

## THE UNITED NATIONS TAX CONVENTION

Second Session of the Ad Hoc Committee to draft terms of Reference for a U.N. **FRAMEWORK CONVENTION ON INTERNATIONAL TAX COOPERATION**



The University of Barcelona has been chosen by the United Nations as an accredited observer entity at the second session of the UN Ad Hoc Committee for the preparation of the draft terms of reference for a Tax Convention on International Tax Cooperation, held at the United Nations headquarters in New York from July 29 to August 14, 2024, with the participation of Professor Eva Andrés Aucejo<sup>1</sup>, as an accredited observer member representing the UB.

The second multilateral session of the Ad-Hoc Committee for the elaboration of the United Nations Tax Convention, held at the United Nations headquarters in New York during the aforementioned three weeks in the summer of 2024, is the result of the order made by the United Nations National Assembly (Resolution A/78/230, among others), for the elaboration of the preliminary draft terms of reference for a future United Nations Framework Convention on International Tax Cooperation, in line with the previous scientific research of the aforementioned researcher -Eva Andrés Aucejo- and her research group on international tax cooperation and global tax governance policy making.<sup>2</sup>

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<sup>1</sup> **Eva ANDRÉS-AUCEJO**. Full Professor of Financial and Tax Law. Director of the Review of International and European Economic law. Director of the Education and Law Review (SCOPUS-JCR/ESCI, WoS, Q-2). Researcher and consultant of the Global Forum on Law, Justice and Development of the World Bank (HCBM). Observer of the UN Tax Committee (2019-2024). Observer accredited at the second session of the United Nations AD-HOC TAX COMMITTEE to draft terms of reference for a UN framework convention on international tax cooperation. 20 July-16 August 2024.

<sup>2</sup> **Eva ANDRÉS-AUCEJO**: *For many years we have been defending the need to create a new framework convention on international tax cooperation which, attending the recent events, seems to finally become a reality once the terms of reference are drawn up. The new United Nations tax convention on international cooperation in tax matters involves a fundamental step in the history of global tax cooperation relations, not only because of the specific repercussions that an agreement of this nature can have, but also because, in our opinion, this new tax convention is the touchstone on which the construction of a new "Global Tax Order" can rest. Said new Global Tax Order, should include an architectural design of global tax cooperation relations, inspired by HUMAN RIGHTS and the rest of the economic, social, cultural and humanitarian rights of the international community. Editorial. ANDRÉS AUCEJO, Eva.*

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*The new UN TAX CONVENTION ON INTERNATIONAL COOPERATION IN TAX MATTERS as an essential pillar of a new GLOBAL TAX ORDER designed through a NEW INTERNATIONAL TAX ORGANIZATION. Review of International and European Economic Law. Oct-Nov. 10th, 2024 Vol. 3, N. 5, 2024.*

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- **OWENS, Jeffrey (Dir.), ANDRÉS-AUCEJO, Eva (main author), et alter. (2023)**: Toward a “Global Tax Legal Order” based on international tax cooperation, **HUMAN RIGHTS** and global tax governance for global sustainability, under United Nations centripetal force. UN Tax policy proposals (GLOVTAXORDER-- UNTAXPOLICY) , Review of international and European economic law, Vol. 1, N. 3, 2023, <https://www.rieel.com/index.php/rieel/article/view/36/59>.

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- **ANDRÉS-AUCEJO, Eva et alter (2023)**: Africa has spoken: Resolution A/C.2/77/L.11/Rev.1 of the United Nations General Assembly (Second Committee): “Promoting Inclusive and Effective International Tax Cooperation within The United Nations”, Review of international and European economic law, Vol. 1, N. 3, 2023 <https://www.rieel.com/index.php/rieel/article/view/33>.

- **OWENS, Jeffrey (Global director), ANDRÉS-AUCEJO, Eva (main author), et alter (February 2023)**. The universal institutionalization of International Tax Cooperation under the United Nations orbit in the new architectural design of a Global Tax Legal Order inspired by International Tax Cooperation, human rights and global tax governance. United Nations Tax Report [https://financing.desa.un.org/sites/default/files/2023-03/Andr%C3%A9s-Aucejo%2C%20Eva%20and%20Owens%2C%20Jeffrey\\_Input%20Tax%20Report.pdf](https://financing.desa.un.org/sites/default/files/2023-03/Andr%C3%A9s-Aucejo%2C%20Eva%20and%20Owens%2C%20Jeffrey_Input%20Tax%20Report.pdf).

- **ANDRÉS AUCEJO, E.** The United Nations last trends on International Tax Cooperation: a new UN Tax Convention and a new International Tax Organization. Review of International and European Economic Law. Oct-Nov. 10th, 2024 Vol. 3, N. 5, 2024, etc.

- **ANDRÉS-AUCEJO, Eva (2023)**. “Políticas fiscales para el Desarrollo sostenible en UCRANIA: A propósito de las agendas mundiales de Desarrollo sostenible con impacto en la movilización de recursos domésticos, la cooperación tributaria internacional y la gobernanza económica mundial” en Impactos de la Guerra de Ucrania. Dirs. GONZÁLEZ-BEILFUSS, C., NAVARRO-MICHEL, M., FERNÁNDEZ PONS, X., Marcial Pons, Diciembre, 2023.

- **ANDRÉS-AUCEJO, Eva (2023)**. Hacia una nueva arquitectura de la cooperación tributaria internacional institucionalizada en el siglo XXI, bajo el rol clave de Naciones Unidas: A propósito de la Resolución A/77/441 (29 dic. 2022) y del informe de la Secretaría General A/78/235 (julio 2023), de Naciones Unidas sobre Promotion of inclusive and effective international tax cooperation at the United Nations, en Medio Siglo de Derecho Financiero y Tributario Estudios en memoria del profesor Carmelo Lozano Serrano.

- **OWENS, Jeffrey, LENNARD, Michael, & ANDRÉS-AUCEJO, Eva (2020)**. Financing for Sustainable Development: “Taxation and Sustainable Development Goals. Policymaking on Taxation, International Tax Cooperation and Global Tax Governance as a main financial source of 2030 UN. [I PART] . [PART II] Education and Law Review. Journal of Education and Law , no. 21, 2020.

- **ANDRÉS-AUCEJO, Eva (2020)**. The primary legal role of the United Nations on international Tax Cooperation and Global Tax Governance (Going on a new International Organization on Global Tax Cooperation and Governance under the UN “Family”). Review of Education and Law Review, n. 21 (online), pp. 1-34. <https://revistes.ub.edu/index.php/RED/article/view/31297>

- **ANDRÉS-AUCEJO, Eva (2021)**. “Toward a global consensus on the taxation of the digital economy included as one of the general bases of a global framework agreement on international tax cooperation and global tax governance. Researching in global policy/rulemaking (going on UN 2030 Agenda and Addis Ababa Action Agenda)”, in OWENS, J., ANDRÉS-AUCEJO, E., NICOLI, M., SEN, J., OLESTI-RAYO, R., LOPEZ-RODRIGUEZ, J., & PINTO-NOGUEIRA, J. (Dir) (2021) Global Tax Governance: Taxation on digital economy transfer pricing and litigation in tax matters policies for global sustainability. Thomson Reuters, pp. 115-142.

- **ANDRÉS-AUCEJO, Eva (2018)**. Towards an International Code for administrative cooperation in tax matters and international tax governance. Revista del Derecho del Estado. n. 40, pp. 45–85. [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3113628](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3113628).

- **OWENS, J., PISTONE, P., ANDRÉS-AUCEJO, E. (2018)**. (Directors) International Administrative Cooperation in Fiscal Matter and International Tax Governance. Thomson Reuters international. 2018.

- **OWENS, J., ANDRÉS-AUCEJO, E., NICOLI, M., SEN, J., OLESTI-RAYO, R., LOPEZ-RODRIGUEZ, J., & PINTO-NOGUEIRA, J. (Dir.) (2021)** Global Tax Governance: Taxation on digital economy transfer pricing and litigation in tax matters (MAPs + ADR) policies for global sustainability. Thomson Reuters. Main Editor: Eva Andrés Aucejo.

- **FRAMEWORK AGREEMENT- PREPARATORY WORK N. 1 UNIDROIT.** Rome - International Meeting. (I Preparatory work). International Meeting (2018). The Framework Agreement on International Tax Cooperation and Global Tax Governance (and other Global Tax Policy Models ongoing UN 2030 & Addis Ababa Action Agendas). (I Preparatory Work). Capacity Building- POLICY MAKING: Global Tax Policies on International Tax Cooperation and Global Tax Governance. ROME; Tuesday, 26 March 2018. Venue: UNIDROIT. Dirs. Jeffrey Owens, Marco Nicoli, Eva Andrés-Aucejo. Rapporteur: Eva ANDRÉS-AUCEJO. UNIVERSITY OF BARCELONA

- **FRAMEWORK AGREEMENT- PREPARATORY WORK N. 2** International Congress (2021). “Policy-making on International Economic Law Conference” Toward a new Global Tax Treaty on International Tax Cooperation and Global Tax Governance (II Preparatory work ). September 30 th 2021. Faculty of Law University of Barcelona. Director: Eva Andrés-Aucejo. UNIVERSITY OF BARCELONA.

<https://www.ub.edu/portal/documents/620105/0/ProgramGlobalTaxPolicySeminarSent30-09-2021+%281%29.pdf/b7b584cc-a03e-d8c5-19f9-594fc586ddf3>.

The draft terms of reference respond to the growing challenges of the global tax cooperation landscape, as a historic step in the transformation of the international financial landscape and the international tax system with strong implications for the global economy. In short, it calls for the creation of an international tax cooperation system capable of addressing problems such as tax avoidance by multinationals, tax evasion and the need for a fair distribution of tax resources among nations, capacity building, certain obligations in relation to substantive issues, development protocols, etc. In addition to the formal aspects (<https://search.app/6kHKUigxKpVk2DtB8>).

It can stand out some of the main issues that have been discussed in relation to this proposal, such as: respect for the principle of national sovereignty; the conceptualization of system versus framework; capacity building; complementarity versus creation ex novo; simultaneous or successive protocols, or also, among others, the choice of the topics that should be included both in the convention and in the protocols (with regard to substantive issues) and issues of time frames, meeting places, procedures and composition of the commissions, in relation to procedural or formal issues.

Among the stakeholders of multilateralism who took part in the II session of the Ad-Hoc Committee on international tax cooperation, the voice of the University of Barcelona was welcomed, represented by Professor Eva Andrés Aucejo, Professor of Financial and Tax Law, who gave five scientific speeches adjusted to the time of presentation on the relevant subjects, and whose theses were followed in key aspects of great importance, such as the following:

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- . **INTERNATIONAL TAX COOPERATION CONGRESS (2019)**: Digital Economy, Transfer Pricing and Litigation in Tax Matters (MAPs + ADR). Ongoing UN 2030 and Addis Ababa Agendas. Illustrious Bar Association of Barcelona with the UNIVERSITY OF BARCELONA. 17th, 18th January 2019. UNIVERSITY OF BARCELONA. Dir. EVA ANDRÉS-AUCEJO. <https://www.ucm.es/data/cont/docs/1310-2019-03-17-L2-%20INTERNATIONAL%20TAX%20CONGRESS-2019-BCN.pdf>
  - . **INTERNATIONAL CONGRESS (2021)**. “Policy-making on International Economic Law Conference” Toward a new Global Tax Treaty on International Tax Cooperation and Global Tax Governance (II Preparatory work). September 30<sup>th</sup> 2021. FACULTY OF LAW UNIVERSITY OF BARCELONA. Dir. EVA ANDRÉS-AUCEJO. <https://www.ub.edu/portal/documents/620105/0/ProgramGlobalTaxPolicySeminarSent30-09-2021+%281%29.pdf/b7b584cc-a03e-d8c5-19f9-594fc586ddf>.
  - . **INTERNATIONAL CONGRESS. ECONOMIC AND TAX GLOBAL, GOVERNANCE, GOOD GOVERNMENT AND GLOBAL TAX GOVERNANCE IN THE DIGITALIZED AGE**. Venue: Faculty of Law. University of Barcelona, Thursday 24th, November. 2022, Friday, 25<sup>th</sup>. November. **JOAN GUÀRDIA OLMOS** (Rector of the UNIVERSITY OF BARCELONA). **JOAN TUGORES** (former Rector of the UNIVERSITY OF BARCELONA). **ORIOL AMAT** (Rector of the UNIVERSITY POMPEU FABRA OF BARCELONA). <https://www.ub.edu/portal/documents/620105/0/Congress+Global+Governance+2022+c.pdf/91d0aaee-827c-fbb3-ea97-5a9b1e026b66>.
  - . *Book of the conference Proceeding (2022). International Congress: “Economic and tax global governance, good government and international trade in the digitalized age”. University of Barcelona, November 24th and 25th, 2022.* **JOAN GUÀRDIA OLMOS** (Rector of the UNIVERSITY OF BARCELONA). **JOAN TUGORES** (former Rector of the UNIVERSITY OF BARCELONA). **ORIOL AMAT** (Rector of the UNIVERSITY POMPEU FABRA OF BARCELONA), **XAVIER PONS I RÀFOLS** (Dean of the Faculty of Law of the UNIVERSITY OF BARCELONA), **CRISTINA GONZÁLEZ BEILFUSS** (Director of the Transjus institut of Barcelona), et alter.
  - . **(2024) Global/ European Conference: THE UNITED NATIONS LAST TRENDS ON INTERNATIONAL TAX COOPERATION**. Parliament/European Commission, Italy. Rome. 23 February 2024. DIRECTOR EVA ANDRÉS AUCEJO. UNIVERSITY OF BARCELONA. <https://www.ub.edu/portal/documents/620105/0/EUROPEAN-GLOBAL+TAX+CONFER+2024+XV+ROME.pdf/40f72760-0b5b-fa9b-e3a8-2c88f81065b8>.
  - . **(2024) Inteligencia artificial y digitalización de las Administraciones Tributarias. International Congress**. 5 April 2024. Director: EVA ANDRÉS AUCEJO. UNIVERSITY OF BARCELONA. <https://www.ub.edu/portal/web/dret/detall/-/detall/5-abr-de-16-00-a-19-30-conferencia-internacional-transformacion-digital-e-inteligencia-artificial-en-el-marco-de-las-administraciones-tributarias->
  - . **INTERNACIONAL CONFERENCE: 6 November. An Effective and inclusive International Tax Cooperation at UNITED NATIONS EX A/RES/77/244 and A/78/235 (UNITED NATIONS)**. Direcció: *Eva Andrés- UNIVERSITY OF BARCELONA. UNIDROIT (Roma)*. Amb la participació institucional internacional d'organitzacions internacionals i institucions europees. *Parliament and the European Commission Office, Italy. Rome. 23 February 2024. Toward a new International Tax Organization. Foundational Agreement. A proposal. Rapourter: Eva Andrés-Aucejo.*
  - . **(2024) INTERNATIONAL CONGRESS: EUROPE-AFRICA: HUMAN RIGHTS, MIGRATIONS AND CHALLENGES**. *Cooperación internacional Europa-África: movilización de recursos domésticos, cooperación tributaria y derechos humanos.* <https://www.ub.edu/portal/documents/620105/0/JORNADA5+%C3%81FRICA+11+DIC.2023+b.pdf/fc062788-e8fb-c6e9-e595-cf1b5dc379a6>. Direcció: Eva Andrés (UB-Transjus) i EuroAfrica, etc.

a) In the final draft of the draft terms of reference, a new paragraph c) of article 10 is included, which reflects the need for the new UN Tax Convention to establish a holistic perspective, based on human, social, environmental and cultural values; a perspective forgotten in the initial configuration of the draft (except in relation to environmental issues), and on whose opportunity and necessity Dr. Andrés repeatedly insisted in the framework of the Ad-Hoc Committee held at the United Nations headquarters in New York.

***Paragraph 10.c: International tax cooperation approaches that will contribute to the achievement of sustainable development in its three dimensions, economic, social and environmental, in a balance and integrated manner***

Note: This article is of crucial importance in opening the door for the future framework convention and also its development protocols to include international tax policies in social, cultural, commercial, economic and humanitarian matters, also in line with the theses maintained with this author for more than a decade and which are now, finally, seeing the light.

b) Other proposals on aspects of international tax cooperation such as: the principle of national sovereignty; international mutual assistance; the legal configuration of development protocols; among others, were also reiterated by different countries, highlighting very positively that the European Union assumed as its own some of the theses long maintained by Dr. Eva Andrés, such as the creation of a world charter of taxpayers' rights, or also the references to a general principle of international tax cooperation.

Timing: The negotiation process of the framework convention is expected to take place over a period of two years (until 2027) and in the six months following that moment, the development protocols of the framework convention (without prejudice to the fact that many states of the global south advocate the early creation of some development protocols). Aspects, on which, however, there is no clear consensus. In general terms, the success of this process will depend largely on the geopolitical balance and the different national priorities and for it to be effective it will require a high degree of international consensus that does not exist at the moment.<sup>3</sup>

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<sup>3</sup> Vid. <https://www.riiel.com/index.php/riiel/announcement/view/12>