The Changing Global Landscape of International Tax Co-operation: BEPS and the Trade/Investment Challenges

by
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Julien Chaisse is Professor at The Chinese University of Hong Kong (CUHK), Faculty of Law. He is an award-winning scholar of international law with a special focus on the regulation and development of economic globalization. His teaching and research include international trade/investment law, international taxation, law of natural resources, and Internet law. Prior to joining CUHK in 2009, Dr. Chaisse was a senior research fellow at the World Trade Institute (Switzerland). He also held an appointment as lecturer at elite school Sciences Po Aix (France) and served as a diplomat at the Embassy of France in New Delhi (India).

Dr. Chaisse is frequently invited to lecture at many academic institutions and leading universities around the world, including Columbia University (U.S.), University of Oxford (U.K.), Melbourne University (Australia), Tokyo University (Japan), and Tsinghua University (China). Dr. Chaisse has published numerous well-regarded and widely-cited books and articles, such as "The Regulation of Global Water Services Market", Cambridge University Press (2017); "International Economic Law and Governance", Oxford University Press (2016); "Shareholder Protection Reloaded", Stanford Journal of International Law (2016); "Navigating the Expanding Universe of International Treaties on Foreign Investment", Journal of International Economic Law (2015); "Maintaining the WTO's Supremacy in the International Trade Order", Journal of International Economic Law (2013); and "Promises and Pitfalls of the European Union Policy on Foreign Investment", Journal of International Economic Law (2012).

In recognition of his outstanding academic performance, Dr. Chaisse received the CUHK Vice-Chancellor's Exemplary Teaching Award in 2015 and the CUHK Research Award in 2012. Dr. Chaisse has held the appointment of Director of the Centre for Financial Regulation and Economic Development at CUHK Law since 2013, and has established forward-looking legal projects and events at CUHK, including the series of "Asia FDI Forum", which has become the most prominent conference on foreign investment regulation in Asia.

In addition to his professorship, Dr. Chaisse is a well-experienced arbitrator and a leading consultant to international organizations, governments, multinational law firms, and private investors. He is also member of some of the world's foremost organizations, including the World Economic Forum's International Trade and Investment Council and the Internet Corporation for Assigned Names and Numbers (ICANN) in which Dr. Chaisse serves on the Working Group on gTLDs' rights protection mechanisms review and the Accountability and Transparency Review program.

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Course Objective:

The global landscape in the fight against cross-border tax avoidance and tax evasion has changed dramatically since the third International Conference on Financing for Development held in Addis Ababa in 2015. A panel of senior experts will discuss the progress made by the UN and the OECD since the Addis call for more inclusiveness, both in terms of institutional arrangements and policy guidance, to support developing countries in coping with the challenges posed by international tax avoidance and evasion. The call for change was made with a view to increasing tax revenues for investment in sustainable development.

The effectiveness and operational capacity of the UN Committee of Experts on International Co-operation in Tax Matters has been strengthened and its engagement with the UN Economic and Social Council (ECOSOC) increased. The panel will show how this allowed the UN to achieve some important milestones in addressing international tax avoidance and evasion, including relevant updates to the UN Model Double Taxation Convention between Developed and Developing Countries and the UN Practical Manual on Transfer Pricing for Developing Countries as well as the adoption of the UN Code of Conduct on Co-operation in Combating International Tax Evasion.

The Inclusive Framework on Base Erosion and Profit Shifting (BEPS) and the Global Forum on Transparency and Exchange of Information (the Global Forum) have also been important in helping to bring about change, and in taking forward the commitments as agreed in Addis. The course will explain how nearly 100 countries and jurisdictions are working together on an equal footing in the Inclusive Framework on BEPS to tackle tax avoidance, in particular preventing tax treaty abuse and introducing country-by-country reporting for the activities of multinational enterprises.

Course Outline:

In this course, you will have an opportunity to explore recent developments of key issues such as:

- The BEPS outputs are soft law legal instruments. They are not legally binding but there is an expectation that they will be implemented accordingly by countries that are part of the consensus.
- The past track record in the tax area is rather positive. Minimum standards were agreed in particular to tackle issues in cases where no action by some countries would have created negative spill overs (including adverse impacts of competitiveness) on other countries.
- Recognising the need to level the playing field, all OECD and G20 countries have committed to consistent implementation in the areas of preventing treaty shopping, Country-by-Country Reporting, fighting harmful tax practices and improving dispute resolution.
- In addition, existing standards have been updated and will be implemented, noting however that not all BEPS participants have endorsed the underlying standards on tax treaties or transfer pricing.
- In other areas, such as recommendations on hybrid mismatch arrangements and best practices on interest deductibility, countries have agreed a general tax policy direction. In these areas, they are expected to converge over time through the implementation of the agreed common approaches, thus enabling further consideration of whether such measures should become minimum standards in the future.
- Guidance based on best practices will also support countries intending to act in the areas of mandatory disclosure initiatives or CFC legislation.
- New tax rules may however conflict with investment treaties and trade rules.

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