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Navigating Base Erosion And Profit Shifting Between China And Africa: Regulatory Hurdles And The Promise Of AI-Driven Tax Enforcement

Çin Ve Afrika Arasındaki Vergi Tabanının Aşınması Ve Kar Transferi: Mevzuat Engelleri Ve AI Tabanlı Vergi Uygulamasının Vaadi

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ÖZ

Bu makale, Çin ve Afrika ülkeleri arasındaki finansal etkileşimleri inceleyerek, Vergi Tabanının Aşınması ve Kar Transferi (BEPS) ile bağlantılı yasal zayıflıklara odaklanmaktadır. Zayıf vergi idaresi, sınırlı dijital altyapı ve gelişmiş ekonomileri kayıran küresel vergi normları gibi zorlukları analiz etmektedir. Çalışma, ticaret, yatırım ve finansman mekanizmalarının (örneğin, imtiyazlı krediler, kamu-özel sektör ortaklıkları ve özel ekonomik bölgeler) BEPS risklerini nasıl etkilediğini ve ikili anlaşmalar ile vergi anlaşmalarının rolünü değerlendirmektedir. Ayrıca, vergi uygulamasında yapay zeka destekli araçları inceleyerek, bu araçların gerçek zamanlı izleme ve uyum sağlama potansiyelini vurgulamakta ve veri gizliliği ve yönetişimle ilgili endişelere dikkat çekmektedir. Makale, mali egemenliği ve adil kalkınmayı güçlendirmek için koordineli yasal reform, kapasite geliştirme ve etik teknoloji benimsenmesinin gerekliliğini vurgulamaktadır.

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A B S T R A C T

This paper examines financial interactions between China and African states, focusing on legal vulnerabilities linked to Base Erosion and Profit Shifting (BEPS). It analyzes challenges such as weak tax administration, limited digital infrastructure, and global tax norms favoring developed economies. The study assesses how trade, investment, and financing mechanisms—like concessional loans, PPPs, and SEZs—affect BEPS risks, alongside the role of bilateral treaties and tax agreements. It also explores AI-driven tools for tax enforcement, highlighting their potential for real-time monitoring and compliance, while noting concerns about data privacy and governance. The paper underscores the need for coordinated legal reform, capacity building, and ethical technology adoption to strengthen fiscal sovereignty and equitable development.

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1. Introduction

African countries exhibit a heightened vulnerability to base erosion and profit shifting (BEPS) due to their significant dependence on corporate income tax as a primary source of government revenue. This susceptibility is exacerbated by increasing foreign direct investment (FDI), particularly from the People's Republic of China under initiatives such as the Belt and Road Initiative (BRI), which often targets sectors—such as extractive industries and infrastructure—that are prone to aggressive transfer pricing and other profit-shifting strategies. The phenomenon of BEPS allows multinational enterprises (MNEs) to exploit gaps and mismatches in domestic tax rules to artificially shift profits to low- or no-tax jurisdictions, thereby eroding the tax base of developing countries. According to the OECD (2013), BEPS poses a serious threat to tax sovereignty, particularly in jurisdictions with limited administrative capacity and heavy reliance on a narrow tax base (Koske et al., 2015). In Africa, where corporate tax revenues account for an estimated 15–30% of total government revenue in many countries, the fiscal consequences of BEPS are particularly acute (Adera, 2024).

Furthermore, the nature of Chinese investment in Africa complicates the tax landscape. While the BRI has facilitated infrastructure development and economic growth, it has also been associated with opaque contractual arrangements, limited transparency, and the use of Chinese-controlled enterprises that may engage in transfer mispricing or treaty shopping to minimize tax liabilities. These practices often undermine the ability of African tax authorities to accurately assess and collect tax on the economic activities taking place within their jurisdictions (Redonda & Neubig, 2018). Efforts to combat BEPS in Africa have included regional and international collaborations, such as the African Union's engagement with the OECD/G20 Inclusive Framework on BEPS and the establishment of the African Tax Administration Forum (ATAF), which has developed a transfer pricing toolkit tailored to African economies. Additionally, the United Nations has advocated for a more inclusive and equitable global tax framework that addresses the unique challenges faced by developing countries, culminating in the 2022 resolution to strengthen the role of the UN in international tax cooperation (Xu et al., 2011).

2. Regulatory Challenges in BEPS

African jurisdictions continue to face substantial structural and institutional limitations that impede the effective implementation of anti-BEPS measures. These challenges include deficient technological infrastructure, a scarcity of specialized personnel (particularly in transfer pricing and international tax law), and pervasive opacity in financial reporting practices. The asymmetry in technical capabilities between African tax administrations and multinational enterprises (MNEs) is exacerbated by the legal complexity of BEPS mechanisms. These include aggressive transfer pricing arrangements, treaty shopping, hybrid mismatch arrangements, and tax planning strategies targeting the digital economy—each requiring advanced regulatory frameworks and administrative expertise to counteract. From a legal standpoint, many African tax codes have not been sufficiently modernized to accommodate emerging international standards (Lin et al., 2018).

Furthermore, gaps in domestic legislation—such as the lack of specific anti-avoidance rules (GAARs), thin capitalization rules, and effective controlled foreign corporation (CFC) regimes—create enforcement vulnerabilities. This legal deficit is further aggravated by limited access to mutual assistance procedures and information exchange agreements, both essential under the OECD's Global Forum standards. Although 27 African countries are formal members of the OECD/G20 Inclusive Framework on BEPS, their participation often lacks substantive influence on norm creation. This marginalization stems from structural power imbalances, where high-income countries dominate agenda-setting, negotiation, and drafting of global tax rules. Consequently, critical instruments—such as the BEPS Action Plan and the Global Anti-Base Erosion (GloBE) rules under Pillars One and Two—may inadequately reflect African states' economic realities and policy priorities. This under-representation raises legal concerns regarding the legitimacy and fairness of international tax law formation. According to principles of customary international law and soft law legitimacy, norm-making processes should include meaningful participation by all affected states. The lack of African agency compromises the development of equitable tax norms and undermines the principle of sovereign equality enshrined in the United Nations Charter. The OECD's Two-Pillar Solution, endorsed in October 2021, has significant implications for African tax jurisdictions. Pillar One aims to redistribute a portion of residual profits of the largest and most profitable MNEs to market jurisdictions where users or consumers are located, regardless of physical presence. This reallocation—estimated to involve over USD 100 billion globally—could potentially increase revenues for African source countries. However, effective implementation requires robust legal mechanisms for determining nexus, profit allocation, and dispute resolution, where African countries often lack institutional readiness (Sun, 2022).

Pillar Two, on the other hand, introduces a global minimum tax rate of 15% for MNEs with annual consolidated revenues exceeding EUR 750 million. Although intended to curb tax competition and ensure a floor for corporate taxation, this threshold may constrain African countries' fiscal sovereignty. Many African nations apply statutory corporate income tax rates between 25% and 35% (Russo, 2016). Introducing a lower minimum rate may incentivize profit shifting to jurisdictions applying only the minimum tax, undermining the effectiveness of higher national rates. Additionally, the design of top-up tax mechanisms—such as the Income Inclusion Rule (IIR) and Undertaxed Profits Rule (UTPR)—appears to disproportionately benefit residence jurisdictions of MNEs, which are typically developed countries. This design may further marginalize source jurisdictions, such as African economies, in the global distribution of tax revenues. The expanding economic partnership between China and Africa, particularly through infrastructure investment and extractive industries, presents a unique set of BEPS vulnerabilities. Chinese investments are often structured through low-tax jurisdictions such as Mauritius, leveraging bilateral double taxation agreements (DTAs) and preferential investment regimes. While these structures are legally permissible under international tax law, they raise legitimate concerns about treaty abuse, thin capitalization, and aggressive transfer pricing (Komba, 2025). Moreover, the limited capacity of African tax authorities to engage in coordinated transfer pricing audits, mutual agreement procedures (MAP), or cross-border exchange of information creates enforcement blind spots (Oguttu, 2015). Many African countries have yet to develop effective domestic legal frameworks for country-by-country reporting (CbCR), Advance Pricing Agreements (APAs), or robust audit processes for foreign investors, allowing profit shifting with minimal oversight. BEPS Action 13, which mandates Country-by-Country Reporting by large MNEs, remains largely ineffective in many African jurisdictions due to systemic administrative weaknesses. These include a lack of automated information systems, insufficient data analytics capacity, and limited legal frameworks for receiving and utilizing tax data from other jurisdictions. As a result, African tax administrations often operate without access to the disaggregated financial data necessary to detect and combat BEPS strategies (Xiao, 2020).

Additionally, basic transparency standards—such as mandatory annual financial statement filings, beneficial ownership registries, and audit trail requirements—are not consistently enforced across the continent (Etter-Phoya et al., 2020). This legal and regulatory opacity undermines the effectiveness of domestic tax administration and international cooperation efforts. Addressing BEPS in Africa requires a multifaceted response that combines legal reform, institutional capacity-building, and enhanced representation in international tax governance. African countries must invest in modernizing tax legislation, adopting international best practices, and strengthening transparency mechanisms. Simultaneously, the international community must ensure that global tax standards are developed inclusively, reflecting the interests and capacities of developing economies. Without such reforms, implementing BEPS measures risks entrenching existing inequalities in the global tax order (Moore et al., 2018).

3. Research Methodology

The research design underpinning this article utilizes a qualitative, non-empirical methodology that synthesizes legal doctrine, policy analysis, and comparative case study elements to investigate the complex phenomenon of Base Erosion and Profit Shifting (BEPS) in the China-Africa context. Employing a grounded theory-based approach, the study's design is structured to first delineate the problem by establishing Africa's systemic vulnerability to BEPS, exacerbated by the specific nature of Chinese investment and existing global tax norms. The core of the methodological approach involves a critical legal analysis, dissecting the regulatory hurdles at multiple levels. The article scrutinizes the inadequacies within domestic African tax codes, the exploitable gaps in bilateral tax treaties, and the structural inequities embedded in international soft-law instruments like the OECD/G20 BEPS framework. The diagnostic phase is complemented by a forward-looking, exploratory analysis of Artificial Intelligence as a catalytic solution. The design recommendation approach incorporates a comparative element, drawing lessons from jurisdictions such as China, Kenya, and Rwanda to extrapolate potential applications and preconditions for AI-driven tax enforcement in Africa. By integrating analysis from a wide array of secondary sources, including academic literature, international organization reports, and model laws, the research design effectively constructs a comprehensive narrative that moves from problem identification through regulatory diagnosis to proposed technological and strategic remediation.

4. AI as a Catalyst for Improved Tax Enforcement

The advent of artificial intelligence (AI) presents a transformative opportunity for tax administrations, particularly in developing regions such as Africa. By enhancing data analysis, automating compliance processes, and strengthening risk-based enforcement, AI can be a powerful tool in combating tax evasion, base erosion, and profit shifting (BEPS). Drawing on lessons from jurisdictions such as China and early digital tax initiatives in Rwanda, Kenya, and South Africa, this section explores the potential applications of AI across key enforcement areas while addressing institutional and legal preconditions for successful implementation. In jurisdictions such as China, tax authorities have successfully employed AI-driven analytics in conjunction with the Exchange of Information (EOI) frameworks and country-level significant data ecosystems to develop robust risk-based profiling of taxpayers. This model enhances the identification of BEPS practices and other forms of tax non-compliance by triangulating financial, trade, and transactional data from multiple sources (Ait Abdellouhab & Radaelli, 2023). African tax administrations could adapt similar methodologies by integrating disparate data sources—including fintech platforms, customs declarations, cross-border trade documentation, and foreign exchange records—into a centralized tax intelligence infrastructure. The legal basis for such integration would require legislative mandates for data sharing, privacy safeguards, and inter-agency cooperation, possibly through data governance frameworks modeled after the OECD's Common Reporting Standard (CRS) or the African Tax Administration Forum's (ATAF) model agreements (Katterbauer et al., 2025).

Several African countries have initiated the transition toward digital taxation systems. For example, Rwanda's E-Billing system, Kenya's iTax platform, and South Africa's e-

Filing regime have significantly improved taxpayer registration, filing compliance, and audit efficiency (Ahn, 2021). These platforms lay the groundwork for AI integration, particularly by deploying anomaly detection algorithms that identify irregular transactional patterns, suspicious invoice chains, or systematic undervaluations indicative of tax fraud. To enhance legal oversight, governments must amend domestic tax codes to authorize AI-assisted audit triggers and ensure compliance with due process and taxpayer rights, which align with constitutional and administrative law standards. Emerging academic research demonstrates the potential of machine learning (ML) to identify illicit commercial activity on social media and digital platforms. For instance, experimental models using multi-modal deep learning techniques—analyzing images, metadata, and transaction information—have achieved promising results in detecting tax-evading sales on platforms such as Instagram, with performance metrics such as AUC (Area Under Curve) of 0.808 and F1 scores of 0.762 (Katterbauer, 2022).

In the African context, where mobile money, peer-to-peer transactions, and informal e-commerce dominate, such ML models could be adapted to monitor economic activity beyond the formal sector. Legal frameworks must evolve to encompass digital marketplace regulation, data access protocols for tax purposes, and privacy rights under emerging data protection statutes (e.g., Kenya's Data Protection Act, 2019; Nigeria Data Protection Regulation, 2019). Country-by-Country reporting, mandated under Action 13 of the OECD BEPS Project, offers tax administrations detailed information on the global allocation of income, taxes paid, and economic activity of multinational enterprises. However, the utility of CbC reports remains limited due to the complexity of manual analysis and inconsistent access (L. Chen & He, 2024).

AI can substantially enhance the usefulness of CbC reports through automated comparative analytics. Machine learning algorithms could be developed to flag outlier jurisdictions, detect patterns suggesting profit shifting (e.g., high profits in low-tax jurisdictions with minimal economic activity), or identify systemic tax leakage indicators. Legal provisions should enable using such tools while respecting confidentiality obligations under international tax treaties and ensuring proportionality in enforcement responses (Katterbauer, 2023). Despite its promise, the implementation of AI in tax enforcement faces several institutional and legal challenges. Effective deployment requires significant investments in digital infrastructure, cybersecurity, technical capacity, and change management processes. Moreover, there may be resistance from tax officials—due to concerns over job displacement—and taxpayers, especially where AI applications are perceived as intrusive or opaque (Cui et al., 2024). Legally, tax authorities must ensure that AI-enabled processes comply with legality, transparency, accountability, and procedural fairness principles. This may necessitate enacting enabling legislation that defines the permissible scope of AI use, provides for judicial review of AI-generated assessments, and establishes independent oversight mechanisms. Data protection, algorithmic bias mitigation, and ethical use standards must also be codified, in alignment with regional instruments such as the African Union Convention on Cyber Security and Personal Data Protection (Malabo Convention).

While African nations continue to navigate the complex challenges of Base Erosion and Profit Shifting (BEPS), several jurisdictions have demonstrated notable success through targeted reforms that offer a blueprint for regional progress. Ghana, for instance, has significantly bolstered its defensive capabilities by establishing a dedicated Transfer Pricing Unit, which has conducted rigorous audits focusing on high-risk sectors like the extractive industries and telecommunications; these audits have led to the identification and reversal of substantial profit-shifting practices by multinational enterprises, resulting in significant revenue reassessments and establishing a powerful deterrent against aggressive tax planning (L. Chen & He, 2024). Similarly, Nigeria has moved to bridge the information asymmetry that plagues tax administrations by mandating Country-by-Country Reporting (CbCR) for large multinational groups, a reform that compels the disclosure of global allocation of income, taxes paid, and economic activity, thereby providing its Federal Inland Revenue Service with the critical, disaggregated data needed to risk-assess and target audit resources effectively, even as it continues to build the analytical capacity to fully leverage this intelligence. Perhaps the most foundational of these reforms is South Africa's sophisticated e-Filing system, which has revolutionized tax administration by achieving mass adoption among taxpayers, thereby drastically improving the efficiency and transparency of core processes like registration, return filing, and payment; this digital backbone has not only increased compliance rates and reduced administrative costs but has also created the necessary data ecosystem upon which more advanced analytics, including future AI-driven enforcement tools, can be built. Collectively, these reforms—Ghana's specialized audit enforcement, Nigeria's embrace of international transparency standards, and South Africa's digital infrastructure—represent a multi-pronged and pragmatic approach to strengthening fiscal sovereignty, demonstrating that while systemic challenges remain, strategic investments in legal frameworks, institutional capacity, and technology can yield tangible gains in the fight against illicit financial flows (Cui et al., 2024).

5. Strategic recommendations

African governments must prioritize developing and deploying robust digital infrastructure to enhance tax administration efficiency and transparency. This includes implementing AI-driven e-invoicing systems, advanced risk-scoring engines, and integrating automated financial reporting platforms. Such technological advancements are supported by the growing body of international tax law that emphasizes digital transparency and compliance, as exemplified by the OECD's Base Erosion and Profit Shifting (BEPS) initiatives. Governments should consider the legal frameworks necessary to safeguard data privacy and ensure compliance with regional and international standards such as the African Union Convention on Cyber Security and Personal Data Protection (Malabo Convention).

Leveraging regional institutions such as the African Tax Administration Forum (ATAF) is critical for building local expertise in AI, data analytics, and digital tax administration. Training programs should focus on technical proficiency and legal competencies surrounding tax policy, data protection laws, and compliance mechanisms. This approach aligns with international standards set forth by organizations like the International Monetary Fund (IMF) and the World Bank, which advocate for strengthening institutional capacities to implement digital reforms effectively. Legal training should also incorporate principles from domestic tax codes, such as the Brazilian Imposto sobre a Renda das Pessoas Jurídicas (IRPJ), to draw lessons on corporate tax management. African governments must actively participate in international tax policy discussions, particularly concerning reforms under the BEPS framework (Coulibaly et al., 2019). Advocacy efforts should aim to recalibrate the application of BEPS Pillars One and Two to accommodate better African countries' specific economic and fiscal realities, including prevailing tax rates and revenue collection priorities. This requires a thorough understanding of international tax treaties, double taxation agreements, and the role of multilateral instruments like the OECD's Multilateral Instrument (MLI). Enhancing African representation in forums such as the OECD Inclusive Framework will ensure that continent-specific concerns are adequately addressed in global tax governance (Challender & MacMillan, 2014).

To monitor profit allocation and intra-group transfer pricing effectively, African countries should pursue bilateral data exchange agreements with key economic partners, including China and others involved in significant trade and investment flows. Such agreements must be grounded in robust legal frameworks that protect taxpayer confidentiality while enabling efficient information exchange. These arrangements should comply with the standards set by the OECD's Convention on Mutual Administrative Assistance in Tax Matters, to which many African countries are signatories. Legal provisions should also account for enforcement mechanisms and dispute resolution to address potential conflicts arising from cross-border data sharing (E. Chen & Gavious, 2017). Implementing pilot projects utilizing AI and RegTech tools in countries with existing digital tax infrastructure—such as Kenya and Rwanda—will provide valuable insights for scalable implementation across the continent. National data protection laws, electronic transaction regulations, and cybersecurity standards should design these pilots. Legal oversight mechanisms must be established to ensure compliance, mitigate risks related to algorithmic bias, and protect taxpayer rights. The iterative scaling of such initiatives can be informed by international best practices on digital governance and technology adoption in the public sector (Huina, 2017).

In the African context, AI-driven tax enforcement tools can realistically operate by building upon the continent's existing, albeit nascent, digital tax infrastructure, with their functionality empirically grounded in the integration of disparate but available data sources such as mobile money transaction records from platforms like M-Pesa, customs declarations from single-window systems, cross-border trade documentation, and foreign exchange records, as demonstrated by early adopters like Kenya's iTax and Rwanda's E-Billing systems which have already improved registration and filing compliance. For instance, machine learning algorithms, which have shown promise in experimental models with performance metrics like an AUC of 0.808 in detecting tax-evading sales on digital platforms, can be adapted to the African informal and semi-formal economy by analyzing transactional patterns from fintech and social media to flag anomalies indicative of systematic undervaluation or fraudulent invoice chains (Challender & MacMillan, 2014). The practical utility of complex international standards like Country-by-Country Reporting (CbCR), often underutilized due to manual analysis constraints, can be substantially enhanced through automated comparative analytics that algorithmically flag outlier jurisdictions where MNEs report high profits with minimal economic activity, a critical need given the documented prevalence of profit shifting through jurisdictions like Mauritius in China-Africa investment flows. However, this operational realism is contingent on overcoming empirical institutional hurdles, including the need for legislative mandates for inter-agency data sharing as seen in Kenya's Data Protection Act (2019), significant investment in cybersecurity to protect centralized tax intelligence infrastructures, and capacity-building to mitigate resistance from officials, all while ensuring AI-driven audit triggers comply with due process and proportionality principles to avoid legal challenges and uphold taxpayer rights within evolving African data governance frameworks (Huina, 2017).

6. Conclusion

Addressing the challenge of Base Erosion and Profit Shifting (BEPS) within the China–Africa economic and legal nexus necessitates a multifaceted approach that seeks to reconcile regulatory asymmetries, bolster administrative capabilities, and ensure the meaningful participation of African states in the formulation and implementation of global tax governance frameworks. BEPS, as conceptualized by the Organization for Economic Cooperation and Development (OECD), refers to tax planning strategies employed by multinational enterprises (MNEs) that exploit gaps and mismatches in tax rules to artificially shift profits to low- or no-tax jurisdictions, thereby eroding the tax bases of countries where economic activities occur. Regulatory asymmetries between China and

African countries often stem from disparities in legal infrastructure, fiscal policy frameworks, and the sophistication of tax administration systems. These divergences create vulnerabilities that can be exploited through aggressive tax avoidance and profit-shifting strategies. Harmonizing tax regulations and enhancing transparency, including adopting international standards such as the OECD's BEPS Action Plan and implementing Country-by-Country Reporting (CbCR), are essential measures. Moreover, addressing legal gaps in transfer pricing rules, treaty shopping, and the application of anti-abuse provisions in bilateral tax treaties between China and African nations is critical to mitigate BEPS risks. Effective enforcement of anti-BEPS measures requires strengthening tax authorities' institutional and administrative capacities in African jurisdictions. This involves investments in human capital development, technological infrastructure, and legal expertise to interpret and apply complex international tax standards. Introducing Artificial Intelligence (AI)-enabled enforcement systems presents a transformative opportunity to enhance risk assessment, data analysis, and compliance monitoring. Nevertheless, the deployment of such advanced technologies must be accompanied by robust legal safeguards to protect taxpayer rights and ensure due process within tax audits and dispute resolution mechanisms. The global tax governance architecture has historically been dominated by developed economies, with limited representation from African countries, resulting in normative frameworks that may inadequately address the unique economic realities of the continent. Promoting inclusive international cooperation platforms, such as the Inclusive Framework on BEPS under the OECD, is imperative, where African states can contribute to the negotiation and refinement of tax standards. Legal reforms at the domestic level should align with international obligations while safeguarding fiscal sovereignty and development priorities. Combating BEPS effectively in the China–Africa context also requires enhanced international cooperation, including bilateral and multilateral information exchange agreements, mutual assistance in tax collection, and dispute resolution mechanisms. Instruments such as the Multilateral Instrument (MLI) to modify bilateral tax treaties, and adherence to the United Nations Model Double Taxation Convention, can provide a legal basis for combating tax avoidance tailored to the development needs of African countries. Cooperation between tax authorities through capacity-building programs and joint audits can further strengthen enforcement efforts.

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