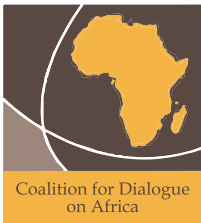


# Outcomes and Recommendations of the

**CODA-SOUTH CENTRE DIALOGUE SERIES  
ON ILLICIT FINANCIAL FLOWS (IFFS):  
COMPARING TAX REVENUES TO BE RAISED  
BY DEVELOPING COUNTRIES FROM THE OECD  
AND UN SOLUTIONS FOR TAXING  
THE DIGITAL ECONOMY**

1ST JUNE 2022





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# Background & Introduction

The Coalition for Dialogue on Africa (CoDA) and the South Centre co-organised the first of a series of dialogues on Illicit Financial Flows (IFFs) on 1st June 2022. The dialogue was convened mainly to launch and discuss a research paper<sup>1</sup> jointly commissioned by CoDA and the South Centre titled **‘A Tough Call? Comparing Tax Revenues to Be Raised by Developing Countries from the Amount A and the United Nations Model Treaty Article 12B Regimes’**.

The dialogue was also a follow up to the First African Fiscal Policy Forum (AFPF I), which was also co-organized by both institutions and held in December 2021. The AFPF I brought together key stakeholders including Finance Ministers and other relevant stakeholders to discuss the current global processes towards combatting IFFs, re-allocation of taxing rights, in particular through the Two Pillar solution in the OECD/G20 Inclusive Framework, the role of African regional institutions, the importance and place of Africa’s voice and representation in these processes.

As part of its objectives, the present dialogue purposefully responded to the main call of the aforementioned AFPF I, namely the need to provide the Member States of the African Union (AU) and the South Centre with an assessment of the revenue gains from the OECD and UN digital tax solutions. Up to 120 participants made up of current and former ministers, senior economic and financial experts, and members of the High Level Panel on IFFs from Africa, as well as tax and revenue officials attended.

Since the introduction of the Two-Pillar Solution of the Organisation for Economic Cooperation and Development (OECD)/G20 Inclusive Framework on Base Erosion and Profit Shifting (BEPS) and the United Nations Model Treaty Article 12B regimes, the research paper commissioned by CoDA and South Center is the first ever attempt to estimate the tax revenues to be gained (or lost) by the South Centre’s and African Union’s Member States under the OECD’s Amount A and the United Nation’s Article 12B regimes.

The COVID-19 pandemic and recent emerging economic realities around the world have led to the fiscal deterioration of many African and other developing countries making their development agenda increasingly difficult to realise. Therefore, the research paper analyses the comparative revenue effects of the Amount A and Article 12B taxation regimes to enable African and other Global South policy makers and negotiators make decisions that are more informed.

In this context, the dialogue was composed of two sessions. The first one focused on a presentation of the research paper and its findings. It aimed to provide developing countries with the quantitative means to assess for themselves which policy option (Amount A of Pillar One for the OECD and Article 12B for the UN) is more suitable for their countries.

Given that Pillar One is not the only solution for the developing countries, the second session of the dialogue discussed alternative measures to this.

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<sup>1</sup><https://www.southcentre.int/research-paper-156-1-june-2022/>

# Opening Session

Dr Carlos Correa, South Centre Executive Director, opened the Forum. He noted that the research paper was commissioned to quantify the impact of the Two-Pillar Solution and United Nations Article 12B regimes in order to provide critical information to policy makers to make the right decision.

H.E. Dr Maxwell Mkwezalamba, Former Minister of Finance of Malawi and Senior Advisor to the AU High-Level Panel on Illicit Financial Flows (IFFs) from Africa, and Dr Adeyemi Dipeolu, Special Adviser to the President on Economic Matters, Federal Republic of Nigeria and co-Chair of CoDA Technical Committee on Domestic Resource Mobilization (DRM) and IFFs moderated the 1st and 2nd sessions respectively.

Mr. Abdul Muheet Chowdhary, Senior Programme Officer at the South Centre, presented the research paper.

Ms Souad Aden-Osman, CoDA Executive Director closed the forum.

The Technical Discussion was organised as highlighted below:

## **Session 1:** Presentation of Revenue Assessments for Amount A vs Article 12B

- Moderator - H.E. Dr Maxwell Mkwezalamba, Former Minister of Finance of Malawi and Senior Advisor to the AU High-Level Panel on Illicit Financial Flows (IFFs) from Africa

### **Panelists:**

- H.E. Gothami Silva, Ambassador of Sri Lanka to the World Trade Organization (WTO)
- Dr Terra Saidimu, Commissioner, Intelligence & Operations, Kenya Revenue Authority

## **Session 2:** Alternative Measures

- Moderator - Dr Adeyemi Dipeolu, Special Adviser to the President on Economic Matters, Federal Republic of Nigeria and co-Chair of CoDA Technical Committee on Domestic Resource Mobilization (DRM) and IFFs

### **Panelists:**

- Dr Raymond Baker – Founding President, Global Financial Integrity and Member of the AU-High-Level Panel on IFFs from Africa
- Rasmi Ranjan Das – Steering Group Member, OECD Inclusive Framework, India
- Patricia Garcia, Chief of Technical Opinions and Evaluations Division, Under directorate of General Tax Audit, Federal Administration of Public Revenues (AFIP), Argentina
- Maria Dolores Gil Esnal, Coordinator of AFIP position at OECD WP6 & TFDE, Advisor, AFIP Institute of Tax and Social Security Research, Argentina

# Key Outcomes and Recommendations

The following are key outcomes and recommendations from the forum:

1. The research paper clearly demonstrates that overwhelming majority of developing countries will gain almost three times more revenue from United Nations Article 12B gross basis method with a modest tax rate of 3-4% compared to Amount A's re-allocation of residual profits. OECD's Amount A solution offers minimum benefit to developing countries. Given that a number of developed countries home to the in-scope MNEs are yet to ratify Pillar One, developing countries should wait and carefully study the cost-benefit of OECD and Article 12B regimes. In particular, the USA, UK, Japan, France, Germany, Switzerland and Ireland are some of the key developed countries whose ratification is key for Amount A to work. Developing countries are advised to wait until all these countries have ratified before even beginning to consider signing Pillar One. Participants expressed that the UN Article 12B is more favourable to developing countries and easier to implement. However, the Article must be incorporated into Bilateral Tax Treaties with Multinational Enterprises (MNEs) home countries, mainly the United States of America (USA) for the purpose of relief over double taxation. It was noted that negotiation of Tax Treaties with MNEs home countries may be a herculean task.
2. Developing countries which were unconstrained by tax treaties with developed countries were encouraged to initiate unilateral measures such as Digital Service Taxes to begin collecting the crucial revenues required for their countries.
3. For developing countries which did have tax treaties with developed countries, they too were encouraged to initiate taxation of digital services using solutions based on Article 12B, which could then be included into treaties to avoid double taxation.
4. It was emphasised that Article 12B would bring in significantly more revenues with a broad scope that included 'hybrid' Automated Digital Services (ADS) companies such as in finance and e-commerce. Further, participants were cautioned that the net method of Article 12B could generate much lower revenues compared to the gross method.
5. Developing countries rely more on Corporate Income Tax (CIT) collections while developed countries generate more revenue from Personal Income Tax (PIT). Therefore, international tax rules around the reallocation of taxing rights to developing countries should be fairer. For instance, the OECD Pillar One threshold around annual sales revenue of 20 billion Euros, profitability ratio, nexus and sourcing rules should be reconsidered.
6. It was suggested that developing countries should be actively involved in the negotiation processes and let their voices and concerns be heard so that the agreement can be negotiated in favour of developing countries.

7. Developing countries are in debt distress, aggravated by the COVID-19 crisis while Official Development Assistance (ODA) to developing countries has substantially reduced over the years. Hence, the international tax system should be designed to be more just and fair in order to bolster the tax base of developing countries for COVID recovery and to achieving the sustainable development goals (SDGs).
8. CoDA and South Centre should design interventions capable to strengthening the capacity of negotiators to protect the taxing rights of developing countries.
9. Given that the OECD Pillar One is yet to go into force, developing countries can introduce Digital Services Tax in the form of final Withholding Tax on Automated Digital Services providers without a permanent establishment in source jurisdictions. This measure will enable revenue authorities compare tax liabilities of foreign headquartered digital service provider to the revenue estimates proposed in OECD regime.
10. It was expressed that developing countries are net creditors to the rest of the world. It was also noted that tax haven, secrecy jurisdictions, trade mispricing, hybrid entities erode tax base of developing countries posing greater risk. Therefore, efforts on addressing illicit financial flows must be sustained even as OECD Two-Pillar Solution is being negotiated.
11. It was expressed that African Union and South Centre member countries should encourage economic activities capable of increasing foreign exchange earnings given that Multinational Enterprises mainly pursue aggressive profit shifting to avoid the challenges associated with non-convertible currencies and capital controls.

## Conclusion

Participants in the forum expressed the need to continue the dialogue series for the purpose of advocacy and engagement of relevant stakeholders in view of the revision of international tax rules that is underway.

Ms Souad Aden-Osman, CoDA Executive Director, thanked all the participants, moderators and panellist for actionable insights and opinions expressed. Ms Aden-Osman stated that CoDA will partner with African Union Institutions and United Nations Organizations in an effort to provide technical assistance and strengthen the capacity of policy makers and negotiators in the area of international tax rules to enable non-resident companies pay their fair-share of taxes in source market jurisdictions where users and consumers are located.

