



Illusion of redistributive justice

There is more to the proposal for global minimum tax than meets the eye

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THE RECENT G7 meeting saw the finance ministers of the seven nations communicating their commitment to a global minimum tax of at least 15 per cent. This struck a chord with all those who wish that tax havens no longer prey at their tax base with exemptions and zero corporate tax rates. However, there is more to this than meets the eye.

The agreement on the rate is just the beginning of a long road to forgoing a political consensus on how these profits are taxed and, more importantly, where they are taxed. For this, one must turn to the 250-page report of the OECD on the Pillar Two proposal. Glancing through the pages, it is clear that the complex proposal is designed to shore up taxes from low-tax jurisdictions, especially on incomes from intangible assets. It gives the jurisdictions of the ultimate parent entities — of firms with revenue above 750 million euros — the first right to tax the differential between the actual and the effective tax rate. A mirror rule that gives source countries such as India the right to withhold a higher rate on cross-border payments to low-tax jurisdictions is subject to certain thresholds and more so would require bilateral treaty renegotiations unlike

the rules applicable to residence countries. The G-24 earlier had expressed their unhappiness with these thresholds, however they continue in design.

The minimum tax is being hailed as an end to a race to the bottom, essentially implying that even tax incentives that exist in treaty rates or local tax systems may no longer be available. While the jury is out on if tax incentives work in attracting investment, there are small countries that hang by the thread of limited means. Taxation remains the only alternative for them. Even for a country like India, the recent push to bring foreign investors through the international financial services centre is an incentive. It is, therefore, unclear if the curtains are down on such regimes. Exhibiting such apprehensions, British Chancellor of Exchequer, Rishi Sunak, after declaring success, now seeks to carve out London's financial market from the proposal. Therefore, concerns of loss of sovereignty to tax remain.

The Pillar Two proposal was introduced along with Pillar One under the OECD's tax challenges arising out of digitalisation. It is amply clear that Pillar Two has moved beyond digital companies, but there remains an intri-

cate connection between the two. The allocation of profits of big-tech companies still remains to be decided under Pillar One. The allocation of tax made under Pillar One to markets will be added to taxes collected in the calculation of a minimum rate in a country. Any digital services tax such as the equalisation levy will not count as tax paid for the calculation of the minimum rate.

Pillar One was criticised for the complex allocation of profits to market jurisdictions based on the arbitrary allocation between residual and routine profits, and did not sit well with many developing countries. And many of them adopted digital services taxes, triggering USTR investigations in 2020. Failing a consensus, these investigations will result in the application of retaliatory tariffs. To arrive at a consensus, the US suggested a revamp of Pillar One stating that the top 100 companies will be covered — this includes not only tech companies — and the G7 committed that 20 per cent of the profit above 10 per cent will be given to qualifying markets such as India. However, it remains to be seen whether all these changes will result in the desired reallocation of taxing rights to markets.

The deal between the seven countries is being labelled a landmark, but in the absence of 132 other members of the inclusive framework, including India, co-opted on an equal footing by OECD, it is not yet a global deal. History has been in the making for the past seven years since the inception of the Base Erosion and Profit Shifting (BEPS) programme, where countries like India shaped the proposal to give countries their due share.

On the contrary, the G-7 meet evoked a sense of *deja vu* where rules for the world were being decided by select developed countries. The late arrival of the US is not just altruism, but an act of self-preservation. The tax cuts introduced by the US during the past four years are to be reversed and this cannot be done in isolation. All countries must sign up for this proposal to work. If all do not agree to the global minimum tax proposal, it may spark a new sort of competition — corporations will search for countries without the minimum tax rule as their residence. To avoid chaos, countries are being offered the illusion of redistributive justice.

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