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# Inclusive and Effective International Tax Cooperation: Views From the Global South

Lucinda Cadzow, Martin Hearson, Frederik Heitmüller, Katharina Kuhn, Okanga Okanga and Tovony Randriamanalina

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## Summary

In 2023, demands for the United Nations to take up a larger role in global tax governance are louder than ever before. Nevertheless, there is not yet a global consensus on the way forward. In this paper we investigate how the United Nations (UN) could create a more inclusive and effective space for international cooperation. We define the current governance architecture as an ‘international regime complex’, emphasising the fact that several institutions govern international tax cooperation, without there being a hierarchy between them.

Based on evidence drawn from interviews with 33 government officials (mainly from lower-income countries) conducted from May to July 2023, and from literature reviews on global governance arrangements in other policy areas, we discuss what role the UN could take in this international regime complex.

First, we take stock of interviewees’ views on the current state of global tax cooperation, both in procedural and substantive terms. As expected, many do not consider current decision-making processes as fully inclusive, and do not always find international standards appropriate for their countries. Nevertheless the picture is nuanced, and there is disagreement on the desired future evolution of tax cooperation. The fact that many other policy areas face similar problems also suggests that there is no simple solution.

Further, we identify four specific issues of global tax governance that present challenges to many lower-income countries – negotiating capacity, language of negotiations, agenda-setting, and cooperation between political and technical stakeholders. We map out how these issues exist and are dealt with in other regimes, and draw implications for the UN’s future role. To enhance the inclusiveness and effectiveness of international tax cooperation, the UN should invest in building negotiating capacity in lower-income countries, and build a regime that supports more variation in priorities and implementation capacity. It should also consider the differences across countries regarding the capacity to negotiate in English and work with English documents. To support agenda-setting by groups other than the OECD and G-20, the UN can collaborate with regional tax organisations, and draw from regional agreements in the elaboration of policies. Finally, a particular challenge the UN needs to address is the provision of an inclusive space in which countries can come to political agreements that are informed by experts.

**Keywords:** international tax; lower-income countries; tax governance; decision-making; regime complex; UN; OECD; negotiation.

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## Acronyms

ATAF	African Tax Administration Forum
BEPS	Base erosion and profit shifting
BIS	Bank for International Settlements
CIAT	Inter-American Center of Tax Administrations
COP	Conference of the Parties
CREDAF	Exchange and Research Centre for Leaders of Tax Administrations
CRS	Common Reporting Standard
EU	European Union
FATF	Financial Action Task Force
FSB	Financial Stability Board
FSRB	FATF-Style Regional Bodies
FTE	Full-time equivalent
FTI	Fast-track instrument
G-20	Group of Twenty
IF	OECD/G-20 Inclusive Framework on BEPS
IMF	International Monetary Fund
IMO	International Maritime Organization
IPCC	Intergovernmental Panel on Climate Change
MLI	G-20/OECD Multilateral Instrument to Implement Tax Treaty Related Measures to Prevent BEPS
MNE	Multinational enterprise
OECD	Organisation for Economic Cooperation and Development
PE	Permanent establishment
PSC	Port state control
SBSTA	Subsidiary Body for Scientific and Technological Advice
SDTP	Special and Differential Treatment Provision
UN	United Nations
UNCAC	United Nations Convention on Anti-Corruption
UN DESA	United Nations Department of Economic and Social Affairs
UNFCCC	United Nations Framework Convention on Climate Change
WATAF	West African Tax Administration Forum
WHO	World Health Organization
WTO	World Trade Organization

# 1 Introduction

The institutions of global tax governance are perhaps more in flux now than at any time in the past century (Christensen and Hearson 2019; Mason 2020). A unique character of this moment is that large emerging markets and lower-income countries are now more able, and more determined, to influence the content of international tax standards than they did in the past (Dean 2021). Several structural changes have led to this – the emergence of the G-20 as a focal institution, the creation of new bodies at the Organisation for Economic Cooperation and Development (OECD), in which a wider group of countries participate on an ‘equal footing’, the intensification of regional cooperation, especially in Africa, and now the strengthening of the United Nations’ (UN’s) role. It is the latter that motivates this paper – in particular, discussions that will begin in late 2023 at the UN Headquarters, following the 2022 General Assembly resolution on ‘Promotion of inclusive and effective tax cooperation at the United Nations’.

While reforms to multilateral institutions can contribute to more inclusive and effective international cooperation, this outcome is not a foregone conclusion. The G-20/OECD Inclusive Framework on Base Erosion and Profit-Shifting (the Inclusive Framework), created in 2016 to allow a wider group of jurisdictions to participate in OECD-led standard-setting on an equal footing, has attracted criticism for failing to fully achieve this outcome (Christians and van Apeldoorn 2018; Ndubai 2019; Mosquera Valderrama 2018). ICTD research showed that while lower-income countries – as opposed to large emerging markets – were beginning to exert some influence, they struggled to change the content of OECD standards beyond relatively marginal matters (Christensen et al. 2020; Hearson et al. 2023). Institutional design and negotiating culture in the Inclusive Framework played a role in this deficit, but so did shortfalls in the capabilities of lower-income countries. This leads us to ask, given this experience, how could the United Nations create a more inclusive and effective space for international cooperation?

We conducted 33 interviews with government officials working in international tax from 27 countries to help answer this question. Interviews focused on participants’ perceptions of the current institutions for international tax from their (varied) experience, as well as on their priorities for institutional reform, standard setting and capacity building. The interviews are complemented by case studies from reviews of secondary literature in which we examined how the UN and other organisations had involved lower-income countries in international cooperation. We have considered how the challenges we identified prior to and following the interviews have been addressed – with different degrees of success – in other international legal orders.

In our view, the field of international tax cooperation now constitutes a ‘regime complex’, defined by scholars of international relations as a ‘system of functionally overlapping international institutions that continuously affect each other’s operations’ (Gehring and Faude 2013: 120). A regime complex emerges where a governance space is populated by more than one institution, set of actors or set of rules that may ‘plausibly claim to govern an issue’, and among which there is no agreed hierarchy (Alter and Raustiala 2018: 332). Many areas of global governance have developed in this way, and it can be a pragmatic, productive arrangement. Yet, institutional competition can also lead to ‘a pathology that threatens global governance through redundancy, inconsistency and conflict’ (Abbott et al. 2015: 7). Our interviews demonstrate different views as to the role of the UN, OECD and other organisations within that complex. There is uptake of both UN and OECD instruments



amongst lower-income countries, with recognition of their complementarity, and both organisations' work with lower-income countries attracts appreciation as well as some criticism. Efforts to strengthen the UN's role should recognise both the strong sentiment that a historical imbalance between global North and South must be redressed, and the continued co-existence of UN institutions with other bodies within this wider regime complex.

After a brief methodological discussion, the paper begins by summarising interviewees' views on the state of international tax cooperation in general. It then moves on to discuss four aspects in which UN reform could address deficits in the international tax regime complex. Each section draws upon interview evidence and comparison with other regimes. First, the UN could become the clear leader among international organisations in its efforts both to address negotiating capacity imbalances, and to create an international regime that supports more variation in priorities and implementation capacity. Second, the dominance of the English language in international tax negotiations, and the absence of timely translation and comprehensive interpretation, is one particular aspect of the capacity imbalance that has not been adequately addressed by any organisation, though the OECD's efforts are valued by francophone countries. Third, the UN can support agenda-setting by groups outside the OECD, as it has done in other areas of international law, by drawing on regional agreements as the basis of new multilateral negotiations. Finally, there is a need for complementary political and technical negotiating spaces, as at present the leading organisation with effective participation at political level is the G-20.

## 2 Methodology

The primary source of data for this paper was 33 interviews with government officials from 27 countries, who are working in international tax. Most were based in revenue authorities, but a minority were employed in policy roles within Ministries of Finance. The majority of countries were in the lower-middle income bracket. Five were from low-income, four upper-middle, and four high-income countries. The sample included individuals from several OECD member states – though no large OECD economy, to focus our study on 'rule takers' – and several current and former members of the UN Tax Committee. The sample spanned Africa, Latin America, Europe, South Asia and East Asia. It included individuals speaking French, Spanish and English as official languages, as well as some for which none of these was a native language. To preserve anonymity, we refer to the interviewees' countries by number, and a reference list is given in Appendix A.

The sampling strategy was purposive, beginning with lists of contacts provided by the UN Department of Economic and Social Affairs (UN DESA), and our own. While our sample is not representative in a quantitative sense, we sought to achieve geographical, economic and linguistic diversity. We also took into account countries' level of participation in existing international tax institutions. Reaching countries that had a limited participation, or that had only a nominal engagement with the multilateral tax institutions, required considerable effort, especially for officials to gain authorisation to speak with us. This was, however, important to limit the risk of our sample being biased: it is naturally easier to gain access to – and to have a frank conversation with – civil servants who are more experienced and authoritative in the transnational negotiating space, and who know UN DESA or ICTD well.

Interviews followed a semi-structured format, beginning from a list of questions. This is included as Appendix B. Most were conducted online in May and June 2023. Some were

also conducted in person, largely at the ICTD ‘Global Tax Governance at a Crossroads’ conference in Nairobi, Kenya from 5-7 June 2023.

We analysed the interview content through thematic analysis of our notes. We first grouped the comments into the most common themes. Having compiled this list of key themes, we then revisited the interview notes to ensure we had comprehensively identified all the relevant points from every interview relating to them. In some instances, where critical factual points were unclear from the interview notes, we followed up with interviewees and triangulated from other sources to establish a clear picture. The main sections of analysis in this paper group these themes together according to a narrative that we developed after also reviewing literature on the political economy of various different international regimes and agreements – investment, shipping, anti-corruption, anti-money laundering, banking regulation, climate change, trade (including export credits and special trade concerns), extradition, health and disability rights. The structure of each subsection, with interview data followed by case studies where relevant, reflects our deductive process of research.

## 3 Views on the state of global tax governance

Our interview questions touched on the obstacles faced in international cooperation, the usefulness of existing international tax instruments, and the performance of organisational secretariats. These questions naturally provoked broader comments about the institutions themselves. We begin this discussion with interviewees’ assessments of these institutions, for which responses inevitably focused on the two main multilateral venues – the OECD (including Inclusive Framework and Global Forum), and the UN Tax Committee. We then move on to some case studies that relate to the complementary relationship between bodies in other regime complexes. Then, we discuss interviewees’ views on the content of tax standards set in OECD and UN bodies. The section finishes with a case study on the extradition regime, in which a UN framework is layered on top of bilateral or regional arrangements.

### 3.1 Views on international institutions

Some interviewees from lower-income countries (not all) observed the willingness of the OECD to involve developing countries, contrasting this with a feeling that the UN was not similarly engaged in associating lower-income countries (001, 008, 016, 022, 024). For some, their country was invested in participation in the OECD bodies, a situation that they saw continuing, and which meant that they were not immediately focused on the UN or questions of institutional reform. For example:

French-speaking countries like [ours] have a more developed tax cooperation relationship with the OECD. With the UN, we only have a diplomatic relationship. We think that everything that has been developed for many years at the OECD cannot be reproduced at the UN (001).

Three lower-income countries asked how the UN is going to coordinate with the existing OECD work and the OECD/G-20 Inclusive Framework on BEPS (IF) to avoid conflicts, as countries are already committing to the OECD (016, 024). One official from a lower-income country responded negatively to our interview request, on the grounds that their country had already committed to the OECD.

Attitudes to the OECD Secretariat are pragmatic – considerable goodwill, but a recognition of the incentives motivating OECD outreach, and some frustration with outreach at political level over negotiators' heads. Two interviewees expressed criticism that, although individuals from non-OECD Inclusive Framework members can apply for a role at the OECD Secretariat, people in the important positions are all from OECD countries (001, 014). One interviewee in a lower-income country doubted the transparency of the OECD Secretariat (027).

Others expressed gratitude to the UN for its efforts in communicating its work, and the inclusive process of the Tax Committee (001, 008, 024). There was a recognition from those more familiar with the UN Committee's deliberations that it has become more dynamic in recent years. For example:

Before, the work of the UN was more to copy the OECD, copy the commentary, etc. Now the UN has already created more of its own. This enriches the work of tax treaty negotiators rather than complicating the task. This is what the negotiators are there for. And an interesting discussion is achieved in all forums (019).

The majority of lower-income countries reported that they saw the UN Model Convention as an important resource, but many stated that they lacked familiarity with it. There was a common sentiment among these countries that they would like the UN to better defend the interests of source countries, as it has done in the past. Several interviewees raised concerns about the current lack of resources and capacity of the UN Secretariat, and its technical capabilities, in contrast with those of the OECD (002, 011, 012, 022, 024). One – a committee member – also emphasised that the secretariat has its own agenda (002).

When asked about their views on a potential expanded role for the UN, some interviewees from lower-income countries felt that their views would be better heard in such an environment, and if the initiative to develop international standards were to come more often from the UN than the OECD, it would be in lower-income countries' interest (003, 005, 007, 008, 015, 018, 024). As one stated: 'It would be great if the UN had a stronger position and could be the place where initiatives such as Pillar 1/Pillar 2 come from' (007). According to another, a UN contribution could focus on the same agenda as the BEPS project, but 'make the rooms less stressful ... make the delegates less stressed, so that they're comfortable talking to their colleagues (008).

One OECD country negotiator was of the opinion that the current Committee of Experts served lower-income countries better than an intergovernmental body would, because they would currently be in a majority there, and certain important OECD countries such as the United States (US), the United Kingdom (UK) and France were absent (011). In an intergovernmental body, in contrast, these countries would more likely block source-based solutions, such as those currently adopted in the Committee of Experts (and would never agree to majority voting). Several lower-income interviewees, however, rejected this argument, mentioning that OECD governments currently reject elements of the UN Model due to its non-official nature (013, 014, 018).

Interviewees from OECD countries and emerging economies see little chance that high-income countries would agree to a binding intergovernmental process with decision-making procedures other than by consensus (002, 010, 011, 012). One interviewee hoped that even if no majority voting mechanism was put in place, a UN body could at least increase the transparency of decision-making (014).

### 3.2 Case studies: how the UN complements other bodies in regime complexes

It is not uncommon that international regime complexes incorporate a universal, inclusive body alongside bilateral, regional or plurilateral<sup>1</sup> arrangements that typically have a deeper agreement and more binding character. In some cases, such as climate change, the UN acts as an umbrella body; in others, such as anti-corruption, it plays a more complementary, differentiated role. These examples provide inspiration for resolving concerns raised by interviewees about sunk costs at the OECD, complementarity and coordination between two or more organisations, and the risks and benefits of attempts to reach agreement among countries in a universal, intergovernmental setting. Scholarship on regime complexity observes that where new institutional additions build on existing norms within governance areas, a cooperative or coherent regime complex can emerge (Faude and Fuß 2020; Heldt and Schmidtke 2019). In other analyses, where competition between institutions in a governance space exists, this can eventually produce a fruitful division of labour between otherwise competing institutions (Gehring and Faude 2013; 2014).

As international tax cooperation is path-dependent, sequencing is an important consideration. There are three broad patterns for the involvement of universal bodies in a regime complex. First, a regime may emerge at the initiative of a hegemonic state or a 'coalition of the willing' – usually OECD members, and more recently the G-20 (Gowa 2015). In such cases, international organisations with nearly comprehensive membership may universalise the existing plurilateral work. For example, the International Monetary Fund (IMF) – a near-universal organisation – monitors compliance with standards on anti-money laundering developed by the Financial Action Task Force, an intergovernmental body with 39 members. Second, a universal body may provide coherence to a fragmented regime. The United Nations Convention on Anti-Corruption (UNCAC), for example, evolved out of regional and OECD standards. The World Trade Organization (WTO) presides over an international trade regime comprising a growing number of bilateral, regional and plurilateral free trade agreements. A third type of regime formation occurs when standards developed by a smaller group of countries are universalised by their incorporation into an **existing** global regime. The incorporation of Port State Control into the International Maritime Organization (IMO) regime in international shipping is an example of this (DeSombre 2008, 2012; Barrows 2009).

UNCAC provides an example of the United Nations emerging in a key coordinating role amongst multiple overlapping regional and plurilateral initiatives. It was built on normative innovations developed by other organisations, including the OECD's Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, which was already well established, and the African Union's Convention on Combatting and Preventing Corruption, which was developed at the same time as UNCAC (Weilert 2016). The majority of these initiatives had a much narrower anti-bribery focus, whereas UNCAC included a wider range of criminalised conduct in both the private and public sector, and also had a much more substantive focus on areas such as 'preventative measures, international cooperation, and asset recovery' (Rose 2015: 97, 104). UNCAC's strength in this regime complex is its comprehensive scope, level of detail, and breadth of membership (Weilert 2016: 238). It creates some binding, mandatory obligations in some areas, typically in which there was pre-existing agreement between negotiating parties, and plays a normative, non-mandatory role in others (Rose 2015). There are, however, criticisms about the ongoing effectiveness and transparency of UNCAC (UNCAC Coalition 2022), and its uneven levels of

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<sup>1</sup> An initiative between several, though not a great many, countries.

bindingness (Rose 2015: 98). Some scholars have questioned whether international agreements on anti-corruption actually mitigate corruption, especially in countries where judicial capacity may be lacking (Lohaus and Gutterman 2021: 503). Nevertheless, anti-corruption is an interesting example of how the UN has leveraged its inclusiveness to add value to the existing work of other organisations.

### **3.3 Views on international standards**

As well as institutional arrangements, we asked interviewees about the content of international standards themselves – whether they would like to change, remove or add to them. We identified three schools of thought, all of them prevalent within the sample of people we spoke to. First, many interviewees perceived elements of the current international tax agenda at both the UN and OECD to be aligned with lower-income countries' priorities. Several interviewees from lower-income countries perceived the base erosion and profit shifting (BEPS) 1.0 work as useful, because they noted that tax base erosion was a concern (001, 003, 005, 008, 016, 020, 023). Other outputs that were mentioned several times were exchange of information/Global Forum (015, 021, 022, 023, 024, 025, 026), the UN Model Convention (003, 015, 020, 024), the OECD Transfer Pricing Guidelines (009, 020, 026) and the G-20/OECD Multilateral Instrument to Implement Tax Treaty Related Measures to Prevent BEPS (MLI) (020, 023). A typical quote from this group is as follows:

Our priority from the MLI is to introduce the minimum standard, limitation on benefits. This is a matter of urgency. But there are other articles to be modified. We're expecting a lot from the UN model, particularly article 12. So there are a lot of issues dealt with at the UN that we want to learn from (023).

On the BEPS 2.0 Two Pillars project – several agreed on the principles, but criticised the decision-making procedure and pace of negotiations.

A second viewpoint was that the benefits of international tax negotiations so far have been limited, yet there have been considerable administrative costs associated with implementing them. Among the supposed benefits of international cooperation here are the Common Reporting Standard (CRS) and Country-by-Country Reporting (CbCR) (001, 013, 024), while the BEPS minimum standards create significant compliance costs (015, 018, 024). A good example of this frustration about the costs and benefits was one interviewee's view about the MLI:

What we call minimum standards is very narrow (actions 5, 6, 13 and 14). Where there are real taxing powers and where we could have more impact is on the question of permanent establishments (PEs), which is action 7. So how do we get MNEs not to avoid PE when there are so many reservations about it? They give the states the choice to decide to use them! This trap is found in the MLI. The agreement is just window-dressing. It will protect the face, but the substance will not change (016).

A third group questioned the usefulness of international cooperation for lower-income countries more generally, and pointed out that addressing domestic issues is a priority – a view also expressed by interviewees from OECD countries (002, 005, 009, 013, 018, 021, 022, 027).

In this context, we were keen to prompt interviewees for their views on whether international tax instruments should continue in the direction of becoming more binding and more

multilateralised, but under a UN umbrella. Given the discussions on a potential fast-track instrument to update tax treaties at the UN, and civil society aspirations from a UN convention, this question seemed especially pertinent. The opinions on it varied a lot, and no clear conflict lines could be distinguished. Interviewees from lower- and middle-income countries were concerned about the additional capacity that would be required to engage in negotiations with a more binding outcome, and about reduced space to safeguard tax policy objectives (002, 007, 013, 026). A few expressed concern about the amount and type of tax treaties signed by their countries, and would consider terminating them rather than becoming more enmeshed in binding commitments (013, 016). One interviewee emphasised that there is some need for bindingness to hold decision-makers accountable, but that standard setting and enforcement should operate more at the regional level to reduce the perception that compliance is imposed by developed countries (018).

One lower-income country representative, however, hoped that more multilateral coordination would lead to a stronger negotiating position for capital-importing countries than a bilateral setting (003). They also considered that, for example, a broad PE definition and simpler transfer pricing guidelines could be made multilaterally binding. Another interviewee said that some of the optional provisions of the MLI could be made binding (016).

One OECD country interviewee rejected more bindingness, because they considered the freedom for countries to compete through the tax system as important (004). Other OECD country interviewees, however, emphasised increased certainty that could result from more multilateralism, as well as the more level playing field among different capital-exporting countries (011, 012). They also saw a positive role for multilateralism in preventing 'unilateral measures'.

Opinions on the fast-track instrument (FTI) itself range from cautious support (it could be a beginning for more multilateralism) to outright rejection. Interviewees fear complexity or consider it futile, since in those cases where it really matters countries would prefer to negotiate bilaterally anyway (010). However, high-income country negotiators observed that the FTI may put political pressure on them (010, 011). A number of interviewees from lower-income countries, however, were not aware of the FTI, and therefore did not express an opinion. Some of these interviewees were not aware of other UN outputs more generally, other than the Model Convention.

### **3.4 Case study: UN multilateral instruments layered on top of bilateral and plurilateral treaties outside the UN system**

Bearing in mind scepticism from some interviewees that the gaps in existing agreements could be filled through an attempt at binding multilateralism, the international extradition regime provides an example of how a complex of binding multilateral agreements at the UN and elsewhere can co-exist with a regime based on hundreds of bilateral treaties. There are several parallels between extradition and taxation – the idea of a multilateral convention was considered and rejected by the League of Nations (Lieck 1933); fragmentation into bilateral treaties reflects differing levels of trust, experience and confidence among different pairs of countries, and the differences between their legal systems (Magnuson 2011); lower-income countries do not benefit as may be hoped from existing extradition treaties (Eze 2021); the

regime uses model conventions, including the United Nations Model Treaty on Extradition first agreed by the General Assembly in 1990.<sup>2</sup>

This regime has interesting features that contrast with the scope of UNCAC discussed earlier. Binding multilateral conventions – many under the auspices of the UN – provide clarification on how terms in bilateral treaties should be interpreted, and include undertakings about the scope of subsequent domestic laws and bilateral treaties.<sup>3</sup> Each multilateral convention is generally limited to one category of crimes, narrowing the scope of agreement needed. For example, the 1973 UN International Convention on the Suppression and Punishment of the Crime of Apartheid provides that crimes within its scope should not be eligible for the exemption found in many extradition treaties for ‘political offenses’. In some instances, such as the 1961 UN Single Convention on Narcotic Drugs, multilateral conventions also provide a fallback legal authority for extradition where there is no bilateral convention in place.

## 4 Addressing and adapting to capacity constraints

We asked interviewees to describe the capacity available in their country for participation in international tax negotiations, and for reflections on the different capacity constraints they faced, and the capacity-building initiatives they had benefited from. This section discusses each of those points in turn, before considering how capacity differences are taken into account in some other regimes. Our central insight is that capacity constraints are not merely something to be overcome, but rather they are likely to be an enduring constraint on any attempt at inclusiveness in international tax cooperation.

The number of staff dedicated to international/multilateral policy issues in the countries interviewed varies from less than 1 full-time equivalent (FTE) to ~20 FTE. Generally, the number is higher in high-income countries. One high-income country has a very low number as well, but considered that interests are generally aligned with those of other OECD countries (010). While the size and composition of a country’s revenue base will affect the staffing needed and available for tax policy and administration, keeping up with multilateral negotiations places a minimum capacity burden on any country. Countries with 11 FTE or more reported that they were able to keep track of all discussions, but that the pace of negotiations and the short delay with which documents are released before a vote at the Inclusive Framework nevertheless posed an issue (011, 012, 020). According to one individual from a country with 18 people working on international tax policy, ‘this is not enough, because there are 4 workstreams at OECD + UN + ATAF, etc. We are not there yet’ (020). Many of the interviewed countries have specific organisational units dedicated to international tax, but this is not the case for all of them. Sometimes, for example, international tax issues are handled on an ad hoc basis by a legal department that otherwise

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<sup>2</sup> Binding plurilateral extradition conventions are, however, more common in this area of international law, including, for example, the 1990 ‘London Scheme’ of the Commonwealth, the 1957 Council of Europe Convention on Extradition, and the 1981 Inter-American Convention on Extradition (Zanotti 2006).

<sup>3</sup> Examples include the 1948 UN Convention on the Prevention and Punishment of the Crime of Genocide, the 1973 UN International Convention on the Suppression and Punishment of the Crime of Apartheid, the 1972 protocol to the 1961 UN Single Convention on Narcotic Drugs, and the 1971 International Civil Aviation Organization (ICAO) Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Zanotti 2006). UNCAC itself plays this role for crimes related to corruption.

handles other issues. Accession to the OECD and politicisation of issues through the OECD has led to more staff being dedicated to multilateral tax negotiations in countries for which this is relevant (003, 007, 011).

Some (but not all) interviewees from low- and middle-income countries reported that there was insufficient budget to travel to international meetings (005, 007, 008, 009, 019, 024). The UN's ability to fund participation was queried by two interviewees (001, 024). One other reported that the government's policy was to only attend when travel is externally funded (005). One middle-income country interviewee said that changing political majorities affected the attention and resources devoted to multilateral negotiations (009). A sample quote on this topic illustrates this challenge:

As a lower-income country, there's the problem of cost, and the pace of the work and negotiations. It's complicated to keep up. BEPS is a long process. It's hard to keep up. We sometimes miss meetings because of budget constraints. Only one or two people at the most can attend meetings. Sometimes, we have training opportunities, but our budget is limited – insufficient (024).

Three lower-income countries reported that recruiting staff capable of understanding the issues under discussion was a challenge, and that the amount of documents that needed to be studied for IF negotiations meant that sometimes work had to be delegated to collaborators without full understanding of the issues (003, 005, 014). Some interviewees emphasised that understanding the historical background of the norms under development is crucial for effective engagement, which disadvantages countries that have not been part of norm development in the past (010, 015). 'What colleagues who attend these meetings generally don't understand is why the reforms are being made', said one (008).

When specifically asked about capacity development needs, countries mentioned that they required more training on tax treaty negotiation (001, 008, 016, 021, 022, 023, 024, 025, 027), as well as negotiations in multilateral forums (007, 016). In the current environment, building capacity to negotiate is difficult because of the fast pace of negotiations (011). Where a negotiation is more relevant to the development of a country's tax system, it is less of a drain on resources because the negotiation process itself can support the fulfilment of domestic priorities. For many countries, it is support for the basics of a domestic regime for international taxation that is the priority, rather than discussion about revisions to international standards.

As noted in previous research on this topic, people with expertise – and with reputations within the community of international tax negotiators for being expert – are listened to more (Christensen et al. 2020). Interviewees noted that it is important for countries to send the same delegate for a long period of time (012, 027). It is relevant to have people with experience in many areas of international taxation, as well as to be aware of how discussions on different aspects of a multilateral project relate to each other politically (010, 027). Negotiators that hold long institutional memories by virtue of the time spent in international forums are identified as influential. Interviewees also noted how important it was to have experts across a range of issue areas in taxation. In addition, two interviewees noted that there may be an important role for non-governmental organisations in an UN intergovernmental body in an advisory capacity (013), and in helping to further the influence of developing country views (021).



The OECD's regular provision of capacity-building programmes – including in French – was mentioned by many interviewees, and clearly contributes to the OECD's visibility in lower-income countries, as well as the goodwill directed towards its Secretariat (001, 007, 008, 009, 016, 024). Noting that international taxation is a highly technical issue, many participants therefore urged the UN Secretariat to increase its provision of technical assistance (001, 008, 016, 021, 022, 023, 024, 025, 027).

#### **4.1 Case study: regimes recognising capacity differences among countries**

The foregoing demonstrates that capacity constraints, in the form of human and financial resources and technical expertise, pose a significant obstacle to equal participation of states in, and their benefits from, international tax cooperation. Capacity constraints can take many forms and become relevant at different stages of an international regime, including the negotiation process, and the implementation and enforcement of regime outputs. None of the regimes analysed for this report appears to contain provisions to proactively even out capacity differences at the agenda-setting or negotiation stage. In such instances, UN agencies can, alongside other organisations, play an important role as providers of information and technical support to lower-income countries for negotiation and implementation. The United Nations Conference on Trade and Development (UNCTAD) is an example in the international trade regime (Melchers 2007; Karshenas 2016).

Where regimes do account for capacity differences, this is most visible when it comes to the application of agreements. Special dispensations here can recognise the lack of capacity, both to influence the content of an agreement and to implement it. The OECD-based tax bodies have adopted some such distinctions – negative ones, which delay lower-income countries' obligation to adopt certain minimum standards, and a positive one in Pillar 2, an undertaking by Inclusive Framework members to implement the new Subject to Tax Rule in treaties with lower-income countries. Other regimes include special provisions for lower-income countries that allow for longer timelines for implementation or partial implementation, though these can be controversial. WTO Agreements contain a number of Special and Differential Treatment Provisions (SDTPs) that give developing countries more rights. The most recent compilation of measures by the WTO Secretariat identifies six types, including provisions aimed at increasing the trading opportunities for developing countries, according greater flexibility of commitments, and longer time periods for implementation (WTO 2023). While these SDTPs are intended to enable developing countries to benefit from the liberalisation of trade, critics argue that the benefits have not been fully realised because they are not fully binding on other WTO members – instead merely saying that states 'should' grant preferences to lower-income countries (Hudec 1987; Hoekman and Özden 2005). There has also been some controversy over the lack of formal criteria for eligibility for SDTPs, and large emerging markets' consequent ability to benefit. Some have argued that this 'reproduces inequalities within the developing country group and between developed and developing countries' (Weinhardt 2020: 392).

## **5 Leading on language justice**

The question of language for non-English speaking countries emerged in interviews when we asked countries about constraints on their effectiveness in negotiations, as well as in their satisfaction with international tax instruments themselves. There are several aspects to this.

First, a number of negotiators mentioned not having sufficient English language skills to effectively participate at all (005, 008). In addition, one interviewee said that although they had good English language skills, ‘if there is a problem of language – grammatically – the discussion is difficult. Very detailed differences in wording are being discussed many times. Even when one speaks English well, it is difficult’ (009). Language contributed to another interviewee finding the Inclusive Framework to be an ‘intimidating’ environment, noting that ‘French-speaking countries hardly take part in debates, despite the fact that African countries are on an equal footing with the OECD’ (008).

Second, where negotiators themselves have sufficient skills, the fact that drafts are not translated – either at all, or on a timely basis – can create additional complexity, as fewer people in the respective government can engage with the document (or it would have to be translated by the negotiator) (002). However, some interviewees consider this a secondary issue – because time and availability of human resources would not allow for a discussion with other officials anyway (007). It should also be noted that the input drafts to OECD Working Party meetings are translated into French, somewhat inconsistently (Table 1).

Third, the (timely) translation of official documents can affect the impact of international tax instruments. Interviewees from French-speaking countries asserted that the UN Model Convention was less used by French-speaking countries as a starting point in negotiations than the OECD Model Convention, because the UN Model Convention was not translated into French in a timely fashion (001, 023). Indeed, until mid-2023, the 2011 version of the UN model was the most recent available in French.<sup>4</sup> This appears to be a significant perception problem for the UN in French-speaking countries, though not in Spanish-speaking ones. According to one interviewee:

French-speaking countries have problems with UN instruments. All UN documents are in English. This is a serious problem for French-speaking countries. In our opinion, this undermines the UN model. Even the UN Model Tax Convention is in English. We do not use it at all. Our tax conventions are based on the OECD model because it is in French. The guidance notes that we receive from the OECD in the context of the BEPS project are in French. In our opinion, the translation of the OECD documents is one of the reasons why French-speaking countries are so keen on the OECD model (001).

The length and complexity of keystone international tax documents means that, even where translation into several languages is provided, countries in which those languages are not commonly spoken find it challenging to fully operationalise them. The most recent OECD Transfer Pricing Guidelines are available in 11 European languages and Chinese, yet this was of little use to one Asian country represented in the interview sample:

We need transfer pricing, but we are left behind. The language barrier is high. There are a thousand pages in the book. This is difficult to manage. We can use an interpreter, but it is difficult to find an interpreter who understands international taxation. We know we need transfer pricing, because we have MNEs. We have domestic transfer pricing rules, but to understand [the OECD] transfer pricing guidelines properly, we do not have the capacity yet. Only six people more or less can read them (005).

<sup>4</sup> Only the 2017 edition of the UN Model Convention is not readily available online in translated form. The 2021 edition was published in French and Spanish during 2023, while the 2011 edition is available in Chinese, French, Russian and Spanish. The most recent editions of the *Practical Manual on Transfer Pricing for Developing Countries*, *Handbook on Dispute Avoidance and Resolution*, and *Guidelines on the Tax Treatment of Government-to-Government Aid Projects* are all available in French and Spanish. For comparison, the most recent edition of the OECD model (condensed version), the 2017 edition, was published in French with a 1-year delay, and in Spanish with a 2-year delay.

**Table 1 Comparing translation/interpretation at the OECD vs. UN**

	UN	OECD
Plenary meetings	Yes - into 6 languages	Yes - into 3 languages
Subcommittee/working party/steering committee	Only in English	French translation is available
Negotiating/Input documents	Only in English	While there is simultaneous translation into French for important documents such as Outcome Statements, it is not always available or can be delayed for other documents.
Final official documents (Guidelines/Models)	Since 2021, available in English, Spanish and French, with a delay of one or two years.  In earlier years translation is inconsistent.	Consistently available in English and French, with a delay of around 6 months for the translation.  Translation into other languages is sporadic.

### 5.1 Case study: the limits of translation and interpretation

While more translation and interpretation would create a more inclusive negotiating environment in international tax, it is unlikely that it can fully eliminate the need for countries to send negotiators with a working knowledge of English. The European Union (EU) institutions are well-known for their extensive multilingualism. Final documents are fully translated into the official languages, and the EU services include many ‘lawyer-linguists’ who are familiar with the art of translating legal texts. Yet even there, and after Brexit, familiarity with the English language is essential for most staff. A study on the subject notes that, at both the Council and Parliament, only the high-level plenary sessions take place using full translation (Ringe 2022). The more technical and less senior a meeting becomes, the more likely it is to take place in English. A pragmatic approach is taken to interpretation, one implication of which is that most Working Group meetings of the Council are not fully translated, and a member state would have to pay to have dedicated interpretation. Similarly, while documents will eventually be translated into official languages, the vast majority of working documents, such as amendments, are introduced in English by their proposers, and negotiated on before they can be translated. Delegates to the Council and Members of the European Parliament (MEPs) have the right to request a copy of an amendment in their native language prior to voting, but rarely do. This leads to the consequence that, not dissimilar to the situation in international tax cooperation:

informal and preparatory meetings take place primarily in English these days, and MEPs often (have to) rely on English-language documents when deliberating and negotiating, for example when their own language versions become available too late for those purposes.  
(Ringe 2022: 40)

## 6 Supporting agenda-setting through regionalism

In the interviews, we asked participants for their priorities from international tax cooperation, but few had a clearly-formed agenda for international tax cooperation, and several noted that this was a significant deficit. One suggested that ‘the Global South needs to do the same on natural resources that European countries did in the digitalisation debate’ by shifting multilateral norms in their favour (003). According to another:

The challenge [for] most developing countries is that we have not been part of the agenda. We do not come to defend an agenda, but only try not to get ourselves into a worse position. In contrast with US, no African country currently has an agenda. There has not been a time that we sat together to discuss an agenda (020).

Our working hypothesis was that regional organisations and other blocs provide the best potential for this – noting that the African Tax Administration Forum (ATAF) and the G-24 are the most accomplished at shaping the Inclusive Framework agenda, even if they have not been able to set it (Christensen et al. 2020). We therefore specifically queried the potential of regional tax organisations to facilitate a greater role for lower-income countries in setting the international agenda. The next few paragraphs discuss the interviewees’ comments on the role of lower-income country blocs, after which there are positive and negative case studies of how they have been integrated into regimes elsewhere in global governance.

The effectiveness of ATAF in defending policy positions of African countries in discussions at the BEPS Inclusive Framework was frequently highlighted with some jealousy by interviewees from other regions (007, 009, 013, 019). African interviewees spoke positively about the work ATAF has done in this context. The African Union Commission’s recent Memorandum of Understanding with ATAF will include cooperation to ‘bring the African voice on tax matters to global discussions’, according to the latter. Two African interviewees mentioned that representation at subregional level, on top of ATAF’s role, would be desirable (015, 024). It should be noted that this already takes place to some degree – the francophone Exchange and Research Centre for Leaders of Tax Administrations (CREDAF) has observer status at the OECD’s Committee on Fiscal Affairs, while the secretariat of the West African Tax Administration Forum (WATAF 2023) issued a guidance note for its members on the Inclusive Framework’s Two Pillars solution.

It may be that one key difference between Africa and other regions is the greater likelihood of finding common ground. Both Asia, and South and Central America, count a number of OECD member countries among their members, such as Japan, Republic of Korea, Chile, Colombia and Costa Rica. Moreover, existing tax organisations outside Africa may be less suited to taking on a political role, due to their historic mission and their composition. Indeed, out of 11 regional tax organisations, only ATAF, WATAF and the Pacific Islands Tax Administrators Association (PITAA) do not have OECD states among their membership. The Inter-American Center of Tax Administrations (CIAT) has, like ATAF and CREDAF, an observer status at the OECD Committee on Fiscal Affairs, but it may struggle to play a political role similar to ATAF because its membership includes low tax jurisdictions in the Caribbean and major OECD countries, such as the US, France and Spain. Indeed, the founding of the organisation is attributed to members of the US Internal Revenue Service.<sup>5</sup>

Nevertheless, some informal coordination between negotiators from Latin American countries does take place (007, 009, 011). In July 2023, Ministers from a number of Latin American countries adopted a declaration on a ‘Regional Platform for Tax Cooperation in

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<sup>5</sup> <https://www.ciat.org/origin-and-history/?lang=en>.

Latin America and the Caribbean'. Among the platform's stated objectives are the development of regional positions on the international tax system, and contribution to global agendas.<sup>6</sup> It was also pointed out that the position of a Latin American bloc would not necessarily be different from ATAF's position (007, 009). Therefore, some interviewees saw a possibility of forming a wider developing country bloc. One wished that the UN would specifically adopt such a role (015). The G-24 is one body that, despite a very diverse membership including some OECD states, is seen to represent the interests of lower-income countries. According to one individual, who was a member of the Inclusive Framework Steering Group but not from a G-24 member state, 'We [lower-income countries] are more or less represented. What we don't have is the G-24 as a formal participant. We could have made it more formal, holding briefings before the meetings and telling each other what positions to defend' (016).

## **6.1 Case studies: inclusive and effective collaboration between multilateral and regional bodies**

As we expected, many interviewees looked to lower-income country blocs to represent them and help formulate an agenda for international cooperation. As the example of UNCAC illustrates (section 3.2), a new UN instrument can expand the geographical scope of regional agreements. This may be an effective way for lower-income countries to set the agenda. Yet, at its least inclusive, regionalism becomes a mechanism of top-down norm dissemination, rather than bottom-up agenda-setting. Regional tax bodies that engage with existing tax institutions must walk this tightrope carefully to avoid the impression that they have been co-opted.

Consider, for example, the Financial Action Task Force (FATF), which has incorporated 'FATF-Style Regional Bodies' (FSRBs) into its institutional arrangements. The FSRBs have observer status and some rights to participation at the FATF itself, but the agenda is still set by FATF's 38 members, and non-members have limited ability to influence it (Rose 2015). Indeed, the FATF recommendations are adopted by roughly 200 countries and territories (FATF 2023), many of which had no hand in designing the recommendations, and who are then monitored for compliance (Rose 2015). Controversially, non-compliance has resulted in blacklisting and sanction threats against non-members (Eggenberger 2018; Rose 2015)

In the case of shipping, on the other hand, the incorporation of regional initiatives into the broader multilateral regime under the International Maritime Organization (IMO) strengthened it, and promoted the widespread implementation of existing standards. During the 1970s, the international shipping regime saw the negotiation of several conventions on safety standards, as well as their ratification – but implementation was lacking. Several regional groupings subsequently developed their own regimes to promote compliance with the existing safety standards in shipping codified in IMO Conventions during the 1980s, and concluded regional Memoranda of Understanding (MoUs) that established regional systems of 'Port State Control' (PSC) (DeSombre 2008; Barrows 2009). PSC overturned the previous system of shipping regulation that relied on the enforcement of safety standards by flag states, and contributed to the wider and more stringent implementation of shipping standards. In the 1990s, the IMO began to support and coordinate with regional initiatives, eventually taking on a harmonisation and standardisation role (IMO 2014). By doing so, the IMO on the one hand strengthened the role of port states to exercise a 'corrective function' for the low levels of compliance with IMO conventions, and acknowledged the complementarity of regional

<sup>6</sup> [https://www.gov.br/fazenda/pt-br/assuntos/noticias/2023/julho/arquivo/copy\\_of\\_doc1.pdf](https://www.gov.br/fazenda/pt-br/assuntos/noticias/2023/julho/arquivo/copy_of_doc1.pdf).

initiatives with the universal multilateral approach of the IMO. At the same time, by producing soft law to streamline PSC, the IMO reinforced its central position in the international shipping regime, by linking regional initiatives back to the IMO regime and serving as a coordinating body for regional frameworks. Although regional systems of PSC constitute the backbone of the contemporary shipping regime and are the main driver of implementation, regionalism ultimately strengthens the existing multilateral shipping regime based at the IMO, as the standards that regional MoUs seek to implement are codified in often almost universal and widely-ratified multilateral IMO Conventions.

## 7 Promoting complementarity between political and technical spaces

A working hypothesis of this research was that lower-income countries would be disadvantaged in negotiations, because expert delegates may not have sufficient authority to negotiate and approvals would take too long. As a consequence, we included questions on this topic in our interviews.

In high-income countries, interviewees confirmed that this is generally not a challenge, since a lot of coordination with the political level takes place and there are well-defined policies (004, 010, 011, 012). This does not mean that Ministries of Finance can always fully impose their views. At times, Ministries of Foreign Affairs or Development Cooperation have different priorities, which can influence the stance taken in negotiations (011).

In contrast, in lower-income countries lack of coordination is indeed a challenge for the interviewees themselves, or it was their impression when interacting with other delegates (002, 004, 018). According to one:

Most developing countries are underrepresented in those forums, because they do not send a relevant representative ... If they happen to have a good delegate who is an expert, is there a good exchange of opinions with his authorities? They are always waiting for instructions that never come. So they stop talking because they are waiting for confirmation from their authorities (002).

Other interviewees said that they were free to voice their opinion in international meetings, but emphasised that there was a lack of guidance from departmental leaders, and lack of discussion within the government on goals in multilateral negotiations, which makes it hard to effectively engage (007, 009). In more technical bodies this is not such a problem, but as bodies become more policy-orientated it becomes necessary to have senior sign-off before comments can be sent in (007). Generating political alignment for a dissenting stance in international negotiations requires significant effort and political astuteness by the technical expert. However, in other instances it is rather the technical delegates who struggle to convince the political authorities to adopt a decision, such as joining an international body, adopting a standard, or joining the MLI (003, 026).

While a lack of political involvement can disempower technical negotiators, too much engagement by political actors unfamiliar with the context can also be counterproductive. In certain political decisions, such as whether to accept the political agreement on the Two

Pillars solution, as well as commonly in bilateral treaty negotiations, the political level may override the opinion of the technical experts (002, 003, 013, 016, 018, 021). As the same interviewee put it, ‘a new UN body would need to create awareness at the high level to make ministers aware that they have to work with the technical staff that are involved in negotiations’ (002).

In the current environment, decisions on tax are sometimes linked to other issues. For example, some interviewees observed that the decision to join the Inclusive Framework was influenced by the EU’s list of non-cooperative jurisdictions, which is linked to trade agreements and development funding (015, 018). Another reported that the decision to join the Inclusive Framework was influenced by the regular presence of people from the OECD through various capacity-building programmes, and the assessment of their tax system by the Global Forum (027). One interviewee also observed that high-level policymakers from lower-income countries perceived international tax negotiations to be linked with other political negotiations, such as IMF loans, even though such trade-offs have never been explicitly proposed (002). Asked specifically how an intergovernmental body at the UN would impact these types of ‘issue linkage’, some think that it would increase trade-offs made across policy areas (002, 010), whereas others believe that it would only increase political pressure applied by the public (011, 027).

A reason why intergovernmental discussions at the UN may lead to more political trade-offs is an increased involvement of diplomats and Ministries of Foreign Affairs. Some interviewees expect there to be more involvement, although some note that diplomats and other ministries are already involved in the present framework. The OECD Secretariat sometimes reaches out to high-level policymakers and diplomats to garner support for projects such as Pillar 1 (013). Generally, this type of interaction can increase the salience of international tax issues at the domestic level in lower-income countries. Interviewees have mixed views on this, depending on whether they consider the issues a priority for lower-income countries (001, 002, 003, 016, 021, 022, 023, 024, 025). One interviewee said that currently political leadership from developing countries is lacking – though, as noted above, there are new initiatives at the African Union and Latin American and Caribbean levels that may change this.

## **7.1 Expert and intergovernmental bodies work together**

A UN body cannot in itself resolve the communication challenges within and between government departments of member states, just as it cannot resolve the structural aspects of capacity constraint discussed in section 4. Yet institutional design at multilateral level may create mechanisms that involve other ministries, up to the political level. The challenge is to ensure that technical expertise still informs policy, since technical submissions constitute the foundation upon which political consensus may be built.

In climate governance, for example, the intergovernmental decision-making is by the governing bodies of the UNFCCC (Conference of the Parties (COP)), the Kyoto Protocol and the Paris Agreement, on the basis of input on scientific and technological questions by a permanent subsidiary body, the Subsidiary Body for Scientific and Technological Advice (SBSTA) (UNFCCC 2023). The SBSTA in turn regularly requests advice and input from, and works closely with, the Intergovernmental Panel on Climate Change (IPCC). IPCC input is considered during informal consultations at biannual sessions during which the SBSTA finalises recommendations that go to the plenary sessions of COP’s annual meeting (UNFCCC 2023). The IPCC is an independent and purely scientific body that was founded under the World Meteorological Organisation (WMO) and the United Nations Environmental

Programme (UNEP). IPCC observer organisations and governments nominate experts, and its Bureau of Scientists then selects from these experts to generate reports (IPCC 2023). It is important to mention, however, that the IPCC is not a formal part of the UN climate regime.

An example of how an ostensibly technical body can lose legitimacy and effectiveness through politicisation can be seen in health. The World Health Organization (WHO) actively cultivates the image of an expert-driven organisation that stays away from politics (Gruszczynski and Melillo 2022). Despite having responsibility to make high-level policy and political decisions, members of its supreme body, the World Health Assembly, are 'chosen from among persons most qualified by their technical competence in the field of health' (WHO Constitution Article 11). In this narrative, specific public health decisions are taken solely on the basis of scientific evidence, and the organisation keeps itself above politics. Some observers have questioned the merits of these portrayals, arguing 'that political elements may infiltrate WHO activities in different – sometimes surprising – ways and influence even the processes that are conventionally seen as purely technical and science-based' (Gruszczynski and Melillo 2022: 305). For example, the WHO has recently emerged as a frontier of the geopolitical rivalry between the US and China. Tensions escalated during the COVID-19 pandemic, when the US government of Donald J. Trump accused the WHO's leadership of being overly influenced by China, at great cost to the rest of the world, and then withdrew its membership of the organisation (Ehley and Ollstein 2020), a decision reversed by the Biden administration. China's blockade of Taiwanese membership, and the acquiescence of the organisation, has long been viewed as an example of politics taking precedence over science (Menashi 2003).

## 8 Conclusion

In an international regime complex, the ideal outcome from any institutional reform is to maximise complementarity and coordination. Yet, some contestation is inevitable, and may be productive where there is disagreement over the desirability of retaining prevailing norms. A majority of those we interviewed – from lower-income countries, at least – saw clear deficits in the institutions and instruments of international tax cooperation, and looked to the UN to fill this gap. Yet, it was notable that a significant proportion were unaware of UN initiatives beyond the Model Convention, had little ownership over the Tax Committee, and in some cases felt a stronger allegiance to the OECD. For these countries – notably, but not only, those in francophone Africa – the OECD's longstanding capacity to conduct technical and political outreach means that at present it is more embedded in governments' consciousness. Those governments, in turn, have invested time and money into participating and getting experienced with the OECD regime. Many officials from lower-income countries feel that their growing experience in OECD bodies has been valuable, but they also recognise the limits of what can be achieved in a space that is – perhaps inevitably – dominated by large, powerful states. This provides the platform to consider what the current institutions are not providing, and how institutional reform could address this. In the paper, we organise our observations into four areas.

First, addressing and adapting to capacity constraints. It is already well understood that regular physical meetings in expensive destinations create a barrier to inclusivity. Making more meetings virtual may be the best way to level the playing field, as well as reducing their carbon footprint. Furthermore, the OECD has built ownership in part by holding more outreach meetings closer to lower-income countries – though the UN capacity-building



programme also follows this model. The larger point, however, is that no amount of capacity building can fully overcome the structural inequality in negotiation and implementation abilities. Instead, a UN body needs to be adapted to both. This means an agenda and approach to negotiation that is focused on lower-income priorities, and manageable in size. It may also mean continuing the trend of special and differential treatment, so that lower-income countries are not forced to invest resources in negotiating and adopting standards that are unlikely to be beneficial to them.

Second, language. For some countries, this is a huge issue. It relates to the working language (when discussions turn on precise matters of interpretation, and when drafts are circulated only in English), human resources (how many team members can work in English?), and uptake (timely issuing of official translations). The OECD's investment in simultaneous interpretation, translation of documents and provision of training in French has been well appreciated by francophone countries, and is an area in which UN resources should be strengthened. Dedicated meetings, caucuses or subgroups that work in other languages could surmount some of these challenges, though a slower pace would need to be accepted to accommodate them.

Third, defining an agenda through working with regional organisations. Space for lower-income countries to contribute to defining the agenda is a large gap in existing institutions, but it requires creating transparent mechanisms through which an agenda could emerge. While the individuals we interviewed did not come up with a clear, common wish list for the current OECD and UN, there was a strong sense that the growth in complexity of international standards has outpaced any reforms in the distributional settlement, and is a barrier to gaining and using information. Natural resources is a specific area on which many countries would like to see additional developments. We do not suggest that the UN should automatically assume the initiative on these areas. Supporting the dissemination of policies, norms and instruments developed at regional level may be a more efficient, effective and inclusive foundation for multilateral agreements in the longer term.

Finally, the political/technical divide. There is some variation in how much latitude negotiators have to advance positions in different bodies, but the more 'intergovernmental' a discussion becomes, the higher up the chain it may need to go – something that in present circumstances will likely disadvantage many lower-income countries, in which bandwidth from departmental and political leaders is hard to obtain. An intergovernmental body at the UN may serve as an outside influence to create a more whole-of-government approach in lower-income countries, and may allow their technicians to tap more into their governments' diplomatic capabilities. Another challenge will be to ensure that such a body has appropriate technical input, such as from the existing Committee of Experts.

The UN's role in the international tax regime complex is clearly widely appreciated by government officials in many lower-income countries. This includes both the Tax Committee's current work, of which the Model Convention has by far the highest awareness, and the potential for the UN to provide an explicitly political space in which historic omissions and inequities in international tax standards can be rectified. Yet it is not automatically the case that the UN can fulfil this potential. Achieving it would require recognising and working with the commitments countries have already made in other forums, and the enduring mismatch in negotiating and implementation capabilities that lower-income countries will face in any institutional structure. We should not look to the UN as the solution to every barrier to inclusive and effective international tax cooperation, but rather as a space in which these barriers can be accommodated and gradually reduced.

## Appendices

### Appendix A List of interview of World Bank country income group

ID	Income group
001	Low
002	Upper-middle
003	Lower-middle
004	High
005	Lower-middle
006	Lower-middle
007	Upper-middle
008	Lower-middle
009	Upper-middle
010	High
011	High
012	High
013	Lower-middle
014	Lower-middle
015	Lower-middle
016	Lower-middle
017	Lower-middle
018	Lower-middle
019	Upper-middle
020	Lower-middle
021	Low
022	Low
023	Lower-middle
024	Lower-middle
025	Low
026	Lower-middle
027	Low

## Appendix B Interview script

1. What are your priorities for international tax cooperation?
  - This question concerns specific thematic issues/topics
  - Are there issues that are priorities for you that are not being addressed, or that are being addressed in ways that are not helpful to your country?
  - Are there any issues that are being discussed that are not priorities for your countries or countries in your position?
  - How do any differences between your priorities and the current tax agenda affect your ability and willingness to participate in multilateral negotiations?
2. What do you want to change, add to or remove from the existing landscape of international tax instruments?
  - Think short and long term and keep in mind the underlying international tax principles
  - Personal priorities, government positions, any differences of opinion
  - Prompt list: model bilateral conventions, TP guidelines/manual, toolkits and manuals, MLI, CRS, MCMAA, BEPS minimum standards, Pillar 1, Pillar 2
  - Should any of these instruments change in status or in institutional home?
  - Ask about the potential UN MLI/fast track instrument and what they anticipate gaining from it
  - Ask about UN framework convention
3. To what extent do you think the Secretariats of the relevant bodies are responsive to your concerns and the concerns of other countries in your position?
  - Do you feel that you understood how decisions would be made at the time you began to participate in the discussions, and did that understanding (if any) turn out to be accurate?
4. What are the main challenges that you encounter in tax negotiations?
  - *Human capacity (quantity)*: How much human capacity, and what kind, is devoted to international tax negotiation in your country? Is it enough? How much would be enough? What is the constraint on having enough capacity?
  - *Human capacity (quality)*: In your country, are there gaps in subject matter expertise or information that affect particular areas? E.g. (economic) impact assessment
  - *Pace*: To what extent does your team have sufficient time to review and assess the drafts emerging from OECD, UN and other international and regional organisations (such as ATAF) etc?
  - *Language*: Personal capacity – verbal and writing; range of people who can participate in meetings; how much and at what stage are others in government involved when working documents are only in English?
  - *Financial costs*: How much do financial costs, largely travel, impact on your ability to participate effectively? What trade-offs have you had to make?
  - Any other elements that limit your effectiveness as a negotiator? What changes would allow you to be more effective?
  - How/to what extent would you expect an intergovernmental tax body at the UN to assist in overcoming the challenges that you face?

5. What is the role of different government departments, and their leadership, in international tax discussions?
  - Consider policymaking/preparation as well as implementation
  - Discussion should be evaluative as well as descriptive – i.e. what works well and less well?
  - Have your positions or effectiveness in international tax negotiations been affected by linkages to other policy issues? If so, was the overall result favourable or not for your country?
  - Recent cases with potential wider government involvement to consider: UN General Assembly resolution, nomination of tax committee members
  - Prompt list: Revenue authority/CG, Finance ministry/minister, Foreign ministry/ministry, President/PM's office
  - Relationship with diplomatic delegations in New York and Paris.
6. What have you personally found to be your most successful strategies for influencing tax negotiations?
7. Which blocs of countries have you observed to be effective in negotiations, and are there others with potential in a UN context?
  - Those you are part of, and others
  - Prompts: G-24, G77, ATAF, CIAT, African Group, Latin American initiative
8. What capacity-building initiatives have had the biggest impact on your ability to influence?
  - Inductions, pre-meetings, post-meetings, written briefings, spaces for caucusing
  - IO secretariats, ATAF, South Centre, G-24

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