

Semester Report

July - December 2021



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Introduction

The South Centre undertakes policy-oriented research on issues, as defined in its Work Program (<https://www.southcentre.int/work-program/>), that are relevant to the achievement of the Sustainable Development Goals. It supports the countries of the South to effectively participate in negotiating processes in order to build up a multilateral system that supports and does not undermine development efforts. It also provides policy and technical advice and capacity building in support of countries and institutions of the South. Catalogues of the publications of the Centre can be found at <https://www.southcentre.int/publications-catalogues/>.

The South Centre expands its reach and impact by leveraging cooperation with other international organizations, research institutions, academia and civil society.

This Semester Report is an account of how the South Centre's Secretariat has fulfilled the Centre's mission through the different workstreams for the period July – December 2021.

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1. Response to COVID-19

The COVID-19 pandemic continues to significantly and adversely affect global health - with reported deaths exceeding 5 million - and the losses from the economic downturn estimated to reach US\$5.3 trillion by 2026. While vaccine roll out has increased worldwide, global inequity in vaccine access remains the main challenge to effectively tackle the pandemic. Developed countries have begun providing booster doses to their populations, even when many of the developing countries are still awaiting first and/or second doses, thereby putting further pressure on global supply and logistics. There is also high inequity in access to diagnostics and therapeutics among developing countries, particularly in Africa. The Access to COVID-19 Tools (ACT) Accelerator initiative aimed to ensure access to diagnostics, therapeutics and vaccines for low and middle income countries, continues to be underfunded and deliveries of vaccines from manufacturers remain delayed, given that rich countries have contracted excess doses in advance and thus have the priority for contractual deliveries even as they have reached high levels of vaccinations. New variants have emerged that also threaten to prolong the pandemic. Increasing production of effective vaccines and treatments requires scaling up production around the world, which can be accelerated through the sharing of intellectual property and know-how. As manufacturers are reluctant to voluntarily license technology, there is a need for a multilateral solution, one of which is still pending at the World Trade Organization (WTO), to temporarily waive the obligations under the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).

The South Centre has continued to provide support to countries on policy and engagement in negotiations, through briefings and direct advice, and has held various events and expert consultations, as well as produced numerous research papers, policy briefs, SouthViews and SouthNews to support the response to the COVID-19 pandemic, in particular towards increasing manufacturing of, and improving access to, vaccines, treatments and diagnostics (see <https://ipaccessmeds.southcentre.int/covid-19-pandemic/>). Among other activities to support this vision, the South Centre organized a [webinar](#) on Local Production and Access to Vaccines and Treatments for COVID-19 together with the Brazilian Consumer Rights' Institute (IDEC) on 14 December 2021.



Publications and Statements:

Restructuring the Global Vaccine Industry (Research Paper 134, September 2021) by Felix Lobo <https://www.southcentre.int/research-paper-134-september-2021/>

Canada's Political Choices Restrain Vaccine Equity: The Bolivia-Biolyse Case (Research Paper 136, September 2021) by Muhammad Zaheer Abbas, PhD <https://www.southcentre.int/research-paper-136-september-2021/>

Potential Claims related to IP and Public Health in Investment Agreements: COVID-19, the Proposed TRIPS Waiver and Beyond (Investment Policy Brief 24, 9 December 2021) by Cynthia Ho <https://www.southcentre.int/investment-policy-brief-no-24-9-december-2021/>

Vaccination inequalities and the role of the multilateral system (SouthViews No. 224, 19 July 2021) by Carlos M. Correa <https://www.southcentre.int/southviews-no-224-19-july-2021/>

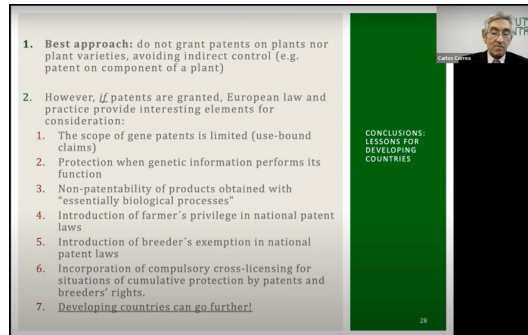
Vaccine Nationalism (SouthViews No. 225, 21 July 2021) by Prof. Ujal Singh Bhatia <https://www.southcentre.int/southviews-no-225-21-july-2021/>

South Centre and IDEC organize debate on local manufacturing and equitable access to vaccines and treatments for COVID-19 (SouthNews No. 394, 20 January 2022) by Vitor Ido <https://us5.campaign-archive.com/?u=fa9cf38799136b5660f367ba6&id=cb7e85a8da>

2. Biodiversity, access to genetic resources and traditional knowledge, and benefit sharing

The first part of the United Nations (UN) Biodiversity Conference was held in October 2021, and is to be followed by a second part expected to be held in April-May 2022. This comprises the 15th meeting of the Conference of the Parties (COP 15) to the Convention on Biological Diversity (CBD), the 10th meeting of the COP serving as the meeting of the parties to the Cartagena Protocol on Biosafety (CP COP/MOP 10), and the fourth meeting of the Nagoya Protocol on Access and Benefit-sharing (NP COP/MOP 4). A notable outcome was the adoption of the Kunming Declaration to help build political momentum for the 2022 decisions of COP, in particular the conclusion of the negotiations on the Post-2020 Biodiversity Framework. For negotiations to succeed, the Framework must be ambitious, balanced and achievable, building on past commitments. All three pillars of the CBD must be equally advanced, and it must be ensured that the Framework includes mechanisms for adequate financing, building capacities and technology transfer to developing countries. The Rio principles on common but differentiated responsibilities (CBDR) must therefore be clearly reflected. The South Centre participated in sessions related to the CBD, as well as of the Commission on Genetic Resources for Food and Agriculture (CGRFA) to which the Centre also made a [submission](#).

The growing patenting of plants and plant materials in developing countries remains a matter of concern, particularly in the absence of exceptions allowing the saving and re-use of seeds and the development of new plant varieties. The South Centre undertook - with the support of Oxfam Novib - research on measures that can be adopted to mitigate the negative impacts of patenting on farmers and breeders consistently with the TRIPS Agreement, including the lessons that may be drawn from legislative changes introduced in European law to incorporate the 'farmers' privilege' and a breeders' exemption (see [Patenting of Plants and Exceptions to Exclusive Rights: Lessons from European Law](#)). This report was presented with expert discussants at a [webinar](#) on the sides of the World Intellectual Property Organization (WIPO) Standing Committee on Patents on 6 December 2021.



Publications and Statements:

Governing Seed for Food Production: The International Treaty on Plant Genetic Resources for Food and Agriculture (Research Paper 139, October 2021) by *Nina Isabella Moeller* <https://www.southcentre.int/research-paper-139-october-2021/>

The International Treaty on Plant Genetic Resources for Food and Agriculture: Saving, Sharing and Taking Care of the Plants and Seeds that Feed the World (Policy Brief 105, October 2021) by *Dr. Kent Nnadozie* <https://www.southcentre.int/policy-brief-105-october-2021/>

Patenting of Plants and Exceptions to Exclusive Rights: Lessons from European Law (Study, September 2021) <https://www.southcentre.int/south-centre-study-september-2021/>



South Centre Submission to the 18th Session of the CGRFA (August 2021) <https://www.southcentre.int/sc-submission-august-2021/>

Reflection on policies and flexibility available under TRIPS for developing countries to apply exceptions and limit patents on plants, drawing lessons from European experience (SouthNews No. No. 396, 21 January 2022) by *Vitor Ido* <https://us5.campaign-archive.com/?u=fa9cf38799136b5660f367ba6&id=eddf68520f>

Statement by the South Centre to the Third meeting of the Open-Ended Working Group on the Post 2020 Global Biodiversity Framework (GBF) (September 2021) <https://www.southcentre.int/statement-september-2021/>

3. Capacity building activities on TRIPS flexibilities for public health

The use of TRIPS flexibilities is an enabling factor for broadening access to medicines and other medical products, increasing supply and lowering prices. The effective utilization of TRIPS flexibilities continues to present obstacles in many developing countries because legal provisions are not adequate and the procedures are not sufficiently spelled out. Some of these countries, however, have made progress in implementing such flexibilities, notably the

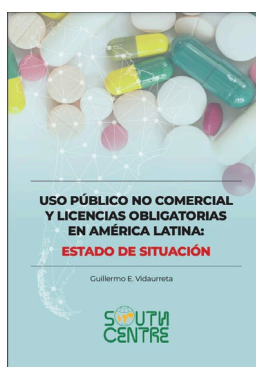
development of patentability criteria thereby ensuring that applications of patents on pharmaceuticals are rigorously examined in order to avoid ‘evergreening’ and ‘patent thickets’ that impede legitimate competition.

The South Centre continued to undertake research on the policy space available to design intellectual property policies -consistent with the TRIPS Agreement- that contribute to enhancing access to pharmaceutical products, including on the implications of the jurisprudence of WTO panels and the Appellate Body. It also undertook reviews of national legislation and regulations, advancing recommendations for the effective use of TRIPS flexibilities to promote access to such products, provided expert legal and policy advice to Geneva-based missions, Ministries of Foreign Affairs, Ministries of Health and patent offices, and imparted virtual trainings using its e-learning Academy addressed to [judges in the Asian region](#), as well as [policy makers and patent examiners in Central America](#) and the [Andean region](#). Among other activities, the South Centre organized [an exchange among patent offices](#) of Angola, Argentina, Bolivia, Brazil, Cuba, Egypt, Malaysia, Peru, and South Africa on patentability of pharmaceuticals produced by chemical synthesis and of biological origin.

The South Centre’s services in this area are available to developing countries at no cost, and with the assistance of a project supported by Unitaid. More information on services, activities and events for this stream of work is available at <https://ipaccessmeds.southcentre.int>.

Publications and Statements:

Uso Público No Comercial y Licencias Obligatorias en América Latina: Estado de Situación (Libro, 2021) por Guillermo Vidaurreta <https://www.southcentre.int/book-by-the-south-centre-2021-3/>



Utilising Public Health Flexibilities in the Era of COVID-19: An Analysis of Intellectual Property Regulation in the OAPI and MENA Regions (Research Paper 141, November 2021) by Yousuf A Vawda and Bonginkosi Shoji <https://www.southcentre.int/research-paper-141-november-2021/>

Precios justos para la cobertura sanitaria universal: El impacto de la judicialización de la salud (Informe sobre políticas 96, Julio 2021) por Silvina Andrea Bracamonte y José Luis Cassinerio <https://www.southcentre.int/informe-sobre-politicas-96-julio-2021/>

O papel dos tribunais na implementação das flexibilidades do TRIPS: Supremo Tribunal Federal (STF) do Brasil declara inconstitucionais as extensões automáticas de prazos de patentes (Policy Brief 94, Setembro de 2021) por Vitor Henrique Pinto Ido <https://www.southcentre.int/policy-brief-94-setembro-de-2021/> (also available in English)

South Centre and Thammasat University held successful online regional course on intellectual property and public health for judges from 13 Asian countries (SouthNews

No. 381, 8 October 2021) by Vitor Ido <https://mailchi.mp/southcentre/southnews-south-centre-and-thammasat-university-held-successful-online-regional-course-on-ip-and-public-health-for-judges-from-13-asian-countries>



Are the US, EU and China shifting positions on IP and Public Health? South Centre webinar discussed their recent trends as the second webinar of the Emerging Trends in FTAs and Public Health series (SouthNews No. 387, 3 November 2021) by Vitor Ido <https://us5.campaign-archive.com/?u=fa9cf38799136b5660f367ba6&id=70f51984d8>



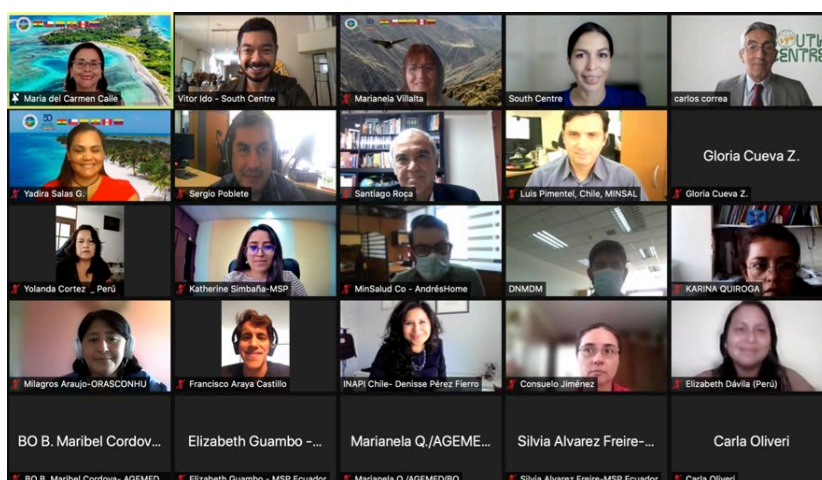
Aligning patent examination with public health policies in Central America (SouthNews No. 390, 13 December 2021) By Viviana Munoz Tellez <https://us5.campaign-archive.com/?u=fa9cf38799136b5660f367ba6&id=584feefac>

South Centre and Patent Offices from developing countries gather to share experiences on intellectual property and public health (SouthNews No. 391, 16 December 2021) by Vitor Ido <https://us5.campaign-archive.com/?u=fa9cf38799136b5660f367ba6&id=98a5ad03b9>

South Centre promueve discusión sobre la propiedad intelectual y el interés público en Colombia y la región: el contexto del Covid-19, uso de las flexibilidades del Acuerdo ADPIC y la protección de conocimiento tradicional (SouthNews No. 393, 23 December 2021) by Viviana Munoz Tellez <https://us5.campaign-archive.com/?u=fa9cf38799136b5660f367ba6&id=1bd32f576a>



South Centre and ORAS CONHU conduct training in December 2021 and January 2021 for Patent Offices and Ministries of Health on the implementation of TRIPS Flexibilities for Public Health (SouthNews No. 397, 1 February 2022) by Vitor Ido <https://us5.campaign-archive.com/?u=fa9cf38799136b5660f367ba6&id=e6ae3a7f00> (translated into Spanish)



4. Developments at the World Intellectual Property Organization

Multilateral discussions in the different standing committees and ad-hoc negotiating bodies in WIPO did not take place during the first five months of 2021 due to the prevailing COVID-19 pandemic situation. However, as the situation gradually eased, meetings of the various WIPO bodies reconvened starting in June 2021. In this context, the South Centre provided preparatory support to developing countries for the 41st session of the Standing Committee on Copyright and Related Rights (SCCR), held from 28 June to 1 July. The South Centre also held a briefing in preparation for the WIPO Assemblies and the WIPO Standing Committee on Patents (SCP) and participated in the discussions on intellectual property (IP) and artificial intelligence. The South Centre also organized a joint briefing on copyright related issues in the SCCR along with the Program on Information Justice and Intellectual Property (PIJIP) of the American University Washington College of Law.

The South Centre also provided inputs for expanding the activities of WIPO in the area of COVID-19 pandemic response in the Program and Budget and in the context of the discussions at the SCCR and SCP committees. The WIPO Assemblies have approved the extension of the mandate for the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) with a new work program for the next two years. Advancing the effective protection of genetic resources and traditional knowledge including folklore in the context of intellectual property is a key priority for developing countries in the coming years. However, the continuous obstacles that the negotiations face at the IGC and its inability to deliver instruments to address existing gaps in

the international regime (such as in relation to the disclosure of origin of biological materials claimed in patent applications) remains a matter of concern.

Publications and Statements:

Statement by the South Centre to the 2021 Assemblies of the Member States of WIPO (October 2021) <https://www.southcentre.int/statement-october-2021/>

5. Developments at the World Trade Organization

In the WTO, the major issue for developing countries and least developed countries (LDCs) has been to advance discussions for the adoption of a waiver from the TRIPS Agreement based on a revised proposal submitted by India and South Africa and supported by more than 100 countries; and the decision on extension of the TRIPS transition period for LDCs. The South Centre provided support in terms of preparation for the negotiations, public support for the proposals as well as research publications on these issues.

With regard to the TRIPS waiver, the revised proposal suggests that it would apply in respect of health products and technologies for the prevention, containment and treatment of COVID-19, including vaccines, diagnostics, therapeutics, medical devices, personal protective equipment, their materials or components, and their methods and means of manufacture. The waiver is proposed for a duration of at least three years, subject to an annual review of the waiver as mandated under article IX.4 of the WTO Agreement. Despite the growing support for the proposed waiver, some developed countries, particularly the European Union (EU), continue to oppose it. Indeed, the EU has submitted an alternative proposal to the WTO General Council which, among others, focuses on facilitating the use of the available flexibilities under TRIPS, particularly article 31*bis*, without the granting of the waiver. It is also likely to be an insistence on the part of some developed countries to limit the outcome of the negotiations on the proposed waiver to vaccines and to explore alternative solutions based on voluntary collaboration on the part of IP right holders. Such an outcome would be very insufficient to address the needs of developing and least developed countries. Hence, a critical challenge for these countries will be to ensure that the waiver decision is sufficiently broad in scope and is not constrained by limiting conditionalities or by approaches that are inadequate in the current context. In this regard, the South Centre has undertaken a number of briefings for developing country delegates as well as public webinars on the justification for the TRIPS waiver. In addition, the South Centre has organized interactive discussions with experts on the modalities for implementation of the waiver through appropriate national legal, policy or judicial measures, as well as to explore options to safeguard the implementation of a waiver from TRIPS plus obligations under free trade agreements or potential challenges under international investment agreements (IIAs).

The extension of the TRIPS transition period for LDC Members of the WTO has been another priority area for the work of the South Centre. The economic growth forecast for LDCs has dramatically deteriorated due to the pandemic shock, which is estimated to lead to a substantial decline in average income levels across most LDCs. There has also been a sharp decline in demand for goods and services from LDCs which depressed the price for their primary exports thereby reducing external inflows. This has impacted all LDCs, including those on the anvil of graduation, that are dependent on export of commodities such as fuels, metals and minerals, as well as those that depend heavily on exports of manufactured products such as textiles and garments. This threatens to increase the number of people living in extreme poverty in LDCs.

In this context, the South Centre has supported the LDC group in preparing for discussions in the WTO for a decision on the duly motivated request submitted by LDCs for a further extension of the transition period available to LDCs under article 66.1 of TRIPS, which

exempts LDC Members from implementing the substantive and enforcement provisions of the TRIPS Agreement during the transition period. The LDC group had, as part of this request, sought an extension of this period until their graduation and then for another 12 years for LDCs following their graduation, to overcome the challenges such economies face towards sustainable graduation due to the continuation of their vulnerabilities as LDCs and the adverse impact on their sustainable development due to the COVID-19 pandemic. In June 2021 the TRIPS Council extended the transition period for LDCs only till 1 June 2034. The South Centre issued a statement regretting the limited scope of this decision. Ensuring availability of the transition period after their graduation remains a critical issue for the LDCs, which is currently an element of a proposal submitted by the LDCs before the WTO General Council.



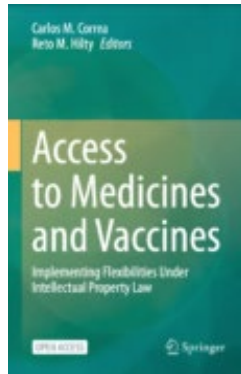
(see <https://ipaccessmeds.southcentre.int/event/the-case-for-policy-space-bangladeshs-pharmaceutical-sector-and-access-to-medicines/>)

The South Centre organized various briefings, expert consultations, events and produced several publications. As part of the WTO Public Forum, the South Centre held an [event on the Future of the TRIPS Agreement post COVID-19](#). As 2021 marked the 20th anniversary of the Doha Declaration on TRIPS and Public Health, a [policy brief](#) was produced analyzing its impact.



Publications and Statements:

Access to Medicines and Vaccines: Implementing Flexibilities Under Intellectual Property Law (Book, 2021) edited by Carlos M. Correa and Reto M. Hilty
<https://www.southcentre.int/book-by-the-south-centre-2021-4/>



Implementation of a TRIPS Waiver for Health Technologies and Products for COVID-19: Preventing Claims Under Free Trade and Investment Agreements (Research Paper 135, September 2021) by *Carlos M. Correa, Nirmalya Syam and Daniel Uribe* <https://www.southcentre.int/research-paper-135-september-2021/> (translated into French and Spanish)

The WTO TRIPS Waiver Should Help Build Vaccine Manufacturing Capacity in Africa (Policy Brief 97, July 2021) by *Faizel Ismail* <https://www.southcentre.int/policy-brief-97-july-2021/>

The TRIPS COVID-19 Waiver, Challenges for Africa and Decolonizing Intellectual Property (Policy Brief 99, August 2021) By *Yousuf Vawda* <https://www.southcentre.int/policy-brief-99-august-2021/>

EU Proposals regarding Article 31bis of the TRIPS Agreement in the Context of the COVID-19 Pandemic (Policy Brief 100, August 2021) by *Nirmalya Syam* <https://www.southcentre.int/policy-brief-100-august-2021/>

Strong Intellectual Property Protection, Weak Competition Rules – or the Other Way Around to Accelerate Technology Transfer to the Global South? Ten Considerations for a “Prodevelopment” IP-Related Competition Law (Policy Brief 103, September 2021) by *Klaus D. Beiter* <https://www.southcentre.int/policy-brief-103-september-2021/>

Accelerating COVID-19 Vaccine Production via Involuntary Technology Transfer (Policy Brief 102, September 2021) by *Dr. Olga Gurgula* <https://www.southcentre.int/policy-brief-102-september-2021/>

Compulsory licensing vs. the IP waiver: what is the best way to end the COVID-19 pandemic? (Policy Brief 104, October 2021) by *Olga Gurgula* <https://www.southcentre.int/policy-brief-104-october-2021/>

The Doha Ministerial Declaration on TRIPS and Public Health on its Twentieth Anniversary (Policy Brief 107, November 2021) by *Nirmalya Syam, Viviana Munoz, Carlos M. Correa and Vitor Ido* <https://www.southcentre.int/policy-brief-107-november-2021/>

Waive IP Rights & Save Lives (SouthViews No. 231, 29 November 2021) by *Srividhya Ragavan* <https://www.southcentre.int/southviews-no-231-29-november-2021/>

South Centre working session at the WTO Public Forum 2021 discussed the future of the TRIPS Agreement post COVID-19 (SouthNews No. 385, 19 October 2021) by *Vitor Ido* <https://us5.campaign-archive.com/?u=fa9cf38799136b5660f367ba6&id=b7c5d30200>

STATEMENT BY THE SOUTH CENTRE ON THE WTO DOHA MINISTERIAL DECLARATION ON TRIPS AND PUBLIC HEALTH ON ITS TWENTIETH ANNIVERSARY (14 November 2021) <https://www.southcentre.int/statement-on-the-doha-declaration-on-trips-and-public-health-on-its-20th-anniversary-14-november-2021/>

6. Developments at the World Health Organization

The COVID-19 pandemic continued to receive much attention in the World Health Organization (WHO). At the same time, the issue of strengthening the WHO's role in emergency preparedness and response for future pandemics has also received much attention during the WHO discussions. For developing countries, the critical challenge will be to ensure that substantial focus remains on WHO coordinated response to the COVID-19 pandemic while ensuring that mechanisms established to ensure access to vaccines and other health technologies for responding to COVID-19 and other health emergencies are effective and fit for purpose. Till date, existing mechanisms such as the COVID-19 Vaccines Global Access (COVAX), the ACT Accelerator and the COVID-19 Technology Access Pool (C-TAP) have not enabled all developing countries and LDCs to respond effectively to the COVID-19 pandemic.

The South Centre supported developing countries in the Working Group of Member States on strengthening the role of WHO on pandemic preparedness and response (WGPR), the Member States Working Group on WHO sustainable financing, and preparations for the Special Session of the World Health Assembly to decide on whether to start a process for negotiation of a new WHO convention, agreement or other international instrument on pandemic preparedness and response. The WHO Special Session was held from 29 November to 1 December and agreed to establish an intergovernmental negotiating body (INB) to draft and negotiate a WHO convention or other international instrument on pandemic preparedness and response, which will hold its first meeting by March 2022. In parallel, the Member State Working Group will continue examining recommendations to strengthen WHO response to pandemics and will submit its recommendations at the next WHA in 2022; its report will also inform the work of the INB. The WHO Working Group on sustainable financing is to submit its recommendations to the Executive Board (EB) in 2022. In January 2022 the EB also addressed a number of important issues such as Director-General candidacies, and the continuation of the Global Strategy and Plan of Action on Public Health, Innovation and Intellectual Property.

In addition to briefings, the South Centre has produced analysis and research publications on the ongoing processes, including on the negotiations for a 'pandemic treaty'.

Publications and Statements:

Vacunas, medicamentos y patentes. COVID-19 y la necesidad de una organización internacional (Libro, 2021) por Germán Velásquez <https://www.southcentre.int/book-by-the-south-centre-2021-2/> (also available in French and English)



Del SIDA al COVID-19: La OMS ante las crisis sanitarias globales (Documento de Investigación 140, Noviembre 2021) por Germán Velásquez
<https://www.southcentre.int/documento-de-investigacion-140-noviembre-de-2021/>

Un nuevo tratado internacional de preparación y respuesta ante pandemias: ¿Podrá atender a las necesidades del Sur Global? (Informe sobre políticas 93, Julio 2021) por Germán Velásquez y Nirmalya Syam <https://www.southcentre.int/informe-sobre-politicas-93-julio-2021/> (also available in English and French)

Strengthening WHO for Future Health Emergencies while Battling COVID-19: Major Outcomes of the 2021 World Health Assembly (Policy Brief 106, November 2021) by Nirmalya Syam and Mirza Alas <https://www.southcentre.int/policy-brief-106-november-2021/>

A New Treaty on Pandemics: Some Key Issues from a Global South Perspective (Working Paper, 23 November 2021) by Tamara Luciana Bustamante, Josefina del Rosario Lago, Mariana Magliolo, & Lucas Javier Segal, Facultad de Derecho, Universidad de Buenos Aires <https://www.southcentre.int/working-paper-on-pandemic-treaty-23-november-2021/>

South Centre Statement to the Special Session of the WHA (29 November 2021)
<https://www.southcentre.int/statement-to-the-wha-ss-29-november-2021/>

7. Antimicrobial Resistance

Antimicrobial Resistance (AMR) is a critical health issue with severe effects for developing countries. As developing countries continue to battle the ongoing COVID-19 pandemic, efforts to mitigate AMR are essential, particularly in the face of current concerns that antimicrobial use may be increasing because of the pandemic and that this could further exacerbate AMR. Developing countries are in urgent need of financing for implementing national action plans (NAPs), otherwise progress on AMR may stall.

The global governance for AMR was strengthened by the establishment of a One Health Global Leadership Group on AMR (GLG) that has called attention to the need of increasing global financial support. The two other components of the AMR governance, namely the Independent Panel on Evidence for Action Against Antimicrobial Resistance and the Multistakeholder Platform are yet to be finalized.

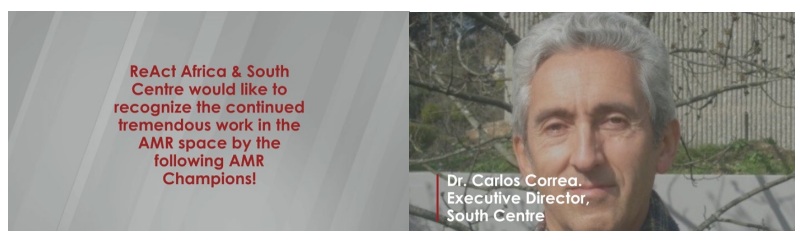
The South Centre has continued to support efforts to increase exchanges between civil society organizations (CSOs) and international organizations such as WHO. As part of these efforts, the South Centre together with the Antibiotic Resistance Coalition (ARC) held a virtual meeting with the Evaluation Team on the WHO Global Action Plan on AMR. The ARC and South Centre provided feedback on the role of the WHO leadership, the progress on NAP implementation and the WHO support for countries, the WHO intersectoral work with the other agencies and the importance of the One Health approach.

The South Centre also undertook activities to maintain awareness on AMR. In July 2021, the Centre co-organized a side event at the United Nations High-level Political Forum together with ReAct – Action on Antibiotic Resistance and Innovation+Design Enabling Access (IDEA) Initiative of the Johns Hopkins Bloomberg School of Public Health. The virtual side event focused on the topic of “[Ensuring a Sustainable and Resilient Response to COVID-19 and Emerging Infectious Diseases through Local Production.](#)”



For the World Antimicrobial Awareness Week (WAAW), the South Centre with the support of the Fleming Fund provided financial support to four CSOs in developing countries to carry out awareness campaigns to increase understanding of what AMR is and why using antibiotics appropriately is critical to manage AMR including at the farm level. The campaigns included creating messages in local languages, providing training for students, increasing awareness among community doctors, patients, and farmers. Many of the campaigns focused on innovative ways to reach community members including through disseminating information in public transit systems (including bus stations) using banners and flyers. Moreover, the South Centre with the support of the Oak Foundation also engaged four more CSOs to design campaigns from a One Health perspective including engaging veterinarians, farmers and supporting intersectoral work to increase awareness of AMR. These CSOs started their activities during WAAW and will continue with more activities early next year.

As part of the efforts to support capacity building the South Centre together with ReAct Africa organized a virtual conference for the African region from the 30th of November to 3rd December with the theme "[Progress achieved on the Global Action Plan on Antimicrobial Resistance and pandemic preparedness in the African Region.](#)" The conference recognized [AMR champions](#). The regional representatives of WHO, the Food and Agriculture Organization (FAO) and the World Organisation for Animal Health (OIE) participated and provided critical information on their ongoing work in the region. The conference also featured a panel to discuss financing with the participation of the World Bank, a representative from the WHO tripartite trust fund and the Fleming Fund. The conference also highlighted the ongoing work at the country level through presentations from AMR focal points on their ongoing progress and critical implementation challenges, and that despite resources being directed to COVID-19 response many countries continued to emphasize on their progress in fighting AMR. The conference ended with a day dedicated to student AMR champions from the region.



Publications and Statements:

Malaria and Dengue: Understanding two infectious diseases affecting developing countries and their link to climate change (Research Paper 133, August 2021) by Mirza Alas <https://www.southcentre.int/research-paper-133-august-2021/>

Ensuring a Sustainable and Resilient Response to COVID-19 and Emerging Infectious Diseases through Local Production (SouthNews No. 378, 16 July 2021) by Mirza Alas and Vitor Ido <https://mailchi.mp/southcentre/southnews-ensuring-a-sustainable-and-resilient-response-to-covid-19-and-emerging-infectious-diseases-through-local-production>

The Declaration of the G20 Health Ministers addresses Antimicrobial Resistance (South Centre News on AMR No. 51, 16 September 2021) by Viviana Munoz Tellez <https://us5.campaign-archive.com/?u=fa9cf38799136b5660f367ba6&id=0beb9a6c75>

Progress and challenges on the implementation of Antimicrobial Resistance (AMR) National Action Plans (NAPs) in the African region (South Centre News on AMR No. 52, 22 December 2021) by *Mirza Alas* <https://us5.campaign-archive.com/?u=fa9cf38799136b5660f367ba6&id=3ea896f512>

8. The 4th Industrial Revolution and its impact

The socio-economic implications of the so-called ‘4th Industrial Revolution’ raise serious challenges and concerns for developing countries. Investment and international trade, labor and educational systems are facing transformations which affect countries unevenly. The South Centre contributes with analyses on the implications of the new technologies underpinning such a ‘revolution’, particularly in relation to the formulation of industrial policies and technological catching-up strategies, as well as the impacts of the widening technological and digital gap.

COVID-19 has widely expanded the use of digital technologies and big data for various social and economic purposes, including contact tracing, vaccine ‘passports’, e-learning technologies, e-health, etc. The collection and use of huge amounts of data are a matter of regulatory and human rights concern which lies at the interface of privacy, digital rights, community data sovereignty, technological catch-up strategy, industrial policies, and international trade. Such practices also raise the risk of ‘data colonialism’ to the detriment of developing countries and communities, raising the question on how to avoid purely extractive patterns and accrue social and economic benefits from data. Big tech firms have been put on the spotlight by antitrust agencies in various jurisdictions, while many developing countries continue to reflect on how to reduce the technological gap and leapfrog in their digital development strategies.

The 4th Industrial Revolution may aggravate existing inequalities, thereby increasing precarity and exclusion; these are particularly crucial topics for developing countries to cooperate on and to advocate for an international system that is apt to address and counter such detrimental consequences, including discrimination due to race, gender, ethnicity, and/or sexual orientation while diminishing the risks of new technologies, and promoting technology transfers to the Global South.

In this context, the South Centre continues to monitor processes and ongoing policy and regulatory discussions at the multilateral, regional, and national levels. For example, the South Centre participated in the process of elaboration of the United Nations Conference on Trade and Development (UNCTAD) Digital Economy Report 2021 during a Peer Review process on Data Flows and Development. The report was launched in September 2021 and the Centre continued to engage on this matter in this semester. On 23 September 2021, during WIPO’s

Fourth Conversation on Intellectual Property and Frontier Technologies, the South Centre [delivered a statement on data governance and equity](#), with a focus on issues for developing countries. The Centre has also been collaborating with various academic institutions on matters related to the 4th Industrial Revolution. For example, with Digital Pathways, part of University of Oxford's Blavatnik School of Government, the South Centre has reviewed papers on digital trade and explored future activities. During the Global Congress on IP and the Public Interest, between 25-29 October 2021, South Centre co-organized with FGV São Paulo's Center for Education and Research on Innovation (CEPI), a panel on technology and the transformations of the IP system (Technodiversity, Black Epistemologies, and Indigenous Ontologies: Reflections for the Transformation of Intellectual Property Foundations). In collaboration with American University Washington College of Law's Program on Information Justice and Intellectual Property (PIJIP), the Centre extended support to, and participated in, meetings held in November and December 2021 on copyright exceptions and limitations, with a focus on the right to research and ongoing discussions regarding text and data mining.

During the period, South Centre also had exchanges with four academic institutions of the South on current trends of innovation and technological race, with a focus on China's contemporary policies and its intersections with intellectual property and 4th industrial revolution strategies.

In late November 2021, the South Centre participated in a cross-cutting meeting co-organized by various civil society organizations in Latin America at the intersection of intellectual property, access to medicines, traditional knowledge and digital rights.

The South Centre continues to monitor issues pertaining to e-commerce at the WTO, Internet governance and equity, the discussions on artificial intelligence (AI), data governance and frontier technologies at WIPO, as well as digital health at the WHO. The South Centre is also working on a number of research outputs on these topics, also in collaboration with institutions from developing countries on the issue of digital rights.

Publications and Statements:

Frontier Technologies and IP – WIPO 4th Conversation (South Centre Statement, 23 September 2021) <https://www.southcentre.int/statement-september-2021-3/>

9. Climate Change

Climate change is one of the major challenges of our times. The latest Intergovernmental Panel on Climate Change (IPCC) report (August 2021) examined five scenarios which found that the world is going to reach warming of 1.5°C sometime in the next 20 years (2021-2040)¹. This means more melting of ice, higher sea levels, more heatwaves, droughts and other types of extreme weather conditions, and greater impacts on food security, health, the environment and sustainable development. Those places that occasionally suffered extreme weather conditions in the past would likely witness more frequent droughts, disastrous flooding, wildfires, heatwaves and other climate change related disasters in the years to come.

Under this grim scenario, the United Nations Framework Convention on Climate Change (UNFCCC) organized the 26th meeting of the Conference of the Parties (COP 26) in Glasgow, Scotland from 31 October to 13 November 2021 (the COP was initially scheduled to finish on

¹ Intergovernmental Panel on Climate Change (IPCC), "Summary for Policymakers", in *Climate Change 2021: The Physical Science Basis*, Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change, V. Masson-Delmotte, P. Zhai, A. Pirani, S.L. Connors, C. Péan, S. Berger, N. Caud, Y. Chen, L. Goldfarb, M.I. Gomis, M. Huang, K. Leitzell, E. Lonnoy, J.B.R. Matthews, T.K. Maycock, T. Waterfield, O. Yelekçi, R. Yu, and B. Zhou, eds. (2021). In Press.

12 November). The COP was billed as an opportunity to accelerate actions from countries and the international community towards the goals of the Paris Agreement and the United Nations (UN) Framework Convention on Climate Change. It was also meant to complete the 'Paris Rulebook' containing the implementation guidelines to the Paris Agreement. The most recent synthesis report of all Nationally Determined Contributions has found that "a sizable increase, of about 16%, in global GHG emissions in 2030 compared to 2010 is anticipated. Comparison to the latest findings by the Intergovernmental Panel on Climate Change (IPCC) shows that such an increase, unless changed quickly, may lead to a temperature rise of about 2.7°C by the end of the century".²

Some progress has been made in COP 26 in terms of addressing issues related to Articles 6.2 and 6.4 (voluntary cooperative approaches) as well as Article 6.8 on non-market approaches of the Paris Agreement, on which a working group has also been created. Progress has also been achieved on a dedicated section related to Loss and Damage with the operationalization of the Santiago Network aimed at catalyzing the technical assistance of relevant organizations, bodies, networks and experts, for the implementation of relevant approaches for averting, minimizing and addressing loss and damage at the local, national and regional levels, in developing countries that are particularly vulnerable to the adverse effects of climate change.

On climate finance, developed countries re-committed to accomplish their many years of unfulfilled commitments to provide 100 billion dollars per year until 2025, and also to provide more resources towards adaptation measures. However, this is still a pending issue, including the need for a definition of 'climate finance', which may help developing countries to distinguish between grants and loans in order to have a clear picture about the configuration of the climate finance for taking best-informed decisions.

The South Centre has been following these negotiations closely and stated its position in the statement "[Developing Countries Require Appropriate Means of Implementation to Deal with the Climate Crisis](#)". The South Centre also published [Climate Policy Brief 26](#) analysing some aspects of the COP 26, in particular climate finance and issues related to Article 6. The South Centre also published a related article in partnership with [InDepthNews](#).

The South Centre is currently engaged in a Readiness and Preparatory Support project with the Government of Lebanon funded by the Green Climate Fund (GCF). The project aims at strengthening and enhancing Lebanon's institutional arrangements and capacity to enable and optimize access to the Green Climate Fund.

Publications and Statements:

The Ocean Economy: trends, impacts and opportunities for a post COVID-19 Blue Recovery in developing countries (Research Paper 137, October 2021) by David Vivas Eugui, Diana Barrowclough and Claudia Contreras <https://www.southcentre.int/research-paper-137-october-2021/>

Some Key Elements for Developing Countries in Climate Change Negotiations of COP 26: Climate Finance, Article 6 Negotiations and Implications (Climate Policy Brief 26, October 2021) by M. Natalia Pacheco Rodríguez and Luis Fernando Rosales <https://www.southcentre.int/climate-policy-brief-26-october-2021/>

Developing Countries Require Appropriate Means of Implementation to Deal with the Climate Crisis (South Centre Statement for COP 26, 3 November 2021) <https://www.southcentre.int/statement-for-cop-26-3-november-2021/>

² See <https://unfccc.int/news/updated-ndc-synthesis-report-worrying-trends-confirmed>.

10. Responsible Investment & Human Rights

There has been a rebound in global investment flows in 2021, though recovery from the COVID-19 induced reduction in foreign investment flows has been fragile and unevenly distributed. According to the United Nations Conference on Trade and Development (UNCTAD), “of the total recovery increase, 75 per cent was recorded in developed economies”. The challenges continue to be channeling foreign investment towards contributing to the sustainable development and recovery from the pandemic of developing and least developed countries.

The urgency to find coordination and cohesion between international standards on human rights and environment protection has translated into an upward trend in the design and adoption of mandatory human rights due diligence laws and rules at national and regional levels. Nevertheless, further efforts are required to guarantee that large multinational corporations comply with human rights obligations in their business operations and throughout their supply chains, an effort which also requires a substantive reform of the international investment regime.

Promoting Responsible Investment Practices

During the second semester of 2021, the South Centre played an active role in different negotiations in the field of investment and business and human rights at the multilateral and regional level. Continuing its work on the reform of the international investment regime and the investor-State dispute settlement (ISDS) mechanism, the South Centre organized meetings with different stakeholders to discuss some of the critical challenges they have been facing in the context of foreign investment and investment treaties, and how these have been impacted due to the COVID-19 crisis.

Substantive policy research and publications on investment reform by the South Centre have highlighted experiences of developing countries in dealing with the issues arising from ISDS. This has also assisted in the technical support and capacity building activities undertaken by the South Centre for developing countries’ delegates in the ongoing negotiations for reforming international investment law at the United Nations Commission on International Trade Law (UNCITRAL) Working Group 3 and the deliberations on the new investment protocol for the African Continental Free Trade Area (AfCFTA). The South Centre has continued to provide technical support on investment reforms to Member States and members of the Group of 77 (G77) and China in these and other fora. The South Centre is also supporting the Expert Mechanism on the Right to Development in its thematic study on the Right to Development in International Investment Law, which *inter alia* considers developing countries’ efforts towards integrating international human rights, environment protection and sustainable development standards in their foreign investment related policies.

The South Centre also organized [a session on Investment Facilitation for Development](#) during the International Institute for Sustainable Development (IISD)’s Trade and Sustainability Hub, which focused on the ongoing discussions at the World Trade Organization (WTO) and how any new disciplines on investment facilitation could interact with the existing international investment agreements (IIAs).



Publications and Statements:

UNCITRAL Working Group III: Moving forward towards consensus or losing balance? (Investment Policy Brief 23, July 2021) by *Daniel Uribe and Danish* <https://www.southcentre.int/investment-policy-brief-23-july-2021/>

Carving Out a Role for Human Rights in International Investment Law (SouthViews No. 228, 15 October 2021) by *Barnali Choudhury* <https://www.southcentre.int/southviews-no-228-15-october-2021/>

Jamaica's Perspective on Reform of the Global Investment Regime (SouthViews No. 232, 10 December 2021) by *Omar Chedda* <https://www.southcentre.int/southviews-no-232-10-december-2021/>

Business & Human Rights

There have also been a number of important developments in the field of business and human rights, with the 7th session of the UN Working Group on Transnational Corporations and Other Business Enterprises held this year. It discussed the third revised draft of the legally binding instrument and saw substantive line-by-line negotiations on the text. The South Centre undertook a series of meetings and consultations with delegations and other stakeholders to discuss the process and how it will evolve. Efforts to elaborate a legally binding instrument to regulate transnational corporations are progressing strongly, with a group of friends of the Chair expected to be announced in due course.

The South Centre has also increased its collaboration with the Working Group on Business and Human Rights. Several South Centre publications were cited in a recent report by the Working Group on 'Human rights-compatible international investment agreements', which was presented at the UN General Assembly in October 2021. A session was also organized by the South Centre at the 10th Annual Forum on Business & Human Rights, which discussed the Working Group's recent report and the possible strategies that countries could consider to achieve a faster and systemic reform of IIAs and the wider investment policy frameworks.

Publications and Statements:

Beyond Corporate Social Responsibility: Strengthening Human Rights Due Diligence through the Legally Binding Instrument on Business and Human Rights (Research Paper 138, October 2021) by *Daniel Uribe Terán* <https://www.southcentre.int/research-paper-138-october-2021/>

Virtual Consultation in support of the UN Working Group's 2021 Report to the UN General Assembly on Human Rights-Compatible International Investment Agreements (Report, August 2021) <https://www.southcentre.int/south-centre-report-august-2021/>



The Post COVID-19 Recovery: A Stringent Test for the Business and Human Rights Discourse (SouthViews No. 229, 25 October 2021) by *H.E. Ambassador Luis Benigno Gallegos Chiriboga* <https://www.southcentre.int/southviews-no-229-25-october-2021/>

South Centre webinar explores synergies in multilateralism and human rights for a just fair & equitable post-pandemic recovery (SouthNews No. 386, 25 October 2021) by *Danish* <https://us5.campaign-archive.com/?u=fa9cf38799136b5660f367ba6&id=106e90a29t>



Substantive intergovernmental negotiations commence on the draft legally binding instrument on transnational corporations, other business enterprises and human rights (SouthNews No. 388, 4 November 2021) by *Danish and Daniel Uribe* <https://us5.campaign-archive.com/?u=fa9cf38799136b5660f367ba6&id=5650323a78>

South Centre Statement to the 7th Session of the Open Ended Intergovernmental Working Group on transnational corporations and other business enterprises with respect to human rights (25 October 2021) <https://www.southcentre.int/statement-25-october-2021/>

11. Human Rights Council

The South Centre has also been engaged in various processes currently underway at the Human Rights Council (HRC), particularly in regard to issues such as the right to development and the illegitimate imposition of unilateral coercive measures, among others. The South Centre has also had exchanges with the Expert Mechanism on the Right to Development, which was established by the HRC in 2019 under resolution 42/23 as a subsidiary body of the Council, with a view towards supporting their ongoing thematic studies as voluntary advisors.

The United Nations Declaration on the Rights of Peasants and other people working in the rural areas

The adoption of the United Nations Declaration on the Rights of Peasants and other people working in the rural areas (UNDROP) in 2018 was a landmark step for the international community. However, the UNDROP implementation remains a pending issue. The rights of peasants are still ignored in many parts around the world. Peasants continue to suffer discrimination and remain vulnerable. Despite this, the UNDROP has been used already to facilitate the interpretation of human rights decisions in some cases such as *Portillo Cáceres v. Paraguay* in the Human Rights Committee or the case *Lhaka Honhat Association v. Argentina* in the Interamerican Court of Human Rights.

The South Centre has engaged with some civil society and grass roots organizations such as La Via Campesina as well as with some academic institutions on the next steps to advance the implementation of the UNDROP. The South Centre published [Policy Brief 98](#) on this topic and participated in the “II Congreso Internacional: Land and Human Rights, Avances en la aplicación de los Derechos de los Campesinos y otras personas que trabajan en el mundo rural”, an event organized by the University of Seville to discuss issues related to the UNDROP’s implementation.

Publications and Statements:

The Implementation of the UN Declaration on the Rights of Peasants and Other People Working in Rural Areas: what is next? (Policy Brief 98, July 2021) by Luis Fernando Rosales Lozada <https://www.southcentre.int/policy-brief-98-july-2021/>

Issues in Financing Education as a Human Right: Central principles for public policy responses (SouthViews No. 226, 3 September 2021) by Kishore Singh <https://www.southcentre.int/southviews-no-226-3-september-2021/>

Written Contribution to the United Nations Committee on the Economic, Social and Cultural Rights Draft General Comment on Land and Economic, Social and Cultural Rights (July 2021) <https://www.southcentre.int/sc-submission-july-2021/>

Contribution of the South Centre to the Report of the Secretary-General on the Implementation of UN General Assembly Resolution A/75/L.97 dated 9 June 2021 on the “Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba” (September 2021) <https://www.southcentre.int/sc-contribution-to-unsg-report-on-us-embargo-against-cuba-2021/>

Statement during the Interactive dialogue with the Special Rapporteur on the right to development (September 2021) <https://www.southcentre.int/statement-september-2021-2/>

12. International Tax Cooperation

The foremost negotiation at present is on the taxation of the digital economy and is taking place in the Organisation for Economic Co-operation and Development (OECD)/Group of Twenty (G20) Inclusive Framework (IF) on Base Erosion and Profit Shifting (BEPS). The negotiations have now largely concluded, and an agreement has been reached. On 1 July, 130 members of the IF agreed to a political statement outlining agreements on key aspects such as scope, nexus, revenue sourcing, etc. However, some jurisdictions did not agree, notably Kenya, Nigeria and Sri Lanka. Negotiations continued and on 8 October a final political agreement was reached, including on the amount of profit to be redistributed to market jurisdictions and the global minimum corporate tax rate. The same three countries, now joined

by Pakistan (that disassociated itself from the consensus), remained steadfast in their opposition to what was widely criticized as a global tax deal that favoured rich countries, gave minimal to negative returns to developing countries and was largely perceived to shield the tech giants of the Global North from taxation by the Global South. The minimum tax was also criticized for giving priority to developed countries in tax collection and for the low rate levels.

The Two Pillar solution at present has been politically agreed to by 137 jurisdictions of the IF but is not legally binding. The next step now is for countries to decide whether to legally join either or both of the Pillars or to pursue alternative options for taxing the digital economy and on minimum corporate tax.

Within the UN Tax Committee, a new membership was selected with a four-year term and its first session held in October 2021 was spent deliberating over the agenda and workplan for the next four years and the subcommittees to be established to carry this work forward.

The South Centre Tax Initiative (SCTI, <https://taxinitiative.southcentre.int/>) closely followed these developments and supported developing country delegates in the negotiations. It released two statements³ responding to the IF statements outlining the concerns of developing countries on the Two Pillar solution. The South Centre's statements were widely picked up by the media and civil society organizations. The South Centre also produced a series of publications analysing various aspects of the Two Pillar solution. It also supported organizations working towards the same objectives such as the Group of Twenty-four (G24), the *Independent Commission for the Reform of International Corporate Taxation* (ICRICT) and the BEPS Monitoring Group by participating and contributing to their events and activities.

In collaboration with the Morocco-based Policy Centre for the New South (PCNS), it organized a [public webinar](#) right after the 8 October IF agreement to discuss the Two Pillar solution and other challenges faced by developing countries.



In collaboration with the Coalition for Dialogue on Africa (CODA), a special initiative of the African Union and the Secretariat of the Mbeki Panel on Illicit Financial Flows (IFFs), the South Centre co-organized the [First African Fiscal Policy Forum](#). This brought together leading voices from Africa and the Global South and was meant to critically interrogate the Two Pillar solution and inform developing countries of all options available to them, apart from those provided by the OECD. The Finance Ministers of Nigeria and Pakistan articulated their positions on the Two Pillar solution in this widely attended event and commended the South Centre for its support. The Forum concluded with the launch of a Call for Papers on the revenue impact assessment from the Two Pillar solution. The assessment will be provided at the next Forum, expected to be held in early 2022.

³ See <https://www.southcentre.int/statement-july-2021/>; <https://www.southcentre.int/statement-october-2021-3/>.



For the UN Tax Committee (UNTC), the South Centre provided full support in organizing and exchanging views with the new members from developing countries on the functioning of the Committee, including the rules of procedure, their rights as Committee members, important aspects to be aware of and how members could ‘hit the ground running’. The South Centre also consulted its Member States through the SCTI Focal Points on the issues they wanted included in the UN Tax Committee’s agenda. Based on this, a [submission](#) was made to the UNTC recommending inclusion of substantive issues such as international shipping, permanent establishment, sovereign wealth funds and others. The South Centre’s submission was referenced by the media and disseminated to the SCTI’s network of tax officials.

The South Centre also brought out a series of publications on topics of substantive and procedural relevance to the UN Tax Committee and the role of the UN in international taxation. Apart from this, other publications were made on topical issues such as the danger posed by a Most Favoured Nation clause in tax treaties, tax treaty tools available to counter treaty abuse, and others.

In addition, capacity building support continued to be provided to Member States, on request. Presentations were made to the governments of Bolivia and Argentina analyzing the Two Pillar solution and other options for taxing the digital economy. The South Centre also engaged with the Challenge 4 Social Impact initiative at the Graduate Institute, Geneva, through which students came up with solutions for ways in which Multinational Enterprises (MNEs) could be incentivized to pay taxes.

SCTI received several invitations for speaking in webinars and spoke on a variety of topics including the digital economy and tax incentives. The Steering Group of the SCTI, comprised of eminent experts from governments, civil society and international organizations, continued to provide valuable inputs and guidance to the South Centre’s interventions.

Publications and Statements:

Conceptualisation d’un instrument multilatéral des Nations Unies (IML des NU) (Rapport sur les politiques en matière de coopération fiscale 15, Juin 2021) par Radhakishan Rawal <https://www.southcentre.int/rapports-sur-les-politiques-en-matiere-de-cooperation-fiscale-15-juin-2021/> (also available in English)

Article 12B – A tax treaty solution by the UN Tax Committee for taxing digital incomes (Tax Cooperation Policy Brief 16, July 2021) by Rajat Bansal <https://www.southcentre.int/tax-cooperation-policy-brief-16-july-2021/> (translated into French and Spanish)

An Albatross Around the Neck of Developing Nations – MFN Clause in Tax Treaties (Tax Cooperation Policy Brief 17, July 2021) by Deepak Kapoor, IRS

<https://www.southcentre.int/tax-cooperation-policy-brief-17-july-2021/> (translated into French and Spanish)

Combatting Tax Treaty Abuse: Tools available under the BEPS Multilateral Instrument (Tax Cooperation Policy Brief 18, September 2021) by *Kuldeep Sharma, ADIT (CIOT, UK)* <https://www.southcentre.int/tax-cooperation-policy-brief-18-september-2021/>

Developing Country Demands for an Equitable Digital Tax Solution (Tax Cooperation Policy Brief 19, October 2021) by *Abdul Muheet Chowdhary* <https://www.southcentre.int/tax-cooperation-policy-brief-19-october-2021/>

Making the UN Tax Committee's Subcommittees More Effective for Developing Countries (Tax Cooperation Policy Brief 20, October 2021) by *Abdul Muheet Chowdhary, Sebastien Babou Diasso, and Aaditri Solankii* <https://www.southcentre.int/tax-cooperation-policy-brief-20-october-2021/>

Streamlining the Architecture of International Tax through a UN Framework Convention on Tax Cooperation (Tax Cooperation Policy Brief 21, November 2021) by *Abdul Muheet Chowdhary and Sol Picciotto* <https://www.southcentre.int/tax-cooperation-policy-brief-21-november-2021/>

International Taxation from Global South Perspectives (Report, October 2021) by *Badr Mandri, Sebastien Babou Diasso, and Aaditri Solankii* <https://www.southcentre.int/report-international-taxation-from-global-south-perspectives/>

Améliorer des règles du nexus pour une répartition équitable des droits d'imposition pour les pays en développement (SouthViews No. 220, 28 juin 2021) par *Radhakishan Rawal* <https://www.southcentre.int/southviews-no-220-28-juin-2021/> (also available in English)

Financial integrity for sustainable development: Importance of developing country joint action on tax, corruption and money-laundering (SouthViews No. 223, 14 July 2021) by *Dr. Ibrahim Mayaki* <https://www.southcentre.int/southviews-no-223-14-july-2021/>

Ending Extreme Poverty by Ending Global Tax Avoidance (SouthViews No. 227, 29 September 2021) by *Abdul Muheet Chowdhary* <https://www.southcentre.int/southviews-no-227-29-september-2021/>

The Place of Multilateralism in Tax Reforms: Exclusionary Outcomes of a Purported Inclusive Framework (SouthViews No. 230, 25 November 2021) by *Alexander Ezenagu* <https://www.southcentre.int/southviews-no-230-25-november-2021/>

Comments on the STATEMENT ON A TWO-PILLAR SOLUTION TO ADDRESS THE TAX CHALLENGES ARISING FROM THE DIGITALISATION OF THE ECONOMY (South Centre Contribution, The BEPS Monitoring Group, 31 July 2021) <https://www.southcentre.int/sc-contribution-august-2021/>

Comments on Draft Agenda of the UN Tax Committee (September 2021) <https://www.southcentre.int/sc-submission-september-2021/>

Issues for Developing Countries in Negotiations on the Taxation of the Digital Economy (SouthNews no. 379, 3 August 2021) by *Aaditri Solankii and Khalid Phul* <https://mailchi.mp/southcentre/southnews-issues-for-developing-countries-in-negotiations-on-the-taxation-of-the-digital-economy-225259>

Statement by the South Centre on the Two Pillar Solution to Address the Tax Challenges Arising From the Digitalisation of the Economy (July 2021)
<https://www.southcentre.int/statement-july-2021/>

Statement by the South Centre on the Two Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy (13 October 2021)
<https://www.southcentre.int/statement-october-2021-3/>

13. World Trade Organization

Despite the COVID-19 pandemic, there was a flurry of activity with the World Trade Organization (WTO) resuming in-person meetings. As with all WTO ministerial meetings of the past, the pressure to deliver meaningful outcomes leading up to the WTO's Twelfth Ministerial Conference (MC12) was not different. During this time WTO Members worked intensively on the elements towards a prospective MC12 package, for the trade ministers to adopt. The contours of the MC12 package, which would be finally decided in the future on the overall balance in the negotiations, appeared to coalesce around outcomes of the proposed Declaration on WTO Response to the COVID-19 pandemic including a meaningful Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) waiver, conclusion of Fisheries Subsidies disciplines, a work programme on Agriculture, and a commitment to WTO reform. In all these areas, there were important divergences that made it increasingly difficult for WTO Members to agree on possible outcomes. The Agreement on Agriculture remains one of the most imbalanced WTO agreements, notably in the absence of agreement on a permanent solution for Public Stockholding for food security purposes, a Special Safeguard Mechanism and cotton subsidies.

One of the most striking characteristics in the lead up to the ministerial conference is that after a long time in the history of the WTO, developing countries have an urgent offensive interest i.e., to secure a meaningful outcome on the TRIPS waiver. Despite this, discussions on this matter were crowded out primarily by the opposition of some developed countries. A ministerial meeting is not necessary to deliver a TRIPS waiver outcome; a formal sitting of the General Council among WTO Ambassadors is empowered to adopt decisions by consensus.

South Centre is providing support to countries on policy and engagement in trade negotiations, through briefings and direct advice. It has continued to hold meetings to facilitate the exchange of views and the discussion of common positions among developing countries; it has also produced numerous notes, analyses and commentaries to support Members in the lead up to the MC12.

14. Special & Differential Treatment

It is increasingly difficult for developing countries to negotiate special and differential treatment provisions (S&DT) in the various negotiating pillars because there is complete stonewalling of discussions on it by developed countries. Removing or eroding S&DT - a treaty-embedded right - would render rulemaking in the WTO next to impossible because these preferences are needed if countries in the Global South are expected to undertake new rules and implement them. Thus, on the Group of 90 (G90) S&DT Paragraph 44 negotiations, there is complete disengagement from the United States and European Union even when the majority of the Membership is supporting negotiations on this issue.

In the MC12 Outcome Document negotiations, the text does not capture in any meaningful way the interests and priorities of developing countries. All references to the Doha Development Round or "development" have been met with opposition notably by the US. The

general lack of specificity and focus of the text with respect to the Implementation Issues contrasts with the treatment the same text provides to the WTO reform.

The South Centre continues to provide support on all aspects of development policy and S&DT in WTO rulemaking.

15. WTO's Twelfth Ministerial Conference

The in-person MC12 was postponed on 26 November 2021, just three days before it was scheduled to take place on 30 November to 3 December 2021 in Geneva due to the imposition of travel restrictions following an outbreak of another variant. This is the second postponement of the MC12 which was originally scheduled to take place in June 2020 in Nur-Sultan, Kazakhstan.

One of the most significant challenges facing developing countries in the lead-up to the MC12 is the lack of an inclusive participation of Members in WTO negotiations. In the facilitator-led processes regarding agriculture, trade and health, and services, negotiating meetings were conducted in small group formats by invitation only. These dynamics, which started out as bridge-building exercises in smaller configurations to narrow down divergences, have developed into a regular practice, thereby raising concerns about the decision-making processes in WTO. The texts issued in the above-mentioned processes (under the facilitators' own responsibility) in many instances relied substantially on the proposals from a few Member States, while largely overlooking other proposals which were predominantly from developing countries.

In the months leading up to the MC12, the "Walker process" was established to develop a comprehensive WTO response to the COVID-19 pandemic. Various iterations of a draft Ministerial Declaration have been circulated. Concerns remain that a declaration on this matter may undermine the use of a number of existing flexibilities that developing and least developed countries have under the WTO rules, with regards to export restrictions and in the context of trade facilitation disciplines.

An agreement on fisheries subsidies has been presented by the Global North as the main deliverable for MC12. While many proposals have been discussed, a revision of the text compiled under the responsibility of the Chair of the Negotiating Group on Rules was released on 30 June 2021. Most developing countries considered that the text does not discipline subsidies to large scale fishing and distant water fishing fleets adequately – which account for the lion's share of global fisheries subsidies (85% being a referenced estimate). Most of them considered S&DT for artisanal fisheries not enough, also considering the nature of the disciplines and flexibilities afforded to large subsidy providers. Two further revisions of the Chair's text were released with the latest being a proposal for a draft Fisheries Subsidies Agreement submitted for consideration of Ministers. Despite the immense pressure to conclude the negotiations, there is still a significant amount of divergences that need to be resolved in order to seal a deal.

The agricultural negotiations were active during the reporting period. Work was structured around 8 negotiating topics, namely Domestic Support, Market Access, Export Competition, Cotton, Export Restrictions, Public Stockholding for Food Security Purposes (PSH), Special Safeguard Mechanism (SSM) as well as Transparency (pursued by developed countries as a horizontal issue). The focus was on a number of concrete but smaller deliverables, with many issues to be addressed through work programmes, i.e. setting the scope and parameters for future work. Such work programme(s) could effectively supplant the agriculture work programme agreed in 2004 under the Doha Round (as part of the July package).

Many developing countries made proposals including on PSH – an issue which almost garnered consensus at the 11th Ministerial Conference; Special Safeguard Mechanism and Domestic Support. Unfortunately, the Chair’s first and the revised text on these matters did not fully incorporate proposals made by developing countries. With respect to Domestic Support, some developed countries have increased their support and have likely violated their WTO commitments in doing so. There is divergence in the approach on this matter – should Members first address the imbalance in the Agreement on Agriculture through *inter alia* removal or disciplining entitlements to provide very high subsidies for particular products (rather than be maximized at 10% of value of production which is the case for many developing countries) or should all entitlements be considered including support to low income and resource poor farmers? The African Group made a solution-oriented proposal for a temporary standstill clause on ‘Aggregate Measure of Support (AMS) beyond de minimis’, which would provide policy space while signaling to the Membership that progress can be made in domestic support. By the time of the Ministerial Conference, agreement was not found on most negotiation topics.

The overall balance of the MC12, which may only be reflected in the texts when outcomes appear to be within sight, should necessarily include a positive outcome of negotiations on the TRIPS waiver. This is the most urgent measure to facilitate the expansion in the supply of vaccines and prevent any further loss of lives as a result of COVID-19.

The South Centre has continued to provide legal analysis and policy advice on the above issues, organized meetings for developing and least developed countries and contributed towards the development of negotiating text and building common positions.

16. WTO Reform

While there is general acceptance that necessary reforms are required in the WTO, the parameters of such reforms are undefined. The push for WTO reform arose in 2018 when proponents for rules on primarily E-commerce/Digital Trade were deeply frustrated that they were unable to arrive at multilateral consensus to launch multilateral negotiations on these issues. As conceived by their proponents, the adoption of the WTO reform agenda would lead to the establishment of a formal body under the auspices of the General Council to review the operation of the WTO in three specified functions i.e., Monitoring and deliberating function; Negotiating function; and Dispute Settlement function. The “Monitoring and deliberating function” would not simply be an expansion of the WTO’s existing functions, but would create an entirely new role for the WTO, i.e., a deliberative function.

There is significant disagreement on how to proceed on the WTO reform, especially with regards to the proposed revitalization of the WTO’s negotiating function. This relates to the notion of introducing more flexible approaches to the work of the WTO, in particular plurilateral agreements, which challenge the application of Article X.9 of the Marrakesh Agreement. Ironically, part of the necessary reform should be to resolve the Appellate Body impasse but all efforts to re-establish a functional Appellate Body and to revisit the dispute settlement system has been blocked by the US.

It is critical for developing and least developed countries to agree on their own agenda if a reform of the WTO is to take place with the aim of strengthening the development dimension in the system. South Centre has continued to provide support to Members on policy and engagement on WTO reform and providing technical assistance in the development of proposals.

17. Services

Nineteen submissions on exploratory discussions on market access have been tabled in the Council for Trade in Services in Special Session (CTS SS) since June 2018 to date, fifteen of which were tabled after the declaration of the pandemic. It is clear from the content of these submissions that some WTO Members want to enter into fully-fledged market access negotiations under Article XIX of the General Agreement on Trade in Services (GATS). There were three textual formulations on services market access on the table and a consensus version which would have formed part of the MC12 outcome document. However, text-based discussions initiated by the facilitator did not allow to reach a consensus text, *inter alia*, because of divergences on the status of the existing Doha mandate. The South Centre has continued to provide legal analysis and policy advice, organized meetings for Members and contributed towards the development of common positions and textual formulations on this matter.

18. Joint Initiatives

There have been more Joint Initiatives developed over the last two years. These include: Trade and environmental sustainability structured discussions, Plastic pollution and environmentally sustainable trade discussions and Fossil fuel subsidies discussions.

While some of these issues have been embraced by some Members and rejected by others, to date there is no multilateral mandate on whether and if such discussions can evolve into rulemaking (as it is also the case in respect of other Joint Statement Initiatives). The South Centre continues to monitor these negotiations and has, on many occasions, raised systemic concerns associated with the impact that these initiatives will present on the multilateral trading system at a time when global solidarity is the call of the hour rather than fragmented approaches. The South Centre has organized meetings and prepared analysis on such issues to support developing countries' participation, based on requests.

Publications and Statements:

The Investment Facilitation Framework & Most Favoured Nation (MFN) Treatment (Policy Brief 101, September 2021) by Peter Lunenborg <https://www.southcentre.int/policy-brief-101-september-2021/>

19. South-South and Triangular Cooperation

The second semester of 2021 has been marked by the very uneven and divergent economic recovery in the world and glaring disparity in access to COVID-19 vaccines. The recent emergence of the more contagious variant has further deepened the divergences. Developing countries are expected to have a slower economic recovery than the developed ones and have to cope with many downside risks. The pandemic has underlined the increasing relevance of South-South Cooperation (SSC) in the efforts to respond to the multiple crises as SSC has enabled many developing countries to obtain urgently needed medications, vaccines and medical supplies from their Southern partners during the pandemic.

In view of the reversal of gains made in achieving the Sustainable Development Goals (SDGs) owing to the COVID-19 pandemic, in particular in poverty alleviation and hunger, developing countries are likely to further utilize South-South and Triangular Cooperation (SSTrC) as a key development modality to accelerate progress towards achieving the 2030 Agenda for Sustainable Development and also to support pandemic response and post-pandemic economic recovery.

For the second semester of 2021, the South Centre's work on SSTRC has shifted to assisting developing countries in achieving inclusive, green recovery from the pandemic.

In the area of research and analysis, the South Centre, the Islamic Development Bank (IsDB), the United Nations Conference on Trade and Development (UNCTAD), the United Nations Development Programme (UNDP) and other stakeholders are working together to prepare a foresight paper on SSTRC which aims to shed light on and provide policy recommendations relating to the post-pandemic recovery. The South Centre took the lead to prepare the concept paper and to annotate the outline. In October 2021, the South Centre became a member of the South-South Global Thinkers which is a global coalition of think tank networks that facilitates the sharing of knowledge, expertise, and perspectives from the Global South to inform policy dialogues. At the request of the Non-Aligned Movement (NAM), the South Centre is preparing a research paper which will form the background paper for their activities on the important issue of the right to development which the organization has been working on for decades. In addition, the South Centre has been regularly invited to speak at high-level events on SSTRC.

At the request of the Group of 77 (G77) and China, the South Centre assisted developing countries in their negotiation for the outcome document of the 15th Ministerial Conference of the United Nations Conference on Trade and Development (UNCTAD 15). The Ministerial Declaration of G77 and China to UNCTAD 15 contains a recommendation that G77 use the expertise of the South Centre for training and policy making; the actual wording is, "*We call on the Geneva Chapter to work with UNCTAD, the South Centre, as well as other friends in Geneva, to organize regular sessions of the [Gamani Corea] Forum at a high-level standing.*"

On operational activities or providing technical assistance, the second semester of 2021 saw the initiation of 3 technical assistance projects on SSTRC co-financed with other important and prominent leading international institutions. IsDB, the South Centre and a developing country government have jointly sponsored a project for establishing a national agency on SSTRC to strengthen the institutional framework of the country. The second project is in cooperation with the United Nations Food and Agriculture Organization (FAO) for promoting post-pandemic poverty alleviation through SSTRC. This project combines research and capacity building of policy makers. The third project involves collaboration with multiple international stakeholders including IsDB, UNCTAD, UNDP, the United Nations Office for South-South Cooperation (UNOSSC), think tanks and other institutions for the initiatives mentioned above.

Publications and Statements:

South-South and Triangular Cooperation: lessons from partnership between Argentina and Mozambique (SouthViews No. 221, 6 July 2021) by Federico Villegas <https://www.southcentre.int/southviews-no-221-6-july-2021/>

Development Priorities for Africa in 2021 and Beyond (SouthViews No. 222, 12 July 2021) by Judith Amelia Louis <https://www.southcentre.int/southviews-no-222-12-july-2021/>

UNCTAD 15 endorsed the Bridgetown Covenant and the Spirit of Speightstown (SouthNews No. 384, 15 October 2021) by Yuefen Li <https://us5.campaign-archive.com/?u=fa9cf38799136b5660f367ba6&id=0ad754564e>

20. Development Finance

As the pandemic goes through its third and fourth waves, the pre-existing debt vulnerabilities in developing countries have worsened further. The downside risks including of slower and uneven economic recovery, supply chain disruptions and spillovers caused by United States (US) monetary normalization have made medium-term recovery prospects gloomy. With the

divides between developed and developing countries, on account of fiscal support, monetary stimulus, vaccine equity and digitalization becoming more acute, the need for more development finance has become even more pressing.

The pandemic's impact on debt, in particular public debt, and the narrowing of fiscal space left developing country governments with very little room for maneuver. More than 60% of low-income countries are in debt distress or at high risk of debt distress.

The South Centre's analyses emphasized on the reform of the international debt architecture (see <https://undocs.org/A/76/167>). The challenges faced by developing countries were highlighted and policy recommendations were put forward. The South Centre, together with the United Nations Department of Economic and Social Affairs (UNDESA), UNCTAD, the International Monetary Fund (IMF) and the World Bank, participated actively in the United Nations Interagency Task Force on Financing for Development, in particular in the preparation process for the 2022 Financing for Sustainable Development Report by providing input and participating at expert meetings. In addition, policy advice on debt issues was provided to Member States, upon request. The South Centre also participated in various meetings organized by international institutions and the civil society, coordinating positions and exchanging views relating to development finance issues. At the annual Ministers and Governors meeting of the Intergovernmental Group of Twenty-Four on International Monetary Affairs and Development (G24), the South Centre made a [statement](#).

Publications and Statements:

STATEMENT BY DR. CARLOS CORREA, EXECUTIVE DIRECTOR OF THE SOUTH CENTRE, TO THE MINISTERS AND GOVERNORS MEETING OF THE INTERGOVERNMENTAL GROUP OF TWENTY-FOUR (G24) (October 2021)
<https://www.southcentre.int/statement-october-2021-2/>

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