

The UN Tax Convention: A Powerful Tool For Equality and Human Rights

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The international tax system is failing. Every year, countries lose around \$480 billion due to global tax abuse by multinational corporations and wealthy individuals. This staggering loss deprives nations of the vital resources needed to finance public services and uphold human rights.

In response, the UN General Assembly adopted Resolution 78/230 on December 22, 2023, titled “Promotion of Inclusive and Effective International Tax Cooperation at the United Nations”. This resolution launched the initiative to create a UN Framework Convention on International Tax Cooperation, recognising the flaws in our current system and advocating for a fairer, more inclusive global tax framework. Notably, 125 countries supported this resolution, with opposition primarily from OECD member states. By shifting negotiations from the OECD—a forum often dominated by wealthy nations—to the more inclusive and democratic platform of the United Nations, we have a unique opportunity to develop robust regulations that truly serve all countries.

Earlier this year, the Terms of Reference (ToR) for the UN Framework Convention were carefully negotiated. The Terms of Reference (ToR) define the scope, objectives, and structure of the UN Tax Convention. They serve as a blueprint for future negotiations and the development of the legally binding treaty. The ToR were meticulously drafted and negotiated during two sessions of the Ad Hoc Committee, formed specifically for this purpose, culminating in their adoption on August 16, 2024. The committee held two substantive sessions at the UN Headquarters in New York: the first from April 26 to May 8, 2024, and the second from July 29 to August 16, 2024. Ramy M. Youssef from Egypt chaired the committee.

The ToR Negotiations

First Session (April 26 - May 8, 2024)

This session laid the groundwork by identifying critical issues and establishing an initial framework. Two distinctive negotiating blocs emerged: one, primarily formed by OECD countries, sought a minimal approach towards the future convention by focusing merely on procedural aspects; the other, representing Global South nations, called for a more ambitious and emancipatory agenda that addressed further substantive elements within the framework legal instrument to be eventually discussed.

Second Session (July 29 - August 16, 2024)

The focus shifted to finalising the ToR draft, which highlighted several contentious issues:

- 1. Human Rights:** The inclusion of human rights language in the ToR faced resistance from some OECD countries. India proposed to go further and suggested the explicit link between taxation and States' human rights obligations under existing conventions be included, sparking debate and division. It was countries from the Regional Platform for Tax Cooperation for Latin America and the Caribbean (PTLAC), led by Brazil, Chile and Colombia, which successfully rallied together to ensure that human rights, as they relate to taxation and the financing of public services, remain enshrined in the ToR.
- 2. Fairness in the Allocation of Taxing Rights:** This principle was particularly contested, with OECD countries favouring turning the focus towards Domestic Resource Mobilisation (DRM) over the discussion of international fairness considerations. The Global South, however, maintained the importance of enshrining equitable allocation of taxing rights as a core principle and objective in the ToR and the future Convention.

- 3. Early Protocols:** Global South countries advocated for the simultaneous development of additional protocols addressing key issues like the taxation of high-net-worth individuals, the digital economy, and environmental taxes. OECD countries, however, pushed for a delayed approach, citing resource constraints and a need for further analysis. Procedurally, this means that adopting any optional protocol would have to wait until after the Convention is in place, delaying debates on any new substantive agreement.
- 4. Decision-Making Procedures:** OECD countries favoured (and continue to advocate for) consensus-based decision-making, which could potentially grant them veto power and higher negotiating leverage. Global South countries countered this, arguing that solidly established UN practices and regulations allowing for simple majority rule should be upheld to ensure a timely and democratic process.

During the negotiations, GI-ESCR actively engaged with policy-makers, submitted written observations and proposals, and participated in discussions during the negotiating sessions. GI-ESCR also strongly advocated for clear language linking taxation to human rights in the ToR.

Emerging Trends & Challenges

While there remains a conservative stance from Canada, Australia, New Zealand, the US, the UK, Japan, Italy, and Korea (strong OECD supporters), a notable shift occurred during the negotiations: the majority of EU countries moved away from voting against the resolution to abstaining during the second session. This change indicates an increased engagement with the process and suggests a potential willingness to compromise. However, last-minute amendments proposed by the UK, Canada, and the EU, aimed at weakening the ToR's potential, indicate that future negotiations will still be challenging and require persistent advocacy from the Global South, as well as monitoring and pressure from Global North organisations and movements over the positions of their own governments.

Key Takeaways and Points of Conflict

The UN Tax Convention process represents a historic shift towards a more inclusive and equitable global tax system. However, while a strong consensus on the ToR was finally achieved, significant differences in perspectives remain, particularly between OECD and Global South countries. As such, we can anticipate some key points of conflict particularly surrounding the strength of human rights commitments, taxation of high-net-worth individuals, domestic resource mobilisation, the timeline for protocol development, and decision-making procedures. Evidently, if the ToR negotiations can serve as any indication, continued pushback from OECD countries against ambitious and binding provisions is likely. It is more evident than ever that the Global South's active leadership and unity are crucial for achieving a strong, effective, and developing world-sensitive convention.



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What's Next?

The adopted ToR will be submitted to the UN General Assembly for approval in late 2024. If approved, intergovernmental negotiations for the UN Framework Convention will begin in 2025, with a target completion date of 2027.

Ongoing advocacy is crucial to:

1. Ensure a robust and ambitious convention that prioritises fairness within and among countries, human rights, and sustainable development.
2. Counter efforts, in particular by OECD countries, to weaken or delay the convention's provisions.
3. Promote transparency and inclusivity throughout the negotiation process, allowing civil society to play a meaningful role.

GI-ESCR, in line with its broader mission to advance economic, social, and cultural rights globally, recognises the crucial role of a just and effective international tax system in enabling countries to mobilise resources for the realisation of these rights. We advocate for specific commitments within the UN Tax Convention to address tax injustice, such as strengthening tax transparency, determining measures to prevent and eliminate harmful tax practices, and increasing the fair allocation of taxing rights among countries, ensuring that multinational corporations and high-net-worth individuals pay their fair share of taxes.

A Call To Action!

The UN Tax Convention offers a vital opportunity to reform a flawed global tax system and foster a more just, equitable, and sustainable future. GI-ESCR remains committed to advocating for a human rights-based approach in these negotiations, ensuring that the benefits of the UN Framework Convention extend to all nations, particularly those in the Global South. Together, we can work toward a tax system that fosters equality, justice, and sustainable development for all.