

Options for strengthening global tax governance

The importance of international—or even better, global—cooperation on tax issues is becoming more and more evident in the light of tax evasion and avoidance scandals during the last few months and years. Countries in the global North and South were shown to offer preferential treatment to foreigners—from Panama to Luxembourg from the Cayman Islands to Hong Kong. Individuals as well as huge transnational corporations are using a fragmented and inconsistently regulated global system of trans-border taxation to evade and/or avoid taxes. The sums lost amount to hundreds of billions annually. Depending on the model of estimation, developing countries are losing more than one trillion US dollars per year in illicit financial flows, the majority of which can be attributed to the abuse of transfer pricing rules.¹ A panel of the UN Economic Commission for Africa chaired by former South African president Thabo Mbeki estimates the losses of Africa alone at approximately 50 billion US dollars per year.² The Organisation for

Economic Co-operation and Development (OECD) puts global revenue losses from Base Erosion and Profit Shifting at an annual 100 to 240 billion US dollars.³

Countries in the global North as well as the South are losing money they urgently need to finance basic social services, or better put, to finance their human rights obligations, find ways out of problematic levels of sovereign debt, and contribute to their international responsibilities in financing the goals, targets, and means of implementation of the 2030 Agenda for Sustainable Development adopted by the members of the United Nations in September 2015.⁴

Unsurprisingly, there have been a whole set of reforms and new initiatives in international cooperation on tax at national, regional, and global levels, building on already existing work by various institutions, but still evading some critical issues.

The current state of international tax cooperation

OECD and G20

At the center of international discussions around tax currently is the **Organisation for Economic Co-operation and Development** (OECD), based in Paris. The most prominent attempts at reforming the international tax systems, at international and global standard setting, and at the development of normative frameworks are to be found there. The OECD is host to several multilateral institutions and fora that play a significant role in global tax governance, the two most noticeable of which are the Global Forum on Transparency and Exchange of Information for Tax Purposes and the newly established Inclusive Framework for BEPS Implementation.

Originally, the **Global Forum on Transparency and Exchange of Information for Tax Purposes** consisted of OECD countries and jurisdictions that had agreed to implement standards on transparency and (automatic) exchange of information for tax purposes. Today, the Global

Forum has 133 members and sees itself as “the premier international body for ensuring the implementation of the internationally agreed standards of transparency and exchange of information in the tax area.”⁵ The aim is to increase the exchange of information among tax administrations of different countries in order to make it impossible for companies or individuals to minimize their tax burden. Most importantly, the Global Forum currently engages in establishing and monitoring a system of automatic exchange of information in tax matters among tax administrations and a common reporting standard.⁶

During the last years, however, *the* tax policy process for the OECD has been the so-called **Base Erosion and Profit Shifting Action Plan** that it was tasked to develop by the members of the G20 in line with the group’s focus on fiscal matters. The action plan, finalized in late 2015, contains recommendations and actions in 15 issue areas and aims at laying “the foundations of a

modern international tax framework under which profits are taxed where economic activity and value creation occur”⁷ with the ultimate goal of stopping the tax “optimization” practices of large transnational corporations. It contains measures, proposals and recommendations on the digital economy, hybrid mismatch arrangements, controlled foreign companies, interest deductions, harmful tax practices, treaty abuse, permanent establishments, transfer pricing, transfer pricing documentation and country-by-country reporting, dispute resolution and a multilateral instrument to modify bilateral tax treaties.⁸

In order to implement this action package, a new “**inclusive framework for BEPS implementation**” was created. Countries and jurisdictions interested in joining the framework are expected to commit to the implementation of the BEPS package—especially to the minimum standards of model provisions. These include the prevention of treaty abuse, standardized country-by-country reporting, a peer review process and an agreement to secure progress on dispute resolution—and to pay a member’s fee (at reduced rates for developing countries). Membership is not limited to OECD/G20 members. In return, countries and jurisdictions are offered to work on equal footing in developing standards on remaining issues, review the implementation of agreed standards and monitor BEPS issues.⁹ The decision making process in the inclusive framework will have a two-layer structure: first, technical experts participate in working groups, secondly, senior officials participate to ensure political commitment to the outcomes. Decisions are taken by consensus; outcomes are labeled as “morally binding to all parties.”¹⁰

United Nations

The **United Nations** is worth mentioning in the global debates around tax . The **UN Committee of Experts on International Cooperation in Tax Matters** (UNTC), a 25-member subsidiary body of the Economic and Social Council (ECOSOC) established in 2004¹¹, regularly reviews and updates the *UN Model Double Taxation Convention between Developed and Developing Countries* and the *Manual for the Negotiation of Bilateral Tax Treaties between Developed and*

Developing Countries. This work is especially important for countries in the global South as it competes with similar model conventions developed by the OECD, the organization of the countries in the global North. As the work within the UNTC has shown, interests and concerns of developing countries are more likely to be reflected in the work of the Committee—the latest example of which is the ongoing discussion around the taxation of cross-border service provision.¹²

The work of the Committee was an issue for discussion during the 3rd International Conference on Financing for Development (FfD3) in Addis Ababa in July of 2015. The outcome document of the conference, the *Addis Ababa Action Agenda*, includes the decision to provide the Committee with more resources, increase the frequency of its meetings to two per year and reform its composition. Currently, its secretariat is seriously understaffed, with only three personnel, and it is struggling to find the resources for at least one annual meeting. In the future, members will be chosen according to equitable geographic distribution, and will be appointed by the UN Secretary-General, in consultation with member states, and based on nominations from governments.¹³

The United Nations Secretariat, more specifically its Financing for Development Office (FfDO) is carrying out a range of capacity development activities, focusing on tax treaties and transfer pricing and—more recently—on protecting and broadening the tax base of developing countries as well as strengthening tax administrations.¹⁴

Further institutions and initiatives

These efforts are complemented and at times built upon by various initiatives and institutions at different levels, most of them with a clear emphasis on capacity building and technical cooperation in tax matters. Some regional arrangements, such as those within the European Union, have taken normative and regulatory steps that go beyond the scope of what is so far possible at global level. Furthermore, international organizations like the IMF or the World Bank are heavily engaged in providing policy advice and technical assistance to countries in need of better fiscal and tax administrations and systems.

Box 1: Multilateral initiatives on tax cooperation

Addis Tax Initiative (ATI) founded 2015

Mandate: Support for raising domestic public revenue, to improve fairness, transparency, efficiency, and effectiveness of tax systems by doubling cooperation by 2020 and stepping up domestic resource mobilization.

Partners: Germany, United Kingdom, United States, Ethiopia, European Commission, OECD, and further countries and international organizations.

Further information: www.addistaxinitiative.net

African Tax Administration Forum (ATAF) 2008

Mandate: Improving the capacity of African tax administrations to achieve their revenue objectives, advancing the role of taxation in African governance and state building; providing a voice for African tax administrations, and developing and supporting partnerships between African countries and development partners.

Members: 37 African countries.

Further information: www.ataftax.org

Extractive Industries Transparency Initiative (EITI) 2002

Mandate: Development of transparency standards for payments to governments resulting from resource extraction.

Members: 51 implementing countries.

Further information: <http://eiti.org/>

Financial Action Task Force on Money Laundering (FATF) 1989

Mandate: Development and implementation of measures against money laundering and terrorist finance.

Members: 37 governments, including the European Commission and the Gulf Co-operation Council.

Further information: www.fatf-gafi.org/

Financial Transparency Coalition (FTC) 2009

Mandate: To curtail illicit financial flows through the promotion of a transparent, accountable, and sustainable financial system.

Members: Global network of civil society, governments, and experts with more than 150 “allies” in 40 countries.

Further information: www.financialtaskforce.org/

Global Forum on Transparency and Exchange of Information 2000

Mandate: Implementation of the internationally agreed standards of transparency and exchange of information in the tax area.

Members: 133 countries.

Further information: www.oecd.org/tax/transparency/

Inclusive Framework for BEPS Implementation 2016

Mandate: Dialogue on an equal footing to directly shape the standard setting and monitoring processes on BEPS issues.

Membership: OECD and G20 members and all interested countries and jurisdictions, tbd.

Further information: www.oecd.org/ctp/beps.htm

<p>International Tax Compact (ITC)</p> <p>Mandate: To strengthen international cooperation with developing and transition countries with the objective of enhancing domestic resource mobilization.</p> <p>No formal membership; partners include: African Tax Administration Forum (ATAF), Addis Tax Initiative, Germany, Commonwealth Association of Tax Administrators, CIAT, ECLAC, European Commission, World Bank, IMF, International Tax Dialogue, Spain, France, Netherlands, OECD, Switzerland, UN-DESA.</p> <p>Further information: http://taxcompact.net/</p>	2008
<p>Inter-American Center of Tax Administrations (CIAT)</p> <p>Mandate: Supporting the efforts of national governments by promoting the evolution, social acceptance, and institutional strengthening of tax administrations, encouraging international cooperation and the exchange of experiences and best practices.</p> <p>Members: 39 member countries and associate members from the Americas, Europe, Africa, Asia.</p> <p>Further information: www.ciat.org/</p>	1967
<p>International Tax Dialogue</p> <p>Mandate: Promoting effective international dialogue and networking between international organizations, governments, and their officials on tax policy and administration matters, identifying and sharing good practices in taxation.</p> <p>Participants: European Commission, Inter-American Development Bank, IMF, OECD, World Bank, Inter-American Center of Tax Administrations (CIAT).</p> <p>Further information: www.itdweb.org/</p>	2002
<p>OECD Informal Task Force on Tax and Development</p> <p>Mandate: To support OECD committees in delivering a program to strengthen tax systems in developing countries and to improve the enabling environment for developing countries to collect appropriate and adequate tax revenues and to build effective states.</p> <p>Members: OECD and developing countries, international and regional organizations, civil society, business</p> <p>Further information: www.oecd.org/tax/taxanddevelopment.htm</p>	2010
<p>UN Committee of Experts on International Cooperation in Tax Matters</p> <p>Mandate: Review and update UN Model Double Taxation Convention between Developed and Developing Countries and the Manual for the Negotiation of Bilateral Tax Treaties between Developed and Developing Countries. Dialogue on enhancing and promoting international tax cooperation; Recommendations on capacity-building and the provision of technical assistance to developing countries and countries with economies in transition.</p> <p>Members: 25 tax experts appointed by the UN Secretary-General</p> <p>Further information: http://www.un.org/esa/ffd/ffd-follow-up/tax-committee.html</p>	1968/2004

Gaps in international tax governance

While some advancements have been made toward creating an international system that makes it more difficult for individuals and companies to minimize their tax burden in illegal, illicit or legal ways, civil society organizations in particular have been restless in pointing at the remaining gaps in global tax governance. These gaps can be identified in the institutional settings as well as in the substantive issues that these institutions are dealing with.

The lack of a universal space on tax issues

Strong criticism focuses on the fact that while there is general agreement that tax issues need to be tackled at a global level and that all countries should participate on equal footing, as yet, no institution exists with a truly universal membership and/or an institutional apparatus that would be equally accountable to all members. All institutions mentioned above do lack characteristics in this regard in one or more ways: The OECD's Global Forum, while hosting a large membership, can by no means claim to be a universal body, nor can its institutional location be ignored. And the very design of the Inclusive Framework was aimed at curbing criticism right from the start by giving every interested partner the opportunity to come in on an equal footing—as far as possible. The problem here is rather that many of the decisions have already been taken in the OECD during the BEPS process and new members are forced to agree with them before being able to participate in decision-making based on the already agreed measures.¹⁵

Another issue with membership in OECD processes is that it is understood differently from that in the United Nations. Unlike in the UN, jurisdictions without full sovereignty can become members of the Global Forum or the Inclusive Framework, as several British crown dependencies and overseas territories have. While in the UN, the United Kingdom speaks with one voice (and has one vote), in the Global Forum Anguilla, Bermuda, the British Virgin Islands, the Cayman Islands, Guernsey, Jersey, the Isle of Man, the Turks and Caicos Islands, and Gibraltar speak on their own behalf.

The UNCTC, on the other hand lacks legitimacy—by design—in that it comprises experts in their individual capacity. Its very nature rules out the political accountability that can only be attributed to formal government representatives (as the OECD recognizes in its two-layer structure for the Inclusive Framework). In short, what's still missing is a body that (a) is universal in membership and (b) is composed at a sufficiently high level to take decisions in the name of sovereign governments or countries.

Missing agenda items

Beyond this institutional gap in global tax governance, there is also the need for a forum that can discuss or at least raise issues that so far have not or only superficially been dealt with at international and global levels.

One set of issues is related to the **taxation of resource extraction**. While some progress has been made in increasing transparency of payments to governments through initiatives like EITI or legislation, in the EU, the U.S., and further countries, other problems persist. One is that of determining the right value for raw materials that are not necessarily traded on open markets but within integrated value chains.¹⁶

Related is the whole issue of **tax competition** that many countries are engaging in willfully in order to attract foreign direct investments. While it has been shown time and again that tax rates are at best only one of a range of several determinants for companies' investment decisions, relying on manipulating tax rates still seems the flavor of the day. It lies within the intrinsic logic of this approach that tax rates will fall overall and that they may drop to levels at which they cannot be compensated for through other sources of income. As of now, there is no system anywhere—not even in highly integrated systems like the EU—that provides mechanisms for countries to deal with this issue.

This is even more striking when it comes to creating **preferential tax regimes** (also in the form of subsidies) for potential investors. While the BEPS package addresses the issue by emphasizing greater transparency (e.g. on tax rulings), there is currently no mechanism that would allow for disputes among countries to be settled, if, for example, one country were to accuse another one of granting harmful tax incentives to certain companies.¹⁷

Another fundamental issue missing in almost all approaches towards global agreements in tax matters is the dispute between the principle of taxing companies according to the **source or the residence principle**. Income or profits which result from international activities such as cross-border investment may be taxed where the income is earned (the source country), or where the person who receives it is normally based (the country of residence). Which principle prevails is a constant source of dispute, including in bilateral treaties on double taxation.

The issue also overlaps with the question of how to deal with intra-group trade, the dealings between separate entities within a single corpora-

tion. The currently applied method of attributing tax base works using **transfer pricing** in combination with the arm's length principle. Subsidiaries of a common firm are treated as separate entities and taxed individually. Financial transactions among such subsidiaries and parent companies are treated as if they happened among independent entities. Prices for goods and services are supposed to be comparable to what they would be between independent entities. This is problematic since there are goods and service for which no or only few comparables exist, especially for non-tangibles like patent or trademark fees. Since this system is extremely complex and has caused many loopholes for tax avoidance, several experts, for example in the Independent Commission for the Reform of International Corporate Taxation, have argued for transfer prices to be replaced as a basis for attributing taxing rights by a formula, and for corporations, including all their subsidiaries, to be treated as single entities.¹⁸ A discussion about not just reforming, but fundamentally replacing the transfer pricing system for tax purposes has so far been blocked by the OECD and its members.¹⁹

Options for improving international tax governance

In order to fill these institutional and substantive gaps, either existing institutions need to be further developed, or new ones established, or both. Such institutional development should fulfill certain functional and formal requirements.

What a new body should be able to achieve

1) It would need to be able to raise new agenda items as they occur, and without a minority being able to block them. For example, even under the OECD Inclusive Framework, the original partners of the BEPS action plan have already set the stage and potentially excluded certain issues (like the replacement of transfer pricing rules by a system of so-called unitary taxation). A new institutional framework could also give greater

emphasis to the needs and wants of smaller or less affluent countries and thus increase its substantive inclusiveness.

2) A new institution would need to be able to actually negotiate new regulations and ensure that its outcomes would be more than just technical models and voluntary guidelines.

3) It might consider mechanisms for non-compliance, which could range from naming-and-shaming exercises to actual conflict resolution mechanisms.

4) A new body would need the capacity to facilitate and support the implementation of its decisions. While this may sound rather simplistic,

capacity can be a predetermining condition for being able to participate in certain agreements (like the automatic exchange of information, which requires highly efficient systems of data aggregation and processing and may be closed to countries that cannot share the same type and amount of data they would like to receive from others); also, it is not irrelevant who is providing capacity building under what conditions. In other words, who is paying teachers, and who wrote the textbooks?

In line with functional requirements, a new body will need to overcome some of the institutional inadequacies of its predecessors.

a) It will have to have universal membership of sovereign states²⁰ in order to avoid cases in which even single, small, but non-compliant jurisdictions undermine the overall effort (as the cases of Luxemburg and Panama have shown).

b) It will have to have the ability to independently monitor the implementation of its decisions (meaning, it should have a minimum capacity in terms of staff and finances to do so).

c) It will have to live up to certain procedural standards that legitimize the outcomes of such an institution not just with governments, but with citizens, for which the openness of processes at the United Nations could serve as a good example. For example, it features the (more or less transparent) inclusion of non-governmental actors like public interest groups or other international organizations and institutions.

What a new body could look like

The question remains where or how best to build an institution that fulfills these criteria. One attempt already on the way has been and still is the establishment of the OECD Inclusive Framework on BEPS Implementation (see above). Establishing new institutional frameworks under the auspices of the OECD, however, suffers from several intrinsic weaknesses that prevent it from falling in line with above-mentioned criteria. The OECD will always remain an organization dedicated first and foremost to its full members.

The UN is the one place that would be able to close this gap of legitimacy without having to re-

invent itself. A body dealing with the above-mentioned issues could be based on various models.

1) Strengthening the UN Committee of Experts:

The most pertinent option to strengthen the UN's capacities to work on tax issues would be to strengthen the already existing Committee of Experts—as was decided at the FfD3 conference of Addis Ababa (cf. above). However, this option does not fulfill the listed requirements: it would lack the necessary political legitimacy (experts still act in their personal capacity), would be of little bindingness, and would fail to provide proper capacities, even if its 'furnishing' were to be increased dramatically.

2) Upgrading the UN Committee of Experts:

With this in mind, several governments and NGOs proposed to upgrade the present expert body into an intergovernmental one in the run-up to the Addis Ababa conference. Just like the already existing UN Statistical Commission, the Tax Commission would consist of government experts, but still be nationally accountable to take decisions of a binding nature by consensus. While it would have been difficult to envisage such a commission creating binding international law on tax, it could have served as the anchor for further developing already existing approaches and setting de facto global standards (as the Statistic Commission does in defining gross domestic products as the de facto standard for measuring a country's wealth).

3) Creating a Functional Commission under the auspices of ECOSOC:

A variation to the proposal of upgrading the Expert Committee was also debated during the FfD3 negotiations: creating an inter-governmental, functional commission under the auspices of ECOSOC while retaining the existing Expert Committee as one of its subsidiary bodies, in order to keep its technical expertise and supplement it with more political legitimacy and accountability. The question remains whether a Functional Commission could be really universal in its membership. Usually, membership in subsidiary bodies to ECOSOC is

smaller than the membership of the council itself (54). There is one notable exemption, the UN Forum on Forest, which is listed as a Functional Commission on ECOSOC's website.²¹ Neither is there any rule that would preclude EOCOSOC from setting up a commission with universal membership.²² A way out of this possible dilemma could be to form a body under the auspices of the General Assembly (or under the auspices of the GA and ECOSOC). As the examples of the High-level Political Forum on Sustainable Development or the Peacebuilding Commission have shown, institutional creativity is not unheard of within the UN system.²³

Several member countries of the OECD, however, blocked any proposal that would have created a new body or institution during the FfD3 talks. Delegates raised the issue of not wanting to duplicate existing institutions—while a new institution could clearly close substantive as well as legitimacy gaps of global tax governance. Another argument was to leave tax issues to experts and not politicize the issues—an argument that seems rather curious, when the same governments put so much emphasis on creating an Inclusive Framework exactly in a way that ensures a political commitment, well aware that without such commitment, the whole process would be meaningless. Finally, the argument was raised that existing mechanisms (esp. at the OECD) were already working with southern countries' interests at heart and that there were no funds to finance the secretariat of any new mechanism. But if it had been possible to introduce new membership fees for the OECD Inclusive Framework, why wouldn't it be possible to do the same at the UN? Overall, the stance of northern countries rather leaves the impression that some governments prefer the institutional setting on tax governance as it is—weighted to their interests and influence.

The discussion could also profit from taking a look into the past of the UN. From the establishment of the organization to 1954, a Fiscal Commission existed and was tasked with exactly the kind of questions it should discuss today. For example during its fourth session in 1953 the Fiscal Commission addressed "(1) international tax problems, especially the problem of fiscal incentives to increase the international flow of

private capital for the economic development of under-developed countries, (2) world tax service, (3) taxation of agriculture [...]"²⁴, and many other issues.

4) Establish a global convention on tax and a treaty body: Should the UN turn out to be the wrong venue for making progress on global tax governance, another idea could be to further the issue through the adoption of an international convention on tax cooperation. The convention could, for example, legally define what constitutes a harmful tax practice and even establish independent arbitration mechanisms among its members. And it could also set standards for international organizations on what kind of capacity building support they grant. As is the case with the Framework Convention on Climate Change or Convention on Biological Diversity, a treaty body would oversee their implementation, formulate optional protocols and create a secretariat function to create oversight and technical expertise.

5) Establish a new international organization

The most far-ranging version of such proposals is that of creating a new multilateral or global organization with its own governance, membership and secretariat. A newly established International Tax Organization could be designed in a way that fulfills all the above-mentioned criteria and take shape as a specialized agency of the UN or a body outside the UN system. As is the case in health, agriculture and nutrition, or trade, it is conceivable that such an organization could write binding international norms, standards and rules and enforce them through a system of dispute settlement or arbitration. The examples of the WHO, the FAO or the WTO at the same time make clear that institutional design is of utmost importance. Possible problems can be viewed, for example in the discussions around a draft framework of engagement with non-State actors at the WHO, or in the ongoing debates about the relation between trade and other branches of international law. Also, given the current political climate that seems skeptical to greater global integration and to creating new

global institutions, this proposal appears to be rather unrealistic. Nevertheless, similar proposals come not just from activists or academics. Already in 2001, the Zedillo Panel proposed

“[...] to] consider the potential benefits of an International Tax Organization (ITO) to:

- » *At the least, compile statistics, identify trends and problems, present reports, provide technical assistance and develop international norms for tax policy and administration.*
- » *Maintain surveillance of tax developments [...].*

» *Take a lead role in restraining tax competition designed to attract multinationals with excessive and unwise incentives.*

» *Slightly more ambitiously, develop procedures for arbitration when frictions develop between countries on tax questions.*

» *Sponsor a mechanism for multilateral sharing of tax information, [...]*

» *Perhaps most ambitious of all, an International Tax Organization might in due course seek to develop and secure international agreement on a formula for the unitary taxation of multinationals. [...]*²⁵

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Endnotes

- ¹ Cf. Kar, Dev/Spanjers, Joseph (2015): Illicit Financial Flows from Developing Countries: 2004-2013. Washington, D.C./Global Financial Integrity. www.gfintegrity.org/wp-content/uploads/2015/12/IFF-Update_2015-Final-1.pdf
- ² Cf. UNECA (2015): Illicit Financial Flow—Report of the High Level Panel on Illicit Financial Flows from Africa. Addis Ababa. www.uneca.org/sites/default/files/PublicationFiles/iff_main_report_26feb_en.pdf
- ³ Cf. OECD (2016): Inclusive Framework for BEPS Implementation—Background Brief. Paris. <https://www.oecd.org/ctp/background-brief-inclusive-framework-for-beps-implementation.pdf>
- ⁴ Cf. <https://sustainabledevelopment.un.org/post2015/transformingourworld>.
- ⁵ Cf. <https://www.oecd.org/tax/transparency/>.
- ⁶ Cf. <https://www.oecd.org/tax/automatic-exchange/#d.en.373265>; for criticism of the Global Forum’s work, cf. Knobel, Andres/Meinzer, Markus (2014): “The end of bank secrecy?” Bridging the gap to effective automatic information exchange—An Evaluation of the OECD’s Common Reporting Standard (CRS) and its alternatives. London/Tax Justice Network. <http://www.taxjustice.net/wp-content/uploads/2013/04/TJN-141124-CRS-AIE-End-of-Banking-Secrecy.pdf>
- ⁷ Cf. <https://www.oecd.org/ctp/beps-about.htm>.
- ⁸ For a comprehensive evaluation of the BEPS items, cf. <https://bepsmonitoringgroup.wordpress.com/>.
- ⁹ Cf. OECD (2016).
- ¹⁰ Ibid.
- ¹¹ Its predecessor, the Ad Hoc Group of Experts on Tax Treaties between Developed and Developing Countries, was established in 1968. For more, see <http://www.un.org/esa/ffd/tax/overview.htm>.
- ¹² Cf. UN Doc. E/2015/45-E/C.18/2015/6, §§63ff at www.un.org/ga/search/view_doc.asp?symbol=E/2015/45&Lang=E.
- ¹³ Cf. UN Doc. A/RES/69/313, §29 at <http://www.undocs.org/A/RES/69/313>. This decision, however, is still awaiting implementation at the time of finalizing this paper.
- ¹⁴ Cf. <http://www.un.org/esa/ffd/topics/capacity-development-tax-cooperation.html>.
- ¹⁵ Cf. <https://financialtransparency.org/oecd-invites-developing-countries-to-join-anti-tax-avoidance-plan-but-only-after-the-rules-have-been-written/>.
- ¹⁶ Cf. http://www.christianaid.org.uk/pressoffice/pressreleases/may_2015/glencore-in-zambia-the-tax-questions-that-persist.aspx.
- ¹⁷ The BEPS Action Plan only covers dispute resolution between parties of tax treaties. This does not refer to issues outside such treaties, like special tax incentives.
- ¹⁸ For more on this, cf., for example, Independent Commission for the Reform of International Corporate Taxation (2015): Declaration of the Independent Commission for the Reform of International Corporate Taxation [http://www.icriict.org/wp-content/uploads/2015/06/ICRICT_Com-Rec-Report_ENG_v1.4.pdf]; or Picciotto, Sol (2012): Towards Unitary Taxation of Transnational Corporations. London. <http://www.taxjustice.net/2014/01/14/towards-unitary-taxation-transnational-corporations-sol-picciotto/>
- ¹⁹ For more on this issue, cf. <http://www.taxjustice.net/topics/corporate-tax/transfer-pricing/> with many bibliographic references.
- ²⁰ The question here is whether members would need to be fully sovereign or whether “tax sovereignty” could be enough in this case. For more on the issue, cf. Rixen, Thomas (2016): Institutional Reform of Global Tax Governance: A Proposal. In: Dietsch Peter/Rixen, Thomas: Global Tax Governance—What is wrong with it and how to fix it. Colchester. Pp. 325-349.
- ²¹ Cf. <http://www.un.org/en/ecosoc/about/subsidiary.shtml>.
- ²² Cf. UN Doc. E/5715/Rev.2 at www.un.org/en/ecosoc/about/pdf/rules.pdf, p. 11.
- ²³ The General Assembly could also be a space to make progress politically, cf. Montes, Manuel F. (2016): Five Points on the Addis Ababa Action Agenda. South Centre Policy Brief No. 24, March 2016. http://www.southcentre.int/wp-content/uploads/2016/03/PB24_Five-points-on-Addis-Ababa-Action-Agenda_EN.pdf
- ²⁴ United Nations (1954): Yearbook of the United Nations 1953. New York., p. 355. <http://unyearbook.un.org/>
- ²⁵ Cf. UN Doc. A/55/1000 at <http://www.un.org/esa/ffd/a55-1000.pdf>, pp. 27-28.