Pre-print. This is a pre-print of an article published in *New Political Economy*. The version of record is available at: https://doi.org/10.1080/13563467.2024.2405524.

Please cite as: Heering, J., L. Crasnic, and A. Newman. 2025. When digital taxes come due: national digital taxes and the negotiation of the OECD inclusive framework. *New Political Economy* 30 (2): 178–193. https://doi.org/10.1080/13563467.2024.2405524

When digital taxes come due: national digital taxes and the negotiation of the OECD inclusive framework

Jonas Heering[a], Loriana Crasnic[b] and Abraham Newman[c]

[a]Department of Government, Georgetown University, Washington, DC, USA
[b]Department of Political Science, University of Zurich, Zurich, Switzerland
[c]School of Foreign Service & Department of Government, Georgetown University, Washington, DC, USA

Corresponding author: Jonas Heering (jh2176@georgetown.edu)
Received 11 March 2024; accepted 19 August 2024

Abstract. What explains major shifts in international tax cooperation? Existing literature emphasises either the centrality of the United States for successful reform or the power of multinational corporations to exert downward pressure on global tax rates. Nonetheless, in 2021 members of the OECD Inclusive Framework (IF) agreed to tax some of the largest multinational companies based on their market activities rather than physical presence – a fundamental change to the international taxation regime that the U.S. government and U.S. multinational corporations (MNCs) had long opposed. We argue that the spread of digital value chains has exposed the activities of MNCs to greater regulatory activity, allowing governments to use unilateral regulatory action as leverage in international negotiations. By shifting the reversion point – the status quo absent an international agreement – governments were collectively able to transform an agreement. We demonstrate our argument by examining how the implementation of national digital services taxes (DSTs) affected the OECD IF negotiations. Drawing on interviews with key stakeholders and primary sources, we show that the adoption of DSTs, including in France and India, and the threat of additional proliferation of DSTs, pushed the United States to drop its longstanding opposition to parts of the IF process.

Keywords: Digital taxation; reversion point; international negotiations; global tax governance; digital globalisation

Introduction

In July 2021, 130 countries participating in the OECD's Inclusive Framework (IF) announced a plan to overhaul the current international tax system. The two-pillar approach envisions taxing a subset of very large multinational corporations according to the location of their sales rather than their physical headquarters (Pillar I), as well as a global minimum corporate tax rate (Pillar II) to ensure that all companies would be taxed at an effective rate of at least 15 percent. As such, a fraught negotiation that had lasted more than a decade as part of the OECD's Base Erosion and Profit Shifting (BEPS) initiative was unexpectedly resolved,[1] in a significant departure from the standard international tax rules of the last 100 years.

What brought the parties together and how can we explain the most significant redistribution in corporate taxes in the last decades? The international tax literature has argued that such

cooperation is only possible with the backing of the United States (Grinberg 2012, Palan and Wigan 2014, Hakelberg 2016, Emmenegger 2017). But the BEPS project was riddled with disagreements among G20 member states, most notably between the United States and the European Union (Christensen *et al*. 2021). The United States long opposed any deviation from the existing norm that firms should be taxed based on their physical presence in a jurisdiction rather than their activity in a consumer market, going so far as to withdraw from the OECD process a year prior to the agreement. Moreover, comparative political economy research has emphasised how the structural power of mobile multinational companies exerts downward pressure on tax rates between jurisdictions, thus leading to tax competition rather than cooperation (Genschel 1999; Culpepper 2015, Swank 2016). One could argue that digitalisation has only exacerbated the 'footloose-ness' of multinational companies and therefore their power over states (Bryan *et al*. 2017). And yet, more than 130 countries, including the United States, not only agreed to an overarching deal to tax multinational companies more, but the scope of the agreement includes many of the world's largest firms.

To explain the transformation in the global tax regime, we develop an argument as to the ways in which globalisation opens up new opportunities for state entrepreneurship. In particular, we argue that the spread of digital value chains has exposed the activities of multinational corporations to greater regulatory activity. The threat of unilateral action by a number of governments can generate market uncertainty and, in turn, serve as leverage in international negotiations.

We demonstrate this mechanism empirically by showing that the implementation of unilateral digital services taxes (DSTs), and the threat of additional proliferation thereof, forced the United States to reengage in the IF negotiations and concede to a shift of taxation rights based on consumer markets. As such, we build on recent research that highlights how digital firms' reliance on immobile consumer markets undermined the structural power of MNCs and enabled the implementation of unilateral DSTs (Gelepithis and Hearson 2022, p. 714). However, rather than simply creating a consensus on a new international norm of taxation that the United States internalised (Gelepithis and Hearson 2022), our account highlights how several countries, led by France and India, strategically used these DSTs to create regulatory uncertainty and shift the reversion point – the status quo absent an international agreement – in the IF negotiations. As a result, the incoming Biden administration faced sustained pressure by U.S. digital firms to reengage the OECD talks and drop its opposition to changes to international tax rules, while also having to contend with an existing web of national DSTs.

Our paper makes several important contributions. First, we contribute to the literature on globalisation in the digital age by highlighting how digital technologies have transformed global politics. The nature of data as the central input in the digital economy and the dominance of large digital companies have foregrounded new policy issues around taxation, disinformation, and privacy in international politics (McNamara and Newman 2020, Liu 2021, Weymouth 2023). With increasing digital interdependence, overlapping rules and principles regarding the governance of digital firms have led to regulatory uncertainty and destabilised governments' commitments to existing market rules (Farrell and Newman 2016). We show that this rule overlap and regulatory uncertainty reshuffle power dynamics not only between governments and

MNCs but also among states. As such, opportunities for rule externalisation can become a source of bargaining power in international negotiations – and unilateral regulatory action can drive international regulatory cooperation. Notably, governments beyond that of the United States are gaining a strong foothold in the governance of digital giants. As their rules are taken up by others, diffusion processes can generate leverage. Second, we make an empirical contribution to the literature on international taxation and the growing literature on digital taxation in particular (Gelepithis and Hearson 2022, Hearson *et al*. 2022, Young 2023). As companies specializing in digital markets are among the largest in the world by market capitalisation, how governments tax their revenue will play an important role in shaping the fiscal resources of the state as well as economic inequality across and within societies.

Determinants of international cooperation in tax matters

The OECD Model Treaty that would define the rules of the international tax regime until recently was settled upon after the Second World War. High-income countries imposed their preferences over the rest of the world and chose residence-based taxation as the principle according to which bilateral tax treaties would be signed (Gregg 1947, Picciotto 1992). Tax liabilities are determined by the official residence of an individual or a company, as opposed to where economic activity actually occurs, the latter largely the preference of low and middle-income countries.

Despite mounting evidence of tax evasion by individuals and arbitrage by corporations, the rules of the international tax regime remained largely unchanged for more than 75 years (Rixen 2011). Small capital-importing states successfully invoked national sovereignty and free competition to block tax transparency initiatives (Sharman 2006). It was only after the United States, a country with a unique combination of market power, structural power and regulatory capacity in financial matters, threatened firms with sanctions in the wake of the financial crisis, that considerable shifts started occurring in state efforts to limit tax evasion (Grinberg 2012, Palan and Wigan 2014, Hakelberg 2016, Emmenegger 2017).

The current international tax literature therefore largely emphasises the centrality of the United States as a hegemon in setting up and policing the standards of the regime. In some cases, resistance from standards takers and support from rights stakeholders and transnational tax policy communities can shape the functioning of the regime (Hearson 2018, Jogarajan 2017, Seabrooke and Wigan 2016, Crasnic 2022). Similarly, the United States had more leverage in some circumstances than others – for instance, it was arguably able to use its structural power more after the financial crisis due to the politicisation of tax scandals (Emmenegger and Eggenberger 2018, Crasnic *et al*. 2021). Nonetheless, overall, it was the United States which set the tone to international tax regulation and dragged its feet on the OECD's BEPS initiative.

The BEPS initiative was designed to respond to the public's concern after the financial crisis that corporations were not paying their fair share of taxes (Christensen *et al*. 2019). Under the auspices of BEPS, which was first outlined by the OECD in 2013 and which was expanded in 2016 to include participation from developing economies under the Inclusive Framework (IF) on BEPS, countries aimed to create new rules that reduce tax evasion by large multinational companies and update the tax system to the digital economy (OECD 2013). Two of the main

objectives of the BEPS process were developing an international, coherent corporate income tax regime and redefining the concept of 'permanent establishment'. Under this concept, which has been enshrined in much of the existing international tax system, foreign companies from countries that have signed a tax treaty with the host country only have to pay taxes in the host country if they also operate a physical business venture in that country. This definition of permanent establishment has become contested amid the digitalisation of the economy as it allows multinational digital firms to operate globally but only pay taxes in their home country.

Almost a decade later, however, only incremental change had been achieved. BEPS introduced country-by-country reporting, lifting the veil on where corporations were declaring profits. Yet, the separate entity principle, enabling profit shifting between affiliates and the arm's length standard, allowing leeway in the pricing of intrafirm transactions, remained in place (Seabrooke and Wigan 2016, Hakelberg and Rixen 2021). Similarly, redistribution of taxing rights to market transactions as opposed to residence jurisdictions was also firmly left off the table, with several OECD member states, most notably the United States, resisting such change, in particular because it would hurt U.S.-based technology companies Gelepithis and Hearson (2022).

Multinational corporations also initially opposed overhauling the global tax system. The Business and Advisory Committee to the OECD criticised the idea of basing taxation rights on the place where goods and services were purchased. Silicon Valley firms lobbied against departing from the principle of physical presence (Gelepithis and Hearson 2022). The structural power of business in a world of mobile capital would point towards downward pressure on corporate taxes and difficulty for collective action at the international level (Culpepper 2015, Swank 2016). States might fear that increasing taxes on multinational companies would drive away business, leading to the loss of jobs and investment (Strange 1996). Earlier scholarship argued that this dynamic is only exacerbated in a world where multinational companies increasingly generate profits from intangible assets, such as algorithms and consumer data, and declare these profits in low-tax jurisdictions, as opposed to jurisdictions where they are generated or used most, thus allowing multinational companies to strategically manage their fiscal exposure (Bryan *et al.* 2017).

Digital firms, in particular, had benefitted from the existing international tax rules. Digital businesses rely on data as the central input to their economic activity (Newman 2010, Liu 2021, Weymouth 2023). Unlike traditional MNCs, digital firms often do not sell products to consumers but provide 'free' services that allow them to collect user data, which they then use to develop and sell intangible assets (Weymouth 2023). This business model not only allows digital firms to shift profits to different jurisdictions with particular ease. It also endows them with political power as loyal consumers, who benefit from the (often free) services provided by digital firms, will oppose regulation of these firms (Culpepper and Thelen 2020).

Yet, digital firms' reliance on data collection, as well as the imperative to expand to new consumer markets to collect more data (Weymouth 2023, p. 40), also creates a vulnerability. Consumer markets, unlike capital or labor, are immobile factors of production. Firm exit would entail a loss in access to important consumer data, particularly in other significant markets that affect a firm's bottom-line. As a result of these structural changes in state-business relations,

national governments in large markets can impose unilateral DSTs with fewer concerns about driving away digital firms. Moreover, the concentration of digital firms – and the rights to tax their revenues under the existing tax norms – in the United States provided states with a normative rationale to challenge the global tax regime (Gelepithis and Hearson 2022, p. 714), despite resistance from the United States.

Rule overlap, regulatory uncertainty & reversion points in international negotiations

Despite the strain digital value chains placed on the global tax regime, the United States at first continued to oppose the shift to market-based taxation and blocked progress on negotiations. To explain the ultimate compromise, we bridge literature on transnational politics with work on international negotiations. We argue that the spread of digital value chains provides governments with opportunities to leverage unilateral regulation to influence international negotiations. As such, our argument focuses on the ways through which changes in the structure of the global economy have also reconfigured power relations *among* states, not only between states and firms.

A growing body of literature on globalisation emphasises how the spread of global value chains may create conflicts over whose rules should govern economic activity (Farrell and Newman 2016, 2018). In the absence of international cooperation, such rule overlap creates legal uncertainty for both states and firms, which incentivises national regulators to externalise their preferred regulatory system (Farrell and Newman 2016). At the same time, the transnationalisation of business activity creates new opportunities for governments to exert pressure on foreign firms to comply with their rules (Crasnic *et al*. 2017). As firms engage in economic activity across multiple jurisdictions, they may become the target of states attempting to externalise their domestic regulation and may also find themselves subject to a fragmenting regulatory landscape as multiple sovereigns intervene.

These interactions not only have consequences for interactions between firms and states but may also alter dynamics in international negotiations. The threat of fragmentation may generate new incentives for firms and their home states to reengage in cooperation so as to level the playing field. In particular, unilateral regulatory action can influence international outcomes by shifting the reversion point – the status quo or a costly future scenario absent a negotiated agreement. The reversion point helps determine the win-sets available in a negotiation (Putnam 1988), and explains why some countries agree to international agreements that transfer economic wealth to other states (Richards 1999). However, the reversion point of a negotiation is not fixed. Unilateral action by a set of states can alter the status quo in the absence of a deal and thereby transform the costs associated with deadlock (Richards 1999). When the costs associated with the reversion point are asymmetrically distributed among states involved in the negotiation, changes to the reversion point become particularly salient (Frieden and Walter 2019).

Notably, as firms face overlapping authority claims, this creates an environment in which the 'reversion point [...] is uncertainty rather than the previous policy equilibrium' (Farrell and Newman 2016, p. 722). This uncertainty subsequently creates pressures to achieve regulatory cooperation, particularly for states whose firms would bear the costs of a fractured

regulatory environment. While unilateral regulatory action by any state shifts the reversion point at the margins, not all states will be equally successful in using this mechanism to influence international negotiations. States will need sufficient market power for their unilateral regulation to have a material impact on international negotiations (Richards 1999). In the context of the digital economy, the number of (potential) users located in a state will be important to determine if unilateral regulation in that jurisdiction affects the reversion point. In addition, states that act as regional standard-setters may be able to initiate a diffusion process through unilateral regulations. As a growing number of states implement similar measures, this exacerbates regulatory uncertainty and further raises the stakes of the reversion point. While unilaterally shifting the reversion point in an international negotiation requires some degree of market power, even non-hegemonic powers can bring more powerful states to the negotiating table if they can, individually or collectively, create sufficient regulatory uncertainty and thereby raise the cost of non-agreement on great power holdouts.

In the following section, we illustrate our argument through a detailed analysis of how the implementation of DSTs affected the IF negotiations. We draw on interviews with policymakers involved in the IF negotiations and representatives of U.S. digital trade associations, public statements issued by government and industry officials and official OECD and US government documents.[2] The timeline in the appendix summarises key developments in the implementation of national DSTs and the OECD process. We demonstrate how several states, led by France and India, were able to leverage unilateral digital taxes to increase their bargaining power in international negotiations and press the United States, whose firms dominate the digital economy, into conceding to changes in international tax rules more broadly. More specifically, when the Biden administration decided to reengage in the global tax negotiations, it faced a changed political landscape owing in large part to the rise of DSTs. Absent a deal, U.S. firms would have had to comply with a growing number of DSTs that varied in their scope and specificity, marking a costly shift in the reversion point.

The BEPS negotiations in the context of rising Digital Services Taxes

The BEPS and IF negotiations occurred amid the growing adoption of unilateral digital taxes. Figure 1 depicts this exponential growth of taxes for the digital economy since 2003, when EU members became the first states to implement such taxes. The graph distinguishes direct and indirect digital taxes. Direct taxes are those levied directly onto digital companies, through an income or corporate tax, including digital services taxes (DSTs) and digital permanent establishment (PE) taxes. Indirect taxes include value-added taxes (VATs) and goods and services taxes (GSTs) (Sukardi *et al*. 2020). Overall, by 2021 there were 81 countries that had implemented at least one type of indirect tax on digital sales, and 29 countries that had implemented some type of direct tax on digital services, up significantly from 2013, when digital taxes were largely confined to the EU. While some countries impose both direct and indirect taxes, the vast majority of states only collect one type of tax (primarily indirect taxes) from digital firms.

Although direct taxes remain less prevalent, DSTs have become more popular because digital firms' business model of providing 'free' services in exchange for the collection of user data skirts

sales taxes. In such cases, direct taxes such as DSTs allow states to effectively collect tax on profits generated from user data or from providing the platform for commercial activities among its users (Karaboytcheva 2020). However, these types of taxes have been more controversial, given discussions on what type of revenues and transactions should be taxed, as well as the need to revise the current system of residence (as opposed to customer) based taxation.

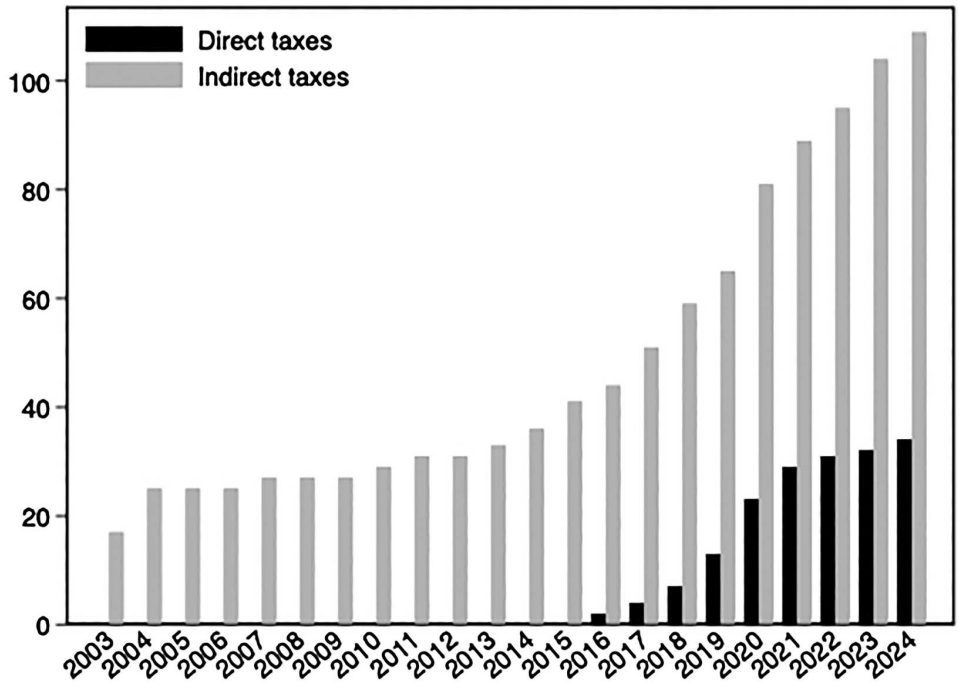


Figure 1. Total countries with direct and indirect digital taxes. Number of countries that have adopted direct and indirect digital taxes, including taxes where collection was temporarily suspended. Based on authors' original dataset.

In 2016, Israel was the first country to establish direct digital taxes, including an income tax on the provision of digital services and a permanent establishment tax. By 2019, a total of 13 countries had adopted one or more direct levies on digital firms and by 2021, that number had grown to 29. Most of the countries that have implemented direct taxes are concentrated in Europe, Central and Latin America and Southeast Asia, although a few African countries have adopted direct taxes as well.

The implementation of DSTs in France and India was particularly important. After India introduced a new Significant Economic Presence (SEP) test in 2018, allowing the income of nonresident firms from digital transactions to be attributed to Indian users and therefore to be taxed in India, several other Southeast Asian and Central and Latin American countries followed suit with their own direct digital taxes in 2019 and 2020. Similarly, the introduction of the French Digital Service Tax in 2019 was followed by multiple European countries in 2020. Below, we detail how the implementation of the French and Indian DSTs, in addition to the threat of further global proliferation of DSTs, affected the IF negotiations. We focus on the French/EU and Indian cases not just because they were among the early adopters of DSTs but also because they received significant coverage in the media and the greatest attention by U.S. lawmakers and U.S. digital firms.

The French and EU DSTs

The European Union and several European states, above all France, were among the most vocal proponents of new taxation rules for the digital economy. Europeans frequently lamented that the largest digital technology firms, including Google, Amazon and Facebook, should pay taxes to EU member state governments on the profits they make from European users (Scott *et al*. 2021). For France, these digital taxes were part of a broader agenda to rein in the political power of (largely U.S.-based) digital firms. French Finance Minister Bruno Le Maire, who spearheaded French and EU digital tax initiatives, framed DSTs as a way to regain sovereignty from 'economic giants that are monopolistic and that not only want to control the maximum amount of data, but also escape fair taxes' (Alderman 2019). In March 2018, the EU put forward a first proposal on an EU-wide DST. This proposal, which was pushed by France and the United Kingdom, functionally only applied to U.S. firms, leading U.S. observers to label it as discriminatory and veiled protectionism (Hufbauer and Lu 2018).

But the EU-wide proposal also received pushback from some EU member states, especially Ireland, which benefited from the existing tax regime as many U.S. digital firms are based there given its relatively low corporate tax rates (Thomas 2018). Amid gridlock over an EU-wide DST, several EU member states eventually moved forward with national digital tax policies. The French government was one of the first, announcing a DST in March 2019. The tax, which 'imposes a 3 percent levy on gross revenues generated from providing [digital services] "in France"', went into effect retroactively from January 2019 (USTR 2019). Several other EU member states followed suit and by early 2021, seven EU members and the United Kingdom had implemented some form of DST (Asen *et al*. 2021). But the proliferation of digital taxes in Europe was not just driven by intra-EU disagreements. In an interview, a European Commission official involved in the negotiations acknowledged that several EU member states implemented these DSTs specifically to gain leverage over the United States in the OECD process.[3] The link between national DSTs and the IF negotiations was further highlighted by Le Maire, who said that 'without the mobilisation of France, the taxation of the digital giants would be stalled at the international level' when unveiling France's DST (Euronews 2019).

The U.S. government saw these DSTs as unfairly targeting U.S. companies and the Office of the United States Trade Representative (USTR) launched several investigations into European DSTs, beginning with an investigation into the French tax (USTR n.d.). U.S. digital firms were particularly vocal in their opposition to the European DSTs and welcomed the USTR's investigation. As soon as the European Commission announced its plans for an EU-wide digital levy in 2018, digital industry associations like the Information Technology Industry Council (ITI) sounded the alarm. In a joint statement with other tech industry groups, ITI, whose members include Amazon, Google, Meta and Microsoft, among many others, warned that unilateral measures such as the EU's proposed DST would create uncertainty for businesses operating in Europe and threaten to unravel progress in the OECD's tax negotiations (ITI 2018).

Amid the expanding quantity and scope of DSTs, U.S. technology firms increased their lobbying efforts. Firms worried that the French DST, in particular, would prompt a proliferation of similar measures in other jurisdictions. In a letter to the USTR, ITI pointed out that 'many of the DSTs [proposed by other countries] are structured similarly to the French DST' and that

'the EU established the template for each of these measures' (Rizzo 2020). Similarly, during a USTR hearing on the French DST, a representative of Amazon warned that 'the establishment of unilateral digital tax measures encourages other countries to enact similar measures, and will likely create a domino effect' (Hiltz 2019). In the same hearing, an ITI representative called on the U.S. government to push for a multilateral tax agreement at the OECD level and to avoid retaliatory tariffs (Politi 2019).

It was not just the threat of additional future DSTs that mattered but also the accumulation of levies that were already being collected. Although individually, the DSTs collected by each country were modest, taken together they created tangible impacts for U.S. digital firms. And firms worried that, once in place, narrowly targeted DSTs could quickly expand to apply to any transactions that involved digital services. Amid this increase in quantity and applicability of national DSTs, U.S. digital industries had coalesced behind a multilateral solution by early 2020 and subsequently pushed the U.S. government to advance the OECD IF talks. In a public comment to the OECD, the ITI (2020) argued that 'the continued proliferation of unilateral tax measures [...] presents more uncertainty than ever in our international tax system and further necessitates a global solution', and endorsed the OECD as the 'best venue' to reach such a solution.[4]

Despite mounting pressures after the French DST had gone into effect, the United States initially continued to block progress in the OECD talks. In December 2019, then-U.S. Treasury Secretary Mnuchin insisted in a letter to the OECD that an agreement would have to include a 'safe harbor' clause that would exempt digital companies from having to comply with the new tax rules (Mnuchin 2019). This safe harbor clause was a non-starter for all parties to the negotiation, other than the Trump administration.[5] To the EU, the insistence on this clause signaled that the United States was not really willing to engage in a constructive negotiation.[6] The Trump administration subsequently tried to advance an agreement on only Pillar II, but without success.[7] While the German government appeared to be amenable to a deal without Pillar I, the French refused to accept a solution that did not involve Pillar I.[8] Amid this disagreement between the United States and the EU, the OECD negotiations essentially came to a standstill and in June 2020, when Mnuchin announced the United States' withdrawal from the multilateral talks (Rappeport *et al*. 2020).

The Indian Digital Tax

While much of the public focus was on DSTs proposed and implemented by France and other European countries, national digital levies also proliferated in other regions. In 2015, the BEPS project published a report on the taxation of the digital economy in which the OECD/G20 recommended changes to the PE status and the 'collection of VAT/GST on cross-border transactions' (OECD 2015, p. 15). The report also noted that individual countries could implement additional measures, including '(i) a new nexus in the form of a significant economic presence, (ii) a withholding tax on certain types of digital transactions, and (iii) an equalisation levy ... as additional safeguards against BEPS' (OECD 2015, p. 15).

Once the OECD had given a green light to these national measures, the Indian government moved quickly. Following a recommendation by India's Central Board of Direct Taxes, the Indian

government implemented a 6 percent equalisation levy in June 2016 (Ashok *et al*. 2017). This tax was levied on contracts between Indian companies and foreign firms that do not have a PE in India, primarily in the advertising sector. During the first full year in which the tax was in effect, the Indian government collected nearly $75 million (Bunn 2020).

In the 2018–2019 fiscal year, the Indian government also introduced a new test for 'significant economic presence' (SEP) that would make income from digital transactions generated by foreign firms without a PE in India taxable under India's corporate tax if it exceeded a certain threshold (Bunn 2020). The Indian government clarified that both the SEP rule and the equalisation levy were designed to be temporary and would be removed once the OECD reached a deal (Stanley-Smith 2019).

In March 2020, India expanded its equalisation levy, requiring nonresident e-commerce firms to pay a 2 percent tax on revenues. Similar to France, Indian officials justified this tax as a 'sovereign right' to prevent tax evasion by foreign digital firms (The Indian Express 2022). Analysts in the United States called this expanded levy 'essentially a tariff' because it taxes revenue not income (Bunn 2020). Following pushback from industry associations in India, the Indian government subsequently clarified that the 2 percent levy would not apply to goods and services from India (Mishra *et al*. 2021). In the fiscal year 2020-2021, India collected nearly $250 million (Rs 2,057 crore) through its expanded levy (Shukla 2021).

It was not until the equalisation levy was expanded in 2020, that the USTR launched an investigation into what it labeled an Indian DST. In January 2021, the USTR concluded that the expanded levy discriminated against U.S. firms because it excludes Indian firms and does not cover comparable services offered by non-digital companies (USTR 2021a). The USTR recommended action under Section 301 of the U.S. Trade Act of 1974. Commentators in India pointed out that the tax was not designed to be discriminatory but that U.S. companies simply dominated digital markets and therefore would be disproportionately affected (Goel *et al*. 2021). For U.S. firms, the Indian equalisation levy was particularly worrisome because the shift from an initial online advertising levy to a tax on essentially any transaction that occurred online highlighted how quickly national DSTs could expand in scope. Moreover, the very low annual revenue threshold of approximately $250,000 (Rs 2 crore) meant that the levy would apply to almost any business that operated in the Indian market.[9] In response to India's expansion of the levy, the Internet Association (2020), another industry group representing U.S. digital firms, again lobbied the U.S. government to 'keep engaging in the OECD process'.

Shortly after the Indian government unveiled its expanded equalisation levy, Indonesia unveiled its own VAT on digital services provided by foreign firms that have a 'significant economic presence' in the country (ASEAN Briefing 2020). The USTR noted that the Indonesian DST's explicit exclusion of domestic firms mirrored the Indian digital tax and distinguished those levies from the European DSTs, for example (USTR 2021a, footnote 29).

The resolution

The BEPS negotiations gained a new pace in early 2021, when the Biden administration put forward a proposal that would allow governments to tax the largest multinational companies, including many U.S. digital companies, based on their sales in a country (Politi *et al*. 2021). The

U.S. government not only dropped its insistence on a safe harbor clause but actively pushed for a policy that would functionally mirror some of the European DSTs, albeit without an exclusive focus on digital firms. For Biden, the renewed interest in the global tax negotiations was driven in part by his administration's domestic policy agenda: a multilateral agreement on Pillar II offered a path to raise the U.S. corporate tax rate and prevent U.S. firms from shifting their profits to low-tax jurisdictions (Rappeport *et al*. 2021). The Biden administration made reengaging in the multilateral tax talks a priority and hired several tax law specialists to join the U.S. Treasury Department in February 2021 (U.S. Department of the Treasury 2021).

But the rise of DSTs made the multilateral solution even more important as the corporate tax debate had been linked to the debate on digital taxes. 'One way to think about pillar one is [that] it's the price for pillar two [. . .] back then you can't get pillar two without pillar one', acknowledged Itai Grinberg, one of the tax lawyers who joined Biden's Treasury team as Deputy Assistant Secretary for Multilateral Negotiations and led the U.S. negotiations leading up to the Two Pillar solution.[10] In the meantime, the proliferation of national DSTs had created new facts on the ground, as Grinberg noted:

> We walked into an existing fact pattern [. . .] At the point that the Biden-Harris administration takes over, DSTs are a fact in six countries or so. Unless there is an alternative to DSTs, you'll get DSTs [. . .] So, but for the Biden administration's full recommitment to the negotiations, including the Pillar I negotiation, and dropping the safe harbor, by mid 2021 you probably have 40 digital services taxes.

A few months after the United States rejoined the negotiations, in July 2021 more than 130 countries involved in the OECD process agreed to a two-pillar solution that would reallocate the taxing rights for a share of the largest multinational companies' profits to the countries where the companies' users are located and introduce a minimum global corporate tax rate (OECD 2021). Pillar I also included a moratorium on any existing DSTs. The USTR subsequently announced that it had reached an interim agreement with the European countries that had implemented DSTs, thus resolving the transatlantic dispute. Under the compromise reached, the European DSTs could remain in effect until the full implementation of the OECD plan, but European governments would later have to credit any digital taxes paid by firms back to them (USTR 2021b). A month later, the USTR reached a similar agreement with the Indian government (USTR 2021c).

Discussion and conclusion

The recent BEPS initiative was hailed as a historic shift in the global tax regime. For the first time, more than half of the world's countries have agreed on a global minimum corporate tax. Possibly even more momentous, a core norm of the tax regime – permanent establishment – has been challenged so that large multinational companies will allocate profits to market jurisdictions where they conduct their sales, regardless of their physical presence there.

Yet, the U.S. administration's reversal in the BEPS negotiations is puzzling. USTR reports on the various digital taxes proposed and implemented by other governments unanimously labeled these DSTs as discriminatory against U.S. firms and as violating international tax agreements.

And going back to the Obama administration, the United States had opposed changes to the definition of permanent establishment under Pillar I (Hufbauer and Lu 2018, Hakelberg 2020, pp. 121–122). Yet, while Pillar I no longer focuses exclusively on digital firms, it still disproportionately affects U.S. digital companies. This sentiment was echoed by U.S. digital industry representatives, who emphasised that the multilateral agreement replicates many of the (from U.S. companies' view) problematic features of DSTs, although still preferable over a web of national measures.[11]

To make sense of this outcome, we develop an argument emphasizing the way in which the spread of digital value chains can generate unexpected dynamics for international bargaining. Our key insight is to highlight how unilateral regulatory action can generate market uncertainty and thus alter the reversion point that parties face absent an international agreement. We demonstrate that without unilateral action on DSTs, led by key actors such as India and France, it is highly unlikely that the United States would have agreed to overturn the norm of permanent establishment or accept Pillar I. In particular, Grinberg's statement that the United States 'walked into an existing fact pattern', resulting from the widespread adoption of DSTs and the threat of additional proliferation of similar measures underscores how the implementation of DSTs changed the reversion point of the negotiations. Most of the DSTs under investigation by the USTR had already been implemented prior to the U.S. government's reversal in April 2021, when it signaled its willingness to include provisions on the taxation of digital multinationals in a potential OECD agreement.

Each additional DST, implemented not just by France and India but also by important economic actors like Indonesia, Turkey and the United Kingdom,[12] further raised the costs of failing to reach an agreement at the OECD level and also provided templates for other states to adopt similar measures. And, as noted by U.S. business representatives, collectively this web of national DSTs had started to make a tangible financial impact on U.S. firms.[13] Meanwhile, the design of many DSTs to (almost) exclusively targets large U.S.-based digital firms as well as the acknowledgement by EU officials that European DSTs were designed to gain leverage over the United States, demonstrate how states intentionally used the implementation of national DSTs to affect international bargaining. Similarly, the United States recognised the European strategy for what it was: the European DSTs 'made the U.S. talk about [Pillar I] . . . it's just pure coercion.'[14]

By early 2021, the U.S. government only had a few choices left. It could continue to block the process at the OECD level over its objection to taxes aimed at U.S. digital firms and impose retaliatory tariffs on any government that implemented a national DST. This would have been a costly option because U.S. firms would have been taxed across the world on the terms of other governments, and because digital firms' reliance on immobile consumer markets had limited their bargaining power vis-à-vis governments Gelepithis and Hearson (2022). Moreover, while the USTR had recommended Section 301 tariffs, it had not actually implemented them. To regain leverage over countries that had implemented DSTs, the United States would have had to activate the tariffs – a strategy that ran counter to the Biden administration's emphasis on multilateral cooperation.[15] Notably, U.S. digital firms had also urged the Trump administration not to implement such tariffs, out of concern that they would undermine a multilateral agreement

(Politi 2019). The other option, to reengage in the OECD talks and propose a solution to Pillar I on the taxation of large multinationals, while not optimal for the U.S. government and U.S. digital firms, allowed the Biden administration to ensure that the United States would have input into how its digital firms would be taxed abroad and avoided regulatory fragmentation. The evidence provided shows strong support for our argument that the starting point for the Biden administration's negotiation strategy was the 'existing fact pattern' – i.e. a changed reversion point – that had been established by unilateral national DSTs and the threat of further diffusion thereof.

Our argument also differs from those that highlight issue linkage or the change of U.S. administrations as the key drivers of the agreement (Young 2023, Mérand 2024). Clearly, the change in U.S. administrations provided a window of opportunity for the negotiations to resume. The hiring of Grinberg, along with several other international tax law professionals, by the Biden administration signaled a change in U.S. preferences regarding the importance of Pillar II. As EU officials acknowledged, there was little indication that the Trump administration had a serious interest in advancing the OECD IF talks.[16] However, the change in U.S. leadership primarily accounts for the timing, not the content of the agreement.

While our argument sheds considerable light on the negotiation phase of the agreement, additional work will be necessary to understand fully implementation dynamics. By May 2024, 27 countries had implemented Pillar II, including most EU member states, and major economies like Japan and South Korea. An additional 34 countries had published draft laws or announced their plans for implementation of Pillar I (PWC 2024). As such, the 2021 IF agreement has already resulted in shifts to the global tax regime. At the same time, partisan gridlock in the U.S. Senate has bogged down U.S. implementation of Pillar I (Agyemang *et al*. 2024). While this has frustrated many parties to the negotiation, we see many similar dynamics at work during the implementation phase as during the negotiation phase. National DSTs continue to generate latent pressure and uncertainty for U.S. digital firms. While several European states have extended their agreement with the U.S. government to pause the collection of DSTs (USTR 2024), these taxes can be reactivated. An EU official noted that, in the absence of Pillar I reform, the EU is likely to put an EU-wide digital levy back on the table.[17] Similarly, at a December 2023 G20 summit, Le Maire noted 'calls for a digital tax to be extended to a European level as soon as possible' (Horobin 2023). And, since the 2021 agreement, other countries, including Colombia, Denmark, Nepal, Tanzania and Uganda, have introduced new direct digital taxes, raising the pressure to implement the multilateral solution.

Our argument and findings have important broader implications. Empirically, the paper highlights the ways in which digital technologies have transformed global politics. The unique feature of this sector – in which companies can have a global reach with very limited global physical presence, along with the concentration of digital firms in the United States – put the inequalities of existing international tax norms in stark relief. Equally, our evidence documents a yet underrecognised fact pattern – the rise of digital services taxes globally.

Theoretically, we show how digital globalisation not only alters relations between states and firms but also reshuffles bargaining power among states in international negotiations. Research has tended to emphasise the different forms of platform power that digital monopolists enjoy as

they expand globally (Culpepper and Thelen 2020, Srivastava 2023). And there is no doubt that these companies do enjoy immense and distinct political power compared to their multinational forebearers. At the same time, our work underscores the risks these firms face when going abroad in this new digital world. As firms skip across jurisdictions, they can get caught up in national rules. And the implications of such market uncertainty can reverberate into much broader global debates on the future of digital society as has already been the case in areas like data privacy (Farrell and Newman 2019), and now increasingly is being seen in the case of artificial intellegence. Here, our argument highlights the potentially disruptive consequences of national action by non-hegemonic states as well as policy diffusion for international bargaining. In the context of the OECD IF negotiations, the dominance of U.S. firms in the digital economy thus became a vulnerability, rather than a source of strength, for U.S. negotiators.

Notes

1. Since the agreement, the implementation of Pillar I, in particular, has faced roadblocks at the implementation phase. Nonetheless, the October 2021 statement represents an agreement, in principle, that significantly departs from the preexisting tax regime and has already generated a host of national tax reform, including the implementation of Pillar II in nearly 30 countries.
2. Ethics review for the interviews was waived by Georgetown University's Institutional Review Board.
3. Interview with EU Commission official, April 2023.
4. Also, interview with U.S. industry association representative, February 2023.
5. Interview Itai Grinberg, former Deputy Assistant Secretary for Multilateral Negotiations, Office of Tax Policy at U.S. Treasury, January 2023.
6. Interview with EU Commission official.
7. Interview with EU Commission official.
8. Interview with Grinberg.
9. Interview with U.S. industry association representative.
10. Interview with Grinberg.
11. Interview with U.S. industry association representative.
12. See Appendix.
13. Interview with U.S. industry association representative.
14. Interview with Grinberg.
15. Interview with Grinberg.
16. Interview with EU Commission official.
17. Interview with EU Commission official.

Acknowledgements

We thank Vincent Arel-Bundock, Guillaume Beaumier, Andrew Bennett, Niccolò Bonifai, participants at the 2022 Annual Meeting of the American Political Science Association, and our two anonymous reviewers for their comments on previous versions of this paper. Advait Arun provided excellent research assistance on the Indian digital tax.

Disclosure statement

No potential conflict of interest was reported by the author(s).

Funding

Abraham Newman's work on this article was supported by grants from the Open Society Foundation and the William and Flora Hewlett Foundation.

Notes on contributors

Jonas Heering is a PhD Candidate in international relations at the Department of Government at Georgetown University and a pre-doctoral fellow with the Global Political Economy Project at the Mortara Center for International Studies. His research focuses on state-business relations in the digital economy and the (geo-)political power exerted by digital platform companies.

Loriana Crasnic is a policy analyst at the Swiss National Bank. Previously she engaged in research exploring the performance of global economic and financial regimes, transnationalisation of state authority, and the emergence and demise of institutions on the global stage.

Abraham Newman is a professor in the School of Foreign Service and Government Department at Georgetown University. His research focuses on the ways in which economic interdependence and globalisation have transformed international politics. He is the author with Henry Farrell of *Underground Empire: How America Weaponized the World Economy* (Holt 2023) and *Of Privacy and Power: The Transatlantic Struggle over Freedom and Security* (Princeton University Press 2019). His other publications include *Voluntary Disruptions: International Soft Law, Finance, and Power* (Oxford University Press: 2018), *Protectors of Privacy: Regulating Personal Data in the Global Economy* (Cornell University Press: 2008), and *Digital Revolution: National Responses, Market Transitions, and Global Technologies* (Stanford University Press: 2006). His work has appeared in a range of journals including *Comparative Political Studies*, *International Organization*, *International Security*, *Nature*, *Science*, and *World Politics*.

References

Agyemang, Emma and Tamma, Paola, 2024. Global tax deal under threat from US politics and fraying consensus. Financial Times, 28 February 2024. Available from: https://www.ft.com/content/cd88500d-a063-4f15-b6ad-e453a1d8b16d.

Alderman, Liz, 2019. France moves to tax tech giants, stoking fight with white house. *The New York Times*, 11 July. Available from: https://www.nytimes.com/2019/07/11/business/france-digital-tax-tech-giants.html.

ASEAN Briefing, 2020. Indonesia issues regulation on taxing digital services. *ASEAN Business News*. 26 June 26 2020. Available from: https://www.aseanbriefing.com/news/indonesia-issues-regulation-taxing-digital-services/.

Asen, Elke and Bunn, Daniel, 2021. Digital services taxes in Europe. Tax Foundation (blog). 22 November 2021. Available from: https://taxfoundation.org/digital-tax-europe-2020/.

Ashok, K. Lahiri, Ray, Gautam, and Sengupta, D. P., 2017. Equalisation levy. *Brookings*. Available from: https://www.brookings.edu/research/working-paper-equalisation-levy/.

Bryan, Dick, Rafferty, Michael, and Wigan, Duncan, 2017. Capital unchained: finance, intangible assets and the double life of capital in the offshore world. *Review of International Political Economy*, 24 (1), 56–86.

Bunn, Daniel, 2020. India pushes digital taxes in a difficult time. *Tax Foundation* (blog). 26 March 2020. Available from: https://taxfoundation.org/india-digital-tax-in-a-difficult-time/.

Christensen, Rasmus Corlin and Hearson, Martin, 2019. The new politics of global tax governance: taking stock a decade after the financial crisis. *Review of International Political Economy*, 26 (5), 1068–88.

Christensen, Rasmus Corlin and Lips, Wouter, 2021. The politics of taxing the digital economy. *In*: Lukas Hakelberg and Laura Seelkopf, eds. *Handbook on the politics of taxation*. Cheltenham: Edward Elgar Publishing, 338–353.

Crasnic, Loriana, 2022. Resistance in Tax and transparency standards: small states' heterogenous responses to new regulations. *Review of International Political Economy*, 29 (1), 255–80.

Crasnic, Loriana and Hakelberg, Lukas, 2021. Power and resistance in the global fight against tax evasion. *In*: Lukas Hakelberg and Laura Seelkopf, eds. *Handbook on the politics of taxation*. Cheltenham: Edward Elgar Publishing, 293–308.

Crasnic, Loriana, Kalyanpur, Nikhil, and Newman, Abraham, 2017. Networked liabilities: transnational authority in a world of transnational business. *European Journal of International Relations*, 23 (4), 906–29.

Culpepper, Pepper D., 2015. Structural Power and political science in the post-crisis era. *Business and Politics*, 17 (3), 391– 409.

Culpepper, Pepper D. and Thelen, Kathleen, 2020. Are we all amazon primed? Consumers and the politics of platform power. *Comparative Political Studies*, 53 (2), 288–318.

Emmenegger, Patrick, 2017. Swiss banking secrecy and the problem of international cooperation in tax matters: a nut too hard to crack? *Regulation & Governance*, 11 (1), 24–40.

Emmenegger, Patrick and Eggenberger, Katrin, 2018. State sovereignty, economic interdependence and us extraterritoriality: the demise of Swiss banking secrecy and the re-embedding of international finance. *Journal of International Relations and Development*, 21 (3), 798–823.

Euronews, 2019. France unveils plans for its GAFA tax, a new taxation on digital companies. 6 March 2019. Available from: https://www.euronews.com/2019/03/06/france-unveils-plans-for-its-gafa-tax-a-new-taxation-on-digital-companies.

Farrell, Henry and Newman, Abraham, 2016. The new interdependence approach: theoretical development and empirical demonstration. *Review of International Political Economy*, 23 (5), 713–36.

Farrell, Henry and Newman, Abraham L., 2018. Linkage politics and complex governance in transatlantic surveillance. *World Politics*, 70 (4), 515–54.

Farrell, Henry and Newman, Abraham L. 2019. *Of privacy and power: The transatlantic struggle over freedom and security*. Princeton: Princeton University Press.

Frieden, Jeffry and Walter, Stefanie, 2019. Analyzing Inter-state negotiations in the Eurozone crisis and beyond. *European Union Politics*, 20 (1), 134–51.

Gelepithis, Margarita and Hearson, Martin, 2022. The politics of taxing multinational firms in a digital age. *Journal of European Public Policy*, 29 (5), 708–27.

Genschel, Philipp, 1999. Tax competition and the welfare state. Unpublished manuscript. Max Planck Institute for the Study of Societies.

Goel, Shilpa Goel and Goel, Ashish, 2021. Digital services tax: not about India vs US. *The Indian Express*, 25 January 2021. Available from: https://indianexpress.com/article/opinion/digital-services-tax-not-about-india-vs-us-7161267/.

Gregg, Cornelius J., 1947. Double taxation. *Transactions of the Grotius Society*, 33, 77–98.

Grinberg, Itai, 2012. Beyond FATCA: an evolutionary moment for the international tax system. *SSRN Scholarly Paper*. doi:10.2139/ssrn.1996752.

Hakelberg, Lukas, 2016. Coercion in international tax cooperation: identifying the prerequisites for sanction threats by a great power. *Review of International Political Economy*, 23 (3), 511–41.

Hakelberg, Lukas, 2020. *The hypocritical hegemon: how the United States shapes global rules against tax evasion and avoidance*. Cornell Studies in Money. Ithaca: Cornell University Press.

Hakelberg, Lukas and Rixen, Thomas, 2021. Is neoliberalism still spreading? The impact of international cooperation on capital taxation. *Review of International Political Economy*, 28 (5), 1142–68.

Hearson, Martin, 2018. Transnational expertise and the expansion of the international tax regime: imposing 'acceptable' standards. *Review of International Political Economy*, 25 (5), 647–71.

Hearson, Martin, Christensen, Rasmus Corlin, and Randriamanalina, Tovony, 2022. Developing influence: the power of 'the rest' in global tax governance. *Review of International Political Economy*, 30 (3), 841–64.

Hiltz, Peter, 2019. Testimony in response to Office of the U.S. trade representative's initiation of an investigation into France's digital services Tax. 12 August 2019. Available from: https://downloads.regulations.gov/USTR-2019-0009-0014/attachment_1.pdf.

Horobin, William, 2023. France says EU must prepare digital tax as global deal blocked. *Bloomberg*, 20 February 2023. Available from: https://www.bloomberg.com/news/articles/2023-02-20/france-says-eu-must-prepare-digital-tax-as-global-deal-blocked?embedded-checkout=true.

Hufbauer, Gary C. and Lu, Zhiyao (Lucy), 2018. *The European union's proposed digital services tax: A De Facto Tariff*. Peterson Institute for International Economics. Available from: https://www.piie.com/sites/default/files/documents/pb18-15.pdf.

Internet Association, 2020. Multi association India equalization levy Letter. 27 March 2020. Available from: https://web.archive.org/web/20211217105338/https://internetassociation.org/wp-content/uploads/2020/04/IA_India-EL-Multiassociation-Letter-USTR_March-2020_Trade.pdf

ITI, 2018. Business and tech groups raise concerns about EU digital taxation proposal. information technology industry council. 25 June 2018. Available from: https://www.itic.org/news-events/news-releases/business-and-tech-groups-raise-concerns-about-eu-digital-taxation-proposal.

ITI, 2020. Principles for a Solution in the OECD's Project for Addressing the Tax Challenges of the Digitalization of the Economy. Information Technology Industry Council. Available from: https://www.itic.org/dotAsset/7f6ef259-7fbb-416b-bbd4-54010f69e192.pdf.

Jogarajan, Sunita, 2017. The 'great powers' and the development of the 1928 models. *In*: *Double Taxation and the League of Nations*. Cambridge Tax Law Series. Cambridge: Cambridge University Press, 167–181.

Karaboytcheva, Miroslava, 2020. Taxation of the digital economy: latest developments. European parliamentary research service. https://www.europarl.europa.eu/RegData/etudes/ATAG/2020/659414/EPRS_ATA(2020)659414_EN.pdf.

Liu, Lizhi, 2021. The rise of data politics: digital china and the world. *Studies in Comparative International Development*, 56 (1), 45–67.

McNamara, Kathleen R., and Newman, Abraham L., 2020. The big reveal: COVID-19 and globalization's great transformations. *International Organization*, 74 (S1), E59–77.

Mérand, Frédéric, 2024. The Commissioner vs the states: responsiveness and responsibility in European tax governance. *Journal of European Public Policy*, 31 (4), 977–98.

Mishra, Asit Ranjan, and Prasad, Gireesh Chandra, 2021. Lok Sabha Passes Finance Bill, Offers Relief to Foreign e-Tailers. *Mint*. 23 March 2021. Available from: https://www.livemint.com/news/india/lok-sabha-passes-finance-bill-gives-relief-to-foreign-ecommerce-companies-11616510171135.html.

Mnuchin, Steven T., 2019. Letter to the secretary general of the OECD. 3 December 2019. Available from: https://aboutbtax.com/NgX.

Newman, Abraham L., 2010. What you want depends on what you know: firm preferences in an information age. *Comparative Political Studies*, 43 (10), 1286–312.

OECD, 2013. Action Plan on Base Erosion and Profit Shifting. OECD. doi:10.1787/9789264202719-en.

OECD, 2015. Addressing the tax challenges of the digital economy, Action 1 - 2015 Final Report. Paris: Organisation for Economic Co-operation and Development. https://www.oecd-ilibrary.org/taxation/addressing-the-tax-challenges-of-the-digital-economy-action-1-2015-final-report_9789264241046-en;jsessionid=lqCdiJzgtJZYrZhb5WdApVujFq4i5TwfD6FybSZ7.ip-10-240-5-68.

OECD, 2021. Two-pillar solution to address the tax challenges arising from the digitalisation of the economy. Organisation for economic co-operation and development. https://www.oecd.org/tax/beps/brochure-two-pillar-solution-to-address-the-tax-challenges-arising-from-the-digitalisation-of-the-economy-october-2021.pdf.

Palan, Ronen and Wigan, Duncan, 2014. Herding cats and taming tax havens: The US strategy of 'Not In My Backyard.' *Global Policy*, 5 (3), 334–43.

Picciotto, Sol, 1992. *International business taxation: A study in the internationalisation of business regulation*. London: Weidenfield and Nicolson.

Politi, James, 2019. US tech companies call on France to abandon digital tax plans. *Financial Times*, 19 August 2019. Available from: https://www.ft.com/content/33f7cd26-c28d-11e9-a8e9-296ca66511c9

Politi, James, Williams, Aime, and Giles, Chris, 2021. US offers new plan in global corporate tax talks. *Financial Times*, 8 April 2021. Available from: https://www.ft.com/content/847c5f77-f0af-4787-8c8e-070ac6a7c74f.

Putnam, Robert D., 1988. Diplomacy and domestic politics: the logic of two-level games. *International Organization*, 42 (3), 427–60.

PWC. 2024. PwC's pillar two country tracker. Available from: https://www.pwc.com/gx/en/tax/international-tax-planning/pillar-two/pwc-pillar-two-country-tracker-summary-v2.pdf.

Rappeport, Alan, *et al*., 2020. U.S. withdraws from global digital tax talks. *The New York Times*, 17 June 2020. Available from: https://www.nytimes.com/2020/06/17/us/politics/us-digital-tax-talks.html.

Rappeport, Alan and Alderman, Liz, 2021. Global deal to end tax havens moves ahead as nations back 15% Rate." *The New York Times*, 8 October 2021. Available from: https://www.nytimes.com/2021/10/08/business/oecd-global-minimum-tax.html

Richards, John E., 1999. Toward a positive theory of international institutions: regulating international aviation markets. *International Organization*, 53 (1), 1–37.

Rixen, Thomas, 2011. Tax competition and inequality: the case for global tax governance. *Global Governance*, 17 (4), 447–67.

Rizzo, Sam, 2020. Docket No. USTR-2020-0022: initiation of section 301 investigations of digital services taxes. 15 July 2020. Available from: https://www.itic.org/policy/2020.07.15ITIFinalSubmissionDSTInvestigations.pdf.

Scott, Mark and Smith-Meyer, Bjarke, 2021. The fight over digital tax is about everything but the money. *POLITICO*, 27 January 2021. Available from: https://www.politico.eu/article/oecd-digital-tax-france-united-states-silicon-valley-bruno-le-maire-janet-yellen/.

Seabrooke, Leonard, and Wigan, Duncan, 2016. Powering ideas through expertise: professionals in global tax battles. *Journal of European Public Policy*, 23 (3), 357–74.

Sharman, J.C., 2006. Norms, coercion and contracting in the struggle against 'harmful' tax competition. *Australian Journal of International Affairs*, 60 (1), 143–69.

Shukla, Anuradha, 2021. India may have to let go digital tax as it agrees on global taxation rule. *The New Indian Express*, 10 October 2021. Available from: https://www.newindianexpress.com/business/2021/oct/10/india-may-have-to-let-go-digital-tax-as-it-agrees-on-global-taxation-rule-2369803.html.

Srivastava, Swati, 2023. Algorithmic governance and the international politics of big tech. *Perspectives on Politics*, 21 (3), 989–1000.

Stanley-Smith, Joseph, 2019. India plans to drop significant economic presence rule and equalisation levy. *ITR*. 8 February 2019. Available from: https://www.internationaltaxreview.com/article/2a68t9ki93ib31htojoqo/india-plans-to-drop-significant-economic-presence-rule-and-equalisation-levy.

Strange, Susan, 1996. *The retreat of the state: the diffusion of power in the world economy*. Cambridge Studies in International Relations. Cambridge: Cambridge University Press.

Sukardi, Ichwan and Jiaqian, Sophia She, 2020. Taxing the digital economy in Indonesia. *ITR*. 22 September 2020. Available from:

https://www.internationaltaxreview.com/article/2a6a6s9xb79f62ftcu41s/taxing-the-digital-economy-in-indonesia.

Swank, Duane, 2016. Taxing choices: international competition, domestic institutions and the transformation of corporate tax policy. *Journal of European Public Policy*, 23 (4), 571–603.

The Indian Express, 2022. Equalisation levy a 'sovereign right; not a unilateral measure: FM. Available from: https://indianexpress.com/article/business/equalisation-levy-a-sovereign-right-not-a-unilateral-measure-fm-7805680/.

Thomas, Leigh, 2018. EU ministers fail to break digital tax deadlock. *Reuters*, 3 December 2018. Available from: https://www.reuters.com/article/us-eu-tax-digital-idUSKBN1O22MR.

U.S. Department of the Treasury, 2021. Treasury announces appointment of several members of Staff. U.S. Department of the Treasury. 3 February 2021. Available from: https://home.treasury.gov/news/press-releases/jy0020.

USTR, 2019. Report on France's digital services tax. USTR. Available from: https://ustr.gov/sites/default/files/Report_On_France%27s_Digital_Services_Tax.pdf.

USTR, 2021a. Report on India's digital services tax. USTR. Available from: https://ustr.gov/sites/default/files/enforcement/301Investigations/Report%20on%20India%E2%80%99s%20Digital%20Services%20Tax.pdf.

USTR, 2021b. USTR welcomes agreement with Austria, France, Italy, Spain, and the United Kingdom on Digital Services Taxes. United States Trade Representative. 21 October 2021. Available from: http://ustr.gov/about-us/policy-offices/press-office/pressreleases/2021/october/ustr-welcomes-agreement-austria-france-italy-spain-and-united-kingdom-digital-services-taxes.

USTR, 2021c. USTR welcomes agreement with India on Digital Services Taxes. United States Trade Representative. 24 November 2021. Available from: http://ustr.gov/about-us/policy-offices/press-office/press-releases/2021/november/ustr-welcomes-agreement-india-digital-services-taxes.

USTR, 2024. The United States, Austria, France, Italy, Spain, and the United Kingdom Announce Extension of Agreement on the Transition from Existing Digital Services Taxes to New Multilateral Solution Agreed by the G20/OECD Inclusive Framework. United States Trade Representative. 15 February 2024. Available from: https://ustr.gov/about-us/policy-offices/press-office/press-releases/2024/february/united-states-austria-france-italy-spain-and-united-kingdom-announce-extension-agreement-transition.

USTR, n.d. Section 301 – Digital Services Taxes. United States Trade Representative. Available from: http://ustr.gov/issue-areas/enforcement/section-301-investigations/section-301-digital-services-taxes.

Weymouth, Stephen, 2023. *Digital globalization: politics, policy, and a governance paradox*. Cambridge: Cambridge University Press.

Young, Alasdair R., 2023. Triumph in taxing times? Transatlantic reverberation and the taxation of the digital economy. Paper presented at the European Union Studies Association Conference, Pittsburgh, May 3-6 2023.

Appendix: Timeline of the OECD Negotiations and the implementation of DSTs

February 2013
The OECD/G20 BEPS project publishes its first report, *Addressing Base Erosion and Profit Shifting*.

July 2013
The OECD publishes the *Action Plan on Base Erosion and Profit Shifting*.

October 2015
The OECD publishes the report *Addressing the Tax Challenges of the Digital Economy, Action 1 – 2015 Final Report*, in which it recommends changes to the PE status and endorses additional national taxation measures.

January 2016
The OECD establishes the Inclusive Framework on BEPS.

February 2016
The Indian Central Board of Taxes recommends the implementation of an equalisation levy.

June 2016
India's equalisation levy goes into effect.

March 2018
The EU introduces two new proposals for 'Fair Taxation of the Digital Economy,' including an EU-wide DST.[a]

March 2019
France implements its national DST, applied retroactively to January 2019.

July 2019
The USTR initiates an investigation into the French DST.

December 2019
The USTR publishes the findings of its investigation into the French DST, in which it concludes that 'France's DST discriminates against U.S. companies and is inconsistent with prevailing principles of tax policy and unusually burdensome for affected U.S. companies.'[b]

March 2020
India implements its expanded 2% e-commerce levy.

June 2020
The USTR initiates investigations into DSTs proposed and implemented by Austria, Brazil, the Czech Republic, the European Union, India, Indonesia, Italy, Spain, Turkey, and the United Kingdom.

June 2020
The United States announces its temporary withdrawal from the BEPS negotiations.

July 2020
The USTR implements a 25% tariff on certain French imports in response to the French DST. Implementation of the tariff is delayed for 180 days.

January 2021
The USTR suspends the implementation of retaliatory tariffs for the French DST indefinitely.

January 2021
The USTR issues its report on the Indian DST, in which it concludes that 'India's DST is discriminatory, unreasonable, and burdens or restricts U.S. commerce, and thus, is actionable under Section 301.'[c]

April 2021
The U.S. Treasury Department unveils a new proposal that would allow for the taxation of U.S. digital multinationals. As a result, the OECD negotiations are revived.

June 2021
The USTR announces 25% tariffs on certain imports from Austria, India, Italy, Spain, Turkey, and the United Kingdom in response to these countries' implementation of DSTs.

July 2021
136 countries participating in the BEPS framework agree to a two-pillar global tax deal.

October 2021
The USTR announces an agreement with EU governments over DST dispute.

November 2021
The USTR terminates all announced retaliatory tariffs for DSTs.

[a]European Commission, Fair Taxation of the Digital Economy, accessed 20 June 2023, https://ec.europa.eu/taxation_customs/fair-taxation-digital-economy_en.

[b]USTR 2019, Report on France's Digital Services Tax, https://ustr.gov/sites/default/files/Report_On_France%27s_Digital_Services_Tax.pdf.

[c]USTR, 2021, Report on India's Digital Services Tax, https://ustr.gov/sites/default/files/enforcement/301Investigations/Report%20on%20India%E2%80%99s%20Digital%20Services%20Tax.pdf.