International Tax and Africa

OECD REPORT FOR THE G7 FINANCE MINISTERS AND CENTRAL BANK GOVERNORS

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Foreword

In October 2022, G7 Finance Ministers met with African Ministers and key donor and creditor countries in Washington D.C. to discuss fostering growth, resilience, and sustainability in Africa. They underlined the need for a credible fiscal policy framework to ensure balanced and inclusive growth and to better navigate future crises. In this regard, G7 Finance Ministers invited the OECD to continue its important work in supporting African countries in the area of taxation, in particular with regard to the implementation of the Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy (the Two-Pillar Solution) and proposed that the OECD would report back to the G7 on further developments in 2023.[1]

This report was prepared at the request of Japan, as president of the G7, to inform the discussions at the G7-Africa Ministerial Roundtable held on 14 October 2023 in Marrakech. The report reflects on the importance of the international tax agenda for African economies and on the OECD-Africa collaboration to shape and address this agenda.

Chapter 1 provides an overview of the tax mix in African countries and identifies priority areas to raise revenues. Chapter 2 discusses African priorities to strengthen domestic resource mobilisation (DRM). Chapter 3 describes Africa's role in the governance of the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting (the Inclusive Framework on BEPS). Chapter 4 analyses how African countries have shaped the design of the Two-Pillar Solution. Chapter 5 provides an overview of progress in the implementation of the BEPS minimum standards by African Inclusive Framework members. Chapter 6 discusses the OECD's initiatives to support capacity building on tax in Africa. Chapter 7 explores the broader tax policy agenda for African countries to consider according to their circumstances and needs. Chapter 8 includes recommendations to improve DRM in Africa.

The authors are grateful for the input from the African members of the Steering Group of the Inclusive Framework.

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Abbreviations and acronyms

Academy	OECD Academy for Tax and Financial Crime Investigation
AEOI	Automatic Exchange of Information
AfCFTA	African Continental Free Trade Area
AfDB	African Development Bank
APA	Advance Pricing Arrangement
ATAF	African Tax Administration Forum
ATI	Addis Tax Initiative
AU	African Union
AUC	African Union Commission
BEPS	Base Erosion and Profit Shifting
BEPS MLI	Multilateral Instrument to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting
CATA	Commonwealth Association of Tax Administrators
CbC	Country-by-Country
CbC MCAA	Multilateral Competent Authority Agreement on the Exchange of Country-by-Country Reports
CbCR	Country-by-Country Reporting
CFC	Controlled foreign corporation
CIT	Corporate Income Tax
CREDAF	Centre de Réflexion et d'Échange des Dirigeants des Administrations fiscales

DMTT	Domestic Minimum Top-Up Tax
DRM	Domestic Resource Mobilisation
ECOWAS	Economic Community of West African States
EU	European Union
FHTP	Forum on Harmful Tax Practices
FTSP	Fiscal Transition Support Programme in West Africa
FTA	Forum on Tax Administration
G20	Group of 20
G7	Group of 7
Global Forum	Global Forum on Transparency and Exchange of Information for Tax Purposes
GloBE	Global Anti-Base Erosion
GST	Goods and Services Tax
IFFs	Illicit Financial Flows
IGF	Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development
IFFs	Illicit Financial Flows
IMF	International Monetary Fund
Inclusive Framework	OECD/G20 Inclusive Framework on BEPS
ITTI	Inventory of Tax Technology Initiatives
KRA	Kenya Revenue Authority
LAC	Latin American and Caribbean
MAAC	Multilateral Convention on Mutual Administrative Assistance in Tax Matters
MAP	Mutual Agreement Procedure
MLC	Multilateral Convention to implement Amount A of Pillar One
MNE	Multinational Entreprise

OECD	Organisation for Economic Co-operation and Development
PCT	Platform for Collaboration on Tax
QDMTT	Qualified Domestic Minimum Top-up Tax
SDG	Sustainable Development Goal
STTR	Subject to Tax Rule
STTR MLI	Multilateral instrument to facilitate the implementation of the subject to tax rule
TIWB	Tax Inspectors Without Borders
TIWB-CI	Tax Inspectors Without Borders for Criminal Investigations
TPG	OECD Transfer Pricing Guidelines
Two-Pillar Solution	Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy
UN	United Nations
UNDP	United Nations Development Programme
VAT	Value Added Tax
WAEMU	West African Economic and Monetary Union
WATAF	West African Tax Administration Forum
WBG	World Bank Group
WP	Working Party

Executive summary

A decade of highly dynamic and intensive international tax co-operation has seen the progressive involvement of African countries. The OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting (the Inclusive Framework on BEPS), with the active participation of its African members, has recently taken a major step in modernising and stabilising the international tax system through the Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy (the Two-Pillar Solution). Pillar One represents a milestone in international tax departing from traditional nexus and profit allocation rules (Amount A) and simplifying the application of transfer pricing (Amount B). Pillar Two's global minimum tax of 15% sets a multilaterally agreed floor on tax competition and will be a key development for African countries because it will protect their corporate tax bases and raise significant revenues. It also fundamentally changes the conversation about tax incentives by allowing countries to strike a better balance between attracting foreign direct investment and mobilising the resources needed to finance development. In addition, Pillar Two provides a tax treaty-based Subject to Tax Rule (STTR) that addresses risks to source jurisdictions from intragroup payments that take advantage of low nominal tax rates in the State of residence of the payee. The STTR has been developed to reflect the priorities of African and developing countries and is an important part of the consensus on the Two-Pillar Solution for developing countries.

African voices have been prominent in the Inclusive Framework, from involvement in the policy-setting agenda to working through the details of technical proposals. All African Inclusive Framework members and observer organisations from Africa can participate in all technical meetings of the Inclusive Framework. African countries have had a clear role in the design of the Two-Pillar Solution. The leadership role of African delegates in the Steering Group of the Inclusive Framework and in its subsidiary bodies, together with the support of the African Tax Administration Forum, helped African members to participate effectively in the discussions and significantly influence the negotiations.

Notably, African countries have shaped the design of the Two-Pillar Solution and many specific rules and instruments have been included to directly address their concerns, including: Amount B of Pillar One; the STTR of Pillar Two; the substance-based carveout and the domestic top-up tax in the global minimum tax; and key design features of Amount A on revenue allocation, nexus rules, tail-end revenues and elective rules on dispute resolution.

While these gains show that good progress has been made, there is a clear call from developing countries, and from Africa in particular, for greater influence on the agenda-setting and further enhancing the capacities of developing countries to actively participate in policy discussions and technical work.

Capacity building will be a critical element in the success of the Two-Pillar Solution. A comprehensive action plan for implementation is required including additional support and technical assistance to both tax administrations and ministries of finance in Africa and developing countries generally. Development partners need to make a concerted and coordinated effort to enhance tax capacity building.

The BEPS minimum standards remain an important set of rules that can benefit African countries by ensuring that they can effectively and efficiently tax multinational enterprises operating in their jurisdictions. Again, sustained capacity building efforts will be needed.

While the Two Pillar Solution and the BEPS tools address issues related to protecting the corporate tax base, which is critical for many African countries, corporate tax alone will not be the answer to Africa's fiscal challenges. The fiscal needs of countries on the continent, where tax revenues fall short of the levels needed to meet Africa's development priorities, require a broad tax policy and administration effort to secure the revenues required. Tax policy and administration are consistently identified as key levers in the African policy discussions and the pan-African policy dialogue spearheaded by the African Union. Broadening the tax policy agenda should include issues that are likely to have the most significant revenue impact, aligned with pan-African priorities, such as VAT, tax transparency, tax and crime, the digitalisation of tax administrations, and tax and informality.

The report includes the following main recommendations:

- The G7 and other development partners should prioritise increased capacity building and technical assistance to both tax administrations and ministries of finance in African countries.
- African countries, the G7 and other development partners should deepen the dialogue on broader tax policy and administration issues, beyond the corporate tax.
- The priorities of African countries should be better reflected in the Inclusive Framework's agenda in the future; further efforts should also be made to strengthen African participation in policy-setting and technical discussions.

The full recommendations are set out in Chapter 8.

Overview

Strengthening tax systems – policy and administration – is a key development priority, and a core part of the Sustainable Development Goals (SDG) framework and the Addis Ababa Action Agenda (United Nations, 2015[1]). Mobilising domestic resources to achieve the SDGs sets a challenge to developing countries to raise significant additional tax revenues, in fair and efficient ways. The need for additional revenues in Africa has become even more critical. Africa's financing shortfall has increased due to the COVID-19 pandemic and the global repercussions of conflicts and climate change, while the costs of debt have escalated for most African countries. As a consequence, the African continent's sustainable financing gap is growing. Africa needs an extra USD 1.6 trillion by 2030 – USD 194 billion annually – to achieve the Sustainable Development Goals (AUC/OECD, 2023[2]).

A decade of intensive international tax co-operation has seen the progressive involvement of African countries. The Global Forum on Transparency and Exchange of Information for Tax Purposes (the Global Forum) has 37 African members and the Africa Initiative[2] has been instrumental in seeing African countries make greater use of exchange of information (EOI) tools to raise tax revenues. The OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting (the Inclusive Framework) has 27 members from the continent, where African countries have played a critical role in the development of new proposals to modernise and stabilise the international tax system.

The Inclusive Framework, with the active participation of its African members, has recently taken a major step in modernising and stabilising the international tax system through the Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy (the Two-Pillar Solution). On 11 July 2023, 138 members of the Inclusive Framework – representing over 90% of global GDP – agreed an Outcome Statement (OECD/G20 Base Erosion and Profit Shifting Project, 2023[3]) recognising the significant progress made and allowing countries and jurisdictions to move forward with historic, major reform of the international tax system. It reflects collaboration and compromise among all jurisdictions - small and large, developing and developed - during negotiations by Inclusive Framework members since the October 2021 Statement on the Two-Pillar Solution (OECD/G20 Base Erosion and Profit Shifting Project, 2021[4]), including significant input and advocacy from African voices. All African Inclusive Framework members have joined the July 2023 Outcome Statement and negotiations towards a Two-Pillar Solution have provided an opportunity for African tax policy objectives to be better reflected in the global tax rules.

Capacity building will be a critical element in the success of the Two-Pillar Solution. Slow or low adoption by African countries may significantly hinder the effectiveness of these new rules. There has been tremendous progress on the continent in improving the level of expertise among African tax administrators and policymakers. This has been a joint effort, with African organisations such as the African Tax Administration Forum (ATAF)[3], the African Union (AU)[4] and the African Development Bank (AfDB)[5] leading in the technical assistance space, with the collaboration of international organisations and other development partners including the OECD. However, resource constraints remain a serious issue; the demand for capacity building through existing programmes will only increase and additional programmes will need to be put in place to assist with the implementation of the Two-Pillar Solution. This highlights the importance of a comprehensive action plan for implementation that will set out the roles of all stakeholders including different government agencies, and international and regional organisations.

While the Two Pillar Solution addresses issues related to protecting the corporate tax base, which is critical for many African countries, corporate tax alone will not be the answer to Africa's fiscal challenges. Finding the right tax mix – including direct and indirect taxes as well as business and personal taxes – along with improving compliance and efficiency in tax collection, will all be factors in improving the fiscal position in countries across the continent.

This report reflects on the importance of the international tax agenda for African economies and on the OECD-Africa collaboration to shape and address this agenda.

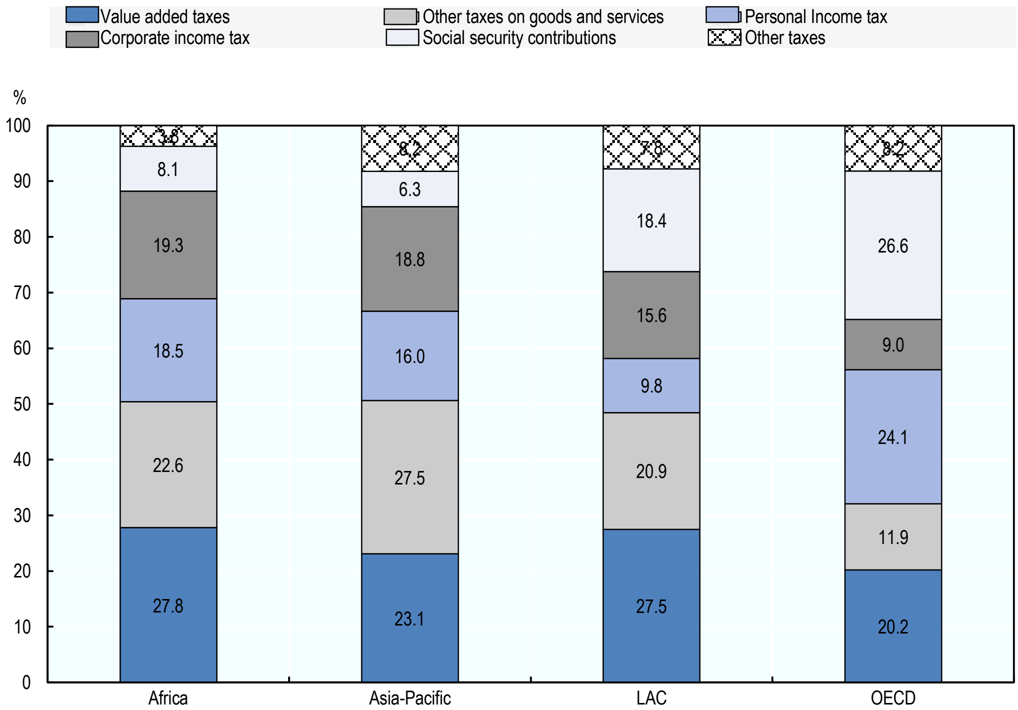
1 Raising revenues

The fiscal needs of countries on the continent, where tax revenues fall short of the levels needed to meet Africa's development priorities, require a broader tax policy and administration effort to secure the revenues required. Africa's average tax-to-GDP ratio was 16.0% in 2020 (OECD/ATAF/AUC, 2022[5])[6], the lowest average tax-to-GDP ratio among the four regions covered by *Global Revenue Statistics.*[7] Tax-to-GDP ratios ranged from 5.5% in Nigeria to 32.5% in Tunisia in 2020; over half of the countries in *Revenue Statistics in Africa* had a tax-to-GDP ratio below 15%.

The COVID-19 pandemic reversed a decade of steady growth in tax revenues in Africa: between 2010 and 2019, Africa's tax-to-GDP ratio rose by 1.9 percentage points (p.p.) before declining by 0.3 p.p. in 2020. However, average non-tax revenues declined by 1.1 p.p. between 2010 and 2020 to 6.8% of GDP, driven by a fall in revenues from grants and from rents and royalties.

Taxes on goods and services are the main source of tax revenues in Africa, at an average of 50.4% of total tax revenues in 2020, with VAT accounting for 27.8% (see Figure 1.1**).** The contribution of corporate income tax (CIT) to Africa's tax mix is high in comparison to other regions: 19.3% of total tax revenues on average in 2020, above Asia-Pacific, the Latin American and Caribbean (LAC) region and the OECD. Revenues from personal income tax and social security contributions amounted to 18.5% and 8.1% of total tax revenues respectively in Africa in 2020, compared to 24.1% and 26.6% in the OECD.

Figure 1.1. Tax structure (percentage of total tax revenue) in Africa, Asia-Pacific, LAC and OECD, 2020



Source: OECD

Rebuilding public finances and restoring revenue growth in the wake of the pandemic is a priority for African countries, especially given the sharp increase in debt levels since 2019. Even prior to the pandemic, higher debt service costs were absorbing a third of the increases in revenues as a share of GDP (OECD/AUC/ATAF, 2021[6]). The AU has identified measures to counteract illicit financial flows (IFFs) as a priority for the continent; given the importance of CIT in the tax mix, policies to mitigate base erosion and profit shifting (BEPS) are also key. The prominence of VAT in Africa's tax mix means that the rapid growth of the digital economy requires a comprehensive VAT strategy for e-commerce. Enhancing taxation of the informal sector is also a priority given the size of the informal economy in most African countries (OECD/ATAF/AUC, 2022[5]).

(Re)building tax morale across Africa will be a vital component and will require co-operation between governments and taxpayers. All tax systems rely on voluntary compliance from the majority of taxpayers and increasing the number of taxpayers willing to comply (i.e. increasing tax morale) can make a significant impact by both increasing revenues and reducing enforcement costs. OECD research has identified a number of the factors affecting tax morale in Africa, highlighting the challenges in the relationships between tax administrations and large businesses on the continent (see Box 1.1).

Box 1.1. Tax morale in Africa

OECD research (OECD, 2019[7]) has shown that Africa has the greatest variation in tax morale of any region. Especially for those countries where tax morale is currently low, changing these attitudes will be vital to enable African governments to raise sufficient revenues to finance their development.

A range of drivers of tax morale in Africa have been identified (OECD, 2019[7]). These include socio-economic factors such as level of education, as well as perceived levels of corruption, trust in government, and satisfaction with public services. While addressing these factors is a long-term challenge, the research also shows that the perception of the tax administration and ease of compliance – issues more susceptible to tax administration control – are among the biggest determinants of tax morale in Africa (OECD, 2019[7]). Taxpayer education can be a valuable tool to help understanding of tax systems and administrations; to support taxpayer education initiatives, the OECD created a typology of approaches and a compilation of good practices (OECD, 2021[8]).

Building trust is a two-way process, requiring actions from both taxpayers and tax administrations. Results from a global survey of tax administrations showed that tax administrators in Africa have less trust in multinational enterprises (MNEs) than their peers in Asia and OECD countries (OECD, 2022[9]), with only 43% of tax administration officials saying that the information from most MNEs can be trusted (53% in Asia, 74% in OECD, and 37% in LAC). Identifying strategies to build mutual trust between tax administrations and taxpayers is therefore vital and can enable co-operative compliance, with benefits for both taxpayers and administrations (OECD, 2013[10]). Effective implementation of international standards on taxation can play a role, making it easier for MNEs to comply, while increasing tax certainty (OECD, 2022[9]).

Source: OECD.

2 African priorities

Tax policy and administration will be key policy levers in Africa as they pursue policies that lead to greater economic and regulatory integration. The AU has spearheaded pan-African policy dialogue, aiming to deliver more coherent approaches among its membership. This includes the Agenda 2063, the guiding pan-African policy vehicle, as well as the specific objectives of the African Continental Free Trade Agreement (AfCFTA). The AU is an observer to both the Inclusive Framework and the Global Forum.

The AU's roadmap for the next fifty years includes strengthening Domestic Resource Mobilisation (DRM), building efficient, transparent and harmonised systems of tax revenue collection and public expenditure management and eliminating all forms of illicit IFFs (AUC, 2015[11]). This is clearly elaborated in "Agenda 2063: The Africa We Want", which is the AU's development blueprint to achieve inclusive and sustainable socio-economic development over a 50-year period.

The AU has recognised that the new global minimum tax of the Two-Pillar Solution will have an impact on existing national tax incentive policies and presents an opportunity for African countries to protect themselves from ceding their taxing rights to countries where MNEs are resident.[8] In support of this major policy development, ATAF has published a Suggested Approach to Drafting Domestic Minimum Top-Up Tax (DMTT) Legislation (ATAF, n.d.[12]), see also Box 6.3. Many African countries see DMTTs as an important starting point to address the revenue lost from granting tax incentives, which may in some cases be ineffective and wasteful. The AU also adopted recommendations to use the *VAT Digital Toolkit for Africa* (OECD, WBG and ATAF, 2023[13]), which was developed by the OECD in close partnership with the World Bank Group (WBG) and ATAF, to improve revenue collection on cross-border supplies (see section 7.1). The AU has also identified areas where future legislative action or coordination would benefit AU Member States, which include tax incentives, IFFs and improving DRM for the development of the continent.[9]

Greater economic integration and convergence in the legal and regulatory environments are keystones of the African vision for the future with important implications for tax policy. The AfCFTA – one of the flagship projects of Agenda 2063 – is the world's largest free trade area second to the World Trade Organisation, and the largest in population and geographic size, bringing together the 55 AU countries and eight Regional Economic Communities. The overall mandate of the AfCFTA is to create a single continental market with a population of about 1.3 billion people and a combined GDP of approximately USD 3.4 trillion. As part of this process, the AfCFTA aims to unify tax laws and regulations for products and services across its members on the African continent. This entails removing trade restrictions, clarifying tax laws, and levelling the playing field for multinational corporations, which will require the acceptance of uniform tax practices and the adoption of efficient tax administration and enforcement strategies.

IFFs have long been an issue for governments in Africa and international tax standards represent an important set of tools to combat them. In February 2015, the High-Level Panel on Illicit Financial Flows from Africa, chaired by President Thabo Mbeki, submitted its report (United Nations, Economic Commission for Africa, 2015[14]) (the Mbeki report) to the African Union Commission (AUC) and the United Nations Economic Commission for Africa. The report found that African countries lose on average USD 50 billion annually through IFFs. The report includes key recommendations on issues related to BEPS and transparency – African countries:

- should establish transfer pricing units as a matter of extreme urgency;
- should require multinational corporations operating in their territories to provide a comprehensive report showing their disaggregated financial reporting on a country-by-country or subsidiary-by-subsidiary basis;
- should review their current and prospective tax treaties to ensure that they do not provide opportunities for abuse;
- should put in place beneficial ownership information requirements for companies; and
- must strongly call for automatic exchange of tax information globally.

Tax administrations in Africa have also been working closely together. ATAF was established in 2009 and has rapidly become an influential player in Africa and beyond. ATAF has been an essential partner in support of African members of the Inclusive Framework, through policy work and capacity building (see Box 2.1). The West African Tax Administration Forum (WATAF)[10] was established in 2011 and le *Cercle de Réflexion et d'Échange des Dirigeants des Administrations fiscales* (CREDAF)[11] has been bringing tax administrations together in Francophone Africa since 1982. CREDAF and the OECD have a longstanding collaboration (OECD, 2021[15]), which includes regional consultations and capacity building workshops for French speaking countries. All three African regional tax organisations collaborate with the OECD on international tax matters.

Box 2.1. The African Tax Administration Forum (ATAF)

ATAF[1] was established by African revenue authorities in 2009 to improve the performance of tax administrations in Africa. The tax administrations of 42 countries in Africa are members of ATAF, making it the premier body on tax matters on the continent. South Sudan and Algeria were the latest to join the organisation. ATAF believes that better tax administration will enhance economic growth, increase accountability of the state to its citizens, and more effectively mobilise domestic resources.

ATAF is an observer to both the Inclusive Framework and the Global Forum. ATAF is a key partner to the OECD in Africa, bringing the views of Africa into the Steering Group and subsidiary bodies of the Inclusive Framework and as partners on many areas of capacity building, such as bilateral country programmes on BEPS or induction programmes for new Inclusive Framework members. In particular, ATAF's Cross-border Taxation Technical Committee (CBT Committee) played a key role in voicing Africa's interests in the negotiation of the Two-Pillar Solution. Through regular consultations, the unpacking of highly technical issues and provision of sound policy advice, the CBT Committee has been instrumental in ensuring the effective participation of the 27 African countries that are members of the Inclusive Framework in the debate.

The Global Forum and ATAF also have a longstanding partnership to promote EOI in Africa. The Global Forum and ATAF collaborate on capacity building activities, including joint regional events, such as training and workshops, country technical assistance programmes, and on joint publications, such as the annual report *Tax Transparency in Africa: Africa Initiative Progress Report* (OECD, 2023[16]) and the *Toolkit for Establishing and Running an Effective Exchange of Information Function* (ATAF and OECD, 2020[17]).

The OECD has led the development of the *VAT Digital Toolkit for Africa* in close partnership with ATAF and the WBG. Finally, ATAF collaborates with the OECD and the AUC on *Revenue Statistics in Africa*. ATAF's expertise and network among tax administrations complement the OECD's expertise in collecting and harmonising revenue data and the AU's political legitimacy and ability to connect these statistics to Africa's broader social, economic and political priorities.

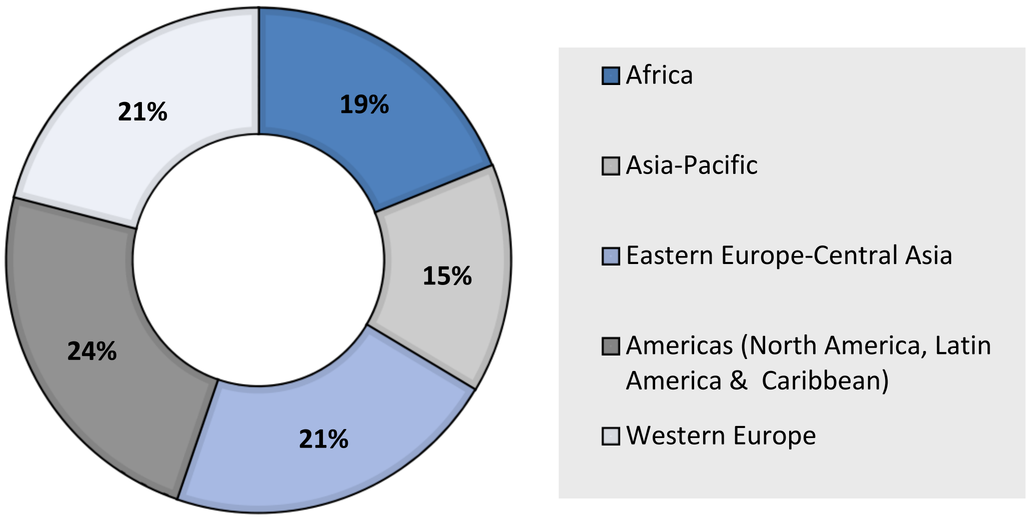
Source: OECD.
1. https://www.ataftax.org/.

Key African institutions and policy developments are converging on international tax matters, in line with global trends and broader African development priorities. With this positive institutional context in mind, chapters 3 and 4 outline how Africa is increasingly engaging in the work of the Inclusive Framework and doing so with a unified voice.

3 Africa's role in the Inclusive Framework

The African voice has been prominent in the Inclusive Framework, from involvement in the policy-setting agenda to working through the details of technical proposals. The Inclusive Framework is now more than 140 members strong, including 27 African countries[12] that account for 19% of the membership (see Figure 3.1). In addition, AfDB, ATAF, the AU and CREDAF are all observers to the Inclusive Framework.

Figure 3.1. More than 140 Members of the Inclusive Framework Regional balance



Source: OECD

The Steering Group of the Inclusive Framework includes four members (out of a total of 25) from Africa. A representative from Nigeria serves as Deputy Chair alongside other African members from Senegal, South Africa and Zambia. At the request of African members of the Inclusive Framework, and to augment the capacity of African members of the Steering Group, ATAF attends Steering Group meetings as an observer.

All African Inclusive Framework members and observer organisations from Africa can participate in all technical meetings of the Inclusive Framework. The leadership role of African delegates in the Steering Group and in the subsidiary bodies, together with the support of ATAF, helped African members to participate effectively in the discussions and influence significantly the negotiations. For instance, a delegate from Senegal serves as Vice-Chair of the Task Force on the Digital Economy, which has been mandated to negotiate the Multilateral Convention to Implement Amount A of Pillar One (MLC). Until recently and for many years, a representative from Nigeria served as Co-Chair of Working Party (WP) 6 on the Taxation of Multinational Enterprises. Recently, a delegate from Kenya was elected as Vice-Chair of this working party. WP6 and the Forum on Tax Administration's (FTA) Mutual Agreement Procedure (MAP) Forum have been jointly negotiating the Amount B Package on transfer pricing simplification. South Africa is represented in both the Steering Group of the FTA MAP Forum and in the bureau of WP11 on Aggressive Tax Planning (WP11 has elaborated the Pillar Two GloBE rules).

African members of the Inclusive Framework stress the need for Africa specific briefings and workshops and for the full availability of interpretation/translation services for Francophone countries. The OECD convened several pre-meetings and technical briefing sessions ahead of key decision points or critical meetings. This supported African and developing countries more generally to actively participate in the discussions of the Inclusive Framework, in particular on the Two-Pillar Solution.

4 The Two-Pillar Solution

The Two-Pillar Solution represents a milestone in international tax in departing from traditional nexus and profit allocation rules, simplifying the application of the arm's length principle, and setting a floor to tax competition. While other approaches may have been preferable to African countries, compromises were made on all sides as the proposals were negotiated. This chapter shows how developing economies, and African countries in particular, have shaped the design of the Two-Pillar Solution, which specific rules and instruments have been included to directly address their concerns and how their active participation in the negotiations was supported.

4.1. Amount A – Reallocating taxing rights to market jurisdictions

Amount A will reallocate taxing rights based on where customers and users are located, and smaller African economies can receive new taxing rights. Based on 2021 data, the OECD estimates total reallocated profit under Amount A of more than USD 200 billion annually (subject to some reduction to account for profits already taxed in the market jurisdiction). The aggregate revenue estimate is between USD 17.3 and 32.8 billion, which is higher than previous estimates as reallocated profit has increased over time. Based on this range of scenarios, low-income countries would see their CIT revenue increase between 2.4% and 2.8% while middle income countries would experience an increase of CIT revenue between 1.1% and 1.5%.[13]

The design of Amount A has been shaped by African economies during the negotiations. This includes basic policy choices such as of excluding income from extractives, low nexus thresholds for a jurisdiction's entitlement to an Amount A allocation, and the system of re-allocating profits as Amount A (see Box 4.1 for more details on African countries' influence). While it is true that the rules are complex, they also largely rely on formulas that will require limited factual determinations. The system is designed to be administered in a streamlined way that ensures that low-capacity countries are able to enforce and collect the tax effectively. Most of the administrative burden to comply with Amount A rules will be borne by the MNE working with the tax authorities of the jurisdiction where the ultimate parent entity is resident, and under the supervision of all the other market jurisdictions that participate in the multilateral review process including large emerging economies. This means that African jurisdictions will have the right to receive the Amount A return information, and the option to participate in the multilateral review process, but will have no obligation to spend their resources to do so and could instead rely on the multilateral review process, where market jurisdictions are well represented, to enforce Amount A.

Box 4.1. African countries' influence on Pillar One - Amount A

Several aspects of the Amount A rules that benefit developing countries are the result of proposals from ATAF and African countries. The high engagement of some African countries in the Amount A negotiations was also facilitated through pre-meetings and specific technical sessions provided by the OECD Secretariat to Steering Group members from Africa on Amount A design options. Features of Amount A that illustrate the material influence of African countries in the negotiations on Amount A include:

- A broader scope and simplified design of the exclusion for extractive activities, which help to prevent the re-allocation of economic rents associated with extracted commodities and minimise the need for complex segmentation.
- A low nexus threshold for an Amount A allocation with no 'plus factors', meaning smaller developing economies are more likely to benefit from Amount A.
- 'Tail-end' revenue provisions for consumer-facing businesses provide additional Amount A revenue to lower income jurisdictions.
- Stricter time limitations on the carry-forward of losses limit any connected long-term reduction in Amount A allocations, while still providing a reasonable period for MNEs to recoup economic losses.
- *De minimis* thresholds for the elimination of double tax mean that lower-income countries are less likely to have to provide relief from double tax under the Pillar One rules.
- *De minimis thresholds* and other safeguards incorporated in the marketing and distribution safe harbour shield lower-income countries' Amount A allocations from inappropriate offsetting adjustments.
- While strong tax certainty measures have been incorporated into Amount A, many developing countries will be eligible for elective dispute resolution mechanisms in place of mandatory binding mechanisms for issues related to Amount A, and African countries continue to have a significant influence on the design of certain aspects of the tax certainty mechanisms (such as the composition of review panels and the division of associated costs).

Source: OECD.

4.2. Amount B – A simplified and streamlined approach to transfer pricing

Amount B was included in the Two-Pillar Solution at the specific request of African and other developing countries. Transfer pricing has been identified by regional tax organisations such as ATAF as key to ensuring developing countries collect their fair share of tax revenue. Progress has been made in recent years in African countries to set up legal and administrative frameworks for transfer pricing regimes and to build the relevant skills of tax auditors (OECD, 2021[18]; OECD, 2023[19]). Legislative changes are often based on the African Suggested Approach to Drafting Transfer Pricing Legislation (ATAF, n.d.[12]).

OECD's transfer pricing work is highly relevant for Africa. Many African countries use the OECD Transfer Pricing Guidelines (TPG), including some that are not Inclusive Framework members (ATAF, 2023[20]). To date, 24 African countries have benefitted from bilateral programmes on transfer pricing carried out by the OECD in collaboration with partners, often with ATAF (see section 6.4 below). The OECD/UNDP Tax Inspectors Without Borders (TIWB) Initiative[14] in partnership with ATAF has carried out a total of 68 programmes to support transfer pricing audits in 34 African countries, leading to more than

USD 1.6 billion in additional tax revenues collected. However, developing countries are still facing challenges due to scarce resources and limitations in obtaining publicly available information on arm's length conditions between independent enterprises, which is needed for the comparability analysis conducted in applying the transfer pricing rules (PCT, 2017[21]).

Amount B, which is based on a proposal co-authored by ATAF and Mexico, is designed explicitly with the needs of low-capacity countries in mind. Amount B provides a simplified and streamlined approach to the application of the arm's length principle to in-country baseline marketing and distribution activities, which can be of substantial importance in developing countries. There is significant potential for Amount B to provide a fairer, simpler and more certain tax result, permitting scarce transfer pricing resources to be more efficiently and effectively deployed. According to ATAF, many African tax administrations report that between 30% and 70% of their transfer pricing disputes relate to such activities and that they consider that Amount B could be a game changer for the African transfer pricing landscape (ATAF, 2023[20]). Box 4.2 provides more details on African countries' influence on specific design elements of Amount B.

Box 4.2. African countries' influence on Pillar One - Amount B

African jurisdictions have been extensively engaged in negotiating the design of Amount B at the technical working party level. This engagement was facilitated through additional briefings and catch-up calls involving ATAF and African delegates. While some elements of Amount B are yet to be finalised, examples where African countries and ATAF have materially influenced the negotiations on Amount B include:

- The inclusion of sales agents and commissionaires within the scope of Amount B, helping to ensure Amount B appropriately applies to structures commonly used in many developing countries.
- The development of a global dataset for the application of Amount B, addressing the issues arising from a lack of local comparables in many developing countries.
- The inclusion of country risk adjustments to increase the global profit margins in the Amount B pricing matrix for those jurisdictions that have no financial data in the Amount B global dataset. This includes all African countries and will ensure that in-scope marketing and distribution activities carried out in African countries earn an appropriate profit margin.
- The inclusion of Amount B in the TPG in January 2024, meaning its application will have a solid basis in both developed and developing countries.

Source: OECD and ATAF, *OECD/G20 Inclusive Framework Releases Outcome Statement on the Two-Pillar Solution – What Does this Mean for Africa?*, Communication, 12 July 2023, https://www.ataftax.org/oecd-g20-inclusive-framework-releases-outcome-statement-on-the-two-pillar-solution-what-does-this-mean-for-africa (accessed 15 September 2023).

4.3. Global minimum tax

The global minimum tax will be a key development for African governments because it can raise significant revenues. It also fundamentally changes the conversation about tax incentives and attracting foreign direct investment. The establishment of a global minimum corporate tax means that large MNEs with an annual turnover of at least EUR 750 million will pay at least 15% of tax on their corporate profits, irrespective of where they are operating. At the same time, there have long been concerns about the use of tax incentives as a tool to attract investment, with evidence suggesting that they are often ineffective, resulting in low- or no-taxed windfall profits for MNEs and large revenue losses for governments in both developed and developing countries. With the global minimum tax there is an opportunity to examine incentives in a holistic way, as governments may lose potential tax revenue in respect of MNEs that are in scope of the GloBE rules to other jurisdictions if policy reform decisions are not taken. Even where developing countries have statutory CIT rates higher than 15% (and many in Africa have much higher rates), the effective rate for certain firms that benefit from incentives may be below the minimum rate and the GloBE rule may consequently result in a jurisdictional top-up tax liability with respect to those firms, subject to the carve-out in the GloBE rules for substantial economic activity. In that context, a number of developing countries are considering the implementation of a Qualified Domestic Minimum Top-up Tax (QDMTT) in line with the global minimum tax rules. A QDMTT does have some advantages from a design and policy perspective since it captures the tax that would otherwise be collected in foreign jurisdictions under the GloBE rules and achieves consistent and transparent outcomes with associated compliance and efficiency gains for taxpayers and tax administrations.

Egypt, Namibia, Nigeria and Senegal are participating in a Pilot Programme on GloBE and tax incentives that the OECD launched in 2022. The programmes are two-pronged: they aim both to support developing countries in implementing the GloBE rules and/or complementary rules such as QDMTTs where they wish to do so; and to support developing countries' analysis of their tax incentive regimes and the potential impact of the global minimum tax.

All African pilot countries are actively assessing the impact of the GloBE rules, including through engagement at the political level and with other stakeholders, particularly investment and trade bodies as well as the business community. Box 4.3 illustrates Nigeria's experience with the Pilot Programme.

Box 4.3. Pilot Programme on GloBE and tax incentives with Nigeria

Following an April 2023 workshop in Abuja with OECD experts, Nigeria's Federal Inland Revenue Service issued a statement that:

- Nigeria should, as a matter of urgency, commence engagements by stakeholders to draw up a national strategy for immediate streamlining of its tax incentives, to avoid ceding its tax base to other jurisdictions, owing to the implementation of Pillar Two rules; and
- Nigeria should take immediate steps to forge and implement tax policy options in response to Pillar Two, which action may include but not limited to, changing its income tax rule to bring its effective tax rate to a minimum of 15% or introducing a QDMTT.

Source: Federal Inland Revenue Service (FIRS), *Outcome Statement from the OECD-Nigeria Two-Day Workshop on maximising the benefits of the Two-Pillar Solution for Nigeria*, https://www.linkedin.com/posts/federal-inland-revenue-service-firs-_outcome-statement-from-the-oecd-nigeria-two-day-activity-7052266708966719488-mpIM?utm_source=share&utm_medium=member_ios (accessed 15 September 2023).

First lessons learned from the Pilot Programme show that each country is different, and assistance needs to be tailor made. In many cases regional or multilateral approaches can be used for more general or early-stage support, but this will often need to be supplemented by bespoke approaches to deal in-depth with more complex issues. A whole-of-government approach, as well as co-ordination with development partners, is essential. This is particularly critical for the review of tax incentives, which are often governed by agencies or ministries other than the Ministry of Finance, such as investment and trade bodies. Co-ordination and collaboration with regional and international partners are critical to maximise resources, avoid duplication and ensure consistency.

The OECD estimates that the implementation of the GloBE rules will generate up to USD 200 billion annually in additional tax revenue, with a significant share benefiting African countries. With a minimum effective tax rate of 15%, the GloBE rules are expected to directly generate revenues, but additional corporate income tax revenues are also expected from the resulting reduction in profit shifting activity as a consequence of introducing the rules. The rules ensure the country where the low taxed profit is earned always has the right to collect any additional tax first. This can be accomplished by reforming tax incentives or raising CIT rates, or through the introduction of a QDMTT. The design of the rules and, in particular, the role of a QDMTT is the result of developing country input to the discussions, including the participation of ATAF in the WP meetings (see Box 4.4).

Box 4.4. African countries' influence on Pillar Two - GloBE rules

ATAF and African delegates had a strong influence on the design of the GloBE rules, in particular on the provision of a QDMTT. Examples where African countries and ATAF materially influenced the negotiations on the GloBE rules include:

- **Scope:** The scope of the GloBE rules is broader than that for Amount A, with a consolidated annual revenue threshold of EUR 750 million, similar to the threshold for Country-by-Country (CbC) reporting.
- **ETR and Top-up tax calculation.** Jurisdictional rather than global blending is used for the effective tax rate (ETR) calculation. For purposes of the top-up tax calculation, the rules confirm the importance of a (mechanical) substance-based carve-out, with a ten-year transition period, preserving policy space for countries to include tax measures to attract real foreign direct investment.
- **QDMTT applied first under rule order.** African countries had concerns about the rule order in the GloBE rules, under which the Income Inclusion Rule applies before the UTPR, and were instrumental in achieving agreement that QDMTTs would apply first to collect any jurisdictional top-up tax, in priority to the application of the GloBE rules by other jurisdictions (and would be taken into account for purposes of any CFC or similar rules). ATAF has published a Suggested Approach to Drafting DMTT Legislation (ATAF, n.d.[12]). Many African countries see DMTTs as an important starting point to address the revenue lost from granting tax incentives, which may in some cases be ineffective and wasteful.
- **UTPR allocation mechanism.** A substance-based, mechanical approach is used to allocate of any top-up tax liability collected using the UTPR. The revised allocation key, which takes into account employees, results in modest gains for low-income jurisdictions.
- **Simplified administration.** Each constituent entity of an in-scope MNE is required to file a standardised GloBE information return with its local tax administration by default. This requirement is 'switched off' and central filing is allowed only where the local jurisdiction has access to the centrally filed return via EOI mechanisms.

Source: OECD.

4.4. Subject to Tax Rule

The Subject to Tax Rule (STTR) has been developed to reflect the priorities of developing countries and is an important part of achieving consensus on Pillar Two for developing countries. It is a treaty-based rule that allows jurisdictions to impose limited additional tax on certain cross-border payments between connected companies where the payment is subject to tax in the hands of the recipient at a rate below 9%. The STTR is based on an understanding that where, under a tax treaty, a source State has ceded taxing rights on certain outbound intragroup payments, it should be able to recover some of those rights where the income in question is taxed (if at all) in the State of the payee (i.e., the residence State) at a rate below 9%.

The Inclusive Framework has produced a package of deliverables that ensure developing countries will be able to quickly implement the STTR in their treaties. In addition to the STTR model treaty provision and related commentary, the Inclusive Framework also agreed a multilateral instrument (STTR MLI) and its Explanatory Statement to facilitate the implementation of the STTR, as well as a process to assist developing Inclusive Framework members in implementing the STTR. This process supports developing countries by providing them with information on the tax rates applied to covered income and a list of their affected treaties, which facilitates making informed requests to implement the STTR. African countries that choose to implement the STTR through bilateral negotiations may require additional capacity building on tax treaty negotiation.

Box 4.5 illustrates how African voices have shaped the design of the STTR.

Box 4.5. African countries' influence on the STTR

ATAF and African countries successfully negotiated a broad scope for the STTR that includes all intragroup services payments – a key issue for developing countries. African countries' active participation in WP1 on Tax Conventions and Related Questions was enhanced through a bilingual (English/French) technical catch-up briefing on the STTR that was attended by 57 African delegates. Examples where ATAF and African countries materially influenced the negotiations on the STTR include:

- **Broadening the scope of intra-group payments covered by the STTR:** ATAF consistently made it clear that, for the STTR to meet its stated policy objective of helping source countries, notably those with lower administrative capacities, to protect their tax base, its scope should be broad and include in particular all intra-group services payments. Intra-group service fees are a significant issue for tax administrations in Africa.[15] Thanks to ATAF and African countries' negotiation, payments relating to the provision of intra-group services are within the agreed scope of the STTR.
- **Rule order:** ATAF and African countries were also successful in negotiating for the STTR to apply in priority to the GloBE rules, meaning that the application of the STTR does not take into account top-up tax collected under an Income Inclusion Rule, UTPR or a DMTT. This was a key factor to help protect source taxation rights.
- **Targeted anti-avoidance rule:** ATAF and African countries also succeeded in including an anti-avoidance rule in the model STTR provision (included in STTR MLI). The rule addresses arrangements designed to get around the STTR's connected person and tax rate tests by inserting an intermediary or intermediaries in a series of transactions. It was important to African countries, especially those with lower administrative capacity, to have a mechanical rule to address such arrangements.

Source: OECD and ATAF, "*OECD/G20 Inclusive Framework Releases Outcome Statement on the Two-Pillar Solution – What Does this Mean for Africa?*", Communication, 12 July 2023, https://www.ataftax.org/oecd-g20-inclusive-framework-releases-outcome-statement-on-the-two-pillar-solution-what-does-this-mean-for-africa (accessed 15 September 2023).

4.5. Looking forward

African countries and ATAF have had a significant role in shaping the Two-Pillar Solution to the benefit of lower-income developing countries. Nevertheless, there is a widespread concern that the agenda-setting has been too “top-down”, without adequate consideration for the specific needs and circumstances of African or developing countries generally. Whilst consensus is the result of compromise by all parties, the resulting complexity of the Two-Pillar Solution and the policy and administration issues inherent in its implementation have been frequently cited as barriers for Africa. Looking ahead, the Inclusive Framework is already reflecting on its future agenda based on input from members. A side event of the Inclusive Framework in July 2023 hosted a discussion on future tax priorities in which African delegates participated actively. As the Inclusive Framework moves forward, African voices in the Steering Group and the Working Parties can use their influence to shape the future agenda of the Inclusive Framework.

5 BEPS minimum standards

Progress on the Two-Pillar Solution builds on BEPS tools which are highly relevant for Africa. The existing work on the implementation of the BEPS minimum standards agreed in 2015 in relation to countering harmful tax practices (BEPS Action 5), combatting treaty abuse (BEPS Action 6), ensuring that African countries can receive CbC reports (BEPS Action 13) and improving the resolution of tax-related disputes between jurisdictions (BEPS Action 14) remains relevant. This chapter provides an overview of progress in the implementation of the four BEPS minimum standards by African Inclusive Framework members.

5.1. Harmful tax practices (BEPS Action 5)

African countries have played their part in strengthening the international tax system by ensuring that they do not retain or introduce harmful preferential tax regimes. Where some of their regimes have been found to have harmful features, African countries have acted to amend or abolish such regimes or are engaged in ongoing discussions.[16]

The BEPS minimum standard on the exchange of tax rulings has overall been beneficial to African tax administrations. Only a few African countries issue tax rulings, information on which must be exchanged under BEPS Action 5. However, over the last six years, 14 African countries have received information on tax rulings issued abroad, better equipping them to conduct risk assessments and identify situations of double non-taxation or tax avoidance.

5.2. Countering treaty abuse (BEPS Action 6)

Progress by developing countries in implementing the Action 6 minimum standard remains steady, but some African countries can take more steps to prevent treaty abuse. BEPS Action 6 requires jurisdictions to update their bilateral double tax agreements where necessary to address treaty abuse. The Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS (BEPS MLI) is one way of updating bilateral agreements to implement the Action 6 minimum standard and other BEPS measures. Some developing countries that do not have extensive treaty networks prefer to update their existing treaties bilaterally. Approximately 200 bilateral double tax treaties with at least one African country as a treaty partner currently comply with the Action 6 minimum standard or are subject to a signed compliant instrument (either the BEPS MLI or a bilateral protocol).

Sixteen African countries have signed the BEPS MLI,[17] and of these, 10 have ratified the instrument.[18] Most treaty partners of African countries, including major financial centres, have already signed and ratified the BEPS MLI, so signature and ratification by the African treaty partners will protect them against abuse of those treaties. By joining the BEPS MLI, African countries can implement BEPS measures in existing treaties without the need to re-negotiate those treaties bilaterally. Developing countries, including those in Africa, have noted that signing and ratifying the BEPS MLI can be a lengthy process (OECD, 2022[22]). ATAF reports that many African jurisdictions still struggle in (re)negotiating tax treaties and recommends that African countries include general or specific provisions in their domestic legislation and treaties to prevent treaty abuse. (ATAF, 2021[23]).

Joining the BEPS MLI and implementing anti-abuse measures in tax treaties is key to protecting African countries' tax bases. African countries that choose the bilateral renegotiation of their tax treaties to implement anti-abuse measures may require additional capacity building in tax treaty negotiation.

5.3. Country-by-country reporting (BEPS Action 13)

BEPS and abusive transfer pricing practices have been challenging for many African countries, especially those with limited access to information from MNEs. The BEPS Action 13 minimum standard was a breakthrough in ensuring tax authorities have access to CbC reports. These reports contain information about the operations of large MNE groups in every country where they do business, including country-by-country data on revenue, profit before income tax, income tax paid and accrued, number of employees, stated capital, retained earnings, and tangible assets.

However, so far only a small number of developing economies and only four African countries, have been able to implement the Action 13 minimum standard fully, and access to CbC reports was identified by developing countries as a critical issue in the 2022 G20 Report (OECD, 2022[22]). In April 2023, the OECD and the Global Forum jointly convened a High-level Roundtable on the subject. Commissioners, deputy commissioners and other high-level participants from 34 jurisdictions (10 from Africa[19]) attended the roundtable, which highlighted the benefits and uses of CbC reports and the support available to help overcome challenges in meeting the minimum standard. The Ministerial Council Meeting in Paris on 7 June 2023 also provided an opportunity for Ministers from developing countries and other stakeholders to share their views on increasing developing countries' access to CbC reports as well as their effective utilisation. Progress on the implementation of CbCR is described in Box 5.1

Feedback from developing countries suggests that the multiplicity of requirements to be fulfilled before CbC reports can be received from treaty partners is a significant impediment to progress (OECD, 2021[24]; OECD, 2022[22])**.** Smaller developing countries that have no MNE groups meeting the CbC reporting threshold headquartered in their jurisdiction report that the obligation to enact domestic legislation on CbC reporting is a significant burden. Meeting the confidentiality requirements under the AEOI Standard, as well as challenges associated with putting in place and implementing the requirements associated with exchange networks also pose challenges for many developing countries. In addition, a number of countries have noted that a lack of treaty-based exchange relationships means that their access to CbC reports for key MNEs operating in their jurisdiction may be limited even once they meet all of the requirements under the minimum standard.

The 2023 OECD Secretary-General Tax Report to G20 Finance Ministers and Central Bank Governors (OECD, 2023[25]) **identified key indicative targets to focus support for developing countries in priority areas such as CbCR.** One key indicative target refers to an additional ten developing countries being able to access CbC reports by September 2024 and ten more by September 2025 and September 2026, respectively, assuming sufficient resources for capacity building are made available.

Box 5.1. Progress on Action 13 Country-by-Country reporting

Overall, developing countries continue to report significant challenges in meeting the CbC reporting requirements. Progress is moderate and the majority of developing countries in the Inclusive Framework still do not have access to CbC reports filed abroad. **This is also true in the African region, where only four African countries are currently able to receive CbC reports from abroad.** Nevertheless, there is progress in many other African countries in terms of putting in place the Action 13 requirements:

- 13 African Inclusive Framework countries have domestic legislation in place, and three additional African Inclusive Framework countries have draft legislations.
- 15 African Inclusive Framework countries have signed the Multilateral Convention on Mutual Administrative Assistance (MAAC), while 13 have ratified it.
- Six African Inclusive Framework countries have signed the Multilateral Competent Authority Agreement on the Exchange of CbC Reports (CbC MCAA).
- One African Inclusive Framework country has passed the confidentiality assessment under the Automatic Exchange of Financial Account Information (AEOI) standard.

Source: OECD (2023) *Country-by-Country Reporting – Compilation of 2023 Peer Review Reports: Inclusive Framework on BEPS: Action 13*, OECD Publishing, Paris, https://doi.org/10.1787/21bd1938-en.

5.4. Mutual Agreement Procedure (BEPS Action 14)

The tax treaty mutual agreement procedure (MAP) provides a mechanism to resolve cross-border tax disputes where two jurisdictions disagree on the interpretation or application of a treaty provision. Disputes relating to which jurisdictions can tax what types of income inevitably arise in a global economy. In order to strengthen the effectiveness and efficiency of the MAP process, the BEPS Action 14 minimum standard seeks to ensure that access to MAP is available, MAP cases are resolved within a reasonable timeframe, and the agreements reached in the MAP are implemented quickly.

Having a robust MAP programme increases tax certainty and can improve the investment climate for African countries. Morocco, South Africa and Tunisia have already undergone the Action 14 peer review process. The other African Inclusive Framework members had previously obtained a deferral of their peer reviews that was available to developing countries without 'meaningful MAP experience'. For these developing jurisdictions, a simplified peer review process was established in January 2023, with the aim of assisting them in setting up a robust MAP system for future MAP cases. Consequently, all African Inclusive Framework members that did not undergo the standard peer review process and have tax treaties in force are now scheduled for the simplified peer review between January 2023 and May 2025.[20]

6 Capacity building

Demand for capacity building on international tax matters has grown over the past decade and the need to devote more resources is consistently identified as a priority by Africans. New international standards in the tax area means that tax policy makers and administrators need to understand, assess, and implement a range of highly technical rules that are often complex and unfamiliar, such as new standards on tax transparency or transfer pricing. The BEPS package and now the Two-Pillar Solution continue this trend and put considerable pressure on developing countries to keep up with developments and ensure that their tax officials are adequately trained.

The OECD provides a comprehensive suite of support initiatives that include multilateral training and e-learning resources, outreach to gather input from developing countries on their priorities and concerns, and bilateral and regional support on specific issues. These initiatives build on the work that has been done to assist in capacity building across a number of other high priority issues. The support is available to all African countries, including those that are not members of the Inclusive Framework.

Meeting the demand of African countries for such support will require that capacity building is not only increased, but also that all development partners coordinate and collaborate to ensure its efficient and effective delivery. This section sets out the OECD's main streams of tax capacity building work in Africa (see *Tax Co-operation for Development: Progress report on 2022* (OECD, 2023[19]) for an overview of the OECD's global work on tax and development). Development partners, including international organisations, regional tax organisations and national administration are also working with African countries to develop their capacity in international tax.

6.1. Global Relations Programme on Taxation

Since 2022, more than 450 officials from African countries have attended seven virtual workshops and two webinars on topics relating to the Two-Pillar Solution that have been delivered by OECD's Global Relations Programme (GRP). These live training activities include the virtual workshop "Tax challenges & opportunities arising from the digitalisation of the economy" that was jointly organised with ATAF on 25-27 October 2022. The GRP has also made available eight recorded webinars on the key building blocks of Amount A of Pillar One, and eight recorded webinars on the GloBE rules of Pillar Two; these recorded webinars, which users can access at any time, were supplemented by four live "Questions & Answers" virtual sessions attended by more than 80 officials from African countries. Tools are available in French, Portuguese, and Arabic, in addition to English.

6.2. Outreach

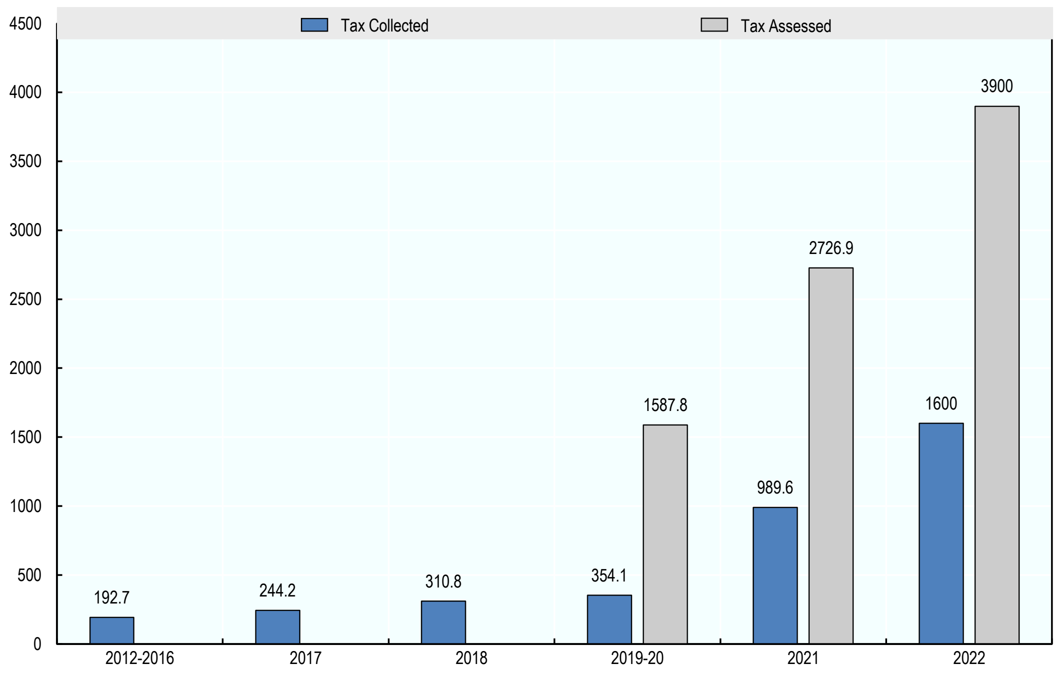
The regional outreach support initiatives conducted by the OECD in recent years have been a crucial means of ensuring that Inclusive Framework members as well as non-members are up to date on international tax developments and served as a platform for gathering input from developing countries on their priorities and concerns. A total of 25 regional consultations were organised between 2021, in the lead up to the October 2021 Statement on the Two-Pillar Solution, and 2022, following this high-level political agreement.

These regional consultations have been organised with regional partners, including CREDAF for Francophone Africa. In 2023, two capacity building workshops for CREDAF members on tax treaties and EOI respectively have been delivered. Three regional consultations were organised with CREDAF during 2022. These events, open to both Inclusive Framework members and non-member jurisdictions, provided participants with information on recent developments, including discussions of the updated economic impact assessments for the Two-Pillar Solution. They also provided a forum to discuss other priority topics such as VAT on e-commerce and capacity building activities. The OECD has also attended meetings of the ATAF CBT Committee to provide updates on the developments of the Two-Pillar Solution and other international tax issues.

6.3. OECD/UNDP Tax Inspectors Without Borders (TIWB)

Tax Inspectors Without Borders (TIWB) programmes in partnership with ATAF have helped African tax administrations collect more than USD 1.6 billion in additional tax revenues to date. Launched in 2015 at the Third Financing for Development Conference in Addis Ababa, TIWB is a joint initiative of the OECD and UNDP designed to support developing countries in building tax audit capacity. To date, TIWB and ATAF have implemented 68 completed and current programmes across 34 African countries. TIWB assistance, including anonymised casework conducted during workshops by ATAF, the OECD, and the WBG, has generated significant tax revenues. The notable revenue impact is illustrated in Figure 6.1.

Figure 6.1. Revenue impact of TIWB programmes in Africa (Figures in USD millions)



Source: TIWB

TIWB collaboration with ATAF has had a broad positive impact on tax administrations in Africa. The impact beyond revenue is apparent through the reported legislative and organisational changes in tax administrations, which were achieved in conjunction with bilateral support programmes (see section 6.4). Moreover, the technical support and guidance offered by TIWB experts has resulted in the formation of specialised international tax and transfer pricing departments and increased voluntary taxpayer compliance. TIWB is gearing up to support jurisdictions in different areas where there is demand, including the effective use of automatically exchanged information, the effective use of CbC reporting, auditing VAT on digital trade, and the practical implementation of the GloBE rules.

6.4. Bilateral and regional capacity building programmes

Since 2012, bilateral transfer pricing and international tax capacity building programmes have provided 24 African countries[21] with assistance. These programmes have allowed participating countries to strengthen and update their legislative frameworks, to build technical capacities and to better design the organisational structures of their international audit teams. In many cases these programmes are delivered in partnership – for example, there were 15 joint OECD/ATAF programmes in 2022.

The bilateral support programme has resulted in a number of African countries drafting or passing legislation and regulations for BEPS implementation. New legislation and regulations implemented in 2022 include:

- Burkina Faso – Revised transfer pricing legislation in line with the OECD TPG, CbCR legislation, transfer pricing documentation requirements, and advance pricing arrangement (APA) legislation were passed in December 2022;
- Togo – Revised transfer pricing legislation in line with the OECD TPG, CbCR legislation, transfer pricing documentation requirements were passed in December 2022 and a transfer pricing schedule return was introduced;
- Tunisia – Secondary legislation on CbCR was passed in 2022;
- Zambia – A CbCR practice note was introduced.

The impact of sustained capacity building on transfer pricing provided by the OECD and partners is evidenced by the fact that countries show continuous increases in revenues over time. The example of Zambia (see Box 6.1) demonstrates this impact.

Box 6.1. The impact of sustained capacity building on transfer pricing in Zambia

The ATAF/OECD/WBG partnership has provided a long-term transfer pricing technical assistance programme to Zambia by the since 2014. The Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development (IGF) has offered mining industry expertise since 2019. A focus of the work has been on the copper mining sector, which accounts for approximately 70% of Zambia's export earnings. The work responds to the concerns raised by senior officials in both the Zambia Revenue Authority (ZRA) and the Ministry of Finance that very few mining companies were paying CIT in Zambia.

The technical assistance has helped the ZRA to nearly triple the number of Zambian mining companies paying CIT, from 3 companies in 2016 to 11 companies in 2021, and to achieve a five-fold (USD) increase in CIT paid from 631 million Kwacha (USD 63 million) in 2016 to 6.819 billion Kwacha (USD 322 million) in 2021.

Source: OECD.

The capacity building activities of the Global Forum are also an important part of the bilateral support for African countries to align with international tax standards.[22] Dedicated funding for specific countries or regions (see Box 6.2 on the Economic Community of West African States (ECOWAS)) enables more in-depth assistance to be provided; such assistance often brings together multiple strands of the OECD Tax and Development work and includes EU funded programmes in Africa (in Egypt and Tunisia).

Box 6.2. Economic Community of West African States (ECOWAS) regional programme

For the last three years, the OECD and the Global Forum have been providing support under the EU-funded "Fiscal Transition Support Programme in West Africa" (FTSP) to strengthen the fight against BEPS and improve tax transparency in West Africa. The programme, in collaboration with the ECOWAS and the West African Economic and Monetary Union (WAEMU) commissions, aims to support the 15 ECOWAS Member States and the Islamic Republic of Mauritania in their fight against tax fraud and avoidance, IFFs and corruption, with the objective of helping them increase tax revenues and improve DRM.

Launched in 2020, the FTSP has two main components:

1. **Support the needs for legislative reforms in ECOWAS Member States and Mauritania, in line with international standards.** The OECD and Global Forum, in collaboration with the ECOWAS and WAEMU commissions, developed three community legal instruments on tax intended to strengthen the fight against BEPS and improve tax transparency in West Africa:
    - A Directive on the harmonisation of transfer pricing rules that gives the tax administrations of ECOWAS Member States the means to better control Multinational Enterprises present on their territory;
    - A Directive on beneficial ownership that provides for the identification of the beneficial owners of legal persons and arrangements, and ensures the availability of adequate, accurate and up-to-date information on beneficial owners; and
    - A Supplementary Act on mutual administrative assistance in tax matters which offers multiple forms of co-operation between the tax administrations of ECOWAS Member States and thus strengthens the EOI.

    These three community instruments, aligned with the most recent international tax standards, were adopted by the ECOWAS Council of Ministers and the Conference of Heads of State and Government of ECOWAS in July 2023. They provide ECOWAS Member States a harmonised tax framework for transfer pricing and EOI that will strengthen the fight against tax avoidance and improve tax transparency within the sub-region. In turn, these measures will promote DRM to achieve development objectives.
2. **Support the capacity building needs of ECOWAS Member States and Mauritania, to strengthen their knowledge and experience on transfer pricing, the tax treaty mutual agreement procedure, and EOI.** Transfer pricing activities started by addressing fundamental issues and culminated with expert level events, discussing complex issues faced by tax administrations in developing countries. EOI workshops highlighted the process to request and send information under international instruments, following the automatic and upon request EOI standards. Capacity building activities carried out through virtual and on-site workshops and had a positive impact for participants, who were able to apply the knowledge acquired to their day-to-day activities. Workshops were held in French, English and Portuguese, facilitating opportunities for participants to share their experiences for the benefit of all.

The capacity building efforts enabled West African tax auditors to better audit MNEs operating in their respective countries, making effective use of EOI issues and preventing of double taxation.

Work during the last three years made positive contributions for the benefit of West African States. Discussions are underway to determine the next steps regarding the elaboration of domestic guidance for the application of the Directives and the enforcement of international tax-related requirements by auditors from participating tax administrations.

Source: OECD.

6.5. Extractives

The extractives industry plays a significant role in economic development of many countries in Africa, but many countries continue to face challenges in achieving an appropriate level of tax revenue from the enterprises exploiting their natural resources. Transfer mispricing, tax avoidance and lack of transparency continue to limit the ability of many developing countries to fully benefit from their abundance of natural resources. The OECD, together with partners, has established a three-pronged approach to providing technical assistance on the extractive industry, comprising guidance, regional training, and comprehensive bilateral "Deep-Dive" programmes. The demand for support in Africa continues to be very high.

The OECD in partnership with the IGF operates Deep-Dive programmes that provides tailored support to resource rich developing countries. Through these programmes, the OECD is currently providing support to Guinea and Zambia, in collaboration with ATAF. Recently, the Deep-Dive programme in Guinea has yielded results by assisting the government in developing a reference price for bauxite, a key commodity export. The bauxite reference price is based on market benchmark prices, is simple to administer, and will significantly reduce the risk of bauxite from Guinea being under-priced (IGF, 2023[26]). The OECD and IGF are seeking to expand the Deep-Dive programme to more countries in Africa.

Establishing an arm's length price for the sale of mineral products between related parties can be a major obstacle to protecting a country's tax base from BEPS risks. To address this risk the OECD and IGF recently released a new toolkit for public consultation that provides a framework to price minerals (OECD and IGF, 2023[27]). This toolkit provides practical guidance for developing countries to accurately delineate mineral sales transactions and price them on an arm's length basis. The toolkit has a specific schedule on the application of the mineral pricing framework to bauxite, a mineral sold by many countries in Africa.

6.6. Partner Initiatives

In addition to the OECD, development partners such as other international organisations, development banks and regional tax organisations are also active in providing support to African countries in implementing the Two-Pillar Solution. As mentioned above, ATAF has produced its Suggested Approach to drafting DMTT legislation (see Box 6.3). In addition, the OECD's FTA hosts the Pillars Knowledge Sharing Network, a network run by the UK's HM Revenue & Customs that utilises the Canada Revenue Agency's Knowledge Sharing Platform for Tax Administrations. The Pillars Knowledge Sharing Network facilitates discussion of administrative aspects of the Two-Pillar Solution, 'quick answers to quick questions' and high-level conversations between tax administrations about their approaches to different administrative issues related to the implementation of the Pillars. Fifteen African countries have already joined this initiative.

Box 6.3. *ATAF Suggested Approach to Drafting Domestic Minimum Top-Up Tax Legislation*

Many African countries have recognised that QDMTTs represent a significant revenue raising opportunity, as they will permit a country to recover tax revenues lost by granting tax incentives (which may in some cases be ineffective and wasteful). Recognising this potential, ATAF developed *the ATAF Suggested Approach to Drafting Domestic Minimum Top-Up Tax Legislation*, a toolkit to assist African and other developing countries in enacting a domestic top-up tax.[23] The Suggested Approach features provisions that are fully aligned to the GloBE Rules to ensure a domestic top-up tax achieves a tax outcome for the jurisdiction that follows the common approach in these rules. This is important to ensure that the domestic top up tax is "qualified" for GloBE purposes and would be creditable under an Income Inclusion Rule or a UTPR. ATAF and the AU are working closely together to raise political awareness across the continent of the substantial revenues that a top up tax can raise.

Source: *ATAF Suggested Approach to Drafting Domestic Minimum Top-Up Tax Legislation*, https://events.ataftax.org/index.php?page=documents&func=view&document_id=191 (accessed 15 September 2023).

The OECD works jointly with the partner organisations in the Platform for Collaboration on Tax (PCT) – the United Nations, the International Monetary Fund and the WBG – on PCT capacity building initiatives, such as the PCT practical toolkits on international tax issues. The PCT has committed to update the *Toolkit Options for Low Income Countries' Effective and Efficient Use of Tax Incentives for Investment*, first published in 2015, to reflect the impact of Pillar Two. Regular engagement between all actors is key to ensuring collaboration and information sharing in order to deliver efficient and effective support to countries on the continent.

6.7. Looking ahead

Supporting African countries as they navigate the policy and administration challenges of adapting their tax systems will require that development partners make a concerted and coordinated effort. The programmes to date have yielded impressive results, with a focus on transfer pricing, BEPS minimum standards and transparency. Demand is not only increasing for these core issues, but also to cover a wider range of topics, including the broader tax policy agenda, as described in the next chapter. In addition, the July 2023 Outcome Statement calls upon the OECD to prepare a comprehensive action plan to support the swift and co-ordinated implementation of the Two-Pillar Solution. In particular, the plan will offer additional support and technical assistance to enhance the capacity necessary for the implementation of the Two-Pillar Solution by developing countries. In this regard, the OECD will co-ordinate with relevant regional and international organisations. ATAF will be a very important partner.

7 The broader tax policy agenda

While corporate tax remains a significant part of the tax base in many African countries, DRM relies on a comprehensive approach to fiscal policy choices, both to ensure adequate fiscal space and to achieve other policy priorities. This chapter highlights the benefits and challenges in the areas of VAT, tax transparency, tax and crime, digitalisation of tax administrations, and tax and informality. Building on the analysis in Chapters 2 and 3 of this report, these appear to be some of the key areas for African countries based on their expected significant revenue impacts and alignment with pan-African priorities. However, there are other important topics, including tax policy and healthcare, tax policy and environment, taxation of mobile labour and improving property taxation. Governments in African countries will have to identify the priorities specific to their circumstances and needs.

7.1. Value Added Tax

VAT is a major revenue source for most jurisdictions in Africa, representing on average over a quarter of total tax revenues for jurisdictions on the continent, ahead of CIT and personal income taxes. VAT constitutes a greater proportion of total tax revenues on average (unweighted) in Africa than in any other major region of the world (OECD, WBG and ATAF, 2023[13]).[24] Action to address the VAT challenges of digital trade is therefore required to support generation of the revenues necessary to finance sustainable development and to minimise competitive distortion between foreign online sellers and local physical stores (OECD, WBG and ATAF, 2023[13]). The growth of digital trade has created in particular the following significant challenges for VAT systems both globally and in Africa:

- Strong growth in online sales of services and digital products, especially by foreign businesses to private consumers. Traditional VAT rules often lack effective provisions to impose VAT on supplies that do not require the supplier's physical presence in the jurisdiction of its customers.
- Strong growth in the volume of imports of low-value goods from online sales, on which VAT is not collected effectively or at all under the existing rules and procedures.

The OECD has delivered a comprehensive internationally agreed policy framework for addressing the VAT challenges of the digital economy, reflecting broad consensus among tax authorities and partner international organisations worldwide. The core standards and principles that lay the foundation for this policy framework are contained in the *International VAT/GST Guidelines* (OECD, 2017[28]) and constituted an important component of the 2015 OECD/G20 BEPS Action 1 Final Report (OECD, 2015[29]). These standards have been complemented with detailed technical guidance on their implementation in practice.

Over 90 jurisdictions worldwide have now implemented OECD standards and recommendations for VAT in international digital trade, including Ghana, Kenya, Nigeria, South Africa and Uganda. Additional jurisdictions in Africa are implementing them or actively considering doing so, but continent-wide adoption requires much further work. Many jurisdictions would benefit enormously from external support due to administrative capacity constraints.

To enhance such efforts, the OECD led the production of the *VAT Digital Toolkit for Africa*, published in February 2023, as part of a strategic partnership with the WBG to produce such

Toolkits for key world regions. ATAF contributed as the main regional partner for Africa. The Toolkit provides comprehensive guidance for the step-by-step implementation of an effective VAT strategy directed at all types of digital trade, based on OECD standards and best practices globally, taking account of the circumstances and challenges of African jurisdictions.

The OECD has also launched a programme to provide comprehensive technical assistance to jurisdictions in Africa and beyond. The OECD intends to work closely with partner organisations such as WBG and ATAF to support successful implementation of the Toolkit's guidance for VAT on digital trade in Africa.

7.2. Tax Transparency

The Global Forum on Transparency and Exchange of Information for Tax Purposes is charged with ensuring the implementation of the tax transparency standards for EOI on request and for AEOI. Of the Global Forum's 168 members, 37 are African countries.[25] The engagement of African members ensures that the views and perspectives of the continent are reflected in the Global Forum's work and decisions. Africa is well represented in the Global Forum's leadership and its subsidiary bodies. African delegates have also served as assessors for peer reviews of other members[26], and provided inputs and comments in the peer review processes as well as the strategic decisions of the Global Forum. Furthermore, African countries contribute to south-south co-operation.[27]

The Africa Initiative, launched in 2014, is the flagship regional programme of the Global Forum. It aims to raise political awareness and commitment on tax transparency and EOI in Africa, and in strengthening African countries' capacities in these areas. All of the Global Forum's 37 African members participate, along with 16 partners and donors, including the AUC, ATAF and AfDB. The Initiative is currently co-chaired by Dr Philippe Kokou Tchodie, Commissioner General, Togolese Revenue Office and Mr Edward Kieswetter, Commissioner, South African Revenue Service.

Tax transparency remains a key priority that is crucial for Africa's DRM and fight against IFFs (United Nations, Economic Commission for Africa, 2015[14])**.** At the Global Forum plenary meeting held in Yaoundé, Cameroon in 2017, four African countries signed a declaration encouraging the AU to begin a high-level discussion on tax co-operation, the fight against IFFs and their link to DRM. Today, 33 African ministers of finance and the AUC have endorsed the Yaoundé Declaration (OECD, 2017[30]).

Since 2009 governments in Africa have identified at least EUR 1.69 billion of additional revenue through the use of EOI initiatives (OECD, 2023[16])**.** However, not all African countries are fully benefiting from the tax transparency standards. In 2022, the total number of EOI requests sent by African countries slightly decreased and four countries accounted for 86% of all requests sent. On the positive side, the number of African countries making requests rose to 19 from 15 in 2021. As a result of EOI, five African countries identified additional revenues amounting to EUR 76.6 million in total in 2022.

Africa can benefit from wider implementation of the AEOI standard. In the years since the end of bank secrecy for tax purposes, the global implementation of the AEOI standard has become the new normal for tax transparency. In 2022, information on over 123 million financial accounts worldwide, covering total assets of above EUR 12 trillion, was exchanged automatically. Globally, the numbers of jurisdictions participating in AEOI and the amount of information exchanged continue to increase. The number of African countries committed to starting AEOI doubled from 2020, with ten countries[28] now exchanging or committed to exchanging information automatically, but the full potential of AEOI has still to be unlocked. To meet this challenge, technical support is provided to numerous African countries to define a suitable date for their first automatic exchanges. The number of financial accounts for which information was received by African countries has been increasing steadily over the years, doubling from EUR 0.77 billion in 2018 to over EUR 1.59 billion in 2022. Participating African countries are net receivers of financial account information.[29]

7.3. Tax and crime

As noted in the Mbeki report, fighting IFFs is a key component of Africa's strategy to promote DRM. Countries around the globe are facing a common threat posed by increasingly complex and innovative forms of financial crime – including tax evasion, fraud, corruption and money laundering – that threaten the strategic, political, and economic interests of all countries and undermine public trust in tax systems and in government as a whole. The OECD supports African efforts to stamp out IFFs through the implementation of "whole of government" approaches to fighting tax crime and other financial crimes through standard setting, sharing of best practices, and capacity building. Thirty-eight African jurisdictions take active part in this work.

The OECD has worked closely with South Africa to analyse the impact of IFFs in the country and to develop appropriate responses. South Africa has completed a self-assessment country report documenting the alignment of its tax crime frameworks against the OECD's Ten Global Principles for Fighting Tax Crime (OECD, 2021[31]; OECD, n.d.[32]), with the OECD also assisting South Africa's work to improve detection and investigation capabilities.[30] A study in 2022 found that IFFs continue to represent a significant challenge for South Africa, estimating that between USD 3.5 and 5 billion in IFFs are leaving the country each year. This estimate, which represents approximately 1-1.5% of South Africa's annual GDP, is based on estimates of between USD 40 and 54 billion in hidden South African-owned assets held in international financial centres in 2018 (OECD, 2022[33]). Several other African jurisdictions are using the OECD's Tax Crime Maturity Model (OECD, 2020[34]) to benchmark and monitor their alignment with the Ten Global Principles as part of their involvement in the TIWB for Criminal Investigations (TIWB-CI) capacity building programme.

To support capacity building in the tax and crime area, the Africa Centre of the OECD Academy for Tax and Financial Crime Investigation (the Academy) was launched in 2017 with the support of the Italian G7 Presidency and the German G20 Presidency. The Africa Centre, which is based at the Kenya School of Revenue Administration in Nairobi, has already trained over 630 officials from 39 African jurisdictions on the key elements for successfully detecting, investigating and prosecuting financial crime. The Africa Centre provides courses on conducting and managing financial investigations and on specialty topics such as crypto assets, investigations in the context of the cash economy, VAT fraud, and money laundering. Courses are delivered by international experts, including from the continent. The Africa Centre has also provided two virtual programmes in French, for over 70 investigators from West Africa, and two virtual courses with simultaneous interpretation into Arabic for Northern Africa. Furthermore, the OECD has hosted a series of successful "Train the Trainers" programmes in Africa, leading to the incorporation of 14 African instructors to the Academy roster.

7.4. Digitalisation of Tax Administrations

Digitalisation is likely to be on the agenda for every African tax administration. It can help improve efficiency and effectiveness in tax administration, increase compliance, reduce taxpayer burdens, remove opportunities for corruption, and increase the revenue needed to provide and expand public services. Successful implementation of the Two-Pillar Solution in African countries will also require an analysis of the expected changes to systems, skills and processes as well as related costs.

Wide-ranging digitalisation of African tax administrations will require financial investment and capacity building to develop the necessary skills. Donors and development finance institutions have programmes for financing information and communications technology investments, while other regional and international organisations, including ATAF and the OECD, offer capacity building assistance.

A recommended first step for administrations considering digitalisation is a careful assessment of the current status of their digital maturity. The FTA provides support through its *Digital Transformation Maturity Model* (OECD, 2022[35]) (DTMM), a tool for self-assessment based on the FTA's vision of the future set out in *Tax Administration 3.0*. (OECD, 2020[36]) The DTMM tool, currently available in English, French and Spanish, has been used by over 55 administrations globally. A number of African tax administrations participated in a workshop series co-organised by the Addis Tax Initiative (ATI) and the FTA on using the DTMM between October 2022 and May 2023, and the DTMM was introduced in a webinar delivered by ATAF, the Commonwealth Association of Tax Administrators (CATA) and FTA in August 2023. An Arabic translation of the DTMM will soon be made available by the FTA, facilitating its use by Arabic-speaking tax administrations in Africa.

To support the digitalisation journey from start to end, the FTA, in collaboration with ATAF, published the report *Supporting the Digitalisation of Developing Country Tax Administrations* (OECD, 2021[37]). The report offers motivation and guidance for administrations seeking to fulfil their mandate through digitalisation and is available in English, French and Spanish. A number of African tax administrations provided country examples for the report.

A pilot of *Tax Inspectors Without Borders for Digitalisation of Tax Administrations* is currently underway. This programme offers confidential management level guidance on strategic digitalisation topics such as digital maturity and digital strategy. Two African tax administrations are currently involved in this programme, and another six have indicated need for such assistance.

To support tax administrations globally in their digitalisation and digital transformation journeys, the FTA in partnership with eight international and regional tax bodies has developed the *Inventory of Tax Technology Initiatives* (ITTI) (OECD, n.d.[38])**.** The inventory contains information on technology tools and digitalisation solutions implemented by tax administrations. The FTA Secretariat is promoting the inventory as part of its co-operation with regional tax bodies, including ATAF and CREDAF in Africa, and is hopeful that additional African tax administrations will contribute to the database when it will be updated in 2024.

7.5. Tax and Informality

The informal sector remains the main source of livelihoods for a majority of African citizens, with eight out of ten workers in Africa in informal employment (ILO, 2018[39])**.** The high incidence of informality is a major challenge for the respect of workers' rights and the quality of working conditions in Africa and is a constraint on growth. Ensuring an empowered, competitive and productive informal economy for the well-being of all workers in Africa is a priority of the AU.

While the informal sector contributes significantly to the overall economy, tax collection from this sector remains limited. By creating a large drag on tax revenues, informality hinders the financing of essential social services such as education, healthcare, and infrastructure development, poses important challenges to social protection coverage, and raises equity issues. To help address these issues, ATAF produced a *Guidebook on the Efficient Taxation of the Informal Sector in Africa* (ATAF, 2021[40]). Tax measures that incentivise the formalisation of businesses may in turn induce the formalisation of their employees, and vice versa. Moreover, bringing self-employed workers into the tax net (particularly those who operate in the informal sector and earn high incomes) not only contributes to tax revenue generation but also promotes the fairness and equity of the tax system.

Presumptive tax regimes have a formalisation potential when well designed and administered (Mas-Montserrat et al., 2023[41]). These simplified regimes should reduce tax compliance costs for microbusinesses (and enforcement costs for the tax administration) while enforcing an affordable tax burden, with the aim of strengthening tax compliance over time. However, badly designed or administered regimes may have the unintended effect of discouraging businesses to grow into the standard tax system, encouraging artificial self-employment arrangements with important horizontal and vertical equity issues and misuse by taxpayers.

Revenue Statistics in Africa 2022* includes a chapter dedicated to *Efficient taxation of the informal sector in Africa (OECD/ATAF/AUC, 2022[5]) **based on consultations with African tax administrations.** The chapter outlines the factors in the design of tax policies that contribute to informality and the efforts to counteract these trends. There are multiple reasons why agents operate informally, including a poorly designed and complex tax system, excessive burdens on agents with limited capacity to pay, lack of benefit entitlements, inadequate public services and lower tax morale. The chapter offers a series of recommendations for successful and effective taxation of the informal sector in African countries.

Box 7.1. Using technology and tax policy to bring informal operators into Kenya's tax net

Over 83% of employment in Kenya is in the informal sector, and informal workers are distributed across the economy. More than 61% of informal workers are engaged in the wholesale and retail trade, hotels and restaurant sectors, while 21% of informal workers are in manufacturing, and 10% in community social and personal services, with the rest in transport, communications and construction.

There is no special treatment for informal workers in Kenya. The government expects workers to file returns for personal income tax and VAT when they reach certain income thresholds; however, workers in the informal sector rarely comply. Part of the reason why compliance is so low is that mobility is so high: Kenya's use of block management approaches to track informal enterprises proved ineffective because informal sector operators move frequently – even on an hourly basis – to find the greatest volume of potential customers. Informal enterprises are frequently unwilling to pay tax or unable to do so because they do not keep proper records. The prevalence of cash transactions in the informal sector means there is not an electronic paper trail of business activities.

Kenya has adopted a range of measures to ensure informal sector operators account and pay taxes, with certain measures being in place for decades. For example, since 1996, operators of matatus (minibus taxis) and other forms of transport have been required to pay an advance tax each year when they renew their operations licence; although compliance is high, the disadvantage is that these operators rarely file a return at the end of the year due to poor record-keeping.

There is also a turnover tax, which requires people earning between Kenyan Shilling 1 million and Kenyan Shilling 50 million to pay 1% of their gross income. This was used interchangeably with a presumptive tax that was introduced in 2018, which local governments levied on business operators in exchange for their operational certificates (at a rate of 15% of renewal fees) to bring them into the tax net. However, the presumptive tax was not widely used. Lastly, Kenya has made it possible for informal workers to register voluntarily for VAT payments even if their turnover was below the minimum threshold. To improve access to third-party information about the activities of the informal sector, the Kenya Revenue Authority (KRA) has signed memoranda of understanding with local governments and business registries.

The KRA is taking active steps to make it easier for actors in the informal sector to pay taxes, not only by harnessing technology but also by investing in taxpayer education. Many taxpayers find the process of registering for and paying taxes to be complex and they often lack the required documents. The KRA has fully automated its tax system and put all its services online. The M-Service app, for example, simplifies filing and payment of the turnover tax, monthly rental income, and property registration as well as the application for a tax clearance certificate. The KRA has also set up tax clinics to educate informal sector operators.

Source: Based on country experiences shared during the Revenue Statistics in Africa Webinar 2022 (2-3 June 2022) and Kenya National Bureau of Statistics (2022), *Economic Survey 2022*, www.knbs.or.ke/wp-content/uploads/2022/05/2022-Economic-Survey1.pdf.

8 Conclusions and recommendations

The current international tax environment is highly dynamic and of significant relevance to African governments. Tax policy can support the greater economic integration and convergence of legal and regulatory environments that are a keystone of the African vision for the future. Tax policy is an area that will continue to be a focus as governments identify their priorities in the effort to finance their development needs. Corporate tax is one of the levers, but policymakers will have to balance a range of tools and strategies to maximise the efficiency and effectiveness of their tax systems and consider other forms of tax revenue according to their priorities and circumstances.

This report highlights the strong role that African voices have played in the discussions on international tax but also notes the clear call from developing countries, and from Africa in particular, for greater influence on the agenda-setting and further enhancing the capacities of developing countries to actively participate in the policy discussions and technical work. Looking ahead, as the Inclusive Framework moves forward, African voices in the Steering Group and the Working Parties can use their influence to shape the future agenda of the Inclusive Framework.

For over a decade the G7 have championed tax and development work through a three-track approach of delivering expertise, providing funding for capacity building and shaping the political environment to support the inclusion and participation of developing countries. Going forward, these efforts will have to be multiplied. The G7, African countries, international and regional stakeholders and development partners will be called on to focus their efforts to improve DRM in Africa in the following areas.

8.1. Capacity building and technical assistance on international tax matters

The G7 and other development partners should prioritise increased capacity building and technical assistance to both tax administrations and ministries of finance in African countries. In particular, this should include:

- Supporting the launch, by the end of 2023, of the comprehensive action plan referenced in the July 2023 Outcome Statement to support the swift and co-ordinated implementation of the Two-Pillar Solution. The comprehensive action plan should offer additional support and technical assistance to enhance the capacity necessary for the Two-Pillar Solution's implementation by developing countries, including the delivery of expertise and financing to expand existing bilateral capacity building programmes to more African countries and to include the implementation of the Two-Pillar Solution and the review of existing tax incentives within those programmes;
- Intensifying technical assistance to enable African countries to implement the BEPS minimum standards, in particular so that they can receive CbC reports and effectively protect their tax base from tax treaty abuse;
- Expanding the "Deep Dive" capacity building programmes, conducted by the OECD with IGF and ATAF in Africa, to support African countries' ability to appropriately tax income from the exploitation of their mineral resources.

8.2. Deepening the dialogue on broader tax policy issues

African countries, the G7 and other development partners should deepen the dialogue on broader tax policy and administration issues, beyond the corporate tax. The contribution of CIT to Africa's tax mix is high and adjusting the tax base in respect of other taxes can help increase revenues. Similarly, addressing issues around compliance and the use of tax policy to support other policy objectives, as well as modernising systems to increase efficiency and compliance in tax administrations can all contribute to a more robust and sustainable fiscal environment. Key areas for reform and capacity building efforts for Africa's DRM would include:

- VAT on digital trade,
- Combatting IFFs through tax transparency and tax and crime initiatives,
- Digitalisation of the tax administration, and
- Taxation of the informal sector.

Governments in African countries will have to identify the priorities specific to their circumstances, and these may extend to other important policy areas, including tax policy and healthcare, tax policy and environment, taxation of mobile labour and improving property taxation.

8.3. African engagement in the Inclusive Framework

The priorities of African countries should be better reflected in the Inclusive Framework's agenda in the future; further efforts should also be made to strengthen African participation in policy-setting and technical discussions. African countries and ATAF have had a significant role in shaping the Two-Pillar Solution to the benefit of lower-income developing countries. Nevertheless, there is a widespread concern that the agenda-setting has been too "top-down", without adequate consideration for the specific needs and circumstances of African or developing countries generally. Going forward, more can be done to build an agenda that includes issues and approaches specific to the large African and developing country constituency within the Inclusive Framework. To foster a more inclusive debate on how the Inclusive Framework agenda can better reflect African priorities, it is recommended that the G7 champion further changes as follows.

- African jurisdictions' representation in the leadership of the Inclusive Framework, its Steering Group and its subsidiary bodies should be further expanded and diversified. In particular, delegates from different African countries should be more actively involved in the leadership of all Working Parties related to BEPS and the Two-Pillar Solution.
- Engagement with African development partners including regional tax organisations should be enhanced to better understand priorities, needs and challenges so that these can be considered in the Inclusive Framework's agenda.
- Existing practical measures to enhance African countries' engagement and participation in the Inclusive Framework, such as ensuring that interpretation/translation services are available as needed and organising Africa specific briefings and workshops, should be continued and further expanded.

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[1] G7 Germany 2022, Chair's Statement, Meeting of the G7 Finance Ministers with African countries and key donor and creditor countries, Washington D.C., 12 October 2022, https://www.bundesfinanzministerium.de/Content/EN/Downloads/G7-G20/2022-10-12-g7-chairs-international-debts.pdf?__blob=publicationFile&v=5 (accessed 15 September 2023).

[2] https://www.oecd.org/tax/transparency/what-we-do/technical-assistance/africa-initiative.htm.

[3] https://www.ataftax.org/.

[4] https://au.int/.

[5] https://www.afdb.org/en.

[6] Unweighted average of 31 African countries, including social security contributions.

[7] Asia-Pacific: 19.1%; Latin America and the Caribbean: 21.9%; OECD: 33.5%. See OECD, "*Global Revenue Statistics Database*, https://www.oecd.org/tax/tax-policy/global-revenue-statistics-database.htm.

[8] AU (2 June 2023), *Africa moves to protect its interests in the global tax rules to increase revenues and stem illicit financial flows*, Press release, https://au.int/en/pressreleases/20230602/africa-moves-protect-its-interests-global-tax-rules-increase-revenues-and (accessed 15 September 2023).

[9] These recommendations from a meeting of the AU Sub-Committee on Tax and Illicit Financial Flows on *Tax in Africa: contemporary issues affecting the continent* were considered at the 6th Ordinary Session of the AU Specialised Technical Committee on Finance, Monetary Affairs, Economic Planning and

Integration, from 17 to 21 July 2023 in Nairobi, Kenya. https://au.int/en/newsevents/20230717/stc-finance-monetary-affairs-economic-planning-and-integration

[10] https://wataf-tax.org/.

[11] https://credaf.org/fr/accueil/.

[12] See https://www.oecd.org/tax/beps/inclusive-framework-on-beps-composition.pdf. As at 15 September 2023, the African Inclusive Framework members are: Angola, Benin, Botswana, Burkina Faso, Cabo Verde, Cameroon, Congo, Côte d'Ivoire, Democratic Republic of the Congo, Djibouti, Egypt, Eswatini, Gabon, Kenya, Liberia, Mauritania, Mauritius, Morocco, Namibia, Nigeria, Senegal, Seychelles, Sierra Leone, South Africa, Togo, Tunisia, Zambia.

[13] See OECD, *Tax Talks*, 19 July 2023, https://www.oecd.org/tax/tax-talks-webcasts.htm.

[14] https://www.tiwb.org/.

[15] ATAF reported that from its technical assistance work, it established that one of the smaller African countries was losing tax of over USD75 million in a five-year period due to withholding taxes being reduced on service payments under just one tax treaty.

[16] Since the start of the BEPS project, 16% of the total number of regimes reviewed by the Forum on Harmful Tax Practices were in African countries (i.e. 51 regimes) and 17% of regimes abolished/amended were in six African countries (two in Botswana, three in Cabo Verde, 13 in Mauritius, two in Morocco, 11 in the Seychelles, two in Tunisia). Three African regimes are currently in the process of being amended.

[17] As at 27 September 2023 the following African countries have signed the MLI: Burkina Faso, Cameroon, Côte d'Ivoire, Egypt, Eswatini, Gabon, Kenya, Lesotho, Mauritius, Morocco, Namibia, Nigeria, Senegal, Seychelles, South Africa, Tunisia.

[18] As at 27 September 2023 the following African countries have ratified the MLI: Burkina Faso, Cameroon, Côte d'Ivoire, Egypt, Lesotho, Mauritius, Senegal, Seychelles, South Africa, Tunisia.

[19] Angola, Botswana, Cabo Verde, Cameroon, Djibouti, Kenya, Morocco, Nigeria, Senegal and Sierra Leone.

[20] OECD, BEPS Action 14: Peer Review and Monitoring, *Assessment Schedule for the Simplified Peer Review Process*, https://www.oecd.org/tax/beps/beps-action-14-peer-review-assessment-schedule.pdf.

[21] Algeria, Angola, Benin, Botswana, Burkina Faso, Cameroon, Eswatini, Ghana, Guinea, Kenya, Lesotho, Mauritania, Mauritius, Nigeria, Rwanda, Senegal, Seychelles, Sierra Leone, South África, Togo, Tunisia, Uganda, Zambia, Zimbabwe.

[22] OECD, *"Tax and Development case studies"* provide examples of successful joint capacity building on transparency and BEPS in Senegal, Tunisia, Uganda and Zambia, https://www.oecd.org/tax/tax-global/tax-and-development-case-studies.htm.

[23] ATAF will be updating its Suggested Approach to take account of the continuing discussions in the Inclusive Framework and feedback it has received from its membership.

[24] See Section 1: *Collection of VAT on international digital trade – Challenges, OECD guidance, and the Toolkit to assist reform*.

[25] See https://www.oecd.org/tax/transparency/who-we-are/members/. As at 15 September 2023, African Global Forum members are: Algeria, Angola, Benin, Botswana, Burkina Faso, Cabo Verde, Cameroon, Chad, Congo, Côte d'Ivoire, Djibouti, Egypt, Eswatini, Gabon, Ghana, Guinea, Kenya, Lesotho, Liberia, Madagascar, Mali, Mauritania, Mauritius, Morocco, Namibia, Niger, Nigeria, Rwanda, Senegal, Seychelles, Sierra Leone, South Africa, Tanzania, Togo, Tunisia, Uganda and Zimbabwe.

[26] In 2022, 13 African countries provided EOIR assessors. Four African countries provided assessors for the confidentiality peer reviews.

[27] Cameroon and Tunisia provided experts in capacity building events in 2022.

[28] As at 15 September 2023, the following ten African countries are exchanging or committed to exchanging information automatically: Ghana, Kenya, Mauritius, Morocco, Nigeria, Rwanda, Seychelles, South Africa, Tunisia and Uganda.

[29] Since 2018, the five African countries that are exchanging AEOI data have sent information covering a total of 1.93 million financial accounts with a total value of EUR 363.5 billion. In turn, they have received information covering a total of 5.80 million financial accounts with a total value of EUR 772.3 billion.

[30] The OECD facilitated a whole-of-government workshop for all South African agencies involved in the fight against IFFs in Pretoria (11 August 2022). South Africa Revenue Service, "*Agencies pledge to strengthen collaboration ahead of critical FATF review",* media release, https://www.sars.gov.za/media-release/agencies-pledge-to-strengthen-collaboration-ahead-of-critical-fatf-review/ (accessed 15 September 2023).

International Tax and Africa

OECD REPORT FOR THE G7 FINANCE MINISTERS AND CENTRAL BANK GOVERNORS, OCTOBER 2023, JAPAN

This report reflects on the OECD's co-operation with Africa on tax matters and the importance of the international tax agenda for African economies. It discusses Domestic Resource Mobilisation (DRM) efforts within African policy objectives and priorities, including the African Union's Agenda 2063, and which actions should be taken to further increase DRM in Africa. The report analyses African involvement in discussions on corporate tax and how African participation in policy-setting and technical discussions could be further improved. In particular, it shows how African voices have shaped the design of the Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy, and discusses its benefits for African countries and challenges for implementation. In addition, the report provides an overview of OECD's initiatives to support capacity building on tax in Africa, many of which are undertaken in partnership with other international and regional organisations. Finally, the report reflects on the broader tax policy agenda including VAT, tax transparency, tax and crime, digitalisation of tax administrations, and tax and informality. This report was prepared by the OECD to inform the discussions at the October 2023 Africa Roundtable in Marrakech hosted by G7 Finance Ministers and Central Bank Governors.

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