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What is Tunisia's position in the pursuit of reforming international tax rules?[1]

Recently, efforts to combat Illicit Financial Flows (IFFs) and promote Domestic Resource Mobilization increased more than ever after the United Nations General Assembly adopted in late 2022 a resolution on enhancing international tax cooperation through which all Member States committed themselves to launch an intergovernmental tax process under the United Nations to assess options for action, including the establishment of a new framework for international cooperation on tax matters [2].

This issue was discussed during a side event of the United Nations General Assembly «The Road to the UN Tax Convention» [3], organized by Financing for Development Forum FfD [4], under the United Nations Economic and Social Council, ECOSOC, with the participation of key speakers from civil society organizations that were involved in the drafting and advocacy of the UN resolution to establish the UN Tax Convention, namely Tax Justice Network Africa [5], Global Alliance for Tax Justice [6], Third World Network [7] and European Network on Debt and Development [8].

During the event, key speakers stressed that the UN tax resolution adoption was historic and the most exciting thing to the ones who were campaigning to bring tax negotiation to the UN. This initiative follows the recognition of the impossibility of such decisive reform under the umbrella of the Organization for Economic Cooperation and Development (OECD), which has had a monopoly on international tax rules over the last 50 years.

The Global Tax Agreement, Two Pillar Solution, was the last straw for the Global South. It is an Agreement established by the OECD in 2021 as part of their continuous work on combating Base Erosion and Profit Shifting BEPS in what is called the Inclusive Framework that seeks a fair division of taxes between different countries through a 15 percent minimum tax and determination of ways of taxing the digital economy [9].

Inclusivity was absent from this Inclusive Framework, which has been established by developed countries while developing countries were and always are rule-takers without being included in discussions or enactment of agreements. In addition, studies have demonstrated the negative implications of this agreement for

[1] This article is based on a Policy Brief published by the Tunisian Observatory of Economy (Tax incentives in North Africa: Will the Global Tax Agreement be able achieve its goals in reducing tax competition and granting more tax revenues for North Africa countries?) and to the deliberations of the side event "Road to UN Tax Convention" held on 17 April 2023

[2] Tax Report 2023 | Financing for Sustainable Development Office (un.org)

[3] The Road to a UN Tax Convention (Financing for Development Forum 2023 Side Event) | UN Web TV

[4] Financing for Development Forum 2023 | Financing for Sustainable Development Office (un.org)

[5] Tax Justice Network Africa (TJNA) (taxjusticeafrica.net)

[6] Home page - Global Tax Justice

[7] Welcome to Third World Network (TWN)

[8] Eurodad

[9] Global Tax Agreement – Perspectives from Tunisia | Rosa Luxemburg Stiftung (rosaluxna.org)

the global south, which will result first in the loss of taxation rights and second in the loss of legitimate tax revenues, which will eventually lead to the institution of tax injustice on the global level [10].

This led the African Group to table the UN Tax resolution with the support of civil society organizations that initiated the reform of global tax rules within the framework of the United Nations where international tax issues will be discussed on an equal footing that ensures that the voice of the Global South is being heard, which was absent from what is being done under the OECD.

In its present form, the international tax system, as suggested by OECD, would allow profits to be diverted from the Global South to the Global North by upholding the interests of developed countries, where MNEs headquarters are located, over those of the South, where natural resources are being extracted and exploited and profits are being generated.

With contravention of international principles which stipulate that each State has the right to exploit its natural resources and prevents any State from undermining another State's right to exploit its own resources [11].

This principle also applies to the wealth created in the countries of the Global South for subsequent transfer to the countries of the Global North, undermining the countries of the Global South and their legitimate right to tax them.

OECD is also overturning the South's right to tax. For example, previous OECD agreements consider that subsidiaries of MNEs are independent of the parent company. This results in a situation where profits generated by subsidiaries in country A, usually a developing country, get transferred to the parent corporate, MNE that are in a developed country. And when it's time for the developing country to tax the profit of the subsidiaries, they find no profit to tax, since it was transferred to the parent corporation; the developed country.

Under the new agreement, the Two Pillar solution, MNEs, and their subsidiaries are considered as a single corporate, so a tax is imposed on only a portion of the profit that is divided between the country of origin, the developed country, and the country where the profits are made, developing country.

The GTA's scope of application is limited to the fact that the framework applies only to 100 MNEs.

This situation is further complicated by the ambiguity surrounding the GTA's fate. The French Finance Minister declared last February that «The United States of America, Saudi Arabia, and India are hampering the functioning of the agreement, thereby diminishing its chances of success,». He also noted that, if the

[10] Tax incentives in North Africa: Will the Global Tax Agreement be able achieve its goals in reducing tax competition and granting more tax revenues for North Africa countries? | Tunisian Observatory of Economy (economie-tunisie.org)

[11] International Law and Natural Resources Policies (unm.edu)

[12] US, India and Saudi Arabia Are Blocking OECD-led Pillar One, French Finance Minister Says | IBFD

[13] Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS - OECD

[14] المطبعة الرسمية للجمهورية التونسية (iort.gov.tn)

[15] Liste noire : Que révèlent les correspondances entre la Tunisie et l'Union européenne ? – Inkyfada

[16] Members of the OECD/G20 Inclusive Framework on BEPS joining the Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy

[17] Direction Générale des Impôts-Tunisie on LinkedIn: #direction générale des impôts tunisie #dgi tunisie #ocde #civisme fiscal

[18] Direction Générale des Impôts-Tunisie on LinkedIn: #direction générale des impôts tunisie #dgi tunisie #ocde #évasion fiscale…

[19] Tax incentives in North Africa: Will the Global Tax Agreement be able achieve its goals in reducing tax competition and granting more tax revenues for North Africa countries? | Tunisian Observatory of Economy (economie-tunisie.org)

Global Tax Agreement – Perspectives from Tunisia | Rosa Luxemburg Stiftung (rosaluxna.org)

GTA fails, European Union countries must take the initiative, which France had already begun by taking the decision to tax MNEs operating in the digital economy [12].

At the national level, it was published in the Tunisian Official Gazette a decree No. 26 of 2023 concerning the approval of the multilateral convention to implement tax treaty-related measures to prevent BEPS approved in Paris on 24 November 2016 [13] (BEPS 2016) and signed by the Tunisian Republic on 24 January 2018 [14]. It should be noted that this signature was the result of pressure by the European Union that reached the point of extorting Tunisia by placing it on a Blacklist of non-cooperative jurisdictions for tax purposes along with countries classified as tax havens. Tunisia was later withdrawn from the list when the BEPS 2016 was signed in 2018. [15]

Regarding the Global Tax Agreement, Tunisia is among the countries that joined the October 2021 Statement on a Two-Pillar solution to address the tax challenges arising from the digitalization of the economy as of December 16th, 2022 [16]. Tunisia has officially endorsed the Inclusive Framework, but no further information is available on whether the Tunisian administration has assessed the agreement's compatibility with the national legislation and context.

It should be recalled that the decision to levy a tax on the digital economy of 3 percent was adopted in the Tunisian State Budget of 2022 and has not yet entered into force. Is the implementation of the tax on the digital economy deliberately abandoned in preparation for the implementation of the Global Tax Agreement, which states that no tax shall be imposed on the digital economy?

The Tunisian General Directorate of Taxes published news about organizing training workshops for administration officials about digital economic taxation [17] and fighting tax evasion [18] delivered by OECD experts at the directorate headquarters in Tunisia, where the Tunisian administration praises the OECD expertise. This appears as paradoxical and points out Tunisia's isolation from the ongoing attempts to reform international tax rules.

Several studies published [19] highlighted the failure of the OECD's policies to guarantee Global South tax rights and to protect their tax revenues and criticized its conventions and practices at the national, continental, and international levels. This criticism has created a course of action to reform international tax rules within the framework of the United Nations to ensure comprehensive negotiations for all countries South and North on an equal footing in a democratic way where the existence and rights of developing countries are respected. In the meantime, the Tunisian administration continues to adopt the OECD's conventions and relies exclusively on them for technical assistance.

Currently, Tunisia only endorsed the Global Tax Agreement officially and is not obliged to implement it if it does not sign it. Our country still has the opportunity to review its options and take a proactive step to guarantee its sovereign rights to tax and to contribute to the creation of a more representative space for the Global South. The United Nations Secretary-General recently published a call for inputs on the promotion of inclusive and effective tax cooperation at the United Nations [20], in which Morocco and Nigeria already participated.

[20] Inputs | Financing for Sustainable Development Office (un.org)

Accordingly, the Tunisian Observatory of Economy calls upon the Tunisian State to take advantage of this opportunity by sending its inputs to strengthen tax cooperation. The deadline to submit inputs is the end of May and TOE calls on the Tunisian decision-maker to seize the opportunity to be on the right side of the history of reforming international tax rules.