

TEN YEARS ON

A Comprehensive Stocktake of the BEPS Package – Stakeholder Input Exercise

RESPONSES ON BEHALF OF GTAP

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CFE, AOTCA and WAUTI are founding members of GTAP Global Tax Advisers Platform
(https://taxadviserseurope.org/global-tax-advisers-platform/about-us_gtap/).

Together, we collectively represent more than 600,000 tax advisers across multiple continents.

(<https://taxadviserseurope.org/project/the-2023-2024-gtap-declaration/>)

(<https://taxadviserseurope.org/project/the-gtap-2021-declaration/>)



Premise

1. Nearly 450 delegates from 135 countries and jurisdictions, as well as observers from 11 International Organisations, met in Cape Town on 7-10 April at the 17th Plenary meeting of the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting (BEPS), hosted by the government of South Africa.
2. During its recent meeting in Cape Town, the Inclusive Framework (IF) agreed to conduct a thorough Stocktake of the BEPS Package, marking ten years since the publication of its final reports.
3. While primarily aimed at evaluating the status of implementation, this exercise seeks to extend beyond implementation alone, exploring substantial economic and behavioural impacts generated by the BEPS Package, both at an aggregate level and individually across each of the 15 Actions.
4. The Stocktake will integrate a detailed literature review and insights drawn from practical experiences shared by governmental policymakers and private sector stakeholders.
5. A comprehensive public report detailing the outcomes will be presented to the G20 Presidency this October.

Emerging Findings

1. Initial findings from this Stocktake underscore significant advancements in the implementation and achievement of the BEPS Package objectives. Notably, substantial progress has been observed in implementing BEPS minimum standards, complemented by widespread adoption of other BEPS Actions.
2. Early economic analyses suggest that BEPS initiatives have effectively influenced taxpayer behaviour, for instance, by mitigating excessive leverage, enhancing the alignment between profits and underlying economic substance, and diminishing the influence of low tax regimes on corporate decision-making. Although definitive conclusions may be premature, aggregated data indicate improved alignment between profit allocation and underlying economic activities, along with some relief from the competitive pressures traditionally faced by tax policymakers.
3. Additionally, IF member jurisdictions have recognized improved transparency and greater certainty for tax authorities resulting directly from the BEPS framework. Studies have further highlighted how BEPS measures and anti-BEPS activities have influenced multinational enterprises' investment patterns, including the implications related to compliance costs.

Stakeholder Consultation

1. To enrich and strengthen the forthcoming report, the OECD seeks detailed insights from key stakeholders regarding the transformational effects of the BEPS Actions on the international tax landscape and their consequent economic impacts.
2. CFE and GTAP have actively contributed to the BEPS initiative from its very inception in 2013, providing detailed Opinion Statements and responses to the OECD questionnaires. This contribution was notably acknowledged by the participation of Pascal Saint-Amans at CFE events in Torino (Italy) and the GTAP conference in 2019. We are therefore extremely grateful for our continued involvement in this important work.

3. GTAP particularly welcomed insights from Member Organizations regarding the extent to which the implementation of BEPS actions has influenced tax-related behaviours among multinational enterprises and tax authorities. Understanding these behavioural shifts is crucial in evaluating the practical effectiveness of BEPS measures, as well as in highlighting areas that may require further refinement or additional attention.
4. While the questions outlined below serve primarily as illustrative prompts to guide responses, GTAP Member Organizations (GTAP MOs) were strongly encouraged to contribute diverse perspectives. GTAP anticipates that feedback clearly illustrating both intended and unintended behavioural impacts (spanning various sectors, jurisdictions, and business practices) might significantly assist the OECD in forming a comprehensive and nuanced understanding of the evolving international tax landscape.

Q1 – Considering your practical experience, how do you see the economic impacts of BEPS Actions compared to the preliminary insights outlined above?

Drawing from our practical experience, we broadly align with the preliminary insights provided.

The BEPS Actions have indeed contributed to significant behavioural shifts among multinational enterprises, notably by enhancing alignment between profits and economic substance, and reducing tax-driven structuring and financing arrangements.

We have observed clearer documentation practices, more rigorous compliance with transfer pricing rules, and increased caution in the structuring of cross-border transactions. However, we would also emphasize the variability in implementation and economic impact across different jurisdictions and sectors, suggesting a need for ongoing analysis and attention to capacity-building, particularly in developing countries.

GTAP believes continued stakeholder consultation will be essential to refine our collective understanding of these impacts over time.

Q2 – Could you highlight any specific BEPS Actions that have notably influenced your MO's strategic decision-making or operational practices?

From our perspective, certain BEPS Actions have notably influenced our members' strategic decision-making and operational practices. In particular:

- **Action 13** (Country-by-Country Reporting) has significantly shaped how members manage their documentation and internal reporting systems, enhancing transparency and prompting more rigorous internal compliance frameworks.
- **Action 8-10** (Transfer Pricing) has encouraged members to rigorously align transfer pricing strategies with actual economic substance, driving changes in cross-border business structures and internal pricing mechanisms.
- **Action 7** (Preventing Artificial Avoidance of Permanent Establishment Status) has led our members to revisit and, in some cases, restructure their operational and sales models to comply with clearer definitions of taxable presence, thereby influencing commercial decision-making and market strategies.
- **Action 4 – Limiting Base Erosion via Interest Deductions and Other Financial Payments.** Many countries, particularly developing countries, have implemented thin capitalization rules in line with this action. As a result, tax advisers are increasingly engaged in assessing intra-group financing arrangements, ensuring compliance with debt-to-equity ratios or local thresholds. It has led to changes in financial strategies and increased scrutiny of related-party loan agreements.

These Actions, among others, have collectively contributed to increased awareness and proactive management of tax risk and compliance across our membership.

Q3 – In your view, which specific BEPS Actions have had the greatest impact on overall behaviour, particularly regarding corporate structuring, financing decisions, transfer pricing practices, and investment strategies?

From our experience and observations, the following BEPS Actions have had the most substantial influence on multinational enterprises' overall behaviour, especially in relation to corporate structuring, financing, transfer pricing, and investment strategies:

- **Actions 8-10** (Aligning Transfer Pricing Outcomes with Value Creation):
These actions have significantly reshaped transfer pricing practices by reinforcing the alignment of profits with genuine economic activity, causing many businesses to restructure internal value chains and transactional arrangements.
- **Action 4** (Interest Deductibility and Financial Payments):
This has notably affected financing decisions, encouraging companies to carefully reconsider their debt-to-equity structures to reduce excessive leveraging and prevent interest-related base erosion.
- **Action 7** (Permanent Establishment):
This action has driven businesses to review and sometimes revise their operational models, particularly sales and marketing functions, to mitigate risks associated with inadvertently creating taxable presences in various jurisdictions.
- **Action 13** (Country-by-Country Reporting):
By mandating comprehensive transparency and disclosure, this has prompted companies to adopt more rigorous documentation and governance practices, influencing strategic choices and investment decisions.

Overall, these Actions have substantially increased the focus on compliance and operational substance, impacting multinational enterprises' strategic thinking and business structures profoundly.

Q4 – From your perspective, are there areas within the BEPS Actions framework that require further attention or improvement to better align with current economic realities and business practices?

From our perspective, although the BEPS Actions framework has significantly advanced the international tax system, certain areas merit additional focus or refinement to better align with current economic realities and evolving business practices:

- **Digital Economy and Intangible Assets:**

Further guidance and clarity around taxing digitalised businesses (Action 1) remain essential, as current measures have not entirely kept pace with rapid technological developments and new business models emerging globally.

Further research and improvements to the main rules of the Two-Pillar solution, such as the UTPR rules, could help to better align the international tax system for the digital economy with the long-term future political and economic landscape. This would make it easier to gain broader legislative support after achieving administrative agreements.

Based on the premise of largely achieving the goal of fair taxation for multinational enterprises, it is expected that the new rules will provide a more rational basis for allocating tax revenues among jurisdictions.

- **Practical Implementation and Capacity-Building:**

Strengthening the practical implementation support for developing countries would significantly enhance the consistency and effectiveness of BEPS measures across diverse jurisdictions, helping to address resource limitations and capacity constraints.

- **Dispute Prevention and Resolution (Action 14):**
Improving and accelerating dispute resolution mechanisms continues to be critical, given the increased complexity and frequency of cross-border disputes resulting from diverse interpretations and applications of BEPS-related rules.
- **Simplicity and Certainty:**
Efforts to simplify rules and enhance predictability could further encourage voluntary compliance, reduce uncertainty, and limit excessive administrative burdens for taxpayers and tax authorities alike.

Addressing these areas will help ensure that the BEPS framework remains responsive, effective, and aligned with the realities of the current and future international economic landscape.

Q5 – Have certain BEPS Actions led to unexpected behavioural changes among your members, and if so, could you elaborate on these developments and their implications?

Certain BEPS Actions have led to behavioural changes among our members that may not have been fully anticipated initially. Some notable examples include:

- ***Enhanced Caution in Cross-border Activities (Action 7 – Permanent Establishment):***
Our members report a more cautious approach toward cross-border operational structures, driven by concerns about inadvertently creating permanent establishments. While this enhances compliance, it sometimes restricts commercial flexibility, potentially impacting market entry strategies.
- ***Heightened Transparency-Driven Restructuring (Action 13 – Country-by-Country Reporting):***
The detailed transparency requirements prompted a comprehensive re-evaluation of internal reporting and allocation of resources. This increased internal scrutiny has encouraged companies to proactively realign their operations more strictly according to economic substance rather than primarily tax considerations.
- ***Reduced Reliance on Debt Financing (Action 4 – Interest Deductibility):***
More rigorous limitations on interest deductions have led enterprises to reconsider previously common debt-heavy financing structures, prompting a shift towards equity funding. Although positive from a policy perspective, this has influenced capital structuring in ways initially underestimated.

Collectively, these shifts have improved alignment with policy objectives but have also introduced additional complexities and compliance burdens, suggesting areas where further clarity or simplification would be beneficial.

Other comments

1. Support and Importance of Consistent Global Implementation:

While substantial progress has been made in implementing the BEPS Actions globally, significant disparities remain. Inclusive Framework members vary considerably in their resources, expertise, and readiness to adopt these complex international standards.

GTAP strongly supports the Inclusive Framework's conclusion that enhanced capacity-building initiatives are essential, particularly for developing nations.

These initiatives could encompass targeted technical assistance, structured sharing of best practices, and possibly a phased approach to implementation, providing countries with sufficient time and resources to effectively align with the BEPS framework.

2. Support and Importance of Engagement from the Global South:

Active participation and meaningful inclusion of perspectives from the Global South are vital for achieving equity, fairness, and effectiveness within the international tax framework.

GTAP highlights the importance of empowering developing economies, ensuring their voices are clearly heard, and their unique challenges fully understood and addressed in global tax discussions.

Strengthening the involvement of the Global South enhances the legitimacy and practicality of international tax solutions, encourages balanced policy-making, and promotes capacity building through targeted support and knowledge-sharing initiatives.

Ultimately, robust participation from these countries is essential for creating an inclusive, sustainable, and genuinely global approach to taxation.

3. Support and Importance of Tax Certainty:

Tax certainty plays a crucial role in fostering stable business environments and promoting economic growth.

Clear, predictable, and transparent tax policies and administration not only reduce compliance costs and risks for businesses but also enhance taxpayer confidence and voluntary compliance.

GTAP strongly supports initiatives aimed at improving tax certainty through well-defined rules, effective dispute resolution mechanisms, and consistent application of international tax standards.

As different tax authorities of varying resources and sophistication try to apply the same sets of rules under the BEPS initiative, it is inevitable that disputes will occur despite best efforts by tax authorities to improve tax certainty.

In our opinion, it is absolutely critical for countries to continue advocating for effective dispute resolution mechanisms (such as promoting a more efficient Mutual Agreement Procedure (MAP) process or considering mandatory binding arbitration where appropriate) to minimise long-drawn cross-border disputes and improve business cooperation.

Providing taxpayers with clarity and predictability is fundamental to building trust and encouraging cross-border investment and economic cooperation.

4. Support and Importance of a Culture of Tax in the Boardroom:

Cultivating a strong culture of tax awareness and responsibility at the boardroom level is essential to effective corporate governance and risk management.

GTAP firmly supports embedding tax considerations into high-level strategic decision-making processes, recognizing that transparency and ethical tax practices significantly enhance an organization's reputation, sustainability, and stakeholder trust.

Encouraging board members to actively engage with tax matters ensures that corporate policies align with regulatory expectations, ethical standards, and broader societal values.

Ultimately, fostering a proactive tax culture within corporate leadership contributes to stronger compliance, reduced risk, and improved relationships with tax authorities and the public alike.

5. Support and Importance of Behavioural Shifts:

Promoting positive behavioural shifts among taxpayers, policymakers, and businesses is crucial for the success and sustainability of international tax reforms.

GTAP emphasizes that achieving meaningful changes in taxpayer behaviour (such as improved compliance, greater transparency, and responsible tax planning) depends significantly on clear, consistent, and fair tax rules, alongside effective communication of their rationale and benefits.

Encouraging these behavioural changes enhances voluntary compliance, reduces aggressive tax avoidance, and fosters a culture of ethical tax practices. Ultimately, behavioural shifts driven by well-designed policies and targeted education contribute substantially to the stability, fairness, and integrity of global tax systems.

GTAP underlines that the BEPS Actions have indeed contributed to significant behavioural shifts among multinational enterprises, notably by enhancing alignment between profits and economic substance.

6. Support and Importance of a Holistic Value Chain Analysis:

Adopting a holistic value chain analysis is vital for accurately reflecting the economic realities and business substance within international tax frameworks. Such an integrated approach ensures that tax outcomes align closely with actual value creation and commercial activities, reducing risks of mismatches and disputes.

GTAP strongly advocates comprehensive value chain assessments, as these provide greater clarity, fairness, and consistency in taxation across jurisdictions.

This holistic methodology ultimately enhances transparency, reduces compliance burdens, and supports a more stable, predictable international tax environment, fostering global economic cooperation and growth.

7. Support and Importance of Income Attribution:

Clear and accurate attribution of income to jurisdictions in which economic activities and value creation occur is a cornerstone of a fair and effective international tax framework.

GTAP underscores the importance of robust income attribution rules, as they help to ensure coherence between the allocation of taxing rights and genuine economic substance.

Proper income attribution reduces the potential for profit shifting, tax disputes, and double taxation, thereby enhancing stability and predictability for businesses.

By emphasizing consistency and transparency in income attribution, tax authorities and taxpayers alike benefit from a more equitable and efficient global tax system, fostering confidence, cooperation, and sustainable economic growth.

8. Support and Importance of Transfer Pricing Driven by Business and Market Perspectives:

Aligning transfer pricing practices with genuine business operations and market dynamics is essential for achieving fair and effective international taxation.

GTAP emphasizes the importance of transfer pricing methodologies that accurately reflect the realities of business models, commercial strategies, and market conditions. This alignment reduces potential conflicts and uncertainties, ensuring that tax outcomes are coherent with economic substance.

By grounding transfer pricing in authentic business logic and actual market interactions, taxpayers and tax authorities benefit from enhanced transparency, predictability, and stability (factors crucial for fostering trust, supporting compliance, and encouraging sustained cross-border investment).

9. Support and Importance of Beneficial Ownership in Tax Matters:

Recognizing and accurately determining beneficial ownership is essential to enhancing transparency and effectiveness within international tax systems.

GTAP strongly supports the principle of beneficial ownership as it clarifies the true economic beneficiaries behind income streams, structures, and transactions, thereby reducing potential abuses, such as treaty shopping, tax evasion, and aggressive tax planning.

Clear and consistent application of beneficial ownership standards promotes fairness and integrity in tax matters, strengthens public trust in the international tax system, and fosters cooperation among tax authorities globally. By prioritizing transparency in beneficial ownership, businesses and governments contribute to creating a more robust, reliable, and equitable tax environment.

10. Supplementary insights:

Beyond previously noted observations, we would offer the following supplementary insights regarding the BEPS Actions and their broader implications:

- **Proportionality and Administrative Burdens:**
While BEPS objectives are commendable, our members have frequently noted concerns regarding increased administrative complexity and compliance costs. For SMEs in particular, proportionality in the application of certain BEPS measures deserves greater consideration to prevent unintended burdens on smaller entities.
- **Consistency in Interpretation:**
Members have highlighted ongoing challenges associated with inconsistent interpretation and application of BEPS standards by different tax authorities. Variations across jurisdictions in applying comparable provisions have led to ambiguity in compliance, indicating that further guidance and standardisation at a practical level would be highly beneficial.
- **Monitoring of Unintended Consequences:**
Some BEPS Actions, while effectively curbing aggressive tax planning, may inadvertently hinder legitimate cross-border commercial activity. Continuous monitoring and evaluation mechanisms would help identify and promptly mitigate such unintended economic impacts, promoting greater adaptability of the BEPS framework.

- **Sustainable Development and ESG Alignment:**

There is an increasing emphasis among multinational enterprises on environmental, social, and governance (ESG) factors. Integrating sustainability criteria more explicitly into BEPS-driven tax policy considerations could enhance coherence with broader corporate and social objectives.

- **Future-Proofing Through Flexibility:**

Considering the accelerating pace of economic and technological change, we suggest incorporating greater flexibility and adaptability into the BEPS framework, enabling it to more swiftly accommodate new business models and economic developments, thereby remaining effective over the long term.

11. *GTAP appreciates the opportunity to contribute to this important stocktake and remains committed to ongoing engagement with the OECD and the Inclusive Framework to address these considerations effectively.*

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