# Countries should stand up to President Trump's tax threat and continue working together to deliver a progressive global tax reform

ICRICT
Independent Commission for the Reform of International Corporate Taxation

## President Trump's flawed tax retaliation

President Trump's initial actions in his campaign against the globalized economy involve withdrawing the already precarious United States support for the global agreement reached in 2021, which provided for tax on the profits of multinational enterprises (MNEs). Additionally, he has threatened retaliation against any nation that imposes "extraterritorial" or "discriminatory" taxes on US multinationals.

### Implications for the Global Minimum Tax

While there are various valid reasons for criticizing the 2021 OECD's so-called Two Pillar Solution ( as outlined in our critique here), it did try to establish a minimum effective taxation floor, thereby stopping the race of the bottom in tax competition, by setting a minimum effective taxation of 15%.

The principle behind the global minimum tax is a good one, as a dysfunctional international taxation system has allowed MNEs to avoid paying their fair share of taxation by exploiting low corporate tax rates and various tax incentives provided by countries that compete against each other to attract investment—a contest in which the only real winner are the corporations. The floor reduces incentives for MNEs to shift their profits to low-tax jurisdictions.

While ICRICT believes that the minimum rate should be a higher 25% (the median of corporate tax rates around the world), the idea of setting the floor is still important.

Since 2021, more than 50 countries have implemented or are in the process of implementing a minimum tax rate of 15%.

President Trump has issued a threat to countries that seek to ensure that the offshore profits of U.S. MNEs are subject to a minimum tax rate by imposing an additional tax on corporations that pay a sub-15 percent tax burden in other jurisdictions. This measure is part of the global minimum tax, known as the undertaxed profits rule, and will come into force in 2026, in the case of the United States.

This rule, that should come into effect in 2026, serves as self-enforcing mechanism to get non-cooperative jurisdictions to play ball. If the US doesn't tax the profits that currently benefit from an effective tax rate below <15%, another country will.

President Trump is now threatening countries that undertake this very sensible measure with retribution. This is surprising because President Trump's own 2017 tax reform established the global intangible low-taxed income (GILTI) rules and the base erosion anti-abuse tax (BEAT), effectively a minimum tax rate. Countries implementing the global minimum tax today are simply following what even President Trump thought was a good policy, that of setting a common floor to neutralise and reverse the forces of tax competition, by ensuring that multinationals pay at least a minimum rate in any of the countries in which they operate.

**Implications for digital services taxes**

Even if it is not directly covered by the new order, it is to be expected that President Trump may threaten countries that have or are now considering introducing digital service taxes with retaliation. These taxes have been adopted by several nations -it is worth noting that several of the digital giants have been particularly good at avoiding taxation on a global scale-. While many of the MNEs that have been taxed, such as Amazon, Facebook, and Google, are headquartered in the United States, there is no discrimination: providers of digital services, whether domestic or foreign, whether American, European, or Asian, are subject to the tax. Notably, during his previous administration, Trump threatened to impose trade sanctions on specific products from countries that imposed digital service taxes (e.g., France, Spain).

What President Trump seems to forget is that countries have the right to tax economic activity that transpires within their borders. A sales transaction, whether digital or otherwise, is considered an activity that should be subject to taxation within a country. In the absence of a more comprehensive solution, countries should continue to implement or consider the introduction of digital services taxes or other unilateral measures, such as withholding taxes, to ensure that digital MNEs contribute their fair share of taxes in each of the countries in which they operate.

## What do the Executive Orders mean in practice for countries in the Global South?

President Trump's **Executive Orders** pose a threat to the widespread application of a minimum tax, potentially triggering a resurgence of corporate taxation competition. Notably, most countries in the Global South have yet to enact a minimum domestic tax, but they are contemplating doing so. This is because many of these countries have implemented tax incentives that have become ineffective due to the application of minimum taxes by advanced economies.

Even when the Executive Orders are not specifically directed at them, they will naturally apprehend potential retaliatory measures and encounter significant challenges in persuading their citizens and congress to enact a minimum tax. Similarly, nations contemplating the implementation of a digital service tax may reconsider their decision due to the apprehension of retaliatory actions.

## What way forward? ICRICT's recommendations

In the context of ongoing conflicts, climate-induced mass migrations, and escalating poverty and inequality, nations must employ all available resources to address these formidable challenges. The most effective approach lies in fostering international cooperation, including through the reform of the global taxation system to ensure that MNEs and the affluent contribute their fair share of taxes.

Nations worldwide should not be intimidated by President Trump's threats but rather unite in favor of cooperation and remain resolute in enforcing measures that ensure a minimum effective level of taxation. While the United States has the prerogative to refrain from taxing its own profits, other countries have the right to tax those profits and to safeguard their taxing sovereignty.

Until more comprehensive global solutions are developed to ensure a fair distribution of taxing rights among countries for the taxation of MNEs operating globally, nations are fully entitled to implement unilateral measures to safeguard their tax bases, such as digital services tax. The greater the number of countries adopting such measures, the less the United States' capacity to retaliate.

Finally, as the United States relinquishes its influence over the G20/OECD Inclusive Framework, a forum where it enjoyed disproportionate power to establish regulations, all nations should consider the forthcoming negotiation of a **Framework Convention on International Tax Cooperation at the United Nations**. This convention should provide a comprehensive solution to the taxation of MNEs and very wealthy individuals. The majority of negotiating parties will recognize the necessity for increased taxation and a more equitable distribution of taxing rights among countries, rather than reduced taxation and preferential treatment for tech giants.

The United States does not have the right to obstruct international tax agreements that benefit the global community or hinder countries that genuinely require these resources from accessing them. Indeed, US disengagement from international cooperation represents an opportunity for other countries to find a common ground and unite.

Paradoxical as it may seem, the United States has often refrained from ratifying multilateral agreements, despite being strongly involved in the negotiations, often to water down the ambition of such agreements. Despite this, the global community has substantial success in achieving international agreements on diverse challenges, and this case should be no different.

This unilateral disengagement from the United States is likely to render the United Nations tax convention process even more pertinent. As ICRICT, we will persistently emphasize the urgency of a novel global tax framework and will collaborate constructively in this endeavor.