



FIELD COURT TAX CHAMBERS

ITRAF ANNUAL CONFERENCE

The Need for a New Tax Architecture

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Overview

- The current disorganised and dysfunctional structure
- What is wrong with the OECD?
- The future



1) The current disorganised structure

- Tax and fiscal policy requires a clear architecture capable of producing solutions to domestic and international tax problems that are: coherent; workable; appropriate; democratically supported; legitimate; innovative; effective
- The current international architecture is the result of historical accidents and has produced a series of overlapping and competing fiefdoms which are often unable to move forward



1) The current disorganised structure

- The OECD
- An historical accident:
 - The UN Fiscal Commission 1948-1954
 - Heir to the League of Nations Fiscal Committee
 - A victim of the cold war
 - The early start at the OEEC (part of the Marshall Plan)
 - 1956 Fiscal Committee
 - 1971 – Committee on Fiscal Affairs
- 36 Member Countries



1) The current disorganised structure

- The Inclusive Framework on BEPS
 - An outgrowth of the BEPS project - 2016
 - 125 countries – associate members
 - Members must agree to the BEPS minimum standards
 - International organisations as observers – ATAF; CIAT; IMF; World Bank; UN
 - Limited to work on BEPS – focus on multinational corporations



1) The current disorganised structure

- The UN Committee of Experts on International Cooperation in Tax Matters
 - 1968 – Ad hoc committee on tax treaties
 - 2004 – permanent committee
 - 25 members elected in their personal capacity
 - Reports to ECOSOC, and part of the activities of the Department on Economic and Social Affairs
 - Limited mandate
 - More active in the past 10 years



1) The current disorganised structure

- The IMF – Fiscal Affairs Department
 - 190 member countries
 - Provides technical advice and training

- The World Bank Group
 - 189 member countries
 - Global Tax Program – provides development finance and assistance with tax and fiscal matters



1) The current disorganised structure

- **The Platform for Collaboration on Tax**
 - 2016 - OECD, UN, IMF, World Bank Group
 - Produces various tool kits mainly for the assistance of developing countries



1) The current disorganised structure

- Other organisations:
 - Forum on Transparency and Exchange of Information
 - Forum on Tax Administration
 - Tax Inspectors without Borders
 - Regional organisations
 - European Commission
- Comments:
 - Lack of a coherent structure
 - Overlapping agendas
 - Organisational rivalries
 - Unnecessary complexity



2) What is wrong with the OECD

- At its core it is a membership organisation – the IF associates are focused on BEPS
- Carries 60+ years of baggage
 - Focus on concerns of its earlier members
 - Main work on tax treaties and transfer pricing
 - Wedded to arm's length transfer pricing
 - Legacy of dominance by some of the world's major tax havens
- Lacks democratic legitimacy
 - Government officials acting without scrutiny
 - OECD “soft law” being increasingly challenged



2) What is wrong with the OECD

- Baggage of a consensus organisation
 - Allows developments to be blocked by members
- Particularly susceptible to the US electoral and political process
- Lacks a full agenda
 - No human rights mandate
 - Not focused on development concerns
 - Effectively determines its own agenda
- Lacks the structure (and transparency) for full participation either by countries or by civil society



3) The Future

- The only body with the membership, structure, organisational rules and legitimacy is the UN
- BUT not the UN Tax Committee as currently constituted
- There is a need for
 - A political committee – for decisions
 - Expert sub-committees – for ideas
 - (A dispute resolution panel ???)
 - A secretariat
 - Funding



3) The Future

- How do we get there?
- Does the OECD have to fail (spectacularly) to achieve a better architecture?
- People and governments have to see that the current architecture is failing them
- A World Tax Organisation – maybe
- Covid may be the catalyst for change
 - Governments face huge deficits and the OECD is paralysed



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