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EVA ANDRÉS-AUCEJO – MAIN AUTHOR  
FULL PROFESSOR OF FINANCIAL AND TAX LAW  
UNIVERSITY OF BARCELONA

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# Reference Terms Project of the UNITED NATIONS Tax Convention

# UNITED NATIONS TAX CONVENTION International Tax Co- operation

The abbreviated version of this article (2,000 words) was presented on March 15<sup>th</sup>, 2024 to the United Nations AD HOC TAX COMMITTEE TO DRAFT TERMS OF REFERENCE FOR A UNITED NATIONS TAX FRAMEWORK CONVENTION.

<https://financing.desa.un.org/un-tax-convention/inputs>

By **Eva Andrés Aucejo**. Full Professor of Financial and Tax Law. University of Barcelona

Reference Terms Project of the UNITED NATIONS Tax Convention. A/RES/78/230 – A/AC.295/2024/1  
FINANCING FOR SUSTAINABLE DEVELOPMENT OFFICE.

A/AC.295/2024/1

A/RES/78/230

ARTICLE REVIEW

## Review Article

### Reference Terms Project of the UNITED NATIONS Tax Convention on International Cooperation in Tax Matters<sup>1</sup>

**Jeffrey Owens (Dir.)**



Director of the W.U. Global Tax Policy Center (WUGTPC) at the Institute for Austrian and International Tax Law W.U. (Vienna University of Economics and Business). Senior Policy Advisor to the Global Vice Chair of Tax at EY, to the United Nations Tax Committee, the Inter-American Development Bank (IDB) and UNCTAD

**E. Andrés-Aucejo (m. author)**



Professor of Financial and Tax Law at University of Barcelona. Director of Review of International and European Economic Law. Dir. of Global Observatory on International Tax Cooperation and Global Governance. WB Consulter (HCBM) Observer of the United Nations Tax Committee (2019-23)

**Antonio Remiro Brotons**



Emeritus International Public Law in the Autonomous University of Madrid. Member of the Institut de Droit International. Counsel and Lawyer for many different American countries and Spain under the International Court of Justice and arbitral tribunals.

**Marco Nicoli**



Legal Vice Presidency of the World Bank: former Senior Project Manager Global Forum on Law, Justice and Development Senior Knowledge Management Officer from the World Bank. Special officer of the Organization for Economic Cooperation and Development (OECD).

**Xavier Fernández Pons**



Associate Professor of Public International Law at University of Barcelona. Member of the Jean Monnet Chair on European Union Environmental Law (EUEL).

**William Byrnes**



Professor of Law at Texas A&M University School of Law. Tenured. Law professor in 2005 at St. Thomas University School of Law and in 2008 Associate Dean at Thomas Jefferson School of Law. Post Graduate Programs Director for Non-US Lawyers, and the Executive Committee of Graduate Programs for Non-US Lawyers.

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By Eva Andrés Aucejo. Full Professor of Financial and Tax Law. University of Barcelona

Reference Terms Project of the UNITED NATIONS Tax Convention. A/RES/78/230 – A/AC.295/2024/1 FINANCING FOR SUSTAINABLE DEVELOPMENT OFFICE.

KEYWORDS:

UN Tax Convention, international tax cooperation, holistic convention, substantive elements, procedural elements, tax principles.

ABSTRACT:

This article contains a project of the Terms of Reference to create the New International Convention on International Cooperation in Tax Matters pursuant to United Nations Resolutions: AC.295/2024/1 and Res. 78/230

PALABRAS CLAVES:

UN Tax Convention, international tax cooperation, holistic convention, substantive elements, procedural elements, tax principles.

RESUMEN:

El presente artículo contiene un proyecto de los Términos de Referencia para crear la Nueva Convención internacional sobre Cooperación internacional en materia tributaria ex Resoluciones de Naciones Unidas: AC.295/2024/1 y Res. 78/230

MOTS CLES :

Convention fiscale de l'ONU, coopération fiscale internationale, convention holistique, éléments substantiels, éléments procéduraux, principes fiscaux.

RESUME :

Cet article contient un projet de Termes de Référence pour créer la Nouvelle Convention internationale sur la Coopération internationale en matière fiscale conformément aux Résolutions des Nations Unies : AC.295/2024/1 et Res. 78/230

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## REFERENCE TERMS PROJECT OF THE UNITED NATIONS TAX CONVENTION ON INTERNATIONAL COOPERATION IN TAX MATTERS

This project has been prepared to developing the United Nations Resolutions A/AC.295/2024/1 and 78/230, including some reference terms to create the new UN Tax convention.



## 1 MAIN SOURCE

**OWENS, Jeffrey (Dir.), ANDRÉS AUCEJO, Eva; MEZANG, Serge; NICOLI, M. (2022).** GENERAL FRAMEWORK AGREEMENT ON INTERNATIONAL TAX COOPERATION, TRADE AND INTERNATIONAL TAX COOPERATION. A proposal. Review of International and European Economic Law. Vol. 01, N.01 and Vol. 01, N. 02 (2022). <https://www.rieel.com/index.php/rieel/article/view/28>

Among other, the following sources have been cited:

- **ANDRÉS-AUCEJO, Eva (2023).** Promotion of inclusive and effective international tax cooperation at the United Nations. About: The United Nations A/C.2/77/L.11/Rev.1 of the Second Commission of the General Assembly (23rd November 2022); The United Nations A/RES/77/441 of the General Assembly (30th December 2022), and The report A/78/235 of the Secretary-General of the United Nations (26th July 2023). Review of International and European Economic Law. Oct-Nov. 10th, 2023. Vol. 2, N. 4, 2023. <https://www.rieel.com/index.php/rieel/article/view/79>
- **OWENS, Jeffrey (Dir.), ANDRÉS-AUCEJO, Eva, MEZANG AKAMBA, Serge, NICOLI, Marco, (2023):** Toward a “Global Tax Legal Order” based on international tax cooperation, human rights and global tax governance for global sustainability, under United Nations centripetal force. UN Tax policy proposals (GLOVTAXORDER-- UNTAXPOLICY). Review of international and European economic law, Vol. 2, N. 3, 2023, <https://www.rieel.com/index.php/rieel/article/view/36/59>
- **OWENS, Jeffrey, ANDRÉS-AUCEJO, Eva, REMIRO BROTONS, Antonio (2023).** A new Global Tax Legal Order. Review of international and European economic law, Vol. 2, N. 3, 2023. <https://www.rieel.com/index.php/rieel/article/view/57>
- **ANDRÉS-AUCEJO, Eva (2020).** The primary legal role of the United Nations on international Tax Cooperation and Global Tax Governance (Going on a new International Organization on Global Tax Cooperation and Governance under the UN “Family”). Review of Education and Law Review, n. 21 (online), pp. 1-34. <https://revistes.ub.edu/index.php/RED/article/view/31297>
- **OWENS, Jeffrey (Global director), ANDRÉS-AUCEJO, Eva (main author), WOLFGANG, Kraft, et al. (February 2023).** The universal institutionalization of International Tax Cooperation under United Nations orbit in the new architectural design of a Global Tax Legal Order inspired by International Tax Cooperation, human rights and global tax governance. United Nations Tax Report <https://financing.desa.un.org/sites/default/files/2023-03/Andr%C3%A9s-Aucejo%2C%20Eva%20and%20Owens%2C%20Jeffrey%20Input%20Tax%20Report.pdf>

Other legal sources cited in this article are also used as footnotes and also in the bibliography contained at the end of the work.

## 2 PRINCIPLES+A NEW INTERNATIONAL TAX COOPERATION PRINCIPLE

The respect for the democratic socio-economic principles and the fundamental Human Rights contained in the Universal Declaration of Human Rights, as well as in the Charter of the United Nations and in international tax law and international trade agreements, inspire the present UN framework convention on international cooperation in tax matter.

**PRINCIPLES  
+  
A NEW  
INTERNATIONAL  
TAX COOPERATION  
PRINCIPLE**

The UN TAX CONVENTION on international cooperation in tax matters is supported on the principles of tax justice, legal security, equity and efficiency, transparency, simplification, neutrality, proportionality and sustainability, and the parties shall act in accordance with the undertake international taxation principles, especially with the general principles assumed at the Ottawa Ministerial conference on electronic commerce: Neutrality, efficiency, certainty and simplicity, effectiveness and fairness and flexibility.

This tax convention will be inspired according with the principles recognized in the multilateral trading system,<sup>2</sup> especially the principles established in the WTO<sup>3</sup> such as the principles of non-discrimination; Integrity and predictability; Flexibility; Needs of developing countries; Transparency; Encouraging the use of electronic means; Conditions for

<sup>2</sup> X. Fernández Pons. Professor of Public International Law and A. Olesti-Rayó. Professor of Public International Law Annex Multilateral Trading System.

<sup>3</sup> Where a plurilateral agreement on public procurement was included (GPA 1994).

Participations; Failure to pay taxes; The Work Programme on Electronic Commerce, adopted by the WTO General Council in September 1998, The regulatory framework of e-commerce legislation harmonization in the Economic Community of West African States (UNTAC, 2000); and the guidelines of Committee of Experts on International Tax Matters (E/C.18/2022/CRP.18). Relationship of tax, trade and investment agreements.

It must also be inspired by the principles that underpin the different topics included in this convention.

A new “Principle of International Tax Cooperation” is set as a new general principle of the global legal system for the promotion, strengthening and consolidation of international tax cooperation among the world States and stakeholders.

### 3 PURPOSES/GOALS

The present Tax Convention proposal are inspired in the following purposes:

#### PURPOSES/ GOALS

1. To achieve international tax co-operation in solving problems of economic, social, technologic, environmental, educational, and humanitarian character.
2. To acquire sustainable development promoting a new mentality shift of the peoples, as well as multilateral tax and financial policies to address global challenges, seizing the potential of financial innovation, new technologies and tax digitalization policies, protecting the taxpayers' rights, intermediaries and stakeholders.
3. To set the framework bases of a new global tax governance architecture design, strengthening "fairness & efficient" regional, national, and international financial and tax policies in the face of the changing global landscape, committed to combating any kind of tax avoidance/evasion and criminal tax, as well as improving tax compliance systems and tax risk management processes of tax administrations.
4. To promote the mobilization of domestic resources and investments to achieve sufficient resources to provide the basic needs and services for developing countries still underfunded.
5. To go on the new multilateralism consensus, promoting the effective participation of ministers and finance vice-ministers, tax authorities and representatives of civil society, private sector, SMEs, MNEs, academia, regional and global international organizations, institutional tax associations, and the rest of the stakeholders, to achieve the objectives of sustainable development through international tax cooperation in a framework of good global fiscal governance.

### 4 SCOPE

1. The UN tax convention objective is to strengthen international fiscal cooperation and good global fiscal governance, through the articulation of economic, fiscal, social and ethical measures, contributing to the improvement of fiscal systems and economies as well as to protect the rights of taxpayers, intermediaries and stakeholders.

#### SCOPE

2. This general agreement contains the cross-cutting, inclusive, and sustainable bases for international tax cooperation-governance, trade tax keys and technological innovation, aimed at achieving efficient, fair-equitable tax systems for the sake of global sustainability. It is intended to contribute towards the efficiency, effectiveness, and fairness of international, national and regional taxation systems while protecting citizens' moral, human and social rights in the relations of the tax Administrations with the taxpayers and stakeholders, following the 2030 and Addis Ababa Agendas, the Monterrey Conference and the Doha Declaration and being committed to the future agendas on these issues.<sup>4</sup>

## 5 LEGAL FRAMEWORK / SOURCES AND FRAMEWORK

1. The UN tax convention on international cooperation in tax matters should preserve the commitments assumed by the States derived from the bilateral or multilateral instruments that the parties have taken in these subjects, and the hard law and soft law sources of the international tax/fiscal, international economic law, commercial law, customs law etc. In particular, respecting the bilateral or multilateral commitments assumed by any of the States derived from the bilateral or multilateral instruments that the parties have assumed, such as: The Multilateral Mutual Assistance Convention; The bilateral double taxation agreements (articles 25, 26, etc.); The bilateral agreements for the Exchange of Tax Information; The Common Report Standard; BEPs; The Community Directives and Regulations on administrative cooperation in tax matters between the Member States of the European Union; Among others.
2. The new UN tax convention must be carried out respecting the legal framework, sources and standards, including all matters that are incorporated into its objective scope of application. That is, the collection of legal sources related to international cooperation in international mutual assistance, customs, international trade, digital economy and transfer pricing, digitalization of tax administrations, environmental taxation, ADR in tax matters, tax education and tax compliance, taxation and health, etc.

**LEGAL  
FRAMEWORK/  
SOURCES AND  
FRAMEWORK**

## 6 SUSTAINABILITY

The new UN tax convention on international cooperation in tax matters must be designed to help achieve the sixteen sustainable development goals (SDGs) of the UN 2030 Agenda and the future ones targets (EU2050 agenda; 2063 African Union Agenda, etc.), as well as to enhance the application of international agendas for financing sustainable development, such as, for example, the Addis Ababa action agenda, the 2030 Agenda for sustainable development goals, the Monterrey consensus or Doha Declaration, among others.<sup>5</sup>

**GLOBAL  
SUSTAINABILITY**

<sup>4</sup> ANDRÉS-AUCEJO, E., MEZANG AKAMBA, S., NICOLI, M., OWENS, J. (Dir.): Toward a “Global Tax Legal Order” based on international tax cooperation, human rights and global tax governance for global sustainability, under United Nations centripetal force. UN Tax policy proposals (GLOVTAXORDER– UNTAXPOLICY), Review of international and European economic law, Vol. 2, N. 3, 2023, <https://www.rieel.com/index.php/rieel/article/view/36/59>

<sup>5</sup> See also ANDRÉS-AUCEJO, Eva (2023). “Políticas fiscales para el Desarrollo sostenible en UCRANIA: A propósito de las agendas mundiales de Desarrollo sostenible con impacto en la movilización de recursos domésticos, la cooperación tributaria internacional y la gobernanza económica mundial” en Impactos de la Guerra de Ucrania. Dirs. GONZÁLEZ-BEILFUSS, C., NAVARRO-MICHEL, M., FERNÁNDEZ PONS, X., Marcial Pons, Diciembre, 2023.

The UN tax convention will promote the global financial sustainability:

- a) Collect of domestic financial resources to support the efforts for the achievement of the SDG (GOALS 1, 4, 5, 10, 16, 17...),
- b) Redistribution of wealth for public wellbeing and to raise more revenue in an equitable way, ...
- c) Redistribution of wealth for public wellbeing and to raise more revenue in an equitable way.
- d) Get higher tax revenues that contribute to the reduction of the public sector deficit for benefit of all.
- e) Fight against tax evasion and tax avoidance and avoidance in the international market, regarding worldwide earnings, etc.

The new UN international convention on international cooperation in tax matters can constitute a relevant instrument in the framework of financing sustainable development towards a new world order inspired by a global architecture of new global tax governance relations, following the positions of the global agendas on financing sustainable development.<sup>6</sup>

The last trends on international economic and tax governance highlight the relevance of the international tax cooperation tax policies to achieve a new social and economic global order. The Resolution 67/289, adopted by the General Assembly on the 9th of July 2013, refers to the role of the United Nations in global economic governance. In the recent years, both, intergovernmental and non-intergovernmental organizations are including the global tax issues in their action's agendas: International cooperation and global tax governance are becoming crucial vectors in the new global order (Andrés-Aucejo, E., 2018).<sup>7</sup>

“Being desirous of contributing to achievement of the sixteen sustainable development goals (SDGs) of the United Nations 2030 Agenda and the future ones targets (twi 2050; EU 2050; 2063 African Union Agenda, etc.), as well as to the achievement of the Addis Ababa Action Agenda objectives; the Doha Declaration; the Monterrey consensus, and being desirous of contributing with the United Nations, the International Monetary Fund, the World Bank and the OECD, which conforming the platform for international fiscal cooperation, as well as with the rest of stakeholders and states involved in these issues. Highlighting the necessity to make positive efforts to ensure that the developing countries maximize their possibilities of development through good tax and financial policies inspired by international cooperation and good global governance, that prevents aggressive unilateral measures, promoting inclusive frameworks for international tax

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ANDRÉS-AUCEJO, E., MEZANG AKAMBA, S., NICOLI, M., OWENS, J. (Dir.): Toward a “Global Tax Legal Order” based on international tax cooperation, human rights and global tax governance for global sustainability, under United Nations centripetal force. UN Tax policy proposals (GLOVTAXORDER-- UNTAXPOLICY), Review of international and European economic law, Vol. 2, N. 3, 2023, <https://www.rieel.com/index.php/rieel/article/view/36/59>

<sup>6</sup> OWENS, J., LENNARD, M., & ANDRÉS-AUCEJO, E. (2020). Financing for Sustainable Development: “Taxation and Sustainable Development Goals. Policymaking on Taxation, International Tax Cooperation and Global Tax Governance as a main financial source of 2030 UN. [I PART]. [PART II] Education and Law Review. Journal of Education and Law, no. 21, 2020; among others (see footnote n. 9); ANDRÉS-AUCEJO, Eva (2023) Fiscal policies for financing sustainable development in Ukraine: regarding international economic agendas for financing sustainable development with an impact on domestic resource mobilization, international fiscal cooperation and global governance, in Impacts of the Ukrainian war. Marcial Pons, in press.

ANDRÉS-AUCEJO, Eva (2018). “The Global Tax Model: building modernized tax systems towards the international tax cooperation and global tax governance: architecture for sustainable development and equity societies (ongoing UN 2030 and Addis Ababa Action Agendas)”, in International Administrative Cooperation in Fiscal Matter and International Tax Governance. Editor: ANDRÉS-AUCEJO, Eva. Directors: J. OWENS, P. PISTONE, E. ANDRÉS-AUCEJO, Thomson Reuters, pp. 121-140.

<sup>7</sup> ANDRÉS-AUCEJO, E., en la obra colectiva: OWENS, J., PISTONE, P., ANDRÉS, E. (2018). (Directors) International Administrative Cooperation in Fiscal Matter and International Tax Governance. Thomson Reuters international. 2018.



cooperation (no one behind). PREAMBLE. **General Agreement on International Tax Cooperation, Trade and Global Tax Governance. A proposal (Part I) (Part II)**. ANDRÉS AUCEJO, Eva; MEZANG, Serge; NICOLI, Marco (Feb-Oct. 2022), OWENS, Jeffrey (Director), Review of International and European Economic Law, Vol. 1, No. 1, February 2022 and Vol. 1, No. 2, and Part II, Vol. 1, no. 2., October, 2022 [www.rieel.com](http://www.rieel.com).

The latest United Nations resolutions of 2023 and 2024 on inclusive and effective international tax cooperation established that the framework tax convention will also help accelerate the implementation of the Addis Ababa Action Agenda on Financing for Development and 2030 Agenda for Sustainable Development. It is exactly the same thesis that we have maintained when formulating a proposal for a framework agreement on international tax cooperation, trade and global tax governance and in other studies.<sup>8</sup>

## 7 NEW MULTILATERALISM

The new legal framework suggests that multilateralism (and specifically the new multilateralism) is the optimal mechanism, surpassing options such as plurilateralism (a model used by the OECD) and bilateralism. This marks a fundamental and significant step in the history of global institutionalized international tax cooperation.<sup>9</sup>

MULTILATERALISM

The new UN tax convention should be adopted according with the new multilateralism consensus, promoting the effective participation of ministers and finance vice-ministers, tax authorities and representatives of academia, civil society, private sector, SMEs, MNEs, regional and global international organizations, institutional tax associations, and the rest of the stakeholders.

It should be designed in the framework of United Nations but collaborating with the international organizations such as: the IMF, the WB, the OECD, the WTO, the UNESCO, etc., and in line with other tax associations such as the platform for international fiscal cooperation, launched by the IMF, the OECD, the UN, and the WB, based on the role of cooperation in stepping up to the challenges on Domestic Resource Mobilization and to raise additional tax revenues in a fair and an efficient way.

## 8 NEW GENERATION TREATIES HOLISTIC WAY

The new UN Tax convention should follow the last generation international economic cooperation treaties, with a holistic view, in line with the new generation of trade agreements (FTAs), dealing not only with economic aspects, but also cultural, social, ethical, and environmental ones, including aspects such as: administrative cooperation, mutual assistance, customs, taxation of the digital economy, transfer pricing, taxpayers rights

NEW GENERATION  
TREATIES  
HOLISTIC WAY

<sup>8</sup> OWENS, Jeffrey (Dir.), ANDRÉS-AUCEJO, Eva, MEZANG AKAMBA, Serge, NICOLI, Marco, (2023): Toward a “Global Tax Legal Order” based on international tax cooperation, human rights and global tax governance for global sustainability, under United Nations centripetal force. UN Tax policy proposals (GLOVTAXORDER-- UNTAXPOLICY) , Review of international and European economic law, Vol. 2, N. 3, 2023, <https://www.rieel.com/index.php/rieel/article/view/36/59>, etc.

<sup>9</sup> ANDRÉS-AUCEJO, EVA. Promotion of inclusive and effective international tax cooperation at the United Nations. About: The United Nations A/C.2/77/L.11/Rev.1 of the Second Commission of the General Assembly (23rd November 2022); The United Nations A/RES/77/441 of the General Assembly (30th December 2022), and The report A/78/235 of the Secretary-General of the United Nations (26th July 2023). Review of International and European Economic Law. Oct-Nov. 10th, 2023. Vol. 2, N. 4, 2023. <https://www.rieel.com/index.php/rieel/article/view/79>.

(domestic and cross-border), ADR systems for cross-border tax conflicts, tax compliance, simplify systems, accounting systems, etc.

See the Review of international and European economical law, Vol. 2, No. 3, February 2023 <https://www.rieel.com/index.php/rieel/article/view/33>, in which we repeatedly insist on the defence of these theses. It says on one of its pages:

(...) the scope of the aforementioned multilateral AGREEMENT OR INSTRUMENT of international tax cooperation should affect not only economic issues but also key issues that affect the set of bases of international tax cooperation, such as the relationships between taxation and international trade; environmental taxation and global sustainability, tax regulation of extractive matters, tax cooperation in social, educational, cultural, humanitarian, gender matters, etc., that is, it should include a holistic concept of a framework convention in line with the latest generation treaties, of free trade, which are currently being approved.

The UN tax convention assumes a wide-ranging global tax governance scope enhancing the necessity of: the international tax cooperation relations between tax administrations (international, national, and regional plans), and the tax administrations and taxpayers, intermediaries and stakeholders in the international and national fields (highlighting the need to further strengthen the protection of taxpayers' rights in cross-border tax transactions); the international administrative cooperation in tax matters; the international cooperation in administrative mutual assistance (tax credits); the international trade tax law issues; the customs tax cooperation; the digitization of tax administrations; the tax risk management models for tax administrations (compliance tax risk processes), the global guidelines for taxation of the digital economy and transfer pricing; Tax education and tax compliance; the environment taxation; the taxpayers rights in the domestic and international sphere; Taxation and Gender; Resolution of tax disputes; Systems for combating tax fraud in the fight against tax avoidance, tax evasion and aggressive tax planning, corrupt-free and transparent tax systems, taxation and health, and in general, environment, social and ethical tax policies.<sup>10</sup>

In August 2023 the provisional report of Resolution A/78/235 was released, which however has been given a date of July 26th, 2023, the General Secretariat of the United Nations, in the cited Report A/78/235 supports a call for the recognition of international cooperation in a broad context, related to trade and investment issues, also including issues of gender, environment, health, international tax fraud, etc. It says, for example, its fifth point:

5. Furthermore, the call reveals the recognition that it is necessary to frame international cooperation on tax issues in a more comprehensive and sustainable development context, not only concerning trade and investment but also inequality, the environment, health, gender and intergenerational aspects.

The latest United Nations resolutions of 2023 and 2024 on inclusive and effective international tax cooperation literally established the holistic conception that should govern the creation of the new framework agreement on international cooperation in tax matters, in line with what we had defended in previous works.

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<sup>10</sup> OWENS, Jeffrey (Dir.). ANDRÉS AUCEJO, Eva; MEZANG, Serge; NICOLI, Marco (February-October 2022), GENERAL FRAMEWORK AGREEMENT ON INTERNATIONAL TAX COOPERATION, TRADE AND INTERNATIONAL TAX COOPERATION. A proposal. Review of International and European Economic Law. <https://www.rieel.com/index.php/rieel/article/view/28>

## 9 CONSENSUS RULES

The United Nations Tax Convention must follow the consensus standards established for the United Nations.

We consider that for the creation of this framework agreement the general rule of the United Nations consensus could be followed, which is achieved with the acceptance of the parties without the need for a vote and without the opposition of the majority (CONSENSUS RULE).

Subsidiarity, to approve a treaty with the characteristics of the future United Nations framework convention on international tax cooperation, the 2/3 majority rule could also be considered.

**Note:** it has also been ratified by eminent experts in Public International Law such as Professor Antonio Remiro Brotons and Xavier Fernández Pons.

CONSENSUS  
RULES

## 10 PROTOCOLS<sup>11</sup>

- INTERNATIONAL TAX COOPERATION ON TAX ADMINISTRATION 3.0, digitization of tax administrations, robotics and cybersecurity, risk management processes
- DOMESTIC AND INTERNATIONAL TAXPAYERS' RIGHTS. A new Global Charter on Global Taxpayers' Rights and Guarantees.
- TAXATION OF DIGITAL ECONOMY
- A NEW SOCIAL CONTRACT ON TAXATION AND GENDER
- INTERNATIONAL TAX COOPERATION AND GLOBAL TAX GOVERNANCE, GOOD GOVERNMENT, GLOBAL TAX COMPLIANCE POLICIES, MORALITY AND TAX EDUCATION.
- INTERNATIONAL JUDICIAL COOPERATION AND THE FIGHT AGAINST INTERNATIONAL TAX FRAUD and ILLICIT CAPITAL MOVEMENTS.f
- INTERNATIONAL TAX COOPERATION ON TAX LITIGATION TRANSBORDER MATTERS (MAPS/ SETTLEMENTS & ADR).
- INTERNATIONAL TAX COOPERATION ON ENVIRONMENTAL TAXATION AND EXTRACTIVE SECTOR.

PROTOCOLS:  
DIGITAL ECONOMY,  
ILLICIT CAPITAL  
FLOWS, TAXPAYERS,  
GENDER, HEALTH...

## 11 SUBJECTIVE ELEMENTS

### 11.1 WHOM? THE INTERNATIONAL ORGANIZATION IN CHARGE OF CARRYING OUT THE UN TAX CONVENTION ON INTERNATIONAL COOPERATION IN TAX MATTERS.

SUBJECTIVE  
ELEMENTS

The international organization in charge of undertaking the creation of the new Framework Convention on international cooperation in tax matters should be the United Nations, due to

<sup>11</sup> SOURCE: OWENS, Jeffrey (Dir.). ANDRÉS-AUCEJO, Eva, MEZANG AKAMBA, Serge, NICOLI, Marco, (February 2023): Toward a "Global Tax Legal Order" based on international tax cooperation, human rights and global tax governance for global sustainability, under United Nations centripetal force. UN Tax policy proposals (THE NEW PROTOCOLS), Review of international and European economic law, Vol. 1, N. 3, 2 <https://www.rieel.com/index.php/rieel/article/view/36/59>

its priority role as an organization that creates institutionalized international cooperation for all countries in the world. The following arguments support the defence of this thesis<sup>12</sup>:

Subject	Prevalent position	Legal foundation
<b>Normative Hierarchy</b>	The United Nations Charter is the constitution in the material sense of the International Ordinance, therefore, it occupies the position of vertex of the world source system. The UN occupies the highest legal rank in the International Legal Order (Mariño, p. 82)	ARTICLE 103 et alter <i>United Nations Charter</i>
<b>Universality</b>	The United Nations is constituted by almost all the States of the world and is governed by the rule “Every Country, one vote”	ARTICLES 3, 18 <i>United Nations Charter</i>
<b>International Cooperation</b>	The UN is the International Organization that constitutes the diametral axis in permanent International Cooperation,	ARTICLES 103, 1 and 2 <i>United Nations Charter</i> Art. 1.3, art. 13.1, 55, 56 Charter

<sup>12</sup> Source: EVA ANDRÉS-AUCEJO. The primary legal role of the United Nations on International Tax Cooperation and Global Tax Governance: Going on a new International Organization on Global Tax Cooperation and Governance under the UN Family?. Revista de Educación y Derecho (2020), n. 21. <https://revistes.ub.edu/index.php/RED/article/view/31297>.

OWENS, Jeffrey (Global director), ANDRÉS-AUCEJO, Eva (main author), WOLFGANG, Kraft, et alter (February 2023). The universal institutionalization of International Tax Cooperation under United Nations orbit in the new architectural design of a Global Tax Legal Order inspired by International Tax Cooperation, human rights and global tax governance. United Nations Tax Report <https://financing.desa.un.org/sites/default/files/2023-03/Andr%C3%A9s-Aucejo%2C%20Eva%20and%20Owens%2C%20Jeffrey%20Input%20Tax%20Report.pdf>.

	assuming international cooperation as purpose, beginning and end.	and Resolution 2625 UN
<b>International Coordination</b>	The UN is the international body with responsibility for coordinating States and International Organizations.	ARTICLES 1.4 58, 60, 63.2, 64 and 70 <i>United Nations Charter</i>
<b>International Coding and Progressive Development</b>	The UN is the International Organization with functions of codification and progressive development of International Law.	ARTICLE 13 <i>United Nations Charter</i>
<b>International PROGRAMMING of Global Principles And Purposes</b>	The UN as an International Organization that constitutes the Principles and Purposes of the International Community.	ARTICLES 1 and 2 <i>United Nations Charter</i> Resolution 2625 u

## 11.2 HOW? COOPERATION BETWEEN THE DIFFERENT AFFECTED SUBJECTS FOR THE PREPARATION OF A FRAMEWORK AGREEMENT FOR INTERNATIONAL COOPERATION IN TAX MATTERS, FOLLOWING THE NEW MULTILATERALISM RULES.

The UN Tax convention assumes a wide-ranging global tax governance scope enhancing the necessity of promoting the international tax cooperation relations between tax administrations (international, national, and regional plans), and the tax administrations and taxpayers, intermediaries and stakeholders in the international and national fields (highlighting the need to further strengthen the protection of taxpayers' rights in cross-border tax transactions).

It should be designed in the framework of United Nations but collaborating with the internal and external international organizations, such as: the IMF, the WB, the UNESCO, ... and the OECD, the WTO, etc., and in line with other tax associations such as the platform for international fiscal cooperation, launched by the IMF, the OECD, the UN, and the WB, the IOTA, the CIAT, the AFAT's, etc.

## 12 SUBSTANTIAL ELEMENTS

See our reference term about the NEW MULTILATERALISM, PURPOSES/GOALS, SCOPE, GLOBAL SUSTAINABILITY, NEW GENERATION TREATIES HOLISTIC WAY and PRINCIPLES+A NEW INTERNATIONAL TAX COOPERATION PRINCIPLE.

SUBSTANTIAL  
ELEMENTS

**Note:** About the content of the new Framework Convention. A true framework agreement or framework convention must include the general bases of the subject of reference, but it should not include a very detailed development of each of its parts, nor a set of obligations and duties for the signatory parties. Generally, these duties and obligations are contained in development protocols.

### 12.1 CONTENTS INTERNATIONAL COOPERATION:

- International Administrative Cooperation in Tax Matters
- International cooperation in administrative mutual assistance (tax credits)
- Customs Cooperation
- International trade
- Environmental Taxation and Extractive Sector
- Resolution of cross border Tax Disputes and alternative dispute resolution
- Systems combating Tax Fraud and illicit capital flows
- Transfer pricing article and Taxation of the Digital Economy
- Taxpayers' rights in the domestic and international sphere
- Tax Education and Tax Compliance
- The digitalization of tax administrations and compliance risk management systems
- Taxation and Gender
- Taxation and Health
- Cooperation in international trade through commercial tax policies

Source: OWENS, Jeffrey (Dir.). ANDRÉS AUCEJO, Eva; MEZANG, Serge; NICOLI, Marco (February-October 2022), General Agreement on International Tax Cooperation, Trade and Global Tax Governance. A proposal. Review of International and European Economic Law, Vol. 1 & Vol. 2, No. 2-  
<https://www.riiel.com/index.php/riiel/article/view/28>

**CONCLUSION:** The content of the new UN TAX CONVENTION on international cooperation in tax matters has a scope much greater than the scope of the instruments that until now exist on international tax cooperation. Thus, its scope is much higher than that of multilateral and bilateral double taxation agreements, it is also much higher than that of the conventions and instruments for the exchange of international tax information, it is also higher than the scope of the multilateral mutual assistance convention, also higher to other plans such as BEPs or other plans against international tax fraud, etc. Etc. In reality, its scope is projected on administrative cooperation and tax collection, on matters of international trade and customs and in general, on other matters that could be included within global tax governance from a holistic approach, as we have defined above (gender, digitalization, health, environment, tax education and tax compliance, ADR, etc.).

Vid. ANDRÉS-AUCEJO, Eva et al. (2023): Africa has spoken: Resolution A/C.2/77/L.11/Rev.1 of the United Nations General Assembly (Second Committee): "Promoting Inclusive and Effective International Tax Cooperation within The United Nations". Review of international and European economic law, Vol. 1, N. 3, 2023  
<https://www.riiel.com/index.php/riiel/article/view/33>

## 13 PROCEDURAL ELEMENTS

### 13.1 ABOUT THE WAY/FORM TO CREATE A FRAMEWORK CONVENTION: GENERALITY VERSUS SPECIFICITY. LEGAL SOURCES.

PROCEDURAL  
ELEMENTS

There is no express rule that determines with certainty how treaties in general, nor framework agreements or conventions, should be drafted.

As a general rule, Framework Agreements or framework conventions must be drafted under general terms that include sufficient generality, not descending into the detail of minimalist issues or the development of the main issues. The main bases on which the treaty is based must be included in the text of the general agreement.

The **optimal methodology** for the creation of this type of multilateral convention, as we have already highlighted in some previous works<sup>13</sup>:

*There are no global instructions on how a “Multilateral Treaty” should be drawn up, nor on the material content of the treaties (beyond the Vienna Convention on the Law of Treaties<sup>14</sup> which affects issues of procedure, or also other not official documents such as the UN Treaty Manual), which is no less true that in the UN, there are technical commissions for the drafting of treaties and a methodology suitable for this purpose...<sup>15</sup>*

*As we know, in Public International Law there are no general instructions on how to formulate a multilateral treaty, without prejudice to the specialities provided for in the Vienna Convention for the interpretation of Treaties, and also some recommendations or manuals from some international organizations, but in no way case have a compulsive nature.*

Hence in our publication: [Eva ANDRÉS -AUCEJO (2021). “Toward a global consensus on the taxation of the digital economy included as one of the general bases of a global framework agreement on international tax cooperation and global tax governance. Researching in global policy/rulemaking (going on UN 2030 Agenda and Addis Ababa Action Agenda)”]<sup>16</sup>, we stated the following<sup>17</sup>:

<sup>13</sup> ANDRÉS-AUCEJO, EVA. Promotion of inclusive and effective international tax cooperation at the United Nations. About: The United Nations A/C.2/77/L.11/Rev.1 of the Second Commission of the General Assembly (23rd November 2022); The United Nations A/RES/77/441 of the General Assembly (30th December 2022), and The report A/78/235 of the Secretary-General of the United Nations (26th July 2023). Review of International and European Economic Law. Oct-Nov. 10th, 2023. Vol. 2, N. 4, 2023. <https://www.rieel.com/index.php/rieel/article/view/79>

<sup>14</sup> See MCNAIR, ARNOLD DUNCAN MCNAIR, BARON, LAW OF TREATIES 1885-1975. Corten, Olivier, Klein, Pierre, Vienna Conventions on the Law of Treaties. Eirik Bjorge, 2014. Enzo Cannizzaro (Editor), The Law of Treaties Beyond the Vienna Convention 2011, 40 years of the Vienna Convention on the Law of Treaties, 2010.

<sup>15</sup> Eva ANDRÉS-AUCEJO (2021). “Toward a global consensus on the taxation of the digital economy included as one of the general bases of a global framework agreement on international tax cooperation and global tax governance. Researching in global policy/rulemaking (going on UN 2030 Agenda and Addis Ababa Action Agenda)”, in OWENS, J., ANDRÉS-AUCEJO, E., NICOLI, M., SEN, J., OLESTI-RAYO, R., LOPEZ-RODRIGUEZ, J., & PINTO-NOGUEIRA, J. (Dir) (2021) Global Tax Governance: Taxation on digital economy transfer pricing and litigation in tax matters policies for global sustainability. Thomson Reuters, pp. 115-142

The literal translation would be: “There are no global instructions on how a “Multilateral Treaty” should be drafted, nor on the material content of treaties (beyond the Vienna Convention on the Law of Treaties, which affects matters of procedure, or also to other unofficial documents such as the UN Treaty Manual), although it is no less true that in the UN there are technical commissions for the drafting of treaties and an appropriate methodology.”

<sup>16</sup> In OWENS, J., ANDRÉS-AUCEJO, E., NICOLI, M., SEN, J., OLESTI-RAYO, R., LOPEZ-RODRIGUEZ, J., & PINTO-NOGUEIRA, J. (Dir) (2021). Global Tax Governance: Taxation on digital economy transfer pricing and litigation in tax matters policies for global sustainability. Thomson Reuters, pp. 115-142.

<sup>17</sup> Whose literal translation could be: “A policy formulation or regulatory exercise that is intended to have a global reach, must be based on the principles of simplification and generalization, without unnecessary complexities (a model of what it should be is, for example, the General Agreement on Tariffs and Trade: (GATT)”.

Thus, probably, it should aspire to create global tax rules based on great principles, regulated through easy-to-read rules, without indeterminate legal and economic concepts: rules that do not elevate sub concepts, acronyms and secondary aspects to general categories.

*“An exercise of policy-making or rulemaking that is intended with a global scope worldwide, should be based on the principles of simplification and generalization, without unnecessary complexities (a model of what it should be is, for example, the General Agreement on Tariffs and Trade: GATT).*

*Thus, probably too, it must aspire to create global tax rules based on great principles, regulated through easy-to-read rules, without indeterminate legal and economic concepts: rules that do not elevate sub-concepts, acronyms, and secondary aspects to general categories.*

*Rules, finally, that respect the international tax legal order, which has worked so far, and that take into account the existing international tax institutes, some of which, adapted, could continue to be perfectly valid in the new decades.*

*In short, when it comes to creating global financial regulations (rule-making), the instrument of the multilateral treaty should not be used for the approval of schemes, sub-concepts, or secondary regulations, which ultimately constitute a second or third derivative. Which, in addition, is a fashion of this last year or even month.*

*On the contrary, such treaties should be drawn up under the principles of generality, simplicity, clarity, etc. Probably too, should be created worldwide treaties to regulate the first “math derivatives” and not the second, third or fourth derivatives”.*

**Note:** It seems, therefore, that the Resolution of the Secretary-General also converges on this point, since in the cited Report of the UN General Secretariat [A/78/235 \(dated July 26, 2023\)](#) it can be read:

*12. .... International tax rules should be as simple and easy to administer as the subject matter allows. Sufficient stability is required so that companies can reasonably plan their long-term activities.*

*16. Inclusive and effective international cooperation on tax issues requires legally established and transparent decision-making structures so that the rules are clear and do not adapt to the interests of those on one side or the other of the debate. Having transparent rules helps ensure that all participants are on equal terms...*

## **13.2 ABOUT THE ESTRICTURE TO CREATE A NEW FRAMEWORK CONVENTION OR GENERAL CONVENTION AND THE NEW PROTOCOLS**

The best way to create a FRAMEWORK CONVENTION and its PROTOCOLS of the development, is including the following parts:

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Rules, finally, that respect the international tax legal order, which has worked until now, and that consider the existing international tax institutes, some of which, adapted, could continue to be perfectly valid in the new decades.

In short, when it comes to creating global financial regulations (regulate - making), the instrument of the multilateral treaty should not be used for the approval of schemes, sub concepts, or secondary regulations, which ultimately constitute a second or third derivative, which can also correspond to a new fashion of this last year or even month.

On the contrary, said treaties should be drafted under the principles of generality, simplicity, clarity, etc. There should also probably be global treaties created to regulate first “mathematical derivatives” and not second, third or fourth derivatives.” Eva ANDRÉS-AUCEJO (2021). “Toward a global consensus on the taxation of the digital economy included as one of the general bases of a global framework agreement on international tax cooperation and global tax governance. Researching in global policy/rulemaking (going on UN 2030 Agenda and Addis Ababa Action Agenda)”.

Eva ANDRÉS-AUCEJO (2021). “Toward a global consensus on the taxation of the digital economy included as one of the general bases of a global framework agreement on international tax cooperation and global tax governance. Researching in global policy/rulemaking (going on UN 2030 Agenda and Addis Ababa Action Agenda)”. In OWENS, J., ANDRÉS-AUCEJO, E., NICOLI, M., SEN, J., OLESTI-RAYO, R., LOPEZ-RODRIGUEZ, J., & PINTO-NOGUEIRA, J. (Dir) (2021) Global Tax Governance: Taxation on digital economy transfer pricing and litigation in tax matters policies for global sustainability. Thomson Reuters, pp. 115-142.



- a) **Preamble:** a part of the preamble where the recitals that lead to the creation of this standard
- b) **Articulated text:** that is, a list of precepts/articles that include the different substantive aspects of this treaty.

**Important:** Regarding the **previous definitions** of the framework convention, there are not planned.

**Previous definitions** are not necessary. In the case of general agreements or framework conventions, it is not necessary to be preceded by definitions of the terms of the agreement, in opposite of, for example, with some hard law regulations of the European Union.

Many of the international cooperation treaties on free trade can be consulted as examples.

**Important:** A general instrument that only contains a list of principles is NOT a true framework convention, but simply a kind of programmatic declaration or preamble. From our point of view, **we reject the proposals for a framework agreement that simply consisting a set of principles**. Otherwise we are creating just a programmatic declaration or similar. Hence, to make a new framework convention it is necessary to include a preamble part and also an articulated part where the different articles are recorded, among which, of course, the principles must appear with the rest of substantial aspects.

- c) **Regarding the organization of the different articles** of the framework Convention, it can either not include main TITLES and develop the different articles without watertight compartments, or create different large TITLES and within them bring together articles that deal with these matters. For example, in our first version of the Framework Treaty on International Tax Cooperation, Trade and Global Governance presented in Rome UNIDROIT in 2018<sup>18</sup>, we included 3 main TITLES: I. International tax cooperation II. International trade III Global tax governance. However, in the latest version of February 2022, we decided not to include large TITLES and to include the different articles without making watertight compartments.

### 13.3 ABOUT THE SUBJECTS WHO MUST SUBSCRIBE AND RATIFY THE NEW TAX FRAMEWORK CONVENTION

When drafting the framework convention, the parties involved that must sign and ratify the treaties may NOT only be the States. Therefore, in accordance with the new rules of multilateralism and the international community, it is possible that this framework agreement will also be signed and subscribed to by parties other than States. Therefore, it is better that the header of each article says:

The parties will cooperate in ..., or

The parties agree...

And not: ~~The States will cooperate in ...~~, etc.

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<sup>18</sup> Published as an article Review in Review of International and European Economic Law, Vol. 1, n. 05, March, 2025.

## 13.4 ABOUT THE PROTOCOLS

The most typical way of developing framework Treaties or framework agreements in Public International and European Law is through protocols<sup>19</sup>. The protocol is a binding act with obligatory force (hard law). In this sense, it is proposed that this Framework Agreement on International Tax Cooperation, Trade and Global Tax Cooperation can be developed through protocols.

- a) The protocols follow the same formal structure as the framework agreements: the preamble and the articulated text.
- b) The protocols do carry out a greater degree of development of the issues discussed. The substantive issues are detailed and developed.
- c) In the protocols, obligations and duties are usually found for the signatory parties.
- d) We humbly consider that UN tax convention should be approved prior than the its development protocols. That is, the principles, bases and articles of the new convention must be established before to the developed protocols (and not the other way around). It is difficult to understand that framework convention development protocols are created to develop a framework convention that does not exist yet.
- e) In the new Global Tax Order that we have planned<sup>20</sup>, the body that should probably have the design and planning functions of all policy/rule making measures should be the new INTERNATIONAL TAX ORGANIZATION<sup>21</sup> (with all its committees, secretariat and safeguards). In this sense, the draft of these protocols and, in general, of all international cooperation policies on tax matters, should probably be carried out through an authentic International Tax Cooperation approved by a founding agreement in the plenary session of the United Nations.

## 13.5 ABOUT THE CONSENSUS RULES

The UN Tax convention on international cooperation in tax matter must be approved following the consensus rules of the United Nations.

We are committed to the rule of consensus without voting (by CONSENSUS) and subsidiarity by the majority of 2/3.

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<sup>19</sup> This criterion was formulated by first time in: OWENS, Jeffrey (Dir.). ANDRÉS AUCEJO, Eva; MEZANG, Serge; NICOLI, Marco (February-October 2022), GENERAL FRAMEWORK AGREEMENT ON INTERNATIONAL TAX COOPERATION, TRADE AND INTERNATIONAL TAX COOPERATION. A proposal. Review of International and European Economic Law. <https://www.rieeel.com/index.php/rieeel/article/view/28>. This has been developed in others articles published.

<sup>20</sup> OWENS, Jeffrey (Dir.). ANDRÉS-AUCEJO, Eva, MEZANG AKAMBA, Serge, NICOLI, Marco, (February 2023): Toward a “Global Tax Legal Order” based on international tax cooperation, human rights and global tax governance for global sustainability, under United Nations centripetal force. UN Tax policy proposals (THE NEW PROTOCOLS), Review of international and European economic law, Vol. 1, N. 3, 2 <https://www.rieeel.com/index.php/rieeel/article/view/36/59>

<sup>21</sup> **ANDRÉS-AUCEJO, E. (rapporteur), NICOLI, M., MEZANG, S. REMIRO BROTONS, A.; ROCCATAGLIATA, F. FERNÁNDEZ PONS, X., LUCARELLI, A., SAMMARCO, MASBERNAT, P.** The International Tax Organization (ITO) Foundational Agreement. A proposal. Review International and European Economic Law. (Oct-Nov. 10th) 2023 PDF, Vol. 2, N. 4, 2023. <https://rieeel.com/index.php/rieeel/article/view/73/83>.

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## 14.2 PROJECTS

DER.15-68768-P Project: International Administrative Co-Operation in Tax Matters and ADR of Transnational Tax Disputes and Models for an Institutional Architecture from a European Perspective- EUDISCOOP PROJECT.

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Member of the Research Group on International and EU Law



