A COUNTRY-SPECIFIC COMPARATIVE ANALYSIS OF DOUBLE TAXATION AGREEMENTS IN CAMEROON AND CHAD

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LIST OF ILLUSTRATIONS

ACRONYMS

ATAF	African Tax Administration Forum
BEPS	Base erosion and profit shifting
CEMAC	Economic and Monetary Community of Central African States
IM	Multilateral instrument
IRPP	Personal income tax
OCAM	Organisation for African and Malagasy Cooperation
OCDE	Organisation for Economic Co-operation and Development
ONU	United Nations
RCA	Central African Republic
SDN	League of Nations
UDEAC	Customs and Economic Union of Central African States

PREFACE

Tax treaties play a key role in the context of international tax cooperation. On one hand, they encourage international investment and thus global economic growth by reducing or eliminating international double taxation on cross-border income; on the other hand, they strengthen cooperation between tax administrations, in particular in the fight against international tax evasion and illicit financial flows.

Developing countries, particularly the least developed, often lack the expertise and experience to interpret and administer tax treaties effectively. As a result, the implementation of tax treaties can be difficult, time-consuming and, in the worst-case scenario, ineffective or even harmful to countries.

The coexistence of several tax sovereignties and the mobility of people, services and capital accelerated by economic globalisation has, from a tax point of view, increased the possibilities of double taxation on one hand, and of fraud and international tax evasion on the other.

Initiatives to avoid double taxation or even zero taxation are therefore needed to increase capacity and to reduce the significant economic, social and political damage that can result from it.

Developing countries urgently need to strengthen their knowledge and resources in order to be able to address all tax issues in depth. The OECD and UN Model Conventions and their respective commentaries remain the main references, both in day-to-day practice and in the development of long-term strategies.

In a context marked by several types of crises, including the health crisis caused by the Corona virus, the study on the comparative analysis of the Chadian and Cameroonian treaty networks, conducted by CRADEC within the framework of the project to strengthen tax justice in Cameroon, assesses the levels of effectiveness of tax treaties with bilateral and multilateral partners, their impact on the national economy, with a view to a post-COVID-19 recovery

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ANALYTICAL SUMMARY

The comparative analysis of Cameroonian and Chadian treaty networks in a context marked by the inclusion at the heart of the international tax agenda of a perspective of normative convergence driven by a vast movement to reform international tax norms structured by the Organisation for Economic Co-operation and Development (OECD) may appear confusing at first glance.

On closer examination, however, the common membership of the two jurisdictions in the sub-regional integration community that is CEMAC, as well as the links of economic interdependence between the two jurisdictions, constitute explanatory and justifying factors relevant to the present study.

While putting into perspective the dynamics around the tax treaty movement by providing explanations both from the point of view of the content and the process leading to their adoption, the study endeavours to account for their relevance as tools for economic policy, attracting foreign direct investment and protecting tax jurisdiction and public financial interests based on mechanisms for combating illicit financial flows and international tax fraud and evasion.

Similarly, while reporting on the extent of the treaty networks of the two jurisdictions in their current state, both in terms of their substantive structure and their formal architecture, it highlights the normative disparities as well as the problems resulting from their cross-analysis.

From a forward-looking perspective, the study proposes possible solutions to these problems while formulating a series of various recommendations whose effective implementation could have a positive impact both on the management of the tax treaty process and on the effectiveness of tax treaty instruments as economic policy tools.

INTRODUCTION

1.1. Summary presentation of the jurisdictions studied

Cameroon and Chad are two countries linked by geographical proximity and share membership of the same sub-regional integration community, namely the Central African Economic and Monetary Community (CEMAC). Ranked fifth in Africa by its surface area, estimated at one million two hundred and eighty-four thousand (1,284,000) km2, Chad is located at the heart of the African continent. It is surrounded by six countries (06), namely Libya to the North, Sudan to the East, CAR and Cameroon to the South, Nigeria and Niger to the West. Its population is about sixteen million in 2019. Cameroon for its part is a triangle of four hundred and seventy-five thousand four hundred and forty-two (475,442) Km2, bounded to the North by Chad and its lake, to the South by Equatorial Guinea, Gabon and Congo, to the East by the Central African Republic and to the West by Nigeria, with an estimated population of twenty-eight (28) million inhabitants.

Unlike Cameroon, which has a coastline, Chad is a hinterland country whose nearest ports are Douala and Kribi. This landlocked situation is a major handicap to the development of its foreign trade and more generally to the competitiveness of its economy. However, it has alternatives for opening up and integration such as the ports of Khartoum in Sudan (2511.1 km), Cotonou in Benin (1921.0 km), Port-Harcourt in Nigeria and Lomé in Togo (2121.0 km). In fact, the Douala-N'Djamena Corridor, which constitutes a **conventional transit** platform, is still the most competitive for commercial operations in this country. Indeed, it enables eighty percent (80%) of Chadian exports and imports to be channelled by land, thus enabling Cameroon to carry out a volume of trade with Chad estimated at nearly two hundred (200) billion CFA francs. To complete the picture of economic exchanges between the two countries, it is important to underline the existence of the Chad/Cameroon Pipeline, a major component of the project for the export of Chadian crude oil production to international markets, which is about 1,070 km long, starting from the Doba oilfields and crossing Cameroonian territory over nearly 890 km, from the North-East border with Chad to the Atlantic Ocean at Kribi.

In terms of bilateral cooperation, a bilateral joint commission helps to structure the diversified cooperation between the two countries. This commission met in Yaoundé during 2019. Subsequently, the Ministers of Economy and Planning of the two countries met from 10 to 14 January 2020 to take stock of the integrating infrastructure projects linking the two countries, such as the bridge over the Logone River which will link the two banks of this river at Yagoua and Bongor, the project to extend the railway in Chad and finally the project to interconnect the energy networks of the two countries[1]. Such bilateral cooperation, rich in diversification, should normally result in the existence of specific conventional tax links, of a bilateral nature, due to the particularity and richness of the economic relationship maintained by the two countries. From this point of view, however, the two countries are simply parties to the CEMAC multilateral convention.

[1]https://www.financialafrik.com/2020/01/15/le-cameroun-et-le-tchad-font-le-point-sur-les-projets-integrateurs/

1.2. Fiscal Sovereignty and Sub-regional Economic Integration

The common participation of Cameroon and Chad in the same regional integration community, in this case CEMAC, results in an agreed limitation of the conditions for exercising their normative fiscal competence. This limitation presupposes the conformity of the Chadian and Cameroonian internal tax systems with the normative prescriptions of the primary treaties and secondary legislation of the community. The implementation of this conformity requirement in the Cameroonian and Chadian domestic tax systems is reflected in the adoption of measures to incorporate common tax standards into domestic law. It also contributes to structuring the overall unity of the common tax system.

At the same time, fiscal sovereignty, which is reflected in the state's ability to make autonomous commitments, is exercised in parallel with participation in a regional integration community and the resulting prospect of tax harmonisation, within the framework of tax treaty processes. It contributes to a number of issues such as double taxation, insofar as the ability to enter into international commitments is precisely an attribute of the state.

Based on the constitutive treaties ratified by Cameroon and Chad, the process of community construction does not have the effect of impacting the fiscal sovereignty devolved to the member states. It simply adapts the conditions of its exercise in the path traced by the primary and secondary law of the community.

However, since the exercise of fiscal sovereignty within the framework of the regional integration process opens up prospects for normative convergence, the exercise by states of their sovereignty in the context of the negotiation of tax agreements is likely to create normative disparities within the community. These normative disparities are expressed through the superposition of harmonised tax norms and treaty norms, which are likely to generate opportunistic behaviour within the community perimeter. Such behaviour may be based on a desire to take advantage of the benefits of a tax treaty in an abusive manner. This is particularly the case between Cameroon and Chad, the subject of this study. The absence of a double taxation treaty between France and Chad, coupled with the proximity of this country, is likely to create the conditions for the emergence of opportunistic behaviour that can encourage tax shopping.

In the same vein, the common membership of the two jurisdictions in the CEMAC is reflected in their participation in the tax harmonisation process led by the governing bodies of the said community.

Cameroon, which has become a member of the Global Forum on Transparency and Exchange of Information for Tax Purposes (Global Forum), has implemented since 2015 a process of normative convergence towards the international tax transparency standards defined by this organisation. The peer review sanctioning this process resulted in Cameroon receiving a rating of essentially compliant, thus reflecting its efforts in the quest for transparency. Similarly, the country participates in the work of the inclusive framework as an associate member and is committed to implementing the mandatory normative standards resulting from the BEPS project through the signing of the Multilateral Instrument in Paris in 2017, which it also ratified in December 2020. However, in its current state, Chad is not a party to these normative convergence processes and its internal legal framework in tax matters therefore presents normative disparities with that of Cameroon, likely to generate opportunistic behaviour on the part of international operators.

1.3. Problematic of the study

The preceding considerations, based on the disparity of the Cameroonian and Chadian treaty networks, show the relevance of carrying out a comparative analysis based on double taxation agreements. Such an analysis would make it possible to draw up a map, to assess their effectiveness from the point of view of implementation for the purposes of combating fraud and tax evasion on one hand, and to control the risks of illicit financial flows on the other hand.

However, the relevance of a cross-analysis of Cameroonian and Chadian treaty networks for the above purposes could be discussed in light of the resurgence of major international tax issues and the related international mobilisation, which has led to the popularisation of two international tax instruments of a multilateral nature. The convention on mutual administrative assistance in tax matters on one hand and the multilateral instrument on the other. These two multilateral treaty instruments have the advantage of having a positive impact on Cameroon's existing network of bilateral treaties, and of opening up the possibility of extraterritorial extension of its tax jurisdiction, both in terms of tax base and tax debt collection, so that it seems relevant to extend the scope of this study to the network of multilateral treaties. Such a perspective would make it possible to explore, explain and account for the situations of normative divergences generated by the normative disparities that can be observed in the Chadian and Cameroonian treaty networks and to propose possible solutions.

In any case, if it is stated that the existence of a treaty network in tax matters contributes to the attraction of foreign direct investment (FDI) as well as to the protection of taxable bases and tax equity through non-discrimination clauses, it is no less true that investment agreements and other conventions adopted on the basis of domestic legislation participate in or pursue the same objectives. However, although they are mostly legal instruments marked by the seal of state sovereignty, they do not qualify as tax treaties and will therefore not be included in the scope of this study.

2. THE DYNAMICS AROUND INTERNATIONAL TAX TREATIES

Considering the dynamics around international tax treaties is largely a matter of defining them, outlining their main objectives and highlighting the different stages in the process leading to their adoption.

2.1. Definition and objectives of tax treaties

International tax treaties are a source of tax law. They are superposed on, [2] but do not replace, the domestic tax law of states [3], but they take precedence over it [4]. They are international treaties negotiated in accordance with the 1969 Vienna Convention on the Law of Treaties. They help to remove the tax obstacles of double taxation for the development of economic relations between states [5] and facilitate a greater inflow of foreign investment into developing countries [6].

The coexistence of several tax sovereignties and the mobility of people, services and capital accelerated by economic globalisation has, from a tax point of view, increased the possibilities of double taxation on one hand, and of fraud and international tax evasion on the other.

Double taxation can be economic or legal. From an economic point of view, it is understood as the taxation of the same income in the hands of two different taxpayers by one or two tax jurisdictions (countries). From a legal point of view, double taxation refers to the taxation of the same income in the hands of the same person by two different tax jurisdictions for taxes of the same kind.

Legal double taxation, which has proved highly detrimental to economic relations between countries, has led states to agree through tax treaties to avoid income earned in one country by a person resident in another country being taxed twice[7]. The aim is therefore to avoid double taxation, but only with regard to taxes on income or wealth, still known as direct taxes, since other taxes, particularly indirect taxes, do not lead to situations of double taxation as defined above.

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[2] Fourriques (M.), «The articulation of domestic law with international tax treaties ", LPA, n° 03, January 2013, p. 3 and s.

[3] Trindade Marinho (A.), The subsidiarity of tax conventions, Thesis Paris 1, 2015, 513 p.

[4] Aubrège (M.-L.), The articulation between international tax provisions and domestic tax law: the position of the French judge, thesis, Saint-Etienne, 1999, 355 p.

[5] According to the Organisation for Economic Co-operation and Development (OECD), double taxation has adverse effects on the exchange of goods and services and on the movement of capital, technology and people, in "Model Convention on Income and Capital", July 2010, page 7.

[6] United Nations Model Convention on Double Taxation between Developed and Developing Countries, op. cit. p.VI

[7] Economic double taxation appears in tax treaties only in the event of a transfer pricing adjustment (consequential adjustment under Article 9(2) of the OECD/UN Model).

In general, it can be considered today that "The *purpose of bilateral tax treaties is, in particular, to protect taxpayers fully against double taxation (direct or indirect)* [8] *and to avoid the deterrence that taxation may cause to free international trade and investment and to the transfer of technology. They also aim to prevent discrimination between taxpayers in the international field and to introduce the element of legal and fiscal certainty that is essential for international transactions. Tax treaties should therefore support the development objectives of developing countries. They are also intended to improve the mutual co-operation of tax authorities in the exercise of their functions*"[9].

In short, tax treaties aim at eliminating double taxation on income or direct taxes and at combating tax evasion, as is apparent from their name and content.

From the point of view of their objectives, they have historically been aimed at articulating competing **tax sovereignties** by making it possible to allocate the right to tax states on a competing taxable matter. At the same time, they contribute to limiting and regulating the possibilities of over taxation by providing mechanisms for eliminating double taxation. At the same time, they help to protect the public financial interests of the States parties by providing mechanisms for administrative cooperation in tax matters, as well as the rights of their taxpayers.

More recently, despite the crystallisation of international tax issues due to the disparity of tax treaty norms, the elimination of double taxation at the origin of the tax treaty movement has remained a major component of the tax treaty movement. However, the development and management of tax treaty policies in Africa and elsewhere are being impacted by the new economic opportunities generated by economic globalisation and digitalisation, as well as the prospects for tax optimisation that may erode the tax bases that result from them, which call for a renewal of previous international tax policy considerations. Since then, tax treaties have pursued a complementary objective of eliminating the possibility of situations of non-taxation or reduced taxation arising through tax avoidance or evasion practices resulting in particular from the implementation of tax shopping strategies designed to fraudulently obtain treaty-based tax concessions.

2.2. The content of international tax treaties

The Organisation for Economic Co-operation and Development (OECD) and the United Nations (UN) have, following the work of the League of Nations (LON) in the early 20th century, developed model tax conventions[10]. These models have been complemented by the

[8] Direct double taxation refers here to legal double taxation while indirect double taxation refers to economic double taxation.

[9] "United Nations Model Convention on Double Taxation between Developed and Developing Countries", 2001, p. VI.

[10] The first version of the OECD Model Convention (between developed countries) dates from 1963. The UN published the United Nations Model Double Taxation Convention between Developed and Developing Countries in 1980.

ATAF model, an alternative tax treaty model largely inspired by the normative compromises enshrined in the previous models, which proposes tax sharing arrangements more suited to the economic structure of developing countries. After frequent updates, most recently in 2017, the OECD and UN models converge in their structure and the content of several provisions, but with some fundamental differences.

In general, tax treaties consist of a title, a preamble and 29 (UN) or 31 (OECD) articles. After the preamble, which sets out in one paragraph the overall purpose of the convention, the text begins by defining the persons and taxes concerned (Articles 1 and 2) and by defining certain terms (key Articles 3, 4 and 5). The most important part is Articles 6 to 21, which organise the treaty's division of powers between the two contracting states with regard to the taxation of income.

Articles 23 to 28 deal with methods for the elimination of double taxation, non-discrimination and special procedures (exchange of information, collection assistance, and taxation of diplomats' income) enshrined in complementary treaty guarantees.

The conventions logically end with the final provisions concerning their entry into force (Article 30) and their possible denunciation (Article 31).

2.2.1. Scope and definitions

Tax treaties apply to all persons who are residents of one or both contracting states (Article 1); they concern only taxes on income (and capital), which are listed in Article 2. In addition to the definitions given in Articles 3, 4 and 5 of the models, certain key terms such as "*dividends*", "*interest*", "*royalties*" and "*immovable property*" are defined in specific articles dealing with these issues.

2.2.2. Conventional distribution of the power to impose

Tax treaties eliminate double taxation by determining, for each category of income covered by the treaty, the respective taxing powers of the source state and the state of residence (Articles 6 to 21).

Income can thus be classified into three categories according to the regime applicable in the source State:

- Income which is taxable without limitation in the source or **situs** State (income from immovable property (Article 6), gains from the alienation of immovable property (Article 13), profits of a Permanent Establishment (Article 7) …] ;

- Income which may be subject to shared taxation between the source or **situs** State and the State of residence (dividends (Article 10), interest (Article 11) and royalties (Article 12)…] ;

- Income that is taxable only in the State of residence (gains from the alienation of non-immovable property (e.g. securities) (Article 13(5)); private sector pensions (Article 19) …].

2.2.3. Elimination of double taxation

Where, under the provisions of the treaty, income may be taxed in both the source State and the State of residence, the latter State has an obligation to eliminate double taxation. Two methods are proposed by the UN and OECD models (Article 23): the exemption method (Article 23 A) and the imputation method (Article 23 B).

The exemption method focuses on income. It limits the right to tax of the residence state to the part of the income provided for in the treaty, excluding the part taxable in the source state. There are two variants of this method, namely full exemption and exemption with progression.

The imputation method, which focuses on tax, retains the right of the residence state to tax all income regardless of its source, but the tax paid in the source State is deducted from the tax due in the residence state. Like the exemption method, the imputation method has two variants: full imputation and ordinary imputation.

For a long time, Cameroon has used both methods. Indeed, in some conventions, the ordinary imputation method (Tunisia, Morocco) is adopted for all income. In others (France, Canada, South Africa) the progressive exemption method is used, except for passive income (dividends, interests and royalties) which are subject to the ordinary imputation method.

2.2.4. Conventional guarantees

Two tax treaty provisions contribute to the fight against tax evasion and avoidance through:

- Administrative assistance consisting of exchange of tax information between the tax authorities of the contracting states (Article 26); and collection assistance by each of the contracting states for the benefit of the other state (Article 27);
- Non-discrimination ;
- Mutual agreement procedures.

E – Special and final provisions

Tax treaties contain a number of special provisions relating to the following:

- The elimination of tax discrimination in various circumstances (Article 25);
- The application of a mutual agreement procedure to resolve any disagreements concerning the interpretation or application of the Convention (Article 26);
- The tax treatment of members of diplomatic missions and consular posts in accordance with international law (Article 29).

Finally, the Model Tax Conventions contain final provisions on both entry into force (60 days after the date of exchange of instruments of ratification) (Article 30), and denunciation (Article 31).

2.3. Le The conventional process, perspective and discursive analysis

The conventional process is structured around three essential phases. Preparatory work, entry into negotiations and procedures for the entry into force of the convention.

2.3.1. Preparatory work

The preparatory work for the negotiation of an international tax treaty is structured around the talks and the technical preparation of the negotiation.

The talks are a series of formal exchanges between the intended treaty partners. It is an approach phase to identify and enter into preliminary discussions with a jurisdiction with which a tax treaty is being considered, due to the importance of historical and diplomatic ties, the volume of economic and commercial exchanges or simply at the request of economic operators. They may be held at the request of Cameroon or another jurisdiction. In all cases, they make it possible to determine the interest for Cameroon to enter into negotiations with a foreign country. Once this interest is reciprocally expressed by the two jurisdictions, they then proceed to exchange their model tax conventions via the focal points designated for this purpose.

At the end of the fruitful talks, the parties agreed on the dates and places for the opening of the negotiations. Prior to this, and on the basis of the exchanged model tax convention, the Cameroonian side proceeds with the preparation of the already scheduled negotiations. In addition to the administrative aspects linked to the preparation of the negotiation and which relate to the constitution of the negotiation team and the modalities of the start-up, the negotiation also includes technical aspects on which we will dwell.

The technical preparation of the planned negotiation is based on the appropriation of the partner jurisdiction's tax system and the assessment of mutual economic interests. It is materialised by the elaboration of a technical file.

With regard to the appropriation of the tax system of the partner jurisdiction and the analysis of reciprocal economic interests, it is important to stress that the negotiations concern the positive domestic tax law of both treaty partners. It aims at the articulation of these two laws, with a view to eliminating the obstacles of a fiscal nature that their cumulative implementation could generate, so that the convention to be concluded fits harmoniously into the tax system of both States Parties.

Knowledge of the tax system of the treaty partner is therefore a central element in the preparation of negotiations, in order to better understand and discuss the other party's proposals, drawing on its own tax law if necessary.

Similarly, as the convention is designed to respond to the concerns of economic actors, it is particularly necessary, prior to the beginning of negotiations, to take stock of economic relations between the two jurisdictions (trade, investments of the other country on Cameroonian territory, movement of capital, etc.), in order to identify and prepare for the subtle negotiation of the related tax aspects.

Information on the tax system of the treaty partner and the economic issues at stake in the future agreement are set out in the "technical negotiation file", which includes the following elements :

- The two countries' draft tax treaties ;
- The comparative table of the two projects [11] ;
- The synthesis of the tax legislation of both countries;
- The summary table of the partner country's treaty practice [12] (withholding tax rates, duration of the establishment of the Permanent Establishment...);
- Technical elements of the position to be defended by Cameroon on the divergent articles [13].

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[11] The comparative examination of the two draft tax treaties makes it possible to draw up a fact sheet on the divergent articles, which will guide the strategy to be adopted during the negotiations.

[12] The summary table of the treaty partner's treaty practice is a synthesis of several treaties it has concluded with third-party jurisdictions, including developed countries, developing countries, African countries, and countries comparable to Cameroon (level of development, structure of the economy, etc.). It helps to understand the options usually chosen by this partner in its tax treaties according to the issues at stake, in order to anticipate certain arguments that its representatives could put forward during the exchanges.

[13] In the preparation of the position to be defended by Cameroon on the divergent articles (position to be submitted to arbitration and validation of the hierarchy), particular emphasis is usually put on negotiable and non-negotiable points. The determination of these points takes into account not only the internal legal constraints (constitution, laws, organisation of services) in Cameroon, but also government policy options, principled positions and achievements of Cameroonian treaty practice. By way of illustration, Cameroon holds to the principle of tax sharing with regard to passive income in Articles 10, 11 and 12 of the tax treaties. Similarly, the definition of Cameroon cannot exclude from the State, the decentralised territorial authorities, insofar as, constitutionally, Cameroon is a decentralised unitary State.

The file of the negotiating team of the Cameroonian side is reproduced in one copy for each member in the delegation. At the same time, Cameroon also prepares the technical file of the partner jurisdiction according to the size of its delegation. It is made up of two main elements, which are the model tax treaties of the two countries and a summary of the Cameroonian tax system.

Once the preparatory work (talks and working documentation) has been completed, the actual negotiations can begin at the agreed place, time and date.

2.3.2. The actual negotiations

The actual negotiations take place in rounds. The parties may reach full agreement on all articles of the draft agreement in one round of negotiations. In general, however, they may meet two or more times to reach a comprehensive and final agreement on the draft agreement. These negotiations are organised around teams.

The composition of the negotiating teams is left to the discretion of each jurisdiction according to its negotiating experience, practice and administrative organisation. In any case, however, the Cameroonian negotiating team includes a chief negotiator*"*[14]. In the case of Cameroon, the delegation is very often composed as follows:

- A representative of the General Secretariat of the Presidency of the Republic (Economic and Financial Affairs Division), Head of Delegation;
- A representative of the Prime Minister's Office;
- The Director of Tax Legislation;
- A representative of the Legal Affairs Division of the Ministry of Finance;
- A representative of the Ministry of External Relations
- Representatives of the International Tax Relations Unit of the DGI.

When negotiations are held in a foreign country with a Cameroonian diplomatic mission, the Ambassador, if available, leads the delegation. Similarly, the Director General of Taxation is always the head of the Cameroonian delegation when negotiations are held in Cameroon. He then opens the proceedings before withdrawing to let the experts work. He may also, if available, close the negotiations, initial the draft tax convention and sign the minutes

If the negotiation is not completed in one round, the preparation of the next rounds of negotiations takes place within the tax administration. This starts with a report to the Minister of Finance, which already proposes an outline of a solution to the various obstacles raised by the negotiations. It continues with an in-depth examination of the points that remained unresolved during the previous round

In any case, informal contact with the partner jurisdiction is maintained in order to agree on dates for the continuation of the negotiations in order to maintain the momentum created during the previous negotiations. In practice, the preparation of subsequent rounds is done exactly as

[14] *The chief negotiator is usually a senior official in the tax administration responsible for tax legislation or policy, or an official responsible for international tax matters, a legal expert who in some cases may be a lawyer*.

in the first round. Therefore, the same procedure is followed from a technical point of view. When both parties reach a final agreement on all the provisions of the draft, the agreement can be concluded. It will enter into force once the formalities for its acceptance into national law have been completed.

2.3.3. The conclusion and procedures for the entry into force of the Convention

The conclusion refers to a set of operations reflecting the agreement reached by the negotiating jurisdictions. It is materialised by the signing of the minutes of the negotiations [15], the initialling [16] of the draft agreement. It ends with the signing and ratification of the Convention.

Although initialled by the two heads of delegation, the convention remains a draft until it is signed by the competent authorities of the two jurisdictions and will only enter into force after ratification. Under the provisions of the revised Constitution of 18 January 1996 (Article 43), the President of the Republic negotiates and ratifies international treaties and agreements. He is therefore the authority constitutionally invested with the power to commit Cameroon on the international scene. This means that the delegations that negotiate draft conventions on behalf of Cameroon act in place of the President of the Republic. Consequently, he alone must sign treaties or, if he wishes, expressly entrust the power to another authority of his choice[17].

Once the negotiations are completed and materialised by the minutes and the initialled draft convention, a report is submitted to the Government. In concrete terms, the International Tax Relations Unit prepares a draft report addressed to the Minister of Finance specifying the scope of the initialled draft for Cameroon. This document is accompanied by two draft notes, one addressed to the Minister of External Relations and the other to the Secretary General of the

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[15] This document briefly describes the working climate, recalls the dates of the negotiations and states that the two delegations have reached a final agreement. It then indicates the willingness or desire of both delegations to have the convention signed as soon as possible by the competent authorities of both countries. Finally, the minutes announce the full list of the two delegations which is attached. The draft minutes are prepared by the secretariat of the negotiations, which is normally provided by the host country delegation. Once the minutes have been signed, the two heads of delegation exchange the two initialled copies of the draft convention

[16] The initialling represents the compromise of the two delegations on the text of the convention. For this reason, great care must be taken. Before initialling the draft agreement, both delegations again review all the provisions and check for any material errors. When the document is found to be in conformity with the agreement, two copies are printed. These copies are initialled by the two heads of delegation who put their signatures at the bottom of each page. Specifically, in the first copy, the head of delegation of the host country initials each page on the draft side (left or right) just below the last line of the page. The head of delegation of the visiting country does the same but on the (left or right) side of the page. On the second copy, the head of delegation of the host country marks each page of the project on the (left or right) side and the head of delegation of the visiting country marks the (left or right) side of the page. The two copies must then be filed in two initials page by page by the negotiation secretariat.

[17] The Constitution allows the President of the Republic to delegate "some of his powers to the Prime Minister, to other members of the Government and to certain senior officials of the State administration, within the framework of their respective attributions" (Article 10 of the Constitution). This delegation is very often done by means of enabling decrees.

Prime Minister's Office, Head of Government. These notes provide information on the different stages of negotiations and on the content of the agreement reached by the two delegations. Finally, they suggest that the draft be submitted to the President of the Republic for signature.

The Minister of External Relations plays a very important role at this level of the procedure insofar as it is he who refers the matter to the Presidency of the Republic to propose the signature of the draft by the President of the Republic or the empowerment of a member of the Government to do so. In most cases, the President of the Republic will sign a decree empowering the Minister of Finance to proceed with the signature of the tax treaty. It may also happen that the Head of State empowers MINREX or signs the agreement himself, especially during a summit visit where the Heads of State of both countries sign several high-level documents.

As soon as the authorisation to sign is given by the Presidency of the Republic, the other party is contacted by official correspondence via MINREX (but also informally) to agree on a date and place for the signing. This exchange is once again initiated by the International Tax Relations Unit.

In all cases, the signing shall take place either on the occasion of structured meetings between the two countries (e.g. mixed commission), or on a date chosen exclusively for the occasion. In general, the other Party shall be represented at ministerial level as well, for the sake of balance, or by its ambassador to Cameroon if the signature takes place there.

Then comes the ratification stage. As a general rule, the Treaty can only enter into force after ratification. Indeed, the aforementioned Article 43 of the Constitution stipulates that international treaties and agreements are subject, before ratification, to approval in legislative form by the Parliament. Thus, once the convention has been signed by the authority empowered to do so, it must be submitted to Parliament for approval. Here too, the process is initiated by the DGI (International Tax Relations Unit), which refers the matter to the Prime Minister's Office in a letter from the Minister of Finance. The purpose of this correspondence is to transmit to the Secretary General of the Prime Minister's Office the draft law authorising the President of the Republic to ratify the convention. And like any bill, it must be accompanied by an explanatory memorandum describing the convention and justifying the interest for Cameroon to ratify it. These documents, it should be noted, are prepared by the DGI (CRFI), as well as a draft decree ratifying the convention.

Working sessions may be necessary on this draft in the Prime Minister's Office from where it will be transmitted to the General Secretariat of the Presidency of the Republic. The General Secretariat of the Presidency of the Republic organises, if necessary, final consultations on the draft before it is submitted to Parliament.

Once the bill is in Parliament, the Minister of Finance defends it before the National Representation both in committee and in plenary session. He is assisted in this task by the DGI, which is essentially made up of CRFI executives. When the law is passed, the President of the Republic promulgates it within the time limit set by the Constitution (15 days).

The actual ratification is done by the President of the Republic in the form of a decree ratifying the convention. Like any decree, this one is subject to special publicity through publication in the Official Bulletin of the Republic of Cameroon, in French and in English.

The last step before the convention enters into force is the exchange of instruments of ratification. The instrument **of ratification** is a document by which a Head of State or a competent authority confirms the validity of the signature that its **plenipotentiary** has affixed to an international agreement or treaty. In the case of Cameroon, this instrument is the decree ratifying the Convention.

The exchange of the instruments of ratification usually definitively validates an international treaty. The exchange of instruments of ratification can also be done through diplomatic channels. In this case, the two countries communicate by a simple exchange of correspondence.

3. OPPORTUNITIES, RISKS AND CHALLENGES OF INTERNATIONAL TAX TREATIES

International tax policies are structured around two fundamental principles. The first is the principle of neutrality. In tax matters, it reflects the concern for a free and fair market, which must not be disturbed by the granting of advantages likely to distort the conditions of competition. Its implementation leads to the prohibition of protectionist or discriminatory tax measures, tax support for exports or for the international deployment of companies. The second principle is that of interventionism. It makes it possible to remedy imbalances produced by the free play of the market or which it cannot remedy. This principle has historically structured the fiscal policies of developing countries such as Cameroon and Chad, notably through the adoption of investment codes or free zone statutes.

However, the structuring of states' international tax policies around the above principles is tempered by the political and normative commitments linked to the participation of Cameroon and Chad in the same regional integration community, in this case CEMAC. Thus, the determination and steering of international tax policies is the expression of a compromise between these two principles, while respecting the norms of community law enacted by the CEMAC. Beyond these normative constraints, international tax treaties, which are the main instruments, offer political and economic opportunities and at the same time entail risks and challenges.

3.1.1. Political and economic opportunities

Bilateral conventions, while pursuing objectives of protecting public financial interests, are primarily instruments of diplomatic policy. They allow political actors to structure their relations with friendly and brotherly countries through norms. From an economic point of view, they can be seen as economic policy tools at the service of public authorities. In this respect, they serve, alongside other tools and instruments, the objectives of economic attractiveness of the territory through the standard. This is why the negotiation of tax agreements is often included as an issue in economic missions conducted by senior government officials or the Prime Minister, although in practice it is difficult to measure the flow of foreign direct investment imputable to the entry into force of a tax treaty, given that the treaty rules only barely transcribe this objective on one hand, and do not provide concrete guidelines for achieving it on the other.

3.1.2. Risks related to the implementation of tax treaties

There are two types of risks associated with the implementation of international tax treaties. The first are economic and the second are fiscal.

3.1.2.1. Economic risks

The negotiation of tax treaties is very often associated with objectives of economic attractiveness of the territory. However, as noted above, these objectives are hardly apparent from the treaty provisions and can be pursued more effectively through the use of other instruments.

However, the prospect of attracting FDI that underlies the negotiation of tax agreements does not in practice translate into increased investment flows. As a result, the potential revenue losses agreed to in the context of the conventional distribution of the right to tax are not compensated by the expected investment attraction. An examination of the tax treaties in force in Cameroon shows that the objectives of promoting the economic attractiveness of the territory through the standard with which tax treaties are generally associated appear in practice to be difficult to measure, so that the link between tax treaties and the attractiveness of foreign direct investment is difficult to demonstrate. In addition to this purely economic risk linked to the inability of tax treaties to attract foreign direct investment in a relevant manner, which is the subject of a recommendation at the end of the report, there are also fiscal risks.

3.1.2.2. Fiscal risks

Tax treaties have traditionally pursued the objective of curbing double taxation and combating international tax evasion and avoidance. On analysis, however, these instruments have proved to be ineffective in pursuing these objectives. Some of their provisions have in fact served as a basis for tax planning strategies for the benefit of multinational companies, as reflected in the artificial location of tangible or intangible assets in order to erode the tax base.

Consequently, tax treaties, which appear virtuous in principle, inadvertently become an instrument for eroding taxable bases through the normative possibilities that their combination offers to international operators. These practices, grouped under the term BEPS, affect all jurisdictions including ours, so that Cameroon has made significant progress in a process of tax transparency, as much as it has strengthened its mechanisms to fight against the aggressive optimisation of multinational companies.

4. CONVENTIONAL NETWORKS IN CAMEROON AND CHAD

Putting the Cameroonian and Chadian conventional networks into perspective allows us to observe similarities in their formal architecture (1). However, these networks appear to be different in their material structure (2).

4.1. Conventional networks similar in their formal architecture

Cameroon and Chad share membership of the multilateral convention on the avoidance of double taxation established by the UDEAC in 1966, then revised in 2019, which links the countries of this economic area, which became the CEMAC. The similarities between the treaty networks of the two countries could be limited to this text, unless the OCAM multilateral convention is mentioned.

The Chadian treaty network in its current state, and unless there is an error or omission on our part, comprises two bilateral conventions, one of which is in force and another signed and awaiting ratification, and a multilateral convention to which Cameroon is also party.

Illustration 1: Map of the Chadian conventional network

Source : ***https://eoi-tax.com/jurisdictions/Chad***

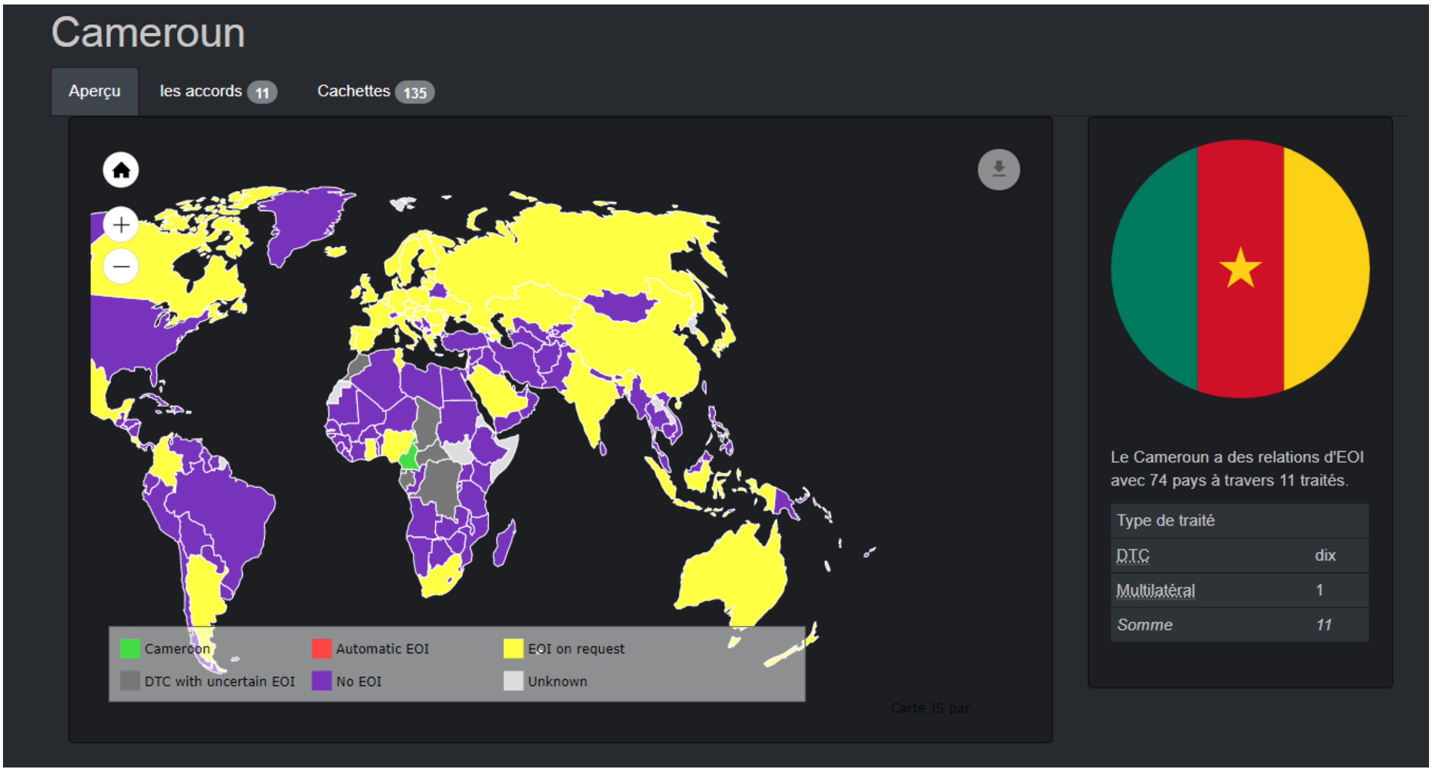
Cameroon's treaty network is modest in its current state, but more extensive than that of its neighbour Chad. Moreover, the country has embarked on an ambitious reform of its international tax rules based on internal and international mobilisation. At the domestic level, beyond the densification of domestic tax law standards governing transactions with foreign elements, the country has set up an interministerial working group devoted to the densification of the network of tax treaties to its credit. At the international level, it has strengthened its participation in international tax cooperation organisations. In this regard, it has been a member of the Global Forum on Transparency and Exchange of Information for Tax Purposes since 2012. It also participates as an associate member in the work of the OECD-G20 Inclusive Framework for the implementation of the measures resulting from the BEPS action plan.

This dual internal and international mobilisation has enabled the country to extend its network of treaty partners in tax matters and to pursue an ambitious process of normative convergence towards the international tax transparency standards promoted by these tax cooperation organisations.

The country is now party to four bilateral conventions in force as well as to three multilateral conventions. In any case, and with a view to extending its tax treaty network, two tax treaties have already been ratified and should enter into force very soon: the treaty with the Kingdom of Morocco and the Multilateral Convention on the Implementation of Tax Treaty Measures to Prevent the Erosion of the Tax Base and the Transfer of Profits ("Multilateral Instrument" or "MI"). Meanwhile, the treaty with the United Arab Emirates has long been signed and is awaiting ratification. The conventions with the Seychelles, Nigeria and the Czech Republic have been initialled and are awaiting signature. The full powers necessary for this purpose have already been issued by the Presidency of the Republic and all that remains to be determined is the date and place of signature. Negotiations are also continuing with Egypt, Vietnam, China, Qatar and Switzerland, and talks have been initiated with Lebanon, Belarus, Romania, Panama, Spain and Turkey with a view to entering into negotiations.

With regard to multilateral conventions, in addition to the Multilateral Instrument, Cameroon is a party to the Convention on Administrative Assistance in Tax Matters drawn up by the Council of Europe and the OECD in 1988 and amended in 2010 by a protocol that opened accession to countries that are not members of these institutions. The country ratified this instrument on 28 April 2015. It entered into force on 1 October 2015. Cameroon is also party to Regulation N°7/19-UEAC-010A-CM-33 revising Act N°5/66-UDEAC-19 of 13 December 1966, relating to the convention on the avoidance of double taxation on income tax (tax convention for the avoidance of double taxation and fiscal evasion). In December 1966, the Central African sub-region (the Republic of Cameroon, the Central African Republic, the Republic of Congo, the Republic of Gabon, the Republic of Equatorial Guinea and the Republic of Chad) adopted a tax convention for the avoidance of double taxation on income and inheritance taxes between its member States. Having become obsolete, revision actions were initiated and piloted by the Permanent Commission for Fiscal and Accounting Harmonisation of CEMAC in 2018, which resulted in the adoption of Regulation N°7/19-UEAC-.-CM-33 revising Act N°5/66-UDEAC-19 of 13 December 1966 relating to the convention on the avoidance of double taxation on income tax. This convention aims at protecting taxpayers of Member States against double taxation by allocating tax duties between the State of the source of income and the State of residence of the beneficiary, at providing guarantees to taxpayers by prohibiting tax discrimination as well as by establishing an amicable procedure to settle disputes in case of litigation.

Illustration 2: Mapping of the Cameroonian Conventional Network



Source : *https://eoi-tax.com/jurisdictions/Cameroon*

What has been said above allows us to observe that, despite their common membership of CEMAC, the Cameroonian and Chadian conventional networks appear similar in their architecture, but nevertheless contain significant observable disparities in terms of their normative structure.

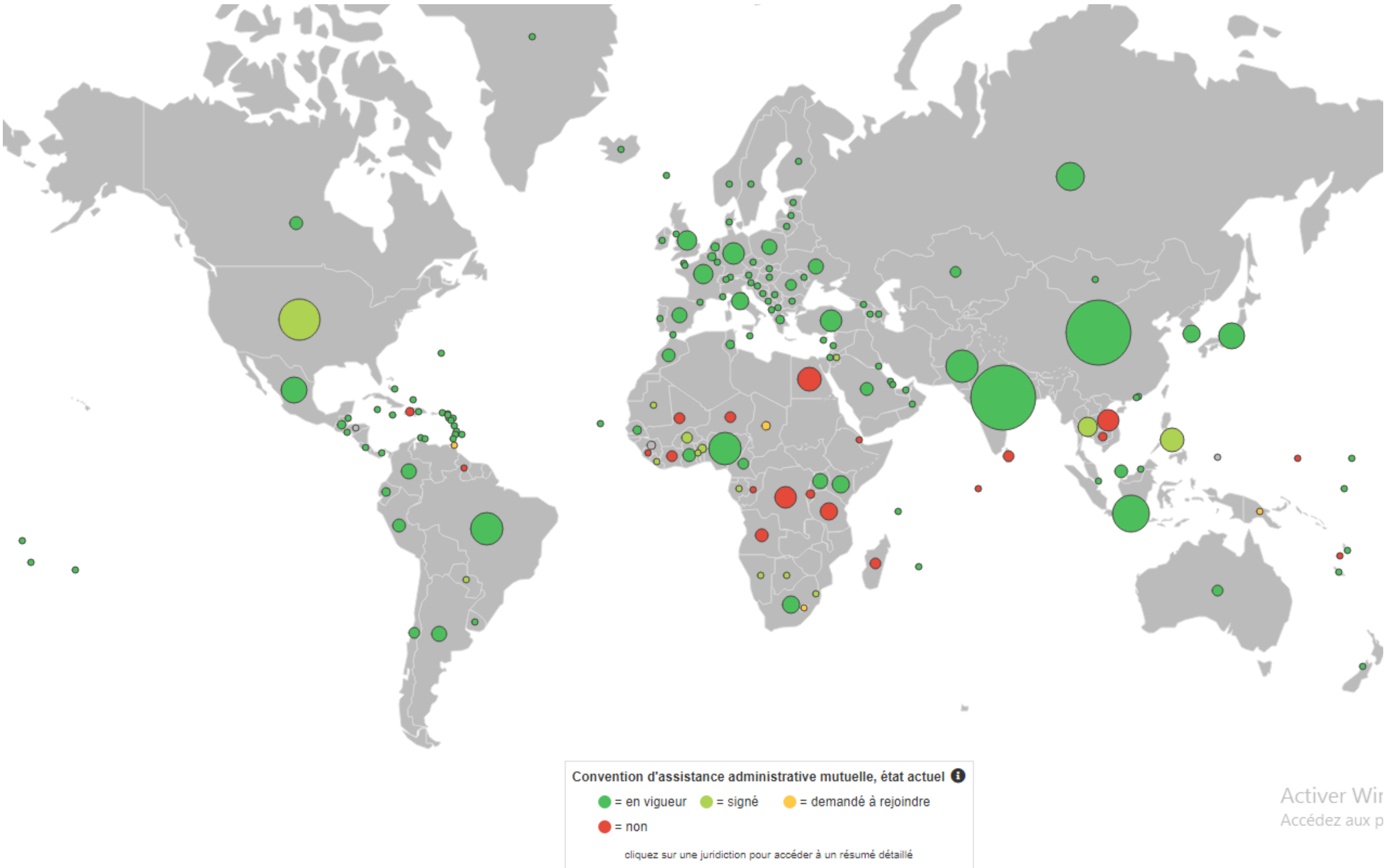
4.2. Conventional networks differentiated in their material structure

The preceding discussion has shown that Cameroon and Chad have formal similarities in terms of their international tax treaty networks. Considered from the point of view of their material structure, these networks appear diversified. While Chad has only double taxation treaties, one of which is multilateral and the others bilateral, Cameroon has a treaty network extended to three multilateral treaties, only one of which is devoted to the elimination of double taxation. The other two allow Cameroon to structure its normative and administrative capacities to fight more effectively against international tax evasion and avoidance on one hand, and to modify its network of bilateral tax treaties in force in its stipulations useful to the fight against the erosion of the tax base and the transfer of profits on the other hand. These are respectively the Convention on Mutual Administrative Assistance in Tax Matters and the Multilateral Instrument, due to the diversification of the objectives of international tax treaties, linked to the enrichment of international tax issues.

Thus, the Convention on Administrative Assistance in Tax Matters is a multilateral treaty allowing Cameroon to benefit from the most comprehensive multilateral instrument in tax matters, enabling it to mobilise various forms of administrative assistance for the purpose of combating international tax evasion and avoidance. It thus offers all existing forms of administrative cooperation with treaty partners for the assessment and collection of taxes and, in particular, the fight against tax evasion and fraud. The possibilities for cooperation range from the exchange of information in its various forms (exchange on request, automatic exchange, spontaneous exchange, simultaneous tax audits) to the recovery of foreign tax claims. Furthermore, it facilitates international cooperation for better implementation of domestic tax legislation, while preserving the fundamental rights of taxpayers. With a view to making optimal use of this cooperation instrument, Cameroon has set up an administrative entity within its tax administration dedicated to the effective management of these administrative assistance mechanisms. This is the International Information Exchange Unit (UEIR). The implementation of treaty-based administrative assistance mechanisms opens up the prospect of *"tax defrontierization"*, which is particularly beneficial for the exercise of tax sovereignty in terms of the territorial scope of tax jurisdiction, which it thus helps to extend. It could contribute to curb the inadequacies of the compartmentalisation of tax sovereignty by opening the possibility of projecting the investigative powers of the Cameroonian tax administration outside the perimeter of the exercise of its tax jurisdiction, both in terms of tax assessment and in terms of tax debt collection[24].

The Convention on Administrative Assistance in Tax Matters is a multilateral treaty that ultimately allows Cameroon to reconsider the spatial framework for the exercise of its tax jurisdiction, by opening up a conventional possibility of extraterritorial extension of the perimeter of the exercise of tax jurisdiction, to the extent of the network of information exchange for tax purposes. Clearly, on the basis of this treaty instrument, Cameroon has the administrative capacity to obtain tax information and to proceed to the collection of its debts on the territory of a plurality of tax jurisdictions, as shown in the table below.

Illustration 3: Mapping Cameroon's tax information exchange network



The Multilateral Convention on the Implementation of Measures Relating to Tax Treaties to Prevent Tax Base Erosion and Profit Shifting is a treaty-based instrument to combat tax base erosion and profit shifting practices by ensuring a swift and coordinated implementation of those measures of the BEPS Action Plan that concern bilateral tax treaties. This instrument is not intended to replace bilateral treaties, which continue to be effective. It is intended to complement or correct some of their stipulations. It was signed by Cameroon on 13 July 2017 and its approval in legislative form came through Law No. 2020/013 of 17 December 2020 authorising the President of the Republic to ratify the Multilateral Convention on the Implementation of Measures Relating to Tax Treaties to Prevent the Erosion of the Tax Base and the Transfer of Profits, adopted on 24 November 2016 in Paris. Its ratification is the result of Decree No. 2020/798 of 29 December 2020. At the end of the internal procedures of reception in the internal place, the instrument of ratification will be deposited with the central depositary and the MI will enter into force on the first day of the month following the expiration of a period of three calendar months from the date of deposit of the said instrument. Cameroon's position on this instrument was notified at the time of signature and expressed in the reservations and notifications, which will apply essentially, subject to reciprocity or asymmetrically, as some notifications may have bilateral application.

On the substantive side, the MI sets out minimum standards that are binding on all signatory jurisdictions. These are anti-abuse standards designed to prevent treaty shopping or abuse on one hand, and standards designed to improve dispute resolution on the other. In addition to the mandatory standards, the MI also includes optional standards to prevent artificial avoidance of permanent establishment status and to neutralise the effects of hybrid arrangements through the standard.

The effect of the MI is to change the substantive structure of the tax treaties covered. These are the tax treaties with France, Canada, Morocco, Tunisia and South Africa. The said treaties, as impacted by the MI, will be effective from the moment they enter into force for each of the other Cameroonian treaty partners.

Status of conventions concluded by Cameroon in relation to the multilateral instrument

Convention	Status in relation to MI	Position of the treaty partner	Perspectives
France	**Impacted**	**Signed, and in force**	**Necessary consolidation**
Canada	**Impacted**	**Signed, and in force**	**Necessary consolidation**
Morocco	**Impacted**	**Signed, and in force**	**Necessary consolidation**
South Africa	**Impacted**	**Signed, and in force**	**Necessary consolidation**
Tunisia	**Impacted**	**Signed, and in force**	**Necessary consolidation**

Henceforth, the material reading of the above-mentioned tax treaties, as impacted by the MI, implies referring to their current texts, reservations and notifications, as well as the provisions of the MI. It is therefore up to Cameroon to work on or structure the direct reading of its bilateral tax treaties, in concert with its treaty partners, by agreeing with them on the production of consolidated versions for the users of these texts. The above-mentioned consolidation operation, which is not legally binding under treaty law, pursues an objective of legal certainty aimed at providing users of the affected international tax treaties with a consolidated content of treaty provisions that can be read directly. The consolidation should be the result of a methodical analysis of the IM, of the reservations and notifications made by each of the parties and of cross-checks with the OECD *Matching Base*.

It appears that despite their geographical proximity, the importance of their economic links and the fact that they belong to the CEMAC, Chad and Cameroon have conventional networks that differ in their material content. This material differentiation of treaty networks does not go without raising legal questions that could be addressed by a prospective analysis of the two countries' treaty networks

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5. PROSPECTIVE ANALYSIS OF THE CAMEROONIAN AND CHADIAN CONVENTIONAL NETWORKS

In its current state and given its prospects for development, Cameroon's treaty network can be considered advanced in terms of its normative structure, compared to that of Chad. Beyond the fact that it covers a large number of treaty partners in terms of administrative assistance, it is in the process of adapting to normative developments in the field of international taxation, so that it appears, unlike Chad's, to be better able to effectively deal with major tax issues such as fraud and international tax evasion on one hand, and tax base erosion practices on the other. This situation is not without raising issues that are detrimental to public financial interests from the point of view of each of the two jurisdictions (1), for which solutions should be proposed (2).

5.1. Issues arising from the cross-analysis of the Chadian and Cameroonian conventional networks

The cross-analysis of the Cameroonian and Chadian conventional networks raises two essential issues. The first relates to the possibilities of tax shopping opened up by the material disparities resulting from the comparative analysis of the said networks (4.1.1.), the second results from the delays in normative convergence (4.1.2.) attributable to Chad's lack of participation in the work of the international tax cooperation organisations responsible for drawing up and disseminating international normative standards in the area of taxation.

5.1.1. Tax shopping opportunities

Tax treaties generally serve to promote economic objectives by establishing rules to prevent double taxation and by reducing withholding tax rates on cross-border payments. To achieve these objectives, however, they must exclusively benefit the transactions carried out by their recipients, without opening up opportunities for abuse. In essence, treaty-shopping refers to situations in which a natural or legal person who is not entitled to the benefits of a tax treaty uses an intermediary entity that is entitled to them in order to obtain the benefits indirectly. To the extent that tax treaties apply to residents, it therefore consists of non-residents, or residents of outside countries, availing themselves of tax benefits through indirect and usually fraudulent means. The effect of this is to allow residents of a third jurisdiction to unilaterally benefit from the advantages of a tax treaty, translated into tax relief, without the other jurisdiction having the opportunity to negotiate terms and conditions that are appropriate to the tax regime of the beneficial residence jurisdiction of the treaty shopper on one hand, and to the bilateral relationship between the two jurisdictions, or to be subject to the rules and requirements of exchange of information for the purpose of administering tax legislation on the other.

Thus presented, the prospect of tax shopping in economic relations between Chad and Cameroon is a fact. These two jurisdictions share a geographical proximity and the importance of economic relations with France, marked by the establishment on their respective territories of subsidiaries of French multinationals. At the same time, unlike Cameroon, Chad does not have a tax agreement with France in the current state of the treaty network. This situation is at the origin of opportunistic behaviour and manipulation by subsidiaries of French multinationals, aimed at fraudulently obtaining the advantages or the benefit of favourable provisions of the Franco-Cameroonian tax convention.

In addition to the above-mentioned opportunities for tax shopping, Chad has delays in complying with international norms and standards in the area of taxation, which is detrimental to its public financial interests, so that it could appear to international operators as an area of weak fiscal regulation.

5.1.2. Delays in normative convergence

The delays in normative convergence in tax matters resulting from the analysis of Chad's tax treaty networks considerably limit the country's normative capacity to effectively deal with the major tax issues it faces, such as international tax fraud and evasion on one hand, and tax base erosion and profit shifting practices on the other.

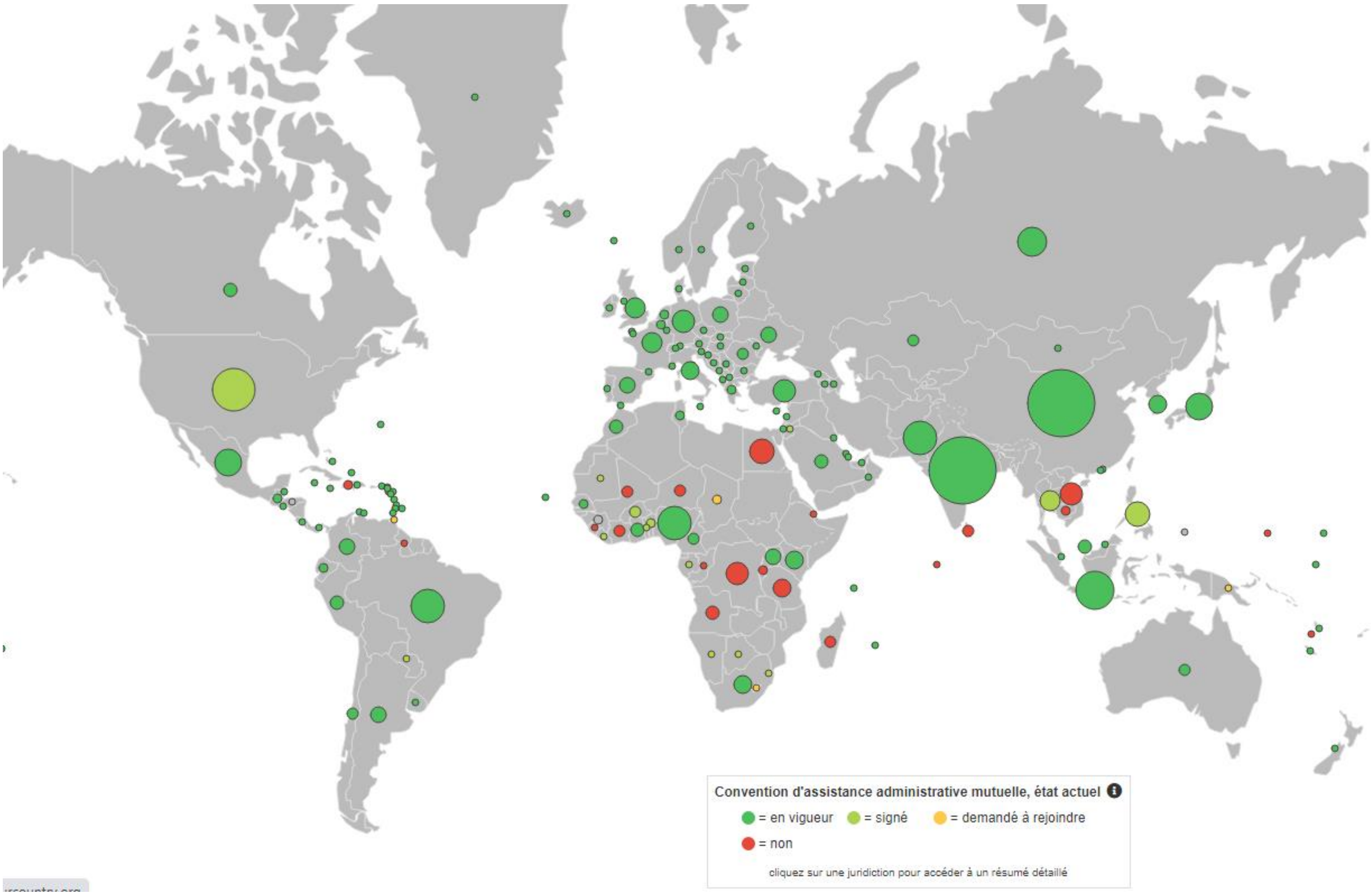
These delays in convergence are due to the slowness of the Chadian jurisdiction to join the organisations and other bodies for international tax cooperation, such as the OECD, which constitute the frameworks for developing and structuring the normative advances necessary for the management of major contemporary tax issues. These are the Global Forum on Transparency and Exchange of Information for Tax Purposes on one hand, and the inclusive OECD-G20 framework for the implementation of BEPS measures on the other hand.

The Global Forum on Transparency and Exchange of Information for Tax Purposes is a subsidiary body of the OECD that promotes and monitors, through a rigorous peer review process, the implementation of the normative standards of tax transparency set out in Article 26 of the OECD Model Tax Convention and the Model Information Exchange Agreement. It also works to combat international tax fraud and evasion. Membership of the Global Forum is open to any jurisdiction that so requests and includes a commitment to undergo reviews of compliance with the international tax transparency standard and to join the Convention on Mutual Administrative Assistance in Tax Matters.

In 2012, Cameroon became a member of the Global Forum and thus acceded to the Convention on Mutual Administrative Assistance in Tax Matters. Subsequently, its legal framework and administrative practices regarding the exchange of information for tax purposes were reviewed against the international standard of tax transparency. These two-phase reviews resulted in satisfactory domestic normative progress that enabled the country to comply with the above-mentioned international standard of tax transparency, thereby strengthening its normative capacity with regard to the exercise of its tax jurisdiction and the protection of its tax jurisdiction.

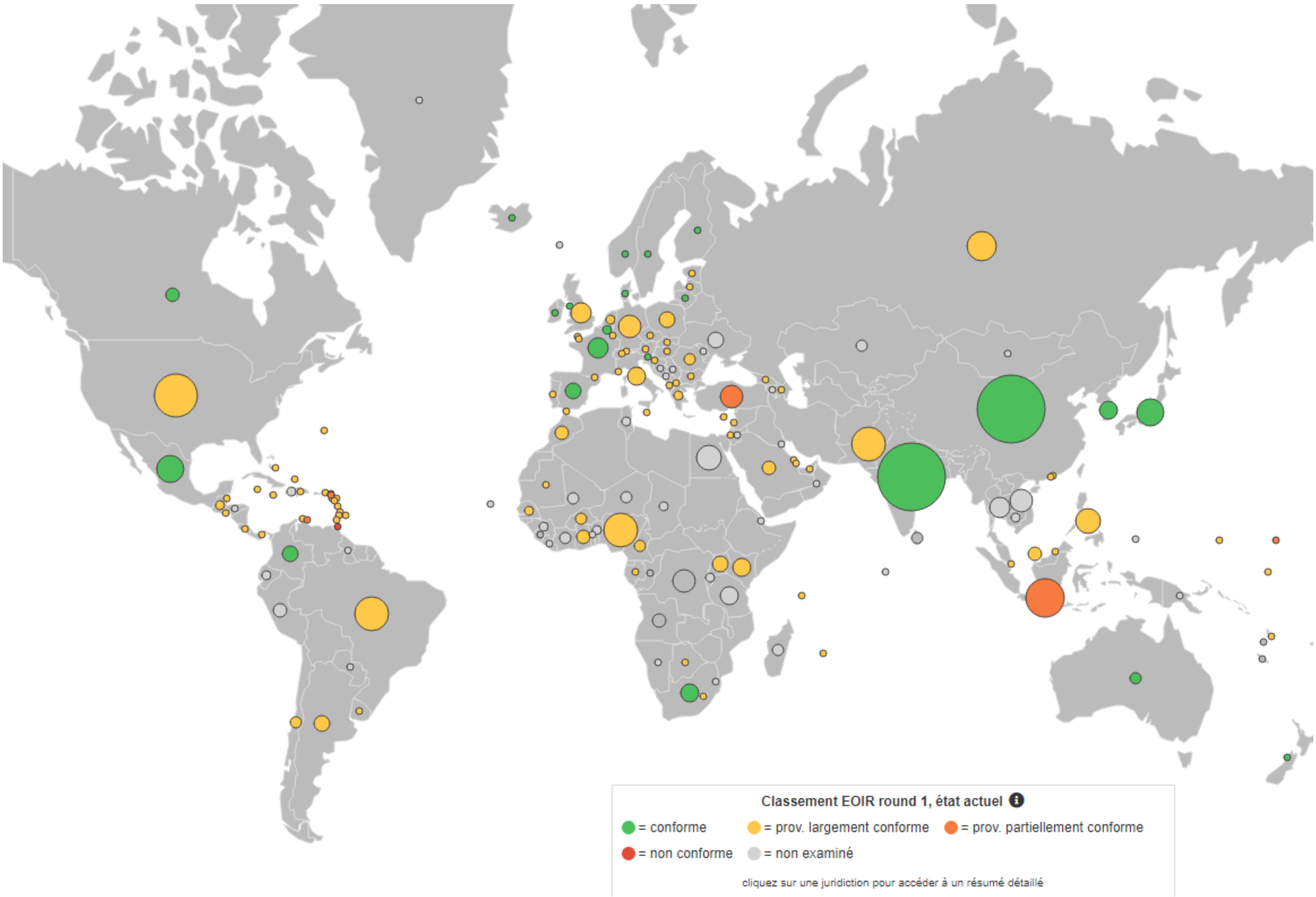
Chad has recently become a member of the Global Forum and will undergo a combined review in 2021 and has requested to join the Convention on Mutual Administrative Assistance in Tax Matters in order to have a relevant network for information exchange and to benefit from the extraterritorial extension of tax jurisdiction clauses.

Illustration 4: Status of Cameroon and Chad under the Convention on Multilateral Administrative Assistance



Source : ***https://www1.compareyourcountry.org/tax-cooperation/en/0/623/default***

Illustration 1 : Status of the two jurisdictions in the first round of peer reviews



Source : ***https://www1.compareyourcountry.org/tax-cooperation/en/0/621/default***

As for the OECD/G20 Inclusive Framework on BEPS (IF), it was set up to ensure that interested jurisdictions, including developing economies, participate on an equal footing in the development of normative standards on tax base erosion and profit shifting issues, while also joining in the review and monitoring of the implementation of the BEPS project. Having become an associate member of the Inclusive Framework for the implementation of the BEPS package, Cameroon joined the first signatories of the Multilateral Instrument on 13 July 2017 and committed to implement the four minimum standards resulting from the BEPS project whose implementation is ensured by the Inclusive Framework. These standards relate to improving transparency, aligning taxation with value creation, setting up dispute resolution mechanisms offering greater legal certainty, controlling the abuse of tax treaties.

All in all, the prospect of normative convergence translates into a material consolidation of tax standards, necessary for the effective exercise of fiscal sovereignty, in its dimension anchored on the capacity for autonomous and effective implementation of tax standards. It thus contributes to structuring the normative capacity of states to deal with the tax problems they face on one hand and to have the necessary means to effectively manage the risks of illicit financial flows on the other hand.

5.2. Possible solutions to the problems resulting from the cross-analysis of the Chadian and Cameroonian conventional networks

The solutions to the problems envisaged could be sought in two essential ways. The first is the structuring of normative convergence (1), and the second is the consolidation of policies to extend the respective conventional networks of these two countries (2).

5.2.1. Structuring normative convergence.

The prospect of normative convergence involves major challenges in terms of finding solutions to the tax problems encountered by tax systems. It is worth recalling that the prospect of normative convergence, which results from the development of international tax standards of mandatory scope, whose implementation is monitored, pursues the objective of correcting the normative failures and inadequacies specific to tax systems, and which constitute sources of vulnerability that open up possibilities for undermining their taxable bases.

The process of normative convergence therefore requires Cameroon and Chad to resolutely commit to these new common standards by taking an active part in the work of international tax cooperation organisations. It implies a multilateral participatory approach in the development of these standards coupled with monitoring in the framework of their implementation. As it stands, however, only Cameroon has truly committed itself to this approach. Chad should therefore take advantage of the benefits of participating in these processes.

The participatory approach to the development of common tax standards has the advantage of developing and consolidating the substance of existing tax standards and their ability to address current international tax issues in a consistent manner. It is largely driven by the OECD. This organisation has long been developing standards for its members, which are part of the international tax soft law. In recent years, with the crystallisation of major contemporary tax issues, it has placed the development of its soft law within a multilateral participatory approach. For example, in line with the BEPS work, an Inclusive Framework extended to non-OECD and G20 countries and open to developing countries was set up in June 2016. This is an institutional mechanism that enshrines a consistent approach to the development of BEPS-related standards by opening up the possibility for all jurisdictions to make a particular contribution to the substance of the standards. Our jurisdiction is a member of the inclusive framework and as such participates in its work.

The participatory approach allows the development of common tax standards to be placed in a multilateral perspective, which has been the subject of a statocentric approach until now. It thus opens up the tax system to international normative influences, thereby developing its normative and administrative capacity to deal with the major contemporary tax issues facing developing jurisdictions. It thus makes it possible to rethink the exercise of sovereignty and fiscal competence, which now goes beyond the autonomous paradigm to include a concerted approach.

It is in terms of the substance of the standards developed that the multilateral participatory approach is of most interest and appears to be a step forward in the management of tax base erosion issues. The Cameroonian and Chadian tax administrations have so far developed a unilateral normative policy to address the problems of international tax evasion and base erosion. This policy was characterised by the adoption of provisions inspired by foreign legislation in a normative transfer approach.

The involvement of Cameroon's tax administration in a multilateral normative approach provides it with a wider range of normative instruments, capable of addressing a wide variety of international tax issues. It also overcomes the limitations of the unilateral approach, in particular its inability to deal with all the identified tax base erosion issues faced by developing tax jurisdictions in a coherent manner. The participatory approach thus appears to be an original mechanism for producing tax standards. It contributes to redefining the exercise of tax jurisdiction from an open perspective that allows the tax system to produce norms in line with the international environment and issues, thus making it more coherent in the international tax environment.

This approach is part of an architecture set out by Satoru Araki[18], presenting the new framework for international tax standard setting. It also presents original features in its implementation.

The multi-stakeholder approach to standards development is based on an original implementation process. This process is based on two functionally interacting pillars. The normative pillar, on one hand, consists of the Multilateral Instrument, which contains the substance of the new normative standards resulting from the BEPS package. The institutional pillar, on the other hand, consists of the Inclusive Framework, which is analysed as a multilateral mechanism for monitoring and accompanying the implementation of the MLI, bringing together on the same footing, beyond the G20 member countries and therefore Cameroon, and perhaps later, Chad.

This approach fits well with the new framework for international tax standard setting presented by Satoru Araki. It is based on the existence of agreed frameworks for the realisation of new international tax normative standards. The Global Forum and the Inclusive Framework are such frameworks. They monitor the implementation of the minimum standards they develop by the associated jurisdictions. This support takes the form of an induction programme. Our jurisdiction has benefited from this support as part of its process of compliance with international tax transparency standards.

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[18] Araki (S.), "A new global framework for the development and implementation of international tax standards", Tax Lawn° 20, 2017, p. 302.

Similarly, for the reception of the minimum standards resulting from the BEPS project, the OECD secretariat has developed a specific technical assistance programme aimed at accompanying the new members of the Inclusive Framework in the coherent implementation of the BEPS package in order to enable them to fully benefit from it.

In July 2017, Cameroon expressed its wish to benefit from this programme. The Cameroon support programme was launched on 16 November 2017 in Yaoundé by the Director of the OECD Centre for Tax Policy and Administration. This programme will consist in supporting the Cameroonian tax administration in the implementation of the reforms necessary to align its legislation and administrative practices with the new BEPS normative standards. To this end, and as a follow-up to the high-level visit of the Director of the OECD Centre for Tax Policy and Administration, the OECD Secretariat organised a technical workshop in February 2018 in Cameroon on the Inclusive Framework and BEPS, aiming to explore in depth Cameroon's immediate and long-term concerns and priorities with a view to receiving the BEPS package.

Subsequently, the OECD submitted a draft roadmap for Cameroon's consideration in August 2018, relating to support in setting up the legal framework and administrative infrastructure necessary for the consistent reception of the BEPS package. The draft roadmap proposed for validation by Cameroon has two parts. It presents the modalities for the implementation of the minimum standards of the BEPS package, and secondly, other areas of material normative densification for which our jurisdiction requests assistance.

The consistent reception of the minimum standards resulting from the BEPS package is based on four requirements. The first is the requirement that the derogatory tax regimes in force in Cameroon comply with the minimum standard of Action 5 of the BEPS project, which aims to combat harmful tax practices more effectively by taking into account transparency and substance. The second requirement is the implementation of the minimum standard of action 6 of the BEPS project, which consists of preventing the abuse of tax treaties, i.e. the inappropriate granting of tax treaty benefits. The third requirement is the establishment of the domestic legal, administrative and information exchange framework to enable the implementation and proper use of country-by-country reporting. Finally, the fourth requirement concerns the minimum standard of Action 14 of the BEPS project relating to the development of guidelines on the mutual agreement procedure within the Cameroonian legal framework. For the implementation of all these minimum standards, the OECD Secretariat is available to provide our jurisdiction with technical assistance.

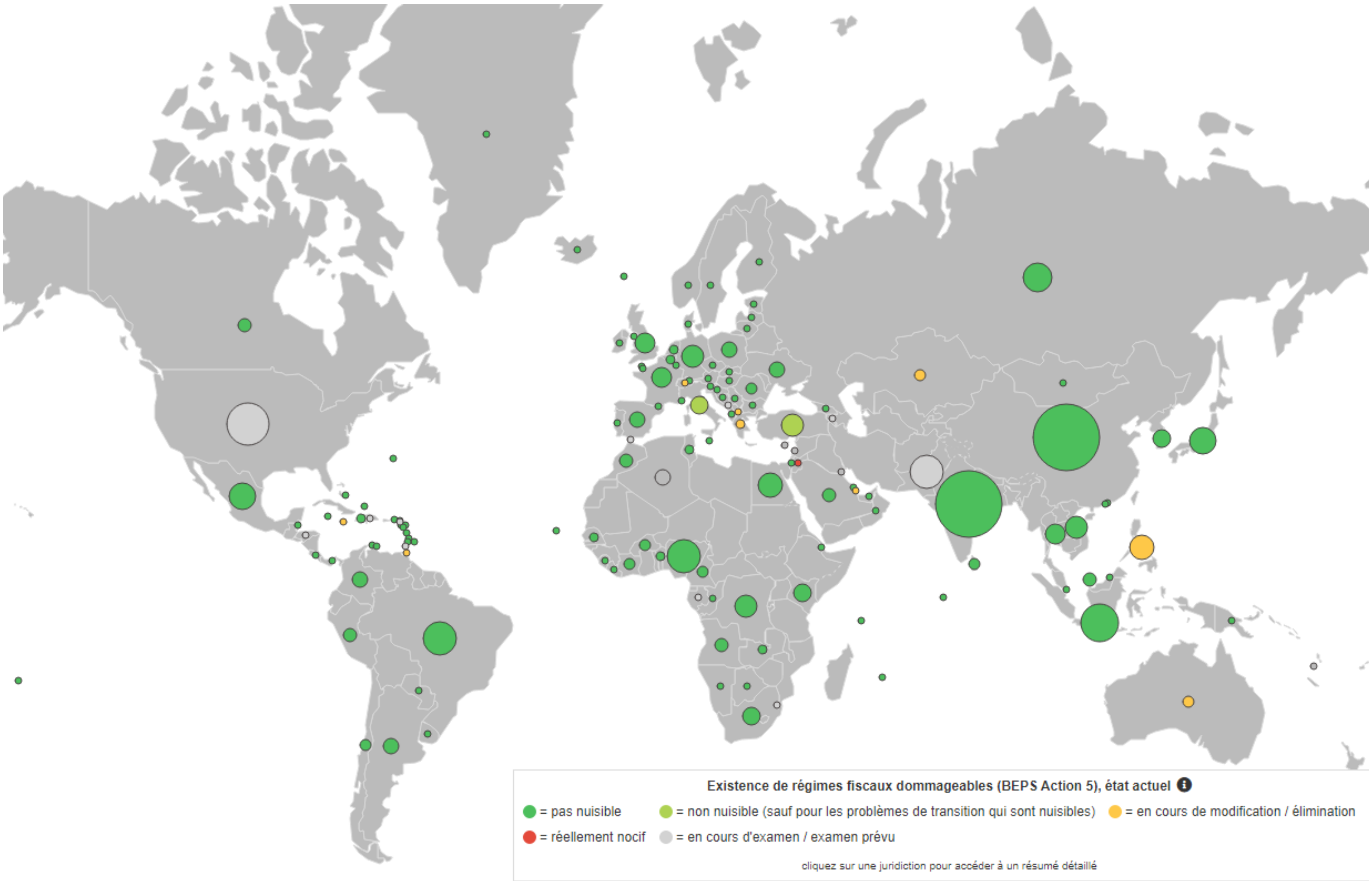
The other areas of substantive normative densification identified by our jurisdiction as relevant for the support programme reflect its desire to benefit from OECD assistance in areas other than the four minimum standards of the BEPS package. These are: the twinning programme, the improvement of transfer pricing legislation, the continuation of the Tax Inspectorate Without Borders programme and capacity building in the area of tax treaty negotiations and exchange of information. Only the first two issues are part of a substantive normative densification approach and will therefore be developed further.

To this end, at the end of the first technical assistance mission led by an expert advisor from the OECD's Centre for Tax Policy and Administration, proposals for normative reform aimed at adapting our internal legal framework in tax matters to new standards were identified. Within this framework, Cameroon was invited to accelerate the internal procedures for the ratification of the Multilateral Instrument, to proceed with the signature of the MACA and to make progress on the automatic exchange of information necessary for the exchange of country-by-country declarations.

The consistent implementation of the minimum standards is monitored by the OECD through peer reviews. Cameroon, like the other member jurisdictions of the Inclusive Framework, has committed to applying the minimum standards and to undergoing these reviews. Monitoring through peer reviews is a multilateral and concerted approach to tax issues. It contributes to the coordinated and consistent implementation of new international standards, while respecting the level playing field. To this end, Cameroon's legal framework will be reviewed against each of the minimum standards.

Thus, with regard to the minimum standard of Action 5 aimed at combating harmful tax practices more effectively by taking into account transparency and substance, Cameroon is currently under review by the Forum on Harmful Tax Practices (FHTP) in accordance with the terms of reference and methodology agreed by the members of the Inclusive Framework. The review focuses on the two aspects of the minimum standard, namely the preferential tax regimes and the transparency framework. As it stands, our tax incentive regimes appear to meet the minimum standard of Action 5 and no concerns have been raised by any of the members of the Inclusive Framework about these regimes at this time.

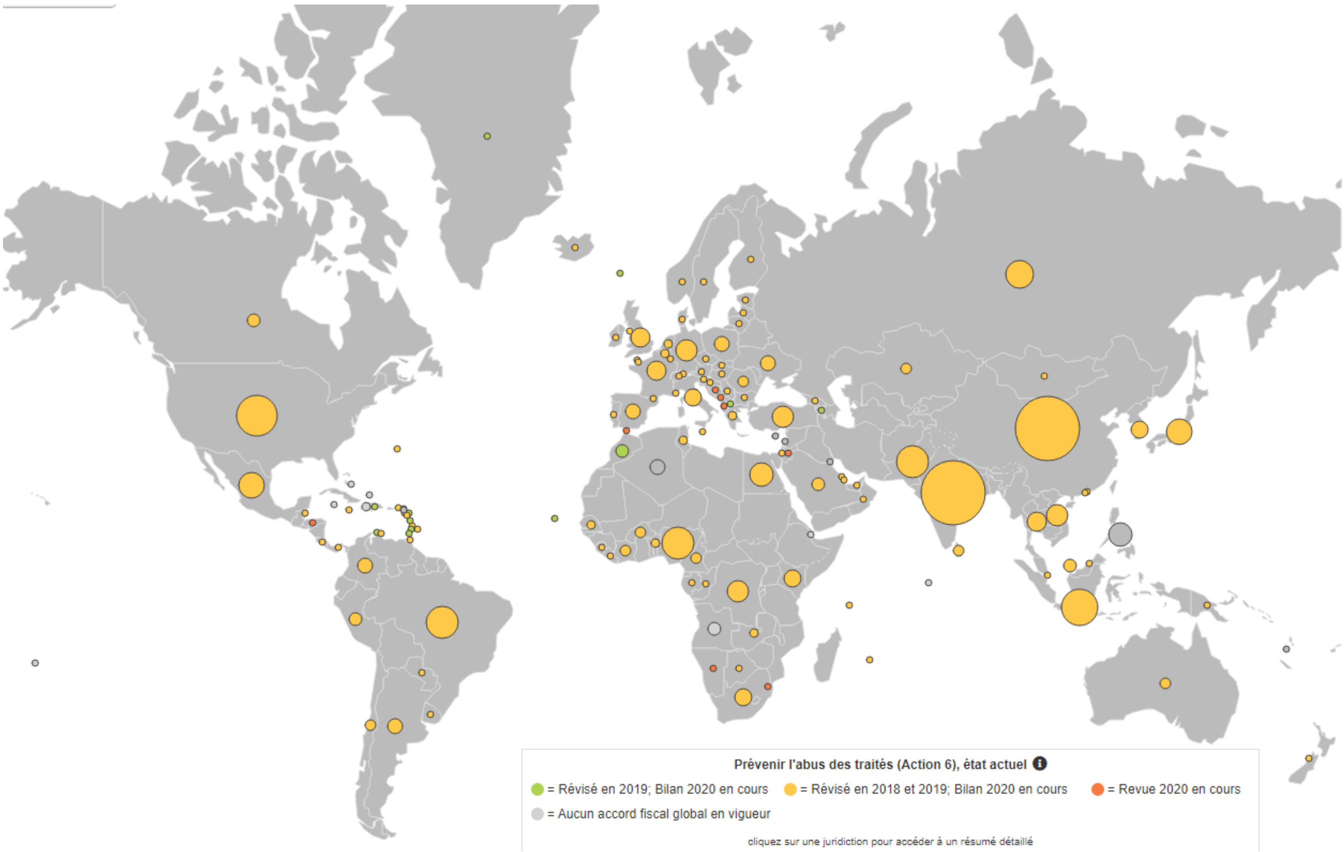
Illustration 2 : Cameroon's situation to date with regard to Action 5



Source : *https://www1.compareyourcountry.org/tax-cooperation/en/2/628/default*

In the same vein, the Action 6 minimum standard will be reviewed in accordance with the Action 6 review methodology to ensure its effective implementation in Cameroon's existing tax treaties. This review is carried out by CAF Working Group 1. The implementation of this standard does not pose major concerns for Cameroon. Indeed, it was done in the context of the signing of the Multilateral Instrument recently ratified by Cameroon. Although not yet in force in Cameroon, Cameroon's position on the Multilateral Instrument, as it results from its provisional reservations and notifications, allows for the implementation of the minimum standard of Action 6. It introduces into the conventions in question, notably those concluded with South Africa, Canada, France and Tunisia, an explicit declaration drawn from Articles 6 and 7 of the Multilateral Instrument. This declaration states that the common intention of the Parties to the Convention is to eliminate double taxation without creating opportunities for non-taxation or reduced taxation as a result of fraudulent behaviour. It also introduces into these conventions the rule of the principal purpose test. It is therefore possible to consider that on the date of ratification by Cameroon of the Multilateral Instrument, all the conventions in force in Cameroon will be in conformity with the standard of Action 6.

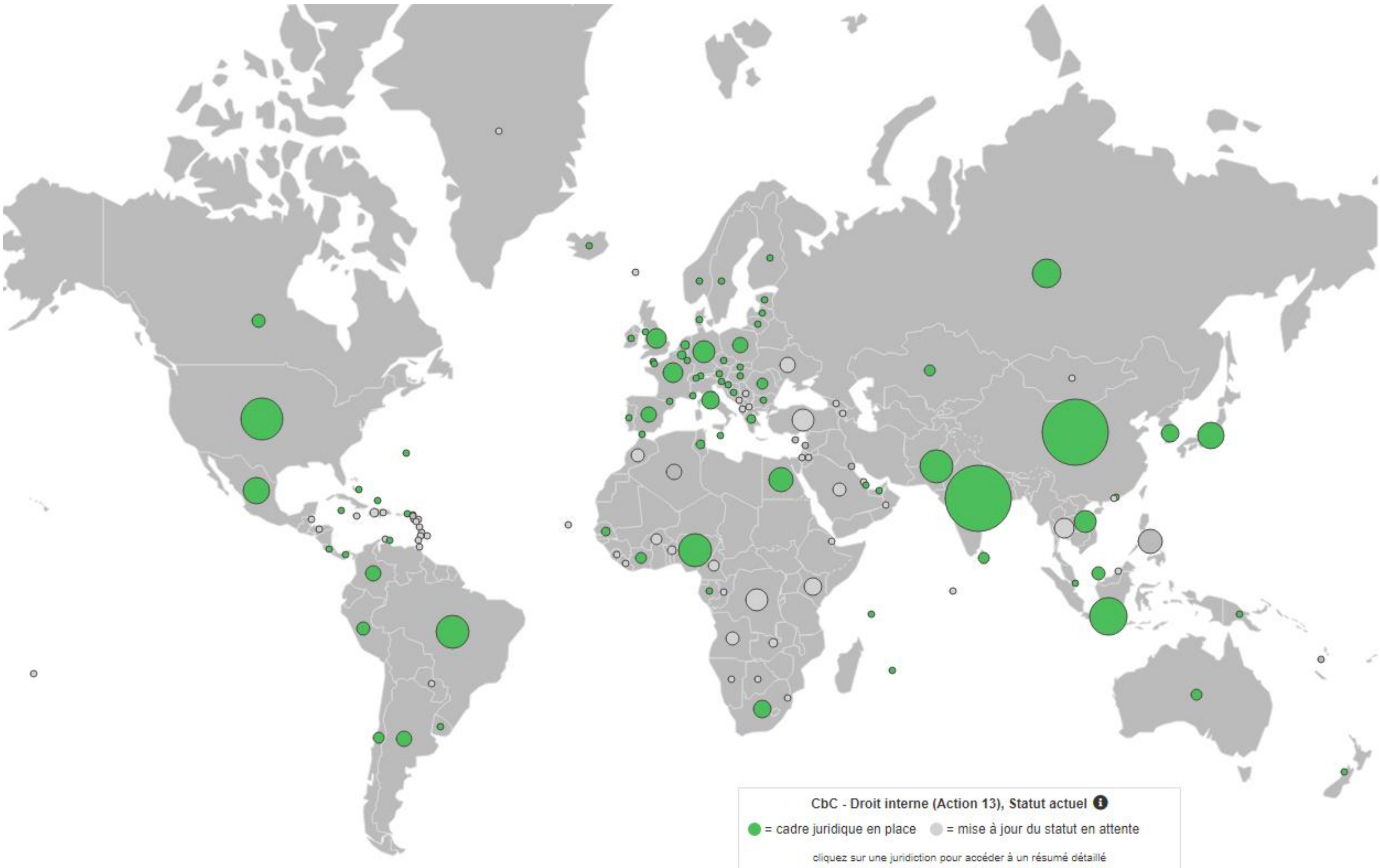
Illustration 3 : Cameroon's status to date on the Action 6 standard



Source : ***https://www1.compareyourcountry.org/tax-cooperation/en/2/629/default***

The minimum standard of Action 13 is also subject to peer review to ensure its effective implementation. This process is led by the "Country-by-Country Reporting Group". The review aims to ensure that our jurisdiction is compliant with all three aspects of the Action 13 standard. The situation of our jurisdiction with regard to the standard of action 13 at the end of the first peer review on this action is as follows: regarding the internal legal and administrative framework, the report notes that Cameroon does not have a legal and administrative framework for the realisation of the country-by-country declaration. To this end, it recommends that Cameroon put in place an internal legal and administrative framework for the implementation of the country-by-country declaration. As for the framework for exchange of information, the review report, with a view to compliance, recommends that Cameroon take steps to sign the MACA and to have eligible agreements between competent authorities in force with the jurisdictions of the inclusive framework. Finally, it recommends that our jurisdiction take steps to meet the appropriate use criterion prior to the first exchanges of information with regard to the confidentiality and appropriate use standard for country-by-country declarations.

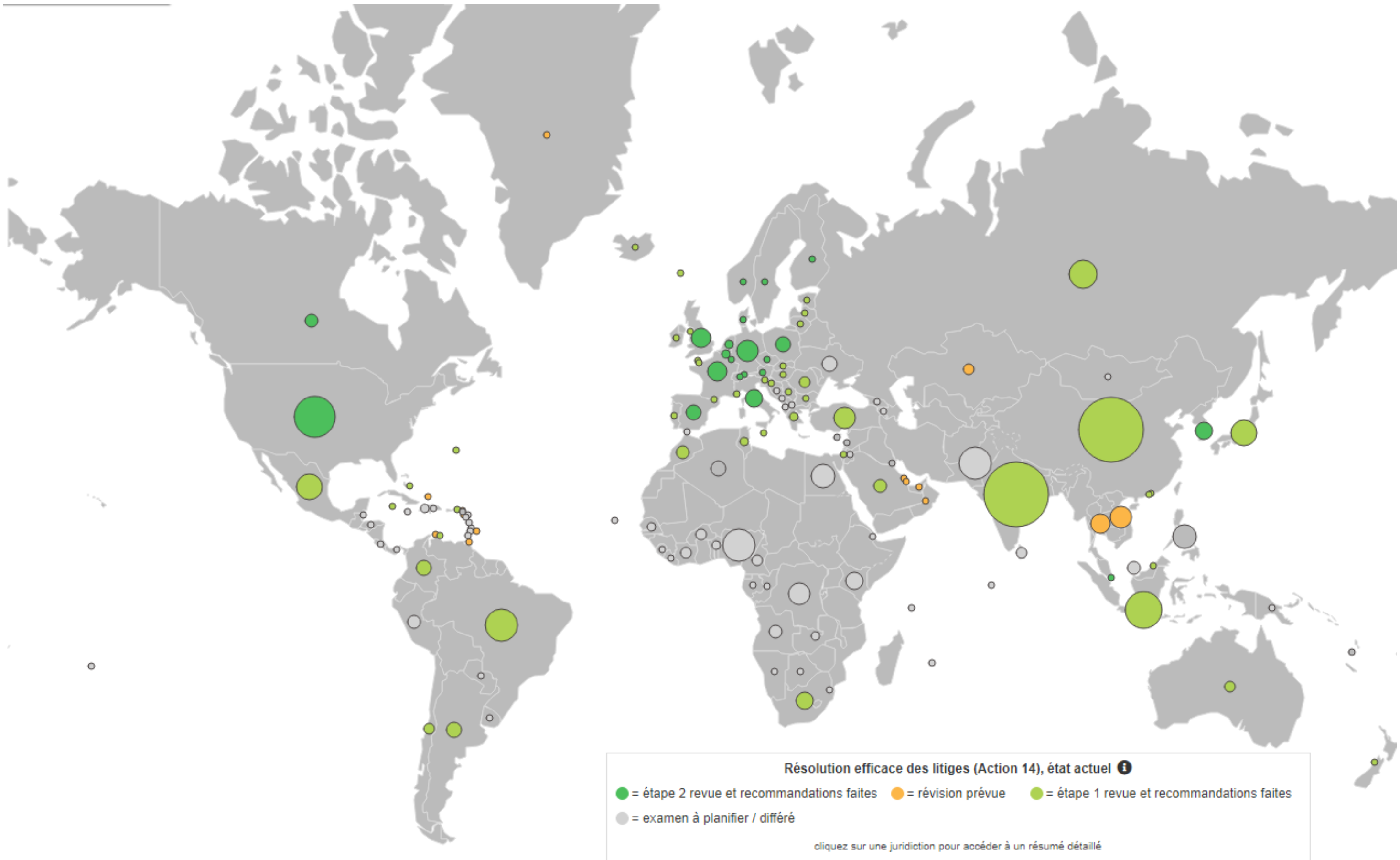
Illustration 4 : Cameroon's status to date on the Action 13 standard



Source ; *https://www1.compareyourcountry.org/tax-cooperation/en/2/630/default*

Lastly, with regard to the Action 14 minimum standard on effective dispute resolution mechanisms, Cameroon will be subject to a peer review led by the Mutual Agreement Procedure Forum within the Forum on Tax Administration. The minimum standard of Action 14 comprises four areas divided into 21 aspects. These areas relate to the prevention of disputes, the availability of and access to the mutual agreement procedure, the resolution of mutual agreement cases and finally the implementation of mutual agreement settlements. Although at Cameroon's request the peer review of the Action 14 minimum standard has been postponed to 2020, in accordance with the peer review methodology, the entry into force of the Multilateral Instrument will have the effect of modifying Cameroon's existing tax treaties with respect to the Action 14 standard and thus bring them into line with the Action 14 minimum standard.

Illustration 5 : Cameroon's status to date on the Action 14 standard



Source : ***https://www1.compareyourcountry.org/tax-cooperation/en/2/632/default***

All in all, the monitoring of implementation in the process of normative convergence helps to make tax norms more dense at the material level. It allows the domestic tax legal framework to be brought into line with new normative standards in a coordinated and accompanied manner. At the same time, it increases the administrative capacity needed to effectively implement new standards in order to produce appropriate tax standards. It also contributes to the extension of conventional networks in the tax field.

5.2.2. Consolidation of policies for the extension of conventional networks

The normative convergence perspective covers the technical aspects of the treatment of tax issues arising from the comparative analysis of the Cameroonian and Chadian conventional networks. It contributes to the standardisation of tax norms and administrative practices so that the normative differences between the two (02) jurisdictions do not lend themselves to tax opportunity behaviours.

The extension of the conventional network covers the political aspects of the solutions to these problems. It allows a jurisdiction to have an extensive treaty network both in terms of elimination of double taxation and in terms of administrative assistance mechanisms. It varies according to whether the conventions are bilateral or multilateral.

While the extension of the network of bilateral treaties takes place at the pace of treaty-by-treaty negotiations, accession to a multilateral treaty on tax matters makes it possible, as in the case of the Convention on Mutual Administrative Assistance in Tax Matters, to extend the network of treaties to all the States and territories party to the Convention in one operation.

In their current state, the Cameroonian and Chadian treaty networks still have considerable scope for extension. These two jurisdictions would therefore benefit from pursuing a policy of extending their tax agreement networks, a policy already initiated by Cameroon. Clearly, it is a question of Cameroon continuing and diversifying the densification of its network of agreements underway. But more than that, the country would benefit from accelerating the process of consolidating its tax treaties impacted by the IM in order to update them so that they no longer serve as a basis for abusive tax arrangements detrimental to this tax jurisdiction. An ambitious consolidation process could then be part of this logic. As far as Chad is concerned, it would be wise for it to resolutely engage in a policy of extending its network of tax treaties, on the basis of the new normative standards in the field.

In this respect, both jurisdictions would benefit from rethinking their policy of negotiating tax agreements by adapting them to the specificities and subtleties of the economic relations maintained with the treaty partner envisaged. Indeed, from the point of view of international tax treaty negotiations, and particularly in the case of Cameroon, there is a primacy of the legal dimension in the treaty processes, which is reflected in the absence of serious economic analysis, or rather the existence of a summary economic analysis in tax treaty files. However, the economic issues raised by the digitalisation of the economy and the modification of the modes of production of value, as well as the evolution of the rules of international taxation could be enlightened by serious economic analysis, so that the decisions to enter into talks or to negotiate a bilateral tax treaty result from serious economic analysis, highlighting the potential impact of the envisaged negotiations on the taxable bases, but also on the related treaty rules (despite the international consensus on the model conventions).

In addition to the aspects linked to the negotiation of agreements, these two jurisdictions also have to ensure that they are properly applied, or more clearly, properly administered. At present, these two countries do not have an administrative doctrine setting out guidelines for the implementation of treaty standards. They would therefore benefit from developing the elements of administrative doctrine necessary for a uniform implementation, in accordance with international law, of the treaty provisions in force, coupled with the setting up of mechanisms or frameworks for consultation necessary for monitoring the proper application of the said conventions.

6. CONCLUSION ET RECOMMENDATIONS

The comparative analysis of the Cameroonian and Chadian conventional networks is an exercise that has enabled us to give an account of their content, to draw up a map and to highlight the problems and challenges they face, while at the same time proposing possible solutions, both normative and administrative, which are the subject of the following recommendations:

<u>Recommendation 1 (addressee public authorities – MINFI):</u> Take into account in current and future tax treaty negotiations *the Sustainable Development Goals and in particular SDG 16 Targets 4 and 5 (Significantly reduce illicit financial flows, corruption and bribery in all their forms and combat all forms of organised crime).*

Dans le principe, la négociation des conventions fiscales internationales obéit à des processus qui jusqu'ici, n'intègrent pas les objectifs de développement durable. Cependant, du point de vue des pays africains et du Cameroun en particulier l'importance des prélèvements obligatoires et donc de la fiscalité dans l'atteinte des Objectifs de Développement Durable (ODD) n'est plus à démontrer. Elle se réfère à l'ODD 16.4. Elle permet en effet aux pouvoirs publics de mobiliser les ressources nécessaires pour le financement des besoins en services publics de base (infrastructures, éducation, santé, eau et assainissement, etc.), to contribute to the creation of an enabling environment for growth, to strengthen the democratic process and its institutions through taxation, by strengthening the relationship between government and the people, to strengthen the capacity of countries to collect sufficient taxes to develop their own infrastructure and avoid dependence, whether on aid or on a single resource, and to ensure that companies operating in Cameroon pay a fair tax Thus, given the importance of taxation in the pursuit of the SDGs,

- It is up to the public authorities involved in the tax treaty negotiation process to ensure that tax agreements are negotiated in the most effective way to protect their public financial interests and to report on them to civil society actors in accordance with the principles contained in the laws on the financial regime of the state on one hand and on transparency and good financial governance on the other;

- It is also their responsibility to implement effective evaluation and administration mechanisms for international tax conventions in force, in order to make more effective use of the possibilities opened up by these conventions, particularly with regard to the exchange of information in order to better combat tax fraud by means of their domestic and treaty legislation;

- Evaluate the implementation of existing tax treaties by examining their role in attracting foreign direct investment or in combating international tax fraud and evasion, and consider the possibility of renegotiating or terminating those treaties that are found to be unfair to our jurisdiction

<u>Recommendation 2 (addressed to MINFI):</u> Formulate a structured national position to safeguard public financial interests in *the ongoing rounds of negotiations within the OECD Inclusive Framework for Reform of the International Tax System*

With a view to more effectively addressing the tax challenges raised by the digitisation of the economy, the OECD secretariat has opened two public consultations in the course of 2019, presenting a global proposal to combat tax base erosion. These two proposals, which are part of an OECD work programme, aim to develop, through the OECD/G20 inclusive framework of which Cameroon is a member, a consensual normative solution to address the tax challenges raised by the digitalisation of the economy. They are based on two pillars. While the first suggests a unified approach[19] to the allocation of additional taxing rights to market jurisdictions[20], the second will theoretically have the effect of establishing a global minimum tax on multinational enterprises in order to prevent the localisation of taxable profits to favourable tax jurisdictions based on four rules[21].

This is, in analysis, a new round of post-BEPS international negotiations, which aims to redefine the rules of international taxatioń established in the last century, which were based on the existence of a link constituted alternatively by the presence of a fixed place of business, of a direct (permanent establishment), indirect (subsidiary) preparatory or auxiliary nature, which has become obsolete in the current context of digitalisation of the economy.

The potential conclusions of this round, at least those alreadỳ perceptible following the example of the consecration of a new right of taxation for the benefit of market jurisdictions (following the example of Cameroon), which is exercised independently of physical presence with regard

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19 http://www.oecd.org/fr/fiscalite/beps/document-consultation-publique-proposition-secretariat-approche-unifiee-pilier-1. pdf, as well as for extensive developments on the substantive aspects of the unified approach, see Castagnède (B.), " Reform of the international tax system and taxing rights of developing countries ", Tax Law, n° 47, 2019, 445.

20 This is done through the revision of the link constituted by the existence of a fixed place of business for the purpose of assessing source jurisdiction tax and the revision of the "arm's length principle" as regards the allocation of profits.

21 These rules are: the income inclusion rule, which would require a current tax on the income of a foreign-controlled entitý (or foreign branch), if that income was otherwise subject to an effective tax rate below a certain minimum rate (to be set at a later date). The under-taxed payments rule (for source jurisdictions), which would deny any deduction or require possible withholding tax on payments that have the effect of eroding the tax base, unless the payment is subject to tax at a rate equal to or higher than a specified minimum rate in the recipient's jurisdiction. A substitution rule, which would be incorporated into tax treaties to allow the residence state to apply the imputation method rather than the exemption method, where profits attributable to a permanent establishment or generated by real estate assets are taxed at an effective rate lower than the minimum rate. Finally, the so-called tax liability rule, which ensures that treaty benefits (particularly those relating to interest and royalties) are granted only in circumstances where an item of income is taxed at a minimum rate in the recipient's jurisdiction.

to a globalised base and by application of a keý of distribution, presents advantages as well as disadvantages for our jurisdiction.

To put it plainly, the current round of negotiations could eventually result in a rearrangement of the current rules for the taxation of multinational companies in force within our jurisdiction. These rules are based on physical presence and the arm's length principle and would be superimposed with new international rules to the determination of which our jurisdiction will not have made any material contribution, and whose transposition will be made compulsory by virtue of our participation in the inclusive framework and the commitments resulting from this participation.

It seems then, from a prospective point of view, that to the inadequacy of the current rules on taxation of MNEs and especially on the determination of their taxable profits, to which the mandatory BEPS standards not yet fully transposed have been added, could be added new mandatory normative standards likely to weaken or limit the coherent exercise of our taxation rights.

It is therefore urgent for our jurisdiction to work together with African jurisdictions and tax cooperation organisations to define a structured position to defend in view of the 2021 consensus, linked to the reform of the international tax system.

Specifically, the Cameroonian tax authorities should:

- Define, together with interested civil society actors, a structured position to be defended in the framework of the 2021 consensus;
- Take part in the current negotiations by working on a position that takes into account its current fiscal policy options, its conventional policy, the inter-national commitments being transposed and the normative options being discussed in the framework of the said negotiations. There is certainly a dual issue here of internal normative coherence and the durabilitý of our system of compulsory levies.

Recommendation 3 (to MINFI-DGI): *Enhancing tax transparency through automatic exchange of information*

With regard to the strengthening of the international tax transparency framework, the Cameroonian legal framework was examined in the light of the international standard of tax transparency. This review, which was conducted in two phases, resulted in domestic normative advances aimed at bringing the Cameroonian legal framework into line with the international standard of tax transparency set by Article 26 of the OECD Model Tax Convention and the model information exchange agreement also established by the same body. It is now preparing for the second round of peer review against the international tax transparency standard, which has been postponed to 2021 due to the current health crisis. While the situation with regard to exchange of information on request does not raise particular problems, the following actions could be taken by the public authorities in order to take advantage of the base broadening opportunities that the prospect of automatic exchange of information could open up[22].

- Set up the technical infrastructure within the Cameroonian tax administration for the automatic exchange of information;
- Proceed with the signing of the Multilateral Agreement between Competent Authorities (MACA) on the automatic exchange of financial account information, based on Article 6 of the Convention on Mutual Administrative Assistance in Tax Matters.

Recommendation 4 (to MINFI-DGI): *Strengthen economic analysis and expertise in the technical preparation of current and future tax treaty negotiations*

The evolution of international tax rules raises important economic stakes that our country would benefit from better integrating in the framework of preparatory analyses for tax treaty negotiations. An in-depth examination of the technical files of tax treaty negotiations on the Cameroonian side shows that the expertise as well as the economic analyses devoted to international tax negotiations remain sketchy compared to their stakes. It also shows that the decision to open negotiations is often based on legal, political or diplomatic criteria, even in the presence of significant economic flows (as in the case of Nigeria), even though they could more usefully be based on an analysis of the economic impact of the planned treaty provisions on the evolution of taxable income in Cameroon.

The above observation extends to the legislative approval of signed agreements, which generally do not include any assessment of the impact of these treaty instruments on the economic activity curve or the tax revenue trajectory. While taking into account the difficulties associated with carrying out a detailed economic analysis prior to the negotiation of a tax treaty, this study considers that the absence of a structured economic assessment prior to international tax negotiations is likely to prejudice our public financial interests.

To this end, it is strongly recommended to public authorities:

- That an economic analysis be carried out in order to measure more precisely the economic weight of the sectors for which our country is a "home state" and those in which it appears as a "source state". This analytical effort would make it possible to present relevant economic impact studies necessary for the effective pursuit of negotiations;

[22] OECD, Standard for Automatic Exchange of Financial Account Information for Tax Purposes, OECD Publishing, Paris, 2014.

- Set up, in connection with the inter-ministerial working group in charge of the densification of the network of tax treaties to the credit of Cameroon, a strategic economic analysis unit associating in particular the DGI, the DGD, the DGTCFM, the MINEPAT and the INS with a view to carrying out economic analyses prior to the negotiation of tax treaties and to identify the interests of the Cameroonian party, in order to densify the economic section of the negotiation files and ratifications presented and submitted for prior authorisation by the national representation ;
- ***In order to ensure the effective pursuit of the economic objectives of tax treaties, namely the attraction of economic investment, it appears necessary to recommend to the public authorities the necessary evaluation of the economic and fiscal impact of tax treaties in force.***

<u>Recommendation 5</u>: take into account the impact of the ratification of the Multilateral Instrument on the network of tax treaties in force in Cameroon

Cameroon has ratified the Multilateral Convention on the Implementation of Measures Relating to Tax Treaties to Prevent the Erosion of the Tax Base and the Transfer of Profits ("Multilateral Instrument" or "MI") through Decree No. 2020/798 of 29 December 2020. Its entry into force will have the effect of modifying the substantive structure of the bilateral treaties covered ***(Canada, France, Morocco, South Africa, Tunisia)***.

As a reminder, the MI aims to implement in a swift and coordinated manner in the covered treaties those measures of the BEPS project relating to tax treaties that would not have been possible using the traditional bilateral treaty review procedures as codified by international law. ***To this end, it is superimposed on these covered conventions which it modifies according to the options of the Cameroonian party and those of its treaty partners, in their stipulations relating to the fight against the erosion of taxable bases, on the basis of minimum normative standards of mandatory scope for some, and optional for others.***

It therefore applies in parallel with them while modifying the content and structure of some of their stipulations. It also introduces an additional burden and complication in the direct reading and interpretation of bilateral conventions insofar as it does not function in the manner of a protocol that would modify some of the stipulations of the bilateral conventions covered. It therefore raises problems of readability and intelligibility of the standard, for which the OECD proposes a consolidation approach supported by a methodology and a ***matching base*** for verifying the relevance of consolidation operations.

The consolidation process should enable interested parties, such as civil society, to appropriate the new provisions of the IM impacting bilateral treaties in force in Cameroon before they come into force. These are aimed at the artificial avoidance of permanent establishment status, the abusive use of tax treaties and the settlement of disputes. It should also provide them with a consolidated content, necessary for a direct reading of the conventions covered from the point of view of the tax assessment operations for which they are responsible.

In this respect, the present study recommends to the public authorities and in particular to the tax administration to:

- Propose consolidated versions of the bilateral conventions affected (France and Canada in particular for which the MI has already entered into force);
- Disseminate these versions to interested parties (civil society, companies, etc.)
- Revise the Cameroonian model tax convention in order to bring it into line with the normative advances introduced by the reports of the BEPS project.

Recommendation 6 (to MINFI-DGI): ***Open and facilitate a phase of prior consultations with the private sector and civil society in the framework of the convention process.***