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The UN Framework Convention On Tax Matters And A New Hope For Multilateralism And Simplification In The Area Of International Taxation

Natalia Quinones (Quiñones Cruz Abogados) · Wednesday, April 3rd, 2024

Resolution 78/230 was approved by the United Nations General Assembly in December, 2023, creating a mandate for an ad-hoc committee inclusive of all UN member states to draft the terms of reference for a framework convention for international cooperation in tax matters. This unprecedented resolution was approved by a majority vote driven by the global South, especially the African Union. There had been several prior attempts to bring international taxation to the political agenda at the UN, most importantly in 2004 under the leadership of José Antonio Ocampo and in 2015 during the Addis Ababa meetings.

The fact that the resolution was approved finally in 2023 is not a coincidence. As it is usual in the world of tax since the earliest times, this significant event was triggered by a crisis felt at a global level, and with a differential impact in the global South. Just as the Magna Carta was triggered by a crisis deeply felt by the working class in 1215, and the BEPS project was triggered by the 2008 financial crisis and the impact it had on the largest (G20) economies, Resolution 78/230 was triggered by a global financial crisis that has stalled the recovery of many countries after the Covid-19 pandemic. The differential impact on the global South has turned the political attention of debt-straddled regions on international tax rules, and the financing opportunities brought by this area, especially when the urgency to invest in global challenges such as climate change, war, pandemic, and inequalities is presently undeniable.

In a time when many have spoken of a crisis of multilateralism and international cooperation, the role played by regional cooperation in the approval of Resolution 78/230 and the subsequent work by the ad-hoc committee must be highlighted. The African Union, ATAF, and the civil society came together in a solid alliance where not a single African country voted against the Resolution. A similar, albeit less comprehensive but equally remarkable result was achieved in Latin America, where the Platform for Taxation in Latin America and the Caribbean had only been established a few months before the vote. This regional leadership continues to carry the process of the Ad-hoc Committee, where Egypt occupies the role of chair and Colombia the role of Rapporteur. More interestingly, the PTLAC, the African Union, and the South Centre have established frequent interregional dialogues on international tax policy matters, a fact which is evidenced by over four

joint webinars over the last six months on the UN process itself, on illicit financial flows, and on the taxation of international transportation.

The result of this enhanced regional cooperation has proven to be effective in achieving unprecedented progress in the UN, and it is likely to produce further changes in the landscape of international tax governance in the future. Despite the scepticism of many, regional cooperation in the tax area has given us new hopes for multilateral solutions, which are the only ones capable of addressing the global tax challenges brought by mobility, digitalization, de-localization of business assets and functions, and global business integration. It is indeed fruitless to attempt to unilaterally resolve the challenges that these features pose on the current rules, especially when technology is so rapidly moving towards a completely immaterial value chain in a world where the allocation of taxing rights requires localizing assets, functions, and risks. The same is true for high-net-worth and ultra-high-net-worth individuals, whose mobility often prevents countries from taxing a large portion of their income and wealth.

The challenges are such that, in our attempt to adapt the standards to the new ways of doing business, we have reached a level of complexity that has become difficult and costly to administrate, even for middle income and emerging countries. However, the new spaces created with the adoption of Resolution 78/230 by the General Assembly, as well as by the new regional and inter-regional cooperation, may bring about a new international tax architecture with modern standards that can not only address the global tax challenges in a simpler way, but also to address the most pressing global financing challenges such as climate change. Creating mechanisms for raising some revenues at a global level for global spending may not only resolve the problems posed by mobility, digitalization and the difficulty in allocating taxing rights to jurisdictions all over the world, but it may also bring an opportunity to create a fund for spending in global common goods, which may in turn address the shortcomings of unilateral action in, for instance, distributing vaccines for a new pandemic or mitigating the effects of global warming.

The probability of this becoming a reality soon rests with our ability to truly cooperate, not just between developed, emerging, and low-income countries, but also between the different organizations that currently make up the international tax architecture. The media discourse that has pitted developed against developing countries and the OECD against the UN actually hurts the likelihood of achieving global simple and fair international tax standards, which is a goal for countries and taxpayers alike. The possible mandate coming from the G20 on the so-called BEPS 3.0 on the taxation of the wealthiest individuals may prove to be a perfect pilot for a true collaboration, where the technical expertise of the OECD meets the more inclusive decision-making process that is being shaped by the Ad-Hoc Committee for Cooperation in Tax Matters in the UN. It is indeed our hope that the G20 will issue a joint, collaborative mandate for the OECD and UN to explore the problems that the world faces in taxing the highest individual income and wealth, and to bring simple solutions that will make collection efficient for countries and compliance easy for taxpayers.

The ideal of simpler and fairer international tax standards can only be achieved if countries are willing to give up historical attachment to outdated rules and be flexible and open enough to collaboratively explore new ways of collecting resources from the highest income and wealth generators, both in the corporate and individual spheres. The UN process has opened a window for reform that, if seized, may just bring about the tax architecture needed to address the challenges of the mobile, immaterial modern world.

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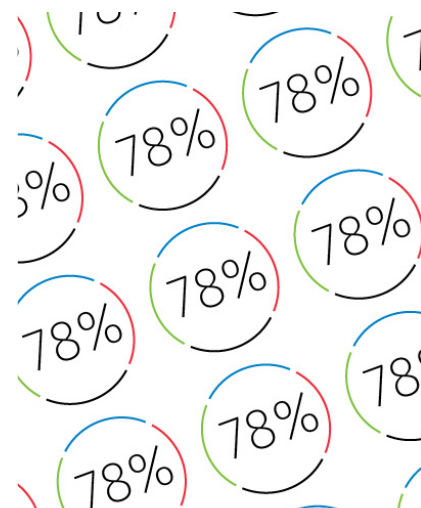
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