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