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SOUTH CENTRE

The South Centre's Contributions to the Reform of the International Tax System

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The South Centre has, over the last 30 years, contributed to major reforms to the international tax system to make it fairer and more equitable for developing countries. Some of the key impacts relate to the UN Framework Convention on International Tax Cooperation and updates to the UN Model Tax Convention to strengthen developing countries' taxing rights on automated digital services, shipping and air transport, services more broadly, extractive industries, insurance premiums, computer software, offshore indirect transfers of capital gains, the subject to tax rule and wealth taxes. The South Centre also produced pioneering revenue estimates for its Member States on the UN and OECD solutions for taxing the digital economy.

Au cours des 30 dernières années, le South Centre a contribué à des réformes majeures du système fiscal international afin de le rendre plus juste et plus équitable pour les pays en développement. Certaines des principales avancées concernent la Convention-cadre des Nations Unies sur la coopération fiscale internationale et les mises à jour apportées au Modèle de convention fiscale des Nations Unies afin de renforcer les droits d'imposition des pays en développement sur les services numériques automatisés, le transport maritime et aérien, les services au sens large, les industries extractives, les primes d'assurance, les logiciels informatiques, les transferts indirects offshore de plus-values, la règle de l'assujettissement à l'impôt et les impôts sur la fortune. Le South Centre a également produit des estimations de recettes novatrices pour ses États membres concernant les solutions proposées par les Nations Unies et l'OCDE pour l'imposition de l'économie numérique.

Durante los últimos 30 años, South Centre ha contribuido a importantes reformas del sistema tributario internacional con el fin de hacerlo más justo y equitativo para los países en desarrollo. Entre sus principales aportes destacan los relacionados con la Convención Marco de las Naciones Unidas sobre Cooperación Tributaria Internacional y las actualizaciones del Modelo de Convenio Tributario de las Naciones Unidas para fortalecer los derechos de imposición de los países en desarrollo sobre los servicios digitales automatizados, el transporte marítimo y aéreo, los servicios en general, las industrias extractivas, las primas de seguros, los programas informáticos, las transferencias indirectas extraterritoriales de ganancias de capital, la regla de sujeción al impuesto y los impuestos sobre el patrimonio. South Centre también elaboró estimaciones pioneras de recaudación para sus Estados Miembros en relación con las soluciones propuestas por Naciones Unidas y la OCDE para gravar la economía digital.

过去三十年间，南方中心为国际税收体系的重大改革做出了贡献，旨在使该体系对发展中国家更加公平和公正。其中一些关键影响涉及《联合国国际税务合作框架公约》以及《联合国税务示范公约》的更新，旨在加强发展中国家在自动化数字服务、海运和航空运输、广义服务业、采掘业、保险费、计算机软件、离岸间接资本收益转让、应税规则及财富税等领域的征税权。南方中心还针对联合国和经合组织关于数字经济征税的解决方案，为其成员国提供了开创性的税收收入估算。

Abdurrahman Mohammad Fachir, Vice-Minister of Foreign Affairs of Indonesia, opened the Inaugural Annual Forum on Developing Country Tax Policies and Cooperation for Agenda 2030, held in Surabaya in December 2016.

I. Foundation of the South Centre's Workstream on International Taxation

No country needs a tax treaty to collect taxes. Every country has complete sovereignty over how to collect taxes from its own people and from foreigners who do business there. In simple terms, the taxation of foreigners – which critically includes Multinational Enterprises (MNEs) - is called international taxation. However, there is the risk of "double taxation", where the home country of the foreigner may also tax the same income. To avoid this, countries enter bilateral tax treaties, hoping this will encourage foreign investment. The international tax system is therefore fundamentally bilateral, in that it is built on bilateral tax treaties between countries which allocate taxing rights between the treaty partners to prevent double taxation.

Tax treaties are bilaterally negotiated but are heavily influenced by Model Tax Conventions (MTCs). There are two main MTCs – the Organisation for Economic Co-operation and Development (OECD) and the United Nations (UN). The OECD MTC is updated by the OECD's Committee on Fiscal Affairs and reflects the interests of developed countries. In practical terms, that means a tax treaty between a developed and a developing country that is identical to the OECD MTC would mean that most of the income of a foreign MNE earned from the developing country would be taxed by the developed country. Recent changes to the UN model, as elaborated below, have aimed at addressing developing countries' interests.

The essential fight of developing countries to reform the international tax system is to correct this imbalance in taxing rights so that the developing country from where the foreign MNE derives income is also able to collect its fair share of taxes.

This fight has mainly taken place through the UN MTC which is updated by the UN Committee of Experts on International Cooperation in Tax Matters (popularly known as the UN Tax Committee), a subsidiary body of the UN Economic and Social Council (ECOSOC). The UN Tax Committee has 25 Members, 12 from developed countries and 13 from developing countries. Till 2015, the UN Tax Committee held an annual meeting in Geneva to negotiate updates to the UN MTC.

The South Centre has been supporting developing countries in the negotiations in the UN Tax Committee from the early 2010s under its broader work on Financing for Development. International tax negotiations began to intensify after the 2008 financial crisis when the Group of Twenty (G20) called for concerted action against tax avoidance and evasion by MNEs. This led to the beginning of the Base Erosion and Profit Shifting (BEPS) Project in 2012 to produce "Actions" to curtail corporate tax avoidance. The South Centre accordingly began to gradually increase engagement on international tax matters, including, in particular, support for the longstanding demand by the Group of 77 (G77) + China that the UN Tax Committee be converted into an intergovernmental tax body.

2015 was a seminal year. Developing countries, led by India, Brazil and Ecuador, came close to getting a declaration in the Addis Ababa Action Agenda to upgrade the UN Tax Committee but failed due to strenuous opposition by developed countries. As a concession, there was the addition of an extra session of the UN Tax Committee, to be held in New York in March or April and the creation of a one-day ECOSOC Special Meeting on International Tax Matters to be held right after it ended.

In 2015, the OECD also finalized the 15 BEPS Actions. However, the developed countries were dismayed by the fight for a UN Tax Body which came close to undermining the OECD's hegemony and accordingly created the G20/OECD "Inclusive Framework on Base Erosion and Profit Shifting" where developing countries could join and participate in the enforcement of the BEPS Actions.

Around this time, the OECD also created the Global Forum on Transparency and Exchange of Information for Tax Purposes. From here on, international tax multilateralism began to genuinely kick off as countries began to move beyond the traditional setup of bilateral tax treaty negotiations and into these new areas which required multilateral cooperation.

2016 – Launch of the South Centre Tax Initiative and Annual Tax Forums

The South Centre stepped up its support for its Member States so they could effectively engage in these changed circumstances. In 2016 it launched the South Centre Tax Initiative (SCTI) under the vision and leadership of Dr. Manuel Montes, a great economist who hailed from the Philippines and who was the South Centre's Senior Advisor on Finance and Development. The SCTI ever since has been the Centre's flagship project to promote the interests of South Centre Member States and other developing countries in international tax negotiations. It was led by Dr. Montes till late 2019, after which its responsibility was transferred to the author.

International tax multilateralism was relatively new to the world, and certainly for developing countries. Unlike the international trade architecture, which has a long history of multilateralism, this was the first time developing countries negotiated collectively on tax matters. As such, there were no established mechanisms for them to come together and discuss how to promote their collective interests. Further, there was also relatively little understanding of what these interests were in the first place.

To address both these problems, the South Centre undertook two intertwined initiatives – the first was to produce a compendium of research that would document some of the priorities of developing countries that had to be promoted in the international arena. The second was to launch an Annual Forum of developing countries where they could come together and as a collective discuss the key issues of international taxation. The objective was to strengthen South-South Cooperation and South solidarity in international taxation.

The South Centre organized a meeting in early 2016 with certain eminent personalities from the Global South to discuss what the South's priorities should be. These personalities included (to name a few) Jose Antonio Ocampo, former Colombian Minister of Finance and former Board Member of the South Centre, Irene Ovonji-Odida, Member of the Mbeki Panel on Illicit Financial Flows (IFFs) from Africa, Anita Kapur, member of the UN Tax Committee and former Chair of India's Central Board of Direct Taxes and Alvin Mosioma, Director of Tax Justice Network Africa.

The meeting resulted in the design of an agenda for the first inaugural Annual Forum on Developing Country Tax Policies and Cooperation for Agenda 2030. This was co-organized with Indonesia, a Member State of the South Centre, and held in Surabaya in December 2016.

The Forum was attended by 67 delegates from nearly 40 South Centre Member States and other developing countries. It was a huge success and provided the Global South a platform where they could discuss their key concerns – illicit financial flows, transfer pricing, technical services, the digital economy and other issues. Some of the presentations made at the Forum by experts were selected for documentation. It was decided to first publish them as the South Centre's Policy Briefs, and subsequently compile them into a book that would outline the key interests of the Global South in international taxation. There was no turning back and the South Centre's work on international taxation was firmly established.

Preparations then began for the second Annual Tax Forum, which again was co-organized with the government of Indonesia and was held in Yogyakarta in April 2018. This was attended by an even higher number, with more than 70 delegates from 32 South Centre Member States and other developing countries. Delegates continued to discuss what should be the South's agenda in international taxation, and the critical role played by the South Centre in shaping and promoting this agenda in the international arena.

The following month saw the publication of the first South Centre Tax Cooperation Policy Brief in May 2018, titled "Ecuador and Its Fight Against Tax Havens". This was also the first of the papers that were eventually compiled into a book titled *International Tax Cooperation: Perspectives from the Global South*. The book was launched at the Third Annual Tax Forum co-organized with the government of India, a key Member State of the South Centre and held in New Delhi, India in December 2019. By this time the Annual Forum's prestige had reached the stage where the Vice Minister of Foreign Affairs who delivered the Opening Remarks said the following:

"This forum of South Centre, Geneva is emerging as a major platform to discuss important financial and taxation issues affecting developing nations."
– V Muraleedharan, Vice Foreign Minister of India

A particularly impactful publication in this book was titled, "Interaction of Transfer Pricing & Profit Attribution: Conceptual and Policy Issues for Developing Countries" by Dr. Vinay Kumar Singh, an Indian tax official. The Policy Brief outlined the theoretical basis for what would go on to become the Group of 24's (G-24) proposal for fractional apportionment as a solution for the taxation of the digital economy.

2019 – Launch of Peer Exchanges

The year 2019 also saw the beginning of the South Centre's "peer exchanges" on tax matters, which were sessions where developing countries built capacity by exchanging knowledge with each other. It was called peer exchange because the knowledge transfer was between developing countries rather than the traditional model of developed countries giving lectures to developing countries. It served both to build common positions ahead of negotiations as well as provide training and capacity building.

The peer exchange model was based on the South Centre's general approach of promoting South-South Cooperation and became very successful. The first peer exchange was organized in April 2019, during the New York session of the UN Tax Committee. It served as a venue for the developing country Members of the Committee to discuss issues of importance such as digital and carbon taxation.

2020 saw the onset of the COVID-19 pandemic, which in many ways changed the world. One of these was the shift to online working. This was positive for developing countries because they could now coordinate more effectively and in larger numbers through online meetings since travel cost was no longer a factor. The COVID-19 pandemic significantly increased the financing needs of developing countries and the rapid shift to online working brought renewed impetus to the need for a solution to the taxation of the digital economy.

The South Centre also adapted itself to these changed circumstances. The network of tax officials from South Centre Member States and other developing countries that had been formed through the three Annual Tax Forums thus far were consolidated into an online network, which from then on began to be systematically engaged through regular briefings and online events.

This seemingly simple step concretised the South Centre's network of tax officials into a powerful group through which tax officials from across the Global South could begin to discuss issues of their interests in a safe space hosted by the South Centre. The briefings also served to act as coordination meetings where developing countries could understand each other's views and seek to come to a common position. The briefings covered the key discussions on international taxation taking place in the UN, OECD and elsewhere. These began to be increasingly impactful as more and more delegates began to attend and take note of the recommendations provided and began to increasingly impact the negotiations taking place. A detailed list of the some of the key impacts is provided in Section II.

During the pandemic and beyond, the South Centre organized several webinars to educate its Member States and the general public about the concerns of developing countries in international tax negotiations. These webinars had a large impact in that more tax officials from the South Centre's Member States and other developing countries began to attend these webinars which were always extended to the G77+China in Geneva. In this manner, the South Centre's network of tax officials began to gradually grow and strengthen. Some of them were co-organized with civil society organizations (CSOs) like the Global Alliance for Tax Justice (GATJ) and helped educate CSOs about the issues at stake. Another positive effect was that the media also began to better understand some of the issues of concern for developing countries and to more actively report on these.

Two of the most impactful of these webinars were 1) a Briefing on the UN High-Level Panel on International Financial Accountability, Transparency and Integrity (FACTI Panel) Recommendations in April 2021 and 2) the First African Fiscal Policy Forum held in December 2021.

The briefing on the FACTI Panel was co-organized with the UN FACTI Panel Secretariat and was held exclusively for the G77+China in Geneva. It featured an address by Dr. Ibrahim Hassan Mayaki, former Prime Minister of Niger and FACTI Panel co-chair on the recommendations of the FACTI Panel report, and had an Ambassador-level discussion on the topic with the Permanent Representatives of Pakistan and Angola. It served to widen dissemination of the recommendations, particularly on the adoption of a UN Tax Convention. The South Centre had contributed to several parts of the FACTI Recommendations, including on a UN Tax Convention.

The First African Fiscal Policy Forum was co-organized with the Coalition for Dialogue in Africa (CODA) and featured statements by the Finance Ministers of Pakistan and Nigeria, two South Centre Member States who had also rejected the OECD's Two Pillar solution in the face of tremendous pressure by developed countries. The Forum gave them a platform to explain to the broader public why they took this courageous decision and was reported in the international media. The Forum also resulted in a set of Outcomes and Recommendations for developing countries on responding to the UN and OECD international tax negotiations, which were widely circulated, particularly in Africa.

Quantifying the Impact of International Tax Standards for South Centre Member States

The Forum also saw the beginning of what would become a key component of the South Centre's research: quantitative impact analysis of international tax standards so that the South Centre's Member States could take informed decisions to safeguard their revenue interests. The Forum featured the launch of a Call for Papers by CODA and the South Centre for revenue estimates for the UN and OECD solutions for the taxation of the digitalized economy for the 84 combined Member States of the South Centre and the African Union (AU). This resulted in two pioneering papers, namely *A Tough Call? Comparing Tax Revenues to Be Raised by Developing Countries from the Amount A and the UN Model Treaty Article 12B Regimes* and *Evaluating the Impact of Pillars One and Two*. Both studies provided the world's first country level estimates on how much revenue the South Centre's and the African Union's Member States could obtain from the UN and OECD solutions to enable informed decision-making. Predictably, the studies showed that the UN solution of Article 12B delivered far higher revenues than the OECD solution of Amount A of Pillar One.

This approach proved cost-effective and successful. By putting out a Call for Papers, in collaboration with another Global South entity, the South Centre was able to indicate which were the topics of interest to its Member States on which data was required. Crucially, by paying for this research it ensured quality applications. This was important because quantifying the impact of international tax standards is a difficult exercise requiring a relatively high level of technical expertise. By partnering with other entities, it reduced the cost and increased the reach and dissemination. Finally, it gave an opportunity for researchers from both North and South to produce data relevant to developing countries and raise their profiles in the process.

This approach began to be used more often, with successful results each time. Further details are provided in Section II.

Capacity Building

As mentioned, the peer exchanges approach encompassed both support to negotiations as well as capacity building. The model used was to strengthen South-South Cooperation through encouraging South Centre Member States to provide expertise to each other. If a Member State approached the Centre with a request for capacity building on a particular topic, the Secretariat would identify another Member State(s) with expertise on the topic and request them to provide training, supplemented by the Secretariat staff. Other experts, notably developing country Members of the UN Tax Committee, would also be engaged.

This peer exchange approach to capacity building was successfully applied to several workshops conducted for the South Centre's Member States, many of them co-organized with the UN Development Programme (UNDP), notably for Malaysia, Angola, Sri Lanka and Colombia. The topics covered tax treaty negotiation, taxation of the digital economy, global minimum taxation and transfer pricing. The evaluation results consistently showed high levels of capacity increase after the workshops. The workshops also enabled the Member States to make more informed decisions on adopting international tax standards, particularly on the OECD Two Pillar solution.

Essential Role of Partnerships

The South Centre's Mission outlines the three pillars of its work: policy oriented research, support to negotiations through peer exchanges and capacity building. The article so far shows the evolution of these different pillars as applied to the Centre's work on international taxation. The Centre's Vision indicates expanding South-South Cooperation as a tool to achieve sustainable development, which also was intrinsic to the working methods used.

South-South Cooperation includes collaboration with other Global South organizations, and this played an enormous role in the success of the South Centre's interventions. This was based on the wisdom of the Founding Father of the Centre, the Mwalimu Julius Nyerere, who said:

"It is intended that the Centre will remain modest in size, with only a small nucleus of staff. Acting in a flexible manner, it will draw its strength from networking so as to carry out the designated work and activities in cooperation with other institutions and individuals of the South. It is thus expected that the Centre will become the hub of a "think-network" rather than a "think-tank". In that process, institutional capacities in the South will be strengthened and South-wide co-operative linkages will be further developed."

This is also reflected in the South Centre treaty, where the Article on Functions, III (e) says:

In order to meet its objectives, the Centre shall:

(e) Extensively involve, where appropriate, intergovernmental and non-governmental organizations, particularly of the South, as well as academic and research bodies and other entities in its work and activities, thereby supplementing the Centre's capacities while promoting South-wide cooperation and the pooling of resources.

This wise approach was used to the fullest and resulted in the South Centre contributing to the multiple reforms to international tax standards, some of them of a historic nature, detailed in the next Section.

II. The South Centre's Impact on International Tax Standards

UN Framework Convention on International Tax Cooperation

By far the single most impactful contribution of the South Centre was to the commencement of negotiations in the UN General Assembly on a UN Framework Convention on International Tax Cooperation (UN FCITC). This was the fulfilment of a decades long campaign by the developing world to establish an intergovernmental tax body at the UN where all countries could participate on an equal footing in making international tax rules. A galaxy of actors from across the Global South fought, and continue to fight, a valiant battle to achieve this outcome with the South Centre being one of them.

A key contribution of the South Centre to this outcome was the publication of the world's first blueprint on a UN Framework Convention on International Tax Cooperation (FCITC). This was published as a Policy Brief in November 2021 titled, "Streamlining the Architecture of International Tax through a UN Framework Convention on Tax Cooperation". The Brief had a substantial impact in shaping the negotiations towards a Framework Convention. At the time, only the general idea of a UN Tax Convention was being discussed.

The South Centre continued to support the negotiations, and this role significantly increased from 2023 onwards as momentum picked up in the UN General Assembly. 2023 was a special year because it witnessed the formation of the Platform for Taxation in Latin America and the Caribbean (PTLAC) under the dynamic leadership of Jose Ocampo, Finance Minister of Colombia at the time. The PTLAC enabled Latin American and Caribbean (LAC) countries to add their collective political strength to the negotiations which were thus far led by the African Group. This added a major boost to the negotiations, and the South Centre played a central role in promoting African and LAC unity through co-organizing multiple briefings and coordination meetings for the delegates in partnership with the AU, the UN Economic Commission for Africa and the PTLAC.

The African Group was led by Nigeria, and the PTLAC was under Colombia's able leadership as the *pro tempore* Presidency. Both were South Centre Member States, and this also played a positive role in enabling larger support to the overall negotiations.

The Centre's contributions had a substantial impact on promoting a more unified approach by developing countries towards the negotiations, and in identifying key issues and appropriate responses. This resulted in the adoption of the Terms of Reference for the FCITC in 2024, followed by the passage of a resolution by the General Assembly setting up an Intergovernmental Negotiating Committee (INC) to negotiate the Convention based on the Terms of Reference. The South Centre continues to actively support this historic negotiation in partnership with the aforementioned organizations. The timely completion and coming into effect of the UN FCITC is the highest priority for the South Centre in the realm of international taxation.

UN Tax Committee

The South Centre has been for a long time engaged in supporting negotiations in the UN Tax Committee where the most important item of negotiation was and continues to be updates to the UN Model Tax Convention. However, for most of its history the UN MTC was virtually identical to the OECD MTC with only a few differences, due to the strenuous efforts of developed countries who wanted the two to be as similar as possible.

Things began to change when the Committee membership of 2013-2017 introduced Article 12A for taxing Fees for Technical Services (FTS). This was a major break from the OECD MTC and set the tone for the next membership to continue charting an independent course for the UN Tax Committee. The South Centre supported this reform and through the Annual Tax Forums generated awareness about the importance for developing countries of taxing technical services.

The membership of 2017-2021 built on this tradition, and here the South Centre's support also began to become more active since the South Centre Tax Initiative was established in 2016.

Article 12B – Income from Automated Digital Services

The Centre began to organize briefings and coordination meetings for the developing country Committee members, and this resulted in the eventual passage in 2020 of Article 12B for taxing Income from Automated Digital Services.

The passage of Article 12B was a major achievement for developing countries, led by the Committee members from South Centre Member States India and Argentina, as this was the UN's solution for taxing the digital economy and provided an alternative to the OECD solution of Amount A.

The Centre also contributed to the technical design of Article 12B. One of the great contributions of Article 12B is that it provided a method for calculating the net profits of income from Automated Digital Services (ADS). Given the nature of digital services, calculating net profits hitherto had proved to be a significant challenge. This calculation of net profits was based on an approach known as fractional apportionment which, as noted, was detailed in a South Centre Policy Brief published in August 2018 titled, "Interaction of Transfer Pricing & Profit Attribution: Conceptual and Policy Issues for Developing Countries" by Dr. Vinay Kumar Singh. The arguments in the Policy Brief were later reflected in an Indian official proposal in April 2019 for changes to its domestic income tax law.

Developing countries, with India playing a leading role, had then tried to push through fractional apportionment as a global approach in the OECD Inclusive Framework through the G-24. When this failed due to the opposition of developed countries, fractional apportionment was adopted through the UN by becoming the net method of Article 12B. Throughout, the South Centre supported these efforts by organizing briefings and webinars and producing supporting publications. As mentioned in Section I, the South Centre in collaboration with the Coalition on Dialogue for Africa (CODA) produced the world's first country-level revenue estimates on Article 12B for the 84 combined Member States of the African Union and the South Centre. This data showed clearly that 12B would give much more revenues than the OECD solution and provided a great boost to the dissemination of the benefits of Article 12B, and more generally on the ability of the UN to produce more appropriate international tax standards for developing countries.

Article 13(7) – Offshore Indirect Transfers

Another contribution of the South Centre was to the 2017-2021 Committee's update to Article 13 on Capital Gains. Here again India played a leading role, since it had suffered from the infamous Vodafone case. Simply put, the case involved the British telecom company Vodafone acquiring Hutch's Indian operations through a complicated network of tax havens and thereby denying India the right to tax the capital gains from the transaction. The Indian government claimed USD 2 billion in taxes which led to a lengthy dispute.

This problem was not unique to India and other developing countries like Uganda[1] (and even developed countries like Australia) had faced similar challenges. Thus, they wanted to amend the UN MTC to ensure source taxation of capital gains, meaning if a company had assets in Uganda, then Uganda should be able to tax the gains made by selling the company, even if the shares of the company were located in tax havens.

The South Centre supported these negotiations which resulted in the addition of a new provision in 2021 to Article 13, the new para 7, which gave effect to the demand mentioned above.

Reforms to the Functioning of the UN Tax Committee

The conclusion of the term of the 2017-2021 membership (2017 Membership) was an opportunity to reflect on how the functioning of the UN Tax Committee could be improved. Towards this end, the South Centre published two influential Policy Briefs. The first was "Making the UN Tax Committee more effective for developing countries", published in February 2021, and the second was "Making the UN Tax Committee's Subcommittees More Effective for Developing Countries". Both Policy Briefs received wide attention, including republication by the influential Forbes magazine, and led to reforms in the functioning of both the Committee and the Subcommittees. For the Committee itself, a major response to the South Centre Brief was the publication by the UN Secretariat of detailed information on the functioning of the Committee, in a bid to bring more transparency. The UN Secretariat also began subsequently incorporating some of the Centre's recommendations into its processes, such as specifying the preference for Committee Members to have domain knowledge in specific international tax issues like treaty negotiation and transfer pricing.

Arguably, the Centre's recommendations contributed to the selection of the 2021-2025 membership, which was the most dynamic in the history of the UN Tax Committee. The developing country members who were nominated by their governments brought with them a combination of knowledge, experience, negotiating skill and energy which resulted in the largest number of modifications to the UN MTC in its history. Many of these changes were far-reaching and the South Centre actively contributed to them.

UN Wealth Tax Guidelines and Sample Law

In recognition of its contributions and expertise, the South Centre was nominated to the UN's Subcommittee on Wealth and Solidarity Taxes in 2022. Here, it contributed to the development of the UN's guidelines for taxing net wealth and also strongly promoted and contributed to the UN's Sample Net Wealth Tax Law. Both are important tools for reducing

[1] *Zain vs Uganda Revenue Authority*. See page 378 of UN Handbook for Taxation of the Extractive Industries.

wealth inequality, and were championed by the Committee members from South Centre Member States Ecuador, Argentina, Jamaica, India and Pakistan. Brazil, a South Centre Member as well, also championed the issue of taxing billionaires during its G20 Presidency and supported this work of the UN Tax Committee, as did Colombia.

The guidelines were approved in 2024 and the Sample Net Wealth Tax Law was approved in March 2025. This was historic because it was the UN's first model tax legislation for use at the domestic level.

UN Fast Track Instrument

The South Centre also supported the UN Fast Track Instrument (FTI) since it was first proposed by the Indian Member of the UN Tax Committee in 2019, till its finalization in March 2024. The UN FTI was conceptualized to solve the problem of how the standards of the UN MTC could be disseminated into multiple bilateral tax treaties simultaneously.

The South Centre provided inputs to the UN FACTI Panel on the need for the UN Tax Convention, which was one of the Panel's draft recommendations, to include the functionality of a UN FTI. These were included in the FACTI Panel's Final Report. Subsequently, the South Centre published a Policy Brief in June 2021 titled "Conceptualizing a UN Multilateral Instrument" which further outlined the structure of what a UN FTI could look like.

The UN Tax Committee continued to develop the FTI and the South Centre continued providing inputs to the developing country Committee members. The FTI was finalized in March 2024. This was a momentous achievement for the developing world as it meant that for the first time in history, developing countries would be able to negotiate tax treaties as blocs instead of individually as is currently the case. This can have a major impact on the power dynamics of tax treaty negotiations and can lead to potentially more balanced tax treaties between developed and developing countries.

The Subject to Tax Rule

The OECD Global Minimum Tax initially only consisted of the Income Inclusion Rule (IIR), which meant it benefitted exclusively developed countries which are the home jurisdictions of large MNEs. Developing countries introduced a "Subject to Tax Rule" in Pillar Two which essentially sought to establish a minimum tax rate for items of income covered by a tax treaty. This would benefit developing countries since they were disadvantaged by imbalanced tax treaties, and introducing a minimum tax rate in treaties would mean more tax revenues for them.

However, the developed countries watered down the Subject to Tax Rule until it became so restricted in scope and application that it had minimal benefits for developing countries. Dissatisfied, developing countries led by the Committee members from India, Pakistan, Angola and Ecuador successfully pushed through a much more beneficial version of the Subject to Tax Rule into the UN Model Tax Convention which was accepted in March 2023. The South Centre supported this reform through a series of publications, briefings and coordination meetings for the Committee Members as well as its Member States and the G-77+China. An impactful publication in this regard was titled "Enforcing Secondary Taxing Rights: Subject to Tax Rule in the UN Model Tax Convention" which provided quantitative data on the withholding tax rates of South Centre Members and how the OECD version was of minimal benefit to them.

Article 12AA – Fees for Services

The genesis of the new Article 12AA began with a discussion on the continued relevance of physical presence as a precondition for taxable presence (nexus). In a digitalized economy businesses no longer need physical presence to derive income from countries. The eventual solution, Article 12AA, was adopted into the UN MTC in October 2024 and provides a simple solution through which developing countries can impose withholding taxes on outbound service payments. This is significant since developing countries are net importers of services.

The South Centre supported the developing country Committee members throughout this reform and also published a study providing a novel methodology through which developing countries could quantify the impact of revenue losses from tax treaty restrictions on service payments. The study took a case study approach to Argentina, Brazil, Colombia and Nigeria and showed they lost USD 6.1 billion, USD 11 billion, USD 894 million and USD 5.8 billion respectively.

Article 12 - Software

One of the longest running battles between developed and developing countries in the UN Tax Committee was on the taxation of computer software. Software giants like Microsoft (MS) derive their income largely from "license fees". For example, when someone buys MS Office, they are actually paying for the *license* which gives them the "right to use" MS Office.

The OECD in its efforts to protect the tech giants of developed countries from source taxation in developing countries introduced confusing and self-contradictory guidance that this income was not taxable as royalties. This was important because if it was taxable as royalties then developing countries could impose withholding taxes on outbound payments. If it was not, the tech giants would be taxable under Article 7's Business Profits which in practice was far harder for developing countries to translate into revenues.

The developing countries sought to find a solution through the UN MTC, but given the high stakes involved, they were blocked by developed countries. The battle went on for almost twenty years, but momentum began to increasingly go in favour of developing countries as dissatisfaction built with the OECD Two Pillar solution. The Committee membership of 2017-2021 came close to a solution which, though eventually unsuccessful, made some progress that gave the 2021-2025 membership a valuable headstart.

The South Centre supported these negotiations throughout by providing briefings, coordinating meetings, issuing statements and inputs to the UN Tax Committee, and producing research. The huge impact of the revenue estimates of Article 12B showed the value of quantifying revenue estimates as a strategic tool to promote the interests of South Centre Member States. This strategy was applied to the issue of computer software, and the South Centre thus produced in 2023 the world's first country-level revenue estimates for how much revenue 34 South Centre Members could gain through source taxation of software payments as royalties. The study showed this figure to be around USD 1 billion in 2020.

The data shocked the developing country Committee Members, and galvanized efforts towards concluding the negotiations. The UN MTC was updated to finally clearly state that software payments were royalties and could be taxed as such, bringing to an end a twenty year long negotiation.

Article 8 – International Shipping and Air Transport

Article 8 of the OECD MTC provides for exclusive residence taxation of income from shipping and air transport. The UN MTC variant of this Article was split into two options: "Alternative A" which was the identical wording of the OECD version, and "Alternative B" which provided very limited source taxing rights of shipping and exclusive residence taxation of air transport.

The 2021-2025 developing country Committee membership took this issue head-on, spearheaded by the Committee member from Pakistan. The South Centre supported this negotiation through briefings and coordination meetings. A particularly impactful briefing was co-organized with the newly formed PTLAC led by Colombia, for the combined Membership of PTLAC and the South Centre. This helped tax officials from the Member States understand the issues at stake and mobilize broader support for the reform.

Despite tremendous opposition, particularly from the airline industry, the reform was finally passed and Article 8 was updated in October 2024 to enable stronger source taxation of both shipping and aircraft.

Article 5A – Income from Exploration and Exploitation of Natural Resources

Article 12C – Insurance Premiums

The above two articles were relatively non-controversial and finalized in October 2024, but nevertheless helpful for developing countries and which the South Centre supported throughout the negotiations. Article 5A essentially reduces the time limit for the establishment of a taxable presence for income from exploration and exploitation of natural resources to 30 days. Article 12C allows for source taxation on a gross basis of income from insurance premiums, replacing Article 5(6).

OECD Two Pillar Solution

The South Centre is not an observer to the OECD Inclusive Framework or the Global Forum on Transparency and thus did not directly participate in the negotiations. However, it nevertheless provided inputs to the negotiations of the Two Pillar Solution through responding to public consultations, briefing South Centre Members on the implications of the rules, in particular through collaborations with the West African Tax Administration Forum (WATAF), and publishing research which analyzed their impact.

Amount A

As mentioned previously, the South Centre produced the world's first country level revenue estimates on Amount A contrasted with Article 12B, as well as another study contrasting Amount A with Digital Service Taxes. Both studies showed that the combined Member States of the South Centre and the AU could obtain on average three times higher revenues from Digital Service Taxes or Article 12B than from the OECD's Amount A.

The South Centre was also possibly the only developing country intergovernmental organization which responded to every single public consultation of the Amount A rules, conveying the concerns of developing countries.

Amount B

The South Centre organized multiple briefings on the implications of Amount B and published a Policy Brief through which developing countries could conduct impact analysis of Amount B so as to enable informed decision making on its adoption.

Global Minimum Tax

The South Centre similarly briefed its Member States and tax officials from the G77+China on the implications of the OECD Global Minimum Tax (GMT). The Centre also published research on its impact, as well as policy alternatives to the GMT. Both were well received and the brief on policy alternatives to the GMT received widespread media attention.

III. Looking Forward

More Quantitative Research & Impact Assessment

The strategy of conducting quantitative revenue and impact assessments of the proposals of developed and developing countries has proven to be a gamechanger. It has galvanized international tax reforms and provided hard evidence on the inequities of the international tax standards of the OECD and the superior revenue benefits of the proposals of developing countries pushed through the UN. The South Centre will go further in this direction, seeking to quantify the impact of the proposals of its Member States to showcase their benefits and mobilize larger support from across the developing world. Further, it will also where necessary quantify the impacts of standards of developed countries such as those produced through the OECD which may require adoption by the Centre's Members.

Some of the key topics on which future research is required, centred on the South Centre's Member States, relate to:

1) Potential revenue gains through the UN protocol on services
2) Revenue losses through existing tax treaty restrictions on services
3) Revenue losses through tax treaties more generally
4) Impact assessment of whether tax treaties bring in FDI

Technical Assistance on Tax Audits – Bringing Money Directly into Members' Pockets

In a context of declining foreign aid, the pressure has increased on the South Centre's Members to generate their own revenues. Tax audits especially on MNEs is a highly complex and challenging area where Members may benefit from the South Centre's technical expertise. This can also generate substantial revenues given the large amounts at stake, particularly in the area of transfer pricing. This approach will be explored in the future.

Support to Negotiations

The immediate priority remains the UN FCITC. All energies will be put into ensuring that this once-in-a-lifetime opportunity results in an effective reform for developing countries. The timeline for completing the FCITC is September 2027, after which it will need to be ratified to enter into effect. The South Centre will remain laser-focused on ensuring a strong, fair, just and equitable FCITC is completed and enters into effect as soon as possible so developing countries can collect the revenues needed at a time of historic polycrisis and global tensions that disproportionately affect developing countries.

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30TH ANNIVERSARY SERIES

Second Annual Developing Country Forum for Cooperation in International Tax Matters, held in Yogyakarta, Indonesia in April 2018.

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SOUTH CENTRE

The South Centre is the intergovernmental organization of developing countries that helps developing countries to combine their efforts and expertise to promote their common interests in the international arena. The South Centre was established by an Intergovernmental Agreement which came into force on 31 July 1995. Its headquarters is in Geneva, Switzerland.

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