

Editorial

A new United Nations Tax Convention on international cooperation in tax matters as an essential pillar of a new Global Tax Order designed through a new International Tax Organization

We are pleased to affirm our satisfaction with the publication of vol. 1, issue 5, March 2024, Review of International and European Economic Law.

Eva Andrés-Aucejo.

Full Professor of Financial and Tax Law.
University of Barcelona



Last 14th February 2024, United Nations General Assembly Resolution A/AC 295/2024/1, of December 14, 2024, on the creation of a special committee in charge of drafting the terms of reference of a framework cooperation agreement on tax matters, was approved. This resolution is created following the previous mandates of the United Nations Resolutions, published at the end of 2022 and at the end of 2023 by the Second commission of the United Nations and by the plenary of the United Nations General Assembly, as well as, the United Nations Secretary General report A/78/235, all of them on effective and inclusive international tax cooperation within the United Nations. Can be consulted:

- a. Resolution A/C.2/77/L.11/Rev.1, on promoting effective and inclusive international tax cooperation at the United Nations
- b. United Nations General Assembly Resolution A/RES/77/441 (December 30, 2022) on promoting effective and inclusive international tax cooperation at the United Nations.
- c. The report A/78/235 of the Secretary General of the United Nations (July 26, 2023), approved by the General Secretariat of the United Nations in development of the aforementioned Resolution A/Res/77/441.
- d. Resolution A/C.2/78/L.18/Rev.1, of November 15, 2023, adopted by the Second Committee of the United Nations General Assembly, on promoting effective and inclusive international tax cooperation in within the United Nations Nations, later renamed /78//459/Add. 8, December 7, 2023.
- and. General Assembly Resolution A/RES/78/235 of December 28, both on effective and inclusive international tax cooperation within the United Nations.
- e. Resolution A/AC. 295/2024/1, of February 24, 2024, on the creation of a special committee in charge of drafting the terms of reference of a framework agreement for cooperation in tax matters.

Based on the background of our previous scientific publications and previous international conferences, some ideas could be highlighted¹:

1. For years we have been defending the need to create a new framework convention on international tax cooperation which, attending the recent events, seems to finally become a reality once the terms of reference are drawn up.² The new United Nations tax convention on international cooperation in tax matters involves a fundamental step in the history of global tax cooperation relations, not only because of the specific repercussions that an agreement of this nature can have, but also because, in our opinion, this new tax convention is the touchstone on which the construction of a new “Global Tax Order” can rest. Said new Global Tax Order, include an architectural design of global tax cooperation relations, inspired by human rights and the rest of the economic, social and humanitarian rights of the international community.³

¹ **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>.

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>

OWENS, Jeffrey (Director), 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.rieel.com/index.php/rieel/article/view/28>.

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>

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>.

² Vid. **EVA ANDRÉS-AUCEJO.** Reference Terms Project of the United Nations Tax Convention. A/RES/78/230 – A/AC. 295/2024/1 financing for sustainable development office. <http://financing.desa.un.org/un-tax-convention>. <https://financing.desa.un.org/un-tax-convention>. **OWENS (dir.), ANDRÉS-AUCEJO, E (main author), et alter.** Reference Terms Project of the United Nations Tax Convention. www.rieel.com, vol. 3 n. 5 (2024).

³ **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>

2. Hence, the new UN tax convention on international cooperation in tax matters opens a great horizon towards the construction of a new global architecture of cooperation relations and global tax governance, which could be composed by a set of tax rule/policy making regulations such as the creation of a new *International Tax organization* under the UN family⁴, a mathematical global tax model, a world code of international cooperation, etc.⁵

3. In the United Nations resolutions and in the report of General Secretary of United Nations on effective and inclusive international tax cooperation, is planned that the new UN tax convention will be developed through “Protocols”, in line with what we have been defending in our previous investigations, which have also been adopted as United Nations resolutions:

*The most typical way of developing framework Treaties or framework agreements in Public International and European Law is through protocols. 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.*⁶

4. Given that we are talking about “Protocols” for the development of a framework convention, could be questionable that the development protocols are created prior to the convention itself. 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). In mathematics it says: “1 before 2”. The design of a new global architecture requires clearly drawing out the new vectors of international cooperation and global governance in tax matters. It is difficult to understand that framework convention development protocols are created to develop a framework convention that does not exist yet.

⁴ **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://rieel.com/index.php/rieel/article/view/73/83>.

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>

⁵ 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 \(GLOVTAXORDER--UNTAXPOLICY\)](https://www.rieel.com/index.php/rieel/article/view/36/59), *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>.

⁶ **OWENS, Jeffrey (Director). 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.rieel.com/index.php/rieel/article/view/28>

5. In this new Global Tax Order, the body that should probably have the design and planning functions of all policy/rule making measures should be the new INTERNATIONAL TAX ORGANIZATION⁷ (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 be carried out through an authentic International Tax Cooperation approved by a founding agreement in the plenary session of the United Nations.

The International tax organization cited will have among its functions to create master lines, well-programmed and planned guidelines, with all the necessary guarantees and commissions. Otherwise, there is a risk that there may be duplications, gaps, lack of homologation of protocols, and in general the rest of policy/rule making of the new global tax order if there is not a previous global design of the new global tax order and tax system of tax cooperation and governance relations in tax matters

Note: in issue 5 of the rieel.com review we incorporated an addendum to include a new committee in the proposal for an International Tax Organization that we published in 2023.⁸

6. We highly value the progress represented by the creation of an open-ended intergovernmental committee on international cooperation in tax matters, created from Resolution A/295/2024/1, of February 24, 2024, for the preparation of the terms of reference of the future UN tax convention on international cooperation in tax matters. It is a very important step towards the new relations of international cooperation in tax matters within the framework of the United Nations.¹

7. **FINAL REMARKS:** cited at Eva ANDRÉS AUCEJO: “UN tax trends in International Tax Cooperation” (vid. Miscelania N. 5 www.rieel.com)

- ▶ *The new United Nations Resolutions on effective and inclusive tax cooperation within the United Nations (issued as of November 23rd, 2022), means the most important step in the global history of international tax cooperation from the beginning of its origins to the present, as well as a turning point in the approach and perspectives of the new design of international tax cooperation relations (www.rieel.com, n. 4, 2023).*
- ▶ *The new trends of the United Nations all open a new horizon for the construction of the new global architecture of international tax cooperation, trade and global tax governance, relations between the World States, toward a new global tax order (www.rieel.com, n. 3, 2023). Following our previous investigations, the creation of a new “Framework Agreement” (and protocols), and a new “International Tax Organization” (beyond a mere intergovernmental cooperation committee), are crucial instruments towards a new Global Tax Order, which should be increased with a set of tax policies and tax regulations oriented to this new Global Tax Order (www.rieel.com, n. 4, 2023).*
- ▶ *In this new scenario, the way is paved towards institutionalized tax cooperation under the umbrella of the United Nations, with the collaboration of other international organizations and interested parties. The aim is to carry out systematized, globalized and holistic international tax cooperation (which includes, in addition to tax administrative cooperation, gender issues, the environment, digital economy and transfer pricing, ADR, etc.), in line with the previous publications on the subject: a) “International Tax Cooperation, trade and Global Tax Governance Framework Agreement. A proposal” (www.rieel.com n. 1 and n.2, 2022), The International Tax Organization. A proposal*

¹ Note: In the hypothetical case that the proposal to create an International Tax Organization were successful, it could be part of its General Council (made up of the governments representatives of the UN countries); or also be included in one or more of the other Committees of said ITO if applicable.

www.rieel.com, n. 3, 2023).

- ▶ *In this new framework, the United Nations plays a key primary legal role due to all the factors we point out in our study titled "The Primary Legal Role of the United Nations in International Tax Cooperation (Revista de Educación y Derecho, 2020, online).*
- ▶ *International tax cooperation and global tax governance are key pillars for sustainable development, as well as for achieving the main objectives and goals of the United Nations 2030 Agenda and other sustainable agendas such as the Addis Ababa Action Agenda, the Monterrey Agenda and the Doha Declaration, etc, as we have also had the opportunity to defend it in previous publications and projects (Education and Law Review, 2020, etc.). OWENS, Jeffrey, LENNARD, Michael, & ANDRÉS-AUCEJO, Eva (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 LEFT] . [PART II] Education and Law Review. Journal of Education and Law , no. 21, 2020.*
- ▶ *This new trend encourages seeking international tax cooperation channels also in harmony to eliminate international tax avoidance and evasion, the fight against fraud involving the transfer of illicit capital and the international underground economy. OWENS, Jeffrey, LENNARD, Michael, & ANDRÉS-AUCEJO, Eva (2020).*
- ▶ *Globalized international tax cooperation represents a very positive balance for the States of the world, not only for the least developed ones but also for the developed ones. International tax cooperation makes it possible to improve very important problems such as illegal international migration, international tax fraud, the improvement of international trade routes, etc. Without a doubt, the balance is highly positive in a globalized world.*

⁷ 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://rieel.com/index.php/rieel/article/view/73/83>.

⁸ In relation with the structure of the new International Tax Organization, a new Commission must be included. This commission could be: "**General Committee of Codification on International Cooperation in Tax Matters**". This codification committee will review all works, that avoids duplication and that can review/"homologation" all the work of all the committees before elevating them to the General Council. It is an intermediary committee between the committees of experts and the General Council. The General Committee of codification would be inspired by the UN (International Law Commission VI), which is made up of 34 experts who develop the new laws and the progressive development of international law (art. 13 UN Charter). These are experts (not by country quota but by expertise), who have a general vision of the subjects.

