THE TRANSFORMATION OF INTERNATIONAL TAX REGIME: DIGITAL ECONOMY

ULUSLARARASI VERGİ REJİMİNİN DÖNÜŞÜMÜ: DİJİTAL EKONOMİ

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Abstract

The development of digital economy, which enables companies to avoid tax through aggressive tax planning, is among the main hardships to which the international tax regime currently has to come up with new solutions. Many companies in the digital economy engage in tax base erosion by exploiting the loopholes in international tax laws. Globally, all tax authorities have faced difficult challenges. The growing of the digital economy, increasing world trade, and raising mobility related to finance and resources has challenged domestic and international tax laws.

The Organization for Economic Co-operation and Development (OECD) has focused on issues of Base Erosion and Profit Shifting (BEPS), and also developed BEPS Action Plans to manage the issues of international taxation. The BEPS Action 1 specifically addresses the challenges that arise in the taxation of the digital economy. This paper primarily evaluates the new developments in the taxation of the digital economy, investigates regional and national policies with respect to direct and indirect tax for preventing eroding the tax base, and transformation of international tax law

Keywords: Digital economy, international tax law, BEPS Action Plan 1, taxation

Özet

Uluslararası vergi hukukunun günümüzde karşılaştığı en önemli zorluklardan biri, uluslararası şirketlerin agresif vergi planlamaları vasıtasıyla vergi kaçırmalarını sağlayan dijital ekonomideki gelişmelerdir. Dijital ekonomi içerisinde yer alan çoğu uluslararası şirketler, uluslararası vergi rejimindeki bir çok boşluktan yararlanmak suretiyle vergi matrahlarını aşındırmaktadırlar. Genel olarak tüm vergi otoriteleri uluslararası işletmeleri vergilendirme konusunda zorluklarla karşı karşıya kalmaktadırlar. Dijital ekonominin büyümesi, dünya ticaretinin artması ve finans ve kaynaklarla ilgili hareketlilik, ulusal ve uluslararası vergi mevzuatını zor duruma düşürmektedir.

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Ekonomik İşbirliği ve Kalkınma Örgütü (OECD), Matrah Aşındırma ve Kar Aktarımı (BEPS) konularına odaklanmış ve uluslararası vergilendirme konularında ortaya çıkan güçlükleri yönetmek için bir çok BEPS Eylem Planı geliştirmiştir. Bu kapsamda BEPS Eylem 1, özellikle dijital ekonominin ortaya çıkardığı vergi zorluklarını hedef almaktadır. Bu çalışmada, ağırlıklı olarak dijital ekonominin vergilendirilmesinde ortaya çıkan yeni gelişmeler ele alınmakta, doğrudan ve dolaylı vergilerle ilişkili olarak vergi matrahının azaltılmasını önlemeye yönelik bölgesel ve ülke politikaları ile uluslararası vergi hukukundaki dönüşüm incelenmektedir.

Anahtar kelimeler: Dijital ekonomi, uluslararası vergi hukuku, BEPS Eylem Planı 1, vergileme

Introduction

Rapid developments in information and communication technologies brought about the emergence of a new economy, namely; the digital economy. The digital economy is not limited to traditional business model. Especially after the 1990s, new advances in technology have also led small businesses to enter the global market faster and at much lesser cost. While digital economy offers many advantages to businesses, it also brings significant problems especially in the field of taxation. Indeed, the digital economy has a structure that is recognized as borderless trade. As a matter of fact, the existing international tax regime requires a permanent resident for direct taxes, but digital enterprises sell goods or services to a large number of people without any physical presence. These enterprises make concerted efforts to minimize their tax liabilities, by establishing their legal or business centers where the tax rates are the lowest or where there is zero tax rate or no tax rate. The result of this situation is known as Base Erosion and Profit Shifting.

Due to digital transactions that take place in the digital economy, it is difficult to determine the true identity of taxpayers and the tax status of transactions by national tax authorities since digital processes have confidentiality and virtualization features. The tax laws of various countries and the international tax regime have not yet been synchronized with the digital economy; therefore, the tax losses are substantial. The process of dealing with the digital economy, establishing new regimes and policy can be accomplished with a combined policies and practices being considered in a zealous manner. In this context, the international organizations and the national tax authorities have been working together to find the problems and solutions for taxation of the digital economy.

In this regard, starting from June 2012, the OECD has worked together with governments and international organizations to figure out what drives economic, social and environmental change in international trade. In October 2015, OECD released 15 specified recommendations for action. The Action 1 is only related to tax challenges of the digital economy. It has been introduced the digital economy that is integrated with all aspects of the economy by the OECD. Instead of proposing specific measures, the organization encourages extensive efforts and monitors to respond to specific tax challenges. The OECD`s plan will continue up to 2020. As a result, many countries have initiated their implementations in terms of the OECD's recommendations.

1. MAIN FEATURES OF DIGITAL ECONOMY AND OECD

The development of Information and Communication Technology (ICT) has led prices of ICT products and services down[1]. The drop in prices caused by advances in technology and innovation has allowed the growth of the digital economy[2]. As products easily reach a global market, it is not possible for traditional sellers to compete with ITC seller[3].

All sectors have rapidly adopted ICT to decrease operational costs,-decline in price[4], increase productivity, and reach broaden themarket.[5] ITC has also modified the ways in which businesses models can do

[1] BRYNJOLFSSON, Erik / KAHIN, Brian: "Intoduction", in Brynjolfsson, Erik / Kahin, Brian, (ed.), Understanding the Digital Economy – Data, Tools, and Research, MIT Press¸ London, 2000, p.1.

[2] OECD: "Public Discussion Draft BEPS Action 1: Address the Tax Challenges of the Digital Economy, 24 March 2014 – 14 April 2014", https://www.oecd.org/ctp/tax-challenges-digital-economy-discussion-draft-march-2014.pdf (Accessed: 10.06.2017), p.8. (OECD, 2014)

[3] Significant changes in the provision of ICT services have been taking place in recent years. India has become the leading exporter of ICT services, followed by Ireland, the United States, Germany, and the UK. China has also become one of the major exporters. Together these six countries represent approximately 60% of total ICT services exports. OECD: "OECD Science, Technology and Industry Scoreboard 2013: Innovation for Growth", OECD Publishing, www.oecd.org/sti/scoreboard.htm , UNCTAD, June 2013. (Accessed: 10.06.2017). p.12. (OECD 2013a)

[4] SCHMIDT, Peter Koerver: "The Digital Economy and International Tax Law: Main Challenges and Possible Solutions", Copenhagen, 1st December 2016, http://www.cbs.dk/files/cbs.dk/final_-_clean_version_-_the_digital_economy_and_international_tax_law_-_pks_0.pdf (Accessed: 14.07.2017)

[5] OECD, 2014, p.22.

business globally much easier[6]. The ICT contribute to businesses in many ways. First, the rapid advances in the technology largely reduced the prices of computing hardware. Second, the hardware market had to reduce the profit margins for traditional manufacturers, which allowed a breakthrough for low-cost, low-margin producers and the growing competition in the software market has compelled software companies to be more innovative and better acknowledge the needs of the consumers[7]. Third, primarily developed to enable the purchase of real goods and services, "virtual currencies"[8] granted a new payment instrument to the digital market[9]. Fourth, the improvements in the robotics technology has led to reduced product costs[10]. Fifth, the developments in the 3D printing technologies are promising in producing goods while directly interacting with the consumers who thereby can influence the features of the products and thus, producing goods that satisfies the expectations of the consumers. Sixth, another prominent trend in the digital economy is the sharing economy, which refers to collaborative consumption that involves the peer-to-peer sharing of goods and services[11]. The rapid advances in the

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[6] AULT, Hugh J. / J. ARNOLD, Briand: "Protecting the Tax Base of Developing Countries: An Overview", in Trepelkov, Alexander / Tonino, Harry / Halka, Dominika (ed.), United Nations Handbook on Selected Issues in Protecting the Tax Base of Developing Countries, New York, 2015, p.425.

[7] PENG, Wei: "Multinational Tax Base Erosion Problem of the Digital Economy", Modern Economy, 7(3), 2016, p.345, http://dx.doi.org/10.4236/me.2016.73038 (Accessed: 11.07.2017).

[8] NELLEN, Annette: "Taxation and Today's Digital Economy", Journal of Tax Practice & Procedure, April–May 2015, p.31. http://www.sjsu.edu/people/annette.nellen/JTPP_CCH_June2015_Nellen_DigitalEconomy.pdf (Accessed: (10.07.2017).

[9] BAL, Aleksandra: "Bitcoin Transactions: Recent Tax Developments and Regulatory Responses", Derivatives & Financial Instruments, 17(5), 2015, https://online.ibfd.org/document/dfi_2015_05_int_2 (Accessed: 13.06.2017).

[10] OECD, 2014, p.16, 17. (BAL 2015)

[11] HADZHIEVA, Eli: "Tax Challenges in the Digital Economy", European Parliament, IP/A/TAXE2/2016-04, 2016, p.37. http://www.europarl.europa.eu/RegData/etudes/STUD/2016/579002/IPOL_STU(2016)579002_EN.pdf (Accessed: 13.06.2017).

ITC[12] remodel traditional business and generate challenges in the implementation of the existing rules[13].

The digital economy has also created several new innovative business models, which include: 1) e-commerce: selling goods or services on the Internet from business to business (B2B), business to customer (B2C), and customer to customer (C2C); 2) new payment services: intermediary services, real-time bank transfer services, and virtual currencies are provided by the buyers and sellers; 3) online advertising: the Internet is used as a medium to communicate marketing information to customers; 4) cloud computing: services such as storage, computing, and digital management are offered by utilizing shared and virtual resources[14]. The types of business include several varieties of e-commerce[15], app stores, online advertising, cloud computing[16], participative networked platforms, high-speed trading, and online payment services[17].

The OECD takes on the mission of encouraging actions that contribute to the economic and social prosperity of people worldwide. The collaborations between the OECD and governments are efforts to uncover the driving forces behind the changes in economy, society, and environment[18]. The growing internationalization of world trade, the enlargement of the digital economy, and the raised mobility related to

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[12] PwC: "Sharing Economy", 2015, http://www.pwc.com/us/en/industry/entertainment-media/publications/consumer-intelligence-series/assets/pwc-cis-sharing-economy.pdf (Accessed: 20.06.2017).

[13] GRLICA, Iyo: "How the Sharing Economy is challenging the EU VAT System", International VAT Monitor, 28(2), 2017, p.130, https://online.ibfd.org/document/ivm_2017_02_e2_3 (Accessed: 26.07.2017).

[14] PENG, p.346.

[15] CISCO: "Cisco Visual Networking Index: Forecast and Methodology2016–2021", 2017. http://www.cisco.com/c/en/us/solutions/collateral/service-provider/visual-networking-index-vni/complete-white-paper-c11-481360.pdf (Accessed: 08.06.2017).

[16] BAL, Aleksandra / PUENTE, Gutiérrez Carlos: "Taxation of the Digital Economy", in Cotrut, Madalina / Bal, Aleksandra / Betten, Rijkele / Hamzaoui, Ridha / Obuoforibo, Belema / Ostaszewska, Ola, (ed.), International Tax Structures in the BEPS Era: An Analysis of Anti-Abuse Measures, IBFD Publication, 2015, Online Book, https://online.ibfd.org/document/tps_head (Accessed: 09.06.2017).

[17] LI, Jinyan: "Protecting the Tax Base in The Digital Economy", in Trepelkov, Alexander / Tonino, Harry / Halka, Dominika, (ed.), United Nations Handbook on Selected Issues in Protecting the Tax Base of Developing Countries, New York, 2015, p.425.

[18] OECD: "About the OECD", http://www.oecd.org/about/ (Accessed: 14.06.2017).

finance and resources has challenged domestic and international tax laws[19]. The OECD announced its fifteen final specific recommendations for action in October 2015. Many countries have already started their implementations in terms of the OECD's recommendations. Businesses have noticed that the OECD recommendations will affect both readjust long-standing tax practices and comprehensive effects across all business functions, which include finance, human resources, information technology, legal function, etc.[20]

2. THE MAIN ISSUES OF TAXATION OF DIGITAL ECONOMIES

The digital economy lets the door open for companies to operate easily on a global scale. Created new business methods and delivery ways emerge and the traditional description of direct or indirect taxes does not apply in the majority of cases, as it is not easy to detect which is the competent authority to comply with tax rules. These important gaps in international rules decrease tax revenues and permit translocating the profits to low-tax locations without or with little need for the physical presence of the company[21]. The leading actors of the digital economy who are beyond the bound of the jurisdiction of national tax authorities avail themselves of transfer prices to decrease the tax bills and thereby generate a net loss in tax revenues from taxation[22]. The ICT adds to the problems that stem from Base Erosion and Profit Shifting (BEPS): The technological improvements have paved the way for businesses to penetrate the market of a country while unburdening themselves of

[19] ARORA, Harsh: "An Evaluation of the Measures in Action 14 of the Action Plan of the OECD/G20 BEPS Initiative Intended to Make Dispute Resolution More Effective",Bulletin for International Taxation, 71(5), 2017. https://online.ibfd.org/collections/bit/html/bit_2017_05_int_3.html?WT.z_nav=crosslinks#bit_2017_05_int_3 (Accessed: 18.06.2017).

[20] KIELSTRA, Paul: "Transcending Tax: How BEPS will Affect the Whole Enterprise", EY – Tax Insights for Business Leaders, No: 16, 2016, p.12. http://www.ey.com/Publication/vwLUAssets/EY-transcending-tax-how-beps-will-affect-the-whole-enterprise-2016/$FILE/EY-transcending-tax-how-beps-will-affect-the-whole-enterprise-2016.pdf(Accessed: 14.06.2017).

[21] BBVA: "Digital Economy Outlook", 2016, https://www.bbvaresearch.com/wp-content/uploads/2016/05/DEO_May16.pdf (Accessed: 17.06.2017).

[22] France Stratégie: "Taxation and the Digital Economy: A Survey of Theoretical Models", http://www.strategie.gouv.fr/sites/strategie.gouv.fr/files/atoms/files/ficalite_du_numerique_10_mars_corrige_final.pdf (Accessed: 15.06.2017).

building a taxable presence in the form of a permanent establishment. Moreover, new income forms have emerged from the new business models by employing ICT[23]. Finally, the flexibility provided by ICT let multinational companies centralize their functions in specific jurisdictions, generally, tax havens, which then provide an instrument for base-eroding payments from the market jurisdiction[24].

The OECD has concentrated on issues regarding BEPS and has developed BEPS Action Plans to manage the issues of international taxation. The BEPS packages laid out a broad array of measures, which include new minimum standards, the revision of existing standards, as well as general approaches[25]. The Action Plan of BEPS reiterated that the problems of taxation of the digital economies emerge due to the artifical separation of the taxable income from the activities by which it was generated, while value-added tax (VAT) can be collected on remote digital supplies to immunize businesses or multi-location enterprises (MLEs) that engage in exempt activities[26]. This status disrupts the unity of the tax system and also potentially aggravates the difficulties in achieving the tax revenue goals for tax authorities. On the other hand, while some taxpayers shift taxable income away from the jurisdiction within the bounds of which income-producing activities are carried out, some taxpayers may pay additional tax[27].

2.1. Direct Taxation: Corporate Income Tax

The net profit of corporations earned from various business activities is the tax base of the corporate income tax (CIT). Companies are under the obligation to file tax returns and assess their own taxes. Non-resident companies are mostly taxable only on the income derived from domestic sources. Different jurisdictional nexus (or sourcing) regulations

[23] NELLEN, p.36.
[24] AULT / ARNOLD, p.20.
[25] OECD: "Background Brief – Inclusive Framework on BEPS", 2017, p.9. http://www.oecd.org/tax/beps/background-brief-inclusive-framework-for-beps-implementation.pdf (Accessed: 17.06.2017). (OECD 2017a)
[26] OECD: "Action Plan on Base Erosion and Profit Shifting", 2013, p.9, 10. http://dx.doi.org/10.1787/9789264202719-en(Accessed: 17.06.2017). (OECD 2013b)
[27] OECD: "Addressing the Tax Challenges of the Digital Economy, Action 1 - 2015 Final Report", OECD/G20
Base Erosion and Profit Shifting Project, OECD Publishing, Paris, 2015, p.78. http://dx.doi.org/10.1787/9789264241046-en (Accessed: 19.06.2017). (OECD 2015a),

are of concern to business profits and investment income (as well as capital gains)[28]. In February 2013, the report that addresses BEPS introduced several strategies that links BEPS to direct taxation, which can be divided into four elements: "*1) Minimisation of taxation in the market country by avoiding a taxable presence, or in the case of a taxable presence, either by shifting gross profits via trading structures or by reducing net profit by maximising deductions at the level of the payer; 2) Low or no withholding tax at source; 3) Low or no taxation at the level of the recipient with entitlement to substantial nonroutine profits often built-up via intra-group arrangements; and 4) No current taxation of the low-tax profits at the level of the ultimate parent*"[29]. Indeed, ICT can enable evading the responsibility to create a traditional taxable presence in the tax jurisdiction[30]. A non-resident company can be requested to pay taxes in a country, where it generates revenue via payments of interest, royalties, and etc[31]. According to the most countries` domestic tax laws, companies have to have a physical presence before business profits are subject to taxation. However, according to the OECD Model Tax Convention, a company is only subject to tax on its profits if it has a permanent establishment (PE) in the country in which it is a non-resident. Many non-resident companies interact with customers in another country to sell/rent or buy goods and services remotely via digital instruments without establishing a physical presence in the country[32].

Nontaxation in a market country coupled with tax policies that abolish taxation in the country of residence leads to the nontaxation of such revenue in everywhere. Tax treaties that are signed between countries, the payer and recipient may misuse the privilege in order to set up shell companies in low tax jurisdictions by means of treaty shopping to evade the payment of withholding taxes in the high-tax jurisdiction. MNEs usually try to use o tax havens or special tax regulations for avoiding withholding taxes[33].In the case of establishing a taxable

[28] LI, p.412, 413.
[29] OECD: "BEPS Action 1: Address the Tax Challenges of the Digital Economy", https://www.oecd.org/ctp/tax-challenges-digital-economy-discussion-draft-march-2014.pdf (Accessed: 18.06.2017). (OECD 2014a)
[30] AULT / ARNOLD, p.20.
[31] HADZHIEVA, p.24.
[32] OECD 2015a, p.79.
[33] HADZHIEVA, p.24.

existence in a market country, maximization of the number of deductions for payments such as interest, royalties, and service fees, made to other group companies is among the prevalent methods employed in the minimization of taxable incomes. To maximize the deductions in the market country, in most cases, MNEs try to decrease taxable income in a source country through increasing the number of deductible payments made to the affiliated company in another country[34].

Companies are also trying to avoid the withholding tax. If a non-resident company receives some payments, such as interest or royalties, from payers in the said country, there might be subject to withholding tax. However, under the sanction of a treaty between the jurisdictions of the payer and recipient, a company in the digital economy may be allowed lowered withholding or exemption from withholding on payments of profits to a lower-tax country by way of royalties or interest[35]. If the countries in question have a tax treaty, the digital companies may get preferential rates or zero rates of withholding tax paid to the source country. To achieve the goal of tax avoidance, companies need to establish a shell company in a third country, the third state-owned which has a wider preferential tax treaty network does not have enough provisions to prevent the abuse of tax concessions[36].

At the same time, companies may eliminate or reduce tax in an intermediate country may via the use of hybrid mismatch regulations, the preferential domestic tax regimes, or via many deductible payments made to related entities in low or no-tax countries[37].There are also some techniques that are mostly used to reduce taxation in the market country and in the country of the ultimate parent company. In the case of lower payments are made to group members in the country where the head-quarter is located for the important functions associated with the risks and intangibles that are carried out in the country, contractually allocating risk and legal ownership of mobile assets such as intangibles to group holdings in low-tax jurisdictions[38] is among these techniques[39].

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[34] OECD 2015a, p.81.

[35] OECD 2014a, p.44.

[36] PENG, p.346.

[37] OECD: "Addressing the Tax Challenges of the Digital Economy", 2014, p.104-105. http://dx.doi.org/10.1787/9789264218789-en (Accessed: 19.06.2017). (OECD 2014b)

[38] WETTERSTEN, Maria: "How Can the Proposed Changes to the OECD Tax Model Convention in Action 1 and Action 7 Counter the Issue of an Artificial Avoidance of a

2.2. Indirect Taxation: VAT/GST Tax

VAT/GST (Goods and Services Tax) applies specifically in the country of consumption. This is the main principle for taxation for cross-border supplies of goods. Nonetheless, a lack of clarity and agreement between countries regarding how VAT/GST should apply to digital economies sales and who is responsible for charging and remitting it may lead to double taxation or no taxation[40]. In principle, only private individuals, different from businesses, engage in the final consumption at which a VAT is targeted. However, a good number of countries oblige both private individuals and various entities to carry the burden of VAT[41].

The central issue encountered in the international implementation of the VAT concerns the uncertainty in the country by which the levy is imposed, i.e. whether the levy should be imposed by the country of origin or destination[42]. The destination principle argues that an indirect tax such as VAT is eventually levied only on the final consumption occurring within the bounds of the taxing jurisdiction, as opposed to the argument offered by the origin principle, which advocates that an indirect tax such as VAT is levied in the various jurisdictions in which the value was added[43]. According to the origin principle, exports are not subject to VAT and imports are taxed based upon the same ground as domestic supplies. In the case of imported tangible goods, VAT is usually collected from the importer simultaneously with customs duties[44].

PE Status?", HARN60 Master Thesis, Lund University, Sweden, 2016, p.14, http://lup.lub.lu.se/luur/download?func=downloadFile&recordOId=8880066&fileOId=8882729 (Accessed: 21.06.2017).

[39] OECD 2014b, p.105.

[40] EY: "Managing Indirect Taxes in The Digital Age", http://www.ey.com/gl/en/services/tax/vat--gst-and-other-sales-taxes/ey-managing-indirect-taxes-in-the-digital-age-ch2a-internet-sales-of-goods-effects-on-indirect-taxes (Accessed: 21.07.2017).

[41] OECD: "International VAT/GST Guidelines", OECD Publishing, Paris, 2017, p.14. http://dx.doi.org/10.1787/9789264271401-en (Accessed: 21.06.2017). (OECD 2017b)

[42] OECD 2017b, p.15.

[43] BAL / GUTIÉRREZ, p.1.

[44] LI, p.415.

The basic issue in the VAT for supplies of services and intangibles is determining the place of consumption for B2C supplies[45]. For the supply of services and intangibles, the place of physical performance mostly does not firmly specify a place of consumption[46]. These supplies are not consumed at the place[47] in which they are physically performed while the person performing the supply and the person consuming the supply are present[48].

3. OECD BEPS ACTIONS AND BEPS ACTION 1

The BEPS plan includes five main categories[49] and fifteen action items. The general categories can be divided into 1) define the tax challenges of the digital economy; 2) creating international coherence of taxation, 3) reinstate the effects and advantages of international standards, 4) improving transparency, and 5) implementing the actions in a timely manner[50]. Because of the changing of the international tax landscape so dramatically in recent years, with political support of G20 Leaders, the

[45] VATGLOBAL: "The Reverse Charge Mechanism", http://www.vatglobal.com/reporting-obligations-vat-guides/the-reverse-charge-mechanism (Accessed: 05.07.2017).

[46] OECD 2017b, p.69.

[47] Tax Consultants International B.V: "The Reverse Charge Rule, 04-10-2013", 2013. https://www.tax-consultants-international.com/read/the-reverse-charge-rule?submenu=14497&sublist=3274&subsublist=3300 (Accessed: 22.06.2017).

[48] HADZHIEVA, p.31.

[49] The first category deals with only the first action item, Action 1, which includes a task force to identify options relating to tax concerns associated with e-commerce and the digital economy. The second category covers Actions 2-5, relating to neutralizing the effects of hybrid mismatch, strengthening controlled foreign corporation (CFC) rules, limiting base erosion via interest deductions and other financial payments, and countering harmful tax practices more effectively, taking into account transparency and substance. The third category related to Actions 6-10, setting international standards for tax systems through updates in defining PE status and making sure that transfer-pricing outcomes are consistent with value creation, especially relating to intangibles. The fourth category regards with transparency in Actions 11-14, with the collection and analysis of data, requirement to disclose aggressive tax planning arrangements, documentation of transfer pricing, and improvement in dispute resolution. The fifth category includes Action 15, which suggests forming a multilateral instrument to facilitate these changes because the OECD has no legal standing to enforce its recommendations, and any adopted changes must be enacted by all involved parties. GREENBERG, Rachel J: "Taking a Byte out of International Tax Evasion: Combating Base Erosion and Profit Shifting", Chapman Law Review, 19(1), 2016, p.315-316.

[50] GREENBERG, p.314.

international community has taken joint action to improve transparency and exchange of information in tax issues, and to address weaknesses of the international tax system[51]. Initially, the G20 required the OECD to prepare a report setting forth a "diagnosis" of the size and reasons of profit shifting and the accompanying base erosion[52]. The OECD launched a study titled "Addressing Base Erosion and Profit Shifting[53]" in a press release on 12 February 2013. The works and data on the existence and size of BEPS were presented in the study, which also overviews the global improvements that affect taxation. The study also offered definitions for the key elements upon which especially the taxation of cross-border activities as well as the BEPS opportunities created by these principles are founded[54]. The contents of the framework are nearly completed; the project is now in its implementation phase, and more than 100 countries are involved. Many meetings related to BEPS have taken place in the regularly defined timeline[55]. The OECD has launched a big project to fight international tax avoidance and regulate international tax system in a short time[56].

Digital economy´s tax base is jeopardized by the fact that the MNEs are progressively supplying goods and services in countries without a physical or legal presence [57]; bypassing of withholding tax via transfer pricing applications such converting royalties into services; by situations where customers pay for specific digital services by supplying costumers individual data free of charge, so creating more visibility and to get more

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51 OECD 2017a, p.9.

52 THORNTON, Grant: "Tax and the Digital Economy", 2016, http://www.grantthornton.co.uk/insights/tax-and-the-digital- economy/ (Accessed: 12.07.2017).

53 OECD 2013c, p.14.

54 IBFD: "The Action Plan on BEPS", in Sim, Sam / Soo, Mei-June, (ed.), Asian Voices: BEPS and Beyond, (Online Book Last Reviewed: 1 July 2016), IBFD Publication, 2017, https://online.ibfd.org/document/av_head (Accessed: 11.07.2017). (IBFD 2017a)

55 SANGER, Christopher: "BEPS: What Lies Ahead?", Tax Inside India, October 2015, 2015, p.12. http://www.ey.com/Publication/vwLUAssets/ey-india-tax-insights-sixth-edition/$FILE/ey-india-tax-insights-sixth-edition.pdf (Accessed: 18.07.2017).

56 OECD: "OECD/G20 Base Erosion and Profit Shifting Project Executive Summaries 2015 Final Reports", OECD Publishing, http://www.oecd.org/ctp/beps-reports-2015-executive-summaries.pdf (OECD 2015b),

57 HADZHIEVA, p.36.

customers in the market country; and by artificial agreements created for profits. Accordingly, the OECD describes broader tax challenges that can be categorized as follows:

> "*Nexus: The possibility to conduct business without physical presence thanks to technological advancements. Data: The difficulty to attribute value to data generated by using personal information of end-users. Characterization: The creation of new products and new methods of delivery, which make the characterization of payments unclear in new digital business models, such as cloud computing.*[58]"

The new phenomenon challenges present international tax law in particular with regard to the concept of PEs[59]. Traditionally, companies have a physical presence or a nexus[60] in a given country, where they are mandatory to pay their taxes. Digital economy eliminates the need for a physical presence or nexus of a company[61] in order to have access to its customers there[62]. OECD indicates the relationship between the characterization of payments and the nexus, as both concepts together determine how particular digital transactions are taxed[63]. In terms of BEPS Action 1, the digital economy is the whole economy and to use ring fenced solutions are not appropriate[64]. OECD/G20 BEPS actions mostly address risks caused by the digital economy[65].

To artificially minimize taxable income or shift profits to low-tax jurisdictions, tax planning by MNEs creates loopholes in the interaction of

58 OECD 2015a, p.99.
59 OLBERT / SPENGEL, p.1
60 HONGLER, Peter / PISTONE, Pasquale: "Blueprints for a New PE Nexus to Tax Business Income in the Era of the Digital Economy", IBFD Working Paper, 2015, p.38. https://www.ibfd.org/sites/ibfd.org/files/content/pdf/Redefining_the_PE_concept-whitepaper.pdf (Accessed: 20.08.2017).
61 HUWS, Ursula: "Labor in the Global Digital Economy: The Cybertariat Comes of Age", Monthly Review Press, New York, 2014, p.159.
62 IBFD 2017a, p.1.
63 BASU, Subhajit: Global Perspective on E-Commerce Taxation Law, Routledge, UK, 2016, p.131.
64 ZETTER, Martin / GREENBANK, Ashley: "Analysis: Addressing the Tax Challenges of The Digital Economy", 2014, p.15, http://www.macfarlanes.com/media/1485/analysis-addressing-the-tax-challenges-of-the-digital-economy.pdf (Accessed: 25.07.2017).
65 HADZHIEVA, p.65.

different tax systems[66]. The outcomes of the digital economy[67], the extensive tax challenges it creates, and further steps[68] are included in the Final Report on Action 1 published in 2015. The report declares the unique process produced by ICT as the root of the digital economy and argues that, as the digital economy progressively comes to be the economy itself, ring-fencing the digital economy from the rest of the economy for tax purposes will be more challenging, if not impossible [69].

The BEPS Action 1 Report made mention of several specific options, which entail a new tax nexus of “significant economic presence”, the use of a withholding tax on certain types of digital transactions, and a “digital equalization levy”. These options were not recommended in view of the need for further adjustments to the options and the projected impact of the new measures developed in the BEPS Project on the BEPS issues faced in the digital economy[70]. Moreover, by attending the details of the options, countries can propose any of the options in their domestic laws, as long as they adhere to the current treaty obligations or new bilateral tax treaties[71].

4. EUROPEAN APPROACHES FOR TAXATION OF DIGITAL ECONOMY

In the Europe, the former VAT regulations imposed a levy on imported goods from non-EU countries to be collected at the customs but each Member States have thresholds. The VAT was imposed at each stage of production of goods that originated within the EU. But this created certain obstacles and EU companies were disadvantaged[72]. The current VAT system applied to cross-border e-commerce is an intricate and high-cost system for the Member States and other similar businesses. Driven by

[66] AULT / ARNOLD, p.2.

[67] OLBERT, Marcel / SPENGEL, Christoph: “International Taxation in the Digital Economy: Challenge Accepted?”, World Tax Journal, 9(1), 2017, p.6. https://online.ibfd.org/document/wtj_2017_01_int_4 (Accessed: 21.07.2017).

[68] OECD: “Model Convention with Respect to Taxes on Income and on Capital”, https://www.oecd.org/ctp/treaties/2014-model-tax-convention-articles.pdf (Accessed: 24.07.2017). (OECD 2014c),

[69] IBFD 2017a, p.4.

[70] OLBERT / SPENGEL, p.1.

[71] OECD: “Inclusive Framework on BEPS Progress Report July 2016-June 2017”, p.25. http://www.oecd.org/tax/beps/inclusive-framework-on-BEPS-progress-report-july-2016-june-2017.pdf (Accessed: 18.07.2017). (OECD 2017c)

[72] HADZHIEVA, p.69.

their Digital Single Market strategy, the Commission issued a legislative proposal on 1 December 2016 to modernize[73] and disentangle VAT for cross-border e-commerce[74]. The "Action Plan on VAT" proposal published by the European Commission has shown that a move towards a more 'destination-based' VAT accounting creates a fair playground for whole suppliers in the same national market[75]. The proposals are to provide convenience for consumers and companies, especially for start-ups and SMEs, in buying and selling goods and services online. According to the plan, online traders will have to register for VAT possibly in all the Member States to which they sell their products[76].

Goods sold from a third country to the European Union are usually imposed by regulations on importation, irrespective of the status of the recipient. VAT in import should be remitted to the customs units at the rate of the Member State of importation whenever goods enter the borders of the European Union. The import goods of a total value below €10 (or €22 if a Member State agrees so) are exempt from the VAT. This is referred to as low-value consignment relief (LVCR) threshold. Consignments of goods of negligible value consignment direct from a third country to a receiver in the European Union are exempt from customs duties if the value of the dispatch does not exceed €150[77]. On 1 December 2016, the Commission announced its plan to remove the VAT

[73] European Commission: "Digital Single Market - Modernizing VAT for cross border e-Commerce", http://ec.europa.eu/taxation_customs/business/vat/digital-single-market-modernising-vat-cross-border-ecommerce_en (Accessed: 18.07.2017). (European Commission 2017a)

[74] BAL, Aleksandra: "EU VAT Proposals to Stimulate Electronic Commerce and Digital Publishing", International VAT Monitor, 28(2), 2017, p.132. https://online.ibfd.org/kbase/#topic=doc&url=/collections/ivm/html/ivm_2017_02_e2_2.html (Accessed: 01.08.2017). (BAL 2017)

[75] TRAVERSA, Edoardo / CECI, Emanuele: "VAT Fraud and the Digital Economy within the European Union: Risks and Opportunities" in Lamensch, Marie / Traversa, Edoardo / Van Thiel, Servaas, (ed.), Value Added Tax and Digital Economy, Wolters Kluwer Publication, 2015, p.75.

[76] European Commission: "VAT Rates", http://ec.europa.eu/taxation_customs/business/vat/eu-vat-rules-topic/vat-rates_en (Accessed: 05.08.2017). (European Commission 2017b)

[77] BAL, 2017, p.135; GOWLAND, Laura: "The European Commission's Proposals to Reform E-Commerce", Tax Journal, 2017, p.19. https://www.taxjournal.com/articles/european-commission-s-proposals-reform-e-commerce-09022017 (Accessed: 05.08.2017).

exemption for low-value consignments that are worth less than €22 imported into the European Union removing the type of VAT exemption which has been highly demanded by European e-commerce organizations and is in parallel with the global trends: other OECD members have taken or have intended to take similar measures[78]. Hence, compliance of all micro-business that carry out cross-border trading to VAT rules will be catalyzed. A second new annual threshold of €100,000 will facilitate the SMEs when the VAT is considered. The said thresholds will be implemented in 2018[79] for e-services, and they are projected to be implemented for online goods by 2021[80]. The Commission has also agreed to remove the existing exemption from import VAT for low-value goods imported into the EU[81].

5. SOME INITIATIVES AFTER BEPS: TAXATION OF DIGITAL ECONOMY

Action Plan 1 addresses the challenges that arise in collecting VAT/GST on services and intangibles supplied by foreign suppliers and allows tax authorities to collect the tax within the jurisdiction that affects the consumer by referring to the destination principle. The measures are incorporated into the OECD's International VAT/GST Guidelines, which have been endorsed by over 100 countries, jurisdictions, and international organizations. By encouraging more consistent and effective application of the agreed methods, the solution will elevate the compliance levels while also placing limitations on the compliance costs for digital suppliers. By following the OECD Guidelines, rules have been laid down by the bulk of the OECD and G20 countries for the collection of VAT from B2C supplies on services and intangibles by foreign suppliers. Australia, India, New Zealand and South Africa have recently implemented the offered solutions. The total VAT revenue declared via

[78] BAL 2017, p.135.
[79] European Commission: "Commission Proposes New Tax Rules to Support E-Commerce and Online Businesses in the EU", Press Release, Brussels, 2016, http://europa.eu/rapid/press-release_IP-16-4010_en.htm (Accessed: 22.07.2017).
[80] GRLICA, p.126.
[81] RSM: "Indirect Tax Update - January 2017", https://www.rsm.global/sites/default/files/media/Ideas%20and%20insight/Tax/indirect_tax_update_-_january_2017.pdf (Accessed: 24.08.2017).

the simplified compliance regime (Mini One Stop Shop or MOSS[82]) of the EU in the operation year of 2015[83], which adds up to more than €3 billion[84], constitutes the early data obtained from the EU

The elimination of the VAT exemption thresholds for the importation of low-value goods from online sales and the implementation of the approaches for a more efficient collection of import VAT[85] have been carried out or considered by several countries.

5.1. Initiatives for Direct Taxes

It is widely accepted that tax laws did not adapt to the development of the digital economy[86]. According to the existing permanent establishment rules, it is likely for an e-commerce provider to undertake substantial economic activities in a country in which it has no physical presence, without being taxed there. Since taxes that are subject to gross income are not considered profitable and can deter international commerce by rendering the expansion across borders unprofitable[87], the current international consensus advocates the minimization or elimination of the withholding taxes.

[82] The MOSS, an electronic registration, and payment system entered into force to facilitate administration which is planned to be extended to tangible goods ordered online not only within the EU but also outside the EU. RAPONI, Donato / O'SULLIVAN, David, "VAT and Taxation of the Digital Economy from the Perspective of the EU Policy Maker", in (Eds: Lamensch, Marie / Traversa, Edoardo / Van Thiel, Servaas, (ed.), Value Added Tax and Digital Economy, Wolters Kluwer Pub. Netherlands, 2015, p.18.

[83] POPA, Oano: "Taxation of the Digital Economy in Selected Countries – Early Echoes of BEPS and EU Initiatives", European Taxation, 55(1), 2016, p.39. https://online.ibfd.org/document/et_2016_01_int_1 (Accessed: 26.07.2017).

[84] DLAPIPER: "Cross Border Supplies of Intangible Services, Rights and Digital Content", 2015, https://www.dlapiper.com/~/media/Files/Insights/Publications/2015/09/Global_VAT_Guide_2015.pdf (Accessed: 24.07.2017).

[85] OECD 2017c, p.17.

[86] GAOUA, Noah: "Taxation of the Digital Economy: French Reflections", European Taxation. 54(1), 2014, p.10. https://online.ibfd.org/document/et_2014_01_fr_2 (Accessed: 27.06.2017).

[87] PwC: "OECD Summaries Options for Addressing the Tax Challenges of the Digital Economy", Tax Insights, Tax Policy Bulletin, 2014, p.4. https://www.pwc.com/gx/en/tax/newsletters/tax-policy-bulletin/assets/pwc-oecd-digital-economy-tax-challenges.pdf (Accessed: 23.06.2017).

As a digital permanent establishment, the withholding tax proposal is a secondary but reasonable and useful alternative to a nexus-based solution, although it cannot automatically solve all the issues stemming from the digital economy[88]. The OECD/G20 BEPS Discussion Draft of 24 March 2014 introduced a new standard for nexus named 'significant digital presence' for the presence of a virtual permanent establishment, virtual agency PE, virtual fixed place of business PE, and on-site business presence PE. According to the draft, a website can establish a virtual PE. A foreign business providing on-site services can be requested to have an onsite business presence PE. But, the Commission also noticed that it is not easy to decide how to classify this kind of taxable presence. So, the notion of virtual PE was removed from the OECD's BEPS framework. After the meetings in the OECD, virtual PE was modified as 'deemed PE'. The Discussion Draft of May 2015 under BEPS Action is close to the final recommendation of the OECD that concerns the proposed changes to Article 5(5) of the OECD's Model Tax Convention on Income and on Capital (OECD Model). As such, taxpayers with entity structures are allowed to create deemed PEs by following the new standards[89].

The OECD has recognized the opportunities and issues of a withholding tax that is collected from digital businesses in market countries on digital transactions. This proposal by the OECD is referred to as an "equalization levy" in the present literature. This tax can be gathered from entirely remote or only digital transactions of foreign businesses with domestic customers that are based on the gross value of the transactions, as a VAT. This implementation, indeed, can be applied for all B2B transactions[90]. Against this, a C2C transaction is not covered by the withholding tax[91].

In the context of direct taxation, one of the core elements in the OECD report Addressing BEPS is a withholding tax[92] on sales of digital

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[88] BAEZ, Andres / BRAUNER, Yariv: "Withholding Taxes in the Service of BEPS Action 1: Address the Tax Challenges of the Digital Economy", IBFD, White Paper, 2014, p.6. http://dx.doi.org/10.2139/ssrn.2586202https://www.ibfd.org/sites/ibfd.org/files/content/WithholdingTaxesintheServiceofBEPSAction1-whitepaper.pdf (Accessed: 27.06.2017).

[89] HADZHIEVA, p.32.

[90] BAEZ / BRAUNER, p.19-21.

[91] OLBERT / SPENGEL, p.17-18.

[92] BATES, Stephen / MARTIN, Jess: "OECD Issues Report on the Tax Challenges of the Digital Economy Under Action 1", Global Digital Tax Developments Review, 2015, p.4,

goods and services. However, such a withholding tax may be lead to be the amendment of a number of Double Tax Agreements. The lack of a defined decision addressing the withholding tax on the sale of digital goods and services in the Treaty would see such profits treated in terms of Article 7 (Business Profits), this condition determines whether a PE had been created with the rendering of these electronic transactions[93].

Many countries try to apply new methods targeted at taxing income from digital commerce. Among others, Australia, France, Hungary, India, Israel, Italy, Luxemburg, the Netherlands, and the United Kingdom have presented measures for taxation of digital companies. Italy has recently approved a new transfer pricing rule that entails employing valuation techniques that are different from the cost-based indicators for determining the arm’s length prices of digital transactions. Hungary chose to levy surtax in the publishing sector, which also concerns online advertising by non-resident and domestic providers[94]. Similar legislations were also enforced in the United Kingdom and Australia to include the income of multinational companies while not being liable to limited taxation as mandated by the prevailing law but with a significant economic allegiance to the domestic market[95]. In India, the Indian Finance Act, 2016 has introduced “equalization levy” (withholding tax/surtax) on foreign companies for specific digital services and facilities with effect from 1 June 2016[96].

In 2015, the Luxembourg government published a report, in which it is noted that the digital economy should not be regulated separately as “digital is everywhere and not merely a sector”. In Turkey, the government has introduced a draft tax lawthat porposes a new withholding

http://www.ey.com/Publication/vwLUAssets/EY-global-digital-tax-developments/$FILE/EY-global-digital-tax-developments.pdf (Accessed: 19.07.2017).

93 VOSLOO, Louise: “Tackling the Evolving Digital Economy with Direct Tax Laws”, Navigating the Digital Age, Deloitte, 2016, p.4. https://www2.deloitte.com/content/dam/Deloitte/za/Documents/tax/ZA_Navigating-the-Digital-Age_Tax_260816.pdf (Accessed: 21.06.2017).

94 OLBERT / SPENGEL, p.19-21.

95 POPA, p.40

96 JARIWALA, Rakesh: “Equalization Levy: India’s Action under the BEPS Agenda for the Digital Economy”, India Tax Insights, 2017, http://www.ey.com/in/en/services/tax/ey-india-tax-insights-equalization-levy-indias-action-under-the-beps-agenda-for-the-digital-economy (Accessed: 24.09.2017).

tax on the income derived by social media users[97] with amendments to the Income Tax Law, Tax Procedures Law and Corporation Tax Law[98] which is yet to be presented to the parliament.

5.2. Initiatives for Indirect Taxes

There have been major initiatives of VAT regulations in the digital economy. Their implementations depend largely on EU and OECD guidelines. Australia, France, India, and Canada opted to apply the principles of the International VAT/GST Guidelines for the collection of VAT on cross-border B2C supplies of services and intangibles[99]. In Australia, certain B2B supplies were taken out of the GST net as they would no longer be regarded as "associated" to Australia in October 2016. In July 2017, GST was extended to B2C supplies of digital products, services, and other intangibles. At the same time, it also proposed the abolition of low-value threshold on the importation of goods[100]. The existing processes to collect GST on imports above $1,000 at the border are not changed[101]. As far as BEPS Action 1 is concerned, the EU VAT Directive applied to Austrian domestic law[102]. Likewise, in Austria,

[97] EY: "The latest on BEPS — 2016 year-end review A review of OECD and country actions from July through December 2016", 2017, http://www.ey.com/Publication/vwLUAssets/EY-US-the-latest-on-beps-2016-in-review/$FILE/EY-US-the-latest-on-beps-2016-in-review.pdf (Accessed: 16.07.2017). (EY 2017a)

[98] EY: "Turkish Tax Authority Proposes Tax on Electronic Commerce ", 2016, http://www.ey.com/Publication/vwLUAssets/ey-turkey-alert-tax-proposed-on-e-commerce/$FILE/ey-turkey-alert-tax-proposed-on-e-commerce.pdf (Accessed: 11.07.2017). (EY 2016a)

[99] IBFD Tax Research Platform: "BEPS Country Monitor", https://online.ibfd.org/kbase/#topic=beps-compare&ap=r_1&cc=e2_ar_au_at_be_br_bg_ca_cl_cn_hr_cy_cz_dk_ee_fi_fr_de_gr_hk_hu_in_id_ie_il_it_jp_kr_lv_lt_lu_my_mt_mx_nl_nz_no_pl_pt_ro_ru_sg_sk_si_za_es_se_ch_tr_uk_us&format=ghtml (Accessed: 18.06.2017).

[100] EY: "Digital Developments: Indirect Tax", 2016", http://www.ey.com/Publication/vwLUAssets/ey-digital-developments-map-indirect-tax-april-2016/$FILE/ey-digital-developments-map-indirect-tax-april-2016.pdf Accessed: 18.06.2017). (EY 2016b)

[101] Australian Taxation Office: "GST on Low Value Imported Goods", https://www.ato.gov.au/General/New-legislation/In-detail/Indirect-taxes/GST/GST-on-low-value-imported-goods/ (Accessed: 16.08.2017).

[102] LAHODNY, Andrea / PETRUZZI, Raffaela: "Austria", The Future of Transfer Pricing, IFA Cahiers 2017, Online Book, Vol.102B, 2017, https://online.ibfd.org/kbase/#topic=doc&url=/data/ifacahier/pdf/ifacahier_2017_volume

mandatory use of electronic cash registers or other electronic recording systems for digital recording business cases and for printing receipts for all businesses with annual turnover of more than €15,000 is required provided that annual cash turnover exceeds €7,500 from January 2016[103]. In Chile, tax reforms passed in 2014 requires taxpayers to report information regarding electronic gambling activities, digital commerce in any form, online applications and digital services to the tax authorities[104]. In Italy, it was considered "virtual permanent establishment" rules and withholding tax for digital services in 2015. VAT rate was reduced to 4% for e-publishing on 1 January 2016[105]. In Japan, VAT regulations have been reformed and the activities that were previously not subject to the Japanese VAT are now subject to VAT, which include the distribution of digital books, music, image, and software such as numerous applications[106].

In the Netherlands, the tax authorities introduced Internet Service Center for the EU MOSS regime for digital services on 29 March 2016[107]. In New Zealand, a person who makes 'taxable supplies' in excess of the registration threshold (NZ$ 60,000 in a 12 month period) have to register, while as an alternative to this implementation, a non-resident who registered to a consumption tax in the country they reside in should meet certain other requirements[108]. In the UK, new VAT reverse charge was introduced for wholesale supplies of electronic communications services

2_austria.pdf&WT.z_nav=Navigation&title=IFA+Cahiers+2017+-+Volume+102B%253A+The+future+of+transfer+pricing+-+Austria (Accessed: 22.06.2017).

[103] OECD: "Technology Tools to Tackle Tax Evasion and Tax Fraud", OECD Publication, 2017, p.34. http://www.oecd.org/tax/crime/technology-tools-to-tackle-tax-evasion-and-tax-fraud.pdf (Accessed: 23.06.2017). (OECD 2017d)

[104] KPMG: "OECD BEPS Action Plan: Taking the Pulse in the Americas Region", 2016, p.24. https://assets.kpmg.com/content/dam/kpmg/pdf/2016/02/beps-update-americas.pdf (Accessed: 14.06.2017).

[105] EY 2016b, p.1.

[106] TAXAND: "Taxand Global BEPS Report Impact of BEPS Across Taxand Jurisdictions", 2016, p.69. https://www.alvarezandmarsal.com/sites/default/files/taxand_global_beps_report_december_2016.pdf (Accessed: 25.06.2017).

[107] EY 2016b, p.1.

[108] Inland Revenue: "Goods and Services Tax Act 1985", 2017, http://www.ird.govt.nz/technical-tax/pib-review/pib-archived/archived-goods-and-services/goods-services-1983-vol-143.html (Accessed: 04.08.2017).

on 1 February 2016. The USA does not use a VAT system. Some of states and cities in the USA are still considering or adopting, different measures to tax the digital economy. For example, Ohio considered “internet nexus” as sales and subject to tax; Chicago introduced an entertainment tax on digital activities[109].

6. THE FUTURE OF THE TAXATION OF THE DIGITAL ECONOMIES

As mentioned above, BEPS Project is an ongoing work. Both countries and the organizations such as OECD and EU have tried to find the best solutions for problems caused by BEPS. In this regard, on 6 February 2017, the Maltese Presidency of the Council of the European Union (the Presidency) published a paper on "BEPS, entitled: presidency roadmap on future work"[110]. The document indicates future works related to the BEPS to be covered by the Council in the coming months. According to the European Union - BEPS Country Monitor, the short and medium-term work will focus on the following EU-BEPS items. It will be aimed at reaching an agreement during the following months. In this regard the short-term work will focus on[111]:

> *EU list of third country non-cooperative jurisdictions:*To specify an EU list of non-cooperative jurisdictions for tax, the council determined the necessary criteria and processes[112].
>
> *Patent Boxes:* The Code of Conduct Group oversees the legislative process by which the current patent box regimes that are in conformity with the aggrement reached on the interpretation

[109]DELOITTE: “Global Indirect Taxes”, 2017, https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-global-indirect-tax-news-april-2017.pdf (Accessed: 04.08.2017).

[110] European Union: “BEPS: Presidency Roadmap on Future Work", 10998/17, FISC 157, Brussels, 2017, http://data.consilium.europa.eu/doc/document/ST-10998-2017-INIT/en/pdf(Accessed: 08.08.2017).

[111] ARDOUS, Renata: “EU-BEPS Presidency Roadmap and the Winner Is?”, Mazars, 2016, http://blogs.mazars.com/letstalktax/2016/03/beps-eu-presidency-roadmap/(Accessed: 06.08.2017).

[112] EY Tax Insight: “EU and Base Erosion and Profit Shifting (BEPS): Estonian Presidency Publishes Roadmap on Future Work”, 2017, p.4. http://taxinsights.ey.com/archive/archive-news/eu-and-base-erosion-and-profit-shifting-(beps)--estonian-presidency-publishes-roadmap-on-future-work.aspx (Accessed: 05.08.2017).

of the third criterion of the Code of Conduct (modified nexus approach) are changed[113].

'Good Governance in Tax Matters' clause in the EU agreements with third countries: The key elements in the proposal by the commission presented in the Communication on an External Strategy for Effective Taxation (COM (2016) 24 final) published on 28 January 2016 will be agreed upon[114].

Implementation of the Council conclusions on the 'Future of the Code of Conduct (Business Taxation)': An agreement on a guidance note on the interpretation of the 4th criterion of the code was requested[115].

Medium-term work[116]:

Interest and Royalties Directive (IRD): It will be continued upon work carried out during previous presidencies and investigate how to take the proposal further[117].

Proposal for a renewed Common (Consolidated) Corporate Tax Base (CCTB): The CCTB contains a cross-border loss relief mechanism. The presidency wants to complete the first round of technical analyses of the all CCTB proposal. By the same token, it wants to start a debate on a coordinated response to the challenges of the digital economy, by using CCTB as a framework for the discussion[118].

Mandatory disclosure rules: On 21 June 2017, the European Commission offered a proposal for a Council Directive amending Directive 2011/16/EU as regards mandatory automatic exchange

[113] BEERAJE, Sarah: "EU Presidency roadmap on BEPS", KPMG, 2016, https://home.kpmg.com/uk/en/home/insights/2016/07/tmd-eu-presidency-roadmap-on-base-erosion-and-profit-shifting.html (Accessed: 05.08.2017).

[114] EY Tax Insight, p.1.

[115] European Union, p,.4.

[116] Kluwer Wolters: "BEPS: Presidency Roadmap on Future Work", 2017, https://www.navigator.nl/document/idpass9cd3bee6b09648aab3d836222a074887/highlights-insights-on-european-taxation-beps-presidency-roadmap-on-future-work (Accessed: 14.08.2017).

[117] EY Tax Insight, p.1.

[118] EY Tax Insight, p.1.

of information in the field of taxation in relation to reportable cross-border arrangements[119].

*Agreements with five third countries to counter fraud and all other illegal activities to the detriment of public financial interests ("EU anti-fraud agreements"):*Focusing on the anti-fraud and tax information exchange agreement with Liechtenstein, the points that require technical updates prior to the possible adoption of the commission proposals that concerns the signing and the conclusion of the agreement will be identified[120].

Outbound payments: In April 2017, the Code of Conduct Group (CoCG) instructed its subgroup on antiabuse issues to continue their efforts on this topic. Although the subgroup voiced objections to an early draft of possible guidance in May 2017, the Member States had different outlooks on the course of action and reached a consensus on readressing and resolving the issue later when new data on the effectiveness of anti-abuse measures in EU Directives are obtained[121].

On the other hand, the OECD intends to draw a pathway for taxation of digital economy for the coming years. Countries and jurisdictions have been collaborating to implement the BEPS package systematically and globally and to develop better standards that lay emphasis on the remaining problems in BEPS. To this end, the decision-making body of the OECD's tax work has been welcoming the inputs from interested countries and jurisdictions to establish an Inclusive Framework on BEPS[122].

The contribution of the unyielding and prevalent implementation of the BEPS package to the discourse in many of the double non-taxation concerns raised by digitalization is easily agreed upon. In indirect taxes, to allocate the collection of consumption taxes on cross-border B2C supplies of services and intangibles to the country in which the customer resides, guidelines and implementation mechanisms have been enhanced.

[119] European Union, p.7.
[120] EY tax Insight, p.1
[121] European Union, p.7.
[122]OECD: "Background Brief Inclusive Framework on BEPS", 2017, http://www.oecd.org/tax/beps/background-brief-inclusive-framework-for-beps-implementation.pdf (Accessed: 28.09.2017)

Correspondingly, the OECD International VAT/GST Guidelines undertook the same endeavor. In recognition of the challenges faced in collecting VAT on the import of low-value goods, the generally applicable method by governments to reduce or abolish low-value VAT exemption thresholds was presented. The Inclusive Framework directed its efforts at the delivery of an interim report with a due date in 2018 that focuses on the tax challenges of the digital economy and a final report that will focus on furthering its work in the following year, monitoring developments in the digital economy, evaluating the extent of the tax challenges it broadens, and appropriately responding to these challenges by developing policy options is due in 2020[123].

CONCLUSION

The rapid development of the digital economy has resulted in improving communication technologies and information gathering as well as promoting the development of new products for various users. These technologies have dramatically changed the way modern businesses function and multinational transactions take place. It has created an opportunity for businesses to become invisible to tax authorities with the intention of minimizing tax liabilities. All commercial sectors have tried to adopt digital improvements to decrease operational costs, decline in price, increase productivity, and reach broader market especially with paying lower tax or without tax.

As it is well known digital economy raises serious problems for the current international tax system which was not designed to deal with such a fast-moving economy[124]. Unexpected results that have occurred in recent years, in the taxation of digital economy have forced tax authorities, countries, and international organizations to work together in order to develop more coherent and common policies. The OECD has been working on topics related to BEPS and has produced BEPS Action Plans to take control of issues regarding international taxation. The BEPS Action Plan ensures a comprehensive analysis of the current issues faced by governments, with measures designed to ameliorate the resultant problems[125].The OECD deems ring-fencing digital businesses highly

[123] OECD 2017c, p.24, 25.
[124] BRAUNER, Yariv: "What the BEPS", Fla. Tax Rev. 16(2), 2014, p.70.
[125] GREENBERG, p.331, 332.

unlikely in view of its integration with all sectors of the economy and instead of proposing specific measures, it opts for supporting and encouraging further work and monitoring to be responsive to specific tax challenges to which digital activity may give rise in the future[126].

This is of great significance since the world will undoubtedly be more digitalized in the future. Nevertheless, digital tax issues are not fully addressed in the BEPS 2015 report, but this process will continue to 2020. Both direct and indirect taxation for digital business will be modified as expected in the coming years. Furthermore, this has prompted certain countries to try to find their own solutions for taxation of digital economy by implementing such measures as withholding tax, deemed PE, bit tax and etc.

In a nutshell, international tax regime, especially in relation to digital economy, cannot be as consistent as it is required. Digital economy creates new opportunities and limitations for all groups. Tax authorities should make greater efforts to take into account of understanding developments of the digital economy in their mission to improve tax compliance.

[126] KIELSTRA, p.14.

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