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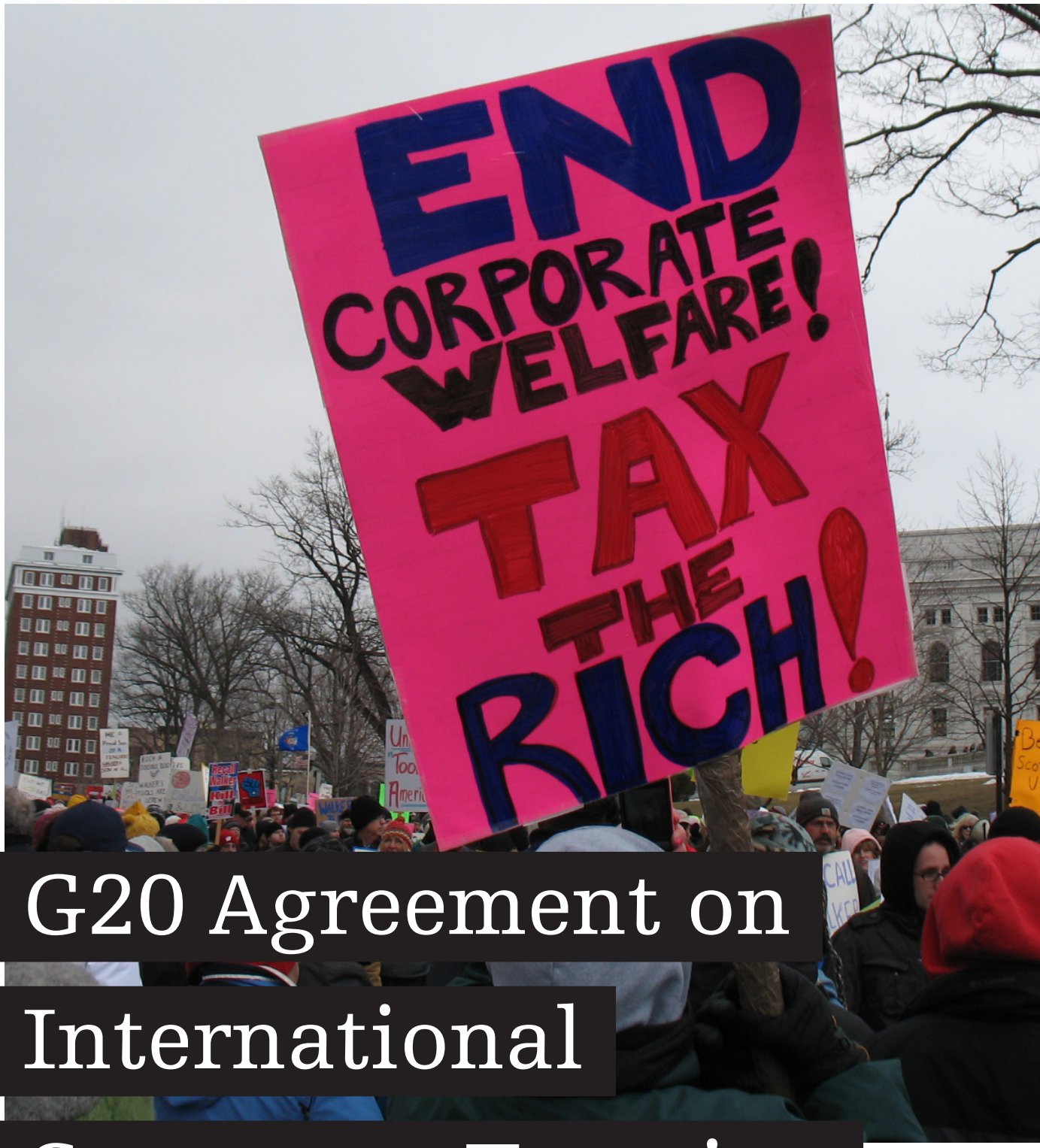

G20 Agreement on International Corporate Taxation

UPDATE OF THE FINAL DEAL AND NEXT STEPS

On 29 September 2021, PSI had released the annexed briefing on the shortcomings of the upcoming G20/ OECD agreement on international corporate taxation and urged its affiliates to take action for a fairer and stronger reform. On 30-31 October 2021, the G20 Leaders' summit endorsed in Rome the final deal.

This note seeks to update PSI affiliates on the final outcome of the G20/ OECD negotiations, to recall PSI position and to outline trade union priorities for upcoming steps.

Contextual information on the G20/ OECD process as well as detailed explanations of the PSI position can be found in the annexed PSI briefing note.

OVERVIEW OF THE GLOBAL TAX DEAL

The G20 agreement is based on two Pillars for reform.

Pillar One introduces an additional tax, on top of existing transfer pricing rules. This new tax is based on unitary taxation and has a narrow scope of application: it will apply to the 100 largest and most profitable multinationals, around half of which will be US multinationals. Market countries – i.e. the countries in which sales are made – will be able to levy this additional tax but only for 25% of the residual profits, i.e. extraordinary profits earned above a 10% return. The rest of the profits remain governed by existing rules.

As soon as Pillar One comes into effect, countries are expected to withdraw their digital services taxes and "other relevant similar measures". The agreement does not specify which national measure could be considered as relevant and similar to a digital services tax.

Because of the narrow scope of application, the revenue raising potential of Pillar One is small. The overall amount is expected to be USD 5-12 bn, which corresponds to an increase of 0.2 – 0.5% of global corporate tax revenues. Large importing countries are expected to benefit the most from this modest increase. Some countries may be losing tax revenues because of the obligation made upon them to withdraw digital services taxes.

Pillar One will take the form of a Multilateral Convention, which is expected to be open for ratification from mid-2022. This Convention will become binding upon countries if a "critical mass" of countries has ratified by 2023. The G20 agreement does not specify how many countries would constitute such critical mass.

On 21 October 2021, the US, Austria, France, Italy, Spain and the UK released a joint statement. In this statement, the Europeans pledge to withdraw their unilateral digital services taxes when/ if Pillar One comes into effect. They also commit to give back tax revenues (through tax credits) if the amount received under unilateral measures is higher than what these countries will be entitled to under the G20 deal. In exchange, the US commits to suspend the trade sanctions procedures initiated against these European countries until Pillar One comes into effect. In case there is no ratification on 31.12.2023, the US may resume trade sanctions procedures.

Pillar Two seeks to introduce a floor in tax competition through a 15% minimum effective tax rate. This minimum rate relies on incentives: where subsidiaries or establishments of a multinational enterprise are paying taxes below 15%, other countries will be allowed to "tax back" up to 15%. Pillar Two is therefore a strong incentive for low tax countries to increase their own effective tax rates to 15%.

15% represents the lowest common denominator among negotiating countries. In addition to that fairly low rate, the final deal introduced a number of concessions - including carve outs and sectoral exemptions.

Pillar Two would according to the estimations of the EU tax observatory raise EUR 64 bn of additional revenues for the European Union, and EUR 51.2 bn for the US. Overall, developed economies are set to increase their corporate tax revenues by 19%. Pillar Two is significantly less advantageous for developing economies, which would benefit from a mere 2% increase of corporate tax revenues.

This contrasted situation is explained by the design of Pillar Two, which gives priority to "resident countries" in the exercise of the right to tax back. These are countries in which multinationals have established their residence, most of the time in

developed economies which are also permanent OECD members. Furthermore, a 15% rate is too low to raise concrete prospects of revenue gains for the non-OECD economies that already enforce higher effective tax rates.

Unlike Pillar One, Pillar Two will not become binding upon countries. Guidelines will be released by the OECD-led Inclusive Framework towards the end of November 2021. It will then be up to countries to decide whether to introduce these guidelines into their internal legal order. The European Commission is expected to publish a proposal for an EU Directive by the end of December 2021.

Pillar Two could become effective as soon as mid-2022.

PSI POSITION

For PSI, the final outcome came as a massive disappointment. The deal will not stop corporate tax dodging nor address bias in corporate tax systems towards countries that are home to large multinational enterprises, predominantly in the Global North. Further, too many concessions have been introduced such as the rate and scope of application of the minimum tax rate. The labour movement and civil society have indeed taken a clear position in favour of an at least 25% rate with a wide scope of application.

NEXT STEPS FOR TRADE UNION ACTION

The G20 agreement can only be considered as a first step for tax reform PSI and other trade unions have called upon policymakers to urgently take more ambitious measures for companies to pay their fair share.

As countries and the European Union will soon discuss the implementation of the G20 agreement into internal legal orders, PSI urges policymakers to introduce an at least 25% minimum rate, applying to all multinationals. A higher effective tax rate is necessary to bring additional tax revenues, to effectively eradicate tax competition, and overall to ensure that the tax burden is no longer disproportionally borne by labour.

A significant increase in tax revenues is also a necessary precondition for future multilateral reform that could generate a fair distribution of taxing rights between countries.

But national corporate tax reforms must not be restricted to the strict implementation of the G20 agreement. PSI is currently exploring with trade unions and civil society experts additional unilateral measures that could help increase progressive revenues, secure positive spillover on employment, and build the necessary pressure for a fundamental multilateral reform of the international tax architecture. These measures must in particular:

- Ensure a fair share of taxing rights for all countries in which a multinational carries economic activity. For instance, considering the current tax bias towards OECD countries, wider reliance on withholding taxes will be a crucial source of revenues for developing economies.
- Unilateral or regional action (in particular in the European Union) to raise fair and progressive corporate taxation.

As the G20 deal has no impact on the vast majority of corporate profits, it is essential that countries introduce additional measures to address their under-taxation in particular in the light of the digitalization of the economy.

Countries should amongst other measures consider the advancement of unitary taxation as well as excess profit taxes. PSI warns against adopting measures which could be too easily shifted to consumers and/ or with a regressive impact upon workers and their families.

- Tax transparency, through public access to key data in country-by-country reporting.
- Whilst corporate taxation is an important measure for funding public services and tackling inequalities, additional action is also necessary. In the current context, taxes on wealth, rent and capital income should all be considered as part of a country progressive tax mix.

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