Chapter 8. Conclusion to the Interim Report on the Tax Challenges Arising from Digitalisation

This chapter describes the areas of further work that have been described in the Interim Report, and how this work will be taken forward by the Inclusive Framework on BEPS. It notes that an update on progress will be provided in 2019, with a final report in 2020.

509. The 2015 BEPS Action 1 Report identified a number of tax challenges relating to digitalisation that go beyond BEPS - namely nexus, data and characterisation - and considered options that could address some of these broader challenges. However, no agreement was reached in 2015 on whether any of these options should be adopted. In the absence of consensus, a number of countries have subsequently begun to explore and implement a range of uncoordinated and unilateral actions (see Chapter 4).

510. Following the delivery of the BEPS package, it was agreed that the Task Force on the Digital Economy would continue its work within the Inclusive Framework delivering an interim report in 2018 and a final report in 2020. Since then, important advances have been made in our understanding of how business models and value creation are being affected by the process of digitalisation. With a focus on highly digitalised business models, Chapter 2 describes new processes of value creation and a number of salient characteristics that are frequently observed in these businesses; namely scale without mass, heavy reliance on intangible assets and the importance of data and user participation. The transformative changes associated with digitalisation are quickly reaching across a growing number of businesses and as the BEPS Action 1 Report concluded, it would be difficult, if not impossible, to ring-fence the digital economy from the rest of the economy.

511. The more than 110 members of the Inclusive Framework, representing a diverse range of economies at varying levels of development, recognise their common interest in maintaining a relevant and coherent set of international tax rules. The proliferation of unilateral approaches is likely to have adverse impacts on investment and growth, and risks increasing double taxation and complexity for taxpayers and tax authorities alike.

512. However, the tax issues raised by digitalisation are technically complex, and this interim report identifies the different views among countries on whether and to what extent the features of highly digitalised business models and digitalisation more generally should result in changes to the international tax rules. Overall, there is support for undertaking a coherent and concurrent review of two key aspects of the existing tax framework, nexus and profit allocation rules that would consider the impacts of digitalisation.

513. The work required to further progress discussions on these complex issues is identified in Chapter 5. In addition to refining the understanding of the value contribution of certain aspects of digitalisation, technical solutions will also be explored to test the feasibility of different options. In addition to ongoing dialogue between Inclusive Framework members, this process will also involve ongoing engagement with different stakeholder groups, including business, civil society and academia. Following an update on progress in 2019, the Inclusive Framework will work towards a consensus-based solution by 2020.

514. There is no consensus on the merits of, or need for, interim measures, and therefore this report does not make a recommendation for their introduction. Chapter 6 recognises that a number of countries do not agree that features such as “scale without mass”, a heavy reliance on intangible assets or “user contribution” provide a basis for imposing an interim measure and consider that an interim measure will give rise to risks and adverse consequences irrespective of any limits on the design of such a measure, including as a result of uncertainty and double taxation. Countries that are in favour of the introduction of interim measures acknowledge that such challenges may arise but consider that at least some of the possible adverse consequences can be mitigated through the design of the measure and that, pending a consensus-based global solution, there is a

strong imperative to act to ensure that the tax paid by certain businesses in their jurisdiction is commensurate with the value that they consider is being generated in their jurisdictions. Where jurisdictions wish to proceed with consideration of interim measures, they have identified a number of considerations that they believe need to be taken into account as guidance to limit the potential for divergence and possible adverse side-effects.

515. Separately from the broader tax challenges, and considering more specifically the BEPS issues that may be exacerbated by digitalisation, there is preliminary evidence already available suggesting that implementation of the OECD/G20 BEPS package is having an impact. Adopted in October 2015, the BEPS package, and in particular, those measures most relevant to digitalisation (Actions 3, 5, 6, 7, and 8-10), has already begun to take effect as described in Chapter 3. The early response of some highly digitalised MNEs also suggests that they have begun making changes to their business structures to improve alignment with their real economic activity. Continuing to monitor the impact of the BEPS package, in particular after the 2017 US tax reform, will be an important part of the work of the TFDE going forward.

516. In addition to its impact on the international tax rules, the digital transformation is also having an important influence on other aspects of the tax system. As described in Chapter 7, these range from the implications of changes to the taxable status of economic actors arising as a result of a shift from standard to non-standard work, to new tools available to tax administrations that deliver improved taxpayer services, more effective data matching, and greater capabilities to detect and investigate tax evasion and fraud.

517. While some work on these topics related to the impact of digitalisation on other aspects of the tax system is already underway, a number of additional areas have been identified in Chapter 7 to ensure that the tax system, from policy through to administration, remains able to respond to and make use of the latest developments in digital technology.

518. Ensuring that our tax systems are ready to meet the changes brought by digitalisation, as well as to leverage from its opportunities and provide protection from its potential risks, is a critical challenge. Political support will be required to undertake the detailed, often complex work, needed to deliver on these objectives, noting that the tax system remains a foundation stone in the relationship between States and their citizens.

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