



Remarks by

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Good morning, esteemed ladies and gentlemen.

I would like to thank the executives of the STEP LATAM branch for the invitation to bring remarks to you at this conference.

On December 22, 2023, the United Nations General Assembly adopted UN Resolution 78/230 - Promotion of inclusive and effective international tax cooperation at the United Nations, which followed a report of the Secretary-General on the same topic, and established a member state-led, intergovernmental committee for the purpose of drafting terms of reference for a United Nations framework convention on international tax cooperation. I represented CARICOM on the designated Bureau of the ad hoc international committee and represented The Bahamas on the committee.

Before discussing the process for agreeing the Terms of Reference for a United Nations framework convention on international tax cooperation, I think it's important to explain how we arrived at this historic juncture – one at which we are on the verge of upending a decades-long status quo when it comes to deciding global tax rules at the OECD, and instead having the United Nations play a much more significant role in making global tax policy.

Challenges with Current Global Tax System

There is a growing international consensus that first, there is significant room to enhance international tax administration and cooperation, and second, that many of the concepts underpinning the current international tax system tend to prefer the interests of the Global North, that is, the OECD members and developed countries, where the policies originate. Too often, the perspectives of nations in the Global South are not sufficiently considered, and rules are promulgated which do not support the progress and growth of developing nations.

The OECD's approach includes both substantive and procedural flaws. Non-OECD members have not been proportionately represented in developing OECD policy -- the Inclusive Framework's "inclusivity" is mostly rhetorical and symbolic. The nations of the Global South currently face an array of serious and complex challenges, and if decision-making on the most important policy issues which affect us, including taxes and tax cooperation, are to be considered truly fair and inclusive, our voices must be heard. This fundamental principle should not be controversial.

OECD Disparities

According to Assaf Harpaz, in his article entitled, "International Tax Reform: Who Gets A Seat At The Table" (2023):

"The new rules undermine the principle of tax sovereignty by limiting autonomous discretion on tax policymaking and coercing non-members

and low-tax jurisdictions into cooperation. They continue to reflect the interests of the world's developed economies and disregard the revenue needs of developing ones, offering a limited redistributive outcome (Harpaz, 2023 at, page 1014).

Typically, global tax initiatives and scrutiny have focused on international financial centres of the Global South, including in Latin America and the Caribbean, and on profit-shifting strategies used by powerful digital technology companies. But is the heavy focus on regions in the Global South truly justified, or are we looking at hypocrisy and double standards? Consider this: OECD nations account for 78% of worldwide tax losses. In addition, the OECD is powerless to prevent its members from engaging in abusive behaviour. The Tax Justice Network, "State of Tax Justice", reports for 2020, 2021, and 2022, and now for 2023, show that OECD member countries and their dependent territories are consistently responsible for approximately 70% of global cross-border corporate profit

shifting and tax evasion, and approximately 90% of all taxes lost due to offshore evasion by high-net-worth individuals.

As you are aware, the term "Global South" describes the economically developing countries of the world in Africa, Latin America, The Caribbean, Oceania, and parts of Asia, while the Global North is comprised of wealthy, industrialized countries in Europe, North America, and some parts of East Asia. The Global South is home to a large portion of the world's population and is also home to most of the world's natural resources. Despite the wealth of resources, however, poverty, inequality, and political instability disproportionately affect the Global South. The Global South also tends to be more vulnerable to the effects of climate change, natural disasters, and other environmental challenges.

While the climate crisis was largely created by the carbon emissions of industrialised countries, the effects of a warming climate are landing disproportionately on countries like mine, The Bahamas. We have the

unfortunate distinction of consistently ranking as one of the nations most vulnerable to climate change. This injustice is compounded by the arbitrary blacklisting of these same vulnerable countries such as The Bahamas -- from the very same countries whose economic development was built with the carbon emissions that are warming oceans, destroying coral reefs, and making hurricanes more destructive.

The substantive rules developed through the OECD initiatives frequently ignore the needs and priorities of developing countries -- and in any case, frequently cannot be implemented by our countries, given both our serious resource constraints and urgent human needs.

Even if developing nations technically had an equal say in agenda-setting and policy choices at the OECD -- which, by the way, has never seriously been considered -- we have considerably less access to technical expertise in international tax matters than OECD and G20 members.

This resource gap between OECD members and non-members has several aspects: There are fewer experts with sufficient technical expertise. Under-resourced governments send fewer representatives to fewer sessions, and when delegates are able to attend, they frequently find it difficult to stand up to the delegates from wealthy and more powerful nations (with whom many Global South countries have important security, trade, and other partnerships). Even experienced, well-trained delegates are at a disadvantage if they do not attend all meetings. This disparity is accentuated further by the comity among delegates from the more affluent nations, who typically have longstanding professional relationships and well-developed peer networks. As a practical matter, delegates from less developed countries feel subjected to systematic pressure by well-organized OECD officials and country delegates.

There is a need for renewed multilateralism. The revitalized multilateralism should, first and foremost, help to shape more effective and fair global governance arrangements. The international governance

structure is out of date, both in terms of power allocation among nations and its mostly state-based nature. As multilateralism grows in complexity, the Global South must be adequately represented, resourced, and empowered.

Inequality of Current Tax System

While perfect equality among diverse nations may be unattainable, equitable representation and balanced decision-making processes are crucial for advancing fairness, promoting global cooperation, and addressing the needs of both developed and developing countries.

We are not there yet, to say the least.

In fact, inequality and discrimination are embedded in today's multilateral tax architecture. For example, the EU's unique tax-haven blacklisting assessment process considers not only whether the OECD's standards are satisfied, but also The EU's Code of Conduct. The EU views its Code of Conduct as binding on all countries, not only its member states, and this

is not by consensus. In truth, the EU lacks the legal and ethical legitimacy to apply its Code of Conduct to any nation without its approval. However, The EU superimposes its authority on non-member countries through the backdoor of the non-inclusive OECD. Against this backdrop, countries like The Bahamas and those who make up the Global South are forced to comply by way of threat of punitive action from multiple international bodies.

Under the current OECD framework, a country is deemed to agree to a proposal where it fails to raise an objection. There is no requirement for an “opt-in”. Hence, governments which cannot keep up with the pace of the measures, or who do not have the opportunity to articulate an opinion, are counted as supporting the OECD proposal. Non-voting members have consistently taken issue with the lack of a formal voting process and the need for more openness about decisions. Developing countries do not have voting rights within the OECD, and the OECD does not inherently represent their interests. We do not have "full participation in agenda

setting and decision-making". The process is flawed, inequitable and unfair. The process needs to be revised.

United Nations is the Proper Forum

The United Nations is the appropriate body to design and build a truly equitable and inclusive international tax administration architecture. The OECD cannot declare legitimacy for developing "universal outputs" while decision-making and membership remain exclusive. We need a clean slate. The United Nations must now direct international tax policymaking as it has customarily been a more inclusive body for developing countries concerning international taxation.

The United Nations differs in important ways from the OECD. It has 193 member countries, a far larger scope, and functions on a one-country, one-vote basis. Developing nations have veto power in the United Nations. Unlike within the OECD, these countries can influence the organization's direction, particularly its tax requirements. As a result, it is better positioned to explore more significant international tax ideas that may

help developing nations' specific requirements. A more inclusive method will contribute to better substantive outcomes and should address the tax concerns that are important to developing countries.

The current international tax structure has aided in the subjugation of the Global South. Furthermore, neither bilateral tax treaties with affluent nations nor global cooperation have sufficiently benefitted developing countries. Institutional difficulties can only be addressed under a United Nations framework. Currently, poor nations are being penalized by unilateral pronouncements and are being blacklisted by forums and groups in which they have no say. The United Nations has the authority to convene and oversee an inclusive tax cooperation initiative.

Resolution 78/230. Promotion of inclusive and effective international tax cooperation at the United Nations

On December 22, 2023, the United Nations General Assembly passed Resolution 78/230 which called for the promotion of inclusive and effective international tax cooperation at the United Nations. Specifically,

the Resolution established a Member State-led, open-ended ad hoc intergovernmental committee for the purpose of drafting terms of reference for a United Nations framework convention on international tax cooperation. In preparing the terms of reference, the committee was requested:

- (a) To take into account the needs, priorities and capacities of all countries, in particular developing countries;
- (b) To take a holistic, sustainable development perspective that considers interactions with other important economic, social and environmental policy areas;
- (c) To consider the need for sufficient flexibility and resilience in the international tax system to ensure equitable results as technology and business models and the international tax cooperation landscapes evolve;
- (d) To take into consideration the work of other relevant forums, potential synergies and the existing tools, strengths, expertise and complementarities available in the multiple institutions involved

in tax cooperation at the international, regional and local levels;

and

- (e) To consider simultaneously developing early protocols, while elaborating the framework convention, on specific priority issues, such as measures against tax- related illicit financial flows and the taxation of income derived from the provision of cross-border services in an increasingly digitalized and globalized economy;

Resolution 78/230 was approved with a vote of 111 in favor, 46 against with 10 abstentions. It is of note that all OECD members voted against or abstained from voting on the resolution. This was a historic vote where countries of the Global South remained unified in their vote and support for a common cause - to have the United Nations lead the charge to begin a new international tax framework that demonstrates a commitment to equal-footed participation and governance.

Negotiation of Terms of Reference

The approval of Resolution 78/230 was just the first step. In February, May and August, we held a series of negotiations at the United Nations to draft the terms of reference. The negotiating sessions and the subsequent vote – 110 countries in favour, 8 votes against, and 44 abstentions – again underscored the divide between the Global North and the Global South, with the United States, the United Kingdom, and Canada all voting against the terms of reference – and no OECD countries voting in favour. On a more positive note, while 46 countries voted against Resolution 78/230, only 8 countries voted against the terms of reference.

Throughout the negotiations, there were clear themes of objection from the Global North.

Consensus

One such theme was that decisions regarding the Framework Convention should be made by consensus, as opposed to simple majority or even a super majority. The argument for consensus posits that broad support is required to ensure the success of the UN process and ultimate framework

convention, or any project on international tax cooperation. Many countries in the Global South viewed this position as an attempt to give Global North countries veto power. There is a complete lack of trust on this issue of decision-making – and given the vote on the resolution and terms of reference, that lack of trust in my opinion is justified.

Complementarity

Countries in the Global North also focused on the language in the resolution that provided the committee “[t]o take into consideration the work of other relevant forums, potential synergies and the existing tools, strengths, expertise and complementarities available in the multiple institutions involved in tax cooperation at the international, regional and local levels.” They argued that this language in the resolution established that work done by the OECD and other multilateral organizations should be preferred and take priority. Of course, countries in the Global South did not interpret this clause so broadly – as the rationale motivating the UN framework tax convention rests on evidence that established protocols and tax frameworks are discriminatory, the result of not-inclusive

decision-making, with uneven enforcement and application of tax rules across regions.

The existing international tax establishment does not take into consideration Special & Differential Treatment for developing countries, low-income countries, and countries with unique characteristics such as small island developing states.

As such, everything should be on the table for discussion and the approach should be broad-based. Complementariness is important for reference in establishing the framework convention, but OECD rules should not be assumed as the dominant position on any of the issues.

Policy and Procedure Areas

There are other policy and procedure areas that the Global North advocated for in the negotiations for the terms of reference. For example, although Resolution 78/230 called for early protocols, generally the Global North took the position that there should be no simultaneously

drafted early protocols. We insisted that early protocols be drafted simultaneously with the Framework Convention. We viewed their position on this matter as an effort to delay and stall progress on the implementation of the Framework Convention.

Terms of Reference

Despite the intense negotiations, and the disagreement on certain material elements of the Terms of Reference, the final Terms of Reference were approved by the ad hoc committee on August 16, 2024. The approved version can be found at on the STEP LATAM website. Several elements were successfully included which I believe bode well for the Global South.

The Bahamas and other developing countries advocated for a number of key items of importance for our country and for other small island developing states. Specifically negotiated positions include:

- Ensuring a key principle of the Convention is that it is universal in approach and scope, and should fully consider the different needs, priorities, and capacities of countries in special situations, which includes Small Island Developing States.
- Ensuring that the Convention addresses the connection between environmental concerns and global tax policy, by ensuring as a principle and a commitment that the Convention takes a holistic, sustainable development perspective that covers in a balanced and integrated manner important economic, social and environmental policy aspects;
- Ensuring that the pursuit of international tax cooperation be aligned with States' obligations under international human rights law. This would allow for the protection of the right to development in the context of global tax rules. This is an important element in our fight against unilateral blacklists.
- In addition, the Convention must include protocols addressing the effective prevention and resolution of tax disputes. This is crucial

for ending the use of unilateral and discriminatory blacklists as a dispute resolution mechanism.

As many of you know, there were additional positions taken by the Global South countries; countries from Latin America, for example, proposed the consideration of a wealth tax. The final Terms of Reference agreed that the framework convention should have a commitment addressing tax evasion and avoidance by high-net worth individuals and ensuring their effective taxation in relevant Member States. Countries in this region, like The Bahamas, also advocated for the linkages between global tax policy and human rights.

The intergovernmental negotiating committee is to meet in 2025, 2026, and 2027, for at least 3 sessions per year, for a duration of no more than 10 working days per session. Work is scheduled to be completed, and the final text of the framework convention submitted, along with two early protocols to the General Assembly for its consideration, by the first quarter of the eighty-second session.

Regarding the two early protocols to be developed simultaneously with the framework convention: One will address taxation of income derived from the provision of cross-border services in an increasingly digitalized and globalized economy. The subject of the second early protocol should be decided at the organizational session of the intergovernmental negotiating committee and should be drawn from the following specific priority areas:

- a. taxation of the digitalized economy;
- b. measures against tax-related illicit financial flows;
- c. the prevention and resolution of tax disputes; and
- d. addressing tax evasion and avoidance by high-net worth individuals and ensuring their effective taxation in relevant Member States.

The Bahamas looks to be active in these negotiations, ensuring that matters important to the Global South, to Small Island Developing Countries, and to our own national interest become part of the global tax architecture. We understand the hesitancy that might exist at the United

Nations, as impactfully articulated by President Javier Milei in his recent contribution at the UN General Assembly, however in this instance, we agree with the African nations who argue that this work to develop the Framework Convention on International Tax Cooperation might be one of the most important processes at the United Nations as championed by our constituency, the Global South.

We are moving towards a new era, in which tax cooperation and the enforcement of tax rules will be more even-handed, more just, more inclusive, and more effective.

Insight Into Framework Convention Negotiations

As we enter the negotiations on the Framework Convention, I anticipate continued divergence of views between countries of the Global North and Global South. It is anticipated that the issues of consensus decision making will continue to be discussed. In the explanation for their vote against the Terms of Reference the United States specifically indicated this. I also anticipate that there will be significant discussion on the topic

of the second early protocol. As mentioned, the committee will select the topic of the second early protocol and there will be many countries that argue in their national interest.

I also anticipate that there will be significant discussion among the countries of the Global South on the early protocol topic, as well as other important elements of the framework convention. It is important, despite a country's individual advocacy, that the countries of the Global South remain unified on the common issues of drafting the convention.

Conclusion

As I conclude my remarks on this note of optimism, I note the importance of addressing head-on a number of practical issues in order to strengthen international tax cooperation while also addressing development goals. These include assisting countries in exercising their taxing rights, mobilizing resources to invest in the Sustainable Development Goals (SDGs) and climate action, and promoting SDG-aligned fiscal policies. We must seize this opportunity to introduce equity and fair play to global

tax administration. We stand at the cusp of an opportunity that could lay down the foundational principles for a truly inclusive international tax cooperation framework. The United Nations is more appropriately placed than the OECD to achieve this.

The Bahamas, with much conviction, joins with our brothers and sisters of the "Global South", in both issuing and answering the call to create a new international tax era characterized by a commitment to inclusive participation and governance. The OECD has for many decades supported the interests of the world's established economies and generally ignored those of emerging nations. While the OECD controls global tax policy, it consistently ignores the consequences of its agenda for non-members who are excluded from critical phases of policy design and diplomatic negotiation.

An unfair system produces unfair rules which are then enforced unfairly – this is not a system that should continue unchallenged.

That which is unreasonable and unjust can and must be changed.

In matters concerning international tax policies, tax administration, and tax cooperation, we look forward to ushering in a new day for The Bahamas, the Caribbean and the Global South.