

South Centre Inputs on Draft Issues Note on Workstream III: Prevention and Resolution of Tax Disputes

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I. Background

The [South Centre](#) is the intergovernmental organization of developing countries that helps developing countries to combine their efforts and expertise to promote their common interests in the international arena. The South Centre has [55 Member States](#) coming from the three developing country regions of Africa, Asia, and Latin America and the Caribbean. It was established by an [Intergovernmental Agreement](#) which came into force on 31 July 1995. Its headquarters are in Geneva, Switzerland.

The South Centre in 2016 launched the [South Centre Tax Initiative](#) (SCTI). This is the organization's flagship project for promoting South-South cooperation among developing countries in international tax matters.¹

II. Abstract

The protocol's core legal commitments should focus on cross-border disputes, with optional guidance for domestic elements. It can also elaborate a legal framework for the effective implementation of joint audits, simultaneous examinations and multilateral risk assessments, which can substantially prevent cross-border disputes. The concept of optionality is welcome and can potentially enhance the effectiveness of the protocol.

III. General Comments

The South Centre congratulates the Intergovernmental Negotiating Committee (INC) for the progress achieved and welcomes the [Draft Issues Note on the Prevention and Resolution of Tax Disputes](#) prepared by Workstream III under the leadership of Jamaica and Germany.

Para 11 of the Issues Note highlights the lack of publicly available transfer pricing databases that governments can access to identify and examine comparable transactions. This is indeed a major issue for many developing countries and restricts their ability to fight tax avoidance.

¹ Queries may be addressed to taxcooperation@southcentre.int

The South Centre recommended that the UN create such a public and freely available transfer pricing database² so governments can more effectively carry out transfer pricing audits and adjustments. It would also address the limitations of current databases which are unrepresentative of many Global South markets, and are further controlled by an oligopoly of US credit rating agencies which face virtually no regulation either domestically or internationally.³

Such a database can be created as part of this or another future protocol under the Convention.

Para 11 of the Issues Note also mentions difficulties in accessing Country by Country Reporting (CBCR) data by developing countries.

The South Centre's recommendation for the creation of a public CBCR database has been included in the *Compromiso de Sevilla*, the UN FFD4 Outcome Document, under para 28 (f).⁴ There is now a global high level political commitment for evaluating the creation of a central public CBCR database.

Such a public CBCR database can be considered for implementation either through this or a future protocol under the Convention.

IV. Specific Comments

i. Scope

Regarding question b) the primary focus of the protocol should be on cross-border disputes, especially disputes between governments. The present bilateral Mutual Agreement Procedure (MAP) while helpful is clearly inadequate and can be supplemented by a more robust multilateral mechanism. A panel system consisting exclusively of government officials of the affected countries can be explored, building on the Scope Review Panel and Review Panels as elaborated in Article 25 of the draft Amount A Multilateral Convention. The protocol can thus provide a treaty-based dispute resolution mechanism for countries who do not have bilateral tax treaties.

² <https://www.southcentre.int/sc-statement-at-the-2024-social-forum-of-the-human-rights-council-31-october-2024>

³ <https://www.southcentre.int/south-centre-comments-on-pillar-one-amount-b-august-2023/>

⁴ <https://docs.un.org/en/A/CONF.227/2025/L.1>
<https://financing.desa.un.org/sites/default/files/ffd4-inputs/2025-02/South%20Centre%20Input%20to%20FFD4%20element%20paper%20Oct.pdf>

The protocol can also provide a comprehensive legal framework for the implementation of simultaneous examinations, joint audits and multilateral risk assessments. The lack of such a framework has hindered the implementation of these tools which can go a long way in preventing transfer pricing and international tax disputes. The protocol can fill a much-needed legal gap through producing such standards.

Bringing in domestic disputes into scope may be an overreach, however, domestic disputes often overlap with international tax rules. Hence, the approach to dealing with domestic disputes could be to hold parties to discharge their obligation under the Framework when they committed to “fair, inclusive, effective, efficient and timely prevention and resolution of disputes for taxpayers and tax authority”.

Further, we strongly oppose resolution of tax disputes under any investment styled arbitration: South Centre Member States and many other developing countries have bitter experience under such Investor State Dispute Settlement (ISDS) arbitration. The protocol should seek commitment from parties that tax disputes should only be resolved via established procedures for settling tax disputes (such as Mutual Agreement Procedure) and not via dispute resolution mechanisms contained in trade or investment agreements.

ii. Optionality

Regarding question c), the concept of optionality in dispute mechanisms is interesting and merits further consideration. It is needed in order to reflect on legal diversity and preserve sovereignty. Some mechanisms (e.g., arbitration) must remain optional. Many South Centre Members’ constitutional frameworks do not support arbitration in tax matters.

The protocol could therefore be based on:

- Clear opt-in/opt-out structures with built-in alternatives where parties could not agree on a particular option.
- Core commitments + optional tools
- Technical guidance to support uptake by developing countries
- Possible mechanism at the Framework that supports dispute resolution via mediation/facilitation
