



# 2020 ACTIVITY REPORT

# ABOUT US

The **Global Tax Advisers Platform (GTAP)** was established in 2013 by CFE Tax Advisers Europe (formally known as the Confédération Fiscale Européenne), the Asia-Oceania Tax Consultants' Association (AOTCA) and the West African Union of Tax Institutes (WAUTI).

GTAP is an international platform, representing more than 700,000 tax advisers in Europe, Asia and Africa, that seeks to bring together national and international organizations of tax professionals from all around the world.

GTAP is dedicated to the promotion of the public interest by ensuring the fair and efficient operation of national and international tax systems. A fair and efficient global tax framework favours the effective pursuit of taxpayers' and tax advisers' rights and interests.

GTAP is committed to their furtherance, and to the continuous improvement of this framework.





# OUR MEMBERS



## **Asia-Oceania Tax Consultants' Association (AOTCA)**

AOTCA represents 330,000 tax advisers from 20 professional bodies in 16 countries in the Asian-Pacific region. AOTCA safeguards the professional interest of tax advisers in order to assure the quality of tax services provided to the public. AOTCA promotes the development of the national laws governing the profession, exchanges information about national tax and professional laws and the development of the tax and professional law in Asia and Oceania and maintains relations with the authorities at national and international levels.



## **CFE Tax Advisers Europe**

Founded in 1959, CFE brings together members from 30 national organisations in 24 European countries, representing more than 200,000 tax advisers. CFE strives to contribute to the co-ordination and development of tax law in Europe by sharing the unique insight of our members with European institutions, and to promote the co-ordination of national laws that govern and safeguard the tax adviser profession.



## **West African Union of Tax Institutes**

The West African Union of Tax Institutes (WAUTI) has been set up by the Chartered Institute of Taxation of Nigeria (CITN) and the Chartered Institute of Taxation of Ghana (CITG) in collaboration with revenue agencies in the West African Region. WAUTI creates a forum for technical and educational development, information sharing and enhancement of Tax Practice and Administration.

# OUR OBSERVERS



## **International Association of Financial Executives Institutes (IAFEI)**

IAFEI is a worldwide professional association of national financial executives institutes established in 1969. Its founding members include financial executives institutes of Argentina, Australia, Belgium, France, Germany, Italy, Mexico, Peru, Philippines, Spain, United Kingdom and the combined Institutes of USA and Canada. Collectively, the institutional members of IAFEI represent more than 20,000 finance executives thus making it the global premier society of finance executives.



## **Arc Méditerranéen des Auditeurs (AMA)**

The Arc Méditerranéen des Auditeurs (AMA) is a European cross-border professional organization which brings together regional institutions representing auditors as well as other accounting professionals. AMA was founded in 1992 with the aim of institutionalizing the relationships which had been informally established between some of its current members. Today, AMA has 25 members, namely professional institutions established in countries on the Mediterranean shore (Spain, France and Italy).



## **Society of Trust and Estate Practitioners (STEP)**

The Society of Trust and Estate Practitioners (STEP) is a global professional body, comprising lawyers, accountants, financial advisors and more. From drafting a will to advising on issues concerning international families, protection of the vulnerable, family businesses and philanthropic giving. STEP's primary purpose is to provide confidence to families by setting standards, training and educating its members, and upholding those standards.



CENTRO DI DIRITTO PENALE TRIBUTARIO  
CENTRE DE DROIT PENAL FISCAL  
CENTER FOR CRIMINAL TAX LAW

## **Centro di Diritto Penale Tributario (CDPT)**

The Center for Criminal Tax Law is an Italian association aiming to broaden the understanding of issues of criminal tax, EU tax law and other related matters in the countries of the European Union. The aims of the organisation include evaluating the relevant laws of the European countries, aiming at their harmonisation.



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# OUR LATEST ACHIEVEMENTS

In 2019, GTAP held its first **Global Conference**, held in Turin, Italy, on Thursday 3 October 2019 on the topic of “Tax and the Future”. The conference was intended to reinforce closer cooperation by bringing to the forefront issues that are of interest to all tax advisers in a borderless, increasingly globalising and automated society, such as the future of global tax policy, the future of Corporate Income Tax and VAT, the future of the global tax profession and the future of business models and tax sustainability.

It is a key priority for GTAP to expand its membership and international network in order to reach tax professionals in all corners of the globe, effectively enabling the most inclusive dialogue and interaction.





# OUR LATEST ACHIEVEMENTS

On that basis, the GTAP members and observers signed the **Torino-Busan Declaration** in 2019. In this document, GTAP sets out four key short-term priorities to pursue the promotion of public interest by ensuring the fair and efficient operation of national and international tax systems.

The four priorities highlighted in the Declaration are tax for growth, sustainable tax policies, tax and digitalisation, taxpayers' rights and certainty in a fast-paced world. The declaration was signed on 3 October 2019 on the occasion of the first GTAP Global Conference, and on 17 October 2019 in Busan, South Korea, on the occasion of the 2019 International Tax Conference of AOTCA.



# ROLE & MISSION OF THE GLOBAL TAX ADVISERS PLATFORM



Proposal of a New Tax System



Inclusiveness, Openness,  
Global Reach



Position of Tax Professionals  
in the Tax Scenario



Impact on the Renovation of the  
International Tax Scenario



Safeguard Taxayers' Rights



Strong Cooperation Among Tax  
Professionals





GTAP aims to bring tax professionals together under the banner of a single representative organisation, in order to influence the global tax policy debate. GTAP achieves this by issuing joint opinions on issues of international relevance which carry increasingly more weight, as more associations from around the world join GTAP.

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# OPINION STATEMENTS



**A O T C A**  
Asia Oceania Tax Consultants' Association



**WEST AFRICAN UNION OF TAX INSTITUTES**

**Opinion Statement PAC 1/2018 on the OECD Consultation regarding Mandatory Disclosure Rules  
for Addressing CRS Avoidance Arrangements and Offshore Structures**

**(Prepared by CFE on behalf of the Global Tax Advisers' Cooperation Forum)**

**Submitted to the OECD on 15 January 2018**

*We will be pleased to answer any questions that you may have concerning the GTACF comments. For further information, please contact the Chair of CFE Professional Affairs Committee Wim Gohres at [wim.gohres@nl.pwc.com](mailto:wim.gohres@nl.pwc.com) or the CFE Brussels Office at [brusselsoffice@cfe-eutax.org](mailto:brusselsoffice@cfe-eutax.org) +32 2 761 00 91, Avenue de Tervuren 188A, B - 1150 Brussels.*

*In der Beschränkung zeigt sich erst der Meister, und das Gesetz nur kann uns Freiheit geben.*

*(The master shows himself by restriction, and only the law will set us free.)*

*Johann Wolfgang von Goethe (1749-1832)*

## **1. Introduction**

On 11 December 2017, the OECD released a “consultation document”<sup>1</sup> under cover of a media release<sup>2</sup> which invited submissions by 15 January 2018. The public discussion draft is 44 pages in length and contains mandatory disclosure rules for two loosely connected subjects, the avoidance of reporting under the Common Reporting Standard (“CRS”) and the use of ‘opaque’ offshore structures.

## **2. Consultation period and stakeholders’ involvement**

The first exchanges on the CRS rules date from 2017 and a lot of countries have not begun the exchange<sup>3</sup>. The CRS rules are primarily aimed at financial institutions and are quite complicated themselves. The disclosure rules regarding opaque offshore structures are complicated as we will see hereafter. The GTACF therefore wants to emphasize that the consultation period is too short for the complicated subjects at hand and that as a result it is difficult to see the true value of this consultation. In view of the call for penalties on non-complying intermediaries and reportable taxpayers, the short consultation period running over public holidays in most countries runs the risk of underestimating the impact that the proposal may have for those involved and the uncertainty which may stem therefrom. In light of these considerations, GTACF recommends an additional consultation period. Such an extension would allow professional associations such as GTACF to gather comprehensive internal feedback from our member organisations, therefore more meaningful consultation input and technical refinement of the proposed course of action. We will endeavour to partake in any subsequent consultations on this very important subject.

Having said this, GTACF will comment on some of the most salient aspects of the proposal, but cannot claim to be exhaustive or even thorough in its comments. Nonetheless, GTACF hopes that its comments may contribute to the discussion of the proposal.

## **3. Position of the GTACF**

GTACF’s main concern is that the scope for an obligation to report is too broad and the test to decide whether a report is necessary is quite challenging. We fear that this creates uncertainty for intermediaries and taxpayers involved and could result authorities receiving large quantities of information about quite innocent arrangements sent to reduce the risk of failing to comply. This would ultimately present those authorities with large quantities of meaningless data from which it is difficult to identify activities that are the target of the proposals. Although the OECD definition of intermediaries includes tax advisers as ‘service providers’, this definition remains somewhat vague. It involves persons who are involved in the implementation of the structures, but it remains unclear how

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<sup>1</sup> <http://www.oecd.org/tax/beps/Discussion-draft-mandatory-disclosure-rules-for-CRS-avoidance-arrangements-offshore-structures.pdf> (accessed 29 December 2017)

<sup>2</sup> <http://www.oecd.org/tax/oecd-seeks-input-on-new-tax-rules-requiring-disclosure-of-crs-avoidance-arrangements-and-offshore-structures.htm> (accessed 29 December 2017)

<sup>3</sup> <http://www.oecd.org/tax/transparency/AEOI-commitments.pdf>



much diligence is appropriate to expect before giving tax advice. Tax advisers assist their clients in complying with the complicated tax laws and rules on national and international level and advise their clients on these rules and how to organize their affairs in order to be compliant with such laws and rules. As such, tax advisers stand beside their clients and do not and should not have a commercial interest other than serving their clients while remaining professionally independent from all parties, including their clients.

The present proposal is aimed at a wide group of consultants and true intermediaries, regulated or not, amongst which there may be tax advisers. It is therefore good to remember that only a small part of the tax advisers are actually involved in the area the proposal seeks to regulate and that these tax advisers will provide their services within the boundaries of the relevant laws and jurisprudence.

In this respect it is important to notice once again that the proposal asks for reporting on what are, in itself, legitimate arrangements and structures. If the purpose of any activity directed to avoiding reporting is to evade taxes (or any other illegal purpose) the conduct is for that reason illegal, and usually subject to the heavy penalties associated with tax evasion or other financial crime<sup>4</sup>.

GTACF and its member organisations fully support the combat against tax evasion and expect their members not to be part of any form of tax evasion. GTACF notes that in the end the taxpayer is the one primarily responsible for his affairs and feels that the proposal puts a disproportionate responsibility on the 'intermediaries' especially in view of the call for sanctions. Making such intermediaries the addressees of the proposed rules, sends out the message that taxpayers themselves bear no or little responsibility for their affairs and that they are more or less subject to what intermediaries propose to them.

GTACF also notes that the description "CRS avoidance arrangement" in itself suggests that there is an obligation to use only financial instruments that would be subject to CRS exchange. Similarly, the word 'avoidance' can be seen as suggestive of complicity. CRS obliges financial institutions to exchange information of their clients for tax purposes, but in no way obliges taxpayers to use only financial instruments provided by financial institutions, nor is there an obligation to have their dealings signed off by a tax adviser. GTACF feels it would be more appropriate to extend the scope of the CRS to other entities. This would better serve the purpose of establishing clarity in the reporting obligation, as opposed to putting the reporting onus on the intermediaries. In doing so, the reporting would become much more factual and aimed at situations that, at this stage, are not subject to CRS reporting.

GTACF is concerned that tax advisers would have an obligation to disclose steps taken by their clients, when they, acting as advisers may not know whether or when the steps have been taken, and the steps themselves (choosing one type of investment rather than another) might intrinsically be very commonplace and not motivated by tax evasion or any other illicit purpose. It seems to us that the approach adopted internationally in respect of Anti Money Laundering legislation should be adopted and the disclosure obligation focussed on where there are doubts of illegality. Indeed, where AML legislation already applies there should not be a requirement to disclose the same transaction to multiple authorities.

Also, any requirements imposed on advisers (who are 'intermediaries' within the OECD definitions but, in acting as advisers, are not in reality parties to any of the transactions undertaken ), should reflect their position as owing duties of confidentiality to their clients and not necessarily knowing what their clients have implemented. In many countries, there is no precedent for imposing obligations in such circumstances (other than AML legislation). Where, as for example in the UK's DOTAS legislation,

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<sup>4</sup> Cotorceanu, Peter: Hiding in plain sight,(2015) 21 Trusts & Trustees 1050 (Oxford)

advice that is given can become reportable, this is in the first instance the generic nature of the advice that is believed to produce a tax advantage. The scope of the obligation is tightly defined to try to ensure that appropriate confidentiality obligations are respected, that the regime is not disproportionately onerous to operate, and the disclosures made are focussed on matters likely to be of interest to the authorities, who if confronted with routine disclosure of even legitimate transactions, would encounter difficulty in 'seeing the wood for the trees'. Any requirements going further than AML rules should follow the same approach.

#### **4. Definition of CRS Avoidance Arrangements**

GTACF believes that a technical refinement of the definitions used by the OECD would result in better clarity and compliance with any relevant obligations subsequently. Similarly, GTACF believes that clarity of legislation and rules in general is essential element in preserving taxpayers' rights and enforcing existing legal obligations.

Conversely, asking intermediaries to report on insufficiently precise or vaguely drafted rules would result in uncertainty. Focusing on clarity of the CRS or other legislation will better ensure that such weaknesses are subsequently eliminated.

A CRS 'Avoidance' Arrangement is any Arrangement for which it is reasonable to conclude that it is designed to, marketed as or has the effect of circumventing CRS legislation or exploiting the absence thereof.

If an arrangement has the effect of 'circumventing' CRS legislation, it is of little interest that it may or may not be designed or marketed as such. In fact, once it is established that CRS legislation is not 'applicable' (instead of 'circumvented'), that should suffice. It is therefore not easy to see the added value of the elements 'designed' and 'marketed'. The question is therefore what the proposal is really aiming at, all arrangements which have the effect of 'circumventing CRS' or the reporting on arrangements which are actually intended to do this. There would be some logic in aiming at those arrangements which were actually intending to avoid CRS, however in GTACF's opinion only if the intention was actually aimed at tax evasion.

GTACF is of the opinion that the exploitation of the absence of CRS legislation cannot and should not be part of the definition. As indicated above there is no ethical or legal requirement to be subject to CRS legislation. If there is no CRS legislation this cannot be a reason for reporting. If this is felt as a shortcoming, the CRS legislation should be expanded. On a more technical level GTACF feels that this makes the definition so broad that it will become unclear when it is actually applicable and thus creates uncertainty for taxpayers and intermediaries alike. In view of the fact that it is proposed that involved persons should be sanctioned, this shall result in legal uncertainty.

Definition 1.1.(c) is aimed at reporting in cases where the due diligence procedures used by Financial Institutions show weaknesses. GTACF feels that logically the CRS or other legislation should be amended to ensure that such weaknesses are eliminated instead of asking intermediaries to report on them. The proposal indicates that these hallmarks are developed in the light of experience of a number of tax administrations. GTACF therefore advocates to focus on the more principled issues, such as clarity of the rules.

In the OECD Consultation commentary under 16) it is explained that 'reasonable to conclude' is to be determined from an objective standpoint without reference to the subjective intention of the persons responsible for the design, marketing or using the scheme. This approach seems somewhat confusing. The test will be satisfied where a reasonable person in the position of a professional adviser with a full

understanding of the terms and consequences of the arrangement and the circumstances in which it is designed, marketed and used would come to this conclusion. GTACF points out that in view of the broad hallmarks such a professional adviser will have problems concluding this. The question is therefore how intermediaries and other people involved should be able to make such a distinction, when no professional adviser is involved.

## **5. Definition of Offshore Structures**

GTACF believes that these definitions are quite complicated to understand and therefore implement in practice, under threat of sanctions.

GTACF points out that the definitions set out in Chapter 2 are complex as they refer to each other which results in circular referrals e.g. 1.1 Offshore structure and 1.4 Opaque Ownership structure. This actually reads as: "An Offshore Structure is a Passive Offshore Vehicle held through an Opaque Ownership Structure which is a Ownership Structure allowing a natural person to be Beneficial Owner of a Passive Offshore Vehicle."

Definition 1.3 regarding Passive Offshore Vehicle excludes Institutional Investors, but that seems counterintuitive. In fact, such legal person/arrangement is still passive, the ownership in itself does not change that. It would make more sense to exclude this situation from Opaque Ownership Structures.

The definition of Beneficial Owner refers to the FATF recommendations but then expands this which leads to a partial repetition. It would be better to adhere to the FATF glossary by repeating that definition without embellishments.

GTACF therefore feels that this part of the proposal will be very difficult to implement and/or understand by those persons actually responsible under the threat of sanctions, to report on this. Once again it is pointed out that the mere fact that there is an offshore structure does not say anything about the legitimacy of the structure. There can be many good reasons for this. The definitions do not seem to make an exception for Offshore Structures in situations where relevant authorities are informed about ownership details.

## **6. Disclosure requirements**

The definition of an Intermediary incorporates Promoters and Service Providers. A Promoter means any person who is responsible for the design or marketing of a CRS 'Avoidance' Arrangement or Offshore Structure. A Service Provider means any person who provides Relevant Services in circumstances where the person could reasonably be expected to know that the Arrangement is a CRS 'Avoidance' Arrangement or Offshore Structure.

The group of people that become subject to the reporting obligation can and will be therefore very broad. For a disclosure on what is in effect a legitimate arrangement GTACF feels this is not balanced. GTACF points out that if the arrangement is not legitimate those involved will be subject to criminal law and can be punished but will in all probability not be active in making disclosures. This proposal for practical purposes is thus not aimed at the latter group and therefore the reporting obligations should be reasonable and clear.

This also means that GTACF feels that the reporting obligations if any should be limited to situations where the arrangement is actually implemented. GTACF points out that 'making available' is one of the few key elements which are not defined. For example, the United Kingdom's Disclosure of Tax Avoidance Schemes (DOTAS) has a clear guidance on this subject.

The proposed disclosure of CRS arrangements entered into after 15 July 2014 is in fact retrospective if not retroactive. For reporting on arrangements which are not illegal GTACF feels this will be disproportionate specifically in view of the uncertainty in respect of 'what' to report and 'who' should report.

## **7. Information reporting**

The reporting should enclose names, address, contact details, jurisdictions of tax residence and tax identification number (TIN) of the person making the disclosure, any Reportable Taxpayer (in which case also the birth date should be reported) and any Client or Intermediary and furthermore the details of the arrangement.

GTACF is concerned that part of this proposal actually entails reporting on other people such as the taxpayer, the actual client, potential users and other intermediaries involved. Non-compliance to this would be sanctioned. GTACF feels that the proposal in this respect goes beyond what one may expect of the citizens of democratic states and points out this reporting on other people is actually required where *per se* no illegitimate arrangements are in order.

For CRS one should also report those features for which it is reasonable to conclude that they are designed to, marketed as, or have the effect of, 'circumventing' CRS. For the Offshore Structures similar language applies. GTACF feels that this borders on self-incrimination and at least will breach the equality of arms. Especially for tax advisers this will be very awkward. For taxpayers this reporting as soon as such an arrangement is made available, may actually endanger their free access to tax advice.

## **8. Penalties**

The commentary states that the regime needs penalties for both intermediaries and taxpayers to ensure compliance. However, GTACF reiterates that it would be disproportionate to impose penalties for not reporting legitimate arrangements in a situation where it is unclear whether these are covered by the proposal or not. GTACF clearly stands against tax evasion, however imposing a penalty for non-cooperation with self-incrimination is in fact at odds with the principles of the rule of law.

## **9. In conclusion**

GTACF therefore concludes that the proposal as such puts an unfair obligation on intermediaries and especially on tax advisers and their clients that could ultimately prove ineffective because compliant intermediaries (as defined) could seek to protect their position by reporting matters that are in reality of no interest to the authorities.

The broad definitions of the proposal combined with the penalties make for a situation where those involved could be penalized for what may be a legitimate arrangement. GTACF feels that better clarity of CRS legislation will supersede the need for mandatory disclosure rules. Finally, GTACF is of the opinion that the part of the OECD proposal related to Offshore Structures will be very difficult to implement in practice.



## **About the Global Tax Advisers' Cooperation Forum**

The Global Tax Advisers' Cooperation Forum (GTACF) was established in 2014 by CFE Tax Advisers Europe, the Asia-Oceania Tax Consultants Association (AOTCA) and the West African Union of Tax Institutes (WAUTI). The GTACF is a platform for tax advisers to provide a global response to international tax initiatives and to strengthen tax technical and policy cooperation.

CFE Tax Advisers Europe is the umbrella organisation of the European tax advisers. Our members are 30 professional organisations from 24 European countries with more than 200,000 individual members. GTACF aims to safeguard the professional interests of tax advisers, to exchange information about international and national tax laws and policy, professional law, and to contribute to the coordination of tax law and policy in Europe. CFE is registered in the EU Transparency Register (no. 3543183647-05).

AOTCA is the umbrella organisation of the Asia and Oceania tax advisers. Our members are 20 professional organisations from 17 Asian and Oceania countries with more than 400,000 individual members. Like CFE, AOTCA aims to safeguard the professional interests of tax advisers, to exchange information about international and national tax laws and policy, professional law, and to contribute to the coordination of tax law and policy in its region.

WAUTI aims to harmonize taxation practice in West Africa, and to promote the highest professional standards of competence and integrity among practitioners in member states. In order to have a forum for technical and educational development, information sharing and enhancement of Tax Practice and Administration, The Chartered Institute of Taxation of Nigeria (CITN) and The Chartered Institute of Taxation of Ghana (CITG) in collaboration with Revenue agencies in the West African Region have formed The West African Union of Tax Institutes (WAUTI).

# Opinion Statement on the OECD Consultation on Draft Report on Tax Morale (2019)

Issued by the Global Tax Advisers Platform  
Submitted to the OECD on 10 May 2019

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CFE Tax Advisers Europe together with the Asia-Oceania Tax Consultants' Association ("AOTCA") and the West African Union of Tax Institutes ("WAUTI"), established the Global Tax Advisers Platform ("GTAP") in 2013. GTAP is an international platform, representing more than 600,000 tax advisers in Europe, Asia and Africa, that seeks to bring together national and international organizations of tax professionals from all around the world. The principal aim of GTAP is to promote taxpayer and tax advisers' interests by ensuring the fair and efficient operation of the global tax framework, including recognition of the rights and interests of taxpayers, and the role of tax professionals. For further information, please contact Piergiorgio Valente, President of CFE Tax Advisers Europe or Aleksandar Ivanovski, Tax Policy Manager, at [gtap@taxadviserseurope.org](mailto:gtap@taxadviserseurope.org). For further information regarding CFE Tax Advisers Europe please visit our web page [http://www.taxadviserseurope.org/about-us\\_gtap/](http://www.taxadviserseurope.org/about-us_gtap/)

## Statement

The Global Tax Advisers Platform (“GTAP”)<sup>1</sup> is pleased to submit a response to the OECD public consultation on the draft report on tax morale.

GTAP welcomes the findings of the report that suggest a global policy course of action which places greater emphasis on increased tax certainty and voluntary compliance in order to strengthen and improve the tax morale among individuals and business alike.<sup>2</sup> In particular, GTAP supports the findings of the report related to the need for increased tax morale with reference to developing countries. In respect to both businesses and individuals, improving tax morale would no doubt have a meaningful impact on tax good governance and capacity building.

### 1. Tax Morale and Tax Certainty

In such a context, GTAP endorses the findings of the OECD Report that tax certainty has a great impact on business decisions, in absence of which, modified business structures, increased costs, and changes to investment decisions could arise.<sup>3</sup>

GTAP has long advocated for increased tax certainty and strengthened taxpayers’ rights as a proxy for increased tax morale among individuals and businesses. In collaboration with the Asia-Oceania Tax Consultants’ Association (AOTCA) and the Society of Trust and Estate Practitioners (STEP), CFE has published Model Charter of Taxpayer Rights and Responsibilities between taxpayers and tax administrations.<sup>4</sup>

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<sup>1</sup> The founding members of GTAP are:

- CFE Tax Advisers Europe,
- Asia-Oceania Tax Consultants’ Association (AOTCA), and
- West Africa Union of Tax Institutes (WAUTI).

Observers to GTAP are:

- International Association of Financial Executives Institutes (IAFEI),
- Society of Trust and Estate Practitioners (STEP), and
- Arc Méditerranéen des Auditeurs (AMA).

<sup>2</sup> Tax morale is defined as a voluntary, intrinsic motivation to pay taxes, both at the level of individuals and businesses

<sup>3</sup> OECD Draft Report on Tax Morale, p. 33

<sup>4</sup> The Model Taxpayer Charter and the Final Report can be accessed online at the following link:

<http://www.taxpayercharter.com/>

## 1.1. The Model Taxpayer Charter

The Model Taxpayer Charter highlights the characteristics of a well-functioning tax system, and sets out the following 10 basic principles that are perceived as underpinning the rights of the taxpayers, with significant impact on tax morale:

- integrity and equality;
- certainty;
- efficiency and effectiveness;
- the right to appeal and the right to dispute resolution;
- appropriate assistance;
- confidentiality and privacy;
- payment of the correct amount of tax;
- representation;
- proportionality; and
- honesty.

The Model Charter also sets out 10 taxpayer responsibilities, including:

- being truthful;
- providing information where reasonably required;
- being cooperative;
- making payment;
- complying with the law;
- maintaining accurate records;
- taking due care;
- retaining responsibility for information in filings;
- showing courtesy; and
- complying cross-border.

The overriding purpose of the Charter is to foster a relationship of mutual trust, respect and responsibility between taxpayers and tax administration by clarifying taxpayers' obligations while also clarifying the rights of taxpayers that should be upheld. The Charter aims to ensure that all taxpayers are treated equally and without bias or preference.<sup>5</sup>

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<sup>5</sup> At present, under the GTAP umbrella, CFE is revisiting this work with a forthcoming report of the Professional Affairs Committee on basis of a survey on the position of taxpayers' rights vis-a-vis tax administrations among a selected group of countries in Europe, Africa and Australia



The Model Taxpayer Charter is intended as a blueprint for what a good tax system should contain including best practice examples. It aims to provide a model based on mutual trust to be used and embedded in national laws. It constitutes the basis on which taxpayers' obligations to the state are balanced against the rights of taxpayers.

## 1.2. Relationship between Tax Morale and Taxpayers' Rights

The tax morale is significantly affected by the nature of the relationship between taxpayers and government. An emphasis on taxpayers' rights and certainty in the OECD countries and worldwide will benefit the tax morale, in particular due to the fact that tax morale is closely linked to what some authors refer to as 'taxpayer ethics', as norms of behaviour governing citizens as taxpayers in their relationship with the government.<sup>6</sup> As such, the tax assessment and enforced compliance strategies utilised by governments are likely to create tension with the taxpayers, with negative influence on their tax morale as a consequence.

Equally, the concept of tax morale is dependent on strengthening the relationship of trust between the taxpayers and governments, as well as empowerment of the taxpayer's position. Policy developments in this direction are welcomed by GTAP as these will have a positive impact on taxpayers' tax morale and the tax compliance in general.

Further, GTAP members strongly believe that well-functioning institutions, trust in the governments and an atmosphere of positive returns from the system back to citizens will produce results such as higher tax morale and willingness of individuals to voluntarily contribute to the 'social contract' by paying more taxes. Thus, a sustainable system should be based on a fair tax environment, responsive governments, reciprocally related with the tax contributions of citizens and the supply of public goods. With taxpayers' perception that their 'social contract' commitments are adequately represented, their identification with the national governments increases, and consequently the tax morale and their willingness to contribute voluntarily to the budget and pay taxes.<sup>7</sup>

GTAP concurs with the proposition that effective public services are a means to demonstrate how well governments turn tax revenues into beneficial expenditures, so these can produce a double dividend comprising both the intrinsic benefit of the service provided and the spill over benefits from public satisfaction generated

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<sup>6</sup> James Alm and Benno Torgler, "Culture differences and tax morale in the United States and in Europe.", *Journal of economic psychology* 27.2 (2006): 224-246.

<sup>7</sup> Ronald Cummings et al. "Tax morale affects tax compliance: Evidence from surveys and an field experiment." *Journal of Economic Behavior & Organization* 70.3 (2009): 447-457

by its provision.<sup>8</sup> GTAP welcomes the findings that the need for increased focus on tax morale is particularly relevant for developing countries, where the improved public service delivery is directly related to an improved tax morale.

On this basis, GTAP highlights the intrinsic link between the taxpayers' rights and the voluntary compliance, as citizens and businesses alike will be more likely to comply with the law if the relationship between the taxpayers and the government is found to be equitable.<sup>9</sup>

## 2. Policy considerations with respect to the tax morale

### 2.1. Gender- Responsive Fiscal Policies

The OECD reports concludes that an important divergence from the global analysis is that women appear to have lower tax morale than men, with reference to Africa. To address these issues, GTAP endorses the UN- led projects that have recently promoted the awareness of gender mainstreaming in the field of public finance management through its gender responsive taxation and budgeting initiatives.<sup>10</sup>

In strengthening the tax morale among both genders, GTAP fully supports government actions that deliver budgets and promote taxation policies that work for everyone. By promoting gender-neutral distribution of resources and raising of revenues, governments contribute to more equitable societies and more opportunities for all. In such a context, GTAP members fully endorse the proposition to work on gender-responsive policies in developing countries in particular, as a means for both improving the perception of fairness and establishing fiscal equality among all citizens, regardless of gender.

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<sup>8</sup> The OECD Draft Report (2019) highlights that improved public service delivery appears to be a driver of tax morale, in particular with reference to Africa

<sup>9</sup> Benno Torgler, "Tax morale, rule-governed behaviour and trust." *Constitutional Political Economy* 14.2 (2003): 119-140. Torgler suggest that there are other possibilities to increase tax morale, ie. taxpayers are likely to follow rules they know or trust to produce good results or when they trust both the public officials and the legal system, *op. cit.*

<sup>10</sup> According to the United Nations: "gender responsive budgeting helps to track the way that budgets respond to women's priorities and the way that governments use funds to reduce poverty, promote gender equality, reverse the spread of HIV and lower the rates of maternal and child mortality. It helps ensure government accountability to the commitments made to women in the Cairo Programme of Action on Population and Development and the Beijing Platform for Action for Gender Equality and Women's Empowerment and to achieving the Millennium Development Goals", *Gender Responsive Budgeting in Practice*, United Nations Textbook (2013)

## 2.2. Tax Morale and the Post-BEPS Complexities - Cooperative Compliance

In a post-BEPS environment, with the proliferation of measures to combat tax avoidance and evasion, there is a notable lack of certainty, which affects the compliance levels among businesses. For these reasons, GTAP members believe that protecting the legally held rights of taxpayers, business or individuals, is all the more significant given the current state of public opinion regarding tax avoidance and as important as ensuring the continuance of legally enforced compliance and voluntary compliance alike.

Increasingly, with BEPS-implementing measures, taxpayers in different jurisdictions are facing equal tax obligations but are not treated equally by tax administrations in terms of their rights. As a means of providing advance certainty for taxpayers by tax administration, GTAP is supportive of any programmes that establish such protection for taxpayers. We support both cooperative compliance programmes and tax ruling practices that comply with the OECD and the EU tax good governance standards.

Similarly, cooperative compliance was recently endorsed by the IMF/OECD, on the basis that “cooperative compliance programs could reduce uncertainty for low risk companies, assist tax administrations to better focus their resources and promote a culture of greater trust”.<sup>11</sup>

In the same vein, where tax administrations provide tax rulings and Advance Pricing Agreements (APAs) these have proved to be an effective tool for the prevention of tax-related disputes, especially with respect to transfer pricing issues. They provide the taxpayer with advance knowledge of the tax treatment of particular transactions and therefore allow certainty for taxpayers in planning for the future, and also prevent the risk of subsequent disputes. In light of the debate about strengthening the tax morale among businesses, GTAP encourages governments to establish legal frameworks that promote simple and effective procedures for the conclusion of bilateral/multilateral APAs and/or confirmative tax rulings as means for increased tax certainty.

## 2.3. The response of the international tax professionals’ community

GTAP members share the concern that the complexity arising from the international aspects of taxation affect the incentives for voluntary compliance, in particular in relation to developing countries. Digitalisation is posing significant challenges to the *modus operandi* of the international tax framework. The boundaries are increasingly

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<sup>11</sup> OECD / IMF Report to G20 on Tax Certainty, March 2017

becoming irrelevant, and as a result jurisdictions find it quite challenging to effectively tax modern value producing activities. As a consequence, a global tax jurisdiction is being *de facto* constituted.

In this vein, GTAP welcomes the new models of collaborations, platforms where stakeholders across the board sit together and work with legislators and policy-makers to address the new circumstances. We believe that only through effective collaboration, the complexities of the international tax system can be addressed, as well as the related issues of compliance with the rules. We participate in all the international and supranational initiatives that aim to define internationally acceptable rules that will be appropriate and effective in an ever-shifting tax landscape. The likely result of such initiatives is indeed increased tax morale: seeking to unite stakeholders across the board will ensure that the outcomes have only beneficial consequences, for taxpayers and governments, as intended by democratically elected legislators worldwide.

In line with these initiatives, tax advisers from all over the world launched the GTAP, aiming to contribute to the global debate on addressing the system deficiencies in an international context. Moreover, this platform is more than a cooperation tool: it enables effective partnership among tax advisers across the globe and shall hence ensure their prompt and adequate responses in the new framework. Most importantly, it shall ensure that tax advisers' knowledge, skills and expertise are in the service of policy-makers for the construction of a new international tax framework. Consequently, in light of the discussion for improved tax morale and the related policy considerations, GTAP members highlight the *Ulaanbaatar Declaration*: on 12 September 2018, GTAP members and observers signed the Declaration, setting out the platform's 10 key priorities for international taxation.<sup>12</sup>

Finally, GTAP encourages cooperation at all levels to address the inconsistency of the international framework, to address the lack of expertise of tax administrations in particular in developing countries. One key benefit of the globalised tax environment and the post-BEPS world are the equal learning opportunities for both developed and developing countries in adopting international standards in tax, such as the BEPS Actions, in addition to effective capacity building in implementing such standards. As a response to the globalised tax governance environment, GTAP serves a unique purpose: to encourage tax professionals to take up the challenge of proposing a new system: simple, flexible and fit for purpose, a system that can reclaim taxpayers' confidence and increases the tax morale of both individuals and businesses.

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<sup>12</sup> The *Ulaanbaatar Declaration* sets out common key priorities for the collective promotion of an optimal tax framework worldwide, including strong cooperation among tax professionals, inclusiveness, revision of existing tax rules, safeguarding taxpayers' rights, and digitalisation of the tax profession, available at: <http://taxadviserseurope.org/blog/the-ulaanbaatar-declaration-global-tax-advisers-platform-signs-declaration-setting-out-key-priorities-in-international-taxation/>



In conclusion, growth demands tax policies instilling confidence to taxpayers. Entrepreneurship needs systems from which it can hold, to plan and to create a vision. There is growth where there are efficient tax systems, where legislators can inspire voluntary tax compliance. Sustainable tax systems are the ones that give good reasons for compliance to taxpayers, their main stakeholders. Due respect to taxpayers' rights is the primary prerequisite in such an endeavour.

# **Input to the Platform for Collaboration on Tax Consultation Concerning the Draft Transfer Pricing Toolkit for Developing Countries**

**Issued by the Global Tax Advisers Platform**

**Submitted to the Platform for Collaboration on Tax on 12 November 2019**

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CFE Tax Advisers Europe together with the Asia-Oceania Tax Consultants' Association ("AOTCA") and the West African Union of Tax Institutes ("WAUTI"), established the Global Tax Advisers Platform ("GTAP") in 2013. GTAP is an international platform, representing more than 600,000 tax advisers in Europe, Asia and Africa, that seeks to bring together national and international organizations of tax professionals from all around the world. The principal aim of GTAP is to promote taxpayer and tax advisers' interests by ensuring the fair and efficient operation of the global tax framework, including recognition of the rights and interests of taxpayers, and the role of tax professionals. For further information, please contact Piergiorgio Valente, Chairman of GTAP or Aleksandar Ivanovski, Secretary General of GTAP, at [gtap@taxadviserseurope.org](mailto:gtap@taxadviserseurope.org). For further information regarding CFE GTAP please visit our web page [http://www.taxadviserseurope.org/about-us\\_gtap/](http://www.taxadviserseurope.org/about-us_gtap/)

## Statement

The Global Tax Advisers Platform (“GTAP”)<sup>1</sup> is pleased to submit a response to the Platform for Collaboration on Tax concerning the public consultation on the draft toolkit designed to help developing countries with the implementation of transfer pricing documentation requirements.

GTAP welcomes the draft toolkit, and considers the incentive to be highly rewarding in terms of its potential for developing uniformity in practice across jurisdictions. Please find below GTAP’s adopted responses to the consultation questions, based on responses compiled by founding GTAP member, the West African Union of Tax Institutes and the Committee on Transfer Pricing of their Member Organisation, the Chartered Institute of Taxation of Nigeria (CITN).

### **Question 1: Does this draft toolkit effectively address all the relevant considerations for the design of an effective transfer pricing documentation regulatory system?**

We agree with the content of the Toolkit as effectively addressing all relevant considerations for an effective transfer pricing documentation regulatory system. The additional requirements for this are as contained in the questions below.

### **Question 2: In terms of enforcement of transfer pricing documentation, are particular approaches (e.g. penalties or compliance incentives) especially beneficial for limited capacity developing countries?**

Penalties typically drive compliance by taxpayers. Where there are no specific penalties for non-compliance, there is no incentive for taxpayers to comply with the transfer pricing legislation. The effectiveness of penalties in enforcing transfer pricing documentation requirements is diminished by the potential evaluation by taxpayers

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<sup>1</sup> The founding members of GTAP are:

- CFE Tax Advisers Europe,
- Asia-Oceania Tax Consultants’ Association (AOTCA), and
- West Africa Union of Tax Institutes (WAUTI).

Observers to GTAP are:

- International Association of Financial Executives Institutes (IAFEI),
- Society of Trust and Estate Practitioners (STEP), and
- Arc Méditerranéen des Auditeurs (AMA).

of the risk of detection by tax authorities due to the limited capacity. Enforcement level may also be subject to a cost-benefit analysis by the taxpayer of the penalties in relation to the regulatory and financial impact of compliance. However, penalty regime for transfer pricing should be such that it would encourage voluntary compliance and not put taxpayers in a dilemma. Penalty regimes that do not put into consideration the cost of compliance, financial capacity of taxpayers, the peculiarity of the taxpayer circumstance, etc may be considered highly punitive and harmful.

Similarly, compliance incentives (especially those that shift the burden of proof) could encourage taxpayers to comply with transfer pricing documentation requirements, even where detection risk or implementation is low due to limited capacity. There must be evidence in the structure of the incentive in the legislation and practice that show an actual shift in the burden. A largely compliant taxpayer should enjoy some form of protection from additional penalties arising from TP adjustment in the event of a tax audit.

Overall, a combination of variable based penalties and “a shift in the burden of proof” compliance incentive may be a viable option to enforce transfer pricing documentation requirements in limited capacity developing countries.

### **Question 3: Are there other transfer pricing documentation requirements not covered in this toolkit that should be considered?**

Taxpayers with no related party transactions should be considered. The toolkit does not provide guidance in respect of documentation requirements (for each document – master file, local file, returns, etc.) for taxpayers with no related party transaction in any particular year. Similarly, the Toolkit should provide guidance on treatment of taxpayers whose status change year on year.

### **Question 4: What additional considerations and/or tools can be included in this toolkit to assist developing countries to implement effective transfer pricing documentation?**

Additional considerations and tools to be included in the toolkit could include:

- a. Detailed exposition on the use of safe harbours;
- b. Impact of Customs, Central Banks and governmental regulatory agencies on transfer pricing documentation and compliance;
- c. Transfer Pricing analysis of financial transactions.

GTAP hope you will give due consideration to our comments and look forward future opportunities to contribute to the Platform for Collaboration on Tax's work on taxation and transfer pricing.

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# CFE Tax Advisers Europe Response to the OECD Public Consultation Document: Secretariat Proposal for ‘Unified Approach’ Under Pillar One

Submitted by CFE to the OECD on 12 November 2019  
Endorsed by the Global Tax Advisers Platform

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CFE Tax Advisers Europe is the European umbrella association of tax advisers. Founded in 1959, CFE brings together 33 national tax institutes, associations and tax advisers’ chambers from 26 European countries, associated via the Global Tax Advisers Platform (GTAP) with more than 600,000 tax advisers. CFE is part of the EU Transparency Register no. 3543183647-05.

CFE Tax Advisers Europe together with the Asia-Oceania Tax Consultants’ Association (“AOTCA”) and the West African Union of Tax Institutes (“WAUTI”), established the Global Tax Advisers Platform (“GTAP”) in 2013. GTAP is an international platform, representing more than 600,000 tax advisers in Africa, Asia-Oceania and Europe, seeking to bring together national and international organizations of tax professionals from all around the world. The principal aim of GTAP is to promote fair and efficient operation of the global tax framework, including recognition of the rights of taxpayers and advancing global cooperation among tax professionals.

CFE Tax Advisers Europe would be pleased to answer any questions you may have concerning our Opinion Statement. For further information, please contact Piergiorgio Valente, President of CFE Tax Advisers Europe and Chairman of the Global Tax Advisers Platform (GTAP), Stella Raventós-Calvo, Chair of the CFE Tax Advisers Europe’s Fiscal Committee, or Aleksandar Ivanovski, CFE Tax Policy Manager at [info@taxadviserseurope.org](mailto:info@taxadviserseurope.org). For further information regarding CFE Tax Advisers Europe please visit our web page <http://www.taxadviserseurope.org/> For further information regarding GTAP please visit [http://www.taxadviserseurope.org/about-us\\_gtap/](http://www.taxadviserseurope.org/about-us_gtap/)



CFE Tax Advisers Europe welcomes the opportunity to contribute to the public consultation on the OECD Secretariat proposals for a 'Unified Approach' under Pillar One concerning the taxation challenges of the digitalising economy. We recognise the initial stage of the new proposals, and that many details are yet to be finalised depending on the direction taken by the members of the Inclusive Framework at political level. CFE would welcome the opportunity to provide more elaborate comments to any new detailed technical proposals in due course.

## Key Remarks of CFE Tax Advisers Europe

In responding to the questions posed, we wish to give the following preamble to our reply. We are very much aware of the historic significance of attempting to recognise new taxation rights for jurisdictions, where under present rules no income could be attributed to any nexus not based on physical presence. If the project is successful, it will represent a new departure in the development of global tax policy and the principles it lays down will be used in fashioning future fiscal rules, the need for which we currently do not know. It will become a major precedent.

Considering these circumstances, and in order to make meaningful progress in due course, CFE calls for more clarity and early consensus at political level as to the outcome of this process, recognising the consequences of departing from well-established principles of international tax law towards a more complex international tax system which partly introduces formulary apportionment.

For this reason, we are of the view that a number of key elements must be embedded as part of this process and its outcome:

1. **The rights of taxpayers must be respected and ensured as a key bulwark supporting certainty and positive adoption of any new rules** that address the taxation challenges of the digitalising economy. Any new rules should take into account that tax certainty for taxpayers and tax administrations alike are recognised by international stakeholders as a key factor in investment and other commercial decisions, with significant impact on economic growth.
2. Ensuring fairness by recognising new taxation rights for market jurisdictions is an important element of the process, but **the outcome must result in rules which are workable on day-to-day basis for tax administrations, taxpayers and their advisers**. If new income allocation rules are added on top of the existing set of rules that govern the international taxation system, complexity will be even greater.
3. A related point follows, that **the process needs to take administrative capacity issues at the level of tax administrations and taxpayers as a key consideration in designing the new rules**. Simplicity in implementation and administration of the rules ought to take precedence over other criteria.
4. It is important not to underestimate **the resources needed by tax administrations and capacity issues within tax administrations of developing and/or smaller countries** to deal with multilateral disputes.
5. We also recognise that the agreed rules will need to **assuage countries who have unilaterally introduced or are introducing their own digital services tax rules**, otherwise significant double taxation is at risk.

6. The rules should be framed in such a way that it is clear whether a company falls within the scope of the rules. **A default position that all taxpayers are 'within scope' unless they are subject to an exemption (carve out) is unacceptable, as a matter of certainty.** We believe that the solution should apply only to highly digital businesses.
7. At a minimum, any new rules should only apply where the country-by-country threshold is exceeded (750 million euro), as these rules as designed will undoubtedly result in a significant administrative burden. We also **suggest a profitability threshold in addition to the revenue threshold, in order to qualify more precisely the scope of the new rules.**
8. **The issue of losses needs to be addressed in an equitable manner.** In smaller economies, companies outgrow their domestic market at a relatively early stage. Such companies will undoubtedly incur losses when expanding into new markets. These losses should not only be absorbed in the resident country, while paying tax on profits elsewhere.
9. **Preventing tax disputes, and building international consensus on binding effects of dispute resolution is critical.** These proposals will not work unless there is consensus for all countries to sign up to the binding effect of dispute resolution, which can operate on a multilateral basis and not just on a bilateral basis. This will inevitably require the development of a brand new multilateral treaty.
10. The security and integrity of taxpayers' data must be assured and computational outcomes should be subject to audit and/or assurance so that issues of conflict, dispute and double taxation can be satisfactorily and economically resolved. For instance, CFE suggests considering a **"one-stop-shop" mechanism to audit Amount A.** Still, further discussions should not underestimate the difficulties in departing from the current entity-based approach and moving to one which uses figures from consolidated accounts, then allocating the resulting tax liability to certain members of the multinational group.
11. **More time should be allowed in order to arrive at workable solutions that will withstand the scrutiny and test of time.** A comprehensive solution should be able to keep within scope the ever-evolving nature of the digitalising business models, resolving the taxation challenges, but equally ensuring the sustainability of the process, which will justify the resources spent by taxpayers, their advisers and tax administrations on making the new rules a reality.
12. Finally, the outcome of this process, from a policy perspective, should recognise that 'value creation' must surely be an equilibrium between two sides of the spectrum: **risks taken by decisions made in the investing countries balanced against any meaningful value derived in market jurisdictions, primarily due to the relative immobility of the purchasers of goods and services.**<sup>1</sup>

## Impact Assessment

A comprehensive economic impact assessment is required before taking this process forward, in particular to assess the impact and the combined effects of Pillar One and Pillar Two, as these two projects serve distinct, but concurrent objectives.

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<sup>1</sup> The IMF for instance, considers the notion of 'value creation' as an incomplete standard by which to assess multinational tax arrangements, IMF Policy Note 'Corporate Taxation in the Global Economy', 2019, p. 18

Considering the historic significance of this project, much greater information must be ascertained on the serious impact that is to be expected. The impact analysis should establish the economical and administrative-side consequences of this project. For instance, data and research gaps indicate that even for advanced economies, little is known about the nature and scope of residual profits.<sup>2</sup>

More generally, existing research demonstrates that the tax burden does not always fall on the taxpayer who is legally responsible for the tax payment:

*"In practice, the discussion regarding who bears a tax is often linked to the assumption that the economic burden may align with the legal tax liability. In reality, there can often be large and unintended differences between legal tax liability and ultimate economic incidence. In fact, legal tax liability often bears little relationship to who actually bears a given tax. Moreover, the dynamics whereby a tax burden is reallocated among different actors in the economy are not reflected in tax collection amounts, making economic incidence difficult to analyse".<sup>3</sup>*

Research indicates that further studies are required to shed light on the criteria and conditions affecting the allocation of the tax burden, and the related link between tax remittance structure and economic incidence.<sup>4</sup> Further studies would help to shed light on the ways in which the role of business taxation in the administration of tax systems differs in smaller or developing economies. These important aspects concerning the administration of the tax system and the impact of new tax policy measures merit further consideration from taxation policymakers.

## Definition of Scope

CFE recognises the efforts of the OECD Secretariat to identify common features of the initial three-approaches to the taxation challenges of the digitalising economy, in an attempt to define the commonly acceptable elements of business models within scope of the proposed rules.<sup>5</sup> As a rule, the proposals should be framed in such a way that it is clear whether a company falls within the scope of the rules, as a positive obligation, rather than on the basis of excluding certain industries. At present, the Secretariat proposals do not define the precise range of the business models within scope of the newly proposed rules.

In addition, considering the nebulous nature of the concept of 'consumer-facing business' models, which extends beyond technology software companies, it is extremely difficult to define which taxpayers are within the scope, significantly affecting tax certainty. This process should take into account that tax certainty for taxpayers and tax administrations alike is recognised by international stakeholders as a key factor in investment and other commercial decisions, which have a significant impact on economic growth.<sup>6</sup>

From CFE's perspective, a default position where all companies are 'within scope' unless they are subject to an exemption/carved out is unacceptable (e.g. as is currently the case for extractive businesses). We recognise the policy intention to bring into scope businesses which derive meaningful value from customer interaction, and who through such interaction create value without physical presence in a market jurisdiction. Where a B2B

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<sup>2</sup> IMF Policy Paper "Corporate Taxation in the Global Economy" (2019), IMF Publishing, Washington DC.

<sup>3</sup> Anna Milanez, "Legal tax liability, legal remittance responsibility and tax incidence: Three dimensions of business taxation", OECD Taxation Working Papers, No. 32, OECD Publishing, Paris.

<sup>4</sup> Idem, page 43

<sup>5</sup> Para 19 of the OECD Secretariat Proposals for Unified Approach under Pillar One (October 2019)

<sup>6</sup> IMF/OECD (2017), OECD/IMF Report on Tax Certainty, updated with OECD/IMF 2019 Progress Report on Tax Certainty, published on 8 June 2019

business model involves sales of consumer products through intermediaries, clarity is required as to whether those are in scope.<sup>7</sup>

Crucially, considering that the new rules would undoubtedly result in a significant administrative burden, these should only apply where the country-by-country revenue threshold is exceeded (750 million Euro), in addition to a profitability threshold.<sup>8</sup> The temporal element of a business presence in a jurisdiction is another important aspect, for example, whether the business has had sustained engagement with the market of a number of years of activity. Such a 'temporal threshold' would ensure maintaining the sustainability of the new nexus rules in an ever-shifting business landscape.

CFE believes that it is important that new laws should be restricted by such thresholds for only very large highly digitalised companies. Any new measures must focus on the formulation of growth-orientated approaches, which leverage on the opportunities of digitalisation for economic growth.

**Finally, upsetting the international tax framework without clear economic impact analysis will inevitably lead to adverse outcomes and great uncertainty for all stakeholders. Uncertainty will result in non-uniform application to entities and practices beyond the anticipated scope of the new laws. To mitigate this risk, any new rules should be aligned, as much as possible, with existing international tax principles and practice.**

## The New Nexus and Profit Allocation Proposals

Under the Secretariat proposals, applying a market jurisdictions approach is quite novel, which as a result recognises new taxation rights for market jurisdictions. Conversely, under present international tax rules, zero profit could be allocated to any nexus not based on physical presence. Under the new profit allocation rules, a share of the deemed residual profits of the 'consumer-facing' multinational companies will be reallocated to market jurisdictions, partly through formulary apportionment and use of proxies such as sales.

In principle, CFE Tax Advisers Europe supports the direction under which a taxable nexus is created in market jurisdictions, as a result of which a share of the deemed residual profit shall be allocated to market jurisdictions. However, CFE expects that all stakeholders recognise the consequences of departing from well-established principles of international tax law towards a more complex international tax system which partly introduces formulary apportionment.

As a result of these fundamental changes, more complexity is added to the system which may undermine the policy intention of the proposals. We recognise that tax systems are inherently complex, often for valid reasons (such as achieving fairness and inter-nation equity), however, we do urge the OECD and other stakeholders to clarify certain elements of the proposals before going forward.

For instance, the differentiation between routine profits and residual profits, a fraction of which is intended to be allocated to market jurisdictions, remains complicated and a source of potential further conflicts and disputes in allocating deemed residual profits.<sup>9</sup> For these reasons, clear guidance which will take the form of appropriate

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<sup>7</sup> Large technology software companies, who mostly sell to other businesses (B2B), may be left out of scope, which might not be the intended outcome of this process.

<sup>8</sup> For instance, under Amount A, one could determine the amount of profits made in the market jurisdiction by considering a 10/10 ratio or indeed 20/20 ratio. For example, companies with a 10% profit margin would be within scope, with 10% of their excess residual profits being allocated to markets.

<sup>9</sup> "Routine profit is the profit that an independent contractor would be expected to earn, given that it does not share the overall risk of the business. Residual profit is profit earned by the business in excess of this routine profit. It is tempting to equate this distinction between the routine profit and residual profit to the economic distinction between the normal return on an investment and economic rent, even though they would be calculated differently. However, while there is some overlap between the two distinctions, they should not be thought of as equivalent. In sum, therefore, it is possible that the residual profit may be greater than, or smaller than, economic rent of the overall enterprise.", Michael

revision of relevant soft-law such as the OECD Transfer-Pricing Guidelines is necessary for precise demarcation of lines between routine and residual profits.

We recognise that in order to avoid potential spill over effects, the proposals intend to implement the new nexus rules as a standalone treaty provision, independently from the existing Permanent Establishment (“PE”) definition in the OECD Model Tax Convention. However, irrespective of this intention, the relationship between these two provisions (Article 5 of the OECD Model Tax Convention) and the new nexus treaty provision needs to be clearly defined. As the OECD is no doubt aware, the relationship between these two provisions can have significant consequences on the *modus operandi* of the whole tax system, so careful demarcation will avoid taxpayers being subject to double taxation.

More generally, as regards existing transfer-pricing rules and the operation of the Arm’s Length Principle, any new rules should be aligned, as much as possible, with existing international tax principles and practice.

## Specific Comments Regarding Amounts A, B, C

### Specific Comments on Amount A:

Clarity would be welcome on the determination of the deemed non-routine profits, which are at present subject to tax at the residence jurisdiction. According to the proposals, on the basis of global consolidated financial information, a deemed non-routine profit will partly be allocated to the market jurisdiction on the basis of formulary apportionment. To avoid double taxation of such profits in both the residence and market jurisdictions, the taxation right under Amount A should be adjusted to reflect the balance of avoiding double taxation.

Typically, if the countries to which profits are allocated under Amount A do not have double tax treaties (and in absence of domestic provisions for cross-border tax relief), juridical double taxation would occur. In addition, profit attribution on the basis of formulary apportionment could also lead to double economic taxation, which is not at present relieved by double tax treaties.

A “one-stop-shop” mechanism to audit Amount A is also suggested, which would subject the amount to a single review, and be accepted by all relevant taxing jurisdictions.

### Specific Comments on Amount B:

CFE understands that the purpose of Amount B is to solidify existing returns under transfer pricing, rather than generating additional revenues for market jurisdictions. In this respect, certainty regarding the baseline would be welcome. As these rules appear to cover a wider range of businesses, clarity would be welcome as to what extent Amount B intends to reward particular industries or regions.

If Amount B becomes established, it has the potential to also apply to smaller companies that fall outside the scope of the rules. This would be acceptable only if it could act as a safe harbour guideline. For example, the globally accepted baseline could be built upon as a template for safe harbour thresholds for smaller companies, to reduce complexity over taxing profits when breaking into new markets.

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P. Devereux, Alan J. Auerbach, Michael Keen, Paul Oosterhuis, Wolfgang Schön and John Vella, “Residual profit allocation by income”, WP 19/01 March 2019, Oxford University; *idem*, IMF Policy Paper (2019), fn. 6

## Specific Comments on Amount C:

There is considerable uncertainty regarding Amount C, in absence of clear political consensus on the scope of the principles underpinning this element, which is in essence a mechanism to adjust the above amounts where the activities justify allocation of additional profits in market jurisdictions. In spite of the elements of Amount C aiming to provide additional certainty and ease of disputes, the calculation of C deviates from the formulary elements under A and goes back to the Arm's Length remuneration under ALP.

Preventing tax disputes and building international consensus on binding effects of dispute resolution is critical. These proposals will not work unless there is consensus for all countries to sign up to the binding effect of dispute resolution, which can operate on a multilateral basis and not just on a bilateral basis. This will inevitably require the development of a brand new multilateral treaty. It is important not to underestimate the resources needed by tax administrations and capacity issues at level of tax administrations of developing and/ or smaller countries to deal with multilateral disputes.

## Addressing the Issue of Losses

The issue of losses needs to be addressed in an equitable manner. In smaller economies, companies outgrow their domestic market at a relatively early stage. Such companies will undoubtedly incur losses when expanding into new markets. These losses should not only be absorbed in the resident country, while paying tax on profits elsewhere. As a consequence, certain “unicorn” companies will come to the end of their loss-making phase when these rules are likely to be rolled out, which will affect countries in which such companies have invested early on, and may potentially not see a return.

## Availability of Financial Information

CFE understands that the approach to calculate the amounts A, B and C is to start from the ‘top holding’ and then dividing the profit, but the primary issue with this approach is the availability and divergence of financial information and the differing accounting rules and standards in different countries. From CFE’s perspective, a comparative exercise between jurisdictions seems in order, in order to align the different accounting rules to arrive at similar results.

It is also essential to have a transparent data source, which can be the consolidated financial accounts, but the complexity of drilling down in the profit and loss account to a divisional/ segmented business line should not be underestimated. Companies may not have designed their accounting models/systems to report in such segmented business or regional lines and therefore, it will be important to consult closely with business regarding this issue.

In general, if information is not required in a published set of accounts, then a company will not produce that information. Consultation should also be carried out with relevant stakeholders concerning the development of any system serving as a data source, either to comply with reporting obligations or to justify/verify calculations concerning amounts A, B and C. CFE strongly believes that any systems used in the process must be future proof, i.e. capable of seamlessly moving into a real time environment without a root and branch revision being required.

CFE Tax Advisers Europe is the European umbrella association of tax advisers. Founded in 1959, CFE brings together 33 national tax institutes, associations and tax advisers’ chambers from 26 European countries, associated via the Global Tax Advisers Platform (GTAP) with more than 600,000 tax advisers. CFE is part of the EU Transparency Register no. 3543183647-05. For further information regarding CFE Tax Advisers Europe please visit our web page <http://www.taxadviserseurope.org/>





# ARTICLES

# The Ulaanbaatar Declaration: 10 Key Priorities in International Taxation Identified by the Global Tax Advisers' Platform (GTAP)

**The tax arena is undergoing significant change driven by globalization and digitalization, and a new global tax jurisdiction is emerging. Multiple international initiatives have been launched to identify proper norms for this new context, including the EU Platform for Tax Good Governance. Against this background, the Global Tax Advisers Platform (GTAP) was initiated by tax advisers from across the globe. The GTAP's 10 Key Priorities were set out in the "Ulaanbaatar Declaration" signed on 12 September 2018.**

## 1. Introduction

The tax arena is currently undergoing the most significant change observed in the past century. The coordinates of the tax world are being substantially redefined by globalization and digitalization. A new tax jurisdiction seems to be emerging from the unification of numerous tax jurisdictions across the globe. Taxation in the future is likely to be the result of global coordination and consent – or at least this seems the most reasonable scenario at the moment.

The main drivers of today's economy are transnational enterprises and digital businesses. Transnational enterprises, on the one hand, are, in essence, multinational enterprises with a centralized business organization. They involve entities in various jurisdictions, highly coordinated for the pursuit of a single, common business purpose. A single mind is directing the multinational constituents, which depend on one another for the pursuit of their business purpose and of the single purpose of the transnational enterprise.

Digital economy, on the other hand, is the product of the transformation of the manner of doing business by the expansion and exploitation of information and communication technologies. Such technologies have truncated time and distance, leading to the emergence of a global market where operators from all over the world cooperate and offer their products and services. The result is that today's value chain might touch upon a number of tax jurisdictions and tax regimes, complicating the identification of the place of value creation.

In this context, single tax jurisdictions find it quite challenging to effectively tax modern value-producing activities. The physical nexus of such activities with a specific territory does not always function as an appropriate criterion in the context of globalization and digitalization. Activities of global reach, which are almost always of a virtual nature, cannot be connected to a specific territory in a convincing manner. In other words, a new nexus needs to be defined along with new rules appropriate to a global market and income produced across the globe. A global tax jurisdiction is being constituted through the de facto interconnection of the various existing national jurisdictions.

National legislators and policymakers are aware of the new circumstances. A series of international and supra-national initiatives are being launched for the purpose of identifying an appropriate nexus, as well as proper and effective tax rules of a global character.

The common feature of such initiatives is cooperation: they seek to unite various stakeholders and different parts of the world in order to ensure that the outcomes can actually have a global bearing.

In this context, three international platforms have arisen to deal with tax matters:

- (i) the Platform for Collaboration on Tax, in the context of which the IMF, the OECD, the UN and the World Bank Group cooperate;
- (ii) the EU Platform for Tax Good Governance, which constitutes the framework for dialogue and interaction between EU Member States' tax authorities and representatives of key stakeholders; and
- (iii) the informal platform for cooperation regarding tax administrative practices inaugurated by the OECD, the Inter-American Centre of Tax Administration (CIAT), the Intra-European Organisation of Tax Administrations (IOTA) and the IMF.

In line with these initiatives, tax advisers from all over the world launched the Global Tax Advisers' Platform (GTAP). The GTAP enables effective collaboration among tax advisers across the globe and is intended to ensure their prompt and adequate representation in the new framework. Most importantly, it will ensure that the knowledge, skills and expertise of tax advisers serve to aid policymakers in constructing a new concrete international tax framework.

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The founding members of GTAP are:

- CFE Tax Advisers Europe;
- the Asia-Oceania Tax Consultants' Association (AOTCA); and
- the West Africa Union of Tax Institutes (WAUTI).

Observers to the GTAP include:

- the International Association of Financial Executives Institutes (IAFEI);
- the Society of Trust and Estate Practitioners (STEP); and
- the Arc Méditerranéen des Auditeurs (AMA).

The GTAP hopes to reach every corner of the tax world and to welcome federations of tax professional associations from all continents.

In light of the above, on 12 September 2018, GTAP members and observers signed the “Ulaanbaatar Declaration”, setting out the platform’s 10 key priorities, as follows.

## 2. The Ulaanbaatar Declaration

In a global tax arena, tax professionals cannot be limited by national boundaries. Effective tax consultancy requires that they adopt a global viewpoint, are aware of developments on a global scale and can give answers for more than one jurisdiction. Taking into account that the tax world is increasingly globalizing, GTAP considers its ultimate priority to be to assist tax professionals in fulfilling the demands created by these changes. For this purpose, GTAP seeks to ensure the availability and diffusion of information in and amongst different jurisdictions. Therefore, it will employ communication platforms, common databases, regular meetings and conferences for the exchange of knowledge, experience and ideas, and publications.

The objective of global tax consultancy can only be achieved in the context of a global network, encompassing all tax jurisdictions. Inclusiveness is a key principle: GTAP shall be open to each and every professional association of accredited tax advisers in every corner of the world, without distinction. GTAP embraces difference and believes in the value created by the interaction of global participants. Therefore, GTAP will seek to facilitate participation by keeping to a minimum any costs, applying new communication technologies, and organizing its meetings in all continents on a rotational basis.

Trust is an essential tool for the ongoing relationship between tax advisers, their clients and tax administrations. The current global tax framework is defective and its loopholes have allowed practices to develop which are inappropriate to the ethical and constructive global tax system to which we aspire.

Short-term disclosure requirements, introduced as an emergency measure, threaten to drive taxpayers away from their professional advisers. Nonetheless, as a rule, tax professionals’ services are necessary to ensure tax compliance. Tax professionals are the sole persons qualified to interact with the tax authorities, representing tax-

payers to the latter’s best interests. Tax professionals can render taxpayers and tax authorities’ communication successful and effective, advising taxpayers on a continuing basis on their rights and obligations. GTAP undertakes to increase the trust in tax professionals by, amongst other initiatives, establishing a common code of conduct for the provision of tax advice in a global tax world.

The international tax scene is changing. Where territorial tax jurisdiction fades to give space to a global tax world, territorial regimes lose relevance.

New laws are needed to regulate activities without confines and stateless income. National and international legislative bodies are striving to identify appropriate criteria beyond national territories and physical presence for the taxation of the modern economy. Tax professionals have much to contribute. Their experience and expertise must be put at the disposal of legislators with a view to creating together a new, fair and efficient system of taxation, fit for the new conditions. GTAP shall contribute to the discussion, participate in public consultations, take public positions and structure proposals to be used as a basis for the new system. In this respect, tax professionals need to express themselves with a single voice that will be heard loudly and clearly.

In the framework of the renovation of the global tax regime, tax professionals are in a position to offer more than contributions: they can take initiatives. Their position in the centre of tax relations – interacting with both taxpayers and authorities – grants them unique expertise, allowing them to lead the change. Therefore, GTAP shall encourage tax professionals across the world to take up the challenge of proposing a new system: simple, flexible, practical, fit for modern business, a system that can reclaim taxpayer confidence.

In the construction of the new system and the transition towards it, it is crucial to safeguard the rights of taxpayers. Adequate guarantees are a mainstay for the desired fair and efficient tax system, as well as for any truly democratic community. Such guarantees are equally a prerequisite for tax professionals to carry out their assignments.

In this regard, GTAP prioritizes the right of taxpayers to a fair trial, encompassing the right to obtain advice and present one’s tax case, and be represented in tax disputes by tax professionals. The establishment of such rights in all jurisdictions around the world will be sought through consultation with lawmakers and competent authorities, the diffusion of information, opinion statements and legal actions. It is also necessary to ensure that such rights include the confidentiality of communications between tax professionals and clients.

In this regard, tax professionals shall give due regard to the compliance obligations of taxpayers and should only act for taxpayers who are compliant or will become so following the actions proposed by the tax adviser.

The tax system is changing due to the evolution of business and the economy.

Such evolution is endless and the tax world must follow it closely so as to respond quickly to new needs and ensure effective taxation of new types of income and business models.

Tax professionals must be prepared for the change: they must be informed and proactive; they must acquire the tools and qualifications needed to serve new tax regimes. GTAP shall seek to monitor the changes and keep tax professionals abreast of them through internal dedicated specialized teams with interdisciplinary qualities. Such teams shall be devoted to research and conduct studies on business and legal developments from the angle of the tax professional.

Digital technologies are changing work and life in general. The tax profession could not but be affected: several tasks performed by tax professionals are now a matter of a few clicks. Concerns are, accordingly, being raised that the tax profession is vanishing. However, GTAP sees a great opportunity for robots to undertake tasks that are mainly executive and supportive. This would give tax professionals an opportunity to take on new initiatives and innovate.

To do so, they need to be properly equipped to exploit the new technologies' potential, to extract and combine data, to program executive activities, and to give correct instructions. GTAP will provide tax professionals with procedures and tools to master new technologies, maximize their value and be competitive in an evolving market.

This globalizing scenario impacts relations between advanced and emerging economies.

Since the territory of activity is losing relevance, activities in emerging economies and their potential supervision by tax authorities become particularly important for the global economy. For taxation to work in a global economy, all jurisdictions must be on equal footing.

GTAP undertakes to ensure that tax professionals in emerging economies can respond to the needs of a global tax jurisdiction. To this end, GTAP shall establish a TAWB (Tax Advisers Without Borders) function to promote exchange programs, conferences, online courses and interaction platforms, digital tools and relevant training. Equally, it will promote the diffusion of information on the tax systems of emerging economies for the benefit of tax professionals in advanced countries.

Apart from qualified tax professionals, a fair and efficient tax system requires well-informed taxpayers and authorities. All parties to the tax relationship must have knowledge of the fundamental principles of taxation, their responsibilities and rights. GTAP will enable the building of such culture. It will seek to ensure that all people all over the world have a real chance to understand taxes and be active participants in tax systems and policy development. To this effect, GTAP favours the introduction of relevant lessons into schools and the continuous availability of online courses.

# Cooperazione internazionale tra i consulenti fiscali nella Dichiarazione di Ulaanbaatar

di Francesca Pecorari e Ilaria Viola (\*)

La Global Tax Advisers Platform (GTAP) ha delineato nella "Dichiarazione di Ulaanbaatar", firmata il 12 settembre 2018, le 10 priorità riguardanti la cooperazione internazionale tra i consulenti fiscali nonché il miglioramento del sistema fiscale nazionale ed internazionale.

## 1. Premessa

Il 12 settembre 2018 è stata firmata la *Ulaanbaatar Declaration* avente l'obiettivo di delineare le 10 **priorità chiave in ambito di tassazione internazionale**. Promotrice di tale iniziativa è la Global Tax Advisers Platform (c.d. GTAP) di cui fanno parte, in qualità di membri, CFE (CFE Tax Advisers Europe), AOTCA (Asia Oceania Tax Consultants' Association) e WAUTI (West Africa Union of Tax Institutes).

La Global Tax Advisers Platform è una piattaforma che accoglie diverse organizzazioni nazionali ed internazionali di professionisti occupantesi della materia fiscale (1) nel mondo.

La GTAP rappresenta, ad oggi, più di 600.000 consulenti fiscali in Europa, Asia e Africa, e si propone quale obiettivo principale quello di contribuire alla creazione di un **sistema fiscale**

**globale equo ed efficiente**. Tale scopo è perseguito mediante l'impegno al riconoscimento dei diritti e degli interessi dei contribuenti nonché alla tutela del ruolo rivestito dai consulenti tributari (2).

La constatazione secondo cui un sistema fiscale avente le caratteristiche di equità ed efficienza può favorire un miglioramento generale dei servizi, della **collaborazione tra consulenti, contribuenti e autorità fiscali** nonché un aumento del rispetto reciproco, ha costituito l'occasione per l'elaborazione di "*10 Key Priorities*" da parte della GTAP.

In tale contesto la GTAP ha sentito la necessità di adeguarsi alle nuove opportunità e alle sfide proposte a livello globale (3), tenendo conto che la progressiva affermazione delle nuove tecnologie si scontra con i limiti della giurisdizione fiscale nazionale.

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(1) Con il termine *tax professional* utilizzato all'interno della *Ulaanbaatar Declaration* la GTAP intende fare riferimento ai soggetti (i.e., avvocati o commercialisti) i quali sono "*engaged at professional level with tax consultancy, (...), and accredited as such pursuant to applicable national law, irrespective of membership of GTAP*" (cfr. *Ulaanbaatar Declaration*, 12 settembre 2018, p. 2).

(2) Tra le modalità attraverso cui gli obiettivi della GTAP possono essere perseguiti si annoverano le seguenti: la predisposizione di *meeting* in maniera regolare, il dialogo e l'inter-

azione tra gli esperti in materia fiscale provenienti da tutti i continenti.

(3) Nella Dichiarazione di Ulaanbaatar si evidenzia come il contesto moderno sia influenzato da:

- legislatori internazionali e sopranazionali nonché istituzioni europee e OCSE;
- contribuenti transnazionali (i.e. entità che strutturano le proprie attività senza frontiere); e
- la stretta cooperazione a livello internazionale tra le Autorità fiscali nazionali.

I numerosi aspetti positivi apportati dall'inarrestabile evoluzione tecnologica hanno, però, determinato un aumento dei fenomeni di evasione ed elusione i quali hanno inciso in maniera negativa anche sulla funzione e sul ruolo rivestito dal professionista fiscale.

Constatata la presenza di tali aspetti, la GTAP ha assunto l'impegno di predisporre iniziative che permettano di conferire credito e fiducia al ruolo dei professionisti al fine di facilitare la *compliance* in ambito tributario.

Con l'obiettivo di favorire l'affermazione dei professionisti in ambito fiscale nell'attuale contesto, la GTAP ha assunto, mediante la "Dichiarazione di Ulaanbaatar", l'impegno di:

- monitorare gli sviluppi a livello globale;
- favorire lo scambio di competenze tra professionisti;

- essere portavoce di un approccio globale che stimoli l'individuazione di nuove soluzioni nell'ambito della fiscalità internazionale.

In particolare, l'obiettivo cui mira la GTAP - possibile solo attraverso una cooperazione a livello globale - è quello di accompagnare i professionisti fiscali nel processo di **globalizzazione e digitalizzazione** che li vede coinvolti (4).

L'ottimizzazione della consulenza fiscale nell'attuale contesto economico e sociale costituisce scopo principale della GTAP come emerge dalle 10 priorità principali delineate nella *Ulaanbaatar Declaration*.

## 2. Le 10 priorità riguardanti la cooperazione internazionale tra i consulenti fiscali

La *Ulaanbaatar Declaration* descrive le 10 priorità necessarie per perseguire gli obiettivi della GTAP.

### 2.1. Forte collaborazione tra i professionisti del settore fiscale

I professionisti nel settore tributario devono confrontarsi con il carattere globale assunto dal

fenomeno fiscale e, al fine di svolgere al meglio la professione, non possono limitarsi a offrire le proprie prestazioni all'interno dei confini nazionali.

Affinché la consulenza possa essere efficace è necessario adottare **punti di vista globali** che permettano ai professionisti di essere consapevoli degli sviluppi a livello mondiale così da poter svolgere la professione anche al di fuori dei confini nazionali.

Priorità della GTAP è quella di aiutare i professionisti fiscali a rispondere in maniera competente alle domande che derivano dall'affermazione delle nuove tecnologie e dei nuovi modelli di *business*. Per fare ciò, la GTAP si propone di assicurare un'ampia **diffusione delle informazioni** provenienti dalle diverse giurisdizioni mediante l'utilizzo di comunicati, la messa a disposizione di *database*, l'organizzazione regolare di incontri e conferenze volte allo scambio di informazioni, esperienze e idee (5).

### 2.2. Inclusione, apertura e portata globale

La possibilità di fornire consulenza fiscale a livello globale può essere raggiunta solo attraverso la **creazione di un network globale** che ricomprenda tutte le giurisdizioni.

L'inclusione, uno dei principi cardine della GTAP, impone l'apertura nei confronti delle diverse associazioni professionali in ambito fiscale presenti nel mondo senza operare distinzioni di sorta. Per poter assecondare il processo di inclusione è necessario valorizzare la diversità di approcci e di valori mediante la predisposizione di strumenti che favoriscano l'interazione tra i singoli (6).

Per favorire i principi di inclusione e di apertura la GTAP si impegna a facilitare la partecipazione dei propri membri riducendo al minimo i costi, mediante l'utilizzo di nuove tecnologie e organizzando i *meeting* a rotazione in tutti i continenti.

(4) Per ulteriori approfondimenti in materia di globalizzazione e digitalizzazione si veda P. Valente, *Manuale di Governance Fiscale*, IPSOA, Milano, 2011; P. Valente - L. Bagetto, *Geofiscalità - Il Dilemma di Giano tra Cifra Tellurica e Continente Digitale*, Eurilink University Press, Roma, 2017; P. Valente, "Raccomandazioni OCSE su Economia Digitale, Abuso dei Trattati e Transfer Pricing", in *il fisco*, n. 39/2014, pagg. 3859-3867; P. Valente, "Digital revolution. Tax revolution?", in *Bulletin for International Taxation*, IBFD, 2018 (Volume 72), No. 4a/Special Issue.

(5) Nella Dichiarazione di Ulaanbaatar viene sottolineato co-

me la GTAP: "seeks to ensure availability and diffusion of information on and among different jurisdictions. Therefore, it will employ communication platforms, common data bases, regular meetings and conferences for the exchange of knowledge, experience and ideas, and publications".

(6) In merito al principio dell'inclusione l'art. 2 della *Ulaanbaatar Declaration* specifica: "(i)nclusiveness is a key principle: GTAP shall be open to each and every professional association of accredited tax advisers in every corner of the world, without distinction. GTAP embraces difference and believes in the value created by interaction of singularities".



### 2.3. Posizione dei professionisti nel contesto fiscale

Elemento fondamentale per lo svolgimento delle relazioni tra consulenti fiscali, clienti e Amministrazioni finanziarie è la **fiducia**. L'attuale contesto fiscale globale presenta numerose lacune che si prestano a pratiche considerate talvolta inappropriate (7). Per limitare tali prassi è necessario poter fare affidamento sui servizi professionali in ambito tributario i quali sono necessari per assicurare la *compliance* fiscale. Quest'ultima può essere garantita solo mediante l'**interazione tra le Autorità fiscali e i professionisti** quali unici soggetti preordinati a rappresentare il miglior interesse del contribuente. Ai professionisti è affidato il compito di mantenere aperta la **comunicazione tra contribuenti e Amministrazioni finanziarie** informando i primi su quali siano i loro diritti e i loro obblighi.

Tra gli obiettivi della GTAP si annovera anche quello volto alla creazione di un **Codice Comune di Condotta** contenente le disposizioni in merito allo svolgimento della consulenza in un contesto fiscale globale. Compito del professionista è quello di informare il contribuente relativamente ai propri diritti e ai propri obblighi al fine di rendere la comunicazione con le Amministrazioni finanziarie maggiormente efficace (8).

### 2.4. Impatto sul rinnovo dello scenario fiscale internazionale

La GTAP ha evidenziato come il cambiamento dello scenario internazionale ha apportato ad un progressivo affievolimento dei regimi fiscali nazionali e, conseguentemente, alla perdita di rilevanza dei regimi territoriali in favore di una tassazione globale.

Tali mutamenti richiedono nuove normative che sono necessarie per regolamentare quelle

attività che altrimenti rischierebbero di non essere assoggettate ad alcuna imposizione in base ai tradizionali principi della fiscalità internazionale.

L'evidente sforzo profuso dai legislatori nazionali ed internazionali per identificare i criteri necessari per la tassazione dei **redditi prodotti dalla new economy** - i quali prescindono dalla presenza fisica sul territorio (9) - deve essere sostenuto e assecondato. In tale ottica la GTAP ha rimarcato l'esigenza che i professionisti cooperino con i legislatori affinché, mediante la propria esperienza e le proprie competenze, contribuiscano attivamente alla creazione di un sistema di tassazione caratterizzato da maggiore efficienza ed equità che si ponga in linea con i nuovi cambiamenti.

Il ruolo della GTAP in tale scenario è quello di contribuire alla discussione sul tema, partecipare alle consultazioni pubbliche, prendere posizioni pubbliche e avanzare proposte concrete per istituire un nuovo sistema (10).

### 2.5. Proposta di un nuovo sistema fiscale

Nel quadro del rinnovamento internazionale dei regimi fiscali, compito dei professionisti tributari è quello di offrire il loro contributo mediante proposte ed iniziative. Il cambiamento può essere attuato solo mediante l'impegno e la competenza offerta dai professionisti i quali si pongono in una posizione di collegamento tra contribuenti e Autorità fiscali.

La GTAP incoraggia tutti i professionisti fiscali a **proporre iniziative** che mirino alla creazione di un nuovo sistema il quale, nel restituire fiducia al contribuente, sia:

- semplice;
- flessibile;
- pratico;
- in linea con le esigenze dei nuovi modelli di *business*.

(7) Nello specifico l'art. 3 fa riferimento alla circostanza per cui "(t)he current global tax framework is defective and its loopholes have allowed practices to develop which are inappropriate in the ethical and constructive global tax system to which we aspire", e altresì che "(s)hort term disclosure requirements, introduced as an emergency measure, threaten to drive taxpayers away from their professional advisers".

(8) In relazione al Codice di Condotta l'art. 3 dispone che "GTAP undertakes to increase the trust in tax professionals by, amongst other initiatives, establishing a common code of conduct for the provision of tax advice in a global tax world".

(9) Per approfondimenti sulle problematiche connesse alla c.d. *digital economy*, cfr. P. Valente, *Elusione fiscale internazionale*, IPSOA, Milano, pag. 2063 ss. Per approfondimenti sulla presenza fisica sul territorio legata alla possibile configurazio-

ne della stabile organizzazione si veda P. Valente - L. Vinciguerra, *Stabile Organizzazione. Identificare le patologie, prevenire i rischi, gestire le verifiche fiscali*, IPSOA, Milano, 2018 (in corso di pubblicazione). In merito alle recenti iniziative da parte dell'OCSE e dell'Unione Europea sul tema, si veda P. Valente, "Il nuovo modello di Convenzione OCSE contro le doppie imposizioni: profili di novità", in *il fisco*, n. 6/2018, pag. 557; A. Della Rovere - F. Pecorari, "Verso una base imponibile comune consolidata per le imprese UE", in *il fisco*, n. 18/2018, pag. 1754.

(10) Il ruolo di rappresentanza riconosciuto alla GTAP si può dedurre da quanto disposto dall'art. 4 secondo il quale evidenzia come "(i)n this respect, it is important that tax professionals express themselves with a single voice that will be heard clearly and loudly".

## 2.6. Diritti del contribuente

La tutela e la salvaguardia dei diritti e delle garanzie del contribuente costituiscono principi fondamentali della GTAP (11) in quanto ritenuti necessari per la creazione di un modello fiscale equo ed efficiente appartenente ad un sistema democratico.

La GTAP si impegna, dunque, affinché vengano riconosciuti al contribuente i diritti:

- al **giusto processo**;
- alla **consulenza**;
- alla proposizione del **ricorso**;
- alla **rappresentanza** dei contribuenti da parte dei professionisti abilitati nelle dispute fiscali;
- alla **riservatezza** delle comunicazioni tra professionisti e clienti.

Al fine di raggiungere tale obiettivo in maniera diffusa in tutte le giurisdizioni nonché di implementare la *compliance* (12) tra contribuenti e Autorità fiscali, la GTAP ha assunto l'impegno di:

- sensibilizzare i legislatori e le Autorità competenti;
- diffondere informazioni;
- fornire pareri;
- procedere mediante azioni legali.

## 2.7. Consapevolezza e lungimiranza

Il mutamento del sistema fiscale, a seguito dell'evoluzione dell'economia e dei nuovi modelli di *business*, ha conseguentemente coinvolto anche i professionisti i quali prestano la propria opera professionale in ambito tributario.

Trattasi di un processo in continua evoluzione che richiede di essere monitorato al fine di essere pronti a rispondere in maniera celere ai bisogni e alle esigenze della *new economy* nonché ad assicurare l'effettiva tassazione delle nuove tipologie di reddito e dei nuovi *business models*. Per poter dominare questo cambiamento è necessario che i professionisti siano costantemente aggiornati, proattivi nonché pronti all'acquisizione di nuove qualifiche e competenze necessarie per assecondare i nuovi regimi fiscali.

Affinché i professionisti fiscali possano dominare le evoluzioni del mercato, la GTAP ha il compito di **monitorare i cambiamenti** predisponendo *team* di lavoro preordinati alla ricerca e allo studio degli sviluppi legislativi e del mercato in ambito fiscale.

## 2.8. Preparazione per l'era digitale

È evidente come il cambiamento intervenuto mediante la diffusione delle tecnologie digitali abbia avuto una notevole incidenza sulla vita lavorativa dei professionisti del settore tributario (13). Tali cambiamenti sul mercato costituiscono una **chance per tutti i professionisti** di acquisire nuove iniziative ed innovarsi sfruttando al massimo il potenziale messo a disposizione dalle nuove tecnologie.

Scopo della GTAP è quello permettere ai professionisti del settore tributario di acquisire **adeguate conoscenze e competenze** per governare le nuove tecnologie, massimizzarne il loro valore e, conseguentemente, essere competitivi sul mercato.

## 2.9. Consulenti fiscali senza frontiere (c.d. *Tax advisers Without Borders* o "TAWB")

La globalizzazione ha influenzato notevolmente le relazioni intercorrenti tra le economie avanzate e quelle emergenti (14). Al fine di perseguire l'obiettivo di rendere efficace la tassazione nell'economia globale è necessario che tutte le giurisdizioni siano poste in una posizione di parità.

La GTAP persegue l'obiettivo di garantire che i professionisti fiscali delle economie emergenti siano messi in condizione di rispondere alle esigenze e ai bisogni di una tassazione globale. In un'ottica di cooperazione e collaborazione è stata istituita la TAWB (c.d. *Tax Advisers Without Borders*) avente la funzione di promuovere l'**interazione tra tutti i membri della GTAP** mediante:

- programmi di scambio;
- conferenze;
- corsi *on line*;

(11) L'art. 6 della GTAP in relazione alle garanzie adeguate per i contribuenti evidenzia come sia necessario che "(a) *adequate guarantees are a mainstay for the desired fair and efficient tax system as well as for any truly democratic community. Such guarantees are equally a prerequisite for tax professionals to carry out their assignments*".

(12) In merito alla *compliance* l'art. 6 della Dichiarazione evidenzia che "(t) *ax Professionals shall give due regard to the compliance obligations of taxpayers and should only act for taxpayers who are compliant or will become so following the actions*

*proposed by the tax adviser*".

(13) All'art. 8 della Dichiarazione si specifica: "(d) *igital technologies are changing work and life in general. The tax profession could not but be affected: several tasks performed by tax professionals are now a matter of a few clicks*".

(14) Per ulteriori approfondimenti in merito alle relazioni tra le economie avanzate e quelle emergenti si veda P. Valente, *Manuale di Politica Fiscale dell'Unione Europea e degli Organismi Sovranazionali*, Eurilink University Press, Roma, 2017.

- piattaforme interattive;
- formazione in merito all'utilizzo degli strumenti digitali.

### 2.10. Cultura fiscale e formazione continua

Per creare un sistema fiscale giusto ed efficiente è necessaria la presenza, non solo di **professionisti qualificati**, ma, altresì, di Autorità finanziarie e contribuenti che siano **informati**. Ognuna delle parti del rapporto tributario deve essere a conoscenza dei principi fondamentali della tassazione, delle proprie responsabilità e dei propri diritti.

Compito della GTAP è quello di garantire una **formazione continua** in merito ai temi fiscali consentendo a tutti di poter comprendere il sistema fiscale e di contribuire in maniera attiva al suo sviluppo e alle sue politiche (15).

### 3. Considerazioni conclusive

CFE, AOTCA e WAUTI e, in qualità di osservatori, anche altre tre associazioni [STEP (Society of Trust and Estate Practitioners) (16), IAFEI (International Association of Financial Executives Institutes) (17) e AMA (Arc Méditerranéen des Auditeurs) (18)] hanno avvertito la necessità

di predisporre la *Ulaanbaatar Declaration*, firmata il 12 settembre 2018, al fine di adeguarsi ai cambiamenti del contesto fiscale internazionale.

L'innovatività della Dichiarazione è dimostrata dall'individuazione, all'interno delle "10 Key Priorities in International Taxation", delle **esigenze dei professionisti, dei contribuenti e delle Autorità finanziarie** i quali necessitano di acquisire le competenze e le conoscenze richieste per essere capaci di fronteggiare le esigenze di un mercato sempre meno relegato ai confini nazionali e sempre più globale.

Al fine di essere allineati con le **sfide poste dalla new economy**, la GTAP si propone di predisporre tutti gli strumenti più idonei ad ottimizzare la consulenza fornita dai professionisti all'interno del sistema fiscale attuale che, in maniera progressiva, sta divenendo sempre più digitale.

Cooperazione, inclusione, dialogo e formazione costituiscono la formula necessaria per limitare i fenomeni di elusione ed evasione, rafforzati dall'affermazione delle nuove tecnologie, nonché per migliorare la *compliance* tra contribuenti e Amministrazione finanziaria.

(15) L'importanza attribuita alla formazione continua è dimostrata da quanto disposto dall'art. 10 della "Dichiarazione di Ulaanbaatar" all'interno della quale si legge: "GTAP will enable the building of such culture. It will seek to ensure that all people all over the world have a real chance to understand taxes and be active participants in tax systems and policy development. To this effect, GTAP favors introduction of relevant lessons into schools and continuous availability of online courses".

(16) La STEP (Society of Trust and Estate Practitioners)

rappresenta oltre 20.000 professionisti del settore fiduciario e immobiliare di 95 Paesi (<https://www.step.org/>).

(17) IAFEI (International Association of Financial Executives Institutes) rappresenta oltre 20.000 dirigenti finanziari di 22 istituti membri (<http://www.iafei.org/>).

(18) AMA (Arc Méditerranéen des Auditeurs) rappresenta oltre 25.000 revisori di 25 istituzioni membri (<http://www.arcoma.org>).

## European Union

# The “Torino-Busan Declaration”: Identifying Priorities in an International Setting for Tax Professionals and Taxpayers

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Just over a year after the “Ulaanbaatar Declaration”, the Global Tax Advisers Platform (GTAP) identified four key short-term tax priorities in the “Turin-Busan Declaration”, signed on 3 and 17 October 2019 in Torino and Busan, respectively. The main objective is to set out a framework to strengthen cooperation among the globalizing community of tax professionals and to ensure fair and efficient taxation in an increasingly global, dynamic and digitalized context.

## 1. Introduction

The Global Tax Advisers Platform (GTAP), an international forum, is the most representative body of the tax profession globally, presently representing over 600,000 consultants active in Europe, Asia, Australia-Oceania and Africa. Its aim is to bring together national and international organizations of tax professionals.<sup>[1]</sup> The GTAP, in particular, strives to bring to stakeholders' attention the relevance of streamlined tax system operations, both internationally and nationally, in order to guarantee equitable and fair taxation for the benefit of citizens, governments, taxpayers and their advisers. Equally, the GTAP's *leitmotif* is to promote the relevance of taxpayer charters and the protection of taxpayer rights for the benefit of the tax profession at large.<sup>[2]</sup>

In 2018, the GTAP promoted the “Ulaanbaatar Declaration”, signed on 12 September 2018.<sup>[3]</sup> Its main goals were to establish 10 fundamental objectives for a fair and efficient global tax framework and promote the joint effort of the globalizing tax community internationally, for example, under the umbrella of the UN, OECD and the European Union.<sup>[4]</sup>

Building on the success of the initial manifesto, 2019 saw the publication of the “Torino-Busan Declaration” (signed on 3 October 2019 in Torino and on 17 October in Busan), setting out four additional priorities regarding international taxation.<sup>[5]</sup> As a result of the joint efforts of the founding bodies and observers of the GTAP, an inaugural global tax conference, entitled “Tax and the Future”, was held in Torino, Italy on 3 October 2019 on the occasion of the 60<sup>th</sup> Anniversary of the leading body of European tax professionals, CFE Tax Advisers Europe. This event, in conjunction with the GTAP, was held under the patronage of the President of the European Parliament, David Sassoli and in the presence of the Director of the OECD Centre for Tax Policy and Administration, Pascal Saint-Amans and the Head of the European Commission's Company Taxation Initiatives, Bert Zuijndendorp.

The following article endeavours to examine the proclaimed priorities of the “Torino-Busan Declaration”.

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1. The founding members of the GTAP are the CFE Tax Advisers Europe; the Asia-Oceania Tax Consultants' Association (AOTCA); and the West Africa Union of Tax Institutes (WAUTI). Observers to the GTAP include: the International Association of Financial Executives Institutes (IAFEI); the Society of Trust and Estate Practitioners (STEP); the Arc Méditerranéen des Auditeurs (AMA); and the Center for Criminal Tax Law ( *Centro di Diritto Penale Tributario* , CDPT).
  2. In the 21st century, collaboration in the tax sector is essential considering the growth rate of both globalization and digitalization. In this regard, numerous initiatives have been undertaken by international organizations, primarily the OECD and the European Union. The current international context is characterized by:
    - international and supranational legislators, as well as European and OECD institutions;
    - transnational taxpayers, or entities that structure their activities without borders; and
    - national tax authorities that cooperate internationally.
  3. See P. Valente, *The Ulaanbaatar Declaration: 10 Key Priorities in International Taxation Identified by the Global Tax Advisers' Platform (GTAP)* , 59 Eur. Taxn. 1, p. 33 (2019), Journal Articles & Papers IBFD.
  4. 1. Strong cooperation among tax professionals; 2. Inclusiveness, openness, global reach; 3. Position of tax professionals in the tax scenario; 4. Impact on the renovation of the international tax scenario; 5. Proposal of a new tax system; 6. Taxpayer rights; 7. Awareness and foresight; 8. Preparation for the digital era; 9. Tax advisers without borders (TAWB); 10. Tax culture and ongoing education. See *id.*, at p. 33.
  5. In 2018, the GTAP encouraged dialogue and cooperation between tax consultants due to the need to adapt to the new challenges proposed at the global level resulting from the progressive affirmation of new technologies. According to the GTAP, tax consultants in all jurisdictions share common interests that can be pursued more effectively through greater interaction between its members.



## 2. Tax for Growth

One of the main objectives of the GTAP is proactive engagement of the global tax professional community in the creation of a global fiscal framework that encourages stable economic growth. In spite of its *status nascendi*, the GTAP is gaining increasing visibility and prominence. The key activities of the platform are increasingly geared toward promotion of sustainable fiscal policies that would ultimately improve society for the benefit of the many.

The well-being and progress of the global community is achieved through continuous development at a sustainable rate. In this context, taxation policies are undoubtedly a key factor influencing economic growth. The distribution of the tax burden has been shown to encourage or discourage economic development. Furthermore, fiscal policy is the key instrument to guarantee development (from policies aimed at promoting equality to sustainable environmental protection).

Moreover, new trends in international taxation affect both developing countries and the rate of economic growth. To that end, the GTAP is resolutely committed to promoting inclusive tax policies that foster growth.<sup>[6]</sup> By extension, a key element of economic growth is tax governance.<sup>[7]</sup> To improve tax governance, GTAP members support policies aimed at strengthening fiscal certainty<sup>[8]</sup> and voluntary compliance by taxpayers concerning their tax obligations.

On a related note, the GTAP has endorsed the findings of the OECD Report that fiscal certainty has a significant impact on business decisions, in the absence of which modified business structures, increased costs, and changes to investment decisions could arise.<sup>[9]</sup> The GTAP has always advocated for increased tax certainty and strengthened taxpayer rights as a proxy for increased tax morale among individuals and businesses. Tax morale is defined as a voluntary, intrinsic motivation to pay taxes, both at the level of individuals and businesses. GTAP members strongly believe that well-functioning institutions, trust in governments and an atmosphere of positive returns from the system back to citizens will produce results, such as higher tax morale and a willingness of individuals to voluntarily contribute to the “social contract” by paying more taxes. Thus, a sustainable system that creates growth should be based on a fair tax environment, responsive governments, reciprocally related to the tax contributions of citizens and the supply of public goods.

To the extent that taxpayers perceive that their “social contract” commitments are adequately represented, their identification with national governments increases. Consequently, their willingness to voluntarily meet the needs of the budget and pay taxes significantly affects growth. The GTAP concurs with the proposition that effective public services are a means to demonstrate how well governments turn tax revenues into beneficial expenditures, so these can produce a double dividend comprising both the intrinsic benefit of the service provided and spillover benefits from public satisfaction generated by its provision.<sup>[10]</sup>

Furthermore, GTAP members believe that an increased focus on voluntary tax compliance has a profound impact on economic growth, which is particularly relevant for developing countries: improved public service delivery is directly related to an improved tax morale. On this basis, the GTAP highlights the intrinsic link between sustainable economic growth, societal development and voluntary compliance, as citizens and businesses alike will more likely comply with the law if the taxpayer/government relationship is found to be equitable.<sup>[11]</sup>

In a recent publication,<sup>[12]</sup> the OECD indicated that achieving sustainable growth requires increased focus on the following areas: labour, investment and productivity. Concerning the workforce, the OECD has reported that labour income tax reforms will generally differ depending on whether the objective is to increase participation or working hours. Reducing average labour taxes may be desirable to increase participation, while lowering marginal tax rates may be preferable to increase working hours. There could also be gains from reducing the progressiveness of the tax programme on the income of individuals, both in terms of quantity and quality of the job offer. Estimates in this study indicate the negative effects of highly progressive income tax programmes on per capita GDP through both less labour use and lower productivity.

Regarding investments, the OECD believes that a reduction in corporate tax rates and the elimination of special tax breaks can encourage investment. Similarly, providing greater certainty and predictability in the application of corporate income taxes can improve development performance. On the issue of productivity, the OECD has identified several ways in which taxation can influence growth. A widely-used policy trajectory to improve productivity is to stimulate the private sector’s innovative activity by offering tax incentives for increased

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6. The Declaration states: “We share the commitment to improving tax morale as a policy course of action with the most meaningful impact on capacity building and economic growth”.
  7. Tax governance in business groups is the answer to the fundamental need to manage and prevent risks related to the tax variable, as well as ensure support in respect of tax audits. Corporate governance and tax governance are closely interrelated. In this sense, tax governance can be defined as corporate governance applied to the tax variable. Tax governance represents a “constituent part” of the broader concept of corporate governance. Seen from another perspective, fiscal governance summarizes the response of a company’s Board of Directors to the following questions:
    - 1) What responsibilities and opportunities does the company face in tax terms?
    - 2) Which response to the above responsibilities and opportunities “best interprets” the interests of the shareholders and other parties involved?
  8. Legal certainty, a principle universally recognized by the states, implies a uniform and certain interpretation of tax legislation. In carrying out an economic activity, the taxpayer must be able to know with certainty and be clear on the tax obligations imposed by national legislation. Tools, such as rulings and circulars or resolutions (technical interpretations) aim to provide a univocal interpretation between tax offices, during the audit procedure. According to art. 12 Model Taxpayer Charter ( see <http://www.taxpayercharter.com/index.asp> (accessed 23 Jan. 2020), the tax administration has the duty to communicate both the various interpretations of the tax legislation, and the positions taken on a given question: these interpretations must be published and made available to the taxpayer.
  9. OECD, *Tax Morale: What Drives People and Businesses to Pay Tax?* (OECD 2019).
  10. J. Alm & B. Torgler, *Culture differences and tax morale in the United States and in Europe*, 27 *Journal of Economic Psychology* 2, pp. 224-246 (2006).
  11. B. Torgler, *Tax morale, rule-governed behaviour and trust*, 14 *Constitutional Political Economy* 2, pp. 119-140 (2003). Torgler suggest that there are other possibilities to increase tax morale, i.e. taxpayers are likely to follow rules they know or trust to produce good results or when they trust both the public officials and the legal system.
  12. OECD, *Tax and Economic Growth* (OECD 2019), available at <https://www.oecd.org/mena/competitiveness/41997578.pdf>.

expenditure on research and development (R&D). Moreover, the OECD findings indicate that tax incentives have a stronger effect on R&D spending in comparison to direct funding.

A careful balance of tax policy choices from both a company taxation and personal income taxation perspective can provide the equilibrium necessary to create an attractive investment climate, resulting in stable and predictable tax systems that are managed in an efficient and transparent manner, yet are based on the principles of fairness and equitability.

### 3. Tax and Climate Change – Sustainable Tax Policies

Climate change affects us all. GTAP members are committed to sharing their knowledge and expertise in tax matters with governments and other international stakeholders with the aim of reducing carbon emissions in all sectors of the economy. To that end, fiscal policy should serve as a tool to facilitate the transition to a low-carbon economy for future generations. Future-proof tax systems need a balance between today's public finance needs and tomorrow's sustainable policies.

In this context, the Sustainable Development Agenda, published by the OECD, is particularly relevant.<sup>[13]</sup> This document, published in 2015, discusses a series of "goals" of significant relevance for the future of our planet. It emphasizes radical changes caused by the alarming increase in carbon emissions on a planetary scale. In this regard, it is necessary to recall how taxation, seen as a system of incentives and disincentives, can contribute profoundly to directing companies, governments and individuals towards the pursuit of goals that would otherwise be very challenging to reach, such as a reduction in carbon emissions.

The close relationship between fiscal policy and sustainability has been explored in the past in several publications,<sup>[14]</sup> which have highlighted the need to discourage emissions as a preventive method with respect to the drastic environmental consequences caused by the increase in temperatures.

Estimates of leading international organizations, such as the International Monetary Fund (IMF), the Organisation for Economic Co-operation and Development (OECD), the United Nations (UN) and the World Bank agree that a failure to face the most significant environmental challenges could potentially slow down the development of the world economy and push more than 100 million people into extreme poverty.<sup>[15]</sup>

In a context of great political and social instability, globalization has contributed to creating the conditions for a chaotic process of restoring equilibrium on a global scale. Considering the evident slowness demonstrated by most companies to adapt to the inevitable changes imposed by an increasingly interconnected world, it is reasonable to hypothesize that the consequences of further environmental instability may constitute a point of no return even from a social and cultural perspective.

The tax professionals united under the umbrella of the GTAP welcome the commitments of the new European Commission led by President von der Leyen to align the future direction of tax policy with Europe's climate ambitions by using a variety of policy instruments, including the State aid and competition law tools, which could support an equitable transition to a greener economy. The New European Green deal presents a unique opportunity to make Europe the first climate-neutral continent, under which every aspect of the economy ought to be revaluated to address the shortcomings of the global framework, which are compounded by the climate emergency.

To that end, the GTAP welcomes the tax policy tools of the New Green Deal aimed at removing subsidies for fossil fuels and shifting the tax burden from labour to pollution. Targeted VAT rates to reflect such ambitions should also be considered to encourage environmentally friendly policies, by adopting the Commission's proposal on VAT rates by EU Member States as a matter of priority. In this endeavour, the GTAP members stand ready to support policymakers across the globe to make such progressive climate change-related policies a reality for the benefit of generations to come.

### 4. Tax and Digitalization

The digital economy is characterized by an unparalleled dependence on intangible assets, massive use of data, widespread adoption of multilateral business models that capture value from externalities generated by free products, and by a difficulty in determining the jurisdiction in which value creation occurs. Despite the rapid growth of the digital sector, the methods of conducting business internationally have been revised; this requires a similar renewal of taxes and other regulations governing these companies.

The OECD admitted, for the first time, at its Ottawa Conference (1998),<sup>[16]</sup> that there was a need to address digital sector taxation but decided that the existing rules applicable to traditional companies were sufficient to manage even their digital counterparts. More than two decades later, however, the communication revolution is at its peak and new business models are being developed every day. The OECD has noted that national tax laws have not kept pace with the globalization of corporations and companies within the digital economy.

13. United Nations, *The Sustainable Development Agenda*, available at <https://www.un.org/sustainabledevelopment/development-agenda/> (accessed 30 Oct. 2019).

14. A. Valente & M. Nicoli, *Taxation as a Pivotal Element for Sustainable Development Goals*, in *CFE Tax Advisers Europe 60th Anniversary – Liber Amicorum* ch. 19 (IBFD 2019), Books Online.

15. International Monetary Fund, OECD, United Nations (UN) and World Bank Group, *Enhancing the Effectiveness of External Support in Building Tax Capacity in Developing Countries*, Prepared Submission to G20 Finance Ministers (International Monetary Fund 2016), available at <https://www.oecd.org/tax/enhancing-the-effectiveness-of-external-support-in-building-tax-capacity-in-developing-countries.pdf>.

16. OECD, *A Borderless World: Realising the Potential of Global Electronic Commerce* (OECD 1998), available at [http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=sg/ec\(98\)14/final&doclanguage=en](http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=sg/ec(98)14/final&doclanguage=en) (accessed 30 Oct. 2019).



This has allowed multinationals to capitalize on those gaps that exist in national systems to artificially reduce the amount of taxation. This has led to the creation of an action plan to tackle the tax challenges of the digital economy within the OECD Base Erosion and Profit Shifting (BEPS) Project. The initiatives of the OECD and the European Union in relation to the digital economy are aimed at adopting measures to fight aggressive tax planning and tax base erosion techniques, which are facilitated by the dematerialization that distinguishes digital companies.<sup>[17]</sup>

With weaker entry barriers and ease of access to a global customer base, through the widespread use of the Internet, a variety of small and medium-sized enterprises (SMEs) have established their presence as digital service providers in the form of electronic applications, online databases, online markets, multilateral platforms (which allow for customer-to-customer transactions), and cloud-based storage. Some of these companies operate on completely virtual platforms to serve customers globally and do not require a physical presence in any jurisdiction (for example, online databases), thus escaping taxation in most jurisdictions.<sup>[18]</sup>

Growth is currently defined by considering the various developments in the digital sector. Digital technologies have become an integral part of business and everyday life and their impact is expected to evolve over time. Digitalization produces its effects in the fields of technology, transport, education and health care. The creation of tax rules that can be shared by national legislators around the world is essential to fostering a digitalization process that is of service to mankind.

In the fiscal sector, digitalization exacerbates the disconnect between the place where value is created and where taxes are paid, which then influences the perception of fairness in tax systems, beyond borders and nations. Therefore, these important issues deserve a global response. At the same time, the new “single global tax jurisdiction” requires rules that find broad consensus.

Due to the rapid change in today’s environment and the challenges posed by the digitalization process, current solutions must be “future-proof” and consistent with the principle that profits must be subject to taxation in the place of actual creation of value. The GTAP thus calls for a coordinated response of international fiscal policy to the challenges posed by digitalization.

GTAP members are very much aware of the historic significance of attempting to recognize new taxation rights for jurisdictions as a result of the digitalization of the economy, in particular given that, under present rules, no income can be attributed to any nexus not based on physical presence. If the OECD project on addressing the taxation challenges of the digitalizing economy proves successful, it will represent a new era in the development of global tax policy and the principles it lays down will be used in fashioning future fiscal rules, the need for which is currently unknown. It will become a major precedent. Considering these circumstances, and in order to make meaningful progress in due course, the GTAP has called for more clarity and early consensus at a political level as to the outcome of this process, recognizing the consequences of departing from well-established principles of international tax law in a move towards a more complex international tax system that partly introduces formulary apportionment.

To this end, the GTAP believes that more time should be allowed in order to arrive at workable solutions that will withstand scrutiny and the tests of time. A comprehensive solution should be able to keep pace with the ever-evolving nature of digitalizing business models, resolve the present taxation challenges, while ensuring the sustainability of the process, which will justify the resources expended by taxpayers, their advisers and tax administrations in making the new rules a reality. This is particularly relevant for developing countries.

## 5. Taxpayer Rights and Certainty in a Fast-Paced World

Sustainable growth is dependent on effective tax compliance. Voluntary compliance by taxpayers guarantees greater resources, which are necessary for the implementation of the social contract between citizens and governments. When taxpayer rights are not sufficiently guaranteed, tax compliance is compromised. A tax framework that is unable to adequately address the current evolving reality leads to uncertainty at the expense of economic growth. Consequently, under a dynamic global economic framework, taxpayer rights should act as a “beacon” of certainty.

The GTAP underlines the fundamental importance of taxpayer rights to good tax governance and, to this end, its members urge governments and international bodies to promote the “fundamental right of tax certainty”. This right is appreciated in the Model Taxpayer Charter, an initiative undertaken by CFE Tax Advisers Europe, AOTCA and STEP.

Any discussion of the nature of taxpayer rights and responsibilities can start from a range of perspectives, but must first and foremost consider property rights. Article 17 of the Universal Declaration of Human Rights provides as follows:<sup>[19]</sup>

1. Everyone has the right to own property alone and in association with others;
2. No one may be arbitrarily deprived of all his properties.

In general, the following guiding principles should form the basis of any debate aimed at protecting taxpayer rights:<sup>[20]</sup>

- (1) the fundamental civil liberty of any citizen to keep, for his own use and enjoyment, the product of his work and of his industry, subject only to the obligations that the law imposes (for example, taxation);

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17. S. Huibregtse, *Digital Economy Handbook* (e-bright 2019).

18. Id.

19. M. Cadesky, I. Hayes, & D. Russell, *Towards Greater Fairness in Taxation, A Model Taxpayer Charter*, Preliminary Report, p. 95 (IBFD 2016).

20. Id.

- (2) the role of the tax consultant to provide the appropriate tools to customers in order to exercise the choices granted to them by the tax law and to help them comply;
- (3) the role of a tax administration to collect the tax provided for by the law, nothing more, nor less; and
- (4) all parties within the tax system must fully recognize and respect the role of others, starting from a conceptual basis of a philosophical nature that is of a pragmatic nature.

The first principle is based on the willingness of governments to promote and protect human rights.

The second acknowledges that, once accepted, the legitimate sovereign right of any nation to choose its own tax system, will have immediate consequences.

Regardless of the starting point, the same result tends to be achieved. Taxpayer rights must necessarily be recognized under any modern tax system.<sup>[21]</sup>

Finally, the overriding purpose of a Taxpayers' Charter is to foster a relationship of mutual trust, respect and responsibility between taxpayers and their tax administration by clarifying taxpayer obligations, while also upholding the rights of taxpayers. The Charter aims to ensure that all taxpayers are treated equally and without bias or preference, which will benefit the economy as a whole.

## 6. Conclusion

The "Torino-Busan Declaration" highlights four key priorities that are of relevance in the present tax arena. As such, it confirms the importance of taxation as a powerful tool to encourage (i) the growth of national economies, (ii) the pursuit of sustainable development and (iii) the acknowledgement of digitalization as a process that presents immense opportunities, but equally could be disruptive to the existing behavioural models at both an individual and organizational level. Fostering taxpayer rights in such a new and dynamic context can only prove to be beneficial. The GTAP will be instrumental in this process.

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21. Art. 5 Model Taxpayer Charter indicates some principles present in the national legislation of most countries:

- the presumption of honesty and "truthfulness" of taxpayer behaviour, unless there is evidence of the contrary;
- the prohibition of abuse of rights, in the sense that a taxpayer must not use a statute for the purpose of hindering or delaying the actions of the tax administration in the execution of national fiscal provisions;
- a requirement that taxpayers act within the limits imposed by the national tax legislation;
- ignorance of tax legislation does not justify the non-application of the tax or non-payment of the tax due or non-application of the penalties;
- the principle of non-discrimination in the application of tax;
- recognition of an exemption from the application of interest and sanctions (in specific cases, in particular when the taxpayer proves to have operated in good faith); and
- tax legislation should not penalize a particular industrial sector or a certain employment sector without just cause.

## Global Tax Advisers Platform (GTAP) meeting and “Ulaanbaatar Declaration” signatory ceremony



# DECLARATIONS



## ST PETERSBURG DECLARATION

The Presidents of the Asia-Oceania Tax Consultants' Association (AOTCA), the Confédération Fiscale Européenne (CFE), the West African Union of Tax Institutes (WAUTI) meeting together in St Petersburg in the presence of representatives of the Japan Federation of Certified Public Tax Accountants' Associations, the Korean Association of Certified Public Tax Accountants and the CFE member bodies listed in the appendix.

Recognizing the role of the tax advisers' profession in the development of tax policy and the promotion and enhancement of taxpayer rights and their responsibilities under taxation law

Recognizing also the joint efforts of AOTCA, CFE and STEP in the development of the Charter of Taxpayer Rights


Recognizing also the increasing globalization of tax policy and administration

HEREBY DECLARE their joint commitment to the establishment of a Global Tax Advisers co-operation forum; and


AGREE to co-operate together to deepen the existing levels of co-operation for the better structuring and operation of the world's tax systems, securing and maintaining the rights of taxpayers and ensuring the continuing role and rights of tax advisers throughout the world

And to report back to our respective bodies as to how this might be achieved

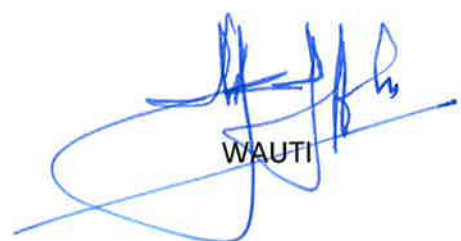
IN WITNESS WHEREOF WE HAVE DONE THIS, IN ST PETERSBURG, THE TWENTIETH DAY OF SEPTEMBER 2013



AOTCA



CFE



WAUTI

Witness:

Summer Palace, Peterhof, St Petersburg

## Appendix to the **ST PETERSBURG DECLARATION**

### CFE Member Bodies

	<b>Austria</b>	Kammer der Wirtschaftstreuhänder
	<b>Belgium</b>	Institut des Experts-Comptables / Instituut van de Accountants en de Belastingconsulenten
	<b>Switzerland</b>	La Chambre Fiduciaire / Treuhand-Kammer
	<b>Czech Republic</b>	Komora daňových poradců ČR
	<b>Germany</b>	Bundessteuerberaterkammer Bundesverband der Steuerberater e.V. Deutscher Steuerberaterverband e.V.
	<b>Spain</b>	Asociación Española de Asesores Fiscales Registro de Economistas de Asesores Fiscales
	<b>France</b>	Institut des Avocats Conseils Fiscaux Union Professionnelle des Sociétés d'Avocats Association des Avocats Conseils d'Entreprises
	<b>Finland</b>	Suomen verokonsultit SVK ry Suomen Veroasiantuntijat ry
	<b>United Kingdom</b>	The Chartered Institute of Taxation Tax Faculty / Institute of Chartered Accountants in England and Wales
	<b>Italy</b>	Associazione Nazionale Tributaristi Italiani
	<b>Ireland</b>	The Irish Taxation Institute
	<b>Latvia</b>	Latvijas Nodokļu Konsultantu Asociācija
	<b>Malta</b>	The Malta Institute of Taxation (MIT)
	<b>The Netherlands</b>	De Nederlandse Orde van Belastingadviseurs Register Belastingadviseurs
	<b>Poland</b>	Krajowa Izba Doradców Podatkowych
	<b>Portugal</b>	Associação Portuguesa de Consultores Fiscais
	<b>Romania</b>	Camera Consultantilor Fiscali
	<b>Russia</b>	Палата налоговых консультантов (Palata Nalogovych Konsultantov – (Chamber of Tax Advisers)
	<b>Slovenia</b>	Zbornica Davcnih Svetovalcev Slovenije
	<b>Slovak Republic</b>	Slovenská komora daňových poradcov
	<b>Ukraine</b>	The Union of the Tax Advisers of Ukraine



**10 KEY PRIORITIES**

**IN INTERNATIONAL TAXATION**

**BY GLOBAL TAX ADVISERS PLATFORM**

**(GTAP)**

**“THE ULAANBAATAR DECLARATION”**

**12 SEPTEMBER 2018**





**GTAP is an international platform that brings together national and international organizations of tax professionals around the world.** The term “tax professionals” includes persons engaged at professional level with tax consultancy, as lawyers or as accountants, and accredited as such pursuant to applicable national law, irrespective of membership of GTAP.

**The principal purpose of GTAP is to promote the public interest by ensuring the fair and efficient operation of national and international tax systems including recognition of the rights and interests of taxpayers and the role of tax professionals.** To this end, GTAP shall provide the forum for the regular meeting, dialogue and interaction of tax experts from all continents.

**GTAP’s fundamental principle is that taxpayers’ and tax advisers’ interests are better pursued and served within a fair and efficient global tax framework.** Such context shall favor effective provision of tax advice, continuous improvement of services, smooth cooperation among tax advisers, taxpayers and authorities, respect and professional excellence.



GTAP is conceived and developed to respond to the tax needs of the modern world. From the perspective of international taxation, the current era is marked by:

- (i) International and supranational lawmaking and advisory bodies, such as the European institutions and the OECD;
- (ii) Transnational taxpayers, i.e. groups of entities structuring their activities without frontiers; and
- (iii) National tax authorities cooperating closely at international level.

**Territorial boundaries of national tax jurisdictions are fading in favor of a global tax jurisdiction** defined by the new technologies. Such technologies are also substituting for a number of tasks which until today were executed by tax professionals. Simultaneously, new opportunities and challenges are opening.



Remarkably, **the ongoing transition has given rise to tax avoidance and evasion** phenomena which have caused misunderstanding of the role of, and prejudice against, tax professionals. Hence, it is urgent to enhance trust in the tax profession and reaffirm its role as an enabler of tax compliance.

**It is high time that the tax profession evolves to respond to the new context.** An international platform can embrace the joint effort of tax professionals of the world to track the developments, exchange views and expertise, formulate holistic approaches and stimulate progressive solutions in international tax. It is the most appropriate step to strengthen our voice in a fast-changing arena.

**Tax professionals must globalize, digitalize, and regain trust.** The desired evolution is possible only through close cooperation at global level.

**Optimization of tax consultancy within the current framework is the GTAP's goal.**

**The 10 key priorities set for the pursuit of this goal are outlined below.**



## **“THE ULAANBAATAR DECLARATION”**

### **1. Strong cooperation among tax professionals**

In a global tax arena, tax professionals cannot be limited by national boundaries. Effective tax consultancy requires that they adopt a global viewpoint, are aware of developments on a global scale, and can give answers for more than one jurisdiction. Taking into account that the tax world is increasingly globalizing, GTAP considers its utmost priority to assist tax professionals in fulfilling the demands created by these changes.

For this purpose, GTAP seeks to ensure availability and diffusion of information on and among different jurisdictions. Therefore, it will employ communication platforms, common data bases, regular meetings and conferences for the exchange of knowledge, experience and ideas, and publications.



## **2. Inclusiveness, Openness, Global reach**

The objective of global tax consultancy can only be achieved in the context of a global network, encompassing all tax jurisdictions.

Inclusiveness is a key principle: GTAP shall be open to each and every professional association of accredited tax advisers in every corner of the world, without distinction.

GTAP embraces difference and believes in the value created by interaction of singularities. Therefore, GTAP will seek to facilitate participation by keeping to the minimum any costs, applying new communication technologies, and organizing its meetings in all continents on a rotational basis.

## **3. Position of tax professionals in the tax scenario**

Trust is an essential tool for the ongoing relationship between tax advisers, their clients and tax administrations. The current global tax framework is defective and its loopholes have allowed practices to develop which are inappropriate in the ethical and constructive global tax system to which we aspire.



Short term disclosure requirements, introduced as an emergency measure, threaten to drive taxpayers away from their professional advisers.

Nonetheless, as a rule, tax professionals' services are necessary to ensure tax compliance. Tax professionals are the sole persons qualified to interact with the tax authorities representing taxpayers to the latter's best interests. Tax professionals can render taxpayers and tax authorities' communication successful and effective, advising taxpayers on a continuing basis on their rights and obligations.

GTAP undertakes to increase the trust in tax professionals by, amongst other initiatives, establishing a common code of conduct for the provision of tax advice in a global tax world.

#### **4. Impact on the Renovation of the International Tax Scenario**

The international tax scenario is changing. Where territorial tax jurisdiction is fading to give space to a global tax world, territorial regimes lose relevance.





New laws are needed to regulate activities without confines and stateless income.

National and international legislative bodies are striving to identify appropriate criteria beyond national territories and physical presence for the taxation of modern economy.

Tax professionals have much to contribute. Their experience and expertise must be put at the disposal of legislators with a view to creating together a new, fair and efficient system of taxation, fit for the new conditions.

GTAP shall contribute to the discussion, participate in public consultations, take public positions and structure proposals to be used as basis for the new system.

In this respect, it is important that tax professionals express themselves with a single voice that will be heard clearly and loudly.



## **5. Proposal of a new tax system**

In the framework of the renovation of the global tax regime, tax professionals are in a position to offer more than contributions: they can take initiatives. Their position in the centre of the tax relations – interacting with both taxpayers and authorities – grants them unique expertise, allowing them to lead the change.

Therefore, GTAP shall encourage tax professionals of the world to take up the challenge of proposing a new system: simple, flexible, practical, fit for modern business, a system that can reclaim taxpayers' confidence.

## **6. Taxpayers' Rights**

In the construction of the new system and the transition towards it, it is crucial to safeguard the rights of taxpayers. Adequate guarantees are a mainstay for the desired fair and efficient tax system as well as for any truly democratic community. Such guarantees are equally a prerequisite for tax professionals to carry out their assignments.



In this regard, GTAP prioritises taxpayers' right to fair trial, encompassing the right to obtain advice and present one's tax case, and be represented in tax disputes by tax professionals. Establishment of such rights in all jurisdictions around the world will be sought through consultation with lawmakers and competent authorities, diffusion of information, opinion statements and legal actions. It is also necessary to ensure that such rights include the confidentiality of communications between tax professionals and clients. In this regard, Tax Professionals shall give due regard to the compliance obligations of taxpayers and should only act for taxpayers who are compliant or will become so following the actions proposed by the tax adviser.

## **7. Awareness and Foresight**

The tax system is changing due to the evolution of business and economy. Such evolution is endless and the tax world must follow it closely so as to respond quickly to new needs and ensure effective taxation of new types of income and business models.



Tax professionals must be prepared for the change: they must be informed and proactive; they must acquire the tools and qualifications needed to serve new tax regimes.

GTAP shall seek to monitor the changes and keep tax professionals abreast of them through internal dedicated specialized teams with interdisciplinary qualities. Such teams shall be devoted to research and conduct of studies on business and legal developments from the angle of the tax professional.

## **8. Preparation for the Digital Era**

Digital technologies are changing work and life in general. The tax profession could not but be affected: several tasks performed by tax professionals are now a matter of a few clicks. Concerns are accordingly being raised that the tax profession is vanishing.

However, GTAP sees a great opportunity where robots undertake tasks – mainly executive and supportive. It is tax professionals' chance to take new initiatives and innovate.



To do so they need to qualify to exploit the new technologies' potential, to extract and combine data, to program executive activities, and to give correct instructions.

GTAP will provide tax professionals with procedures and tools to master new technologies, maximize their value and be competitive in an evolving market.

## **9. Tax Advisers Without Borders (TAWB)**

The globalizing scenario impacts on relations between advanced and emerging economies. Since the territory of activity is losing relevance, activities in the latter and their potential supervision by tax authorities become particularly important for the global economy. For taxation to work in a global economy, all jurisdictions must be on equal footing.





GTAP undertakes to ensure that tax professionals in emerging economies can respond to the needs of a global tax jurisdiction. To this end, GTAP shall establish a TAWB (Tax Advisers Without Borders) function to promote exchange programs, conferences, online courses and interaction platforms, digital tools and respective training. Equally, it will promote diffusion of information on the tax system of emerging economies for the benefit of tax professionals in advanced countries.

## **10. Tax culture and ongoing education**

Apart from qualified tax professionals, a fair and efficient tax system requires well informed taxpayers and authorities. All parties of the tax relationship must have knowledge of the fundamental principles of taxation, their responsibilities and rights.

GTAP will enable the building of such culture. It will seek to ensure that all people all over the world have a real chance to understand taxes and be active participants in tax systems and policy development. To this effect, GTAP favors introduction of relevant lessons into schools and continuous availability of online courses.



**Founders:**

CFE, AOTCA, WAUTI

**Observers:**

STEP, IAFEI, AMA



*Signature of CFE representative*

**CFE**

*Signature of AOTCA representative (油田 集 隆)*

**AOTCA**

*Signature of WAUTI representative*

**WAUTI**





*Paul Odeh*

**IAFEI**

*Patricia Wass*

**STEP**

*Patrice DANDO  
President IATA*

**AMA**



**4 SHORT-TERM PRIORITIES  
IN INTERNATIONAL TAXATION**

**THE  
TORINO-BUSAN  
DECLARATION**

**[3 OCTOBER 2019]**



## THE TORINO-BUSAN DECLARATION

**GTAP is an international organisation uniting tax professionals from around the world.** The term “tax professionals” includes persons engaged at professional level with tax consultancy, as lawyers or as accountants, and accredited as such pursuant to applicable national law, irrespective of membership of GTAP.

**The principal purpose of GTAP is to promote the public interest by ensuring the fair and efficient operation of national and international tax systems including recognition of the rights and interests of taxpayers and the role of tax professionals.** To this end, GTAP provides the forum for the regular meeting, exchange programme, dialogue and interaction of tax experts from all continents.

On the occasion of the coinciding GTAP meetings in Torino and in Busan, **GTAP is hereby defining 4 key short-term priorities for the pursuit of its principal purpose and aspiring to contribute and shape contemporaneous developments in global taxation.**

## THE TORINO-BUSAN DECLARATION

### 1. Tax for Growth

Welfare and progress of the global community presupposes continuous development at a sustainable rate. Taxation is one of the main factors influencing growth and development. It has been evidenced that the distribution of the tax burden can encourage or discourage economic development. Moreover, tax policy determines the key direction of development, e.g. from gender-responsive & equality-promoting policies to sustainable environmental protection.

Constructing a global tax framework that encourages stable economic growth, widely diffused around the globe and oriented towards improvement of living conditions for all is one of GTAP's principal aspirations.

Developing countries, and the rate of economic growth, are particularly affected by the new trends in international taxation. Working together, we are committed to promoting inclusive and growth-inducing taxation policies. In particular, we share the commitment to improving tax morale as a policy course of action with the most meaningful impact on capacity building and economic growth.

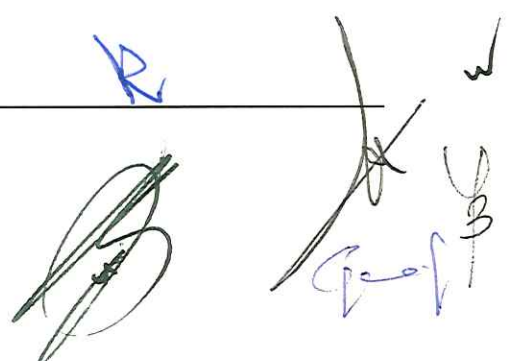
GTAP members aspire to promote policies on increased tax certainty and voluntary compliance as a means for improved tax good governance.

## THE TORINO-BUSAN DECLARATION

### 2. Tax and Climate Change – Sustainable Tax Policies

Climate changes affects us all. Indeed, the intention of a carbon tax is environmental, to reduce emissions of carbon dioxide and thereby slow climate change. GTAP members aspire to share their unique knowledge on tax with governments and other international stakeholders in the process of transition to a low carbon global economy.

Tax policy is a key tool to internalise environmental costs and foster the transition to a low carbon economy, for the generations to come. Future-proof tax systems are an equilibrium between today's public finance needs and tomorrow's sustainable policies.

A handwritten signature in black ink, located to the right of the text block.Several handwritten signatures and initials in blue and black ink, located at the bottom right of the page.



## THE TORINO-BUSAN DECLARATION

### 3. Tax and Digitalisation

Today, growth is defined largely within the digital framework. Digital technologies have become an integral part of business and everyday life and their impact is expected to expand over time. Therefore, a global approach to dealing with the digital side of the economy is essential.

Digitalisation is simultaneously advancing and disrupting trends in technology, transportation, education and healthcare. Identifying tax rules that can inspire consensus of national legislators around the globe is essential to foster this digital era for the service of humanity. In the area of taxation, digitalisation exacerbates the perceived mismatch between where the value is created and where taxes are paid, which affects the perception of fairness in our tax systems, across borders and nations. Therefore, these significant cross-jurisdictional issues merit a global response, whilst the new “single global tax jurisdiction” demands rules of broad consensus.

We are ready to embrace this change. Due to the fast-paced change of the digital environment, today’s solutions must be future-proof and consistent with the principle of aligning profit with underlying economic activities and value creation. GTAP calls for a coordinated international tax policy response to the challenges posed by digitalisation.

## THE TORINO-BUSAN DECLARATION

### 4. Taxpayers' Rights and Certainty in a Fast-Paced World

Sustainable growth is contingent on effective tax compliance. As such, taxpayers' active and willing compliance ensures more efficient collection of sufficient resources, necessary for fulfilment of the social contract between citizens and governments. When taxpayers' rights are not sufficiently guaranteed, taxpayers' active and willing compliance is undermined. A tax framework that cannot adequately address the current evolving reality results in uncertainty at the expense of tax compliance and economic growth.

Consequently, in a dynamic global economic framework, taxpayers' rights should serve as a beacon of certainty. Certainty with equity, simplicity, and convenience have been noted as the ingredients of an efficient tax system.

GTAP underlines the fundamental importance of taxpayers' rights for tax good governance, and the role played in this respect by the statements of taxpayer, and tax administration, rights and obligations.

To this end, GTAP members urge governments and international bodies to promote a "fundamental right of tax certainty". This right is promulgated in the Model Taxpayer Charter, an initiative of GTAP organisations, CFE Tax Advisers Europe, AOTCA and STEP.

Founders:



CFE

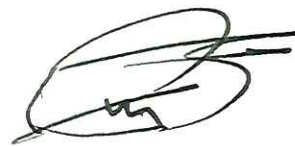
 **tax advisers  
europe**



AOTCA



**A O T C A**  
Asia Oceania Tax Consultants' Association



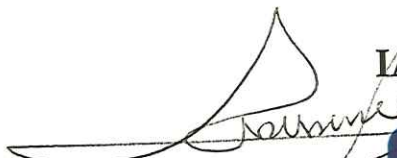

WAUTI



**WEST AFRICAN UNION OF TAX INSTITUTES (WAUTI)**  
UNION DES ORDRES FISCAUX DE L'AFRIQUE DE L'OUEST (UDOF AO)



Observers:

 IAFEI  


 STEP  
  
ADVISING FAMILIES ACROSS GENERATIONS

 AMA  


CDPT  
 CENTRO DI DIRITTO PENALE TRIBUTARIO  
CENTRE DE DROIT PENAL FISCAL  
CENTER FOR CRIMINAL TAX LAW  




# CONFERENCES

# GLOBAL TAX ADVISERS PLATFORM (GTAP) CONFERENCE

## “TAX & THE FUTURE”

**03/10/2019**

 **TORINO INCONTRA**  
Via Nino Costa, 8,  
10123 Torino, Italy

CFE Tax Advisers Europe invites you to attend the Global Tax Advisers Platform (GTAP) Conference to be held in Torino, Italy, on Thursday 3 October 2019 from 9am to 5pm, on the topic of “Tax and the Future”.

In the 21<sup>st</sup> century, close cooperation in taxation matters is indispensable; a pre-requisite driven by increased globalisation and digitalisation. This is particularly so in light of the many tax-policy initiatives of international and supranational organisations, such as the OECD, the UN, the Inclusive Framework and the EU. Close co-operation is the sole effective means of responding to the requests of multinational clients.

GTAP is the global response of tax advisers to these international tax initiatives, formed in 2014 by CFE,

AOTCA and WAUTi, in search of closer links among tax advisers throughout the world. The platform provides the proper framework for a more dynamic, more inclusive cooperation among tax advisers, on the basis of enhanced dialogue, more effective collaboration and more openness.

The GTAP conference is intended to reinforce closer cooperation by bringing to the forefront issues that are of interest to all tax advisers in a borderless, increasingly globalising and automated society, driven by new technologies.

The conference will be attended by the founding organisations of GTAP: CFE, AOTCA and WAUTi, and tax advisers the organisations bring together from all over the globe.

GTAP embodies the vision of the founding organisations for a broad network of tax advisers around the globe working on a broad spectrum of topics within the field.

It reflects the conviction that tax advisers of all jurisdictions have common interests; and that these interests can be pursued more effectively together.

The GTAP conference is part of a series of other events of professional interest for tax advisers, which will be organized in Torino, from 2 to 4 October for the celebration of the 60th Anniversary of the foundation of CFE Tax Advisers Europe.

09h00

## OPENING REMARKS

**Piergiorgio Valente**, President, CFE Tax Advisers Europe, Chairman GTAP Global Tax Advisers Platform

**Sergio Rolando**, Council Treasurer, City of Turin, Italy

**Giuseppe Zafarana**, Commanding General of the Guardia di Finanza (GdF), Italy

**Massimo Miani**, President, Consiglio Nazionale dei Dottori Commercialisti e Degli Esperti Contabili (CNDCEC), Italy

**Gaetano Ragucci**, President, Associazione Nazionale Tributaristi Italiani (ANTI), Italy

**Volker Kaiser**, Vice-President, Bundessteuerberaterkammer (BStBK), Germany

10h30

## PANEL I Future of Global Tax Policy

### Moderation

**Piergiorgio Valente**  
President, CFE Tax Advisers Europe, Italy

Presentation of CFE's 60th Anniversary Liber Amicorum

**Servaas Van Thiel**  
Editor

**Krister Andersson**, Vice President, Employers' Group, European Economic and Social Committee

**Gladys Olajumoke Simplice**, President, West African Union of Tax Institutes (WAUTI)

**Fabrizia Lapecorella**, Director General, Ministry of Finance, Italy

**Bruno Ferroni**, Professor of International Business Law, Università Cattolica del Sacro Cuore, Italy

**Euney Marie J. Mata-Perez**, President, Asia-Oceania Tax Consultants' Association (AOTCA)

11h45

12h15

### Coffee Break

12h15

## PANEL II Future of Corporate Income Tax and VAT

### Moderation

**Stella Raventós-Calvo**  
Chair of the Fiscal Committee, CFE Tax Advisers Europe, Spain

**João Félix Pinto Nogueira**, Deputy Academic Chairman, IBFD

**Gaetano Ragucci**, President, Associazione Nazionale Tributaristi Italiani (ANTI), Italy

**Francesca Mariotti**, Director of Tax Policies, Confindustria, Italy

**John Voyez**, Partner, Smith & Williamson LLP, United Kingdom

13h45

14h30

### Lunch

14h30

**GTAP**

**Signing of the Torino - Busan Declaration**

14h45

14h45

## **PANEL III** Future of the Global Tax Profession

### **Moderation**

**Wim Gohres**  
Chair of the Professional  
Affairs Committee, CFE Tax  
Advisers Europe, The  
Netherlands

**David Russell QC**, Deputy Chairman, Society of Trust and Estate  
Practitioners (STEP)

**Nii Ayi Aryeetey**, Immediate Past President, West African Union of Tax  
Institutes (WAUTI)

**Alessandro Solidoro**, Counsellor, Consiglio Nazionale dei Dottori  
Commercialisti e Degli Esperti Contabili (CNDCEC), Italy

15h45

## **PANEL IV** Future of Business Models and Tax Sustainability

### **Moderation**

**Ian Hayes**  
Chair of the Tax  
Technology Committee,  
CFE Tax Advisers  
Europe, United Kingdom

**Eric Herren**, Cyber Security Senior Adviser, International Institute for Counter  
Terrorism, Switzerland

**Massimo Getto**, Vice-President and CFO, Viasat Group, Italy

**Glyn Fullelove**, President, Chartered Institute of Taxation (CIOT), United  
Kingdom

**Gilberto Gelsa**, Counsellor, Consiglio Nazionale dei Dottori Commercialisti  
e Degli Esperti Contabili (CNDCEC), Italy

16h45

## **CLOSING REMARKS**

**Gary Ashford**, Vice-President, CFE Tax Advisers Europe, United Kingdom

**Gabriele Fontanesi**, Member, Advisory Council, International Association of Financial Executives Institutes (IAFEI)

**Mario Garavoglia**, President, Center for Criminal Tax Law (CDPT), Italy

**Gilberto Gelsa**, Counsellor, Consiglio Nazionale dei Dottori Commercialisti e Degli Esperti Contabili (CNDCEC), Italy

**Luca Asvisio**, President, Ordine Dei Dottori Commercialisti e Degli Esperti Contabili di Torino (ODCEC), Italy

**Ernesto Ramojno**, President, Piemonte-Valle D'Aosta section, Associazione Nazionale Tributaristi Italiani (ANTI),  
Italy





## Main Theme: DOMESTIC REVENUE MOBILISATION IN ECOWAS COUNTRIES: CHALLENGES AND PROSPECTS

Thursday, 27<sup>TH</sup> – Friday 28<sup>TH</sup>, February 2020  
Venue: King Fahd Palace, Dakar, Senegal

### TENTATIVE PROGRAMME OF EVENT

#### Day One – Thursday 27<sup>th</sup> February, 2020

TIME	SUBJECT
08.00 – 09.00	Arrival - Registration & Light Refreshment
	<b>FORMAL OPENING CEREMONY OF THE CONFERENCE</b>
09.00 – 09.10	Opening Prayer
	Introduction of Guests by the Master of Ceremonies
09.10 – 09.15	Opening Remarks by the Chairman Local Organising Committee – Mr. Saliou Dieye
09.15 – 09.30	Goodwill Messages
09.30 – 09.50	Opening Address by WAUTI President, Dame Gladys O. Simplicie, FCTI
09.50 – 10.10	Keynote Address by Prof. Abdoulaye Sakho- UCAD
10.10 – 10.30	Vote of Thanks by .....
	Closing Prayer
10.30 – 10.50	Group Photograph
10.50 – 12.00	<b>TECHNICAL SESSION 1- PANEL DISCUSSION</b> <b>Theme: DOMESTIC REVENUE MOBILISATION IN ECOWAS COUNTRIES: CHALLENGES AND PROSPECTIVES</b>  <b>Guest Speaker</b> Mr. Bassirou Samba Niasse, Director General, DGID Senegal <b>Panellists</b> -Abdoul Aziz Gueye, DGID Coordinator, Senegal -Chief M. A. C. Dike, Past President CITN, Nigeria - Mohamed DIEYE, General Secretary ASKIA -Michel THERON – President Tax Commission, CNP-Senegal <b>Moderator</b> Dr. Brahima Guire, President APECF-Burkina Faso
12.00 – 12.30	<b>Opening Discussions:</b> Questions, Comments and contributions







12.30 – 14.00	<b>LUNCH BREAK</b>
14.00 – 15.00	<b>TECHNICAL SESSION 2</b> <b>Sub-theme 1 : ADDIS TAX INITIATIVE (ATI): PRESENTATION, PERSPECTIVES AND THE WAY FORWARD</b>  <b>Guest Speaker</b> Mr. Mamadou Gueye, Member of ATI Steering Committee  <b>Panellists</b> Prof. Keith Engel, CEO, Executive Office, SAIT, South Africa Mr. Abdallah Ali-Nakyea, Partner Ali-Nakyea & Associates, Accra, Ghana Mr Ahmed Eso Wavana Adoyi, Office Togolais des Recettes  <b>Moderator</b> Mr. Amadou Badiane, DCIL-DGID-Senegal
15.00 – 15.30	<b>Opening Discussions:</b> Questions, Comments and contributions
	<b>END OF DAY ONE</b>

## Day Two – Friday 28<sup>th</sup> February, 2020

08.00 – 09.00	Arrival, Registration & Light Refreshment
09.00 – 10.00	<b>TECHNICAL SESSION 3- PANEL DISCUSSION</b> <b>Sub-theme2: “ENHANCING DOMESTIC REVENUE MOBILISATION (DRM): THE NEED FOR VOLUNTARY TAX COMPLIANCE, EXCHANGE OF INFORMATION THROUGH INTER-COUNTRY COLLABORATION AND COOPERATION AND EFFICIENCY IN REVENUE ADMINISTRATION”</b>  <b>Guest Speaker</b> Mr. Taiwo Oyedele, PWC Nigeria  <b>Panellists</b> - Mr. Tei Konzi, ECOWAS Commissioner for Trade, Customs and Free Movement -Mr. Nii Ayi Aryeetey, President CITG, Ghana -Ben Ousmane Ba, Directeur DME- Vice-President WATAF, Senegal  <b>Moderator</b> -Mr Saliou CAMARA , Tax Expert ONES





10.00 – 10.30	<b>Opening Discussions:</b> Questions, Comments and contributions
10.30 – 11.30	<p style="text-align: center;"><b>TECHNICAL SESSION 4</b></p> <p><b>Sub-theme 3 : DRM AND THE DIGITAL ECONOMY THE INTERNATIONAL TAXATION ANGLE: CHALLENGES, INROADS, AND PROSPECTS</b></p> <p><b>Guest Speaker</b> Prof. Piergiorgio Valente, President CFE Tax Advisers Europe and GTAP</p> <p><b>Panellists</b> Mrs. Aissata Djibo Gazibo, President APECF-Niger Mr. Eric Robert, Tax Adviser - OECD Mr Ibrahima Nour Eddine Diagne, Director General GAIND 2000, Senegal Mr. Bidemi Daniel OLUMIDE, Partner CEO Taxaide</p> <p><b>Moderator</b> Mrs. Marie Delphine NDIAYE, Tax Expert ONES Senegal</p>
1.30 – 12.00	<b>Opening Discussions:</b> Questions, Comments and contributions
	<b>SYNDICATE DISCUSSION</b>
	<b>FORMAL CLOSING CEREMONY</b>
12.00	Introduction of Chairman and others Dignitaries by MC
12.05	Remarks by the Chairman Tax Conference Committee – Mr. Saliou Dieye
12.10	Remark by WAUTI President, Dame Gladys O. Simplicie, FCTI
12.15	Highlight of the Conference by the Rapporteur
12.35	Address and formal closing of Conference
12.55	Vote of Thanks by .....
13.00	Closing Prayer
	Group Photograph
	<b>CLOSURE/ END OF THE CONFERENCE</b>
19:00	<b>GALA – DINNER &amp; AWARDS NIGHT</b>





# OTHER PUBLICATIONS





BRUSSELS | JANUARY 2019

## 1. International community makes important progress on the tax challenges of digitalisation

On 23-24 January, the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting (BEPS) met, bringing together 264 delegates from 95 member jurisdictions and 12 observer organisations. The Countries and jurisdictions will step up efforts toward reaching a global solution on how to best tax multinational enterprises in a rapidly digitalising economy.

Future discussions to reach a solution will be based around two pillars, identified in a new [Policy Note](#) released after the Inclusive Framework's meeting. The first pillar will focus on how the existing rules that divide the right to tax the income of multinational enterprises among jurisdictions could be modified to take into account the changes that digitalisation has brought to the world economy. The second pillar aims to resolve remaining BEPS issues and will explore two sets of interlocking rules designed to give jurisdictions a remedy in cases where income is subject to no or only very low taxation.

Given the significance of the new proposals for the international tax system, the Inclusive Framework will issue a consultation document that describes the two pillars in more detail, and a public consultation will be held on 13 and 14 March 2019 in Paris as part of the meeting of the Task Force on the Digital Economy.

## 2. US proposed tax plan viewed with caution at the World Economic Forum in Davos

The World Economic Forum, held in Davos, Switzerland, from 22 – 25 January 2019, gathered businesses, politicians and academics with the aim of demonstrating entrepreneurship in the global public interest while upholding the highest standards of governance.

At the Forum, the newly elected US Congresswoman Alexandria Ocasio-Cortez suggested a tax plan of 70% tax on income over \$10 million revenue. According to the New York Democrat, that could fund a climate change plan she is pushing called the "Green New Deal."

Many at the World Economic Forum viewed the proposal with caution. At the moment, the current highest US personal income tax rate is 37%, and such an increase could possibly lead to sheltering of income, which could cause a drag on productivity. The plan still has a long way to go; it must pass through the House, Senate, and finally the US president.

### 3. Papua New Guinea signs the multilateral BEPS convention

On 1 December, Papua New Guinea has joined the OECD [Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting](#). The BEPS convention aims to combat tax avoidance by multinational enterprises (MNEs) through prevention of Base Erosion and Profit Shifting (BEPS).

The BEPS multilateral instrument was negotiated within the framework of the OECD G20 BEPS project and enables countries and jurisdictions to swiftly modify their bilateral tax treaties to implement some of the measures agreed. The MLI entered into force on 1st July 2018 and already covers 87 jurisdictions.

### 4. China's revised Individual Income Tax Law comes into full effect

Since 1 January 2019, China's new individual income tax law (IIT law) has come into full effect. The IIT law aims to mitigate the burden for low to mid-income earners while taking a tougher posture on foreign workers and high-income groups.

Among the changes, special attention should be given to further clarifications on the details of the new IIT general anti-avoidance rule (GAAR), and the specific provisions addressing related party transactions and controlled foreign companies. These provisions are based on the equivalent corporate income tax (CIT) rule guidance, though with important differences.

It should be stressed that, following the merger of the state and local tax bureaus in 2018, enforced cross-border IIT and CIT matters will be overseen by unified international tax department at provincial level, meaning a step-change in enforcement effectiveness.

### 5. Georgia's new customs code comes into force

The Prime Minister of Georgia, Mamuka Bakhtadze, announced that a new, European style, customs code will come into force in Georgia in 2019. The Prime Minister stated that the existing customs code failed to respond to current challenges, and that with the new code will enable a more effective integration of Georgia into the global economy.

Georgia's customs policy is now based on modern customs infrastructure, simple and fair procedures, and the conception of digital customs, which means electronic provision of all customs services to businesses.

Ivane Machavariani, Georgia's Finance Minister, said that "The new code is in full compliance with high, European standards. It has been drafted by Georgian and EU experts.

The new code will provide stimulus for new investments from Europe in Georgia and help the integration of Georgian businesses on the European market.”

## 6. OECD updates on harmful tax practices

The OECD has released a new publication, called [Harmful Tax Practices - 2018 Progress Report on Preferential Regimes](#), with results demonstrating that jurisdictions have delivered on their commitment to comply with the standard on harmful tax practices, including ensuring that preferential regimes align taxation with substance.

The report also delivers on the Action 5 mandate for considering revisions or additions to the FHTP framework, including updating the criteria and guidance used in assessing preferential regimes and the resumption of application of the substantial activities factor to no or only nominal tax jurisdictions. The report concludes in setting out the next key steps for the FHTP in continuing to address harmful tax practices.

## 7. Commission welcomes agreement on proposal to facilitate sales of goods and supply of digital content and services in the EU

The European Parliament and the Council reached a provisional agreement this month on the European Commission's proposals regarding the online sales of goods and supply of digital content and services. In conjunction with the regulation to end unjustified geoblocking that entered into force in December 2018, the new agreement on digital contract rules is the latest achievement of the Digital Single Market Strategy, delivering concrete benefits to citizens and businesses.

The texts must now be formally adopted by the European Parliament and the Council of the EU. Following final adoption, the Directives will be published in the EU's Official Journal and enter into force 20 days later.

## 8. Commission refers Germany to the Court for its failure to align with EU rules on VAT refunds

On 24 January, as part of the EU January Infringement Package, the EU Commission decided to refer Germany to the Court of Justice of the EU for rejecting certain applications for VAT refunds for businesses in other Member States.

Germany refuses in some cases to refund VAT without asking for additional information from the refund applicant where it considers that the information provided on the nature of the goods and services provided is insufficient for coming to a decision on the application. This practice leads to situations where a VAT refund is denied to applicants that fulfil the substantive requirements, and violates the right to a VAT refund established under the EU rules and the Refund Directive.

## 9. Finland-Portugal Tax Treaty Terminated

The Portuguese Government has confirmed in a notice published in its Official Gazette that Portugal's tax treaty with Finland has been terminated effective January 1, 2019.



The 1970 double tax avoidance treaty between the two countries was terminated by Finland in June 2018 because the treaty was not consistent with Finland's current tax treaty policy. The Finnish Government said that the treaty restricts its "right to tax private pensions received in Portugal from Finland." The termination decision ensures that Finland will be able to tax the private pensions of Finns residing in Portugal.

Portugal currently grants 10-year tax holidays to foreign pensioners who meet certain criteria – an incentive that has lured retired expats from all over Europe, including from Finland.

A revision to the treaty - which was signed in November 2016 - would, according to the Finnish Government, have provided Finland with "more opportunities" to tax the income of Finns residing in Portugal. However, the Portuguese Government failed to complete its ratification procedures.

## 10. France Hoping For Deal On EU Digital Tax Soon

France's Finance Minister Bruno Le Maire has said that an agreement on an EU-wide digital services tax could be reached by the end of March 2019.

EU finance ministers have so far been unable to reach an agreement on the European Commission's proposed 3% excise tax on turnover from certain online activities.

Austria, the previous holder of the European Council Presidency, has recommended a compromise scheme under which the EU would target "revenues stemming from the supply of digital services where users contribute significantly to the process of value creation." A separate compromise proposal, put forward by France and Germany in December 2018, would rein in the scope of the measure, focusing instead on online advertising revenue.



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BRUSSELS | FEBRUARY 2019

## 1. Taxation of Amazon Cloud Services in the USA

The revenue department of the state of Iowa, in the United States, declared that the supply of Amazon's Simple Storage Service should be subject to tax, and told the tech giant to collect taxes retroactively as from January 1st 2019.

The [Declaratory Order](#), published on 06 February, came as a response to the request from Amazon Web Services Inc., in which Amazon asked for guidance on the taxability of its Simple Storage Service and Elastic Compute Cloud Service under Senate File 2417. The File refers to a broad tax reform measure enacted in 2018 that expanded the sales and use tax regime to digital goods, ride-sharing services, subscription services, online sellers, and online travel.

Amazon Simple Storage Service operates as a remote storage service, allowing customers to store and retrieve data, applications, software, and other electronic files through an internet connection. According to the Iowa revenue department, the service fits within the category of services the legislature intended to tax. The data transfer fees associated with the service will also be subject to Iowa sales tax.

As far as Amazon Elastic Compute Cloud Service is concerned, however, the department said Amazon does not have to collect taxes. The transactions regarding the service constitute sales of computer-related services rather than sales of a digital product; customers are purchasing remote computing power rather than a digital product.

## 2. OECD Extends Digital Tax Consultation Deadline

On 13 February 2019, the OECD published a [consultation document](#), outlining proposals being considering by the members of the Inclusive Framework as part of its task of reviewing of international tax rules arising from the tax challenges of the digital economy. The public consultation will now run until Wednesday, 6 March 2019. Thereafter, the Inclusive Framework will hold a public consultation on 13 and 14 March 2019 in Paris as part of the meeting of the Task Force on the Digital Economy.

The consultation was launched following publication of a [Policy Note](#) identifying that discussions at OECD level will be based around two pillars. The first pillar will focus on how the existing rules that divide the right to tax the income of multinational enterprises among jurisdictions could be modified to take into account the changes that digitalisation has brought to the world economy. The second pillar aims to resolve remaining BEPS issues and will explore two sets of interlocking rules designed to give jurisdictions a remedy in cases where income is subject to no or only very low taxation.

The consultation document invites input concerning a number of technical and policy matters, in order to assist the Inclusive Framework with its task of developing a solution for inclusion in its final report to the G20, due in 2020. Comments should be addressed to the Tax Policy and Statistics Division, Centre for Tax Policy and Administration, and should be submitted in Word format via e-mail to [TDFE@oecd.org](mailto:TDFE@oecd.org). All comments submitted will be made publicly available by the OECD in due course.

### 3. Armenia Join OECD BEPS Inclusive Framework

Armenia have now joined the [OECD's BEPS Inclusive Framework](#). Members of the Inclusive Framework have the opportunity to work together on an equal footing with other OECD and G20 countries on implementing the BEPS package consistently and on developing further standards to address remaining BEPS issues.

There are now 128 jurisdictions that are participating in the project.

### 4. Botswana Passes New Transfer Pricing and Interest Deductibility Legislation

As from 01 July 2019, new transfer pricing legislation and new interest deductibility legislation will come into operation in Botswana, passed in its [2018 Finance Act](#).

The new transfer pricing legislation now requires taxpayers to compute their taxable income in accordance with the arm's length standard. The new legislation will encourage voluntary compliance and strengthen the Botswana Unified Revenue Service's efforts to combat non-compliance.

The new interest deductibility legislation is based on a fixed ratio rule, which limits an entity's net interest deductions to 30% of its earnings before interest, taxes, depreciation and amortisation (EBITDA), except for a company whose main business is banking or insurance. This is a straightforward rule to apply and ensures that an entity's interest deductions are directly linked to its economic activity. It also directly links these deductions to an entity's income, which makes the rule reasonably robust against planning.

African tax administrations report that transfer pricing represents one of the highest risks to their tax bases. To that end, having effective legislation is a key element in African countries' fight to combat abusive transfer pricing practices and is also important in providing taxpayers with greater tax certainty and encouraging voluntary compliance.

## 5. New Zealand to Open Consultation on Digital Services Tax for Multinationals

The New Zealand government announced on 19 February that it will open a public consultation in May on the design of a Digital Services Tax (DST) on the revenue of multinationals operating in the country. The Finance Minister Grant Robertson said that highly digitalised companies - social media networks, trading platforms and online advertising - currently earn a significant income from New Zealand consumers, but they are not liable for income tax.

The digital services tax would serve as an interim measure until the OECD reaches agreement on a coordinated global method to address the tax challenges of digitalisation by 2020.

## 6. Guernsey Deposits its Instrument of Ratification for the Multilateral BEPS Convention

On 12 February, Guernsey joined the [OECD Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting](#). The BEPS convention aims to combat tax avoidance by multinational enterprises (MNEs) through prevention of Base Erosion and Profit Shifting (BEPS).

The BEPS multilateral instrument was negotiated within the framework of the OECD G20 BEPS project and enables countries and jurisdictions to swiftly modify their bilateral tax treaties to implement some of the measures agreed.

## 7. Switzerland and UK Agreement on Post-Brexit Trade Relationship

Switzerland and the UK have signed in Bern on 11 February a trade continuity agreement that will serve as a basis for their trading relationship after Brexit. The accord replicates the majority of the trade agreements that currently govern relations between Switzerland and the European Union.

Anne-Marie de Weck, President of the British-Swiss Chamber of Commerce said: *"It is imperative for our members, both British and Swiss businesses, that trade continues. Switzerland is the UK's seventh largest export market, third largest non-EU market, eighth largest foreign direct investor, and tenth top destination for UK outward direct investment. It is paramount that the British and Swiss governments have secured the continuation of a huge trading relationship with this agreement."*

The agreement between Switzerland and the UK will come into force as soon as the Swiss-EU agreements cease to apply to relations between Switzerland and the UK.

## 8. New Indonesian E-Commerce Tax Obligations

The Ministry of Finance of Indonesia has confirmed that, as from 01 April 2019, online marketplaces and sellers must comply with VAT and income tax obligations set out in Indonesia's Regulation Number 210/PMK.010/2018.

The regulation will compel those sellers and marketplaces making supplies worth IDR4.8bn (approximately USD 337.000) or more a year to collect value-added tax on their sales to Indonesian consumers and remit these amounts to the tax authority. They must also levy a luxury sales tax where appropriate.

Beyond that, marketplaces will be obligated to report sales data to the tax agency about those making supplies to Indonesian consumers on their platforms. Traders and services providers will be obligated to provide an Indonesian taxpayer number to marketplaces.

The regulation also affects online retailers, businesses that sell through classified ads, those that offer daily deals, and those transacting with consumers through social media.

## 9. EU Code of Conduct Group Warned Six Jurisdictions on Harmful Tax Regimes

On 01 February, the European Union Code of Conduct Group (Business Taxation) sent [letters](#) to Barbados, Belize, Curaçao, Mauritius, Saint Lucia and Seychelles seeking commitment by these jurisdictions on the replacement of harmful preferential tax regimes with measures of similar effect.

In the letters, sent by the General Secretariat of the Council, the Group stated that the introduction of new preferential tax measures had been identified, such as facilitating offshore structures or arrangements aimed at attracting profits which do not reflect real economic activity in the jurisdiction, exemption of foreign income and Partial Exemption system.

The Group stressed that they are expecting to receive a commitment at a high political level that the jurisdictions will abolish the harmful tax regimes, and that as long as those assurances are received and no other criteria have been failed, the jurisdictions will not be recommended to the Council of the EU to be included in the EU list of non-cooperative jurisdictions for tax purposes.

## 10. Global Tax Advisers Platform (GTAP) Global Conference

Save the date for the Global Tax Advisers Platform (GTAP) Global Conference, to be held in Turin, Italy, on Thursday 03 October 2019 from 9am to 4pm, on the topic of "Tax and the Future".

CFE Tax Advisers Europe, together with the Asia-Oceania Tax Consultants' Association ("AOTCA") and the West African Union of Tax Institutes ("WAUTI"), established the Global Tax Advisers Cooperation Forum (GTACF) in 2013. In 2018, with the signing of the historic [Ulaanbaatar Declaration](#), the GTACF was renamed the Global Tax Advisers Platform ("GTAP"), in order to further reflect the revised purpose and mission of the organisation.

GTAP is an international platform, representing more than 600,000 tax advisers in Europe, Asia and Africa, that seeks to bring together national and international organisations of tax professionals from all around the world. The principal aim of GTAP is to promote taxpayer

and tax advisers' interests by ensuring the fair and efficient operation of the global tax framework, including recognition of the rights and interests of taxpayers, and the role of tax professionals.

More details about the conference and line-up of speakers will be available in due course.



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BRUSSELS | MARCH 2019

## 1. OECD Public Consultation on the Taxation Challenges of the Digital Economy

As part of the ongoing work of the Inclusive Framework and the Task Force on the Digital Economy, the OECD organised a [public consultation](#) on 13-14 March on the tax challenges arising from the digitalisation of the economy, with 400 invited stakeholders from business, professional and trade associations, practice, NGOs and academics. The discussions focused on the key questions identified in the OECD consultation document and the issues raised in the [written submissions](#) received as part of the consultation process. Over the two days, experts and four panels of speakers debated the design and administration considerations of the proposals for revised profit allocation and nexus rules presented under the first pillar (i.e., user participation, marketing intangibles and significant economic presence), as well as the policy rationale and objectives of the second pillar proposals on the global anti-base erosion proposal.

Digital businesses expressed reservations about the scope of the user participation proposal and the 'arbitrary' distinction in ring-fencing particular business models. Conversely, non-digital companies articulated concerns about the scope of the marketing intangibles proposal by modifying the application of the arm's length principle. The common ground in discussions concerning the revised profit allocation rules was the importance of simplicity, certainty, the absence of double taxation or unilateral measures and presence of mandatory dispute resolution mechanisms in any future solution. Considering that proposals one and two (user contribution and marketing intangibles) bear similar features, it was suggested these proposals could be implemented through adjusting the present framework without the need to dismantle the whole international tax system. Some participants suggested alternative proposals, and even formulary apportionment, to the extent an agreement on the formulary elements was possible.

The participants agreed on the flaws of the existing fragmented approach to taxation of the digital economy, and there was general acceptance of the need to redouble efforts to reach a global governmental agreement. Considering the ambitious timeline, the OECD announced meetings of the Task Force on the Digital Economy would be held more frequently, and another consultation setting out more detailed technical contributions is expected to be held by the end of 2019.

On 12 March, shortly before the meetings, the EU finance ministers formally abandoned the proposal to introduce an immediate, temporary, EU-wide tax on the revenue of large multinational firms in the digital sector. The tax would have applied until a global consensus was reached on a long-term solution of how to tax multinational digital firms.

The EU will now focus on the broader international tax discussions underway at the OECD and G20 level. EU Ministers said that if progress is not made by the end of 2020 on global efforts to revise the international tax system, the EU will revisit the issue at that time.

The original EU proposal for an EU-wide digital services tax, presented in March 2018, contemplated a 3% levy on the revenue of large multinationals that sell online advertising or operate online sales platforms.

## 2. Australian Taxation Office Releases Guidance on Compliance for MNEs

The Australian Taxation Office (ATO) recently released a [Practical Compliance Guideline \(PCG 2019/1\)](#) that outlines ATO's compliance approach to the transfer pricing outcomes associated with the activities of inbound distributors of goods purchased from related foreign entities for resale, and distributors of digital products or services where the intellectual property in those products or services is owned by related foreign entities.

The guidance will be relevant to MNEs required to file a Reportable Tax Position (RTP) schedule with the ATO, MNEs involved in or planning for formal field-based risk reviews, including Streamlined Assurance Reviews, and MNEs with existing Advance Pricing Agreements (APAs) or involved in applying for an APA.

MNEs are expected to take immediate action to assess their risk rating under the guidance, determine what reporting is required, and what action should be taken.

## 3. Kenya's High Court Rules Tax Agreement with Mauritius Unconstitutional

Kenya's High Court has invalidated a tax agreement with offshore haven Mauritius, claiming that the double tax avoidance agreement was unconstitutional. According to the Court, Kenya's government had failed to follow constitutional requirements for ratification.

Regarding the ruling, Alvin Mosioma, the Executive Director of Tax Justice Network Africa (TJNA), an African non-profit organisation, stated: *"This ruling is groundbreaking not just for Kenya but for other Africa countries. (...) Today's judgment validates our call for African countries to review all their tax treaties particularly those signed with tax havens. (...) Evidence has shown that contrary to their objectives, these DTAs have led to double non-taxation and resulted to massive revenue leakage for African countries."*

As part of the 2017 Paradise Papers investigation, the International Consortium of Investigative Journalists (ICIJ) revealed that profitable companies, assisted by law firms and accountants, used tax treaties to reduce monies paid to some of the world's poorest nations, many of which are in Africa. Emails from the investigation showed companies eagerly eyeing the Mauritius-Kenya treaty to pay less tax.

While some in favour of the treaty argued that the agreement would increase investment and jobs for Kenyans, critics claimed it would join a string of similar agreements signed between Mauritius and other African countries that reduce taxes available to poorer nations.

Kenya and Mauritius signed a tax treaty in 2012 that authorized reduced tax rates for companies established in the island nation. However, the treaty did not come into force before it was challenged in 2014, as Kenya had not notified Mauritius of the completion of the ratification procedures.

TJNA called on Kenya to now renegotiate other treaties, including those with the United Arab Emirates, Netherlands, China and South Korea.

## 4. Austrian Finance Minister Announces Plan to Move Ahead with Digital Tax

The Finance Ministry of Austria stated that the country will go ahead with a proposed tax on internet giants after plans for a European Union-wide levy fell through on 12 March.

Earlier this year, Austria had announced they would impose a digital advertising tax on tech companies of 3% on advertising revenue, but the plan was delayed in the hopes that the European Union would agree to a European-wide digital tax.

Hubert Fuchs, State Secretary of Finance, explained why a digital tax is so urgently needed: *"In Austria, companies pay corporation tax depending on their profits. Now, however, it is the case that major digital corporations in Austria report only very minimal profits. These are reduced as a result of global profit shifting. Profit-based taxation of major digital corporations is therefore ineffective. To compensate for this, therefore, in future, digital corporations will have to pay a digital tax."*

In his announcement, Austrian Finance Minister Hartwig Löger said: *"Rather than submit legislation to parliament immediately, however, the government will first hold meetings of experts including representatives of Austria's print and broadcast media, the advertising industry and the finance ministry to discuss the plans in coming weeks. (...) It is also possible that an existing 5 percent tax on advertising revenue for traditional print and broadcast media will be lowered to 3 percent."*

In his conclusion, Finance Minister Löger made clear that, despite Austria's national solution, efforts at the international level would not be curtailed.

## 5. 2019 OECD Report On Tax Revenue In Latin America and Caribbean Published

[Revenue Statistics in Latin America and the Caribbean](#) is a joint publication by the Inter-American Centre of Tax Administrations (CIAT), the Economic Commission for Latin America and the Caribbean (ECLAC), the Inter-American Development Bank (IDB), the Organisation for Economic Co-operation and Development (OECD) Centre for Tax Policy and Administration and the OECD Development Centre. This is the eighth edition, and the first produced through the European Union's Regional Facility for Development in Transition for Latin America and the Caribbean. This year's edition covers 25 countries.

The report was launched on 25 March at the XXXI Regional Fiscal Seminar in Santiago, Chile, and compiles comparable tax revenue statistics over the period 1990-2017 for 25 Latin American and Caribbean economies. Based on the OECD Revenue Statistics database, it applies the OECD methodology to countries in Latin America and the Caribbean to enable comparison of tax levels and tax structures on a consistent basis, both among the economies of the region and with other economies.

## 6. Countries Approve OECD Proposal on VAT/GST Collection by Digital Platforms

More than 100 jurisdictions, including regional and international organisations, attended the OECD's 5th Global Forum on VAT on 20 – 22 March in Melbourne, Australia, and [unanimously voted to endorse new rules](#) concerning the collection of VAT by online platforms/marketplaces and to allow for data sharing and enhanced co-operation between tax authorities and online marketplaces.

The agreed measures were contained in a [new report](#) of the OECD, The Role of Digital Platforms in the Collection of VAT/GST on Online Sales, which builds on the [2015 BEPS Action 1 Report on the Tax Challenges of the Digital Economy](#). As over two-thirds of online transactions take place by way of marketplace/platform, it is hoped the agreed measures will allow authorities to focus on the compliance of platforms, rather than the individual trader, and significantly increase the amount of revenue collected.

The OECD pointed out that the report does not aim to provide prescriptive text for national legislation. In fact, the report seeks to present a range of possible approaches and discusses associated policy considerations and its purpose is to serve as a reference point.

## 7. Ukraine Transfer Pricing Guidance Clarifies Treatment of Permanent Establishments

On 4 March, Ukraine's tax authority issued transfer pricing guidance addressing transactions between a foreign company and its Ukrainian permanent establishment.

The guidance reminds taxpayer that transactions between a foreign company and its Ukrainian permanent establishment are subject to transfer pricing rules if the amount of these transactions exceeds UAH 10 million (approximately EUR 328,000) annually. This applies whether the foreign company has annual turnover from all activities that exceed UAH 150 million (approximately EUR 5,000,000) in a year or not.

The guidance also explains that a permanent establishment can determine profit for corporate tax purposes by using a separate statement of the permanent establishment's activities or by using a notional deduction in the amount of 70% of income.

## 8. India and US Finalize Agreement to Exchange Country-by-Country Reports

India's Central Board of Direct Taxes (CBDT) announced on 15 March that India and the United States have finalised an [agreement](#) for the automatic exchange of Country-by-Country (CbC) reports.

CbC reporting is part of a wide range of international measures aiming to combat tax avoidance through more comprehensive exchanges of information between countries. The CbC reporting implements Action 13 of the OECD/G20 Base Erosion and Profit Shifting (BEPS) Action Plan.

The United States is one of the notable countries that has not entered into an agreement for the exchange of information with India, and the absence of the automatic exchange of a CbC reporting agreement meant that US-based companies would be required to file the CbC report in India.

*As stated in the agreement, “This would enable both the countries to exchange CbC Reports filed by the ultimate parent entities of International Groups in the respective jurisdictions, pertaining to the financial years commencing on or after 1st January, 2016. As a result, Indian constituent entities of international groups headquartered in USA, who have already filed CbC Reports in the USA, would not be required to do local filing of the CbC Reports of their international groups in India.”*

This development comes as a great relief to Indian constituent entities of US-based multinationals, which are present in large numbers in India, as the US is one of the largest sources of foreign direct investment in the country. It also reflects the seriousness of the governments to collaborate and co-operate on tax matters.

## 9. OECD Releases First Beneficial Ownership Toolkit

The OECD’s Global Forum on Transparency and Exchange of Information for Tax Purposes has released [the first ever beneficial ownership toolkit](#) designed to help governments, particularly in developing countries, comply with international transparency standards.

The toolkit, prepared in partnership with the Inter-American Development Bank, includes explanations of the technical and legal requirements concerning beneficial ownership, the criteria to be used to identify the beneficial owner, as well as explanations of existing measures which ensure the availability of beneficial ownership information and its role in automatic exchange of information regimes.

The OECD says the toolkit is the first practical guide freely available for countries implementing the international tax transparency standards. It will be frequently updated to incorporate new lessons learned from the second-round peer reviews conducted by the global forum, as well as best practices seen and developed by supporting organisations.

## 10. CFE Tax Advisers Europe Forum 2019

The CFE Tax Advisers Europe Forum 2019 will be held in Brussels on Thursday 6 June 2019, on the topic of “Creating Tax Certainty in an Uncertain World: Double Taxation, Tax Rulings & Dispute Resolution Processes”.

The Forum will examine existing co-operative compliance under Action 14 of the BEPS Action Plan and Mutual Agreement Procedure, as well as the EU Dispute Resolution Mechanisms Directive. The Forum will further discuss means of avoiding disputes, such as confirmatory tax rulings, State Aid challenges to advance transfer pricing agreements (APAs) and exchange of information. The Forum will also question the impact of potential further

revisions of international taxation principles and corporate taxation reform contained in the EU anti-tax avoidance directives on tax certainty.

More details about the programme, line-up of speakers and registration process can be found [here](#). Register now to secure your spot!



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BRUSSELS | **APRIL 2019**

## 1. India Opens Consultation on Attribution of Profits to Permanent Establishments (PEs)

On 18 April India's Central Board of Direct Taxes (CBDT) issued a [public consultation](#) (Notice F. No. 500/33/2017-FTD.I) on the proposed amendment of India's tax rules on permanent establishment (PE) profit attribution.

The consultation requests feedback on recommendations by a committee commissioned by the CBDT to examine the issues related to Profit Attribution to Permanent Establishment (PE) in India and Amendment of Rule 10 of Income-tax Rules, 1962. The proposals depart from the OECD standard profit attribution methodology based on functions, assets and risks, which India considers harmful to developing countries.

Public comments are due in writing within 30 days of the foregoing notice.

## 2. International Fiscal Association Tax Conference in Warsaw on 22-24 May

The International Fiscal Association (IFA) European Regional Conference 2019 entitled "Current challenges to income and VAT taxation" will be held in Warsaw, Poland, on 22-24 May 2019. The conference focuses on the recent regulatory developments resulting from BEPS and ATAD implementation as well as local attempts to prevent tax evasion on income and indirect taxation. The conference will also discuss the practical adoption of the MLI in bilateral double taxation treaties.

The Warsaw Conference has already attracted considerable interest from more than twenty European IFA branches, with a number of relevant authorities and organisations joining the project, including the OECD, the European Commission, the European Association of Tax Law Professors (EATLP), CFE Tax Advisers Europe (CFE) and tax administration representatives.

More detail concerning the registration process is available [here](#).

### 3. Gambia Deposits Instrument of Ratification for African Continental Free Trade Area Agreement

The African Continental Free Trade Area (AfCFTA) Agreement is a trade agreement between African Union member states, with the goal of creating a single continental market for goods and services, followed by free movement of businesspersons and investments, and a single-currency union.

The AfCFTA Agreement will enter into force 30 days after 22 instruments of ratification have been deposited with the Chairperson of the African Union Commission (AUC) – the designated depositary for this purpose. This is an essential step for the AfCFTA to enter into force.

On 02 April 2019, Gambia became the 22nd country to complete the domestic process required, in terms of its Constitution, to ratify the AfCFTA. To complete the ratification process, it needs still to deposit its instrument of ratification with the AUC Chairperson.

So far, 52 countries have signed the AfCFTA agreement and 22 countries have ratified the agreement as of 02 April 2019; 7 countries including Gambia have received parliamentary approval for ratification but are yet to deposit instruments with AUC. In terms of numbers of participating countries, the AfCFTA will be the world's largest free trade area since the formation of the World Trade Organization.

### 4. FATCA Agreement Between Serbia and United States

The United States Treasury Department has released [the Model 1 Intergovernmental Agreement \(IGA\)](#) that the US signed with Serbia on 10 April 2019 for implementation of the Foreign Account Tax Compliance Act (FATCA).

The agreement is based on [the non-reciprocal Model 1B Agreement \(No TIEA or DTC\)](#). Accordingly, financial institutions in Serbia will be required to report tax information about US account holders to the government of Serbia, which will forward that information to the US Internal Revenue Service (IRS) on an automatic basis.

The IGA will enter into force on the date of Serbia's written notification to the United States that it has completed its necessary internal procedures for entry into force of the IGA.

With its signature, Serbia joins over 110 jurisdictions that have collaborated with the United States in fostering greater tax compliance.

### 5. Mexico Publishes General Rules on Compliance of Anti-Money Laundering Obligations

On 16 April 2019, the Mexican Tax Administration Service (SAT) published [General Rules on the implementation of programmes facilitating voluntary compliance with anti-money laundering obligations](#) in its Official Gazette.

The Federal Revenue Law for fiscal year 2019 provided the SAT with powers to authorise the regularisation of taxpayers' situations in case of non-compliance with the obligations arising from the Mexican Anti-Money Laundering Law.

According to the General Rules, taxpayers who failed to comply with such obligations from 1 July 2013 to 31 December 2018 may submit a regularisation programme to the SAT within 30 business days from the date on which the General Rules enter into force. Once authorised by the SAT, taxpayers must comply with the regularisation programme within six months, in which case the SAT will not impose any penalty related to the above-mentioned obligations.

The General Rules enter into force 45 business days after their publication in the Official Gazette.

## 6. UN Tax Committee Releases Proposed Updates to Model Tax Treaty in Advance of Meeting

The United Nations released six documents on 03 April in advance of the 18th session of the UN Committee of Experts on International Cooperation in Tax Matter, held on 23-26 April in New York.

The documents included:

- A [paper](#) discussing possible updates to the UN Model Double Taxation Convention between Developed and Developing Countries commentary on permanent establishments;
- A subcommittee [paper](#) presenting a high-level discussion of the issue of beneficial ownership. The paper notes that in 2014 beneficial ownership was clarified in the OECD model treaty;
- A [paper](#) providing two draft chapters for a handbook on carbon taxation under development by the committee. The chapters address the design of a carbon tax and administrative issues arising from the introduction of a carbon tax;
- A [chapter](#) on the tax treaty mutual agreement procedure for the proposed United Nations Handbook on Dispute Avoidance and Resolution. The chapter will be presented for discussion and final approval at the committee meeting.
- [A revised version of the Manual on the Negotiation of Tax Treaties between Developed and Developing Countries](#). The Committee of Experts will be asked to approve this version of the manual at their meeting.
- A note by the Secretariat, titled “Follow-up note on the role of taxation and domestic resource mobilization in achieving the Sustainable Development Goals”. The note concludes that the work of the Committee of Experts can further assist all countries in their efforts to implement the 2030 Agenda and the Addis Ababa Action Agenda by helping to generate clear, evidence-based policy guidance on how to support the pursuit of sustainable development through taxation in the broader context, beyond domestic resource mobilisation.

## 7. Dominica Joins International Efforts Against Tax Evasion and Avoidance

On 25 April, at the OECD Headquarters in Paris, the Ambassador of Dominica to the European Union signed the [Multilateral Convention on Mutual Administrative Assistance in Tax Matters](#) in the presence of the OECD Deputy Secretary-General. Dominica is the 128th jurisdiction to join the Convention.

The Convention enables jurisdictions to engage in a wide range of mutual assistance in tax matters: exchange of information on request, spontaneous exchange, automatic exchange, tax examinations abroad, simultaneous tax examinations and assistance in tax collection. It guarantees extensive safeguards for the protection of taxpayers' rights.

Beyond the exchange of information on request and the automatic exchange pursuant to the Standard, the Convention is also a powerful tool in the fight against illicit financial flows and is a key instrument for the implementation of the transparency standards of the OECD/G20 Base Erosion and Profit Shifting (BEPS) Project.

## **8. OECD Invites Public Comments on Draft Report on Tax Morale**

The OECD has invited public comments on a draft report which analyses the factors that contribute to tax morale and the modality to improve the revenue collection mechanisms through voluntary compliance. This report specifically focuses on tax morale in developing countries, using recent data to help identify the drivers of tax morale among individuals and businesses.

Interested parties are invited to send their comments by no later than 10 May 2019, to [taxanddevelopment@oecd.org](mailto:taxanddevelopment@oecd.org) in Word format. All comments submitted should be addressed to the OECD Centre for Tax Policy and Administration.

## **9. New Australian Tax Avoidance Laws Significantly Increase Tax Revenue**

On 05 April, the Australian Taxation Office (ATO) revealed the latest results of its ongoing tax avoidance measures, the 2016 multinational anti-avoidance law and the 2017 diverted profits tax.

The multinational anti-avoidance law is designed to stop multinationals from avoiding Australian tax by selling goods in Australia but billing them to an offshore entity, while the diverted profits tax was introduced in mid-2017, designed to stop multinationals from shifting profits offshore using complex internal structures in order to avoid Australian tax.

ATO deputy commissioner Jeremy Hirschhorn confirmed that the ATO was also considering applying to the diverted profits tax a tax penalty of 40% to address tax avoidance, in particular by a “handful” of companies with global income of \$1bn or more.

According to the ATO, the new tax avoidance laws have forced 44 multinational companies to repatriate around \$7bn each year in sales to Australia.

## **10. Luxembourg ratifies the multilateral BEPS convention**

On 09 April, Luxembourg deposited its instrument of ratification for the OECD [Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting](#). The BEPS convention aims to combat tax avoidance by multinational enterprises (MNEs) through prevention of Base Erosion and Profit Shifting (BEPS).

The BEPS multilateral instrument was negotiated within the framework of the OECD G20 BEPS project and enables countries and jurisdictions to swiftly modify their bilateral tax treaties to implement some of the measures agreed. The MLI entered into force on 1st July 2018.



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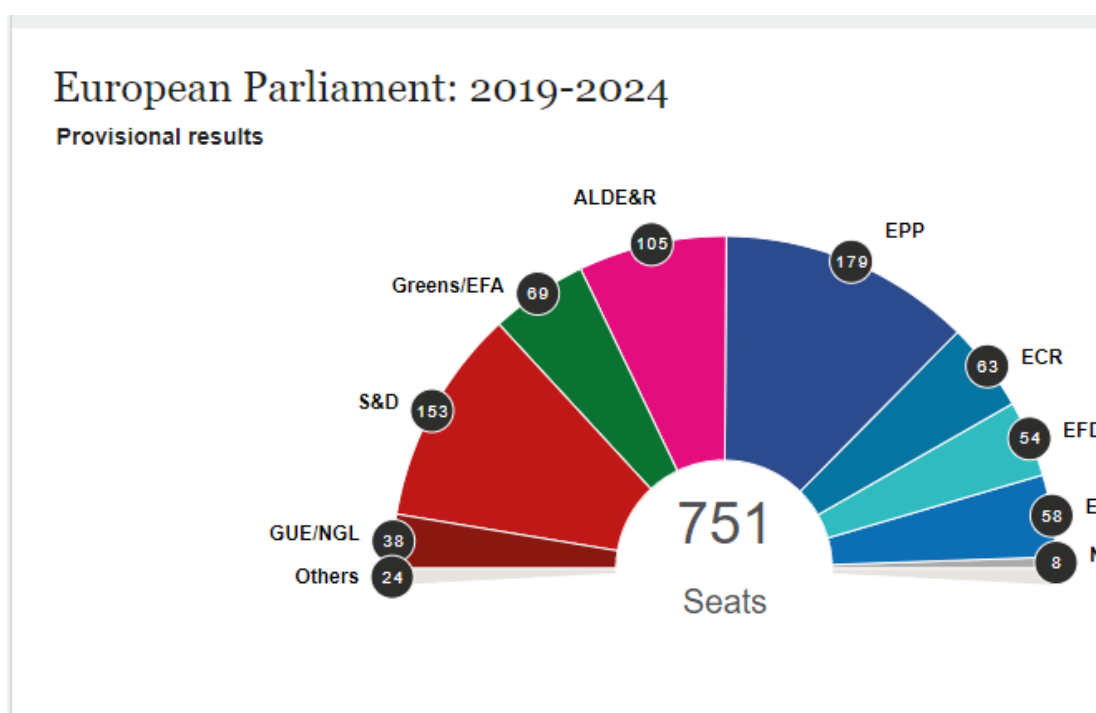
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BRUSSELS | MAY 2019

## 1. EU Election Provisional Results

The European Parliament has published the provisional results of the EU elections held across the European Union Member states from 23 – 26 May 2019:



With the turnout at historic highs, approximately 51% of the registered EU citizens voted, making European democracy the single winner of this election. The above composition of the European Parliament is based on provisional or final national results in all Member States, based on the structure of the outgoing Parliament. Since 2009, according to Parliament's rules of procedure, a parliamentary political group consists of at least 25 Members elected in at least seven Member States.

On basis of the above arithmetic, the political division of the European Parliament is as follows:



- EPP - European People's Party (Christian Democrats) 179 (23.83%)
- S&D - Progressive Alliance of Socialists and Democrats: 153 (20.37%)
- ALDE&R - Liberals and Democrats + Renaissance + USR PLUS: 105 (13.98%)
- Greens/EFA - Greens/European Free Alliance: 69 (9.19%)
- ECR - European Conservatives and Reformists Group: 63 (8.39%)
- ENF - Europe of Nations and Freedom Group: 58 (7.72%)
- EFDD - Europe of Freedom and Direct Democracy Group: 54 (7.19%)
- GUE/NGL - European United Left - Nordic Green Left: 38 (5.06%)
- NI - Non-affiliated Members: 8 (1.07%)
- Others - Newly elected Members not allied to any of the political groups set up in the outgoing Parliament: 24 (3.20%)

The EU Parliament in 2014 informally introduced the Spitzenkandidat system, a lead candidate for the EU Commission presidency, allowing the largest parliamentary group to nominate the Commission President. Considering that the two largest groups no longer benefit from clear majority in the new Parliament, and with the opposition to the Spitzenkandidat process from French President Macron, it remains to be seen how will the process evolve politically and what type of coalitions could be formed.

According to the Treaties, Member states formally nominate EU Commission presidency candidate, but in doing so, they must take account of the European election results. The European Parliament approves the Commission President with an absolute majority (half of the MEPs plus one).

The Commission President gives political guidance to the Commission, calls and chairs meetings of the college of the Commissioners, leads the Commission's work in implementing EU policies, takes part in G7 meetings and contributes to major debates both in the European Parliament and between EU governments in the Council of the European Union.

## 2. The General Court Annuls the Commission's Decisions Concerning the Polish Tax on the Retail Sector

The General Court of EU has annulled the Commission's decision regarding the Polish retailer tax. [The court ruled](#) on Thursday 16 May that the European Commission erred in considering the tax as State aid and annulled the EU's decision on the contested measure.

In 2016, Poland introduced a retailer tax imposing 0.8% revenue taxation on retailers with monthly sales from PLN 17 million to 170 million, and 1.4% for shops with sales above PLN 170 million. The European Commission launched a State aid procedure against Poland as the Commission understood that the retailer tax construction favoured smaller shops, which could be seen as State aid. The Thursday ruling of the EU Court means that Poland will be able to resume collection of the suspended tax on the retail sector. However, Poland's Finance Ministry said on Thursday that the suspension on the tax will remain in place until the end of 2019 as the decision will likely be under appeal.

### 3. OECD Publishes Tax Morale Submissions

The OECD has published the [submissions](#) received in response to the public consultation on the draft report on tax morale.

The consultation was launched following a [Public Consultation Document](#) being published which updates previous OECD research on tax morale in individuals and, additionally, presents a new business section, using OECD tax certainty data to discuss business tax morale in developing countries. The forthcoming publication, entitled “What is driving tax morale? An empirical analysis on social preferences and attitudes towards taxation” is expected to be published later in 2019.

The comments submitted by CFE on behalf of the Global Tax Advisers Platform can be viewed on our [website](#).

### 4. Council Revises its EU List of Non-Cooperative Jurisdictions

The Council [decided](#) to amend the EU list of non-cooperative jurisdictions for taxation purposes, removing Aruba, Barbados and Bermuda from the EU blacklist. As a result, 12 jurisdictions remain on the list of non-cooperative jurisdictions: American Samoa, Belize, Dominica, Fiji, Guam, Marshall Islands, Oman, Samoa, Trinidad and Tobago, United Arab Emirates, US Virgin Islands and Vanuatu.

The Council will continue to regularly review and update the list in 2019, whilst it has requested a more stable process as from 2020 (two updates per year).

### 5. FTA Negotiation Between EFTA and MERCOSUR

On 6-10 May 2019 the European Free Trade Association (EFTA) and Mercosur States met in Buenos Aires, Argentina, for the 8th round of negotiation on a broad-based Free Trade Agreement (FTA).

The meeting covered: trade in goods; rules of origin; sanitary and phytosanitary measures; technical barriers to trade; trade remedies; trade in services; investment; intellectual property rights; government procurement; and legal and horizontal issues. Negotiations on some chapters of the free trade agreement have already been finalised.

The next round of negotiations will take place in Geneva, in the upcoming summer.

### 6. Mauritius Amends CbC Reporting Rules to Add Penalties for Non-Compliance

The Mauritius government on 04 May published a [notice](#) implementing new penalties for non-compliance with country-by-country reporting requirements set out in 2018 regulations.

The imposition of penalties will motivate multinational entities that have tax residency in Mauritius to comply with the CbC reporting regulations. The penalties also reflect the effort that the island makes to comply with the OECD/G20 base erosion profit shifting (BEPS) action plan.

According to the notice, if a taxpayer fails to comply with any CbC reporting obligation, it will be liable to a penalty of MUR 5,000. If that penalty is imposed and the non-compliance continues, the taxpayer will be subject to an additional penalty of MUR 10,000 per month for every month the non-compliance continues, up to MUR 120,000.

Taxpayers may also be liable for a penalty of up to MUR 50,000 if they deliberately provide inaccurate information or discover the inaccuracy at a later time and fail to inform the director general of the Mauritius Revenue Authority.

## 7. New Peru Transfer Pricing Guidance

On 16 May, the Peruvian tax administration (*Superintendencia Nacional de Administración Tributaria – SUNAT*) issued [new transfer pricing guidance](#) addressing the tax treatment of transfers of undervalued Peruvian entity shares involving foreign related parties.

The guidance stipulates that any transfer pricing adjustment on the transfer of a Peruvian entity's shares involving a foreign related party would affect both the acquirer and issuer if there would be less Peruvian income tax or greater allowed deductions or costs applying Peruvian income tax laws.

The new SUNAT guidance aims to reduce the incidence of international double taxation.

## 8. Uganda Rolls out Digital Tax Stamps

The Uganda Revenue Authority (URA) recently announced the roll out of digital tax stamps. The first goods to be affected are cigarettes, where changes apply from May 2019 and alcoholic beverages, where they will apply from July 2019. Soft drinks such as water and soda will be included in August and September 2019.

Digital tax stamps are physical paper stamps which are applied to goods or their packaging, and contains security features and codes to prevent fraud: tamper-proof features. A product is affixed with a stamp that gives real time information to the Uganda Revenue Authority (URA), policy makers and consumers.

The digital tax stamps aim to inhibit illicit and smuggled goods, ensure fair competition, and protect consumers against harmful and counterfeit products.

## 9. Albania Signs the Multilateral OECD BEPS Convention

On 28 May, Albania signed the OECD Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting and became the 88th jurisdiction to join the BEPS MLI Convention. The BEPS convention aims to combat tax avoidance by multinational enterprises (MNEs) through prevention of Base Erosion and Profit Shifting (BEPS).

The BEPS multilateral instrument was negotiated within the framework of the OECD G20 BEPS project and enables countries and jurisdictions to swiftly modify their bilateral tax treaties to implement some of the measures agreed. The MLI entered into force on 1st July 2018.

## 10. CFE Forum – Limited Places Available

The CFE Tax Advisers Europe Forum will take place on 6 June 2019 in Brussels, this year entitled “Creating Tax Certainty in an Uncertain World: Double Taxation, Tax Rulings & Dispute Resolution Processes”. There are limited places available, for the remaining interested attendees. More details about the Forum programme and registration process can be found [here](#).

An excellent line-up of speakers will discuss and analyse current means of avoiding tax disputes and examine the dispute resolution mechanisms. Tax certainty issues related to the State Aid challenges of tax rulings and advance pricing agreements (APAs) will also be discussed.

Interested attendees from the EU institutions, other public institutions, Member states’ representations to the European Union and journalists can attend free of charge. Please contact the CFE Brussels office for more details at [info@taxadviserseurope.org](mailto:info@taxadviserseurope.org).



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BRUSSELS | JUNE 2019

## 1. OECD Programme on Digital Taxation

The OECD has published the [work programme](#) on the next steps on taxation of the digital economy. The document sets out the organisation of the OECD work for the next while as well as modified proposals for profit allocation and nexus rules that take into account tax challenges of the digital economy.

Crucially, the OECD acknowledges the political imperative on reaching an early consensus, considering that the rules will have an impact on revenues and the overall balance of taxing rights among jurisdictions. In recognition of the difficulties in reaching such a consensus, the OECD highlights that the pathway forward will require “an early political steer”. The document further sets out that in addition to the technical work, a political engagement and endorsement would be required as the interests at stake for members go beyond technical issues.

Regarding the profit allocation methods, the document no longer operates with the proposals set out in the early- 2019 report, i.e. marketing intangibles and users contribution approach, introducing three similar concepts instead:

- Residual profit splits (modified residual profit split method)
- Fractional apportionment method
- Distribution-based approaches.

On the new nexus rules, the programme indicates that the OECD is considering new Permanent Establishment rules to take into account digital presence, hence potential modifications to articles 5 & 7 of the OECD Model Tax Convention. The second pillar of residual BEPS issues aims to address further corporate base-eroding practices, with establishment of income inclusion rule and tax on base-eroding payments.

The document was approved by 99 member countries and jurisdictions and 10 observer organisations of the Inclusive Framework and was agreed at the plenary on 28-29 May. It will be presented by OECD Secretary-General Angel Gurría to the G20 ministers in Japan on 8-9 June. “For a solution to be delivered in 2020, the outlines of the architecture will need to be agreed by January 2020”, the document states.

Commenting, Mr Gurría said of the developments: "Important progress has been made through the adoption of this new Programme of Work, but there is still a tremendous amount of work to do as we seek to reach, by the end of 2020, a unified long-term solution to the tax challenges posed by digitalisation of the economy. Today's broad agreement on the technical roadmap must be followed by a strong political support toward a solution that maintains, reinforces and improves the international tax system. The health of all our economies depends on it."

## 2. Kenya to Tax the Digital Economy

On 13 June, the National Treasury of Kenya published the country's [Budget Statement for the fiscal year 2019 - 2020](#). In the statement, the National Treasury reflects on the challenges facing Kenya's economy and sets out the priorities for the upcoming years, such as creating more job opportunities, being more efficient managing the country's budget, reducing the fiscal deficit and enhancing economic competitiveness.

Regarding the taxation of the digital economy, Kenya aims to widen the definition of income to include the income deriving from a digital market place. The challenge for the Kenyan Revenue Agency is how to determine value-creation for online services.

Regarding the challenges of the digital economy, the Cabinet Secretary for the National Treasury stated: *"(...) the Kenyan economy, and the world economy at large, is fast changing to keep up with technological advancements. In particular, the digital economy is fast evolving thereby posing challenges to taxation. This (...), is due to the unparalleled reliance on intangibles, the massive use of data, the widespread adoption of multi-sided business models and the difficulty of determining the jurisdiction in which value creation occurs. This has led to erosion of our tax base hence low tax revenue since the existing system is not equipped to deal with these emerging challenges. In this regard, (...), I have proposed a raft of tax measures that are aimed at providing the platform for taxation of income generated from the digital economy so as to boost our revenues for inclusive economic development."*

## 3. OECD Released Note on Exchange of Information Collected Under the MDRs

On 27 June, the OECD released the [International Exchange Framework for Mandatory Disclosure Rules on CRS Avoidance Arrangements and Opaque Offshore Structures](#). The note sets out an international framework to govern MDR exchanges, from a legal and an operational perspective.

The publication also contains a draft of the Multilateral Competent Authority Agreement (MCAA), which will enable jurisdictions that receives information about a CRS Avoidance Arrangement or Opaque Offshore Structure under the MDRs to exchange such information with relevant jurisdictions where the concerned taxpayers are resident.

## 4. Argentine Tax Incentives

On 10 June, the government of Argentina published in its Official Gazette the [Law 27.506, the so-called Regime for the Promotion of the Knowledge Economy \(Régimen de Promoción de la Economía del Conocimiento\)](#), which enacts tax incentives for high tech businesses.



The law aims to promote economic activities that apply the use of knowledge and the digitization of information supported by advances in science and technology to obtain goods, to provide services and/or to process improvements.

Companies meeting the law's requirements will benefit from several tax incentives, such as: tax stability; a reduction in social security contributions; a one-time transferable tax credit, equivalent to 1.6 times the amount of employer contributions, which could be used to pay VAT and income tax; and a 15% income tax rate. The beneficiaries of the regime will not be subject to withholdings and they will be granted with an exemption from VAT.

## 5. Brazil and Uruguay Signed Tax Treaty

On June 7, Brazil and Uruguay signed in Brasilia a [tax treaty](#) that aims to fight double taxation and prevent tax evasion. The treaty reflects Brazil's efforts to commit to the OECD BEPS minimum standards, namely Actions 5 (Harmful Tax Practices), 6 (Treaty Shopping), 13 (Country-by-Country Reporting) and 14 (Dispute Resolution).

The new agreement will contribute to the internationalization movement of companies in both countries, in addition to promoting a better environment for investments, bringing greater security to businesses in general and attracting more foreign investors.

## 6. Belgium and India ratified the OECD Multilateral BEPS Convention

On 25 June, Belgium and India deposited their instruments of ratification for the [OECD Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting](#). The BEPS convention aims to combat tax avoidance by multinational enterprises (MNEs) through prevention of Base Erosion and Profit Shifting (BEPS).

On the same day, Morocco became the 89th jurisdiction to sign the [BEPS MLI Convention](#). The BEPS multilateral instrument was negotiated within the framework of the OECD G20 BEPS project and enables countries and jurisdictions to swiftly modify their bilateral tax treaties to implement some of the measures agreed.

## 7. 4th International Taxpayers Rights Conference – Minneapolis 23-24 May 2019

The [4th International Conference](#) took place in Minneapolis, United States following the previous annual conferences in Washington, Vienna and Amsterdam. The theme of the conference was taxpayer rights in the digital age and there were panel sessions on Big Data, Whistleblowers and vulnerable taxpayers. The Conference also saw the update of the IBFD Observatory of protection of taxpayer rights. The Observatory has been established to continue the work first begun at the International Fiscal Association Congress in 2015 which monitors the extent to which individual countries observe best practice and minimum standards over a range of interactions between tax authorities and taxpayers in twelve key areas. The annual evaluations are then launched at each year's International Taxpayer Rights Conference. The 12 monitored areas consist of:

- Identifying taxpayers and issuing tax returns
- The issue of tax assessments
- Confidentiality

- Normal audits
- More intensive audits
- Review and appeals
- Criminal and administrative sanctions
- Enforcement of taxes
- Cross-border procedures
- Legislation
- Revenue practice and guidance
- Institutional framework for protecting taxpayers' rights

The first annual IBFD report was published in 2018, covering the two years 2016 and 2017 since the IFA Congress in 2015 and the latest 2019 report covers the next year, 2018. In addition to the country reports there is also a general report, prepared by Philip Baker QC and Pasquale Pistone, which picks out changes over the most recent year, 2018, covered by the reports. Forty countries are covered in the latest reports plus two further reports covering firstly the European Court of Human Rights and the Court of Justice of the European Union and, secondly, the Inter-American Court of Human Rights which operates across South American countries. An article summarising the role of taxpayers' charters and the associated developments was written by Ian Young back in 2017, available to read here: [Taxpayer rights and the role of a taxpayer charter](#).

The [country reports](#) and the [general report](#) can be accessed by clicking on the links. The 5th International Conference will take place in Pretoria, South Africa in September 2020.

## 8. IMF – OECD Tax Certainty Report

The International Monetary Fund (IMF) and the OECD published a [joint report](#) on the recent work on tax certainty, as presented by the OECD Secretary General on 8 June 2019 at the G20 ministerial meeting in Fukuoka, Japan. The G20 Leaders reaffirmed the importance of prioritising policies that enhance tax certainty, as a follow-up to previous reports published in 2017 and 2018.

This year's report covers matters related to both tax policy and tax administration, highlighting the importance of dispute prevention (as opposed to dispute resolution), focussing on the integrity, efficiency and accountability of tax administrations, as well as on simplicity of tax rules as key elements of tax certainty.

Building on previous OECD work, the report has sought to link tax certainty with tax morale, in particular with reference to developing countries, developments which were recently welcomed in a [joint statement](#) of the Global Tax Advisers Platform (GTAP).

## 9. US Advances Tax Treaties with Japan, Luxembourg, Spain and Switzerland

On 25 June, the US Senate Foreign Relations Committee voted to advance four tax treaties. The protocols would amend existing bilateral United States tax treaties with Japan, Luxembourg, Spain, and Switzerland.

The following tax treaty protocols were voted: the protocol amending the convention between the US and Japan ([Treaty Doc. 114-1](#)), between the US and Luxembourg ([Treaty Doc. 111-8](#)), between the US and Spain ([Treaty Doc. 113-4](#)), and between the US and Switzerland ([Treaty Doc. 112-1](#)).

All tax treaties concern the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.

## 10. EU-Vietnam FTA and IPA Agreements

On 30 June 2019, in Hanoi, two agreements are expected to be signed between the European Union and Vietnam: a [Free Trade Agreement \(FTA\)](#) and an [Investment Protection Agreement \(IPA\)](#). The Council adopted and [communicated the decision](#) on 25 June.

The free trade agreement foresees 99% elimination of customs duties between the two parties. Once the FTA is signed, 65% of duties on EU exports will be eliminated and the remaining 34% will gradually be phased out within the next 10 years. On Vietnamese exports, 71% of duties will be eliminated and the remaining 28% of duties will also be phased out within the next 7 years.

The investment protection agreement preserves the right of both governments to regulate the interests of their citizens.

Speaking concerning the [Guide to the Free Trade Agreement](#), Commissioner for Trade Cecilia Malmström said: *“The EU-Vietnam trade and investment agreements are the most ambitious and comprehensive ones that the EU has ever concluded with a middle-income country. As such, they set a new benchmark for Europe’s engagement with emerging economies. They also represent a great opportunity for European exporters and investors. Vietnam has a vibrant economy of more than 90 million consumers, a growing middle class and a young, dynamic workforce. It is a market with great potential for the EU’s agricultural, industrial and services exports.”*



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BRUSSELS | JULY 2019

## 1. New EU Parliament, Council and Commission Presidents Elected

In July, the European Council approved the nomination of former Belgian Prime Minister Charles Michel to the role of [European Council President](#). Italian MEP David Sassoli was elected [President of the European Parliament](#).

The European Parliament also voted to appoint former German Defence Minister Ursula von der Leyen to the role of [European Commission President](#). Ms von der Leyen will serve as the first female European Commission President. Ms von der Leyen narrowly won the vote, in which she required a majority of 374 votes to succeed, with 383 votes in favour, 327 votes against, and 22 abstentions.

As concerns tax priorities, in a publication outlining the [agenda for her EU Commission Presidency](#) Ms von der Leyen has committed to introducing a carbon border tax and to achieve fair taxation of “big tech companies” as a “priority” by working “*hard to ensure the proposals [for an EU digital tax] currently on the table are turned into law*” on the basis that “*by the end of 2020 [if] there is still no global solution for a fair digital tax, the EU should act alone.*” Ms von der Leyen has also vowed to progress a European common consolidated corporate tax base.

## 2. G7 Finance Ministers Reaffirm Commitment to Fair International Taxation

In the [Chair's Summary](#) document published following a meeting of the G7 Finance Ministers and Central Bank Governors in Chantilly on 17 and 18 July 2019, the G7 reaffirmed its commitment to “*accelerating the work to tackle new challenges, including most importantly making the international tax system fairer, addressing the competition challenges that are raised by the digitalization of the economy, and advancing the agenda on climate and green finance*”.

The document noted in particular the urgency surrounding issues “*to address the tax challenges raised by the digitalization of the economy and the shortcomings of the current*”

*transfer pricing system.” The Ministers reconfirmed their commitment to a “two-pillar solution to be adopted by 2020 through the work programme endorsed by the G20 Leaders.” As concerns the means of determining what would amount to fair taxation of digital business, the document noted this “could be determined by reference to criteria reflecting the level of businesses’ active participation in a customers’ or users’ jurisdiction, such as valuable intangibles or employment of a highly digitalized model.”*

The ministers also confirmed that a minimum level of taxation under the second pillar was desirable and would assist in ensuring fair taxation of companies, and that robust dispute resolution should be an integral part of the agreed solution.

The outline of a globally agreed solution is expected by January 2020 from the Inclusive Framework on BEPS.

### 3. UN Tax Treaty Negotiation Manual Updated

The United Nations has published an updated version of the [Manual for the Negotiation of Bilateral Tax Treaties between Developed and Developing Countries](#). The manual was updated during the 15th Session of the UN Committee of Experts on International Cooperation in Tax Matters, which was held in October 2017 in Geneva, to take into account changes made to the UN Model Convention and developments in the OECD BEPS project.

A revised draft version of the manual was presented in October 2018, and adopted by the Committee in New York in April 2019. The experts in attendance at that meeting included representatives of CFE Tax Advisers Europe, who also discussed the report of the subcommittee on updating the United Nations Model Double Taxation Convention, including: taxation of royalties; taxation of collective investment vehicles; tax and the Sustainable Development Goals; environmental tax issues and lastly, the tax consequences of the digitalising economy, with particular focus on issues of relevance for developing countries.

### 4. OECD Invites Input on Mutual Assistance Procedures

The OECD has invited public input on the 9th batch of [taxpayer questionnaires](#) for Stage One Peer Reviews in the jurisdictions of Andorra, Anguilla, Bahamas, Bermuda, British Virgin Islands, Cayman Islands, Faroe Islands, Macau (China), Morocco and Tunisia.

The questionnaires are being undertaken as part of the peer review process under Action 14 of the BEPS Action Plan concerning taxation dispute resolution and the Mutual Agreement Procedure (MAP), aimed at making dispute resolution mechanisms more effective.

In particular, taxpayers are requested to provide input on issues concerning access to MAP, the clarity of MAP guidance and implementation of MAP agreements concerning the jurisdictions. Taxpayers and business and industry associations are requested to complete the questionnaire by 12 August 2019.

### 5. Save the Date: 12th European Conference on Tax Advisers’ Professional Affairs

Save the date for the [12th European Conference on Tax Advisers' Professional Affairs](#), to be held in Paris on Friday, 29 November 2019, on the topic of "Tax Transparency Trends: Are Tax Advisers Ready for the New EU Anti-Money Laundering Rules?"

The conference will examine the impact of existing EU anti-money laundering rules and the new requirements of the 5th AML Directive, including making beneficial owners of legal entities registers public, providing increased access to information on the beneficial ownership of trusts and the expansion of AML rules to entities which store, hold or transfer virtual currencies. Speakers will also discuss enhanced cooperation and exchanges of information provided for between the EU and Member States under the 5th AML Directive. In addition, panellists will discuss compliance with and implementation of the measures in practice and the information available to supervisory bodies to facilitate their obligations under the Directive. More details about the programme and line-up of speakers will be available in due course.

[Register now](#) to benefit from early-bird registration prices and to secure your spot!

## 6. New Signatories to the OECD MLI

Gibraltar, Bosnia and Herzegovina and Eswatini have become the 130<sup>th</sup>, 131<sup>st</sup> and 132<sup>nd</sup> jurisdictions to join the [OECD's BEPS Inclusive Framework](#). Members of the Inclusive Framework have the opportunity to work together on an equal footing with other OECD and G20 countries on implementing the BEPS package consistently and on developing further standards to address remaining BEPS issues.

There are now a total of 132 jurisdictions that are participating in the project.

## 7. EU Trade Negotiations with Australia, New Zealand, Indonesia, Chile and China

In July the European Commission published [updated information](#) concerning the status of trade negotiations with Australia, New Zealand, Indonesia, Chile and China, in line with EU transparency standards.

The updates concern recent negotiations that took place with the countries in the past months, with negotiations taking place between Indonesia and the EU from 17 to 21 June, with Australia from 1 to 5 July, with New Zealand from 8 to 7 July and with Chile between 14 to 19 July.

The Commission has also made available text proposals discussed at the recent discussions with Australia and New Zealand.

## 8. OECD Releases Progress Report on Preferential Tax Regimes



On 23 July, the OECD released a [progress report](#) approved by the Inclusive Framework on BEPS, as part of implementation of Action 5 of the OECD/G20 Base Erosion and Profit Shifting Project, concerning assessments undertaken by the Forum on Harmful Tax Practices (FHTP) of 56 preferential tax regimes.

From the regimes:

- 13 regimes were abolished in Cabo Verde, Malaysia, Mongolia, Montserrat, Morocco, Switzerland and Thailand.
- One regime in Jordan was found to be actually harmful.
- Four regimes were specifically designed to meet the BEPS Action 5 standard and therefore classified as “not harmful” from the jurisdictions of Malta, Poland and Thailand.
- Three regimes from Cabo Verde, Malaysia and Mauritius have been amended to remove harmful features,
- Four regimes are in the process of being amended from jurisdictions of Aruba, Greece and Kazakhstan.
- Two regimes from Aruba and Vietnam were found potentially but not actually harmful,
- A regime from Paraguay was found to be not operational.

The eight remaining regimes from Cabo Verde, Nigeria, Paraguay and Viet Nam were out of scope, not yet operational, already abolished or did not feature harmful features. A further 21 regimes from Cook Islands, Dominica, Dominican Republic, Jamaica, Morocco, North Macedonia and Qatar have now been placed into the FHTP review process.

The Forum on Harmful Tax Practices has reviewed 287 regimes since the commencement of the BEPS Project. The Forum next meets in December 2019 to continue its review of the regimes and in 2020 will begin reviewing the implementation of recommendations.

## 9. Asian & Pacific Countries See Increase in Tax Revenues

In July, the OECD published the [Revenue Statistics in Asian and Pacific Economies 2019](#) report, the 6<sup>th</sup> edition of the publication to date, compiling comparable tax statistics for countries in the region. Statistics for the jurisdictions of Australia, Cook Islands, Fiji, Indonesia, Japan, Kazakhstan, Korea, Malaysia, New Zealand, Papua New Guinea, Philippines, Samoa, Singapore, Solomon Islands, Thailand, Tokelau and Vanuatu are analysed in the publication.

Notably, despite the fact that the percentage of tax revenue income measured as against GDP ranged from 11.5% to 32% throughout the jurisdictions, nine of the countries saw an increase in revenue from the previous year. The largest increases were observed in Fiji and Vanuatu.

From the revenue, taxes on goods and services made up the largest share of the revenue in nine of the 17 countries, with income tax making up the highest portion of revenue income in the remaining countries. Revenue collected from VAT was noted to be increasing in the majority of jurisdictions.

The information and data collected for this report feeds into the OECD's [Global Revenue Statistics Database](#), which is the largest source of comparable tax revenue data.

## 10. Inaugural GTAP Conference – 3 October 2019: Programme & Registration

The Global Tax Advisers Platform has now published the [programme](#) for its inaugural conference taking place on 3 October 2019 in Torino on the topic of “*Tax & The Future*”. GTAP was formed in 2014 by CFE, AOTCA and WAUTI as a global response of tax advisers to international tax initiatives, with the aim of forging closer links among tax advisers throughout the world. The platform provides the proper framework for a more dynamic, more inclusive cooperation among tax advisers, on the basis of enhanced dialogue, more effective collaboration and openness.

The GTAP conference will examine issues that are of interest to all tax advisers in a borderless, increasingly globalising and automated society, driven by new technologies. To that end, four panels of expert speakers will consider the evolution and future of the topics of global tax policy, corporate income tax and VAT, the global tax profession and business models and tax sustainability.

[Register now](#) to benefit from early-bird registration prices and to secure your spot!



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BRUSSELS | **AUGUST 2019**

## 1. France & US Reach Compromise on Digital Tax Dispute at G7 Meeting

At the G7 Summit taking place in Biarritz from 24 to 26 August, an agreement has [reportedly](#) been reached between the US and France concerning the recently introduced French digital tax. The French bill on digital services tax, adopted on 11 July by the French parliament, imposes a 3% digital services tax on resident and non-resident companies with a global turnover above 750 million Euros, and a national turnover above 25 million Euros, and applies with retroactive effect from 1 January 2019.

The Office of the United States Trade Representative promptly [launched an investigation](#) under Section 301 of the Trade Act of 1974 into whether the French digital services tax unfairly targets US businesses. At a hearing on 19 August 2019, companies Airbnb, Amazon, Facebook, Google, Microsoft and Twitter in a [joint statement](#) said the tax “*is unjustifiable in that it infringes international agreements, and unreasonable in that it is discriminatory, retroactive and inconsistent with international tax policy principles.*” The Information Technology Industry Council, which represents Amazon, Facebook, Apple and Google, also stated in written testimony that the costs of any tax will be passed on down the supply chain. Testimony for Facebook also stated that the tax would hinder development of the digital economy and pose problems for digital business models.

The agreement reached at the G7 Summit reportedly provides for a repayment mechanism to be introduced whereby France would repay any amount taxed in excess of any method agreed at OECD level for the taxation of digital businesses. José Ángel Gurría Treviño, Secretary General at the OECD, speaking at the Summit, [confirmed](#) that the OECD has made significant progress on the issue.

## 2. Global Forum on Tax Transparency Publish Compliance Reports

The OECD’s Global Forum on Transparency and Exchange of Information for Tax Purposes has [published](#) nine peer reviews assessing the compliance of certain jurisdictions with international standards of transparency and exchange of information on request. The reviews form part of the second round of peer reviews, which focus on compliance with

updated standards of transparency, in line with the Financial Action Task Force Recommendations, in relation to beneficial ownership information for relevant arrangements and legal entities.

The jurisdictions subject to the peer reviews were Botswana, Costa Rica, Croatia, the Federated States of Micronesia, Guatemala, Lebanon, Malaysia, Nauru and Vanuatu. Costa Rica, Croatia, Lebanon, Malaysia, the Federated States of Micronesia and Nauru were deemed “largely compliant”, whereas Botswana and Vanuatu were rated as “partially compliant”. Guatemala was deemed to be “non-compliant” on the basis that exchange of accounting and banking information does not take place. It is the second jurisdiction to receive a non-compliant rating after Trinidad and Tobago.

The reviews were undertaken as part of the second round of peer reviews by the Global Forum, following the international standards for transparency and exchange of information being updated to include aspects relating to beneficial ownership.

### 3. 9th US Circuit Court of Appeals Upholds Amazon Decision

The 9th U.S. Circuit Court of Appeals has [upheld a decision](#) of the U.S. Tax Court in a \$1.5 billion US dollar dispute concerning payments made to Amazon.com by an Amazon subsidiary in Luxembourg, Amazon Europe Holding Technologies SCS, for the transfer of intangible property required to operate its business in Europe.

The Court ruled that under the definitions of intangible property at the subject time, the payments should not include amounts for workforce, goodwill and innovation, as argued by the IRS. The Court rejected the broader definition of intangible property sought to be applied by the IRS in its appeal, stating that the definition at the subject time was limited to independently transferable assets.

It was noted in the decision that under the current definition of intangibles, the position taken by the IRS in the appeal would be correct.

### 4. New Members of the OECD Inclusive Framework

In August, Albania and Namibia became the 133rd and 134th jurisdictions to join the [OECD's BEPS Inclusive Framework](#). Members of the Inclusive Framework have the opportunity to work together on an equal footing with other OECD and G20 countries on implementing the BEPS package consistently and on developing further standards to address remaining BEPS issues.

There are now a total of 134 jurisdictions that are participating in the project.

### 5. Reminder: 12th European Conference on Tax Advisers' Professional Affairs

The [12th European Conference on Tax Advisers' Professional Affairs](#) will be held in Paris on Friday, 29 November 2019, on the topic of “Tax Transparency Trends: Are Tax Advisers Ready for the New EU Anti-Money Laundering Rules?”

The conference will examine the impact of existing EU anti-money laundering rules and the new requirements of the 5th AML Directive, including making beneficial owners of legal entities registers public, providing increased access to information on the beneficial ownership of trusts and the expansion of AML rules to entities which store, hold or transfer virtual currencies. Speakers will also discuss enhanced cooperation and exchanges of information provided for between the EU and Member States under the 5th AML Directive. In addition, panellists will discuss compliance with and implementation of the measures in practice and the information available to supervisory bodies to facilitate their obligations under the Directive. More details about the programme and line-up of speakers will be available in due course.

[Register now](#) to benefit from early-bird registration prices and to secure your spot!

## 6. Inter-American Centre of Tax Administrations Publish Updated BEPS Compliance Database

The Inter-American Centre of Tax Administrations (“CIAT”) has published updated information in its [BEPS Monitoring Database](#) concerning the jurisdictions of 15 CIAT member countries, namely Angola, Argentina, Bermuda, Brazil, Chile, Colombia, Costa Rica, Honduras, India, Jamaica, Mexico, Panama, Paraguay, Spain and Uruguay.

The database aims to collate information concerning the implementation status of the BEPS Action Plan in jurisdictions, and currently covers 36 CIAT jurisdictions. Also in August, Kenya and Morocco, two further CIAT member countries, joined the project. The recent updates were compiled using information provided by the tax administration of the countries. The database was updated in relation to BEPS Actions 1, 5, 6, 7, 12, 13, 14 and 15.

## 7. New Zealand Updates Tax Policy Programme

In August, New Zealand’s tax administration published an updated [Tax Policy Work Programme](#) for 2019 - 2020.

Revenue Minister Stuart Nash stated that New Zealand’s updated work programme reflects the fact that New Zealand is “*committed to the fundamental principles of a broad-based, low-rate system.*” In relation to business, the plan sets out reviewing tax treatment of innovation and investment. Compliance costs are also identified as a priority. In relation to the digital economy, the programme notes that alternatives to taxing digital businesses without an established presence in the country would be reviewed. Environmental economy is also listed as a priority to be reviewed in the coming 18 months.

New Zealand’s tax policy programme was last updated in May 2018.

## 8. OECD Publishes Stage 2 MAP Peer Reviews

The OECD has now [published](#) the first set of Stage 2 Mutual Agreement Procedure Monitoring Peer Reviews for the jurisdictions of Belgium, Canada, the Netherlands, Switzerland, the United Kingdom and the United States. The stage 2 peer reviews examine the progress of jurisdictions in implementing recommendations set out in their stage 1 peer review reports.

The reports demonstrate that positive steps had been taken by all six jurisdictions, with most jurisdictions updating MAP guidance and allocating more resources to the competent authorities to increase efficiency in handling MAP cases. Additionally, each jurisdiction had either maintained or decreased the timeframe within which MAP cases were resolved, and the majority of jurisdictions were also using the MLI to ensure treaties were in line with the standard.

The peer reviews are being completed as part of the peer review process under Action 14 of the BEPS Action Plan concerning taxation dispute resolution and the Mutual Agreement Procedure (MAP), aimed at making dispute resolution mechanisms more effective.

## 9. Reminder: Inaugural GTAP Conference – 3 October 2019: Programme & Registration

The Global Tax Advisers Platform's [inaugural conference](#) will take place on 3 October 2019 in Torino on the topic of "*Tax & The Future*". GTAP was formed in 2014 by CFE, AOTCA and WAUTI as a global response of tax advisers to international tax initiatives, with the aim of forging closer links among tax advisers throughout the world. The platform provides the proper framework for a more dynamic, more inclusive cooperation among tax advisers, on the basis of enhanced dialogue, more effective collaboration and openness.

The GTAP conference will examine issues that are of interest to all tax advisers in a borderless, increasingly globalising and automated society, driven by new technologies. To that end, four panels of expert speakers will consider the evolution and future of the topics of global tax policy, corporate income tax and VAT, the global tax profession and business models and tax sustainability.

[Register now](#) to benefit from early-bird registration prices and to secure your spot!

## 10. Canada & Switzerland Ratify OECD Multilateral BEPS Convention

On 29 August, Canada and Switzerland deposited their instruments of ratification for the [OECD Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting](#). The BEPS convention aims to combat tax avoidance by multinational enterprises (MNEs) through prevention of Base Erosion and Profit Shifting (BEPS).

The BEPS multilateral instrument was negotiated within the framework of the OECD G20 BEPS project and enables countries and jurisdictions to swiftly modify their bilateral tax treaties to implement some of the measures agreed.



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BRUSSELS | **SEPTEMBER 2019**

## 1. New Digital Tax Proposals Due October

Whilst many of us were on summer holidays, OECD officials and working parties were busy reconciling the key policy concerns of the members of the Inclusive Framework that aim for a broad agreement on international taxation. The in-tray remains full though, according to the Director of the OECD Centre for Tax Policy and Administration Pascal Saint- Amans, who clarified the [G7 Leaders' Declaration from Biarritz](#) as concerns the political commitment to amend international tax rules to reflect the tax challenges of the digitalising economy.

Pascal Saint-Amans [stated](#) that whilst progress had been made, there were several key issues that needed to be addressed. Such agreement on the outstanding issues would pave the way for a new OECD proposal on the taxation of the digital economy (including minimum taxation) at the next G20 meeting, scheduled for 17 October in Washington DC.

As regards the minimum taxation proposal, Saint-Amans said that unlike the US GILTI approach of average rate, OECD is instead considering country-by-country based approach. Saint- Amans admitted that a global minimum tax rate would require close international coordination and a multilateral treaty, as [argued by CFE Tax Advisers Europe](#) in response to the OECD consultation on the digital tax proposals, with reference to the second pillar and the residual BEPS issues.

## 2. OECD Publishes Energy Taxation Report

Ahead of the UN Summit, the OECD has published a [preview](#) of its Taxing Energy Use 2019 report concerning the taxes levied on environmentally polluting sources of energy. Unsurprisingly, the report summary sets out that across the 44 countries contributing to over 80% of the worldwide levels of energy emissions, taxes on sources of energy which are polluting the environment are too low to counteract the impact on climate change and air pollution. For example, the report finds that tax on coal, which contributes to over 50% of carbon emissions from energy sources, is zero or close to zero. Fuel taxes for international flights and shipping is also taxed at zero or close to zero across the countries the subject of the report, whilst cleaner energy sources, such as gas, are often more highly taxed.

Speaking about the report, OECD Secretary-General Angel Gurría said “We know we need to burn less fossil fuel, but when taxes on the most polluting fuels are zero or close to zero,

there is little incentive to change. Energy taxes are not the sole solution, but we can't curb climate change without them. They should be applied fairly and used to improve well-being and ease the energy transition for vulnerable groups." The report advocates for change in taxes and state subsidies and investment to encourage shifts to low-carbon energy and transport.

### 3. Tax Transparency: Significant Progress Noted on Country-by-Country Reporting

The OECD has noted significant progress in the implementation of the minimum standard on Country-by-Country Reporting (CbC), providing tax administrations with an unprecedented level of information and transparency on activities of multinational companies (MNCs). Such conclusions are contained in the [outcomes](#) of the second phase of peer reviews of the BEPS Action 13 Country-by-Country reporting initiative, demonstrating strong progress in the efforts to improve the taxation of multinational companies worldwide. CbC reporting as a minimum standard of the BEPS project requires tax authorities to collect and share detailed information on MNCs operating within their jurisdiction, collection data on revenues, profits, taxes paid and accrued, as well as the capital, accumulated earnings, number of employees and tangible assets, broken down by jurisdiction.

### 4. Guinea, Namibia and Honduras Join the Global Forum on Tax Transparency

Guinea, Namibia and Honduras [have joined](#) the OECD's Global Forum on Transparency and Exchange of Information for Tax Purposes, stating their commitment to implement the international standard of exchange of information on request (EIOR) and the standard on automatic exchange of financial account information (AEOI) implementing the Common Reporting Standard (CRS). With 157 members, the Global Forum is the flagship body for ensuring the implementation of the internationally agreed standards of tax transparency and exchange of taxation-relevant information among tax administrations.

### 5. Reminder: 12th Conference on Tax Advisers' Professional Affairs

The [12th European Conference on Tax Advisers' Professional Affairs](#) will be held in Paris on Friday, 29 November 2019, on the topic of "Tax Transparency Trends: Are Tax Advisers Ready for the New EU Anti-Money Laundering Rules?"

The conference will examine the impact of existing EU anti-money laundering rules and the new requirements of the 5th AML Directive, including making beneficial owners of legal entities registers public, providing increased access to information on the beneficial ownership of trusts and the expansion of AML rules to entities which store, hold or transfer virtual currencies. Speakers will also discuss enhanced cooperation and exchanges of information provided for between the EU and Member States under the 5th AML Directive. In addition, panellists will discuss compliance with and implementation of the measures in practice and the information available to supervisory bodies to facilitate their obligations under the Directive. More details about the programme and line-up of speakers will be available in due course.

[Register now](#) to secure your spot!

## 6. CFE Tax Advisers Europe Sets Out Policy Priorities for the 2019 – 2024 EU Mandate

As the EU institutions are considering their policy priorities for the next mandate, CFE Tax Advisers Europe has taken the opportunity to set out the tax and professional affairs policy issues it identifies as significant concerning taxation and the future. Accordingly, CFE Tax Advisers Europe has published an [Opinion Statement](#) that sets out the policy priorities of European tax advisers for the 2019 – 2024 mandate of the EU Institutions.

## 7. OECD: More Action Required by Governments as Tax Reform Slows Down

The latest OECD report “[Tax Policy Reforms: OECD and Selected Partner Economies](#)”, a publication which analyses the scope of tax reforms in all OECD countries, as well as in Argentina, Indonesia and South Africa, indicates that globally the pace of tax reform has slowed down, with fewer countries introducing comprehensive reform packages in 2019, relative to previous years.

Corporate tax rates cuts have continued in 2019, albeit to a lesser extent compared with the 2018 developments. The OECD notes that the most significant tax reforms have been introduced in the Netherlands, Lithuania (labour taxes), Australia (personal income taxes), Italy (corporate income tax) and Poland (personal and corporate income taxes).

The Director of the OECD Centre for Tax Policy and Administration, Pascal Saint-Amans, called for increased pace of the tax reform process, due to the multiplicity of the challenges that governments are faced with: *“At a time when countries are facing many significant challenges, such as weakening economic growth, ageing populations, income and wealth inequality, the changing nature of work and climate change, the appetite for growth-enhancing, structural tax reforms seems to be waning. In the face of these challenges, it is clear that bolder action is needed.”*, Pascal Saint-Amans stated.

## 8. OECD Publishes Tax Moral Report

The OECD has published a report on individual and business [tax morale](#), examining the factors that contribute to tax morale and the modality to improve the revenue collection mechanisms through voluntary compliance. Age, religion, gender and education were all identified as significant factors which influence tax morale.

This report specifically focuses on tax morale in developing countries, using recent data to help identify the drivers of tax morale among individuals and businesses. It also examines how tax systems can affect business decisions. Deputy Director of the Centre for Tax Policy and Administration at the OECD, Grace Perez-Navarro, stated of the report “There remains much to do in building a sustainable tax-paying culture, particularly in developing countries. It won’t be enough to crack down on aggressive tax planning or eliminate tax incentives. Taxpayers and authorities need to build a stronger and more dynamic relationship of trust, facilitation and enforcement.” Comments submitted from CFE on behalf of the Global Tax Advisers Platform in response to the public consultation on tax morale carried out by the OECD earlier in the year can be viewed on our website.

## 9. OECD Tax Administration 2019 Report Published

The OECD has published its [Tax Administration 2019](#) report, the 8<sup>th</sup> edition in the OECD Tax Administration Series, comparing data concerning the tax administration systems of 58 economies.

This edition focuses in particular on the use of technology, both by tax administrations in aiming to increase e-administration/digital compliance, and in uptake of users in filing tax returns electronically. The report demonstrates that there has been an increase in online filing of tax returns, with more than 70% of users filing their individual tax return electronically, and over 85% of businesses filing returns electronically. The report also sets out that over 40 of the tax administrations surveyed for the report either are using or intend to use artificial intelligence as part of their e-compliance programmes.

Pascal Saint-Amans, Director of the OECD Centre for Tax Policy and Administration said of the report *"The data and examples contained in Tax Administration 2019 show how the availability of new technologies, new data sources, and increasing international cooperation are providing new opportunities for tax administrations to better manage compliance, protect their tax base and reduce administrative burdens."*

## 10. Final Reminder: GTAP Conference – 3 October 2019

The Global Tax Advisers Platform's [inaugural conference](#) will take place on 3 October 2019 in Torino on the topic of *"Tax & The Future"*. GTAP was formed in 2014 by CFE, AOTCA and WAUTI as a global response of tax advisers to international tax initiatives, with the aim of forging closer links among tax advisers throughout the world. The platform provides the proper framework for a more dynamic, more inclusive cooperation among tax advisers, on the basis of enhanced dialogue, more effective collaboration and openness.

The GTAP conference will examine issues that are of interest to all tax advisers in a borderless, increasingly globalising and automated society, driven by new technologies. To that end, four panels of expert speakers will consider the evolution and future of the topics of global tax policy, corporate income tax and VAT, the global tax profession and business models and tax sustainability.



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BRUSSELS | **OCTOBER 2019**

## 1. GTAP Global Tax Conference & Torino-Busan Declaration

On 3 October, on the occasion of the Global Tax Advisers Platform (GTAP)'s inaugural conference in Torino, the GTAP founding bodies issued the Torino-Busan Declaration. In this document, GTAP sets out four key short-term priorities to pursue its fundamental purpose: the promotion of public interest by ensuring the fair and efficient operation of national and international tax system.

The four priorities highlighted in the Declaration are:

- Tax for Growth;
- Sustainable Tax Policies;
- Tax and Digitalisation;
- Taxpayer Rights and Certainty in a Fast-Paced World.

GTAP was formed in 2014 by CFE, AOTCA and WAUTI as a global response of tax advisers to international tax initiatives, with the aim of forging closer links among tax advisers throughout the world.

The Global Tax Advisers Platform provides the proper framework for a more dynamic, more inclusive cooperation among tax advisers, on the basis of enhanced dialogue, more effective collaboration and openness.

The Global Tax Advisers Platform's inaugural conference took place on 3 October 2019 in Torino on the topic of "*Tax & The Future*". The GTAP panelists, members of GTAP from Africa, Asia, Australia and Europe examined issues that are of interest to all tax advisers in a borderless, increasingly globalising and automated society, driven by new technologies. To that end, the expert speakers considered the evolution and future of the topics of global tax policy, corporate income tax and VAT, the global tax profession and business models and tax sustainability.

We invite you to read the [Press Release](#) for further information about the GTAP Torino-Busan Declaration.



## 2. 60<sup>th</sup> Years CFE Celebrated With Global Tax Conference & Anniversary General Assembly

Under the high patronage of the European Parliament, CFE Tax Advisers Europe celebrated its 60<sup>th</sup> Anniversary with a series of events, including General Assembly, the inaugural Global Tax Advisers Platform (GTAP) conference and technical committee meetings held over three days in Torino, Italy, hosted by the Italian member organisations of CFE - Associazione Nazionale Tributaristi Italiani (ANTI) & Consiglio Nazionale dei Dottori Commercialisti e degli Esperti Contabili (CNDCEC).

CFE President Piergiorgio Valente welcomed the delegates and high-level guests, and thanked the Member organisations of CFE, the Italian host member organisations, and the delegates for their commitment and their continuous support in achieving the goals and objectives of CFE Tax Advisers Europe over the many years.

Pascal Saint-Amans, Director of the OECD Centre for Tax Policy and Administration addressed the General Assembly, highlighting the long-standing collaboration between the CFE and the OECD. Mr Saint-Amans said that CFE has been an active contributor to OECD's work since its inception in 1959 - only a few years before the publication of the 1963 OECD Model Tax Convention. Mr Saint-Amans welcomed CFE's recent contributions to OECD's public consultations and presented the upcoming OECD agenda on the taxation challenges of the digital economy.

Representing the European Commission, Bert Zuijndendorp discussed the important role that stakeholders like CFE play in the taxation policy initiatives of the EU. Mr Zuijndendorp also reflected on the synergy of the work undertaken by the OECD and the EU.

In a written contribution for the CFE's 60<sup>th</sup> Anniversary, Mr Valère Moutarlier, Director of Direct Taxation, European Commission said: *"CFE has been a prominent and constructive actor in the EU's tax arena for many years now. Its contributions to consultations, its submission of well-researched position papers and its membership in the Platform on Tax Good Governance are just a few of the ways in which it has brought its views and ideas to our attention. This Commission relies heavily on vocal, active and knowledgeable stakeholders for well-informed policy-making and CFE certainly meets this description. As we move forward now, towards a new mandate and a renewed agenda for taxation policy in Europe, I am sure that CFE will continue to liaise closely with the Commission and make its mark."*

The CFE Tax Advisers Europe was honoured to receive the patronage of the European Parliament of its 60<sup>th</sup> Anniversary, confirming the close links between the objectives of CFE's initiatives and the values of the European Union. In a written statement, the President of the European Parliament, Mr David Sassoli, said: *"The institution I have the honour to preside over greatly appreciates the professional and committed work of your organisation. The European Parliament very much admires the aim of your initiative, which is to present the goals of your organisation from its beginnings 60 years ago and to examine the close relationships forged with the European institutions over the years. It also highly values your activity as an important partner in the last European elections campaign."*, the European Parliament president said.

More information on CFE's Anniversary is available on the [CFE website](#).

### 3. OECD Consultation on Digital Tax – Unified Approach Under Pillar One

As announced by the Director of the OECD Centre for Tax Policy and Administration, Pascal Saint-Amans at the CFE meetings in Torino, the OECD Secretariat published the proposals concerning the taxation challenges of the digital economy. The [Secretariat proposals](#) introduced a ‘unified approach’ under Pillar One as the basis for further negotiations among the Members of the Inclusive Framework.

Under the proposed approach, new taxation rights for market jurisdictions are recognised as a matter of novelty. Conversely, under present international tax rules, zero profit could be allocated to any nexus not based on physical presence. The new rules are intended to apply to companies that derive value from consumer-interaction with users in market jurisdictions. Under the new profit allocation rules, a share of the deemed residual profits of the ‘consumer-facing’ multinational companies will be reallocated to market jurisdictions, through formulary apportionment and use of proxies such as sales.

Commenting, the OECD Secretary-General said of the new proposals: *“We’re making real progress to address the tax challenges arising from digitalisation of the economy, and to continue advancing towards a consensus-based solution to overhaul the rules-based international tax system by 2020. This plan brings us closer to our ultimate goal: ensuring all MNEs pay their fair share. Failure to reach agreement by 2020 would greatly increase the risk that countries will act unilaterally, with negative consequences on an already fragile global economy. We must not allow that to happen,”* Mr Angel Gurría said.

Stakeholders are invited to send comments on the policy, technical and administrability issues raised by the proposal before 12 November 2019, 12:00 CEST, by email to [TFDE@oecd.org](mailto:TFDE@oecd.org) in Word format. A public consultation is scheduled for 21-22 November in Paris.

### 4. UN Tax Committee Meeting: Taxation and SDGs

The [19<sup>th</sup> Session of the UN Committee](#) of Experts on International Cooperation in Tax Matters held in Geneva on 15- 18 October saw a debate on the relevance of taxation policy for the attainment of Sustainable Development Goals (SDGs), among other topics. Other agenda items included the tax challenges of the digitalisation of the economy, update of the UN Nations Model Double Taxation Convention between Developed and Developing Countries, production of a UN Handbook on Tax Dispute Avoidance and Resolution as well as an update of the UN Transfer Pricing Manual.

Speaking on behalf of the United Nations Department of Economic and Social Affairs, Ms Caroline Lombardo, Acting Chief of the UN International Tax and Development Cooperation Branch highlighted the “important role of progressive tax systems and SDG-oriented fiscal policies: not only to raise revenue to finance sustainable development but also to reduce inequality, promote inclusive growth and protect the environment.”

As a follow-up to the UN first High-level Dialogue on Financing for Development and the Addis Ababa Action Agenda of 2015, Ms Lombardo stressed the critical role of the United Nations in international tax cooperation and shaping tax standards to ensure more inclusive process, whilst balancing such changes with greater certainty for taxpayers and governments. *“Strengthened tax administration and collection are critical and must be*

*accompanied by further transparency on budgets and expenditures, to foster tax morale and trust in governments. Global action is needed to close loopholes and safeguard country efforts to mobilise domestic resources, including through tax cooperation that promotes favourable investment and trading climate that can generate jobs, expertise, a sense of independence, dignity and security”, the UN official added.*

## 5.Guidance on Foreign-Source Income Exemption Regimes – European Union ‘Blacklist’ Update

In the context of the EU evaluation of tax good governance standards by third countries and the list of non-cooperative jurisdictions for tax purposes performed by the Code of Conduct Group (Business Taxation), the Council of the EU published [Guidance](#) on foreign source income exemption regimes. The published EU guidelines aim to help third countries comply with EU’s tax standards, in particular those that the EU considers harmful tax practices.

According to the document, an overly broad definition of income excluded from taxation, notably foreign sourced passive income without any conditions or a nexus not complying with the PE definition contained in the OECD Model Tax Convention, shall be considered harmful practices aimed at facilitating double non-taxation. These guidelines will serve as a basis for the continued 2019 screening of third country jurisdictions.

The Council recently [endorsed](#) removal from the EU black and/ or greylist of a number of jurisdictions, including the United Arab Emirates, Albania, Costa Rica, Serbia, Switzerland, Mauritius and the Marshal Islands, establishing that those countries have implemented reforms to comply with EU tax good governance standards. Nine jurisdictions remain on the EU blacklist: American Samoa, Belize, Fiji, Guam, Oman, Samoa, Trinidad and Tobago, the US Virgin Islands and Vanuatu.

## 6. Platform for Collaboration on Tax Issues Draft Transfer Pricing Toolkit

The Platform for Collaboration on Tax, a joint initiative of the IMF, OECD, UN and World Bank Group, has issued a [draft toolkit](#) designed to help developing countries in the implementation of effective transfer pricing documentation requirements. The toolkit considers current approaches of tax administrations concerning documentation for transfer pricing analysis and policy matters that may give guidance to developing countries.

The Platform for Collaboration on Tax are seeking input on this draft of the toolkit by 8 November 2019. Particular points concerning which the Platform is seeking input include: whether the draft toolkit addresses all the relevant considerations for the design of an effective transfer pricing documentation regulatory system; whether particular approaches (e.g. penalties or compliance incentives) are especially beneficial for limited capacity developing countries, in terms of enforcement of transfer pricing documentation; whether there other transfer pricing documentation requirements not covered in this toolkit that should be considered; and what additional considerations and/or tools can be included to assist developing countries to implement effective transfer pricing documentation.

## 7. OECD BEPS Action 14 Peer Review Reports Update

In the framework of the work undertaken under BEPS Action 14 and the improvement of the tax dispute resolution mechanisms, the OECD issued the 6th round of peer review reports, assessing the efforts by countries to implement the Action 14 minimum standard as agreed to under the OECD/G20 BEPS Project.

The published reports include jurisdictions such as Argentina, Chile, Colombia, Croatia, India, Latvia, Lithuania and South Africa with over 230 targeted recommendations that will be followed up in stage 2 of the peer review process. BEPS Action 14 seeks to improve the tax-dispute resolution mechanisms via the Inclusive Framework peer-review process, which looks into the compliance with the minimum standard reviewed and monitored by peer countries.

## 8. Australian Taxation Office To Assess Airbnb Rental Income

The Australian Taxation Office has [reportedly](#) commenced with assessment of income tax of home owners who rent out their apartments via the Airbnb platform. As a result of this policy, the ATO will verify the details of taxpayers who earn an income from short-term rental platforms against the income declared on their tax returns.

A spokeswoman for ATO stated: *“Over the next 12 months, the ATO will issue letters to those taxpayers identified as using sharing economy accommodation platforms who haven’t declared the rental income they have received. The objective is to identify and educate those individuals to ensure they include the correct amount of rental income from these sources in their returns and pay the appropriate tax. This will ensure there is a level playing field for all people operating accommodation services in the community.”*

## 9. GTAP: 17<sup>th</sup> AOTCA’s General Meeting & International Tax Conference on 16 – 18 October 2019 in Busan

Piergiorgio Valente, President of CFE Tax Advisers Europe and Chairman of the Global Tax Advisers Platform (GTAP) attended the [17<sup>th</sup> AOTCA’s General Meeting](#) & International Tax Conference held in Busan, South Korea, on 16 – 18 October 2019. Piergiorgio Valente represented CFE Tax Advisers Europe at the GTAP meeting held on 16 October, meeting also with the Asia Oceania Tax Consultants’ Association (AOTCA) Council and General Assembly. The meetings and event were hosted by the Korean Association of Certified Public Tax Accountants.

## 10. CFE Conference On Anti-Money Laundering: Paris – 29 November 2019

The CFE Tax Advisers Europe is pleased to invite you to the 12<sup>th</sup> European Conference on Tax Advisers’ Professional Affairs, entitled “Making Anti-Money Laundering More Effective For Tax Advisers”. This year, jointly organised by CFE and the Institut des Avocats Conseils Fiscaux (IACF), the conference will take place at the Maison de l’Artisanat in Paris, France, on Friday 29 November 2019 from 9:15 am to 4 pm.

Considering all the recent developments on the anti-money laundering front, we invited representatives of the OECD Tax & Crime Division to speak about the international approach against money laundering concerning tax evasion and tax crimes, alongside speakers from academia, practice and other international organisations. Tax practitioners from the Netherlands, France and the United Kingdom will shed light on the effect of anti-money laundering directives in practice. We expect that the speakers will examine the perceived risks posed by the tax profession in facilitating money laundering based on the EU Commission's Supranational Risk Assessments and will also discuss the compliance with the new and existing EU Anti-Money Laundering Directives, as well as the efforts taken to address money laundering in the broader international context.

[Register now](#) to secure your place at the conference.



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BRUSSELS | **NOVEMBER 2019**

## 1. Public Consultations on OECD Two-Pillar Approach for Taxation of Digitalising Economy

In November, the OECD held a [public consultation](#) in Paris on its proposals for taxation of the digitalising economy on the basis of the 'unified approach' under Pillar One. Under the proposed approach, new taxation rights for market jurisdictions are recognised as a matter of novelty. The new rules are intended to apply to companies that derive value from consumer-interaction with users in market jurisdictions. Under the new profit allocation rules, a share of the deemed residual profits of the 'consumer-facing' multinational companies will be reallocated to market jurisdictions, through formulary apportionment and use of proxies such as sales.

Pascal Saint-Amans, Director of the OECD Centre for Tax Policy and Administration confirmed that the work at government representative level is ongoing, with the Secretariat proposal serving as a blueprint for further negotiations. The next Inclusive Framework meeting is scheduled for January 2020.

Representatives from the OECD, the BEPS Inclusive Framework, academics, tax practitioners and advisers and representatives of businesses addressed substantive issues arising from the Unified Approach proposal, in particular scope and nexus, computation of Amount A, elimination of double taxation in relation to Amount A, fixed remunerations under Amount B as well as dispute prevention and resolution. There was an emerging consensus that the new challenges arising from digitalisation were conducive to a shift toward formulary apportionment, however, discussions could not agree on the precise principles underpinning such a shift. In addition, there was some criticism from the floor on the lack of clear principles justifying the departure from the arm's length principle; that the absence of a coherent rationale might potentially undermine the goal to achieve fairness with the new profit allocation rules.

Generally, participants sought clarity on definitions such as residual profits, businesses within scope of the proposal, the viability of the proposed coexistence of the two systems (existing tax rules under Amount B and C vs. new nexus and taxing rights under Amount A), as well as guarantees for robust and effective dispute prevention and resolution mechanisms. Representatives of business models which traditionally do not derive meaningful value from user interaction ('consumer-facing') sought to be carved out of the new rules. On the administration-side, opportunities for simplification of the rules were also



discussed, with suggestions for a central coordinating jurisdiction or one-stop-shop to audit Amount A, such that the parent entity would file a return on behalf of the group entities, informing other jurisdictions of about the portion they would be entitled under Amount A, with a possibility for a single jurisdiction to collect and remit the tax due for the other jurisdictions involved.

CFE issued an [Opinion Statement](#) responding to the consultation highlighting a number of key elements that should be embedded as part of this process, calling for more clarity and early consensus at political level, and emphasised the significance of departing from well-established principles of international tax law.

The OECD on 8 November published a further [public consultation document](#) concerning Pillar Two of its two-pillar approach to addressing the taxation challenges of the digitalising economy, the so-called “Global Anti-Base Erosion Proposal”, or “GloBE” proposal, which seeks to address outstanding BEPS issues by introducing a global minimum tax and providing *“jurisdictions with a right to “tax back” where other jurisdictions have not exercised their primary taxing rights or the payment is otherwise subject to low levels of effective taxation”*. The approach would seek to apply an income inclusion rule and deduction denial in tandem to achieve the intended aim of global anti-base erosion.

Interested parties will be able to submit comments until 2 December 2019 by e-mail to [taxpublicconsultation@oecd.org](mailto:taxpublicconsultation@oecd.org) via Word format. Following the written consultation process, a further public consultation meeting will be held on 9 December in Paris.

## 2. Tax Dispute Resolution: OECD Invites Input on 10th Batch of BEPS Action 14 Peer Reviews

In the framework of the BEPS Action Plan, and steps undertaken under BEPS Action 14 concerning the improvement of tax dispute resolution mechanisms, the OECD has now [invited input](#) concerning the 10<sup>th</sup> round of peer reviews, in order to assess the efforts by countries to implement the Action 14 minimum standard as agreed to under the OECD/G20 BEPS Project.

Input is requested in relation to the jurisdictions of: Aruba, Bahrain, Barbados, Gibraltar, Greenland, Kazakhstan, Oman, Qatar, Saint Kitts and Nevis, Thailand, Trinidad and Tobago, the United Arab Emirates and Vietnam. BEPS Action 14 seeks to improve the tax-dispute resolution mechanisms via the Inclusive Framework peer-review process.

Interested parties are requested to submit completed responses to the Peer Review questionnaire via e-mail to [fta.map@oecd.org](mailto:fta.map@oecd.org) in Word format by 16 December.

## 3. Italia Africa Business Week – 26 & 27 November 2019

The Italian Ministry of Foreign Affairs and International Cooperation was the co-patron of the third annual [Italia-Africa Business Week Conference](#), this year held in Milan on 26 and 27 November 2019.

The conference aims to facilitate entrepreneurial trade, financial partnerships and cooperative agreements between Italy and Africa. Attendees from international financial

institutions, ministerial departments, capital investment firms and entrepreneurial experts attended the conference.

Piergiorgio Valente, President of CFE Tax Advisers Europe, participated in a panel which explored issues concerning customs and trade between Africa and Italy, together with the Ambassador of Mali in Italy, President of the Chamber of Commerce Italia-Mozambique and the General Delegate of Cepex.

## 4. EU Council Updates Non-Cooperative Tax Jurisdictions List

In the context of the EU evaluation of tax good governance standards by third countries and the list of non-cooperative jurisdictions for tax purposes, the Code of Conduct Group (Business Taxation) in November carried out an evaluation of tax good governance standards by third countries. Thereafter, the ECOFIN Council on 8 November [approved](#) the changes recommended by the Code of Conduct Group to the list of non-cooperative jurisdictions for tax purposes.

The Council accordingly [endorsed](#) the removal of Belize from the blacklist to the grey list, after establishing that it had implemented reforms to comply with EU tax good governance standards. It will be removed from the Annex II grey list in the future, subject to implementation of further changes concerning its foreign source income exemption regime. On the basis that North Macedonia has [fulfilled](#) the tax good governance criteria set out by the EU, the ECOFIN Council also [approved](#) the recommendation that it be removed entirely from the Annex II jurisdictions list.

Additionally, as a result of Jordan joining the Global Forum on Transparency and Exchange of Information for Tax Purposes and the Inclusive Framework on BEPS on 29 October, it has now fulfilled the tax good governance criteria set out by the EU and as a result the Code of Conduct Group recommended Jordan be removed from Sections 1.2 and 3.1 of Annex II of the Blacklist. The General Secretariat of the Council of the EU [recommends](#) in a note to the EU Member states that these changes be approved at the next ECOFIN Council.

Eight jurisdictions now remain on the EU blacklist: American Samoa, Fiji, Guam, Oman, Samoa, Trinidad and Tobago, the US Virgin Islands and Vanuatu.

## 5. OECD Releases Further Country-by-Country Reporting Implementation Guidance

As a follow-up of BEPS Action 13, the OECD /G20 Inclusive Framework on BEPS has released [updated guidance](#) on the implementation and operation of Country-by-Country Reporting (CbCR). The new guidance includes the treatment of dividends, the operation of local filing, the use of rounded amounts in Table 1 of an MNE Group's CbC report and the information that must be provided with respect to the sources of data used.

## 6. Platform for Collaboration on Tax Consultation on Draft Transfer Pricing Toolkit

In November, the Platform for Collaboration on Tax, a joint initiative of the IMF, OECD, UN and World Bank Group, held a public consultation a [draft toolkit](#) designed to help

developing countries in the implementation of effective transfer pricing documentation requirements. The toolkit considers current approaches of tax administrations concerning documentation for transfer pricing analysis and policy matters that may give guidance to developing countries.

GTAP welcomed the draft toolkit, and [set out](#) its view that the toolkit has significant potential impact in terms of developing uniformity in practice across jurisdictions. GTAP's responses to the consultation questions were based on responses compiled by fellow founding GTAP member, the West African Union of Tax Institutes and its member organisation, the Chartered Institute of Taxation of Nigeria (CITN).

## 7. Czech Government Approves Digital Tax Plan

The Czech Republic's government has approved plans to introduce a digital services tax to apply to businesses making revenue from Czech users' data, in particular targeting advertising, social media platforms, online marketplaces and user data sales.

The proposed tax would impose a 7% digital services tax on domestic digital sales for companies with a global turnover above 750 million Euros, and a national turnover above 100 million Czech koruna.

## 8. Regional OECD Consultation Meeting on Taxation of the Digital Economy in Manila

From 19 to 20 November a [regional OECD consultation meeting](#) was held for Asian and Pacific countries at the Asian Development Bank Headquarters in Manila concerning the OECD's Inclusive Framework's work on taxation of the digitalising economy and the reallocation of taxing rights and minimum corporate income taxation.

Consultation sessions were held for government, civil society and business and ABD member countries, with officials from government finance ministries, revenue authorities, technical experts and policy makers in attendance. A separate meeting was also held which focused on capacity building issues in developing countries in the Pacific Region.

## 9. Japan and Peru Sign New Tax Treaty

On 18 November, Japan and Peru signed a [tax treaty](#) which sets out as its principle purpose the aim of preventing treaty shopping and tax evasion. The treaty sets the taxation rate for withholding taxes on dividends at 10 percent, and at 15 percent on royalties.

The treaty also provides for a mutual agreement procedure, ensuring taxpayers have a mechanism for resolving tax disputes between the jurisdictions. The new agreement will enter into force once ratified by the countries.

## 10. OECD Publishes New Africa Revenue Statistics

In November, the OECD published the [Revenue Statistics in Africa](#) report, providing an analysis of tax revenue and statistics concerning 26 countries in Africa, namely: Botswana, Burkina Faso, Cabo Verde, Cameroon, Republic of the Congo, Democratic Republic of the Congo, Côte d'Ivoire, Egypt, Equatorial Guinea, Eswatini, Ghana, Kenya, Madagascar, Mali,

Mauritania, Mauritius, Morocco, Niger, Nigeria, Rwanda, Senegal, Seychelles, South Africa, Togo, Tunisia and Uganda.

The report shows that the countries create over 75% of the GDP in Africa, with tax to GDP ratios varying widely between the subject countries from 5.7% to 31.5%. Tax revenues were shown to plateau from 2017, whilst non-taxation revenue declined. Whilst personal income taxation and social security contribution levels remain low on average in the countries, revenue collected from taxes on goods and services and personal income tax has increased over the past 10 years.

Further information on the key findings of the report can be viewed [here](#).



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BRUSSELS | **DECEMBER 2019**

## 1. OECD Meeting on Pillar Two: Stakeholders' Input on the OECD Secretariat Proposals

A public consultation took place at the OECD in Paris on 9 December concerning the OECD Global Anti-Base Erosion Pillar 2 Proposal. Representatives from the OECD, the BEPS Inclusive Framework, academics, tax practitioners and advisers and representatives of business were in attendance. Ahead of the consultation, the OECD [published the comments](#) submitted by stakeholders to the Secretariat proposals.

CFE issued an [Opinion Statement](#) responding to the consultation setting out its view that there are too many variables in the GloBE proposal, with ramifications that could arise from the open policy and key design questions, calling for more certainty, simplicity and absence of double or multiple taxation. CFE's statement highlights a number of key elements that should be embedded as part of this process, namely that:

- The process needs to address the interaction of the four elements of Pillar Two, as it transpires that these are not intended to apply simultaneously, but no decision has been made as to which rule will take priority.
- The complexity of this proposal under Pillar Two confirms the need for a streamlined multilateral cooperation process; otherwise the system will become unworkable.
- The introduction of CFC rules are designed to achieve the same objective as the income inclusion rule. From CFE's perspective a simpler alternative to the income inclusion rule might be world-wide introduction of effective CFC rules.
- There are potentially a number of EU law points raised with the income inclusion rule which must be considered and resolved.
- The achievement of the policy aim to establish global minimum tax will depend significantly on the chosen model: jurisdiction-by-jurisdiction approach or an average global rate approach.
- Clarity would be welcome on the interaction between Pillar One and Pillar Two – CFE welcomes introduction of multilateral instruments where treaty benefits/ payments are being denied based on effective rate under Pillar Two, if the effective tax rate is based on a payment that is subsequently spread across multiple jurisdictions under Pillar One.

- As with Pillar One enhanced dispute prevention and resolution mechanisms will be essential, including multilateral mandatory binding arbitration.
- CFE is concerned that the use of financial accounts as a starting point for determining the tax base for the GloBE proposal would amount to more complexity.

Additionally, to evaluate the full effect of the existing BEPS standards, some of which are still under implementation in most countries of the Inclusive Framework, CFE in its Opinion Statement set out that a longer-term perspective seems more appropriate to appreciate the entirety of the remaining BEPS issues.

Those who were unable to attend can watch the consultation on [OECD WebTV](#), via the OnDemand tab of the OECD platform.

Work at government representative level is ongoing, with the Secretariat proposal serving as a blueprint for further negotiations. The next Inclusive Framework meeting is scheduled for January 2020. However, the anticipated timeline for progress concerning the OECD proposals may be compromised by the recent position adopted by the US in its letter to the OECD on 3 December, suggesting the Pillar 1 proposals could apply as a safe-harbour.

## 2. Tax Statistics Indicate Revenue Plateau

In December, the OECD published the [Revenue Statistics 2019](#) report. The report demonstrates that the average tax to GDP in the majority of the jurisdictions had not changed significantly from 2017 to 2018, and had in fact decreased in 15 countries. Significantly, the overhaul of the American corporate tax system led to a decrease from 26.8% in 2017 to 24.3% in 2018. Increases in tax revenues were observed in 19 countries.

The statistics from the report can be accessed via the OECD Global Revenue Statistic database, which provides detailed comparable taxation revenue information concerning jurisdictions.

## 3. US Letter Threatens to Upend OECD Digital Tax Discussions

In a letter to the OECD dated 3 December US Treasury Secretary, Steven Mnuchin stated that the US has *“serious concerns regarding potential mandatory departures from arm’s-length transfer pricing and taxable nexus standards—longstanding pillars of the international tax system upon which U.S. taxpayers rely, Nevertheless, we believe that taxpayer concerns could be addressed and the goals of Pillar 1 could be substantially achieved by making Pillar 1 a safe-harbour regime”*.

Were the Pillar 1 proposals to take the form of a safe harbour, this would allow governments to choose to adopt the regime, as opposed to it being mandatory to adopt it. If the approach were to be mandatory for the countries signing up, as was planned up until the US letter being sent, this would become mandatory for example by way of signing a new MLI. It would appear that the US is now proposing the measure be designed as a "safe harbour", meaning that companies could choose to apply or ignore Pillar 1.

In the [response](#) to the US letter, Angel Gurría, Secretary-General of the OECD, stated that *“throughout the extensive consultation process, however, we had so far not come across the notion that Pillar 1 could be a safe-harbour regime”*, emphasising that the public consultations held to date *“clearly identified the need for greater tax certainty and*



*administrability*”, noting that this “*is why the OECD proposal on a “Unified Approach” contains a very strong tax certainty dimension*”. The letter notes that the US raising this issue may impact on the ability of the OECD to adhere to the deadlines agreed by the Inclusive Forum.

The US has been invited to meeting with the OECD prior to Christmas to discuss the issue further.

## 4. Montenegro & Honduras Join Inclusive Framework on BEPS

In December, both Montenegro and Honduras became members of the [OECD/G20 Inclusive Framework on BEPS](#), becoming the 136<sup>th</sup> and 137<sup>th</sup> countries to join, respectively. The OECD’s Inclusive Framework of minimum standards was devised by the OECD and G20 countries as part of the 2015 Base Erosion Profit Shifting Plan (BEPS).

Joining the OECD Inclusive Framework also indicates compliance with conditions set by the European Commission concerning the EU’s list of non-cooperative jurisdictions in taxation matters aimed at promoting tax good governance and minimising tax avoidance.

## 5. New EU Commission Takes Office

The newly elected European Commission / College of Commissioners led by President Ursula von der Leyen took over from Jean Claude Juncker in December, becoming the first woman to lead the EU ‘government’. With the first gender-balanced Cabinet, von der Leyen [promised](#) to lead a geopolitical Commission that will harness the opportunities of the digital age whilst protecting the ‘European way of life’. The new Economy Commissioner, Paolo Gentiloni, whose portfolio includes taxation will work together with Executive Vice-President Margrethe Vestager who is responsible for overseeing the enforcement of the EU State aid rules as well as making sure that Europe benefits from the digitalisation of the economy.

In her first working day, President von der Leyen pledged to make Europe the first climate neutral continent by 2050. The [New Green Deal](#) for Europe includes a revised Energy Taxation Directive. According to the leaked draft, the Commission will present a proposal to revise the Energy Taxation Directive to align it with Europe’s climate ambitions by instructing the Commission services to “send the right pricing signals through appropriate taxation and subsidies policies, reflecting too on the use of competition policy tools that could support such transition”. To that aim, the Commission will pursue efforts to move away from unanimity for taxation policies, and will review the State aid guidelines for environment and energy, to bring them in line with the New Green Deal. [Draft Council Conclusions](#) on the EU energy taxation framework also refer to energy taxation as an important fiscal instrument that could steer successful climate-friendly transition towards lower greenhouse gas emissions.

## 6. Recap: CFE Conference on AML Rules, Paris - 29 November 2019

The 12th European Conference on Tax Advisers’ Professional Affairs, hosted by CFE and IACF, took place on 29 November 2019 entitled “Making Anti-Money Laundering More Effective for Tax Advisers”. With the introduction of various compliance obligations arising

out of the EU anti-money laundering rules, that have been introduced by the 5<sup>th</sup> AMLD, panellists also discussed the issues of introduction of beneficial ownership registers and the related trends of making such registers public, as well as the existing FATF Standards and Recommendations that build on other EU transparency initiatives to prevent money laundering. As such, the panellists addressed the newly established regulatory environment as well as the background issues arising out of various public revelations such as Panama Papers, how those affected the public, industries including tax advisory services and financial institutions, and how the OECD efforts in fighting money laundering by the unit on Tax & Crime address these problems.

The panel 1 discussion addressed the international approach against money-laundering, and was chaired by Dick Barmentlo, Member of the CFE Professional Affairs Committee. As a key-note speaker, Nilimesh Baruah from the OECD Centre for Tax Policy and Administration presented the OECD work related to tax and crimes. Mr Baruah discussed the increasingly complex and innovative forms of tax evasion and other financial crimes as well as the intrinsic link between such crime and the use of corporate vehicles. Coinciding with the 10th Anniversary of the OECD Global Forum on Tax Transparency and Exchange of Information, Mr Baruah highlighted the indispensable role of the Global Forum in improving transparency tools worldwide. Mr Baruah also spoke of the role of the Forum in providing governments tools to exchange data on previously opaque information, and give enforcement authorities means to address issues arising from the opacity of such structures for the benefit of their citizens.

Dr Kateryna Bogouslavska, of the Basel Institute of Governance and Chatham House explained the relevance of the Basel AML Index, a research based ranking of countries' exposure to ML and TF risks. Dr Bogouslavska discussed the tax related risks and the relevance for tax advisers of the data and analysis contained in the publicly available Basel AML Index. In the same panel discussion, a UK perspective on the AML approach was presented by Samantha Bourton of the UWA, who described the UK as one of the pioneer jurisdictions in implementing key AML international obligations, often going well beyond the minimal requirements of the EU legislation. Finally, Professor Robby Houben, of the University of Antwerp discussed the emergence and proliferation of crypto assets and the risks for money laundering inherently contained in such new technologies largely based on distributed ledgers such as blockchain. In conclusion, Prof. Houben suggested that the perceived risks need to be addressed with future-proof regulation and enforcement, rather than 'blaming' the technology itself, which should be harnessed for wider societal benefit.

The second panel examined the perceived risks posed by the tax profession in facilitating money laundering based on the EU's Risk Assessments, compliance with the new and existing EU AML Directives and efforts taken to address money laundering in the broader international context and the effect this has on tax evasion. The panel discussion was chaired by Heather Brehcist, Head of Professional Standards at the Chartered Institute of Taxation (UK). Panellists considered the effectiveness and the impact of existing EU rules and the new requirements of the 5th AMLD, including making beneficial owners of legal entities registers public and providing increased access to information on the beneficial ownership. Wim Gohres, Chair of CFE's Professional Affairs Committee and John Binns, Partner BCL Solicitors UK, presented the AML rules in practice. Mr Gohres presented the application and administration of the AML rules in practice from a perspective of AML compliance in the Netherlands. Mr Binns highlighted the risks, challenge and opportunities arising out of the potential regulatory divergence between EU and the UK post-Brexit. Christian Leroy, a Member of the Board of the Conseil National des Barreaux, France compared and contrasted the differences in the implementation of the AML regime across EU jurisdictions, primarily identifying the issue of the original intent of the AML regime to apply to the financial sector, such as banks, and subsequently being adapted to the non-financial sectors. Lastly, Gary Ashford, CFE Vice-President discussed the approach to civil

treatment of tax fraud evaluating the possibilities and risks, the client perspective on such issues, reputational risks and transparency issues arising out of the international legal obligations such as DAC and OECD-based instruments for exchange of information. Mr Ashford highlighted the issues related to civil investigations of tax fraud, such as contractual disclosure facilities and the negotiated financial settlements.

## 7. Turkey Introduces Digital Tax

In December, [new legislation](#) passed by Turkey's Parliament was published in the country's official gazette, which introduces a digital services tax to apply to digital advertising, sales of digital content and online digital marketplaces.

The legislation will impose a 7.5% digital services tax on domestic Turkish digital sales for companies with a global turnover above 750 million Euros, and a national turnover above 20 million Turkish lira.

The tax will apply from March 2020.

## 8. Council of EU Adopts Report on Defensive Administrative Measures for Tax Blacklist

In December, the Council of the EU adopted a [report](#) of the EU's Code of Conduct Group (Business Taxation), which sets out a detailed 6-monthly progress report on achievements of the Code of Conduct Group, and the status of jurisdictions that have been examined under the list.

Notably, the report details that the Code of Conduct Group reached agreement at its meeting on 14 November concerning guidance for Members States on defensive measures that can be taken in the tax field concerning non-cooperative jurisdictions.

The guidance sets out co-ordinated actions for Members States to take of a legislative nature, to encourage compliance with the Code of Conduct screening criteria as well as other international standards. Member States are recommended to apply at least one of the measures, which include non-deductibility of costs, CFC rules, withholding tax measures and denial of participation exemption on profit distribution.

## 9. Brazil Transfer Pricing Report Published

In December, the OECD published a [report](#) concerning a transfer pricing project carried out between the Brazil Revenue Authority and the OECD, comparing the present Brazilian transfer pricing framework against the OECD Transfer Pricing Guidelines for Multinational Enterprise and Tax Administrations.

The project was launched in February 2018, as a means to build on Brazil's collaboration with the OECD after it joined the Global Forum on Transparency and Exchange of Information for Tax Purposes.

## 10. EU Council Adopts New Anti-Money Laundering Framework

The Council of the EU on 5 December [adopted conclusions](#) setting out priorities for the EU's new anti-money laundering framework, seeking to guide the EU Commission in introducing harmonised EU anti-money laundering rules as well as enhanced anti-money laundering supervision across the EU, primarily addressed to the financial sector.

The Council in its recommendations urges Member States to transpose the AML legislation as soon as possible into national law. The conclusions also invite the Commission to explore further possible means of improving AML rules, such as further enhanced cooperation between authorities involved in anti-money laundering.

The conclusions can be viewed [here](#).



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BRUSSELS | JANUARY 2020

## 1. Digital Tax: No Support for the US 'Safe Harbour' Approach Despite Trade War Threats

The US proposition to make Pillar One optional by allowing companies to 'opt out' of the newly proposed profit allocation rules continues to create tensions among governments and "will not fly politically", the OECD Tax Director Pascal Saint-Amans has [said](#). In addition, Martin Kreienbaum, the Chair of OECD's Committee on Fiscal Affairs, who is also a Director General for International Taxation at the German Federal Ministry of Finance, stated that countries will not accept partial solutions, saying the "Germany is willing to compromise on Pillar One only if there is a Pillar Two as well", which concerns the global anti-base erosion proposal and minimum tax.

However, last week brought us a step closer to solving the digital tax conundrum, following meetings between French, EU and US officials at the margins of the World Economic Forum elite gathering in Davos. Bruno Le Maire, Minister of Finance of France, and Steven Mnuchin, the US Treasury Secretary, alongside OECD Secretary-General Angel Gurría agreed to avoid a potential trade war following the introduction of the French Digital Services Tax. The US side agreed to suspend the imposition of tariffs on French goods whilst France agreed not to collect the digital tax until the end of 2020, subject to an OECD agreement by the end of year.

French president Macron confirmed the positive developments, whilst expecting that Paris and Washington will continue negotiations over the digital tax at the OECD until the end of the year. "France is pursuing its objective of fair taxation on digital companies and finding a compromise within the framework of the OECD," the French president stated. The White House did not comment on the matter, but US Assistant Secretary of Treasury Chip Harter suggested that the US letter of last December insisting on Pillar One being a 'safe harbour regime' is still valid. According to media reports, Mr Harter said the United States position has not changed, but the wording on 'safe harbour' should not be understood as 'optional'.

The EU is seeking to avoid a full-blown trade war with the US over digital taxes. To that end, Commission President Ursula von der Leyen met with US President Donald Trump in Davos. In addition, Croatia's Prime Minister Andrej Plenković, currently holding the EU Presidency, [stated](#) that the EU and the US are partners who need to find a common language on digital tax at the level of OECD, saying that (national) measures that lead to tariff retaliation from the US side are not helpful.

The latest update from the OECD on this very topic will be cast via the OECD Tax Talks webpage at 31 January 14:00 – 15:00 CET. [Registration](#) for the webcast is now open.

## 2. OECD Publish Country-by-Country Reporting Guidance

As a follow-up to BEPS Action 13, the OECD/G20 Inclusive Framework on BEPS has released additional interpretative [guidance](#) on the implementation and operation of Country-by-Country Reporting (CbCR).

The new guidance is intended to provide improved tax certainty for tax administrations and MNEs, and addresses automatic exchange concerning local filings of Country-by-Country reports.

## 3. ATAF: Africa Has Right to Its Fair Share of Tax

Ahead of the Inclusive Framework meeting scheduled for 29 - 30 January, a meeting of the African Tax Administration Forum (ATAF) took place in Pretoria, for *“important discussions that will play a crucial role in determining how Africa responds to the global proposals to address the tax challenges from the digitalisation of the economy.”* ATAF members sought to agree a common position that will be presented on behalf of African countries in Paris, in particular by ensuring that *“new global tax rules will be fit for purpose in Africa and redress the current imbalance in taxing rights that disadvantage African countries.”*, ATAF stated in a [press-release](#).

## 4. Vietnam & Palau Join the Global Forum on Tax Transparency

In January, Vietnam and Palau became members of the [Global Forum on Tax Transparency and Exchange of Information for Tax Purposes](#), becoming the 159<sup>th</sup> and 160<sup>th</sup> countries to join, respectively. The Global Forum on Tax Transparency members aim to address tax evasion by implementing measures and standards agreed at international level in relation to transparency and exchange of information, both on request and through automatic exchange of information processes. Members of the Global Forum are also subject to Peer Review assessments as concerns their compliance with the minimum standards on transparency and exchange of information.

## 5. European Economic & Social Committee Recommend Use of Tax Policy to Achieve Sustainable Development Goals

In December, the European Economic & Social Committee published an [opinion](#) concerning potential means of achieving Sustainable Development Goals by use of investment and taxation policy methods. Rapporteur for the opinion, Krister Andersson, noted that *“taxation policies determine the economic environment in which investment, employment and innovation in businesses take place and they provide governments with revenues for financing public spending. These policies are hence fundamental for achieving the Sustainable Development Goals and they must be made fit for purpose.”*



Notably, the opinion sets out the EESC's view that the use of tax policies concerning climate change would help achieve many sustainable development goals. The Committee further recommends that the EU join the Global Forum on Tax to engage more widely in debate concerning solutions for corporate taxation in the digital economy that can encourage growth and cross-border trade.

## 6. EU & UK Sign Withdrawal Agreement – EU Asks Countries to Treat UK as EU Member State

On 24 January, the President of the European Council, Charles Michel and the President of the European Commission, Ursula von der Leyen signed the United Kingdom's Withdrawal Agreement, which formalises the UK's exit from the EU at midnight Central European Time on 31 January.

As of 1 February, the UK will cease to be a member state of the European Union, but the EU law will continue to apply to the UK at least until the end of the transition period – 31 December 2020 and the UK will be under jurisdiction of the European Court of Justice. Trade agreements can be negotiated by the UK with third countries during the transition period. A comprehensive free trade agreement will also be negotiated by the EU and the UK.

The Financial Times [reported](#) today that the European Commission will send a *note verbale* to 160 countries, a form of diplomatic correspondence, asking them to treat the United Kingdom exceptionally as a member state of the European Union until 31 December 2020, even though it will have left on 31 January 2020. The EU *note verbale* is intended to help the UK navigate through the uncertainty of the post-Brexit transition period.

## 7. OECD Release Tax Administration Assessment Models

The OECD has made available two new assessment models for tax administrations, the [Tax Debt Management Model](#) and the [Tax Compliance Burden Maturity Model](#).

Over 820 Billion Euro is outstanding in collectible debt between the 53 members of the Forum on Tax Administration. The Tax Debt Management Model has been designed to assist administrations assess performance and encourage positive reform. The Tax Compliance Burden Maturity Model aims to identify burdens which may discourage or prevent compliance and negatively impact tax morale. Jim Harra, First Permanent Secretary and Chief Executive of HM Revenue and Customs, who worked on developing the model noted that "*Understanding and addressing burdens is not straightforward and depends on a number of elements, including a solid strategy, a culture of minimising burdens and the confidence and expertise to engage with policy makers.*"

## 8. Cyprus & Saudi Arabia Ratify OECD BEPS MLI

In January, the jurisdictions of Cyprus and Saudi Arabia deposited instruments of ratification to the OECD's [Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting](#). The multilateral tax treaty allows jurisdictions to update their existing double tax treaties and transpose measures agreed in the BEPS project without further need for bilateral negotiations. The MLI will enter into force for both jurisdictions on 1 May 2020.

## 9. EU Presents Post-Brexit UK Trade Deal Position

The European Commission published an internal EU27 preparatory document that sets out the EU views on the future relationship with the United Kingdom, regarding the free trade agreement.

The [presentation](#) sets out following the UK withdrawal from EU on 31 January 2020 under the conditions of the Withdrawal Agreement, a transitional period of 11 months will follow, under which UK shall remain significantly aligned with the EU rules. Such a period should lead to a comprehensive free trade agreement (FTA), potentially leading to regulatory alignment.

The European Commission warns however, that one of the possible outcomes come 1 January 2021 is a 'cliff-edge' scenario, under which at the end of the transition period, the UK and EU will trade on less than optimal WTO terms.

## 10. Reminder: Applications Open for the CFE Albert J. Rädler Medal Award

CFE Tax Advisers Europe, in cooperation with IBFD, reminds all tax students at Master's level, as well as their supervisors, that the CFE receives applications from eligible tax students for the *Albert J. Rädler* Medal Award until **20 February 2020**. The award is intended to encourage academic excellence among young tax students. The Medal will be awarded at the CFE Forum, our flagship international tax conference on 2 April in Brussels.

The CFE will take care of travel and accommodation arrangements for the successful candidate to attend the CFE Forum. In addition, there is a monetary prize courtesy of the Rädler family and complimentary academic literature from our publishing partner IBFD. Applications are welcome at [info@taxadviserseurope.org](mailto:info@taxadviserseurope.org). More details are available on the [CFE website](#).



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BRUSSELS | **FEBRUARY 2020**

## 1. OECD Release Digital Tax Economic Analysis

In a webcast streamed on 13 February 2020, the OECD released details of an economic analysis and impact assessment concerning the Pillar 1 and Pillar 2 proposals for taxation of the digital economy being negotiated by the Inclusive Framework on BEPS.

The preliminary findings of the analysis being undertaken through the work of the Framework indicate that the combined effect of the Pillar 1 and 2 proposals would lead to an increase of around 4% in global corporate income taxation revenue for both low, middle and high-income economies.

The analysis shows that Pillar 1 would lead to only relatively small increases in taxation, but would achieve a redistribution of taxation rights to market jurisdictions, meaning low and middle-income economies would experience a higher rate of increase in taxation under Pillar 1 than high-income economies. All countries would experience an increase in corporate income taxation under Pillar 2, and MNEs would see an increase in effective taxation rates, with the reduced dispersion in effective tax rates likely to reduce incentives for profit-shifting.

The webcast concerning the preliminary findings of the impact assessment can be viewed [here](#).

## 2. G20 Communiqué Published

No significant progress was made at the G20 meeting in Riyadh in February, as concerns the taxation challenges of the digitalisation of the economy. Reportedly, there were tensions between the US Secretary of Treasury and his European counterparts, with European Commission officials [tweeting](#) that the US was not engaging and Secretary Mnuchin had left the room without taking the floor.

The official [Communique](#) of the G20 states that the leaders encourage further progress on both Pillars to overcome remaining differences and reaffirm their commitment to reach a consensus-based solution with a final report to be delivered by the end of 2020. The next meeting of the Inclusive Framework is scheduled for this summer in Berlin.

### 3. OECD Opens Consultation on Country-by-Country Reporting

The OECD has published a [consultation document](#) inviting input concerning Action 13 of the Base Erosion and Profit Shifting Project, on Country-by-Country Reporting. The review is being carried out pursuant to the BEPS Action Plan, which mandated a review of CbCR under Action 13 in 2020.

The consultation document invites input on whether modifications should be implemented for Action 13 such that additional or different data should be reported, requesting practical experiences and issues with reporting requirements under Action 13, input on the use of the reported data by tax administrations, and on the effectiveness and appropriateness of thresholds and reporting.

The consultation will be open until 6 March 2020. Comments should be submitted in Word format to [taxpublicconsultation@oecd.org](mailto:taxpublicconsultation@oecd.org).

### 4. North Macedonia Becomes Signatory to BEPS MLI Convention

On 29 January, North Macedonia became the 94<sup>th</sup> jurisdiction to be a signatory to the OECD's [Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting](#).

The multilateral tax treaty allows jurisdictions to update their existing double tax treaties and transpose measures agreed in the BEPS project without further need for bilateral negotiations. It now extends to over 1,650 bilateral tax treaties.

### 5. EU Commission Publishes Anti-Money Laundering Roadmap

The European Commission has published a [Roadmap](#) concerning future anticipated steps in its “new comprehensive approach to preventing and combating money laundering and terrorism financing”.

The Commission states in the Roadmap that the “*package adopted by the Commission in July 2019 highlighted a number of deficiencies in the implementation of the EU anti-money laundering framework*” and that “*even full implementation of the latest anti-money laundering provisions introduced by the 5th AML Directive...would not remedy the current weaknesses*”.

According to the European Commission: “*more harmonisation at EU level, and possibly central EU mechanisms/bodies to strengthen the preventive framework in light of the cross-border nature of much money laundering in the EU and of the integration of the internal market.*” are needed.

The Roadmap sets out that a policy communication will be issued in the coming months setting out the areas where further EU action will be taken, which will form the basis of future proposals of the Commission. Extensive consultation with stakeholders will also take

place in 2020, with a view to present new policy initiatives in early 2021. Feedback can be submitted on the current Roadmap until 11 March.

## 6. OECD Release Transfer Pricing Guidance on Financial Transactions

The OECD has released [Transfer Pricing Guidance on Financial Transactions](#), further to follow-ups in BEPS Action 4 and Actions 8 - 10. It is the first time the OECD's transfer pricing guidance has included guidance on the transfer pricing aspects of financial transactions. The guidance aims to improve consistency in interpreting the arm's length principle and reducing double taxation and disputes.

## 7. EU Update “Blacklist” of Non-Cooperative Jurisdictions

The EU has [revised](#) its blacklist of jurisdictions considered non-compliant for tax purposes. At an ECOFIN Council meeting on 18 February, ministers agreed to add Cayman Islands, Palau, Panama and Seychelles to the EU's blacklist. 16 jurisdictions (Antigua and Barbuda, Armenia, Bahamas, Barbados, Belize, Bermuda, British Virgin Islands, Cabo Verde, Cook Islands, Curaçao, Marshall Islands, Montenegro, Nauru, Niue, Saint Kitts and Nevis, Vietnam) reportedly implemented the required reforms to comply with EU's tax good governance criteria and were removed from Annex II.

Commenting on behalf of the EU Presidency, Croatia's Finance Minister Zdravko Marić said of the developments: *“The work on the list of non-cooperative tax jurisdictions is based on a thorough process of assessment, monitoring and dialogue with about 70 third country jurisdictions. Since we started this exercise, 49 countries have implemented the necessary tax reforms to comply with the EU's criteria. This is an undeniable success. But it is also work in progress and a dynamic process where our methodology and criteria are constantly reviewed.”*

## 8. Tax Dispute Resolution: OECD Releases Further Stage 1 Peer Reviews

In the framework of the BEPS Action Plan, and steps undertaken under BEPS Action 14 concerning the improvement of tax dispute resolution mechanisms, the OECD has now [released](#) the results of further Stage 1 peer reviews which assess the efforts by countries to implement the Action 14 minimum standard as agreed to under the OECD/G20 BEPS Project.

The peer reviews published concern the jurisdictions of Brunei Darussalam, Curaçao, Guernsey, Isle of Man, Jersey, Monaco, San Marino and Serbia. BEPS Action 14 seeks to improve the tax-dispute resolution mechanisms via the Inclusive Framework peer-review process, and give targeted resolutions as outcomes of the peer review which are then followed up in Stage 2 of the Peer Review process.

## 9. Mali Joins the Global Forum on Tax Transparency

In February, Mali became a member of the [Global Forum on Tax Transparency and Exchange of Information for Tax Purposes](#), becoming the 161<sup>st</sup> jurisdiction to join. The Global Forum on Tax Transparency members aim to address tax evasion by implementing measures and standards agreed at international level in relation to transparency and exchange of information, both on request and through automatic exchange of information processes. Members of the Global Forum are also subject to Peer Review assessments as concerns their compliance with the minimum standards on transparency and exchange of information.

## 10. OECD Releases IT Tools for Exchange of Information

The OECD has [released](#) IT tools and guidance which are intended to assist with the process of implementing the Treaty Relief and Compliance Enhancement (TRACE), and to encourage wider usage of the OECD Common Transmissions System used for the exchange of information between tax administrations.

The TRACE IT-tool allows withholding tax relief to be claimed at source, and CTS facilitates exchange of Common Reporting Standard information, Country-by-Country Reports and Tax Rulings, and will be extended in 2020 to be used for other on-request and spontaneous exchanges.



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BRUSSELS | **MARCH 2020**

## 1. Message from the CFE Executive Board on the COVID-19 Impact

As each and every one of us is impacted by the alarming spread of COVID-19 and how it is affecting our lives, the CFE Executive Board had, regretfully, taken the difficult decision to cancel the CFE Annual Forum, the General Assembly and all the Technical meetings in April.

At present, it is uncertain what the next phases of the coronavirus outbreak will look like, and what measures will need to be taken. However, please rest assured that we will closely monitor and evaluate the situation, and keep you updated on whether there will be any impact on the other CFE events that are planned for this year. At this time, our priority is the safety and wellbeing of our members, our staff and our partners. We have put in place a remote working scheme for our staff, in accordance with the applicable public health measures in Belgium, and are conducting our meetings via video and teleconference.

To the extent possible given these circumstances, the CFE Board together with the CFE Team continue to work on the existing projects and focus on relevant new technical publications and policy developments, in close conjunction with the Member Organisations and in synergy with the work of the EU institutions and the OECD. We encourage you to visit the [CFE website](#) and our social media channels ([Twitter](#), [Linkedin](#)) to stay informed about the most recent [CFE technical work and publications](#). As ever, the CFE Brussels Team is available to work with you on relevant tax technical or policy matters, and to assist you with any queries you may have.

We will continue to keep you abreast of developments in the CFE agenda in the period to come.

## 2. OECD's COVID-19 Taxation Measures Toolkit

The OECD has published a [Toolkit](#) containing the details of taxation and financial measures taken by governments around the world in response to the COVID-19 outbreak. A [global reference document](#) setting out the measures taken by tax administrations worldwide has also been created by the Forum on Tax Administration.

The OECD has also created a dedicated [webpage](#) concerning the COVID-19 outbreak, providing information and country profiles on the spread of the virus, and recommended responses concerning a variety of policy areas.

Pascal Saint-Amans, in a [blogpost](#) stated that *“one of the few certainties is that tax policy will play an important role in the immediate response of governments to support individuals and businesses, as well as in future rounds of policy action, including to rebuild our economies, which will ultimately take place once the health crisis has been contained. The OECD, working with other international organisations, will deploy all its data gathering power and analytical capacities to help governments across the world.”*

The OECD recommends a range of tax policy measures be employed, such as more generous welfare and income support payments, deferral or waiver of employer and self-employed social security contributions, tax concessions for those working in health and emergency services, deferral of VAT and custom duties payments, expediting the payment of refunds, deferring or waiving taxes, or increasing loss carry-forward provisions.

### 3. EU COVID Response

In March, the European Commission adopted a [Temporary Framework](#) concerning State aid measures to assist Member States in dealing with the economic impact of the COVID-19 outbreak. To minimise the economic impact of the COVID-19 outbreak, the Framework allows Member States to provide aid by: providing grants, selective tax advantages, and advance payments of up to 800,000 Euro; providing State guarantees for loans taken by businesses; subsidising public loans to companies, putting in place safeguards for banks providing State aid to the economy; and providing short-term export credit insurance.

The EU Commission also published a [Communication](#) setting out a coordinated economic response of the European Commission to the COVID-19 outbreak. To minimise economic impact of the COVID-19 outbreak, the EU through its coordinated response will work with Member States to establish means to compensate sectors for losses incurred, to ensure SMEs are provided with liquidity urgently needed, to establish funds to be made available to counter the effects of the virus on employment, and have encouraged Member States to make full use of State Aid provisions to support national support measures

The European Council published a [statement](#) setting out their commitment to take the all necessary steps to overcome the COVID-19 crisis. In the statement, the European Council reiterates the measures taken to assist Member States in dealing with the economic impact of the COVID-19 outbreak, including measures in relation to limiting the spread of the virus, to ensuring the provision of medical resources and to minimise the economic impact through the [Temporary Framework](#).

In relation to economic measures taken to minimise the economic impact of the COVID-19 outbreak, the Council of the EU have [agreed](#) with the Commission assessment that that *“the conditions for the use of the general escape clause of the EU fiscal framework – a severe economic downturn in the euro area or the Union as a whole – are fulfilled”,* noting that *“The use of the clause will ensure the needed flexibility to take all necessary measures for supporting our health and civil protection systems and to protect our economies, including through further discretionary stimulus and coordinated action, designed, as appropriate, to be timely, temporary and targeted, by Member States.”*

In addition, a proposal to [extend](#) the State aid Temporary Framework has been sent to Member States for consultation by the Commission. The Commission has also [temporarily](#)

[removed](#) from the Short-term export-credit Communication all countries listed in the marketable risk list, in order to ensure public short-term export credit insurance is more widely available.

## 4. EU Publishes Roadmap Concerning External Tax Good Governance Strategy

The European Commission has published a [Roadmap](#) concerning its Action Plan to fight tax evasion and simplify taxation, as well as for its external strategy for tax good governance.

The Roadmap lists the following as steps to be taken concerning tax evasion: strengthening cooperation tools amongst tax administrations at Union level; introducing new digital solutions to move to real time sharing of information and improve data analytics; for tax data to be provided directly to tax authorities from digital platforms (concerning which a legislative proposal is specifically foreshadowed); and improved cross-border recovery and cooperation agreements.

In relation to simplifying taxation, the Roadmap details that the following actions may be taken: the introduction/improvement of mechanisms concerning cross-border tax disputes, the simplification and modernisation of VAT rules and procedures for withholding taxes in investment in the Single Market; the improvement of cooperative compliance; the introduction of IT solutions to levy tax in real time; and the reinforcement of the EU position with third countries, particularly by way of the external strategy for tax good governance, which may include defensive measures being introduced, technical assistance being offered or agreements being made with third countries.

The Commission will publish the Action Plan together with its initial legislative proposals in June 2020.

## 5. BEPS Action 6 Peer Review Report on Preventing Treaty Shopping Published

The OECD has released the second [Peer Review Report](#) on Action 6 of the Base Erosion & Profit Shifting Project in March, concerning the prevention of granting treaty benefits in inappropriate circumstances. The report contains results concerning aggregate data of the Inclusive Framework jurisdictions as of 30 June 2019, which then totalled 129 jurisdictions.

The report concerning Action 6 sets out that the majority of the Inclusive Framework jurisdictions are in the process of modifying treaties in order to comply with their commitments made concerning treaty shopping, demonstrating the effectiveness of the BEPS MLI.

## 6. OECD Publishes Responses to CbCR Consultation

In March, the OECD [published comments](#) received in relation to a consultation document published in February inviting input concerning Action 13 of the Base Erosion and Profit Shifting Project, on Country-by-Country Reporting. The review is being carried out pursuant to the BEPS Action Plan, which mandated a review of CbCR under Action 13 in 2020.

The consultation document invited input on whether modifications should be implemented for Action 13 such that additional or different data should be reported, requesting practical experiences and issues with reporting requirements under Action 13, input on the use of the reported data by tax administrations, and on the effectiveness and appropriateness of thresholds and reporting.

## 7. UK to Proceed with Digital Tax

The UK budget delivered in March [confirmed](#) that the UK is proceeding with plans to introduce a digital services tax, which will enter into force in April 2020, notwithstanding US President Trump's administration reportedly having advised the UK government at multiple levels that no free trade deal will be agreed should the tax be passed into law.

The tax will apply to businesses making search engines, social media platforms or online marketplaces available to UK users, including any associated online advertising of that business, which have a global annual turnover over £500 million pounds and over £25 million pounds of turnover attributable to revenue derived from UK users. The tax will apply at a rate of 2% to revenue over £25 million pounds.

This follows Executive Vice-President of the European Commission, Margrethe Vestager, having confirmed that nationally imposed digital taxes do not fall short of the EU State aid rules, as argued by some commentators, and the decisions of the European Court of Justice in Cases [C-323/18, Tesco-Global Áruházak Zrt. v Nemzeti Adó- és Vámhivatal Fellebbviteli](#) and [C75/18, Vodafone Magyarország Mobil Távközlési Zrt. v Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága](#), in which it was held that steeply progressive turnover taxes which targeted the retail and telecommunication sectors, and largely affected nationals of other Member States or by companies that have their registered office in another Member State, were not discriminatory.

## 8. Global Forum Holds First Peer Review Meeting

The OECD's Global Forum on Transparency and Exchange of Information for Tax Purposes from 16 to 18 March [held the inaugural meeting](#) of their recently established Automatic Exchange of Information Peer Review Group (APRG), concerning the Standard for Automatic Exchange of Financial Account Information in Tax Matters. The meeting was held remotely.

Issues discussed included confidentiality and data security, the development of a framework to assist in establishing the gaps in a jurisdiction's legal framework and how peer reviews concerning the Standard will conclude whether jurisdictions have implemented the Standard effectively.

The Global Forum is the flagship body for ensuring the implementation of the internationally agreed standards of tax transparency and exchange of taxation-relevant information among tax administrations. Over 4,500 bilateral exchanges of information have taken place, in line with the Automatic Exchange of Information Standard, with the exchange containing information concerning financial accounts taxpayers hold outside their jurisdictions.

## 9. EU Opens Accession Talks to North Macedonia & Albania

In March, the European Council published a [statement](#) which endorses the Council of the EU [conclusions](#) concerning the Expansion of the EU, in which the Council of the EU [decided](#) to open accession negotiations with the Republic of North Macedonia and Albania.

## 10. Portugal Ratifies OECD MLI

Portugal has deposited its instrument of ratification to the OECD's [Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting](#).

The multilateral tax treaty allows jurisdictions to update their existing double tax treaties and transpose measures agreed in the BEPS project without further need for bilateral negotiations. It now extends to over 1,650 bilateral tax treaties.



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## OTHER INITIATIVES

- Meeting at the UNIDROIT for the Human-Centred Business Model (HCBM) on 16 April 2019 in Rome with the Project Coordinator and a team of experts involved in the project;
- GTAP joined as Partner for the Fiscal Pillar to the Human-Centred Business Model (HCBM) - as of May 7, 2019.





# GTAP MEETINGS

- Meeting on 19 April 2018 in Brussels, Belgium;
- Meeting on 12 September 2018 in Ulaanbaatar, Mongolia;
- Meeting on 28 September 2018 in London, United Kingdom;
- Meeting on 18 October 2018 in Rome, Italy, at the occasion of the Italia Africa Business Week;
- Meeting on 6 June 2019 in Brussels, Belgium;
- Meeting on 4 October 2019 in Torino, Italy;
- Meeting on 16 October 2019 in Busan, South Korea;
- Meeting on 26 - 27 November 2019 in Milan, Italy, at the occasion of the Italia-Africa Business Week.