



THEMATIC BRIEF 2

TAXING CROSS-BORDER SERVICES: WHAT'S AT STAKE IN THE UN NEGOTIATIONS

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WHY THIS FIRST PROTOCOL MATTERS FOR THE LABOUR MOVEMENT

The first protocol under the UN Tax Convention will decide how to tax cross-border services. This matters for unions because the outcome will shape public revenues, competition between local and global firms, and the resources available for jobs, wages and public services. The challenge applies across the digital economy and brick-and-mortar service sectors alike, making it one of the most important tests of whether the new rules deliver fairness for workers everywhere.

- When global companies don't pay tax, public services suffer:** Multinational platforms like Google, Meta, and Amazon earn billions from advertising, subscriptions, and digital services in countries around the world, but often pay little or no tax where their customers and users live. When that tax revenue is lost, it means tighter budgets for healthcare, education and care systems. In countries where corporate tax avoidance is high, workers often see increased VAT, wage stagnation, or cuts to public services.
- The digital economy profits from our societies without reinvesting in them:** Tech companies benefit from roads, data infrastructure, and educated consumers — but often leave nothing behind. Even when they have no physical presence, they extract value from people's clicks, payments, and data. That value is converted into profit booked in low-tax jurisdictions. Without reforms, the public never sees a share of that wealth.
- A fair UN solution for taxing cross-border services could unlock major new revenues:** Studies suggest that taxing digital services more effectively could raise three times more revenue than the OECD's current proposals. With stronger and more equitable rules, governments could use these resources to strengthen public services, support climate action and finance a just transition that benefits all workers.
- Local businesses are taxed — but still have to compete with untaxed global giants:** Small and medium-sized businesses usually pay their taxes in full. But they are often

competing with global platforms that shift their profits offshore, or with brick-and-mortar service multinationals providing cross-border services without being taxed fairly. Whether it is a local transport operator competing with a global app or a national retailer facing e-commerce giants, the imbalance makes it harder to grow businesses and create decent jobs. Tax avoidance by MNEs gives them a cost advantage and leaves local workers, in richer and poorer economies, paying the price.

HOW DIGITAL GIANTS OFTEN ESCAPE TAXATION

Two features of today's international tax rules help explain why digital multinationals often avoid tax in the countries where they operate.

First, most tax treaties require a company to have a physical presence — such as an office, branch, or staff — to trigger tax obligations. But digital firms like Google or Meta can earn vast revenues from countries where they have no local presence at all. Because most older tax treaties still demand a physical 'permanent establishment', they block source countries (see Box 1) from taxing remote services—even when revenues and users are clearly local.

Second, the current system relies on “transfer pricing” rules, which allow subsidiaries and establishments of the same multinational group to transact with each other to the extent that they apply market prices as if they were independent companies (the “arm's length principle”). This is difficult to apply when companies rely on unique and intangible assets — like algorithms or user data — that don't have a clear market price. It makes it easy for multinationals to shift profits to low-tax jurisdictions, often by creating complex corporate structures with hundreds of entities.

Digitalisation has exposed and worsened these flaws — making reform more urgent than ever.

BOX 1: UNDERSTANDING SOURCE VS RESIDENCE TAXATION

A core issue in these negotiations is the allocation of taxing rights between the source country — where services are used or consumed — and the residence country — where the service provider is headquartered. To take a **real example**, Uber collects revenue from riders and restaurants in countries like France or Kenya, but routes the earnings to a Dutch shell company that owns the app's intellectual property—deemed an intangible asset. This structure leaves little, if any, taxable profit behind in the countries where the revenue originates — even though the services are consumed there.

Countries that are net importers of digital services argue for stronger source-based taxing rights to reflect the location of users, consumption, and value creation. In contrast, countries such as the U.S., where large digital multinational enterprises are based, tend to support residence-based rules that preserve their share of taxing authority.

WHY EXISTING REFORM EFFORTS HAVEN'T DELIVERED — AND WHAT COMES NEXT

A clear mandate, still unmet: For over a decade, efforts to reform how multinational enterprises (MNEs) are taxed have failed to deliver a fair and effective solution. In 2013, the G20 gave a clear mandate: that “profits should be taxed where activities deriving the profits are performed and where value is created.” But that principle remains largely unfulfilled.

The OECD’s narrow solution: The OECD’s initiative — Pillar One (Amount A) — was meant to address this challenge in the digitalised economy by reallocating a portion of MNE profits to countries where their customers or users are located. Yet the outcome is limited in scope: it would cover only a small number of very large, high-profit firms, reallocate only a fraction of their profits, and require countries to give up their digital services taxes (DSTs), which many see as vital tools for protecting their tax base.¹ Implementation of Amount A has been repeatedly delayed and, in practice, is widely considered to have failed. As an international treaty, it requires ratification by at least 30 countries — including the US — that

together represent a majority of the targeted multinationals. Given the political outlook, ratification now appears extremely unlikely, and the agreement is not expected to move forward.

A simpler path, with limited reach: Meanwhile, the UN Committee of Experts on International Cooperation in Tax Matters has taken a different path. It has developed treaty provisions like Article 12B (on automated digital services) and a draft Article XX (on fees for services), both of which are designed to expand source-based taxing rights. These proposals are simpler and better aligned with the interests of countries seeking stronger source-based taxing, but the Committee has no political mandate. Its recommendations only apply when countries voluntarily include them in bilateral treaties—a burdensome process that requires renegotiation and ratification.

A chance to do better: The upcoming UN Framework Convention on International Tax Cooperation can change this. The intergovernmental negotiation process offers an opportunity to do better — to adopt simpler, fairer rules that give countries real taxing rights and respond to the realities of the modern economy.

BOX 2: WHY A UN TAX AGREEMENT MATTERS FOR TRADE STABILITY

Unilateral tax measures — like digital services taxes (DSTs) — have triggered growing trade tensions, especially with the United States. Under Section 301 of the U.S. Trade Act of 1974, successive administrations have investigated and threatened tariffs against countries with DSTs, viewing them as discriminatory toward U.S. firms. This has created uncertainty and strained global trade relations.

Without a multilateral agreement, more countries are likely to adopt unilateral tools to protect their tax base — reinforcing the risk of conflict. A UN-led solution can reduce these tensions by replacing patchwork rules with fair, cooperative approaches. To succeed, the protocol must avoid the mistakes of the OECD's Pillar One — which created new imbalances by offering too little to many countries while requiring them to abandon tax revenues from digital services taxes and the like.

APPROACHES TO TAXING CROSS-BORDER SERVICES: BALANCING AMBITION AND PRAGMATISM

Early discussions in the inter-governmental negotiating committee point to an emerging consensus: taxing rights should be shared between the country where services are consumed (source) and the country where the provider is based (residence), and the old “physical-presence” test is no longer adequate. Governments already use a mix of temporary and structural measures to reach that goal. The first protocol of the UN Tax Convention is the moment to knit those tools into a coherent, modern standard that: i) secures source-based taxing rights; ii) delivers revenue for public investment; iii) remains workable for tax administrations with limited capacity and iv) ensures large digital firms pay their fair share.

The policy choices outlined below form a tiered menu, from near-term fixes to longer-term reforms. The protocol could integrate this menu, offering countries flexibility to choose what fits their context while also setting a clear path toward unitary taxation with formulary apportionment, which unions would support.

DIGITAL SERVICES TAXES (DSTs)

How they work: DSTs are gross revenue taxes applied to specific digital services — such as online advertising, platform intermediation, or streaming — provided by non-resident companies. The digital service provider calculates and remits the tax, often under self-assessment. DSTs do not target corporate profits but rather turnover, meaning they apply regardless of whether the company is making

¹ For comparison, a [South Centre study \(2024\)](#) estimated that the 85 combined Member States of the African Union and the South Centre could expect EUR 20–34 billion from a 5% DST — compared to just EUR 7–10 billion from Pillar One's Amount A.

a profit. This simplifies enforcement but also raises concerns about fairness and efficiency.

Why countries use them: DSTs allow countries to tax highly digitalised MNEs that operate without a physical presence. France, India, and Kenya have used DSTs to tax Big Tech where users are located. They can generate meaningful revenue and are relatively simple to administer, especially for tax administrations in developing countries.

Challenges and limitations: Because DSTs are levied on gross turnover rather than profit, they can over-tax low-margin activities and create double taxation when several countries tax the same receipts. To compensate, DST rates tend to be very low – much lower than corporate income tax rates. Nonetheless, business lobbies and OECD advisers brand them distortive and urge governments to abandon them. Critics also warn that firms may pass the cost to consumers, making the tax regressive. Amazon, for instance, has a policy of raising third-party seller fees by 2–3 percent in countries that implement DSTs, including the United Kingdom, France, Italy, Spain and Canada. The controversy is amplified by ongoing U.S. threats of trade retaliation against jurisdictions that impose DSTs.

WITHHOLDING TAXES

How they work: WHTs are applied at the point of payment for cross-border services. Where an entity makes a transaction with another entity that is part of the same multinational enterprise (for instance a subsidiary paying dividends, interest, or royalties to the parent company), the source country withholds a certain percentage of the transaction, as an advance payment of the company's income tax. The parent company subsequently deducts that amount from its own tax bill in the residence country.

Why countries use them: Many developing economies use WHTs because they are simple to enforce and effective in capturing revenue from non-resident service providers. Draft Article XX of the UN Model Tax Convention supports their use and are the preferred tool for many African and G-24 economies because they still work when transfer-pricing data is scarce.

Challenges and limitations: Because WHTs apply to gross payments, they can over-tax services with low profit margins. Residence countries generally dislike them and often insist on treaty ceilings that cap the rates, typically well below domestic levels. These restrictions, combined with the political and technical difficulty of changing treaties, limit the effectiveness of WHTs as a tool for source countries, even when adopted in domestic law.

UNITARY TAXATION WITH FORMULARY APPORTIONMENT

How it works: Unitary taxation treats a multinational enterprise (MNE) as a single global entity. Instead of taxing each subsidiary separately using internal prices (arm's length principle), it calculates the group's total global profits and divides them among countries based on where real economic activity occurs — echoing the original G20 mandate that profits should be taxed where value is created. The formula can give weight to tangible factors such as sales, employees and assets.

A model with real-world precedent: This approach is already used within federal systems like the United States and Canada to allocate corporate taxes. Some elements have also been included in the OECD's Pillar One (Amount A), which reallocated a small portion of profits based on destination. These precedents — along with the technical groundwork already

developed — suggest a growing openness to profit apportionment. From a labour perspective, unitary taxation offers a fairer long-term model that reflects where economic activity — including employment — takes place.

Challenges and limitations: Moving to a full unitary system would require international agreement on how the formula works, which companies are covered, and how profits are calculated. It would also demand better data sharing and cooperation across tax administrations. Political resistance in some high-income countries has made progress difficult, despite growing recognition of the shortcomings in current rules.

SIGNIFICANT ECONOMIC PRESENCE (SEP)

How it works: SEP is a legal concept — not a tax instrument — that allows a country to claim taxing rights over a multinational company based on its economic footprint, even if the company has no physical office, branch, or staff there. It offers a modern alternative to traditional rules that require a “permanent establishment” to trigger tax obligations.

Why it matters: This gap in current treaties means that digital companies can generate millions in digital advertising revenue from local businesses without paying any tax in those countries. With SEP in place, jurisdictions could assert the right to tax those profits. SEP is particularly important for countries with large consumer markets but few corporate headquarters. It strengthens source-based taxation and helps align tax rights with where value is generated.

Barriers to adoption: Because SEP represents a departure from traditional treaty standards, most existing tax agreements do not recognise it. Some countries, such as Nigeria, have implemented SEP unilaterally, but this can provoke political pressure and trade tensions. A multilateral agreement would provide greater stability, though reaching one would require complex reforms to treaty networks.

PRINCIPLES AND RED LINES TO GUIDE THE LABOUR MOVEMENT

While the best policy mix remains open for discussion, trade unions should make clear what principles any solution must deliver. These principles and red lines can guide union representatives as negotiations move forward:

PRINCIPLE	RED LINE
The protocol must address the structural flaws in current profit allocation rules	Reject any outcome that limits itself to administrative or capacity-building measures without tackling those flaws
Tax multinationals where value is created, securing taxing rights for countries where services are consumed and ensuring real revenues to fund public services and reduce inequality	Reject any settlement that preserves current profit-shifting loopholes or allows multinationals to continue booking profits in low-tax jurisdictions.
Allow flexibility and fairness, enabling countries to use a mix of tools such as DSTs and WHTs, especially where administrative capacity is limited	Reject measures that shift the burden to workers and communities through consumption taxes
Build towards unitary taxation with formulary apportionment as the clearest path to long-term fairness and to ending the use of tax havens	Resist trade-offs that leave effective tax rates on profitable corporations unchanged or even reduced