Regional Commissions' inputs to the Ad Hoc Committee to Draft Terms of Reference for a United Nations Framework Convention on International Tax Cooperation

(15 March 2024)

"What are some specific problems that could be addressed by a UN framework convention on international tax cooperation?"

Developing countries face unique challenges, amidst multiple security, food, fuel and climate crises aggravating the insufficiency of the region's public revenues for SDG investments. Development financing gaps are further exacerbated by sub-optimal growth rates, low tax buoyancy, tax leakages and Illicit Financial Flows (IFFs).

Thus, resource mobilization efforts are of primary importance for developing countries. However, resources leakages are abundant. For example, the Arab region loses between $4.6 and $8.9 billion annually due to corporate tax abuse, with a cumulative loss of $50 billion in tax revenues from 1980 to 2020 due to international tax competition which led to halved statutory Corporate Income Tax (CIT) rates. Furthermore, IFFs from trade misinvoicing cost this region $60–$77.5 billion annually, surpassing the combined ODA and FDI inflows. In the case of Latin America and the Caribbean, a low average tax take of 21.7% of GDP in 2021, compared to 34.1% of GDP for the member States of the OECD, gets hampered with large revenue losses due to tax evasion and IFFs. Regional estimates of evasion of the income tax and value added tax amounted to a loss of US$ 325 billion in 2018, equivalent to 6.1% of the region's GDP. While in the case of Asia-Pacific, where the corporate income tax is the second largest item in the region's overall tax take and contributes more than 20% of total tax revenues, estimates on trade mis-invoicing suggest that tax revenue loss through transfer pricing and profit shifting could have reached $200 billion in the region in 2016.

In this context, the ongoing process to draft the terms of reference for a United Nations Framework Convention on International Tax Cooperation provides a unique opportunity for developing countries to have an active participation in shaping the international tax architecture.

Given the current call for substantive inputs to the work of the Ad Hoc Committee to Draft Terms of Reference for a United Nations Framework Convention on International Tax Cooperation, the United Nations Regional Commissions submit the following inputs in response to the Committee's guiding question, 'What are some specific problems that could be addressed by a UN framework convention on international tax cooperation?'

Regional Commissions have identified common challenges to international tax cooperation related with the administrative and technological capacities to adequately address tax leakages, evasion, avoidance and other illicit financial flows, the fairness in the allocation of taxing rights across countries, the use of tax expenditures, among others. Therefore, Regional Commissions consider that the role of a UN Framework Convention should be aimed at addressing substantive aspects of international tax cooperation guided by the principles of fairness, transparency, and effectiveness. Substantive aspects include common topics such as the resolution of disputes, combating tax evasion, elusion and illicit financial flows, taxing digital services, the reduction of forgone revenues due to the use of tax expenditures, tax justice in global responses to climate change, as well as the importance of developing capacity building and technical assistance initiatives to enhance the effectiveness of national tax authorities.

The details of Regional Commissions' inputs can be found in the following annexes:

- **Annex 1: Africa's priorities on International Tax Cooperation by ECA**
- **Annex 2: UN framework convention on international tax cooperation: key issues for Latin America and the Caribbean by ECLAC**
- **Annex 3: Asia-Pacific priorities and inputs by ESCAP**
- **Annex 4: Arab Priorities and Perspectives on International Tax Cooperation by ESCWA**

Annex 1:

Africa's priorities on International Tax Cooperation

ECA's input to the Joint RegComs input to the ToR for a United Nations Framework Convention on International Tax Cooperation

ECA aligns itself with the joint submission made by the African Union Commission (AUC), which includes inputs by the United Nations Economic Commission for Africa (ECA), the African Tax Administration Forum (ATAF) and Tax Justice Network Africa (TJNA). The joint submission provides a response to the Committee's guiding question, 'What are some specific problems that could be addressed by a UN framework convention on international tax cooperation?',

The joint submission emphasized that the UN Framework Convention on International Tax Cooperation should aim to address both principles of tax cooperation and essential substantive aspects of international tax cooperation, promoting fairness, transparency, and effective taxation systems worldwide.

This submission to the Joint RegComs input to Ad Hoc Committee Tax Cooperation highlights ECA's perspective on the request,[1] under each heading of the proposed provisional agenda for the first substantive session of the Ad Hoc Committee.

1. Background: Historical Inequalities in International Taxation

The historical legacy of international taxation is marked by a complex evolution. During the colonial period, Western powers laid the foundations for an asymmetric tax system, which led to deep economic inequalities persisting today. Indeed, the international tax architecture has favoured interests of multinational corporations, depriving developing countries of much-needed revenue.

OECD has been the dominant platform for the development of tax rules and standards. However, the effective participation of developing countries is very limited in the OECD system and restricts their influence in shaping norms. This lack of participation results in a system that predominantly serves the interests of the most economically powerful actors from the wealthiest nations. This leaves developing countries with the largest losses due to tax abuse as a share of their current tax revenues.[2] Those wealthy nations, however, also face the largest revenue losses in absolute terms due to the failures of international tax rules– so there is scope for their peoples also to benefit greatly from effective reforms.

Therefore, a move towards fully inclusive and effective international tax cooperation is needed. In this regard, several steps have been taken on the African side to highlight current limitations, through influencing documents such as the Addis Ababa Action Agenda (2015), the AU/ECA's IFFs Report (2015), and the FACTI's Report (2021), the ECA Conference of Ministers of Finance 2022 and 2024 Resolutions.

The report by the AU-ECA HLP on IFF, has been instrumental in highlighting the detrimental effects of illicit financial flows and the need for global cooperation to address them. The panel's recommendations, particularly its emphasis on transparency measures such as automatic information exchange, beneficial ownership transparency, and country-by-country reporting, have gained continental recognition and

[1] The ECA perspectives are informed by the ECA technical paper developed to support member States for international tax cooperation discussion. It is available at https://repository.uneca.org/handle/10855/49954

support. The panel's work underscores the significance of tackling tax-related issues as part of broader efforts to achieve sustainable development, including SDG 16.4, which aims to significantly reduce illicit financial flows by 2030.

The African Conference of Ministers of Finance, convened by the United Nations Economic Commission for Africa (ECA), has also played a vital role in shaping Africa's stance on tax cooperation. The declaration 990.LIV in 2022[3] and 2024 declaration contained in E/ECA/COE/42/RES/L.1 adopted by the ministers of finance emphasises the importance of mobilising domestic resources, strengthening tax administrations, and combatting illicit financial flows in Africa. This declaration reflects the commitment of African countries to address the challenges they face in the realm of taxation and underscores the need for a coordinated and inclusive approach.

2. A proposal on the potential Substance of the proposed UN Framework Convention on International Tax Cooperation

A UN Framework Convention on International Tax Cooperation should aim to address both principles of tax cooperation and essential substantive aspects of international tax cooperation, promoting fairness, transparency, and effective taxation systems worldwide. Below is a draft proposal outlining the key areas that the convention should cover.

Section I: Purpose

Introduction and purpose of the convention:

The framework convention should recognise the importance of international tax cooperation in promoting fair allocation of taxing rights, financial integrity, fairness, transparency, and effective international taxation systems worldwide.

Recognition of the importance of international tax cooperation:

The framework convention should acknowledge the significant impact of cross-border taxation on global economic stability and sustainable development and affirm international commitment to promote financial integrity and foster cooperation and coordination in international tax matters.

Affirmation of commitment to reallocate taxing rights, combat tax evasion and avoidance and other forms of illicit financial flows, and promote global tax fairness:

The framework convention should reaffirm international commitment to re-allocate taxing rights in line with the location of the underlying real economic activity to combat tax abuse and to establish a comprehensive framework that promotes global tax fairness, transparency, and cooperation.

Clear definitions of key terms and concepts used throughout the framework convention:

To ensure a common understanding and interpretation

Section II: Objectives

[3] Available at https://www.un.org/regionalcommissionsnyoffice/sites/www.un.org.regionalcommissionsnyoffice/files/ecares22_en.pdf

Objectives of the framework convention:

- To enhance international tax cooperation and coordination among member states, regional organizations, and international bodies to address global tax challenges collectively.
- To reallocate taxing rights on a fairer basis between developed and developing countries.
- To address tax base erosion, profit shifting, harmful tax practices, treaty abuse, and aggressive tax planning on fiscal sustainability, and to provide measures to combat these practices effectively.
- To combat tax avoidance and evasion, money laundering, and other forms of illicit financial flows by establishing mechanisms for information sharing.
- To promote inclusiveness, transparency, fairness, and equity in international taxation.

Section III: General Principles

- Principle of **sovereignty and non-discrimination**: respecting the sovereignty of member states, this principle emphasizes non-discrimination.
- Principle of **effective provision of tax information**: member states to establish mechanisms for the effective provision of tax information to combat tax evasion, money laundering, and illicit financial flows.
- Principle of **fair allocation of taxing rights**: Recognizing the importance of fair tax allocation, this principle emphasizes that source countries should have much higher taxing rights.
- Principle of **mutual assistance and cooperation**: Member states to provide mutual assistance and cooperate in tax matters to ensure effective tax administration and enforcement.
- Principle of **transparency and disclosure**: Transparency and disclosure to be promoted to prevent tax evasion, combat illicit financial flows, and enhance accountability in international tax matters.
- Principle of compatibility with the Agenda 2030 of UN Sustainable Development Goals, ensuring equity, equality and social justice for all countries, and stakeholders.

Section IV: Capacity Building and Technical Assistance

- ***Provision of technical assistance and capacity building support to developing countries:*** Recognizing the varying capacities of member states, particularly developing countries, emphasize the importance of providing demand-led technical assistance and capacity building support to enhance their international tax administration and policy capabilities.
- ***Collaboration with international organizations and regional bodies***: Member states to collaborate with international organizations and regional bodies to leverage expertise and resources for effective and demand-led capacity building and technical assistance.

Section V: Review and Monitoring

- ***Establishing a mechanism for regular review and monitoring***: To ensure the effective implementation of the convention, regular review and monitoring of member states' progress and compliance.

- ***Reporting requirements for member states***: Member states to report on their progress and compliance with the convention's provisions, facilitating transparency and accountability.

- ***Peer review processes***: to assess the effectiveness of the convention's implementation, identify areas for improvement, and promote knowledge sharing among member states.

Section VI: Establishment of a Conference of Parties

- The UN Framework Convention must establish a centralised mechanism to steer the implementation and enforcement of the convention.

- The mandate, procedures, schedule and other functional details for the Conference of Parties should be established.

In addition to the main sections, the framework convention should also contain protocols that address some of the substantive matters.

Protocol A: Provision of Tax Information

- ***Mechanisms for automatic cross-border provision of tax information***: Member states to establish mechanisms and procedures for the automatic provision of tax information, complying with international standards and ensuring confidentiality and data protection.

- Procedures and standards for the exchange of information, including the timelines, formats, and relevant safeguards.

- Schedule of commitments and implementation timelines based on risks posed by economic and financial activity in each jurisdiction.

Protocol B: Allocation of Taxing Rights

Rules and guidelines for the allocation of taxing rights between member states: To ensure a fair distribution of taxing rights, provides rules and guidelines for determining the presence of a significant economic presence, a development-oriented approach to the extractive sector, taxation of digital economy activities, formulaic apportionment of profits, and measures to prevent treaty abuse and tax treaty shopping.

Protocol C: Dispute Resolution

Procedures for the resolution of tax disputes between member states including mutual agreement procedures,

Protocol D: Combating Tax-related Illicit Financial Flows

- Measures to prevent and combat tax avoidance and evasion, money laundering, corruption, and other forms of illicit financial flows:

- Member states to implement ownership transparency measures, enhancing good governance practices and transparency in financial transactions.

- Promoting transparency through public country by country reporting requirements for multinational enterprises.

- Promoting good governance practices and transparency in financial transactions and economic activities of the multinational enterprises to prevent illicit financial flows and enhance the integrity of the international financial system.

- Strengthening international cooperation and coordination in recovery of assets derived from tax-related illicit financial flows.

- **The Framework Convention may wish to spell out the functions of the Secretariat**, such as: administrative Support, Technical Expertise, Coordination and Information Exchange, Research and Analysis, Data, Monitoring and Reporting, Implementation Support, Reporting and Communication and Liaison with Stakeholders.

Annex 2:

UN framework convention on international tax cooperation: key issues for Latin America and the Caribbean

Prepared by the United Nations Economic Commission for Latin America and the Caribbean

The international tax landscape is rapidly evolving with implications for the ability of developing countries to finance the investments needed to achieve the SDGs. Current developments at the global level are opening the way to binding multilateral agreements that aim to address shortcomings in the taxation of the digital economy and multinational enterprises. Decisions taken with respect to these developments will have a significant impact on domestic resource mobilization efforts in developing countries and, in turn, their ability to finance sustainable development.

Developing countries find themselves with a unique opportunity to shape international tax cooperation and influence the development of tax rules that benefit them. Thus, it is very important to strengthen the negotiating position of developing countries to get more benefits from digital taxation and reduce the asymmetries of power that provide developed countries with significant leverage to influence policy choices in developing economies.

Strengthening resource mobilization is an urgent priority for Latin America and the Caribbean. The tax take in the region is low, on average, at 21.7% of GDP in 2021, compared to 34.1% of GDP for the member States of the OECD.[4] Public revenues have traditionally been unable to meet the demands for public spending, leading to persistent deficits and rising debt levels. While countries are not generally in debt distress there is ample evidence of development distress caused by high interest payments on debt crowding out spending on social policies and public investment.[5]

Issues that should be considered by a United Nations framework convention on international tax cooperation: a LAC perspective

Illicit financial flows and aggressive tax planning by multinational enterprises. ECLAC estimates that IFFs leaving the region reached US$ 866 billion between 2007 and 2016.[6] A large share of these flows was found to arise from international transactions between related firms of multinational enterprises, raising concerns about potential abuses of transfer pricing rules. IFFs from the extractive sector are also a major concern given the importance of fiscal revenues from non-renewable natural resources in many countries.[7]

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[4] OECD-ECLAC-CIAT-IADB, *Revenue Statistics in Latin America and the Caribbean* [online] https://stats.oecd.org/

[5] ECLAC (2023), Public debt and development distress in Latin America and the Caribbean [online] https://www.cepal.org/en/publications/48910-public-debt-and-development-distress-latin-america-and-caribbean

[6] ECLAC (2019), Fiscal Panorama of Latin America and the Caribbean 2019 [online] https://www.cepal.org/en/publications/44517-fiscal-panorama-latin-america-and-caribbean-2019-tax-policies-resource

[7] ECLAC (2016), Economic Survey of Latin America and the Caribbean 2016 [online] https://www.cepal.org/en/publications/40327-economic-survey-latin-america-and-caribbean-2016-2030-agenda-sustainable

Taxation of high net-worth individuals and limiting the abuse of offshore financial centers. Personal income taxation represents the principal tax gap between the region and the member States of the OECD. In 2021, revenues from the tax averaged 2.1% of GDP in LAC, compared to 8.3% of GDP for the OECD.[8] While the weakness of the personal income tax in the region can be attributed to structural shortcomings in its formulation, another important factor is a high level of tax avoidance and evasion. Recent tax amnesties in the region revealed the existence of wide-scale undeclared assets, and the income they generate, in some cases reaching an astounding 21% of GDP (80% of which was held abroad).

Links with domestic tax evasion and avoidance. In Latin America and the Caribbean, the revenue losses from tax evasion are staggering. ECLAC estimates that evasion of income tax and value added tax resulted in a loss of US$ 325 billion in 2018, equivalent to 6.1% of the region's GDP.[9] Available studies suggest that income tax non-compliance is particularly serious: many countries collect less than half of the revenue that their systems should theoretically generate.

Tax expenditures and fiscal incentives for investment. Tax expenditures and other preferential tax treatments are widely used in the region. In Latin America the revenues foregone due to the use of tax expenditures averages 3.8% of GDP, equivalent to 20.6% of overall tax collection.[10] However, it is not clear whether these tax instruments generate the benefits for which they were created. This is especially the case for fiscal incentives for investment, which often target foreign direct investment by multinational enterprises. In the region, revenues foregone to promote investment average 1.4% of GDP.[11]

Taxation of digital goods and services. The rapid digitalization of the global and regional economy has created significant challenges for domestic tax administrations. While the G20/OECD Base Erosion and Profit Shifting (BEPS) initiative and more recently the Inclusive Framework for BEPS have made great strides, there is still room to strengthen and simplify international norms for the taxation of the digital economy. Especially for the taxation of income derived from sales in developing countries by multinational enterprises with no substantial physical presence.

Carbon and environmental taxation. The use of the tax system to incentivize environmentally responsible behaviors often includes an international angle. The increasing interest in carbon taxes to reduce greenhouse gas emissions is a clear example. While relatively few countries in Latin America and the Caribbean levy a carbon tax, multiple initiatives are currently under consideration. However, there is currently little coordination between countries in this area. This lack of cooperation gives rise to concerns about carbon leakage and carbon border adjustments, among other issues.

International support for capacity building in developing countries. Tax and customs administrations are at the front lines of the fight against illicit financial flows. However, they often do not have the financial and technological resources to fully meet this challenge. It is therefore essential to invest more in these crucial institutions. The international community needs to uphold their commitment to supporting

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[8] Ibid.

[9] ECLAC (2020), Fiscal Panorama of Latin America and the Caribbean 2020 [online] https://www.cepal.org/sites/default/files/publication/files/45731/S2000153_en.pdf

[10] ECLAC (2022), *Measurement of tax expenditures in Latin America* [online] https://repositorio.cepal.org/server/api/core/bitstreams/be42490d-c86e-4f5f-a9a9-b664a50ba70c/content

[11] ECLAC-Oxfam (2019), *Los incentivos fiscales a las empresas en América Latina y el Caribe* [online] https://www.cepal.org/es/publicaciones/44787-incentivos-fiscales-empresas-america-latina-caribe

domestic resource mobilization in line with the Addis Ababa Action Agenda and SDG 17.1. Support in this area can generate very large returns on investment.

Building regional positions to support international tax cooperation

ECLAC has advocated that countries in Latin America and the Caribbean take steps to build regional positions to ensure that their concerns are fully represented in all international tax forums. To that end, Colombia – joined by Brazil and Chile – presented the idea of creating a Regional Platform for Tax Cooperation in Latin America and the Caribbean (PTLAC) during UN-ECLAC's XXXV Regional Fiscal Policy Seminar held in Santiago, Chile in 2023, with de purpose of generating a mechanism through which member States can create regional positions on key cross-border tax issues. The PTLAC was formally established during the First Summit for an Inclusive, Sustainable and Equitable Global Tax Order held in Colombia (27-28 June 2023).

A coordinated regional position, based on concrete policy objectives, will provide countries in LAC with the greatest possible impact on the shape of a United Nations framework convention on international tax cooperation. Additionally, the PTLAC provides member States with an opportunity to jointly explore tax issues and potential solutions.

The work that the PTLAC is developing on progressive taxation, tax expenditures, and environmental taxation highlights that reform of the international tax architecture is a complement to domestic efforts to strengthen tax revenues. Moving towards more progressive tax systems at domestic and international levels will be key in addressing the need to increase tax revenues. In the LAC region, progressive direct taxation is weak, limiting the ability of tax systems to increase revenues and to tackle the entrenched inequalities that have long hindered economic and social development. Therefore, effective taxation of income and wealth, especially of high net-worth individuals who are most able to evade domestic taxes, is key for reaching the Sustainable Development Goals.

The PTLAC will also play an important role in identifying technical assistance needs. Developing countries will need increased support for capacity building (both in terms of financial and human resources) from international organizations, civil society, and other stakeholders to fully engage in inclusive and effective international tax cooperation efforts. At the same time, countries will benefit from additional technical support to adapt their tax systems to new international tax norms developed within the framework of a United Nations framework convention on international tax.

Annex 3:

Asia-Pacific priorities and inputs

to the ToR of the UN framework convention on international tax cooperation

Response to the question "What are some specific problems that could be addressed by a UN framework convention on international tax cooperation?"

1. International corporate taxation

Corporate income tax is a vital revenue source for developing Asia-Pacific countries. It is the second largest item in the region's overall tax mix and consistently contributed more than 20% of the region's total tax revenue in the past two decades.

Due to its high levels of economic integration through trade and investment, the region is susceptible to transfer pricing and profit shifting. Rough estimates on trade mis-invoicing suggest that tax revenue loss through this channel could have reached $200 billion in the region in 2016. Meanwhile, it is common for developing Asia-Pacific countries to proactively leverage industrial policies, including tax incentives, to enhance its competitiveness in global value chains.

Thus, the ongoing international reform on corporate taxation concerns Asia-Pacific countries in both revenue mobilization and domestic development policies.

Fairness in the allocation of taxing rights across countries

The ongoing international corporate tax reform, particularly the multilateral two-pillar solution of the BEPS inclusive framework, is both an opportunity and a challenge for developing Asia-Pacific countries in revenue mobilization. Currently 26 countries of the region (21 developing) are members of the BEPS inclusive framework. However, most LDCs and SIDSs are not yet onboard.

For Asia-Pacific countries already participating in this multilateral process, the top concern is three-fold:

1) whether the proposed multilateral rules are fair enough in the allocation of taxing rights to source countries.
2) whether they have adequate voice and technical awareness to effectively participate in the negotiations on the norms and rules and defend their own interest in the multilateral process.
3) whether they have adequate domestic capacity or external support to fully exploit the revenue opportunities provided by the new rules.

Countries not yet signing up to the multilateral solution need to weigh the costs and benefits of participation and evaluate their own risk exposure to the new rules when their major trading partners adopt them. Most LDCs and small developing states not yet participating in the multilateral process are poorly informed of the changes taking place and lack the capacity to conduct such evaluations by themselves. They also receive mixed information and are confronted with dilemmas regarding taking unilateral measures in taxing the digital economy, when their huge commitment could become obsolete when the world successfully converts to a new set of multilateral rules. Guidance and technical/capacity support are thus urgently needed.

Use of tax incentives in the post-Pillar-Two context

While the introduction of global minimum corporate tax through Pillar Two is certainly a welcome progress, it may render a set of traditional tax incentive practices obsolete and even neutralize tax incentives in non-participating countries. Some countries of the region, such as Thailand, have begun to adapt their tax incentive regimes to the post-Pillar-Two context. But most Asia-Pacific developing countries, especially those not yet signed up to the reforms, remain inadequately informed and poorly prepared for the upcoming changes.

Knowledge sharing and capacity support to help countries in their adaptation to the global minimum corporate tax should be a priority.

2. Tax justice in global responses to the climate change

The planned full enforcement of the EU Carbon Border Adjustment Mechanism (CBAM) by 2026 is expected to impose EU-level carbon pricing on imports from developing countries. Asian exports to the EU will be severely affected (most notably heavy-industry products of China, India and Türkiye, but also carbon-intensive products of smaller economies).

Although this border levy on imports is necessary for leveling the competitiveness ground of EU and non-EU industries in carbon tax and prevent carbon leakage, its fairness and effect on emission reduction can become highly questionable if the revenues are retained within the EU and corresponding measures for climate justice (such as climate compensation) remain missing.

First, taxing poorer developing countries for problems primarily created by rich industrialized countries is by no means a just practice. Second, the introduction of green trade barriers, especially when greener production is much more tech- and capital-intensive than labor-intensive, can further disadvantage developing countries in the global division of labor and share of prosperity. Third, higher green trade barriers will harm economic growth in developing countries and correspondingly their resource mobilization capacity to fund climate adaptation and mitigation within their own borders and render these countries more dependent on external climate finance from the primary polluters.

Given that the EU's CBAM experiment is likely to shape future global conventions on the treatment of gray imports and cross-border coordination of carbon pricing practices, it is thus paramount for inclusive global debate on the protocols and best practices to start as early as possible, for developing countries' voice to be heard and for their just interests to be protected.

3. Tax-related capacity support for developing countries

Despite greater global interest in tax-related capacity building for developing countries and gradually improving coordination among major stakeholders, the effort hasn't met the needs. The problem is three-fold:

1) Poorer and smaller developing countries, where capacity building on tax is most needed, remain inadequately supported. Part of the reason rests in the fact that access to capacity support is often attached to membership in well-funded global or regional tax reform initiatives or tax cooperation platforms. Poorer and smaller countries are much less engaged in these processes, thus missing many opportunities for capacity building.

2) The coordination of tax-related capacity building remains highly dependent on the proactive effort of the beneficiary country to coordinate with the many multilateral and bilateral partners. While diversified choices and a benign competition among stakeholders can be a good thing, such a system naturally favors piecemeal and ad hoc capacity building programs rather than systematic and long-term capacity support. Beneficiary countries can also be stretched thin when they are approached by multiple providers.
3) The fact that tax-related capacity building is increasingly led by rich developed countries may cause concerns over the conflict of interests when international tax norms and rules are being rewritten. A notable case is that the OECD has become much more active in its engagement with developing countries on tax matters, while it is promoting its solutions to the international taxation challenges. While more capacity building is always welcome, capacity building from more neutral partners should be enhanced accordingly.

In this regard, the UN framework convention can explore mechanisms to significantly enhance the resources of neutral stakeholders (those with broader developing country representation) for tax-related capacity building and explore mechanisms for more effective coordination between beneficiary countries and their partners in tax-related capacity building.

Annex 4:

Arab Priorities and Perspectives on International Tax Cooperation

ESCWA's Input for the ToRs for a United Nations Framework Convention on International Tax Cooperation

I. Navigating global standards and regional challenges

Arab countries face unique challenges, amidst multiple security, food, fuel and climate crises aggravating the insufficiency of the region's public revenues for SDG investments. Development financing gaps are further exacerbated by sub-optimal growth rates, low tax buoyancy, tax leakages and Illicit Financial Flows (IFFs).

The Arab region loses between $4.6[12] and $8.9 billion annually due to corporate tax abuse[13], with a cumulative loss of $50 billion in tax revenues from 1980 to 2020 due to international tax competition which led to halved statutory Corporate Income Tax (CIT) rates[14]. The region's tax gap[15] averages 15% of non-oil GDP for hydrocarbon-exporting countries and 17.9% for importers[16]. Notably, 69 cents of every dollar invested in the region is repatriated untaxed and, from 2011 to 2019, the Arab region became a net capital exporter, with $1.5 outflows for every dollar of FDI received[17]. Furthermore, IFFs from trade misinvoicing cost the region $60–$77.5 billion annually, surpassing the combined ODA and FDI inflows[18].

Despite several tax reforms since 2015, the Arab region's tax equity, progressivity, and revenue generation remain limited due to systemic distortions. The global tax framework, including OECD's GloBE, doesn't fully meet the region's needs, providing limited revenue benefits and potentially impacting national sovereignty, particularly in digital services regulation and dispute resolution. This underscores the need for customized solutions and a comprehensive international framework that caters to the different circumstances of countries.

II. Challenges to tax cooperation in the Arab region

1. **Sub-optimal structure of the Arab region's tax treaty network -** Analyzing the interplay between FDI and taxing rights in Arab countries suggests that the current Arab tax treaty network may not optimize revenue potentials, with a discernible risk of "treaty shopping"[19] by multinational

[12] ESCWA Estimate of CIT Revenue Losses, for selected Arab Middle-Income Economies (Egypt, Morocco, Jordan, Tunisia). Annual losses are reported on average for 2011-2018. Data used for the estimates are from UN GRD and IMF tax datasets.

[13] State of Tax Justice Report, Tax Justice Network, 2021.

[14] ESCWA based on IMF, Spillovers in international corporate taxation, 2014.

[15] The difference between actual and potential tax collection.

[16] Estimates by ESCWA

[17] ESCWA based on data from IMF and World Bank

[18] ESCWA, Illicit Financial Flows in the Arab Region, 2018. Available at: https://www.unescwa.org/publications/illicit-financial-flows-arab-region .ODA and FDI inflows amounted to $50.5 billion in 2020.

[19] Treaty shopping refers to MNCs exploiting tax treaty benefits across two jurisdictions without substantial presence in one of the two.

corporations (MNCs), potentially leading to "treaty abuse"[20]. ESCWA highlighted a disproportionate relationship between FDI inflows and CIT revenue in the Arab region[21].

2. **Diverse tax systems and uneven administrative capacities impede tax cooperation and addressing tax leakages –** The spectrum of tax systems and administrative capacities in the Arab region ranges from minimal taxation in resource-rich nations to intricate tax structures in diversified economies, with wide disparities in digital capabilities and basic enforcement challenges hampering tax collection and enforcement, complicating policy harmonization, tax cooperation and adherence and compliance to initiatives like Automatic Exchange of Information (AEOI) and Base Erosion and Profit-Shifting (BEPS) measures. Focused capacity-building and technical assistance are essential to elevate tax administration in Arab states, fostering unified strategies that bolster regional growth and development.

3. **Resource constraints challenge compliance -** Resource constraints in some Arab countries challenge the adherence to international tax standards, affecting their ability to implement global initiatives like BEPS actions, AEOI, and Country-by-Country Reporting (CbCR), which require advanced tax systems, skilled personnel, robust legal frameworks, and substantial resources for development and maintenance. Aligning domestic laws with international norms requires extensive reforms, strained by the need to balance these efforts with other vital economic and social priorities. These conditions hamper the Arab region's full participation in and benefits from international tax cooperation.

4. **Political and economic instability hinder tax cooperation and administration -** The Arab region grapples with political and security challenges, exposing it to volatile capital outflows and IFFs, depleting the resources available to law enforcement and tax authorities, and compromising tax systems' integrity and efficiency, obstructing effective tax administration and cooperation. Conversely, tackling IFFs can bolster Arab nations' capacity to uphold legal standards, fostering fairness and reducing corruption and instability[22]. Addressing these interconnected challenges is essential to strengthen Arab tax systems, ensure fair revenue collection, and promote sustainable development.

III. Enhancing tax cooperation and fairness in the Arab region: role of a UN Framework Convention

Coordinating tax policies and incentives: A UN Framework on taxation should establish or mandate inter-governmental mechanisms to align tax incentives across nations, ensuring mutual reinforcement of tax

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[20] OECD (2015). Measuring and Monitoring BEPS. Action 11: 2015 Final Report

[21] ESCWA, Arab policy choices and financing opportunities in a new world tax order, 2023. Available at: https://www.unescwa.org/publications/new-global-tax-reforms-arab-region

[22] Vittori, Jodi. "Security Dimensions of Illicit Financial Flows." Global Governance to Combat Illicit Financial Flows (2018): 38.

bases and alignment with development objectives, enhancing regional economic integration, and minimizing distortions in cross-border activities.

Improving tax dispute resolution: The Framework should expedite the development of mechanisms to resolve tax disputes efficiently, providing tax certainty, crucial for investment attraction. It should address harmful tax practices, respect regional body mandates, and cater to the needs of developing countries, ensuring fair and transparent dispute resolution, reflecting mutually accepted canons of treaty interpretation.

Protecting taxpayers' rights: The Framework should foster the respect and protection of the rights of taxpayers, including those to privacy, due process, and non-discrimination, fostering trust in the tax system and encouraging voluntary compliance.

Taxing digital services: The Framework should establish equitable mechanisms for taxing digital services, preventing profit shifting and base erosion, and ensuring fair tax contributions from businesses without compromising tax sovereignty.

Combating tax evasion and abuse: The Framework should bolster regional cooperation to fight tax evasion and abuse, harmonizing conventions and agreements to enhance collective prevention and deterrence capacity, ensuring all MNCs pay fair taxes where they generate economic value. Varying implementation and compliance capacity of countries must be considered, making sure that rules are fair and not slanted towards headquarter countries.

Establishing regional Tax Justice fora: The Framework convention could encourage and facilitate the creation of regional platforms for tax coordination to share best practices, develop unified stances on taxation, and promote transparency and equitable tax practices considering local and regional specificities.

Engaging in global tax negotiations: The Framework should enable active participation in global tax negotiations of all countries, advocating for fair taxing rights distribution and a minimum effective tax rate reflecting the region's economic realities and needs.

Addressing regional customs: The Framework should ensure consideration of regional practices, like Zakat, aligning with local customs and contributions[23].

Enhancing transparency: The Framework should bolster tax transparency, promoting consistent, detailed reporting by MNCs to enable accurate economic activity assessments and ensuring all countries can access such information, essential for ensuring tax compliance and broadening the tax base[24].

Improving exchange of information: Enhancing information exchange on criminal and civil matters is vital for better cross-border tax compliance in the Arab region. The Framework should promote AEOI adoption, ensuring developing countries can fully engage and benefit as well, quickly and effectively sharing and

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[23] Islamic law identifies eight eligible channels for the use of Zakat funds. A question can be raised on whether "corporate Zakat" (as advanced by the OECD) should be considered as an alternative to corporate income tax levied on a different basis, and accordingly included in the calculation of effective tax rates.

[24] Inter-agency Task Force on Financing for Development (2021). "Financing for Sustainable Development Report 2021"

accessing information. It should encourage collaboration among national and international agencies to boost tax compliance and enforcement[25][26].

Building capacity and technical assistance: Addressing Arab countries' economic and administrative landscapes requires boosting tax officials' skills, enhancing institutional frameworks, and adopting best tax collection and enforcement practices. Capacity building and tailored technical assistance are crucial, facilitating experience sharing, standard implementation, and equitable, efficient tax policies. The framework should bolster capacity-building customized to each country, ensuring that assistance in implementing tax rules is relevant and addresses specific needs[27].

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[25] The status of Automatic Exchange of Information (AEOI) commitments for the specified Arab countries is as follows: Bahrain, Lebanon, Qatar, Saudi Arabia, and the United Arab Emirates have undertaken their first exchanges by 2018. Kuwait undertook its first exchange by 2019, followed by Oman in 2020 and Jordan in 2023. Morocco and Tunisia committed to start exchanges by 2025. Algeria, Djibouti, Egypt, Iraq, Libya, Mauritania, Palestine, Somalia, Sudan, Syria, and Yemen have not yet set a date for their first year of exchanges yet. (See OECD - AEOI commitments: https://www.oecd.org/tax/transparency/AEOI-commitments.pdf. Accessed on 07-03-2023)

[26] In line with the code of conduct established by the Committee of Experts on International Cooperation in Tax Matters in 2009, formally adopted by ECOSOC in resolution 2017/3, setting minimum standards for Member States on information exchange.

[27] As pointed out by developing countries during the 2023 ECOSOC Special Meeting.