International tax challenges for Asia and the G20: Competition and coordination

Professor Miranda Stewart
Three international tax challenges

1. Protecting the company tax base
2. Cooperating in transnational tax administration
3. Moving towards multilateral coordination in company taxation
1. Protecting the company tax base

- Company tax revenues
- Company tax rates
- Tax holidays or incentives for investment
- Tax treaty network
- Transparency of company profit/tax reporting?
Tax:GDP ratio

Total Taxes to GDP Ratio in Selected Asian Countries, Average 1990-2010

Asian Development Bank; IMF 2012
Tax mix - selected Asian countries (2002)
[red is corporate tax]

Aust Treasury 2006
Is tax competition a problem?

• Personal income tax and sales taxes are inadequate to fund government; tariffs are being phased out

• ASEAN
  – Goal of attracting investment from the world;
  – But, also significant competition between member states for mobile investment

• Should corporate tax on mobile capital go to zero?
Tax incentives or holidays

• Corporate tax rates continue to trend down (more slowly) – converging on 20%?
• But, anyway, Asia-Pacific has always had lots of tax incentives
  – Tax holidays
  – Reduced tax rates
  – Accelerated depreciation
  – Export/investment zones
  – Investment credits, etc
Tax treaty networks

• Australia’s DTAs with Asia-Pacific
  – Bilateral DTAs to relieve double taxation or address tax evasion, with: Japan, China, Fiji, India, Indonesia, Kiribati, South Korea, Malaysia, Papua New Guinea, Philippines, Singapore, Sri Lanka, Taipei, Thailand, Vietnam
## Bilateral treaty networks in ASEAN

### ASEAN Double Tax Treaties (2013)

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*Source: IBFD, 2013; KPMG 2013*
Company profit/tax transparency

- Australia: from 2014 tax year
  - ATO must publish corporate gross income; taxable income; tax paid
  - Company income > $100m; resource tax
- “Country by country reporting”
  - Will transparency increase company tax revenues?
  - Most promising: sharing information between revenue agencies and enhance legitimacy
2. Transnational cooperation in tax administration

• Tax information exchange
• Assistance in collection, audit and joint administration
• Multilateral Convention on Mutual Assistance in Taxation
• Engagement with Global Forum, OECD, G20 and UN
“The era of [tax] secrecy is over…”

• On 2 April 2009 the G20 agreed to take action against non-cooperative tax jurisdictions, including tax havens

• In 2014, the G20 affirm that the “new standard” is automatic exchange of information based on OECD principles.

• Australia as G20 President is pushing forward this agenda
What does this mean in practice for the Asia-Pacific?

• TIEAs
  – Growing global network of bilateral TIEAs on OECD model
  – Extent of Asia-Pacific network?
  – Exchange of information on request

• Require administrative resources
  – Evidence of benefit for the region?
  – Enhanced tax revenues?
Global Forum

- Now 122 members
- Last meeting Nov 2013 Jakarta, Indonesia
- Peer review of treaties and domestic law
  - Malaysia was on previous peer review group,
    HK will be on 2014 group
- IMF and other technical assistance
- New focus on beneficial ownership and transparency through entities
Global Forum – peer reviews

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- Phase 1 review
- Phase 2 review
- Combined reviews
Multilateral Convention on Mutual Assistance in Tax Matters

Key benefits:

- **Multilateral**: Single legal basis for multi-country co-operation
- **Flexible**: Reservation possible on certain issues
- **Wide scope**: Extensive forms of co-operation on all taxes
- **Uniform**: A Co-ordinating Body ensures a consistent application

Source: OECD
Multilateral Convention

• Now 63 signatories
• Asia Pacific:
  – Australia, China, India, Indonesia (not yet in force), Japan, Korea, New Zealand, Singapore (not yet in force), US, Canada
Multilateral Convention

- Automatic exchange and some other features require a bilateral agreement between specific countries
- 40 countries signed up “early” to the new automatic standard
  - Not one Asian country yet
- What about US FATCA in the region?
  - Only Japan, Australia have agreements
3. Towards multilateral coordination in company taxation

• OECD/G20 Base Erosion and Profit Shifting

• Can the countries in this region contribute to & benefit from BEPS?
  – Transfer pricing
  – Thin capitalisation
  – Tax residence concepts
  – General anti-avoidance rules
  – Treaty abuse rules
Transfer pricing

• E-commerce/digital economy
  – Intellectual property: is profit produced where IP is located?
  – How does tax fit with IP laws in the region?
  – Service fees, royalties, definition of “permanent establishment” for treaties

• Arm’s length standard: OECD model? UN?

• Pricing methods; profit split? factors?

• Most importantly: Administration!
Other ways to harmonise company tax

• Model treaty/unilateral rules
  – eg permanent establishment, withholding taxes
• Multilateral instrument with default rules for consistency of treatment of finance instruments or entities?
• Transfer pricing: formulary apportionment?
  – Sales, IP, workforce, management, HQ
Is regional tax integration possible?

• Some talk of European Community model
  – Revenue sharing? Fiscal federalism?
  – Coordinating body? Dispute resolution?

• How does tax fit with regional/bilateral trade & investment treaties?
  – ASEAN Economic Community in 2015
  – Tax is not a major part of ASEAN EC blueprint
Thank you

• Questions?