

Getting down to business: Objectives and principles of the new UN Tax Convention

WITH 23 WORKING DAYS LEFT TO DELIVER THE Terms of Reference for the new UN Framework Convention on International Tax Cooperation, it is high time to get moving!

And what better way to kick off than to answer the question “what should be the overall point of this Convention”?

Objectives

Firstly, as the name of the convention suggests, promoting international tax cooperation should obviously be a central element of the objectives, along with the aim of combating illicit financial flows.

Furthermore, in line with the global commitment to reducing inequalities within countries, the objectives must include the element of ensuring that tax systems are fair, equitable, progressive, transparent and effective. Similarly, with the aim of reducing inequalities between countries, the Convention must aim to address the unfair allocation of taxing rights that disproportionately affects developing countries.

Lastly, a central objective of the Convention should be to underline the link between tax policies and the mission of mobilizing financing to fulfil international goals, obligations and commitments. This includes the government commitments related to human rights, gender equality, quality public services for all, promotion of well-being and quality of life, sustainable development and environmental protection, including climate action.

Overall principles

It is also high time to open the discussion about the central principles that should underpin the new convention.

Building on the overall commitment to strengthen international tax cooperation, the Convention should include a principle stating that every State has the

sovereign right to decide the policies and practices of its domestic tax system, and the responsibility to ensure that such policies and practices do not cause damage to, or undermine the effectiveness of, the tax base or system of any other State. This balancing of sovereign rights and international obligations is a classic approach in international law, which can, for example, also be found in principle 2 of the Rio Declaration on Environment and Development.

Secondly, the convention should include a principle which balances the right to privacy with the right for citizens to access information of importance to assess the fairness, equitableness, progressivity, transparency and effectiveness of their domestic tax system, in addition to having in place structured mechanisms for citizens’ engagement in tax policy processes. This principle has strong links to the ABC of transparency (see page 2).

Thirdly, in line with Article 71 of the UN Charter as well as UNGA Resolution 53/144 and ECOSOC Resolutions 1993/80 and 1995/304, the convention should include a principle underlining that the participation of civil society is essential.

Fourthly, with an aim to establishing and solidifying the links between taxation and environmental policy, the tax convention should include the well-known principle, which recognizes that the costs of pollution and environmental damage should be borne by those causing it, not those suffering its impacts (also known as the “polluter pays principle”).

Lastly, the convention should establish an international “single tax principle”, stating that persons, and multinational enterprises, should be taxed on their worldwide income at least once, and only once, and in line with where their real activities occur.

How does the ABC of tax transparency relate to domestic resource mobilization and illicit financial flows?

TAX TRANSPARENCY, PARTICULARLY THROUGH measures pertaining to the ABC (Automatic exchange of information, Beneficial ownership transparency, and Country by country reporting for multinational corporations), plays a pivotal role in curbing illicit financial flows (IFFs) and enhancing domestic resource mobilization. The intersection between tax transparency and these critical economic dynamics is a very central element of international tax cooperation. The ABC is the formula for bringing the light of transparency to the opaque world of secrecy, where the rich and powerful corporations operate with impunity, while the rest pay their fair share of taxes.

In essence, the ABC of tax transparency embodies principles and mechanisms aimed at revealing hidden economic activities, particularly those utilized to evade taxation or engage in illicit financial practices. Automatic exchange of information stands as a cornerstone, enabling countries to automatically share financial data of taxpayers with their respective tax authorities. This practice significantly diminishes the effectiveness of bank secrecy, making it more challenging for individuals and entities to conceal offshore accounts and evade taxes. However, challenges persist, such as the exclusion of lower-income countries due to stringent criteria e.g. for reciprocity, and the reluctance of some jurisdictions, notably the United States, to participate fully.

Beneficial ownership transparency represents another critical component, addressing the pervasive abuse of anonymous ownership structures. By mandating public registers that disclose the true owners of companies and other legal vehicles, this measure aims to eliminate the cloak of secrecy often utilized in illicit financial activities. While progress has been made, there are still plenty of trusts, foundations and companies around the globe hiding their beneficial owners, helping the wealthiest to escape taxation (among many other users with other nefarious purposes). Furthermore, because local investors often need to disclose their ownership, the lack of public BO registers distorts competition and harms local direct investors.

Country-by-country reporting for multinationals adds another layer of transparency, requiring companies to publish detailed financial information for each jurisdiction in which they operate. This transparency sheds light on profit shifting practices and reveals misalignments between economic

activity and tax payments. However, the OECD has subjected its CBCR standard to tax secrecy, making it nearly impossible for most lower income countries to access it, and in addition has artificially constrained usefulness of this data by forbidding to use it for adjusting upwards the tax base in lower income countries. This hampers domestic resource mobilization and needs urgent fixing by making CBCR data public for all.

The benefits of making the ABC of tax transparency truly inclusive and effective within the UN Tax Convention are multi-fold. Beyond immediate reductions in illicit financial flows, enhanced transparency generates valuable data that informs policy decisions and enforcement measures globally. Furthermore, transparency fosters greater accountability among both states and private sector entities. It also supports efforts to address wealth inequalities by enabling fairer taxation policies and enhancing revenue collection, ultimately contributing to socioeconomic development.

In light of these considerations, integrating the ABC of tax transparency into the core commitments of a UN framework convention on international tax cooperation is paramount to counter IFFs and enhance domestic resource mobilization.

Such integration underscores the fundamental importance of these measures and ensures their widespread adoption and implementation. Moreover, it reaffirms the commitment of all participating nations to combat illicit financial flows and promote global tax transparency for sustainable development.

