



**The Effectiveness of Pillar One as a Global solution to increase  
tax revenues for the UK and Africa**

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## PLAGARISM DECLARATION

1. This dissertation has been submitted to Turnitin (or equivalent similarity and originality checking software) and I confirm that my supervisor has seen my report and any concerns revealed by such have been resolved with my supervisor.
2. I certify that I have received Ethics approval (if applicable) from the Commerce Ethics Committee.
3. This work has not been previously submitted in whole, or in part, for the award of any degree in this or any other university. It is my own work. Each significant contribution to, and quotation in, this dissertation from the work, or works of other people has been attributed and has been cited and referenced.

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## ABSTRACT

Digitalisation of economic activities has become a reality in today's 'world economy'. The proliferation of technology and e-commerce may result in permanent establishments and corporate income taxes becoming outdated in the future.

On 13 October 2021, 137 countries of the 141 members of the OECD Inclusive Framework (IF) on Base Erosion and Profit Shifting committed to fundamental changes to the international corporate tax system. The 137 countries include the G7 members (Canada, France, Germany, Italy, Japan, United Kingdom, United States) and G20 members comprising an international forum for the governments and central bank governors and includes in addition Argentina, Australia, Brazil, China, EU, India, Indonesia, Mexico, Russia, Saudi Arabia, South Africa, South Korea and Turkey. It also includes developing countries such as Ghana, Tunisia, Algeria, Tanzania, Ethiopia. Countries such as Kenya, Nigeria, Sri Lanka and Pakistan did not sign on to the consensus.

The IF issued a Two-Pillar Solution, comprising of Pillar One and Pillar Two to achieve a fairer distribution of profits and taxing rights among countries with respect to the largest MNEs. The main aim of the Pillar One solution is to create a single set of consensus-based international tax rules to address the tax challenges raised by digitalisation. Pillar One proposes re-allocating taxing rights of the largest and most profitable MNEs business activities and earned profits from their home countries to the markets, regardless of their physical presence. The proposal also aims to ensure that MNEs pay a fair share of tax in the countries in which they operate, to improve certainty, streamline the tax administration mechanisms, and to achieve a balance of the IF objectives that will result in the removal of unilateral measures.

The OECD predicts that Pillar One will lead to an increase of approximately USD 125 billion annually to market jurisdictions and claims that developing countries will gain more revenue than developed countries as a share of CIT. Developed and developing countries rely on different composition of tax revenues with developed countries constituting a greater proportion of personal income tax and developing countries relying on corporate income taxes. Countries such as the United Kingdom (UK) started advocating the Digital Services Taxes (DST) at an early stage and enacted the DST from 1 April 2020 followed by the African Trade and Tax Administration publishing a draft guideline for DST legislation for African countries.

This dissertation aims to understand how Pillar One would significantly increase revenue for the UK and for African countries and will question if Pillar One will provide an effective source of revenue in contrast to the DST legislated by the UK and the ATAF proposed DST for African countries. This dissertation starts by examining and understanding the evolution of Pillar One and the solutions proposed in the context of its IF and International tax rules and outlines the effectiveness and challenges of the solution. The understanding gained from this background was applied by evaluating and analysing the comparison of the Pillar One solution to the DST enacted by the UK, and to form a view by comparing the outcome of the UK position to the ATAF DST proposal to address the two subsidiary questions: Firstly, would the UK derive significant revenue by shifting from its current DST legislation to Pillar One? Secondly, would the 54 African countries be in a better position if it adopts the ATAF DST proposal as opposed to Pillar One?

It was concluded that the UK yielded an overall net revenue loss when compared to the UK DST however the loss is relatively small when compared to the size of the economy. Considering the outcome of the evaluation, Pillar One may be the preferred solution for the UK. In reference to the second question, it is unlikely that the Pillar One solution will address the needs of the 54 African countries. It is also uncertain if the proposed ATAF DST with a recommended rate of between 1% and 2% is sufficient to mitigate the net revenue effect of Pillar One Amount A for most of the 54 African countries. A minimum DST rate at 3% or greater may exceed or raise as much revenue as Pillar One for most of the 54 African countries.

## GLOSSARY, ABBREVIATIONS AND ACRONYMS

ADS	Automated Digital Services
ALP	Arm's Length Principle
ATAF	African Tax Administration Forum serves as an African network that aims at improving tax systems in Africa through exchanges, knowledge dissemination, capacity development and active contribution to the regional and global tax agenda.
BEPS	Base Erosion and Profit Shifting
Bn	Billion
CFB	Consumer Facing Businesses
DPT	Diverted Profits Tax
DRM	Domestic Resource Mobilisation
DST	Digital Services Taxes
EQ	Equalisation Levy
EU	European Union
GDP	Gross Domestic Product
G7	Group of seven comprising the world largest development economies (comprising an international forum for the government and central bank of governors from Canada, France, Germany, Italy, Japan, United Kingdom, United States)
G20	Group Twenty (comprising an international forum for the governments and central bank governors comprising the G7 and includes in addition Argentina, Australia, Brazil, China, EU, India, Indonesia, Mexico, Russia, Saudi Arabia, South Africa, South Korea and Turkey)
G24	Group of developing countries to co-ordinate the positions of developing countries on international monetary and development of finance issues.
IF	OECD Inclusive Framework
ICT	Information and Communication Technology
KRA	Kenya Revenue Authority
m	Millions
MLC	Multilateral Convention
MNE	Multinational Enterprise
MTC	Model Tax Convention
MI	Marketing Intangibles (MNE is in a position to enter into a jurisdiction either remotely or through Market Intangibles, limited local presence to develop a user/customer and other marketing intangibles).
Market Jurisdictions	Jurisdictions in which the purchaser is located
OECD	Organisation for Economic Co-operation and Development
PE	Permanent Establishment
Residual Profit	Profit in excess of routine
Routine return	Broadly equivalent to normal return, commonly identified as transfer pricing methods
SEP	Significant Economic Presence
Source Country	Jurisdiction in which production of goods and services occurs
TFDE	Task Force on the Digital Economy
UN	United Nations
US	United States
USTR	United States Trade Representative
UK	United Kingdom
UP	User Participation (Contribution by the user of the product to the business model)
WHT	Withholding Tax

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# 1. CHAPTER ONE: INTRODUCTION

## 1.1 BACKGROUND

The traditional approach of conducting business has significantly evolved from the ‘brick-and-mortar’ mode to a growing digital trade. Digital business models and technological advances have increasingly made it possible for businesses to carry on economic activities with minimal or no physical presence.

As is evident from available literature and business advances, the main reason for companies digitalising their business is that digitalisation is not a trend, but a step forward to revolutionising their businesses by enabling automation, increasing data quality, becoming more efficient, cost effective and agile. Multinational enterprises play a critical role in international trade and investment, and these companies may now have a tax presence in the countries in which it operates.

The provision of the Permanent Establishment(PE) principle is a widely analysed concept in international tax, which originates in the 20<sup>th</sup> century, and the requirement of a physical presence has been historically engrained as a concept in all bilateral treaties and Model Tax Conventions(MTCs). If the threshold of a PE is fulfilled, a Multinational Enterprise(MNE) may be liable to tax in the source state on the income attributable to the PE, and should this principle not be met, such profits are only taxable in the resident state<sup>1</sup>. The PE concept provides some certainty to foreign taxpayers with respect to taxation and tax administrators are in a position to effectively access and collect taxes from MNEs. It has been an effective mechanism for the avoidance of double taxation and to promote cross border trade and international business <sup>2</sup>. In contrast to the OECD Model Convention, the UN Model Convention<sup>3</sup> has largely focused on allowing source states to exercise their sovereign rights over income arising in the developing countries.

Digital technologies are offering alternative channels for maintaining business activities, social interactions, and consumption. Businesses are in a position to reach their customers on a large scale in different countries with corporate tax systems becoming outdated. Therefore, new tax rules are vital to regulate how business operates from this emerging digital economy. Tax authorities are now seeking alternative measures and other sources to collect taxes.

The G20<sup>4</sup> tackled the challenges of global trade governance to enable countries to benefit from e-commerce and endorsed the OECD to design and implement policies to minimise BEPS<sup>5</sup> that would also

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<sup>1</sup> OECD Model (2017), Model Tax Convention on Income and on Capital (21 November 2017)

<sup>2</sup> Ibid

<sup>3</sup> United Nations Double Tax Convention between Developed and Developing countries, Issue date 2017,

<sup>4</sup> OECD (2014), “Introduction to tax challenges of the digital economy”, in *Addressing the Tax Challenges of the Digital Economy*, OECD Publishing, Paris, <https://doi.org/10.1787/9789264218789-4-en>, [Closing tax gaps - OECD launches Action Plan on Base Erosion and Profit Shifting - OECD](#)

<sup>5</sup> The OECD definition of Base Erosion and Profit Shifting (BEPS) refer to tax planning strategies used by multinational enterprises that exploit gaps and mismatches in tax rules to avoid paying tax. Developing countries’ higher reliance on corporate income tax means they suffer from BEPS disproportionately.



*Highly developed economies often place limited reliance on revenue raised from corporate taxation because of other sources of revenue”<sup>17</sup>.*

Whilst the multilateral negotiations were still ongoing, several countries have adopted unilateral measures to tax the digital economy since the issuing of the Action 1 report in 2015. National governments such as United Kingdom(UK) enacted the DST from 1 April 2020<sup>18</sup> followed by ATAF publishing a draft guideline for DST legislation for African countries on 30 September 2020<sup>19</sup>. DST has to date been introduced in 27 countries<sup>20</sup> with an objective to avoiding double non taxation of MNEs and to ensure taxing rights in the digital marketing where value is created.

The key objective of the Two-Pillar solution is to ensure that confidence is restored in the international tax system, profits are taxed where economic activities take place and value is created, to achieve an effective and balanced multilateralism<sup>21</sup>.

This dissertation aims to understand how Pillar One, as part of the IF’s proposed Two-Pillar Solution to achieving a fairer distribution of profits and taxing rights, would significantly increase revenue for the UK and for African countries, and will question if Pillar One will provide an effective source of revenue in contrast to the DST legislated by the UK and the proposed ATAF DST for African countries<sup>22</sup>.

## **1.2 INTERNATIONAL TAX FRAMEWORK**

By virtue of their sovereignty, States have the right to levy taxes.<sup>23</sup> In order for taxes to be levied, there must be a personal attachment between the taxpayer and the State<sup>24</sup>. The attachment for legal entities in most instances would include a place of incorporation and the place of effective management<sup>25</sup>.

The main objective of bilateral treaties is to prevent double taxation, to reduce tax obstacles to cross border trade and to promote economic relations between States<sup>26</sup>. There are currently approximately

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<sup>17</sup> M.C. Durst, *Beyond BEPS: A Tax Policy Agenda for Developing Countries*, ICTD Working Paper 18 (ICTD 2014), Page 9, available at <http://dx.doi.org/10.2139/ssrn.2587802>

<sup>18</sup> The U.K. Finance Bill 2020 which includes *the digital tax measure is at the committee stage in the House of Commons as of April 2020*. See UK Parliament, “Finance Bill 2019-21,” accessed Apr. 29, 2020, available on <https://services.parliament.uk/Bills/2019-21/finance.html>.

<sup>19</sup> Policy Brief Domestic Resource Mobilisation, Digital Services Taxation in Africa, Issue 01 June 2020, Suggested Approach to Drafting Digital Services Tax legislation, available at [https://events.ataftax.org/index.php?page=documents&func=view&document\\_id=61](https://events.ataftax.org/index.php?page=documents&func=view&document_id=61)

<sup>20</sup> Taxation of the digitalised economy ,updated: 3 February 2022, available at <https://tax.kpmg.us/content/dam/tax/en/pdfs/2022/digitalized-economy-taxation-developments-summary.pdf>

<sup>21</sup> OECD (2021), OECD Secretary-General Tax Report to G20 Finance Ministers and Central Bank Governors, Italy, October 2021, OECD, Paris, [www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf](http://www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf), [International community strikes a ground-breaking tax deal for the digital age - OECD](https://www.oecd.org/en/news/press-releases/2021/10/international-community-strikes-a-ground-breaking-tax-deal-for-the-digital-age-oecd)

<sup>22</sup> The analysis will comprise the following 54 countries: Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cabo Verde, Cameroon, Central African Republic, Chad, Comoros, Congo, Dem. Rep., Congo, Rep., Cote d’Ivoire, Djibouti, Egypt, Arab Rep. Equatorial Guinea, Eritrea, Eswatini, Ethiopia, Gabon, The Gambia, Ghana, Guinea, Guinea Bissau, Kenya, Lesotho, Liberia, Libya, Madagascar, Malawi, Mali, Mauritania, Morocco, Mozambique, Namibia, Niger, Nigeria, Rwanda, Sao Tome and Principe, Senegal, Seychelles, Sierra Leone, Somalia, South Africa, South Sudan, Sudan, Tanzania, Togo, Tunisia, Uganda, Zambia, Zimbabwe.

<sup>23</sup> OECD (2015), *Addressing the Tax Challenges of the Digital Economy, Action 1 - 2015 Final Report*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, Section 2.3.1, Par 20,21,22. <http://dx.doi.org/10.1787/9789264241046-en>

<sup>24</sup> Ibid

<sup>25</sup> Ibid

3000 bilateral treaties concluded between countries. The overall influence of the UN Model on bilateral treaties has grown in recent years, particularly for tax treaties between developed and developing countries seeking to preserve the greater sovereignty of the source State to foster economic development of developing countries<sup>27</sup>.

The digitalisation of the economy places immense pressure on the international tax framework as it has many different meanings and has largely been debated at multiple layers of tax policy such as consumption and corporate tax policies<sup>28</sup>.

Pistone and Ullman are of the view that the interaction between DST and Article 2<sup>29</sup> of the OECD Model (2017) are extremely complex. The scope of the taxes covered in a Double Tax Convention (DTC) usually follows the definition of Article 2 of the OECD Model, however, it does not define income or an element thereof. There may be situations where DTCs' may cover DST either because it deviates from Article 2 of the OECD Model or DST is considered substantially similar to covered tax, however, relief of double taxation may not be available because a DST is levied in breach of the treaty.<sup>30</sup> The OECD 2018 Interim Report reflects the importance of a new tax introduced by a country to be compliant with its existing international obligations and bilateral tax treaties.<sup>31</sup>

This research will consider the importance of the related interactions of treaties and the development of the new concept of tax nexus such as DST and the Multilateral Convention(MLC). The Pillar One was originally proposed for signature in mid-2022 and for implementation by 2023<sup>32</sup>. The OECD has adopted a more realistic timeline with an aim to be finalised by mid-2023 and to be implemented in 2024<sup>33</sup>.

### 1.3 LITERATURE REVIEW

The 1998 Ottawa Ministerial conference resolved that tax principles applied to electronic commerce, domestically and to existing international taxation principles, should be structured to sustain fiscal

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<sup>26</sup> United Nations, Model Double Taxation between Developed and Developing Countries, 2017, Par. 6

<sup>27</sup> United Nations, Model Double Taxation between Developed and Developing Countries, 2017, Par.5 and 6

<sup>28</sup> Digital Tax Around the World, D Bunn, E Asen, C Enache, May 27 2020, [Digital-Taxation-Around-the-World1.pdf \(taxfoundation.org\)](https://www.taxfoundation.org/wp-content/uploads/2020/05/Digital-Taxation-Around-the-World1.pdf)

<sup>29</sup> Taxes Covered, OECD (2017), *Model Tax Convention on Income and on Capital: Condensed Version 2017*, OECD Publishing, Paris, available on [https://doi.org/10.1787/mtc\\_cond-2017-en](https://doi.org/10.1787/mtc_cond-2017-en)

<sup>30</sup> P. Pistone & A. Ullmann, *Chapter 8: Digital Taxes and Article 2 OECD Model Convention 2017 in Taxes Covered under Article 2 of the OECD Model: The Scope of Tax Treaties in a Dynamic Global Environment of Newly Created Taxes* (G.W. Kofler et al. eds., IBFD 2021), Books IBFD

<sup>31</sup> OECD (2018), *Tax Challenges Arising from Digitalisation – Interim Report 2018: Inclusive Framework on BEPS*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, available on <https://doi.org/10.1787/9789264293083-en>

<sup>32</sup> OECD (2021), OECD Secretary-General Tax Report to G20 Finance Ministers and Central Bank Governors, Italy, October 2021, OECD, Paris, [www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf](https://www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf), *International tax reform: Multilateral Convention to implement Pillar One on track for delivery by mid-2023 - OECD*

<sup>33</sup> OECD (2022), *Progress Report on Amount A of Pillar One, Two-Pillar Solution to the Tax Challenges of the Digitalisation of the Economy, OECD/G20 Base Erosion and Profit Shifting Project*, OECD, Paris, <https://www.oecd.org/tax/beps/progress-report-on-amount-aof-pillar-one-july-2022.pdf>.

sovereignty of countries to achieve fair sharing of the tax base,<sup>34</sup> and to avoid double taxation and unintentional non taxation<sup>35</sup>.

The policy principles highlighted in the Ottawa report<sup>36</sup> are *neutrality*, which seeks to be neutral and equitable between forms of electronic commerce, conventional and business decisions should be motivated by economic rather than tax consideration, *certainty* and *simplicity* of the tax rules, *efficiency* by minimising compliance costs for taxpayers and administrative costs for tax authorities, *effectiveness and fairness* by ensuring that taxation produces the right amount of tax at the right time by minimising tax avoidance and potential for tax evasion, and to have a tax system that is *flexible* and *dynamic* to keep up with technological and commercial developments<sup>37</sup>.

By 2001, the OECD narrowed the Ottawa taxation framework<sup>38</sup> and the work programme focused on three elements: (i) direct tax issues focusing on areas of application of tax treaty concepts and allocation of income to a PE involved in e-commerce transactions, (ii) consumption tax issues, and (iii) tax administration issues<sup>39</sup>.

The 2015 OECD Action 1 final report proposed five core alternative international tax rules to tax digitalised businesses, namely<sup>40</sup>:

- a. Amendment of the existing definition of PE in the OECD MTC and which has been envisaged to be achieved through the MLI;
- b. A new nexus-based concept of Significant Economic Presence(SEP);
- c. The application of a Withholding Tax(WHT) on digital transactions on goods or services;
- d. The adoption of an Equalisation Levy;
- e. A VAT solution on digital transactions. Significant progress has been made in implementing consumption taxation in almost 102 countries<sup>41</sup>, which have either announced, proposed, or implemented indirect taxation on digital services.

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<sup>34</sup> The tax base is the total amount of income, property, assets, consumption, transactions or other economic activity subject to taxation by a tax authority. A narrow tax base is non-neutral and inefficient, [Tax Base Definition | What is a Tax Base? | TaxEDU \(taxfoundation.org\)](#)

<sup>35</sup> A borderless world: Releasing the potential of electronic commerce, OECD Ministerial Conference (8 Oct.1998);

<https://www.oecd.org/ctp/consumption/1923256.pdf>, OECD (2015), *Addressing the Tax Challenges of the Digital Economy, Action 1 - 2015 Final Report*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Page 21, Par 12

<sup>36</sup> A borderless world: Releasing the potential of electronic commerce, OECD Ministerial Conference (8 Oct.1998); OECD (2014), "Introduction to tax challenges of the digital economy", in *Addressing the Tax Challenges of the Digital Economy*, OECD Publishing, Paris, <https://www.oecd.org/ctp/consumption/1923256.pdf>

<sup>36</sup> OECD (2001) "Taxation and Electronic Commerce. Implementing the Ottawa Taxation Framework Conditions." OECD, Paris. <https://www.oecd.org/ctp/consumption/1923256.pdf>

<sup>37</sup> Ibid

<sup>38</sup> OECD (2001) "Taxation and Electronic Commerce. Implementing the Ottawa Taxation Framework Conditions." OECD, Paris.

<sup>39</sup> Ibid .

<sup>40</sup> OECD (2015), *Addressing the Tax Challenges of the Digital Economy, Action 1 - 2015 Final Report*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, <https://doi.org/10.1787/9789264241046-en>, OECD (2018), *Tax Challenges Arising from Digitalisation – Interim Report 2018: Inclusive Framework on BEPS*, OECD/G20 Base Erosion and Profit Shifting Project.

<sup>41</sup> Taxation of the digitalised economy ,updated: 3 February 2022, available at <https://tax.kpmg.us/content/dam/tax/en/pdfs/2022/digitalized-economy-taxation-developments-summary.pdf>

The Pillar One report provides that countries may introduce any one of the above alternatives in their domestic law or in their bilateral tax treaties as additional safeguards against BEPS, provided that the countries respect their existing tax treaty obligations<sup>42</sup>. The implementation of consumption taxes applied on e-commerce has achieved improved results as opposed to direct taxation of e-commerce.

The UK introduced the Diverted Profits Tax(DPT) in April 2015 to encourage large companies that make an attempt to minimise their tax liabilities through the use of contrived arrangements to change their behaviour and pay additional tax, should profits be diverted to low tax jurisdictions<sup>43</sup>.

ATAF suggested an approach to drafting legislation on DST which is intended to assist African countries that are considering implementing DST to tax transactions of highly digitised businesses<sup>44</sup>.

The UN Tax committee in April 2021, approved the inclusion of Article 12B<sup>45</sup> and its commentaries on Automated Digital Services(ADS). This new article significantly departs from the OECD unified approach of Pillar One with an aim to give special attention to the interest of the developing countries.

The UN MTC is generally more generous in providing taxing rights to countries where business activities are carried out or that are receiving investment flow<sup>46</sup>.

The United States(US), a major player, perceives DST as discriminatory against US digital companies and recognised that unilateral measures would increase barriers to trade which led to a Section 301<sup>47</sup> investigation. In 2021 the United States Trade Representative (USTR) took action by implementing an additional 25% tariff on certain products from its six trading partners who adopted DST<sup>48</sup>.

The G7 reached agreement supporting the IF to address the tax challenges and on 8<sup>th</sup> October 2021, 137 members out of 141, representing 90% of the global GDP, agreed to the Two-Pillar Solution followed by the G20 Finance Ministers endorsing the global tax agreement on 13<sup>th</sup> October 2021<sup>49</sup>.

This study will address the status of the digital economy of jurisdictions, challenges faced by the respective political platforms and the suggested approaches and solutions proposed.

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<sup>42</sup> OECD (2015), *Addressing the Tax Challenges of the Digital Economy, Action 1 - 2015 Final Report*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris. <http://dx.doi.org/10.1787/9789264241046-en>, pg.13, OECD (2018), *Tax Challenges Arising from Digitalisation – Interim Report 2018: Inclusive Framework on BEPS*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris. <http://dx.doi.org/10.1787/9789264293083-en>, pg. 19

<sup>43</sup> HM Revenue & Customs, Transfer Pricing and Diverted Profits Tax statistics to 2018 to 2019, <https://www.gov.uk/government/publications/transfer-pricing-and-diverted-profits-tax-statistics-to-2018-to-2019>

<sup>44</sup> ATAF, Suggested Approach to drafting digital services tax legislation, 30 September 2020

<sup>45</sup> Committee of Experts on International Cooperation in Tax Matters, Twentieth session/C.18/2020/CRP.41, October 11, 2020, [CRP41\\_Digitalization 10102020A\\_0.pdf \(un.org\)](https://www.un.org/rukdok/Document.aspx?docID/10102020A_0.pdf)

<sup>46</sup> Committee of Experts on International cooperation in tax matters, 6 April 2021, E/C.18/2021/CRP.1

<sup>47</sup> Section 301 of the Trade Act of 1974, available at [Section 301 – Digital Services Taxes | United States Trade Representative \(ustr.gov\)](https://ustr.gov/about-us/policy-practices/initiatives/digital-services-taxes)

<sup>48</sup> The six trading partners were Austria, India, Italy, Spain, Turkey and United Kingdom

<sup>49</sup> OECD (2021), OECD Secretary-General Tax Report to G20 Finance Ministers and Central Bank Governors, Italy, October 2021, OECD, Paris, [www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf](https://www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf). As of 4<sup>th</sup> November 2021, 141 members have endorsed the global agreement with the exception of four countries who have not signed the agreement which are Kenya, Nigeria, Pakistan and Sri Lanka, [Members of the OECD/G20 Inclusive Framework on BEPS](https://www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf), [Members of the OECD/G20 Inclusive Framework on BEPS joining the Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy](https://www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf).

## 1.4 PROBLEM STATEMENT

Pillar One proposes to re-allocate taxing rights of the largest and most profitable MNEs business activities and earned profits from their home countries to the markets *regardless of their physical presence*, and it is envisaged that this is effected through an Multilateral Convention(MLC)<sup>50</sup>.

The OECD mentions that the new revised international tax framework will not “*eliminate tax competition*” but it will set “*multilateral agreed limitations on it*” to provide for the interests of “*various parties including small economies and developing jurisdictions*”<sup>51</sup>.

ATAF has embraced the global consensus reached on the new pillar plan to reform international taxation rules, however expressed that the concerns of Africa have not been adequately addressed to protect the tax base<sup>52</sup>.

The table below summarises the key ATAF recommendations and IF for Pillar One:

	ATAF Proposal <sup>53</sup>	July 2021 Statement <sup>54</sup>	October 2021 Statement <sup>55</sup>
<b>Pillar 1</b> Amount A Quantum and profit allocation	Reallocation of Profits to be calculated as a portion of <i>MNEs total profits instead of Residual profits.</i>	Residual Profits in excess of 10% of revenue allocation with a gross revenue threshold of above <i>€20bn.</i>	Residual profits in excess of 10% of revenue allocation with a gross revenue threshold of above <i>€20bn.</i> Amount A will be allocated to a market jurisdiction when in-scope MNE derives <i>revenue of at least €1million from that Jurisdiction with annual GDP = &gt; €40bn;</i> Physical presence is not considered.

<sup>50</sup> OECD (2021), OECD Secretary-General Tax Report to G20 Finance Ministers and Central Bank Governors, Italy, October 2021, OECD, Paris, [www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf](https://www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf).

<sup>51</sup> OECD - 132 Inclusive Framework Members Join Revised Two-Pillar Approach Towards Taxing The Digital Economy (02 July 2021), News IBFD, <https://research-ibfd-org.ezproxy.uct.ac.za/48f7aa30-e7e0-4338-bfb6-5f0e248fb38d>

<sup>52</sup> A new era of international taxation rules – What does this mean for Africa , ATAF communication, October 08,2021, available at <https://www.ataftax.org/a-new-era-of-international-taxation-rules-what-does-this-mean-for-africa>

<sup>53</sup> African Tax Administration Forum - ATAF Issues Statement on Revised Two-Pillar Solution on Taxing Digital Economy (05 July 2021), News IBFD, available at [https://research-ibfd-org.ezproxy.uct.ac.za/#/doc?url=/document/tns\\_2021-07-05\\_ataf\\_1](https://research-ibfd-org.ezproxy.uct.ac.za/#/doc?url=/document/tns_2021-07-05_ataf_1) , available at <https://www.ataftax.org/a-new-era-of-international-taxation-rules-what-does-this-mean-for-africa>

<sup>54</sup> OECD (2021), OECD Secretary-General Tax Report to G20 Finance Ministers and Central Bank Governors, Italy, July 2021, OECD, Paris, available at <https://www.oecd.org/tax/beps/statement-on-a-two-pillar-solution-to-address-the-tax-challenges-arising-from-the-digitalisation-of-the-economy-july-2021.pdf>

<sup>55</sup> OECD (2021), OECD Secretary-General Tax Report to G20 Finance Ministers and Central Bank Governors, Italy, October 2021, OECD, Paris, available at [www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf](https://www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf), available at <https://www.oecd.org/tax/beps/statement-on-a-two-pillar-solution-to-address-the-tax-challenges-arising-from-the-digitalisation-of-the-economy-october-2021.htm>

	ATAF Proposal <sup>56</sup>	July 2021 Statement <sup>57</sup>	October 2021 Statement <sup>58</sup>
<b>Pillar 1</b> Amount A Quantum and profit allocation			<i>Exclusions: Financial services and Extractive industries.</i>
	Residual Profits of at least 35% to be allocated to market jurisdiction.	Residual Profits of between 20% – 30% allocated to market jurisdiction.	Residual Profits of 25% allocated to market jurisdiction with nexus defined as profit in excess of 10% of revenue using a revenue-based allocation key.

Despite the Two-Pillar Solution being agreed by 137 member jurisdictions<sup>59</sup>, there are countries with different Government economic priorities. ATAF proposes an equitable tax allocation and for global tax rules to be implemented responsibly, as not all countries have similar capacity to implement the rules and there are many African countries that are not members of the IF<sup>60</sup>.

Specific benefits have been identified as a priority by the IF for developing countries<sup>61</sup>:

- A new special nexus rule will also apply to smaller jurisdictions with *GDP < €40bn* with a nexus set at *€250 000*<sup>62</sup>
- A simplified and streamlined approach to apply the ALP to in-country baseline marketing and distribution activities in market distribution.

This research will form a view on the UK position for endorsing Pillar One in contrast to its legislated DST and will evaluate and assess if there is benefit for Africa to adopt the ATAF DST proposal.

<sup>56</sup> African Tax Administration Forum - ATAF Issues Statement on Revised Two-Pillar Solution on Taxing Digital Economy (05 July 2021), News IBFD, available at [https://research-ibfd-org.ezproxy.uct.ac.za/#/doc?url=/document/tns\\_2021-07-05\\_ataf\\_1](https://research-ibfd-org.ezproxy.uct.ac.za/#/doc?url=/document/tns_2021-07-05_ataf_1), available at <https://www.ataftax.org/a-new-era-of-international-taxation-rules-what-does-this-mean-for-africa>

<sup>57</sup> OECD (2021), OECD Secretary-General Tax Report to G20 Finance Ministers and Central Bank Governors, Italy, July 2021, OECD, Paris, available at <https://www.oecd.org/tax/beps/statement-on-a-two-pillar-solution-to-address-the-tax-challenges-arising-from-the-digitalisation-of-the-economy-july-2021.pdf>

<sup>58</sup> OECD (2021), OECD Secretary-General Tax Report to G20 Finance Ministers and Central Bank Governors, Italy, October 2021, OECD, Paris, available at [www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf](http://www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf), available at <https://www.oecd.org/tax/beps/statement-on-a-two-pillar-solution-to-address-the-tax-challenges-arising-from-the-digitalisation-of-the-economy-october-2021.htm>

<sup>59</sup> Members of the IF comprises 141 members of which four countries declined to endorse to the Two-pillar solution. The four countries are Kenya, Nigeria, Sri Lanka and Pakistan., [Members of the OECD/G20 Inclusive Framework on BEPS](#)

<sup>60</sup> A new era of international taxation rules – What does this mean for Africa?, ATAF Communication, October 08, 2021, (accessed 19 October 2021), available at <https://www.ataftax.org/a-new-era-of-international-taxation-rules-what-does-this-mean-for-africa>, There are currently 54 African countries of which 27 are members of the IF. Kenya and Nigeria have declined to endorse the Two-Pillar solution. OECD updated November 2021, [Base erosion and profit shifting - OECD BEPS](#).

<sup>61</sup> OECD (2021), OECD Secretary-General Tax Report to G20 Finance Ministers and Central Bank Governors, Italy, October 2021, OECD, Paris, available at [www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf](http://www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf), available at <https://www.oecd.org/tax/beps/statement-on-a-two-pillar-solution-to-address-the-tax-challenges-arising-from-the-digitalisation-of-the-economy-october-2021.htm>

<sup>62</sup> This special nexus rule applies solely to determine whether a jurisdiction qualifies for the Amount A allocation.

## 1.5 RESEARCH OBJECTIVES AND RESEARCH QUESTIONS

The objective of this thesis is as follows:

- a. A comparison of Pillar One adopted by the IF to the current DST enacted by the UK.
- b. To form a view on the UK analysis under the above objective and to compare the UK position to the ATAF DST proposal.

The principal research question is:

“The Effectiveness of Pillar One as a Global solution to increase tax revenues for the UK and Africa”.

Important subsidiary questions addressed by this research are:

- i. Would the UK derive significant revenue by shifting from its current DST legislation to Pillar One?
- ii. Would the African countries be in a better position if they adopt the ATAF DST proposal as opposed to Pillar One?<sup>63</sup>

## 1.6 RESEARCH APPROACH AND METHODS

The research approach and method to meet the objectives of this dissertation and to address the research question will be a textual analysis of primary and secondary sources of data.

The primary sources of data will comprise OECD IF on BEPS and press releases, International Conventions, OECD Policy and Guidelines, Tax treaties, Domestic and International tax legislations on the subject of PE, and Digital economy.

The secondary sources of data will comprise textbooks, journals and literature, online tax portals and international tax events on the subject matter.

The UK government started advocating the DST at an early stage and advanced proposals for a new DST since 2018 with the aim of reforming the international corporate tax framework for digital business<sup>64</sup>. It is claimed that under Pillar One, developing countries will gain more revenue than developed countries as a share of CIT,<sup>65</sup> however it also claimed that developed countries could benefit from Pillar One as the largest markets would attract most of the new reallocated income. Therefore, the UK has been selected as the primary jurisdiction.

Developing countries, however, have different economies, priorities and levels of development, therefore Africa has been selected for analysing and comparing the outcome to the position of the UK.

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<sup>63</sup> Reference appendix 12 of this document provides a listing of the 54 African countries for evaluation and analysis.

<sup>64</sup> HM Treasury, Budget 2018, Digital Services Tax, [DST\\_web.pdf \(publishing.service.gov.uk\)](#)

<sup>65</sup> OECD (2021), OECD Secretary-General Tax Report to G20 Finance Ministers and Central Bank Governors, Italy, October 2021, OECD, Paris, [www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf](#).

The desktop research will analyse the key features of Pillar One, the DST design elements adopted by the UK tax legislation with a contrast to the ATAF DST proposal. The analysis will also illustrate the divergent approaches and priorities of the UK and African countries for taxing of digital economy.

## **1.7 LIMITATION OF STUDY**

The purpose of this dissertation is focused only on the Pillar One solution in the context of its IF on BEPS, critically analysing the position of the UK DST legislation and the proposed ATAF DST for the 54 African countries. Therefore, it would be beneficial to further understand the combined effects of Pillar One and Two and how it would significantly increase revenue for countries, and whether the Two Pillar approach will provide an effective source of revenue in contrast to DST legislated by several countries.

## **1.8 CHAPTER OUTLINE**

The structure of the dissertation will comprise as follows:

Chapter One: Background, problem statement, research objectives, approach, and limitation of the study.

Chapter Two: Examination of the Pillar One solution in the context of its IF framework on BEPS and the International tax rules; discussion of the global consensus-based solutions to address the tax challenges of the digitalised economy; effectiveness and challenges of the proposed solution to generate additional revenue for the UK and African countries.

Chapter Three: Contrast the UK DST legislation to the Pillar One Solution. Comparative analysis by means of quantitative analysis, data sets, applied methodologies and findings to reach a conclusion.

Chapter Four: Contrast the UK position to the ATAF proposed DST for Africa to provide a view on African countries and its position. Comparative analysis by means of quantitative analysis, data sets, applied methodologies and findings to reach a conclusion.

Chapter Five: Conclusion - summary of the key findings.

## 2. CHAPTER TWO: ACTION 1 DIGITAL ECONOMY

### 2.1 INTRODUCTION

The Action 1 report concluded that the *digital economy*<sup>66</sup> cannot be ring-fenced as it is the economy itself. To address tax challenges, the OECD introduced the Two-Pillar solution through the IF with an aim to put forward options for a new *nexus* and *profit allocation* rules that would better align the *location of taxable profits* with the *location of economic activities* and *value of creation*<sup>67</sup>. These rules would determine the allocation of taxing rights between jurisdictions and the relevant share of the MNE's profits that will be subject to tax<sup>68</sup>.

The present concept of '*nexus*' is embedded in Article 5 of the tax treaties in which a jurisdiction has the right to tax a non-resident, if the non-resident has a PE in that jurisdiction. The PE provisions are primarily based on a geographical nexus between the enterprise and the source State, which refers to a fixed place of business, service, or construction activities carried out beyond a specific duration, existence of a dependent agent, and collection of insurance premiums. If there is no geographical nexus, there is no basis for the source state to impose taxation on business profits. The UN Model provides a wider scope of taxable nexus for business profits<sup>69</sup>.

It was concluded in the commentary to Article 5<sup>70</sup> of the MTC that human intervention is not a requirement for an existence of a PE. Article 7(2) of the OECD and UN Model provides for the rules on the *attribution of profits* and applies the arm's length standard to the PE. The 2018 interim report suggests that the existing tax rules are aligned to the distribution of taxing rights with the location of *economic activities, people* and *property* that the enterprise employs in that activity<sup>71</sup>. It further mentions that the effectiveness of these rules will be challenged on the basis that value creation is becoming less dependent on physical presence of people or property<sup>72</sup>.

In delivering Action 1, e-commerce businesses as a consequence should not be taxed more harshly or otherwise than traditional businesses, nor should these businesses receive a more favourable tax benefit. The main goal of Action 1 is to develop consensus on a new taxing right that would allow

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<sup>66</sup> Digital economy is the economic activity that results from everyday online connections among people, businesses, devices, data and processes. It allows for growing interconnectedness of people, organisations and machines from internet, mobile technology and the internet of things (IoT).

<sup>67</sup> OECD (2015), Explanatory Statement, OECD/G20 Base Erosion and Profit Shifting Project, Page 13 of Annex A, OECD. [www.oecd.org/tax/beps-explanatory-statement-2015.pdf](http://www.oecd.org/tax/beps-explanatory-statement-2015.pdf)

<sup>68</sup> Ibid

<sup>69</sup> OECD (2017), *Model Tax Convention on Income and on Capital: Condensed Version 2017*, OECD Publishing, Paris, [https://doi.org/10.1787/mtc\\_cond-2017-en](https://doi.org/10.1787/mtc_cond-2017-en), Article 5, *United Nations Model Double Taxation Convention between Developed and Developing Countries: 2017 Update*, Article 5, <https://doi.org/10.18356/cc8f6035-en>

<sup>70</sup> Clarification on the application of the permanent establishment definition in e-commerce, 22 December 2000, <https://www.oecd.org/tax/treaties/1923380.pdf>

<sup>71</sup> OECD/G20 Base Erosion and Profit Shifting Project, *Tax Challenges Arising from Digitalisation – Interim Report 2018, Inclusive Framework on BEPS* (OECD 2018), International Organizations' Documentation IBFD, also available at <https://doi.org/10.1787/9789264293083-en>, Par.379.

<sup>72</sup> Ibid

countries to tax MNEs even in the absence of traditional physical presence and to align the place where tax is paid with the place where *economic activities* take place and *value is created*<sup>73</sup>.

## 2.2 BEPS AND THE PILLAR ONE SOLUTION

### 2.2.1 Background

The policy note approved by the IF outlined four proposals, three proposals related to *profit allocation* and ‘*nexus*’, and the fourth outlined a global anti-base erosion proposal for a type of *minimum tax*<sup>74</sup>.

Pillar One comprises three solutions which seek to expand the taxing rights of the user or market jurisdictions:

- (i) **User Participating (UP)**<sup>75</sup> supported by the UK seeks to reallocate a portion of the global profits by reference to value created by *highly digitalised businesses* such as social media platforms, search engines, and online market places. This rule allows for the taxing of the value created by a user participation in the user jurisdiction. This solution did not meet the principles of *neutrality* of taxation between different types of highly digitalised businesses and did not fulfil the requirements of *flexibility* as the ringfencing of certain digital transactions would become more rigid over time and not allow the option to consider new business models.<sup>76</sup>
- (ii) **Marketing Intangibles (MI)**<sup>77</sup> supported by the US seeks to reallocate a smaller portion of the global profits of businesses in general by reference to the value created by intangibles that reach users in a market such as branding, marketing efforts, customer relationships, and customer lists. This option allowed for shifting of profits from the European Union back to MI located in the US. It is claimed that this option may meet the *neutrality* principle, however it does not provide *certainty* to taxpayers with respect to appropriate accounting of the tax.<sup>78</sup>

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<sup>73</sup> OECD, Explanatory Statement, OECD/G20 Base Erosion and Profit Shifting Project p. 4 (OECD 2014).

<sup>74</sup> Addressing the Tax Challenges of the Digitalisation of the Economy – Policy Note Addressing the Tax Challenges of the Digitalisation of the Economy – Policy Note (oecd.org), Issued date 23 January 2019

<sup>75</sup> User participation is focused on value contributed by users of social media platforms or e-commerce websites in respect of data provided by the user which is then translated into target advertisements or other customized services.

<sup>76</sup> A.W. Oguttu, A Critique from a Developing Country Perspective of the Proposals to Tax the Digital Economy, 12 World Tax J. (2020), Journal Articles & Opinion Pieces IBFD, [https://research-ibfd-org.ezproxy.uct.ac.za/#/doc?url=/document/wtj\\_2020\\_04\\_int\\_2](https://research-ibfd-org.ezproxy.uct.ac.za/#/doc?url=/document/wtj_2020_04_int_2)

<sup>77</sup> Market intangibles are when an MNE is in a position to enter into a jurisdiction either remotely or through limited local presence to develop a user/customer and other marketing intangibles. Marketing intangibles comprise brands, trade names, customers data, customer relationships and customer lists based on users in the market. Available at [www.oecd.org/tax/beps/public-consultation-document-addressing-the-tax-challenges-of-the-digitalisation-of-the-economy.pdf](http://www.oecd.org/tax/beps/public-consultation-document-addressing-the-tax-challenges-of-the-digitalisation-of-the-economy.pdf), Issued date 13 February – 6 March 2019, pg.11-12

<sup>78</sup> A.W. Oguttu, A Critique from a Developing Country Perspective of the Proposals to Tax the Digital Economy, 12 World Tax J. (2020), Journal Articles & Opinion Pieces IBFD, [https://research-ibfd-org.ezproxy.uct.ac.za/#/doc?url=/document/wtj\\_2020\\_04\\_int\\_2](https://research-ibfd-org.ezproxy.uct.ac.za/#/doc?url=/document/wtj_2020_04_int_2)

(iii) **Significant Economic Presence (SEP)**<sup>79</sup> preferred by the G24 seeks to expand the nexus and reallocation of total income on a formulary basis with User Participation(UP) added to the traditional apportionment factors, which allows for the apportionment of the MNEs total profits considering factors such as sales, assets, and employees. This option allows to *simplify* the levying of taxes and prevent discrepancies in cross border transactions. It also meets the principle of *fairness* as it recognises the right of market jurisdictions to tax remotely operated business and ensures *neutrality* by not ring-fencing digitalised businesses.<sup>80</sup>

The OECD's secretariat combined the elements of the three approaches based on commonalities into a *unified approach* to deliver a solution. This proposal is summarised as follows:<sup>81</sup>

- (i) **Amount A** proposes a formulaic approach to allocate a share of deemed *residual profit* (non-routine)<sup>82</sup> that remains after allocating *routine profits* to market jurisdictions and applied to Automated Digital Services(ADS)<sup>83</sup> and Consumer Facing Businesses(CFB)<sup>84</sup> regardless of their physical location. The amount of the allocable profit is determined based on the consolidated financial statements of the MNE group.
- (ii) **Amount B** comprises an arm's length or a fixed return for baseline marketing and distribution functions<sup>85</sup> described as routine profits and is allocated based on Arm's Length Principle(ALP)<sup>86</sup>.

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<sup>79</sup> SEP is created in country by a non-resident enterprise when there is evidence of purposeful and sustained interaction with the economy of that country through technology and other automated tools combined with revenue derived from remote transactions. Available on OECD (2015), *Addressing the Tax Challenges of the Digital Economy, Action 1 - 2015 Final Report*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, <https://doi.org/10.1787/9789264241046-en>, pg. 107, par7.6.1

<sup>80</sup> A.W. Oguttu, A Critique from a Developing Country Perspective of the Proposals to Tax the Digital Economy, 12 World Tax J. (2020), Journal Articles & Opinion Pieces IBFD, [https://research-ibfd-org.ezproxy.uct.ac.za/#/doc?url=/document/wtj\\_2020\\_04\\_int\\_2](https://research-ibfd-org.ezproxy.uct.ac.za/#/doc?url=/document/wtj_2020_04_int_2), The Significant Economic Presence (SEP) was one of the three options proposed in Chapter 7 of the Final Report on Action of BEP

<sup>81</sup> OECD, *Public Consultation Document: Secretariat Proposal for a "Unified Approach" under Pillar One*, 9 October 2019 – 12 November 2019(OECD 2019) [hereinafter Secretariat Proposal]

<sup>82</sup> Residual profits under the "unified approach" are referred to profit after deducting the deemed routine profits with the balance being regarded as representing the group's deemed non-routine or residual profits.

<sup>83</sup> The general definition of ADS which includes a positive and negative list is made up of two elements (i) automated i.e., once the system is set up the provision of the service to a particular user requires minimal human involvement on the part of the service provider and (ii) digital i.e., provided over the internet or an electronic network. The positive list includes online advertising services; sale or other alienation of user data; online search engines; social media platforms; online intermediation platforms; digital content services; online gaming; standardised online teaching services; and cloud computing services. OECD (2020), *Tax Challenges Arising from Digitalisation – Report on Pillar One Blueprint: Inclusive Framework on BEPS*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris <https://doi.org/10.1787/beba0634-en> at pg.20, par 26 and 27.

<sup>84</sup> CFB are defined as those businesses that generate revenue from the sale of goods and services, directly or indirectly which are commonly sold to consumers including those sold through intermediaries and by way of franchising and licensing or otherwise exploits intangible property that is connected to the goods or services. OECD (2020), *Tax Challenges Arising from Digitalisation – Report on Pillar One Blueprint: Inclusive Framework on BEPS*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, <https://doi.org/10.1787/beba0634-en> at pg. 23, par 33.

<sup>85</sup> The definition of baseline marketing and distribution activities covers distributors that (a) buy from related parties and resell to unrelated parties and (b) have a routine distributor functionality profile, OECD (2020), *Tax Challenges Arising from Digitalisation – Report on Pillar One Blueprint: Inclusive Framework on BEPS*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, <https://doi.org/10.1787/beba0634-en> at pg.15, par.12

<sup>86</sup> The Arm's length Principle ("ALP") follows the definition as set out in the Transfer Pricing Guidelines, OECD (2017), *OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations 2017*, OECD Publishing, Paris, <https://doi.org/10.1787/tpg-2017-en>, at Pg.33.

- (iii) **Amount C** is an additional amount beyond Amount B taxed in the market jurisdiction with a binding and effective dispute prevention and resolution to minimise double taxation and is applied where there are more functions in the market jurisdiction.

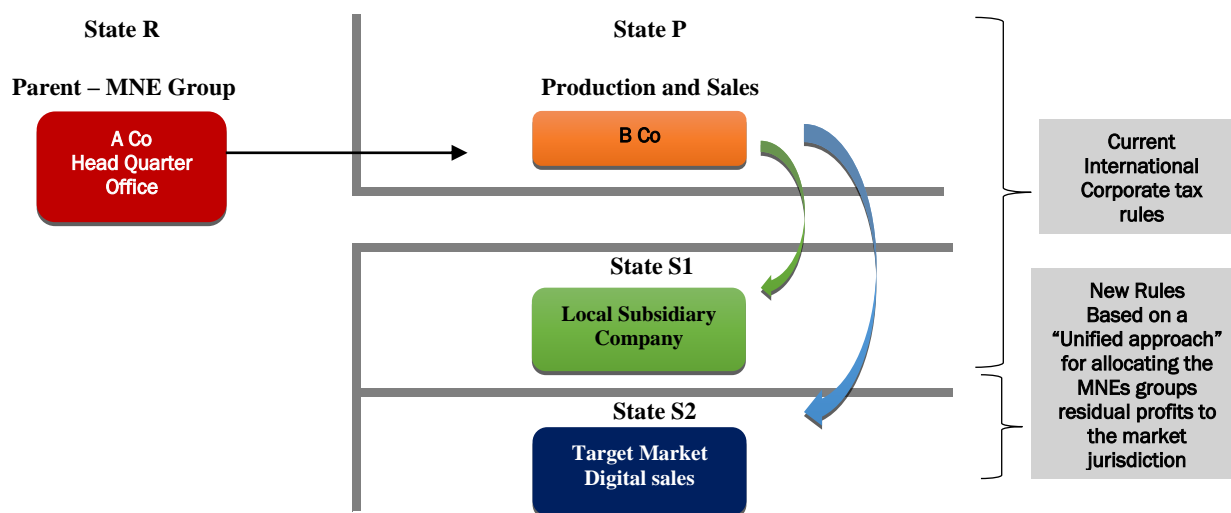
**The OECD Secretariat’s ‘Unified Approach’ is explained by use of a general structure under Figure 1.**

MNE Group A Co operates a CFB, parent of B Co situated in State P and controlled by A Co. B Co has a consumer market in State S1 and a target market in State S2. The two broad approaches that are used to allocate profits to State S1 is either to a PE or a separate legal entity.

Countries would use the ALP on the basis that profit allocation to the PE or separate legal entity is dependent on the value created or generated by the taxpayer. The group’s aggregated profit is therefore allocated on predetermined allocation keys based on payroll, tangible asset, turnover, or a combination of a number of other factors. This allocation is based on the current international corporate tax system which allows for countries to reach a compromise in entering into fundamental agreements between source and residence countries.

For this scenario we assume that the consumer trade market in State S1 is carried out through a local subsidiary company. A Co has no physical presence or taxable presence in State P, State S1 and State S2. B Co, a subsidiary company of A Co sells its manufactured products on line in State S2, which has created a new nexus in State S2.

**Figure 1 : General Structure**



For simplification and clarity purposes, the calculations are depicted in small numbers. Considering the general structure under **Figure 1**, the workings of the ‘Unified Approach’ is described as a method of calculating Amount A, B and C<sup>87</sup>.

<sup>87</sup> OECD, *Public Consultation Document: Secretariat Proposal for a “Unified Approach” under Pillar One*, 9 October 2019 – 12 November 2019 (OECD 2019) [hereinafter Secretariat Proposal], example at p.13 - 15

The following are the key assumptions:

Simplified MNE Group Income Statement		
Revenue (R)		\$500
Profit Before Tax (PBT)		\$200
PBT Margin(PBT/R)		40%

Revenue from market jurisdictions		Revenue
State S1	Subsidiary	\$150
State S2	Target Market	\$350

Variables applied in the formulae for Amounts A,B and C:

Revenue	<b>R</b>
PBT	<b>z</b>
Deemed Routine Profit	<b>x</b>
Non-deemed Routine Profits	<b>y = z-x and y = w+v</b>
Deemed Non-Routine Profits Attributable to Markets	<b>w</b>
Deemed Non-Routine Profits Attributable to Other factors	<b>v</b>

The residual profit is defined within a 10% or 20% threshold on PBT. A 20% reallocation of residual profit to market jurisdictions is assumed.<sup>88</sup>

- Step 1 The deemed routine PBT margin is assumed to be fixed at 10% [**x**] profit margin. The non-deemed routine profit margin is 30% [**y = z-x**], essentially the routine activities are excluded from the group pool of profits which equates to \$50<sup>89</sup>
- Step 2 Non-deemed routine profit [**y**] : ( $\$500[\mathbf{R}] \times 30\%$ ) = \$150<sup>90</sup>
- Step 3 Non-deemed routine profit is split into other factors (80%) and market jurisdiction share (20%). Allocation to market jurisdiction is ( $30\% \times 20\%$ ) = 6%. The market jurisdiction share (**w**) ( $6\% \times \$500$ ) = \$30<sup>91</sup>
- Step 4 The allocation to other factors (**v**) is ( $30\% \times 80\% \times \$500$ ) = \$120 which is allocated to State P.
- Step 5 Market related profits is determined at 6% of the overall revenue which amounts to \$30 and is reallocated as shown under Table 1<sup>92</sup>

<sup>88</sup> OECD Update on Economic Analysis and Impact Assessment (2020) [OECD Presentation], at <http://www.oecd.org/tax/beps/webcast-economic-analysis-impact-assessment-february-2020.htm>, at pg. 12

<sup>89</sup> OECD, *Public Consultation Document: Secretariat Proposal for a "Unified Approach" under Pillar One*, 9 October 2019 – 12 November 2019 (OECD 2019) [hereinafter Secretariat Proposal], par 54.

<sup>90</sup> Ibid

<sup>91</sup> Ibid, par 57

<sup>92</sup> Ibid, par 60

**Table 1**

Revenue from market jurisdictions		Revenue	Allocation key [Local] Revenue/Group Revenue	W × Allocation key
<b>State S1</b>	Subsidiary	\$150	30%	\$9
<b>State S2</b>	Target Market	\$350	70%	\$21
<b>Total</b>		<b>\$500</b>	<b>100%</b>	<b>\$30</b>

**Amount A** replicates features of the residual profit-split method by introducing a threshold profitability to exclude the routine activities and the fractional apportionment method, which is applied on a case-by-case basis<sup>93</sup>.

**Amount B:**<sup>94</sup> The deemed routine of \$50[x] is further allocated to Amount B and C. The KPMG analysis suggested a median value-added return of 3.6%. A limited distribution risk return of 2.5% on average for an operating margin is therefore assumed to calculate Amount B<sup>95</sup>. Amount B is calculated at  $\$38(\$50[x]-2.5\% \times \$500[R])$ . Amount B would only apply where there is physical presence and authors have claimed this would largely be a simplification of existing rules.

**Amount C**<sup>96</sup> is based on limited risk at an average of 1.1% (3.6%-2.5%) of operating margin and assumes that it exceeds the baseline activities of Amount B<sup>97</sup>. Amount C is calculated at  $\$7(\$50-\$38(\text{Amount B})-(1.1\% \times \$500[R]))$ .

For simplicity, the remaining routine profit of  $\$5(\$50-\$38-7)$  is allocated to State P.

**Table 2 below is a summary of the outcome of Amount A, B and C**

Revenue from market jurisdictions		Amount A	Amount B	Amount C	Remaining routine profit
<b>State P</b>	Subsidiary	\$120			\$5
<b>State S1</b>	Subsidiary	\$9	\$38		
<b>State S2</b>	Target Market	\$21		\$7	
<b>Total</b>		<b>\$150</b>	<b>\$38</b>	<b>\$7</b>	<b>\$5</b>

<sup>93</sup> OECD, *Public Consultation Document: Secretariat Proposal for a “Unified Approach” under Pillar One, 9 October 2019 – 12 November 2019* (OECD 2019) [hereinafter Secretariat Proposal], example at p.15, par.52

<sup>94</sup> OECD (2020), *Tax Challenges Arising from Digitalisation – Report on Pillar One Blueprint: Inclusive Framework on BEPS*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, <https://doi.org/10.1787/beba0634-en> at pg.15, par.1.2.2

<sup>95</sup> KPMG Transfer Pricing Analysis of Arm’s Length Returns to Sales, Marketing & Distribution Activities, at <https://tinyurl.com/KPMG-TPreport> . pg. 21&22

<sup>96</sup> OECD, *Public Consultation Document: Secretariat Proposal for a “Unified Approach” under Pillar One, 9 October 2019 – 12 November 2019* (OECD 2019) [hereinafter Secretariat Proposal], par.2.1, pg.6

<sup>97</sup> KPMG Transfer Pricing Analysis of Arm’s Length Returns to Sales, Marketing & Distribution Activities, at <https://tinyurl.com/KPMG-TPreport> . pg. 21&22

**Table 3: Summary tax base before and after unified approach**

Revenue from market jurisdictions		Pe-Unified approach	Post Unified approach	Differential in Tax base
<b>State P</b>	Subsidiary	\$155	\$125	-\$30
<b>State S1</b>	Subsidiary	\$45	\$47	+\$2
<b>State S2</b>	Target Market	\$0	\$28	+\$28
<b>Total</b>		<b>\$200</b>	<b>\$200</b>	<b>\$0</b>

It is claimed that Amounts A and C each represent a portion of residual profit, therefore taxation of both amounts in the same jurisdiction may lead to tax disputes and double taxation<sup>98</sup>. The unified approach for reallocating the taxing rights to market jurisdictions over Amount A was retained with Amount B being retained as the base line distribution functions to provide for administrative simplicity. Amount C was removed from the blue print<sup>99</sup>.

The same assumptions have been applied in calculating Amount A as contained in the Pillar One blue print and it is assumed that the profitability threshold is 10% and reallocation threshold to market jurisdiction is 20%<sup>100</sup>.

**Variables applied in the Amount A formulae:**  $S/R \times y \times (P - (R \times z))$

Global Revenue	<b>R</b>
PBT	<b>P</b>
Residual Profit	<b>W</b>
Revenue from market jurisdiction	<b>S</b>
Tax base Allocation Key %	<b>A</b>
Profitability threshold	<b>z</b>
Reallocation threshold	<b>y</b>

Step 1 Profitability Threshold formulae :  $W = P - (R \times z)$

$$W = \$200 - (\$500 \times 10\%) = \$150$$

Step 2 Reallocation to market jurisdiction :  $A = y \times W$

$$A = 20\% \times \$150 = \$30$$

<sup>98</sup> D. Bunn, Tax Foundation Response to OECD Public Consultation Document: Secretariat Proposal for a “Unified Approach” under Pillar One, [Response to OECD Secretariat Proposal: “Unified Approach” Pillar One \(taxfoundation.org\)](https://www.taxfoundation.org/2020/06/02/125482/), V. Chand & G. Lembo, Intangible-Related Profit Allocation within MNEs based on Key DEMPE Functions: Selected Issues and Interaction with Pillar One and Pillar Two of the Digital Debate, Intl. Tax Stud. 6 (2020), Journal Articles & Opinion Pieces IBFD, [https://research-ibfd-org.ezproxy.uct.ac.za/#/doc?url=/document/itaxs\\_2020\\_06\\_o2\\_1](https://research-ibfd-org.ezproxy.uct.ac.za/#/doc?url=/document/itaxs_2020_06_o2_1)

<sup>99</sup> OECD (2020), *Tax Challenges Arising from Digitalisation – Report on Pillar One Blueprint: Inclusive Framework on BEPS*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, <https://doi.org/10.1787/beba0634-en>

<sup>100</sup> OECD (2020), *Tax Challenges Arising from Digitalisation – Report on Pillar One Blueprint: Inclusive Framework on BEPS*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, <https://doi.org/10.1787/beba0634-en> at pg.221

**Table 4**

Revenue from market jurisdictions	Revenue (S)	Allocation key (S/R)	Amount A (M)
State S1     Subsidiary	\$150	30%	\$9
State S2     Target Market	\$350	70%	\$21
<b>Total</b>	<b>\$500</b>	<b>100%</b>	<b>\$30</b>

**Amount A** is allocated based on a proportion of profits of each MNE according to its sales in each of the jurisdictions as illustrated in the above **Table 4**. Amount A also allows for a larger portion (80%) of the residual profits to be allocated to its home country in contrast to the market jurisdiction. **Amount B's** set of rules have not been fully developed; therefore, it's not calculated.

As illustrated in table 2 and 3, there is a common element in that the options seek to increase and create new taxing rights in the market country through application of Amount A, which did not previously exist. This translates to more revenue being derived by State S2 and a decline in revenue in State P that was previously State P's exclusive domain.

The Unified Pillar One proposal was considered to be discriminatory by the US against large companies such as Amazon, Google and Facebook<sup>101</sup>. The Trump Administration proposed for a US "safe harbour proposal"<sup>102</sup> which was a concern for some experts<sup>103</sup>.

The Biden Administration instead offered an alternative to the safe harbour proposal, called the "comprehensive scoping proposal"<sup>104</sup> by reaching a compromise for Amount A to apply to all types of MNEs and to scope in the largest and most profitable MNE groups with some sector carve-outs. In return, countries would need to withdraw existing unilateral measures such as DST.

### 2.2.2 Pillar One

The perceptible difference in the IF statement issued on 8<sup>th</sup> October 2021<sup>105</sup> from the Pillar One Blueprint was the scope of Amount A. The industry-based approach was discarded<sup>106</sup> and a qualitative approach was adopted, which is based on gross revenue and profitability of the businesses.

<sup>101</sup> Tax Journal, *US Suggests Safe Harbour Regime for OECD Pillar One Proposal* (11 Dec. 2019), available at <https://www.taxjournal.com/articles/us-suggestssafe-harbour-regime-for-oecd-pillar-one-proposal>

<sup>102</sup> The "safe harbor" proposal would have allowed for the regimes to be elective an option which would have been made available to large digital companies.

<sup>103</sup> R.S. Avi-Yonah, *The International Tax Regime at 100: Reflections on the OECD's BEPS Project*, 75 Bull. Intl. Taxn. 11/12 (2021), available at <https://www.reuters.com/article/us-g20-usa-oecd/u-s-drops-safe-harbor-demand-raising-hopes-for-global-tax-deal-idUSKBN2AQ2E6,US-suggests-safe-harbour-regime-for-OECD-pillar-one-proposal-taxjournal.com>

<sup>104</sup> United States; OECD - Biden Administration Outlines US Position on Pillars 1 and 2 (12 Apr. 2021), News IBFD, [https://research-ibfd.org.ezproxy.uct.ac.za/#/doc?url=/document/tns\\_2021-04-12\\_us\\_3](https://research-ibfd.org.ezproxy.uct.ac.za/#/doc?url=/document/tns_2021-04-12_us_3), United States; OECD - Biden Administration Targets World's 100 Largest Companies in New OECD Proposals (09 Apr. 2021), News IBFD [https://research-ibfd.org.ezproxy.uct.ac.za/#/doc?url=/document/tns\\_2021-04-09\\_us\\_3](https://research-ibfd.org.ezproxy.uct.ac.za/#/doc?url=/document/tns_2021-04-09_us_3)

<sup>105</sup> OECD (2021), *OECD Secretary-General Tax Report to G20 Finance Ministers and Central Bank Governors*, Italy, October 2021, OECD, Paris, [www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf](http://www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf).

<sup>106</sup> Industry-based approach encompassed Automated Digital Services and Consumer Facing Businesses

**Amount A** allows for those countries to tax companies on a portion of the residual profits (non-routine) earned from activities in the jurisdictions with no physical presence. Amount A taxing right for market jurisdiction is as follows<sup>107</sup>:

*Scope*: 25% of the profit that exceeds the deemed normal return of 10% calculated at the group level is allocated using a formulaic method. Amount A will only apply to MNEs with a global turnover more than €20billion and a pre-tax profit more than 10%<sup>108</sup>.

Draft model rules with respect to *nexus* and *revenue sourcing* under Pillar One have been developed and released for public consultation<sup>109</sup>.

- (i) *Nexus*: The nexus rule is applied to determine whether a jurisdiction qualifies for profit allocation under Amount A. The threshold for:
  - smaller jurisdictions with GDP < €40bn will be €250 000<sup>110</sup>
  - jurisdictions with GDP = > €40bn will be €1m<sup>111</sup>
- (ii) *Revenue sourcing*: Amount A is allocated based on a *formulary apportionment* method and revenue will be sourced to the end market jurisdictions<sup>112</sup>. Policy makers have decided that revenue sourcing must be sourced on a *transaction by transaction* basis, meaning that for each item that generates revenue, the Covered Group<sup>113</sup> must determine where the revenue is sourced according to the category earned for each transaction type<sup>114</sup>. A source of revenue is determined based on a reliable method defined as, (i) a reliable indicator, or (ii) an

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<sup>107</sup> Chapter 1, section 1.4 of this thesis provides a comparative table of the Pillar One Amount A scope, Profit allocation(quantum) and industry carve-outs to the ATAF proposal and July 2021 IF statement. OECD (2021), OECD Secretary-General Tax Report to G20 Finance Ministers and Central Bank Governors, Italy, October 2021, OECD, Paris, [www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf](http://www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf), at pg. 10.

<sup>108</sup> Financial Services and Extractive industries are excluded

<sup>109</sup> Public Consultation Document, Pillar One – Amount A Draft Model Rules for Nexus and Revenue sourcing, 4 February – 18 February 2022, [Tax challenges of digitalisation: OECD invites public input on the draft rules for tax base determinations under Amount A of Pillar One - OECD](https://www.oecd.org/tax/challenges-of-digitalisation-oecd-invites-public-input-on-the-draft-rules-for-tax-base-determinations-under-amount-a-of-pillar-one/), The rules are for public comment and does not represent a consensus view.

<sup>110</sup> OECD Secretary-General Tax Report to G20 Finance Ministers and Central Bank Governors, Italy, October 2021, OECD, Paris, [www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf](http://www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf), at pg. 10. Public Consultation Document, Pillar One – Amount A Draft Model Rules for Nexus and Revenue sourcing, 4 February – 18 February 2022, [Tax challenges of digitalisation: OECD invites public input on the draft rules for tax base determinations under Amount A of Pillar One - OECD](https://www.oecd.org/tax/challenges-of-digitalisation-oecd-invites-public-input-on-the-draft-rules-for-tax-base-determinations-under-amount-a-of-pillar-one/)

<sup>111</sup> Ibid

<sup>112</sup> “*Market jurisdictions*” is defined as where goods or services are supplied or consumed. OECD (2021), OECD Secretary-General Tax Report to G20 Finance Ministers and Central Bank Governors, Italy, October 2021, OECD, Paris, [www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf](http://www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf). Public Consultation Document, Pillar One – Amount A Draft Model Rules for Nexus and Revenue sourcing, 4 February – 18 February 2022, [Tax challenges of digitalisation: OECD invites public input on the draft rules for tax base determinations under Amount A of Pillar One - OECD](https://www.oecd.org/tax/challenges-of-digitalisation-oecd-invites-public-input-on-the-draft-rules-for-tax-base-determinations-under-amount-a-of-pillar-one/), Pg.2

<sup>113</sup> “*Covered Group*” is defined as new taxing rights introduced over a portion of the profit of a large and highly profitable enterprises. Public Consultation Document, Pillar One – Amount A Draft Model Rules for Nexus and Revenue sourcing, 4 February – 18 February 2022, [Tax challenges of digitalisation: OECD invites public input on the draft rules for tax base determinations under Amount A of Pillar One - OECD](https://www.oecd.org/tax/challenges-of-digitalisation-oecd-invites-public-input-on-the-draft-rules-for-tax-base-determinations-under-amount-a-of-pillar-one/), Pg.2

<sup>114</sup> Public Consultation Document, Pillar One – Amount A Draft Model Rules for Nexus and Revenue sourcing, 4 February – 18 February 2022, [Tax challenges of digitalisation: OECD invites public input on the draft rules for tax base determinations under Amount A of Pillar One - OECD](https://www.oecd.org/tax/challenges-of-digitalisation-oecd-invites-public-input-on-the-draft-rules-for-tax-base-determinations-under-amount-a-of-pillar-one/), Pg. 5, commentary 5. The draft rules provide guidance on the seven specific types of transactions.

allocation key<sup>115</sup>, which provides companies with a ‘proxy’ which is used if the location of final customer cannot be identified on condition that all revenue is sourced<sup>116</sup>.

**Amount B** is a setting of a fixed return that is intended to be simplified and streamlined and is understood to be beneficial to developing countries aligned with the dispute and resolution mechanism to ensure tax certainty<sup>117</sup>.

## 2.3 UNILATERAL MEASURES

DST are gross revenue taxes with a tax base<sup>118</sup> that includes revenues derived from specific elements of digital goods or services or are based on the number of digital users within a country. The DST have been enacted on a unilateral basis with variable rates ranging from 1 – 15%<sup>119</sup> in the respective jurisdictions and these measures have mostly applied a gross-based WHT to tax digital related transactions. The business strategies of MNEs are to expand into global markets for profit making, however MNEs often generate losses which prevent the levying of taxes on profits but not on turnover. Turnover taxes are therefore regarded as a valuable potential source of revenue collection<sup>120</sup>.

DSTs may have a number of benefits such as robustness to profit shifting, incentive compatibility, and the immobility of users, which allows for the DST not to distort the location of business decisions, however it creates economic distortions that arises from a tax on revenue<sup>121</sup>.

Whilst the merits and de-merits of DSTs’ have been discussed, it has been claimed that DSTs are not based on a sound policy rationale as “users” *per se* do not create value and conflicts with the ability-to-pay principle as the taxes are applied on gross revenues and conflicts with the principle of *neutrality* as it applies to only selected digital businesses<sup>122</sup>.

The MLC will require that all DSTs and other relevant measures must not be introduced in the future with an emphasis that *no newly DST or other similar measures* will be imposed<sup>123</sup>.

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<sup>115</sup> The allocation key available for use is (1) Regional allocation key, Low income allocation key and Global allocation key, <sup>115</sup> Public Consultation Document, Pillar One – Amount A Draft Model Rules for Nexus and Revenue sourcing, 4 February – 18 February 2022, [Tax challenges of digitalisation: OECD invites public input on the draft rules for tax base determinations under Amount A of Pillar One - OECD](#), Pg.14 Par5(a) and (b) and Pg.15, commentary 19,

<sup>116</sup> Ibid, Pg.9 and 10

<sup>117</sup> Ibid, Pg. 12

<sup>118</sup> The tax base is the total amount of income, property, assets, consumption, transactions, or other economic activity subject to taxation by a tax authority. A narrow tax base is non-neutral and inefficient. A broad tax base reduces tax administration costs and allows more revenue to be raised at lower rates.

<sup>119</sup> Taxation of the digitalised economy , updated: 3 February 2022, available at <https://tax.kpmg.us/content/dam/tax/en/pdfs/2022/digitalized-economy-taxation-developments-summary.pdf>

<sup>120</sup> P. Pistone, Chapter 30: Digital Services Taxes and Tax Treaties in Thinker, Teacher, Traveler: Reimagining International Tax Essays in Honor of H. David Rosenbloom (G.W. Kofler, R. Mason & A. Rust eds., IBFD 2021).

<sup>121</sup> John Vella, available on [The UK's Digital Services Tax | Oxford University Centre for Business Taxation](#)

<sup>122</sup> V. Chand, A. Turina & L. Ballivet, Profit Allocation within MNEs in Light of the Ongoing Digital Debate on Pillar I – A “2020 Compromise”? From Using A Facts and Circumstances Analysis or Allocation Keys to Predetermined Allocation Approaches, 12 World Tax J. (2020), Journal Articles & Opinion Pieces IBFD, available on [https://research-ibfd-org.ezproxy.uct.ac.za/#/doc?url=/document/wtj\\_2020\\_03\\_int\\_1](https://research-ibfd-org.ezproxy.uct.ac.za/#/doc?url=/document/wtj_2020_03_int_1)

<sup>123</sup> OECD (2021), OECD Secretary-General Tax Report to G20 Finance Ministers and Central Bank Governors, Italy, October 2021, OECD, Paris, [www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf](http://www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf), at pg.12, A detail of what constitutes other relevant measures will be finalised as part of the adoption of the MLC and its explanatory statement

## 2.4 BILATERAL AND MULTILATERAL CONVENTIONS

Tax treaties will still be enforced to govern cross border taxation outside of Amount A, however both domestic law and the treaties will need to be amended to implement Amount A. Amount B is currently being developed and advanced to be completed by end of 2022<sup>124</sup>.

By reference to the OECD Model<sup>125</sup>, the following key articles may be impacted as a result of Amount A:

- (i) **Article 5** provides that a PE is created where there is a fixed place of business and/or a dependent agent acts on behalf of the enterprise. The source state may only tax if the threshold is met, or otherwise the resident state has the exclusive right to tax. **Article 7** provides for taxation of business profits. **Amount A** does not require the existence of a physical PE for granting taxing rights in the source state and revenues will be sourced from the market jurisdictions where goods and or services are consumed. The sourcing rules will therefore require an amendment to consider the application of Amount A.
- (ii) **Article 9** provides for the application of ALP between associated enterprises. Amount A is applied based on a formulaic approach which differs to the current traditional ALP.
- (iii) **Article 25** provides certainty to Amount A through an effective and prevention resolution mechanism, article 25 may require an amendment<sup>126</sup>.

MLC is said to be a more effective mechanism for implementation compared to amending the bilateral treaties, which would remove treaty obstacles and aims to achieve uniformity of international tax rules<sup>127</sup>.

## 2.5 CONCLUSION

This chapter starts by examining and understanding the evolution of Pillar One and the solutions proposed in the context of its IF and, international tax rules, and outlines the effectiveness and challenges of the solution. In summary the aim of the Pillar One solution is to ensure that MNEs pay a fair share of tax in the countries in which it operates to significantly improve tax certainty and to balance the IF objectives that will result in the removal of the unilateral measures.

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<sup>124</sup> OECD (2021), OECD Secretary-General Tax Report to G20 Finance Ministers and Central Bank Governors, Italy, October 2021, OECD, Paris, [www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf](http://www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf)

<sup>125</sup> OECD (2019), *Model Tax Convention on Income and on Capital 2017 (Full Version)*, OECD Publishing. <http://dx.doi.org/10.1787/g2g972ee-en>

<sup>126</sup> OECD (2021), OECD Secretary-General Tax Report to G20 Finance Ministers and Central Bank Governors, Italy, October 2021, OECD, Paris, [www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf](http://www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf), at Pg. 11.

<sup>127</sup> OECD (2021), OECD Secretary-General Tax Report to G20 Finance Ministers and Central Bank Governors, Italy, October 2021, OECD, Paris, [www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf](http://www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf). MLC will be developed for *all jurisdictions that join, regardless of an existence of treaties*.

The following chapters will evaluate and form a view on the UK position for endorsing Pillar One in contrast to its legislated DST and will further analyse if there is benefit for Africa to adopt the ATAF DST proposal as opposed to Pillar One.

### 3. CHAPTER THREE: UNITED KINGDOM AND RESPONSE TO THE PILLAR ONE SOLUTION

#### 3.1 INTRODUCTION

The UK government introduced unilateral measures with an aim to reduce tax avoidance by MNEs and to capture profits earned by MNEs that reflect value contributed by users of digital platforms<sup>128</sup>.

The DPT was introduced in 2015 and is charged to UK residents and non-UK residents, which includes companies with no PE in the UK at a rate of 25%, which is above the current CIT rate of 19%. The CIT rate is expected to increase to 25% in April 2023 for larger companies. In broad terms, the UK tax targets MNEs that artificially avoid establishing a PE in the UK or where transfer prices are artificially manipulated to reduce tax payments<sup>129</sup>.

The UK DST was introduced in the Finance Bill, becoming effective in April 2020 with DST being applied to revenue earned from 1 April 2020<sup>130</sup>. It is a tax that is levied at 2% on gross revenues<sup>131</sup> of large MNEs targeting three sectors: (i) social media platforms, (ii) internet search engines, and (iii) online marketplaces from UK users<sup>132</sup>. DST is a tax that is unlike tax on profits with no deduction on costs being allowed that applies to specific digital services. Therefore, the economic and fiscal impact of these taxes are different.

The main policy objective of the UK government for introducing the DST was in view of the misalignment of applying the corporate tax rules to businesses operating in the digital economy between the place where the profit is taxed and the place where value is created<sup>133</sup>. The UK DST was designed to derive significant value from the participation of their users with government announcing that there is an expectation to raise £1.5 billion over the four years from the effective date of April 2020.<sup>134</sup>

DST was introduced as an interim measure to mitigate the risks exposed by the digital economy that is presented by the international corporate tax framework. The economic impact at the time when the policy was announced by the HM Revenue & Customs official (HMRC) indicated that it was not expected to have a significant macroeconomic impact on the UK tax revenue stream. The UK introduced the DST as a measure to mitigate the loss in revenue, however the UK concurs that a new

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<sup>128</sup> HM Treasury, Budget 2018, Digital Services Tax, [DST\\_web.pdf \(publishing.service.gov.uk\)](#)

<sup>129</sup> A UK user has the meaning of a person that is normally located in the UK in the case of an individual or established in the UK, available on HM Revenue & Customs, *Overview of Revenues*, DIGITAL SERVICES TAX MANUAL, DST21000 (Aug. 5, 2020),

<sup>130</sup> The U.K. Finance Bill 2020 which includes *the digital tax measure is at the committee stage in the House of Commons as of April 2020*. See UK Parliament, "Finance Bill 2019-21," accessed Apr. 29, 2020, available on <https://services.parliament.uk/Bills/2019-21/finance.html>.

<sup>131</sup> UK Finance Act, 2020, Section 4793) and 48(4)

<sup>132</sup> A UK user has the meaning of a person that is normally located in the UK in the case of an individual or established in the UK, available on HM Revenue & Customs, *Overview of Revenues*, DIGITAL SERVICES TAX MANUAL, DST21000 (Aug. 5, 2020), <https://www.gov.uk/hmrc-internal-manuals/digital-services-tax/dst21000>

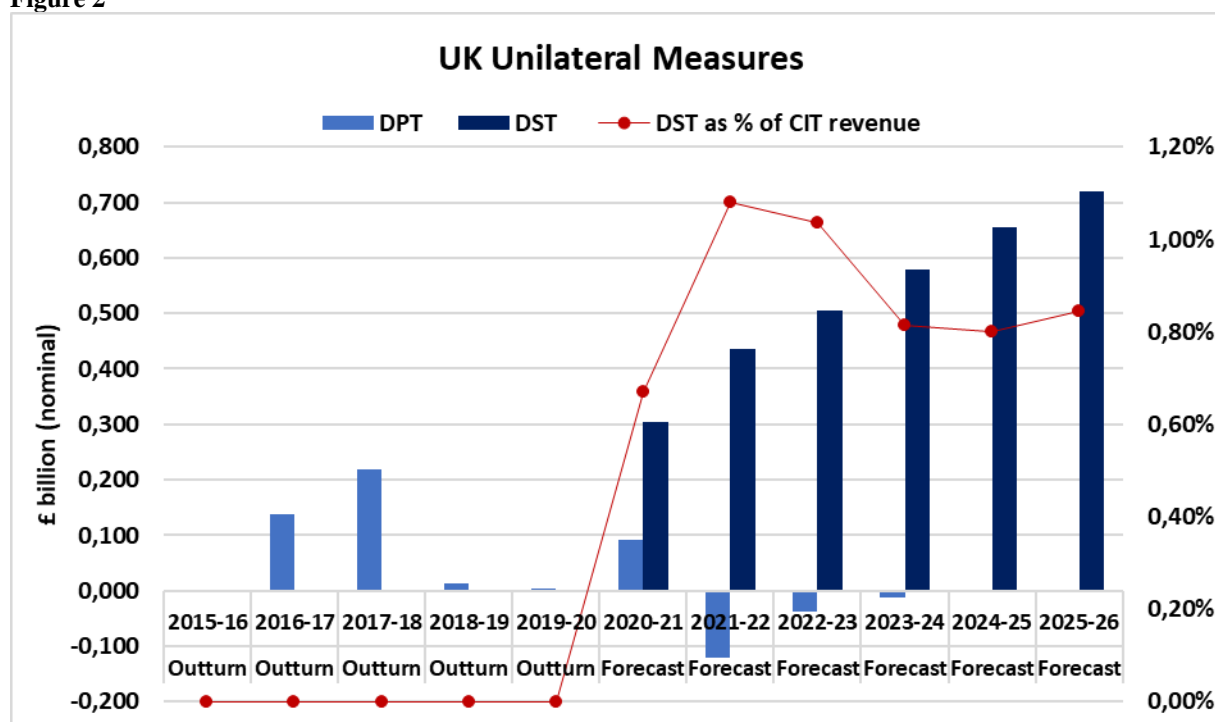
<sup>133</sup> Policy paper, Introduction of the new Digital Services Tax, Published on 11 July 2019, available at

<https://www.gov.uk/government/publications/introduction-of-the-new-digital-services-tax/introduction-of-the-new-digital-services-tax>

<sup>134</sup> Ibid

global agreement is the foremost long-term solution and committed to disapplying the DST once an appropriate long-term solution is in place<sup>135</sup>.

**Figure 2**



Source: <https://ifs.org.uk/taxlab/>

**Figure 2** above<sup>136</sup> illustrates the actual and projected tax revenue for DPT and DST. The DPT was successful in 2016/17 raising £0.138bn and £0.219bn in 2017/18, however in subsequent years, the UK has raised insignificant revenue. This may indicate that the reduction in tax avoidance by MNEs may have been effective.

DST of + £0.005bn (2019/2020) was estimated at the time of legislating DST, however no DST revenue was earned by the UK during this period.<sup>137</sup> The UK projected to raise £0.305bn in DST revenue in 2020/21<sup>138</sup> against a budget estimate of +£0.275bn, 2021/22 forecast is £0.435bn against a budget estimate of +£0.370bn, 2022/23 forecast is £0.505bn against a budget of +£0.400bn, and 2023/24 forecast is £0.505bn against a budget estimate of +£0.440bn<sup>139</sup>.

By reference to the data extracted, HMRC projected an increase of 43% in DST revenue from 2020/21 to 2021/22, however, it maintains an average increase of 13% in DST revenue from years 2022– 2026. The forecast represents that HMRC is expecting to raise £3.2bn over the 6 year period.

<sup>135</sup> HM Revenue & Customs, [Introduction of the new Digital Services Tax - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/introduction-of-the-new-digital-services-tax)

<sup>136</sup> Source extracted from [IFS revenue composition spreadsheet | IFS Taxlab](https://ifs.org.uk/taxlab/), HM Revenue & Customs, “Introduction of the New Digital Services Tax,” July 11, 2019, source extracted from <https://www.gov.uk/government/publications/introduction-of-the-new-digital-services-tax/introduction-of-the-new-digital-services-tax>, accessed 14<sup>th</sup> December 2021.

<sup>137</sup> As per data extracted from source: <https://ifs.org.uk/taxlab/>, accessed 14<sup>th</sup> December 2021

<sup>138</sup> The data for actual DST received by the HMRC could not be extracted.

<sup>139</sup> As per data extracted from source <https://ifs.org.uk/taxlab/>, accessed 14<sup>th</sup> December 2021

The ratio of DST revenue to CIT revenue is a moderate average of approximately  $\pm 1\%$  of DST since it's been enacted<sup>140</sup>.

Section 3.2 will evaluate and compare the key features of Pillar One to the current UK DST and will address the subsidiary question of this research.

## 3.2 COMPARATIVE APPROACH OF PILLAR ONE TO THE UK DST

### 3.2.1 Key features of Pillar One and UK DST

This section illustrates the key features of Pillar One and the UK DST on a comparative basis; it highlights the effects and implications of the different features, the design of the options, and the modalities applied.

#### (i) Scope

**Pillar one** applies to *all types* of MNEs with revenue derived from the largest and most profitable MNEs *regardless of the industry classification or business models*<sup>141</sup>. Non-digital MNEs such as Johnson & Johnson have argued that non-digital businesses that have adopted business models with a physical presence in major market countries, should not be required to comply to this new rule as there is no reason for the company to be subject to Pillar One in view of the misalignment between value creation and taxation, which is not applicable to an industry such as a health care<sup>142</sup>.

**UK DST** legislation, however, prescribes the types of business activities that applies to *large digital platform* MNEs, with revenue derived from specific in-scope business activities targeting the three sectors: (i) social media platforms, (ii) internet search engines, and (iii) online marketplaces from UK users<sup>143</sup>. It is said that the provisions for determining the UK digital services revenue presents a number of practical problems for implementation by group companies in instances where digital service is provided to UK users and non-UK users, which imposes difficulties in separating the revenues that are linked to UK users<sup>144</sup>. The

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<sup>140</sup> Source extracted from [IFS revenue composition spreadsheet | IFS Taxlab](#), HM Revenue & Customs, "Introduction of the New Digital Services Tax," July 11, 2019, <https://www.gov.uk/government/publications/introduction-of-the-new-digital-services-tax/introduction-of-the-new-digital-services-tax>. Refer to appendix 4 of this document.

<sup>141</sup> Financial Services and Extractive industries are carved out of the scope, OECD Secretary-General Tax Report to G20 Finance Ministers and Central Bank Governors, Italy, October 2021, OECD, Paris, [www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf](http://www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf), at pg. 10.

<sup>142</sup> R.S. Avi-Yonah, The International Tax Regime at 100: Reflections on the OECD's BEPS Project, 75 Bull. Intl. Taxn. 11/12 (2021), Journal Articles & Opinion Pieces IBFD, Available on [https://research-ibfd-org.ezproxy.uct.ac.za/#/doc?url=/document/bit\\_2021\\_11\\_o2\\_3](https://research-ibfd-org.ezproxy.uct.ac.za/#/doc?url=/document/bit_2021_11_o2_3)

<sup>143</sup> HM Revenue & Customs, [Introduction of the new Digital Services Tax - GOV.UK \(www.gov.uk\)](#), UK Finance Act 2020 Sections 41(4) – (6) and (11) and section 42(4)(c), section 41(7) and (11) and section 41(8)

<sup>144</sup> B.R. Obuoforibo, A Critical Examination of the Proposed UK Digital Services Tax, 59 Eur. Taxn. 11 (2019), Journal Articles & Opinion Pieces IBFD, Available at [https://research-ibfd-org.ezproxy.uct.ac.za/#/doc?url=/document/et\\_2019\\_11\\_uk\\_1](https://research-ibfd-org.ezproxy.uct.ac.za/#/doc?url=/document/et_2019_11_uk_1)

legislation provides guidance on how such revenues are to be apportioned on a “*just and reasonable*” basis which creates a risk of uncertainty<sup>145</sup>.

(ii) Threshold and Nexus

**Pillar One** applies to in-scope global revenue above €20bn and profitability above 10%. Based on this threshold, only a small number of the largest companies will be affected, most likely less than 100 companies<sup>146</sup>. Amount A will be allocated to a market jurisdiction when an in-scope MNE obtains more than €1m in revenue from that jurisdiction<sup>147</sup>.

**UK DST** is targeted at large businesses that generate revenue within a 12-month period<sup>148</sup>:

- more than £500m in global annual revenue from digital services activities
- £25m of these revenues are attributable to UK users

The first £25m of relevant UK revenues are not taxable<sup>149</sup>. It has been claimed that the main policy reason for the above thresholds is that the DST is intended to target the largest digital businesses, mainly US global companies causing trade war tensions between the UK and US<sup>150</sup>.

(iii) Revenue sourcing

**Pillar One** applies to MNEs goods or services that are used or consumed i.e., where customers and users are located<sup>151</sup>. The residual profit is either allocated to the market or user jurisdiction, meaning that it applies to direct and indirect purchasers or users<sup>152</sup>. The blue print<sup>153</sup> sets out some detail of the different revenue sourcing rules, which are mainly focused on ADS and CFB. Pillar One has extended the scope to all industries and businesses<sup>154</sup>. Policy makers have decided that revenue sourcing must be sourced on a *transaction-by-transaction*

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<sup>145</sup> B.R. Obuoforibo, A Critical Examination of the Proposed UK Digital Services Tax, 59 Eur. Taxn. 11 (2019), Journal Articles & Opinion Pieces IBFD, Available at [https://research-ibfd-org.ezproxy.uct.ac.za/#/doc?url=/document/et\\_2019\\_11\\_uk\\_1](https://research-ibfd-org.ezproxy.uct.ac.za/#/doc?url=/document/et_2019_11_uk_1)

<sup>146</sup> Michael Devereux, Martin Simmler: "Who Will Pay Amount A?", *EconPol Policy Brief 36, July 2021, Vol.5, Who Will Pay Amount A? | Publication | Econpol Europe*, Pg.4

<sup>147</sup> OECD (2021), OECD Secretary-General Tax Report to G20 Finance Ministers and Central Bank Governors, Italy, October 2021, OECD, Paris, [www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf](http://www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf), at Pg. 11, Tax certainty

<sup>148</sup> HMRC Internal Manual, Digital Services Tax Manual, Available on [DST01200 - Digital Services Tax Manual - HMRC internal manual - GOV.UK \(www.gov.uk\)](http://DST01200 - Digital Services Tax Manual - HMRC internal manual - GOV.UK (www.gov.uk)), UK Finance Act, 2020, Section 46(1)

<sup>149</sup> Ibid, UK Finance Act, 2020, Section 47(3)

<sup>150</sup> The outcome of the investigation of section 303 of the Trade Act indicated that UK DST is unreasonable and discriminatory against US digital companies and burdens or restricts US commerce. Available on [UKDSTSection301Report.pdf \(ustr.gov\), FRNUK.pdf \(ustr.gov\), USTR Announces, and Immediately Suspends, Tariffs in Section 301 Digital Services Taxes Investigations | United States Trade Representative](http://UKDSTSection301Report.pdf (ustr.gov), FRNUK.pdf (ustr.gov), USTR Announces, and Immediately Suspends, Tariffs in Section 301 Digital Services Taxes Investigations | United States Trade Representative)

<sup>151</sup> OECD (2020), *Tax Challenges Arising from Digitalisation – Report on Pillar One Blueprint: Inclusive Framework on BEPS*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, <https://doi.org/10.1787/beba0634-en> at pages 11-13

<sup>152</sup> Ibid

<sup>153</sup> Ibid

<sup>154</sup> Extractive industries and regulated financial services are carved-out, OECD (2021), OECD Secretary-General Tax Report to G20 Finance Ministers and Central Bank Governors, Italy, October 2021, OECD, Paris, [www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf](http://www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf).

basis<sup>155</sup>, meaning that for each item that generates revenue, the Covered Group<sup>156</sup> must determine where the revenue is sourced<sup>157</sup>. To identify a market jurisdiction, a reliable indicator is applied to fulfil the requirements of the sourcing rule with respect to the transaction with a reliability test being carried out by the Covered Group<sup>158</sup>. An Allocation Key, which is a more simplified method, may only be applied as a ‘proxy’ and by using macroeconomic data in proportion to the percentage of the share of consumption expenditure<sup>159</sup> for the respective region to allocate its profits to the market<sup>160</sup>. Bunn states that a country like the US represents 28% of global consumption expenditure and may benefit the US, however Amount A is aimed at cross border transactions mainly focused on imports and exports<sup>161</sup>. The US world imports is at 13%, which is much lower than the consumption expenditure<sup>162</sup>.

**UK DST** is levied on the portion of UK revenue that relates to the participation of UK users<sup>163</sup>. The UK user would need to be located within the UK when transacting with a certain business held responsible for DST<sup>164</sup>. The methods applied in determining the UK user on a ‘just and reasonable basis’ provides further uncertainty as there may be difficulty in determining the actual location of the user<sup>165</sup>. This method only applies to direct users, in contrast to Pillar One.

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<sup>155</sup> A “transaction” is the item that generates income, it does not mean the invoice. Public Consultation Document, Pillar One – Amount A Draft Model Rules for Nexus and Revenue sourcing, 4 February – 18 February 2022, [Tax challenges of digitalisation: OECD invites public input on the draft rules for tax base determinations under Amount A of Pillar One - OECD](#), Pg.5, commentary 3

<sup>156</sup> “Covered Group” is defined as new taxing rights introduced over a portion of the profit of a large and highly profitable enterprises. Public Consultation Document, Pillar One – Amount A Draft Model Rules for Nexus and Revenue sourcing, 4 February – 18 February 2022, [Tax challenges of digitalisation: OECD invites public input on the draft rules for tax base determinations under Amount A of Pillar One - OECD](#), Pg.2.

<sup>157</sup> Public Consultation Document, Pillar One – Amount A Draft Model Rules for Nexus and Revenue sourcing, 4 February – 18 February 2022, [Tax challenges of digitalisation: OECD invites public input on the draft rules for tax base determinations under Amount A of Pillar One - OECD](#), Pg. 3.

<sup>158</sup> Public Consultation Document, Pillar One – Amount A Draft Model Rules for Nexus and Revenue sourcing, 4 February – 18 February 2022, [Tax challenges of digitalisation: OECD invites public input on the draft rules for tax base determinations under Amount A of Pillar One - OECD](#), Pg. 6.

<sup>159</sup> Ibid, At Pg. 14, Par.5(a), As published by the United Nations Conference on Trade and Development

<sup>160</sup> Public Consultation Document, Pillar One – Amount A Draft Model Rules for Nexus and Revenue sourcing, 4 February – 18 February 2022, [Tax challenges of digitalisation: OECD invites public input on the draft rules for tax base determinations under Amount A of Pillar One - OECD](#), Pg. 11, Par 6 and 14, Par. 5(a) and (b)

<sup>161</sup> D. Bunn, Rushing headlong into Formulary Apportionment, February 28, 2022, Tax Foundation, [Formulary Apportionment and the OECD Tax Deal | Tax Foundation](#)

<sup>162</sup> Ibid

<sup>163</sup> HMRC Internal Manual, Digital Services Tax Manual, Available on [DST01200 - Digital Services Tax Manual - HMRC internal manual - GOV.UK \(www.gov.uk\)](#), UK Finance Act 2020, Section 44(3)

<sup>164</sup> Ibid

<sup>165</sup> B.R. Obuoforibo, A Critical Examination of the Proposed UK Digital Services Tax, 59 Eur. Taxn. 11 (2019), Journal Articles & Opinion Pieces IBFD, Available at [https://research-ibfd-org.ezproxy.uct.ac.za/#/doc?url=/document/et\\_2019\\_11\\_uk\\_1](https://research-ibfd-org.ezproxy.uct.ac.za/#/doc?url=/document/et_2019_11_uk_1)

(iv) Base Tax in market

**Pillar One** applies to MNEs with taxing rights of 25% of residual profit being allocated to the market jurisdiction using a revenue-based formula<sup>166</sup>. A profit margin percentage less than 10% would yield a negative residual profit with no amount A allocation to the market<sup>167</sup>.

**UK DST** is based on gross revenue attributable to UK users.<sup>168</sup> The low tax rate of 2% may translate to high tax burden, which may disproportionately harm businesses with low profit margins or loss-making businesses.<sup>169</sup> The tax policy includes a ‘safe harbour’<sup>170</sup> provision which allows businesses with a low profit margin to make an election for an alternative calculation of DST liability<sup>171</sup>.

The following is an illustrative example depicted in small numbers for base tax computation with an assumption that there is only one market jurisdiction and revenue is attributable to digital sales.

**Simplified Income Statement**

	<b>Option 1</b>	<b>Option 2</b>
Revenue	£125m	£200m
Cost	£123m	£150m
Profit	£2m	£50m
Profit Margin	1.6%	25%

(a) Pillar One revenue sourced from a market jurisdiction:

**Option 1 low margin business:** Residual profit yields a negative £10.5m [ $£2m - (10\% \times £125m)$ ] therefore no allocable tax base to market jurisdiction. The draft model rules states that the tax base determination is also subject to loss carry forward rules however the practical applications are still to be elaborated<sup>172</sup>.

**Option 2 high margin business:** Residual Profit is £30m [ $£50m - (10\% \times £200)$ ]. The residual profit allocated to market jurisdiction is £7.5m [ $25\% \times £30m$ ] with a CIT liability of £1.4m @ 19%.

<sup>166</sup> The October 2021 statement prescribes that this commitment will be reviewed seven years after the agreement comes into force, OECD (2021), OECD Secretary-General Tax Report to G20 Finance Ministers and Central Bank Governors, Italy, October 2021, OECD, Paris, [www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf](http://www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf)

<sup>166</sup> OECD (2021), OECD Secretary-General Tax Report to G20 Finance Ministers and Central Bank Governors, Italy, October 2021, OECD, Paris, [www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf](http://www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf)

<sup>167</sup> OECD (2020), *Tax Challenges Arising from Digitalisation – Report on Pillar One Blueprint: Inclusive Framework on BEPS*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, <https://doi.org/10.1787/beba0634-en> at page 223, section 858.

<sup>168</sup> HMRC Internal Manual, Digital Services Tax Manual, Available on [DST31000 - Meaning of a User - HMRC internal manual - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/dst31000-meaning-of-a-user)

<sup>169</sup> Clougherty, Bunn, Asen and Heywood, “A Framework for the Future: Reforming the UK Tax System” [UK Tax Reform: A Framework for the Future | UK Tax System \(taxfoundation.org\)](https://www.taxfoundation.org/uk-tax-reform-a-framework-for-the-future/)

<sup>170</sup> HMRC Internal Manual, Digital Services Tax Manual, Available on [DST43410 - Digital Services Tax Manual - HMRC internal manual - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/dst43410-digital-services-tax-manual)

<sup>171</sup> Ibid

<sup>172</sup> OECD (2021), OECD Secretary-General Tax Report to G20 Finance Ministers and Central Bank Governors, Italy, October 2021, OECD, Paris, [www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf](http://www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf), Public Consultation Document, Pillar One – Amount A Draft Model Rules for Nexus and Revenue sourcing, 4 February – 18 February 2022, [Tax challenges of digitalisation: OECD invites public input on the draft rules for tax base determinations under Amount A of Pillar One - OECD](https://www.oecd.org/tax/digitalisation/oecd-invites-public-input-on-the-draft-rules-for-tax-base-determinations-under-amount-a-of-pillar-one/)

(b) UK DST applied to a low and high margin business

**Option 1 low margin business:** DST tax is £2m calculated at 2% of (£125m-£25m) which implies that business would show 100% profit tax after paying the £2m in revenue tax.<sup>173</sup>

An alternative election calculation of DST is applying the safer harbour parameter:<sup>174</sup>

*Profit margin* × *in-scope revenue (less allowance)* × 0.8 (*safe harbour parameter*)<sup>175</sup>.

DST would equate to £1.28m [(£125m – £25m) × (1.6% × 0.8)]. A net profit of £0.720m is derived after applying the alternative calculation in contrast to a nil profit after applying DST @ 2%. In contrast to Pillar One, the business is paying £0.720m in additional tax under the DST policy.

**Option 2 high margin business:** DST is £3.5m [2% × (£200m - £25m)] which corresponds to a 7% profit tax. In comparison to Pillar One, the business pays £2.1m in additional tax under a DST policy.

The tax base for DST is applied on gross revenue in contrast to Pillar One, which is based on a formulary apportionment method.<sup>176</sup> The determination of tax base is easier if based on gross revenue as there is no need to take into account costs.<sup>177</sup> Pillar One is based on a different approach by using Consolidated Financial Statement of the group to allocate Amount A to different market countries.<sup>178</sup> It is suggested that this method allows for the specific MNE to be identified by a single tax authority, which, in principle, should allow all relevant market countries to place reliance on the assessments made by that specific tax authority<sup>179</sup>. Notwithstanding a different approach being applied for Pillar One, the draft sourcing and nexus rules is creating uncertainties for MNEs<sup>180</sup>.

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<sup>173</sup> Calculated at £2m tax revenue/£2m Profit equating to 100% profit tax

<sup>174</sup> HMRC Internal Manual, Digital Services Tax Manual, Available on [DST43410 - Digital Services Tax Manual - HMRC internal manual - GOV.UK \(www.gov.uk\)](#)

<sup>175</sup> *ibid*

<sup>176</sup> HMRC Internal Manual, Digital Services Tax Manual, Available on [DST21000 - Overview of Revenues - HMRC internal manual - GOV.UK \(www.gov.uk\)](#), OECD (2021), OECD Secretary-General Tax Report to G20 Finance Ministers and Central Bank Governors, Italy, October 2021, OECD, Paris, [www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf](http://www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf)

<sup>177</sup> R.S. Collier, M.P. Devereux & J. Vella, Comparing Proposals to Tax Some Profit in the Market Country, 13 World Tax J. 3 (2021), Journal Articles & Opinion Pieces IBFD, Available on [https://research-ibfd.org.ezproxy.uct.ac.za/#/doc?url=/document/wtj\\_2021\\_03\\_int\\_2](https://research-ibfd.org.ezproxy.uct.ac.za/#/doc?url=/document/wtj_2021_03_int_2)

<sup>178</sup> *ibid*

<sup>179</sup> *Ibid*

<sup>180</sup> [Amazon, Siemens Slam Global Tax Pact's Sales Allocation Rules \(bloomberglaw.com\)](#), Public Consultation Document, Pillar One – Amount A Draft Model Rules for Nexus and Revenue sourcing, 4 February – 18 February 2022, [Tax challenges of digitalisation: OECD invites public input on the draft rules for tax base determinations under Amount A of Pillar One - OECD](#)

(v) Elimination of double taxation

**Pillar One** taxation on residual profit allocation to market jurisdiction will be relieved by either the exemption or credit method through the multilateral framework for all jurisdictions.<sup>181</sup> The entity that incurs this liability will be relieved from double taxation from the earned residual profit.<sup>182</sup>

**UK DST:** The UK government does not allow DST to be credited against the UK CIT as it considers that a credit would not assist in delivering its policy aims for DST<sup>183</sup>. The government believes that the DST has been set at a level alongside the safe harbour which allows for a proportionate and fair outcome and is not a tax within the scope of the UK's double tax agreement, therefore not subject to credit or exemptions<sup>184</sup>. DST is a deductible expense for corporate tax purposes; however, this is dependent on the nature of the business and would generally apply to a business that is subject to UK corporation tax<sup>185</sup>. DST therefore provides no mechanism to adjust for double taxation that may be deemed to arise when revenues are subject to DST<sup>186</sup>. The UK DST also permits limited cross-border relief by charging only 50% of the revenues from the transaction that involves a non-UK user i.e., if the non-UK user is normally located in a country that operates a similar tax to the DST<sup>187</sup>. Countries such as France, Italy, Malaysia, Spain, and Turkey have taxes that are considered to be similar to the UK DST for the purposes of cross-border relief<sup>188</sup>.

(vi) Administration and Compliance

**Pillar One** is a fundamental shift from the existing administrative and dispute practises with much greater complexity and process requirements<sup>189</sup>. Authors have indicated that due to its complexity and administrative cost, Pillar One can reasonably be extended to a relatively small number of businesses, therefore the need to restrict its scope by sector and or business size<sup>190</sup>.

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<sup>181</sup> OECD (2021), OECD Secretary-General Tax Report to G20 Finance Ministers and Central Bank Governors, Italy, October 2021, OECD, Paris, [www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf](http://www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf)

<sup>182</sup> Ibid

<sup>183</sup> Consultation on the detailed design and implementation of a Digital Services Tax, Section 8, Available at [Digital services tax: consultation - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/digital-services-tax-consultation)

<sup>184</sup> Ibid

<sup>185</sup> Consultation on the detailed design and implementation of a Digital Services Tax, Section 8, Available at [Digital services tax: consultation - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/digital-services-tax-consultation)

<sup>186</sup> Consultation on the detailed design and implementation of a Digital Services Tax, Section 8, Available at [Digital services tax: consultation - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/digital-services-tax-consultation)

<sup>187</sup> HMRC Internal Manual, Digital Services Tax Manual, available at [DST01200 - Overview of DST Liability - HMRC internal manual - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/digital-services-tax-consultation)

<sup>188</sup> HMRC Internal Manual, Digital Services Tax Manual, available at [DST43000 - Claims and Elections - HMRC internal manual - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/digital-services-tax-consultation), UK Finance Act, 2020, section 50(2) and (3)

<sup>189</sup> R.S. Collier, M.P. Devereux & J. Vella, Comparing Proposals to Tax Some Profit in the Market Country, 13 World Tax J. 3 (2021), Journal Articles & Opinion Pieces IBFD, Available on [https://research-ibfd-org.ezproxy.uct.ac.za/#/doc?url=/document/wtj\\_2021\\_03\\_int\\_2](https://research-ibfd-org.ezproxy.uct.ac.za/#/doc?url=/document/wtj_2021_03_int_2)

<sup>190</sup> Ibid

The UK DST liability is calculated at a group level, however the tax is charged on the individual entities in the group that realise the revenue<sup>191</sup>. A single entity in the group will be responsible for reporting the DST to HMRC.<sup>192</sup> Revenue however is counted towards the thresholds even if they are recognised in entities which do not have a UK taxable presence for corporation tax purposes<sup>193</sup>.

### Summary of key features

Table 5 summarises the key features and sets out the strengths and weaknesses of the two proposals. The analysis of the key features demonstrates that Pillar One and the UK DST aims to achieve the same objectives and the common feature is that the two proposals seek to increase taxing rights in the market country, however the design and elements of the proposals are not the same.

**Table 5**

Key Features	UK DST	Pillar One
<b>Scope</b>	Policy is limited to three sectors targeting a small number of large MNEs. <sup>194</sup> The scope limits benefits to economic efficiency, creates distortions in the market and is inflexible. <i>[W]</i>	Scope is wider and extends to all business sectors with the exception of financial services and extractive industries which allows for flexibility. <i>[S]</i>
<b>Threshold and Nexus</b>	<ul style="list-style-type: none"> <li>Higher threshold targets the largest digital businesses, causing trade disputes with the US imposing retaliatory tariffs on goods from the UK. <i>[W]</i></li> <li>DST enforces companies to increase pricing of digital products and services directly or indirectly.<sup>195</sup> <i>[W]</i></li> <li>Smaller digital businesses with a small number of UK customers are required to keep track of their revenue threshold. <i>[W]</i></li> </ul>	<ul style="list-style-type: none"> <li>High revenue threshold may limit the allocation to the market, weakening potential benefit due to lower number of MNEs.</li> <li>The threshold is determined in EUROS which may impact the taxable position of the MNEs on foreign currency translation from a USD base currency. <i>[W]</i></li> </ul>
<b>Revenue sourcing and Nexus</b>	UK DST is levied on the portion of participation of UK users applied on direct users which prevents distortion of location. <i>[S]</i>	<ul style="list-style-type: none"> <li>Direct or indirect users based on a transactional level may become impractical to implement and may increase compliance burden.<sup>196</sup> <i>[W]</i></li> <li>A low nexus threshold of €1m in comparison to the size of the in-scope companies may impose an onerous compliance burden. <i>[W]</i></li> </ul>
<b>Base Tax Market</b>	<ul style="list-style-type: none"> <li>DST is levied at 2% on revenues with no allowable deductions.</li> <li>The UK DST creates more tax burden in contrast to Pillar One for businesses. <i>[W]</i></li> <li>Under International Law, DST is not bound by a treaty and likely not a “tax covered” by most or all UK treaties. Conflicts with principle of neutrality. <i>[W]</i></li> </ul>	Pillar One applies to profit margins above 10%. Businesses with margins equal to and lower than 10% are not subject to Amount A. <i>[S]</i>

<sup>191</sup> Policy Paper, Introduction of the new Digital Services Tax, Available on [Introduction of the new Digital Services Tax - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/papers/policy-papers/introduction-of-the-new-digital-services-tax)

<sup>192</sup> Policy Paper, Introduction of the new Digital Services Tax, Available on [Introduction of the new Digital Services Tax - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/papers/policy-papers/introduction-of-the-new-digital-services-tax)

<sup>193</sup> Ibid

<sup>194</sup> The three sectors are social media platforms, internet search engines and online marketplaces from UK users, [Introduction of the new Digital Services Tax - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/papers/policy-papers/introduction-of-the-new-digital-services-tax)

<sup>195</sup> Daniel Bunn, *Who will Ultimately Pay the Digital Services Tax in the UK?*, TAX FOUNDATION (Aug. 4, 2020), [Who will Pay the UK Digital Services Tax? Amazon Passes Cost Along \(taxfoundation.org\)](https://taxfoundation.org/who-will-pay-the-uk-digital-services-tax-amazon-passes-cost-along/)

<sup>196</sup> [Amazon, Siemens Slam Global Tax Pact's Sales Allocation Rules \(bloomberglaw.com\)](https://www.bloomberglaw.com/news/2022/02/04/amazon-siemens-slam-global-tax-pact-sales-allocation-rules), Public Consultation Document, Pillar One – Amount A Draft Model Rules for Nexus and Revenue sourcing, 4 February – 18 February 2022, [Tax challenges of digitalisation: OECD invites public input on the draft rules for tax base determinations under Amount A of Pillar One - OECD](https://www.oecd.org/tax/digitalisation/2022/02/04/tax-challenges-of-digitalisation-oecd-invites-public-input-on-the-draft-rules-for-tax-base-determinations-under-amount-a-of-pillar-one/)

Key Features	UK DST	Pillar One
<b>Elimination of Double Taxation</b>	<ul style="list-style-type: none"> <li>Conflicting to tax treaty and international trade law leading to tax uncertainty and double taxation. <i>[W]</i></li> </ul>	<ul style="list-style-type: none"> <li>Profit allocated to market jurisdiction will be relieved either by exemption or credit method. <i>[S]</i></li> </ul>
<b>Administration and Complexity</b>	<ul style="list-style-type: none"> <li>The UK DST is calculated at group level however tax is charged at individual entity level i.e., revenue is counted towards the threshold for entities that do not have a taxable presence. <i>[W]</i></li> <li>The nexus for the UK is based on “users” which requires the UK to determine if the recipient was a UK user or not creating opportunity for manipulation and disputes and complicating the tax auditing process. <i>[W]</i></li> </ul>	<ul style="list-style-type: none"> <li>Pillar One consists of a mixture of complexity and simplification. It is extended to small number of businesses restricting its scope and or business size to reduce complexity and administration cost. <i>[S]</i></li> <li>The proposed draft revenue sourcing rules however may not be practical for implementation by most businesses.<sup>197</sup><i>[W]</i></li> </ul>

Key: **S**: Strength **W**: Weakness

The strengths and weaknesses summarised under table 5 are my observations. Section 3.2.2 will further analyse the revenue effects of Pillar One for the UK in contrast to the legislated DST.

### 3.2.2 Revenue effects of Pillar One in contrast to the UK DST

#### (i) Introductory remarks

The exponential increase in the share of individuals who have made purchases online in the UK from 2008 to 2020 has increased to 87% in 2020 from 53% in 2008<sup>198</sup>. The UK internet penetration is currently 95% of its total population<sup>199</sup>. This section will analyse how the statement of Amount A scoping criteria under Pillar One would impact the UK.

#### (ii) Data Set

The analysis for this research relies on the data set extracted from the Forbes 2000 Index which provides a ranking of the top 2 000 publicly listed companies. The sample covers the most recent fiscal year for each company for which the 2020 financial results were available for carrying out this analysis<sup>200</sup>. The analysis relies on publicly available data for estimating the revenue effect of the UK.

<sup>197</sup> Ibid

<sup>198</sup> Source United Kingdom (Great Britain); 2008 to 2020; 1,800\*\*; 16 years and older; Online survey, © Statista 2021

<sup>199</sup> Reference to appendix 6 of this document

<sup>200</sup> Source <https://www.forbes.com/lists/global2000>, This list does not include privately held companies and segmented data. The OECD Economic Assessment placed reliance on a number of data bases such as Orbis complemented by other sources such as World scope, Fortune Global 500 list. OECD (2020), *Tax Challenges Arising from Digitalisation – Economic Impact Assessment: Inclusive Framework on BEPS*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, <https://doi.org/10.1787/0e3cc2d4-en>.

**Table 6 shows the breakdown of the Forbes 2000 Index sample of MNEs by Headquarter Jurisdiction <sup>201</sup>**

<b>Jurisdictions</b>	<b>No of MNEs</b>	<b>Global Sales Millions</b>	<b>Global Pre-tax Profit Millions</b>	<b>Pillar One Amount A Millions</b>	<b>Amount A % of Pre-tax profit</b>
US	590	\$13 347 711	\$977 682	\$119 500	12%
China	1036	\$ 6 506 783	\$592 486	\$60 614	10%
United Kingdom	66	\$1 411 311	\$27 704	\$2 875	10%
South Africa <sup>202</sup>	15	\$99 002	\$10 836	\$2 481	23%
Kenya	1	\$2 500	\$683	\$108	16%
Nigeria	2	\$4 400	\$1 324	\$221	17%
Other	1326	\$18 390 454	\$925 473	\$87 306	9%
<b>Total MNEs</b>	<b>2000</b>	<b>\$39 762 161</b>	<b>\$2 536 190</b>	<b>\$273 105</b>	<b>11%</b>

Source <https://www.forbes.com/lists/global2000>, 2020 results, accessed 30 November 2021

(iii) Method

- a. Sectoral carveouts were eliminated comprising of extractive industries and financial services<sup>203</sup>.
- b. MNEs with global turnover of €20bn euros and below and profit margins of 10% and below were eliminated.
- c. For the purposes of applying the €20bn global revenue threshold, the MNE revenue was converted from US dollars to Euros using the average exchange rate for the 2020 year<sup>204</sup>. The remaining in-scope MNE listing comprised of companies with revenue above €20bn and profitability above 10%.

<sup>201</sup> Source <https://www.forbes.com/lists/global2000>, 2020 results, MNE financial results includes MNEs generating operating losses and Amount A calculation includes extractive industries and financial services. The database is limited to listed MNEs only and does not include private companies which means that this analysis may not accurately reflect the impact of the full scope criteria as set out in the Inclusive Framework. Segmentation is not considered in the analysis and there may be companies that could be determined on a segmented basis instead of on a consolidated basis as set out in the Inclusive Framework.

<sup>202</sup> The Amount A % of Pre-Tax profit for South Africa(SA) is 23%, relatively higher when compared to some countries as reflected under table 6. Based on the analysis, 7 out of a total of 15 South African MNEs do not qualify for Amount A, as profits are below 10%. A further reason is due to the proportion of turnover generated by South African MNEs in comparison to some other countries. Important to note is that the database is limited to listed MNEs' only and therefore this may not accurately reflect the Amount A% of Pre-Tax profit for South Africa.

<sup>203</sup> OECD (2020), *Tax Challenges Arising from Digitalisation – Report on Pillar One Blueprint: Inclusive Framework on BEPS*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, <https://doi.org/10.1787/beba0634-en> at pages 49 – 60, OECD (2021), OECD Secretary-General Tax Report to G20 Finance Ministers and Central Bank Governors, Italy, October 2021, OECD, Paris, [www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf](http://www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf). The database is limited to listed MNEs only and does not include private companies which means that this analysis may not accurately reflect the impact of the full scope criteria as set out in the Inclusive Framework. Segmentation is not considered in the analysis and there may be companies that could be determined on a segmented basis instead of on a consolidated basis as set out in the Inclusive Framework. Reliance was placed on industry/sector classification from Fortune Global 500 and other sources to exclude extractive industries and financial services sector firms.

<sup>204</sup> Data on average annual U.S dollar-euro exchange rate for the 2020 financial year was sources from [US Dollar to Euro Spot Exchange Rates for 2020](https://www.federalreserve.gov/releases/h41/20201231/), translated at an average exchange rate of 0,877.

(iv) Analysis

For each in-scope MNE, the Pillar One Amount A formula was applied for calculating the allowable Tax Base.

Amount A Tax Base = [(Profit(pre-tax)–(Revenue×10%))×25%(reallocation percentage to market countries)]. For multiple market countries, an allocation based on local in-scope revenue would apply to allocate Amount A to the respective jurisdictions. As a starting point the calculation was based on the profits before tax of the Group MNE. Segmentation was not considered for this analysis.

**Table 7** shows that the profit after applying the 10% margin cut-off, yielded a total *profit of \$681bn* with a *residual profit of \$82bn* allocated to market jurisdictions<sup>205</sup>.

**Table 7**

	No of MNEs	MNE Profit After 10% cut-off \$millions	Pillar One share of Total Amount A \$millions	Share of total Amount A
US	29	423,200	55,693	68%
China	4	54,700	8,053	10%
Switzerland	4	41,400	4,685	6%
Japan	3	31 200	2813	3%
France	4	29 000	2,948	4%
South Korea	2	26 100	833	1%
Hongkong	3	23 700	1,608	2%
Taiwan	1	18 700	3,473	4%
United Kingdom	3	16 900	995	1%
Germany	1	6 300	783	1%
Ireland	1	5 500	233	0%
Spain	1	4 100	80	0%
<b>Total</b>	<b>56</b>	<b>680 800</b>	<b>82 193</b>	<b>100%</b>

Sources: Forbes 2000 Index, 2020 Data set, [The Global 2000 2021 \(forbes.com\)](#), OECD Secretary-General Tax Report to G20 Finance Ministers and Central Bank Governors, Italy, October 2021, OECD, Paris, [www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf](http://www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf)

The data shows that 68% (\$56bn) of the total residual profit is generated by US-headquartered companies of which 45% (\$37bn) of total Amount A (\$82bn) comprise US technology companies and \$32bn is generated from the top five US technology companies which are Apple, Alphabet, Microsoft, Facebook, and Intel<sup>206</sup>.

<sup>205</sup> The database is limited to listed MNEs only and does not include private companies which means that this analysis may not accurately reflect the impact of the full scope criteria as set out in the Inclusive Framework. Segmentation is not considered in the analysis and there may be companies that could be determined on a segmented basis instead of on a consolidated basis as set out in the Inclusive Framework. Reliance was placed on industry/sector classification from Fortune Global 500 and other sources to exclude extractive industries and financial services sector firms.

<sup>206</sup> Reference Table 8 of this document

**Table 8: Technology Companies**

	Technical Companies for all countries	US Technology Companies	Top US Digital Companies
<b>Total Number of companies</b>	19	11	5
<b>Total Profits&gt;10%</b>	\$358bn	\$245bn	\$206bn
<b>Amount A</b>	\$50bn	\$37bn	\$32bn

Sources: Forbes 2000 Index, 2020 Data set, [The Global 2000 2021 \(forbes.com\)](https://www.forbes.com), OECD Secretary-General Tax Report to G20 Finance Ministers and Central Bank Governors, Italy, October 2021, OECD, Paris, [www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf](https://www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf)

China is the second largest economy in the world and contributes 10% (\$8bn) to the share of total Amount A of which 94% of this Amount A comprise technology companies(\$7,5bn). The Alibaba group is the 4<sup>th</sup> largest technology company in the world, a home-grown digital business that rival the US large technical companies in size.<sup>207</sup> Alibaba generated 91% of its sales within their domestic markets and 9% in foreign markets<sup>208</sup> in contrast to Amazon generating 32% sales in foreign markets<sup>209</sup>. Therefore the % allocation of sales for Alibaba to market countries would be moderately low.

The data under **Table 9** suggests that only 56 of the Forbes 2000 Index<sup>210</sup> are subject to Pillar One. From the index listing with MNEs reflecting revenue of greater than €20bn and profit margins of greater than 10%, 34 companies were in the financial services industries and 7 companies in the extractive industries.

The exclusion of financial services reduces the total Amount A allocation by \$50bn and extractive industries by \$12bn comprising a total reduction of \$63bn(43%).

<sup>207</sup> Source Forbes 2000 Index and Pillar One Amount A analysis (Excel workbook),

<sup>208</sup> Source from © Statista 2022, FY 2020, Available on [Alibaba: e-commerce revenue by region 2021 | Statista](https://www.statista.com/statistics/1111111/alibaba-e-commerce-revenue-by-region-2021/)

<sup>209</sup> Source [amzn-20201231 \(stocklight.com\)](https://www.stocklight.com), Note 10, Segment information of the 10-K 2020 financial report

<sup>210</sup> This analysis was limited to the Forbes 2000 Index listing and therefore reliance was placed on public available data which comprised of listed companies. The data base was used to build a model on the sample of companies with worldwide operations for the purposes of calculating a best estimate of companies that would be subject to Pillar One Amount A. The database is limited to listed MNEs only and does not include private companies which means that this analysis may not accurately reflect the impact of the full scope criteria as set out in the Inclusive Framework. Segmentation is not considered in the analysis and there may be companies that could be determined on a segmented basis instead of on a consolidated basis as set out in the Inclusive Framework. Reliance was placed on industry/sector classification from Fortune Global 500 and other sources to exclude extractive industries and financial services sector firms.

**Table 9: Number of companies, Aggregate profits and Pillar One Amount A**

	<b>Companies &gt; €20bn and above 10% margin</b>	<b>Companies subject to Pillar One</b>	<b>MNEs excluded Financial Services<sup>211</sup></b>	<b>MNEs excluded Extractive Industries<sup>212</sup></b>
<b>Total Number of companies</b>	97	56	34	7
<b>Total Profits&gt;10%</b>	\$1 195bn	\$681bn	\$419bn	\$94bn
<b>Amount A</b>	\$145bn	\$82bn	\$50bn	\$12bn

Sources: Forbes 2000 Index, 2020 Data set, [The Global 2000 2021 \(forbes.com\)](https://www.forbes.com), OECD Secretary-General Tax Report to G20 Finance Ministers and Central Bank Governors, Italy, October 2021, OECD, Paris, [www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf](https://www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf)

Other research studies revealed similar qualitative results. It estimates 78 of the world's largest companies subject to Amount A under Pillar One with a total tax base of \$81bn of which 64% (\$56bn) is generated by US-headquartered companies and 45% (\$39bn) of this total is generated by technology companies and \$28bn would be generated from the 5 largest US technology companies<sup>213</sup>.

(v) Estimated revenue outcomes for the UK

The MNEs share of in-scope Amount A is allocated to market jurisdictions with a nexus using a revenue-based allocation key. The computation of Amount A attributable to the UK was based on a proxy measure by placing reliance on data from various sources for computing the revenue effect on the UK.

For computing the Amount A allocation to the UK, it was assumed that the in-scope MNE obtains more than €1m in revenue from the UK as stipulated in the IF statement<sup>214</sup>.

a. Scenario 1

The UK sales factor apportionment ratio for scenario 1 was based on an analysis carried out by *Dan Neidle of Clifford Chance LLP*, London<sup>215</sup>. Neidle relied on the World Bank Data by computing the UK's share of global private consumption expenditure for the sales factor apportionment ratio<sup>216</sup>. The formulae applied: *UK*

<sup>211</sup> MNEs excluded financial services subject to Pillar One

<sup>212</sup> MNEs excluded extractive industries subject to Pillar One

<sup>213</sup> Michael Devereux, Martin Simmler: "Who Will Pay Amount A?", *EconPol Policy Brief 36, July 2021*. The study relied on different data primarily based on Fortune Global 500 supplemented datasets from DataStream International and Orbis Europe. The study also assumed a \$20 billion threshold in contrast to € 20 billion as specified in the October 2021 Inclusive Framework statement. The key differential in the analysis is the total of 78 world's largest companies in contrast to this research which suggests 56 companies, however, this is mainly related to the source of data sets used and the translation of the threshold from USD to Euros.

<sup>214</sup> OECD (2021), OECD Secretary-General Tax Report to G20 Finance Ministers and Central Bank Governors, Italy, October 2021, OECD, Paris, [www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf](https://www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf)

<sup>215</sup> The original thread may be accessed on Neidle's Twitter account (@Danneidle), posted on 16 June 2021, Neidle also mentions that the private consumption factor for the UK may be moderately low resulting in underestimating the revenue effect of the UK.

<sup>216</sup> Household and NPISHs final consumption expenditure (formerly private consumption) is the market value of all goods and services, including durable products (such as cars, washing machines, and home computers), purchased by households. It excludes purchases of dwellings but includes imputed rent for

sales apportionment ratio=UK private consumption expenditure/Total world private consumption expenditure. The UK private consumption factor<sup>217</sup> was calculated at **3.6%**[\$1,68 trillion ÷ \$46,8 trillion] based on the 2020 World Bank’s Global Index.

**Table 10 – Pillar 1 Estimated Revenue Outcomes for the UK**

	<b>Scenario 1</b>	<b>Year 2023/24 Millions</b>	<b>Year 2020/21 Millions</b>
218	<b>Tax Revenue Gain</b>		
	Total Pillar 1 Amount A	\$82 193	\$82 193
	Attributable to UK @ 3.6%	\$2 952	\$2 952
	<b>Taxed @ 25% &amp; 19%</b>	<b>\$738</b>	<b>\$561</b>
219	<b>Less Credits</b>		
	U.K Headquartered Pillar 1 Amount A	\$995	\$995
	<b>Taxed @ 25% &amp; 19%</b>	<b>\$249</b>	<b>\$189</b>
	Net Pillar One revenue in \$	\$489	\$372
220	Net Pillar One revenue in GBP	£338	£290
	Less: Repeal of DST	£580	£305
	<b>OVERALL REVENUE EFFECT</b>	<b>- £242</b>	<b>-£15</b>
	<b>Reduction in DST %</b>	<b>-42%</b>	<b>-5%</b>

b. Scenario 2

The UK sales factor apportionment ratio for scenario 2 was recalculated based on the % share of the total International trade and services imports for the UK. For this calculation reliance was placed on data from UNCTAD and WTO common data sets for 2020 comprising of World Merchandise and Service trade.<sup>221</sup>The international merchandise trade under **Table 11** represents the value of goods imported into the UK and the supply of goods to the world market. International trade services comprise cross border services within an economy to service a consumer of another economy. The UK was the 5<sup>th</sup> leading developed country for

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owner-occupied dwellings. It also includes payments and fees to governments to obtain permits and licenses. This indicator includes the expenditures of non-profit institutions serving households even when reported separately by the country. Data are in current U.S. dollars.

<sup>217</sup> World Bank global private expenditure Index for 2020 year, Available on Households and NPISHs Final consumption expenditure (current US\$) | Data (worldbank.org), last updated 2021/12/16

<sup>218</sup> Reference to Table 7 Total Pillar One Amount A and MNEs subject to Pillar One by country. The Total Amount A for 2023 is not escalated with an inflation factor and the attribution to the UK was based on a 2020 result with no escalation applied to the MNE profit. The UK tax for 2020 was calculated at 19% and 2023 at 25%.

<sup>219</sup> The UK credit was calculated based on the UK Headquarter companies subject to Pillar One Amount A This is assumed on the basis that the UK government will grant the credits. The availability of the credits may not be as simple as applied in the calculation. The 2023 Amount A credit for UK headquartered MNEs are reflected on a 2020 result with no escalation applied to the MNE profit.

<sup>220</sup> The DST was extracted from the data available on <https://ifs.org.uk/taxlab/>, accessed 14<sup>th</sup> December 2021

Tax explained, Corporation tax explained, [IFS revenue composition spreadsheet | IFS Taxlab](#). The DST is recorded in nominal terms, accessed 14<sup>th</sup> December 2021.

<sup>221</sup> Data set was extracted from UNCTADSTAT, available on [Beyond 20/20 WDS \(unctad.org\)](#).The total may include import of services from financial sectors. This value could not be excluded from the total. Trade merchandise and services represents the value of goods and services imported by the UK from a group of economies.

import of trade services in 2020<sup>222</sup>. The formulae applied for sales apportionment factor: *Total Trade Merchandise and Services factor for UK imports/ World Total* which was computed at **3.7%** [ \$839bn ÷ \$22 508bn].

**Table 11 Summary of the Trade and Services for 2020**

	<b>UK Total</b>	<b>World Total</b>
International trade services	\$205bn	\$4 681bn
International merchandise trade	\$634bn	\$17 827bn
<b>Total</b>	<b>\$839bn</b>	<b>\$22 508bn</b>

Source from UNCSTADSTAT, available on [Beyond 20/20 WDS \(unctad.org\)](https://unctad.org/Beyond2020WDS)

**Table 12 – Pillar 1 Estimated Revenue Outcomes for the UK**

	<b>Scenario 2</b>	<b>Year 2023/24 Millions</b>	<b>Year 2020/21 Millions</b>
223	<b>Tax Revenue Gain</b>		
	Total Pillar 1 Amount A	\$82 193	\$82 193
	Attributable to UK @ 3.7%	\$3 066	\$3 066
	<b>Taxed @ 25% &amp; 19%</b>	<b>\$767</b>	<b>\$583</b>
224	Less Credits	\$249	\$189
	Net Pillar One revenue in \$	\$518	\$394
225	Net Pillar One revenue in GBP	£357	£307
	Less: Repeal of DST	£580	£305
	<b>OVERALL REVENUE EFFECT</b>	<b>- £223</b>	<b>£2</b>
	<b>Reduction in DST %</b>	<b>-38%</b>	<b>1%</b>

The sales apportionment factor for scenarios 1 and 2 are very similar, suggesting that the repeal of the DST would generate negative tax revenue for the UK. The limitation of data information related to MNE sales outside the headquarter jurisdictions and the consequence of relying on the sales apportionment ratios calculated under scenarios 1 and 2 may indicate an underestimation of the UK revenue effect. MNEs such as eBay generated global sales of \$10.7bn (profit margin 53%) in 2020 lower than the stipulated threshold of €20bn. eBay therefore would not be subject to Amount A, however, would be subject to UK DST<sup>226</sup>.

The IF statement stipulates that segmentation will only occur in exceptional circumstances based on the segments disclosed in the financial accounts and

<sup>222</sup> Ibid

<sup>223</sup> Reference to Table 4 Total Pillar One Amount A and MNEs' subject to Pillar One by country. The Total Amount A for 2023 is not escalated with an inflation factor and the attribution to the UK was based on a 2020 result. The UK tax for 2020 was calculated at 19% and 2023 at 25%.

<sup>224</sup> The UK credit was calculated based on the UK Headquarter companies subject to Pillar One Amount A This is on the basis of assuming that the UK government will grant the credits. The availability of the credits may not be as simple as applied in the calculation. The 2023 Amount A credit for UK headquartered MNEs are reflected on a 2020 result with no escalation applied to the MNE profit.

<sup>225</sup> The DST was extracted from the data available on <https://ifs.org.uk/taxlab/>, Tax explained, Corporation tax explained, [IFS revenue composition spreadsheet | IFS Taxlab](#). The DST is recorded in nominal terms.

<sup>226</sup> 2000 Forbes Index for 2020 financial year

provided that it meets the scope rules<sup>227</sup>. Amazon shows global sales of \$386bn and a profit margin of 6% for 2020 which is below the 10% threshold<sup>228</sup>. However, Amazon Web Services (AWS) accounts for 64% of the group pre-tax profits which could be subject to Amount A if a segmented approach is applied<sup>229</sup>.

Scenario 3 is further analysed by comparing the Pillar One analysis of four technology companies to the UK DST.

### c. Scenario 3

The UK policy paper identified that the UK DST will be borne by a *large number of MNE groups* targeting digital companies<sup>230</sup>. This analysis was carried out for the following four technology companies and the outcomes are shown under table 13(a) and 13(b):

- (i) eBay<sup>231</sup>
- (ii) Amazon<sup>232</sup>
- (iii) Facebook<sup>233</sup>
- (iv) Alphabet (Google)<sup>234</sup>

**Table 13(a)**

<b>Pillar One 2020 analysis</b>	<b>eBay Millions</b>	<b>Amazon (AWS only) Millions</b>	<b>Alphabet (Google) Millions</b>	<b>Facebook Millions</b>
Global revenue	\$10 700	\$45 370	\$182 400	\$86 000
Global profit margin	53%	30%	22%	34%
UK portion of total sales	\$1 678	\$3 112	\$20 064	\$1 634
UK portion of total sales %	15,7%	6,9%	11%	2%
MNE Pillar One Amount A	\$1 158	\$2249	\$5 515	\$5 125
UK Pillar One Amount A	\$182	\$154	\$607	\$97
UK Tax charge @ 19%	\$34	\$29	\$115	\$18
<b>UK Tax charge @ 19%</b>	<b>£27</b>	<b>£23</b>	<b>£90</b>	<b>£14</b>

<sup>227</sup> OECD (2021), OECD Secretary-General Tax Report to G20 Finance Ministers and Central Bank Governors, Italy, October 2021, OECD, Paris, [www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf](http://www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf). MLC will be developed for *all jurisdictions that join, regardless of an existence of treaties*.

<sup>228</sup> Source 2000 Forbes Index, Financial year 2020

<sup>229</sup> Source Forbes 2000 Index, <https://annualreport.stocklight.com/NASDAQ/AMZN/21583589.pdf>, [DST12200 - Digital Services Tax Manual - HMRC internal manual - GOV.UK \(www.gov.uk\)](#).

<sup>230</sup> Digital Services Tax, Policy Paper, Published 11 March 2020, [Digital Services Tax - GOV.UK \(www.gov.uk\)](#)

<sup>231</sup> Source Forbes 2000 Index, <https://annualreport.stocklight.com/NASDAQ/EBAY/20831314.pdf> at pg. 61 and notes 6 at pg.81 of the annual report. The exchange rate for translating the USD/£ was 0,7798, reference appendix 3 of this document for methodologies.

<sup>232</sup>Source Forbes 2000 Index, <https://annualreport.stocklight.com/NASDAQ/AMZN/21583589.pdf>, [DST12200 - Digital Services Tax Manual - HMRC internal manual - GOV.UK \(www.gov.uk\)](#). The exchange rate for translating the USD/£ was 0,7798, reference Appendix 3 for methodologies.

<sup>233</sup> Source Forbes 2000 Index, [Facebook - AnnualReports.com](#) • [Facebook: revenue per user 2020 | Statista, https://napoleoncat.com/stats \(average UK Facebook users\)](#). The exchange rate for translating the USD/£ was 0,779, reference appendix 3 of this document for methodologies.

<sup>234</sup> Source: Forbes 2000 Index, • [Alphabet & Google: United Kingdom revenue share 2007-2016 | Statista, https://annualreport.stocklight.com/NASDAQ/GOOG/21583716.pdf](#). The exchange rate for translating the USD/£ was 0,7798. Reference appendix 3 of this document for methodologies.

**Table 13(b)**

<b>UK DST 2020 analysis</b>	<b>eBay Millions</b>	<b>Amazon (Third party seller services) Millions</b>	<b>Alphabet (Google) Millions</b>	<b>Facebook Millions</b>
UK revenue	\$1 678	\$5 793	\$15 645	\$1 633
£/\$ rate	0,779	0,779	0,779	0,779
<b>UK DST @ 2%</b>	<b>£26</b>	<b>£90</b>	<b>£312</b>	<b>£25</b>
Less: Credits <sup>235</sup>	0	0	0	0
UK Pillar One charge	£27	£23	£90	£14
Reduction from removing DST	£1	-£67	-£222	-£11
<b>Reduction in DST %</b>	<b>5%</b>	<b>-75%</b>	<b>-71%</b>	<b>-42%</b>

### 3.2.3 Summary of results

The outcome of the analysis indicates that the UK revenue impact after considering the repeal of the DST may generate an overall negative result. There are companies such as eBay that may benefit under Pillar One but are currently subjected to UK DST. The analysis under **Table 13(b)** suggests a reduction in DST ranging from 42% - 75% and shows that MNEs such as Amazon, Alphabet, and Facebook may also benefit from Pillar One. Pillar One is based on a comprehensive scope in contrast to the UK DST which is narrowly defined and thereby the UK may generate additional CIT revenue from other sectors under Pillar One.

There are many caveats to consider, both from an economic and political perspective. The UK is projecting DST revenues between £305m to £700m yielding a moderately very low average % GDP of 0,02% in 2020/21 with the same predictions for the ensuing years when compared to CIT (3% of GDP) and income tax (9% of GDP)<sup>236</sup>.

## 3.3 CONCLUSION

Chapter 3 is set out to compare the UK DST to Pillar One and to evaluate the outcome of the revenue effects of Pillar One if the UK DST is repealed.

The strengths and weaknesses as set-out under Table 5, demonstrates that the design and elements of the two proposals are not the same. OECD recommended that enactment of unilateral measures may be introduced provided that the countries respect their existing tax treaty obligations, minimise

<sup>235</sup> It is assumed that there is no cost for crediting against the DST

<sup>236</sup> Reference appendix 4 of this document for the composition of UK CIT, DST revenue and GDP % comparatives.

taxation costs and impact on small businesses, with an objective to minimise complexity<sup>237</sup>. The UK DST does not fully meet these criteria:

- i. The UK DST is levied on revenue of the company instead of profits which is a valuable source of revenue for the UK, however it imposes a disproportionate tax burden on companies that are not profitable and loss making, especially start-up businesses or smaller business. These companies would still be liable for DST irrespective of their profitability. The DST also targets large digital markets which risks retaliation and conflicts with the principle of *neutrality*.
- ii. The UK DST creates a burden of doing cross border business within the internal market and is not the same as indirect taxes. The UK DST is also not bound by a treaty therefore does not achieve fair sharing of tax base permitting limited cross-border relief and risks international double taxation. The aim of Pillar One is to ensure *no double taxation* and to provide *certainty* for taxpayers that local DST would have the opposite effect.
- iii. Pillar One is based on profits of the company combined with the proposal that only large MNEs above a threshold is subject to Amount A. It is based on a comprehensive scoping which provides for *simplification*, *certainty* and reduces the number of in scope MNEs' to avoid overburdening of the system with an aim to also make administrative challenges manageable.

The UK targeted mainly the largest US digital businesses which suggests that the DST revenue is more than the current proposed rules. Through collaborative negotiations and government's commitment to repeal the DST, the UK agreed to enter into a joint agreement with the US and reached a transitional compromise for a gradual termination of existing DST measures during the interim period and in return the US agreed to terminate its trade actions imposed on the UK.<sup>238</sup>

The global tax reforms may likely have a modest effect on the UK tax revenue and may not derive significant revenue by shifting from its current DST legislation to Pillar One, however there is also a likelihood that revenue effects may increase over time with the future growth of digitalisation.

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<sup>237</sup> OECD (2018), *Tax Challenges Arising from Digitalisation – Interim Report 2018: Inclusive Framework on BEPS*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris. <http://dx.doi.org/10.1787/9789264293083-en>

<sup>238</sup> Access to joint statement, [Joint\\_statement.pdf \(publishing.service.gov.uk\)](#) Access to joint statement, [Joint\\_statement.pdf \(publishing.service.gov.uk\)](#)  
The UK government was committed to dis-applying the DST once the international solution is in place. UK will continue to apply its DST until Pillar One implementation becomes effective allowing for a transition from DST to the agreed global tax system in accordance to the joint agreement between the UK and US. Interim period is defined as the period beginning on 1 January 2022 and ending on the earlier of the date the Pillar one MTC comes into force or 31 December 2023. The interim Pillar One amount is defined as the product of defined as (a) the amount of tax that is owed by the taxpayer as a result of Pillar One Amount A, during the first taxable year that Pillar One is in effect in respect of the taxpayer, and (b) a fraction the numerator of which is the number of days during the interim period and the denominator of which is 365 meaning. (Accessed on Access to joint statement, [Joint\\_statement.pdf \(publishing.service.gov.uk\)](#) Access to joint statement, [Joint\\_statement.pdf \(publishing.service.gov.uk\)](#))

## 4. CHAPTER FOUR: AFRICAS' RESPONSE TO THE PILLAR ONE SOLUTION

### 4.1 INTRODUCTION

The OECD stipulates that developing countries comprise a large segment of the IF membership<sup>239</sup> which has led to an effective and collaborative negotiation of the Two-Pillar solution. Although the achievements to date have been modest, incremental progress has been accomplished, which are demonstrated by the proposals put forward by ATAF and the G24<sup>240</sup>.

According to IMF, the major global issues undermines the faith in the fairness of the overall tax system and the current situation is especially harmful to low-income countries, depriving the countries from much needed revenue to assist in achieving higher economic growth, reducing poverty, and to meet the 2030 Sustainable Development Goals<sup>241</sup>.

The current rules have been perceived as enabling MNEs to exploit the mismatches and tax treaty rules have historically been in favour of capital exporting, which are largely more fitting for residence-based developed countries in contrast to capital-importing, which are largely source-based developing countries<sup>242</sup>.

The OECD estimates that the gains are expected to be larger among the low-income jurisdictions with specific benefits aimed at developing countries, however commentators and authors have expressed concerns that the interest of developing countries were not adequately addressed<sup>243</sup>.

Section 4.2 introduces the digital landscape of Africa followed by comparing the position of the UK to the ATAF proposals for Africa and leading to a conclusion.

### 4.2 THE LANDSCAPE IN AFRICA

#### 4.2.1 Tax revenues and GDP

Africa is faced with specific challenges which are different to the advanced developed countries such as limited resources, higher dependence on tax revenues from MNEs, and more specifically from

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<sup>239</sup> OECD (2021), *OECD Secretary-General Tax Report to G20 Finance Ministers and Central Bank Governors, Italy, October 2021*, OECD, Paris, [www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf](http://www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf).

<sup>240</sup> African Tax Administration Forum - ATAF Issues Statement on Revised Two-Pillar Solution on Taxing Digital Economy (05 July 2021), News IBFD, [https://research-ibfd-org.ezproxy.uct.ac.za/#/doc?url=/document/tns\\_2021-07-05\\_ataf\\_1\\_130 Inclusive Framework countries and jurisdictions join a new two-pillar plan to reform international taxation rules – What does this mean for Africa? \(ataftax.org\)](https://research-ibfd-org.ezproxy.uct.ac.za/#/doc?url=/document/tns_2021-07-05_ataf_1_130%20Inclusive%20Framework%20countries%20and%20jurisdictions%20join%20a%20new%20two-pillar%20plan%20to%20reform%20international%20taxation%20rules%20-%20What%20does%20this%20mean%20for%20Africa%20%28ataftax.org%29), [https://www.g24.org/comments-g-24-to-beps-if-sg-may-2021\\_final/](https://www.g24.org/comments-g-24-to-beps-if-sg-may-2021_final/)

<sup>241</sup> *Corporate Taxation in the Global Economy – IMF Blog*, Chistine Lagarde, March 25,2019

<sup>242</sup> A.W. Oguttu, A Critique from a Developing Country Perspective of the Proposals to Tax the Digital Economy, 12 *World Tax J.* (2020), Journal Articles & Opinion Pieces IBFD, available at [https://research-ibfd-org.ezproxy.uct.ac.za/#/doc?url=/document/wtj\\_2020\\_04\\_int\\_2](https://research-ibfd-org.ezproxy.uct.ac.za/#/doc?url=/document/wtj_2020_04_int_2), at page 804

<sup>243</sup> [https://www.g24.org/comments-g-24-to-beps-if-sg-may-2021\\_final/](https://www.g24.org/comments-g-24-to-beps-if-sg-may-2021_final/), [BMG+comments+on+G24+statement.pdf \(squarespace.com\)](https://www.bmg.com/press-releases/g24-statement), IFA Virtual Event; OECD; G20 - IFA 2021 Virtual Event [Seminar E]: Africa (02 Dec. 2021), News IBFD (accessed 12 Feb. 2022, available at [https://research-ibfd-org.ezproxy.uct.ac.za/#/doc?url=/document/tns\\_2021-12-02\\_ifa\\_1](https://research-ibfd-org.ezproxy.uct.ac.za/#/doc?url=/document/tns_2021-12-02_ifa_1)

extractive industries. Enhancing the DRM remains a priority to achieve the 2030 sustainable development goals which requires large increase in investment. Most of the countries in Africa collect taxes that are less than 15% of GDP, insufficient to sustain the basic state functions<sup>244</sup>.

The objective for low-income countries is to increase public revenues whilst at the same time there is tangible pressure to limit the corporate taxes. Developing countries have been faced with ongoing economic challenges with respect to corporate taxation, placing large reliance on CIT as opposed to high income countries<sup>245</sup>.

The average tax revenue percentage to GDP<sup>246</sup> for Africa is 16,6% when compared to the OECD of 33,8% and the UK of 33%<sup>247</sup>. The average CIT rates for Africa are currently at 28% ranging from 15% to 35% with a range of tax policies enacted in the respective countries. Appendix 5 indicates that 14 of the 30 African countries yield less than 15% of GDP<sup>248</sup>.

As per the above, although BEPS practices take place in all countries and creates destruction, the social and economic impact on developing countries is serious in view of its smaller market base, placing greater reliance on CIT and due to weak administration capabilities<sup>249</sup>. Reliance is much less on personal income tax due to smaller formal sectors. In certain developing countries, consumption taxes yield a larger share of total tax revenue whilst it is not the case in other countries due to limited domestic economic activity and a larger informal sector.<sup>250</sup>

**Figure 3** illustrates countries in Africa with a GDP of more than €40bn, comprising 12 countries (79% of the total GDP in Africa)<sup>251</sup> of which 9 are members of the IF. There are 42 countries<sup>252</sup> with a GDP lower than €40bn (21% of the total GDP in Africa) of which 18 are members of the IF. Based on the analysis, 18 of the 42 countries will benefit from the special purpose nexus rule

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<sup>244</sup> [Mobilizing Tax Resources to Boost Growth and Prosperity in Sub-Saharan Africa \(worldbank.org\), September 9, 2019](#), Appendix 6.5 section 5 indicates that 14 of the 30 countries in Africa are below 15% of GDO\

<sup>245</sup> [Tax and Development: The Link between International Taxation, the Base Erosion Profit Shifting Project and the 2030 Sustainable Development Agenda](#), W 2018/4, 2018, available at [W-2018-4.pdf \(unu.edu\)](#)

<sup>246</sup> Analysis is based on the 2020 GDP data.

<sup>247</sup> Reference appendix 5 of this document, four countries (South Africa, Morocco, Seychelles and Tunisia) exceeded the 25% tax to GDP ratio with Nigeria being the lowest at 6%.

<sup>248</sup> Reference appendix 5 of this document. A comparative of 30 countries in Africa of tax revenue to GDP.

<sup>249</sup> A.W. Oguttu, A Critique from a Developing Country Perspective of the Proposals to Tax the Digital Economy, 12 World Tax J. (2020), Journal Articles & Opinion Pieces IBFD, available at [https://research-ibfd-org.ezproxy.uct.ac.za/#/doc?url=/document/wtj\\_2020\\_04\\_int\\_2](https://research-ibfd-org.ezproxy.uct.ac.za/#/doc?url=/document/wtj_2020_04_int_2)

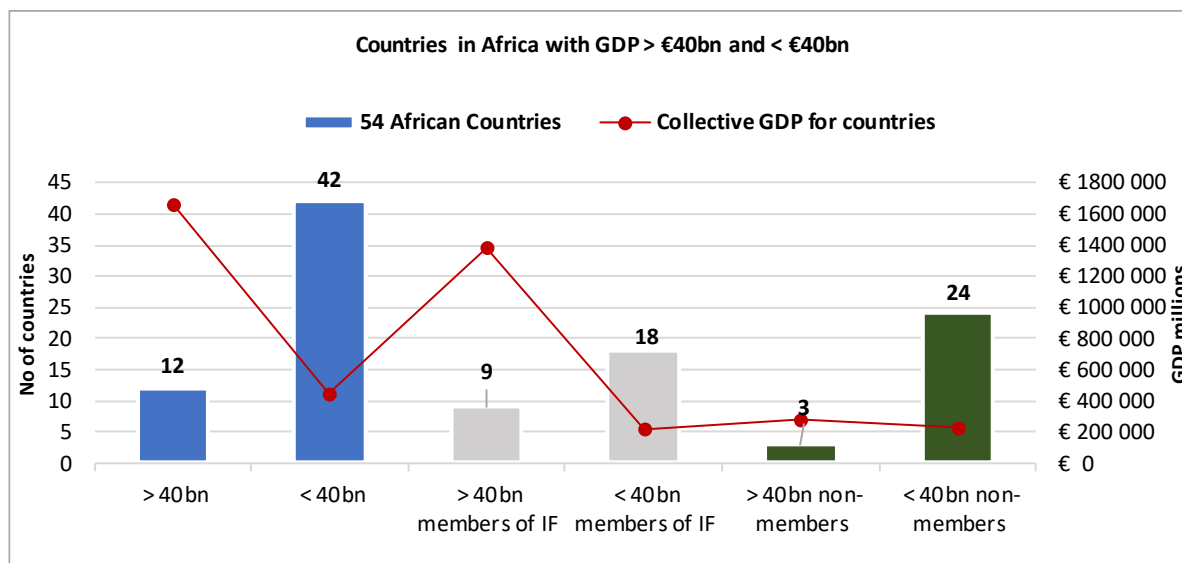
<sup>250</sup> Ibid

<sup>251</sup> The 12 countries that exceed the GDP of 40 billion euros are the Democratic Republic of Congo, Angola, Cote d'Ivoire, Tanzania, Ghana, Kenya, Ethiopia, Morocco, Algeria, South Africa, Egypt and Nigeria. Cameroon and Tunisia fulfill the requirement of a special nexus for smaller jurisdictions when translated at an average exchange rate from US dollars to Euros @ 0,877 EUR however in USD these countries exceed the GDP of 40 billion.

<sup>252</sup> The analysis comprises of 54 African countries.

for smaller jurisdictions and 9 of the 12<sup>253</sup> countries will be subject to Amount A with a global revenue threshold of above €20bn<sup>254</sup>.

**Figure 3**



Sources: GDP (current US\$) | Data (worldbank.org), [Members of the OECD/G20 Inclusive Framework on BEPS](#) <sup>255</sup>

#### 4.2.2 Digitalisation in Africa

The ICT sector worldwide continues to grow whilst the internet penetration in most economically developed countries is above the 90%. The average OECD member countries are 85%, with the UK is at 95%. The global internet penetration rate is 59,5% with 93% of the users accessing the internet via mobile devices<sup>256</sup>.

The average internet penetration for Africa is 37% which is below the world average of 59,5% with only 9 countries exceeding the global average of 59,5%<sup>257</sup>. Notwithstanding the lower percentage, African economies are becoming more digitalised with a majority of web traffic originating from mobile devices with current internet users comprising approximately 590 million (43% of total population) in Africa<sup>258</sup>.

Nigeria showed an internet penetration of 73% with a total estimated number of internet users of 154 million and Kenya showed a higher internet penetration of 85% with total no of internet users of

<sup>253</sup> Democratic Rep. of Congo, Angola, Cote d'Ivoire, Tanzania, Morocco, South Africa and Egypt are members of the OECD Inclusive Framework. Ghana and Ethiopia are not members of the OECD Inclusive Framework. Kenya and Nigeria declined to endorse the Inclusive Framework agreement. Nigeria ranks the first on the largest GDP listing by value in Africa, OECD (2021), *OECD Secretary-General Tax Report to G20 Finance Ministers and Central Bank Governors, Italy, October 2021*, OECD, Paris, [www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf](http://www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf).

<sup>254</sup> Reference section appendix 12 of this document for listing of 54 African countries, 2020 GDP by country

<sup>255</sup> OECD updated November 2021, [Base erosion and profit shifting - OECD BEPS](#)

<sup>256</sup> Data as at January 2021, : <http://www.statista.com/statistics/1124283/internet-penetration-in-africa-by-country/> • [Internet users in the world 2021 | Statista](#) , <https://data.worldbank.org/indicator/IT.NET.USER.ZS> Reference appendix 6 of this document.

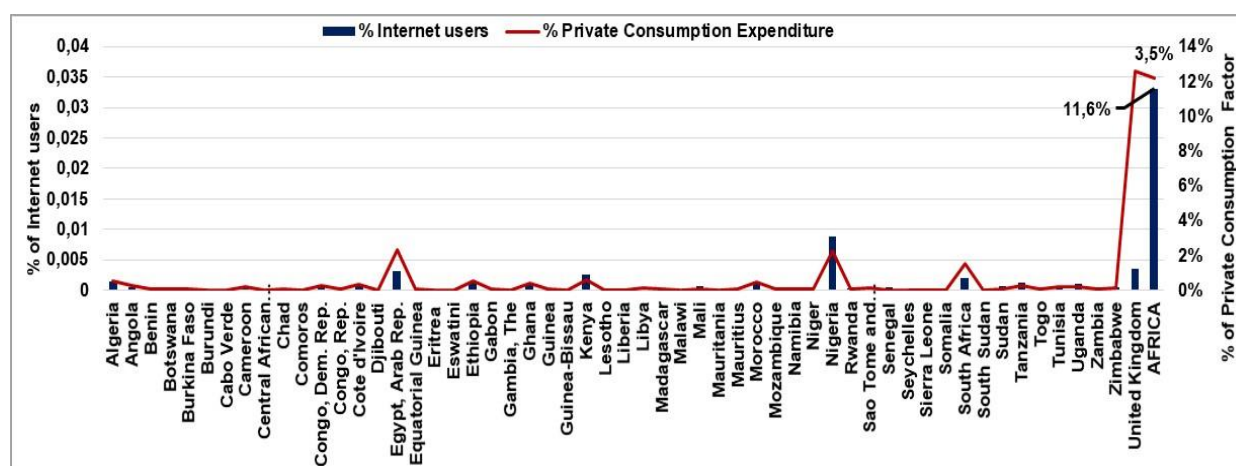
<sup>257</sup> Total internet users for Africa, available on <https://www.internetworldstats.com/>, Available at • [Internet users by global regions 2021 | Statista](#) , Reference appendix 6 of this document, Internet penetration across African countries.

<sup>258</sup> Ibid

47 million, however this high rate is also mainly due to its homegrown technology company such as M-Pesa<sup>259</sup>. South Africa is also home to its innovative digital MNE, Naspers currently listed in the 2020 Forbes 2000 Index with a global revenue of \$4,8bn and a pre-tax profit margin of 65%<sup>260</sup>.

**Figure 4** illustrates the percentage of internet users to World Total in contrast to the percentage of private consumption expenditure. The private consumption expenditure for Africa accounts for 3,5% compared to internet users in Africa which accounts for 12%. The UK in contrast, accounts for 3,6% of global private consumption expenditure. The UK % of internet users are 1,4% of World Total, this low percentage is mainly attributed to UK's population size<sup>261</sup>.

**Figure 4**



Source: <https://www.internetworldstats.com/>, [Households and NPISHs Final consumption expenditure \(current US\\$\) | Data \(worldbank.org\)](https://data.worldbank.org/)

Large digital MNEs are increasing their footprint in the African market such as Amazon, Google, Facebook, Apple, Alibaba, Uber, Airbnb, and Netflix<sup>262</sup>. The opportunity for future growth exists as a significant population share remains unconnected<sup>263</sup>.

Structural powers of mobile firms have become politically difficult to tax MNEs within the global economy. The lowest effective corporate tax rates are paid by the most valuable and highly digitalised MNEs facilitating the concentration of wealth in a small number of firms<sup>264</sup>. Despite companies such as Facebook establishing offices in Africa, digital MNEs are enabled to operate with

<sup>259</sup> M-Pesa is a mobile based money transfer service application is the largest mobile network operator in Kenya. Internet penetration for Africa as of December 2020. Countries that exceed that global average are Kenya, Libya, Nigeria, Mauritius, Morocco, Tunisia, Cabo Verde, Gabon, Mali, South Africa is moderately 1% below the average (58%). Reference appendix 6 of this document, Internet penetration across African countries. Naspers - source: Forbes 2000 Index, <https://www.forbes.com/lists/global2000>

<sup>260</sup> Internet penetration across African countries. Naspers - source: Forbes 2000 Index, <https://www.forbes.com/lists/global2000>

<sup>261</sup> The average population size for Africa is 1,4 billion in contrast to the UK of 67 million ; available at [Africa Internet Users, 2021 Population and Facebook Statistics \(internetworldstats.com\)](https://www.internetworldstats.com/), [World Internet Users Statistics and 2021 World Population Stats \(internetworldstats.com\)](https://www.internetworldstats.com/), [Households and NPISHs Final consumption expenditure \(current US\\$\) | Data \(worldbank.org\)](https://data.worldbank.org/).

<sup>262</sup> ATAF publishes an approach to taxing the digital economy, African Tax Administration Forum, October 01,2020, available at <https://www.ataftax.org/ataf-publishes-an-approach-to-taxing-the-digital-economy>

<sup>263</sup> Refer to appendix 6, Internet penetration for Africa, comprising 52 countries

<sup>264</sup> Margarita Gelepathis & Martin Hearson (2021): The politics of taxing multinational firms in a digital age, Journal of European Public Policy, DOI: 10.1080/13501763.2021.1992488, [Full article: The politics of taxing multinational firms in a digital age \(tandfonline.com\)](https://www.tandfonline.com/), Small number of firms such as Google, Amazon and Facebook

only web presence. Africa currently has approximately 255 million Facebook users<sup>265</sup>, notwithstanding their presence, MNE transactions may be concluded in low tax jurisdictions. Facebook recorded a low effective tax rate of 12,2% in 2020, however there is a large shift in income with US profits showing an increase by 78% and foreign profits reducing by more than 100% form 2019 and in contrast to prior years<sup>266</sup>. This may be influenced by the US Tax Cuts and Jobs Act which significantly changed the tax regime in how tax codes treated the foreign profits of US MNEs by eliminating the additional domestic tax foreign profits repatriated to the US, further promoted by a set of policies to promote the “Made in America” agenda<sup>267</sup>.

Developing countries are mainly capital importers and are dependent on foreign capital to build new businesses and growing their economies<sup>268</sup>.

**Table 14** represents the international merchandise trade value of goods and services imported into Africa compared to World total comprising a 2,9% share of the global market. In contrast, the UK global market share was 3,7% for 2020. The total export for Africa comprised 2% of World Total exports<sup>269</sup>.

**Table 14**

	<b>Africa Total Billion</b>	<b>World Total Billion</b>
International trade services	\$143	\$4 681
International merchandise trade	\$509	\$17 827
<b>Total</b>	<b>\$652</b>	<b>\$22 508</b>

Data set was extracted from UNCTADSTAT, available on [Beyond 20/20 WDS \(unctad.org\)](https://unctad.org/Beyond2020WDS)

Developing countries are therefore largely dependent on the growth of e-commerce controlled by the digitalisation of the economy. Action Aid International claims that governments are losing their fair share of taxes with the G20 countries facing a potential gap of US\$32bn in annual tax revenue from the top five digital companies<sup>270</sup>.

<sup>265</sup> Internet World Stats, Africa, Data at 31 December 2020, <https://www.internetworldstats.com/>

<sup>266</sup> Facebook 10K 2020 report, available on [Facebook - AnnualReports.com](https://investor.fb.com/annual-reports), Page 108. Foreign taxes paid on profits generated outside the US in 2020 was recorded at 13,5%, 2019 (8%), 2018(6%) and 2017(2.9%), available on [Facebook, Inc. 2017 Annual Report \(annualreports.com\)](https://investor.fb.com/annual-reports)

<sup>267</sup> Tax Foundation, Cody Kallen, Fiscal fact no.761, April 2021, [Effects-of-Proposed-International-Tax-Changes-on-U.S.-Multinationals.pdf \(taxfoundation.org\)](https://taxfoundation.org/effects-of-proposed-international-tax-changes-on-u.s.-multinationals.pdf); <https://taxfoundation.org/us-multinational-tax-reform-options-gilti/>; [The protectionism of Biden’s cross-border tax plan–MNE Tax](https://taxfoundation.org/the-protectionism-of-biden-s-cross-border-tax-plan-mne-tax/), Danial Bunn, Tax Foundation, September 15, 2020.

<sup>268</sup> UNCTAD STAT, United Nations Conference on Trade and Development, available at [Beyond 20/20 WDS \(unctad.org\)](https://unctad.org/Beyond2020WDS)

<sup>269</sup> Data set was extracted from UNCTADSTAT, available on [Beyond 20/20 WDS \(unctad.org\)](https://unctad.org/Beyond2020WDS). The total may include import of services from financial sectors. This value could not be excluded from the total. Trade merchandise and services represents the value of goods and services imported by Africa from a group of economies. The dominant market was Asia and Oceania accounting for 44%, America 16%, Europe 38%, and Africa remained underrepresented.

<sup>270</sup> Action Aid International, [World’s largest economies losing up to \\$32 billion in annual tax revenue from Silicon Valley’s top five tech companies | ActionAid International](https://www.actionaid.org/en/worlds-largest-economies-losing-up-to-32-billion-in-annual-tax-revenue-from-silicon-valley-s-top-five-tech-companies), Top five digital companies are referenced to Amazon, Apple, Facebook, Microsoft and Alphabet Inc.

### 4.3 COMPARATIVE OUTCOME OF THE UK POSITION TO THE ATAF PROPOSAL: PILLAR ONE

ATAF estimates that the allocable Amount A profits are lower than the OECD estimates<sup>271</sup> and estimates approximately \$95bn at a 25% residual profit allocation. ATAF regards the current OECD's calculation discriminatory against smaller jurisdictions and has proposed for at least 35% of the residual profits to be re-allocated to market jurisdictions<sup>272</sup>. ATAF also proposed for the revenue sourcing rules to include a Low-Income Allocation Key for Tail-End-Revenue arising in Low-Income Jurisdictions<sup>273</sup>. The aim of this proposal is to ensure equity in the allocation of the Tail-end-revenue across all affected jurisdictions<sup>274</sup>. It has been noted that there is a distinct differentiation between the nexus rule for smaller jurisdictions and the revenue sourcing rules for a low-income jurisdiction. For example, the nexus rule for smaller jurisdictions will be €250 000 with a GDP lower than €40bn, however the definition for low-income jurisdictions includes some large jurisdictions with GDPs' greater than €40bn and some countries such as Seychelles, a high-income country is categorised under a smaller jurisdiction<sup>275</sup>.

To ascertain an appropriate outcome for comparing the position of the UK to Africa, the sales factor apportionment ratio for analysing Amount A was based on two scenarios for the 54 countries in Africa:<sup>276</sup>

- (i) **Scenario one**, reliance was placed on the *World Bank data for private consumption expenditure* for 52<sup>277</sup> African countries which accounted for 3,5% of private consumption on a collective basis<sup>278</sup>.
- (ii) **Scenario two**, reliance was placed on the *% of internet users* on a collective basis to total *global internet users* which accounted for 12% of the total global internet users<sup>279</sup>.

**Table 15** suggests an increase in Amount A profit of \$115bn from a residual profit allocation of 25% to 35%. The financial services and extractive industries increase at a similar percentage<sup>280</sup>.

<sup>271</sup> The OECD estimates approximately \$125 billion of profit to be re-allocated to market jurisdictions, OECD Secretary-General Tax Report to G20 Finance Ministers and Central Bank Governors, Italy, October 2021, OECD, Paris, [www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf](http://www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf)

<sup>272</sup> ATAF Technical note, The inclusive Framework's Two-Pillar Solution to address the tax challenges arising from the digitalization of the economy, CBT/TN/08/21, [ATAF Admin \(ataftax.org\)](http://ataftax.org), <https://events.ataftax.org/index.php?page=documents&folder=18>

<sup>273</sup> This rule will only apply provided that the jurisdiction is classified as a low-income jurisdiction, Pillar One – Amount A Draft Model Rules for Nexus and Revenue sourcing, 4 February – 18 February 2022, [Tax challenges of digitalisation: OECD invites public input on the draft rules for tax base determinations under Amount A of Pillar One - OECD](https://www.oecd.org/tax/ataf/ataf-technical-note-the-inclusive-frameworks-two-pillar-solution-to-address-the-tax-challenges-arising-from-the-digitalization-of-the-economy/), Pg.13, par 3(b).

<sup>274</sup> Ibid, Pg. 13, par 3, commentary 15

<sup>275</sup> Reference section 6.12, appendix 12. Countries such as Ethiopia and Congo. Dem. Rep. is defined as low income with a GDP > €40 billion.

<sup>276</sup> For the purposes of analysing the position of Africa, reliance was placed on the Percentage of Internet Users and the Private Consumption factor for Africa. The Percentage of Internet Users may be regarded as moderately high resulting in overestimating the revenue effect for Africa and in contrast, the Private Consumption Factor may be regarded as moderately low, underestimating the revenue effect for Africa. Therefore, due to limited data, there may be unknown variations in the outcome of the analysis.

<sup>277</sup> No Private Household Consumption data was available for Malawi and Sao Tome and Principe.

<sup>278</sup> Households and NPISHs Final consumption expenditure (current US\$) | Data (worldbank.org).

<sup>279</sup> Reference to figure 4 of this chapter, The 12% is calculated based on the total no of internet users for the 54 African countries (585 219 243 users) as a percentage of World total no of internet users (5 5053 891 122 users), Reference figure 4 of this document, <https://www.internetworldstats.com/>

**Table 15 : Number of companies, Aggregate profits and Pillar One Amount A greater than €20bn**

	<b>Companies &gt; €20bn and above 10% margin</b>	<b>Companies subject to Pillar One</b>	<b>MNEs excluded Financial Services</b>	<b>MNEs excluded Extractive Industries</b>
<b>Total Number of companies</b>	97	56	34	7
<b>Total Profits&gt;10%</b>	\$1 195bn	\$681bn	\$419bn	\$94bn
<b>Amount A @ 25% allocation</b>	\$145bn	\$82bn	\$5bn	\$12bn
<b>Amount A @ 35% allocation</b>	\$202bn	\$115bn	\$70bn	\$17bn

- (i) **Scenario one:** it is estimated for 52 African countries, \$2,8bn is subject to Pillar One Amount A and at 35% it is estimated at \$4bn. The analysis suggests that Africa would receive additional tax revenue of approximately 0,03%<sup>281</sup> in collective GDP, equating to \$0,57 per citizen and 0,05%<sup>282</sup> equating to \$0,80 per citizen with an increase to 35%.
- (ii) **Scenario two:** it is estimated for 54 African countries, \$9,5bn is subject to Pillar One Amount A and at 35% it is estimated at \$13,3bn. This analysis suggests that Africa would receive additional tax revenue of approximately 0,11%<sup>283</sup> in collective GDP, equating to \$1,94 per citizen and 0,16%<sup>284</sup> equating to \$2,72 per citizen with an increase to 35%.

**Table 16** shows the effects of the companies subject to Pillar One if the global turnover threshold is reduced to €10bn. The Amount A allocation subject to Pillar One at a 25% residual allocation increases by \$22bn<sup>285</sup> and by \$41bn<sup>286</sup> at 35%. The number of companies subject to Pillar One increases by 9 MNEs, Financial services by 32 and extractive industries by 9<sup>287</sup>.

<sup>280</sup> Reference to appendix 1, Pillar One Amount A allocable to tax base by headquarter jurisdictions, global turnover of greater than 20billion euros.

<sup>281</sup> This is based on an analysis of the overall net revenue gain for pillar one amount A, greater than 20 billion euros calculated at \$787 million in aggregate for 52 African countries at a residual profit allocation of 25% and a total GDP of \$2 405 395 million. It was assumed that there is no cost of crediting for the 52 African countries for this analysis.

<sup>282</sup> This is based on an analysis of the overall net revenue gain for pillar one amount A, greater than 20 billion euros calculated at \$1,102 billion for a residual profit allocation of 35% for 52 countries in Africa and a total GDP of \$2 405 395 million. It was assumed that there is no cost of crediting for the 52 African countries for this analysis.

<sup>283</sup> This is based on an analysis of the overall net revenue gain for Pillar One Amount A, greater than 20 billion euros calculated at R2,6 billion for a residual profit allocation of 25% for 54 African countries and total GDP of \$2 405 395 million. It was assumed that there is no cost of crediting for the countries in Africa for this analysis

<sup>284</sup> This is based on an analysis of the overall net revenue gain for Pillar One Amount A, greater than 20 billion euros calculated at R3,7 billion for a residual profit allocation of 35% for 54 African countries and total GDP of \$2 405 395 million. It was assumed that there is no cost of crediting for the countries in Africa for this analysis.

<sup>285</sup> Calculated at 3,5% private consumption expenditure factor for Africa on Pillar One Amount A of \$104 billion for a global turnover above 20 billion euros at an allocation of 25%.

<sup>286</sup> Calculated at 3,5% private consumption factor for Africa on Pillar One Amount A calculated at \$145 billion for a global turnover above 10 billion euros at an allocation of 35%.

<sup>287</sup> Reference to appendix 2 of this document, Pillar One Amount A allocable to tax base by headquarter jurisdictions, global turnover of greater than 10 billion euros.

**Table 16 : Number of companies, Aggregate profits and Pillar One Amount A greater than €10bn**

	Companies > €10bn and above 10% margin	Companies subject to Pillar One	MNEs excluded Financial Services	MNEs excluded Extractive Industries
<b>Total Number of companies</b>	203	121	66	16
<b>Total Profits &gt; 10%</b>	\$1 539bn	\$869bn	\$544bn	\$126bn
<b>Amount A @ 25% allocation</b>	\$185bn	\$104bn	\$64bn	\$17bn
<b>Amount A @ 35% allocation</b>	\$259bn	\$145bn	\$90bn	\$24bn

- (i) **Scenario one:** suggests an increase in additional tax revenue of approximately 0,04%<sup>288</sup> in collective GDP equating to \$0,72 per citizen and 0,06%<sup>289</sup> for an increase to 35% equating to \$1,01 per citizen.
- (ii) **Scenario two:** suggests an increase in collective GDP of 0,14%<sup>290</sup> with a contribution per citizen of \$2,45 per citizen and 0,20%<sup>291</sup> for an increase to 35% with a contribution of \$3,43 per citizen.

**In summary** the analysis estimates that Africa may receive additional tax revenue ranging between 0,03% - 0,20%<sup>292</sup> in collective GDP based on the proposed options under scenarios one and two<sup>293</sup>.

#### 4.3.1 Pillar One Net Revenue Gain of the UK compared to Africa

The analysis in the preceding section was carried out for 54 African countries on a collective basis. For the purposes of comparing the position of the UK, the analysis was further evaluated by comparing the outcome of 12 African countries with a GDP above €40bn.

**Figure 5** illustrates the net Pillar One revenue effect for the 12 African countries with a revenue threshold above €20bn and €10bn at 25% and 35% residual profit allocation. The net revenue effect

<sup>288</sup> This is based on an analysis of the overall net revenue effect, greater than 10 billion euros calculated \$992 million for a residual profit allocation of 25% for 54 African countries and a total GDP of \$2 405 395 million. It was assumed that there is no cost of crediting for the countries in Africa for this analysis

<sup>289</sup> This is based on an analysis of the overall net revenue effect, greater than 10 billion euros calculated at \$1,38 billion for a residual profit allocation of 35% for 54 African countries and a total GDP of \$2 405 395 million. It was assumed that there is no cost of crediting for the countries in Africa for this analysis.

<sup>290</sup> This is based on an analysis of the overall revenue effect, greater than 10 billion euros equating to \$3,4 billion for a residual profit allocation of 25% for 54 African countries with total GDP of \$2 405 395 million. It was assumed that there is no cost of crediting for the countries in Africa for this analysis.

<sup>291</sup> This is based on an analysis of the overall revenue effect, greater than 10 billion euros equating to \$4,7 billion for a residual profit allocation of 35% for 54 African countries with a total GDP of \$2 405 395 million. It was assumed that there is no cost of crediting for the countries in Africa for this analysis.

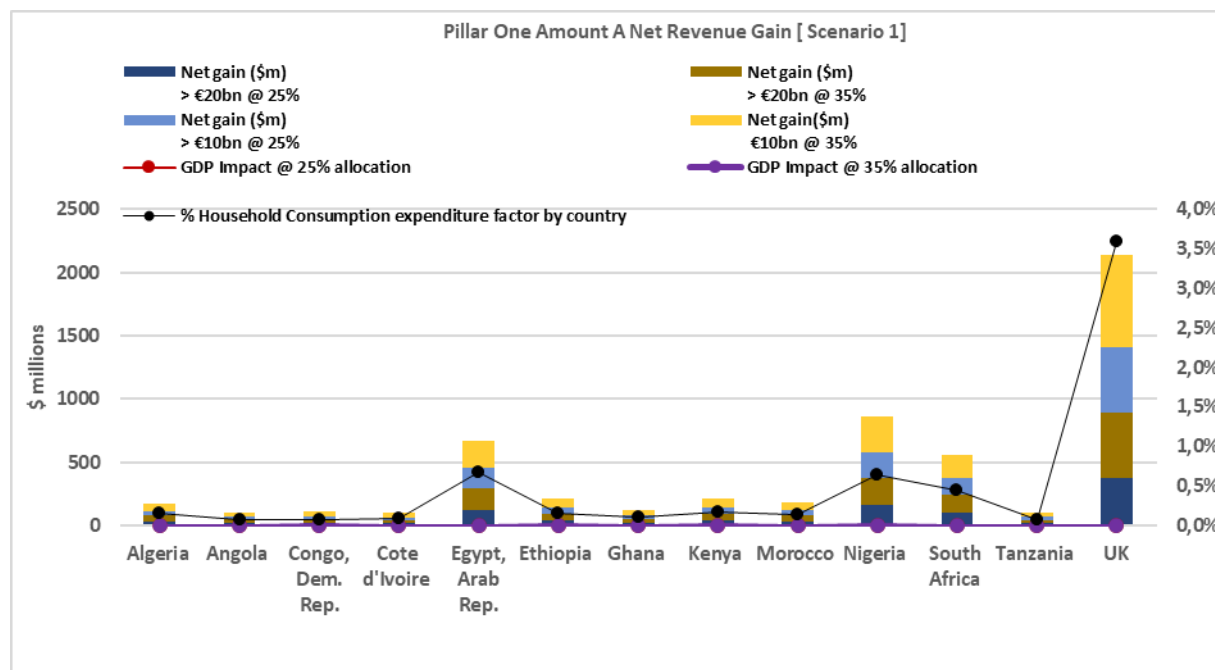
<sup>292</sup> This analysis is based on a global threshold of 20 billion and 10 billion euros at 25% and 35% residual profit allocation based on a private consumption expenditure factor for 52 African countries and number of internet users for 54 African countries.

<sup>293</sup> Oxfam research studies revealed a collective GDP of 0,02% in additional revenue for 52 developing countries, Available on [OECD tax deal on track to become rich country stitch-up: Oxfam | Oxfam International](#)

was computed based on the share of the (i) *Private Consumption Expenditure* for the 12 African countries.<sup>294</sup>

According to **Figure 5**, the average GDP in additional tax revenue for Amount A at a 25% allocation shows a comparable GDP impact for all 12 African countries at an average of 0,03%<sup>295</sup>.

**Figure 5**



Sources: [GDP \(current US\\$\) | Data \(worldbank.org\)](#), [Households and NPISHs Final consumption expenditure \(current US\\$\) | Data \(worldbank.org\)](#)

- (i) Kenya yields a net revenue gain of \$40m at a 25% allocation<sup>296</sup>. This result equates to a 0,04% of its GDP in additional tax revenue, equivalent to \$0,73 per citizen.
- (ii) Nigeria yields a net revenue gain of \$158m at a 25% allocation<sup>297</sup>. This result equates to a 0,04% of its GDP in additional tax revenue, equivalent to \$0,75 per citizen<sup>298</sup>.
- (iii) South Africa yields a net gain \$103m at a 25% allocation.<sup>299</sup> This result equates to a 0,03% of its GDP in additional tax revenue, equivalent to \$1,71 per citizen.

<sup>294</sup> For the purposes of analysing the position of Africa, reliance was placed on the Private Consumption factor for the 12 countries in Africa. The Private Consumption factor may be moderately low for analysing the revenue effects for Africa. Therefore, due to limited data, there may be unknown variations in the outcome of the analysis for the 12 countries.

<sup>295</sup> The 0,03% is calculated based on a net revenue gain for amount A at an aggregate value of \$629 million for a GDP value of \$1 900 765 million for the 12 African countries. Oxfam research studies revealed a collective GDP of 0,02% in additional revenue for 52 developing countries, Available on [OECD tax deal on track to become rich country stitch-up: Oxfam | Oxfam International](#),

<sup>296</sup> Based on a private consumption expenditure factor of 0,16%, available on Households and NPISHs Final consumption expenditure (current US\$) | Data (worldbank.org), assumed there is no cost of crediting.

<sup>297</sup> Based on a private consumption expenditure factor of 0,64%, available on Households and NPISHs Final consumption expenditure (current US\$) | Data (worldbank.org), assumed there is no cost of crediting.

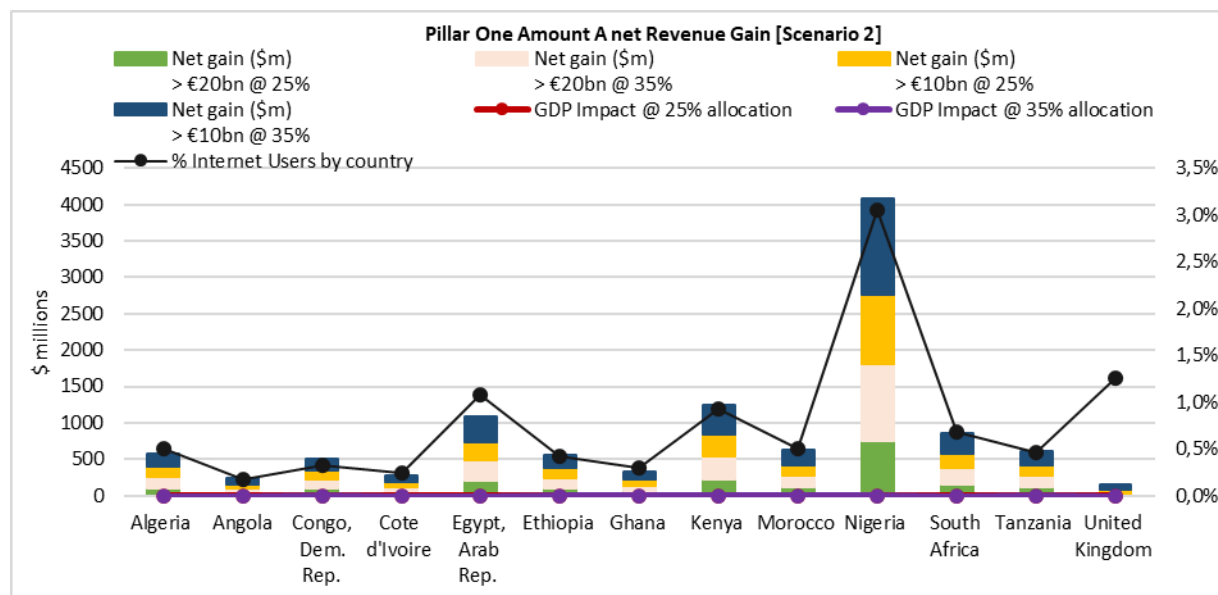
<sup>298</sup> Oxfam research studies revealed a 0,02% for Nigeria, equivalent to 48 cents per citizen, Available on [OECD tax deal on track to become rich country stitch-up: Oxfam | Oxfam International](#)

<sup>299</sup> Based on a private consumption expenditure factor of 0,45%, available on Households and NPISHs Final consumption expenditure (current US\$) | Data (worldbank.org). Naspers revenue is below the threshold of 20 billion euros as per the Forbes 2000 global Index of 2020, therefore not subject to Amount A pillar one and no cost of crediting accounted. Available on <https://www.forbes.com/lists/global2000>

(iv) In contrast, the UK yields a net gain of \$561m and \$372m (after cost of crediting) at a 25% allocation which equates to a 0,01% of its GDP in additional tax revenue, equivalent to \$5,55 per citizen<sup>300</sup>.

The results under **Figure 5** are further compared to **Figure 6** by analysing the net revenue gain for the 12 African countries based on the (ii) *percentage share of internet users to global internet users*.

**Figure 6**



Source: [GDP \(current US\\$\) | Data \(worldbank.org\)](https://www.worldbank.org/), <https://www.internetworldstats.com/>

**Figure 6** yields a substantial difference in net revenue gain for Amount A for the 12 countries when compared to the outcome of the analysis under **Figure 5** in respect to the two scenarios for computing the sales apportionment factor<sup>301</sup>.

The global revenue effect of Amount A at a 25% allocation still remains low for the 12 countries in aggregate, increasing the additional tax revenue to 0,08%, a marginal increase compared to scenario one (0,03%). Kenya accounts for 0,23% , Nigeria 0,1% and South Africa 0,07% of its GDP in additional revenue.

The outcome of the analysis when comparing the position of the UK to the 12 countries is largely disproportionate considering the number of internet users to internet penetration<sup>302</sup>.

Section 4.33 is further analysed by comparing the ATAF DST proposal, the potential DST tax base in Africa with a contrast to the UK position and net revenue impact of Pillar one. The position of smaller jurisdictions is assessed under section 4.3.5.

<sup>300</sup> This is based on an analysis of an overall revenue effect is \$372 million (after cost of crediting) and \$561 million (before cost of crediting) for the UK with a total GDP of \$2 774 197 million. The private consumption expenditure factor for the UK for 2020 is 3,5%. Refer to chapter 3 of this document for detailed analysis.

<sup>301</sup> For the purposes of determining the Sales Apportionment Factor reliance was placed on the Percentage of Internet Users for the 12 countries. Therefore, due to limited data, there may be unknown variations in the outcome of the analysis for the 12 countries.

<sup>302</sup> Reference to figure 4 and appendix 6 of this document, Internet penetration for Africa compared to the UK and OECD countries

#### 4.3.2 ATAF DST Proposal

ATAF issued a policy brief on the “*Suggested Approach to drafting the DST legislation*”<sup>303</sup> with an aim to provide African countries a structure and framework for introducing DST. The aim of the *Suggested Approach* is to design a DST not to be an income tax and proposed a tax that is levied on supply of narrowly defined services. The DST would be charged in addition to CIT and would not be creditable nor eligible for tax relief<sup>304</sup>.

The draft DST legislation provides a framework for the introduction of a DST which includes a proposed DST rate of 1% to 3%, with a suggested scope of revenue that includes the following<sup>305</sup> :

- Digital services revenue arising from *online advertising services*;
- Digital services revenue arising from *data services*;
- Digital services revenue derived from users arising from the provision of *online marketplace or intermediation platform services*.

ATAF also suggests that countries that have introduced DSTs have committed to repeal the DST once global consensus is reached and therefore ATAF members must consider a similar commitment.

Unlike the UK who has adopted a uniform DST system, the ATAF proposal is a guideline for African countries with an attempt to ensure uniformity however it has been observed that the countries have implemented diverse unilateral measures. Unilateral measures have been enacted in five African countries: Kenya, Nigeria, Tunisia, Zimbabwe, and Sierra Leone. South Africa is waiting for the global solution to be implemented, Egypt announced an intent to implement and no developments are noted in the rest of the countries in Africa<sup>306</sup>.

Kenya and Nigeria have reasserted their power not to commit to the Two-Pillar solution and have requested to retain the powers to implement unilateral measures for companies that are below the threshold under the agreement<sup>307</sup>. The Kenyan Government indicates that companies such as Uber and Booking.com do not meet the threshold requirements, however, it meets the requirements to pay DST in Kenya<sup>308</sup>. Nigeria has also recently enacted a new rate under the SEP of 6% turnover tax on non-resident MNEs offering digital services. It is however not clear how Nigeria’s SEP rule would apply alongside Pillar One<sup>309</sup>.

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<sup>303</sup> Policy Brief Domestic Resource Mobilisation, Digital Services Taxation in Africa, Issue 01 June 2020, Suggested Approach to Drafting Digital Services Tax legislation, available at [https://events.ataftax.org/index.php?page=documents&func=view&document\\_id=61](https://events.ataftax.org/index.php?page=documents&func=view&document_id=61)

<sup>304</sup> Policy Brief Domestic Resource Mobilisation, Digital Services Taxation in Africa, Issue 01 June 2020, Suggested Approach to Drafting Digital Services Tax legislation, available at [https://events.ataftax.org/index.php?page=documents&func=view&document\\_id=61](https://events.ataftax.org/index.php?page=documents&func=view&document_id=61)

<sup>305</sup> Exclusions from DST application are *facilitation of rental or use of real property location, facilitation of vehicle hire services; digital content services, online gaming services, and cloud computing services and other digital services*

<sup>306</sup> KPMG, Taxation of the Digital Economy – Direct Taxes , available at <https://tax.kpmg.us/content/dam/tax/en/pdfs/2021/digitalized-economy-taxation-developments-summary.pdf,Updated> February 3,2022, reference section 6.1,appendix 7 for Unilateral measures enacted in Africa.

<sup>307</sup> [Kenya–MNE Tax, Why Kenya and Nigeria haven’t agreed to global corporate tax deal — Quartz Africa \(qz.com\)](#)

<sup>308</sup> Ibid

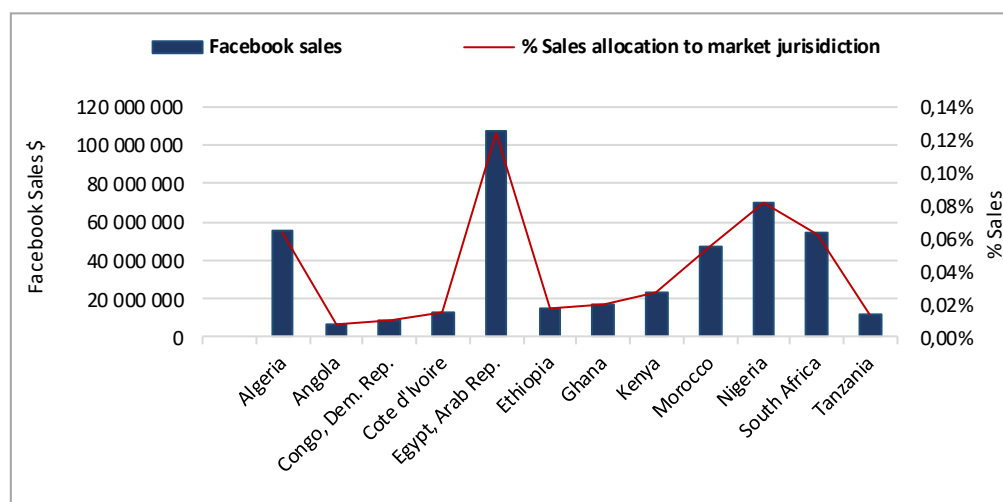
<sup>309</sup> <https://tax.kpmg.us/content/dam/tax/en/pdfs/2022/digitalized-economy-taxation-developments-summary.pdf>, Last updated 3 February 2022, [Nigeria to prioritise taxes from digital non-resident firms in 2022 | Reuters](#)

### 4.3.3 DST Tax Base in Africa

The potential revenue from DST has been widely promoted, despite this fact, it is important to understand the DST in Africa. The DST tax base was further analysed on two of the largest technology companies (i) *Facebook* and (ii) *Alphabet* to understand the potential DST tax base in Africa.

- (i) The **Facebook** data indicates that the composition of Facebook users in Africa is 9% of World Total, comprising 19% of total population in Africa. Statista’s survey predicts a 59% increase in users by 2025<sup>310</sup>.

**Figure 7**

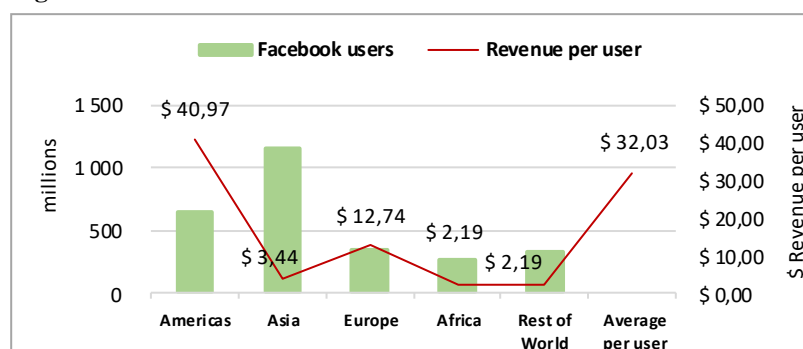


Source : <https://napoleoncat.com/stats> , • Facebook: average revenue per user region 2020 | Statista <sup>311</sup>

For comparison, the UK Facebook sales for 2020 was calculated at \$1,6bn with a 2% sales allocation<sup>312</sup>.

**Figure 8** illustrates that Africa represents a small no of users with a relatively low value associated with each user of the platform when contrasted to Americas and the Europe<sup>313</sup>.

**Figure 8**



Sources: 2020 data , <https://napoleoncat.com/stats>; • Facebook: average revenue per user region 2020 | Statista, • Facebook: revenue per user 2020 | Statista

<sup>310</sup> [Facebook World Stats and Penetration in the World - Facebook Statistics \(internetworldstats.com\)](https://www.internetworldstats.com) 2020 Data; • [Facebook users in Africa 2025 | Statista](https://www.statista.com)

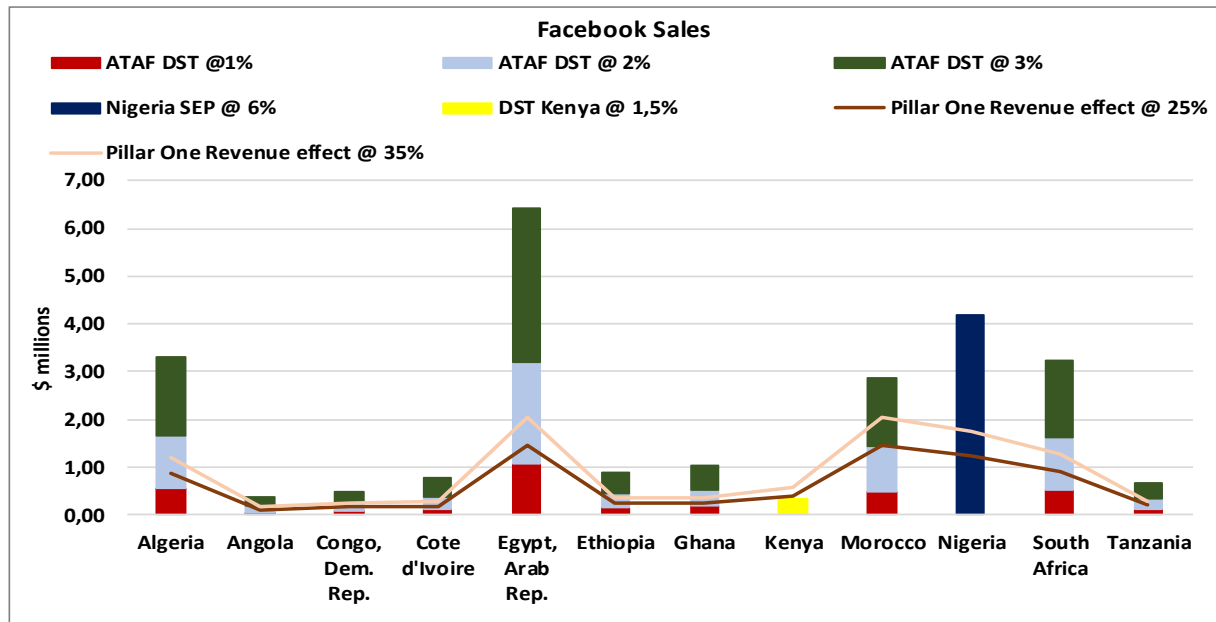
<sup>311</sup> Figure 7 represents the 12 African countries with a GDP greater than 40 billion euros.

<sup>312</sup> Reference chapter 3 of this document for details analysis, Table 13(a) and (b).

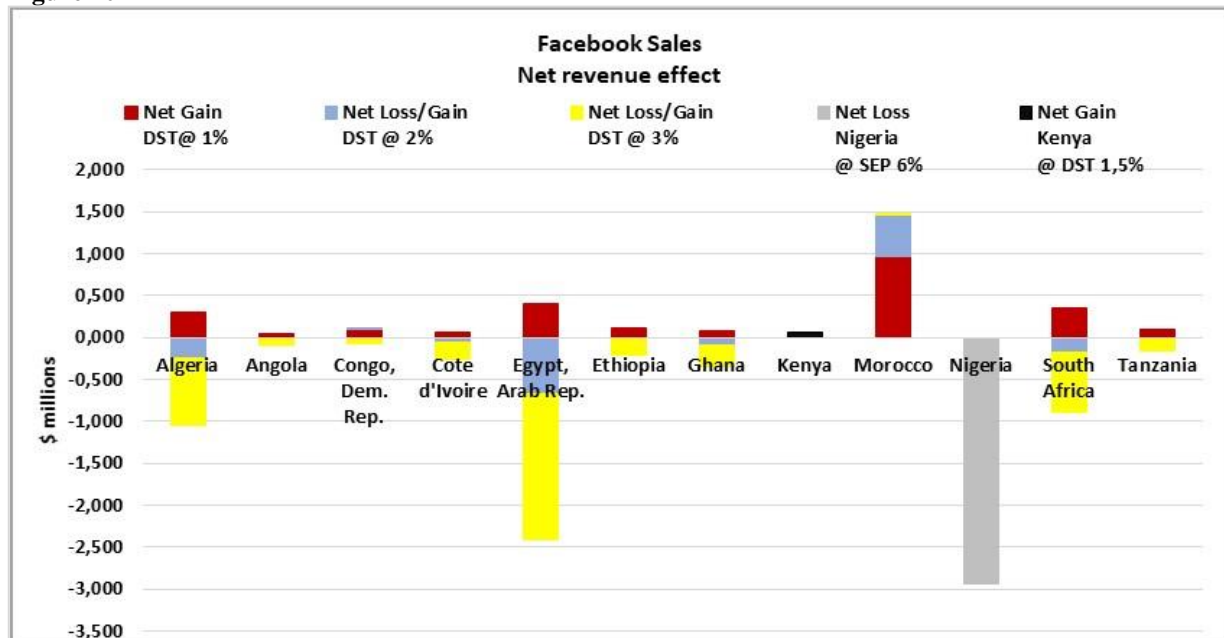
<sup>313</sup> Africa has 255 million Facebook users at December 2020.

**Figure 9 & 10** - The collective net revenue gain on Pillar One is estimated at \$7,5m (GDP impact 0,0004%) and by applying the ATAF DST proposal between 1% - 3% and the DST enacted by Kenya and SEP enacted Nigeria, the estimates of the revenue potential are relatively small. The analysis suggests that the countries would receive between 0,0004% - 0,0008% of its GDP in DST revenue from Facebook sales<sup>314</sup>.

**Figure 9**



**Figure 10**



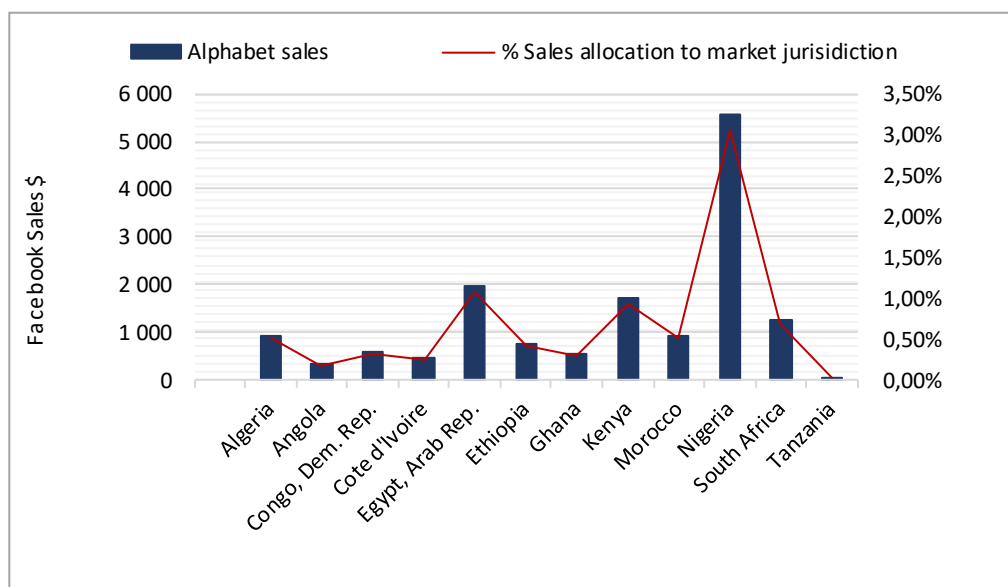
Sources: <https://napoleoncat.com/stats> , Facebook: average revenue per user region 2020 | Statista, <https://tax.kpmg.us/content/dam/tax/en/pdfs/2022/digitalized-economy-taxation-developments-summary.pdf> , Last updated 3 February 2022

<sup>314</sup> Nigeria is estimated to receive an additional digital tax revenue of 4,1 million which equates to 0,001% in additional GDP in contrast to Pillar one amount A of 0,0003% equating to \$1,2 million in net revenue gain with an overall revenue loss of \$2,9 million. Kenya is estimated to receive an additional DST revenue of \$343 000 which equates to 0,0003% in additional GDP in contrast to Pillar one Amount A of 0,0004% equating to \$409 000.

The overall net revenue effect would yield a net loss at a DST rate of  $> 1\%$ <sup>315</sup> for most countries, which is comparable to the UK position. The overall revenue effect for the UK yields a loss of \$14m with a GDP loss of 0,0005%<sup>316</sup>.

(ii) **Alphabet** sales under **Figure 11** illustrates that the % sales factor<sup>317</sup> on a collective basis is 8%<sup>318</sup>, with Nigeria showing a higher allocation of 3,05% followed by Egypt of 1,08%. The UK average gross share of sales was estimated at 11%<sup>319</sup>.

**Figure 11**



Sources: 2020 data, <https://www.internetworldstats.com/>

**Figure 12 & 13** – The collective net revenue impact on Pillar One is estimated at \$135 million (+ GDP 0,007%) and by applying a DST as proposed by ATAF between a range of 1% - 3% and the DST enacted by Kenya and SEP enacted by Nigeria, the estimates of the DST revenue is significantly higher. Nigeria would receive DST revenue of \$334 million (+ GDP 0,08%) and Kenya \$25 million (+ GDP 0,03%)<sup>320</sup>.

<sup>315</sup> This analysis is based on residual allocation of 25%.

<sup>316</sup> Reference to table 13(b) of Chapter 3 and appendix 3 of this document. The revenue effect for the UK in GBP was a loss £11 million based on a 2% sales allocation with 51 million Facebook users and average revenue of \$32,03 per user (2020 data). The UK Facebook sale is projected at \$1,6 billion for 2020.

<sup>317</sup> The Sales Allocation Factor was calculated based on a Percentage of Internet users for the 12 countries to total World Internet Users. There is no available data for Africa with respect to Alphabet growth market share in Africa. Therefore, the number of internet users for the 12 countries have been used as basis for determining the sales apportionment factor for Alphabet sales in Africa. Therefore, due to limited data, there may be unknown variations in the outcome of the analysis.

<sup>318</sup> The 8% is calculated based on no of internet users per country to world total number of internet users, 2020 data, <https://www.internetworldstats.com/>

<sup>319</sup> Reference Table 13(b), Section Chapter 3 for detailed analysis.

<sup>320</sup> Reference to appendix 7 of this document, Nigeria DST calculated at a rate of 6%, <https://tax.kpmg.us/content/dam/tax/en/pdfs/2022/digitalized-economy-taxation-developments-summary.pdf> , Last updated 3 February 2022.

Figure 12

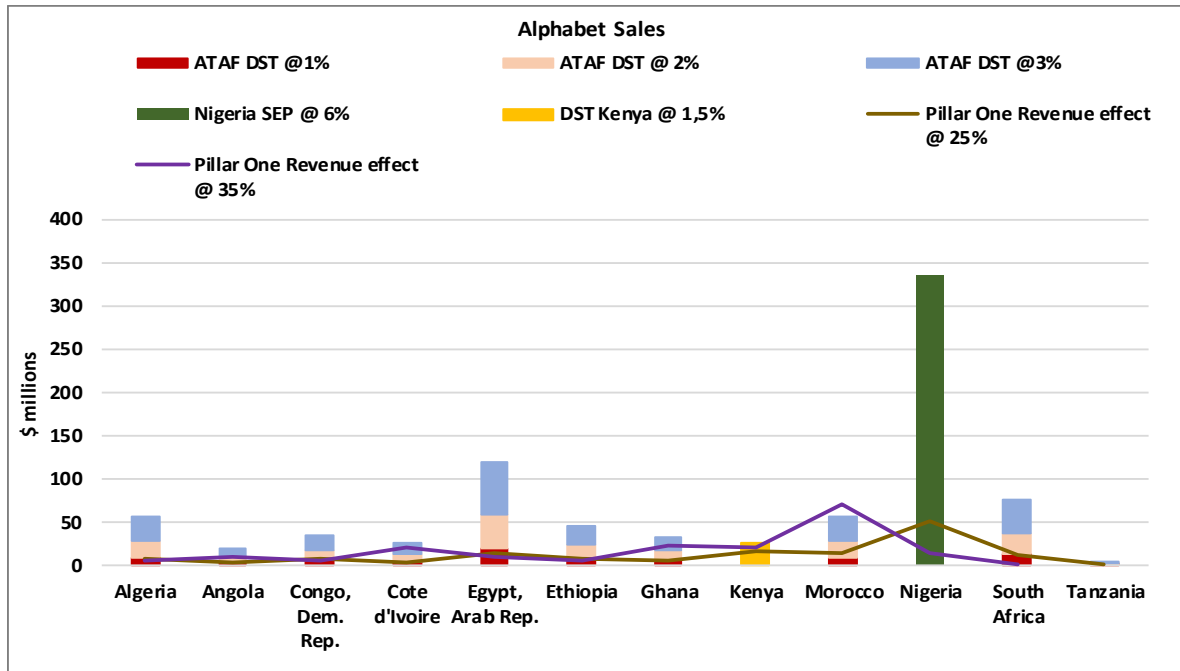
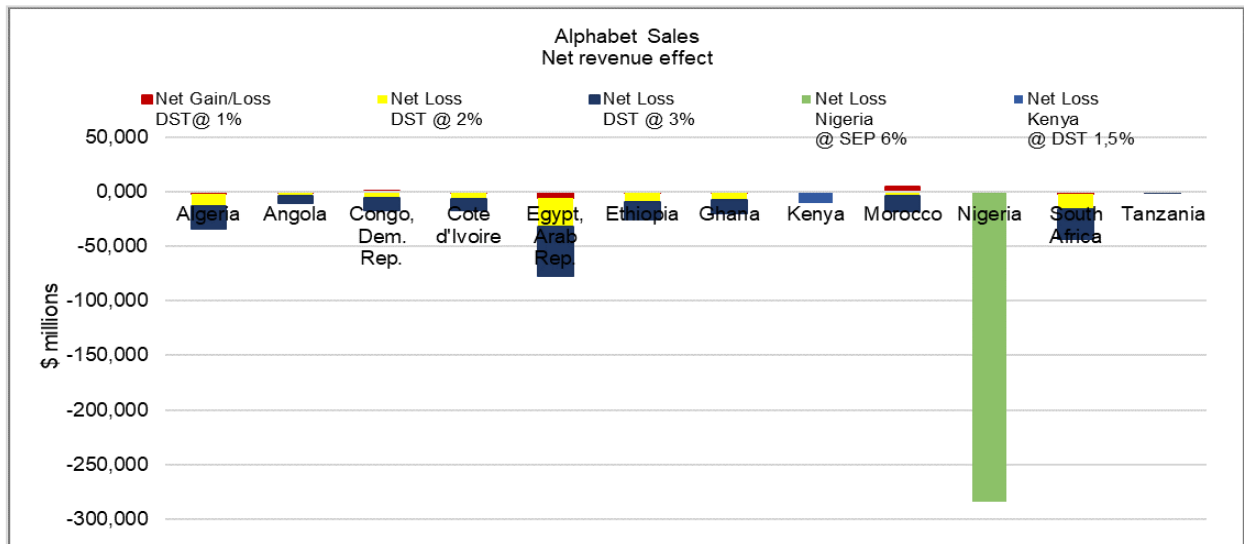


Figure 12 & 13<sup>321</sup> - The analysis suggests that the remaining countries would receive between \$78m - \$233m (+0,01% - 0,02%) in additional DST tax revenue from Alphabet sales. The overall net revenue effect of Pillar One would yield a loss for most countries when compared DST. The overall net revenue effect for the UK yields a loss of ±\$285m with a GDP loss of 0,01%<sup>322</sup>.

Figure 13



Source: <https://www.internetworldstats.com/> , <https://tax.kpmg.us/content/dam/tax/en/pdfs/2022/digitalized-economy-taxation-developments-summary.pdf>  
 Last updated 3 February 2022

<sup>321</sup> For the purposes of calculating the Sales Allocation Factor reliance was placed on the Percentage of Internet Users for the 12 countries. There was no available data with respect to Alphabet growth market share in Africa. Therefore, there may be unknown variations in the outcome of the analysis for the 12 countries.

<sup>322</sup> Reference to table 13(b) and section 6.3, appendix 3 of this document. The revenue effect for the UK in GBP would be a loss of £222 million, based on an average of 11% sales allocation (2020 data).

The analysis shows that digital sales are sizable for Africa, however it is concentrated on a small number of countries. The Kenyan Government states that the country has 89 companies paying DST and only 11 companies would be subject to Pillar One Amount A under the global agreement<sup>323</sup>. The KRA projected to collect more than \$48,8m in the first half of 2021<sup>324</sup>. Nigeria maintains a similar argument with only 6 companies being impacted<sup>325</sup>. It is also expected that Nigeria would yield a higher tax revenue at a SEP rate of 6% in contrast to the proposed ATAF DST of between 1% - 3%<sup>326</sup>.

#### 4.3.4 Smaller Jurisdictions

The 2020 World Bank data indicates that the aggregate GDP for smaller jurisdictions is \$504bn, 0,6% of world GDP.<sup>327</sup> A special nexus rule will apply to smaller jurisdictions with a *GDP* < €40bn with a nexus set at €250 000. There is concern that the reduced nexus threshold and the 25% residual threshold may not generate an equitable share of revenue for African countries<sup>328</sup>.

The adoption of the DST has varied in African countries with varying designed elements of which only 3 smaller countries<sup>329</sup> has enacted DST and, in some cases, may not be a priority for low-income countries<sup>330</sup>.

(i) **Scenario one:** the net revenue gain from Pillar One for smaller jurisdictions, reliance was placed on the *World bank data for private consumption expenditure* on a collective percentage of 1,4% for smaller jurisdictions<sup>331</sup>.

For *global turnover above €20bn*, the analysis suggests a net revenue gain of \$159m in aggregate for Pillar One Amount A and an average collective GDP of 0,03% in additional tax revenue at a 25% allocation and \$222m with an increase in GDP % of 0,04% at 35%<sup>332</sup>.

For a *global turnover above €10bn*, the analysis suggests a net revenue gain of \$200m (+GDP 0,04%) in aggregate at a 25% allocation and \$280m (+GDP 0,06%) at 35%<sup>333</sup>.

(ii) **Scenario two,** the net revenue effect was further analysed based on *percentage of internet users* at an average rate of 3%<sup>334</sup>. **Figure 14** illustrates a disproportionate outcome of the GDP under the

<sup>323</sup> There is currently no means to verify actual DST received by the KRA, available at [Digital Services Taxes May Be Difficult To Remove \(forbes.com\)](https://www.forbes.com)

<sup>324</sup> Ibid

<sup>325</sup> Kenya–MNE Tax, [Why Kenya and Nigeria haven't agreed to global corporate tax deal — Quartz Africa \(qz.com\)](https://www.quartz.com); Nigeria has recently

<sup>326</sup> Based on the recent enactment of 6%, February 2022, [Nigeria plans to tax digital non-resident firms at 6% of turnover | Reuters](https://www.reuters.com)

<sup>327</sup> Comprising of 42 African countries, GDP (current US\$) - OECD members | Data (worldbank.org), [GDP \(current US\\$\) - OECD members | Data \(worldbank.org\)](https://data.worldbank.org)

<sup>328</sup> IFA Virtual Event; OECD; G20 - IFA 2021 Virtual Event [Seminar E]: Africa (02 Dec. 2021), News IBFD, available on [https://research-ibfd.org.ezproxy.uct.ac.za/#/doc?url=/document/tns\\_2021-12-02\\_ifa\\_1](https://research-ibfd.org.ezproxy.uct.ac.za/#/doc?url=/document/tns_2021-12-02_ifa_1)

<sup>329</sup> The 3 countries out of the 42 African countries which are Tunisia, Zimbabwe and Sierra Leone

<sup>330</sup> Reference aappendix 7 of this document, Unilateral measures enacted by countries in Africa

<sup>331</sup> Households and NPISHs Final consumption expenditure (current US\$) | Data (worldbank.org), comprising of 42 African countries.

<sup>332</sup> Refer to appendix 8 of this document for a comparative of net revenue gain for the 42 smaller jurisdictions calculated for scenario 1.

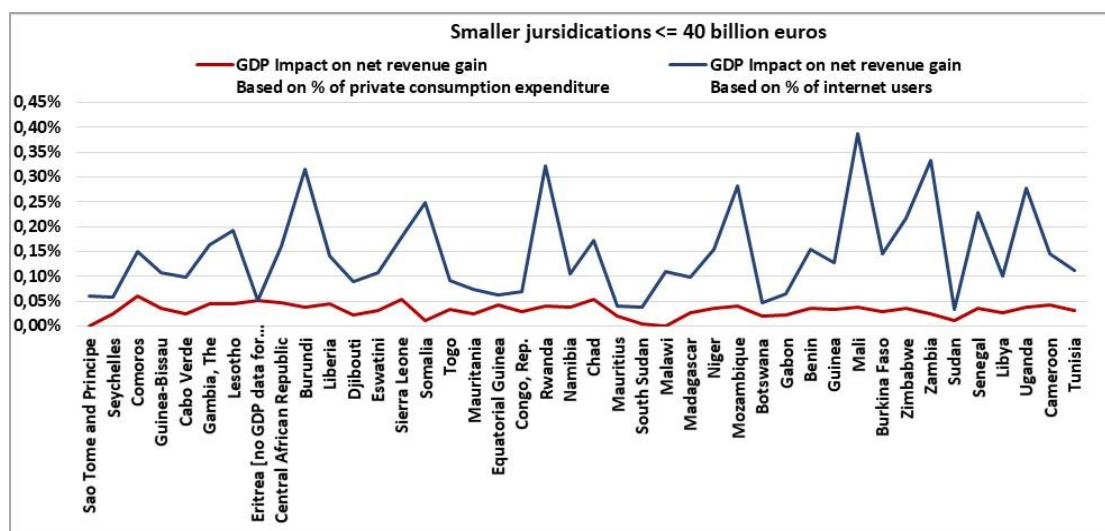
<sup>333</sup> Ibid

<sup>334</sup> Smaller jurisdictions are calculated based on 147 095 135 internet users to world total of internet users of 5 5053 891 122 yielding a 3% average for 42 smaller jurisdictions with a GDP of lower than 40 billion euros, 2020 data. Available on <https://www.internetworldstats.com/>. For the purposes of analysing the

two scenarios and yields a similar outcome as **Figure 6**. For a *global turnover above €20bn*, the net revenue gain for Amount A yields \$640m in aggregate at a 25% allocation with an average collective GDP percentage of 0,13% and \$896m in aggregate at a 35% allocation with an average collective GDP of 0.18%<sup>335</sup>.

For a *global turnover above €10bn*, the analysis suggests a net revenue gain of \$806m (+GDP 0,16%) in aggregate at a 25% allocation and \$1,2bn (+GDP 0,22%) in aggregate at 35%<sup>336</sup>.

**Figure 14**



Source: GDP (current US\$) | Data (worldbank.org), World Internet Users Statistics and 2021 World Population Stats (internetworldstats.com)

In summary the analysis estimates that smaller jurisdictions in Africa may receive additional tax revenue in collective *GDP ranging between 0,03% - 0,22%* based on the proposed options under the two scenarios with a *global turnover above €20bn and €10bn* at a 25% and 35% residual profit allocation.

The DST tax base was further analysed for (i) **Facebook** and (ii) **Alphabet** to understand the potential DST tax base for smaller jurisdictions.

(i) The collective net revenue gain for Pillar One for **Facebook** is estimated at \$2,3m (GDP impact 0,0005%). By applying the ATAF DST proposal between 1% - 3% and DST enacted by Zimbabwe and Sierra Leone, the estimates of the revenue potential are significantly small. The analysis suggests that the countries would receive additional tax revenue in collective GDP

position of Africa, the Sales Apportionment Factor was calculated by placing reliance on the Percentage of Internet Users for the 42 countries in Africa. Therefore, due to limited data, there may be unknown variations in the outcome of the analysis.

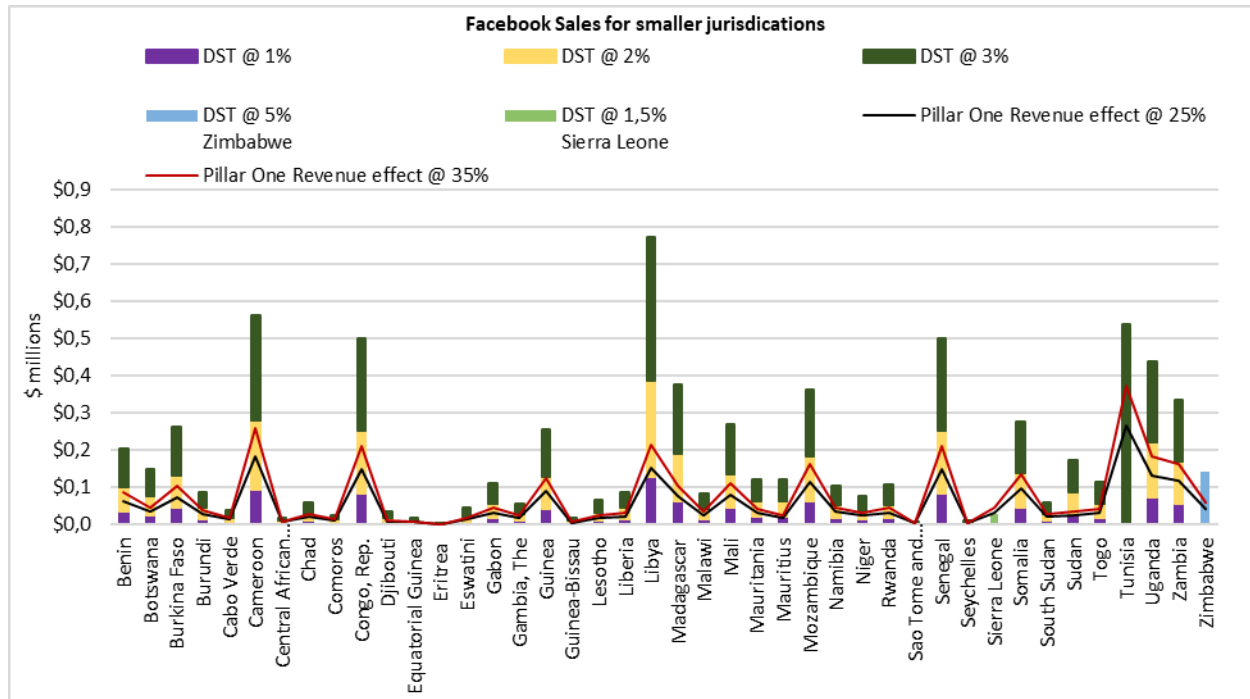
<sup>335</sup> Reference appendix 9 of this document for a comparative of net revenue gain for 42 smaller jurisdictions calculated for scenario 2.

<sup>336</sup> Ibid

ranging between 0,0002% - 0,001%<sup>337</sup>. The analysis suggests that four jurisdictions would not qualify for Amount A allocation with respect to Facebook sales<sup>338</sup>.

**Figure 15** illustrates that the overall revenue effect for Facebook sales would yield better results with a DST rate of 3% and above when compared to the net revenue gain for Amount A for all countries.

**Figure 15**



Sources : Facebook users per country <https://napoleoncat.com/stats> Revenue per user by region • Facebook: average revenue per user region 2020 | Statista  
DST <https://tax.kpmg.us/content/dam/tax/en/pdfs/2022/digitalized-economy-taxation-developments-summary.pdf> , Last updated 3 February 2022

(ii) The collective net revenue gain on Pillar One for **Alphabet sales**<sup>339</sup> is estimated at \$58m (GDP impact 0,01%).<sup>340</sup> By applying the ATAF DST proposal between 1% - 3% and DST enacted by Zimbabwe and Sierra Leone, the estimates of the revenue potential is significantly higher.<sup>341</sup> Zimbabwe would receive DST revenue of \$15m at a DST rate of 5%. The remaining countries

<sup>337</sup> Collective GDP is calculated on a total GDP of \$504 630 674 6329 for 42 countries lower than 40 billion euros, 2020 world bank data, GDP (current US\$) - OECD members | Data (worldbank.org), Reference Section 6.10, appendix 10 for a comparative of the Facebook sales and Sales percentage for the 42 countries.

<sup>338</sup> The four countries are, Equatorial Guinea (Facebook sales €232 204), Eritrea (Facebook sales €11 908), Sao Tome and Principe (Facebook sales €116 774) and Seychelles (Facebook sales €136 941). Seychelles is the only member of the Inclusive Framework. Refer to appendix 10 of this document for Facebook sales for 42 countries

<sup>339</sup> Sales allocation percentage were calculated on a percentage of internet users for the 41 countries to total world internet users, available on <https://www.internetworldstats.com/>

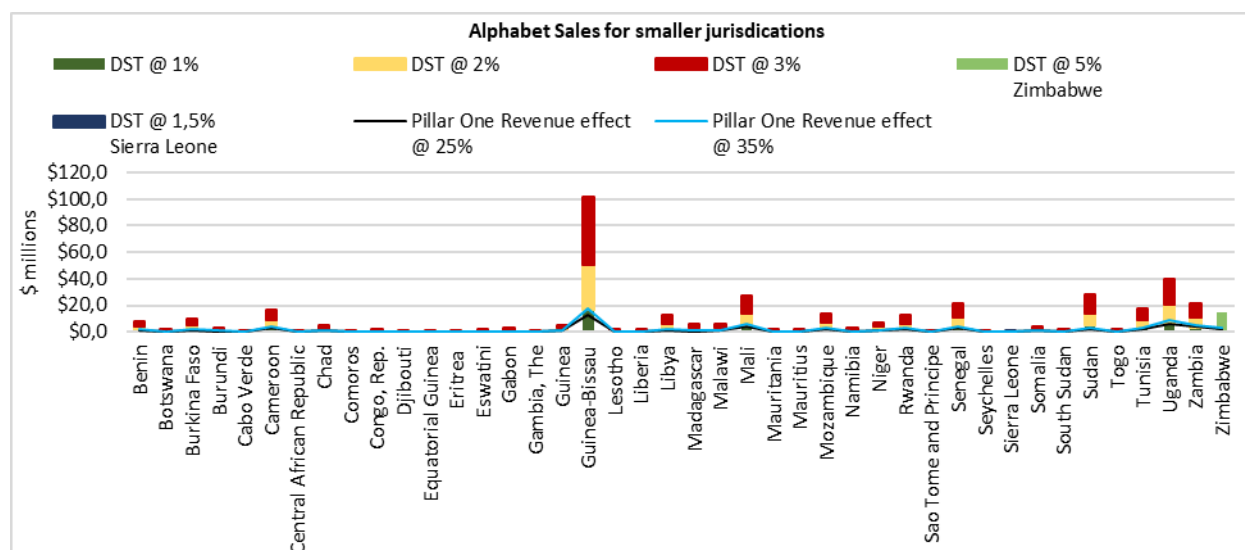
<sup>340</sup> Collective GDP is calculated on a total GDP of \$504 630 674 632 for 42 countries lower than 40 billion euros, 2020 world bank data, GDP (current US\$) - OECD members | Data (worldbank.org).

<sup>341</sup> Refer to figure 13, GDP impact on net revenue gain based on a private consumption factor versus percentage of internet users for the 42 countries.

would receive between \$82m - \$215m<sup>342</sup>. The analysis suggests that the countries would receive a collective GDP between 0,01% - 0,04% in DST from Alphabet sales<sup>343</sup>.

**Figure 16** illustrates that the overall revenue impact of Pillar One for Alphabet sales would yield a net loss for all countries when compared to the proposed ATAF DST and DST enacted<sup>344</sup>.

**Figure 16**



Source: Internet users <https://www.internetworldstats.com/> , ATAF DST Proposal [https://events.ataftax.org/index.php?page=documents&func=view&document\\_id=79](https://events.ataftax.org/index.php?page=documents&func=view&document_id=79), <https://tax.kpmg.us/content/dam/tax/en/pdfs/2022/digitalized-economy-taxation-developments-summary.pdf> , Last updated 3 February 2022

In summary, lower income developing countries<sup>345</sup> are faced with many imbalances of resources, weak tax administration capabilities and large dependency on international aid.

The IMF shows that the average primary surplus required to bring debt to pre-COVID-19 levels for low income developing countries is 0,3% of GDP<sup>346</sup>. The analysis suggests that smaller jurisdictions may not generate sufficient revenue from Pillar One.

#### 4.4 CONCLUSION

Chapter 4 compared the position of the UK to Africa and evaluated the proposed ATAF DST to the Pillar One solution. Despite the size of the countries' economies, the principle of fairness requires an

<sup>342</sup> Reference appendix 11 of this document for Alphabet sales for 42 countries.

<sup>343</sup> Collective GDP is calculated on a total GDP of \$504 630 674 632 for 42 countries lower than 40 billion euros, 2020 world bank data, GDP (current US\$) - OECD members | Data (worldbank.org).

<sup>344</sup> The Sales Allocation Factor were determined based on the Percentage of Internet Users for Smaller jurisdictions. There was no available data with respect to Alphabet growth market share in Africa. Therefore, due to limited data, there may be unknown variations in the outcome of the analysis.

<sup>345</sup> Comprising 15 countries under the category of smaller jurisdictions, Reference appendix 12, Seychelles (high income), Mauritania (Upper middle income), Equatorial Guinea (Upper middle income), Namibia (Upper middle income), Mauritius (Upper middle income), Botswana (Upper middle income), Gabon (Upper middle income), Libya (Upper middle income), South Africa (Upper middle income)

<sup>346</sup> International Monetary Fund (IMF). 2021. *Fiscal Monitor: Strengthening the Credibility of Public Finances*. Washington, October, page 19

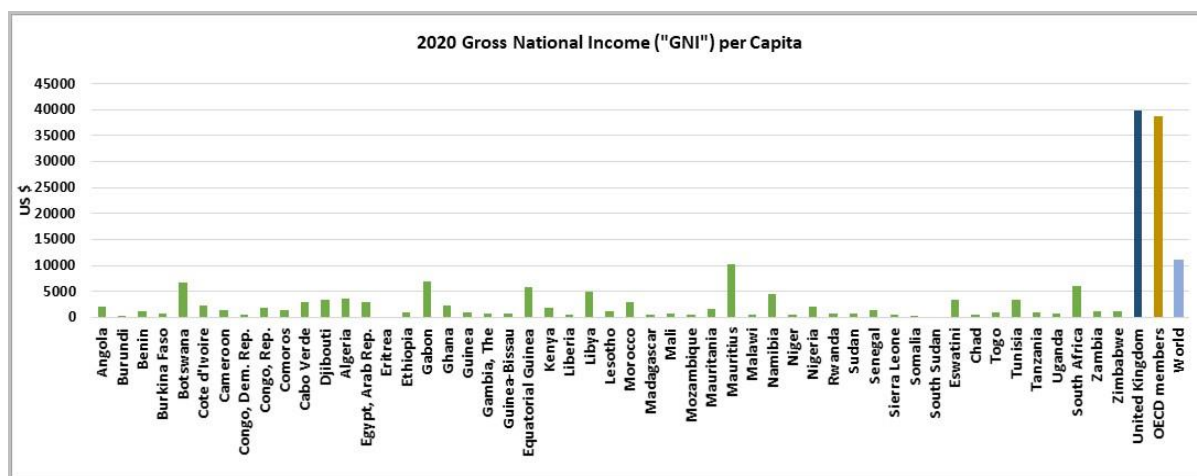
equitable allocation of taxing rights among all countries<sup>347</sup>. It is also important that there is international cooperation in developing the rules that protect the interest of all countries to allow for a fair distribution of world capital and global neutrality<sup>348</sup>.

The UK, an advanced economy, yields an average percentage of tax revenue to GDP ratio of 34% and a projected DST revenue to GDP of 0,02%<sup>349</sup>. The OECD average GDP ratio was 34% for 2020. The overall net revenue effect on Pillar One for the UK is an approximate loss of \$351m with a GDP loss of 0,01% in tax revenue<sup>350</sup>. The loss to the UK is therefore relatively small in comparative to the size of the UK economy with a GDP of \$2,76 trillion and a population of 67 million.

In contrast to advanced economies such as the UK, developing countries are more reliant on CIT as a source of government revenue. The UK generates approximately 22% more in personal income tax, which differs significantly to a large segment of African countries<sup>351</sup>. Developing countries places less reliance on personal income taxes due to their small formal sectors with some yielding a larger share in consumption taxes<sup>352</sup>.

**Figure 17** illustrates the Gross National Income per capita for most developing countries yielding an average of below \$4000 per capita significantly lower when compared to the UK \$39700, OECD \$38594 and World average \$11066 per capita.

**Figure 17**



Source: [GNI per capita, Atlas method \(current US\\$\) | Data \(worldbank.org\)](https://data.worldbank.org/ny/gny/capita), 2020 data

<sup>347</sup> A.W. Oguttu, A Critique from a Developing Country Perspective of the Proposals to Tax the Digital Economy, 12 World Tax J. (2020), Journal Articles & Opinion Pieces IBFD, available at [https://research-ibfd-org.ezproxy.uct.ac.za/#/doc?url=/document/wtj\\_2020\\_04\\_int\\_2](https://research-ibfd-org.ezproxy.uct.ac.za/#/doc?url=/document/wtj_2020_04_int_2)

<sup>348</sup> Ibid

<sup>349</sup> Reference appendix 4 of this document shows the composition of the UK tax revenue and percentage GDP forecast over a 5- year period.

<sup>350</sup> Chapter 3, table 10, The overall revenue effect in GBP is £242 million (Year 2023/24) translated at exchange rate of 0,69, GDP for the UK \$2,76 trillion, 2020 data.

<sup>351</sup> Reference section 6.5, appendix 5, Africa tax revenue as a % of GDP.

<sup>352</sup> A.W. Oguttu, A Critique from a Developing Country Perspective of the Proposals to Tax the Digital Economy, 12 World Tax J. (2020), Journal Articles & Opinion Pieces IBFD, available at [https://research-ibfd-org.ezproxy.uct.ac.za/#/doc?url=/document/wtj\\_2020\\_04\\_int\\_2](https://research-ibfd-org.ezproxy.uct.ac.za/#/doc?url=/document/wtj_2020_04_int_2)

The IMF results show that the average primary surplus required to bring debt to pre-COVID-19 levels would have to be 0,5% higher than previous 9 years (2010-2019) for advanced economies<sup>353</sup>. Developed countries are recovering at a faster pace from the aftermath of COVID-19 whilst developing countries are confronted with major global issues such as extreme poverty, international inequality and sustainability goals<sup>354</sup>. The IMF maintains that the fiscal outlook is less supportive than advanced countries and tax revenues are not projected to regain their pre-crisis trajectory<sup>355</sup>.

Nigeria has one of the lowest percentages of GDP tax revenues in the world and has struggled to increase its tax collection from its non-oil sectors<sup>356</sup>. Nigeria, therefore, seeks to secure a fair deal that provides equitable global re-allocation of profits to all market jurisdictions<sup>357</sup>. The Nigerian Minister of Finance claimed that the outcome of Pillar One would significantly reduce any benefit to market jurisdictions and the sales threshold of €1m would further limit any benefit<sup>358</sup>.

The G24 further contended for a *gradual and progressive* withdrawal of unilateral measures alongside the implementation of Amount A to ensure continuity of revenues for developing countries, however, only 5 out of the 54 countries have enacted unilateral measures. The complexity of the Pillar One sourcing rules allows for a differentiation between MNEs that qualify for Amount A payments. The current thresholds enacted by the five countries are at a low level or in some cases with no threshold<sup>359</sup>. It is uncertain if the five African countries will impose a higher DST rate or maintain a lower DST rate and broaden the scope to increase revenue<sup>360</sup>. The Kenyan Government are proposing to increase the DST from 1,5% to 3%.<sup>361</sup>

Out of 54 African countries, 27 countries are not members of the IF<sup>362</sup> and very few countries in Africa have enacted unilateral measures with an attempt to tax the profits attributable to digital business to protect their tax base.

DST are a turnover-based-tax and is regarded as an important of source revenue for countries which are easier to implement in their domestic laws. Under International Law, DST is not bound by a treaty and likely not a tax covered by most or all treaties entered into by Africa. Trade retaliation against the five African countries remains uncertain, however Africa should not be penalised for

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<sup>353</sup> International Monetary Fund (IMF). 2021. *Fiscal Monitor: Strengthening the Credibility of Public Finances*. Washington, October, page 19.

<sup>354</sup> <https://www.icrict.com/press-release/2021/10/12/icrict-open-letter-to-g20-leaders-a-global-tax-deal-for-the-rich>, International Monetary Fund (IMF). 2021. *Fiscal Monitor: Strengthening the Credibility of Public Finances*. Washington

<sup>355</sup> Ibid

<sup>356</sup> Section 6.5, appendix 5, Africa tax revenue as a % of GDP

<sup>357</sup> [Nigeria to prioritise taxes from digital non-resident firms in 2022 | Reuters](#), [Nigerian Minister of Finance Explains Reasoning for Not Joining Inclusive Framework Statement for Two-Pillar Solution — Orbitax News](#)

<sup>358</sup> Ibid

<sup>359</sup> Reference section 7, appendix 7 of this document

<sup>360</sup> Ibid, with the exception of Nigeria who has implemented a SEP type of rate at 6%

<sup>361</sup> Kenya - Digital Taxation Monitor, Tables IBFD (accessed 31 July 2022), available at [https://research-ibfd-org.ezproxy.uct.ac.za/#/doc?url=/document/dtm\\_ke](https://research-ibfd-org.ezproxy.uct.ac.za/#/doc?url=/document/dtm_ke). Kenya - Government Proposes Increase of Digital Service Tax from 1.5% to 3% (16 May 2022), News IBFD (accessed 31 July 2022), available at [https://research-ibfd-org.ezproxy.uct.ac.za/#/doc?url=/document/tns\\_2022-05-16\\_ke\\_1](https://research-ibfd-org.ezproxy.uct.ac.za/#/doc?url=/document/tns_2022-05-16_ke_1)

<sup>362</sup> Section 6.12, appendix 12 of this document, listing of 54 countries, members and non-members of the Inclusive Framework and members of ATAF.

seeking alternative solutions for increasing tax revenue. Africa's two most prominent economies, Nigeria and Kenya, have withdrawn its support for the Two-Pillar solution.

The UN has actively pursued an alternative article 12B proposal for developing countries with a proposed recommended modest rate of 3% - 4%<sup>363</sup> which may become a more favourable policy framework for African countries to mitigate the deficit and to seek for new sources of revenue.

Considering the evaluation of the two proposals, it is unlikely that the Pillar One Solution will address the needs of the 54 African countries. It is also uncertain if the proposed ATAF DST with a recommended rate of between 1% and 2% is sufficient to mitigate the net revenue effect of Pillar One Amount A for most of the 54 African countries. If most countries set a higher DST rate at 3% or above, they may exceed or raise as much revenue as Pillar One.

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<sup>363</sup> Committee of Experts on International Cooperation in Tax Matters, Twentieth session/C.18/2020/CRP.41, October 11, 2020, [CRP41\\_Digitalization\\_10102020A\\_0.pdf \(un.org\)](#)

## 5. CHAPTER FIVE: CONCLUSION

Pillar One is a departure from the PE rules for allocating taxes, with nexus based on sales into market jurisdictions. Under the current rules, large digital MNEs such as Facebook and Alphabet who represents a growing share of the market can only be taxed where there is physical presence. The main objective of this dissertation is to evaluate if the Pillar One solution would lead to significant increase in revenue for the UK and African countries. In addressing this question, the revenue effects of the UK were analysed by comparing and contrasting the DST policy to Pillar One. The UK position was further compared to the ATAF DST proposal for Africa by evaluating and analysing the revenue effects of 54 African countries and to reach a conclusion if Africa would be in a better position to adopt the DST as opposed to Pillar One.

The key findings of this evaluation are set out as follows;

- (i) The UK DST is a valuable source of revenue for the UK which is based on a narrow scope targeting a small number of large digital markets causing greater risk to trade retaliation, international double taxation and is not bound by a treaty law. The UK and US reached a compromise by entering into a joint agreement to gradually terminate the existing UK DST and the US committed to repeal further trade actions.

The overall net revenue effect yielded an approximate loss of £242 million (\$351m) with a GDP loss of 0,01% in tax revenue for the UK if the DST is repealed. The analysis suggests a reduction in UK DST ranging from 42% - 75% for MNEs such as Amazon, Alphabet and Facebook who may benefit from Pillar One. The average tax revenue % to GDP ratio is 34% with DST projected at 0,02%<sup>364</sup>. Personal income taxes constitute a larger portion of the total tax revenue, 22% in contrast to CIT of 6%<sup>365</sup>. Considering the evaluation and analysis, the loss to the UK is relatively small in comparative to the size of the economy with a GDP of \$2,764 trillion and a population size of 67million<sup>366</sup>.

- (ii) The ICRICT<sup>367</sup> proclaimed that “*the global deal was for the rich*” and that the reform process has been watered down to benefit the rich countries and the share of the additional revenue is expected to be received by a small number of rich countries<sup>368</sup>. Out of the 54 African countries analysed, 27 countries are non-members of the IF and of the 54 countries, 23 (43%) countries are low-income, 22 (41%) low-middle income, 8 (15%) upper-middle-income and 1 (1%)

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<sup>364</sup> Reference appendix 4 and 9 of this document

<sup>365</sup> Reference appendix 2, [IFS revenue composition spreadsheet | IFS Taxlab](#)

<sup>366</sup> 2020 Data, GDP (current US\$) | Data (worldbank.org)

<sup>367</sup> International Commission for the Reform of International Corporate Taxation

<sup>368</sup> ICRICT open letter to G20 leaders: “A global tax deal for the rich”, available at <https://www.icrict.com/press-release/2021/10/12/icrict-open-letter-to-g20-leaders-a-global-tax-deal-for-the-rich>

high-income<sup>369</sup>. The total GDP is \$2 405 trillion with a pollution size of 1,4bn<sup>370</sup>. Middle-income countries such as Kenya and Nigeria have not endorsed the agreement<sup>371</sup>.

The analysis suggests under Pillar One at a **threshold of 20bn** and **allocation of 25%**, 54 developing countries may receive additional revenue ranging between \$787m - \$2,7bn with a collective GDP between 0,03% - 0,11%<sup>372</sup>. The additional revenue at an **allocation of 35%** is estimated between \$1,1bn - \$3,7bn with a collective GDP between 0,05% - 0,16%<sup>373</sup>.

At a **threshold of 10bn** and **allocation of 25%**, 54 developing countries may receive additional revenue ranging between \$992m - \$3,4bn with a collective GDP between 0,04% - 0,14%<sup>374</sup>. At an **allocation of 35%** the additional revenue is estimated between \$1,4bn - \$3,7bn with a collective GDP between 0,06% - 0,2%<sup>375</sup>. The key result is that the impact of Pillar One revenue is approximately equivalent to between 1% - 2.5% of DST for most countries<sup>376</sup>.

The analysis suggests that smaller jurisdictions may not generate sufficient revenue from Pillar One with most countries estimated below \$1m. Pillar One revenue may also not become a priority for low-income countries due to the administrative costs for implementation<sup>377</sup>. The reduced nexus to €250 000 is intended to assist developing countries but will still only apply to a smaller group of large MNEs' comprising 3% of total 2000 MNEs' and 6% of the threshold is reduce to \$10bn, therefore it is uncertain if significant revenue would be raised<sup>378</sup>.

Considering the evaluation and analysis, it is concluded that the Pillar One solution is unlikely to address the needs of the 54 African countries and may not generate sufficient revenue for these countries. The future role of DST in Africa remains unclear and the approach of DST has varied and may not become a priority for most low-income countries. The impact on DST is small ranging between 0,0002% and 0,004% of collective GDP.

(iii) The analysis also suggests that the share of total Amount A would globally amount to \$82bn and \$104bn if lowered to \$10bn which is less than the \$125bn estimated by the OECD. The share of Amount A suggests an increase to \$145bn if the allocation is increased to 35% at a threshold of \$10bn<sup>379</sup>.

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<sup>369</sup> Reference appendix 12 of this document.

<sup>370</sup> 2020 Data, GDP (current US\$) | Data (worldbank.org)

<sup>371</sup> At the time of submitting

<sup>372</sup> Based on the two scenarios (1) Private Consumption expenditure and (2) percentage of Internet users

<sup>373</sup> Ibid

<sup>374</sup> Based on the two scenarios (1) Private Consumption expenditure and (2) percentage of Internet users

<sup>375</sup> Ibid

<sup>376</sup> Based on an analysis carried for Facebook and Alphabet sales

<sup>377</sup> Reference appendix 8 and 9 of this document

<sup>378</sup> Reference appendix 1 and 2 of this document

<sup>379</sup> [International community strikes a ground-breaking tax deal for the digital age - OECD](#), reference appendix 1 and 2 of this document.

The Pillar One solution is a major reform of the international tax system with an aim to ensure that MNEs pay their fair share of tax however many caveats need to be considered at a political and economic level. The Pillar One proposal comprise of 11 building blocks and the technical elements of these blocks are still part of an ongoing discussion within the sub-bodies of the IF to achieve a successful implementation.

## 6. APPENDIX

### 6.1 APPENDIX 1: PILLAR ONE AMOUNT A ALLOCABLE TO TAX BASE BY HEADQUARTER JURISDICTIONS, GLOBAL TURNOVER > €20 BILLION

	No of MNEs	MNE Profit After 10% cut-off \$ millions	Share of Total Amount A @ 25% \$ millions	Share of Total Amount A @ 35% \$ millions	Share of total Amount A
United States	29	423,200	55,693	77,970	68%
China	4	54,700	8,053	11,274	10%
Switzerland	4	41,400	4,685	6,559	6%
Taiwan	1	18 700	3,473	4,862	4%
Japan	3	31 200	2813	3,938	3%
France	4	29 000	2,948	4,127	4%
Hongkong	3	23 700	1 ,608	2,251	2%
South Korea	2	26 100	833	1,166	1%
United Kingdom	3	16 900	995	1,393	1%
Germany	1	6 300	783	1,096	1%
Ireland	1	5 500	233	326	0%
Spain	1	4 100	80	112	0%
<b>Total</b>	<b>56</b>	<b>680 800</b>	<b>82 193</b>	<b>115 070</b>	<b>100%</b>

Sources: Forbes 2000 Index, 2020 Data set, [The Global 2000 2021 \(forbes.com\)](https://www.forbes.com)

OECD Secretary-General Tax Report to G20 Finance Ministers and Central Bank Governors, Italy, October 2021, OECD, Paris, [www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf](https://www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf)

### 6.2 APPENDIX 2: PILLAR ONE AMOUNT A ALLOCABLE TO TAX BASE BY HEADQUARTER JURISDICTIONS, GLOBAL TURNOVER > €10 BILLION

	No of MNEs	MNE Profit After 10% cut-off \$ millions	Share of Total Amount A @ 25% \$ millions	Share of Total Amount A @ 35% \$ millions	Share of total Amount A
United States	61	518,600	66,385	92,939	64%
China	12	78,400	10,978	15,369	11%
Japan	11	48,900	4,423	6,192	4%
Switzerland	5	43,000	4,790	6,706	5%
Taiwan	1	18,700	3,473	4,872	3%
France	5	31,500	3,200	4,480	3%
Hongkong	4	26,500	2,015	2,821	2%
Italy	1	8,200	1,600	2,240	2%
Denmark	1	6,400	1,115	1,561	1%
United Kingdom	3	16 900	995	1,393	1%
India	4	10,700	963	1,348	1%
Germany	2	8,600	858	1,201	1%
South Korea	2	26,100	833	1,166	1%
Netherlands	1	4,100	628	879	1%
Ireland	2	7,300	355	497	0,3%
Saudi Arabia	1	3,000	358	501	0,3%
<b>Sub-total</b>	<b>116</b>	<b>856,900</b>	<b>102,956</b>	<b>144,151</b>	<b>99%</b>

	No of MNEs	MNE Profit After 10% cut-off \$ millions	Share of Total Amount A @ 25% \$ millions	Share of Total Amount A @ 35% \$ millions	Share of total Amount A
United Arab Emirates	1	2,500	273	382	0,3%
Russia	1	2,100	168	235	0,2%
Norway	1	1,700	100	140	0,1%
Spain	1	4 100	80	112	0,1%
Canada	1	1800	23	31	0%
<b>Total</b>	<b>121</b>	<b>867,300</b>	<b>103,585</b>	<b>145,019</b>	<b>100%</b>

Sources: Forbes 2000 Index, 2020 Data set, [The Global 2000 2021 \(forbes.com\)](https://www.forbes.com)

OECD Secretary-General Tax Report to G20 Finance Ministers and Central Bank Governors, Italy, October 2021, OECD, Paris, [www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf](http://www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf)

## 6.3 APPENDIX 3: METHODOLOGIES FOR UK PILLAR ONE AMOUNT A AND DST ANALYSIS FOR DIGITAL COMPANIES

**Alphabet Parent company of Google is a dominant digital market in search engines and application stores.**

### **Primary Business**

*Google's main revenue is sourced from advertising through google owned and operated properties such as Google Search, Google Maps and other applications. Google accounts for the majority of the online and mobile search market worldwide. The company holds a market share of approximately 90% in a wide range of digital markets.*

### **UK Pillar One Amount A**

- The 2020 Alphabet global sales were recorded at \$182 billion with a pre-tax margin of 22%.
- The UK sales from Google was calculated at an average of 11% between 2007 and 2016.
- The EMEA sales in the 2020 10-K report was recorded at 30%. The UK sales apportionment factor for analysing UK Pillar One Amount A was therefore based at 11% as the best estimate.
- **UK Pillar One Amount A** was calculated by applying the 11% apportionment factor.

Sources: Average growth share of Alphabet's and Google's revenue generated in the UK from 2007 to 2016, • [Alphabet & Google: United Kingdom revenue share 2007-2016 | Statista](#), Forbes 2000 Index, 2020 Data set, [The Global 2000 2021 \(forbes.com\)](#),

**Facebook is a dominant market in social networking.**

### **Primary Business**

*Facebook's main revenue is generated from advertising with over 90% of the of its annual revenue derived via. mobile.*

### **UK Pillar One Amount A**

- The 2020 Facebook global sales were recorded at \$86 billion with a pre-tax margin of 34%.
- Total Facebook users for the UK is estimated at 51 million.
- The average revenue per user for 2020 is \$32,03 with the US and Canada showing a higher average of \$53.56 per user and Europe \$12,74. On this basis the average revenue per user for the UK was assumed for computing the UK sales.
- The UK sales for Facebook was computed at an average of \$32,03 per user for 51 million users for 2020 which equates to UK sales of \$1,6 billion (£1,2 billion).
- **UK Pillar One Amount A** was calculated by applying the 2% factor.

Sources: [Facebook users in United Kingdom - December 2020 | NapoleonCat](#), • [Facebook: revenue per user 2020 | Statista](#), <https://annualreport.stocklight.com/NASDAQ/GOOG/21583716.pdf>, Forbes 2000 Index, 2020 Data set, [The Global 2000 2021 \(forbes.com\)](#)

## APPENDIX 3: METHODOLOGIES FOR UK PILLAR ONE AMOUNT A AND DST ANALYSIS FOR DIGITAL COMPANIES

### Amazon dominant market place in on line retail sales

#### Primary Business

*Amazon is the world's leading online retail company in the US and generates its revenue from different global markets and provides an extensive variety of goods and services to its customers.*

#### UK Pillar One Amount A

- The global sales of Amazon for 2020 is \$386 billion with a global pre-tax margin of 6% lower than the 10% Pillar One threshold.
- Amazon is not subject to Pillar One, however the segment of Amazon, *Amazon Web Services* (“AWS”), accounts for 51% of Amazon’s global pre-tax profits with a margin of 30% and sales of \$45 billion. AWS should qualify under the segmented proposal of the IF statement for Pillar One Amount A.
- The 2020 10-K report shows that the UK sales is \$26,4 billion which equates to a UK sales allocation of 6,9%.
- **UK Pillar One Amount** was calculated by applying the 6,9% for AWS.

#### UK DST

- Web Services are not a source of revenue from the UK digital services activities therefore UK DST is not applied. Third party seller services are included in the revenue received in connection with digital services activities under scope of online market places for the UK.
- The UK DST would therefore apply to Amazon third party services. The 2020 10-K report under the segmented note shows Third party sales of \$84 billion.
- UK sales for Amazon third party services is computed at \$5,7 billion at a sales allocation of 6,9%. **DST was applied on \$5,7 billion sales (£4,5 billion)**

Source: Source Forbes 2000 Index , <https://annualreport.stocklight.com/NASDAQ/AMZN/21583589.pdf>

### eBay

#### Primary Business

*eBay is primarily known for its online auction platform and provides first and third-party online sales. Similarly to Amazon, eBay is an online shopping website.*

#### UK Pillar One Amount A

- The global sales of eBay for 2020 is \$10,7 billion below the € 20 billion threshold with a global pre-tax profit of 53%.
- eBay’s 10-K report reflects UK sales of \$1,6 billion which equates to a UK sales allocation of 15,7%. **UK Pillar One Amount A** was calculated by applying the 15,7%.

Source: Source Forbes 2000 Index , <https://annualreport.stocklight.com/NASDAQ/EBAY/20831314.pdf> at pg. 61 and notes 6 at pg.81 of the annual report

## 6.4 APPENDIX 4: COMPOSITION OF UK TAX REVENUE AND PERCENTAGE OF GDP

	<b>Outturn 2019/20 £millions</b>	<b>Forecast 2020-21 £millions</b>	<b>Forecast 2021-22 £millions</b>	<b>Forecast 2022-23 £millions</b>	<b>Forecast 2023-24 £millions</b>	<b>Forecast 2024-25 £millions</b>	<b>Forecast 2025-26 £millions</b>
Personal income tax	165 223	167 274	170 791	181 643	190 125	201 127	213 856
CIT	48 350	45 512	40 260	48 765	71 268	81 730	85 272
Digital sales -							
Base tax in market	0	15 250	21 750	25 250	29 000	32 750	36 000
DST@ 2%	0	305	435	505	580	655	720
DST % of CIT revenue	0%	0,67%	1,08%	1,04%	0,81%	0,80%	0,84%

Source: Institute for Fiscal Studies, <https://ifs.org.uk/taxlab/>

### UK Tax revenue as a % of GDP

	<b>Outturn 2019/20</b>	<b>Forecast 2020-21</b>	<b>Forecast 2021-22</b>	<b>Forecast 2022-23</b>	<b>Forecast 2023-24</b>	<b>Forecast 2024-25</b>	<b>Forecast 2025-26</b>
Total tax	33,4%	33,6%	32,3%	33,4%	34,4%	34,9%	35%
Income Tax	8,7%	9,3%	8,8%	8,8%	8,9%	9,1%	9,4%
CIT	2,2%	2,2%	1,8%	2,1%	2,9%	3,2%	3,2%
DST	0%	0,015%	0,019%	0,021%	0,024%	0,026%	0,027%

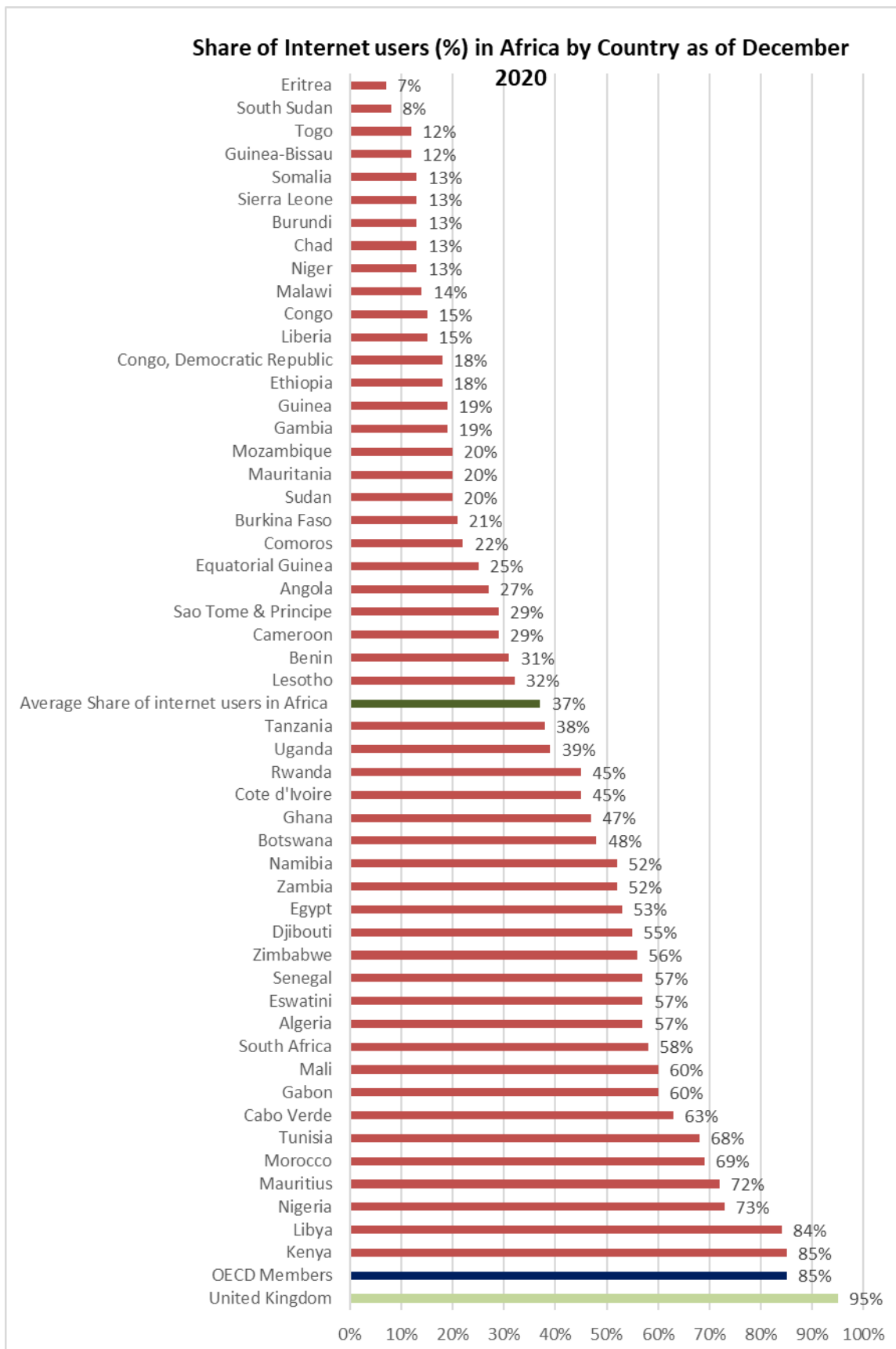
Source: Institute for Fiscal, Studies <https://ifs.org.uk/taxlab/>

## 6.5 APPENDIX 5: AFRICA TAX REVENUE AS A PERCENTAGE OF GDP



Source: Revenue Statistics - African Countries : Comparative tables (oecd.org), 2019 latest available data, Representation for 30 African countries

## 6.6 APPENDIX 6: INTERNET PENETRATION ACROSS AFRICAN COUNTRIES



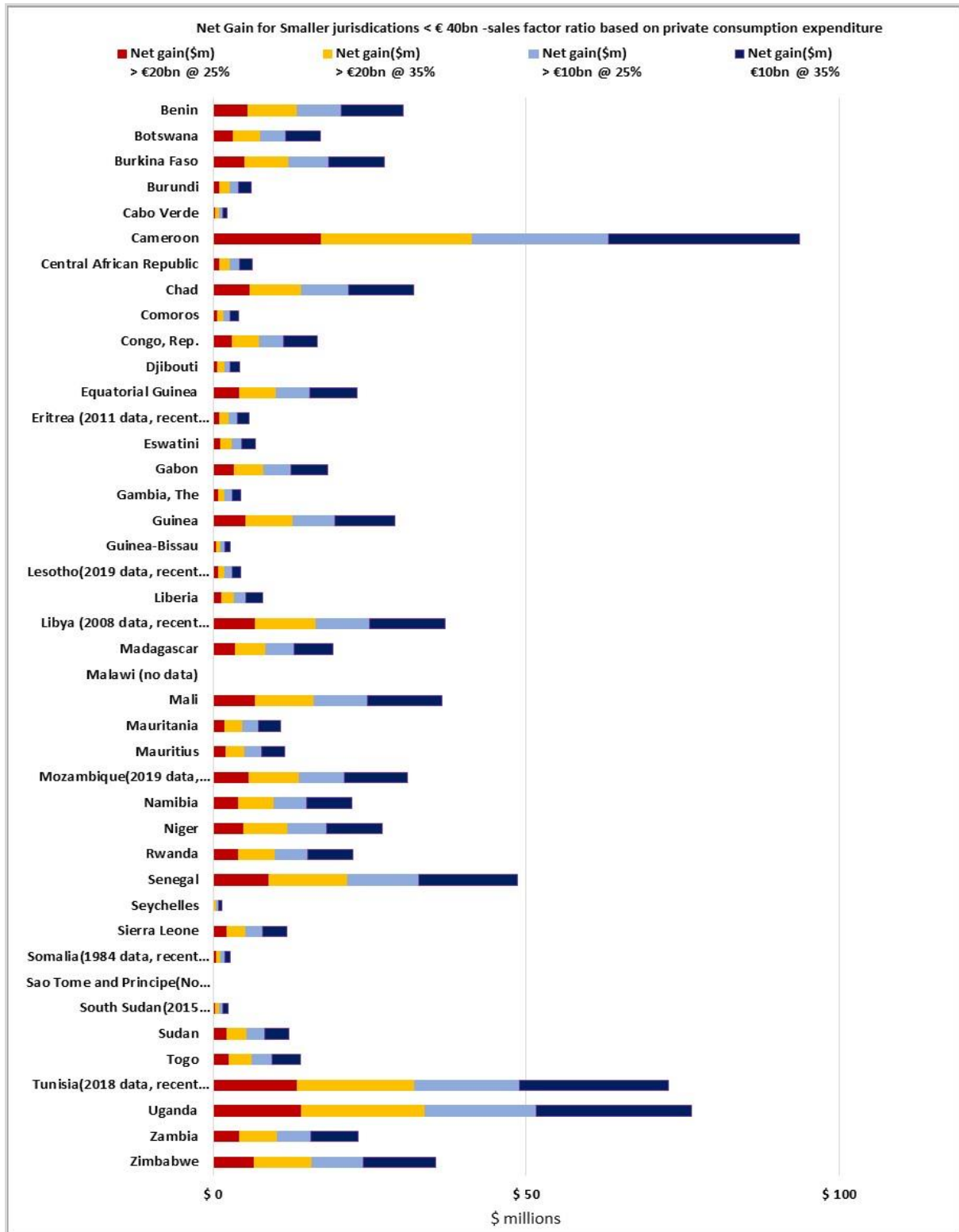
Source: <http://www.statista.com/statistics/1124283/internet-penetration-in-africa-by-country/>, Data(worldbank.org), <https://data.worldbank.org/indicator/IT.NET.USER.ZS> 2020 Data

## 6.7 APPENDIX 7: UNILATERAL MEASURES ENACTED IN AFRICA

Country	Rate	Scope	Type	Threshold	Effective Date
<b>Zimbabwe</b>	5%	Gross income from satellite broadcasting services in respect of the provision or delivery of television or radio programs, and on e-commerce operators providing or delivering goods or services to persons resident in Zimbabwe from providers domiciled outside of Zimbabwe.	General Income Tax on certain digital services income	Revenue in excess of USD 500,000 in any year of assessment.	January 2019
<b>Tunisia</b>	3%	Gross income from sales of computer applications and digital services through the internet by non-resident enterprises with Tunisia residents persons. Detailed requirement to be determined by a decree.	DST	None	January 2020 Not yet fully approved
	15%	Payments made to providers of advertising services or intermediaries in return for the provision of such services via the Internet.	WHT	None	January 2019
<b>Nigeria</b>	6%	Gross turnover or income from four types of digital activities: 1. Providing streaming or downloading services of digital content, such as movies, music, games, and e-books to persons in Nigeria; 2. Transmitting data collected on Nigerian user activities on a digital interface, such as websites or apps; 3. Providing goods and services directly or indirectly through a digital platform; or 4. Providing intermediary services via a digital platform, website, or app linking suppliers to customers in the Nigerian market.	SEP	NGN 25 million (around USD 65,000)	February 2020
<b>Kenya</b>	1.5%	Income accruing through a “digital marketplace,” i.e., a platform that enables the direct interaction between buyers and sellers of goods and services through electronic means	DST	None	2 January 2021
<b>Sierra Leone</b>	1.5%	Turnover of all digital and electronic transactions	DST	None	January 2021

Source: <https://tax.kpmg.us/content/dam/tax/en/pdfs/2022/digitalized-economy-taxation-developments-summary.pdf> , Last updated 3 February 2022

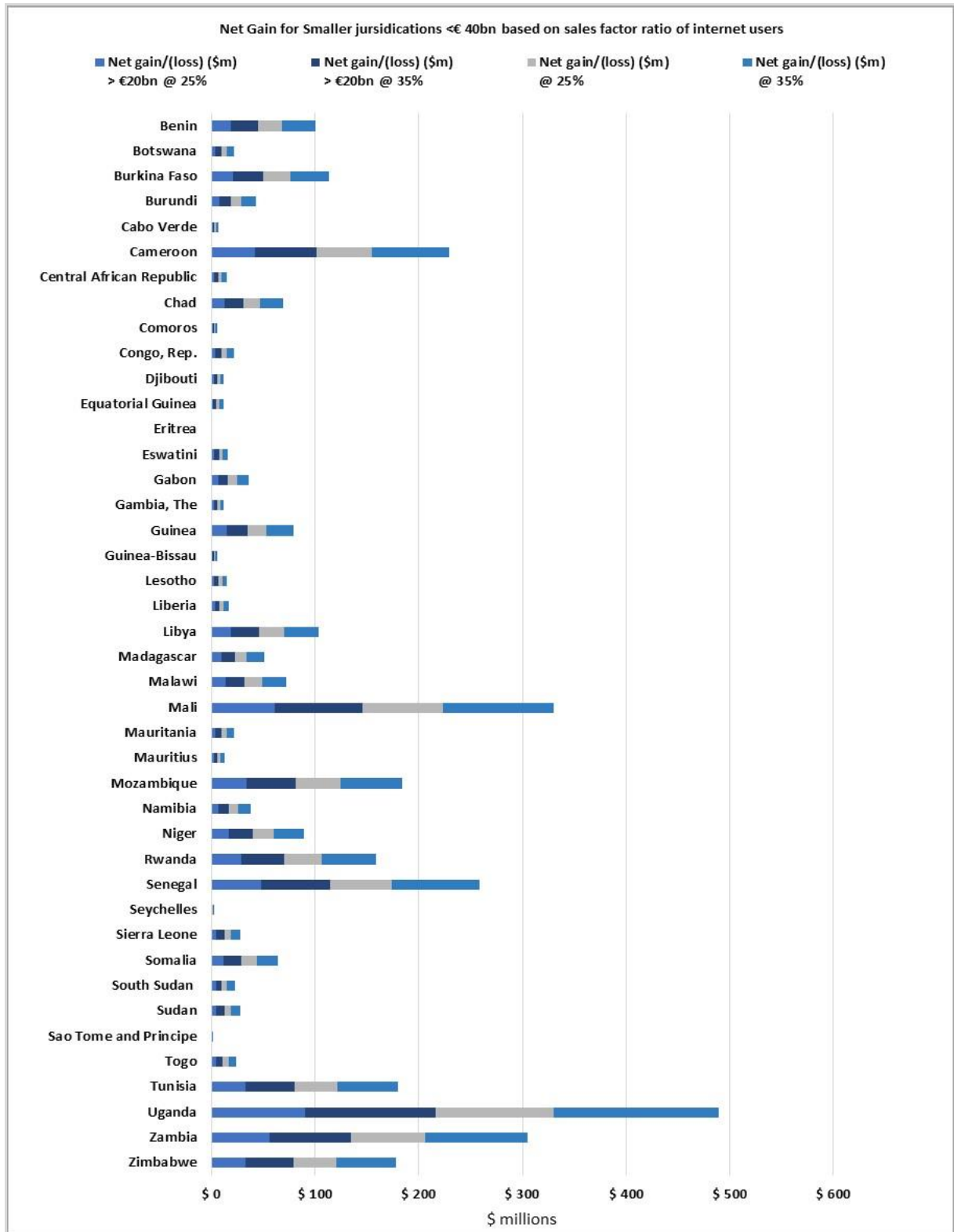
## 6.8 APPENDIX 8: PILLAR ONE AMOUNT A REVENUE EFFECT FOR SMALLER JURISDICTIONS (SCENARIO 1)



Sources: Pillar one Amount A calculated based on private consumption expenditure , Households and NPISHs Final consumption expenditure (current US\$) | Data (worldbank.org), Forbes 2000 Index, 2020 Data set, [The Global 2000 2021 \(forbes.com\)](https://www.forbes.com) , OECD Secretary-General Tax Report to G20 Finance Ministers and Central Bank Governors, Italy, October 2021, OECD, Paris, [www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf](https://www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf).

Non-members of the inclusive framework: Burkina Faso, Burundi, Central African Republic, Comoros, Equatorial Guinea, Eritrea, Gambia, The, Guinea, Guinea-Bissau, Lesotho, Libya, Madagascar, Malawi, Mali, Mozambique, Niger, Rwanda ,SaoTome and Principe, Somalia, Sudan, Togo, Uganda, and Zimbabwe (as at November 2021)

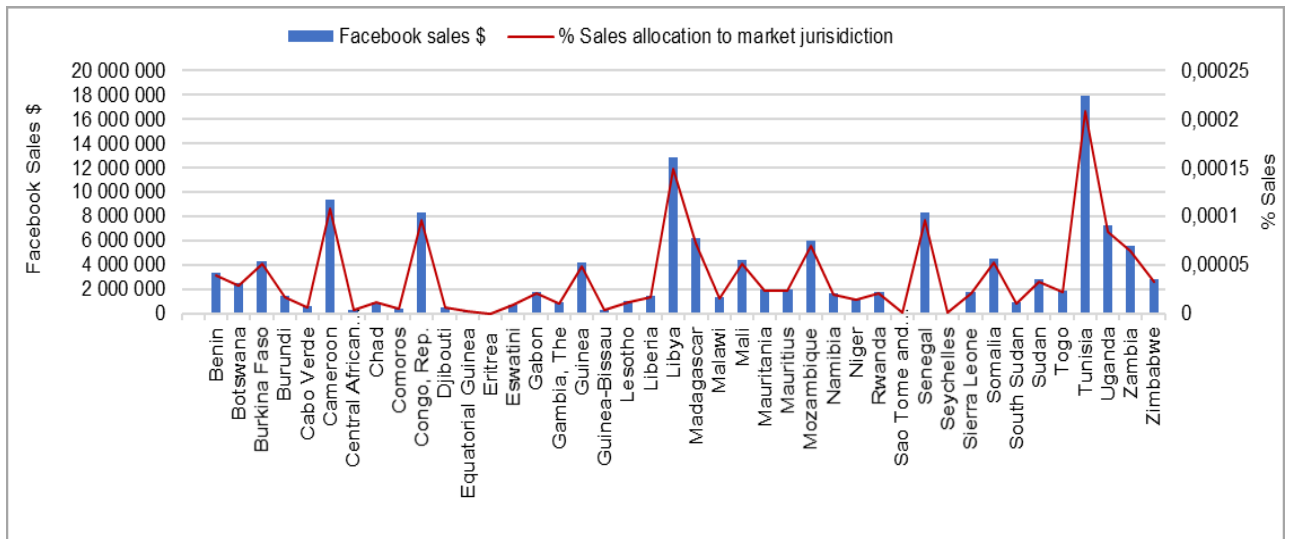
## 6.9 APPENDIX 9: PILLAR ONE AMOUNT A REVENUE EFFECT FOR SMALLER JURISDICTIONS (SCENARIO 2)



Sources: Pillar one Amount A calculated based on private consumption expenditure , Data (worldbank.org), Forbes 2000 Index, 2020 Data set, [The Global 2000 2021 \(forbes.com\)](https://www.forbes.com) , OECD Secretary-General Tax Report to G20 Finance Ministers and Central Bank Governors, Italy, October 2021, OECD, Paris, [www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf](https://www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-october-2021.pdf) , <https://www.internetworldstats.com/>

Non-members of the inclusive framework: Burkina Faso, Burundi, Central African Republic, Comoros, Equatorial Guinea, Eritrea, Gambia, The, Guinea, Guinea-Bissau, Lesotho, Libya, Madagascar, Malawi, Mali, Mozambique, Niger, Rwanda ,SaoTome and Principe, Somalia, Sudan, Togo, Uganda, and Zimbabwe (as at November 2021)

## 6.10 APPENDIX 10: FACEBOOK SALES IN SMALLER JURISDICTIONS

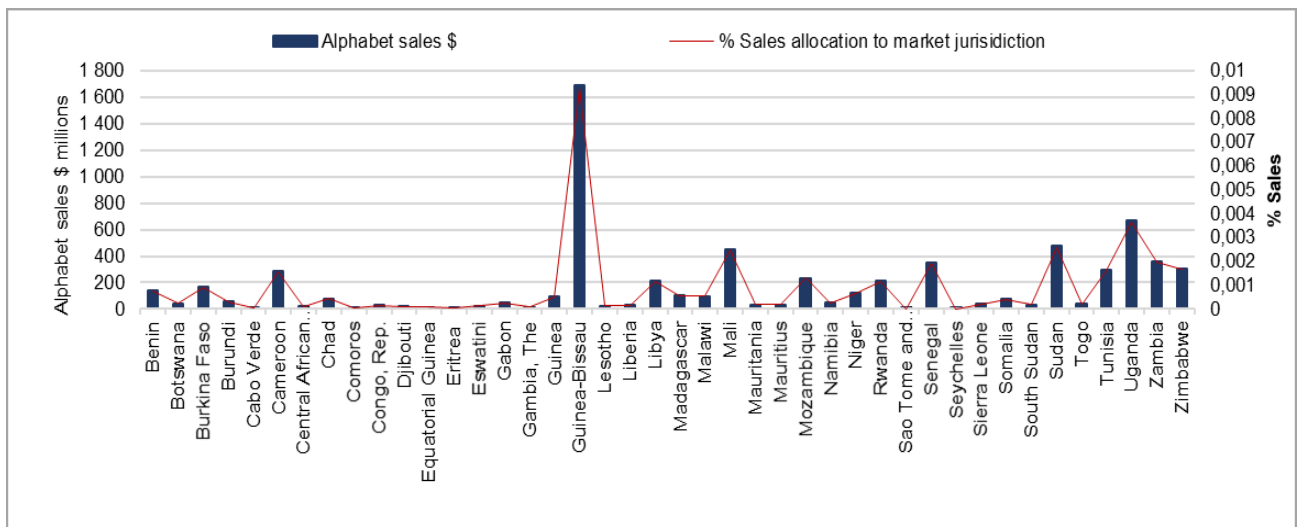


Sources: Facebook sales based on no of Facebook users in 42 smaller jurisdictions, Facebook users per country <https://napoleoncat.com/stats>

Revenue per user by region • [Facebook: average revenue per user region 2020 | Statista](https://www.statista.com/statistics/1000000/facebook-average-revenue-per-user-region-2020/)

Non-members of the inclusive framework: Burkina Faso, Burundi, Central African Republic, Comoros, Equatorial Guinea, Eritrea, Gambia, The, Guinea, Guinea-Bissau, Lesotho, Libya, Madagascar, Malawi, Mali, Mozambique, Niger, Rwanda, SaoTome and Principe, Somalia, Sudan, Togo, Uganda, and Zimbabwe (as at November 2021)

## 6.11 APPENDIX 11: ALPHABET SALES IN SMALLER JURISDICTIONS



Source: Alphabet sales based on Internet users for the 41 smaller jurisdictions, <https://www.internetworldstats.com/> , ATAF DST Proposal

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## 6.12 APPENDIX 12: LISTING OF 54 AFRICAN COUNTRIES

No	Country	Category	GDP USD	GDP EUROS	IF member	ATAF Member
1	Sao Tome and Principe	LMI	\$472 914 470	€414 745 990	N	N
2	Seychelles	HI	\$1 059 886 364	€929 520 341	Y	Y
3	Comoros	LMI	\$1 235 400 352	€1 083 446 109	N	N
4	Guinea-Bissau	LI	\$1 431 758 243	€1 255 651 979	N	N
5	Cabo Verde	LMI	\$1 703 698 677	€1 494 143 739	Y	Y
6	Gambia, The	LI	\$1 868 086 275	€1 638 311 663	N	Y
7	Lesotho	LMI	\$1 875 227 642	€1 644 574 642	N	Y
8	Eritrea	LI	\$2 065 001 626	€1 811 006 426	N	Y
9	Central African Republic	LI	\$2 380 087 758	€2 087 336 964	N	Y
10	Burundi	LI	\$2 841 786 382	€2 492 246 657	N	Y
11	Liberia	LI	\$3 201 187 800	€2 807 441 701	Y	Y
12	Djibouti	LMI	\$3 384 385 217	€2 968 105 835	Y	N
13	Estwatini	LMI	\$3 972 728 948	€3 484 083 288	Y	Y
14	Sierra Leone	LI	\$4 063 289 450	€3 563 504 847	Y	Y
15	Somalia	LI	\$4 988 441 440	€4 374 863 143	N	N
16	Togo	LI	\$7 574 636 979	€6 642 956 630	N	Y
17	Mauritania	UMI	\$7 913 680 231	€6 940 297 563	Y	N
18	Equatorial Guinea	UMI	\$10 021 856 754	€8 789 168 374	N	N
19	Congo, Rep	LMI	\$10 187 122 341	€8 934 106 293	Y	N
20	Rwanda	LI	\$10 333 991 456	€9 062 910 507	N	Y
21	Namibia	UMI	\$10 619 194 505	€9 313 033 581	Y	Y
22	Chad	LI	\$10 829 076 802	€9 497 100 355	N	Y
23	Mauritius	UMI	\$10 920 606 198	€9 577 371 635	Y	Y
24	South Sudan	LI	\$11 997 800 760	€10 522 071 267	N	N
25	Malawi	LI	\$12 182 348 213	€10 683 919 383	N	Y
26	Madagascar	LI	\$13 056 079 982	€11 450 182 145	N	Y
27	Niger	LI	\$13 741 378 450	€12 051 188 901	N	Y
28	Mozambique	LI	\$14 019 446 610	€12 295 054 677	N	Y
29	Botswana	UMI	\$15 061 922 802	€13 209 306 297	Y	Y
30	Gabon	UMI	\$15 316 826 192	€13 432 856 570	Y	N
31	Benin	LMI	\$15 651 545 332	€13 726 405 256	Y	Y
32	Guinea	LI	\$15 681 050 917	€13 752 281 654	N	N
33	Mali	LI	\$17 465 392 916	€15 317 149 587	N	Y
34	Burkina Faso	LI	\$17 933 606 353	€15 727 772 772	Y	Y

No	Country	Category	GDP USD	GDP EUROS	IF member	ATAF Member
35	Zimbabwe	LMI	\$18 051 170 799	€15 830 876 791	N	Y
36	Zambia	LMI	\$18 110 631 358	€15 883 023 701	Y	Y
37	Sudan	LI	\$21 329 109 522	€18 705 629 051	N	N
38	Senegal	LMI	\$24 644 234 595	€21 612 993 740	Y	Y
39	Libya	UMI	\$25 418 916 029	€22 292 389 357	N	N
40	Uganda	LI	\$37 600 368 181	€32 975 522 895	N	Y
41	Cameroon	LMI	\$40 804 449 726	€35 785 502 410	Y	N
42	Tunisia	LMI	\$41 620 349 986	€36 501 046 938	Y	N
43	Congo,Dep.Rep.	LI	\$48 716 960 860	€42 724 774 674	Y	N
44	Angola	LMI	\$58 375 976 293	€ 51 195 731 209	Y	Y
45	Cote d'Ivoire	LMI	\$61 348 579 465	€53 802 704 191	Y	Y
46	Tanzania	LMI	\$62 409 709 111	€54 733 314 890	Y	Y
47	Ghana	LMI	\$68 532 281 806	€60 102 811 144	N	Y
48	Kenya	LMI	\$101 013 726 529	€88 589 038 166	Y	Y
49	Ethiopia	LI	\$107 645 054 312	€94 404 712 632	N	N
50	Morocco	LMI	\$114 725 065 285	€100 613 882 255	Y	N
51	Algeria	LMI	\$145 009 181 491	€127 173 052 167	N	N
52	South Africa	UMI	\$335 442 101 366	€294 182 722 898	Y	Y
53	Egypt	LMI	\$365 252 651 279	€320 326 575 172	Y	N
54	Nigeria	LMI	\$432 293 776 262	€379 121 641 782	Y	Y

Source: GDP (current US\$) | Data (worldbank.org), Foreign exchange rates is translated at average rates for 2020 (0,877 EUR)

<https://www.exchangerates.org.uk/USD-EUR-spot-exchange-rates-history-2020.html>

### **Key**

LI = Low-Income

LMI = Low-Middle-Income

UMI = Upper-Middle-Income

HI = High-Income

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#### **D. Data Input**

- Global Turnover and Profits of 2000 largest public companies
- Private Consumption Expenditure
- Number of internet users
- Corporate Income Tax rates
- Digital services Tax rates
- GDP - GDP (current US\$) | Data (worldbank.org)
- Exchange rates

#### **E. Online Tax Portals**

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