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Fair corporate taxation – key ITUC demands

JOBS
CLIMATE-FRIENDLY JOBS
RIGHTS
SOCIAL PROTECTION
EQUALITY
INCLUSION

A New Social Contract for Recovery and Resilience

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Foreword

2021 will be remembered as the year that governments were forced to recognise that tax is not a dirty word.

Policy discussions on taxation that have not been possible for decades are now on the table, with openings for unions to push for commitments that will respect and underpin tax justice.

The global pandemic has impacted government budgets dramatically.

2021 is the time to address both the public policy and financial settings to achieve economic and social recovery from the COVID-19, inequality and unemployment crises. This is a time to promote broadening the tax base, building fair and progressive tax systems, tackling corporate tax avoidance, tax evasion by firms and the wealthy, linking fiscal and labour market policies in progressive ways, re-prioritising and reallocating public expenditures and duly collecting employer social security contributions.

The COVID-19 pandemic has reduced the capacity to raise revenues with the loss of jobs and lower incomes, disrupting and closing many businesses, while raising expenditures on health services, income support to workers, subsidies and exemptions to fund business continuity.

This year represents a key moment for unions to push for action with governments and international institutions on tax reform, to redress the years of regressive impact on workers' wages, through the deterioration in the labour-income share, in embedding long term benefit from increasing access to income support to underpin workers' savings and contributions to pensions.

It is our ambition to rebuild our economies and societies to ensure sufficient investment into quality public services and social protection systems as well as generating economic growth that stimulates a thriving low carbon economy. Effective corporate taxation regimes can help set a foundation for all of this.

Corporations have long used their power and influence to minimize their tax liabilities often claiming they have mutual interests with workers and that higher taxes means lower business investment in job creation. Unions and our progressive allies have argued that addressing the underlying causes of inequality and wealth redistribution can and must be pursued through tax policy reform. In June 2021, G7 countries recognized for the first time that corporate tax competition between countries is harmful and that a minimum floor of taxation must be put in place. This political awakening is long overdue, but much remains to be done.

Multinational corporations that dodge their tax obligations (using all sorts of circumlocutions to justify such behaviour) and create a very unfair share of financing social spending need to be brought to account. Many big tech and platform businesses are taking advantage of ill-adapted taxation regimes across the world. Measures such as introducing a 15% minimum corporate tax rate is a good start, but not adequate as this is far below what is needed to mobilise sufficient public funds and is far below what workers pay in income tax.

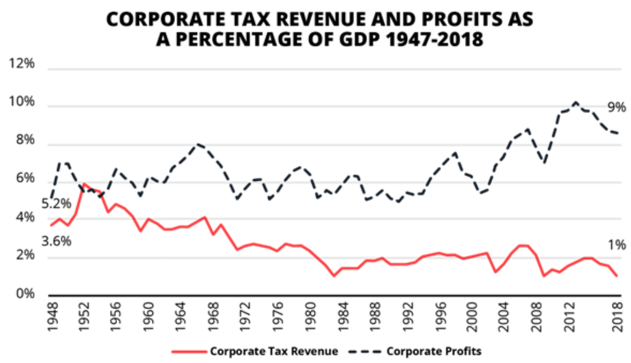
Finding ways to tax the massive profits and corporate power of the digital economy and ensuring that financial transactions taxes are enacted can address both revenue collection and corporate behaviours that undermine the contributions of business to social value.

Now is the time to redouble our efforts to fight the pandemic working collectively to pave the way towards a sustainable, resilient recovery firmly based on social justice and a New Social Contract.

Introduction

The COVID-19 crisis has prompted governments to inject liquidities into their economies at an unprecedented level. Whilst the immediate priority is for governments to maintain and expand protection for workers and the most vulnerable, policymakers are also reflecting on long-term recovery plans. Tax policies will be central to this reflection. With the right design, tax reform can significantly strengthen the capacity for public investment in social protection and resilient recovery.

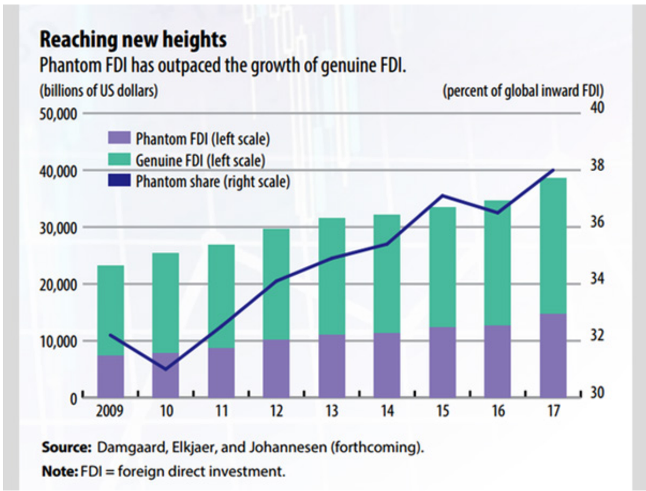
Corporate taxation is coming to the forefront of domestic and intergovernmental reforms because of the recognition that multinational enterprises are not paying their fair share. Although corporate profits are on the rise, companies are proportionally contributing less and less to public budgets. This can be explained by two reasons in particular.



Source: Americans for Tax Fairness (2020)

Description: This graph shows the increasing gap between, on the one hand, diminishing corporate tax revenues and, on the other hand, increasing corporate profits between 1948 and 2018. These figures apply to US territory only.

One is the decline in corporate tax rates across the world. Countries around the world are reducing their corporate income tax rates with a view to attract foreign direct investment. This is happening even though there is no evidence that reducing corporate tax rates makes a significant impact on the choice of location of real investment by businesses.

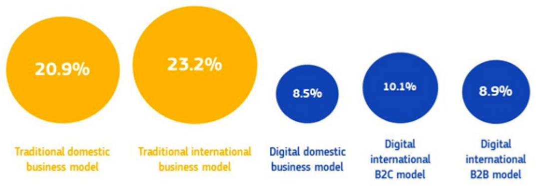


Source: IMF (2019)

Description: This graph is an extract from an IMF report describing how “phantom Foreign Direct Investment” (i.e. FDI without real economic substance) has been increasing since 2009, clearly outpacing genuine investment. In 2017, phantom FDI represents 38% of total FDI. These are global figures.

The second reason is aggressive tax planning. Multinational enterprises adapt their group structures to shift profits from countries with high tax rates to those with lower levels of taxation. It is estimated that 40% of foreign direct investment is motivated by profit shifting, not genuine economic activities. This is mirroring broader trends in the corporate world. Multinational enterprises are less and less about workforce and capital. Increasingly, they draw cash from intangible assets, such as software, algorithms and brands. Hampered by outdated tax frameworks, countries are not keeping pace. Digital multinationals are as a result paying significantly less taxes than “bricks and mortar” businesses.

Effective average tax rate in EU28



Source: EU Commission, 2017

Description: This graph compares effective tax rates between digital and non-digital companies. "Traditional" business models contribute twice more corporate taxes than their digital counterparts. These are figures for the EU.

Trade unions and civil society criticise the current international tax architecture for being too lenient towards tax competition between countries and ineffective in tackling tax planning. Under pressure, policymakers are multiplying discussions on corporate tax reform at all levels of governance: OECD, UN, EU and domestic policies.

The objective of this briefing note is to raise awareness of these developments and to provide an overview of key demands that trade unions should relay in their advocacy activities at all levels of influence.

Whilst tax policies are a fundamental component of the sovereign state, enhanced international coordination is also required to curb tax avoidance by multinational enterprises. In the interests of filling the gaps and with a view to increasing pressure for multilateral progress, countries should also consider stepping up their efforts through unilateral measures. This briefing note will indicate whenever that is possible.

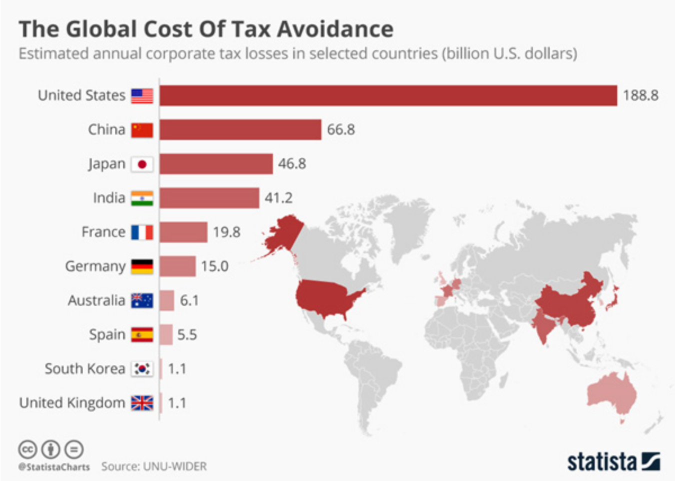
Section 1 describes the main objectives of corporate taxation: raising revenue but also reducing income inequality and behavioural impact. The following section recalls ITUC priorities for the reform of corporate tax, taking into account revenue impact. The annex provides contextual information about ongoing negotiations and revenue estimations.

1. Objectives of corporate taxation - revenue raising, and more

1The cost of the pandemic to economies is unprecedented. It dwarfs previously unprecedented state aid during the Great Financial Crisis just over a decade ago. State support to workers and businesses amounted in December 2020 to 12 trillion dollars, equivalent to 12% of global GDP. Industrialised countries have been able to finance support measures by borrowing. But the ability to borrow and print money has not been true for middle-income and developing countries, which have had limited room of manoeuvre for fiscal stimulus.

In this context, corporate tax revenues represent a fundamental means to finance public spending and to increase fiscal space. Importantly for workers, corporate taxation is progressive revenue raising. Corporate tax is particularly relevant for developing economies, which are even more reliant on these revenues than rich countries.

There is a growing recognition that multinational enterprises are not paying their fair share. In particular, the scale of corporate tax avoidance is staggering. According to the IMF, OECD economies lose at least US$400 billion every year to corporate tax avoidance. For lower income countries which can afford it even less, that loss amounts to US$200 billion. Independently from tax avoidance, the amount of revenues lost to tax competition between countries is also significant. The last few decades have seen a decline in worldwide average statutory corporate tax rates from about 35 per cent in the 1990s to 21.4 per cent in 2018. There is a similar downward trend in top rates of income tax, further exacerbating inequalities as the rich face cuts in taxes both on capital and on personal income.



Description: This graph estimates the cost of tax avoidance for key economic players. The US is reporting losing USD 188.8 billion per year, followed by China with USD 66.8 billion, Japan with USD 46.8 billion etc.

In addition to revenue raising, fair corporate taxation rules should also ensure that a healthy level of profit is maintained where the value is created, i.e., where the workers are. Aggressive tax planning means that profits are extracted from otherwise healthy subsidiaries and sent to tax havens through complex mechanisms. In those subsidiaries, financial accounts are plundered, leaving little for workers' representatives to bargain over. Wages are kept artificially low and working conditions precarious. Overall, wage prospects are at risk as the business is deprived of the resources it needs to grow.

A third objective for corporate taxation policies is to reduce inequalities. The rise of corporate power causes serious challenges to growth and income inequalities. Because of their dominant position, large firms no longer invest their profits into innovation and quality employment. A number of studies suggest that corporate tax cuts have increased inequalities between on the one hand capital income and on the other hand those who rely on their wages to live. The COVID-19 pandemic has further worsened inequalities of income and of access to public services both within and between countries. More than ever, increasing the burden of taxation onto economic rents is an important objective for a fair recovery.

Finally, tax policies are often used to induce a certain behaviour and/or correct an undesirable outcome. In particular, taxes on carbon are becoming key instruments to incentivise sustainable corporate behaviour and to finance the transition towards a greener economy. Furthermore, the trade union movement at large has long been calling for a financial transaction tax (FTT) designed to raise revenue but more importantly challenge the financialisation of the economy by restricting the profitability of high frequency trading.

In designing corporate tax reform, policymakers must think thoroughly about unintended consequences, in particular regressive effects (where the tax burden would be shifted from companies to workers and consumers) and possible spill over on employment (where multinationals would relocate their production if this had a significant impact on their corporate tax bills).

It should also be noted that corporate taxation and international trade are closely related. When discriminatory against one country, tax policies can justify the imposition of trade sanctions. In international negotiations, countries are keen to ensure that their multinationals do not face a high tax burden and/or double taxation when doing business abroad.

2. Key ITUC asks for fair corporate taxation

2.1 Curbing tax competition – a global minimum tax rate

The ITUC demands a 25% minimum effective tax rate globally. It is expected that such a reform could help recover between US$580 billion and 650 billion each year. A 21% minimum tax rate could bring in US$380 billion – 500 billion each year. Ongoing negotiations at the OECD offer potential for progress, and the ITUC supports the Trade Union Advisory Committee to the OECD (TUAC) demands for a robust agreement by mid-2021. The rules would then need to be implemented effectively at European and national levels.

Legal remedies to prevent countries from unfairly cutting their corporate income tax rates are scarce. The European Union, for instance, has tried to challenge Ireland, arguing that some of its tax arrangements constitute unlawful state aid to companies. This route, however, proves to be lengthy and very uncertain, as evidenced by the recent Apple ruling, where the European General Court ruled that the Commission did not succeed in showing that the disputed tax advantages constituted unlawful state aid.

To stop the race to the bottom in corporate income tax rates around the world, a minimum level of taxation must be established globally. Because of tax sovereignty, imposing upon policymakers an actual corporate income tax rate is an unlikely prospect. "Minimum tax rate" usually refers to a mechanism allowing tax administrations to "tax back" profits, which have been shifted overseas and on which the multinational is paying low or no corporate income tax. Such mechanisms are strong incentives for low-tax countries to increase their tax rate up to the minimum level so as to retain foreign investment on their territory.

Revenue prospects. To be effective, this floor in competition should not be substantially lower than the global average effective tax rate, which ranges between 20 and 25%. The ITUC demands a 25% minimum effective tax rate. According to first estimates, a 25% minimum rate would help countries recover revenues between US$580 billion (in case the design proposed by the OECD reform applies) and nearly 650 billion each year (in case countries apply an alternative design proposed by the Tax Justice Network). A 21% minimum tax rate could bring in US$380 billion – 500 billion each year .

Level of discussion. The introduction of a global minimum tax rate is being actively discussed in the context of OECD negotiations[1]. The recent decision by the newly elected US administration to increase domestic tax rates is a promising development. This major player at the OECD table will indeed want to ensure that similar multilateral rules are put in place to prevent other countries undercutting its tax reforms. At the time of writing of this briefing note, the US administration is calling for a 21% global minimum rate. The negotiations, however, are proving difficult. In June 2021, G7 countries agreed to continue discussing the principle of a minimum tax rate. They did not firmly commit to a final rate but agreed to ''at least 15%''. For the trade union movement, negotiations must not stop there. A 15% rate would be far too low to effectively limit tax competition and would be a missed opportunity in terms of revenue raising potential.

The OECD Inclusive Framework aims at securing a high-level agreement by mid-2021. This agreement will then take the form of detailed guidelines, to be agreed upon by October 2021 and subsequently implemented at national level. Trade unions should mobilise to ensure that a critical number of countries are ready to effectively implement the minimum tax.

1 Corp. Affairs, Tax, Pensions & Finance Archives - TUAC

If an agreement cannot be reached at OECD level, or in case the minimum rate is fixed too low, countries should step up with unilateral measures without delay. As an illustration, the UK and the US have been applying additional taxes to profits shifted out of their countries if the company is paying less than a minimum level.

Increasing the effective corporate taxation rate to 25% would constitute a ground-breaking reform that would generate significant increases of revenues for most countries. That said, as far as the right to "tax back" is concerned, the OECD guidelines are likely to give priority to countries where multinationals are headquartered. Developing economies may therefore not gain as much revenue from Pillar 2 as OECD countries would. This is one of the reasons why a fundamental overhaul of international taxation rules remains necessary to not only increase revenues in the light of rising corporate profits, but also to secure a fairer share of the pie between countries.

2.2 Reforming international taxation rules – switch to unitary taxation

The ITUC calls for a fundamental reform of the transfer pricing rules and self-serving arm's length principle towards unitary taxation. The ITUC supports the TUAC call for a fundamental reform of the OECD BEPS Action Plan, and ETUC demands for a European CCCTB. The UN tax model offers a helpful model of a unitary approach. Depending on technical design, the switch to unitary taxation could boost global corporate income tax revenues by 4.6%. Together with a 25% global minimum tax rate, the overall gains could be as high as US$950 billion. Depending on design, the distributional effects of unitary taxation are particularly beneficial for developing economies.

Under the prevailing international taxation rules, tax authorities treat subsidiaries and establishments of the same multinational as if they were autonomous and independent entities. According to these "transfer pricing rules", subsidiaries and establishments of the same company can therefore carry out transactions between themselves, such as intra-group loans, sales of intellectual property rights or brands, etc. In practice, such transactions are commonly used to shift profits from high-tax countries to tax havens. In an attempt at limiting these artificial transactions, the transfer pricing rules come with the "arm's length principle": intra-group transactions have to respect the market price that would normally apply if the parties were not related.

This principle could have been relatively straightforward fifty years ago, before the rise of global value chains. Groups of companies were traditionally composed of a parent company and subsidiaries, each of them rather autonomous in their operations and tax liabilities. But today, multinational enterprises fragment production and spread economic activities across several countries whilst a coherent business strategy is maintained throughout the group. Globalisation has allowed multinational enterprises to play countries against each other by adapting their group structures to facilitate the shifting of profits towards low-tax countries.

Furthermore, the arm's length principle is ill adapted to the digitalisation of the economy. Profitable firms increasingly rely on unique and valuable intangibles (users' data, algorithms, etc.) for which it is not possible to identify a normal market price. Transfer pricing rules are one of the reasons for the under-taxation of digital firms.

The ITUC strongly supports a fundamental reform of international taxation rules, away from transfer pricing rules and the self-serving arm's length principle towards unitary taxation. Multinational enterprises should be treated for what they are: global units with worldwide tax and business strategies. Under a unitary taxation system, the profits of a multinational enterprise should be determined at the level of the company group and shared between countries according to a formula. The formula should reflect several factors of value creation, such as sales, employment, assets, users.

Revenue prospects. Unitary taxation is likely to curb profit shifting within multinational enterprises. It would also allocate larger taxing rights to countries with real factors of production, as opposed to the current system which pays more attention to where companies declare their profits. In other words, stepping away from transfer pricing rules would both increase the pie and share it more fairly with developing economies.

According to IMF estimates, the switch to unitary taxation could boost global corporate income tax revenues by 4.6%. Together with a 25% global minimum tax rate, the overall annual gains could reach as high as US$950 billion. Revenue gains and distribution effects between countries would vary depending on how the apportionment factors would be weighted. In order to avoid an excessively radical reallocation of tax revenues between countries, as well as undesirable distortion on employment, careful discussions need to take place on how to strike the right balance.

Level of discussion. As unitary taxation requires in-depth cooperation between tax administrations, a multilateral agreement is indispensable. The 2017 UN model tax treaty does put in place unitary taxation. The UN model tends to be relied upon more by developing economies. In addition to promoting the ratification of the UN Treaty, trade unions should also focus efforts on reforming OECD and EU rules, which remain largely based on transfer pricing rules.

The OECD Action Plan to tackle base erosion and profit shifting ("the BEPS Action Plan") was endorsed by the G20 in 2015. It is the most widely used model by rich countries. According to OECD rules, a unitary approach is restricted to very selected and exceptional circumstances. The overall principle is that OECD countries view transfer pricing rules, and the associated arm length's principle, as the most appropriate method to reflect economic realities of taxpayers.

However, the same OECD countries are starting to acknowledge the continued existence of tax avoidance practices, further exacerbated by the digitalisation of the economy. As a result, the principle of unitary taxation has been gaining momentum since 2018. The current negotiations recognise that the profits of a multinational enterprise need to be calculated at global level in order to better address the tax challenges of the digitalisation of the economy (see the annex for a description of Pillars I and II proposals). However, such OECD agreement would constitute only a first step towards unitary taxation. It is foreseen that transfer pricing rules will remain the norm for the vast majority of corporate profits. Trade unions must therefore maintain pressure on OECD countries to continue the discussions in view of a fundamental reform of the OECD BEPS Action Plan, away from transfer pricing rules and the self-serving arm's length principle towards unitary taxation.

At EU level, proposals to switch to unitary taxation have been discussed since 2011, but so far without success. The ITUC supports the ETUC in its long-standing demands for the adoption of a CCCTB.

2.3 Interim measures – excess profit taxes

The ITUC calls for the introduction of extra taxes on "excess profits" so that the extra cash earned by businesses during the pandemic serves the recovery. According to US estimates, such a tax applied to 17 of the top 25 most profitable US corporations could bring in nearly US$80 billion just looking at 2020 profits. It is indispensable to look at excess profit taxes on the basis of unitary approach, i.e., taking into account the global profits of multinationals.

A complete switch to unitary taxation constitutes a fundamental overhaul of the current international architecture, which is going to take time, both politically and technically. Considering the unprecedented impact of the pandemic on budgets, interim measures need to be put in place with a view to offering immediate prospects of increased revenues.

Countries have been introducing digital services taxes, which are often regarded as easy solutions for quick revenue raising. Importantly, governments rely on these unilateral measures to respond to public calls for a fairer taxation of digital firms. At the same time, digital services taxes come with risks, in particular regressive effects and trade tensions. Above all, digital services taxes do not appear to raise as much revenues as other corporate tax reforms. For these reasons, the ITUC encourages trade unions to reflect on alternative design for a better taxation of profitable digital firms. In particular, excess profit taxes offer interesting prospects for the financing of the recovery.

In a bid to reduce wealth inequality and to mobilise revenues to finance social policies, an increasing number of countries will consider wealth taxation as a supplement to top personal income tax rates. A similar approach should also be adopted with regard to corporate profits.

The ITUC calls for the introduction of extra taxes on "excess profits" so that businesses that have gained from the pandemic also contribute more to the recovery. Excess profits correspond to earnings above a normal return. These profits do not derive from productive factors developed by the company but are the result of random events, such as a pandemic. Excess profit taxes have a long history going back to World War I when the US started to levy extra tax on corporate profits in "excess of peacetime earnings". Excess profits taxes have since then been applied, or at least seriously considered, as windfall taxes for profits resulting from sudden windfall gain, such as wars and oil price surges.

In the context of the pandemic, the question of excess profit taxes must be raised again. Companies in the information technology, health care and energy sectors are already reporting significant increases of earnings for the first quarter of 2020.

Revenue prospects. To date, precise estimations are lacking, including on the global impact of excess profit taxes. According to a methodology relied upon by Oxfam America, the US could raise nearly $80 billion on 2020 extraordinary corporate profits earned by the 25 most profitable companies.

Levels of influence. According to press reports, some governments are considering a unilateral implementation of a windfall tax for extra profits earned during the pandemic. In case of unilateral action, excess profit taxes applying to multinational enterprises should be designed in a way that can help in reaching the longer-term goal of unitary taxation. Profits should be calculated globally, at the level of the company group, and allocated between countries in proportion to a set of factors representing real factors of production.

The premises of a global excess profit tax are also being considered at OECD level. Whilst the OECD talks on Pillar I initially sought to devise a new tax that would solely apply to digital activities, a recent proposal by the US administration suggests considerably simplifying the scope by focussing on the profitability rate of large multinationals.

The European Union could also have a key role to play in this area. The European Commission has announced in May 2020 that it would be looking into an additional levy for companies drawing "huge benefits" from the single market.

2.4 Corporate transparency

Multinational enterprises should publicly disclose their tax practices. Trade unions should press for tax transparency at all levels of influence, including at firm level through collective bargaining.

By exposing aggressive tax practices as well as good behaviours, tax transparency is an effective tool against tax dodging. Furthermore, the information that multinationals are required to share with tax administrations has a non-negligible impact on the ability of trade unions and workers' representatives to pursue their mission. Country-by-country reporting contains crucial data on the financial and economic situation of the company and the scale of investments into low-tax jurisdictions. This information is precious for workers to collectively bargain their fair share of corporate wealth. These data are also of great assistance to long-term investors for them to assess the responsible behaviour of the companies in which they are investing, as well as measuring legal and reputational risks.

Levels of influence. Both the EU and the OECD are relying on standard templates for country-by-country reporting. The European Union is in the final stages of negotiating a Directive which could oblige multinationals to publish relevant tax information. In contrast, the OECD continues to treat tax- related information as highly confidential, arguing that governments are not expressing the need for public data. As the upcoming agreement on the reform of international taxation will most likely require amendments to the OECD template, there is room for the trade union movement to continue pressing for more transparency.

Above all, trade unions should push their governments to introduce public country-by-country reporting.

Concrete progress can also be achieved at company level. A clause requesting access to readable information on tax practices can be integrated into collective agreements so as to guarantee that workers' representative have access to meaningful data. To this end, the Global Reporting Initiative tax reporting standard 207 is a particularly useful benchmark.

2.5 Curbing speculative behaviour – the financial transaction tax

The ITUC calls for broad-based financial transaction taxes, which would play a significant role in reducing large and reckless speculative operations. The introduction of an FTT globally could generate between US$237 and 418 billion annually. Whilst every effort should be made to achieve an agreement at European and global level, significant progress can also be achieved at national level.

The FTT is not a tax on corporate income but a tax on the trading of financial assets. One key objective of the FTT is to tackle large and yet purely speculative activities by discouraging short-term and high-frequency trading.

Revenue prospects. The introduction of an FTT globally could generate between US$237 and 418 billion annually. For the EU alone, it was estimated in 2011 that an FTT would generate €57 billion per year.

Levels of influence. The FTT is currently absent from the global debate but was seriously entertained during the Great Financial Crisis and its aftermath. The European Union has been discussing since 2011 an EU-wide FTT. As the proposal did not attain unanimity among European countries, negotiations have been pursued through the Enhanced Co-operation Procedure among a smaller group of 11 countries. Under the initiative of the Portuguese presidency, negotiations have recently resumed, with a view to reach a compromise between these 11 countries in the first half of 2021.

Whilst every effort should be made towards the introduction of an FTT at multilateral level, significant progress can be achieved also at national level. In 2012, more than 30 countries had implemented an FTT of some sort. A proposal to create a new tax on financial transactions, which would reportedly bring in US$777 billion revenues over 10 years, is currently under consideration in the US Congress.

The pros and cons of digital services taxes

A digital services tax (DST) is a turnover tax levied on large digital companies. Design differs from one measure to another, including on the rate and the definition of within-scope activities. DSTs have in recent years become widely popular. Around 40 countries have already introduced or are about to introduce DSTs, including 13 EU Member States.

The pros:

- DSTs can be seen as "quick fixes" to compensate for the under-taxation of digital firms resulting from ill-adapted transfer pricing rules. As their design is extremely simple, DSTs are easily introduced by individual countries and can raise revenues swiftly. The revenue estimations, however, appear low when compared with other tax reforms.

- DSTs have to be seen in a broader context of public outcry against digital giants, their excessive market power and disastrous employment record.

The cons:

- Most DSTs are designed to primarily hit US-based multinationals, leaving other nationalities off the hook. Trade disputes are as a result arising with serious threats of trade retaliations.

- Due to simplistic design (DSTs rely on the volume of sales/users), the risk of regressive effects is high. Some online platforms have already announced that they would shift the burden of digital services taxes to the users of their services.

- Overall, DSTs do not tackle corporate tax avoidance; they merely add a layer of new rules on existing practices.

Ways forward:

- The UN model tax Convention has recently been modified, clarifying that the income arising from "automated digital services" is as a principle taxable in the country of residence (where the multinational is registered). However, this taxing right is not exclusive, as the proposal adds that the income can also be taxed in market countries at a fixed rate of gross income. The rate is to be bilaterally negotiated between the contracting countries (the commentary suggests a 3-4% rate).

- Public Services International recommends that countries implement a digital profit tax while continuing to pursue a multilateral agreement for the reform of the entire global corporate tax system. A unilateral digital profit tax differs from DST, as it takes into account the global profits of a multinational and genuine economic activity in each country.

- For the ETUC, a European DST may be considered as a very short-term solution, to the extent that no better agreement can be reached at international or European level and always bearing in mind that DSTs cannot be considered as a tool to fight tax avoidance.

Annexes

Overview of ongoing initiatives for corporate tax reform

Name of the initiative	Description	Revenue estimation	Level of discussion
Unitary taxation	Global corporate profits are allocated between countries according to a formula. Implies a major reform of OECD transfer pricing rules.	Estimations vary significantly depending on design. Tax Justice Network estimates the impact of its proposal at US$100 billion annually. Coupled with a 25% minimum tax rate, the revenue gains could reach US$950 billion.	OECD EU The UN Tax Model Convention, which relies on unitary taxation, is open to countries ratification.
Digital services tax	Turnover tax levied on large digital companies.	US$4 - 5 billion (See indicative overview below.)	EU Numerous unilateral initiatives.
OECD Pillar I (proposal published in December 2020)	Allocation of a very small portion of corporate profits to market countries, i.e., where sales are made, even if the company has no physical establishment there.	Negligible revenue gains: 0 - 0.1% increase of global corporate tax revenues. Pillar I implies the withdrawal of national DSTs.	OECD In case of agreement, Pillar I would take the form of an international agreement to be ratified by countries.
Minimum tax rate	Right to "tax back" profits, which have been shifted overseas and taxed below the agreed minimum rate.	US$580 billion – 650 billion each year for a 25% rate. US$380 billion – 500 billion each year for a 21% rate.	OECD Unilateral initiative possible.
Excess profit tax/ pandemic profit tax	Extra tax on corporate profits above a certain amount of earnings.	Global estimates unavailable. Oxfam America estimates for US companies: US$80 billion for 2020 profits.	National level Discussions at multilateral level may arise.
Financial transaction tax	Tax on each purchase or sale of four main financial asset classes: equities, bonds, foreign exchanges and their derivatives.	Global FTT: US$237 – 418 billion annually. EU wide FTT: €57 billion annually.	EU National level
Tax transparency	Country-by-country reporting (CBCR) is a reporting obligation that requires companies to fill a common template, providing tax administrations with data on their income, economic activity and taxes paid.		OECD EU National level

Indicative overview of existing digital services taxes

Country	Description (rate and targeted services) **NB: DSTs apply to large multinationals (global revenues above US$900 million)**	Revenue estimation
Austria	5% Advertising	n/a
Canada	3% Advertising and digital intermediation services	US$415-925 million annually
Czech Republic	5% Advertising, sale of user data	€183 million annually
France	3% Online advertising digital intermediation	€358 million for 2021
Hungary	7.5%	n/a
India	2% on non-resident e-commerce operators	US$73million in 2017-2018
Italy	3% Online advertising, digital interfaces, user data	€700 million in 2020
Kenya	1.50% Online marketplaces	n/a
Poland	1.5% Audiovisual media services and advertising	€3.2 – 4.3 million annually
Spain	3% Online advertising, sale of online advertising, sale of user data	€968 million annually
Tunisia	3% Sale of computer applications and digital services	n/a
UK	2% Online marketplaces, social media, search engines	£280-515 million annually
Zimbabwe	5% Digital and e-commerce	n/a
Indicative total		US$4-5 billion

G20/OECD negotiations on the tax challenges of the digitalisation of the economy[2]

In 2012, the G20 delegated to the OECD the task of coordinating multilateral efforts to coordinate the fight against corporate tax avoidance. In 2015, an Action Plan was issued, identifying 15 areas of action to tackle base erosion and profit shifting (the BEPS Action Plan).

Three years after, governments had to acknowledge that the Action Plan is ill-adapted to the digitalisation of the economy. In a bid to address the under-taxation of digital business models, countries across the world are increasingly relying on digital services taxes. These initiatives are not coordinated, leading to double taxation and accusations of discriminatory measures. As a result, trade disputes have been arising in an already tense multilateral context. In particular, the US has been quite explicit in its threats of trade retaliation in case US-based multinationals continue to face discriminatory tax burden when operating digitally in Europe and elsewhere.

In June 2018, the G20 entrusted again the OECD with the task of delivering a solution. The OECD/G20 Inclusive Framework, a network coordinated by the OECD and composed of 137 countries, is now aiming at reaching a consensus-based solution in the course of 2021.

The agreement would take the form of two Pillars.

Pillar I

The proposed solution under the so-called Pillar I seeks to allocate a very small portion of an MNEs' profits to market countries, i.e., where sales are made, even if the company has no physical establishment there. This new tax would come on top on existing transfer pricing rules. According to proposals published in October 2020, Pillar I would exclusively cover digital activities. In case of consensus, Pillar I would become a multilateral treaty. Contracting parties would then commit to withdraw or refrain from introducing DSTs. Therefore, Pillar I and DSTs are as a principle incompatible.

By introducing a form of unitary taxation to determine the tax base, the proposed Pillar I could be considered as the very first step towards unitary taxation. Furthermore, Pillar 1 is regarded as the main solution to avoid a trade war.

However, Pillar I is expected to raise very little revenue because of a narrow scope of application. Pillar I may therefore constitute a policy trap, whereby countries would renounce DSTs without adequate financial compensation.

In March 2022, the newly elected US Administration put forward a simplified proposal for the design of Pillar I. Instead of a reform applying to digital services, which have proved to be extremely hard to define, the proposal would be to refocus on profitability rates at large, aiming at the 100 most profitable multinationals, whether or not they are digital businesses. Pillar I would then turn into a kind of global excess profit tax, albeit with a very narrow scope of application, and therefore limited revenue raising effects.

The Trade Union Advisory Committee to the OECD has repeatedly expressed concerns about the complex and unstable scope of Pillar I, as well as its negligible impact on tax revenues. TUAC argues in favour of a shift towards a global excess profit tax. Nonetheless, Pillar I – whichever shape it takes – should not be considered as the end of the road but as a first step towards a fundamental reform of international taxation rules, based on unitary taxation and carefully balanced formula apportionment.

Pillar II

According to the second Pillar, a country would be entitled to "tax back" up to the agreed minimum rate if there is evidence that some profits are taxed below the minimum threshold in another country. Pillar II would take the form of guidelines, which do not require ratification. Unlike Pillar I, an agreement on Pillar II could therefore be enforced rapidly.

2 Regularly updated analysis and summaries of OECD proposals can be found on the TUAC website at: www.tuac.org.

According to the OECD public consultations, the minimum rate will be agreed upon at the end of the negotiations, once the technical design is ready. Numerous rumours have pointed to 12% as an initial common denominator among all countries. The recent US proposal to introduce a 21% rate could boost now the negotiations towards a significantly more ambitious outcome. Nonetheless, negotiations are proving difficult. In June 2021, the G7 countries signalled their support for a rate of "at least 15%", which is significantly lower than the current average in OECD countries.

For TUAC, the introduction of a global minimum tax rate above 20% would constitute a ground-breaking move towards restricting tax competition between countries and the eradication of tax havens. Revenue-wise, the gains from such a reform would be significant and offer countries much needed breathing space to help finance public services and pave the way towards recovery.

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