

South Centre

**Are alternatives available?**

**Exploring the UN solution on**

**Automated Digital Services**

Presentation by

Rajat Bansal, UN Tax Committee Member

15<sup>th</sup> June, 2021

# 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?

18<sup>th</sup> Session-April 2019-Decision taken to work independently-Take into account other foras' work – Proposals from members invited

20<sup>th</sup> Session-June 2020-Proposal by Member- Formation of a Drafting Group

21<sup>st</sup> Session-October 2020-In principle approval of Article 12B

22<sup>nd</sup> 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