GENEVA CENTRE FOR HUMAN RIGHTS ADVANCEMENT AND GLOBAL DIALOGUE

HUMAN RIGHTS COUNCIL – 57th SESSION

Biennial Panel on the Right to Development

Theme: Realizing the right to development: the case for a United Nations framework convention on international tax cooperation

18 September 2024

Mr Volker Türk, United Nations High Commissioner for Human Rights, opened the biennial panel discussion by underling its importance. Over the next ten years, States are projected to lose nearly US$ 5 trillion to tax evasion and avoidance. These massive shortfalls create often insurmountable obstacles to the realization of the right to development, as well as many other human rights that require principled, equitable investment. Such investment can only be realized through domestic or international revenue mobilization. In some developing nations, such practices drain away the equivalent of half the public health budgets. This robs the State of the capacity to invest properly in the rights to health, education, development, a clean, healthy, and sustainable environment, and other essential progress towards the Sustainable Development Goals.

The right to development seeks to identify and dismantle the systemic and structural obstacles that impede the realization of human rights. The nexus of issues related to tax evasion and avoidance creates a very significant obstacle.

The High Commissioner welcomed Member States actions, including the African Group initiative to promote a more inclusive and effective international tax cooperation; the adoption of the Terms of Reference for a United Nations Framework Convention on International Tax Cooperation by the Ad Hoc Committee was an important step in this direction; as well as the Brazil's proposal to ensure a global minimum 2% tax rate on some 3,000 so-called "super-rich" individuals.

In conclusion, he highlighted the necessity of a fair and just global economy, by reforming global tax rules; ensuring that multinational corporations pay their fair share of taxes in all countries where they operate; elevating the global minimal corporate tax rate; and promoting financial transparency, integrity and accountability – including through public reporting of corporate profits; curbs to the operations of tax havens; and more efficient and transparent national tax regimes, including progressive tax policies on income and wealth. Promoting justice and social cohesion and reducing inequalities within and between States through a more equitable share of the benefits of development, will promote more stable, more respectful, and more peaceful societies in every region.

Mr Surya Deva, Special Rapporteur on the right to development, stressed the importance of discussing interlinkages between the right to development and the proposed UN framework convention on international tax cooperation. Like other human rights, realizing the right to development requires the availability of sustained resources, and taxation provides States with a stable pathway to generate resources. However, tax avoidance and tax evasion by corporations are a major barrier to raising adequate financial resources. The evolution of the digitalized economy has made it easier for corporations to bypass domestic tax regimes. The combined result is that developing countries, that are most in need of resources, are disproportionately impacted by these taxation challenges. Due to an interconnected global economy, these challenges require a global response through the proposed framework convention.

He argued that taxation is essentially a human rights issue: who should pay how much tax and how the collected revenue should be spent has a direct bearing on the realization of all human rights. Human rights standards should inform international tax cooperation in at least five ways: 1) taming tax evasion, tax avoidance, illicit financial flows, and tax heavens will require genuine international cooperation; 2) an international tax system, to be fair and equitable, would have to go beyond formal equal treatment; 3) fair distribution is one of the overarching principles of the right to development; 4) a global tax framework should be designed to raise resources to address the triple planetary crisis; and 5) people have a right to participate in governments deciding how much revenue is spent on what.

Ms Anastasia Nesvetailova, Head of the Macroeconomic and Development Policies Branch at the United Nations Conference on Trade and Development, stressed the importance of the discussion when the international financial architecture in its debt, trade-related, and developmental finance aspects are inadequate and too small to accommodate the needs and systemic challenges of developing countries.

The UN Convention aims to be more inclusive, transparent, and equitable. At the same time, taxation is only part of the developmental challenge, and therefore right to taxation is only one part of a fully systemic quest for development rights. She provided two examples of how taxation is only one of the very critical and important dimensions of the challenge to build capital institutions and developmental resources in your host economies which, of course, most painfully affect developing countries, least developed countries, and heavily indebted countries.

She concluded by saying that the UN initiatives close current gaps in trade and financial governance and architecture. She also noted that taxation is part of a bigger problem of corporate capacity, arbitrage, and fragmentation, and these issues need to be addressed much more squarely and they should not be lost from the focus of policymakers at any level but especially at the UN level.

Mr Abdul Muheet Chowdhary, Senior Programme Officer of the Sustainable Development and Climate Change Programme at the South Centre, focused on the failure of the Organisation for Economic Co-operation and Development (OECD)'s rules in stopping tax-related illicit financial flows (IFFs). The design of the rules makes it clear that tax avoidance can continue under the OECD Global Minimum Tax. Multinationals can continue paying zero under the so-called "Minimum" Tax. The OECD Global Minimum Tax restricts the ability of developing countries to attract investments in high technology and other sectors and move up in the value chain and, hence, undermines the development efforts of developing countries.

The UN Framework Convention on International Tax Cooperation (UN FCITC) also has a major role to play in providing the world with a viable solution for taxing the digital economy. In stopping the tax-related illicit financial flows, the UN Protocol should include a universal and intergovernmental agreed definition of tax-related illicit financial flows that includes tax avoidance; a solution for intra-group payments of royalties, interest, dividends, and fees for services; and standards and guidelines for taxpayers and enablers of IFFs to commit to reporting aggressive tax planning schemes; among others. He further added that having a wide diversity of Digital Services Taxes can increase compliance costs and uncertainty for businesses and, for this reason, a protocol to the UN FCITC on taxing income from cross-border services can provide a standardized and harmonized approach to Digital Services Taxes.

In conclusion, the UN FCITC is expected can establish an inclusive, fair, transparent, efficient, equitable, and effective framework to introduce equitable international tax rules that provide all countries, particularly developing countries, with additional resources that can help realize the Right to Development.

Ms Sanya Reid Smith, Legal Advisor and Senior Researcher at Third World Network, affirming that the current trade and investment treaty negotiations could undermine the effectiveness of the UN framework convention on international tax cooperation, listed a few examples concerning the digital economy, the prevention of transfer pricing rules' abuse, and on tax evasion's prevention.

She concluded that although a UN tax convention could be an important enabler for the right to development, it is unfortunately already being undermined by provisions being negotiated and agreed upon in trade and investment agreements which are enforceable via ISDS and states suing each other at an international tribunal with the winning country being able to raise the tariffs on the losing country until it changes its tax laws etc to comply.

Interactive dialogue

31 country delegations took the floor during the interactive dialogue. **The majority of the countries** thanked the organizers for arranging such an important event and focusing the attention of the Human Rights Council on the state of implementation of the right to development. **Member States** considered the right to development an inherent right whose implementation affects the enjoyment of various human rights, and places development at the forefront of the priorities of the government's work program, in the implementation of the goals of the National Strategy for Sustainable Development 2030. As **the ASEAN** affirmed implementation of the right to development requires effective development policies at the national level as well as equitable economic relations, international cooperation, and a favorable international economic environment. **Uganda and the NAM** affirmed that the UN framework convention on international tax cooperation will strengthen international tax cooperation and make it fully inclusive and more effective**. The EU** highlighted its strong focus on promoting efforts that reduce inequalities under the principles of meaningful and inclusive participation and access to decision-making; non-discrimination and equality; accountability and rule of law for all; transparency and access to information, and non-discrimination. The full and non-discriminatory realization of all human rights is a pre-condition to achieving inclusive and sustainable development. Sustainable development should not be undermined by tax avoidance, evasion, or due to tax-related illicit financial flows.

The Bahamas and the CARICOM Group stressed that for over six decades, the international tax system, dominated by the OECD, has failed to address the development challenges of the Global South. CARICOM nations, as Small Island Developing States (SIDS), have faced systemic inequities that stifle growth and undermine the right to development. Compounded with the ongoing natural disasters induced by climate change, this highlights the urgent need for global tax reforms that support economic resilience and enable us to recover and rebuild sustainably.

The Arab Group stressed that the right to development requires the removal of all obstacles that are faced by developing countries to access suitable funding and to bridge the digital and technological gap. **Venezuela** considered that the impact of the UCMs should be part of the various studies and look at the barriers to development for the countries that are victims of these criminal actions. Inclusive, and efficient tax cooperation measures should take into account the needs of countries in development.

NGOs highlighted that the Right to Development underscores the importance of creating an enabling environment where all individuals can realize their full potential and lead dignified lives. It requires international cooperation and solidarity. The UN Framework Convention on Tax Cooperation can be a landmark in this regard to ensure that countries have the necessary resources to provide essential services, reduce inequality, strengthen domestic tax systems, and address illicit financial flows. The **APG23** expected such a convention to establish an inclusive, fair, transparent, efficient, equitable, and effective international tax system that can produce equitable international tax rules that provide all countries, particularly the so-called Developing countries, with additional resources and contribute to sustainable development. However, with unilateral sanctions, the realization of the right to development still faces significant challenges.

Delegations that took the floor during the Interactive dialogue (31 country delegations):

Indonesia (on behalf of the Association of Southeast Asian Nations (ASEAN), European Union, United Arab Emirates (on behalf of Group of Arab States (Arab Group), Uganda (on behalf of the Movement of Non-Aligned Countries (NAM), Bahamas (on behalf of a group of countries), France, India, Panama, Algeria, Lao People's Democratic Republic, Luxembourg, Honduras, Iran (Islamic Republic of), Philippines, Belarus, United Republic of Tanzania, Zimbabwe, Viet Nam, Ethiopia, China, Tunisia, Botswana, Iraq, Egypt, Maldives, Malaysia, Colombia, Burkina Faso, Venezuela (Bolivarian Republic of).

NHRIs and NGOs that took the floor during the Interactive dialogue (11):

Associazione Comunita Papa Giovanni XXIII, Association of Iranian Short Statured Adults, Rahbord Peimayesh Research & Educational Services Cooperative, Global Institute for Water, Environment and Health, Amnesty International, Beijing Guangming Charity Foundation, International Youth and Student Movement for the United Nations, Beijing NGO Association for International Exchanges, Rajasthan Samgrah Kalyan Sansthan, "ECO-FAWN" (Environment Conservation Organization - Foundation for Afforestation Wild Animals and Nature), Shaanxi Patriotic Volunteer Association.

To watch the full meeting refer to UN Web TV.