

South Centre

Are alternatives available?

Exploring the UN solution on

Automated Digital Services

Presentation by

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Elements of challenge to digital economy taxation

Whether to tax

Broad agreement

What to tax

Services?

Goods?

All or some?

Ring-fencing

How to tax

Centralised approach

Traditional approach

How much to tax

Only a portion of non-routine profits or something else?

Measurement

Why Alternative Approach Needed

Complexity

Reasonable
share for market
jurisdictions

Journey of Article 12B

UN Tax Committee- How it works-What is its mandate-Special attention to interest of developing countries

Tax challenges of digitalised economies taken up as a work stream for present membership in 2017

Whether to just observe or do something more?

18th Session-April 2019-Decision taken to work independently-Take into account other foras' work – Proposals from members invited

20th Session-June 2020-Proposal by Member- Formation of a Drafting Group

21st Session-October 2020-In principle approval of Article 12B

22nd Session-April 2021-Text of Article 12B and Commentary finalised and approved

Why Modify Tax Treaties

Taxing rights flow through domestic law

Treaty overrides domestic law

Treaty does not permit taxation if no PE

Need for treaty modification

Elimination of double taxation

Role of UN Model Tax Convention in treaty modification

Features of Article 12B

Scope-
Automated
Digital
Services

Gross basis-
withholding
tax option

Net basis
taxation
option

Payment
Basis

Interaction
with other
Articles

Conclusion

No suggestion to tax digital businesses-matter of domestic law exclusively

No interlinking with other issues-Stand alone basis solution

Traditional approach for MNE taxation in a decentralised manner

Implementation-bilateral negotiations-multilateral instrument?

Possible end to unilateral measures-Equalisation levies and DSTs

Thanks