

Editorial

The 4th International Conference on Financing for Development: Towards a new Global Tax Order based on International Tax Cooperation and Global Tax Governance - The new UN Tax Convention

Let us first express our satisfaction with the publication of this Vol. 03, Number 06, of November 2024, of our Journal: Journal of International and European Economic Law.

In previous editorials and issues of this scientific journal, we have published the design of what could constitute a new Global Tax Order based on international tax cooperation, human rights and global tax governance, through the codification and progressive development of international tax law, by creating a set of normative instruments of hard law and soft law (tax policy/rule-making).

This New Global Order rests on the leadership role of the United Nations as an organization at the top of the international order, as an organization with a priority role in institutionalized relations of international cooperation and global governance, as well as in the commitment to cooperation with the other significant international organizations such as the OECD, the WB, the IMF, the BID, ... and in general with the relevant stakeholders ([Owens, J., Lennard, M., & Andrés-Aucejo, E., 2021](#)).

The aforementioned Global Tax Order includes a set of tax policy making instruments (hard law and soft law) composed of the following global tax policy/rules ([bibliography and congresses/conferences Andrés-Aucejo, E. and Owens \(dir.\) 2017-2024](#))

1. A framework agreement or instrument for international tax cooperation and global tax governance, with a holistic nature ([2018, 2019, 2020, 2022, 2023, 2024](#))
2. The development protocols of the aforementioned framework agreement or convention on international tax cooperation ([2022, 2023, 2024](#)).
3. A multilateral instrument/agreement consisting of a global mathematical model of international tax cooperation and global tax governance ([2018, 2019, 2022, 2023, 2024](#)).
4. A Global Code on International Tax Cooperation, Human Rights and Global Tax Governance ([2018, 2019, 2023, 2024](#))
5. A general principle on international tax cooperation ([2018, 2019, 2020, 2022, 2023](#))
6. A Global Bill of Rights for Taxpayers and Intermediaries ([2020, 2022, 2023, 2024](#))

7. A Global Charter on Taxation and Gender: Towards a New Social Contract on International Tax Cooperation and Gender ([2022](#), [2023](#), [2024](#)).
8. An International Tax Organization: Founding Agreement ([2018](#), [2019](#), [2020](#), [2022](#), [2023](#))
9. A Multilateral Trade and Tax Instrument ([2022](#), [2023](#), [2024](#))
10. Other Global Tax Policies (Global Wealth, etc.) ([2023](#), [2024](#))

So far (2024), of all our policy/regulation proposals, the UN (Second Committee of the General Assembly; Plenary of the General Assembly and Secretary-General of the UN) has decided to move forward with two of them:

1. A framework agreement or multilateral convention on International Tax Cooperation.
2. The development protocols of the UN tax framework convention on international tax cooperation.

It means an important step towards a new architecture for international tax cooperation and global tax governance, which we have preceded.

We would sincerely like to suggest that the rest of our proposals on global tax policy/rule making could also be considered as a precedent for future UN resolutions. For instance, we would like to highlight our policymaking proposal: Multilateral Instrument/Agreement: The Global Math Tax Model on International Tax Cooperation and Global Tax Governance, published by [Eva Andrés Aucejo \(2018b\)](#), whose mathematical development was patented in a closed session by the University of Barcelona in 2018, The Global Tax Model (2018) among our other policy/rule formulation proposals.

1 ON THE FUTURE TASKS OF CREATING THE UN TAX CONVENTION: TOWARDS THE GLOBAL CONSENSUS

REMARKS:

1.1 ON THE HOLISTIC NATURE OF THE UN TAX CONVENTION:

Probably, it would be advisable for future ad hoc committees for the creation of the UN Tax Convention to take into consideration a HOLISTIC vision, in defence of HUMAN RIGHTS, ECONOMIC, SOCIAL, ENVIRONMENTAL AND CULTURAL RIGHTS. In fact, these were our pioneering thesis ([Andrés et al, 2022b](#)), incorporated in the recent UN international tax cooperation resolutions. Hence, the next ad hoc committee in charge of drafting the tax convention should not ignore the mandate of the UN Resolutions that do establish the need to include a holistic vision ([Resolution 78/230 of the UN General Assembly](#), and the [Secretary's report 75/230](#)).

1.2 ON THE SUBSTANTIVE ELEMENTS OF THE UN TAX CONVENTION:

Furthermore, the new UN Tax Convention should clearly specify each and every one of the substantive matters affected by the UN Tax Convention. It is bad practice to create a multilateral treaty without specifying the material aspects of said treaty, since otherwise, the States do not know what they are committing to, in addition to the fact that it is impossible to know the scope of the Agreement. In our view, the future convention should clearly list each and every one of the substantive matters affected by the convention. In summary, this list of subjects should include, at least, the following subjects, which are included in global tax cooperation and governance: 1. International administrative cooperation in tax matters and mutual assistance (digitalization and AI of the TAs), 2. Digital economy and digital services, 3. Illicit capital movements and international tax fraud, 4. Mobilization of domestic resources and capacity building, 5. Trade and customs, 6. Tax compliance and tax education, 7. Environment, 8. Gender, 9. Litigation: MAPs and ADR, 10. Health and 11. Rights of taxpayers and intermediaries in cross-border relations, 12. Other forms of global taxation.

Note: On the SUBSTANTIVE ASPECTS of the new UN tax convention and its protocols, see the brief article review by Eva ANDRÉS AUCEJO, published in this issue 06 of this Journal, in the Article Review section, entitled: **TOWARDS A HOLISTIC UN TAX CONVENTION (AND PROTOCOLS), INCLUDING HUMAN, ECONOMIC, SOCIAL, ENVIRONMENTAL AND CULTURAL RIGHTS: THE “SUBSTANTIVE ISSUES” WITH SPECIAL MENTION TO TAX EDUCATION AND TAX COMPLIANCE ENHANCED WITH ARTIFICIAL INTELLIGENCE**, in line with her/our previous publications and also in line with the considerations expressed by Eva Andrés, as a stakeholder in the II session of the ad-hoc committee for drafting the terms of reference (UN-NY, August 2024) ([Universitat de Barcelona, 2024](#); [Andrés-Aucejo & Valente, 2024d](#))

Regarding the development protocols of the UN tax convention with a holistic nature:

Similarly, it would be desirable to provide for development protocols of a holistic nature. In fact, they are essential for the construction of a global architecture of the new relations of governance and international tax cooperation.

About the development protocols of the UN tax convention, it would be advisable to simultaneously create protocols of an economic and fiscal nature with other protocols of a holistic nature. In our opinion, priority should be given to protocols of a social and cultural nature that affect aspects such as voluntary tax compliance (tax culture) and tax education, as well as to the creation of a global charter of rights for taxpayers and intermediaries, either through a single protocol or two different ones, as we have defended in the second session of the United Nations Ad-Hoc Committee (2024) and in our previous publications (see [Bibliography](#)).

1.3 ON THE COMPLEMENTARITY OF THE NORMATIVE ACQUITS:

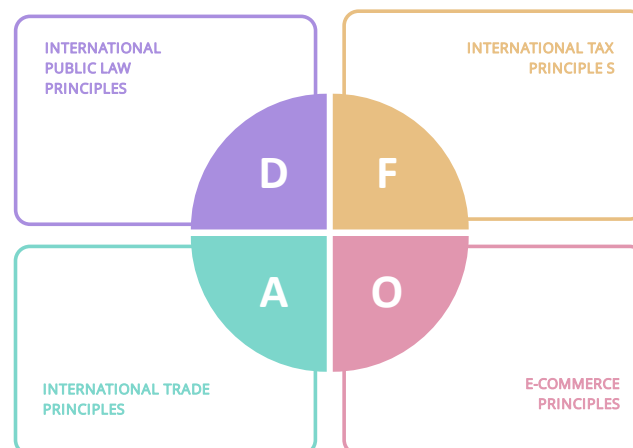
As a starting point, a new United Nations Convention must take into account the existing set of rules and principles in the international order, since it is an axiomatic rule that governs the configuration of the international global order and the codification of public international law and the progressive development of public international law, in which, of course, reference must be made to the provisions of the Charter of the United Nations. In this regard, can see our proposed framework agreement on International Tax Cooperation (see preamble and first articles):

1.4 THE PRINCIPLES OF THE UN TAX CONVENTION:

Can be desirable that the new UN Tax Convention includes a new Principle of International Tax Cooperation, whereby States would undertake to collaborate in matters of international taxation (see, for example, article n. 2 of our proposed Framework Convention on Tax Cooperation: ([Andrés-Aucejo, E. et al, 2022b](#)))

In the new UN Tax Convention, it would also be desirable not to confuse “Principles” with “Purposes”, as distinguished in our proposed Framework Convention on International Tax Cooperation. Can see: [Andrés-Aucejo, E. et al \(2022b\)](#)

Regarding the “Principles,” since we are thinking in a general tax convention, which should include issues of international tax cooperation, trade and global tax governance, it should also incorporate the general principles of international taxation, the general principles of public international law that are applicable (headed by the principle of international public interest and the principle of global sustainability); the principles of international trade; and the principles of electronic commerce.



1.5 REGARDING EARLY DRAFTING PROTOCOLS:

We would like to “emphasize” that, as a general rule, a development protocol serves to provide broader regulation to a precept contained in a general provision. Therefore, if the base norm itself has not been created, it is quite complicated to draft something that does not exist. In fact, although there is some example of a pre-

convention protocol within the framework of the United Nations, it is certainly not the general rule and certainly, this has not been the rule followed for the drafting of the most important protocols that have developed the main world conventions such as, for example, the optional Protocol to the International Covenant on Economic, Social and Cultural Rights (OP-ICESCR) which was adopted by the United Nations General Assembly on December 10, 2008, the day on which the 60th anniversary of the adoption of the Universal Declaration of Human Rights was commemorated, etc.

Among the arguments that can be put forward to defend this thesis are: cost savings, time savings, argumentative coherence, interpretative coherence, systematicity, legal, scientific and economic logic, etc. The end does not always justify the means, even with all the needs that are argued in favour of some States. In mathematics, as we have already said, “1 before 2.” And even more so, from the geopolitical strategic point of view, if certain countries are reluctant to approve a general provision for international tax cooperation, they will be even more reluctant if what is involved is creating economic protocols for the early development of an agreement that does not exist and whose objective is to create economic obligations, impositions and duties of an economic-fiscal nature, for countries that are already reluctant to said framework agreement. In conclusion: all possible avenues of collaboration must be prioritized to reach a global consensus.

Being aware of the needs of developing countries, perhaps one could also consider bringing forward the approval of the UN Tax Convention in order to have a frame of reference.

On the other hand, we are not opposed to simultaneously starting work on developing certain protocols on tax matters such as tax fraud or the digital economy, but with a warning of the risks already mentioned.

1.6 REGARDING CAPACITY-BUILDING AND INTERNAL RESOURCE MOBILIZATION POLICIES:

These are fundamental policies in the framework that concerns us, so we consider that, in addition to the provision of a general rule on the matter, capacity-building and internal resource mobilization policies should be included in: a) Each of the articles of the tax convention on international tax cooperation whose subjects so require; b) Through a development protocol of the UN tax convention.

We would like to finally close this editorial by highlighting that in our proposal on a “Multilateral Instrument for a Global Tax Mathematical Model”, a thematic work package is dedicated to regulating these issues, through the corresponding descriptors, indicators and evaluation criteria. It will also be an honour to continue inspiring the great job of the United Nations with this our new multilateral mathematical instrument for global tax cooperation and governance, which we delighted make available to the United Nations.

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