

**From:** Waerzeggers, Christophe J.  
**Sent:** Monday, 13 March, 2023 5:22 AM  
**To:** Taxreport2023 <taxreport2023@un.org>;

**Subject:** RE: Call for public input: Promotion of inclusive and effective tax cooperation at the United Nations

Dear FSDO Colleagues,

In response to your call for public input in response to the December 2022 Resolution of the UN General Assembly on the “Promotion of inclusive and effective international tax cooperation at the United Nations”, please find below for your consideration references and descriptions of the following Fund papers on international taxation:

- IMF, 2023, “[International Corporate Tax Reform](#),” IMF Policy Paper 2023/001

Our most recent policy paper provides a qualitative and quantitative assessment of the Two-Pillar agreement agreed within the OECD/G-20 Inclusive Framework (building on the assessment criteria developed in the 2019 paper, see hereafter), and discusses countries’ strategic decisions in responding to that agreement. The paper also discusses other international tax cooperation initiatives, including through the United Nations (UN). In this regard, the paper provides support for the complementary role of the UN in international tax cooperation and highlights some of the tax treaty mechanisms developed by the UN to date to collect and enforce source country taxing rights, which are particularly relevant and important for low income countries (LICs). Finally, the paper looks at the possible future agenda for international tax reform with a particular focus on the specific circumstances and revenue needs of LICs, which could be considered by the UN in its future international tax cooperation efforts.

- IMF, 2019, “[Corporate Taxation in the Global Economy](#),” IMF Policy Paper 2019/007

Our 2019 policy paper identified and discussed various principle-based options for the fundamental reform of the international corporate tax system to address mounting pressures on the system due to the cross-border spillovers from profit shifting and tax competition. The paper developed a set of criteria against which it assessed each of those reform options—features of which are reflected in the OECD/IF Blueprint for the 2-Pillar agreement. The paper notably also features a section that reflects on the existing governance arrangements for international tax reform, including on the role of the Platform for Collaboration on Tax.

A fuller account of the Fund’s engagement on international tax issues—including in the context of our surveillance and capacity development activities—can be found in Box 1 at pp. 6 – 7 of our 2023 paper. Fund staff also actively participates in an observer capacity in the various international tax standard setting bodies at the UN and OECD. In this respect, we recall the comments we previously provided on (the then proposed)

Article 12B of the UN Model Tax Convention (see IMF Staff, 2021, “[Comments on Proposed UN Article 12B of the UN Model Tax Convention \(Automated Digital Services\)](#)”).

Finally, we look forward to engaging with you further in the context of your planned stakeholder briefings/consultations to further inform the preparation of the report by the Secretary-General, including in the context of the upcoming sessions of the UN Committee of Experts on International Cooperation in Tax Matters and of the ECOSOC Committee.

Sincerely,

Christophe Waerzeggers, also on behalf of Ruud de Mooij, Alex Klemm, Shafik Hebous, and Cory Hillier



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## POLICY PAPERS

# International Corporate Tax Reform

**Publication Date:** February 6, 2023

**Electronic Access:** [Free Download \(/-/media/Files/Publications/PP/2023/English/PPEA2023001.ashx\)](/-/media/Files/Publications/PP/2023/English/PPEA2023001.ashx). Use the free [Adobe Acrobat Reader \(http://www.adobe.com/acrobat\)](http://www.adobe.com/acrobat) to view this PDF file

**Summary:** To relieve the pressure on the outdated international corporate tax system, an ambitious reform was agreed at the Inclusive Framework (IF) on Base Erosion and Profit Shifting in 2021, with now 138 jurisdictions joining. It complements previous efforts to mitigate profit shifting by addressing the challenges of the digitalization of the economy through a new allocation of taxing rights to market economies (Pillar 1) and tax competition through a global minimum corporate tax (Pillar 2). This paper concludes that the agreement makes the international tax system more robust to tax spillovers, better equipped to address digitalization, and modestly raises global tax revenues.

**Series:** Policy Paper No. 2023/001

**Subject:** [Monetary policy \(/en/Publications/Publications-By-Subject?subject=Monetary policy\)](/en/Publications/Publications-By-Subject?subject=Monetary%20policy)  
[Political economy](#)

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### ENGLISH

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## POLICY PAPERS

# Corporate Taxation in the Global Economy

**Publication Date:** March 10, 2019

**Electronic Access:** [Free Download \(/media/Files/Publications/PP/2019/PPEA2019007.ashx\)](/media/Files/Publications/PP/2019/PPEA2019007.ashx). Use the free [Adobe Acrobat Reader \(http://www.imf.org/adobe\)](http://www.imf.org/adobe) to view this PDF file

**Summary:** The policy paper Corporate Taxation in the Global Economy stresses the need to maintain and build on the progress in international cooperation on tax matters that has been achieved in recent years, and in some respects now appears under stress. With special attention to the circumstances of developing countries, the paper identifies and discusses various options currently under discussion for the international tax system to ensure that countries, and in particular low-income countries, can continue to collect corporate tax revenues from multinational activities.

**Series:** Policy Paper No. 2019/007

**Subject:** [Corporate income tax \(/en/Publications/Publications-By-Subject?subject=Corporate income tax\)](/en/Publications/Publications-By-Subject?subject=Corporate%20income%20tax) [Double taxation \(/en/Publications/Publications-By-Subject?subject=Double taxation\)](/en/Publications/Publications-By-Subject?subject=Double%20taxation) [Formula apportionment \(/en/Publications/Publications-By-Subject?subject=Formula apportionment\)](/en/Publications/Publications-By-Subject?subject=Formula%20apportionment) [Revenue administration \(/en/Publications/Publications-By-Subject?subject=Revenue administration\)](/en/Publications/Publications-By-Subject?subject=Revenue%20administration) [Value-added tax](#)

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January 8, 2021

**Subcommittee on Tax Challenges Related to the Digitalization of the Economy**

Via email c/o: [lennard@un.org](mailto:lennard@un.org)

Dear Co-Coordination of the Subcommittee,

Thank you for the opportunity to provide our selected observations on the proposed introduction of new Article 12B (Income from Automated Digital Services or ADS) into the UN Model Tax Convention and Commentary to deal with key deficiencies with respect to existing corporate income tax arrangements that have been exacerbated by an increasingly digitalized economy.<sup>1</sup>

**Background**

The proposal would allow gross basis taxation (for instance, through withholding) on cross-border payments with respect to ADS (for instance, advertising, intermediation, social media, digital content provision, cloud computing, sale of data of users of a digital interface etc.), similar to various unilateral withholding taxes on digital services being proposed or adopted by countries, as well as optional net basis taxation.

**Our selected observations**

In summary, we make the following observations with respect to the proposal:

- We welcome the resolution of the UN Tax Committee to include a new Article 12B in the UN Model, with a focus on the interests of developing countries. We consider that the proposed approach better preserves the taxing rights of developing countries and does so in a simpler way than the existing OECD/G20 Inclusive Framework (IF) proposals, by permitting withholding on gross payments with respect to ADS while also containing an optional mechanism for net basis taxation in order to better manage the downside risks and distortions of gross basis taxation in a digital context.
- The proposal could also lead to a broader reduction in the overall downside risks and distortions threatening the current international tax system in circumstances where treaty partners bring within the scope of their tax treaties those unilateral measures directed at ADS such as digital services taxes (DSTs), which can currently be designed to otherwise fall outside the scope of tax treaties.

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<sup>1</sup> The observations expressed in this document are those of the contributors and should not be attributed to the IMF, its Executive Board, or its management.

- Additionally, it seems appropriate that the proposal is to be implemented through the same legal instrument (tax treaties) that created the deficiencies with respect to the existing corporate income tax arrangements (for instance, the current and significant limitations surrounding the existing PE concept and arm's length principle both arise from norms enshrined in tax treaties). In this sense, we also recognize that the treaty proposal is at least bilateral (as distinct from unilateral) but could also be scaled to become multilateral (discussed below). We continue to be of the view that workable multilateral solutions remain critical to achieving an acceptable and sustainable international corporate tax system in order to avoid the continued proliferation of uncoordinated unilateral measures.
- We did wonder why the proposed bilateral approach did not focus on the immediate source of the current deficiencies in existing corporate income tax arrangements (namely, Article 5, and consequently Article 7). However, we suspect that this implementation option was likely explored, but that it was ultimately decided that the legal spillovers were too great when compared to adopting a standalone Article 12B. For instance, the existence of a PE is also relevant for the purposes of applying Articles 10 to 13, 15, 21, 22, 24 and 29 such that modifying Article 5 and consequently Article 7 would therefore require more complex modifications to the UN Model, and create possible confusion with respect to the interpretation of existing treaties.
- While the combination of gross and net basis taxation embodied in proposed new Article 12B does better preserve the taxing rights of developing countries in a simpler way, we still have some concerns. Our key concerns are as follows:
  - The proposal adopts a ring-fenced approach given its scope is confined to ADS. We generally prefer more principled and broader based reforms (for instance, more comprehensive residual profit schemes and a stronger element of destination-basing through a proportionately greater allocation of taxing rights to market jurisdictions).<sup>2</sup>
  - The proposal will need to be implemented through well-designed domestic tax rules in order to ensure the gross basis taxation and optional net basis taxation mechanisms are administrable and enforceable. It will also likely need to be backstopped by robust access to information arrangements and anti-avoidance measures to safeguard collection under the preserved taxing rights (for instance, robust arrangements so that market jurisdictions have access to information to be able to determine group profitability for the purposes of applying net basis taxation, and measures to combat the contrived use of an offshore related entity to make the payments to the non-resident supplier to defeat gross basis taxation etc.). This is an area increasingly being covered in Fund TA to safeguard (through domestic law measures) gross (and net basis) basis taxation, given that similar issues arise whenever tax authorities seek to levy cross-border net basis tax assessments, and also with respect to the cross-border payment of interest and royalties, which are commonly subjected to gross basis taxation. We see this as an area where greater institutional coordination may be possible given our focus on the design, implementation and administration of domestic tax measures.

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<sup>2</sup> International Monetary Fund (IMF). 2019. *Corporate Taxation in the Global Economy*. IMF Board Paper (Washington, IMF).

- The proposal will also likely need to be coupled with a well-designed implementation strategy to increase the prospect of proposed new Article 12B being taken up more widely. For instance, its real-world success will depend on the negotiated take-up by bilateral treaty partners in new tax treaties, as well the ability to facilitate modifications to existing ones, in which case some sort of enhanced multilateral mechanism could be considered. We think that the incentive for both residence and source countries to revisit outdated tax treaty norms could converge in circumstances where unilateral DSTs otherwise proliferate in source countries, and residence countries seek to bring those measures within the scope of tax treaties in order to give their firms the option of net basis taxation. An existing treaty framework also offers greater certainty and protection, for instance through relief against double taxation and more certain dispute resolution mechanisms.

### **Concluding remarks**

Our analytical work (which remains ongoing) suggests that revenue from existing unilateral instruments such as DSTs is relatively low. Further, the positive revenue impact could become even smaller in circumstances where the ongoing digital tax debate distracts developing countries (and those supporting them) from core and more transformative domestic revenue mobilization efforts such as improvements to their indirect taxes (for instance, VAT/GST). However, we still think, on balance, that the need to restore faith in the fairness and sustainability of the international corporate income tax system does justify exploring a proposal of this kind, particularly in light of its attempt to better preserve the taxing rights of developing countries in a simpler way. We are also of the view that the optional net basis approach may well increase the proposal's appeal, particularly if the optional net basis mechanism serves to facilitate greater convergence between residence and source countries to revisit outdated tax treaty norms in a bilateral (possibly, even, multilateral) way in the face of otherwise distortionary unilateral domestic tax measures.

IMF Staff

Contributors: Michael Keen, Ruud de Mooij, Christophe Waerzeggers, and Cory Hillier