Serious flaws in the ICC's report on cross-border services

The International Chamber of Commerce has published, circulated among delegates, and promoted at a side event a report claiming that the global implementation of withholding taxes under Article 12AA of the UN Model would produce net losses for the global South.

The Tax Justice Network's review finds the results to be based on a deeply flawed model, prompting us to conclude that the ICC report's results are meaningless at best – if not deliberate distortions to serve a lobbying agenda.

<u>We advise treating the ICC report's findings with great caution</u>**.**

Many delegates of OECD member countries praised the ICC report during the current UN negotiation session, including Canada and a range of EU members. The deep and obvious flaws of the ICC report suggest that these delegates may wish to exercise greater caution in basing their negotiating lines on the corporate lobby's claims.

The main flaws of the ICC report are these.

1. The ICC sample *<u>does not include</u>* most global *South* countries, despite the claims.

The ICC study includes just 12 out of 54 African Group members – a glaring omission considering that the current negotiations are taking place following the leadership of the African Group of UN member states.

2. The ICC model is based on a single study which *<u>directly contradicts</u>* the ICC claims.

- The ICC report's central claim is that cross-border services activity declines when it is taxed more heavily. But the ICC's model relies on an IMF study that directly contradicts this claim. The IMF study concludes: "We find little evidence that higher WHTs reduce aggregate service payments at the importer level, consistent with service rerouting".
- The IMF study shows that the bilateral pattern of crossborder services is changed by bilateral tax changes – but crucially, there is little or no overall reduction in crossborder services. It is difficult to understand how the ICC report could in good faith have based its finding of a major drop in crossborder services upon this study.
- In addition, the IMF result reflects bilateral tax changes between two countries, which might be expected to change bilateral services flows between those countries. But the ICC is looking at *global* implementation of a tax change, and so the results of looking at bilateral changes are of questionable relevance, comparing apples and oranges – even if they did not directly contradict the ICC claims.

3. The study claims that the global South as a group will be worse off, but the claimed total losses for the group are *<u>driven by China and India</u>*. Looking at the data at a country level suggests that *<u>nearly all other countries would stand to benefit</u>* – even under the ICC's flawed model.

4. The ICC model *<u>fails to account</u>* for additional revenues raised by countries in the first instance that in turn feed into higher GDP or other gains – despite the copious evidence on this.

5. The report reveals *<u>a deep misunderstanding</u>* of what Article 12AA is about in its discussion of Foreign Direct Investment (FDI). There is no plausible mechanism that may deter FDI. If anything, implementing Article 12AA may make FDI more competitive relative to remote service provision without a local presence.

More details: https://taxjustice.net/ICCreport

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