The G-24 Proposal and the Challenges of the Inclusive Framework

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OUTLINE

Background on the G-24

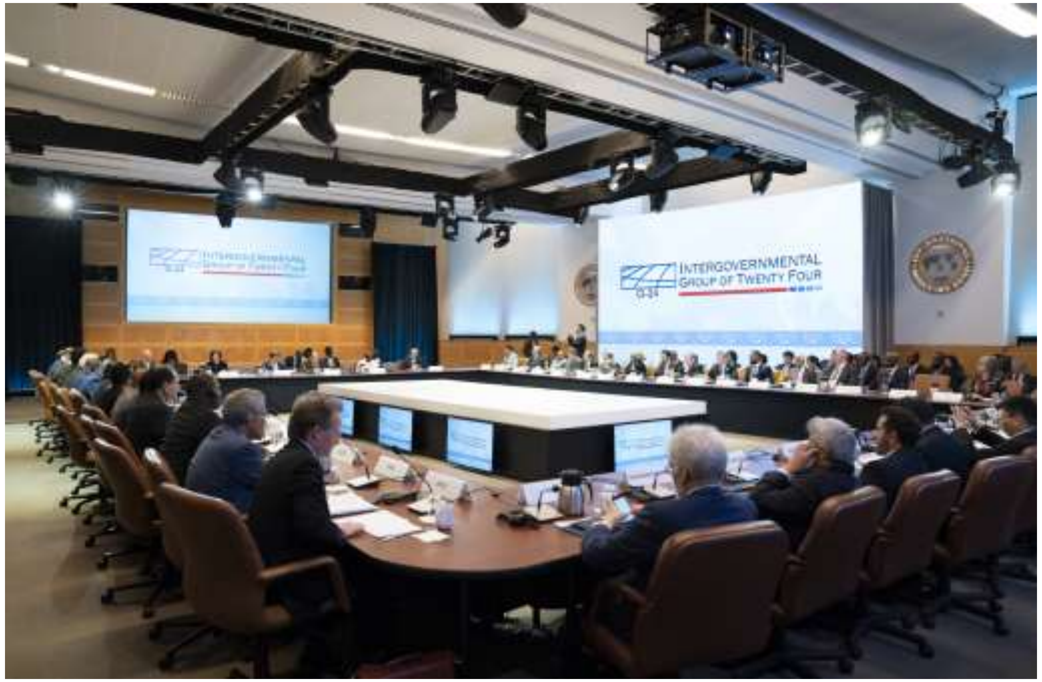
The importance of domestic resource mobilization in the G-24

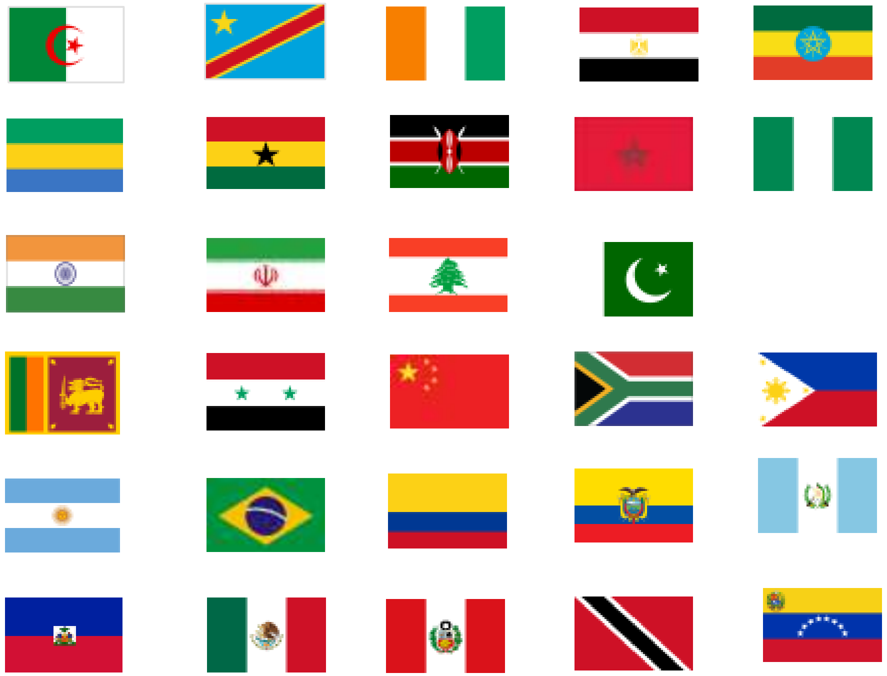
G-24's participation in international forums and tax cooperation initiatives

Main elements of the G-24 proposal on Addressing the Tax Challenges from the Digitalization of the Economy

Challenges in engaging in the BEPS Inclusive Framework

Background on the G-24





Coordinates position of developing countries on monetary and development issues in the deliberations and decisions of the Bretton Woods Institutions (BWI) and other relevant international forums.

28 members + special observer (China)

11- Africa

8 - Asia

10- Latin America/Caribbean

The importance of domestic resource mobilization in the G-24

Importance of strengthening domestic resource mobilization (DRM) as part of development financing

- "We recognize the importance of strengthening DRM in ways tailored to our countries' circumstances." (October 2014)
- "There is scope for enhancing tax revenues as well as improving the efficiency of public expenditures … in ways that promote growth and equity." (April 2015)
- "We … underscore the importance of enhanced support from IFIs and donors for capacity building and DRM in developing countries." (October 2016)

Domestic efforts should be supported by international tax cooperation

- "We call for increased global cooperation in addressing harmful tax practices that erode domestic resource bases in developing countries." (April 2015)
- "…welcome … efforts to engage with developing countries in the process of joining and implementing … the Automatic Exchange of Information Initiative…while taking into consideration the different levels of capacity and readiness across countries." (April 2015)
- "…stress the importance of improving the international standards on tax transparency, as well as of enhancing the availability and the international exchange of beneficial ownership information of legal persons and legal arrangements." (October 2016)
- "…call for more attention to developing fair tax rules to guide the taxation of multinational corporations and for international tax cooperation to prevent harmful international tax competition, negative spillovers from shifts in tax policies in major countries, and illicit financial flows." (April 2017)

The importance of domestic resource mobilization in the G-24, cont'd.

- "…support the work done by the Addis Tax Initiative and welcome the Platform for Collaboration on Taxation…We encourage all countries … in particular to commit to signing the Convention on Mutual Administrative Assistance in Tax Matters. We encourage greater participation of developing countries in the activities of the Committee of Experts on International Cooperation in Tax Matters, which should be upgraded into an intergovernmental level." (October 2016)

- "…encourage EMDEs to commit to the international standards on tax transparency…" (April 2018)

- "We support a multilateral solution that recognizes that with the digitalization of economies, enterprises can have a significant economic presence in our economies, even without physical presence, and that allocates profits according to rules that take into account the contribution of markets and users in creating those profits. The solution should be fair and simple, and capable of being implemented effectively in developing countries." (April 2019)

- "The views of developing countries and sound analyses of the impact of tax reform proposals on their revenues should be central in the reform of these rules. We look forward to a multilateral solution that generates equitable benefits for developing countries… In addition, there should be a focus on dispute prevention from the design stage of the solution." (October 2019)

G-24 participation in international tax initiatives, as of November 2019

	Organisations			**BEPS**		**Information exchange**		
	G20	OECD	UN tax committee	Inclusive framework	Multilateral instrument on BEPS (ratified)	Global Forum	Multilateral convention (ratified)	CRS Automatic
Algeria								
Argentina	X		X	X	(Signed)	X	X	X
Brazil	X		X	X		X	X	X
China*	X		X	X	(Signed)	X	X	X
Colombia		A**	X	X	(Signed)	X	X	X
DR Congo				X				
Cote d'Ivoire				X	(Signed)	X		X***
Ecuador			X			X	X	X***
Egypt				X	(Signed)	X		
Ethiopia								
Gabon				X	(Signed)	X	(Signed)	X***
Ghana			X			X	X	X
Guatemala						X	X	X***
Haiti				X		X		X***
India	X		X	X	X	X	X	X
Iran								
Kenya			X	X	(Signed)	X	(Signed)	X***
Lebanon						X	X	X
Mexico	X	X		X	(Signed)	X	X	X
Morocco				X	(Signed)	X	X	X***
Nigeria			X	X	(Signed)	X	X	X
Pakistan				X	(Signed)	X	X	X
Peru				X	(Signed)	X	X	X
Philippines						X	(Signed)	X***
South Africa	X			X	(Signed)	X	X	X
Sri Lanka				X				
Syria								
Trinidad &Tobago				X		X		X
Venezuela								
	6	**1**	**9**	**19**	**1**	**22**	**15**	**21**

*China is a Special Observer

** Colombia is an OECD accession state

The G-24 Working Group on Tax Policies and International Tax Cooperation

The G-24 created the Working Group in 2018

The Working Group submitted their Interim Report to Ministers identifying six priority focus areas:

- Tax issues concerning extractive industries
- Tax challenges arising from digitalization of economies (became priority issue in view of global discussions)
- Taxation of transactions involving indirect transfers
- Implementation of Automatic Exchange of Information regime
- Taxation issues concerning the informal economy
- Devising efficient risk assessment methods

… and proposed a two –pronged approach to work on them:

- Peer-learning and capacity building
- Advocacy on critical international taxation issues being discussed in international platforms

Addressing Tax Challenges Arising from the Digitalization of the Economy

- Working Group led the G-24's formulation of its proposals to the BEPS IF

2019

January	February	March	May/June	October	November
G-24 develops and submits its initial proposal to a meeting of the BEPS IF	OECD opens Public Consultation, presenting three proposals: US, UK and G-24	G-24 submits comments into OECD Public Consultation	OECD releases and G20 endorses Programme of Work to Develop Consensus Solution to the Tax Challenges Arising from Digitalization	OECD releases Unified Approach on Pillar 1, building on "commonalities among the three proposals"	G-24 submits comments into OECD Public Consultation

Main elements of G-24 proposal to address the challenges of the taxation of the digital economy

- The basis for the comments was the OECD Interim Report 2018 on Tax Challenges from Digitalization, in which members of the Inclusive Framework recognize the need to "undertake a coherent and concurrent review of the two key aspects of the existing tax framework, namely the profit allocation and nexus rules."

- The Group expressed its hope that the views of the developing countries are taken into consideration in the deliberation process

Main Elements:

1. **Review of nexus rules: Using the concept of Significant Economic Presence (SEP)**:

    - The concept of Permanent Establishment (PE) based on physical presence as the basis for attributing tax rights over non-residents has been rendered largely ineffective with the spread of digital technologies. The solution should recognize that digitalization enables firms to have a significant economic presence in economies, even without physical presence

    - The concept of SEP finds its basis on the Final Report on Action 1 of BEPS. Under this rule, factors that are evidence of a purposeful and sustained interaction with the economy of a country via technology may be taken into account for establishing nexus, such as:
        1. Revenue generated on a sustained basis from a jurisdiction
        2. User base and associated data input
        3. Volume of digital content collected through a digital platform from users/ customers residing in a particular country
        4. Billing and collection in local currency, delivery to customers, other services to attract customers to the digital enterprise

Main elements, cont.

2. Review of profit allocation rules: Fractional apportionment

- Fractional apportionment would allocate a portion of the global profits of the enterprise to different jurisdictions where it has a significant economic presence based on a formula that contemplates *some simple, objective criteria*

- It would give *balanced recognition to both supply and demand factors* that contribute to profit-creation (sales, assets and employees). An important demand factor for digital economy business models is users, which create value and profits for the enterprise via generation of content, network effects, provision of data

3. The profit allocation method needs to be *flexible to accommodate countries' preferences regarding their tax laws and treaties*

4. *A withholding tax on digital transactions* needs serious consideration, and their permissible rates and base requires discussion

5. Fair, simple and capable of effective implementation in developing countries

- Solutions that are too complex will challenge developing countries' limited capacities and could contribute to loss of significant tax revenue via base erosion and profit shifting

G-24's comments on OECD Secretariat's Unified Approach to Pillar 1 (UA)

… a combination of non-physical nexus like SEP coupled with flexible profit attribution approaches based on a formula –fractional apportionment method – and a withholding tax mechanism, represent a possible simple solution for addressing the nexus challenge related to digitalization, especially keeping in mind resource and capacity level of the developing country members

Regarding nexus:

- The revenue threshold for application of the new rule should be kept at a sufficiently low level so that the benefits for developing countries are meaningful (supported a maximum threshold of EUR 500 million at the group level)
- The UA's scope ("large consumer-facing businesses") builds a layer of complexity. A simpler solution will be to have all businesses in the scope of the new rule, and allow specific carve outs for sectors such as extractives or commodities industry

Regarding profit attribution:

- Fractional apportionment is a bottom up, simpler method than the complex, top down, approach proposed in the UA's calculation of "Amount A." More importantly, the UA allocates no part of "normal profit" to a jurisdiction where an enterprise has SET and no physical presence. Also, preliminary indications suggest that the net flow of additional revenue to developing countries under Amount A appears to be minimal, and such an outcome may not be satisfactory for all members of the Inclusive Framework, particularly developing countries."

Regarding dispute resolution:

- The focus should be on dispute prevention from the design stage of the solution and, in that regard, making the new rule simple and formula based would contribute to this outcome. Furthermore, some more time could be given to see how the measures related to dispute resolution under Action 14 of BEPS work before discussing new ones

Challenges in engaging with the Inclusive Framework

1. **The short timeline of the process to determine a multilateral solution**

   - Appreciate the opportunity to engage within the Inclusive Framework
   - Complexity of proposals in face of tight timeline is a challenge for any country to develop sound analysis and broad-based societal debate required to respond → more so, for the ones with more limited capacities.
   - Many developing countries are likely not to be familiar with OECD processes

2. **Heterogeneity of G-24 members and developing countries broadly**

   - Finding common ground is bound to be difficult and might lead to more nuanced negotiating positions

3. **Linking participants in the BEPS Inclusive Framework with G-24 counterparts**

4. **Limited availability of information to assess impact of options**

   - International organizations, e.g., the IMF, have an important role to play in making relevant information available to all countries. So do think tanks and academic organizations.

5. **Forum for international tax norm setting with universal membership remains elusive**

"…an approach more universal in its full inclusion of countries and its coverage of fundamental policy issues is needed as it becomes increasingly apparent that the current approach cannot deal adequately with mutually harmful spillovers and distortions from uncoordinated policies. There is scope and need to build on the progress that has been made. The Inclusive Framework and the PCT, for example, can do more to ensure that the concerns of lower income countries are placed firmly on the international tax reform agenda." (IMF, 2019)

Thank You!