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At the Table, Off the Menu? Assessing the Participation of Lower-Income Countries in Global Tax Negotiations

Summary of ICTD Working Paper 115 by Rasmus Corlin Christensen, Martin Hearson and Tovony Randriamanalina

The organisation of global tax policy decision making

For half a century, the most influential international rules and standards for taxing multinational corporations have been formulated by a select group of developed countries, the OECD, with lower-income countries on the outside. Since 2013, this has changed: decision making at the OECD has moved to the 'Inclusive Framework' (IF), which today encompasses 137 jurisdictions. There is a lively debate about the extent to which the IF is truly a level playing field for lower-income countries.[1]

During late 2019 and 2020, we interviewed 48 negotiators, policymakers and other stakeholders in the IF. We also examined attendance records from OECD working party meetings and published policy documents. We assessed seven OECD and IF policy case studies and one comparison case at the United Nations (UN) Tax Committee (Table 1). This is the first comprehensive, micro-level, comparative account of lower-income countries in these institutions. Our study does not interrogate institutional legitimacy, but it does shed light on the appropriateness of particular institutional forms for addressing current cooperation needs.

The IF's expansion has made little difference to the number of lower-income countries attending meetings at which the practical technical policy work is done, and most members are fairly silent participants. This is partly because of well-documented structural obstacles not unique to the IF, but is exacerbated by some aspects of the OECD's decision-making processes, such as the pace and intensity of discussions, the culture of policymaking, the costs of attending regular meetings in Paris, and the absence of routine and timely translation of documents and meetings. This can make the OECD a daunting environment for member state delegates, but especially for those from lower-income countries. In addition, many have joined with no intention of influencing standards, but rather in pursuit of technical assistance or prestige, or under coercion from the European Union.

Table 1 Policy case studies

Venue	Dates	Case
OECD BEPS project	2013–15	'Sixth method' of transfer pricing
		Country-by-country reporting by multinational enterprises
		Mandatory binding arbitration
Inclusive Framework	2017–18	Guidance on attribution of profits to permanent establishments
		Profit-split method example
		Hard-to-value intangibles
	2018–19	Significant Economic Presence
UN Tax Committee	2012–15	Technical service fees

[1] See ATAF (2019) *The Place of Africa in the Shift Towards Global Tax Governance: Can the Taxation of the Digitalised Economy Be an Opportunity for More Inclusiveness?* Pretoria: ATAF; Christians, A. and van Apeldoorn, L. (2018) The OECD Inclusive Framework', *Bulletin for International Taxation*, April/May 2018; and Valderrama, I. J. M. (2018) 'Output Legitimacy Deficits and the Inclusive Framework of the OECD/G20 Base Erosion and Profit Shifting Initiative', *Bulletin for International Taxation* 72.3: 160–170.

Table 2 Mechanisms of lower-income country influence

		Driver of change	
		Lower-income countries	Others
Level of analysis	States	Collaboration	Association
	Individuals	Individual authority	Anticipation

How can lower-income countries influence decision making?

This is not the whole story, however. In practice, the interests of lower-income countries are often advanced by a few influential individuals. Some are from lower-income IF member countries, but others are from non-IF countries in observer roles, secretariats of international and regional tax organisations, G20 and OECD countries, or civil society organisations. Drawing on the literature on lower-income countries' participation in economic diplomacy, we identify four change mechanisms in favour of lower-income countries (Table 2).

Association. Lower-income countries can make the most of reforms pursued by more powerful OECD or G20 states. In case studies relying on this mechanism, such as the 'sixth method' case study, agreed outcomes do not align with lower-income countries' needs as well as they could have done, and uptake may be limited as a result.

Anticipation. Influential individuals, including secretariat staff and delegates from more powerful countries, can identify and promote lower-income countries' interests. These efforts are most successful when based on a template in the law and treaty practice of lower-income countries. It is also harder in a forum such as the IF that requires consensus rather than majority support. These differences may explain lower-income countries' embrace of the output from the technical service fees case study in comparison to country-by-country reporting.

Collaboration. Lower-income countries need to work together, and with other countries with common interests. Such collaborations are exemplified by the African Tax Administration Forum (ATAF) and the Group of 24 (G24). The record of success here is positive for small changes aimed at securing lower-income countries' policy space. The only case study that was a major change proposed (in part) by lower-income countries – Significant Economic Presence – had little impact in technical terms, but influenced the terms of debate.

Individual authority. Lower-income countries' representatives can be personally influential if they have the necessary expertise, personal experience and networks. This is frequently the glue that holds together collaborations, and it is an enabling factor for good anticipation. Helping individuals to reach such a point, keeping them in government roles, and maintaining them as consistent representatives will be a hugely significant determinant of lower-income countries' effective participation at the IF and the UN Tax Committee.

Increasing effective participation

Although achievements through these dynamics to date are modest, there are signs of incremental progress towards more effective participation by lower-income countries. To enhance this further, we point to potential initiatives in three areas:

- Addressing structural obstacles to individual authority by supporting a representative cohort of delegates from lower-income countries to develop deep knowledge, experience and networks.
- Building an ecosystem of South-South innovation, experience sharing and coalition-forming, enabling lower-income countries to design domestic/regional reforms based on their own experiences, rather than on OECD/G20 policy agendas.
- Changes to IF ways of working that recognise the different priorities and capacity of its lower-income members, and measure the success of their inclusion more appropriately.

Further reading

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Credits

Rasmus Corlin Christensen was recently awarded his PhD from the Copenhagen Business School. His main research interest is in the political and professional foundations of the rules and practices of international taxation. Based in Copenhagen, Rasmus works with the ICTD as a consultant on research and policy engagement related to global negotiations on taxing the digital economy.

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