

A GLOBAL FRAMEWORK ON THE FORMULATION AND IMPLEMENTATION OF INTERNATIONAL TAXATION STANDARDS

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Abstract

With the emergence of the Group of Twenty (G20) as the premier international forum, international taxation standards have attracted interest from the perspective of international financial law or governance. This article aims to analyse the global process of formulating and implementing international taxation rules and standards, and attempts to propose a new global framework model which includes a range of 'players', from international organisations to national governments, who are involved in the international taxation system. It has been found that the global architecture or framework of international taxation standards is still in the process of evolution. The primary focus is to make the global framework inclusive of emerging and developing countries. On the other hand, as the capacity of the OECD and its frameworks as a technical assistance provider is not necessarily sufficient, a second focus for the global framework is to become part of functional partnerships which enable international organisations to address issues faced by tax authorities, particularly those in developing countries, effectively. Lastly, in order for the framework to have a truly global reach, there will need to be a solid network of regional frameworks or forums.

1. INTRODUCTION

Cross-border taxation issues are regulated using international tax rules and standards; whilst the classic example is a tax treaty that resolves double-taxation issues, there are also rules and standards relating to matters such as transfer pricing, dispute resolution mechanisms and tax information exchange.²

To what extent are these international taxation rules and standards different to domestic taxation rules? Tax policy is a sovereign issue, and domestic tax policy is in the hands of each national government. On the other hand, international taxation, including tax treaties, regulates and adjusts cross-border taxation issues, and policy co-ordination between countries is often, if not always, required. Discussions surrounding the international tax system often date back to the first bilateral tax agreement between Austria-Hungary and Prussia in 1899 (Jogarajan, 2011).

In order to smooth international taxation issues, it is desirable to have international models or practices which many countries desire to follow. The earliest of these international models dates back to bilateral conventions drafted as part of the work of the League of Nations in the 1920s (United Nations, 2001). In as far as tax policy is a sovereign issue, international standards or practices are not directly enforceable, nor are they automatically incorporated into national legal systems; on the other hand, these standards or practices set by international frameworks have a considerable influence on policy and administration in national governments, and in terms of global influence, they have a wider reach than laws enacted by a

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² In English case law, which had held that a tax claim made by a foreign state was not enforceable in England, *Government of India v Taylor* [1955] AC 491 (House of Lords), required tax administration bodies to work together for the international exchange of tax information.

single government. These models, guidelines or practices are often called ‘soft law’. Although it is difficult to define soft law as an alternative concept to hard law: it is not directly binding, and is elaborated with the aim of imposing standards of conduct that are not enforceable through traditional means of force (Sarmiento, 2010). Brummer (2015) also argues that, in contrast to coercive hard law, the essence of soft law is an expression of co-operation and the production of dominant norms for the co-ordination of behaviour.

As international rules and standards set through international organisations have global influence, it is worth examining the process of formulating and implementing these rules and standards, which is, in a sense, no less complicated than that of domestic legislation. Indeed, the implementation and monitoring of international rules and standards through domestic legislation in each government constitute part of a broader global process and framework for international rules and standards. Furthermore, as will be discussed in Section 2, the last several years have seen significant changes in the global process and framework due to the rise of emerging countries and the Group of Twenty (G20) as a body to endorse global agenda, and a comprehensive review of international taxation rules under the Organisation for Economic Co-operation and Development (OECD) Base Erosion and Profit Shifting (BEPS) project.

2. THE CURRENT LANDSCAPE

Currently, the OECD, an international organisation based in Paris, is a driving force for shaping rules and standards regarding international taxation. The OECD’s *Model Tax Convention on Income and on Capital* serves as a basis for more than 3500 bilateral tax treaties, along with *United Nations Model Double Taxation Convention between Developed and Developing Countries* (OECD, 2015a). Another signature product of the OECD in the international taxation field is its *Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations*, which are referred to as international standards of transfer pricing taxation. Furthermore, the Global Forum on Transparency and Exchange of Information for Tax Purposes (Global Forum) is a framework where OECD and non-OECD member jurisdictions are working together to promote standards in the international exchange of tax information between tax administration bodies.

What is the OECD’s decision-making procedure? Taxation falls within the remit of one of its specialised committees, the Committee on Fiscal Affairs (CFA), which consists of senior tax officials representing OECD member countries. As taxation is such a broad topic, the CFA delegates technical discussion to its subsidiary working parties, each of which comprises tax officials specialising in a particular issue, such as Working Party No. 1, which is in charge of tax treaties (Ault, 2009).

The global financial crisis of 2007-2008, combined with the rise of emerging economies represented by the new acronym of BRICS (Brazil, Russia, India, China and South Africa), has changed the landscape of the global political economy, which led to the designation of the G20, rather than the G7, as ‘the premier forum for international economic co-operation’ (G20 Leaders Statement: The Pittsburgh Summit, 2009). In a similar vein, business process in the OECD’s tax work metamorphosed from 2009, after the emergence of the G20. In the pre-G20 era, discussions were basically held between OECD member countries, predominantly advanced European countries; on the other hand, in the G20 era, emerging economies are invited to the process of making international standards on an equal footing with OECD member countries. The OECD’s CFA attaches importance to broader participation from emerging and developing countries in the implementation of these standards.

At the G20 London Summit in April 2009, in the context of tax information exchange, G20 leaders were ‘committed to make it easier for developing countries to secure the benefits of a new cooperative tax environment’ (Declaration on Strengthening the Financial System – London Summit, 2009). In September 2009, the OECD’s then framework for dialogues between OECD member and non-member jurisdictions was restructured as the current Global Forum, which opened its membership to all jurisdictions committed to implementing international standards on tax information exchange (OECD, 2009b).

As another symbol of the G20 era, the OECD’s BEPS project commenced and has proceeded under the auspices of the G20. The *G20 Leaders Declaration* of the Los Cabos Summit in June 2012, which stated, ‘We [G20 leaders] reiterate the need to prevent base erosion and profit shifting and we will follow with attention the ongoing work of the OECD in this area,’ was probably the first communication to put the buzzword BEPS into the public arena. When the OECD released the final output package of the BEPS project in October 2015, it was emphasised that, not only OECD member countries, but a wide range of countries, as well as other stakeholders, had directly participated in the decision-making process at the OECD’s CFA or had been consulted via various channels and events. In addition to the 34 official member countries of the OECD, other emerging and developing G20 member countries, including Argentina, Brazil, India, Indonesia, the People’s Republic of China, Russia, Saudi Arabia and South Africa, have directly participated in discussions at the OECD’s CFA with respect to the BEPS project (OECD, 2015a, p.4). Furthermore, the OECD has organised regional network meetings for dialogues with a broader group of developing countries and 59 countries had participated in these regional network meetings by the middle of 2016.³ These developments contrast with the pre-G20 era as, apart from the transparency and information exchange project (which focused on offshore financial centres), interaction with developing countries was chiefly conducted through ‘outreach’ activities, which aimed to disseminate the OECD’s products, such as *Model Tax Convention on Income and on Capital*, typically through one-week seminars (Ault, 2009, p.761).

This shift from the pre-G20 era to the G20 era with respect to the process of forming international standards in international taxation issues is illustrated in the following figure:

Figure 1: Shift of the Process of Forming International Standards

	Pre-G20 era	⇒	G20 era
Underlying international forum	G7	⇒	G20
Decision-making process	OECD member countries	⇒	OECD member and emerging countries
Relationship with developing countries	Dissemination of products through ‘outreach’ activities	⇒	Invite inputs to standard-making process through regional network activities

³ OECD. Developing countries and BEPS (Regional Networks on the BEPS Project). Retrieved from <http://www.oecd.org/tax/developing-countries-and-beps.htm#regionalnetworks>

3. MODELS OF THE PROCESS OF FORMING INTERNATIONAL RULES AND STANDARDS

This section will look at existing literature on the process of forming international rules and standards. Slaughter (2004) proposes the concept of transgovernmental networks where government officials in particular fields, such as financial regulation, collaborate internationally in order to address common issues, and identifies three broad categories of activities undertaken by these transgovernmental networks: information sharing, enforcement co-operation and rule harmonisation.

Drezner (2007) categorises international governmental organisations by three forms of membership: universes, clubs and neighbourhoods. In the context of setting international codes and standards in financial regulation in the 1990s and 2000s (i.e. the pre-G20 era), Drezner argues that club international organisations, the members of which largely consist of developed countries, such as the OECD, Basel Committee on Banking Supervision and Financial Action Task Force (FATF),⁴ have played greater roles than universal-membership international financial institutions (IFIs), such as the International Monetary Fund (IMF) and World Bank Group. Reaching consensus in universal-membership IFIs, where developed and developing countries have diverse positions and interests, has proved more challenging (Drezner, 2007, p.122).

Haas (1992) proposes the concept of an epistemic community as a network of professionals with recognised expertise and competence in a particular domain and an authoritative claim to policy-relevant knowledge within that domain. In the context of European Union law, Schrauwen (2010) points out that an international expert group comprised of national officials, which meet and exchange expertise on a regular basis, could lead to a knowledge community which has influence over policy direction at the European Union or national levels.

More recently, Brummer (2015) explains global financial architecture, which sets international rules and standards in financial regulation, and ensures their implementation at national level, largely through four entities: 1) Agenda Setters; 2) Standard Setters; 3) Implementers; and 4) Monitors.

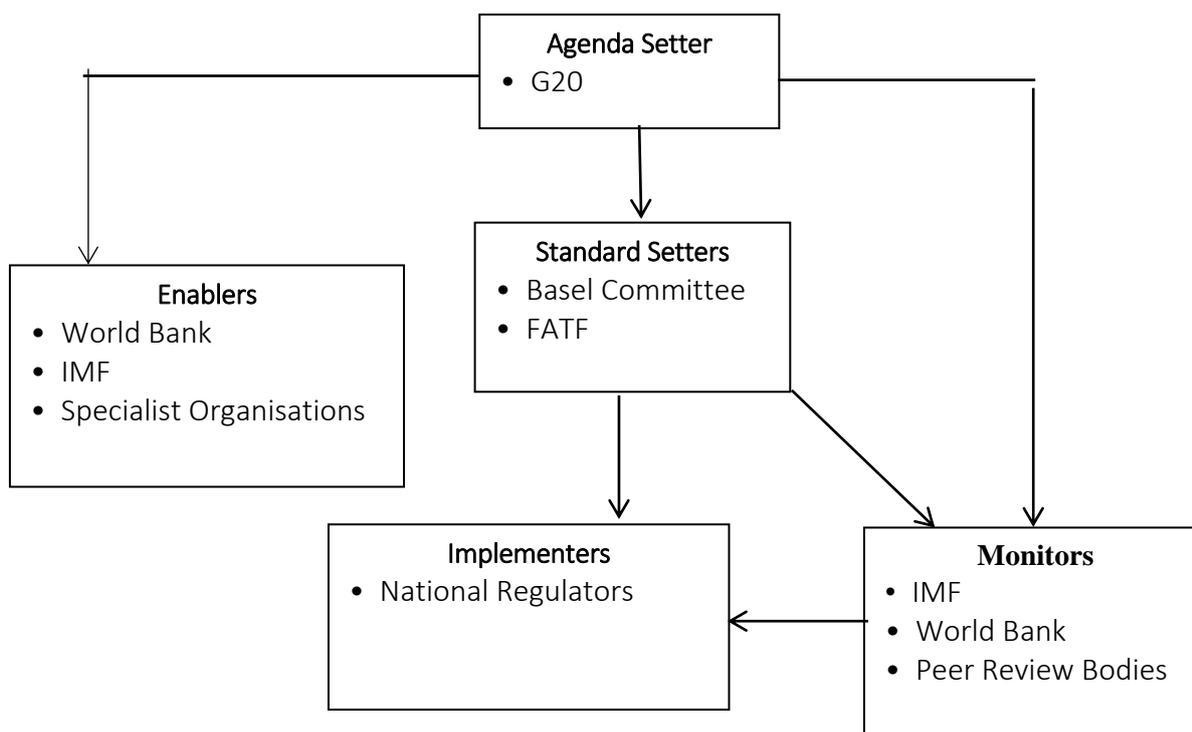
‘Agenda Setters’, which show policy objectives and directions, and provide ‘Standard Setters’ with political legitimacy, are represented by the G20, as well as by the Financial Stability Board. International standards called for by the ‘Agenda Setters’ are developed by ‘Standard Setters’ specialising in a particular field. The concept of the ‘Standard Setters’, examples of which include the OECD, Basel Committee on Banking Supervision and FATF, coincides with that of the club international organisations proposed by Drezner. Needless to say, international standards are expected to be implemented and enforced by national governments and public authorities, as ‘Implementers’. As a fourth function, the implementation of the international standards by national governments is to be monitored and ensured. This monitoring process is resource-intensive and requires the savvy of capacity development in developing countries. Whilst monitoring is often conducted as a peer review process by the members of a ‘Standard Setting’ organisation, Brummer names the IMF and World Bank as the most appropriate international bodies for the monitoring task; the two high-profile international financial

⁴ The objectives of the FATF, established in 1989, are to set and promote standards for combating money laundering and terrorist financing, and its secretariat is located within the OECD in Paris.

institutions (IFIs) have universal membership, as Drezner points out, and a larger capacity than 'Standard Setting' organisations, which have relatively small secretariats.

Grinberg (2015) proposes a modified version of Brummer's model of global financial architecture, in the context of international taxation, as shown in Figure 2.

Figure 2: Architecture of International Financial Law: Grinberg's Model



One of the main differences between Brummer's model and Grinberg's is that Grinberg adds a new category, 'Enablers' who, typically in developing countries, help national regulators (as 'Implementers') to meet international standards through technical assistance activities. The need for technical assistance can be identified through the monitoring process. In the context of international taxation, Grinberg cites the example of international standards in tax information exchange. The OECD's Global Forum promulgates the international standards, and conducts monitoring and peer review activities. On the other hand, the OECD, including the Global Forum, does not appear to have sufficient capacity and experience of working in developing countries (Asian Development Bank, 2014; Araki, 2015; Grinberg, 2015). Therefore, international organisations with more experience of development issues, such as the IMF and World Bank Group, can play a greater role in helping developing countries to implement international standards.

4. THE PLAYERS OF FRAMEWORK ON INTERNATIONAL TAXATION STANDARDS

Who, according to Brummer and Grinberg's models, are the players in the context of forming and implementing standards in international taxation? As discussed in Section 2 on the current

landscape, there is no question that the G20 is the premier international forum underlying the direction of work on international taxation, particularly since 2009 (Grinberg, 2015).

On the other hand, there is some question as to whether the G20 literally sets the agenda as a 'top-down' decision-making process; for it is unlikely that a substantial discussions on taxation are regularly held amongst the heads of states. The reality could be that agendas on international taxation are still proposed, if not set, by the OECD's Committee on Fiscal Affairs (CFA), which consists of senior government officials in charge of taxation.

In the case of the OECD's project on transparency and exchange of information for tax purposes, the G20 London Summit in April 2009 thrust a spotlight onto the project. Whilst the OECD had been working on the transparency of so-called tax havens since 1996 (Araki, 2015), it was not until March 2009, during the run-up to the London Summit, that some financial centres, such as Andorra, Lichtenstein and Monaco, expressed their commitment to implementing the OECD's standard on transparency and exchange of information (Global Forum, 2009, p.17). The G20's participation in, or support of, the project undoubtedly accelerated the emergence of a global system for tax information exchange.

With respect to the BEPS project, as cited in Section 2, the *G20 Leaders Declaration* of the Los Cabos Summit in June 2012 stated, 'We reiterate the need to prevent base erosion and profit shifting and we will follow with attention the ongoing work of the OECD in this area' (emphasis added). The BEPS project did not start from scratch, and the OECD had worked for several years on the aggressive tax planning project which served as a forerunner of the BEPS project.⁵ For example, in February 2011, the OECD published a report titled *Tackling Aggressive Tax Planning through Improved Transparency and Disclosure*, and the idea of the report was succeeded by the BEPS project's Action 12 on requiring taxpayers to disclose their aggressive tax planning arrangements (OECD, 2015b). When the BEPS final package (consisting of final reports on 15 actions) was released in 2015, it was submitted by the Secretary-General of the OECD to G20 leaders for endorsement in Antalya in November 2015 (G20 Leaders' Communiqué, 2015). The function of the G20 with respect to international taxation standards could be described more as an 'agenda-endorser' or 'approver', much like a board of directors, rather than as an author of a project proposal.

On the other hand, whilst the premier international forum has shifted from the G7 to the G20, the G7 still continues to deliver messages on international taxation issues in a proactive manner. *The Leaders' Declaration* of the G7 Ise-Shima Summit in May 2016 had a section on tax and transparency, and 'request[ed] to the OECD to establish objective criteria to identify non-cooperative jurisdictions with respect to tax transparency', which reflected public attention to offshore financial centres provoked by the so-called Panama Papers (OECD, 2016b).

With respect to 'Standard Setters', as mentioned in Section 2, the OECD's CFA is leading the development of standards in international taxation, whilst the United Nations' Committee of Experts on International Cooperation in Tax Matters is also carrying out the international taxation agenda, chiefly from developing countries' perspectives.⁶ When it comes to implementation, there is no difference from other regulatory issues: international rules and

⁵ A senior advisor at the OECD Centre for Tax Policy and Administration who has been involved in the BEPS project recalls that, when the BEPS' work started in 2012, the OECD had worked on aggressive tax planning for a few years. Cf. Russo, R. (2016).

⁶ Cf. United Nations Economic and Social Council. (2004, November, 11). *ECOSOC Resolution 2004/69: Committee of Experts on International Cooperation in Tax Matters*.

standards are not effective until they are implemented by national governments.⁷ It should be noted that, in many countries, taxation is dealt with by the treasury or ministry of finance in charge of tax policy and an inland revenue body in charge of tax administration.⁸

Does the international taxation field have separate frameworks for monitoring? For example, in the cases of combating money laundering and the financing of terrorism (AML/CFT), the assessment of compliance with international standards promulgated as Financial Action Task Force (FATF) Recommendations is conducted by the IMF and World Bank Group, as well as FATF-style regional bodies associated with the FATF (FATF Secretariat, 2014). Currently, one notable monitoring and assessment mechanism in international taxation issues is the peer review process conducted by the OECD's Global Forum and its member jurisdictions. In order to monitor the implementation of the BEPS project globally, the *G20 Leaders' Communiqué* of the 2015 Antalya Summit 'call[ed] on the OECD to develop an inclusive framework' (G20, 2015) and, in response, the OECD launched a new inclusive framework for the implementation of the BEPS outputs in June 2016 (OECD, 2016c). Membership of the inclusive framework is open to all jurisdictions which commit themselves to the BEPS project, and its programme of work includes the development of a monitoring process on the implementation of the BEPS outputs focussed on four issues: addressing harmful tax practices (Action 4); preventing treaty abuse (Action 6); Country-by-Country Reporting (Action 13); and dispute resolution (Action 14) (OECD, 2016a). The OECD's *Background Brief* (2016) for the inclusive framework cites a preceding example of the Global Forum, which has been carrying out peer review on the implementation of the international standards on transparency and exchange of information. The *modi operandi* of the inclusive framework for monitoring the implementation of BEPS project's outputs will draw upon the experience of the Global Forum. In light of these developments, it appears that the Global Forum-style framework under the umbrella of the OECD is becoming a standard approach as a monitoring process in the international taxation field.

Lastly, 'Enablers', the new category added by Grinberg, are very important for international taxation in the G20 era. As stated in Section 3, the capacity of the OECD as a technical assistance provider is limited and yet, at the same time, a broad spectrum of implementation, including implementation in developing countries, is expected. The OECD therefore needs to strengthen its partnerships with technical assistance-savvy international organisations, such as the IMF and World Bank Group. In April 2016, the IMF, OECD, United Nations and World Bank Group jointly announced a plan to intensify their co-operation through a new Platform for Collaboration on Tax (the Platform), which evidences demand for co-operation amongst international organisations in assisting developing countries with respect to international taxation and other tax issues (IMF, OECD, UN & World Bank, 2016).

The concept note for the Platform indicates that its activities will also involve regional development banks, regional tax organisations and donors. Therefore, there are other organisations acting as Enablers (IMF, OECD, UN & World Bank, 2016). Regional development banks, such as the Asian Development Bank, and bilateral development agencies, such as Great Britain's Department of International Development and the German international

⁷ For example, in 2009, the Philippines were categorised by the OECD as not committed to information exchange standards and, in 2010, the Philippines enacted the Exchange of Information on Tax Matters Act of 2009, which enabled the Philippine Bureau of Internal Revenue to access to bank information for the purpose of exchanging information with foreign tax authorities.

⁸ According to *Tax Administration 2015*, an OECD's comparative analysis report, 32 of 56 jurisdictions surveyed have an autonomous tax administration body. Cf. OECD (2015c).

co-operation agency, GIZ (Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH), are providing technical assistance for taxation issues. For example, in 2014, the Asian Development Bank launched a technical assistance project which aimed to enhance the capacity of tax administration bodies in Asia for the exchange of information and the investigation of cross-border tax evasion cases (Asian Development Bank, 2014).

Moreover, tax administration bodies are forming co-operative frameworks or forums on a regional basis; for example, there is the CIAT (Centro Interamericano de Administraciones Tributarias/Inter-American Center of Tax Administrations) in the Americas (Araki, 2015). These regional co-operation frameworks for tax administration bodies can also play a significant role in the capacity development of tax authorities in respective regions. The following sections will further discuss the importance of engagement with developing countries and the roles of regional co-operation frameworks.

5. ENGAGEMENT WITH DEVELOPING COUNTRIES IN THE G20 ERA

Section 2, on the current landscape, has argued that a paradigm shift in the international taxation field from the pre-G20 era to the G20 era in 2009 changed relationships with developing countries. This change has, in turn, influenced the composition of the architecture of international taxation standards, including the growing importance of ‘Enablers’, as pointed out in Section 4.

Before 2009, amongst the OECD’s international taxation agenda, engagement with non-OECD member jurisdictions was most active in respect of the transparency and information exchange issue, and yet focus was given to so-called tax havens and offshore financial centres.⁹ The OECD’s Global Forum on Taxation, the predecessor of the current Global Forum, started its work in 2000 with OECD member countries, and only six jurisdictions which had made political commitments to improve transparency and their information exchange systems (i.e. Bermuda, the Cayman Islands, Cyprus, Malta, Mauritius and San Marino) (OECD, 2006).

As described in Section 2, the G20 London Summit in April 2009 was a game changer (Grinberg, 2015, p.9). Whilst the primary target of the summit’s statement and declaration was offshore financial centres identified by the OECD’s work (London Summit – Leaders’ Statement, 2009), the declaration referred to the need for a more inclusive framework which could benefit ‘developing countries’ (Declaration on Strengthening the Financial System – London Summit, 2009). In September 2009, in response to the G20’s call, the OECD launched the restructured Global Forum. Whilst the restructured Global Forum opened its membership to all jurisdictions committed to implementing international standards on tax information exchange, its initial list of potential members included 91 jurisdictions consisting of: 30 OECD member countries; five candidate countries for OECD membership (including Russia); seven G20 member countries which were not OECD members; and 49 jurisdictions considered to be financial centres (OECD, 2009b, p5). In the meantime, the Global Forum recognised capacity building in developing countries as a key pillar of its activities, along with developing monitoring and peer review processes, and welcomed capacity building activities provided by other international and regional organisations (OECD, 2009a, p.3).

⁹ In 2000, the OECD listed 35 jurisdictions which met the OECD’s criteria for tax havens. Cf. OECD, Committee on Fiscal Affairs (2000), p.17.

As of January 2016, the Global Forum's members have risen to 129 jurisdictions and the European Union, and 38 countries have joined the forum in addition to the 91 jurisdictions listed in September 2009. These 38 countries are mostly developing nations, 16 of which are in Africa. The composition of the forum increased the weight of developing countries which have, in contrast to classic offshore financial centres, substantial population, economic activities and inland revenue. The September 2009 list included only four African countries, i.e. Liberia, Mauritius, Seychelles and South Africa, out of 91 jurisdictions (4 per cent), and yet, as at January 2016, the forum members include 20 African countries out of 129 jurisdictions (16 per cent).

In its early stages, the BEPS project recognised that challenges lay in not merely identifying solutions, but in implementing them in a streamlined manner (OECD, 2013a, p.8). The *Action Plan on Base Erosion and Profit Shifting*, released in July 2013, discussed engagement with developing countries as part of an inclusive and effective process (OECD, 2013b, pp.25-26). The OECD's reports, released in 2014, on the impact of BEPS in low income countries underlined the idea that the BEPS phenomena harmed both developed and developing countries, and that capacity development addressing the BEPS issues was critical for developing countries (OECD, 2014).

A number of developing countries have participated in the process of producing the BEPS project's outputs, via the Committee on Fiscal Affairs' meetings in Paris and regional network meetings. After the release of the BEPS project's outputs in October 2015, focus has shifted towards their implementation in a broad range of countries. Monitoring and technical assistance activities on the part of developing countries will carry considerable weight in the new inclusive framework for the implementation of the BEPS package, launched in June 2016, as touched upon in Section 4.

Work on international taxation is recognised as part of development agenda, particularly in the context of domestic resource mobilisation for development. The *Addis Ababa Action Agenda of the Third International Conference on Financing for Development*, which was endorsed by the United Nations General Assembly in July 2015, called for more inclusiveness to ensure that ongoing efforts in international tax co-operation (such as the work of the OECD's Global Forum and BEPS project) benefit all countries, including developing countries. The *Addis Ababa Action Agenda* also welcomed capacity-building and dialogue activities arranged by international organisations, such as the IMF, OECD and United Nations (United Nations General Assembly, 2015).

6. ROLES OF REGIONAL CO-OPERATION FRAMEWORKS

Drezner (2007), as introduced in Section 3, suggests 'neighbourhood international organisations' use geography to place a natural and fixed limitation on membership as a category of international governmental organisations; and as mentioned in Section 4, tax administration bodies are forming regional co-operation frameworks or forums. These frameworks can play significant roles in the architecture of international taxation standards, particularly in the capacity development of tax authorities, as well as bridging between 'Standard Setters' and respective regions.

Figure 3 : Major Regional Co-operation Frameworks for Tax Administration Bodies			
Organisation	Number of Members	Year of Establishment	Permanent Secretariat
Study Group on Asian Tax Administration and Research (SGATAR)	17	1970	None
Pacific Islands Tax Administrators Association (PITAA)	16	2003	Suva, Fiji
Inter-American Center of Tax Administrations (Centro Interamericano de Administraciones Tributarias/CIAT)	38	1967	Ciudad de Panamá
Commonwealth Association of Tax Administrators (CATA)	47	1978	London
Centre de rencontres et d'études des dirigeants des administrations fiscales (Meeting and Studies Centre of Tax Administration Directors /CREDAF)	30	1982	Paris
Intra-European Organisation of Tax Administrations (IOTA)	46	1996	Budapest
Association of Tax Authorities of Islamic Countries (ATAIC)	28	2003	Khartoum
African Tax Administration Forum (ATAF)	36	2009	Pretoria

Figure 3 lists major regional frameworks or forums for co-operation between the world's tax administration bodies (Araki, 2015). The membership of these frameworks is not merely based upon geography, but also on common cultural backgrounds. Whilst the organisational structures of these regional frameworks vary, they have similar mission statements (Alink & van Kommer 2016). Each framework aims to act as a platform for enhancing the capacity and performance of tax administration in a region, through international co-operation, the exchange of knowledge and experiences, and technical assistance activities.

As the focus of the BEPS project shifts from standard-making to implementation, particularly in a manner inclusive of developing countries, the roles of regional frameworks for co-operation have been realised anew. The *G20 Response to 2014 Reports on Base Erosion and Profit Shifting and Automatic Exchange of Tax Information for Developing Economies*, which is an annex prepared by the G20 Development Working Group for the 2014 Brisbane G20 Summit in November 2014, 'recognise[d] the importance of regional (including inter-regional) tax administration forums in creating a bridge between the international tax agenda and developing economies'.

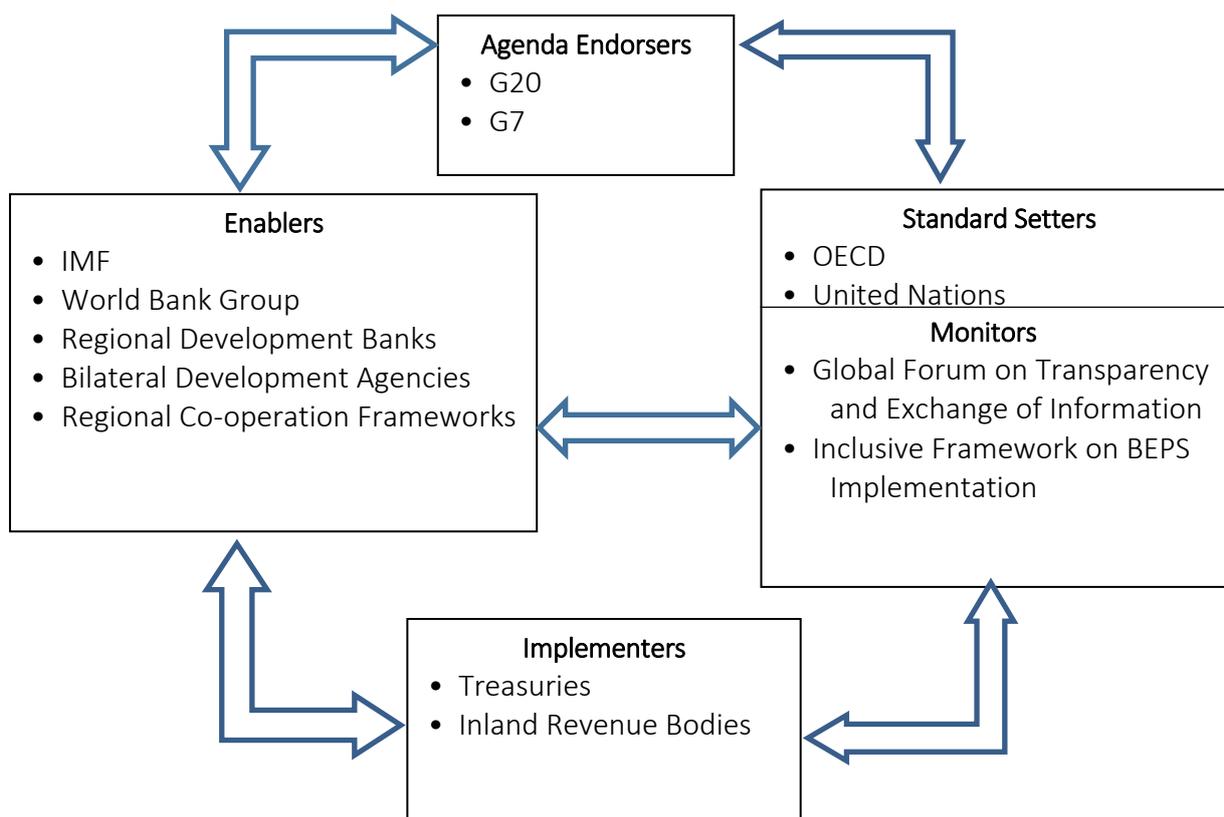
Indeed, regional co-operation frameworks are already taking substantial roles in the process of making and implementing international standards in international taxation. For example, the Centro Interamericano de Administraciones Tributarias/Inter-American Center of Tax

Administrations (CIAT) and African Tax Administration Forum (ATAF) are attending discussions at the OECD's Committee on Fiscal Affairs (CFA) as observers along with the IMF, United Nations and World Bank Group.¹⁰ As mentioned in Section 5, the OECD has organised a series of regional networking meetings in order to engage with developing countries in the BEPS project, and many, if not all, of these regional networking meetings have been held in partnership with regional co-operation frameworks, notably the CIAT, ATAF, Centre de rencontres et d'études des dirigeants des administrations fiscales (Meeting and Studies Centre of Tax Administration Directors /CREDAF) and Intra-European Organisation of Tax Administrations (IOTA).

7. AN ARCHITECTURE MODEL OF INTERNATIONAL TAXATION STANDARDS

In light of discussions about the players of the international taxation field in the sections above, Grinberg's model on the architecture of international financial law, presented as Figure 2, in Section 2, may be further modified as follows:

Figure 4: A Modified Architecture Model of International Taxation Standards



¹⁰ Source: On-Line Guide to OECD Intergovernmental Activity, Committee on Fiscal Affairs. Retrieved from <http://webnet.oecd.org/OECDGROUPS/Bodies/ListByNameView.aspx?book=true>

Brummer (2015) points out institutional interdependency as one of the characteristics of the international regulatory system.¹¹ The architecture of international taxation standards can be thought of as a process in which several players grouped by each function mutually interact, and expressed by bidirectional arrows, rather than a top-down process centred round the G20. As argued in Section 4, although the G20 is the premier international forum, the kernel of its role can be seen as, if anything, giving political legitimacy as global agenda to projects undertaken by the OECD as a 'Standard Setter', the official membership of which is inclined to developed countries.¹²

In the case of international taxation standards, the monitoring function is provided by frameworks arranged by the OECD with open membership; the Global Forum on Transparency and Exchange of Information for Tax Purposes is a prime example. As argued in Section 4, it is probable that a new inclusive framework for the implementation of the BEPS project's outputs, launched in June 2016, will take a similar route.

'Enablers' have an extended list of functions. The *G20 Leaders' Communiqué* of the 2015 Antalya Summit welcomed the efforts made by the IMF and World Bank Group to provide technical assistance to developing economies in order to help them tackle domestic resource mobilisation challenges such as international taxation issues (G20 Leaders' Communiqué, 2015). As discussed in Section 4, in April 2016, the IMF, OECD, United Nations and World Bank Group jointly announced a plan to strengthen their co-operation through a new Platform for Collaboration on Tax, and its objectives include fostering more dynamic interactions between 'Standard Setters' and technical assistance providers (IMF, OECD, UN & World Bank, 2016). As mentioned in Section 6, the IMF, UN and World Bank Group are also attending the OECD's Committee on Fiscal Affairs (CFA) as observers.

Other regional development banks and bilateral development agencies are also conducting research and technical assistance activities, mostly in a regional context. Section 6 has argued that regional co-operation frameworks are playing a significant part in the capacity development of their members' tax administration bodies.

Whilst 'Implementers' are put at the bottom of the architecture, international standards do not take effect until they are implemented; in other words, implementation is the primary output of the architecture of international taxation standards. In addition, the architecture can be as bottom-up, just as it can be top-down. It is fair to say that reforms in international taxation rules and standards are demand-driven, and issues are identified and discussed by 'Implementers' *per se* on the stage set by 'Standard Setters'.¹³ As mentioned in Section 2, in addition to 34 official member countries of the OECD, other countries (including emerging G20 members) have directly joined discussions at the OECD's CFA with regard to the BEPS project.

¹¹ Brummer points out that the G20 has no permanent staff, and relies on 'Standard Setters', such as the Basel Committee on Banking Supervision, to develop standards and to provide input on regulatory direction; and in a similar vein, these 'Standard Setters' also rely on monitors to track national regulations (pp. 73 and 116).

¹² Brummer also argues that a degree of participation, particularly of developing countries, in the rulemaking process raises the question of legitimacy, which, at least in part, spurred the recent displacement of the G7 by the G20, and the expansion of membership in standard setting processes (pp.114-115).

¹³ In May 2014, at a dinner speech given for a G20 International Tax Symposium held in Tōkyō, the director of the OECD's Centre for Tax Policy and Administration recalled that the BEPS project had been conceived as a result of discussion amongst senior tax officials, who were members of the Committee on Fiscal Affairs, on issues with which tax authorities were faced.

Furthermore, the largest ‘Implementers’ - governments - comprise the G20,¹⁴ and are major shareholders in international financial institutions as well.¹⁵

8. CONCLUSION

Although international taxation as an international issue dates back to the nineteenth century and multilateral work started with the League of Nations, as introduced in Section 1, interest in the global framework or architecture of international taxation issues as a transgovernmental system was not as great as that in other financial initiatives, such as those undertaken by the Basel Committee on Banking Supervision and Financial Action Task Force (FATF).

As shown in Section 2, interest in international taxation issues as a global agenda started to grow after about 2009, with the rise of the G20 and the launch of the restructured Global Forum (cf. Porter & Rubio Vega, 2011). It has attracted further attention since June 2011, following the launch of the BEPS project, which aimed at a comprehensive reform of the international taxation system.

Implementation is no less important in taxation issues than in other financial issues, and its significance cannot be exaggerated. In this regard, as the *G20 Leaders' Communiqué* of the 2015 Antalya Summit made clear, ‘widespread and consistent implementation will be critical in the effectiveness of the [BEPS] project’ (G20 Leaders' Communiqué, 2015). And the thing that ensures that implementation is widespread is engagement with developing countries. In the pre-G20 era, international taxation standards were chiefly set as a procedure within the OECD (Grinberg, 2015). In contrast, in the G20 era, a global framework which aims to cover the implementation of international standards in developing countries within its range is required to be extended as a network of ‘players’ in the international taxation field.

The global architecture or framework of international taxation standards is not yet fully fledged, when compared to other financial initiatives, and it is still in the process of evolving. There is no doubt that the primary focus is to make the global framework inclusive of emerging and developing countries. On the other hand, as pointed out in Sections 3 and 4, the capacity of the OECD and its frameworks as a technical assistance provider or ‘Enabler’ is not sufficient. A second focus for the global framework is to establish functional partnerships which enable international organisations to address issues faced by developing countries and other ‘Implementers’ effectively. Lastly, in order for the architecture to have a truly global reach, it will be required to establish a solid network through regional frameworks or forums.

¹⁴ The G20 membership is said to represent about two-thirds of the world’s population and 85 per cent of global gross domestic product. Source: G20 2015 Turkey. G20 Members. Retrieved from <http://g20.org.tr/about-g20/g20-members/>

¹⁵ For example, the G20 members have approximately 65 per cent of voting shares in the IMF. Source: IMF. IMF Members' Quotas and Voting Power, and IMF Board of Governors. Retrieved from <https://www.imf.org/external/np/sec/memdir/members.aspx>

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