PSI PUBLIC SERVICES INTERNATIONAL

Promotion of inclusive and effective tax cooperation at the United Nations

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PSI submission to the Secretary General

17 March 2023

Who we are

Public Services International (hereafter PSI) is a Global Union Federation that represents public service workers from more than 700 trade unions representing 30 million workers in 154 countries. We are dedicated to promoting quality public services in every part of the world. Our members, two-thirds of whom are women, work in social services, health care, municipal and community services, central government, and public utilities such as water and electricity. PSI represents public sector and private sector workers who work in public services. Decisions around tax systems are central to our members' interests around the world as they raise the revenue required to fund quality public services.

Introduction

Through a Resolution adopted by consensus in December 2023, the UN General Assembly entrusted the UN Secretary-General with the task of preparing a report on ways to strengthen the inclusiveness and effectiveness of international tax cooperation. This report will among other evaluate options to strengthen the inclusiveness and effectiveness of international tax cooperation. It will serve as the basis for intergovernmental discussions at the UN Headquarters in the fourth quarter of 2023.

The Resolution and the upcoming Secretary-General report potentially pave the way towards the UN becoming the main standard-setting body on international taxation. This is a PSI long-standing demand that could go a long way towards addressing the under-taxation of multinational enterprises and the chronic under-funding of public services.

This PSI submission calls for the opening of intergovernmental discussions with a view to put in place a UN Tax Convention that would formalise international tax governance at the UN, under an inclusive, accountable and more effective institutional setting. Adequate financial resources, a detailed roadmap and transparent negotiations are essential modalities for successful negotiations.

The first section of this submission recalls the importance of effective international tax rules for the labour movement. The following section describes PSI main concerns with the current institutional setting. The final section outlines our main recommendations for the UN Secretary-General report and next steps.

PSI agrees to the publication of this submission.

1. Why international tax rules matter for workers

Tax competition, corporate tax avoidance and the opacity surrounding multinational tax planning directly affect workers and their unions. Ineffective corporate tax rules harm employment in at least three ways.

First, expanded fiscal space is of the utmost priority to the labour movement. In a context of post pandemic bottlenecks, prospects of low economic growth and negligible employment generation, growing debt at sovereign, corporate and household level, energy crisis and increased cost of living, workers and their communities are deeply concerned about possible resurgence of austerity measures, that may lead to the worst case scenario of stagflation: recession with high inflation.

More and more progressive tax revenues are needed. Corporate tax avoidance costs $483 bn globally in lost progressive tax revenues[1]. This seriously undermines the ability of states to fund health services, social protections and general public services to keep people safe and also to keep the economy running.

Second, aggressive corporate tax planning stands in the way of a fair share of corporate profits. Profits are extracted from workplaces and sent to tax havens where they are not available for wage bargaining, productive investment and job creation.

Third, complex company group structures obscure employment liabilities. The artificial structures used to minimise corporate income taxes are the same ones that are used to circumvent labour law obligations. For instance, letterbox companies are a frequent vehicle for social fraud in Europe. Overall, when management is hidden behind several layers of artificial corporations, workers and their unions find it difficult to effectively exercise social dialogue.

The labour movement is actively engaging with policy-makers, calling for stronger regulations to tackle corporate tax avoidance. We pursue in particular the following three priorities:

- Enhanced tax transparency;
- A 25% global minimum tax rate;
- Unitary taxation, on the basis of fair apportionment factors – including employment, assets and sales.

2. Our concerns about existing international tax cooperation

The OECD/ G20 Inclusive Framework on Base Erosion and Profit Shifting is currently the most influential body for setting international tax standards. This body displays insufficient legitimacy and accountability. In particular, PSI has concerns about 1. low ambition, 2. persistent bias towards OECD economies to the detriment of developing economies and 3. the overall opacity of the current decision-making process.

Low ambition

The G20/ OECD delivered in 2015 an Action Plan composed of 15 actions to address Base Erosion and Profit Shifting practices. PSI, and likewise civil society at large, expressed strong doubts about the effectiveness of these action points. In particular, transfer pricing methods and the related arm length principle are too complex and leave room for manipulation[2]. Transfer pricing rules represent an incentive for multinationals to set up complex group structures in order to facilitate profit shifting. Furthermore, the OECD itself recognizes that the lack of comparable is a major driver for the under-taxation of businesses relying on highly mobile intangible assets[3].

The most recent OECD/ G20 agreement while unprecedented in ambition has failed to challenge the weaknesses of the 2015 BEPS Action Plan. It also grants too many concessions to corporations and tax havens.

With Pillar One, the OECD formally recognizes that unitary taxation is the only way to deal with the digitalization of the economy. As such, Pillar One could have constituted a first shift away from transfer pricing principles. However, that shift is restricted to a negligible proportion of corporate profits. The significance of the reform is further undermined by the recognition of one allocation factor only (sales),

[1] Tax Justice Network (2021), *The State of Tax Justice*
[2] PSI (2020), *Tax Briefs*
[3] OECD (2018), *Tax Challenges Arising from Digitalisation – Interim Report*

leaving aside other factors of value creation, including employment. As soon as Pillar One comes into effect, countries are expected to withdraw their digital services taxes and “other relevant similar measures”.

Because of the narrow scope of application, the revenue raising potential of Pillar One is small. Some jurisdictions may even be losing tax revenues because of the obligation made upon them to withdraw unilateral measures to tax digital services now and in the future.

Due to these insufficient or even negative revenue effects, Pillar One has failed to address the under-taxation of highly digitalized businesses. This may explain why an increasing number of countries are now turning their back on the proposal[4].

The introduction of a global minimum tax (‘Pillar Two’’) is a fundamental conceptual shift away from tax competition. In its proposed form, however, revenue raising is hampered by a rate below the average worldwide effective tax rate. The OECD Model rules for Pillar Two also contain significant concessions to corporations and tax havens in the form of sectoral exclusions, carve outs and a so called qualified domestic minimum top up tax. Further, it fails to deliver on the original principle of taxation where economic activity takes place, by allocating priority taxing rights to home countries, undermining fairness, economic efficiency and further perpetuating the existing colonial underpinnings of the allocation of taxing rights.

As a result, the revenue raising potential of Pillar Two may end up largely below the amount of profits currently lost to low tax jurisdictions.

Unfair outcomes towards Global South

Corporate tax avoidance is particularly detrimental in the Global South where countries are very reliant on corporate tax revenues. The contribution of corporate income tax into the total tax revenue is indeed higher in developing economies than in OECD countries.

The OECD, mandated by the G20 countries, has since 2015 assumed the role of global policy-setter. However, the legitimacy of these global standards can be questioned due to the OECD limited membership: 38 countries, mostly in Global North, which have a history of giving more weight to their own concerns than to those of developing economies – particularly capital importing economies.

The 2015 BEPS Action Plan has been criticized for its unfairness. Transfer pricing rules put lower income countries at a disadvantage due to high costs of administration and an allocation of revenues that tend to favor resident jurisdictions, largely situated in OECD countries. The unnecessary complexity is a disadvantage to smaller and less resourced jurisdictions, small and medium enterprises and large enterprises that wish to follow the rules. It unnecessarily advantages large corporations who seek to use complexity and uncertainty to artificially lower tax payments.

In response to these criticism, the OECD has put in place an Inclusive Framework in which the governments of 135 jurisdictions have been able to present tax reform proposals and argue their positions. Yet, this Inclusive Framework has proved insufficient to overcome the persistent bias of G20/OECD standards towards developed economies. This is illustrated by the outcomes of the most recent G20/ OECD global tax deal.

Whilst Pillar One could, to a limited extent, benefit large importing economies it will come at a loss for developing economies obliged to give up on unilateral measures to tax digitalized services.

Pillar Two will generate positive revenue effects for countries currently relying on tax incentives. However, Pillar Two will generate far less revenues for developing economies with a high tax rate. This is due to the fact that Pillar Two introduces a rule order, giving priority to resident countries for the right to apply a 15% top-up tax.

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[4] US, India and Saudi Arabia Are Blocking OECD-led Pillar One, French Finance Minister Says | IBFD

Table 1: Revenue estimations from Pillar One and Two by country-type classification

Table 3: Revenues from Pillar One by country classification type

Classification	Nb. of countries	Reallocated profits	Gross gain	Elimination	Loss	Net gain	% Taxes
Developed	36	56 761.1	14 914.1	26 159.0	2 894.4	12 019.7	0.17%
of which G7	*7*	*48 033.5*	*12 989.4*	*11 748.4*	*1 962.2*	*11 027.3*	*0.20%*
of which Tax havens	*7*	*3 719.9*	*741.6*	*13 830.7*	*840.0*	*-98.4*	*-0.02%*
of which non-havens	*29*	*53 041.2*	*14 172.5*	*12 328.2*	*2 054.4*	*12 118.1*	*0.18%*
Developing	94	36 611.2	9 116.5	68 140.4	5 614.7	3 501.8	0.15%
of which tax havens	*28*	*2 683.5*	*452.0*	*48 162.8*	*1 578.7*	*-1 126.7*	*-2.03%*
of which non-havens	*66*	*33 927.7*	*8664.5*	*19 977.6*	*4036.0*	*4 628.5*	*0.16%*
Least developed	12	167.2	56.1	150.4	24.6	31.5	0.15%
Total	142	93 539.5	24 086.7	94 449.7	8 533.8	15 552.9	0.16%

This table presents desriptive statistics of the covered groups that are subject to Pillar One. The figures are in million of euros for the Turnover and Amount A. The net gains are presented as a percentage of total taxes.

(Source: EU Tax observatory, March 2023)

Classification	No. of countries in sample	Revenue in € 2021 billion	Revenue as % of corporate income tax revenue
Country type			
Developed	35	191.3	19%
Developing	11	14.2	2%
Least developed	.	.	.
Income level			
High income	35	191.2	18%
Upper middle income	9	13.7	3%
Lower middle income	2	0.6	1%

(Source: EU tax observatory, October 2021)

An opaque rule-setting

A major driver for ineffective rules is the lack of transparency of the G20/ OECD decision-making process. The opacity of the current decision-making procedures makes it overly difficult for the labour movement and other social partners to scrutinize on-going discussions and influence the process. Country positions during the negotiations are not made public. No country impact assessment of the proposed rules have been released, making it impossible for the public to assess to which extent the proposed deal serves the public interest. A global impact assessment has been released only 8 months after the global tax deal has been endorsed by the G20.

This lack of transparency raises strong questions as to the accountability of the G20/ OECD decision-making process.

3. PSI recommendations

In the light of these concerns, PSI calls on the UN Secretary General to consider ways to formally bring international tax cooperation at UN headquarters, under an inclusive, transparent and more effective institutional setting.

Upcoming intergovernmental discussions should have for objective the negotiation of a UN Tax Convention that would set goals, key principles and core institutions for an international governance on tax matters. The Convention should recognize unitary taxation as the most effective method to eradicate corporate tax avoidance. Key principles should also include curbing tax competition, allocating taxing rights where economic activity takes place, and the promotion of tax transparency.

Considering the impact of international tax governance on national interests, all countries should be able to participate on an equal footing in the negotiations. This means that adequate financial resources and a detailed roadmap are essential elements for the success of the upcoming intergovernmental process.

In the course of the negotiations, the labour movement and civil society should be able to hold their governments accountable. Transparency should therefore be secured throughout the intergovernmental process. Country positions, negotiating texts, overall progress and potential stalemates should be made public. Unions, civil society and experts should also be able to feed submissions through regular consultations and observer status.

Lastly, the intergovernmental process should be considered as a forward-looking process and should not be used as an excuse to prevent or slow down national or regional progress. Moving international tax policy-setting should not mean throwing away current initiatives put in place to curb corporate tax avoidance, such as global minimum taxes and other measures to address the under-taxation of digitalised businesses.

Overall, what is needed is an improved coordination of the numerous existing instruments (UN tax Committee, FACTI panel, OECD/ G20 Inclusive Framework, Global Forum on Transparency and Exchange of Information etc.). Increased accountability and legitimacy should strengthen existing achievements, not weaken them, and offer a basis for robust ambition and concrete improvement.