

Tax treaties and developing countries

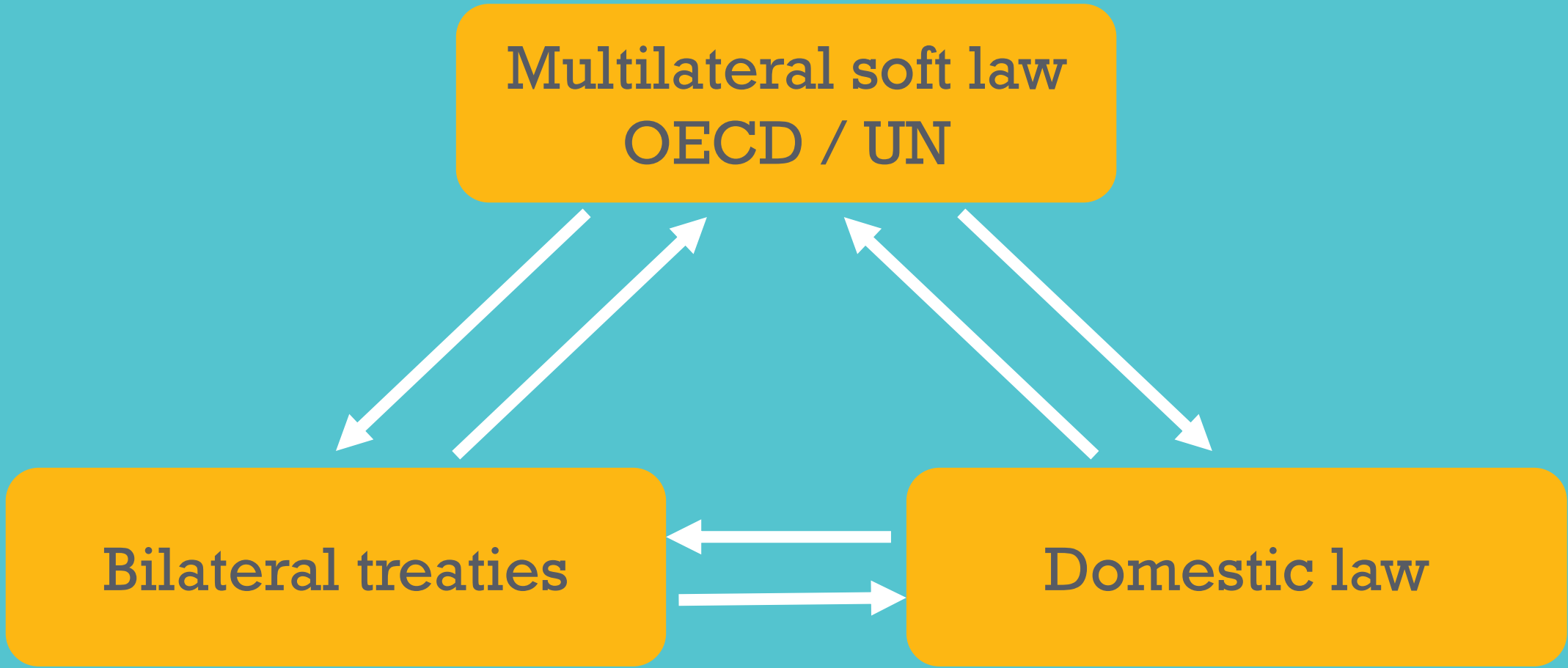


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G-24 Technical Group Meeting, 2 March 2021



Tax treaties of G-24 members



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“ African countries have been brainwashed into thinking that they need [tax] treaties. But they don't. ”

“ Actually if I had a choice I would scrap all double taxation treaties, because that was really a concept put there by developed countries. ”

- Former negotiators from G-24 countries

Three points about tax treaties

1. Variation between countries
2. Variation over time
3. Past negotiations constrain present day choices

Digital economy debate poses the question:

Is my treaty network fit for purpose?

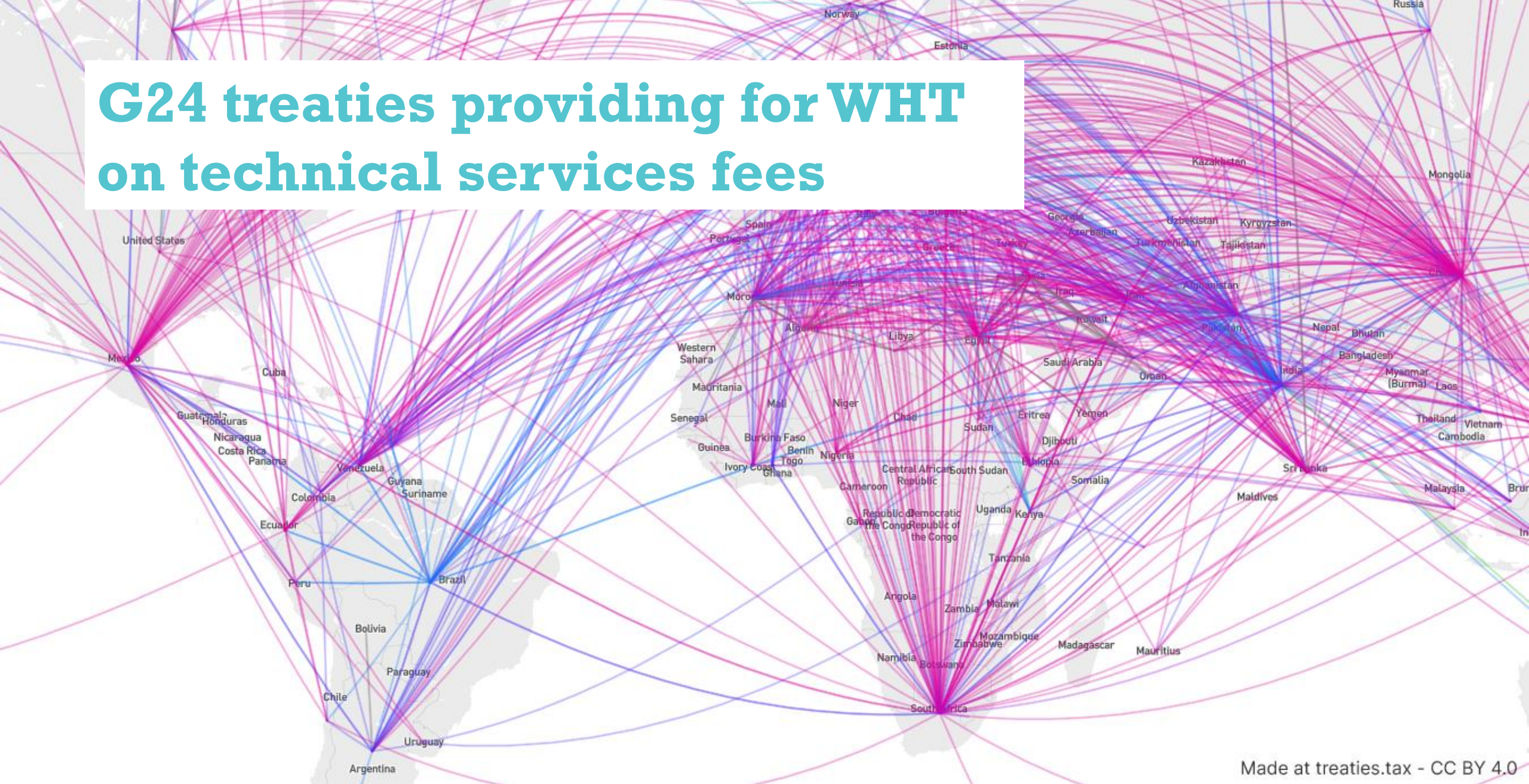
The Tax Treaties Explorer: [treaties.tax](https://www.ictd.ac/treaties-tax)



- ▶ Over 2000 tax treaties and amending instruments
- ▶ Coded for easy comparison
- ▶ Explore using innovative visualisations

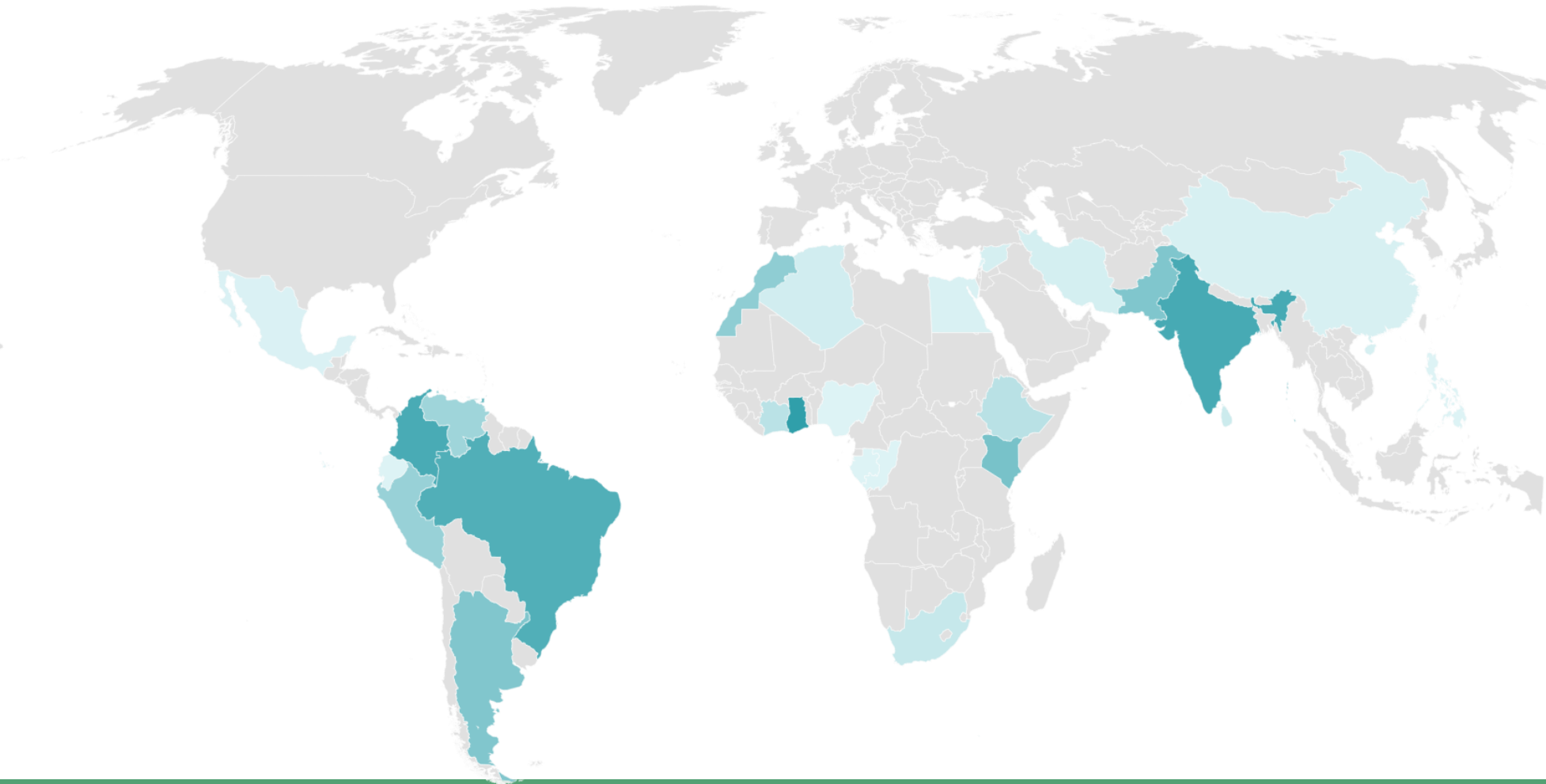
A project of the ICTD supported by the World Bank and the G-24

G24 treaties providing for WHT on technical services fees

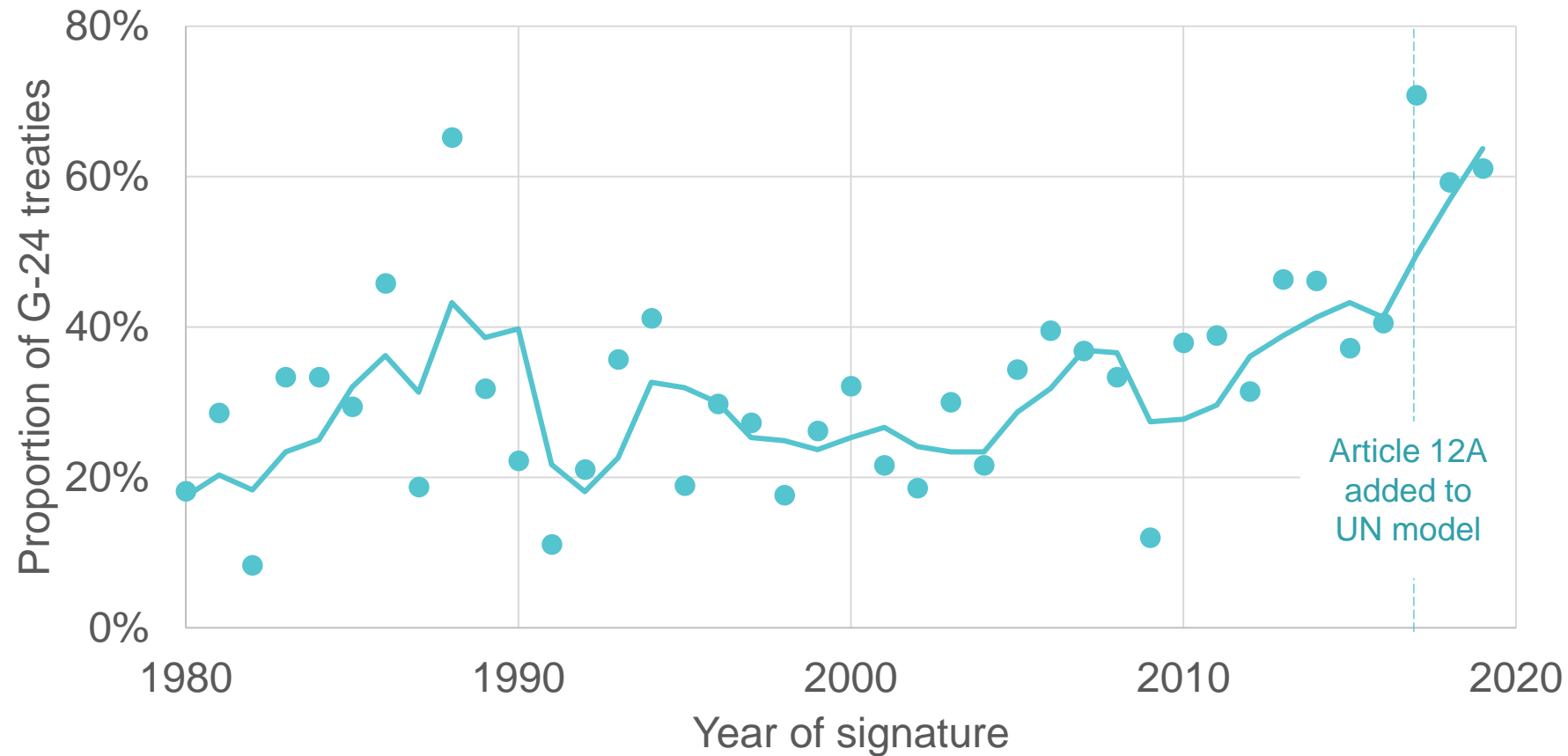


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Proportion of treaties providing for WHT on technical service fees



G-24 countries' treaties increasingly provide for WHT on technical service fees



Studying treaties using indices

- 5(3)(a) PE definition: construction PE length in months
- 5(3)(a) PE definition: supervisory activities associated with construction
- 5(3)(b) PE definition: service PE length in months
- 5(4)(a) PE definition: delivery exception to PE
- 5(4)(b) PE definition: delivery exception to PE
- 5(5)(b) PE definition: stock agent PE
- 5(6) PE definition: insurance PE
- 5(7) PE definition: dependent agent extension
- 10(2)(a) WHT rate: qualifying [FDI] dividend WHT in %
- 10(2)(b) WHT rate: other [portfolio] dividend WHT in %
- 11(2) WHT rate: general interest WHT in %
- 11(2) WHT rate: interest rate WHT applying to loans from banks and financial institutions in %
- 12(2) WHT rate: general royalties WHT in %
- 12A Management or technical service fees in %
- 12(2) WHT rate: royalties WHT applying to payments for copyright in %
- 12(2) WHT rate: royalties WHT applying to payments for the use of equipment in %
- 7(1)(b&c) Limited force of attraction
- 7(3) No deduction for payments to head office
- 8(2) Source shipping right as a %
- 13(4) Source capital gains on 'Land rich' company
- 13(5) Source capital gains on shares other than those covered by 13(4)
- 14 Independent personal services included
- 16(2) Source taxation of earnings by top-level managerial officials
- 21(3) Source taxation of other income

Permanent establishment definition

Withholding tax rate

Other provisions

Index of overall source taxing rights

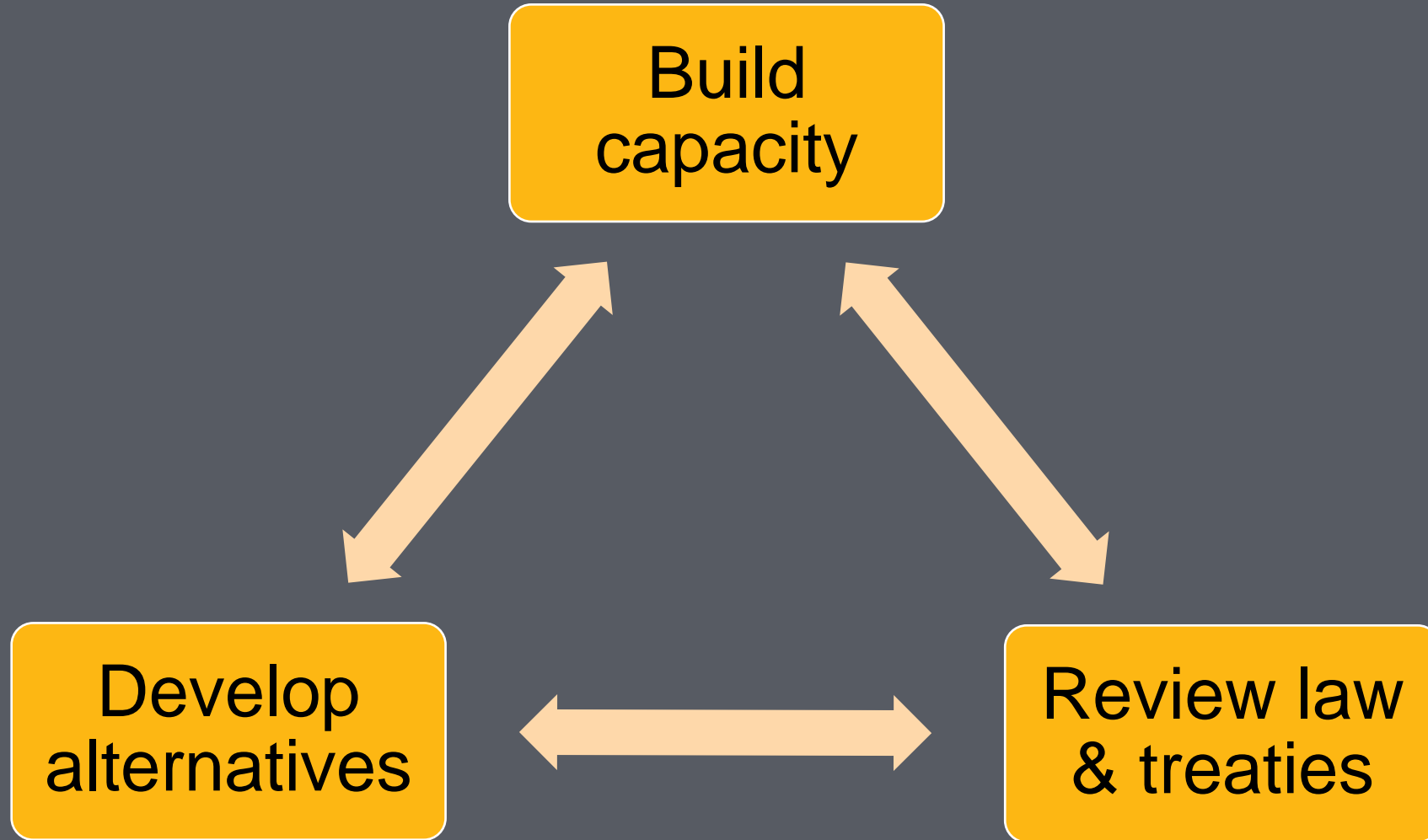
Mauritius – G24 tax treaties



Some differences in treaties with Mauritius



	Nigeria	Kenya (2012)	Ghana	Kenya (2019)
Index of overall source taxation	0.33	0.37	0.58	0.78
Construction PE	6 months	6 months	6 months	3 months
Insurance PE	No	Yes	No	Yes
WHT rates	7.5%	0% to 10%	7% to 10%	8% to 12%
Technical services WHT	No	No	Yes	Yes
Capital gains: real property rich companies	No	No	No	Yes
Source taxation of other income	Yes	No	No	Yes
Anti-abuse rule	Partial	No	No	Yes





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