



Everything Old is New Again

The Historical, Present, and Indeterminate
Future of Global Tax Cooperation

Prof. Michael Dirkis Sydney Law School, The University of Sydney

Prof. Kerrie Sadiq School of Accountancy, QUT Business School

ATTA 37th Conference

Victoria University Wellington - Te Herenga Waka

14-16 January 2026



INTRODUCTION

A Critical Juncture in International Tax Cooperation

International tax cooperation stands at an unprecedented critical juncture. We're witnessing 125 years of evolution from bilateral to multilateral frameworks, now facing two parallel disruptions that could fundamentally reshape global tax governance.

UN Framework Convention

Developing countries push for universal representation and equitable voice in tax cooperation

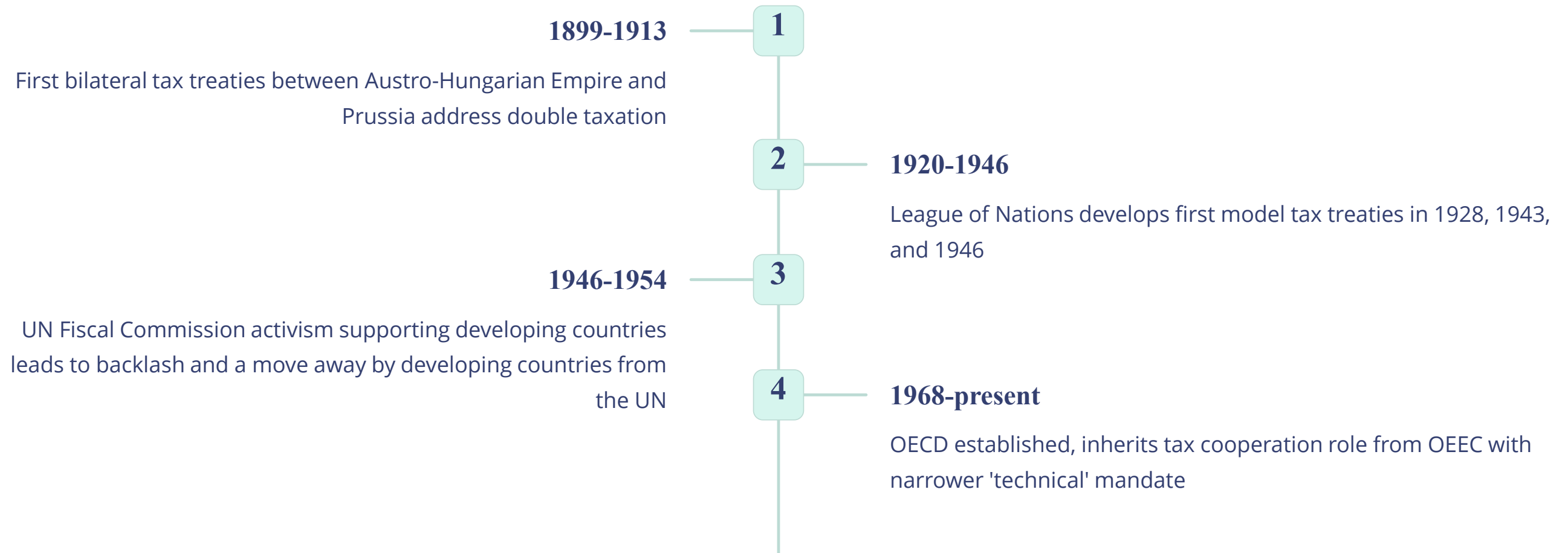
OECD Side-by-Side

January 5, 2026: Comprehensive package approved accommodating US objections to Pillar Two

These simultaneous developments may represent a significant moment in international tax cooperation in over six decades, fundamentally altering the global tax architecture we've relied on since the 1960s.

The Foundations of Tax Cooperation: 1899-1961

Understanding today's developments requires understanding this history. The evolution of international tax cooperation spans more than a century, with critical lessons for current challenges.



❏ History repeating: Once again, developing countries demand equitable voice. Will the UN succeed where it previously failed?

The OEEC and the rise of the OECD (1954 – present)

The OECD's dominance resulted from a combination of technical expertise, institutional advantages, and economic power that created a reinforcing cycle of influence.

Key Instruments

- 1963 Model Tax Convention establishes global template
- Transfer Pricing Guidelines define arm's length principle
- Forum on Tax Administration builds cooperation networks

Sources of Power

- Technical expertise and institutional capacity
- Economic power of member states
- Access to OECD markets drives adoption

OECD standards became de facto global standards because these were the markets everyone wanted access to. Countries seeking foreign investment adopted OECD frameworks to appear attractive to OECD investors. However, these standards reflected the interests and perspectives of capital-exporting developed nations, with systematic bias toward residence-based over source-based taxation.

The BEPS Revolution: 2013-2016

The 2008 financial crisis and subsequent public outrage over corporate tax avoidance created unprecedented pressure for reform. The OECD responded with the most ambitious international tax reform effort in decades.

1

Crisis and Response

2013: OECD launches Base Erosion and Profit Shifting project addressing multinational tax avoidance

2

15 Action Items

Comprehensive reforms including country-by-country reporting and transparency requirements

3

Legitimacy Problem

OECD setting standards globally

BEPS created a legitimacy gap: by what authority does a club of wealthy nations establish rules for everyone? This led to the Inclusive Framework in 2016.

Inclusive Framework: Promise and Reality

The Inclusive Framework was meant to democratise international tax cooperation. Today it has 147 members, all supposedly participating on equal footing. But significant problems emerged that would fuel calls for fundamental structural change.

The Promise

2016: Inclusive Framework extends BEPS participation to all member jurisdictions with equal footing for all members

Resource Disparities

Technical complexity and rapid pace require resources many developing countries lack—small delegations versus large expert teams

Agenda Control

Key items often substantially developed by OECD members before wider participation, making fundamental reshaping difficult

Consensus Constraint

The requirement is democratic in theory, but has meant the watering down or allowing powerful countries to block changes

- ❑ Some developing countries reported feeling pressure to accept standards that don't fit their circumstances—fueling frustration that would lead to demands for change.

The UN's Parallel Role

While the OECD dominated, the UN maintained parallel tax cooperation efforts with a different emphasis that typically benefits developing countries.

Key Developments

- 1968: Ad Hoc Group of Experts created
- 1980: UN Model Double Taxation Convention published
- Emphasis on source-based taxation—taxing where economic activity occurs
- More favorable to capital-importing developing countries

However, the UN's tax work has been hampered by limited resources, lower institutional profile, and less political support compared to the OECD. Many countries defaulted to OECD standards simply because they're more established and widely adopted.

The UN's role has been important but historically secondary. This background makes recent developments all the more significant—we're potentially seeing a fundamental shift in where international tax cooperation occurs and who controls it.

1968

UN Committee

Established

1980

UN Model

Published

Claimed Systemic Problems with Current Architecture

Systematic Bias

Preference for residence-based over source-based taxation advantages capital-exporting developed nations. When multinationals extract resources in developing countries, significant profits can be shifted to low-tax jurisdictions.

Limited Participation

Despite Inclusive Framework, developing countries struggle to participate meaningfully due to technical complexity, rapid pace, and resource requirements.

Ineffective Dispute Resolution

Mutual agreement procedures can take years without guaranteed resolution. Mandatory arbitration is expensive and complex, effectively inaccessible for many developing countries.

Structural Deadlock

Consensus decision-making with 147 countries of vastly different economic circumstances creates deadlock or forces acceptance of unsuitable standards.

Rising Demands and UN Decision: 2023-2024

By 2020, frustration among developing countries reached a tipping point. African nations became particularly vocal critics, building coalitions that created political momentum for transformative change.



2020-2023: Concerted Push

Developing countries demand more inclusive system through organizations like African Tax Administration Forum



16 August 2024

110 countries vote for Framework Convention Terms of Reference (8 opposed, 44 abstentions)



27 November 2024

General Assembly adopts Terms of Reference: 125 in favor, 9 against, 46 abstentions

Countries Opposed

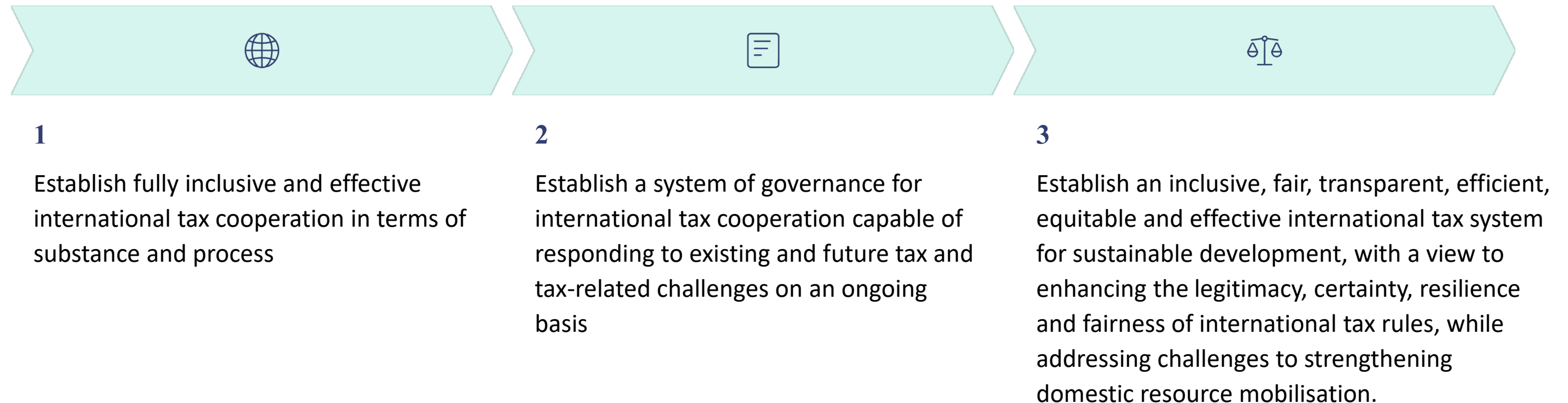
- United States
- United Kingdom
- Australia
- Canada
- Japan
- New Zealand
- Israel
- South Korea

This was extraordinary. For the first time in decades, developing countries successfully pushed through a major international tax initiative over explicit opposition of most OECD members.

UN Framework Convention: Objectives

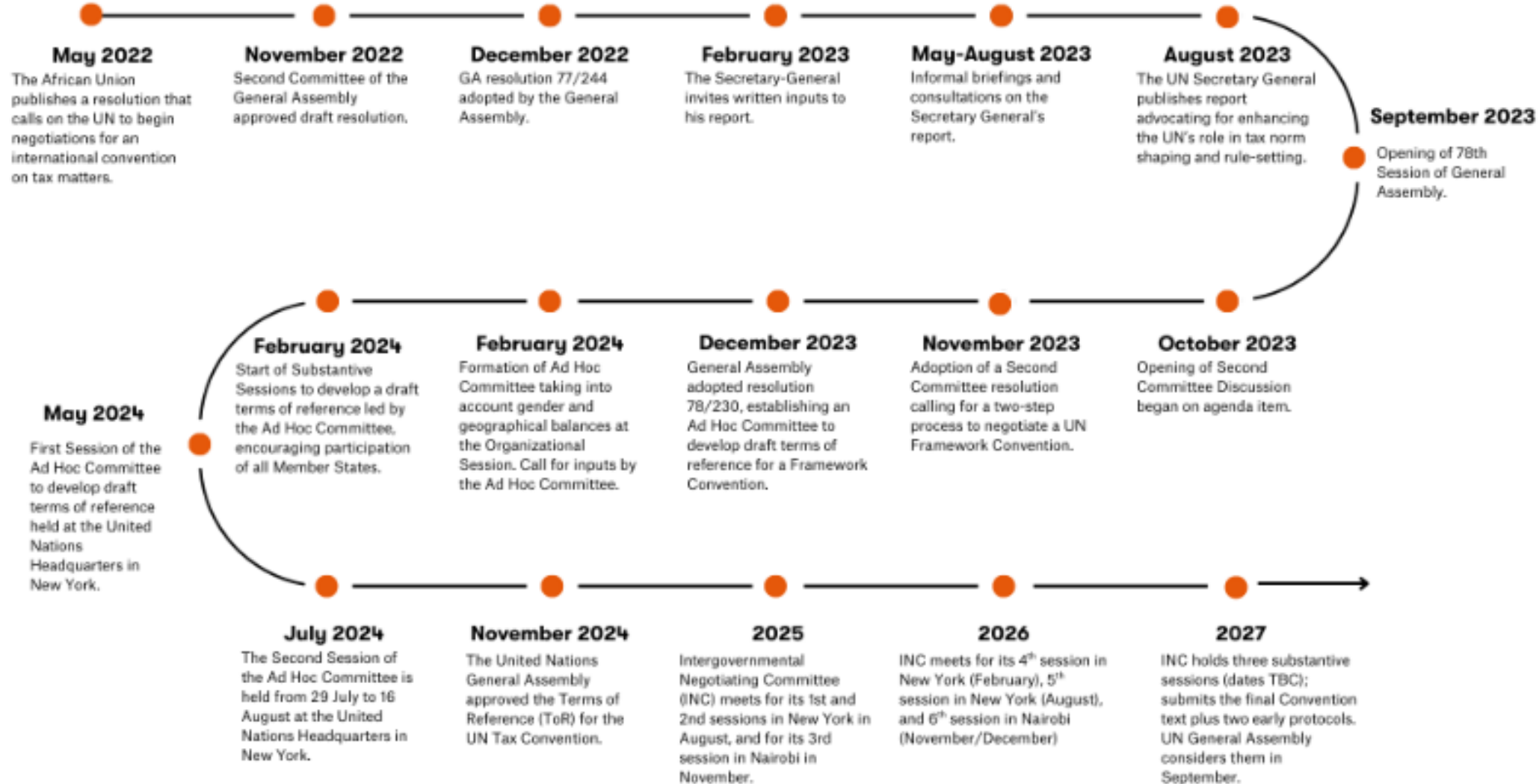
A framework convention is an international agreement that lays the foundations for future rules and institutions. It does not provide all the details at once but creates the basic structure on which stronger, more detailed laws can be built over time.

The Framework Convention allows for an initial framework agreement establishing principles and governance structures, followed by protocols and commitments addressing specific issues.



❑ Objectives are supported through Protocols and Commitments

THE UN TAX CONVENTION PROCESS



February 2025: Organisational Session and US Withdrawal

The February organisational session established negotiation procedures but was dominated by the United States, which formally withdrew with a statement:

"We do not plan to participate further in this organizational session, process, or negotiating United Nations Framework Convention on International Tax Cooperation text. We reject the very nature of these discussions. The process that has been adopted will lead to a Convention that would unacceptably hamper nations' abilit[ies] to enact tax policies that serve the interests of their citizens, businesses, and workers. Further, within these discussions, we underscore our profound objection to the process thus far. We have repeatedly voted 'no' to express our concerns with the direction and the evolution of the decision-making process away from consensus and have been met only with inflexibility. Finally, we underscore that the United States intends to reject the outcomes of this Framework Convention process and oppose them. We welcome others to join us in opposition."

Decision-Making Debate

EU and Canada: Pushed for consensus, arguing it preserves sovereignty and ensures broad implementation

African Group: Supported majority voting, arguing consensus allows obstruction and has led to years of frustration

Hybrid Compromise

Two-thirds majority for substantive issues, simple majority for procedural matters when consensus fails

But as US withdrawal demonstrated, consensus may already be impossible

First Substantive Session: Three Negotiated Workstreams

August 4-8, 2025: focused on the initial commitments to be included in the Framework Convention: the fair allocation of taxing rights, dispute prevention and resolution and sustainable development as well as the need for administrative cooperation. Most countries expressed a preference for high-level commitments, while some voiced a preference for first agreeing on the underlying principles.

Workstream I	Workstream II	Workstream III
Framework Convention	Taxation of income derived from the provision of cross-border services in an increasingly digitalized and globalized economy	Prevention and resolution of tax disputes

Second Substantive Session: Two Early Protocols

August 11-15:

Taxation of income derived from the provision of cross-border services

Discussions centered on gross and net basis withholding taxes, nexus rules that do not require physical presence, data needs to verify service provision and dispute resolution.

Prevention and resolution of tax disputes

Conversations focused on current gaps in mechanisms. Open issues included scope: whether the protocol is limited to Framework Convention related disputes or all cross-border tax disputes, how to resolve cases where no treaty exists and whether to include tax arbitration.

November 2025: Nairobi Session

The November 10-19 session in Nairobi, Kenya marked a shift to discussing the Framework Convention itself.

Week 1: focused on the core commitments of the legally binding Framework Convention (Workstream I). The session was dedicated to reviewing the following commitments:

- Fair allocation of taxing rights
- Effective prevention and resolution of tax disputes
- Sustainable development
- High-net-worth individuals
- Effective mutual administrative assistance
- Illicit financial flows, tax avoidance and tax evasion
- Harmful tax practices

Key debates highlighted a clear demand from the Global South and Civil Society for an ambitious text that moves beyond incremental change.

Week 2: focused on Protocol for effective dispute resolution (Workstream III).

A major point of discussion was the issue of optionality; how to ensure broad participation while accommodating differences in national capacity and existing treaty obligations:

•**Two-Step Approach:** The INC discussed a proposal for a two-step approach: a 'menu of options' for dispute resolution alongside a set of 'core mechanisms' that would be available to all parties.

•**Operationalising Optionality:** Delegates explored how optionality would work in practice, debating mechanisms such as prior opt-in/opt-out provisions versus case-by-case decisions. The goal was to ensure broad participation while maintaining inclusivity.

•**Superseding vs Complementing:** A key policy question was whether the new mechanisms in Protocol II should supersede existing bilateral agreements or merely complement them.

US Withdrawal from OECD Pillars

While UN negotiations proceeded, a second disruption was unfolding at the OECD.



This created an impossible situation for other countries. They had spent years negotiating and implementing Pillar Two, but the world's largest economy was now threatening retaliation if they applied it.

January 5, 2026: OECD Side-by-Side Package

All 147 Inclusive Framework members agreed to a comprehensive side-by-side package.

1

US Exemption

US-headquartered multinational companies completely exempt from both Income Inclusion Rule and Undertaxed Profits Rule globally

2

GILTI and BEAT

US will apply its own minimum tax regime, recognized as 'qualified' alternative even though GILTI calculates tax on global blended basis rather than jurisdiction-by-jurisdiction

3

Simplifications

Package includes various simplifications to reduce compliance burdens and new substance-based tax incentive safe harbor particularly benefiting US companies

"This agreement recognizes US tax sovereignty while allowing other countries to proceed with their own approaches."

— US Treasury Secretary Scott Bessent

The Inclusive Framework, which supposedly operates on consensus with all members equal, has essentially created a special carve-out for the US.

Implications of the Side-by-Side Agreement

The side-by-side agreement has implications that go beyond technical tax rules. It fundamentally reshapes our understanding of multilateral tax cooperation.



Undermines Consensus Model

If consensus means the US gets special carve-outs unavailable to others, is it really consensus?



Two-Tier System

Rules systematically depend on where a company is headquartered. US multinationals face one regime; everyone else faces another.



Continued Profit Shifting

US companies can continue to book foreign profits in tax havens, exactly what Pillar Two was designed to address.



Validates Criticism

Proves developing countries right: framework is dominated by powerful countries that shape rules to their advantage.

Two Disruptions, Uncertain Future

UN Framework Convention

Represents developing countries' frustration that OECD system systematically disadvantages them despite claims of inclusivity

Seeks to shift the power of tax cooperation to an institution with universal representation

US Side-by-Side

World's most powerful economy asserting it won't be bound by multilateral rules when they conflict with its interests

Shows willingness to pressure other countries to accommodate preferences

Together, these developments reveal the fundamental instability of current global tax architecture. If the OECD couldn't constrain the US despite years of negotiation and nominal US participation, can a UN framework do better?

The US has made clear that it will reject the UN Convention. It's simultaneously shown that it will pressure other countries to accommodate its preferences even when doing so undermines years of multilateral work.

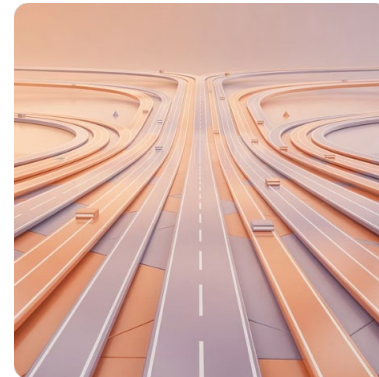
Possible Futures: Four Scenarios

What happens next? The trajectory is uncertain, with each scenario presenting distinct challenges and opportunities.



UN Framework Succeeds

Becomes primary venue for international tax cooperation. Requires overcoming enormous obstacles: resources, opposition from major economies, technical complexity, and delivering tangible results quickly.



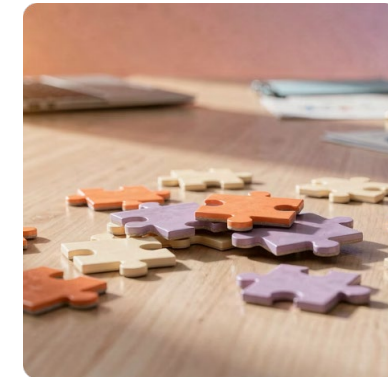
Parallel System

Both UN and OECD processes continue in parallel, potentially with regional variations. Gives countries more options but creates competing standards and increased complexity.



OECD Maintains Dominance

UN initiative fails to gain sufficient traction. OECD continues but with permanently damaged legitimacy after side-by-side agreement undermined principles.



Fragmentation

Countries or regions develop their own approaches when multilateral frameworks prove inadequate. Already seeing this with digital services taxes proliferating due to inadequate OECD solutions.

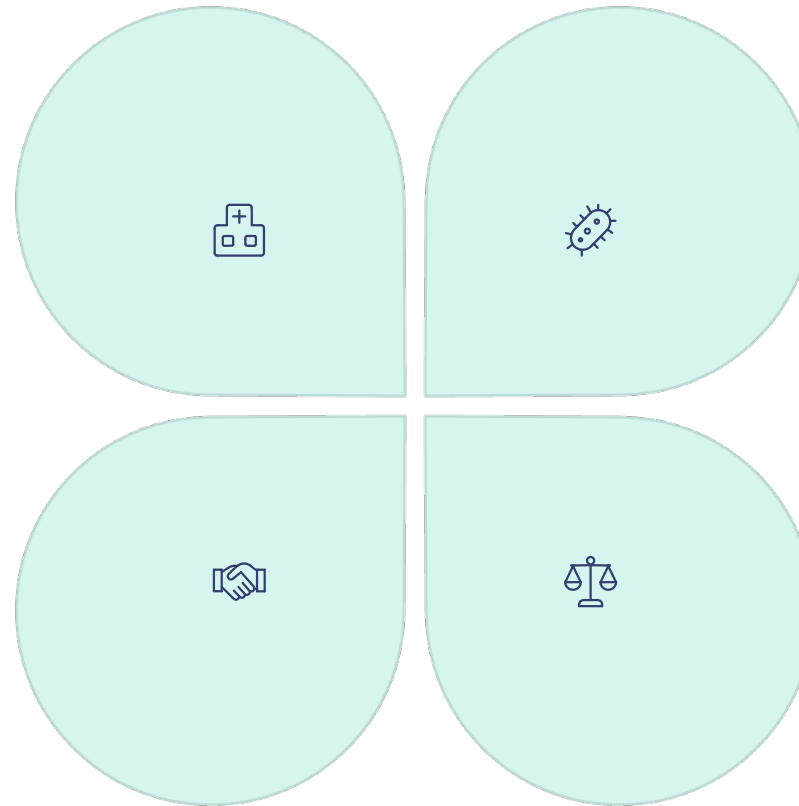
What's at Stake

Development Capacity

Developing countries' ability to fund education, healthcare, and infrastructure. Current profit shifting rules directly undermine revenue generation.

Future of Multilateralism

If powerful states can opt out when inconvenient, what is the future? Can we address global challenges through cooperation?



National Sovereignty

Balance between countries setting their own tax policies versus accepting external limitations.

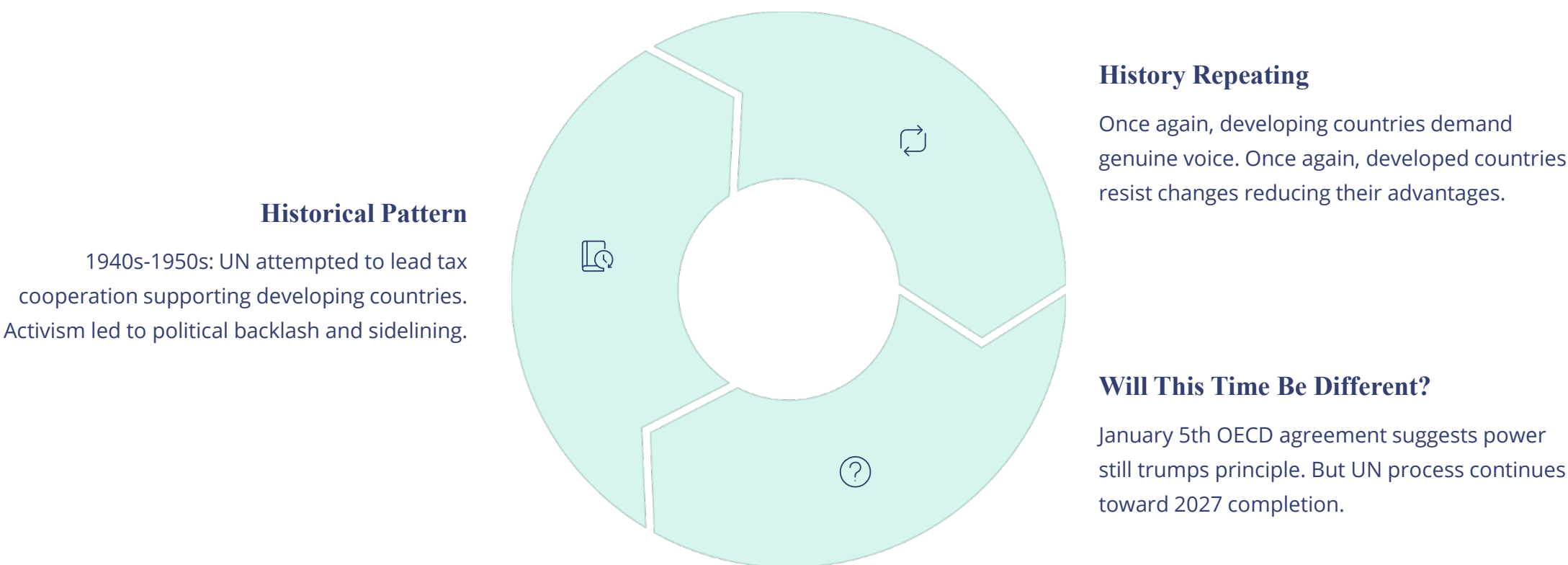
Global Equity

Should rules affecting all countries be set primarily by wealthiest nations, or should there be genuinely universal participation?

A successful UN Framework Convention could significantly increase source country taxation, potentially generating billions in additional revenue for development. But if powerful states reject multilateral agreements, are we returning to a world where power determines outcomes?

Everything Old is New Again

The fundamental tensions in international tax cooperation aren't new: how to divide taxing rights, prevent both double taxation and double non-taxation, balance sovereignty with cooperation, ensure equity between nations. These debates go back 125 years.



The next 18 months will determine whether we see fundamental change or whether the OECD maintains dominance despite eroded legitimacy. What's certain is that the future of international tax cooperation has never been more uncertain.

THANK YOU