Chapter 17 of Section III. Norm promotion practices of the EU and US in the Digital Age

The EU and US Transatlantic Agendas on Taxation

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Abstract:

Modern attempts to reach international consensus on how to transform the international tax system in order to grapple with the global imperative of digitalisation appear to have made progress. This is in contrast to historical efforts to re-evaluate and alter norms of taxation, which revolved around concepts of physical brick-and-mortar presence and residence. The impetus for such apparent breakthroughs can be linked to the traditional rationale of revenue raising. The need to raise tax revenue to fund public spending has been around since time immemorial, however, the modern mix of digitalisation and globalisation of the economy has created a new focus on tax avoidance and good governance in the area of taxation, and essentially 'fair' taxation. This has been spurred on, especially at the EU level, by the need to generate its own resources, specifically in order to 'support' the Covid-19 recovery. In the US, changes in the Administration have brought with them significant differences in viewpoints as to the role of the American State and the position of corporations, especially home grown American Multinational Enterprises (MNEs), as part of the economy. However, the EU and US home grown agendas on taxation do not operate in a domestic or regional vacuum. In order to achieve successful implementation of their own local agendas on taxation they need to dominate the transatlantic space. Control over norm promotion practices in international taxation is essential for the system to work in their favour, and for the money to come their way. Or more importantly, for tax revenue not to go in the other direction.

This contribution will consider both EU and US transatlantic agendas on 'fair' corporate taxation in a digitalised economy. What will become apparent is that both the EU and the US are trying to ensure that their own transatlantic agendas on taxation become the basis of the new norms of the digital age. We will see the position of the EU in wanting to occupy, and indeed dominate, the transatlantic space and agenda on digitalisation and tax to further EU integration and an idea of European sovereignty. The US is seeking to ensure that changes in its own tax system do not become disincentives, to American MNEs especially, paying tax at home because they differ too significantly from international norms. Both the EU and US transatlantic agendas on taxation therefore demonstrate a desire to harmonise corporate tax to make it 'fair' in order to facilitate new norm promotion practices in the digital age, but according to their own agendas. The recent progress in reaching apparent consensus on reforming the international tax system in the face of digitalisation of the economy can be attributed to changes in the US Administration and its views on corporate tax. A renewed focus in the OECD / G20 on the BEPS Inclusive Framework would arguably not have been possible if it was not for American proposals coupled with a strong desire for reform. The EU, however, wishes to "be among the first to implement the recent historic global tax reform agreement" and has already published a proposal for a Directive implementing Pillar Two on the OECD Inclusive Framework. However, this proposal differs from what the US envisaged, in order for the EU to comply with the principles of its own internal market. Which agenda will come to dominate the transatlantic space, and whether harmonisation according to either agenda can be achieved, is still an evolving issue.

What is crystalizing though are efforts on the part of both the EU and the US to attempt to use 'fairness' to guide norm promotion practices in the digital age according to their own transatlantic tax agenda. This is problematic because norms of tax fairness theory are an uncomfortable fit with both agendas,

which are in actuality premised on successful implementation of their own local priorities on taxation in the transatlantic space to ensure domination and control. This submission will consider if 'fairness' is being used as an undefined and vacuous concept transformed into a mantra used to justify the global tax harmonisation agendas of both the EU and the US. This submission will consider if proposals on fair taxation in the digital economy are not just being used as a proxy to justify the harmonisation of direct taxation of the digital economy and ultimately uniform standard setting of global tax based on particular, even unilateral, norm promotion practices of the EU and US in the Digital Age.

Introduction

Modern attempts to reach international consensus on how to transform the international tax system in order to grapple with the global imperative of digitalisation appear to have made progress. This is in contrast to historical efforts to re-evaluate and alter norms of taxation, which revolved around concepts of physical brick-and-mortar presence and residence. The impetus for such apparent breakthroughs can be linked to the traditional rationale of revenue raising. The need to raise tax revenue to fund public spending has been around since time immemorial, however, the modern mix of digitalisation and globalisation of the economy has created a new focus on tax avoidance and good governance in the area of taxation, and essentially 'fair' taxation (OECD, 2013). This has been spurred on, especially at the EU level, by the need to generate its own resources, specifically in order to 'support' the Covid-19 recovery. In the US, changes in the Administration have brought with them significant differences in viewpoints as to the role of the American State and the position of corporations, especially home grown American Multinational Enterprises (MNEs), as part of the economy. However, the EU and US home grown agendas on taxation do not operate in a domestic or regional vacuum. In order to achieve successful implementation of their own local agendas on taxation they need to dominate the transatlantic space. Control over norm promotion practices in international taxation is essential for the system to work in their favour, and for the money to come their way. Or more importantly, for tax revenue not to go in the other direction.

This contribution will consider both EU and US transatlantic agendas on 'fair' corporate taxation in a digitalised economy. What will become apparent is that both the EU and the US are trying to ensure that their own transatlantic agendas on taxation become the basis of the new norms of the digital age. We will see the position of the EU in wanting to occupy, and indeed dominate, the transatlantic space and agenda on digitalisation and tax to further EU integration and an idea of European sovereignty. The US is seeking to ensure that changes in its own tax system do not become disincentives, to American MNEs especially, paying tax at home because they differ too significantly from international norms. Both the EU and US transatlantic agendas on taxation therefore demonstrate a desire to harmonise corporate tax to make it 'fair' in order to facilitate new norm promotion practices in the digital age, but according to their own agendas. The recent progress in reaching consensus on reforming the international tax system in the face of digitalisation of the economy can be attributed to changes in the US Administration and its views on corporate tax. A renewed focus in the OECD / G20 on the BEPS Inclusive Framework would arguably not have been possible if it was not for American proposals with significant political impetus behind them. The EU, however, wishes to "be among the first to implement the recent historic global tax reform agreement" and has already published a proposal for a Directive implementing Pillar Two on the OECD Inclusive Framework. However, this proposal differs from what the US envisaged, in order for the EU to comply with the principles of its own internal market, and has therefore been formulated in its own image. Which agenda will come to dominate the transatlantic space, and whether harmonisation according to either agenda can be achieved, is still an evolving issue.

What is crystalizing though are efforts on the part of both the EU and the US to attempt to use 'fairness' to guide norm promotion practices in the digital age according to their own transatlantic tax agenda. This is problematic because norms of tax fairness theory are an uncomfortable fit with both agendas, which are in actuality premised on successful implementation of their own local priorities on taxation in the transatlantic space to ensure domination and control. This submission will consider if 'fairness' is being used as an undefined and vacuous concept transformed into a mantra used to justify the global tax harmonisation agendas of both the EU and the US. This submission will consider if proposals on fair taxation in the digital economy are not just being used as a proxy to justify the harmonisation of direct taxation of the digital economy and ultimately uniform standard setting of global tax based on particular, even unilateral, norm promotion practices of the EU and US in the Digital Age.

The Meaning of "Fairness" in Taxation.

The meaning of "fairness" in taxation is not as simple or as uncontroversial as one may assume, or hope. Fairness is a "slippery" (Bizioli, 2019) concept, usually equated with ideas of equality or equity. The meaning of equity and equality are also not universally agreed upon in the context of taxation, with two principles said to form their basis; the ability to pay and the benefit principle. For Kaufman, both the benefit principle and the ability to pay principle are norms of tax fairness, although competing norms (Kaufman, 1998). According to Dodge tax fairness is a norm in itself (Dodge, 2005).

A "fair" tax is considered as one that is levied in accordance with the taxpayer's ability to pay, based on the level of financial resources they have available to them. Sometimes referred to as 'equity' there are further categorisations into Horizontal Equity, meaning that where two persons have the same ability to pay they should bear the same tax burden, and Vertical Equity, meaning that where one taxpayer has a greater ability to pay than the other they should bear a higher tax burden (Oats 2021). The latter is usually a justification for applying a progressive tax rate, being a tax rate which increases as the tax base increases. However, ability to pay is not an uncontentious ground on which to levy taxation, because the question of what financial resources should be taken into account can be problematic. An alternative perspective and interpretation of this norm is based on the principle of solidarity, being a citizen's contribution to the common good (Schön, 2009).

Another way of defining the meaning of "fairness" in taxation is the benefit principle. This norm is linked to the social contract theory espoused in the tax context by many writers including Hobbes, Smith, Friedman and Hayek, where individuals contribute to support the State and Government to the extent to which they receive peace, defence and protection. More modern interpretations suggest that taxes should be levied in accordance with the amount of usage, or 'benefit' a taxpayer receives from the provision of State or Government services. This meaning of fairness is problematic for reasons such as quantification and measurability. Another interpretation of this principle is a tax on the ability to do business. In essence, States and Governments facilitate the provision of a functioning market in which businesses can operate (Dodge, 2005).

The benefit principle and ability to pay principle are considered as competing basically because the ability to pay principle focuses on the economic wealth (or lack of) of the taxpayer whereas with the benefit principle the focus is on the level of service provision by the State. By their very nature, welfare systems are theoretically designed to provide those with the least ability

to pay with the greatest service provision. Economic equality is also interpreted as applying among States, being a question of economic justice among States regarding the distribution of the authority to tax and therefore revenue from taxation (Debelva, 2018). This perspective is prominent at an international level. This is evident from the rhetoric surrounding the reforms dubbed 'Pillar One' agreed as part of the OECD / G20 Inclusive Framework on Base Erosion and Profit Shifting, although the delays to the design and implementation of this proposal are displaying the difficulties with the realisation of substantive legal support for the political narrative.

Both the EU and the US emphasise that not only the need for change but how changes to taxation should occur, and importantly how changes should occur in accordance with their ideas and proposals are in order to create a "fairer" tax system. Which concept of 'fairness' have the EU and US stated they support? There is criticism on how norm promotion practices have been adopted by both the EU and the US. Confusion abounds. Not only confusion but also other motives or issues are apparent, as Bizioli suggests, "The reference to tax fairness contained in the official documents of the international organisations [the EU and the OECD] is, therefore, an exercise of rhetoric (or, in other words, rather pleonastic) since it purports the need to re-establish the tax equality in a changed (and changing) economic world. However, the same documents do not contain any attempt or show any effort to assess the fundamental criteria according to which the tax burdens should be (equally) distributed among the taxpayers. Any reference to the 'value' created through the digital businesses is, in fact, a reference to an empty concept that is not defined either by the international documents or by the OECD Member States tax jurisdictions" (Bizioli 2019, p61).[i] Contrast this opinion with the EU Commission Expert Group on Taxation of the Digital Economy (European Commission 2014), which focuses on equality according to distribution between States on the basis that the EU will leave the other issues of fairness between individuals to the national tax systems, although it makes a lot about fairness being needed to support national tax systems and much of what the EU is attempting to do with tax has a significant impact on the workings of national tax systems.

Devereux *et al*. (2021) consider fairness between countries as being an alternative approach. The idea of essentially equality of tax law between States has been propounded by Vogel (1988a, 1998b, 1998c) from the perspective of which country should have the right to tax and collect tax revenue. The basis of this approach is that the country in which economic activity is taking place should receive some of the revenue from taxing profit made by businesses through the use of publicly provided goods and services within that country's jurisdiction. This reflects the point of view that jurisdiction to tax and allocation of taxing rights should reflect the locations within which economic activity takes place. Devereux *et al*. (2021) however argue that this does not necessarily justify a tax on business profit as opposed to a fee for the use of goods and services and "what is an equitable basis of the allocation of taxing rights between countries is debatable. On the basis of fairness, should taxing rights be claimed more by the country of residence of the shareholders [reflecting Devereux et all opinion that the focus really should be on the individual who pays the tax, or incidence, rather on the business], the country where production takes place, or the country in which the final good is consumed? There does not seem to be any clear basis to answer this question. There is no 'scientific' method to identify the 'right' allocation of taxes between countries" (Devereux *et al*. 2021 p39). With all the debate and difficulty defining and rationalising these competing concepts of 'fairness' why do we therefore see the EU and the US so fervently utilising the rhetoric of 'fairness' to justify what are arguably very substantial reforms to taxation devised in response to digitalisation? There is not much indication given in the language used, which tends to be tautologous, citing

digitalisation of the economy as the reason why a 'fair' tax system needs to be created to ensure MNEs pay their 'fair' share. As Devereux *et al* identify, "Ultimately, these notions of fairness are almost impossible to operationalize in designing a business-level tax on profit" (Devereux *et al*. 2021 p40).

As Bizioli suggests (Bizioli, 2019), there is no explicit choice between these competing principles and priorities, instead there seems to be vacuous tautologous rhetoric, so what is the real motivation?

"Fairness" as an Uncomfortable Fit with Both EU and US Agendas on Taxation?

The benefit principle, the ability to pay principle and the equality between States principle, can be said to be norms of tax fairness theory. The agendas of both the EU and the US, especially as they are seen as demonstrated in international fora, such as the OECD in the recent BEPS Inclusive Framework political negotiations and proposals, which respond to the digitalisation of the economy, can be tested against these norms to demonstrate that they are an uncomfortable fit with these norms of 'fairness'. What has been achieved in the international sphere will be considered briefly first, before moving on to consider the specific regional agendas of both players in the transatlantic sphere.

The OECD BEPS Inclusive Framework is intended to respond to the digitalisation of the economy, particularly as digitalisation supposedly facilitates tax avoidance by digital MNEs. The proposals in the form of the two pillar solution apply to large MNEs which have a significant turnover, as indicated by the thresholds above which the proposals will apply. For Pillar One, the in-scope companies are the multinational enterprises (MNEs) with global turnover above 20 billion euros, and for Pillar Two, the GloBE rules will apply to MNEs that meet the 750 million euros threshold. Are the thresholds linked to ability to pay? Surely such threshold setting is not done at such a high level on the basis that businesses trading below such thresholds do not have the ability to pay? Perhaps the benefit principle would suggest that this high a threshold should be set, but then again the services provided by States and market conditions which they facilitate would be equally beneficial to even moderately smaller businesses. Equality between States is also not the most likely fairness norm to apply, as it has been well observed that MNEs of such size to be caught by the thresholds trade less in developing than developed countries. Instead, it is clear that there are a few particular companies, especially American companies, which are the subject, or target of these proposals, demonstrating the uncomfortable fit with both the EU and US agendas and 'fairness' as a justification, even when one looks at one aspect, such as threshold values. This is also true when one considers the final incidence of the tax which will likely fall on the individuals, either consumers or employees, who will likely be worse off as a result of taxes being levied on business profit, as this has an effect on the prices of the goods and services that it sells, and the prices of the inputs that it uses, including wages paid to its employees. As a result, as prices adjust, the tax can be passed onto consumers in the form of higher prices, employees in the form of lower wage, or other suppliers in the form of lower prices paid for inputs (Devereux *et al*. 2021).

As will be discussed briefly below, unilateral digital services taxes (DSTs) which form(ed) part of the EU agenda, as its digital levy, are not compatible with the US agenda, particularly where they are considered to target US companies (Mason and Parada 2020). As not in keeping with the US agenda they are not said to promote 'fairness' however, do not unilateral DSTs better align with the benefit principle because they are closer to the jurisdiction, i.e. nation State or

Government from which they derive their benefit? Or could it perhaps be said that for a nation State to devise its own DST, as many have done, that befits its own specific tax system that better reflects the differences between States? Whatever one's opinion on these questions, they demonstrate that 'fairness' is not at the heart of the agendas of the EU and US because of the uncomfortable fit the concept has with the policies of both parties. They each utilise the rhetorical term 'fairness' to further their own agendas, to which this submission will now turn.

The EU Agenda

The EU has a tax harmonisation agenda (European Commission 2017, Kendrick 2021) and extensive digital agenda, in some respects the two overlap (European Commission 2014). However, although there is much reference to 'fairness' in support of the Commission and EU proposed action on taxation, there is little definition given beyond superficial reference to distributional priorities. As well as the lack of detailed definitional reference to the concept of 'fairness' the EU seeks to employ and support, there have been various policy changes which all purport to be based on providing a fair and efficient tax system, despite some policies in particular being based on distinct differences in the tax base and tax rate. A brief summary of the EU's agenda now follows, through which the flux of proposals will become apparent. What this actually demonstrates is that the EU is really attempting to harmonise taxation, and influence transatlantic policy in its own image by doing so. This will be expressed in the penultimate part of this chapter.

Four of the EU's most recent corporate taxation initiatives are: the Common Consolidated Corporate Tax Base (CCCTB); the Common Corporate Tax Base (CCTB) (European Parliament 2018); both of which have now been abandoned in preference of Business in Europe: Framework for Income Taxation (BEFIT) (European Commission 2021); and the digital levy, which has been proposed, then postponed, then potentially held in reserve should the current OECD proposals not prove forthcoming (Kendrick 2021, 2022). There is some but not much detailed reference to definitional concepts of 'fairness' to support the rhetoric used by the European Commission (European Commission 2018). The significance and the number of changes themselves however do call into question the sincerity of the commitment of the EU to achieving fairness. The digital levy is a case in point. Initially, full harmonization of corporate tax was proposed in the CCCTB, and whilst the consolidation aspect of the proposal proved too progressive from a State sovereignty perspective, the reduced more palatable CCTB was suggested with harmonization as the goal (Kendrick 2021). With a lack of support from Member States translating into an inability to surmount the unanimous voting threshold required by the legal basis in the Treaty (Article 115 TFEU), a digital levy, also known as digital services tax was proposed as an interim option (Kendrick 2021). It was the potential clash of this unilateral measure by the EU, seen from the perspective of the OECD global coordination efforts, which led a fervent United States to seek an end, potentially permanently, to this proposal. The OECD Inclusive Framework political agreement of 8 October 20221 confirmed the US agenda on unilateral digital taxes thus: "The Multilateral Convention (MLC) will require all parties to remove all Digital Services Taxes and other relevant similar measures with respect to all companies, and to commit not to introduce such measures in the future. No newly enacted Digital Services Taxes or other relevant similar measures will be imposed on any company from 8 October 2021 and until the earlier of 31 December 2023 or the coming into force of the MLC. The modality for the removal of existing Digital Services Taxes and other relevant similar measures will be appropriately coordinated. The IF notes reports from some members that transitional arrangements are being discussed expeditiously" (OECD 2021). The EU's position is that it intends for the Inclusive Framework to be implemented in

EU law but with a different strategy adopted for Pillar One and Pillar Two. The EU Commission has put forward a proposal for a Directive implementing Pillar Two into EU law (European Commission 2021b). The Directive largely tracks the OECD agreement, while adding domestic application to comply with EU anti-discrimination requirements. In essence, it includes purely domestic groups, not just cross border international companies, to ensure that the new 15% minimum effective tax rate for large companies will be applied in a way that is fully compatible with EU law. Estonia has expressed concerns about the domestic application of the proposed EU version of the Pillar Two rules, "mandatory implementation that might impact not only the multinational companies but also internal … that was not part of the deal in the OECD." Not to be deterred completely by the US seeking to assert its own agenda for norm promotion through political pressure to drop its digital levy proposal, the EU has suggested that it wishes to be the first to implement the Pillars, in compliance with EU law, presumably to show the way. However, this has not proved to be as easy as hoped, to the extent that there have been calls for the resurrection of the digital levy if progress is stalled (European Parliament 2022, Tax Notes 2022). This demonstrates that the EU is determined to have its own agenda on taxation and to utilize it to influence norm practices, with digitalization being the spur.

The fluctuation and changes in proposals demonstrate that if it was one of the conceptions of fairness discussed above which really was the driving force then there would be consistency and potentially a static approach adopted by the EU. Instead, we see maneuverability to appease Member States and the US agenda, which dislikes unilateral digital taxes, as displayed at the OECD level and then the potential for change again back to the digital levy proposal if, despite the wishes of the US, the EU cannot implement its own design of the two Pillars through Directives compatible with EU Law.

The US Agenda

Having pushed at the OECD level for the two-pillar solution to addressing the tax challenges arising from the digitalisation of the economy, the US has had issues of its own implementing the substance of the proposals. The difficulty arose from problems with obtaining approval in Congress to the economic reforms suggested by the Biden Administration, which were significantly wider than just corporate tax reform. There has recently been progress on these wider economic reforms, in the form of the Inflation Reduction Act (IRA 2022), and these extend to corporate taxation. However, the provisions of the IRA are certainly not a reproduction of the two pillars proposed at the OECD level. The taxation element of the IRA contained in SEC. 10101. of the IRA comprises a Corporate Alternative Minimum Tax (AMT) also known as the book minimum tax. The only form of consensus which it seems to have stimulated is on the interpretation that it is *a* proposal on corporate tax but not the same as *the* proposal which has come from the OECD. Divergence between the US and the OECD appear to centre, broadly speaking, on two main areas. First, whilst both appear to provide for an effective tax rate of 15%, the AMT assesses a company's worldwide income and average tax rate, whereas Pillar Two seeks to inhibit that practice by taxing firms on a country by country basis. The AMT is therefore arguably more akin to the GILTI US regime than it is to Pillar Two. Second, the IRA allows for exemptions on tax credits and capital investments, where the OECD agreement would not.

The concept of 'fair' taxation has not been absent from the US agenda, seen in collaboration within, or domination of the OECD, even to the extent that it acted arguably as the impetus behind recent progress on an international agreement at the OECD, but it is certainly fairness

as a convenient tool to promote what is beneficial to the US in terms of raising tax revenue from MNEs.

Whilst it is rather early days to properly assess the implementation of the IRA and its implications for the norm promotion practices of the US in the digital age, it is fair to say that it is becoming apparent that in tax norm promotion as with other areas of trade there is an America first focus and agenda. There is therefore the potential for the beginning of a research agenda to follow the extent to which the US is able to influence the development of global taxation and crucially the extent to which it is successful in keeping and repatriating the tax revenue, which is the underlying rationale of the IRA. It is also notable in the wider context of EU and US transatlantic relations that the dialogue between them has a distinct focus on digitalisation, extending, for example, to big tech, but that this has inevitable natural consequences for taxation. The main recent example of this dialogue – or exertion of pressure – is on DSTs, as briefly outlined above in relation to the EU's proposed digital levy. There is scope to develop further a research agenda on how both the EU and the US use what appear to be neutral fora, such as the OECD (Geringer 2022), to push their agendas by using 'neutral' terminology and rhetoric, such as 'fairness' to try and hide norm promotion practices in line with their own agendas.

"Fairness" as a Proxy for Harmonisation?

The rhetorical resort to 'fairness' can be seen as a narrative smokescreen behind which the EU and US promulgate their agendas, utilising the undefined concept to hide self-interest as altruism (de la Feria 2022) or as a form of policy legitimation (Halliday 2010). What are their ultimate agendas? In the context of digitalisation, resort to 'fairness' masks attempts to harmonise global taxation on the basis of their specific agendas. The EU and US home grown agendas on taxation do not operate in a domestic or regional vacuum. In order to achieve successful implementation of their own local agendas on taxation they need to dominate the transatlantic space. Control over norm promotion practices in international taxation is essential for the system to work in their favour, and for the money to come their way. Or more importantly, for tax revenue not to go in the other direction. In other words, for the norms they are promoting are not those of fairness but of harmonisation. 'Fairness' is therefore a proxy for harmonisation.

The brief discussion above outlines how uncomfortable the fit is with both EU and US agendas and the concept of 'fairness' in either principled guise of the ability to pay principle, the benefit principle, or equality between States, but there is also evidence that the subtext of 'fairness' is harmonisation. Just recently, the EU's harmonisation agenda in direct taxation, for which there is no explicit legal basis, and therefore competence, in the Treaty, was confirmed at the ECOFIN meeting by all Member States with representatives in attendance (ECOFIN 2022). The EU proposal for a Directive on Pillar Two already differs from what was agreed with the US in the OECD because of the clear priority to further the EU internal market, the basis on which indirect tax is harmonised, rather than pursue international standards of 'fairness' in taxation. The EU wishes to "be among the first to implement the recent historic global tax reform agreement" although proposals are easier to suggest than implementation is to achieve (M. Kendrick 2022). The US has proceeded to devise a different tax to that agreed at the OECD level in its AMT, although arguably trying to achieve the same ultimate aim which is to repatriate American tax revenue from large digital businesses to its own Treasury. This in turn will likely, so the US will hope, promote international tax norms in its own image.

Conclusion

The EU and US home grown agendas on taxation do not operate in a domestic or regional vacuum. In order to achieve successful implementation of their own local agendas on taxation they need to dominate the transatlantic space. Control over norm promotion practices in international taxation is essential for the system to work in their favour, and for the money to come their way. Or more importantly, for tax revenue not to go in the other direction.

This contribution considered both the EU and US transatlantic agendas on 'fair' corporate taxation in a digitalised economy. What became apparent is that both the EU and the US are trying to ensure that their own transatlantic agendas on taxation become the basis of the new norms of the digital age. The EU wants to occupy, and indeed dominate, the transatlantic space and agenda on digitalisation and tax to further EU integration through harmonisation in tax. The US is seeking to ensure that changes in its own tax system do not become disincentives, to American MNEs especially, paying tax at home because they differ too significantly from international norms, and so it is rather altering international norms and then adjusting its own US tax law to fit, and arguably influence, how international tax law progresses.

Both the EU and US transatlantic agendas on taxation therefore demonstrate a desire to harmonise corporate tax to make it 'fair' in order to facilitate new norm promotion practices in the digital age, but according to their own agendas.

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