The 20th UN Tax Committee session could and should be a new beginning

Civil Society Financing for Development (FfD) Group Submission

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Background

In 2017 the UN Tax Committee (UNTC) formed a Subcommittee on Tax Challenges related to the Digitalization of the Economy to address the tax challenges of the digitalization of the economy. It decided to approach the issue with a focus on "difficulties and opportunities especially of interest to the various affected agencies of developing countries".

In 2018 the Subcommittee decided to "adopt an approach independent of similar work being pursued in other fora, while giving due consideration to developments which will inform its work".

However, for reasons not clear, the work of this subcommittee appeared to have stalled since then. The paper prepared for the 19th Session was not finalized at the Subcommittee level and not discussed by the Committee at that 19th Session.

The 20th Session offers an opportunity to move forward. We call upon the UNTC to seize this.

UN Tax Committee should reject the OECD's Unified Approach

The Unified Approach (UA) of the OECD was developed after insidiously removing the comprehensive G24 proposal; although the OECD itself previously put it on its agenda as one of the proposals to be "considered without bias".

The UA has been criticised by civil society, tax experts and academia from different perspectives. The main criticisms, also expressed by UNTC member Mr. Rajat Bansal, are:

- The conceptually absurd and methodologically intractable separation of profits into residual and routine in order to remove routine profits from the amount to be allocated to "market" jurisdiction;
- Retains the existing flawed transfer pricing system as the basis for taxing most corporate profits;
- Setting of very high global thresholds (750 Million), which would render the majority of transnational enterprises operating in developing countries "untaxable";
- The practical impossibility of implementing these measures within the existing treaty framework;
- The proposed design of binding dispute resolution mechanism in the UA, which is inherently 'dispute provoking' and the institutional design being suggested would make it unworkable and disadvantageous to developing countries;
- Whereas the promise was to make simplicity and administrability part of the criteria for solutions, the UA is so complex that it won't be administrable even in rich countries, let alone by resource deprived revenue authorities in developing countries.

The OECD secretariat seems determined to push through its UA undeterred by critics and uninclined to take on board the constructive suggestions from several stakeholders including the UNTC. It is important for the members of the UNTC to take note of the fact that their attempt to provide constructive suggestions with a submission to the OECD on the UA has been ignored.

It is time for the UNTC to work towards an independent proposal. We echo the concerns in Mr. Bansal's submission and urge the UNTC to consider this along with the G24 proposal which presents the better alternative to be discussed within the UN.

UN Tax Committee should endorse the G24 proposal

The G24 developing countries developed a comprehensive proposal for 'Addressing Tax Challenges Arising from Digitalisation' that has been endorsed by civil society and several academics such as José Antonio Ocampo, Thomas Piketty, Joseph Stiglitz, Irene Ovonji-Odida, Gabriel Zucman, Léonce Ndikumana, Jayati Ghosh amongst others from the Independent Commission for the Reform of International Corporate Taxation (ICRICT), as the best way forward for a new international tax system, particularly one that works for developing countries as well.

While members of the UNTC serve in their individual capacity, we are encouraged that Argentina, Brazil, Colombia, Ecuador, Ghana, India, Kenya and Nigeria are both members of G24 and represented in the UNTC. China attends G24 meetings as a special invitee. We therefore believe there is critical mass within the UNTC to support the G24 proposal and urge members to move positively in this direction. The UNTC should take an independent approach, particularly ensuring that broader interests of developing countries, including those not represented in the UNTC, are addressed.

Conclusion

G77 and China have repeatedly called for the creation of a universal and transparent intergovernmental tax commission under the auspices of the UN noting their concern '*that there is still no single globally inclusive intergovernmental forum for international tax cooperation*'. In addition, Africa Group has called for an '*international convention on tax*' to '*serve as the backbone'* of such a UN intergovernmental tax commission to tackle all aspects of illicit financial flows. This remains the only meaningful way forward on ensuring a robust multilateral process to negotiate international tax norms and standards.

The 20th session of the UNTC is being held at a time where we are confronted with a global human crisis which is imposing its heaviest tolls on the most vulnerable, including exposing once again the depth of gender inequalities, with unpaid domestic and care work subsidizing the global economy. The current crisis has also exposed the unbearable restrictions on the policy and fiscal space of developing countries, suffocated by corporate tax abuse and other forms of illicit financial flows as well as unsustainable debt burdens. Ensuring the international tax system works for the interests of developing countries has never been more urgent.