



LEONIE VIER

**Transitioning from the OECD to the UN in International Tax
Cooperation: Assessing the Impact on Germany as a Developed
Nation**

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Supervisor:
Rita Calçada Pires, Professor of the Nova School of Law

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Anti-Plagiarism Statement

I hereby declare that this thesis is my own work and has not been submitted in any form for another degree or diploma at any university or other institution of tertiary education. Information derived from the published and unpublished work of others has been acknowledged in the text and a list of references is given.

Leonie Vier

Hamburg, 15 March 2025

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Citation Style

The present dissertation follows the provisions of Portuguese Norms 405-1 and 405-4 of the Portuguese Quality Institute for citations and bibliography.

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List of abbreviations

BEPS	Base Erosion and Profit Shifting
CAN	Community of Andean Nations
CFC	Controlled Foreign Corporations
EU	European Union
EUR	Euro
G20	Group of 20
G77	Group of 77
GDP	Gross domestic product
KPI	Key performance indicator
OECD	Organization for Economic Co-operation and Development
OEEC	Organization for European Economic Co-operation
ToR	Terms of Reference
UN	United Nations
USD	US-Dollar

Declaration of Character Count

I declare that the body of this thesis, including spaces and notes, contains a total of 129.579 characters.

Abstract

Global tax governance is undergoing a significant transformation. Historically dominated by the Organization for Economic Co-operation and Development (OECD), recent discussions have called for a shift toward a United Nations (UN)-led framework. This thesis explores the implications of such a transition, focusing on its impact on Germany as a developed nation. While the OECD has long been the primary forum for international tax cooperation, developing countries have criticized its legitimacy, arguing that it primarily serves the interests of wealthier nations. In response, the UN has positioned itself as a potential alternative, advocating for a more inclusive and equitable approach to global taxation.

This study examines the structural differences between the OECD and the UN in shaping international tax policy. It analyzes the OECD's role in setting global tax standards, particularly through its Model Tax Convention and the Base Erosion and Profit Shifting (BEPS) project. In contrast, the thesis assesses whether the UN's emerging framework can address power imbalances and better represent the interests of developing nations while still accommodating developed countries like Germany.

A central research question of this thesis is: How would a shift from the OECD to an UN-led framework affect Germany's position in global tax governance? By analyzing Germany's tax policy, economic structure, and role in multilateral negotiations, the study evaluates potential benefits and challenges that such a transition might bring. While proponents argue that a UN-led framework could enhance fairness in global tax distribution, skeptics - especially within developed nations - warn of increased complexity and potential economic disadvantages.

This research contributes to the broader debate on international tax governance by providing a differentiated perspective on the institutional power shift from the OECD to the UN. Ultimately, it highlights that while a transition to an UN-led framework may enhance global tax justice, its success will depend on the willingness of developed nations to engage in a more inclusive multilateral system.

Keywords: International Tax Cooperation, OECD, United Nations (UN), Global Tax Governance, Tax Justice, Base Erosion and Profit Shifting (BEPS), Germany, Multilateralism, Developing vs. Developed Nations, Institutional Power Shift, Double Taxation.

Resumo

A governação fiscal mundial está a sofrer uma transformação significativa. Historicamente dominada pela Organização para a Cooperação e Desenvolvimento Económico (OCDE), as recentes discussões têm apelado a uma mudança para um quadro liderado pelas Nações Unidas (ONU). Esta tese explora as implicações de tal transição, centrando-se no seu impacto na Alemanha enquanto nação desenvolvida. Embora a OCDE tenha sido durante muito tempo o principal fórum para a cooperação fiscal internacional, os países em desenvolvimento criticaram a sua legitimidade, argumentando que serve sobretudo os interesses das nações mais ricas. Em resposta, a ONU posicionou-se como uma potencial alternativa, defendendo uma abordagem mais inclusiva e equitativa da tributação global.

Este estudo examina as diferenças estruturais entre a OCDE e a ONU na definição da política fiscal internacional. Analisa o papel da OCDE na definição de normas fiscais globais, em particular através da sua Convenção Fiscal Modelo e do projeto BEPS (Base Erosion and Profit Shifting). Em contrapartida, a tese avalia se o quadro emergente da ONU pode resolver os desequilíbrios de poder e representar melhor os interesses dos países em desenvolvimento, sem deixar de acomodar os países desenvolvidos como a Alemanha.

A questão central da investigação desta tese é a seguinte: Como é que uma mudança da OCDE para um quadro liderado pela ONU afectaria a posição da Alemanha na governação fiscal global? Ao analisar a política fiscal, a estrutura económica e o papel da Alemanha nas negociações multilaterais, o estudo avalia os potenciais benefícios e desafios que uma tal transição poderá trazer. Enquanto os defensores argumentam que um quadro liderado pela ONU poderia aumentar a equidade na distribuição fiscal global, os cépticos - especialmente nos países desenvolvidos - alertam para o aumento da complexidade e para potenciais desvantagens económicas.

Esta investigação contribui para o debate mais alargado sobre a governação fiscal internacional ao fornecer uma perspetiva diferenciada sobre a mudança de poder institucional da OCDE para a ONU. Em última análise, salienta que, embora uma transição para um quadro liderado pela ONU possa melhorar a justiça fiscal global, o seu sucesso dependerá da vontade das nações desenvolvidas de se envolverem num sistema multilateral mais inclusivo.

Palavras-chave: Cooperação Fiscal Internacional, OCDE, Organização das Nações Unidas (ONU), Governança Fiscal Global, Justiça Fiscal, Erosão da Base Tributária e Transferência de Lucros (BEPS), Alemanha, Multilateralismo, Países em Desenvolvimento vs. Países Desenvolvidos, Mudança de Poder Institucional, Dupla Tributação.

1 Introduction

“If you're not at the table, you're on the menu” is a slogan that has gained increasing popularity in discussions around international tax policy.¹ While the power imbalance between developing and developed countries has long been a point of debate, this issue has suddenly gained momentum considering recent developments. An institutional shift is on the horizon, driven by growing calls for the United Nations (UN) to take on a greater role in global tax governance. This move challenges the decades-long dominance of the Organization for Economic Co-operation and Development (OECD), whose legitimacy in setting global tax standards has been increasingly questioned. For too long, developing countries have not been on the table of negotiations, effectively making them the “menu” for the developed nations steering tax policy from Paris.² Global tax governance now stands at a crucial moment of change. A transition from an OECD-led framework to an UN-led model could reshape how global tax standards are formulated and implemented, with far-reaching implications for both developed and developing nations. While some view the UN’s involvement as a historic victory for tax justice,³ others—particularly developed nations—have resisted this shift, arguing that the OECD already provides an established forum for international tax cooperation.⁴ The ongoing debate at the UN reflects the climax of decades of tension between developed and developing countries over the power imbalance in global taxation.

Much of the existing academic literature focuses on the perspectives of developing countries, highlighting their challenges and disadvantages in the global tax system. However, the standpoint of developed nations in this debate remains largely unexplored. This thesis aims to address this gap by analyzing the potential transition from an OECD-led to an UN-led tax framework from the viewpoint of a developed country - Germany. It seeks to answer the research question: What is the potential impact of shifting international tax cooperation from the OECD to the UN on Germany as a developed nation? To address this question, the thesis explores the UN’s evolving role in international tax cooperation and assess the consequences such a shift would have for Germany, a country deeply involved in shaping and implementing global tax policy. By analyzing Germany’s position within both organizations, the study

¹ Tax Notes, 2021

² Tax Notes, 2021

³ Jorissen and Andringa, 2022

⁴ Agyemang, 2023

assesses the potential benefits and drawbacks of transitioning to an UN-led system, providing insight into the broader resistance of developed nations toward this change.

The thesis is structured as follows:

Section 2 explores the current political and institutional developments driving the UN's increasing role in global tax governance.

Section 3 provides historical context, outlining the longstanding conflict over taxing rights allocation in international taxation.

Section 4 critically examines the OECD's role in global tax governance, discussing its legitimacy, the impact of its Model Tax Convention, and the Base Erosion and Profit Shifting (BEPS) project. Emphasis is placed on how these frameworks shape power dynamics between developed and developing nations.

Section 5 introduces the UN as an alternative to the OECD, analyzing its past work in international tax matters, such as the UN Model Double Taxation Convention, and assessing its potential capacity to lead global tax initiatives. A comparative analysis of the OECD and UN frameworks will evaluate which institution provides a more beneficial platform for international tax cooperation.

Section 6, the core of this thesis, presents a case study of Germany's perspective on these developments. This section examines Germany's economic structure, tax system, and stance on international taxation, resulting in an analysis of the potential impact of transitioning from the OECD to the UN. It concludes with reflections on tax justice and ethical considerations, incorporating the author's personal perspective.

Section 7 summarizes the findings and presents the conclusions of the study.

This thesis employs a combination of four methodological approaches to ensure a comprehensive analysis:

1. **Literature Review:** A thorough review of academic sources, OECD and UN reports, and German government statistics provides a theoretical foundation for understanding the institutional tax frameworks.
2. **Comparative Analysis:** *Section 5* applies a Performance Measurement Analysis framework, comparing the UN's capacity for leading global tax initiatives to the OECD's based on four key performance indicators (KPIs): Effectiveness, Efficiency, Competition

and Inclusiveness. This framework highlights the relative strengths and limitations of each organization.

3. **Descriptive Data Analysis:** *Section 6* utilizes historical data on Germany's tax revenues, economic performance, and social expenditures to provide context for its position within global tax governance.
4. **Impact Assessment:** A modified PESTLE analysis is applied to assess the potential consequences of shifting tax governance from the OECD to the UN across political, economic, social, and legal dimensions. This qualitative assessment integrates findings from the literature review, comparative analysis, and descriptive analysis to forecast potential changes in Germany's role within the global tax system.

Additionally, AI-based tools were used as supplementary research and writing assistants to improve clarity and precision in the drafting process. While these tools contributed to refining the language, all ideas, analysis, and arguments presented in this thesis are entirely my own and based on the referenced sources.

This study contributes to both academic literature and current policy discussions. The power imbalance between developed and developing countries has become an increasingly prominent issue in international taxation, aligning with broader legal debates on global tax justice. Calls for a more equitable and inclusive international tax system have intensified, particularly regarding its impact on developing nations.⁵ While much of the existing research focuses on the perspective of developing countries, this thesis aims to fill a critical gap by examining the issue from the standpoint of a developed nation. By analyzing Germany's position, it provides a unique contribution to the discourse on the future of global tax cooperation. The ongoing debates at the UN, with negotiations still in progress and the final outcome uncertain, further underscore the timeliness and relevance of this research. Understanding the strategic implications of a potential shift to an UN-led tax framework is particularly crucial for Germany, as well as other developed nations navigating this transition. This thesis, therefore, aims to serve as a foundation for informed decision-making in the ongoing UN process, offering insights that can guide policymakers in Germany and beyond. Ultimately, by analyzing the evolving responsibilities of developed and developing countries

⁵ Stark, 2021

in global tax governance, this study contributes to a deeper understanding of the challenges and opportunities that lie ahead in international taxation.

2 The road towards a UN framework convention

A groundbreaking shift in global tax governance is underway following a UN resolution in November 2023, which initiated a debate on inclusion and tax justice. This resolution initiated intergovernmental negotiations to establish a new framework for international tax cooperation, directly challenging the OECD's long-standing dominance in shaping global tax policy. As a result, the OECD now faces growing pressure as the UN emerges as a potential alternative platform for setting international tax standards.⁶ The following section explores the current state of these developments, and the progress made so far.

The ongoing political process is illustrated in the timeline below:

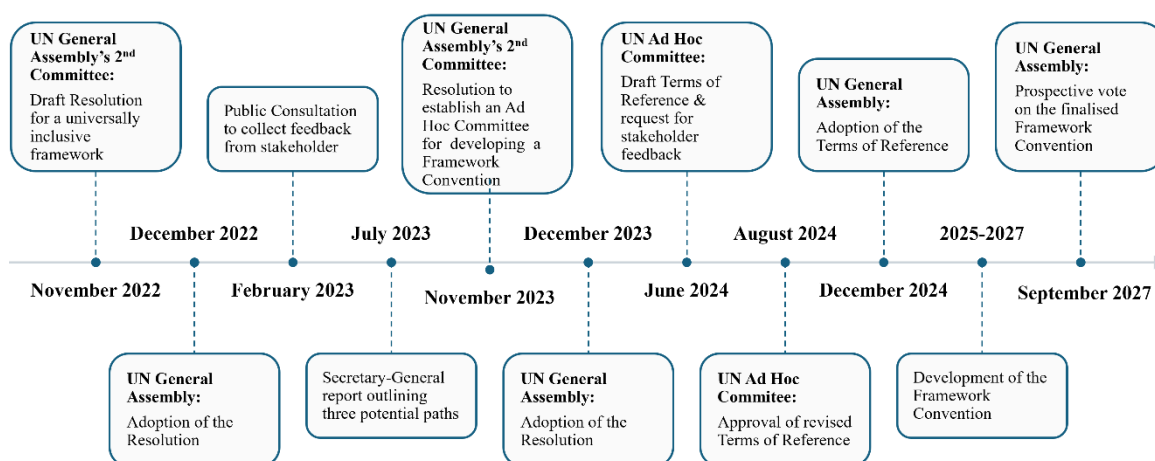


Figure 1: Timeline⁷

The movement was initiated in November 2022 by a developing country that raised its voice against the shortcomings of current international tax policy. Nigeria, on behalf of the group of African nations, introduced a resolution at the UN calling for the organization to take an active role in developing an inclusive framework for international tax cooperation. The resolution, titled "Promoting Inclusive and Effective International Tax Cooperation at the UN",⁸

⁶ Jorissen and Andringa, 2022; Luthiger and Fuchs, 2024

⁷ Own illustration based on data from: Wright, 2024; Wright, 2025

⁸ PwC, 2018

urged the General Assembly to initiate intergovernmental discussions in New York, underscoring concerns that the OECD's efforts may not have been fully inclusive.⁹

During the UN Secretary-General's public consultation, input was collected from 80 stakeholders, ranging from UN member states and the OECD itself to business organizations and tax policy groups.¹⁰ A review of these submissions revealed a clear divide in opinions on the matter. On the one hand, a group of mostly developing nations claimed that because their voices had not received much attention, the OECD's activities had not been truly inclusive. They believed that their rightful interests had been ignored by excluding developing nations from shaping the OECD agenda. The resolution might be a turning point for international tax policy history, according to these nations.¹¹

Developed nations, however, tended to be more skeptical. While they acknowledged that certain states had not been involved in previous work, they warned that making changes or shifting direction now could jeopardize the progress already achieved.¹² The European Union (EU) echoed this perspective in its submission to the UN Secretary-General on behalf of its member states. The EU reaffirmed its commitment to multilateralism and the equitable distribution of wealth but emphasized that the OECD Inclusive Framework has already provided a platform for broad participation, including developing countries, and successfully facilitated crucial tax reforms like the BEPS project. The EU stressed that any efforts to shift tax rulemaking to the UN should not disrupt or duplicate the existing OECD initiatives. It raised concerns about the potential fragmentation of global tax standards and the creation of conflicting frameworks if the UN were to lead a parallel process. Instead, the EU suggest a complementary cooperation between the two organizations, with the UN playing a supportive role in the final negotiations of the BEPS project, rather than leading its own independent efforts.¹³ However, not all OECD members shared this perspective. For instance, the primary speaker of the event, Colombia's minister of finance, voiced strong support for the UN resolution. He strongly criticized the existing flaws and brought up the idea of a UN tax con-

⁹ Tax Notes, 2023; United Nations, 2022

¹⁰ All submissions were made publicly available here: <https://financing.desa.un.org/inputs>

¹¹ Tax Notes, 2023; Parada, 2024

¹² Tax Notes, 2023; Parada, 2024

¹³ International Institute for Sustainable Development, 2024

vention once more. The support of a Latin American country, which is also an OECD member state, was particularly significant. Still, the apparent lack of consensus on this topic highlighted the challenges that lay ahead.¹⁴

After hearing all the feedback on the matter, a Secretary-General report was released, concluding that existing international and multilateral arrangements lack the necessary inclusivity, and that “enhancing the role of the United Nations in tax norm-shaping and rule-setting, (...) appears the most viable path for making international tax cooperation fully inclusive and more effective”¹⁵ The report outlined three potential pathways: (1) a binding multilateral convention, (2) a binding framework convention, and (3) a nonbinding multilateral agenda.¹⁶

The EU, along with the United States and the United Kingdom, warned that options 1 and 2 risk duplicating ongoing and completed efforts within the existing global tax framework, particularly those led by the OECD. Reopening negotiations on issues where substantial progress has already been made could undermine the extensive network of agreements that promote tax transparency and fairness, benefiting all participating countries. Such duplication could lead to confusion and inefficiency in international tax policy, especially considering that most UN members are already actively engaged in the Inclusive Framework of the OECD and committed to the BEPS actions accomplished so far. The EU therefore voiced their support for the third option, proposing a non-binding multilateral agenda.¹⁷

However, in November 2023, the Second Committee approved a resolution to establish an Ad Hoc Committee tasked with developing a Framework Convention. The resolution was adopted with 111 jurisdictions in favor, 46 against, and 10 abstentions, setting a deadline to finalize the deliverables by August 2024, to be presented at the 79th General Assembly session.¹⁸ The opposition, largely comprised of OECD member countries, including the United States, the United Kingdom, and all EU member states, represented a minority in the vote, accounting for just 15% of the global population. In contrast, those in favor of the resolution represented 80% of the global population.¹⁹

¹⁴ Tax Notes, 2023; Ellmers, 2023 (Translation by the author.)

¹⁵ Tax Notes, 2023; Agyemang, 2023A; United Nations Secretary-General, 2023

¹⁶ Tax Notes, 2023; United Nations Secretary-General, 2023

¹⁷ General Secretariat of the Council, 2023; Luthiger and Fuchs, 2024

¹⁸ United Nations, 2023

¹⁹ Mansour, 2023

A binding framework convention primarily establishes the governance structure for international tax reforms, serving a largely constitutive function. It acts as an overarching document outlining broad political commitments related to general objectives, procedural rules, and institutional arrangements. Detailed rules that define specific obligations are developed progressively through protocols, which provide the concrete legal framework for implementation.²⁰ Under this option, key decision-making processes for international tax cooperation would gradually shift from the OECD to the UN, aiming to create a more inclusive environment. However, the OECD's decades of expertise in international tax matters would still play a significant role. For example, major strategic decisions on international tax reforms could be taken by the UN, while the OECD would remain responsible for developing the technical implementation.²¹

The terms of reference (ToR) for the framework convention were developed and approved during the Second Session of the Ad Hoc Committee in August 2024. They outline the key structural components of the proposed Framework Convention, including its objectives, guiding principles, commitments, and provisions for capacity building. They also establish a timeline and approach for negotiating the Convention, as well as a framework for developing protocols. Those protocols would serve as legally binding instruments to implement or elaborate the framework convention, with each party having the option to join any protocol that addresses specific tax issues.²² In this way, the ToR uphold tax sovereignty by acknowledging each member state's right to determine its own tax policies and practices, while also respecting the sovereignty of other nations.²³ Two initial protocols are expected to be developed alongside the Convention: one focused on the taxation of income from cross-border services in a digitalized and globalized economy, and the other addressing one of four priority areas: (a) taxation of the digital economy, (b) measures against tax-related illicit financial flows, (c) prevention and resolution of tax disputes, or (d) tax evasion and avoidance by high-net worth individuals and ensuring their effective taxation within Member States. Future protocols may cover additional areas, such as environmental issues, information exchange, mutual administrative assistance, and harmful tax practices.²⁴ In practice,

²⁰ PwC, 2024; Laudage Teles and Von Haldenwang, 2023 (Translation by the author.)

²¹ Laudage Teles and Von Haldenwang, 2023 (Translation by the author.)

²² Wright, 2024; United Nations General Assembly, 2024

²³ Harpaz, 2024

²⁴ Wright, 2024; United Nations General Assembly, 2024

protocols function much like international treaties, making them similarly difficult to negotiate. However, the guiding principles and governance structure established by the Framework Convention could benefit the protocols and facilitate their development.²⁵

A total of 110 Member States voted in favor of the ToR, while 44 abstained, including all EU Member States, and eight countries rejected the document.²⁶ The vote reflects the growing momentum behind the UN process, as many countries that voted against advancing negotiations in November 2023, this time chose to abstain instead.²⁷ The EU delegation defended their abstention in their explanation of vote, noting concerns about the process's lack of inclusivity, openness, and shared understanding. Despite participating with openness and a collaborative spirit, they noted that the final outcome failed to address critical concerns they had consistently raised—most notably, the need for broad consensus to ensure the inclusivity and effectiveness of a Framework Convention.²⁸ Of the eight countries that voted against the document, among them the United States, United Kingdom, and Japan - all members of the OECD - some argued for more flexible commitments.²⁹

Moving forward, the Ad Hoc Committee's terms of reference were submitted to the 79th Session of the UN General Assembly and were officially approved in December 2024.³⁰ With this approval, a negotiating committee chaired by Member States will develop a convention and two protocols while meeting annually over the next three years. The committee will then present the final text to the General Assembly for review in the first quarter of the 82nd session, as specified in the terms of reference. This process would enable all 193 UN Member States to vote on a finalized global UN tax treaty by 2027.³¹

3 The Long-Standing Struggle of Balanced Taxing Rights

The quest for a balanced international tax system is not a new one. It has a long and complex history, rooted in enduring tensions between developed and developing nations. For more than a century, the debate between source-based and residence-based taxation has played a

²⁵ PwC, 2024

²⁶ Travers, 2024

²⁷ Mansour, 2024

²⁸ Delegation of the European Union to the United Nations in New York, 2024; Wright, 2024

²⁹ Travers, 2024; Medina, 2024

³⁰ Wright, 2025

³¹ Travers, 2024; Medina, 2024

central role in shaping the international tax regime.³² This section provides a historical overview of this ongoing conflict, particularly focusing on the development of model tax treaties. It shows that the current discussions, as explored in *Section 2*, are only the latest chapter in a broader and long-standing effort by developing nations to secure fairer taxation rights.

Modern tax treaties originated in the 1920s, when the League of Nations³³ formed a committee to address double taxation—a growing issue as international trade increased.³⁴ At the time, capital investments primarily moved from capital-exporting countries like the United States and the United Kingdom to capital-importing countries. To prevent multinational corporations from facing double taxation in both their resident and their source countries, it became necessary to harmonize differing tax laws. For example, the United Kingdom sought to tax the worldwide income of its residents, regardless of where it was earned, while France, as a capital-importing nation, imposed taxes on business profits earned by both domestic and foreign companies operating within its borders. To address these conflicting approaches, the League of Nations established allocation rules to divide taxing rights among developed countries and prevent double taxation.³⁵

During this critical period, decisions with lasting consequences were made, creating a framework that has since proven remarkably resistant to change. In 1928, the League produced several model treaties, which became the basis for bilateral tax agreements.³⁶ These allocation rules significantly restricted source-based taxing rights, and instead favored residence-based taxation by giving exclusive or primary taxing authority to the country where the investor resided.³⁷ Even at the time, some countries raised concerns about what they viewed as an anti-source bias. However, such concerns were largely overlooked, as the discussions were dominated by wealthier nations that had already set the groundwork for a residence-based framework. The tax treaties of 1928 set the course for the future of double taxation.³⁸

³² Yáñez, 2023

³³ The League of Nations was founded in 1920 after the end of the World War I, as the first worldwide peace-keeping organization. While the League aimed to maintain peace and foster collaboration, it ultimately lacked enforcement mechanisms and failed to prevent major conflicts like World War II, leading to its dissolution in 1946 when its functions were transferred to the UN. (Swygart, 2022)

³⁴ Leduc and Michielse, 2021; Hearson, 2021

³⁵ Eyitayo-Oyesode, 2019

³⁶ Leduc and Michielse, 2021; Hearson, 2021

³⁷ Eyitayo-Oyesode, 2019

³⁸ Hearson, 2021

World War II and the post-war period brought further developments, including the creation of the London Model and the Mexico Model, which laid the foundation for today's OECD and UN Models. As European countries were deeply involved in the war, nations in the Western Hemisphere continued refining tax models. In 1943, Latin American countries, the United States, and Canada convened in Mexico, where they drafted the "Mexico Draft" convention. This draft built on the 1928 model but allocated stronger taxing rights to source countries, reflecting the interests of capital-importing nations.³⁹ It represented an early attempt to counterbalance the dominance of residence-based taxation. However, a response from developed countries soon followed.

After World War II, Western European nations sought to regain influence over international tax matters by reconvening the League of Nations' Fiscal Committee in London. In 1946, they developed a revised framework known as the "London Draft", which reinforced the residence-based taxation principle that favored capital-exporting states.⁴⁰ This draft represented the opposite position to that of the Mexico Model and reestablished the dominance of developed nations in international tax treaty negotiations.⁴¹ With these two competing frameworks established, a lasting tension arose between the residence-based London Draft and the source-based Mexico Model, setting the stage for an ongoing struggle for a balanced international tax system.⁴²

When the UN took over the League's work, it was tasked with reviewing both the existing models through a balanced group of tax administrators. However, a strong divide between high-income and low-income countries had emerged by that time, centered on the allocation of taxing rights along the lines of residence-based versus source-based taxation.⁴³ Failing to adopt a new approach, the default solution continued to be the framework developed in the 1920s. Any opportunity for radical change, if it ever existed, had by then passed.⁴⁴

In 1956, the OEEC established a Fiscal Committee to revisit and further develop the work of the London Committee. This was part of a broader goal to strengthen economic connections and promote peace. As the OEEC evolved into the OECD, it expanded beyond Europe

³⁹ Hearson, 2021; Leduc and Michielse, 2021

⁴⁰ Leduc and Michielse, 2021; Jorissen and Andringa, 2022

⁴¹ Hearson, 2021,

⁴² Jorissen and Andringa, 2022

⁴³ Hearson, 2021

⁴⁴ Soriano, 2023

and took on a more active role in international tax matters. By 1963, the OECD had drafted what would become its first Model Tax Convention, which established a preference for residence-based taxation and limited the rights of source countries to tax income, aligning with the interests of developed nations. The OECD Model Tax Convention on Income and on Capital became the leading template for bilateral tax treaties among OECD member states.⁴⁵

Around the same time, the UN created an ad-hoc group of fiscal experts from both developed and developing countries to address tax issues.⁴⁶ This group responded to growing concerns from developing countries that the OECD Model primarily reflected the priorities of wealthier states, without adequately addressing fair distribution of taxing rights. Consequently, in 1980, the UN released its own model tax treaty, which, while drawing heavily from the OECD's 1977 framework, made adjustments to expand source-based taxing rights, granting developing nations greater access to tax revenue generated within their jurisdictions.⁴⁷

Since then, both models have undergone multiple revisions, with the OECD's latest version published in 2017 and the UN's in 2021.⁴⁸ The OECD Model aligns more closely with the London Model's residence-based approach, while the UN Model continues the legacy of the Mexico Model, favoring source-based taxation.⁴⁹

Efforts to introduce more radical source-based taxing rights than the UN Model have largely failed. In 1971, the Community of Andean Nations (CAN), comprising Bolivia, Chile, Colombia, Ecuador, and Peru, developed a multilateral tax treaty to govern taxation within its member states. They also established a standard agreement intended as a reference for treaty negotiations with non-member countries. Both CAN models diverged sharply from the OECD Model by granting exclusive taxing rights to source countries for most income types, presenting an alternative to the residence-focused framework of the OECD. However, the CAN model struggled to achieve broad acceptance. It was largely ignored as a reference point by OECD member states during bilateral treaty negotiations. Despite its innovative approach, the CAN model could not compete with the widespread adoption and influence of the OECD Model, which remained the dominant framework in international taxation.⁵⁰

⁴⁵ Jorissen and Andringa, 2022; Leduc and Michielse, 2021

⁴⁶ United Nations, 2021

⁴⁷ Leduc and Michielse, 2021

⁴⁸ OECD, 2019; United Nations, 2021

⁴⁹ Soriano, 2023

⁵⁰ Hearson, 2021

The OECD Model has emerged as the clear winner of this historic back and forth. Today, it serves as the foundation for nearly 70% of over 3,000 bilateral tax treaties, a testament to its dominance and widespread acceptance in the global tax system. Notably, the OECD's reach extends well beyond high-income nations, with 1,000 to 2,000 of the treaties involving at least one developing country.⁵¹ This shows that even though many countries don't support the content of the OECD Model, its strong dominance has made them sign it anyway.

However, developing countries continue to struggle against the current international tax system. For years the Group of 77 (G77)⁵² has consistently promoted the establishment of an intergovernmental tax commission within the framework of the UN.⁵³ In 2017, the G77 reaffirmed its demand for such a tax body, emphasizing that “there is still no single global inclusive forum for international tax cooperation at the intergovernmental level”⁵⁴. The group stated that the UN is the only global platform capable of addressing these issues in a transparent, and inclusive manner.⁵⁵ This demand was renewed at the UN Financing for Development Forum in 2019, where the G77 once again urged the creation of a UN-led intergovernmental tax commission to address the inequities in global tax governance.⁵⁶ Despite these repeated calls, the proposal has been opposed so far, particularly by the European Commission and OECD member states, who prefer to maintain the current OECD-dominated system.⁵⁷

Considering the historical context, it becomes evident that the current discussions at the UN are only the most recent efforts of developing countries to challenge the established power dynamics in international taxation. For the first time, the concerns of developing countries are being heard and addressed on a global level. This movement is gaining unparalleled momentum, offering a real possibility for the current UN initiative to succeed where past attempts have failed.

⁵¹ PwC, 2018; Garbarino, 2012; Quak and Timmis, 2018

⁵² The G77 is the negotiating group of the countries of the global South at the UN with currently 134 members including the People's Republic of China. (Ellmers and Ryding, 2021 (Translation by the author.))

⁵³ Ellmers and Ryding, 2021 (Translation by the author)

⁵⁴ G77, 2017; Ross and Anning, 2017

⁵⁵ G77, 2017; Ross and Anning, 2017

⁵⁶ G77, 2019; Ellmers and Ryding, 2021 (Translation by the author)

⁵⁷ Ross and Anning, 2017

The Council serves as the OECD's decision-making body, consisting of representatives from each Member Country and the European Union. Led by the Secretary-General, it guides the OECD's strategic direction and activities. Additionally, an annual Ministerial Council Meeting, hosted by one or more members, invites government officials to address major global policy issues and establish the organization's priorities for the upcoming year.⁶²

For decades, the OECD has dominated the international tax debate, serving as the principal organization responsible for drafting and enforcing tax guidelines and standards.⁶³ While the OECD is entitled to set norms among its member countries, its ambition to serve as a global standard-setting body is seen critical, as it lacks legitimate authority on a broader international scale. Although its membership includes economically influential nations, significant regions like Africa remain underrepresented, and low-income countries, as well as small, open economies, are absent. Developing countries are generally not members of the OECD, and the organization rarely prioritizes their interests, limiting their influence over the formation of international tax policy. This disparity has earned the OECD the reputation of being a rich man's club, with its policies perceived as primarily serving the interests of its wealthy member nations.⁶⁴

The governance structure of the OECD has raised considerable concerns, primarily due to its status as an unelected body. International law-making by such institutions is often viewed as undemocratic, as it fails to incorporate key elements of national democratic processes, such as electoral representation, checks and balances between the legislative, executive and judicial branches, transparency, accountability, and deliberative participation.⁶⁵ Granting legislative authority to such an institution conflicts with the principle of "no taxation without representation," especially since a significant number of countries are not members.⁶⁶ Furthermore, the absence of a global legislative body with proportional representation of the world's populations means that the OECD lacks the authority to impose binding tax rules or enforce sanctions in cases of non-compliance.⁶⁷

⁶² OECD homepage, [s.d.]

⁶³ Parada, 2024

⁶⁴ Fung, 2017; Harpaz, 2024

⁶⁵ Yáñez, 2023

⁶⁶ Jorissen and Andringa, 2022; Yáñez, 2023

⁶⁷ Fung, 2017

Although the OECD's guidelines and standards are technically non-binding, they carry substantial legitimizing effects. Policies developed by the organization are widely accepted by members and even non-members. Member states, in particular, tend to embrace these recommendations, as they frequently align with national interests, such as increasing tax revenue. Consequently, many of these "soft law" instruments have been incorporated into national legislation, becoming de facto binding in the countries that incorporate them. This way, OECD policies have found their way into legal systems worldwide, shaping tax practices for both member and non-member states.⁶⁸ Some scholars even argue that OECD soft law gains legitimacy as valid law when it is implicitly accepted by national authorities, courts, arbitrators, and taxpayers without formal parliamentary opposition.⁶⁹ Consequently, OECD standards have established a significant presence in the global tax landscape, largely accepted as legitimate and authoritative despite their voluntary nature.

There are also concerns about the compatibility of the OECD's work with the principle of sovereign equality among states, particularly with the doctrine that no state can be bound by the decisions of an international body in which it is not represented.⁷⁰ Tax sovereignty refers to a state's authority to establish and implement its own tax laws within its jurisdiction. This autonomy in determining tax policies and collecting revenue from individuals and businesses allows states to fulfill their functional responsibilities while upholding democratic accountability and legitimacy. Consequently, it is generally seen as advisable for this power to remain with individual states rather than being effectively transferred to international organizations or forums.⁷¹ However, recent OECD initiatives have increasingly emphasized coordinated actions, requiring individual states to align with collective agreements rather than pursue independent policies. This trend implies a proportional decrease of national tax sovereignty, effectively transferring tax authority from public officials within individual countries to OECD representatives.⁷²

After addressing the general concerns regarding the legitimacy of the OECD as a governing body, this section will proceed into an analysis of some examples of its key initiatives. To assess the balance of power within the OECD, it is valuable to examine specific influential

⁶⁸ Salehifar, 2015

⁶⁹ Dourado, 2024

⁷⁰ Fung, 2017

⁷¹ Yáñez, 2023

⁷² Yáñez, 2023

projects of the organization to determine how both developed and developing countries were considered in the initiatives.

4.2 The OECD Model Tax Convention

One of the significant contributions of the OECD in international taxation is the OECD Model Tax Convention on Income and Capital. This model serves as the basis for bilateral tax treaties, aiming to prevent double taxation and reduce tax evasion, by establishing common standards for individuals and businesses that operate across borders. It also seeks to enhance administrative cooperation in tax matters, particularly through information exchange and assistance with tax collection.⁷³ While the OECD Model does not possess binding legal authority and serves as a suggested policy framework, it nonetheless has a noticeable influence on the drafting of tax treaties, even outside the OECD.⁷⁴

However, the OECD Model is far from providing a balanced approach that serves the interest of all countries. It has long been recognized as more favorable toward capital-exporting countries, reflecting its origins as a framework primarily designed for OECD member states. Consequently, the model tends to benefit developed countries, which are typically capital exporters and home to multinational enterprises. By prioritizing residence-based taxation, the OECD Model allows these countries to tax the foreign income of their resident corporations while restricting the taxing rights of source countries, where these corporations conduct business activities.⁷⁵

This way the source country often loses some or all its taxing rights on certain categories of income.⁷⁶ The OECD Model provides a clear example of source-based restrictions on taxing passive payments, such as dividends, interest, and royalties. Under this model, Articles 10 and 11 limit the tax that source countries can impose when the income of non-residents cannot be attributed to a permanent establishment. If the beneficial owner has held at least 25% of the paying company for 365 days, Article 10 caps source taxation on dividends at 5% of the gross amount; in other cases, it can reach up to 15%. Article 11 restricts the source countries' ability to tax interest payments to 10% of the gross amount of the interests, while Article 12 fully prohibits source countries from taxing royalties.⁷⁷ Some scholars argue that

⁷³ OECD, 2019

⁷⁴ Ash and Marian, 2020

⁷⁵ Upadhyay, 2021

⁷⁶ Leduc and Michielse, 2021

⁷⁷ Eyitayo-Oyesode, 2019; OECD, 2019

these articles disproportionately allocate taxing rights to residence countries without an economic justification, thus violating the principle of equitable tax revenue distribution between countries. A fair division of taxing rights requires an allocation based on each country's contribution to the activities generating that revenue, ensuring that source countries are adequately compensated for their role in producing business income by allowing them to charge income tax proportional to the economic activities within their jurisdiction. Articles 10–12 of the OECD Model deny source countries a fair share of tax revenue that should compensate them for their contributions to the economic activities of non-residents within their jurisdictions.⁷⁸ The allocation rules in the OECD Model effectively result in a regressive redistribution of revenue, directing more funds to developed countries while leaving a smaller share for developing nations.⁷⁹ This loss in tax revenue imposes significant financial burdens on developing countries, as they are large capital importers. Estimates indicate that each additional tax treaty signed by an African nation corresponds to a five percent decline in its corporate tax revenues.⁸⁰

Beyond the imbalanced provisions of the OECD Model itself, another significant concern lies in the process by which the model is revised. Revisions to the OECD Model and its accompanying Commentaries are overseen by a specialized subcommittee within the OECD's Committee on Fiscal Affairs. This subcommittee is primarily composed of senior tax officials from OECD member countries, who hold decision-making power and set the agenda based on the interests and priorities of these member states. While non-OECD countries, including developing nations, are technically permitted to submit formal observations on proposed changes, their role in the process is limited to this input alone. They do not have direct influence over the final decisions, leaving them with little opportunity to shape the revisions to reflect their own unique economic and fiscal needs.⁸¹

Despite the disadvantages that the OECD Model Tax Convention presents for developing countries, many continue to adopt it in treaty negotiations. This is sometimes done strategically, as aligning with OECD standards can help these countries gain legitimacy on the global stage and foster stronger economic relations with OECD member nations. But developing countries also often face limited negotiating power, which makes it challenging to

⁷⁸ Leduc and Michielse, 2021

⁷⁹ Eyitayo-Oyesode, 2019

⁸⁰ Hearson, 2021; Leduc and Michielse, 2021

⁸¹ Quak and Timmis, 2018

secure provisions that better serve their interests, especially when dealing with wealthier countries. This is particularly true for nations that rely heavily on foreign capital. These countries may be more willing to give up taxing rights to attract investment and support their economic development, viewing it as a necessary trade-off to support their economic growth and development efforts.⁸² Consequently, as developing countries continue to align with the OECD's framework their interests remain underrepresented in tax treaties, highlighting the power asymmetry embedded in the global tax system.⁸³

4.3 The BEPS Project

The OECD's influence however extends well beyond the OECD Model Tax Convention. In 2015, the organization launched the international BEPS project which aims to tackle tax avoidance strategies that exploit gaps and mismatches in international tax rules. These strategies are frequently used by multinational corporations to significantly reduce their tax burdens, contributing to estimated global tax revenue losses of around USD 200 billion annually. The BEPS project is the most extensive effort to reform outdated international tax rules, which are still largely based on principles established by the League of Nations in the 1920s. The OECD seeks to create a more uniform and coordinated international tax standards, to address these modern challenges of global taxation.⁸⁴

The BEPS project includes 15 action points that address various aspects of tax avoidance, such as transfer pricing, hybrid mismatches, and treaty abuse. The framework encourages participating countries to adopt minimum standards to ensure a more equitable distribution of taxing rights. All minimum standards are subject to a peer review process that evaluates the implementation by each member and provides clear recommendations for improvement. For developing countries, the BEPS framework generally offers several potential benefits. Most importantly, the measures can help protect their tax bases from erosion, which is crucial as many of these nations rely heavily on corporate taxes as a revenue source.⁸⁵ The BEPS

⁸² Hearson, 2021

⁸³ Upadhyay, 2021

⁸⁴ Laudage Teles, 2023; OECD homepage, [s.d.]

⁸⁵ OECD homepage, [s.d.]

framework also grants access to technical assistance, guidance, and capacity-building support from the OECD and other international organizations, which can be vital for countries with limited resources to combat tax evasion effectively.⁸⁶

However, the governance process that shaped BEPS raises questions about whether it truly addresses the power imbalance between developed and developing nations. Significant flaws suggest that the unique interests and challenges of developing countries may not be fully represented in the framework. The BEPS project, commissioned by the Group of 20 (G20)⁸⁷ and implemented by the OECD, initially involved only OECD member states. To address concerns about the legitimacy of this limited participation, the "Inclusive Framework on BEPS" was introduced in 2016. This platform supposedly allows non-OECD and non-G20 countries to engage on an equal footing with member states in implementing BEPS initiatives. As a condition for participation, new members were required to adopt the BEPS minimum standards, which cover four of the 15 action points. Essentially, the framework was created to continue standard-setting efforts while expanding its membership base and overseeing the implementation of the BEPS action plan.⁸⁸

The Inclusive Framework operates through a three-tier decision-making structure consisting of the plenary, Steering Group, and working parties. Plenaries, made up of senior tax officials from member countries of the Inclusive Framework, are responsible for making final consensus-based decisions on proposals prepared by subordinate bodies.⁸⁹ For around half of the Inclusive Framework's members, this twice-yearly meeting is the only one they attend. Yet, whereas the plenary is formally the highest decision-making body, its practical role is limited due to its highly orchestrated character.⁹⁰ Politically sensitive decisions are usually taken in the steering group, which meets several times a year. It consists of 24 individuals, split equally between OECD and non-OECD members, nominated by their states but serving in a personal capacity. The OECD Secretariat significantly influences their selection, by

⁸⁶ OECD, 2021

⁸⁷ The Group of Twenty (G20) is an international forum comprising 19 countries and the European Union, representing the world's major economies. Established in 1999, the G20 addresses global economic issues, including financial stability, climate change, and sustainable development. (Siripurapu, Berman and McBride, 2024)

⁸⁸ Løvholm, 2022; Laudage Teles and Von Haldenwang, 2023 (Translation by the author.)

⁸⁹ Christensen, Hearson und Randriamanalina, 2020

⁹⁰ Hearson, Christensen and Randriamanalina, 2022

identifying capable and influential individuals while ensuring geographically balanced representation. Lastly, the working parties are technical expert groups that meet two to four times annually to focus on key areas like tax treaties and transfer pricing, playing a vital role in standard-setting. However, these groups are predominantly influenced by OECD and G20 countries. Despite representing nearly 75% of the membership, other nations account for less than 25% of the attendees at these meetings.⁹¹

As of today, the Inclusive Framework has expanded to include over 145 countries and jurisdictions, with the OECD Secretariat placing significant emphasis on the platform's inclusivity.⁹² This marks a major shift in international tax policymaking, as decisions are no longer made solely by OECD members.⁹³ While the 38 OECD member countries automatically joined in 2016, other countries joined in the following years. The membership of the Inclusive Framework is illustrated with the following figure.

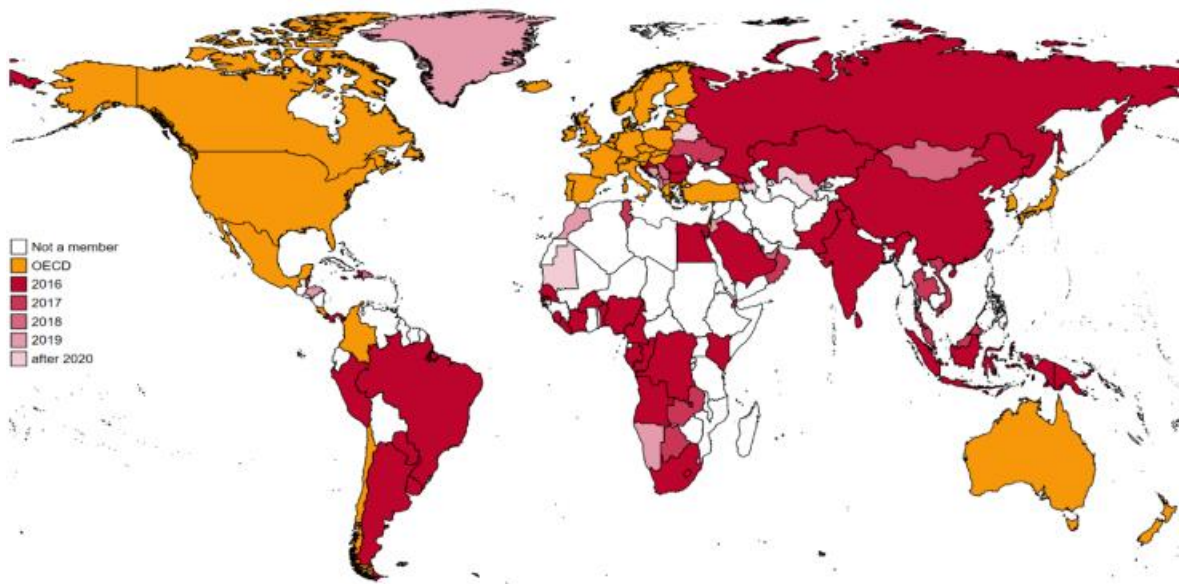


Figure 3: Inclusive Framework on BEPS membership⁹⁴

Notes: OECD member countries (in orange) joined the Inclusive Framework in 2016. Non-OECD countries joined from 2016 onwards, different shades of red indicate their year of entry.

One could argue that by enabling broader participation in the decision-making process, the OECD has made strides in addressing the institutional legitimacy deficit through the creation

⁹¹ Christensen, Hearson und Randriamanalina, 2020

⁹² OECD homepage, [s.d.]

⁹³ OECD, 2021

⁹⁴ Laudage Teles, 2023

of the Inclusive Framework. This platform now engages a far wider range of countries beyond the OECD's core membership that is shown in *Figure 2*. But are developing countries truly participating on an equal footing in the framework? In fact, addressing the institutional legitimacy issue alone is insufficient to fully tackle the primary concerns and interests of less powerful jurisdictions, as a deeper structural legitimacy deficit remains unresolved.⁹⁵ While developing countries were given the opportunity to participate in the discussions, their role has often been more comparable to that of observers rather than active decision-makers.⁹⁶ This is due to several challenges they face in tax negotiations at the OECD.

First, the negotiations are typically grounded in pre-existing norms, predominantly shaped without the input of developing countries, limiting their ability to shape the discussions. In the case of the BEPS initiative, developing nations were required to accept a pre-negotiated set of actions as a condition for joining the framework.⁹⁷ The main agenda had already been established before the Inclusive Framework was extended to non-OECD members, leaving developing countries without little formal opportunity to influence the negotiations.⁹⁸ These countries were expected to commit to the full BEPS Package, implement its measures consistently, and contribute financially through an annual membership fee. In return, they gained the opportunity to collaborate with OECD and G20 members on remaining BEPS issues, as well as to monitor and enforce the minimum standards.⁹⁹ However, it is questionable whether such a framework can truly offer participation on an “equal footing” when it was not designed to incorporate equal input from the start.

Second, OECD/G20 states continue to dominate the agenda-setting process, creating an environment that many developing countries experience as intimidating. The high technical complexity and established social dynamics in negotiations add to the pressure, making it difficult for some delegates to fully engage.¹⁰⁰ A key concern is the pace of policymaking, which is unlikely to be appropriate to the capacity of most lower-income countries.¹⁰¹ The speed of discussions leaves some countries struggling to keep up, and if they fail to voice

⁹⁵ Marsit, 2021

⁹⁶ Esteban and Calderoni, 2021

⁹⁷ Marsit, 2021; Løvholm, 2022

⁹⁸ Løvholm, 2022

⁹⁹ Fung, 2017

¹⁰⁰ Christensen, Hearson und Randriamanalina, 2020

¹⁰¹ Christensen, Hearson und Randriamanalina, 2020

objections in time, they are considered to have agreed by default. This has led to situations where countries have unintentionally supported positions simply because they couldn't keep pace with the negotiations.¹⁰² And although the Inclusive Framework promotes participation on an equal footing, the OECD appears to differentiate between OECD/G20 countries and other member countries in the decision-making process. This is evident in an October 2021 statement announcing that "the Inclusive Framework has agreed to a two-pillar solution to address the tax challenges arising from the digitalization of the economy"¹⁰³, even though four countries - Nigeria, Kenya, Sri Lanka, and Pakistan - did not sign the statement. The OECD made significant efforts to consult with reluctant OECD/G20 nations to secure their participation but seemed less concerned about ensuring the agreement of other countries. This indicates that consensus among OECD and G20 countries is critical for advancing negotiations within the Inclusive Framework, while the agreement of other countries carries less weight in the decision-making process. The result is a mismatch in bargaining power in the negotiations. If non-OECD/G20 members require changes to be made to agree to a statement, the Inclusive Framework appears able to proceed without them. If there is no willingness within the framework to accommodate these preferences, non-OECD/G20 members are often left with the choice to either sign the agreement or opt-out while negotiations continue. On the other hand, when OECD/G20 countries present a similar ultimatum, the framework is more likely to adjust to secure their participation, as the process is more dependent on gaining their approval. This suggests that OECD/G20 countries hold greater bargaining power, as their refusal to support an agreement could prevent it from moving forward.¹⁰⁴

Third, limited financial and human resources constrain developing countries, making it difficult for them to fully engage in international tax discussions. Many lack the capacity to participate effectively in multiple technical workstreams or to assess the economic and fiscal impact of various proposals on their economies. Often, they also face challenges in retaining long-term institutional knowledge and developing the negotiation skills necessary for complex multilateral discussions.¹⁰⁵ On BEPS issues, such as information systems and transfer pricing, they tend to have only general knowledge or limited experience. Additionally, logistical barriers, such as the costs and effort required to attend meetings typically held in

¹⁰² United Nations Secretary-General, 2023; Christensen, Hearson und Randriamanalina, 2020

¹⁰³ OECD, 2021B

¹⁰⁴ Løvholm, 2022

¹⁰⁵ OECD, 2021

Paris, further stretch their already scarce resources.¹⁰⁶ Even when funding is secured, many developing nations can only send a small number of representatives, who are often tasked with covering several committees alongside their domestic duties. This leaves them overwhelmed and unable to fully participate in these resource-intensive discussions.¹⁰⁷ Language barriers add to these challenges, as not all meetings, especially Steering Group discussions, are translated. Documents circulated on tight deadlines are often initially in English, putting non-native speakers at a disadvantage when discussing positions within their governments or intervening in the negotiations.¹⁰⁸

These points highlight that even within the OECD's most inclusive project, which extends well beyond its member states, developed countries continue to hold disproportionate influence in the decision-making process, overshadowing the power of developing nations. Like any other OECD-led tax reform, the BEPS Project reflects international politics where powerful states largely dictate the global course of actions and the voice of weaker states is often marginalized. Despite concerns about its legitimacy, many countries have accepted the results of the BEPS project, thereby unintentionally strengthening the OECD's authority in global tax matters.¹⁰⁹ In other words, the OECD monopolistic position was reinforced because the international community, by its participation, allowed it to persist.¹¹⁰

The implementation of the BEPS Action Plan is nearing completion, with 14 out of the 15 actions largely realized. However, eight years into the process, the impact on reducing tax avoidance remains modest. Recent estimates indicate that global tax revenue losses due to profit shifting have actually increased slightly, from 9% to 10%, even during the initial years when anti-BEPS measures were being enforced. While it is difficult to assess the plan's effectiveness without a counterfactual scenario where the project was never implemented, some experts argue that tax avoidance could have escalated further in the absence of BEPS. Critics attribute the limited success of BEPS to several factors. One key issue is the lack of truly inclusive decision-making and the need for greater cooperation between OECD and non-OECD countries. Additionally, the voluntary nature of many BEPS standards, com-

¹⁰⁶ Marsit, 2021, Esteban and Calderoni, 2021

¹⁰⁷ Hearson, Christensen and Randriamanalina, 2022

¹⁰⁸ Christensen, Hearson und Randriamanalina, 2020

¹⁰⁹ Fung, 2017

¹¹⁰ Parada, 2024

bined with the complexity of implementing them consistently across jurisdictions, has limited their full effectiveness. These challenges suggest that while the BEPS project has made some progress, achieving meaningful reductions in tax avoidance may require further reforms and broader global participation.¹¹¹

5 The UN as an Alternative to the OECD

5.1 Introduction of the UN

Many developing countries support the UN as a more inclusive and effective platform than the OECD. The UN resolution discussed in *Section 2* has turned these discussions into concrete action, marking an important step toward rebalancing power dynamics in international taxation. However, some remain skeptical, questioning whether a simple shift of platforms will truly address the inclusiveness issues that troubled the OECD.¹¹² The following section will therefore examine the UN's capacity to lead global tax initiatives, exploring both its potential strengths and the challenges it may encounter.

The UN is a global organization of 193 member states, dedicated to a wide-ranging mission that includes peace and security, social progress, economic development, and human rights. It serves as a platform for member states to engage in dialogue and collaborate on urgent international issues. The General Assembly, the UN's primary consultative, policymaking, and representative body, meets annually in New York, where the full membership gathers for its session and general debate, attended by numerous heads of state. Decisions on major issues, such as peace and security, new member admissions, and budgetary matters, require a two-thirds majority vote, while other matters are decided by a simple majority.¹¹³

The UN Committee of Experts on International Cooperation in Tax Matters is the primary body at the UN responsible for addressing tax issues, meeting twice a year. However, this committee operates in a technical capacity, not a political one, as it is composed of experts rather than representatives from member states, and therefore lacks the authority to make binding political decisions.¹¹⁴ The Committee is notable for having a majority representation from developing countries, which allows it to focus on their specific tax needs and challenges. In addition to the Committee's structure, the UN General Assembly's one-country,

¹¹¹ Laudage Teles, 2023

¹¹² Parada, 2024

¹¹³ United Nations Homepage, [s.d.]

¹¹⁴ Ellmers and Ryding, 2021 (Translation by the author)

one-vote system gives developing nations voting majority, allowing them to influence decision-making processes significantly. As a result, developing nations are well represented in this decision-making body.¹¹⁵

Alongside the OECD, the UN plays a significant role in shaping international tax policy. However, until today, its influence has largely been limited to the development of an alternative Model Double Taxation Convention, positioning it as secondary to the OECD's dominant role in global tax policy.¹¹⁶ This trend has already begun to shift, with more new treaties now being based on the UN Model rather than the OECD Model. As a result, the average treaty is increasingly aligning with the principles of the UN Model. This indicates a gradual move toward source-based taxation, even among developed countries.¹¹⁷

5.2 The UN Tax Convention

The UN and OECD Models share a common history and significant overlap, with both institutions frequently referencing each other's work. The UN Model incorporates many provisions that are nearly identical to those in the OECD Model but introduces important, though limited, modifications.¹¹⁸ The primary difference lies in its consideration of the specific needs of developing countries.¹¹⁹ Unlike the OECD Model, the UN Model Tax Convention is specifically designed with the aim of being applicable to treaties between developed and developing countries. As a result, it prioritizes granting greater taxing rights to the source country rather than to the residence country under a tax treaty – an issue of great importance for developing countries.¹²⁰

Returning to our earlier example, let's revisit how taxation rights are allocated for passive income streams. While the provisions for taxing dividends, interest, and royalties are largely similar between the OECD and the UN Model, the UN Model includes subtle differences that leave a more obvious opening for source states to impose taxes.¹²¹ Unlike Articles 10 and 11 of the OECD Model, the UN Model does not set specific thresholds for the taxes

¹¹⁵ Esteban and Calderoni, 2021

¹¹⁶ Luthiger and Fuchs, 2024

¹¹⁷ Jorissen and Andringa, 2022; Ash and Marian, 2020

¹¹⁸ Quak and Timmis, 2018; Jorissen and Andringa, 2022

¹¹⁹ Quak and Timmis, 2018

¹²⁰ PwC, 2018; Harpaz, 2024

¹²¹ Jorissen and Andringa, 2022

imposed by source countries on dividends and interest payments. Instead, it allows individual state parties to negotiate maximum tax rates, accommodating the individual interests and economic contexts of the countries involved.¹²² Additionally, while Article 12 of the OECD Model grants exclusive taxing rights over royalties to the residence country, Article 12 of the UN Model permits source countries to impose taxes on royalties paid by their residents to residents of the other treaty country.¹²³ By not specifying a fixed ratio for allocating taxing rights on passive income between source and residence countries, the UN Model leaves these decisions to the contracting states. This open-ended approach, however, presents risks, as economic and political disparities between developed and developing countries can significantly influence negotiation outcomes.¹²⁴

The UN Model and its Commentaries are updated and managed by the UN Committee of Experts on International Cooperation in Tax Matters, which includes a slight majority of members from developing and emerging economies. Unlike the OECD's corresponding subcommittee, which represents OECD member countries, the UN Committee's composition offers developing countries a stronger presence and greater influence over revisions to the UN Model. This broad representation presents a unique opportunity to understand how various countries perceive key issues and allows developing nations to shape updates in ways that more accurately reflect their interests.¹²⁵

Overall, the UN Model is considered to offer a more favorable balance of costs and benefits for developing countries compared to the OECD Model. However, in tax treaties between developed and developing countries, the resulting clauses tend to align more closely with the OECD Model. Notably, where the UN Model includes significantly different clauses, such as in defining a permanent establishment, these provisions appear less frequently in treaties signed by lower-income countries. UN Model provisions are more common in treaties between non-OECD countries than in those involving an OECD and a non-OECD country, indicating that while lower-income countries aim for more expansive taxing rights, they often cannot secure them in negotiations with OECD countries.¹²⁶

¹²² Upadhyay, 2021

¹²³ Quak and Timmis, 2018; United Nations, 2021

¹²⁴ Eytayo-Oyesode, 2019

¹²⁵ Quak and Timmis, 2018; PwC, 2018

¹²⁶ Hearson, 2021

5.3 Can the UN do it better?

The potential shift of power from the OECD to the UN would give future discussion on international tax policy a different setting. This shift presents several potential advantages, such as increased inclusivity and greater representation of developing countries, but also introduces challenges related to governance, consensus-building, and operational capacity. The following section will provide a performance measurement analysis of the UN's capacity to lead global tax initiatives, using KPIs and setting them in comparison to the OECD. This analysis focuses on Effectiveness, Efficiency, Competition, and Inclusivity to assess whether the UN can effectively assume a greater role in shaping international tax policy. The summary of the analysis is provided in Appendix, Table 1.

(1) Effectiveness: Effectiveness will assess how well the UN achieves its stated objectives and goals in the context of global tax reform compared to the OECD.

The OECD places a strong emphasis on effective and timely decision-making, a priority that has defined its approach to international tax cooperation since its predecessor, the OEEC, began its work in the 1950s. At that time, it was noted that progress would be more easily achieved within a group of like-minded nations, as opposed to the more diverse memberships of organizations like the League of Nations or the UN.¹²⁷ This has proven true over the decades, with the OECD successfully implementing a wide range of international tax standards. One prominent example is the OECD Model Tax Convention, which has become the foundation for most bilateral tax treaties globally, demonstrating the organization's ability to set influential norms.¹²⁸ The consensus-based approach used by the OECD is central to its success in ensuring that agreements are widely accepted by all member countries.¹²⁹ While consensus-building can foster broad support, it is often easier to achieve among developed nations with similar economic interests. This has made the OECD particularly effective in driving timely decisions within its core group of members, ensuring high-quality and consistent outputs.

However, the OECD's focus on effectiveness and the need for rapid decision-making can sometimes come at a cost. The consensus model becomes more complicated when non-

¹²⁷ Christensen, Hearson und Randriamanalina, 2020

¹²⁸ Bundesministerium der Finanzen, [s.d.] (Translation by the author.)

¹²⁹ Christensen, Hearson und Randriamanalina, 2020

member states, especially developing countries, are involved. Rather than slowing the process to accommodate diverse perspectives, the OECD has tended to prioritize swift progress, as seen in initiatives like the Inclusive Framework. Here, the fast pace of negotiations and the pressure to reach solutions have limited the meaningful participation of developing countries that lack the resources to keep up with the discussions.¹³⁰ Despite these challenges, the OECD remains highly effective at mobilizing resources, technical expertise, and political will to address complex global tax issues. Its ability to produce globally recognized tax standards, such as the OECD Model Tax Convention, highlights its role as a leader in shaping international tax policies.

The UN, on the other hand, has long demonstrated success in reaching multilateral agreements that address the needs of all parties, even on politically sensitive and technically complex issues.¹³¹ One prime example is the Paris Climate Agreement, which highlights the organization's ability to facilitate consensus across a wide range of countries, despite varying economic and political interests. Adopted by 195 Parties, this historic agreement marks a breakthrough in international climate diplomacy. For the first time, it brought together developed and developing nations in a legally binding agreement to tackle climate change. A key feature of the Paris Agreement is its focus on capacity-building for developing nations, ensuring they receive the necessary support from developed countries to implement climate-related actions. The success of this initiative illustrates the UN's ability to create inclusive frameworks that account for the interests of both wealthy and less-resourced countries.¹³² This accomplishment sets a hopeful precedent for the UN's potential to play a similar role in international tax reform. Given its experience in balancing global interests, the UN could be well-positioned to mediate between the divergent views of developed and developing nations in tax matters, offering a platform for a balanced and equitable agreement. The fact that the UN Tax Committee can work from majority decision voting, while the Steering Group of the Inclusive Framework works formally on a consensus basis, could facilitate effectiveness of negotiations.¹³³

¹³⁰ Christensen, Hearson und Randriamanalina, 2020

¹³¹ United Nations Secretary-General, 2023

¹³² United Nations, [s.d.]

¹³³ Christensen, Hearson und Randriamanalina, 2020

However, challenges remain. The UN, being an intergovernmental body, is heavily influenced by its member states, whose diverse interests can both empower and restrict its effectiveness. With such a broad membership, each state bringing its own priorities, reaching consensus on global issues like international tax policy is complex.¹³⁴ This challenge is evident in current UN discussions on international taxation. Developed countries typically seek to limit the scope of discussions to procedural matters, while developing nations push for more substantial reforms addressing tax fairness and the allocation of taxing rights. This divergence has led to criticism of the UN's process for lacking political effectiveness, which could ultimately undermine its ability to bring meaningful change in international tax matters. The success of any reform depends on the support of global powers such as the United States, the United Kingdom, and key EU members. Without their support, the UN may face considerable difficulty in implementing global tax reforms.¹³⁵ Although the OECD has faced similar criticism for not achieving full consensus, it remains unclear whether the UN would succeed in bridging the gap between the conflicting interests of developed and developing countries any more effectively.¹³⁶

(2) Efficiency: Efficiency evaluates the UN's use of resources in comparison to the OECD's capacity.

The OECD's advantage in international tax matters is primarily founded on its significantly greater financial resources, which enable it to produce high-quality technical guidance and regularly update important frameworks such as the OECD Model Tax Convention.¹³⁷ Its Committee on Fiscal Affairs is well-funded through a combination of output-based contributions, which are proportional to the size of member countries' economies, and additional voluntary donations.¹³⁸ This financial advantage supports the OECD's ability to integrate developments like the BEPS project swiftly into its work¹³⁹, ensuring that its guidance stays relevant and timely.

In contrast, the UN faces considerable challenges due to its limited budget and technical capacity in the area of taxation. The UN Tax Committee operates with fewer resources,

¹³⁴ Nadin, 2019

¹³⁵ Harpaz, 2024

¹³⁶ Agyemang, 2023A

¹³⁷ United Nations Secretary-General, 2023; Cobham, 2022; Quak and Timmis, 2018

¹³⁸ OECD, 2021A

¹³⁹ Quak and Timmis, 2018

which hinders its ability to update the UN Model Double Taxation Convention as frequently as the OECD.¹⁴⁰ This lack of financial and human resources also means that the UN struggles to match the OECD's expertise, with the OECD Secretariat employing over 100 specialists, while the UN Tax Committee has far fewer experts.¹⁴¹ The UN's inability to update its work as quickly or comprehensively can result in reduced efficiency. Without increased financial backing or strategic partnerships, the UN may struggle to meet the demands of global tax governance.

(3) Competition: This KPI assesses how effectively the UN, and the OECD can compete

As the UN seeks to take on a more active role in global tax matters, it naturally positions itself as a competitor to the OECD, which has dominated this domain for decades. Both organizations could compete to take the lead in setting international tax standards, especially if their respective frameworks begin to overlap. Some OECD member states have already expressed concerns about duplication of efforts.¹⁴² This concern is not unfounded, as there is already observable thematic overlap between the UN's draft ToR and the OECD's BEPS project. For example, the UN's draft includes the taxation of the digitalized and globalized economy as a priority issue—an area where the OECD's Inclusive Framework is nearing completion of negotiations.¹⁴³ Such overlaps could lead to inconsistencies in global tax policy and create uncertainty for governments and multinational corporations trying to comply with different standards from the two institutions.

However, the OECD is unlikely to give up its long-standing leadership in global tax governance easily. It has reaffirmed its commitment to the two-pillar solution aimed at addressing the tax challenges of digitalization and profit shifting. Even if certain members push back against more ambitious outcomes, the OECD will likely intensify its efforts to ensure that its framework remains the primary reference for international tax standards. The OECD's influence remains strong, particularly within their member states that have historically supported its initiatives.¹⁴⁴

¹⁴⁰ Quak and Timmis, 2018

¹⁴¹ Christensen, Hearson und Randriamanalina, 2020

¹⁴² Harpaz, 2024

¹⁴³ PwC, 2024

¹⁴⁴ Cobham, 2022

The UN, on the other hand, argues that an intergovernmental tax process under its leadership would aim to replace existing frameworks but rather to complement them. The UN's position is that it could fill critical gaps that existing processes, particularly those led by the OECD, have failed to address. Rather than duplicating the OECD's work, the UN envisions an expansion of its collaborative efforts with the OECD, as it does in other policy areas.¹⁴⁵ However, the idea of cooperation between the UN and the OECD is controversial. There is a general consensus that having two entirely separate global tax governance systems is impractical.¹⁴⁶ Some scholars argue that an integration of OECD expertise into a future UN-led process could be a more feasible solution. However, such integration would need to avoid importing the OECD's major disadvantages, such as the influence of powerful member countries and the opacity of its decision-making processes.

A potential way forward could involve the OECD providing technical expertise to countries that wish to receive support in intergovernmental discussions at the UN. This would allow the OECD to remain a valuable technical resource without having disproportionate influence over UN-led negotiations, which has been a point of dispute in the past. By limiting the OECD's role to technical assistance rather than formal participation, the UN could mitigate some countries' frustration with the OECD's dominance in global tax matters.¹⁴⁷

(4) Inclusivity: Inclusivity measures how well the UN represents the interests of its diverse membership, particularly developing countries compared to the OECD.

The main criticism of the OECD relates to its lack of inclusivity, as detailed in *Section 4*. The organization faces challenges both in terms of input—how developing countries are involved in the standard-setting process—and output, with respect to how relevant those standards are to these countries' needs.¹⁴⁸

On the input side, the OECD's limited membership raises concerns about the participation of non-member states, particularly developing countries. Their involvement is restricted for several reasons: (1) agenda-setting is largely controlled by OECD and G20 countries before other countries can even participate; (2) these same powerful countries continue to dominate discussions throughout negotiations; and (3) developing nations often lack the financial and

¹⁴⁵ United Nations Secretary-General, 2023

¹⁴⁶ Tax Notes, 2023

¹⁴⁷ Cobham, 2022

¹⁴⁸ Christensen, Hearson und Randriamanalina, 2020

technical resources to keep pace with complex and fast-moving discussions. As for the output, OECD standards, such as those found in the OECD Model Tax Convention, are seen as favoring developed economies. The focus on residence-based taxation aligns with the interests of wealthier countries, while failing to address the concerns of developing nations, particularly regarding source-based taxation. As a result, OECD tax standards often do not effectively serve the needs of developing countries.

Shifting global tax governance to the UN offers a more inclusive approach. As this section shows, the UN enables broader participation by providing a platform where developing countries have greater influence. This leads to more inclusive outputs, such as the UN Model Tax Convention, which allocates more taxing rights to source countries, fostering more equitable international tax frameworks. However, despite the UN's inclusivity, challenges for developing countries in global tax negotiations persist. Many issues, such as limited financial resources and technical expertise, are not unique to the OECD and would likely persist in any forum, including the UN. The disparity in negotiating capacities remains a significant barrier to achieving true equity in international tax discussions.¹⁴⁹ Nevertheless, some scholars argue that the UN may better address these disparities. They highlight the UN's existing institutional frameworks, which have been built over decades of cooperation, offering developing nations a more supportive environment for global tax reform. Through established negotiation groupings, the UN might be better positioned to bridge the gap between developed and developing countries in international tax policy.¹⁵⁰

6 Case Study: Germany's perspective on the ongoing discussions

6.1 Germany

6.1.1 An Export-Driven Economy

Many recent studies focus on the perspective of developing countries and their calls for reforming the global tax forum to ensure a fairer distribution of tax revenues. This thesis, however, takes a less common approach by examining the issue from the perspective of a developed country, offering insights into the motives and reasons behind their resistance or hesitation towards a transition of the global tax forum. In the following section, Germany - as a powerful developed country actively involved in the ongoing discussions - will be analyzed

¹⁴⁹ Løvholm, 2022

¹⁵⁰ Løvholm, 2022

to assess the potential impact a shift from the OECD to the UN in international tax cooperation could have on its economy and tax system.

Germany is Europe's largest economy and the fourth largest in the world, known for its highly developed industrial sector, strong export market, and advanced technological services. Key sectors include automotive, machinery, chemicals, pharmaceuticals, and financial services. Being the third-largest exporter worldwide and the top exporter in the EU, Germany is highly integrated into global trade networks. Its main trading partners - the United States, France, China, the Netherlands, and the United Kingdom - highlight its global reach, with exports consistently outpacing imports and reinforcing its status as a “growth engine”.¹⁵¹

Germany's high export ratio and current account surpluses are often regarded as strengths in domestic discourse, but they also reveal significant weaknesses. The country's heavy reliance on exports makes it particularly vulnerable to crises, global disruptions, and policy changes from major trading partners. This dependency became evident during the COVID-19 pandemic in 2020, when Germany's exports and Gross domestic product (GDP) saw strong declines. During the pandemic, nearly all economic sectors were severely affected, largely due to disruptions in global supply chains. Production was cut back considerably in both the service and industrial sectors. These disruptions significantly impacted Germany's trade-dependent economy, leading to the first decline in exports and imports of goods and services since 2009, with exports falling by a price-adjusted 9.9% and imports by 8.6% in 2020. This underlines the extent to which the German economy relies on stable international relations to maintain the external demand necessary to export its surpluses.¹⁵²

6.1.2 The German Tax System

The German Tax System is based on the German Constitution that serves as its legal foundation, establishing key principles such as the ability-to-pay principle, equality in taxation, lawfulness of taxation, and the welfare state principle. Below the Constitution, various statutes - referred to as tax codes or tax laws - govern specific aspects of taxation, forming a complex framework that includes multiple tax Acts.¹⁵³ The German tax system is a complex structure, with taxes levied at both federal and state levels. The system includes progressive income taxes for individuals and businesses, with rates ranging from 0% to 45%. Value-

¹⁵¹ Focus Economics, [s.d.]

¹⁵² Sablowski, 2024; Destatis Statistisches Bundesamt, 2021 (Translation by the author.)

¹⁵³ Kraft, 2023

added tax is another key source of revenue, set at 19%, with a reduced rate of 7% for certain goods and services.¹⁵⁴

The nominal tax burden on German corporations is high by international standards. While many EU and G20 countries have reduced corporate tax rates in recent years, Germany's rate of around 30% has remained nearly unchanged since the 2008 corporate tax reform. Although the German tax system is structured to ensure that multinational corporations contribute significantly to state revenue, the high tax level affects the competitiveness of German companies. Moreover, they make Germany particularly vulnerable to profit-shifting practices, as many corporations seek to minimize their tax obligations by exploiting low-tax jurisdictions.¹⁵⁵

Studies indicate that 82% of German multinational corporations have subsidiaries in tax havens, and these subsidiaries report significantly higher profits than those located in non-haven countries. The disproportionately low share of tangible assets (4%) and employees (3%) in these tax havens, indicate that the profits are often shifted there without substantive economic activities taking place. This practice artificially inflates the profits reported in these jurisdictions. Overall, Germany loses approximately EUR 5.7 billion in tax revenue each year due to corporate profit shifting.¹⁵⁶ This substantial loss highlights the economic impact such practices have on Germany's fiscal position and explains the country's strong support for international tax reform initiatives like the OECD's BEPS Project.

6.1.3 Provision of public goods

Taxes are the cornerstone of government revenue and play an important role in funding public goods and services. They enable the financing of critical sectors such as education, healthcare, infrastructure, and public administration. This is particularly true in Europe, where taxes are also the foundation of the modern welfare state, enabling the development of social safety nets.¹⁵⁷ The underlying philosophy of the welfare model aligns with the social contract theory, which is rooted in the idea that citizens entrust the state with the exclusive authority to levy taxes. In return, the state is responsible to make collective decisions on

¹⁵⁴ Federal Ministry of Finance, 2024

¹⁵⁵ Koch, 2023 (Translation by the author.); Stark, 2021

¹⁵⁶ Fuest, Hugger and Neumeier, 2022

¹⁵⁷ Ellmers and Trautvetter, 2024 (Translation by the author.)

which goods and services will be publicly provided and to determine the level of taxation necessary to finance them.¹⁵⁸

Social protection systems rely on a combination of funding sources, with tax revenues and social contributions serving as the primary pillars. The financing mechanism often depends on the nature of the benefits provided. Universal benefits, such as social assistance programs, are mostly funded through taxes. In contrast, insurance-based programs, including unemployment benefits and accident insurance, are typically financed through social contributions. However, even in social insurance systems, tax revenues play a critical supplementary role. For instance, tax funds are frequently used to co-finance expansive welfare programs such as pensions and healthcare, especially when social contributions fall short of covering deficits.¹⁵⁹

Germany is an example for a comprehensive and redistributive welfare state that actively promotes social equality. Its welfare system includes various insurance schemes, covering pensions, healthcare, work accident insurance, unemployment benefits, and long-term care. While Germany's welfare model does not always top international rankings, especially compared to the Nordic countries, it consistently delivers strong social outcomes.¹⁶⁰ In 2022, Germany allocated approximately 27% of its GDP to social benefits, placing it well above the OECD average.¹⁶¹ The country's public health system, in particular, stands out as one of the most well-funded relative to its economy, reflecting Germany's commitment to maintaining high-quality care and support for its citizens.¹⁶²

Despite its strong foundations, Germany's welfare state faces several pressing challenges that threaten its financial sustainability. Demographic aging is one of the most significant issues, with Germany having one of Europe's oldest populations. As the proportion of elderly citizens rises, the financial burden on working-age taxpayers grows, raising concerns about the long-term viability of pension schemes. Reforms, such as increasing the statutory retirement age and limiting early retirement, have been implemented to mitigate these pres-

¹⁵⁸ Yáñez, 2023

¹⁵⁹ Morel and Palme, 2018; Obinger, 2021

¹⁶⁰ Starke, 2022

¹⁶¹ OECD homepage, [s.d.]

¹⁶² Starke, 2022

asures. However, worrying trends persist. While poverty rates among the elderly remain below the European average, the number of elderly welfare recipients is rising, and future projections indicate significant risks for lower-income groups.¹⁶³

These demographic challenges are combined with fiscal constraints. While International tax competition continues to limit the ability of governments to raise corporate tax rates, the COVID-19 pandemic has led to a sharp increase in public debt, further straining fiscal resources.¹⁶⁴ These factors highlight concerns about how public goods and welfare benefits will be sustainably financed in the coming decades. They also explain the persistence, with which Germany tries to protect its tax revenues. A stable tax base is essential to address emerging challenges and maintain high standards of social protection and economic stability.

6.1.4 Position in International Taxation

International tax cooperation has always been of significant interest to Germany. The country has acted proactively in the field and often took the role of a front-runner. Well before international tax avoidance gained attention at the OECD level, Germany was notable for implementing both general and specific anti-abuse measures that targeted schemes with international implications. The general anti-avoidance rule, outlined in Section 42 of the General Tax Code, limits the principle that taxpayers can arrange their affairs to minimize tax liabilities. It prevents the tax advantages of legal arrangements that are considered abusive by ensuring that taxation reflects the actual economic substance of a transaction and not its artificial structure. Specific anti-avoidance measures are more precise in defining the conditions for their application and the corresponding legal consequences. These include regulations addressing Controlled Foreign Corporations (CFCs), transfer pricing, exit taxation, treaty shopping, thin capitalization, and other targeted areas of tax avoidance.¹⁶⁵

According to its own statement, Germany is actively involved in international efforts to enhance cooperation in tax matters and plays a significant role in global tax forums. It states that it is committed to a broader participation of developing countries in existing frameworks and supports increased cooperation between all key stakeholders.¹⁶⁶

¹⁶³ Starke, 2022

¹⁶⁴ Obinger, 2021

¹⁶⁵ Kraft, 2023

¹⁶⁶ United Nations, 2023A

The EU serves as Germany's primary anchor in external policymaking, reinforcing its position within a structured and influential institutional framework. Through its proactive role in navigating the EU through various crises, Germany has established itself as a player with substantial influence, including what often amounts to effective veto power over key EU policies. The German government therefore enjoys a high degree of negotiating power in the EU, which it can use to shape its policies.¹⁶⁷ Despite its far-reaching tax autonomy as an EU member state, German tax law has to conform to European law both in the relation to the founding Treaties and the EU directives. Germany is considered – with some recent exceptions – a reliable proponent for the timely implementation of EU tax directives.¹⁶⁸

Germany currently has close to 100 double taxation treaties, most of which provide for the exemption of profits earned by subsidiaries abroad.¹⁶⁹ Its treaties with developing countries have raised concerns, as these treaties often impose relative restrictive terms on the taxing rights of these nations.¹⁷⁰ In its negotiations, Germany typically uses its own model tax agreement¹⁷¹ as a starting point, which largely follows the OECD Model, to establish taxing rights. For instance, in Article 10, which deals with dividends, Germany, like the OECD-Model, employs a residence-based approach that allows for only limited source-based taxation. Similarly, in Article 12, both the OECD and German models grant exclusive taxing rights to the country of residence for royalties.¹⁷² In some cases, the German model even goes beyond the OECD's residence-based preference. For example, in Article 11 regarding interest, the OECD Model allows for limited source-based taxation, whereas Germany's model agreement excludes source-based taxation entirely, granting exclusive taxing rights to the country of residence for interest income.¹⁷³ However, this restrictive approach in negotiations is not always reflected in the final agreements. In practice, Germany often negotiates withholding tax rates on interest and royalties, with treaties typically establishing rates below 10% for source countries.¹⁷⁴ The Scientific Services of the German Federal Parliament have noted that Germany's tax treaty negotiation practices are largely driven by a desire to secure as

¹⁶⁷ Daehnhardt, 2022

¹⁶⁸ Kraft, 2023

¹⁶⁹ Kraft, 2023

¹⁷⁰ Ross and Anning, 2017

¹⁷¹ This model agreement is officially called "negotiation basis" and is publicly available since 2013. No more recent version has been published since then.

¹⁷² Ross and Anning, 2017; OECD, 2019; Bundesministerium der Finanzen, 2013

¹⁷³ Deutscher Bundestag, 2017 (Translation by the author.); OECD, 2019; Bundesministerium der Finanzen, 2013

¹⁷⁴ Deutscher Bundestag, 2017 (Translation by the author.)

much tax revenue as possible for Germany, with aspects such as development policy being of secondary importance. The extent to which Germany's restrictive approach prevails in treaty negotiations often depends on the bargaining power of the other contracting country. For example, large emerging economies like India have successfully negotiated more favorable source-based taxing rights in their treaties with Germany. In its tax treaty with Germany, India successfully extended the permanent establishment concept to favor the source country, surpassing not only the provisions of the German Model but also those of the UN Model Tax Convention. In contrast, smaller developing countries often lack the negotiating power and technical expertise to achieve similar outcomes. Due to limited resources, these countries are often not able to push for more equitable terms, leaving them at a disadvantage in negotiations with Germany.¹⁷⁵

Germany has played a central role in shaping global tax standards, particularly within the OECD framework. As one of the largest economies globally, Germany is a significant financial contributor to the OECD, covering 7.6% of its budget - a share surpassed only by the United States and Japan.¹⁷⁶ This substantial funding gives Germany considerable influence within the OECD, as financial contributions often impact an organization's internal dynamics, allowing larger contributors a stronger voice in decision-making processes.¹⁷⁷ Germany's commitment to OECD initiatives is evident in its support for the BEPS project. From the beginning, the German government has strongly supported the BEPS project, and several BEPS recommendations have already been implemented in Germany through binding EU directives for the European member states.¹⁷⁸

6.1.5 Stance in the current debate at the UN

6.1.5.1 Alignment with the EU's Position

Germany's approach to international tax cooperation is strongly influenced by its membership in the EU. As a key economic player within the EU, Germany does not operate in isolation when shaping global tax policies; instead, it aligns closely with the EU's collective stance. This alignment is particularly evident in the ongoing UN negotiations on global tax

¹⁷⁵ Deutscher Bundestag, 2017 (Translation by the author.)

¹⁷⁶ OECD homepage, [s.d.]

¹⁷⁷ Centeno, 2021

¹⁷⁸ Bundesministerium der Finanzen, [s.d.] (Translation by the author.)

cooperation, where the EU has presented unified positions both in voting and official statements.¹⁷⁹ Germany's position in the debate over an UN-led tax framework reflects the broader EU perspective. As detailed in *Section 2*, the EU has adopted a cautious stance towards the UN's increased involvement in international tax governance, consistently favoring the OECD as the leading institution in this area. During the initial voting on the resolution in 2023, all EU member states, including Germany, opposed the proposal.¹⁸⁰ Similarly, in the 2024 vote on the ToR for a potential UN framework convention, all EU countries, including Germany, abstained.¹⁸¹ Germany's policy choices in international tax matters are therefore not purely national decisions but are embedded within the EU's broader strategic direction. Its voting behavior and public statements reinforce the EU's preference for OECD leadership in global tax rulemaking while maintaining a unified front in multilateral negotiations.

6.1.5.2 Germany's Role as an Individual Stakeholder

Germany's role as an individual stakeholder appears limited. While Germany's position largely aligns with the EU's, subtle but important distinctions emerge in its individual statements. Although Germany supports the EU's overarching stance, it has also expressed its views independently through national submissions and statements. In several instances, Germany's opposition to further UN involvement has been even stronger than that of the EU as a whole. In its submission to the UN Secretary-General during the early stages of negotiations, Germany stresses that the Inclusive Framework on BEPS already addresses global tax challenges for countries at all stages of development. It warned against creating new, competing forums that could undermine existing efforts and instead recommended the UN to focus on improving coordination within current structures rather than establishing new ones.¹⁸²

Comparing Germany's position to that of the EU reveals key differences. While the EU has shown some openness to the UN playing a complementary role in global tax cooperation - as long as it collaborates with the OECD¹⁸³ - Germany has taken a firmer stance against

¹⁷⁹ See for example their statements that were submitted by a member state on behalf of the European Union: General Secretariat of the Council, 2023; European Union Delegation to the United Nations, 2024; European Union Delegation to the United Nations, 2023

¹⁸⁰ United Nations, 2023

¹⁸¹ Travers, 2024

¹⁸² United Nations, 2023A; Ellmers, 2023 (Translation by the author.)

¹⁸³ European Union Delegation to the United Nations, 2023

expanding the UN's role. Germany clearly stated that it "very much doubts" the need for a new UN tax framework or the development of new instruments through a UN intergovernmental process, emphasizing the effectiveness of the OECD's existing work, particularly the Inclusive Framework on BEPS. The country has also made it clear that it does not support any further involvement of the UN beyond the existing Committee of Experts on International Cooperation in Tax Matters.¹⁸⁴ This highlights Germany's strong backing for the OECD as the primary forum for international tax governance.

As Germany's vote against the resolution is outnumbered and the established Ad Hoc Committee proceeds to develop a Framework Convention, the country has shifted its focus to advocating for consensus-building in the ongoing negotiations. Germany stresses the importance of finding compromise on issues where countries have differing positions to ensure that the process remains inclusive and unbiased.¹⁸⁵

During negotiations over the ToR, Germany emphasized that the framework convention should prioritize domestic resource mobilization, focusing on capacity-building efforts in lower-income countries rather than on the allocation of taxing rights.¹⁸⁶ Along with other nations, Germany argued for looser commitments, proposing that the ToR be made "more broad and open" to prevent exceeding the committee's mandate and to increase the likelihood of approval by a greater number of member states.¹⁸⁷ However, this approach has drawn criticism for potentially limiting the scope of the convention and undermining the Ad Hoc Committee's ability to address more ambitious goals. Critics argue that by broadening the ToR, the convention risks losing its focus and failing to tackle the pressing issues of global taxation, ultimately weakening its impact and effectiveness.¹⁸⁸

The extent to which Germany's position has evolved during the negotiations surrounding the Draft ToR remains unclear. To date, only a joint statement from the EU has been made public, providing an explanation for why its member states chose to abstain from voting on the Draft ToR during the second session of the Ad Hoc Committee.¹⁸⁹

¹⁸⁴ United Nations, 2023A

¹⁸⁵ United Nations, 2024

¹⁸⁶ Chaparro-Hernandez and Meinzer, 2024; United Nations, 2024A

¹⁸⁷ United Nations, 2024B

¹⁸⁸ Chaparro-Hernandez and Meinzer, 2024; Medina, 2024

¹⁸⁹ Delegation of the European Union to the United Nations in New York, 2024

6.2 What's in it for Germany?

As an economic powerhouse with significant international influence, Germany has much at stake in the global tax governance debate. The following section will explore the potential consequences for Germany if international tax cooperation were to shift from the OECD to the UN. To assess the impact, a PESTLE analysis will be used. This analysis will focus on the potential effects of the following factors: Political, Economic, Social, and Legal. The factors of technological and environmental will not be considered in the analysis, as it has not been prioritized in the context of this work. By evaluating these dimensions, we aim to provide a comprehensive understanding of the implications for Germany within the evolving landscape of international tax governance.

1. Political Impact:

Shifting international tax discussions to the UN could significantly impact Germany's political influence and agenda-setting power, as more countries would play an active role in shaping tax policies. As a prominent OECD member, Germany has historically exercised substantial influence within the organization. Currently, it holds one of 25 seats on the OECD Steering Group, which is one of the organization's most influential bodies.¹⁹⁰ The Steering Group operates on a consensus-based approach, effectively granting Germany veto power to shape or block initiatives that do not align with its interests.¹⁹¹ Germany's influence is further reinforced by its status as one of the OECD's largest financial contributors and its position as one of Europe's leading economies.¹⁹²

In contrast, an UN-led framework would operate on a more equitable decision-making basis. Its governance structure would incorporate a broader range of perspectives, including those of developing nations with different tax priorities, making it difficult for Germany to exercise the same level of control. Although Germany holds one of the 25 seats on the UN Tax Committee¹⁹³, its influence within this body is notably limited compared to its position in the OECD Steering Group. The fact that the UN's decision-making process relies primarily on majority voting reduces the influence of individual countries, regardless of their economic

¹⁹⁰ G77, 2019

¹⁹¹ Christensen, Hearson and Randriamanalina, 2020

¹⁹² OECD homepage, [s.d.]

¹⁹³ United Nations Secretary-General, 2021

weight.¹⁹⁴ This is meant to prevent a minority of states from blocking progress¹⁹⁵ – the very thing Germany can do within the OECD framework. Moreover, the UN Committee has a majority of members from developing countries since their latest appointments, meaning that OECD members, even as a bloc, cannot overrule the collective stance of developing nations.¹⁹⁶ This configuration presents a strong contrast to the OECD, where a few developed nations can often steer discussions in a direction that aligns with their interests.

The process of the current UN discussions reflects Germany's reduced influence in this process. Germany has consistently positioned itself as an opponent of an UN-led intergovernmental tax body and, alongside other EU members, has voted against the creation of a UN Framework Convention.¹⁹⁷ In the OECD Steering Group, where consensus is required, this degree of opposition would likely prevent such a resolution from advancing. However, within the UN, Germany's opposition has not been sufficient to stop the initiative, revealing the limitations of its influence within the UN framework. Germany's recent promotion of a consensus-based approach in the UN tax discussions¹⁹⁸, can be seen as an attempt to reclaim the level of control it holds within the OECD, recognizing the loss of negotiating power it faces in the more inclusive UN forum. Since the decision-making rules at the UN are unlikely to change in the near future, a full transition from the OECD to the UN for international tax cooperation would result in Germany losing its privileged position as a veto-wielding power. Consequently, Germany would need to adapt to a more equal role within a globally representative group of states.

2. Economic Impact

A shift from the OECD to the UN in international tax cooperation would not only change the political decision-making process but could also lead to a new balance in the distribution of taxation rights, with significant implications for Germany's economy. Historically, developed countries have set the ground rules of international taxation in the favor of residence-based taxation to secure a high amount of tax revenues within their borders.¹⁹⁹ Germany, as a high-income, capital-exporting country, has benefited from this system, as the OECD

¹⁹⁴ Christensen, Hearson and Randriamanalina, 2020

¹⁹⁵ Chaparro-Hernandez and Meinzer, 2024

¹⁹⁶ United Nations Secretary-General, 2021

¹⁹⁷ See *Section 6.1.4*

¹⁹⁸ United Nations, 2024

¹⁹⁹ Hearson, 2021

Model Tax Convention prioritizes taxing rights for the country of residence rather than the source country. This model aligns closely with Germany's economic interests, allowing it to capture tax revenues from its multinational enterprises operating abroad, thereby stabilizing its tax base.²⁰⁰

The UN, however, takes a different approach to international tax policy. Regarding double taxation, it has published its own Model Tax Convention, which grants greater taxing rights to source countries. Should the UN become the primary authority in governing international tax rules, it is likely that this source-based approach would gain prominence.²⁰¹ Reflecting this shift, some developing countries - particularly the African bloc, which has expressed frustration with the current global tax agenda - are advocating for a reassessment and potential renegotiation of existing international tax agreements. These countries aim to correct perceived imbalances that favor developed economies, ensuring tax policies that better address their economic priorities.²⁰²

The potential consequences are clear: if bilateral treaties were to follow the UN Model, capital-exporting countries such as Germany could lose a portion of their tax revenues as more of this income would be taxed in source countries. Given Germany's strong export-driven economy and reliance on international business, the economic impact of such a transition could be substantial. Quantifying the exact effects of shifting from the OECD Model Tax Convention to the UN Model however is challenging, as tax treaties, while generally based on one of the multilateral models, remain unique products of bilateral negotiations.²⁰³

As mentioned, Germany's existing treaties reflect a restrictive approach that minimizes the taxing rights of source countries, particularly in agreements with developing countries.²⁰⁴ For developing countries, this often results in significant revenue losses. Recent studies estimate that each additional treaty signed by an African country, results in an average loss of approximately 5% of its corporate tax revenue.²⁰⁵ Take Nigeria, for example - the country that has taken the lead in the UN process on global tax governance. Nigeria's annual corporate tax revenues amount to approximately N4.89 trillion, which is around EUR 3.18 billion

²⁰⁰ Deutscher Bundestag, 2017 (Translation by the author.)

²⁰¹ Jorissen and Andringa, 2022

²⁰² International Institute for Sustainable Development, 2024

²⁰³ Hearson, 2021

²⁰⁴ Deutscher Bundestag, 2017 (Translation by the author.)

²⁰⁵ Hearson, 2021

at the current exchange rate.²⁰⁶ The 5% it loses for each additional treaty, according to the study, therefore amounts to 159 million Euros. This amount highlights the need for modifications in tax treaty allocation rules to create a fairer and more equitable distribution of taxing rights.²⁰⁷ Currently, most tax treaties shift the burden of relieving double taxation from higher-income countries to lower-income countries.²⁰⁸ Given this, it is likely that the UN will push for a redistribution of taxing rights in favor of developing nations.

These redistributions will likely begin with the significant distinctions that already exist between the OECD and UN Model Tax Conventions. As mentioned in earlier sections, one such difference lies to the taxation of passive income—such as dividends, interest, and royalties—earned from foreign sources. The distribution of taxing rights over these types of income is often viewed as depriving source countries of their fair share of tax revenue.²⁰⁹ Consequently, if the UN takes over the role of international tax negotiation from the OECD, these provisions are likely to change, disadvantaging Germany's tax base.

This context highlights a major concern for Germany and other developed nations: a shift to source-based taxation would likely reduce their control over tax bases and limit tax revenue from their multinational enterprises operating globally. These economic concerns are at the core of Germany's cautious approach in supporting OECD-led initiatives over the UN's involvement in global tax matters.²¹⁰

However, taking a broader perspective beyond double taxation, there is an alternative viewpoint emerging in scholarly discussions. Increasingly, experts question whether bilateral treaties are the appropriate instrument for addressing the challenges of modern international taxation. The current emphasis on allocating tax revenues has not only proven ineffective but has also worsened existing issues by creating loopholes and inconsistencies across different tax systems.²¹¹

Profit-shifting practices cost countries an estimated 4–10% of global corporate income tax revenue annually—one of the key reasons the OECD initiated BEPS project to harmonize

²⁰⁶ National Bureau of Statistics, 2024 (Exchange rate as of 31st January 2025 (1NGN – 0,00065 EUR))

²⁰⁷ Eytayo-Oyesode, 2019

²⁰⁸ Hearson, 2021

²⁰⁹ Eytayo-Oyesode, 2019

²¹⁰ Ellmers, 2023 (Translation by the author.)

²¹¹ Stewart, 2023

international tax rules.²¹² However, despite these efforts, the OECD's approach remains limited in the effectiveness and legitimacy of its results due to the lack of inclusiveness in its forum. This is where the UN enters the discussion. Rather than allowing the OECD to cartelize international tax with their harmonization initiatives, the global tax system needs a multilateral regulation.²¹³

As discussed in *Section 5.3*, the UN may hold a strategic advantage over the OECD in addressing these challenges. If an UN-led framework succeeds where the OECD has struggled - by transitioning the global tax system from a bilateral to a multilateral structure - it could potentially mobilize additional tax flows, even for developed countries. While developing countries bear the main burden of profit shifting and tax avoidance, developed economies also suffer significant revenue losses as a result of these practices.²¹⁴ The implementation of effective multilateral tax rules would not only benefit developing nations but could also enhance tax collection in Germany and other developed economies. By closing cross-border tax loopholes and capturing previously unreported profits, these changes could generate additional revenue, contributing to socio-economic development and other national development goals.²¹⁵

This perspective presents a counterbalance to the anticipated disadvantages Germany might face from bilateral agreements, during a shift from the OECD to the UN. While Germany may experience a relative reduction in tax revenues from its multinational corporations due to increased source-country taxation, these potential losses could be offset by the broader fiscal benefits of a more comprehensive and globally coordinated tax framework.

3. Social impact

If we accept the hypothesis that an UN-led tax framework would result in reduced tax revenues for Germany, the implications for the German welfare state could be severe. Germany's social protection system relies on tax revenues to supplement contributions from employees and employers. These revenues are critical for maintaining social programs, especially at a time when Germany faces mounting challenges such as demographic shifts, rising public

²¹² Sarmiento, 2023

²¹³ Stewart, 2023

²¹⁴ Ellmers and Ryding, 2021 (Translation by the author)

²¹⁵ Ellmers and Ryding, 2021 (Translation by the author)

debt, and economic uncertainties. A decline in tax revenues would constrain the government's capacity to finance essential services, necessitating adjustments in areas such as social welfare and infrastructure, which currently depend on robust tax collections.²¹⁶

The Eurozone crisis of 2010 serves as a critical example of how fiscal constraints impact public spending. As public debt and solvency became pressing concerns across Europe, Germany emphasized austerity and fiscal discipline in its response. One of the key measures introduced was the "debt brake" (Schuldenbremse), which became a constitutional requirement in 2009. This policy restricts Germany's structural deficit to 0.35% of GDP annually, with exceptions only for extraordinary circumstances.²¹⁷ While the debt brake stabilized Germany's financial position during the crisis, it also required significant reductions in public spending. Investment in critical areas such as infrastructure, healthcare, and education were cut, leaving the country underprepared to address long-term challenges like demographic aging. Germany's focus on debt reduction contributed to long-standing underinvestment, which remains evident today.²¹⁸ The debate over the debt brake continues, as its limitations on public investment have become increasingly controversial. In 2021, the Federal Constitutional Court ruled that the government's second supplementary budget violated the debt brake, forcing a rescheduling of EUR 60 billion.²¹⁹ The budget cuts for 2024 and beyond risk exacerbating underinvestment in infrastructure, climate policy, and defense. These fiscal constraints delay necessary public projects and slow economic growth.²²⁰

The Eurozone crisis demonstrated that during economic constraints, public investments often become a target for budget cuts, even in economically strong countries like Germany. This serves as a precedent for understanding the potential impacts of reduced tax revenues on the German welfare state under a new international tax framework led by the UN. If Germany were to lose tax revenues due to changes in global taxation rules, similar fiscal restraint might emerge, likely affecting social programs, public services, and infrastructure investment.

4. Legal Impact

²¹⁶ Scope Group, 2021; Fletcher, Kemp and Sher, 2024

²¹⁷ Schirm, 2024; De Wijlder, 2024

²¹⁸ Schirm, 2024; Scope Group, 2021

²¹⁹ Copelovitch, 2024

²²⁰ Copelovitch, 2024

Transitioning the framework for international tax discussions to the UN could offer Germany legal certainty and stability by promoting a multilateral tax system. In recent years, international tax policy has suffered from ineffectiveness and instability due to a fragmented system of overlapping international standards, national regulations, and bilateral tax treaties. This patchwork creates a complex and often inconsistent network of tax rules, leading to compliance challenges for both governments and multinational corporations. Establishing a multilateral tax system offers a unique opportunity to resolve the inconsistencies that have troubled international tax policy for a long time.²²¹ While the OECD has recognized the need for standardization, its efforts to harmonize international tax standards, such as the BEPS project, have had limited success. Despite its ambitious goals, the BEPS initiative has struggled to curb tax avoidance comprehensively and has fallen short of achieving multilateralism. The limited input of developing countries might be the critical insight that is missing to address international tax issues effectively.²²²

With the UN's broader participation, hopes are high that the dream of a multilateral tax system will come true. The UN's legitimacy positions it well to encourage broad compliance with its rules. With universal membership and a principle of state equality, the UN fosters a stronger commitment to implementing jointly agreed standards. Rather than requiring incentives or even sanctions to encourage adoption among states that are excluded from discussions, a UN framework that includes all stakeholders is more likely to foster voluntary compliance.²²³

An expanding multilateral leadership in international tax policy would have notable implications for Germany's domestic tax legislation. Multilateral agreements often require countries to adapt their national tax systems to align with international standards. The OECD's BEPS project serves as a key example, prompting significant reforms in Germany's tax legislation, such as the introduction of stricter rules on interest deductibility and transfer pricing. Moreover, multilateral tax agreements aim to bridge the differences among different national tax systems by establishing harmonized rules that promote better coordination and integration of these domestic regulations.²²⁴

²²¹ Laudage Teles, 2023

²²² Laudage Teles, 2023

²²³ Ellmers and Ryding, 2021 (Translation by the author)

²²⁴ Stewart, 2023

For Germany, an UN-led tax framework could simplify its domestic tax rules while fostering a more globalized tax system. Effective and universally applied rules would reduce the need for Germany's unilateral measures currently used to combat tax base erosion. This would benefit both German tax authorities and multinational corporations by minimizing the complexity associated with navigating conflicting national regulations. As a result, Germany could achieve greater legal certainty in international tax matters, supporting its economic interests and creating a stable, predictable environment for businesses.²²⁵

A notable example of how multilateral measures can transform national tax laws is the interplay between Germany's CFC rules and Pillar Two of the OECD's BEPS project. According to the German Foreign Tax Act, CFC rules apply if a low-taxed corporation domiciled abroad generates passive income, such interest or licensing revenue, and is controlled by a German shareholder. In such cases, the passive income is attributed to the German shareholder and taxed in Germany as if it had been earned domestically. Previously, "low taxation" was defined as an effective tax rate of less than 25%. The primary objective of these rules is to counteract profit-shifting to low-tax jurisdictions.²²⁶

Pillar Two, by contrast, represents a coordinated international approach to the same problem.²²⁷ It introduces a global minimum tax rate of 15% for multinational enterprises with global revenues exceeding EUR 750 million. This measure aims to prevent tax competition among countries by ensuring a minimum level of taxation in each jurisdiction. Supplemented by a "top-up tax," Pillar Two closes gaps in taxation by applying an additional tax on foreign profits that fall below the 15% threshold.²²⁸ The implementation of the global minimum tax has directly influenced Germany's domestic tax rules. The threshold for "low taxation" under Germany's CFC rules has been reduced to 15%, aligning with Pillar Two's minimum rate.²²⁹

Scholars have increasingly called for further reform of the CFC rules to avoid duplication and harmonize them with the global framework. Some even debate whether the CFC rules

²²⁵ Ellmers and Ryding, 2021 (Translation by the author)

²²⁶ Heinsen and Hahn, 2025 (Translation by the author)

²²⁷ Heinsen and Hahn, 2025 (Translation by the author)

²²⁸ Stewart, 2023; Englisch, 2023; Burwitz, 2024 (Translation by the author)

²²⁹ Heinsen and Hahn, 2025 (Translation by the author)

are still necessary, as Pillar Two effectively addresses many of the same concerns through a more coordinated and comprehensive approach.²³⁰

The interplay between domestic CFC rules and the global minimum tax highlights how coordinated international approaches can render certain national anti-abuse measures less critical. Domestic rules often serve as templates for multilateral solutions but may eventually be replaced or simplified as international standards evolve. For Germany, this shift represents an opportunity to reduce the complexity of its tax legislation while enhancing legal certainty for businesses. A standardized global tax framework would allow multinational enterprises to navigate tax obligations with greater clarity, reducing the risk of disputes and fostering a more predictable business environment. By transitioning to an UN-led framework, Germany could move toward a more efficient and simplified tax system while ensuring that its domestic tax laws remain aligned with evolving international standards.

6.3 Towards a multilateral future

6.3.1 Tax Justice and Ethical Considerations

To address the research question of what impact a shift in international tax cooperation from the OECD to the UN would have on Germany, it is essential to consider the insights from the preceding analysis. It cannot be denied that Germany stands to lose certain privileges it currently enjoys within the OECD—both politically and in terms of the distribution of taxing rights and financial flows that benefit its economy. In a UN framework, Germany would relinquish its veto power and potentially lose the preferential taxing rights of residence countries embedded in various bilateral agreements.

However, with a broader view of the future of international taxation, a shift to the UN could still represent a step in the right direction, even from an economic and legal perspective. International taxation has long struggled with the challenge of achieving genuine multilateralism. Modern issues like profit-shifting and tax base erosion cannot be solved unilaterally or even bilaterally. Germany's position in this evolving debate highlights a fundamental dilemma: balancing short-term national economic interests with the long-term goal of creating an effective global tax forum. The key question is whether the inclusiveness and equity of an UN-led framework justify the potential financial and political challenges Germany may face by losing its privileged position within the OECD. However, a bold hypothesis can be

²³⁰ Richter and Lentens, 2024 (Translation by the author)

put forward: Germany could ultimately gain more from the UN's growing role in international tax cooperation than it stands to lose.

Many scholars argue that the shift from the OECD to the UN must be driven by a commitment to tax justice. They advocate for a fairer allocation of taxing rights between wealthy and developing nations.²³¹ Given its status as one of the world's wealthiest countries—and considering its colonial history—Germany arguably has a responsibility to promote greater justice and solidarity in international tax cooperation.²³² At the core of this debate lies a fundamental principle: ethics. Supporters of an UN-led tax framework appeal to Germany's sense of fairness and solidarity, urging it to back initiatives aimed at reducing global inequality. This aligns with the increasing mantra in legal sources, that the international community should strive for more justice in the international tax system, particularly with respect to the impact it has on developing countries.²³³ Yet this raises a critical question: can ethical considerations genuinely influence political decision-making, especially in a financial domain as complex as international tax policy?

In practice, ethical arguments alone rarely determine the course of international tax negotiations. As discussed earlier, countries - Germany being a prime example - are typically driven by their national interests in international tax negotiations. Their primary objective is to secure the highest possible tax revenue to support domestic economic growth. Ethical concerns regarding the global distribution of tax revenues and their impact on developing nations often take a backseat.²³⁴

Ethical considerations, while important, are insufficient to compensate for the political and economic advantages Germany would lose in relinquishing its position in the OECD. To truly support the UN initiative, Germany must recognize its own long-term interests in a more inclusive, global tax framework. A shift to the UN could offer Germany global solutions to global problems—issues that it has long fought through both OECD frameworks and unilateral measures. A truly global tax forum can only be created in an environment that is fair, transparent, and inclusive, where all countries participate as equals. The UN is the only forum capable of offering such an approach.²³⁵

²³¹ Ellmers and Trautvetter, 2024 (Translation by the author.)

²³² Düring, 2023 (Translation by the author.)

²³³ Stark, 2021

²³⁴ Deutscher Bundestag, 2017 (Translation by the author.)

²³⁵ Robin, 2023

6.3.2 A personal perspective

From a personal perspective, the UN process highlights the urgent need to rethink the traditional objectives of international tax law. As global economies evolve, so too must the legal frameworks governing them. The traditional approach where countries craft their own tax rules, often leveraging their economic power to gain a competitive edge and relying only partially on coordinated guidelines, has proven inadequate for addressing harmful tax practices. What is needed is a genuinely global, multilateral system that ensures all nations have an equal voice. Inclusiveness is not just an ethical imperative; it is the cornerstone of a more effective and sustainable global tax system.

The expertise and outcomes generated by the OECD over the past decades cannot be overlooked. The technical work that went into the BEPS project is impressive, and many of its approaches offer valuable lessons that the UN can build upon. However, despite its technical achievements, the OECD has never been a fully legitimate forum for global tax policymaking due to its limited membership and lack of representation for developing countries. What is needed now is a fresh start, particularly in terms of decision-making processes. The fast-paced developments at the UN and the lack of full consensus are understandably viewed with caution. However, it is essential to acknowledge the historical significance of the momentum. Developing countries, after decades of striving for representation, now have their strongest opportunity to counterbalance the OECD's long-standing dominance. Scholars have warned that if this opportunity is lost, a similar one may not arise again.²³⁶ This urgency explains the high expectations and strong positions adopted by developing nations in the UN process.

OECD member states, including Germany, have expressed frustration at being outnumbered in UN tax discussions, feeling pressured into solutions by the majority. This perspective overlooks an important reality: consensus has never truly existed in any international tax forum. The UN's principle of one vote per country can actually be seen as a fair approach, especially given that one of the main challenges in international tax cooperation has been consensus. Ironically, the dynamics Germany now experiences at the UN mirror those the OECD has maintained for years, where many countries were sidelined in decision-making processes. While global consensus on taxation continues to be an issue, the current situation differs in one key aspect: The UN is the first forum that allows all countries take the same

²³⁶ Parada, 2024

part in a decision and therefore represents the first legitimate decision-making global tax policy.²³⁷

In summary, while Germany will inevitably lose some political and economic privileges by transitioning from the OECD to the UN as the primary tax cooperation forum, it stands to gain long-term benefits from participating in a truly global tax framework. This raises the question of how Germany is supposed to proceed. Should it maintain its opposition to the UN's growing role in international tax cooperation? Given the considerations outlined above, it is advisable for Germany to reconsider its stance and take a more proactive role. With its influential position in international taxation, Germany has the opportunity to lead by example and position itself as a pioneer in the European response to global tax cooperation.²³⁸ A more constructive engagement with the UN process would allow Germany to help design a framework that aligns with its economic priorities while also fostering a more equitable distribution of taxing rights. Scholars have even suggested that Germany could provide financial contributions to the UN process to help overcome the resource constraints that often delay progress. Such a move would not only ensure the initiative's success but also reinforce Germany's commitment to a fair and effective global tax system.²³⁹ Regardless of Germany's decision, it is clear that the UN process will proceed with or without its support. The author remains hopeful that the UN process can bridge the divide between the expectations of developed and developing nations, breaking the entrenched dynamics that have defined international tax debates for decades. While bringing all stakeholders to the table is only a first step, it is an essential one, laying the foundation for a more inclusive, equitable, and effective global tax system.

7 Conclusion

This thesis set out to answer the research question: What is the potential impact of shifting international tax cooperation from the OECD to the UN on Germany as a developed nation? While this study also aimed to provide broader insights into the power imbalance in international tax law, its scope was defined by a focused analysis of the UN's expanding role and the implications of a potential shift in global tax governance for Germany. As a country with

²³⁷ Tax Justice Network, 2024

²³⁸ Düring, 2023 (Translation by the author.)

²³⁹ Cobham, 2022

significant influence over international tax policy, Germany's position within both organizations was examined to evaluate the opportunities and challenges such a transition might entail.

The findings of this research demonstrate that a shift from the OECD to the UN in tax governance would present both advantages and disadvantages for Germany. On the one hand, such a transition could weaken Germany's political and financial influence, positioning it on a more equal footing within a broader multilateral forum. On the other hand, this shift could also enhance global inclusivity and a more balanced decision-making process that could facilitate multilateral solutions in global tax governance. The resistance of Germany and other industrialized countries appears to be primarily due to concerns about losing control in an expanded global framework. However, taxation is no longer an issue that can be viewed solely through the lens of national interests. The long-term benefits of a globally inclusive tax system—if effectively implemented—could outweigh the short-term loss of influence, leading to a more stable and equitable international tax order.

At the heart of this debate lies a broader question: Is the OECD still the right institution to lead global tax governance, or is a more inclusive UN framework necessary for the multilateral future of taxation? The answer is not straightforward. While the UN's role in taxation remains in its early stages, its potential to represent a wider range of interests suggests that an alternative approach to global tax governance is not only possible but perhaps inevitable.

Beyond the technical and economic aspects, this discussion also raises ethical questions about global power structures. International taxation reflects deeper inequalities in how economic power is distributed, with developed nations benefiting from rules they have largely designed.²⁴⁰ Germany, as a leading economy, must critically assess whether its resistance to UN-led tax governance is primarily about preserving national advantage or if it can play a more constructive role in shaping a fairer system for all. This thesis encourages policymakers to engage in this debate not only from a position of economic self-interest but also with the broader aim of multilateral cooperation and global tax justice.

This study is primarily qualitative, and its findings are based on comparative analysis, historical context, and logical reasoning, rather than empirical financial modeling. While this approach allows for a comprehensive discussion of policy and governance structures, it does

²⁴⁰ Hearson, 2021

not provide quantitative projections of the economic impact of shifting tax governance from the OECD to the UN. Future research could build on this work by incorporating quantitative impact assessments or conducting case studies on how specific tax policies might change under UN leadership. Additionally, once the UN Convention on international taxation is further developed, an empirical comparison of its legal framework with that of the OECD would provide valuable insights into the feasibility of coexistence between the two institutions.

This thesis contributes to the broader discussion on global governance, power dynamics, and the future of international tax cooperation. While the transition from the OECD to the UN remains uncertain, the debate itself is indicative of a growing shift in international relations - one that challenges long-standing power structures and calls for greater inclusivity in global decision-making. Yet, despite the optimism expressed in this work, achieving a truly inclusive global tax institution will take time. The decisions made in the coming years will determine whether this shift marks a genuine move toward inclusivity or merely a redistribution of influence among a different set of dominant players. Because while developing countries may now have a seat at the table - eating in equal rations is still left to be seen.²⁴¹

²⁴¹ Tax Notes, 2021

Literature Review

Selection of Literature and Justification

The selection of sources in this thesis consists mainly of recent academic research, policy papers, and institutional reports. This decision was made to ensure that the analysis reflects the most current developments in international tax policy, particularly in light of the ongoing UN discussions. While traditional tax law literature provides valuable historical context, more recent publications better capture the evolving dynamics of the OECD-UN transition, including policy changes and emerging debates.

Given the rapid changes in global tax law, the use of current sources ensures that the findings remain relevant to current discussions. This approach does not disregard traditional literature but rather complements it by integrating newer perspectives on institutional changes within global tax policy.

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Appendix

Table 1: Performance Measurement Analysis – Comparing OECD and UN Tax Governance

KPI	OECD	UN
Effectiveness	Highly effective in establishing international frameworks due to consensus-based voting among a limited group of like-minded members.	Easier to reach decisions due to majority voting. However, effectiveness is hindered by the diverse interests of its broad membership.
Efficiency	High efficiency due to financial resources and technical capacity.	Limited financial and technical resources hinder rapid development of tax policies.
Competition	The dominant institution in international tax policy, setting widely accepted standards.	Still in early stages of challenging the OECD's role but gaining support from developing countries. Faces risks of duplicating OECD efforts while also having opportunities for collaboration.
Inclusivity	Primarily serves developed nations, with decision-making power concentrated among OECD and G20 members.	Represents a broader range of developing nations, promoting a more inclusive approach to global tax policy.

Table 2: PESTLE Analysis of the Transition from OECD to UN for Germany

Factor	Analysis
Political	The transition from the OECD to the UN would require Germany to adapt to a more equal role within a broader group of states, losing its privileged position as a veto-wielding power within the OECD.
Economic	A shift to an UN-led system may reduce Germany's control over its tax base and lead to a less favorable distribution of taxation rights for developed nations. However, potential revenue losses could be offset by additional tax income from previously unreported profits under a globally coordinated tax framework.
Social	A reduction in tax revenues due to the transition from the OECD to the UN could impact social programs, public services, and infrastructure investments.
Technological	Excluded from the analysis.
Legal	Germany would need to align its domestic tax laws with new UN standards, which may conflict with existing OECD regulations. However, this transition could also lead to a more standardized and efficient global tax system.
Environmental	Excluded from the analysis.

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