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**PRIME MINISTER**

**September 15<sup>th</sup>, 2023**

**Mr. António Guterres  
United Nations Secretary-General  
The United Nations  
405 Lexington Ave  
New York  
NY 10174**

**Re: Report on Promotion of Inclusive and Effective International Tax Cooperation  
("The Report")**

I am writing to commend you on the work that you have done as outlined in The Report which analyses options and next steps around The United Nations (UN) international tax cooperation and administration initiatives.

**Background and Context**

The Bahamas is a Small Island Developing State vulnerable to external economic shocks and greatly impacted by the effects of the climate crisis. Foreign exchange earnings are produced by both tourism and financial services, our two main economic pillars. International financial centres (IFCs) such as The Bahamas are portrayed as a danger to the revenue base of developed nations just by their existence. Many Caribbean countries, including The Bahamas, are developing countries that offer tax incentives to attract investment in tourism, export processing, and manufacturing. The OECD's actions have a deleterious effect on these most vulnerable states.

Under this approach, international tax administration and cooperation have harmed the small states of the Caribbean. Although some may debate the extent of the impact, sovereignty has been infringed, tax competition threatened, and economic growth and development hindered.

Against this backdrop, the risk of climate change and increasing sea levels have exacerbated the vulnerability of already fragile economies in the region. It is imperative that we examine these issues and seek to ensure equity and inclusivity in the measures taken to address the concerns raised by the OECD, and countries such as ours, using a more balanced, objective and transparent approach.

### **The Bahamas Committed to Being a Responsible International Player**

The Bahamas is a responsible international partner, including in matters of global regulatory and tax compliance. This is evidenced by more than twenty years of continuous and committed action. We are one of few countries in the world compliant with all forty of the FATF's recommendations and have consistently demonstrated our commitment to international tax cooperation and transparency. Our participation in the Harmful Tax Initiative, and that of the forty-one (41) small jurisdictions, almost all of them Caribbean and Pacific states, has always been predicated on “a level playing field for OECD and non-OECD members”. This principle requires that OECD members and non-members adhere to the same standards of transparency, and effective exchange of information. Despite this, the goal of an equitable standard has not been achieved, to the detriment of Small Island Development States (SIDS).

We are a compliant jurisdiction that follows best practices, and adheres to international standards for tax cooperation and tax transparency.

### **International Tax Administration and Cooperation**

Admittedly, there is room for the enhancement of international tax administration and cooperation regimes. However, the concepts underpinning the current international tax system prefer the interests of the Global North, that is, OECD members and developed countries. The predominant suggestions do not take the Global South's perspectives into account and are not likely to meet the demands of developing nations.

To address the tax issues brought about by digitization and profit-shifting (BEPS), the OECD put forth a two-pillar plan in 2021. The G20 subsequently backed this proposal. However, the OECD's approach includes both substantive and procedural flaws. Non-OECD members have not been equally represented in developing OECD policy, and the Inclusive Framework's "inclusivity" is mostly symbolic. More steps must be taken to bridge the geopolitical divide and give a greater voice to the nations of the Global South and the challenges that we face.

### **The Agenda of The Global North vs. Interests of the Global South**

Most global initiatives in the current international tax system were designed to focus on the international financial centres of The Global South (i.e., Africa, Latin America, The Caribbean, Oceania, and parts of Asia), as well as profit-shifting strategies used by powerful digital technology companies.

The Global South can be contrasted with the Global North, comprised of wealthy, industrialized countries. Poverty, inequality, and political instability disproportionately affect the Global South. The Global South also tends to be more vulnerable to the effects of climate change, natural disasters, and other environmental challenges.

The climate crisis is largely created by industrialised countries, many in the Global North. The effect of the climate crisis is felt disproportionately by small developing countries like The

Bahamas. This is exacerbated by the arbitrary blacklisting of these same vulnerable countries, such as The Bahamas, by the very same countries that are responsible for the Climate Crisis.

For example, when it comes to insurance, a significant percentage of monies owed to us by European reinsurers is punitively retained by the EU. This is because of the EU's designation of The Bahamas as "uncooperative". As a result, any remittances from European reinsurers that result from insurance claims, are automatically reduced by at least 25%.

We are thus poorer and less able to rebuild because of the effects of the Climate Crisis. It is astonishing that the countries that are causing The Bahamas to be more vulnerable by way of their contribution to the Climate Crisis, are the same ones who are punitively impacting our ability to rebuild from the adverse impacts of the Climate Crisis.

The substantive rules developed through the OECD initiatives frequently ignore the needs and priorities of developing countries, and are usually beyond their financial and human capacity to implement effectively. This challenge in implementation is due to limited resources, the use of which must be prioritized to deal with immediate human needs.

Even if developing nations technically had an equal say in agenda-setting and policy choices at the OECD, they have far less access to technical expertise in international tax matters than OECD and G20 members. There exists a clear resource gap. There are frequently fewer tax professionals in poorer nations, and they are frequently less exposed to the vagaries of the constantly-shifting agendas and policy choices.

They send fewer representatives to fewer sessions, and frequently send delegates who find it difficult to stand up to the more powerful delegates from wealthy nations. Even experienced, well-trained delegates are disadvantaged if they do not attend all of the meetings. This disparity is accentuated further by the comity, if not friendliness, among the delegates from the more affluent nations, who typically have longstanding professional relationships from attending OECD and other meetings. As a result, it is not unexpected that delegates from less developed countries feel subjected to systematic peer pressure by well-organized OECD officials and country delegates.

### **Inequality Embedded in Current Tax Architecture**

Inequality is embedded in the multilateral tax architecture that exists today. The EU's unique tax-haven blacklisting assessment process considers not only whether the OECD's standards are satisfied, but also The EU's Code of Conduct. The EU views its Code of Conduct as being binding on all countries worldwide, not only its member states. This is not by consensus. In truth, the EU lacks the legal and ethical legitimacy to apply its Code of Conduct to any nation without that nation's approval. However, The EU superimposes its authority on non-member countries through the backdoor of the non-inclusive OECD. Against this backdrop, countries like The Bahamas and those who make up the Global South, are coerced to comply, by way of threat of punitive action from multiple international bodies and financial institutions, some of whom have no global standing.

In addition, under the current OECD framework, a country is deemed to agree to a proposal where it fails to raise an objection. There is no requirement for an “opt-in”. Hence, a country that cannot stay abreast with the pace of the measures and who does not have the chance to articulate an opinion, is taken as agreeing with the OECD proposal. Non-voting members have consistently taken issue with the lack of a formal voting process, and the need for more openness about decision-making. Developing countries do not have voting rights within the OECD, and the OECD does not inherently represent their interests. We do not have "full participation in agenda setting and decision-making". The process is flawed, inequitable and unfair. The process needs to be remodelled.

### **UN Positioned to Design an Equitable and Inclusive International Tax Framework**

There is a need for renewed multilateralism. For the most part, countries of the Global South have permanent representation at the United Nations.

A new modus operandi, which would be based on an integrated approach rather than traditional theme-clustering and isolated issue-solving. It would embrace the notion of Global Public Goods. It would also encourage the effective utilization of partnerships involving numerous state and non-state players.

The revitalized multilateralism should, first and foremost, help to shape more effective and fair arrangements in global governance. The international governance structure is out-of-date. Today, multilateralism is more complex than ever before, and the Global South must be adequately resourced and empowered to overcome the challenges inherent in the current operation of multilateralism.

The United Nations is the appropriate body to design and build a truly equitable and inclusive international tax administration architecture, with equal-footed representation. The OECD cannot declare legitimacy for developing "universal outputs" while decision-making and membership remain exclusive. We need a clean and balanced slate. The United Nations must now direct international tax policymaking as it has customarily been a more inclusive body for developing countries concerning international taxation. This has been evidenced by the Model Double Taxation Convention between developed and developing countries.

The United Nations differs inherently from the OECD. It has 193 member countries, a far larger scope, and functions on a one-country, one-vote basis. Developing nations have veto power in the United Nations. Unlike within the OECD, these countries can influence the organization's direction, particularly its tax requirements. As a result, it is better positioned to explore more significant international tax ideas that may help developing nations' specific requirements. The African Group of Countries' presentation of the United Nations Resolution highlight this distinction. A more inclusive method will contribute to better substantive outcomes and should address the tax concerns that are important to developing countries.

The United Nations has a long history of founding and administering some of the most influential specialized agencies dealing with very complicated, technical topics. Several of these are concerned with trade and commerce. This is significant in this case since taxation is



(often) merely the other side of commerce. Taxation, commerce, and debt are all inextricably linked to the point that one cannot survive without the other. The current international tax structure has aided in the subjugation of the Global South to the Global North. Furthermore, neither bilateral tax treaties with affluent nations, nor global cooperation, have benefitted developing countries.

These institutional difficulties can only be addressed under a United Nations framework. Concerns regarding duplicative processes will be unfounded if the UN and OECD projects serve different purposes. The OECD BEPS Project focused on profit-shifting and tax havens, without modifying existing tax rules; a United Nations program should implement a larger, principled reform that involves developing nations in decision-making.

Currently, poor nations are being penalized by unilateral pronouncements and are being blacklisted by forums and groups in which they have no say. The United Nations has the authority to convene and oversee an inclusive tax cooperation initiative, without arbitrary and often inequitable blacklisting penal regimes.

Furthermore, the UN has the capability of providing technical help to nations that may require additional resources to execute the essential taxation policies. This aid might include training and direction for government tax officials, as well as financial and technical assistance to nations that may lack the means to execute the essential taxation laws. Lastly, the UN is well-equipped to guarantee that nations follow the taxation policies that have been agreed upon. The UN can monitor and analyse the application of taxation policy to ensure that nations follow the agreed-upon policies. This will contribute to a reduction in the quantity of tax evasion occurring on a worldwide basis.

The Bahamas, with much conviction, joins with its brothers and sisters of the "Global South". We call upon the UN lead the charge to begin a new international tax framework that demonstrates a commitment to equal-footed participation and governance. The OECD, by definition, supports the interests of the world's established economies and has generally ignored those of emerging nations. While the OECD controls global tax policy, it consistently ignores the consequences of its agenda for non-members who are excluded from critical phases of policy design and diplomatic negotiation. As a result, we support every measure being taken to increase inclusion in matters concerning international tax policies, tax administration and cooperation to usher in a new day for The Bahamas, the Caribbean, and the Global South.

In short order, we will share a research paper which expands upon the themes outlined in this correspondence, for your consideration.

In support of this proposition, The Bahamas is willing to host a side event at the United Nations on Taxation, Development and Human Rights: Towards the Adoption of a UN Tax Convention. We envision that this event will involve a variety of committees and organizations such as FACTI, Global Alliance for Tax Justice, The Africa Group, CARICOM other relevant institutions. We propose to host this side event during the events surrounding Human Rights Day, December 10, 2023.

We also think it important to advance scholarly consideration of this issue, especially among countries in the Global South. In support of this, The Bahamas proposes to host a conference at The University of The Bahamas in the first calendar quarter, 2024 on the same theme. This will gather working papers from scholars representing the Global South. These papers can help build consensus and support this proposal on a political level through research and analysis, and tested by debate.

The Bahamas stands ready to work with the United Nations to advance equality between countries of the world on important global policy matters.

We thank you for your consideration.

Sincerely,



**Hon. Philip E. Davis, KC, MP**  
**Prime Minister of The Commonwealth of The Bahamas**

cc. Secretary-General of CARICOM  
Secretary-General of The Commonwealth  
Secretary-General of The African Union