the League of Nations in the 1920s gradually broadened its work out to incorporate more developing countries and thus diverse voices in deliberations."[10]

Indeed, the negotiation of "developing country issues" and the broader "tension between capital-importing lower-income countries and capital-exporting higher-income countries" has remained a "consistent theme" in the international tax history, from departures between the "Mexico" and "London" drafts for an early model tax convention, through the OECD's work on (double) tax avoidance and tax evasion in the post-war years, and to the UN tax committee's current work.[11]

Geopolitical changes have rightfully (re)surfaced these struggles, as global power shifts towards developing and emerging economies, and the broader politicisation of international corporate taxation, have raised the voice and profile of non-OECD countries, to the extent that the reignition

[7] Philip Baker, "United Nations General Assembly Resolution on the Promotion of Inclusive and Effective International Tax Cooperation at the United Nations" [2023] 1 B.T.R. 20.
[8] Baker, "United Nations General Assembly Resolution" [2023] 1 B.T.R. 20.
[9] Sunita Jogarajan, *Double Taxation and the League of Nations* (Cambridge: Cambridge University Press, 2018).
[10] Rasmus Corlin Christensen and Martin Hearson, "The New Politics of Global Tax Governance: Taking Stock a Decade after the Financial Crisis" (2019) 26 *Review of International Political Economy* 1068, 1078.
[11] Martin Hearson, *Imposing Standards: The North-South Dimension to Global Tax Politics* (Ithica: Cornell University Press, 2021).

of historical conflict is increasingly traceable in international tax rule-making.[12] This goes for legal/policy *substance*, where developing country interests are finding their footing, for instance in the designs of the Inclusive Framework's two-pillar solution and the development of the UN model tax convention. And it goes for the policy-making *institutions*, where the UN vote is the latest sign of visible struggles over the way international tax policy-making is organised. Here, the 2016 establishment of the OECD/G20 Inclusive Framework is a hallmark example of potential transformation, institutionalising negotiations among 145 (and counting) member jurisdictions, with a notable majority of developing countries—a substantial change from just a few years prior when only the 30-or-so OECD members had a formal seat at the table.[13]

Yet the lesson from history is that the persistence of substantive and institutional changes should not be taken for granted. The integration of developing country concerns at the League of Nations in the 1920s, and the development of the source-country-friendly Mexico draft in 1943, did not provide lasting results for capital-importing nations, as the 1960s "compromise" brokered at the OECD, which laid the foundations for modern tax treaties, largely favoured residence countries. As Martin Hearson notes in his work on developing-developed world conflict in international tax affairs:

> "In … critical areas … the conflict between source and residence countries, in which the Mexico Draft had been a lone voice for the former, was finally settled in favor of the latter through the decisive role of the OECD model."[14]

Similarly, post-World War II attempts at creating a lasting shift in institutional responsibilities for international tax rule-making, from the demised League of Nations to the United Nations, failed despite serious efforts by developing countries and a supportive UN secretariat. This was due, in large part, to the effective resistance of powerful OECD countries and business interests.[15] Nikki Teo, in her rich analysis of the UN's historical role in international tax rule-making, writes:

> "[T]here are strong indications that the UN would never have, in any event, become a force as an overarching international tax authority. Even when developing countries were able to convert their increasing numbers into resolutions, they still could not compel implementation by reluctant developed states. The Secretariat's studies and surveys, while being 'factually complete and comprehensive', remained necessarily restrained in analysis and conclusions to avoid stirring up political controversy. The UN generally would not have much effectiveness in economic activities given the ideological conflict and power games in North-South relations and its inefficient and costly bureaucracy."[16]

[12] Christensen and Hearson, "The New Politics of Global Tax Governance" (2019) 26 *Review of International Political Economy* 1068; Dries Lesage, Wouter Lips and Mattias Vermeiren, "The BRICs and International Tax Governance: The Case of Automatic Exchange of Information" (2019) 25 *New Political Economy* 715; Ruth Mason, "The Transformation of International Tax" (2020) 114 *American Journal of International Law* 353.
[13] Martin Hearson, Rasmus Corlin Christensen and Tovony Randriamanalina, "Developing Influence: The Power of 'the Rest' in Global Tax Governance" (2023) 30 *Review of International Political Economy* 841; Rasmus Corlin Christensen, Martin Hearson and Tovony Randriamanalina, "At the Table, Off the Menu? Assessing the Participation of Lower-Income Countries in Global Tax Negotiations" (2020) ICTD Working Paper 115.
[14] Hearson, *Imposing Standards* (2021), p.43.
[15] Nikki Teo, *The United Nations in Global Tax Coordination: Hidden History and Politics* (Cambridge: Cambridge University Press, 2023).
[16] Teo, *The United Nations in Global Tax Coordination* (2023), p.366.

In short, absent more favourable global political structures, more effective technical work, and work to address foundational organisational inequalities, there is little chance the UN resolution vote proves more than a hollow victory. We should not assume that this time is different but rather question whether these factors are genuinely changing alongside, or because of, the UN vote. The following provides an evidence-based review of each of these dimensions from a political-economic perspective.

A changing global political climate?

On most measures, the hegemonic structures of world politics remain relatively persistent. This goes especially for the dominance of the United States (US) and the powerful OECD alliance whose material, economic, diplomatic, institutional and technical resources far overshadow those of its challengers. Lukas Hakelberg's recent book, *The Hypocritical Hegemon*, assesses political power in international tax affairs and concludes that, on account of its market size and regulatory capacity, "US hegemony in international tax politics currently remains unchallenged",[17] and that "the United States and a coalition of large EU member states … should have the power to impose their tax policy preferences".[18] This does not necessarily translate into an international tax regime that exclusively and everywhere reflects US/OECD interests. However, it tells us that international tax affairs are closely related to the broader geopolitical structures of the world economy where size and capacity matter. Simply put, "major Western and 'Rising' powers continue to define the broader framework in which global economic reforms take place".[19] Indeed, any reasonable assessment of the main features of the international tax system would conclude that its political and economic outcomes are heavily skewed towards US and OECD interests. And these broader power structures—the distribution of economic and regulatory power especially—will not directly change because of the UN vote.

However, global power shifts towards emerging economies clearly mean their relative influence is growing, with real signs of increased impact on global policy-making—in global economic governance at large,[20] and in global tax governance specifically.[21] The UN vote itself is an indication of this. Certainly, rising emerging markets such as China, India and Brazil have interests that depart from and, to some extent, directly clash with US/OECD preferences. And that may benefit non-OECD countries at large. The association between emerging markets and developing countries has historically proven an important way for the interests of the latter group more widely to become represented in international tax rule-making, even without their active

[17] Lukas Hakelberg, *The Hypocritical Hegemon: How the United States Shapes Global Rules against Tax Evasion and Avoidance* (Ithica: Cornell University Press, 2020), p.36.
[18] Hakelberg, *The Hypocritical Hegemon* (2020), p.33.
[19] Hearson, Christensen and Randriamanalina, "Developing Influence" (2023) 30 *Review of International Political Economy* 841, 859.
[20] Kristen Hopewell, "Different Paths to Power: The Rise of Brazil, India and China at the World Trade Organization" (2015) 22 *Review of International Political Economy* 311; Clara Weinhardt and Tobias ten Brink, "Varieties of Contestation: China's Rise and the Liberal Trade Order" (2020) 27 *Review of International Political Economy* 258; Cornel Ban and Mark Blyth, "The BRICs and the Washington Consensus: An Introduction" (2013) 20 *Review of International Political Economy* 241.
[21] Martin Hearson and Wilson Prichard, "China's Challenge to International Tax Rules and the Implications for Global Economic Governance" (2018) 94 *International Affairs* 1287.

mobilisation. For instance, prior research suggests that elements of the "sixth method" of transfer pricing—simplified rules allowing for direct market price references that are widely applied in lower-income countries—were accepted in the OECD's authoritative Transfer Pricing Guidelines because of pressure from emerging economies.[22] This benefited many lower-income countries, providing global legitimisation of established administrative practice, although they exercise little direct influence on the decision.

Such a mechanism is not a given, however. Even where hegemonic structures of world politics show signs of shifting, it may not necessarily favour developing countries long term. The same forces that give rise to emerging markets' power are simultaneously transforming their domestic economies in ways that may, in the future, align their economic and political interests more closely with the US and the OECD—and pull them further away from the developing country bloc, whether negotiations take place in the OECD or the UN. China is an instructive case, increasingly seen departing from the "developing country bloc" in international tax matters as its growth makes its economy more like traditional developed countries. China's approach to tax treaty negotiations is illustrative, in recent years marked more and more by a defence of traditional residence-based taxing rights, as a result of the country's transformation from capital importer to capital exporter:

> "Following its economic transformation, China has changed course. Its treaties have begun to expand its taxing rights as a capital exporter, at the expense of countries to which it exports capital (Li 2012) … Indeed, China is now one of the toughest negotiators of all with countries that are likely to be net recipients of its investment."[23]

Rather than thinking in fixed "blocs", it may be more productive to look at the stakes of specific policy areas. And while a UN-favouring group of nations is likely to remain outgunned on many traditional fault lines of the source/residence conflict, asymmetric economic development means new alliances can favour some developing country interests in particular areas. Discussions under the OECD's Pillar One—the global reform to reallocate taxing rights to address the tax challenges of digitalisation—as well as the UN tax committee's related work on art.12B (on automated digital services) are illustrative of a wider shift towards market-based taxation, the recognition of value-creating market factors like employees and sales. This is widely supported amongst developing countries as a counterbalance to residence-based taxing norms but has also been advocated for in the context of, for instance, digital taxation, by EU countries like France, Spain and Italy.[24] Such new alliances could contribute to a global political environment more favourable to developing country interests in international taxation, especially in a context where developing countries are better represented at the technical level.

[22] Christensen, Hearson and Randriamanalina, "At the Table, Off the Menu?" (2020), p.19.
[23] Rasmus Corlin Christensen and Martin Hearson, "The Rise of China and Contestation in Global Tax Governance" (2022) 28 *Asia Pacific Business Review* 165, 175–176.
[24] Rasmus Corlin Christensen and Wouter Lips, "The Politics of Taxing the Digital Economy" in Lukas Hakelberg and Laura Seelkopf (eds), *Handbook on the Politics of Taxation* (Cheltenham: Edward Elgar, 2021).

Technical ascent

Even absent macro-level global power shifts, the ascension of technical experts and coalitions from the developing world to rival US/OECD primacy will likely continue to support strengthened developing country influence in international tax affairs. Technical discussions can transform policy processes fundamentally,[25] and in specific negotiations, in both the OECD/Inclusive Framework and in the UN Tax Committee, lower-income countries are increasingly able to mobilize the requisite expertise to influence policy outcomes in their favour.[26] For instance, in 2017–2018 a coalition of African experts working in the OECD fora effectively resisted the further institutionalisation of residence-based taxing norms in new global guidelines on the attribution of profits to permanent establishments, in the form of the so-called "Authorised OECD Approach":

> "Our … case shows African tax experts working together to obtain a victory, circumscribing the influence of a new OECD norm that disadvantaged them: the so-called 'Authorised OECD Approach' for attributing profits to permanent establishments. Notably, this victory had previously eluded a minority of OECD member states who had been coerced into acquiescence by major powers."[27]

Collaborations, both domestic (for instance, between a nation's tax authority and finance ministry) and international (for instance, between tax authorities of several nations) are critical here, too. The African Tax Administration Forum and the Group of 24 (G-24) have proven influential cooperation bodies to foster coherent developing country interventions in the OECD context, but more broadly, regional organisations provide an important platform for the exchange and development of shared views to counter—and sometimes overcome—OECD countries' interests.[28]

The UN itself has become a focal point for such technical coalescence and advancement of Global South tax policy goals. This has happened through flagship initiatives at the macro level, such as the high-profile "FACTI" Panel,[29] but most prominently with the work of the UN Tax Committee. Over the last decade, the committee's members have rapidly expanded their activities, both in terms of scope and depth. Whereas historically, the committee's work was widely criticised for "failing the objective set by the Secretary-General to safeguard the revenue base of developing countries, and for spreading the OECD's tax influence in the developing world through the regularly updated OECD Model and Commentary",[30] its recent work has shifted gears.

[25] Rasmus Corlin Christensen, "Transparency" in Leonard Seabrooke and Duncan Wigan (eds), *Global Wealth Chains: Asset Strategies in the World Economy* (Oxford: Oxford University Press, 2021).
[26] Christensen, Hearson and Randriamanalina, "At the Table, Off the Menu?" (2020); Hearson, Christensen and Randriamanalina, "Developing Influence" (2023) 30 *Review of International Political Economy* 841.
[27] Hearson, Christensen and Randriamanalina, "Developing Influence" (2023) 30 *Review of International Political Economy* 841, 843.
[28] Lucinda Cadzow, Martin Hearson, Frederik Heitmüller, Katharina Kuhn, Okanga Okanga and Tovony Randriamanalina, "Inclusive and Effective International Tax Cooperation: Views From the Global South" (2023) ICTD Working Paper 172; Afton Titus, "Pillar Two and African Countries: What Should Their Response Be? The Case for a Regional One" (2022) 50 *Intertax* 711.
[29] Formally, the "High-Level Panel on International Financial Accountability, Transparency and Integrity for Achieving the 2030 Agenda".
[30] Teo, *The United Nations in Global Tax Coordination* (2023), p.3.

Reviewing the current committee's work, Sol Picciotto draws attention to work on wealth taxes, environmental taxation, improvement of tax administration, updates to the UN model convention, reallocation of taxing rights, and a new multilateral instrument—much of which serves to "vindicate" source-based taxing rights, in favour of Global South countries.[31] As Picciotto surmises:

> "The current Committee is tackling an ambitious agenda with energy, efficiency, and determination, particularly among its members from low- and middle-income countries. This is in sharp contrast to its previous history, when it was almost entirely concerned with tax treaty issues and beset by continuing conflict about whether, and how far, the UN model should align with that of the OECD."[32]

A symbolic case that illustrates both the general technical ascent of developing countries and the specifically supportive role the UN tax committee can play is the recent adoption of art.12A of the UN model convention, regarding technical services fees. On a global level, technical services are predominantly imported *by* developing countries, *from* developed countries, and as such, OECD members have widely opposed source-based taxation of such fees. Yet in a majority vote in 2014, the UN Tax Committee agreed to integrate the art.12A provision, which provides for a new source-based taxing right for outbound technical services fee payments, into the UN model convention. The inclusion has had a major impact. Since 2017, the share of tax treaties signed between lower-income countries and OECD countries providing for withholding taxation of fees for technical services has doubled (to 39%) in comparison to the preceding decade (21%).[33] Significantly, the art.12A inclusion was helped by strong support from the UN secretariat and a few OECD country experts anticipating developing country interests, and because of reliance on majority voting (as opposed to consensus decision-making):

> "[T]he likelihood that an outcome at the UN might resemble the practices and preferences of lower-income countries is higher, because there is no requirement to reach a consensus. At the [Inclusive Framework], the consensus requirement means that proposals anticipating lower-income countries' interests are likely to be watered down: 'The view is that the OECD secretariat is listening to developing countries, but the big countries are not, and are ploughing on regardless', said one interviewee (international organisation). The drawback of majority decision making is that powerful countries cannot be compelled to abide by a decision with which they disagree."[34]

As such, institutional norms and ways of working that are specific to the United Nations context (in comparison to the OECD) provide for an environment favourable to the ascent of effective technical influence by developing countries. Yet importantly, this concerns how the UN works today, with its tax committee—a small expert-based group where members are individual representatives rather than government delegates—at the centre. In contrast, the

[31] Sol Picciotto, "The UN Tax Committee Spreads Its Wings" (ICTD, 14 December 2023), *https://www.ictd.ac/blog/the-un-tax-committee-spreads-its-wings/*.
[32] Picciotto, "The UN Tax Committee Spreads Its Wings" (2023).
[33] Martin Hearson, "Tax Treaties Explorer [Online Database]" (ICTD, 2021), *https://www.treaties.tax*.
[34] Christensen, Hearson and Randriamanalina, "At the Table, Off the Menu?" (2020), p.22.

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November 2023 resolution, while taking note of the UN tax committee's work, could entail a whole new organisational system under the UN umbrella.

Organisational inequalities

There are important organisational differences between the UN and OECD as they work today, including norms, mandates and resources,[35] but the UN resolution entails two significant organisational developments that might change things:

(1) It places the General Assembly in the driver's seat, rather than the UN tax committee.

(2) It provides for the establishment of an "ad hoc intergovernmental committee for the purpose of drafting terms of reference for a United Nations framework convention on international tax cooperation", which will resemble the Inclusive Framework's Steering Group, both resourceful policy-level bodies of 20(ish) members, ensuring balanced representation, with the overall responsibility of directing work.

These two developments together—alongside the prospect of further permanent organisational changes—will mean the application of a series of UN-specific features and procedures to international tax policy-making in ways that will be different from both the OECD and the UN tax committee, including membership (all 193 members of the United Nations will have a formal say, in contrast to the 145 jurisdictions in the Inclusive Framework and the 25 individual members in the UN committee) and much broader transparency of process, documents and voting (especially compared to the OECD). Different membership itself is unlikely to significantly change things given large overlaps in membership and huge existing asymmetries in economic and diplomatic power,[36] but it may be a factor if coupled with new norms and procedures. Organisational developments at the UN will also force increased political attention—from developed and developing countries alike—to the UN's tax work, further politicizing a policy-making domain that was historically the province of insulated technical experts.[37] This could help address one major disadvantage for developing country tax negotiators, namely the lack of attention and support from domestic political leaders and ministries of finance.[38]

However, many of the most significant organisational constraints on effective developing country influence are likely to be similar even in a new UN context. A recent canvassing of Global South views on inclusive international tax cooperation identifies four key challenges related to "negotiating capacity, language of negotiations, agenda-setting, and cooperation

[35] For a detailed discussion of these organisational differences, see for instance, Christensen, Hearson and Randriamanalina, "At the Table, Off the Menu?" (2020), pp.10–12.

[36] Cadzow, Hearson, Heitmüller, Kuhn, Okanga and Randriamanalina, "Inclusive and Effective International Tax Cooperation" (2023), p.10.

[37] Sol Picciotto, "Indeterminacy, Complexity, Technocracy and the Reform of International Corporate Taxation" (2015) 24 *Social & Legal Studies* 165.

[38] Cadzow, Hearson, Heitmüller, Kuhn, Okanga and Randriamanalina, "Inclusive and Effective International Tax Cooperation" (2023), pp.21–22.

between political and technical stakeholders".[39] Many of these barriers to effective involvement are structural, likely to be "an enduring constraint on any attempt at inclusiveness in international tax cooperation".[40] Resource availability, in particular, limits governments' abilities to place sufficient individuals with requisite technical knowledge, institutional understanding and language capabilities in the negotiating room.[41] Some of these issues are exacerbated in the OECD tax context, on account of the speed of policy-making, an 'intimidating' environment, and lack of document translation for instance.[42] Yet similar issues characterize high-profile intergovernmental discussions in the United Nations. Research on UN negotiations (such as in the climate domain) shows an institutionalised devaluation of developing country perspectives because of material differences in resources and capacities, as well as perceived departures from what constitutes an "ideal delegation"—large, English-speaking delegations equipped with Western scientific and legal expertise, who can return year after year:[43]

> "[L]acking these ideal characteristics shapes the experiences of national delegations, in such a way that it is logistically more difficult for delegations from 'developing' countries to negotiate effectively."[44]

There are remedies for enduring issues of organisational inequality, however. Language, travel and resource constraints can, to some extent, be addressed by investment and reform. Upgrading resources for language support, integrating online or asynchronous sessions into negotiations to alleviate travel restrictions, and providing ample time for negotiations—including to ensure formal domestic political support for negotiated agreements—are among the known solutions.[45] Will a new UN context improve upon matters here? The UN resolution asks the UN Secretary-General to "allocate the necessary resources to support the work of the ad hoc intergovernmental committee".[46] Generally, existing UN fora support a broader range of languages through translation and interpretation than the OECD does, though the OECD's technical working bodies have stronger support for French speakers specifically.[47] Moreover, although the UN bureaucracy is broadly viewed as more supportive of resource-constrained developing countries, the capacity-building investments made in recent years by the OECD (alongside other international organisations) are substantial, including programmes under the OECD/UN/World Bank/IMF "Platform for Collaboration on Tax" and the high-profile OECD/UNDP "Tax Inspectors Without Borders". In all, international organisations provide a vast range of capacity-building systems

[39] Cadzow, Hearson, Heitmüller, Kuhn, Okanga and Randriamanalina, "Inclusive and Effective International Tax Cooperation" (2023), p.3.
[40] Cadzow, Hearson, Heitmüller, Kuhn, Okanga and Randriamanalina, "Inclusive and Effective International Tax Cooperation" (2023), p.14.
[41] ATAF, "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).
[42] Christensen, Hearson and Randriamanalina, "At the Table, Off the Menu?" (2020), pp.13–15.
[43] Danielle Falzon, "The Ideal Delegation: How Institutional Privilege Silences 'Developing' Nations in the UN Climate Negotiations" (2023) 70 *Social Problems* 185.
[44] Falzon, "The Ideal Delegation" (2023) 70 *Social Problems* 185, 186.
[45] Cadzow, Hearson, Heitmüller, Kuhn, Okanga and Randriamanalina, "Inclusive and Effective International Tax Cooperation" (2023); Falzon, "The Ideal Delegation" (2023) 70 *Social Problems* 185.
[46] United Nations, *Inclusive and Effective International Tax Cooperation* (2023).
[47] Cadzow, Hearson, Heitmüller, Kuhn, Okanga and Randriamanalina, "Inclusive and Effective International Tax Cooperation" (2023), pp.17–18.

across policy diagnostics, data gathering, design approaches, implementation and evaluation/monitoring.[48] Thus, although the OECD/Inclusive Framework has been criticised for its lack of attentiveness to developing countries,[49] for some Global South countries, "the OECD's longstanding capacity to conduct technical and political outreach means that at present it is more embedded in governments' consciousness".[50]

What future for international tax cooperation after the UN vote

The UN General Assembly's decision to pursue a framework convention on international tax cooperation represents a potentially pivotal moment in the history of international taxation. The resolution of 22 November 2023, driven by a coalition of developing and emerging economies, could either signify a transformative shift in the landscape of international tax policy, or become a symbolic gesture with limited practical impact. The voting split for the resolution underscores the long-standing dichotomy between developed and developing nations in international taxation, always marked by distributional conflict, with developing nations consistently seeking different and more inclusive tax policy frameworks, often against the interests of economic and political powers in the OECD. The UN resolution could potentially shift this (im)balance, offering a platform for more effective and diverse participation in international tax policy-making. Yet its substantive impact remains unclear; the resolution suggests no specific legal or policy content, no provisions for agreement or implementation. From this perspective, it is not quite obvious that "the leadership by the OECD has become untenable" in recent years, nor that such leadership is "over".[51] Rather, the situation begs the empirical question: (how) will the resolution foster a new era of true inclusiveness? History suggests caution: without accompanying shifts in the global political power balance, effective technical influence, and addressing organisational inequalities, similar initiatives in the past have failed to make an enduring impact.

Those who see the UN vote as no more than rhetoric, an example of insignificant, incremental change from the status quo, have at least three arguments to rely on. First, global power structures are quite persistent, dominated—still—by US and OECD power, and as such, they continue to define the overall architecture of the international tax system. Second, even where those power balances are shifting, the underlying forces of economic development will pull the interests of rising powers such as China and India closer to OECD countries and away from the historical "developing country bloc". Third, shifting negotiations to the UN will not necessarily alleviate many of the most significant barriers to effective participation for developing countries, such as the availability of material resources, technical expertise, and requisite support systems. These

[48] *Tax Capacity Building: A Practical Guide to Developing and Advancing Tax Capacity Building Programmes* (Organisation for Economic Co-operation and Development (OECD), 2022), *https://www.oecd-ilibrary.org/taxation/tax-capacity-building_c73f126f-en*.
[49] See for instance, Joy Ndubai, "If Developing Countries Are Not Listened to at the OECD, They Will Vote with Their Feet" (ICTD, 28 November 2019), *https://www.ictd.ac/blog/developing-countries-oecd-inclusive-framework-consensus/*; Allison Christians and Laurens van Apeldoorn, "The OECD Inclusive Framework" (2018), *https://papers.ssrn.com/abstract=3393140*; Irene Burgers and Irma Mosquera, "Corporate Taxation and BEPS: A Fair Slice for Developing Countries" (2017) 10 *Erasmus Law Review* 29.
[50] Cadzow, Hearson, Heitmüller, Kuhn, Okanga and Randriamanalina, "Inclusive and Effective International Tax Cooperation" (2023), p.23.
[51] Baker, "United Nations General Assembly Resolution" [2023] 1 B.T.R. 20.

barriers might be addressed through financial commitments and targeted reform, but whether such investments are more forthcoming in a UN context is unsure.

Those who instead see the UN vote as sign of a revolution, with the prospect of real inclusiveness and rising Global South power, also have at least three arguments to rely on. First, although it is not given, the rise of China, India and Brazil, for example, has proven an important way to foster greater inclusiveness of voices and interests in international tax policy-making, with specific cases of widened influence in both the OECD and UN contexts, a dynamic that will likely continue on at least some policy areas with wide overlap in Global South policy preferences. Equally, growing fractures among OECD members, such as on digital taxation, might offer new alliances that favour developing country interests broadly. Second, the emergence of strong technical expertise and coalitions from the developing world has proven influential on policy decisions that have swung in developing countries' favour, in particular in the UN's organisational context. Third, given the UN's institutional norms, UN-based policy-making will likely bolster political attention and dedication from developing country governments, one key structural disadvantage for developing countries' tax negotiators.

Thus, the UN resolution's impact hinges on continued (investments in) change and evaluation of factors across global politics, technical work and organisational context. The true test lies ahead, in the ongoing materialisation and implementation of the ideas underlying the UN framework convention, and its integration into the broader political-economic context of international tax policy-making, including relations with the OECD. This evolution will take years, but the direction of travel does matter. In that respect, it may be more productive to think of how a changing OECD and a strengthened UN will co-exist in the tax domain, rather than viewing them simply as mutually exclusive. While it does occur that global policy areas shift completely from one organisational context to another, more often the strengthening of one organisation adds onto an existing "regime complex", as is the case with the UN rising alongside the OECD.[52] One probable dynamic is that a UN tax system strengthened by the resolution will, through negative spillovers and requirements for normative justification,[53] push the OECD to further invest in inclusiveness, capacity-building and the representation of Global South interests,[54] something likely to improve international tax inclusiveness overall. In all, although significant change is clearly not given, the current moment lends itself to an exciting (re-)evaluation of long-standing structures and prospects of change for the future of international tax cooperation.

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[52] Thomas Gehring and Benjamin Faude, "The Dynamics of Regime Complexes: Microfoundations and Systemic Effects" (2013) 19 *Global Governance* 119; Cadzow, Hearson, Heitmüller, Kuhn, Okanga and Randriamanalina, "Inclusive and Effective International Tax Cooperation" (2023).
[53] Benjamin Faude and Felix Groβe-Kreul, "Let's Justify! How Regime Complexes Enhance the Normative Legitimacy of Global Governance" (2020) 64 *International Studies Quarterly* 431.
[54] See for instance, *G20/OECD Roadmap on Developing Countries and International Taxation Update 2023: OECD Report to the G20 Finance Ministers and Central Bank Governors* (OECD, 2023), *https://www.oecd-ilibrary.org/taxation/g20-oecd-roadmap-on-developing-countries-and-international-taxation-update-2023_4fc33451-en*.
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References

Agyemang E, 'Developing Countries Secure Bigger International Tax Role for UN' *Financial Times* (22 November 2023) <https://www.ft.com/content/5a7353e8-6aec-4896-b6e5-fa88033c399a>

ATAF, '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)

Baker P, 'United Nations General Assembly Resolution on the "Promotion of Inclusive and Effective International Tax Cooperation at the United Nations"' (2023) 1 British Tax Review 20

Ban C and Blyth M, 'The BRICs and the Washington Consensus: An Introduction' (2013) 20 Review of International Political Economy 241

Burgers I and Mosquera I, 'Corporate Taxation and BEPS: A Fair Slice for Developing Countries' (2017) 10 Erasmus Law Review 29

Cadzow L and others, 'Inclusive and Effective International Tax Cooperation: Views From the Global South' (International Centre for Tax and Development (ICTD) 2023) Working Paper 172

Christensen RC, 'Transparency' in Leonard Seabrooke and Duncan Wigan (eds), *Global Wealth Chains: Asset Strategies in the World Economy* (Oxford University Press 2021)

Christensen RC and Hearson M, 'The New Politics of Global Tax Governance: Taking Stock a Decade after the Financial Crisis' (2019) 26 Review of International Political Economy 1068

——, 'The Rise of China and Contestation in Global Tax Governance' [2022] Asia Pacific Business Review <https://doi.org/10.1080/13602381.2022.2012992>

Christensen RC, Hearson M and Randriamanalina T, 'At the Table, Off the Menu? Assessing the Participation of Lower-Income Countries in Global Tax Negotiations' (2020) ICTD Working Paper 115

Christensen RC and Lips W, 'The Politics of Taxing the Digital Economy' in Lukas Hakelberg and Laura Seelkopf (eds), *Handbook on the Politics of Taxation* (Edward Elgar 2021)

Christians A and van Apeldoorn L, 'The OECD Inclusive Framework' (Social Science Research Network 2018) SSRN Scholarly Paper ID 3393140 <https://papers.ssrn.com/abstract=3393140>

Cormann M, 'Statement by the Secretary General on International Tax Cooperation' (22 November 2023) <https://www.oecd.org/tax/Statement-by-the-Secretary-General-on-International-Tax-Cooperation.htm>

Falzon D, 'The Ideal Delegation: How Institutional Privilege Silences "Developing" Nations in the UN Climate Negotiations' (2023) 70 Social Problems 185

Faude B and Groβe-Kreul F, 'Let's Justify! How Regime Complexes Enhance the Normative Legitimacy of Global Governance' [2020] International Studies Quarterly sqaa024

Gehring T and Faude B, 'The Dynamics of Regime Complexes: Microfoundations and Systemic Effects' (2013) 19 Global Governance 119

Hakelberg L, *The Hypocritical Hegemon: How the United States Shapes Global Rules against Tax Evasion and Avoidance* (Cornell University Press 2020)

Hearson M, *Imposing Standards: The North-South Dimension to Global Tax Politics* (Cornell University Press 2021)

——, 'Tax Treaties Explorer [Online Database]' (International Centre for Tax and Development (ICTD) 2021) <https://www.treaties.tax>

Hearson M, Christensen RC and Randriamanalina T, 'Developing Influence: The Power of "the Rest" in Global Tax Governance' [2022] Review of International Political Economy 1

Hearson M and Prichard W, 'China's Challenge to International Tax Rules and the Implications for Global Economic Governance' (2018) 94 International Affairs 1287

Hopewell K, 'Different Paths to Power: The Rise of Brazil, India and China at the World Trade Organization' (2015) 22 Review of International Political Economy 311

Jogarajan S, *Double Taxation and the League of Nations* (Cambridge University Press 2018)

Lamer E, 'U.N. Shouldn't Tinker With Two-Pillar Plan, EU Official Says' *Tax Notes* (20 December 2023) <https://www.taxnotes.com/tax-notes-today-international/corporate-taxation/un-shouldnt-tinker-two-pillar-plan-eu-official-says/2023/12/20/7hpsb?highlight=benjamin%20angel>

Lesage D, Lips W and Vermeiren M, 'The BRICs and International Tax Governance: The Case of Automatic Exchange of Information' [2019] New Political Economy <https://www.tandfonline.com/doi/abs/10.1080/13563467.2019.1584168>

Mason R, 'The Transformation of International Tax' (2020) July 2020 American Journal of International Law

Ndubai J, 'If Developing Countries Are Not Listened to at the OECD, They Will Vote with Their Feet' (*The International Centre for Tax and Development (ICTD)*, 28 November 2019) <https://www.ictd.ac/blog/developing-countries-oecd-inclusive-framework-consensus/>

OECD, *Tax Capacity Building: A Practical Guide to Developing and Advancing Tax Capacity Building Programmes* (Organisation for Economic Co-operation and Development 2022) <https://www.oecd-ilibrary.org/taxation/tax-capacity-building_c73f126f-en>

——, *G20/OECD Roadmap on Developing Countries and International Taxation Update 2023: OECD Report to the G20 Finance Ministers and Central Bank Governors* (Organisation for Economic Co-operation and Development 2023) <https://www.oecd-ilibrary.org/taxation/g20-oecd-roadmap-on-developing-countries-and-international-taxation-update-2023_4fc33451-en>

Picciotto S, 'Indeterminacy, Complexity, Technocracy and the Reform of International Corporate Taxation' (2015) 24 Social & Legal Studies 165

——, 'The UN Tax Committee Spreads Its Wings' (*ICTD*, 14 December 2023) <https://www.ictd.ac/blog/the-un-tax-committee-spreads-its-wings/>

Tax Justice Network, 'UN Adopts Plans for Historic Tax Reform' (22 November 2023) <https://taxjustice.net/press/un-adopts-plans-for-historic-tax-reform/>

Teo NJ, *The United Nations in Global Tax Coordination: Hidden History and Politics* (Cambridge University Press 2023) <https://www.cambridge.org/core/books/united-nations-in-global-tax-coordination/F663176198BAE84B0F72B0793FC4C944>

Titus A, 'Pillar Two and African Countries: What Should Their Response Be? The Case for a Regional One' (2022) 50 Intertax <https://kluwerlawonline-com.esc-web.lib.cbs.dk/api/Product/CitationPDFURL?file=Journals\TAXI\TAXI2022069.pdf>

United Nations, ‘Promotion of Inclusive and Effective International Tax Cooperation at the United Nations’ (2023) <https://documents-dds-ny.un.org/doc/UNDOC/LTD/N23/356/75/PDF/N2335675.pdf?OpenElement>

Weinhardt C and Brink T ten, ‘Varieties of Contestation: China’s Rise and the Liberal Trade Order’ (2020) 27 Review of International Political Economy 258