

China's Rising (and the US' Declining) Influence on Global Tax Governance? Some Observations

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Outline

- Some facts
- Indications of influence in global tax governance
 - Institutional participation and multilateralism
 - International tax norm-setting
- Some observations

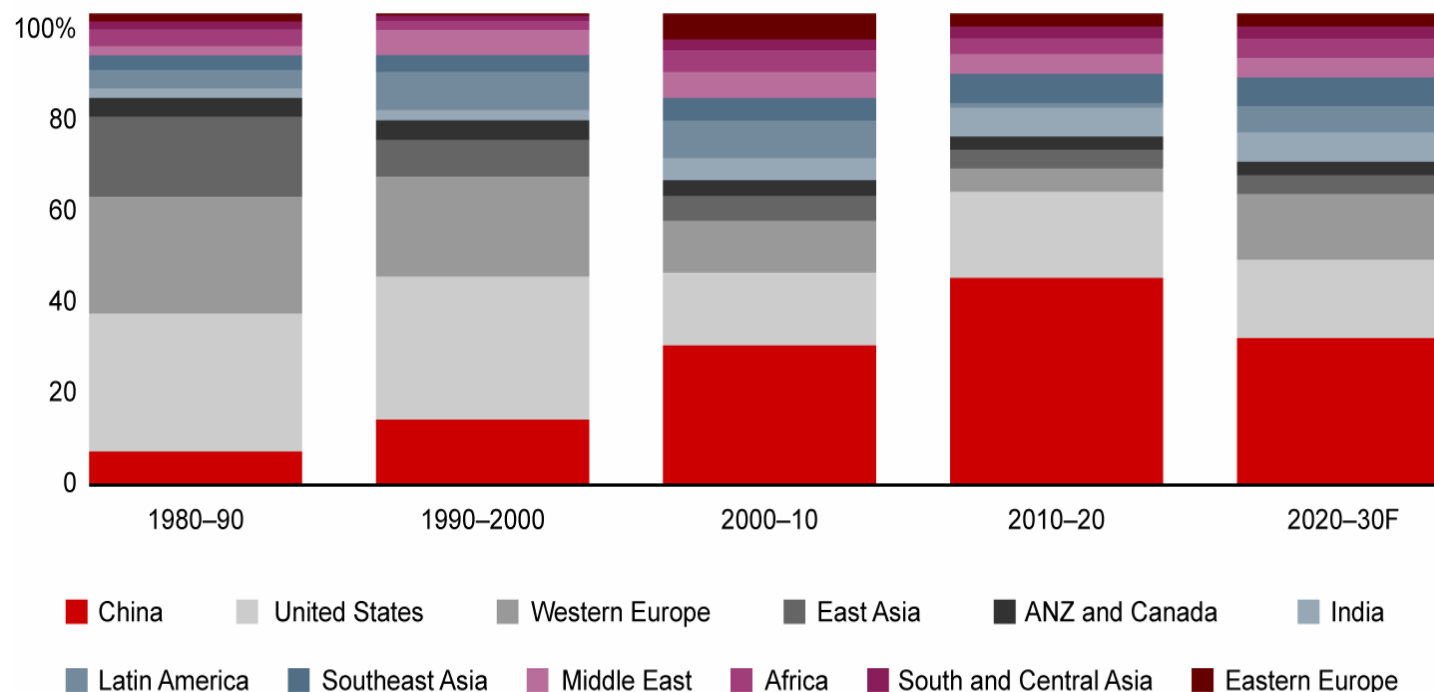
Some Facts – Share of global exports (1878-2020)

	China	USA	
1980-90	<5%	About 35%	
1990-2000	Over 10%	About 35%	
2000-10	About 27%	About 10%	
2010-20	About 45%	About 12%	

Estimates based on “The Rise of a trade titan”:
<https://unctad.org/news/china-rise-trade-titan>

Some Facts - Contribution to Global GDP growth

Contribution to global GDP growth (constant 2015 USD)



Note: ANZ is Australia and New Zealand
Source: EIU

<https://www.bain.com/insights/china-deglobalization-and-the-multinational-article/#>

Some Facts - Top 10 countries with highest revenue top 500 companies

2021		
Rank	Country	Companies
1	China	135
2	United States	122
3	Japan	53
4	France	28
5	Germany	27
6	United Kingdom	22
7	South Korea	15
8	Switzerland	13
9	Canada	12
10	Netherlands	11

Compare: China-based MNEs

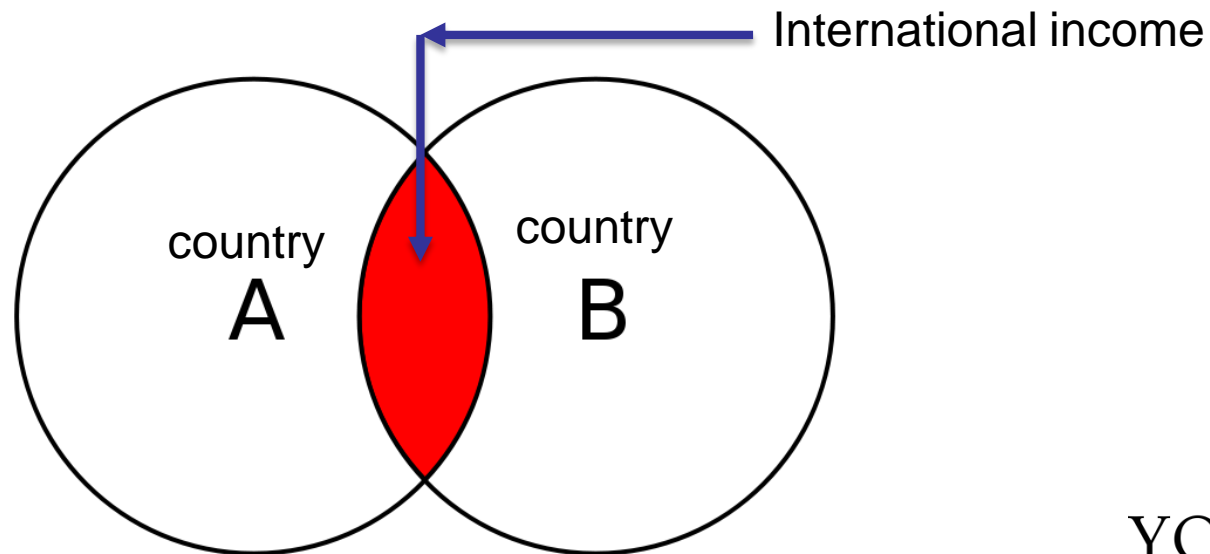
- 2008: 10 of top 500
- 1995: 2 of top 500
- 1980: 0

Source:

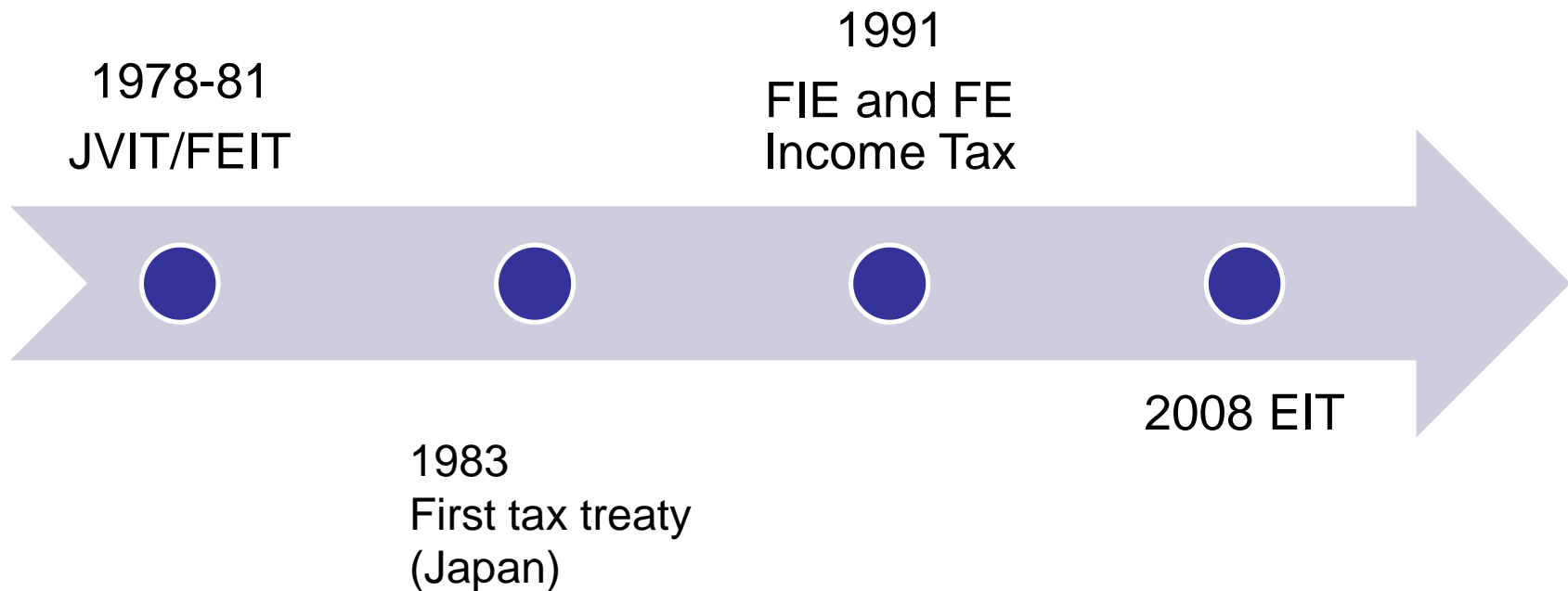
<https://fortune.com/global500/2008/search/?hqCountry=China>

Some Facts – *International Tax*

- Tax revenue = bloodline of states
- Income tax = national (taxing = spending > fiscal sovereignty)
- International tax = conflicts of national laws



More Facts: *Chinese Enterprise Income Tax*



Some Facts – *International Tax*



By hikingArtist.com

- MNEs = “global” income
- Multiple countries’ tax laws

Some Facts – *International Tax*



International “consensus” or norms

1) “Nexus” for tax jurisdiction

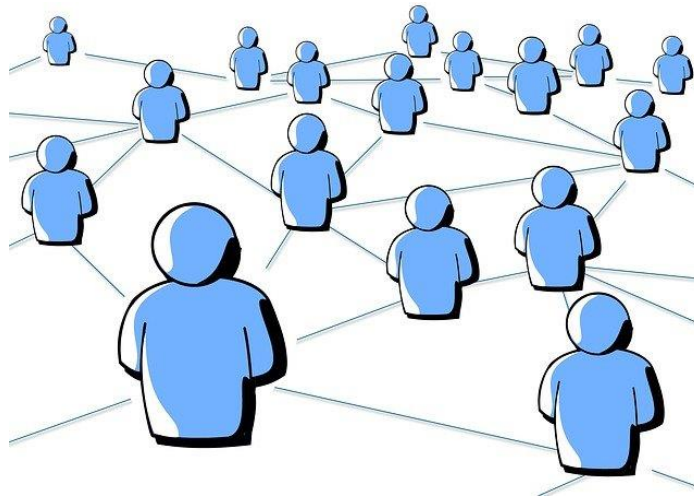
- Residence of corporation
- Source of income

2) “Arm’s length principle”

- “market” price expected for intra-MNE group transactions

More Facts – *International Tax*

- No international “TAX” organization
- No public international law on income tax
- Network (4,000 or so) bilateral tax agreements



- What institutions have been “in charge” of developing international tax consensus?**
- What is China’s role?**

International Institutions & China - UN

- **League of Nations**

- 1920-46
- China as a member (USA was not)
- 1923 Report on Double Taxation
- 1928 Model tax convention by “Technical experts”
 - China represented

- **United Nations**

- 1945 - present
- China founding member
- PRC became a member of SC (1971)
- UN Tax Committee (a **member from China** since early 1980s; sometimes as vice-chair)
- *UN Model Convention*
- *UN Manual on Transfer Pricing* (**China Practice section**)

International Institutions & China - OECD

OECD

- “de facto” tax organization
- 2004: China became “observer” in CFA’s work
- OECD Model Convention

<https://www.oecd.org/newsroom/chinasouthafricatoparticipateinworkofocedscommitteefonfiscalaffairs.htm>

International Institutions & China – G20

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2016 Hangzhou Communique

19. We will continue our support for international tax cooperation to achieve a globally fair and modern international tax system and to foster growth, including advancing on-going cooperation on base erosion and profits shifting (BEPS), exchange of tax information, tax capacity-building of developing countries and tax policies to promote growth and tax certainty. We welcome the establishment of the G20/OECD Inclusive Framework on BEPS, and its first meeting in Kyoto.



International Institutions & China – BEPS IF

- G20/OECD BEPS Inclusive Framework
 - OECD → Technical expertise
 - G20 → Political clout
 - ❖ accounts for around 90% of [gross world product](#)
 - ❖ 75 – 80% of [international trade](#),
 - ❖ 2/3 of the [global population](#)
 - ❖ roughly 1/2 the [world's land area](#)
- BEPS 1.0 project
 - China active participant
- BEPS 2.0
 - China as Deputy Chair of Steering Group (as of Jan.2022)

International tax norms



The Global Tax Deal

On October 8, 2021, 136 countries of the OECD/G20 Inclusive Framework agreed to a 2-pillar solution to address tax challenges arising from the digitalization of the economy

- Pillar 1:
 - creating new taxing rights in market jurisdictions
 - MNE groups with over 10 billion euros in revenue
- Pillar 2:
 - creating a floor for a 15% effective corporate tax rate
 - MNE groups with 750 million euros in revenue

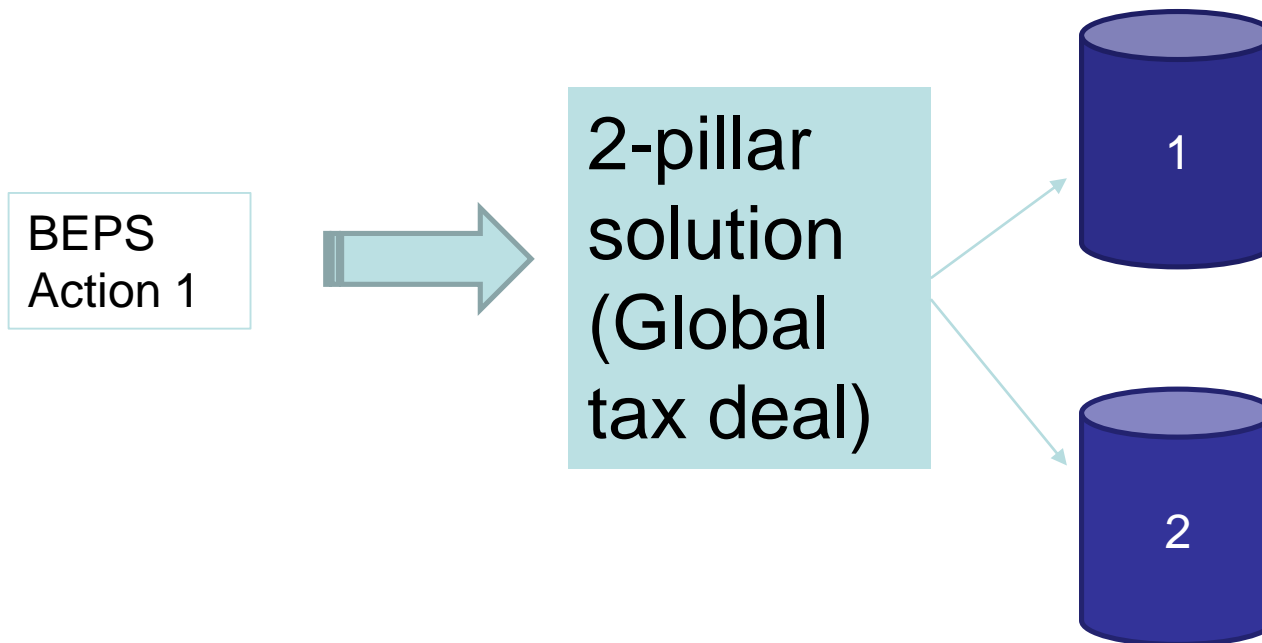
“Historical”?

- First time in history
- Agreed to create a **new “global” tax law** (multilateral tax convention) for Pillar 1
- Agreed to adopt universal **“model” rules** into national tax law (Pillar 1 and Pillar 2)
- Agreed to create a **new class of taxpayers** (i.e. large global firms) and tax them based on “accounting income”

Why did it happen?

1. Tax = bloodline of state
2. Existing international tax system:
 - Outdated rules (100 years old, designed for a physical economy)
 - “unfair”
 - Loss of tax revenue
(“large corporations pay little tax”)
3. Political pressure
 - Citizens and local businesses
 - Deficit and revenue shortfalls

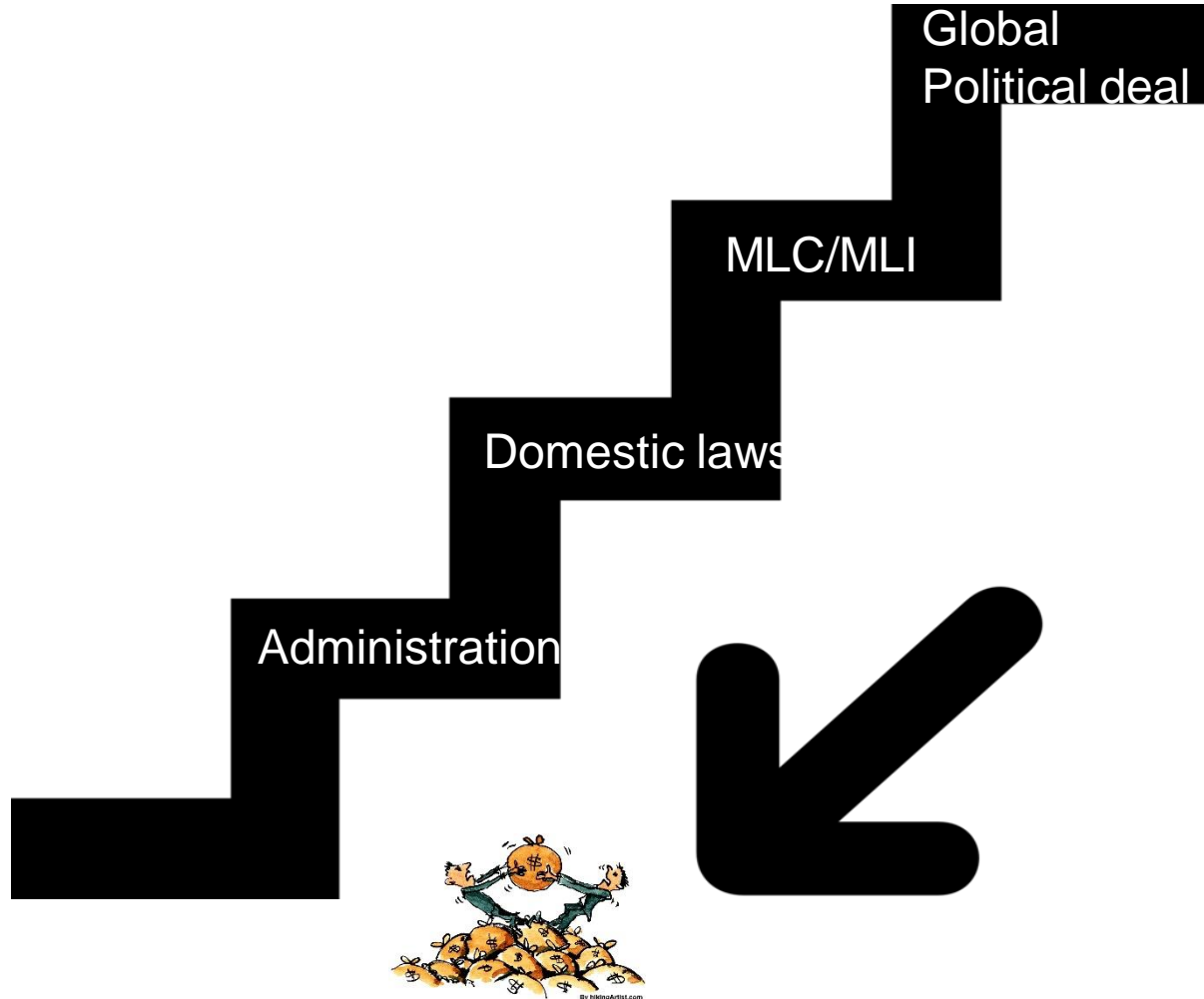
China's Role in Designing the Pillars?



China's role in implementing the pillars?

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The devil is in the detail

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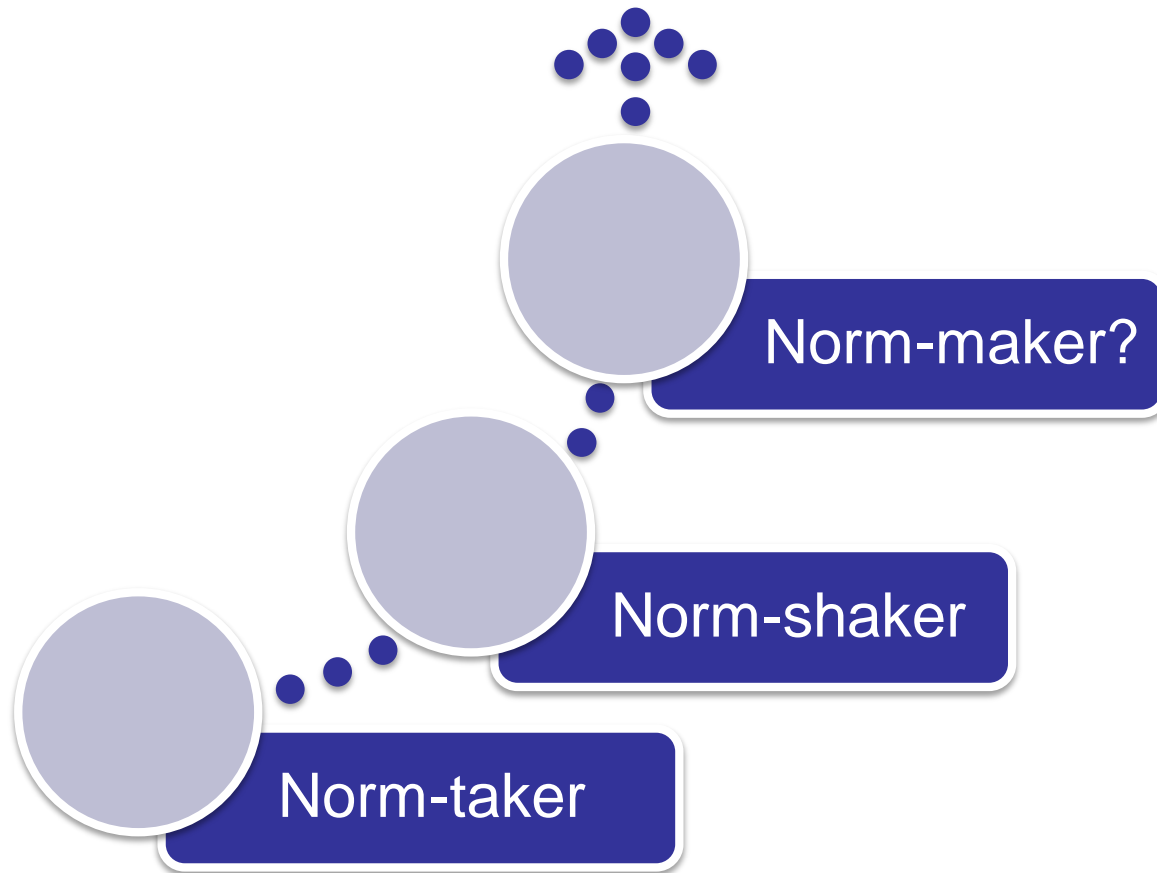
- **Pillar 1:**

- “agreement” on “nexus” and “source”/location of sale RULES?
- “agreement” on tax dispute prevention/resolution?

- **Pillar 2**

- US?
- EU?
- Developing countries?

Sum up: China & International Tax Norms



Some Observations: US Influence

1. Contributor of ideas and principles
 - Basis for allocating taxing rights
 - 1923 Report (Prof. Seligman)
 - 1928 draft model Tax Convention (T.S. Adams)
 - Arm's length principle (M. Carroll)
 - Worldwide-based taxation and foreign tax credit

Some Observations:

US Influence

2. Originator of tax rules

- Transfer pricing
- Controlled foreign corporations (CFC)
- Treaty-abuse (LOB)
- Anti-abuse rules (e.g., GILTI and BEAT which are basis for Pillar 2)

Some Observations:

US Influence

3. Unilateralism, but “Constructive”

- Out of US self interest
- US legal instruments (domestic law, US Model Treaty, US constitution – later in time principle)
- US corporations’ clout and US tax rules (e.g., foreign tax credit rule)
- Principles- and rules-based; transparent

Some Observations:

US Influence

4. Other countries' transplantation

- Out of their own self interest (e.g., Canada)
- Countries with similar political/economic systems
- Countries attracting investment by US corporations

Some Observations: US Influence Declining?

a) Institutionally?

- yes, BEPS IF
- EU
- G20

b) Scientifically?

- Ideas underlying Pillar 1 and Pillar 2

c) Realistically?

- Fate of Pillar 1 and Pillar 2?

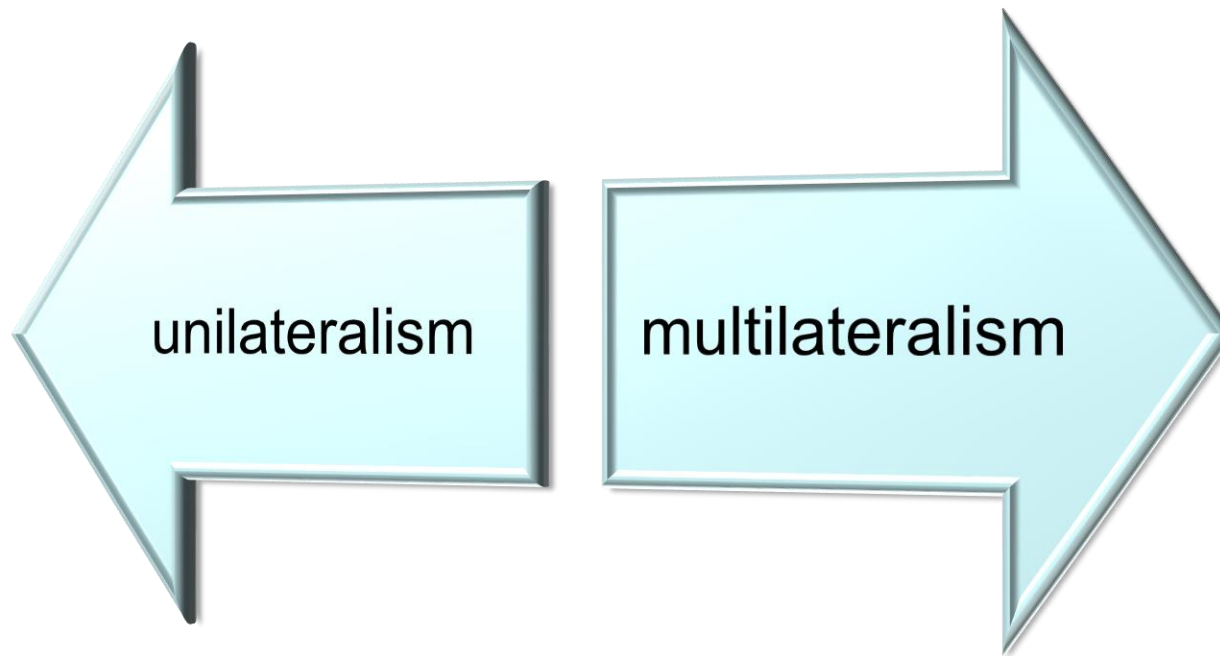
Some Observations:

US and China's Tax Interests Converge?

- a) **Digital economy**
 - Dominance of digital firms
 - Large markets
- b) **Headquarter jurisdiction of large MNEs**
- c) **Use of corporate tax incentives**
- d) **Two-way investments**

Some Observations:

US and China's Approach to Global Tax Governance: Diverge



Wrap-up

- Preliminary observations
- Tax is “accessory” to economic, political and international relations
- Paper:
https://digitalcommons.osgoode.yorku.ca/scholarly_works/2863/

Thank you!