



Asian Voices on BEPS and the challenges of regional Asia-Pacific co-operation in tax matters

Prof. Jan J.P. De Goede

With special thanks to Mei June Soo



Specifics Asia-Pacific Region

- ▶ **The Asia-Pacific region (50 jurisdictions; 30-20) poses unique challenges: more diversity of economic development (different levels, state vs. family owned companies, industrial production vs. financial and other services) and of cultural/ legal traditions, tax and political systems. The region comprises 4 OECD members, 3 G20 members, but majority of non-OECD non-G20 developing countries.**
- ▶ **Despite discussions on the rule-setting and (de-) merits of BEPS, many elements will be implemented in Asia. Developing countries face additional challenges whilst their economies are rapidly transforming and many are still absorbing and legislating pre-existing international tax practices (like TP, EOI and dispute settlement) and modernizing their tax administration**



The book **Asian Voices: BEPS and Beyond**

- ▶ The book **“Asian Voices: BEPS and Beyond”** enriches the BEPS Project discourse by providing expert views on tax and transfer pricing across Asia-Pacific, to include the Asian perspective and thus reflect the impact of the region’s unique conditions for the outcome of the BEPS Project
- ▶ Almost 700 pages book (edited by Sam Sim and Mei June Soo, with foreword David Rosenbloom): 30 Chapters with contributions by around 40 well known Asian (except for 4) authors with quite different backgrounds. They discuss the specific situation in more than 15 of the economically most important Asian countries. Impossible to summarize!



Set-up of the book Asian Voices

The Book has been set-up as follows:

- 1. Introduction (2 chapters)**
- 2. Tax Policy and Administration (10 chapters)**
- 3. Academic Perspectives (5 chapters)**
- 4. Taxpayer and Industry Perspectives (12 chapters)**
- 5. Conclusion (1 chapter)**

Hereafter only a few selected highlights from Asian Voices reflecting aspects of BEPS rule setting and implementation, regional platforms, legal certainty and tax competition



Highlights: rule-setting/ implementation

Chapter 3: BEPS and Tax Administrations (*Michael Lennard*)

The emphasis on common approaches is...important, though one of the questions hovering over the BEPS Project is whether this emphasis on common rules sufficiently takes into account legitimate differences between countries – if it fails to do so they can operate unfairly in practice, especially for developing countries least engaged in the rule making. Some of the proposed actions may simply be too complicated to operate effectively in many country situations, let alone consistently internationally.

Chapter 6: A Commentary on the BEPS Project and Its Influence on Developing Countries (*Kim Jacinto-Henares*)

...the persistent internal predicament in addressing BEPS is the lack of capacity among most countries in the region. The touted solutions by developed countries are too complex for a developing country, and vast resources are needed in order to adopt in toto these recommended solutions. Thus, for developing countries to band together as one voice in addressing BEPS, a coordinated approach to finding workable solutions is also required. There needs to be greater efforts in technical cooperation and domestic revenue mobilization. [...] SGATAR, together with the initiatives of the AFT, will be an effective platform for integration in the Asia-Pacific region.



Highlights: regional platforms, legal certainty

Chapter 12: The Impact of BEPS and Tax Information Exchange Projects on Regional Co-operation amongst Asia-Pacific Tax Authorities (*Satoru Araki*)

...as the focus post-BEPS shifts towards implementation and monitoring, regional cooperation frameworks for tax administration bodies in Asia-Pacific will also increase in importance. They serve as platforms to share knowledge and experiences, which will be valuable for tax authorities in developing countries in particular; for example, with respect to tax information exchange, of the total 32 member jurisdictions in SGATAR and PITAA, only 18 jurisdictions are members of the OECD's Global Forum, which means that a sizeable number are not sufficiently exposed to the international standards in tax information exchange.

Chapter 28: Life after BEPS in Asia: Challenges and Opportunities in “Digital” Economy Taxation (*Liz Chien*)

...the BEPS Action Plan contained significant innovation on international tax policy, but there needs to be steps taken by the OECD and domestic authorities to minimize uncertainty in the application of the BEPS measures in practice, and to ensure their consistent application and implementation, to prevent the “innovation” from leading to a chaotic world characterized by unilateral actions by governments in a tax revenue grab, with taxpayers caught in the middle.



Highlights: tax competition

Chapter 30: Conclusion and What the Future Portends (*Michael Walpole*)

...tax competition will continue in the implementation of BEPS-related measures. It will continue for a long time to come even after the measures might be regarded as fully implemented. But it will be necessary that much of the intensity of such competition will decline because the tax system cannot be sustained unless this happens, and that will be evident to all involved.

[...]

Perhaps what the BEPS Project has recognized is that the removal of tax competition as an incentive to MNEs is essentially a political problem requiring a political solution. The administrative machinery that the BEPS actions has set up should leave nations better placed than they have been before to take steps to reach a mutual political solution. They will ultimately have little alternative but to do so.



Regional Tax Co-operation in Asia-Pacific necessary ?

- ▶ **Strong economic growth AP- non AP, but even more AP- AP!**

- ▶ **Effectiveness of balanced resource mobilization in increasingly complex tax environment, requires co-ordination and co-operation in matters like:**
 - **Tax Reform (including anti-abuse, legal certainty, investment climate)**
 - **Harmful tax competition**
 - **Interpretation Transfer Pricing**
 - **International administrative co-operation (EOI/ Collection)**
 - **Transparency**
 - **International Dispute settlement**
 - **Digital Economy**



ATAS/ conditions for succesful Regional co-operation?

- ▶ **Representation by both Tax Policy/Legislation and Tax Administration necessary; limited results if not combined**
- ▶ **Enable participation by all regional jurisdictions**
- ▶ **Mixed Steering Group under neutral Chairmanship**
- ▶ **Identification of topics of common interest**
- ▶ **Exchange experiences and discuss alternatives if sophisticated approaches not feasible**
- ▶ **Provide mutual assistance and support**



Ambitions Asia-Pacific Regional Co-operation in Tax Matters?

- ▶ **Regional rule-setting desirable/feasible, besides G-20/OECD global rule-setting (compare effect EU situation)?**
- ▶ **Regional rule-setting and implementation taking into account position less developed countries desirable/feasible besides central UN rule-setting?**
- ▶ **Due to increasing regional inter-dependence and impact, regional co-operation with all tax jurisdictions perceived as being in the mutual interest?**
- ▶ **Forum equipped to discuss and co-ordinate major regional tax policy/ tax legislative developments and related tax administrative and IT developments needed?**
- ▶ **Current and future role of existing bodies like SGATAR and ESCAP, or a new separate Forum?**



Thanks for your attention!

j.degoede@ibfd.org