

The Commitment of the G20 to International Tax Cooperation

EMILIJA LAZAREVIC
The University of Sheffield

Executive Summary

This policy brief explores discussions concerning international tax cooperation at the 2017 G20 Summit in Hamburg. At a time when the world is deeply divided by attitudes towards globalisation, the German Chancellor Angela Merkel has expressed the need to improve transparency and the exchange of information regarding abusive tax practices. The brief will examine why closing legal loopholes is a priority to the G20, how the member countries have achieved this in the past, and suggest the direction that they must take to restrict such practices.

Introduction to BEPS

One of the priorities of the G20 Hamburg Summit is international tax cooperation, which particularly focuses on making taxation rules transparent, fair and reliable internationally. Multinational companies are often advised by tax specialists to conduct business in the most “tax-efficient” way. This is primarily through base erosion and profit shifting (BEPS), a practice that is made possible due to loopholes, as well as lack of clarity, transparency, and therefore certainty, in international tax law.

BEPS is a tax avoidance strategy that exploits gaps in tax rules to artificially shift profits from areas of higher taxation to low or no-tax [locations](#). This has certainly attracted global attention over the years and even more so since the Panama Papers scandal, where 11.5 million documents outlining information related to thousands of offshore entities was [leaked](#).

Google has recently come under fire after it was discovered that it paid as little as £36 million in UK taxes [last year](#). Likewise, in 2011-2012, high profile companies such as Amazon, Apple and Starbucks received bad publicity regarding their tax practices.

Why then is international tax cooperation a priority at the G20? As a result of BEPS, tax revenues amongst the G20 countries have been reduced by approximately 4 per cent to 10 per cent, which correlates to US\$100-240 billion [overall](#). A plan is certainly required to help domestic governments reduce large fiscal deficits; limitations on corporate tax payments mean that it is more difficult for governments to tackle debt by creating revenue. Companies have a corporate social responsibility to those groups and individuals they affect, which is arguably

society at large. Where governments struggle to tackle the deficit, individuals and often the poorest in society are forced to bear the burden. Not only do such schemes create a branding issue for the corporations, they may also lead to social and political unrest, as demonstrated by the violent anti-capitalist riots and protests that took place in Hamburg during the 2017 G20 Summit. Increased international tax cooperation as well as open dialogue and discourse may therefore reverse such issues.

The G20 and OECD Responses to BEPS

As a response to this issue, the OECD was tasked by the G20 countries at the 2012 Los Cabos Summit to develop an action plan, which would serve to prevent BEPS. At the 2013 St Petersburg Summit, the BEPS Action Plan was fully endorsed by G20 Finance Ministers and Central Bank Governors, non-OECD countries and representatives of [developing countries](#). The BEPS Package currently consists of 15 different actions, the purpose of which are to close gaps in international tax rules that allow legal but artificial profit shifting.

The plan was structured around three fundamental pillars: 1) introducing coherence in the domestic rules that affect cross-border activities; 2) ensuring alignment of taxation with the location of economic activity and value creation; and 3) improving transparency, as well as certainty, for businesses and [governments](#). The OECD published over 1,600 pages in its “final” reports in

relation to all 15 BEPS action points in October [2015](#).

A key issue with regards to BEPS is transfer pricing. A transfer price is the price at which different branches of a company transact with one another, and occurs when individual entities of a larger multi-entity firm are treated as being separately run. Regulations ensure that transfer pricing is carried out fairly and accurately by enforcing the arm’s-length rule. This states that companies must establish pricing based on similar transactions between parties of separate companies. [Action 13](#) of the BEPS Action Plan requires taxpayers to demonstrate consistent transfer pricing positions. It ensures that tax administrations are provided with the information needed to assess transfer pricing and other BEPS risks, and in some circumstances to deploy and commence audit enquiries. It further ensures that country-by-country reports will be disseminated through an automatic government-to-government exchange mechanism.

[Action 7](#) suggests adapting the definition of “permanent establishment”. Where a company creates a permanent establishment, it is liable to pay more tax, although there are exceptions. Action 7 proposes limiting these exceptions to activities that are preparatory or auxiliary to the business as a whole. [Action 12](#) proposes implementing and amending mandatory disclosure rules, allowing authorities to access early information on abusive tax planning schemes. These provisions certainly contribute towards

improving transparency and dialogue between different countries.

At the 2016 Hangzhou Summit, the G20 countries continued their support for international tax cooperation and advancing on-going cooperation on BEPS. They supported a timely, widespread implementation of the BEPS Action Plan and requested interested jurisdictions to commit to the package if they had not [done so already](#). The French Finance Minister Michel Sapin confirmed that the G20 had adopted criteria designed by the OECD to identify and blacklist non-cooperative jurisdictions with respect to tax transparency. It was decided that the blacklist would continue to be drafted until July 2017 and, at the same time, [measures to be taken](#) against such countries would be decided.

A Way Forward for the G20?

Following the 2017 Hamburg Summit, the G20 hope to continue their work on improving international tax cooperation and financial transparency. It was confirmed by Angela Merkel on the last day of the summit that the G20 countries would remain committed to the BEPS project and the Leaders' Declaration outlined the discussions that took place. All countries encourage relevant jurisdictions to join the BEPS framework and anticipate the automatic exchange of financial account information under the Common Reporting Standard in September this year. These jurisdictions are expected to [begin exchanges](#) by September 2018 at the latest.

There seems to have been very little development of the BEPS plan; G20 countries simply hope to continue to meet their targets. What is apparent is that very few specific details have been presented by the Leaders' Declaration. For instance, going into the summit, the European Union stated that those who do not cooperate with the plans to counter harmful tax evading practices should bear the consequences. The Leaders' Declaration simply indicates that defensive measures will be considered against listed jurisdictions; it does not suggest precisely what these consequences will be, and how the rebel jurisdictions are to be punished.

Discussions regarding international tax cooperation have been overshadowed this year. Despite the German Chancellor previously stating that tax-related discussions would be of high priority, topics relating to climate change and the Paris Agreement for instance have been at the forefront. This illustrates one of the more problematic aspects of the G20 as a forum; there are so many potential subjects for discussion, and with such a large number of different countries and institutions with different agendas coming together, it is impossible for major development to take place across all areas. This is illustrated by UK Prime Minister Theresa May who, in contrast to other Western European leaders, was reluctant to take a strong stance on climate change, and instead expressed that [related discussions related to terrorism](#) should be a higher priority. Although all G20 countries stand united in their aspiration of improving international

tax cooperation, questions of their commitment certainly arise.

However, it is more likely that development has been minimal because previous implementation of the BEPS project has been considered up to this point a great success. The most recent OECD report, published on 6 July, suggests that the Panama Paper findings triggered [“major progress”](#) on a fairer international tax system. The BEPS framework now includes 100 countries and jurisdictions that are representative of more than 93 per cent of global GDP. The true success of the project is demonstrated by the fact that membership extends beyond the G20 and OECD, with over 50 per cent of participants being [non-OECD and G20 economies](#). Certainly, its success goes beyond the level of engagement with the project, with 120 tax regimes under review, a number of which have been abolished or altered to comply with new

rules. Therefore, one could argue that although the G20 has this year appeared disengaged from tax concerns, it has to some extent been a force for positive change. In order to build on its success, the G20 should discuss in greater detail the way in which non-compliant countries are disciplined for their actions. Countries cannot be taken to account if it is not made clear how strongly the G20 oppose abusive tax practices. Greater transparency is not only necessary, it is a requirement to achieve equity on a global scale.

Emilija Lazarevic is a second-year LLB Law with German Law student at the University of Sheffield.