

# The Scepticism of BRICS Practitioners on the BEPS-Agenda

Eva Eberhartinger & Matthias Petutschnig

## ABSTRACT

Our research investigates the views and opinions on the OECD BEPS Action Plan of tax experts from practice around the world. We contrast the views of practitioners from BRICS and from developing countries to those from OECD countries. In an adaptive conjoint analysis we find that experts from BRICS countries have a substantially different view on the effectiveness of the Actions and the measures as suggested in the Action Plan. This supports the notion that OECD countries act on their behalf and that reaching out to non-OECD countries rather to seek support for their own agenda than to truly include their priorities. Also it can be expected that BRICS will increasingly assume the role of a norm maker in future international tax policy. Our results contribute to the current reorganization of principles of international taxation, and highlights actions of higher priority.

**Keywords:** BEPS, OECD, Conjoint Analysis, tax avoidance.

**JEL Classification:** H26, H25, K34

Prof. Dr. Eva Eberhartinger, LL.M.  
WU Vienna University of Economics and Business  
Department Finance, Accounting and Statistics  
Welthandelsplatz 1, Building D3  
A-1020 Vienna - Austria  
[eva.eberhartinger@wu.ac.at](mailto:eva.eberhartinger@wu.ac.at)

Ass.Prof. Dr. Matthias Petutschnig (corresponding author)  
WU Vienna University of Economics and Business  
Department Finance, Accounting and Statistics  
Welthandelsplatz 1, Building D3  
A-1020 Vienna - Austria  
[matthias.petutschnig@wu.ac.at](mailto:matthias.petutschnig@wu.ac.at)

We appreciate valuable comments from participants at the 5<sup>th</sup> Workshop on Current Research in Taxation in Prague, the 3<sup>rd</sup> Annual TARC Workshop in Exeter, and the 24<sup>th</sup> Annual Tax Research Network Conference in Hull. This paper is based on an earlier study with Austrian participants only, available at [ssrn.com/abstract=2683552](https://ssrn.com/abstract=2683552) which has been circulated under the title 'Practicing Experts' Views on BEPS: A Critical Analysis'.

This is a draft version; please do not cite or circulate without the permission of the authors.

## 1 Introduction

Starting in 2010 media reports have drawn attention to the fact that some highly profitable multinational companies seem to pay comparatively little corporate income tax in the source country, i.e. the country in which the income is assumed to be earned. The effective tax rates on foreign profits of Google Inc. and Apple Inc., for example, have been reported to be 3% and 1%, respectively (Dharmapala 2014). The fact that some multinationals are able to considerably reduce their tax liability by exploiting national differences, flaws and loopholes in existing tax rules suggests that the taxation of multinational firms is in need of reform (Fuest et al. 2013). The necessity for reform is reflected in the intense public debate surrounding profit shifting and tax avoidance by multinational firms. Given that many countries face high levels of public debt and strong pressure to generate tax revenue, it is not surprising that this debate has brought the taxation of multinational firms to the top of the international political agenda.

The G20 leaders stressed the need to take action against multinational profit shifting and tax avoidance at the summit in Los Cabos in June 2012 (G20 2012). On July 19 2013, the OECD published a global action plan (BEPS Action Plan) comprising of 15 actions aimed at tackling multinational tax avoidance (OECD 2013a). The BEPS Action Plan suggests a variety of legislative and administrative measures which aim at eliminating double non-taxation or under-taxation (i.e. a taxation level which is perceived too low). These measures should secure a taxation which is in line with real economic activities. After two years of intense work within the OECD and after public consultation, the final reports on the actions were delivered on October 5, 2015 (OECD 2015)<sup>1</sup> and endorsed by G20 in February 2016 (G20 2016).

Given the OECD's structure, the BEPS Action Plan has been developed predominantly by representatives of the member countries' tax administrations. Therefore, the views of stakeholders which are not directly involved in the decision making process find only very little consideration, if at all. These stakeholders include the general public in OECD member states and even more so in Non-OECD

---

<sup>1</sup> Available for download at <http://www.oecd.org/ctp/beps-2015-final-reports.htm>.

countries. Both, BRICS (Brazil, Russia, India, China, South Africa) and developing countries<sup>2</sup>, had only limited possibilities to bring forward their views and concerns during the process until now. The OECD addresses this issue, on an institutional level as well as a procedural level. On the institutional level, BRICS and developing countries have recently been invited to participate in the *Committee on Fiscal Affairs* and in the *Global Forum on Transparency and Exchange of Information for Tax Purposes*. On a procedural level, regional network meetings, public consultations, and invitations to comment on discussion drafts shall ensure further inclusion of non-OECD-countries. Most recently, the OECD with the endorsement of G20<sup>3</sup> agreed on “a new framework that would allow all interested countries and jurisdictions become part of an inclusive dialogue on an equal footing to directly shape the standard setting and monitoring processes on BEPS issues” (OECD 2016a)

Still, these participation processes have not been at the core of decision making within the OECD. A tension between the OECD’s objectives, representing mostly highly developed, capital exporting and high-tax countries, and the non-OECD countries’ objectives, which are rather capital importing, can be expected. This comes as no surprise – such tension has been observed also before the BEPS-debate has started. The OECD model treaty has been criticized for favouring capital exporting countries (i.e. developed countries) at the expense of capital importing countries (i.e. developing countries), by allocating the taxing rights primarily to the state of residence. It is now expected that BRICS in particular speak out on their tax policy preferences and have an impact on the Anti-BEPS debate (cp. the book edited by Brauner/Pistone, 2015).

Also the most recent intention of involving developing countries more closely have one major drawback: they only start now, after the agenda has been set, the details are agreed on without substantial involvement of non-OECD countries, and the reports are delivered. Consequently, the OECD itself states that “As BEPS Associates, [the interested countries and jurisdictions] will work on an equal footing with the OECD and G20 members on *the remaining standard-setting* under the BEPS Project,

---

<sup>2</sup> Throughout the paper we use the distinction between BRICS (Brazil, Russia, India, China, South Africa) and developing countries (according to the „DAC List of ODA Recipients, Effective for reporting on 2014, 2015 and 2016 flows“, OECD 2014a, with the exclusion of BRICS and OECD on that list). We are well aware that „developing countries“ includes therefore some countries that may also be considered „non-BRICS emerging countries“, such as Indonesia or Thailand, when applying other criteria.

<sup>3</sup> G20 2016.

as well as *the review and monitoring of the implementation of the BEPS package*” (OECD 2016a, emphasis added). In other words: BRICS and developing countries are now welcome to ensure appropriate execution of prior agreements, where they were not involved.

Our research investigates the views and opinions of international tax law practitioners around the world on the BEPS agenda, with a specific focus on non-OECD countries. We conduct a conjoint analysis surveying perceptions of tax experts on the effectiveness of the proposed actions. The structure and functioning of a conjoint analysis implicitly compels the respondent to rank different legislative and administrative measures, as suggested by the OECD, and allows identifying individual utilities and importances. In aggregate, these individual utilities provide insight into which measures practicing tax experts deem to be most effective and efficient against multinational tax avoidance. The country level analysis provides insight into different preferences in OECD, BRICS, and developing countries. We find that in particular respondents from BRICS have significantly different views than OECD and developing countries’ respondents. This supports the notion that BRICS stand up with their own views and perceptions to influence the international tax policy debate. Our findings could be helpful to policymakers in deciding which BEPS actions should be prioritized, and in identifying areas in which further discussion might be necessary in order to facilitate a worldwide solution to a worldwide problem.

The remainder of this paper is structured as follows: First we provide an overview of the role which BRICS and developing countries have in the international tax debate in section 2. Building on this discussion, we develop the hypotheses for our study in section 3. Section 4 addresses the conjoint analysis research method, while section 5 presents and discusses the results of our survey. Section 6 provides results of robustness checks, and section 7 concludes.

## **2 International Tax Policy on BEPS avoidance**

OECD collaboration in international tax matters has its roots in the work of the League of Nations on the avoidance of double taxation, about 100 years ago. The League of Nations also published the precursor to the OECD’s Model Tax Convention on Income and Capital in 1928. From its beginnings until today the OECD’s model has been designed to serve as a model for bilateral tax treaties between two developed countries negotiating on par with each other. As a general rule the taxing rights are

allocated to the residence state and only in specific exceptions to the source state. Because of the reciprocal nature of the economic relations between the two contracting states both states' economies benefit from the tax treaty.

In case of two contracting states who engage in economic interaction on unequal footing, i.e. a treaty between a developed country and a developing country, the model treaty leads to a systematic disadvantage for the developing country to the benefit of the developed country. Usually developing countries are heavily reliant on foreign investments. As a net capital importer the developing country generally forfeits the taxing rights at source without effectively being able to gain taxing rights as a residence country. As a consequence, the United Nations proposed an alternative model treaty in 1980, which was designed to allocate taxing rights between developed and developing countries more equally and preserves the taxing rights of the source country.<sup>4</sup>

As has been well documented, in recent years the emerging countries' relevance in the global economic development has been increasing dramatically. About 43% of the world's population reside in the BRICS countries and they contribute 22% to global GDP in 2014, with China, India, and Russia among the top 10 countries by overall GDP (BRICS Joint Statistical Publication 2014 and Worldbank). Among other areas BRICS countries challenge the OECD's dominance also in international taxation (Owens 2012; Dagan 2015; De Goede 2015). Notwithstanding the differences in their tax systems and international tax policy, the five BRICS have several features in common that are relevant for the current international tax policy debate: They all have a history as capital importers and thus source countries but they are gradually shifting towards becoming capital exporters, increasingly entertaining the role of a resident country. Ring (2015) describes BRICS as *“a group of countries that straddles two economic worlds – one in which outside investment remains the most defining economic feature, and one in which the ability to invest abroad animates tax policy choices.”* BRICS generally have highly sophisticated tax systems and strong treaty networks relying mostly on the UN-model (Baistrocchi 2013; Brooks 2015). Of course, with regard to tax in general and to BEPS in particular, the five countries are quite distinct, they have found different solutions to specific avoidance issues,

---

<sup>4</sup> cp. the motivation and progress of the UN work on international taxation in the Introduction to the United Nations Model Double Taxation Convention between Developed and Developing Countries (UN 2001)

sometimes aligned with international trends (Brooks 2015; Owens 2015; Ring 2015). In spite of country-specific tax laws, the economic development of the BRICS during the past years may give rise to common concerns and views in international tax issues which may deviate from the views of OECD countries (Sengupta and Kavita Rao 2015). Being part of the G20 the BRICS countries have nevertheless given the OECD the mandate to tackle BEPS, even though not being part of the OECD themselves.

For developing countries the situation might be different. Similar to BRICS, they have a history as capital importers and source countries. Contrary to BRICS, however, they often do not have an extensive treaty network. Munyandi et al. (2015) for example discuss the limited intra-African double tax treaty network and the lack of inter-African Tax Information Exchange Agreements (TIEAs) (cp. also Wanyana Oguttu 2015). Additionally, developing countries are usually not as advanced in becoming capital exporters – rather in the contrary: increasing globalization has increased FDI inflows. Developing countries however support the international efforts against BEPS as they realise that their tax revenue is affected even (relatively) more than OECD-countries' tax revenues: corporate income tax from foreign based MNEs is of substantial importance for the developing countries' tax revenues, whereas the domestic tax revenue is often very limited (Wanyana Oguttu, 2015; Peters 2015; Wagenaar 2015). Recently, developing countries not only adapted their double tax treaties, but also introduced domestic general and specific anti-avoidance rules (Munyandi et al., 2015). Their primary concern however may rather be more basic requirements such as strengthening their tax treaty network, educating and improving tax administration, and improving tax collection routines and safeguards (cp. Munyandi et al., 2015; Wanyana Oguttu, 2015; Owens 2012; Ring 2015). It can therefore be assumed that the interests of BRICS and developing countries are not aligned (Owens 2013, 441; Ring 2015).

As a consequence one can assume that BRICS as well as developing countries have important but diverse stakes in the current anti-BEPS debate, which is primarily led by OECD countries. The OECD countries themselves have a strong interest in including BRICS and developing countries in the current debate; otherwise many of the suggested anti-BEPS measures may only lead to relocations entities and tax arbitrage possibilities enabling BEPS.

Therefore there is a common understanding that virtually all countries should be included in the effort. The OECD took several steps to closer align non-OECD countries just recently. The

Committee on Fiscal Affairs has not only the 5 BRICS countries as observers, but as from December 2014 on 14 further countries<sup>5</sup> from a cross-section of regions and per capita income-levels, who directly participate in the Committee on Fiscal Affairs and in the Working Party meetings on the BEPS Project. Also two regional tax organisations - the African Tax Administration Forum (ATAF) and the Inter-American Centre for Tax Administration (CIAT) - are involved.<sup>6</sup> In addition to their representation in the Committee, BRICS and a number of developing countries, in total 127<sup>7</sup> countries, are members of the Global Forum on Transparency and Exchange of Information for Tax Purposes. Developing countries as well as BRICS are further involved in Regional Network Meetings, held in the respective countries, which advertise support for the OECD's initiative against BEPS. The inclusion of views from outside the OECD is also supported by public consultations on the actions and by public comments on each discussion draft of any action.

Most recently, the OECD published a plan on even closer collaboration with non-OECD countries. The OECD's Committee on Fiscal Affairs (CFA) shall be extended by BEPS Associates, which would include interested countries and jurisdictions, in order to work on equal footing on the finalization of standard-setting and implementation (OECD 2016a). In its report to the G20, the OECD emphasizes that the BEPS actions for developing countries need specific emphases compared to developed countries (OECD 2014b).

Therefore and contrary to prior processes in international tax law, the OECD seeks to include the views of BRICS and developing countries. The benefits of such efforts for non-OECD countries are sometimes doubted. Dagan (2015) for example concludes that because of the different domestic economies' structures co-operation of BRICS with the OECD in tax matters is only in the OECD's member countries interest, and not in the BRICS' interest (to the same end: Sengupta and Kavita Rao 2015; Wanyana Oguttu 2015). Similarly, Munyandi et al. (2015) indicate that recent treaty modernizations, TIEAs and FACTA agreements in Africa were largely in the interest and upon the initiative of OECD countries. Also, the inclusion of the developing countries in the process began only

---

<sup>5</sup> Albania, Azerbaijan, Bangladesh, Croatia, Georgia, Jamaica, Kenya, Morocco, Nigeria, Peru, Philippines, Senegal, Tunisia, and Viet Nam

<sup>6</sup> cp. <http://www.oecd.org/ctp/aggressive/developing-countries-and-beps.htm#participation> (per 15 Feb 2016)

<sup>7</sup> Find a list of all member countries at <http://www.oecd.org/tax/transparency/membersoftheglobalforum.htm> (per 15 Feb 2016)

once the agenda was set (i.e. the BEPS Action Plan was formulated) and preliminary sometimes even well advanced work has already started (Wanyana Oguttu, 2015; Dagan 2015). Finally, until now the inclusion in a merely observant or consultative role does not constitute a decision-making capacity, which intensifies concerns about the global legitimacy of the OECD instruments (Mosquera Valderrama 2015).

Also the success of public consultations of discussion drafts is limited. Comment letters were submitted predominantly by multinationals or their representative bodies, by large accounting and law firms, and by expert organizations and lobbying groups, all operating from within OECD countries. Only very few comment letters (only 2.1%) were submitted from non-OECD countries. Table 1 illustrates the participation of BRICS and developing countries in the public consultation processes on BEPS Actions' discussion drafts.

*[insert Table 1 about here]*

The even closer involvement of non-OECD countries, which is intended now, comes at a very late stage, when hundreds of pages with rather detailed content, the Final Reports, have already been published. This late stage even further supports the notion that the inclusion of non-OECD countries now is not aimed at including their interest, but rather at ensuring worldwide implementation of measures that non-OECD countries never had a say on in the first place.

In short, the possibilities for non-OECD countries to participate in the decision making process on anti-BEPS measures have been limited and rarely used. They seem to first and foremost serve the interests of OECD countries rather than those of non-OECD countries (Dagan 2015). The question therefore arises, in how far the views of BRICS on the one hand, and of developing countries on the other hand with regard to the OECD-agenda on BEPS differ from OECD-countries' views. It is, obvious, that the classification of countries in OECD, BRICS, and developing countries is a rough generalization. Each group in itself comprises of countries which are very diverse in economic substance as well as in tax policy (cp Owens 2015; Ring 2015). Still, as has been highlighted before a "creeping convergence" within the BRICS world can be identified, in particular in tax matters, and BRICS should be

distinguished from both the developed and the developing world (Baistrocchi 2013; Mosquera Valderrama 2015; Owens 2015; Ring 2015).

### **3 Hypothesis Development**

Our hypotheses are on the one hand based on the distinction between OECD-countries, BRICS, and developing countries, which we assume to each follow distinct objectives in the BEPS debate. Further insight in the position of tax experts from these countries will help to understand their positions and policies in tax matters. On the other hand we assume that some more general judgements of tax experts around the world on the BEPS Action Plan do not differ because of their economic background.

The BEPS Action Plan and the Final Reports cover fifteen Actions. Some are to be implemented at the level of domestic tax law, some require a change in bilateral tax treaties and a third group of actions is directed at developing new and/or improving existing best practice guidelines. Others cover the international cooperation between tax administrations and the transparency of taxpayers, legislators and administrations.

Our hypotheses relate to general differences between country groups (H 1, H 2, H 3), to specific actions (H 4, H 5, H 6, H 7, H 8) and to the legal quality of specific measures (H 9, H 10).

#### **3.1 BRICS and Developing Countries**

Based on our prior analysis of international tax policy in BRICS and developing countries, as opposed to OECD countries, we have reason to assume that tax practitioners' views on the effectiveness of BEPS Actions differ according to their origin, i.e. the country-group in which their businesses are located. This assumption is based on the perception that experts' views will most likely be influenced by the legal and economic background in which they operate. Accordingly the hypotheses read:

*H 1: Practicing tax experts from BRICS rank the importance of Actions differently than practicing tax experts from OECD countries.*

*H 2: Practicing tax experts from developing countries rank the importance of Actions differently than practicing tax experts from OECD countries.*

*H 3: Practicing tax experts from developing countries rank the importance of Actions differently than practicing tax experts from BRICS.*

### **3.2 Actions on Hybrids, Finance, and Transfer Pricing**

It has been shown by prior literature (e.g. Fuest et al. (2013); OECD (2013b); Devereux and Vella (2014); Dharmapala (2014); Kofler (2013); Schindler and Schjelderup (2013); Vann (2014)) that three distinct aspects of the international tax regime are used most often to establish base erosion and profit shifting schemes, namely hybrid mismatches, internal financing, and transfer pricing (especially involving intangibles). Thus, it can be argued that Actions 2 (hybrid mismatches), 4 (interest deduction) and 8 through 10 (transfer pricing) might be seen by tax experts from all three country groups as the most important Actions for achieving the aims of the BEPS Action Plan.

*H 4: Practicing tax experts rank the importance of Actions 2, 4, 8, 9 and 10 higher than the importance of other Actions.*

The importance of tax planning involving hybrid mismatches, internal financing and transfer pricing is globally relevant. With regard to BRICS and developing countries, some support for the high importance of the Actions in H 4 can be found in the literature. Peters (2015) describes the public responses of 13 countries, including BRICS and developing countries<sup>8</sup>, to a UN Tax Committee questionnaire on the BEPS agenda. The respondents gave transfer pricing issues the utmost importance, followed by intra-group finance.<sup>9</sup> H 4 therefore applies to all respondents, inclusive of BRICS and developing countries.

---

<sup>8</sup> Bangladesh, Brazil, Chile, China, Ghana, India, Lesotho, Malaysia, Mexico, Singapore, Thailand, Tonga, Zambia. Among these, Chile and Mexico are OECD members.

<sup>9</sup> These answers were given to the question „Do you agree that these [eight action points] are particularly important priorities for developing countries?“, which predetermines answers to some extent.

### 3.3 Actions on Transparency

Actions 12 and 13 propose measures to improve tax transparency at the level of the taxpayer. Action 12 requires the taxpayer to disclose its aggressive tax planning arrangements, while Action 13 proposes country-by-country reporting of high-level financial and tax information per jurisdiction, such as revenues, profit or loss, taxes paid and accrued, stated capital, and accumulated earnings for the entire MNC. The basic aim of these Actions is to improve the information flow regarding tax risks to tax administrations and tax policymakers, as well as to provide comprehensive information for the early detection of aggressive tax planning techniques (OECD 2013b).

Major concerns regarding the details of these Actions (e.g. the absence of a definition of “aggressive tax planning arrangements”) and concerns regarding a potential breach of the right to privacy and confidentiality<sup>10</sup> by the proposed disclosure requirements have been expressed in the literature (Baker 2015; Brauner 2015; Evers et al. 2014; Grau Ruiz 2014). These are concerns regarding the legitimacy, but also – and more significantly to our research – concerns regarding the efficiency of the proposed measures, as insufficiently defined measures can be both illegitimate and ineffective. One might argue that tax experts share these views expressed in the literature:

*H 5: Practicing tax experts rank the importance of Actions 12 and 13 lower than the efficiency of the other Actions.*

Several authors however underline the specific importance for greater transparency for BRICS and developing countries. Brooks (2015) argues that, along with the increase of their economic power, the appetite for information and also assistance on enforcement and tax collection, might increase. Also Peters (2015), in her analysis of the above mentioned UN questionnaire reports a high priority for Actions 12 and 13 among participating developing countries. As BRICS already have most transparency issues resolved<sup>11</sup>, whereas for developing countries the mere availability of information and collection of data may hinder transparency (OECD 2016b), Actions 12 and 13 may be even most important to developing countries. This leads to the Hypothesis:

---

<sup>10</sup> Such right can be found, for example, in Article 8 of the European Convention on Human Rights.

<sup>11</sup> In its compliance ratings, the Global Forum on Transparency and Exchange of Information for Tax Purposes rates China, India and South Africa as fully compliant, and Brazil and Russia as largely compliant, cp. OECD 2016b.

*H 6: Practicing tax experts from developing countries rank the importance of Actions 12 and 13 higher than practicing tax experts from non-developing countries.*

### **3.4 Actions on Source vs Residence Taxation**

BRICS and, even more so, developing countries have a history as source countries and capital importing countries. It is in their interest to maintain or even increase source taxation. Brooks (2015) concludes that BRICS will have an interest in maintaining their preference for source taxation, which may lead to a preference for Action 7 (prevent the artificial avoidance of PE status). This is confirmed in the analysis of the UN questionnaire by Peters (2015) as participants from non-OECD-countries explicitly underline the importance of Action 7.

*H 7: Practicing tax experts from non-OECD-countries rank the efficiency of Action 7 higher than practicing tax experts from OECD-countries.*

Vice-versa, CFC-rules broaden the tax base for capital exporting countries. Yet most OECD countries and many BRICS already have CFC legislation in place, which might attenuate their judgment on the efficiency of Action 3 (strengthen CFC-rules). Still, Avi-Yonah (2015) supposes that BRICS-countries, becoming increasingly capital exporting countries, will increase their support of Action 3.

*H 8: Practicing tax experts from BRICS rank the efficiency of Action 3 higher than practicing tax experts from developing-countries.*

### **3.5 Measures at Treaty Level**

The OECD (OECD 2013b) points out that the countries share a common interest in establishing a level playing field among themselves. Failure to collaborate in addressing BEPS issues could result in unilateral actions that would risk undermining the current consensus-based framework for addressing double taxation. The consequences could be damaging in terms of increased possibilities for mismatches, additional disputes, increased uncertainty for businesses, heterogeneous anti-avoidance measures and an escalated race to the bottom with respect to corporate income tax rates (OECD 2013b).

In this regard, a holistic approach is considered necessary to properly address the issue of BEPS (Brauner 2014a). The OECD thus stresses the importance of a multilateral approach towards stronger international cooperation and coordination of tax policies. However, the current international tax regime is characterized by unilateral legislation and bilateral treaties (Brauner 2014b). Even though the overwhelming majority of these treaties conform to a single model convention (OECD 2010), numerous differences do exist. The BEPS Action Plan contains Actions that target the bilateral (or even multilateral) treaty level of the international tax regime, as well as Actions that aim at the domestic level. However, with the apparent need for more international cooperation and coordination, the Actions that focus on the treaty level can be seen as more effective to hamper BEPS. The hypothesis therefore reads as follows:

*H 9: Practicing tax experts view BEPS Actions that focus on the treaty level as more effective to counter BEPS than Actions that aim at the domestic level.*

### **3.6 Soft Law Measures**

The OECD's BEPS initiative is based on the understanding that uncoordinated domestic legislation can hardly succeed. The current, OECD Model-based regime already provides a form of coordination through soft law,<sup>12</sup> i.e. standard setting and the de facto predominance of the OECD Model (Brauner 2014a; Baistrocchi 2013) and the accompanying Commentary, reports and guidelines. Yet, apparently, this paradigm has proven inefficient. The current primary reliance on soft law (such as best practices guidance) with no binding implementation mechanisms is inconsistent with the goals of the OECD BEPS initiative (Brauner 2014a).

The evolution of soft law is strongly debated in international law literature. Klabbers (1998) argues that soft law creates uncertainty and contributes to the crumbling of the entire legal system. Also, the legal clarification of ambiguous soft law and its applicability require an additional legal level of jurisdiction. In the same vein, Schäfer (2006) distinguishes rules from standards and argues – based on the well-established observation that law reduces transaction costs, including losses from asymmetric

---

<sup>12</sup> “Hard law” describes legal measures set by legislative power (i.e. parliament, in particular; codified law), whereas “soft law” relates to measures set by standard setters or other institutions or self-governing professional bodies, which are not legally binding, but possess a convincing power (such as accounting standards). In this sense, the OECD Model Convention as well as its Commentary or the Transfer Pricing Guidelines can be considered soft law. An income tax treaty, ratified by parliament, is hard law.

information – that binding legal rules differentiate legal from illegal behaviour in a comprehensive and clear manner. standards in the contrary are unclear and fuzzy general legal criteria which require complicated and costly judicial interpretation. Abbott and Snidal (2000), Abbott et al. (2000) and Blutman (2010) also argue that hard agreements reduce the costs of operating within a legal framework by strengthening commitments and reducing transaction costs, while soft law cannot yield all these benefits but may lower the costs and increase the chances of achieving some sort of agreement in the first place. This notion can be supported by the flexibility and often the formal easiness of enactment of soft law and its subsequent changes.

With regard to soft law in international tax law, Vogel (2005) argues – with reference to the High Court of Australia – that the Commentary on the OECD Model is a guide to the current usage of terms by the parties to the treaty and thus an important source for interpretation of tax treaties. Mössner (2005), however, exemplifies the legal uncertainty that is connected to soft law by showing that the German Federal Tax Court references the Commentary on the OECD Model only when the Commentary supports the Court’s opinion, while completely ignoring the Commentary in all other cases.

Therefore, one could argue that traditional (binding) legislation is more effective, reduces transaction costs and provides more legal certainty than soft law. From the perspective of enhancing legal certainty for both taxpayers and tax administrations, a significant revision of the architecture of the relevant rules towards more directly binding and better coordinated regulations seems preferable (Brauner 2014b; Kofler 2013; Wittendorff 2010). Lawsky (2009) and Logue (2005) argue along similar lines, suggesting that tax experts prefer traditional legislation over soft law. The hypothesis thus reads as follows:

*H 10: Practicing tax experts view BEPS Actions that aim at implementing and changing domestic law and/or treaty law provisions as more effective to counter BEPS than Actions that aim at establishing non-binding soft law, such as best practice guidelines and recommendations.*

## 4 Research Design

### 4.1 Method - Conjoint Analysis

Conjoint analysis traces back to Luce and Tukey (1964). It has been used in marketing research for over 40 years, starting with Green and Rao (1971). It comprises specific procedures for both collecting and analysing empirical data. Although conjoint analysis is widespread in market and marketing research, in tax research only a few studies have used such a design.<sup>13</sup>

Conjoint analysis aims at determining the contribution of individual product attributes (“attributes”) as well as their possible values (“levels”) to the total perceived individual utility of a particular product. To measure total utilities, a set of product variants (various combinations of different levels of several product attributes) is presented to the participants, who then state their preferences on those product variants (Blaufus and Ortlieb 2009). Thereafter, the researcher can decompose ordinal scaled total utility values – for instance values obtained by rankings – by ordinary least squares estimation (OLS) or Hierarchical Bayes estimation (HB) into metric part-worth utilities for each attribute and level. On the basis of the part-worth utilities, it is possible to calculate the relative importance of an attribute in the case of modification. (For further descriptions of the method, *see*, e.g., Green and Srinivasan (1990, 1978); Baier and Bruschi (2009); Green and Rao (1971); Rao (2014).)

As a decompositional approach, conjoint analysis differs from compositional models, which collect ratings from participants on each of the attributes comprising a product separately. As a result of this approach, the concept provides greater range sensitivity, a better chance of detecting potential nonlinearity in utility part-worths, greater similarity to real choice situations and a greater chance of detecting real importance of weights (Sattler and Hensel-Börner 2000). The concept of conjoint analysis forces trade-off decisions between individual attributes (Blaufus and Ortlieb 2009) and precludes the participants from classifying all attributes as “very important” – which Skiera and Gensler

---

<sup>13</sup> To name a few: Milliron and Toy (1988) deal with influential effects on the decision regarding tax declaration; Blaufus and Ortlieb (2009) employ a conjoint analysis to study the influence of tax complexity on the employee’s decision concerning company pension plans; Hundsdorfer and Sichtmann (2009) analyse the importance of tax aspects in entrepreneurial decision-making using a conjoint analysis; Sell et al. (2010) study the influence of taxation on decisions about the legal form of organizations; Hundsdorfer et al. (2013) apply conjoint analysis to study the influence of tax labeling and tax earmarking on German taxpayers’ willingness to contribute.

(2002b, 2002a) show that participants tend to do when queried the preference for individual product attributes.

This specific aspect of the conjoint analysis methodology that implicitly compels the participant to provide relative values and to rank the various attributes, presents the major advantage of this method for the research questions of this paper. The method is perfectly suited for situations like the OECD Action Plan where different legal measures that all have some potential to achieve the overall aim of limiting base erosion and profit shifting are surveyed. It prevents the respondent from rating each item as “very important” or as “not important”, which might be of particular importance given the topic (tax avoidance) and the possible disposition of the respondents (tax experts).

For data analysis, conjoint analysis provides two further advantages. First, it allows the calculation of the part-worth utilities not only on an aggregated basis, but also on an individual level. Because our hypotheses apply at the individual level and we assume heterogeneous individuals, this approach is very well suited to our research question. Second, the consideration of non-linear relations between the attributes and levels on the one hand, and the total utility of a product on the other, is rather simple (Blaufus and Ortlieb 2009).

## **4.2 Operationalization**

To test our hypotheses and to study the perceptions and opinions of experts in the field of international taxation, we conduct a conjoint analysis based on an online questionnaire that we design using Sawtooth Software’s Adaptive Conjoint Analysis System (ACA).

ACA is a hybrid conjoint analysis method developed by Johnson (1987). The system is a computer-administered, interactive conjoint method and combines the design of conjoint tasks, data collection and data analysis through the use of personal computers. Its principal advantage is that ACA has been specifically designed for situations in which the number of attributes exceeds what can reasonably be accommodated with traditional conjoint analysis methods (Rao 2014). ACA achieves this by focusing on the attributes that are most and least relevant to the respondent. Thus by focusing on only a few attributes at a time ACA avoids information overload.

ACA uses a computerized questionnaire and commences with a simple self-explication task to identify important attributes. Part-worths for those attributes identified as more important are adjusted through a series of graded paired comparisons.<sup>14</sup> A unique feature of ACA is that the procedure is both “adaptive” and “dynamic”, in that the answers already provided by respondents in earlier sections of the questionnaire are used at each step to select the next paired comparison question. This allows asking questions designed to be highly relevant and efficient for refining utility estimates and helps in stabilizing the utility estimates at the individual level (Rao 2014).

Employing conjoint analysis for research beyond the scope of market and marketing research requires translating the product-oriented marketing logic to the respective scientific research area. In our study, we achieve this by understanding the whole BEPS Action Plan<sup>15</sup> as the “product”, and define the various Actions as attributes. The levels of these attributes are then defined by the various measures proposed by the OECD (2013a) to achieve the goals of the respective Action.

### 4.3 Data Collection and Sample

As briefly described above, we use an online questionnaire that reacts dynamically to the answers that the participants provide in one section, to establish the following section(s) to gather the data. The first stage of the questionnaire asks the respondent to rate the various levels for each attribute (BEPS Action) with regard to their suitability for the aim of reducing BEPS. In the second section, the questionnaire uses the highest and lowest level of each attribute in the previous section and asks the respondent to value how much more important the highest rated level than the lowest rated level is for the aim of reducing BEPS. In the last section, pairwise comparisons of level combinations of different attributes are presented to the respondent. The respondents’ task is to judge which of the two combinations presented would have a higher positive influence on the aim of reducing BEPS if only one of the presented combinations could be implemented. This task is repeated numerous times so that every

---

<sup>14</sup> The suggested number of pairs ( $N$ ) is  $N = 3 * (K - k - 1) - K$  where  $K$  is the total number of levels across all attributes and  $k$  is the number of attributes (see Johnson (1987)).

<sup>15</sup> The majority of questionnaires was answered only shortly after the Action Reports 2015 have been released. Our analysis therefore relates to the Action Plan from 2013 instead of the Reports from 2015. Also, regarding the level of detail of the Reports, which encompass several hundred pages, reference to the much more concise Action Plan seems more appropriate, as one can assume that tax practitioners normally do not have the time to work themselves through all Reports within such short time.

possible combination of highest and lowest rated levels across attributes is evaluated. The method does therefore not allow for answers that imply equal rejection of all Actions.

As this paper surveys the perceptions of practicing tax experts on the effectiveness of individual Actions of the BEPS Action Plan, we exclude Actions 1, 11 and 15 from the study, as they will not effectuate directly observable changes to daily tax practice. For Action 1 (*Address the tax challenges of the digital economy*) the OECD planned at the current stage to only publish a report that identifies and examines the main difficulties that the digital economy poses for the application of existing international tax rules. Further legislative or administrative steps are currently not envisioned. Action 11 (*Establish methodologies to collect and analyse data on BEPS and the actions to address it*) and Action 15 (*Develop a multilateral instrument*) cover technical details of implementing and monitoring the legislative means that will be developed under the other Actions.

We therefore focus our study on Actions 2-10 and 12-14. In general, we refer to the options proposed in the OECD Action Plan. See

Table 2 for information about all attributes and levels used in this paper.

*[Insert*

Table 2 about here]

With regard to Action 3 (*Strengthen CFC rules*), which calls for general guidance on the design of such anti-deferral rules, but in its current state refrains from suggesting specific policy instruments, we draw on the academic discussion of the design of CFC legislation to survey this Action. Kane (2014) divides possible approaches to CFC legislation into three categories, namely (1) anti-hybridity rules, (2) deduction-inclusion rules and (3) minimum tax rules. As anti-hybridity rules are basically covered by Action 2 and deduction-inclusion rules are covered by Actions 2, 4 and 9, we feel comfortable with focusing on the following suggestions for minimum tax rules:

1. *CFC rules that include only foreign passive income, irrespective of whether that income comes from a low-tax country or not;*
2. *CFC rules that include foreign passive income exclusively from a low-tax country; and*
3. *CFC rules that include foreign passive and active income exclusively from a low-tax country.*

We invited, by email, 10,500 experts in international taxation to participate in the online survey. The experts were identified by their membership in an international professional organization on international tax law (International Fiscal Association, IFA).<sup>16</sup> We thus ensure that only individuals who are thoroughly knowledgeable in this field of taxation, and who are confronted in their daily business with the issues addressed by the BEPS initiative, participated in our survey. We excluded members of national tax administrations and adjusted for multiple entries. The questionnaire was written in English to prevent translation errors.<sup>17</sup> We used the official BEPS Action Plan<sup>18</sup> issued by the OECD as the basis for the phrasing of attributes and levels. The questionnaire was available online from 2 February 2015 until 6 March 2015 in Austria, and from 2 November 2015 until 17 December 2015 for the rest of the world.<sup>19</sup>

---

<sup>16</sup> For Austria, in addition to the members of the Austrian IFA-Branch, the following were identified as experts: (1) members of the Committee for International Tax Law of the Austrian Chamber of Chartered Accountants and (2) individuals that have published in 2014 in the most renowned Austrian international tax law journal (*Steuer und Wirtschaft International*, SWI).

<sup>17</sup> For Austria, the questionnaire was translated into German.

<sup>18</sup> For Austria, the official German translation of the BEPS Action Plan.

<sup>19</sup> A pre-test of the survey with doctoral / PhD students and post-doc researchers with research interests in international tax law from the WU – Vienna University of Economics and Business was conducted from October 23<sup>rd</sup> 2014 to November 11<sup>th</sup> 2014.

We designed the questionnaire so that BEPS from a worldwide perspective is addressed. We specifically did not ask for a domestic perspective, and we phrased questions without mentioning specific countries. Nevertheless, participants obviously respond against the professional, legal and economic background of their country.

To avoid strategic answers (for instance answers in the interest of the participant's clients or with regard to the success of the participant's clients tax planning schemes), we addressed the participants explicitly as "experts" in international tax, and emphasized the importance of their expert opinion for research. We did not address them as consultants, and we did not mention their clients. However, as is regularly the case for surveys, we cannot ascertain the absence of strategic answers. Given the structuring of the survey instrument so as to reduce the risk of strategic answers, as well as the results of our robustness checks (*see* section 5), we feel rather comfortable ruling out any distorting effects from strategic answers.

The invitations to participate in the survey were sent out in three stages via email. From the invited group of experts, 1,218 individuals participated in the survey (response rate 11.6%). Of these 448 individuals finished the survey (OECD: 326<sup>20</sup>; EU: 215; BRICS: 53<sup>21</sup>; developing countries: 64).<sup>22</sup> The finishing rate (4.23%) is rather low, which might give rise to concerns as to the professional quality of the respondents (suggesting that only those who have sufficient time, i.e. are underemployed, respond). Yet, the analysis of the professional background of the participants (*see* Table 2, below) emphasizes their very high degree of expertise, so that we do not further entertain such concerns. Further, the low response rate may raise concerns as to the generalizability of the results. However, again, we are very confident as to the high expert status of the respondents, so that the sample source reduces the necessary sample size. In addition, the elaborate analysis method promotes the generalizability of our results.

---

<sup>20</sup> Of these, a majority of 62 respondents works in Austria.

<sup>21</sup> Of which: Brazil 19, Russia 6, India 17, China 2 (plus 1 from Hong Kong), South Africa 8.

<sup>22</sup> 770 responses were incomplete and could not be analysed. Of these, about 60% broke off during the first three screens, so that it seem to be individual disposition and circumstances rather than difficulty with the questions on BEPS, that lead to stopping.

## 5 Results and Discussion

### 5.1 Descriptive Statistics

Table 3 reports descriptive statistics of demographic information on the participants. The sample consists of 354 (79%) male and 94 (21%) female respondents with a high degree of professional experience (92% with more than 6 years and 61% with more than 15 years of professional experience). The respondents were largely educated at a tertiary level; 57% hold Masters degrees and 27% hold doctorate/PhD degrees. They are predominately attorneys (46%) and 68% hold a qualification as chartered accountant or certified public accountants. A vast majority (87%) works in the accounting/tax consulting/auditing profession at a high level in their respective firms: almost half of the respondents (48%) are at a partner level; 75% are senior managers, partners, or in an expert function.

The descriptive statistics for regularly dealing with international tax matters and knowledge of the OECD BEPS Action Plan show that the targeted groups of individuals can rightfully be described as experts in international taxation: 82% of the respondents indicated that they spend more than 25% of their regular working hours per week with international tax matters (53% spend more than 50%, and 28% spend even more than 75% of their working hours on international tax). Almost all of the participants (95%) have good / very good knowledge of the BEPS Action Plan; 75% indicated that they have read the Action Plan before. Overall, the group of participants can be considered highly qualified and equipped with thorough knowledge of the issues in question.

Additionally, the Cronbachs Alpha, a scale reliability coefficient which is widely used as an estimate of the reliability of survey studies, of our questionnaire ( $\alpha = 0.8456$ ) suggests that the questionnaire is a highly valid and very appropriate instrument to study the research questions of this paper.

*[Insert Table 3 about here]*

## 5.2 Relative Importances of the BEPS Actions

### 5.2.1 Overall

Table 4 reports the average relative importances of the BEPS Actions (our attributes) and t-statistics relative to the mean of all attributes for all completed online ACA questionnaires. Figure 1 provides an overview of the Action's relative importances in a ranked order. It is immediately evident that preference for the Actions differs. The importance measures are calculated on an individual level using Hierarchical Bayes estimation. They are then ratio-scaled so that the values add up to 100. This normalization is done so that each respondent has equal impact when computing average utility values for all respondents (Horng 2005). The importance measures of the attributes can thus be interpreted as the share of the respective attribute's importance of the combined utility of all attributes. An attribute with an importance of 20% is twice as important as an attribute with an importance of 10%. The importance measures are study-specific and the attribute's importance is always relative to the other attributes used in the study; it can neither stand alone for itself nor be compared across studies using different sets of attributes (Böhler and Scigliano 2009).

*[Insert Table 4 about here]*

*[Insert Figure 1 about here]*

The Action "Intangibles" has the highest importance value (12.5%); the Actions "Neutralize the effects of hybrid mismatch arrangements" (12.44%), and "Strengthen CFC rules" (12.1%) are a close second and third. Actions "Prevent the artificial avoidance of PE status" (5.42%) and "Dispute resolution" (7.41%) have the lowest importance values. The t-statistics of the four highest and four lowest rated Actions, as compared to the mean of 10%, are throughout highly statistically significant at the 0.1% significance level.

To summarize, practicing experts worldwide show several preferences. First, intangibles, hybrid mismatch arrangements and weak CFC rules are viewed as being the most serious sources for BEPS. Second, a change in the international regulatory practice of excessive intra-group interest deduction and specific action against harmful tax practices (Action 4, 5 and 9, which all rank above the median) is essential to reducing base eroding and profit shifting behaviour. Of lesser importance are

anti-treaty-abuse measures, further transparency on the taxpayer level and amendments to the definition of permanent establishment, the latter being at the lowest rank.

**5.2.2 OECD, BRICS, and Developing Countries**

A more detailed picture can be seen in Figure 2 and in Table 5 , where the results are split for responses from OECD, BRICS and developing countries<sup>23</sup>.

*[Insert Figure 2 about here]*

Clearly, the views of respondents differ among these three country groups. The three most important Actions for respondents from OECD countries are “Intangibles” (rank 1), “Limit BEPS via interest deduction” (rank 2), and “Neutralize the effects of hybrid mismatch arrangements” (rank 3). For developing countries, they are the same, only that ranks 2 and 3 are swapped. The picture is very different for BRICS: “Strengthen CFC rules” ranks first, “Hybrids” rank second, and “Counter harmful tax practices” is ranked third. In other words, respondents from BRICS countries show very different priorities as compared to OECD countries and developing countries.

*[Insert Table 5 about here]*

This observation is further supported by both Panels in Table 5. Both Panels demonstrate the significant differences in the judgments on most of the Actions (BRICS vs OECD: 6 out of 10; BRICS vs developing countries: 7 out of 10). Especially the difference in importance that OECD and developing countries on the one side, and BRICS on the other side, give to the strengthening of CFC rules (Panel A: ranks 4 and 5 vs rank 1) and to intangibles (Panel A: rank 1 vs rank 4) is striking. Panel B of Table 5 shows the high significance of the different importance values in the comparison of BRICS with OECD as well as with developing countries (first and third column in Panel B). In contrast, and maybe even more surprising, responses from OECD countries and from developing countries are much

---

<sup>23</sup> From the total number of respondents (448), five have not been included as they are neither OECD nor BRICS nor developing. One respondent from Iceland, one from Latvia, and three from Bulgaria have been excluded for this analysis.

more aligned. Ranks are almost identical, and differences in mean importance values of the Actions are mostly not significant.

From these first analyses, we can find evidence supporting our H 1 (relating to differences in ranking the Actions between BRICS and OECD) and H 2 (relating to differences between BRICS and developing countries). However, our results do not support H 3, according to which Actions should be ranked differently between OECD and developing countries. This is rather surprising as one would expect even more distinct differences in judgment between OECD and developing countries than between OECD and BRICS countries as the economic differences between OECD and developing countries are even more pronounced than between OECD and BRICS. On the other hand, when taking a closer look, Table 5 shows a very strong support in developing countries for Action 8 on intangibles, which is significantly ( $p < 1\%$ ) more important to developing countries than to OECD and BRICS.

H 4, which relates to the higher importance of Actions on hybrid mismatches, internal financing, and transfer pricing (i.e. Actions 2, 4, 8, 9 and 10), is supported on a worldwide level: Intangibles (Action 8), hybrid mismatch (Action 2), and interest deduction (Action 4, 9) rank above the median on ranks 1, 2, and 4 respectively. Action 10 (transactions that would occur only very rarely between third parties, with a special focus on transfer pricing) however is only ranked sixth. This may be due to the fact, that Action 10 while relating to transfer pricing, involves rather administrative measures (clarification of “not at arm’s length”, clarification of transfer pricing methods), instead of other more direct measures.

Table 5 Panel A further reveals that respondents from BRICS again have a slightly different view: for BRICS, Actions 2, 3, 5, 8, and 9 are more important than others; excessive interest deduction seems to be less their concern whereas CFC rules are most important. H 4 therefore finds not sufficient support in BRICS. The views from OECD and developing countries on Actions 2, 4, 8, 9 and 10 are however closely aligned. For both country groups our hypothesis H 4 is supported to a greater extent than on the worldwide level.

H 5 and H 6 relate to the importance of Actions 12 and 13, both on tax transparency (disclosure of aggressive tax planning arrangement and country-by-country reporting). H 5 is supported:

over all respondents, tax transparency is ranked 8<sup>th</sup>. Split by economic background, this is confirmed for OECD (rank 8) and developing countries (rank 8) and even more determined by BRICS (rank 10, i.e. last rank). H 6 hypothesizes that still, transparency might be more important for developing countries as opposed to non-developing countries (including BRICS). This is only partly confirmed by rank and by attribute values in relation to BRICS (Table 5 Panel A): the attribute value of 7.33 and rank 8 are indeed higher than the attribute value / rank in BRICS (5.94 / 10), but slightly lower than in OECD countries (8.49 / 8). All these differences in judgment are statistically significant (Table 5 Panel B).

Hypothesis H 7 and H 8 predict specific preferences for Actions according to the macroeconomic background of being capital importing vs capital exporting countries. Action 7 (prevention of the artificial avoidance of PE status) is assumed to be more important to BRICS and developing countries as compared to OECD countries, as it extends the taxing rights of source countries. Table 4 and Table 5 Panel A show a surprising result: a broader PE definition is not important at all, in any of the country-groups. Overall, Action 7 ranks last, as is the case for OECD and developing countries. Also for BRICS, Action 7 has very low importance, it ranks second to last. H 7 is supported for BRICS in relation to OECD (attribute value 6.43 / rank 9 vs attribute value 5.3 / rank 10; statistically significant). It is not supported in the comparison of developing countries and OECD.

It is surprising, that the prevention of the artificial avoidance of permanent establishment status is considered so comparatively unimportant, overall as well as for OECD, BRICS<sup>24</sup> and developing countries separately. Action 7 focuses in particular on a broader permanent establishment definition, including commissionaire arrangement, and reducing special activities exemptions. While this may sound like a not so important detail in the wording of the model treaty, in reality such change in definition would have substantial consequences. In the current international tax regime, the right to tax a foreign entity's profits is directly connected to the existence of a permanent establishment of that entity in the source country. A broader definition therefore directly reduces the right to tax of the resident country and increases the right to tax in the source country. This is on the one hand in the interest of developing countries, and maybe also BRICS (even though they are becoming capital exporters). On

---

<sup>24</sup> For a more detailed discussion of the OECD's and BRICS' views on permanent establishment, and the high importance of that issue, see Ring, 2015.

the other hand, it is also highly important to OECD countries aiming at taxing the profit where it is earned, i.e. in the source country, and not where the profit is shifted to. For this reason, one might expect Action 7 as being (more) important.

A possible explanation for the low importance of the permanent establishment status may be that in many cases, profit shifting takes place primarily via the channels tested in H 1, using subsidiaries, and not via the use of permanent establishments. Another explanation may be that a broader PE definition (for example to include digital presence) produces more problems than it solves (Geutebrück 2016). For OECD countries, a broader PE definition may lead to less tax revenues. For BRICS and developing countries, it may simply not be the answer to their fiscal concerns (for example, the inclusion of payments for technical assistance as royalty payments in the model treaty, leading to the right to levy withholding tax, may be much more relevant). Also the prevalence of the UN model treaty, which contains a slightly broader PE definition, among developing countries and BRICS might reduce the perceived necessity for changes to the PE definition.

In H 8 Action 3 (strengthening of CFC rules) is assumed to be more important for BRICS than for developing countries. This hypothesis finds strong support in our data. With an impressive attribute value of 15.11 and rank 1 for BRICS vs. 10.9 and rank 5 for developing countries, and in spite of CFC rules being already in place in some of the BRICS, the preference for Action 3 is confirmed. The relatively lower importance of Action 3 among respondents from OECD countries (11.81 / rank 4) could be attributed to the fact that CFC rules are already established in the majority of the OECD countries' tax regimes.

### **5.3 Average Utilities of Individual Measures**

As briefly described above the average importance values of the attributes (ie. Actions) are computed on the basis of the utility values of the respective attribute's levels (ie. specific measures for implementing one Action). The attribute's importance values are thus decomposed into their respective sets of levels to analyse the interrelation between the various levels of any attribute. To evaluate and analyse the utilities across respondents, the data are rescaled using the "zero-centred diffs" method.

The zero-centred diffs method rescales utilities so that, for each individual, the total sum of the utility differences between the worst and best levels of each attribute across attributes is equal to the number of attributes times 100 (Sawtooth 2006). This leads to scaled utility values for the levels that sum-up within the respective attribute to zero. The average utility values are interval data and represent the desirability of the attribute levels. As Horng (2005) points out, due to the arbitrary origin within each attribute, the utility values of levels between attributes (e.g. “Prevent treaty abuse” versus “Strengthen CFC rules”) cannot be directly compared. Horng (2005) also indicates that as utility values are interval data, they do not support ratio operations. Therefore, when comparing utility values within the same attribute, a level with a utility value of 30 is not twice as desirable as a level with a utility value of 15. However, the directionality of level utility values and the absolute distance between best and worst levels within one attribute do reveal the overall preferences of respondents for levels within an attribute. Positive values indicate positive utilities and, thus, a positive impact on the decisions of respondents, whereas negative values point to aversion to the level.

Table 6 shows the average utility values for all levels and within all attributes. It further provides t-statistics of the average utilities relative to the mean of all levels within the respective attributes.

*[Insert Table 6 about here]*

For the most important Action reported in Table 4, “Intangibles”, the analysis shows that the respondents clearly prefer ‘profit allocation in accordance with value creation’ (utility +11.63) over any other option against profit shifting using intangibles, with very high significance ( $p < 0.001$ ); the least preferred option, “a broad and clear definition of intangibles”, is also statistically highly significant ( $p < 0.001$ ). Practitioners therefore seem to express that profit shifting via intangibles, which is the highest priority action, should be encountered via profit allocation rules rather than changes of definitions.

For the aim of limiting BEPS via neutralizing the effects of hybrid mismatch arrangements, which ranks close second in importance according to Table 4, respondents are much less outspoken. A

clear and significant preference for any of the four measures cannot be seen. Respondents however strongly reject the idea of denying deduction of payments which are not taxed by the recipient (utility -3.42,  $p < 0.001$ ).

For strengthening CFC rules and for limiting interest deduction, ranked close third and fourth, respondents have clear preferences: the measure appropriate, in their views, is a narrow definition of CFC rules, including only passive income, only from low-tax countries (utility +14.71,  $p < 0.001$ ), and limitation of interest deduction via transfer pricing guidelines for related party transactions (utility +7.48,  $p < 0.001$ ). Both clear preferences for a narrow definition of CFC rules as well as for transfer pricing guidelines for interest payments apply to all three country groups, OECD, BRICS, and developing countries (cp. Table 7 below). In other words, even though the importance of this Action itself differs considerably in these groups (cp. Table 5 above), judgment on which measure is most important within the Action is unanimous.

Also for the lesser important attributes, ranked 5<sup>th</sup> to 10<sup>th</sup>, we find rather clear preferences of tax practitioners. With regard to countering harmful tax practices, they support the requirement of ‘substantial activity’ for preferential regimes (utility +3.17,  $p < 0.01$ ) over including non-OECD members in the compulsory spontaneous exchange on preferential regimes – the latter will be further discussed below. Further, they support the clarification of transfer pricing methods in the context of global value chains (utility +4.13,  $p < 0.001$ ), which is in line with the support for profit allocation from intangibles according to value creation as discussed above. Respondents have a clear preference for country-by-country reporting (utility +7.64,  $p < 0.001$ ) over disclosure for aggressive tax planning. With regard to dispute resolution (which is considered as the second least important attribute), the respondents indicate a need for more legal certainty, as ‘Implementation of mandatory arbitration provisions in tax treaties’ has a positive utility value (+6.90,  $p < 0.001$ ). For the least important Action, the prevention of the artificial avoidance of the status as a permanent establishment, respondents find changes to the specific activity exemptions more relevant (utility +4.78,  $p < 0.001$ ).

With respect to the Hypotheses H 9 and H 10 that focus on the legal quality of the implementation of anti-BEPS measures, we find some indications that enhanced international

coordination is seen as necessary, but also that implementation measures of hard law are preferred to soft law instruments. The findings substantiate H 9, according to which measures at the treaty level are more effective than those at the domestic law level: Table 6 shows that, with the exception of Action 6, for each Action (attribute) that provides such options (levels), the one option which supposedly requires more international coordination is rated higher than the purely domestic option (in particular very distinct Actions 2 and 4).

H 10 on the higher appropriateness of hard law over soft law, is not fully supported. Levels proposing hard law measures include hard law terms such as “rules”, “law provisions” or “mandatory”. In contrast, soft law terminology includes “regulation”, “guidelines” or “methods”. Actions where such language is distinguishable for their levels (measures) include Actions 2, 4/9, 6, and 14. The results in Table 6 are inconclusive. For Action 2 a change to the OECD model is preferred, and for Actions 4/9 an improvement to transfer pricing guidelines is preferred. Both are soft law measures. On the other hand, for Actions 6 and 14, hard law measures are supported. Evidence is therefore mixed, and H 10 is not supported.

Table 7 gives further information as it splits the sample along economic background in OECD countries, BRICS, and developing countries. The diversity in judgment of tax practitioners, which could be observed above in our analysis of Actions, is now again observed in the analysis of levels. Panel A depicts the respective utilities per proposed measure (level). It can be seen that in the majority of cases, the most preferred measure is identical in all three country groups, with the exception of Actions 2, 5 and 10. A different picture is given in Panel B: the analysis shows that in almost all cases, judgments differ significantly between OECD, BRICS and developing countries (in the majority of cases  $p < 0.01$ ). This is particularly the case for OECD vis-à-vis non-OECD countries. In other words, while there is some worldwide conformity regarding the overall direction of reforming international tax law when it comes to details, OECD respondents and non-OECD respondents have largely different views and strongly varying priority perceptions.

*[Insert Table 7 about here]*

Actions and levels which display significant differences among country groups deserve specific discussion. This includes Actions 2, 5 and 10.

Action 2 on hybrid mismatch arrangements (its importance ranked 3<sup>rd</sup> in OECD, 2<sup>nd</sup> in BRICS and developing countries, cp. Table 5) displays that respondents from BRICS consider domestic law provisions which deny double deduction as most important measure to combat hybrid mismatch arrangements. Contrary, respondents from OECD consider changes in the model treaty as most important. This sheds additional light on our H 9, which assumes higher preference for measures at treaty level, instead of domestic level. Tax practitioners in BRICS support rather domestic law measures, and rely less on amendments to the OECD model treaty. This seems plausible as they often use the UN model treaty, and not the OECD model. Also, BRICS have a prior history of implementing anti-avoidance clauses on a domestic level (Brooks 2015; Owens 2015). Developing countries, though also expressing a preference for changes to the OECD model, do not differ significantly from BRICS in their judgment on domestic law measures to avoid double deductions ( $p = 0.9599$ ). Yet, their strong preference for a measure at model treaty level (utility: + 6.24) may be due to their sometimes limited expertise on negotiating anti avoidance measures at treaty level (Peters 2015; Mosquera Valderrama 2015; Vann 2015), to the effect that guidance in the model treaty is welcomed.

Action 5, supporting transparency and substance, of medium importance to the three country groups, is particularly interesting, as it suggests among other explicitly the inclusion of non-OECD members in the compulsory spontaneous exchange on preferential regimes. This is the only explicit reference to the role of non-OECD countries in the BEPS Action Plan. Respondents from BRICS consider the inclusion of non-OECD countries as the most important measure among the three measures proposed. Contrary, respondents from developing countries consider the inclusion of non-OECD countries as least important measure. Along with OECD respondents they rather find the requirement of substantial activity clauses for any preferential tax regime as most important. This supports the notion that BRICS, more than developing countries, make a self-confident claim of being influential in the international tax policy and anti-BEPS debate.

Finally, Action 10 on transactions that would occur only very rarely between third parties, which is perceived as being of comparatively little importance by all three country groups, displays

differing results. Respondents from OECD countries consider the clarification of transfer pricing methods in the context of global value chains as clearly the most important measure. In contrast, respondents from BRICS as well as from developing countries find protection against common types of base eroding payments, such as management fees, as most important. This difference in judgment between OECD and non-OECD, and the comparatively homogeneous judgment among BRICS and developing countries is supported by the respective t-values and p-values in Table 7 Panel B. It seems to be a clear reflection of the actual problems with regard to the erosion of the income tax base in source countries. Maybe the non-OECD respondents' preference is also driven by the issue of fees for technical services, even though this is not explicitly mentioned, but implicitly included, in the measure. Deduction of such payments is frequently considered as an important cause for the erosion of source countries' tax bases (Sengupta and Rao 2015; Wagenaar 2015)

## 6 Additional Analysis

Our sample is dominated by respondents from Austria, which has the largest number of respondents (62). We therefore carried out the attributes' and the levels' analysis of the full sample and of the OECD sub-sample without Austrian respondents. The results for attributes and levels<sup>25</sup> (not tabulated) do not differ significantly ( $p > 0.1$ ) from the analysis with Austrian respondents, so that our results have no Austrian bias.

To analyse whether our results regarding the importances of attributes are influenced by other factors, we substituted the economic background by geographic region (according to La Porta et al, 1999: Europe, North America, Latin America and Caribbean, Asia, Africa, Oceania), and by legal origin (according to La Porta et al, 1999: English, Socialist, French, German, Scandinavian). In almost<sup>26</sup> all cases, the respective t-tests (not tabulated) showed no significant difference to the full sample. Also

---

<sup>25</sup> With the single exception of the level "Transfer pricing rules to ensure that inappropriate returns will not accrue to an entity solely because it has contractually assumed risks or has provided capital", where OECD and OECD without Austria display a significant difference (t-value at the 10% level).

<sup>26</sup> Only five exceptions for individual actions in individual geographic regions or legal origins are shown, where the t-values are significant: in four instances for four different geographic region on a 5%-level, and only in one instance for countries of an English legal origin on a 5% level. A reliable explanation for these is not available, and those very few exceptions should not be over-interpreted.

a comparison within geographic region, for example Europe vs. North America shows almost no substantial and significant differences. We also ran analyses including different country groupings such as G7, G20 and EU, which produced the same results as the OECD sub-sample. An analysis of high-tax vs low-tax countries with countries applying a statutory corporate income tax rate of below 15% being defined as low-tax countries did not produce any substantial and significant differences either.

However the comparison of English vs. German legal origin needs some explanation. Table 8 shows the analysis of respondents with an English vs. non-English (Panel A), and a German vs non-German (Panel B) legal background. Action 3, the strengthening of CFC rules, deserves special attention: the differences are highly significant ( $p < 0.05$ ), and at the same time the ranks differ for more than just one (i.e. two) attribute. According to our data, for countries with an English legal background, the strengthening of CFC rules is of utmost importance, followed by intangibles, whereas for other countries, CFC ranks only fourth. Vice versa, countries with a German legal background, CFC rules rank only 5<sup>th</sup>. Such difference may be explained by the fact that while in many countries with English roots (such as UK, USA, Canada), CFC rules have played an important role in anti-avoidance for a long time. In countries with a German legal background, CFC rules are either not formalized at all (such as in Austria), or the rules in place are heavily criticized (as in Germany).

*[Insert Table 8 about here]*

With regard to demographics, an analysis according to professional experience, experience in international tax law and knowledge of the BEPS Action Plan, gender, and position in the firm did not show any<sup>27</sup> significant results. However, when focusing again on such results, where the t-value is significant on a 5%-level, and where ranks differ by at minimum 2, professional background and education matter (see Table 9).

*[Insert Table 9 about here]*

---

<sup>27</sup> Again, with the exception of very few, individual significant differences that do not allow reliable interpretation.

## 7 Conclusion

The BEPS Action Plan proposes a number of different measures to address the shortcomings of the current system of international taxation. However, the Action Plan mainly represents the opinions on these shortcomings and the beliefs as to which legislative measures are most effective to curb base erosion and profit shifting schemes, of one group of stakeholders in this process, namely tax administrations of developed (OECD) countries. This paper broadens the view on anti-BEPS measures, as it surveys the perceptions of practicing tax experts in non-OECD countries, with a particular focus on BRICS and developing countries, on the importance of the envisaged changes to the international tax system.

The adaptive conjoint analysis allows an in-depth investigation of the opinions on the Action Plan. It compels the participant to implicitly rate different aspects of the Actions and prevents respondents from simply grading all aspects as “very effective” or “very ineffective”.

The results show that tax experts from BRICS countries have substantially different views on the Actions of the BEPS Action Plan, as compared to OECD and developing countries.

Focusing on the specific Actions, we find that intangibles and hybrid mismatch arrangements are viewed as being the most serious sources for BEPS. Also, a strengthening of CFC rules and interest deductions in internal group finance are viewed as essential to reducing base eroding and profit shifting behaviour. Of lesser importance are transparency on the taxpayer level, dispute resolution, and consistently ranking last or second to last in all tests, amendments to the definition of permanent establishment. This latter may even be the most surprising result of our analysis.

When analysing the specific measures which the OECD proposes in order to substantiate the Actions, again BRICS stand out as having significantly different views and judgments.

The results of this study provide noteworthy insights into the opinions of a very homogeneous group of highly knowledgeable and educated tax experts who are concerned with international tax matters on a daily basis. Some of the results are not very surprising and are rather foreseeable; however these results are very valuable as they support some of the beliefs, theories and

assumptions that form the basis for the proposals of the Action Plan. Some of the results, on the other hand, such as the strong conformity between OECD countries and developing countries as well as the relative unimportance of the proposed changes to the definition of permanent establishment, also for BRICS and developing countries, are rather astonishing.

The distinct role of BRICS in international tax policy has been shown, maybe even the serious disagreement of BRIS with OECD tax policy, which has been described as a rift between BRICS and OECD (Ring 2015). Our analysis supports the notion that BRICS will have (and should have) more influence in the debate on anti-BEPS Actions and measures. This will lead to a shift of BRICS from norm takers to norm makers in international taxation (Ring 2015). For the OECD, a disregard for BRICS priorities in particular may prove disastrous to the attempt of fighting BEPS globally. It is well understood by all parties that such attempt can only be successful when all countries, at least those of economic power, invariably including BRICS, act in concert. An enhancement of the role of BRICS in the process is therefore imperative.

## 8 References

- Abbott, K. W., R. O. Keohane, A. Moravcsik, A.-M. Slaughter, and D. Snidal. 2000. The Concept of Legalization. *International Organization* 54 (3):401-419.
- Abbott, K. W., and D. Snidal. 2000. Hard and Soft Law in International Governance. *International Organization* 54 (3):421-456.
- Ault, H., J., W. Schön, and S. Shay, E. 2014. Base Erosion and Profit Shifting: A Roadmap for Reform. *Bulletin for International Fiscal Documentation* 68 (6/7):275-279.
- Avi-Yonah, R.S. 2015. Chapter 3: A Perspective of Supra-Nationality in Tax Law. In *BRICS and the Emergence of International Tax Coordination*, edited by Y. Brauner and P. Pistone. Amsterdam: IBFD, 33-39.
- Baier, D., and M. Bruschi. 2009. *Conjoint Analyse*. Heidelberg: Springer.
- Baistrocchi, E.A. 2013. The International Tax Regime and the BRIC World: Elements for a Theory. *Oxford Journal of Legal Studies* 33 (4):733-766.
- Baker, P. 2015. The BEPS Project: Disclosure of Aggressive Tax Planning Schemes. *International Tax Review* 43 (1):85-90.
- Blaufus, K., and R. Ortlieb. 2009. Is Simple Better? A Conjoint Analysis of the Effects of Tax Complexity on Employee Preferences Concerning Company Pension Plans. *sbr* 61 (1):60-83.
- Blutman, L. 2010. In the Trap of a legal metaphor: International Soft Law. *International & Comparative Law Quarterly* 59 (3):605-624.
- Böhler, H., and D. Scigliano. 2009. Traditionelle Conjointanalyse. In *Conjoint Analyse*, edited by D. Baier and M. Bruschi. Heidelberg: Springer, 101-112.
- Brauner, Y. 2014a. BEPS: An Interim Evaluation. *World Tax Journal* 6 (1):10-39.
- . 2014b. What the BEPS? *Florida Tax Review* 16 (2):56-115.
- . 2015. Transfer Pricing in BEPS: First Round — Business Interests Win (But, Not in Knock-Out). *International Tax Review* 43 (1):72-84.
- Brauner, Y. and P. Pistone. 2015. Editors. *BRICS and the Emergence of International Tax Coordination*. Amsterdam: IBFD
- Brooks, K. 2015. Chapter 16: International Tax Policy: The Counter-Story Presented by the BRICS. In *BRICS and the Emergence of International Tax Coordination*, edited by Y. Brauner and P. Pistone. Amsterdam: IBFD, 447-468.
- Dagan, T. 2015. Chapter 2: BRICS: Theoretical Framework and the Potential of Cooperation. In *BRICS and the Emergence of International Tax Coordination*, edited by Y. Brauner and P. Pistone. Amsterdam: IBFD, 15-32.
- De Goede, J. 2015. Chapter 15: The BRICS Countries in the Context of the Work on the UN Model. In *BRICS and the Emergence of International Tax Coordination*, edited by Y. Brauner and P. Pistone. Amsterdam: IBFD, 421-446.
- Devereux, M., P., and J. Vella. 2014. Are We Heading towards a Corporate Tax System Fit for the 21st Century? *Fiscal Studies* 35 (4):449-475.
- Dharmapala, D. 2014. What Do We Know About Base Erosion and Profit Shifting? A Review of the Empirical Literature. *Fiscal Studies* 35 (4):421-448.
- Evers, M. T., I. Meier, and C. Spengel. 2014. Transparency in Financial Reporting: Is Country-by-Country Reporting Suitable To Combat International Profit Shifting? *Bulletin for International Fiscal Documentation* 68 (6/7):295-303.
- Fuest, C., C. Spengel, K. Finke, J. H. Heckemeyer, and H. Nusser. 2013. Profit Shifting and “Aggressive” Tax Planning by Multinational Firms: Issues and Options for Reform. *World Tax Journal* 5 (3):307-324.
- G20. 2012. G20 Leaders Declaration - G20 Summit Los Cabos.
- . 2016. Communiqué G20 Finance Ministers and Central Bank Governors Meeting. G20 Summit China. Available at: [http://www.g20.org/English/Documents/Current/201603/t20160302\\_2182.html](http://www.g20.org/English/Documents/Current/201603/t20160302_2182.html) (16 March 2016)
- Geutebrück, G. 2016. *Aktuelle Entwicklungen in der Besteuerung von grenzüberschreitenden Lieferungen digitaler Güter und Leistungen zur Bekämpfung von Gewinnverkürzung und Gewinnverlagerung (BEPS)*. Dissertation WU Vienna University of Economics and Business.

- Grau Ruiz, M., A. 2014. Country-by-Country Reporting: The Primary Concerns Raised by a Dynamic Approach. *Bulletin for International Fiscal Documentation* 68 (10):557-566.
- Green, P. E., and V. R. Rao. 1971. Conjoint Measurement for Quantifying Judgmental Data. *Journal of Marketing Research* 8 (3):355-363.
- Green, P. E., and V. Srinivasan. 1978. Conjoint Analysis in Consumer Research: Issues and Outlook. *Journal of Consumer Research* 5 (2):103-123.
- . 1990. Conjoint Analysis in Marketing: New Developments with Implications for Research and Practice. *Journal of Marketing* 54 (4):3-19.
- Hornig, E., L. 2005. Teacher Tradeoffs: School Conditions and Student Demographics Matter to Specially-Trained Teachers: University of California Los Angeles, Center X Teacher Education Program.
- Hundsdoerfer, J., and C. Sichtmann. 2009. The importance of taxes in entrepreneurial decisions: an analysis of practicing physicians' behavior. *Review of Managerial Science* 3 (1):19-40.
- Hundsdoerfer, J., C. Sielaff, K. Blaufus, D. Kiesewetter, and J. Weimann. 2013. The Influence of Tax Labeling and Tax Earmarking on the Willingness to Contribute – A Conjoint Analysis. *sbr* 65 (4):359-377.
- Johnson, R., M. 1987. Adaptive Conjoint Analysis. Paper read at Proceedings of the Sawtooth Software Conference on Perceptual Mapping, Conjoint Analysis, and Computer Interviewing, at Ketchum, ID.
- Kane, M., A. 2014. The Role of Controlled Foreign Company Legislation in the OECD Base Erosion and Profit Shifting Project. *Bulletin for International Fiscal Documentation* 68 (6/7):321-326.
- Klabbers, J. 1998. The Undesirability of Soft Law. *Nordic Journal of International Law* 67 (4):381-391.
- Kofler, G. 2013. The BEPS Action Plan and Transfer Pricing: The Arm's Length Standard Under Pressure? *British Tax Review* 58 (5):646-665.
- La Porta, R., F., Lopez-de-Silanes, A. Shleifer and R. Vishny. 1999. The Quality of Government. *The Journal of Law, Economics, and Organization* 15 (1):222-279.
- Lawsy, S., B. 2009. Probably? Understanding Tax Law's Uncertainty. *University of Pennsylvania Law Review* 157 (4):1017-1074.
- Logue, K., D. 2005. Tax Law Uncertainty and the Role of Tax Insurance. *Virginia Tax Review* 25 (2):339-414.
- Luce, D., R., and J. Tukey, W. 1964. Simultaneous Conjoint Measurement: A New Type of Fundamental Measurement. *Journal of Mathematical Psychology* 1 (1):1-27.
- Malherbe, J. 2015. The Issues of Dispute Resolution and Introduction of a Multilateral Treaty. *International Tax Review* 43 (1):91-95.
- Milliron, V., C., and D. Toy, R. . 1988. Tax compliance: An investigation of key features. *The Journal of the American Taxation Association* 9 (1):84-104.
- Mosquera Valderrama, I., J. 2015. Legitimacy and the Making of International Tax Law: The Challenges of Multilateralism. *World Tax Journal*, 7 (3):344-382
- Mössner, J., M. 2005. Diskussion zu Klaus Vogel Soft Law und Doppelbesteuerungsabkommen. In *Soft Law in der Praxis*, edited by M. Lang, J. Schuch and C. Staringer. Vienna: Linde, 149-150.
- Munyandi, K., R. Hamzaoui, C. Gutiérrez Puente, L. Ogazón, A. Trindade Marinho, M. Montes, M. Naoum and E. Muyaa. 2015. Tax Policy Trends in Africa – Commentary on the Major Tax Developments in 2013 and 2014. *Bulletin for International Taxation* March:154-167.
- OECD. 2010. Model Tax Convention on Income and on Capital: OECD.
- . 2013a. Action Plan on Base Erosion and Profit Shifting. Paris: OECD.
- . 2013b. Addressing Base Erosion and Profit Shifting. Paris: OECD.
- . 2014a. DAC List of ODA Recipients, Effective for reporting on 2014, 2015 and 2016 flows. Available at <http://www.oecd.org/dac/stats/documentupload/DAC%20List%20of%20ODA%20Recipients%202014%20final.pdf> (29 Feb 2016). Paris: OECD.
- . 2014b. Two-Part Report to G20 Developing Working Group on the Impact of BEPS in Low Income Countries. Available at: <http://www.oecd.org/tax/tax-global/report-to-g20-dwg-on-the-impact-of-beps-in-low-income-countries.pdf> (16 March 2016). Paris: OECD.
- . 2016a. Press release from 23 Feb 2016. Available at: <http://www.oecd.org/tax/all-interested-countries-and-jurisdictions-to-be-invited-to-join-global-efforts-led-by-the-oecd-and-g20-to-close-international-tax-loopholes.htm> (16 March 2016). Paris: OECD.

- . 2016b. Global Forum on Transparency and Exchange of Information for Tax Purposes. Peer Reviews and Compliance Ratings, per 14 March 2016. Available at: <http://www.oecd.org/tax/transparency/new-global-forum-peer-reviews-highlight-ever-increasing-compliance-with-tax-transparency-standards.htm> (16 March 2016). Paris: OECD.
- Owens, J. 2012. Trends and Challenges in the Tax Arena. *Bulletin for International Taxation* December:685-690.
- . 2013. The Taxation of Multinational Enterprises: An Elusive Balance. *Bulletin for International Taxation* August:441-445.
- . 2015. Chapter 12: The BRICS: An Overall Perspective. In *BRICS and the Emergence of International Tax Coordination*, edited by Y. Brauner and P. Pistone. Amsterdam: IBFD, 353-366.
- Peters, C. 2015. Developing Countries' Reactions to the G20/OECD Action Plan on Base Erosion and Profit Shifting. *Bulletin for International Taxation* June/July:375-381
- Rao, V. R. 2014. *Applied Conjoint Analysis*. New York: Springer.
- Ring, D. M. 2015. Chapter 17: Institutional Aspects. In *BRICS and the Emergence of International Tax Coordination*, edited by Y. Brauner and P. Pistone. Amsterdam: IBFD, 469-494.
- Sattler, H., and S. Hensel-Börner. 2000. A Comparison of Conjoint Measures with Self-Explicated Approaches. In *Conjoint Measurement: Methods and Applications*, edited by A. Gustafsson, A. Hermann and F. Huber. Berlin: Springer, 121-133.
- Sawtooth. 2006. The ACA/Hierarchical Bayes v3.0 Technical Paper.
- Schäfer, H.-B. 2006. Rules versus Standards in Rich and Poor Countries: Precise Legal Norms as Substitutes for Human Capital in Low-Income Countries. *Supreme Court Economic Review* 14:113-134.
- Schindler, D., and G. Schjelderup. 2013. Profit Shifting and Corporate Profit Tax Evasion: CESifo.
- Sell, S., K. Lopatta, and J. Hundsdorfer. 2010. Der Einfluss der Besteuerung auf die Rechtsformwahl: Eine Conjoint-Analyse. In *FU Berlin - School of Business & Economics Discussion Paper FACTS, No 2010/10*. Berlin: Freie Universität Berlin.
- Sengupta, D.P., and R. Kavita Rao. 2015. Base Erosion and Profit Shifting: An Indian Perspective. *Bulletin for International Taxation* June/July:382-386
- Skiera, B., and S. Gensler. 2002a. Berechnung von Nutzenfunktionen und Marktsimulationen mit Hilfe der Conjoint-Analyse (Teil 1). *Wirtschaftswissenschaftliches Studium* 31 (4):200-206.
- . 2002b. Berechnung von Nutzenfunktionen und Marktsimulationen mit Hilfe der Conjoint-Analyse (Teil 2). *Wirtschaftswissenschaftliches Studium* 31 (5):258-263.
- UN. 2001. *United Nations Model Double Taxation Convention between Developed and Developing Countries*.
- Vann, R. 2014. Policy Forum: The Policy Underpinnings of the BEPS Project - Preserving the International Corporate Income Tax? *Canadian Tax Journal* 62 (2):433-441.
- Vann, R. 2015. Chapter 13: Current Trends in Balancing Residence and Source Taxation. In *BRICS and the Emergence of International Tax Coordination*, edited by Y. Brauner and P. Pistone. Amsterdam: IBFD, 367-392.
- Vogel, K. 2005. Soft Law und Doppelbesteuerungsabkommen. In *Soft Law in der Praxis*, edited by M. Lang, J. Schuch and C. Staringer. Vienna: Linde, 145-148.
- Wagenaar, L. 2015. The Effect of the OECD Base Erosion and Profit Shifting Action Plan on Developing Countries. *Bulletin for International Taxation* February:84-92
- Wanyana Oguttu, A. 2015. OECD' s Action Plan on Tax Base Erosion and Profit Shifting: Part 1 - What Should Be Africa' s Response? *Bulletin for International Taxation* November:653-666
- Wittendorff, J. 2010. *Transfer Pricing and the Arm's Length Principle in International Tax Law*. Alphen aan den Rijn: Wolters Kluwer.

**Table 1 – Public consultation on BEPS Actions´ Discussion Drafts**

Table 1 reports the public consultations and the comments letters on the BEPS Actions´ Discussion Drafts. The data was taken from the OECD´s publication of comment letters, publicly available at: [www.oecd.org/tax/previous-requests-for-input.htm](http://www.oecd.org/tax/previous-requests-for-input.htm) (Feb 16, 2016)

BEPS Action	Public Consultation	Comment letters received			
		Total pages	Number		
			Total number	Of which BRICS	Of which developing countries
1	14.04.2014	479	78	1	
2	02.05.2015	463	63		
3	01.05.2015	577	62	1	1
4	06.02.2015	1,022	100	1	
6	09.01.2015 09.04.2015 17.06.2015	1,122	218	1	
7	09.01.2015 12.06.2015	1,150	152	1	
8	18.06.2015 29.05.2015	571	85	1	1
8-10	06.02.2015	863	83	1	1
10	06.02.2015 14.01.2015	1,096	150	6	7
11	19.09.2014 08.05.2015	238	46		
12	30.04.2015	275	39	2	
13	23.02.2014	945	129	1	
14	16.01.2015	413	50		
<b>Total</b>		<b>4,828.39</b>	<b>1,255</b>	<b>16 (1.3%)</b>	<b>10 (0.8%)</b>

**Table 2 – Adaptive Conjoint Analysis: Attributes and Levels**

Table 2 reports the operationalization of Actions of the OECD BEPS Action Plan for the conjoint analysis. The aims of the Actions are defined as attributes and the various options proposed by the Actions define the levels for the conjoint analysis.

Attribute	Levels	Action
<b>Neutralize the effects of hybrid mismatch arrangements</b>	Change the OECD Model Tax Convention to ensure that hybrid instruments and entities (incl. dual resident entities) are not used for treaty abuse	2
	Domestic law provisions that prevent exemption or non-recognition for payments that are deductible by the payer	2
	Domestic law provisions that deny a deduction for a payment that is not includible in income by the recipient	2
	Domestic law provisions that deny a deduction for a payment that is also deductible in another jurisdiction	2
<b>Strengthen CFC rules</b>	CFC rules that include only foreign passive income irrespective whether that income comes from a low-tax country or not	3
	CFC rules that include foreign passive income exclusively from a low-tax country	3
	CFC rules that include foreign passive and active income exclusively from a low-tax country	3
<b>Limit BEPS via interest deduction</b>	Domestic law provisions to restrict excessive interest deductions	4
	Transfer pricing guidelines regarding the pricing of related-party financial transactions	4
	Transfer pricing rules to ensure that inappropriate returns will not accrue to an entity solely because it has contractually assumed risks or has provided capital	9
<b>Counter harmful tax practices more effectively taking into account transparency and substance</b>	International transparency regarding preferential tax treatments (harmful tax competition)	5
	Introduce a requirement of substantial activity for any preferential regime	5
	Include non-OECD members in the compulsory spontaneous exchange on preferential regimes	5
<b>Prevent treaty abuse</b>	Clarify in the OECD Model Convention that tax treaties are not intended to be used to generate double non-taxation	6
	Develop domestic rules to prevent treaty abuse	6
<b>Prevent the artificial avoidance of PE status</b>	Change the definition of PE to prevent the artificial avoidance of PE status through the use of commissionaire arrangements	7
	Change the definition of PE to prevent the artificial avoidance of PE status through the specific activity exemptions	7
<b>Intangibles</b>	Adopt a broad and clearly delineated definition of intangibles	8
	Ensure that profits associated with the transfer and use of intangibles are appropriately allocated in accordance with value creation	8
	Develop transfer pricing rules or special measures for transfers of hard-to-value intangibles	8
	Update the guidance on cost contribution arrangements	8
<b>Transactions that would occur only very rarely between third parties</b>	Clarify the circumstances in which transactions that are not at arm's length can be recharacterized	10
	Clarify the application of transfer pricing methods in the context of global value chains	10
	Protect against common types of base eroding payments, such as management fees, if they are not at arm's length	10
<b>Tax transparency</b>	Develop mandatory disclosure rules for aggressive or abusive transactions	12
	Require that MNCs provide all relevant governments with needed information on their global allocation of income, economic activity and taxes paid (country-by-country reporting)	13
<b>Dispute resolution</b>	Facilitate access to mutual agreement procedures and arbitration	14
	Implement mandatory arbitration provisions in tax treaties	14

**Table 3 – Descriptive Statistics**

Table 3 reports descriptive statistics of the sample of 448 experts in international taxation worldwide who completed the survey using an online ACA questionnaire.

		Number	Percent
Gender	Male	354	79
	Female	94	21
Age	< 30 years	29	6
	30-49 years	253	56
	50-64 years	139	31
	> 64 years	27	6
Education level	High School	11	2
	Bachelor	46	10
	Master	254	57
	Doctorate	119	27
	other	18	4
Professional qualification (multiple answers possible)	Chartered accountant	98	22
	Certified public accountant	79	18
	Attorney	204	46
	none of the above	105	23
Occupation (multiple answers possible)	Accountant / auditor	119	27
	Attorney	201	45
	Industry / business	70	16
	Academia	85	19
	other	47	10
Job title	Assistant / consultant	14	3
	Senior assistant / senior consultant	30	7
	Manager	26	6
	Senior manager	59	13
	Partner	214	48
	Expert	63	14
	other	52	12
Experience	0-5 years	34	8
	6-15 years	140	31
	16-25 years	155	35
	> 25 years	119	27
Dealing with international tax matters	0%-25% (of weekly working hours)	79	18
	26%-50% (of weekly working hours)	132	29
	51%-75% (of weekly working hours)	112	25
	76%-100% (of weekly working hours)	125	28
Knowledge of the BEPS Action Plan	very good (read the Action Plan)	334	75
	good (informed through academic / practitioners journals)	91	20
	somewhat (informed through general media)	17	4
	not at all	6	1

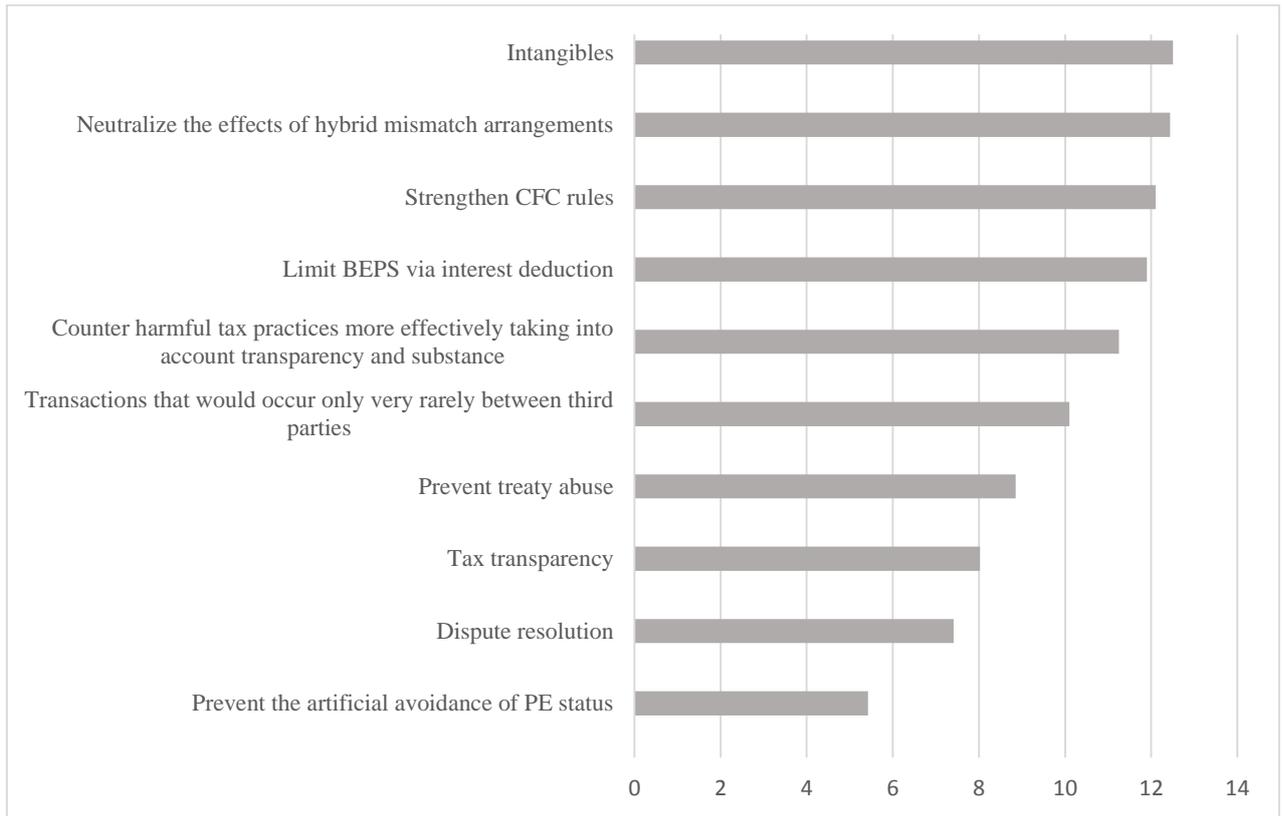
**Table 4 – Average Importances of Attributes**

Table 4 reports Average Importance Scores of Attributes of the OECD BEPS Action Plan and t-statistics from the sample of 448 experts in international taxation worldwide who were surveyed using an online ACA questionnaire. T-values significant at the 10%, 5% and 1% levels are marked with \*, \*\* and \*\*\*, respectively.

Action	Attribute	full sample (N=448)		
		average importance	Rank	t-value
2	Neutralize the effects of hybrid mismatch arrangements	12.44	2	10.4826***
3	Strengthen CFC rules	12.10	3	8.0560***
4;9	Limit BEPS via interest deduction	11.90	4	8.0965***
5	Counter harmful tax practices more effectively taking into account transparency and substance	11.25	5	5.2921***
6	Prevent treaty abuse	8.85	7	-4.5595***
7	Prevent the artificial avoidance of PE status	5.42	10	-26.1024***
8	Intangibles	12.50	1	10.2261***
10	Transactions that would occur only very rarely between third parties	10.10	6	0.4592
12;13	Tax transparency	8.02	8	-7.8758***
14	Dispute resolution	7.41	9	10.4206***

### Figure 1 – Average Importances of Attributes (ranked)

Figure 1 reports ranked Average Importance Scores of Attributes of the OECD BEPS Action Plan from the sample of 448 experts in international taxation worldwide who were surveyed using an online ACA questionnaire.



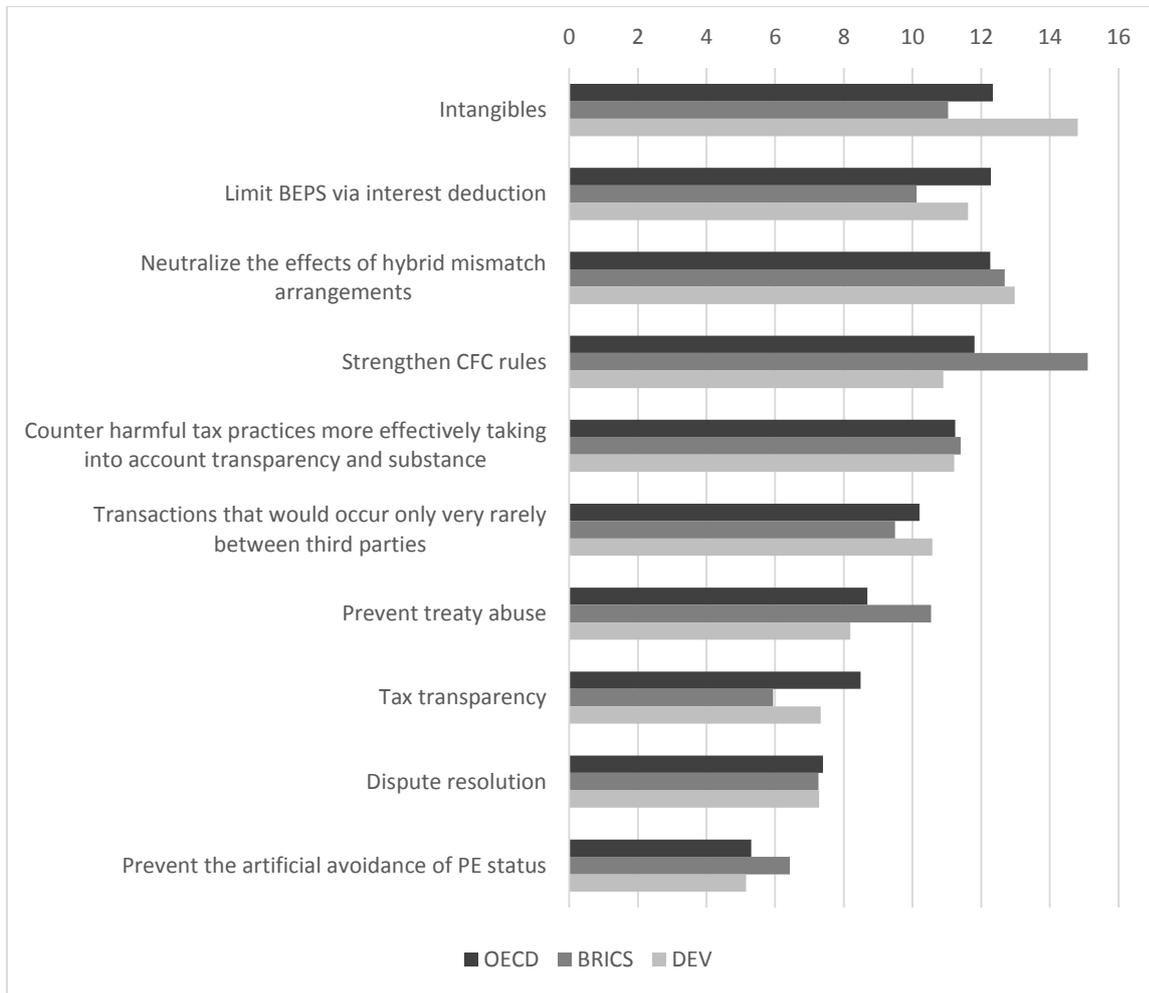
**Table 5 – Average Importances of Attributes by Economic Background**

Table 5 Panel A reports Average Importance Scores of Attributes of the OECD BEPS Action Plan and t-statistics from the sample of 443 experts in international taxation worldwide, split by economic background (OECD, BRICS, developing countries), who were surveyed using an online ACA questionnaire. Panel B depicts the results of respective t-tests, t-values significant at the 10%, 5% and 1% levels are marked with \*, \*\* and \*\*\*, respectively. In Table 5, five responses are not included as they cannot be allocated to either economic background (one respondent from Iceland and Latvia respectively; three respondents from Bulgaria)

	Panel A						Panel B		
	OECD (N=326)		BRICS (N=53)		Developing (N=64)		OECD vs BRICS	Dev vs BRICS	OECD vs Dev
	average importance	Rank	average importance	Rank	average importance	Rank	t-value p-value	t-value p-value	t-value p-value
Neutralize the effects of hybrid mismatch arrangements	<b>12.26</b>	<b>3</b>	<b>12.69</b>	<b>2</b>	<b>12.97</b>	<b>2</b>	0.6882 0.4944	-0.3941 0.6951	1.0785 0.2849
Strengthen CFC rules	11.81	4	<b>15.11</b>	<b>1</b>	10.90	5	<b>3.4813***</b> <b>0.0010</b>	<b>4.4379***</b> <b>0.0000</b>	-1.3737 0.1744
Limit BEPS via interest deduction	<b>12.29</b>	<b>2</b>	10.12	6	<b>11.62</b>	<b>3</b>	<b>-3.5484***</b> <b>0.0008</b>	<b>-2.4608**</b> <b>0.0172</b>	-0.9680 0.3368
Counter harmful tax practices more effectively taking into account transparency and substance	11.24	5	<b>11.40</b>	<b>3</b>	11.21	4	0.2550 0.7997	0.3004 0.7650	-0.0406 0.9678
Prevent treaty abuse	8.68	7	10.54	5	8.19	7	<b>2.2235**</b> <b>0.0306</b>	<b>2.8174***</b> <b>0.0068</b>	-0.7364 0.4642
Prevent the artificial avoidance of PE status	5.30	10	6.43	9	5.15	10	<b>2.2327**</b> <b>0.0299</b>	<b>2.5294**</b> <b>0.0145</b>	-0.3260 0.7455
Intangibles	<b>12.34</b>	<b>1</b>	11.03	4	<b>14.81</b>	<b>1</b>	<b>-2.1188**</b> <b>0.0389</b>	<b>-6.1343***</b> <b>0.0000</b>	<b>3.2591***</b> <b>0.0018</b>
Transactions that would occur only very rarely between third parties	10.20	6	9.49	7	10.58	6	-1.2162 0.2294	<b>-1.8621*</b> <b>0.0683</b>	0.5565 0.5798
Tax transparency	8.49	8	5.94	10	7.33	8	<b>-3.9801***</b> <b>0.0002</b>	<b>-2.1644**</b> <b>0.0350</b>	<b>-1.9101*</b> <b>0.0607</b>
Dispute resolution	7.39	9	7.26	8	7.28	9	-0.1792 0.8584	-0.0327 0.9740	-0.1530 0.8789

## Figure 2 – Average Importances of Attributes (ranked) by Economic Background

Figure 2 reports ranked Average Importance Scores of Attributes of the OECD BEPS Action Plan from the sample of 443 experts in international taxation worldwide, split by economic background (OECD, BRICS, developing countries) who were surveyed using an online ACA questionnaire. These are sorted according to importances in OECD countries, as a benchmark. 5 responses are not included as they cannot be allocated to either economic background (one respondent from Iceland and Latvia respectively; three respondents from Bulgaria)



**Table 6 – Average Utilities of Levels**

Table 6 reports Average Utility Scores of Levels and t-statistics from the sample of 448 experts in international taxation worldwide, who were surveyed using an online ACA questionnaire. The ranks indicated in column “Attributes” are the ranks according to the overall importance levels as indicated in Table 4 – Average Importances of Attributes. T-values significant at the 10%, 5% and 1% levels are marked with \*, \*\* and \*\*\*, respectively.

Action	Attribute (rank as in Table 4)	Level	Full sample (N=448)	t-value p-value
2	Neutralize the effects of hybrid mismatch arrangements (rank 2)	Change the OECD Model Tax Convention to ensure that hybrid instruments and entities (incl. dual resident entities) are not used for treaty abuse	2.02	1.4355 0.1518
2		Domestic law provisions that prevent exemption or non-recognition for payments that are deductible by the payer	0.92	1.1319 0.2583
2		Domestic law provisions that deny a deduction for a payment that is not includible in income by the recipient	<b>-3.42</b>	<b>-3.6875***</b> <b>0.0003</b>
2		Domestic law provisions that deny a deduction for a payment that is also deductible in another jurisdiction	0.48	0.5720 0.5676
3	Strengthen CFC rules (rank 3)	CFC rules that include only foreign passive income irrespective whether that income comes from a low-tax country or not	<b>-4.74</b>	<b>-5.1747***</b> <b>0.0000</b>
3		CFC rules that include foreign passive income exclusively from a low-tax country	<b>14.71</b>	<b>13.1872***</b> <b>0.0000</b>
3		CFC rules that include foreign passive and active income exclusively from a low-tax country	<b>-9.97</b>	<b>-9.7168***</b> <b>0.0000</b>
4	Limit BEPS via interest deduction (rank 4)	Domestic law provisions to restrict excessive interest deductions	<b>-5.68</b>	<b>-4.6214***</b> <b>0.0000</b>
4		Transfer pricing guidelines regarding the pricing of related-party financial transactions	<b>7.48</b>	<b>7.1203***</b> <b>0.0000</b>
9		Transfer pricing rules to ensure that inappropriate returns will not accrue to an entity solely because it has contractually assumed risks or has provided capital	<b>-1.81</b>	<b>-1.9781**</b> <b>0.0485</b>
5	Counter harmful tax practices more effectively taking into account transparency and substance (rank 5)	International transparency regarding preferential tax treatments (harmful tax competition)	<b>-3.09</b>	<b>-3.5161***</b> <b>0.0005</b>
5		Introduce a requirement of substantial activity for any preferential regime	<b>3.17</b>	<b>2.6696***</b> <b>0.0079</b>
5		Include non-OECD members in the compulsory spontaneous exchange on preferential regimes	-0.08	-0.0816 0.9350
6	Prevent treaty abuse (rank 7)	Clarify in the OECD Model Convention that tax treaties are not intended to be used to generate double non-taxation	<b>-5.11</b>	<b>-4.8997***</b> <b>0.0000</b>
6		Develop domestic rules to prevent treaty abuse	<b>5.11</b>	<b>4.8997***</b> <b>0.0000</b>
7	Prevent the artificial avoidance of PE status (rank 10)	Change the definition of PE to prevent the artificial avoidance of PE status through the use of commissionaire arrangements	<b>-4.78</b>	<b>-7.6930***</b> <b>0.0000</b>
7		Change the definition of PE to prevent the artificial avoidance of PE status through the specific activity exemptions	<b>4.78</b>	<b>7.6930***</b> <b>0.0000</b>

8	Intangibles (rank 1)	Adopt a broad and clearly delineated definition of intangibles	<b>-6.24</b>	<b>-6.2934***</b> <b>0.0000</b>
8		Ensure that profits associated with the transfer and use of intangibles are appropriately allocated in accordance with value creation	<b>11.63</b>	<b>12.1436***</b> <b>0.0000</b>
8		Develop transfer pricing rules or special measures for transfers of hard-to-value intangibles	-0.90	-1.0001 0.3719
8		Update the guidance on cost contribution arrangements	<b>-4.49</b>	<b>-4.7315***</b> <b>0.0000</b>
10	Transactions that would occur only very rarely between third parties (rank 6)	Clarify the circumstances in which transactions that are not at arm's length can be recharacterized	<b>-1.84</b>	<b>-2.2263**</b> <b>0.0265</b>
10		Clarify the application of transfer pricing methods in the context of global value chains	<b>4.13</b>	<b>4.4578***</b> <b>0.0000</b>
10		Protect against common types of base eroding payments, such as management fees, if they are not at arm's length	<b>-2.29</b>	<b>-2.1568**</b> <b>0.0316</b>
12	Tax transparency (rank 8)	Develop mandatory disclosure rules for aggressive or abusive transactions	<b>-7.64</b>	<b>-8.0575***</b> <b>0.0000</b>
13		Require that MNCs provide all relevant governments with needed information on their global allocation of income, economic activity and taxes paid (country-by-country reporting)	<b>7.64</b>	<b>8.0575***</b> <b>0.0000</b>
14	Dispute resolution (rank 9)	Facilitate access to mutual agreement procedures and arbitration	<b>-6.90</b>	<b>-7.7786***</b> <b>0.0000</b>
14		Implement mandatory arbitration provisions in tax treaties	<b>6.90</b>	<b>7.7786***</b> <b>0.0000</b>

**Table 7 – Average Utilities of Levels by Economic Background**

Table 7 Panel A reports Average Utility Scores of Levels and t-statistics from the sample of 443 experts in international taxation worldwide, split by economic background (OECD, BRICS, developing countries), who were surveyed using an online ACA questionnaire. The level which was indicated as the most important within an attribute is indicated in bold letters. Panel B depicts the results of respective t-tests, t-values significant at the 10%, 5% and 1% levels are marked with \*, \*\* and \*\*\*, respectively. In Table 6 five responses are not included as they cannot be allocated to either economic background (one respondent from Iceland and Latvia respectively; three respondents from Bulgaria).

Action	Attribute	Level	Panel A			Panel B		
			OECD (N=326)	BRICS (N=53)	Developing (N=64)	OECD vs BRICS	OECD vs Dev	BRICS vs Dev
			average importance	average importance	average importance	t-value p-value	t-value p-value	t-value p-value
2	Neutralize the effects of hybrid mismatch arrangements	Change the OECD Model Tax Convention to ensure that hybrid instruments and entities (incl. dual resident entities) are not used for treaty abuse	<b>2.03</b>	-2.40	<b>6.24</b>	<b>2.6141***</b> <b>0.0094</b>	<b>-2.4866**</b> <b>0.0134</b>	<b>-2.0868**</b> <b>0.0418</b>
2		Domestic law provisions that prevent exemption or non-recognition for payments that are deductible by the payer	1.65	-1.71	0.51	<b>3.5789***</b> <b>0.0004</b>	1.2138 0.2257	-0.8286 0.4111
2		Domestic law provisions that deny a deduction for a payment that is not includible in income by the recipient	-3.38	1.93	-9.08	<b>-4.8469***</b> <b>0.0000</b>	<b>5.2051***</b> <b>0.0001</b>	<b>4.8620***</b> <b>0.0001</b>
2		Domestic law provisions that deny a deduction for a payment that is also deductible in another jurisdiction	-0.30	<b>2.18</b>	2.32	<b>-2.6076***</b> <b>0.0095</b>	<b>-2.7625***</b> <b>0.0061</b>	-0.0505 0.9599
3	Strengthen CFC rules	CFC rules that include only foreign passive income irrespective whether that income comes from a low-tax country or not	-6.63	0.43	-0.42	<b>-6.8492***</b> <b>0.0001</b>	<b>-6.0235***</b> <b>0.0001</b>	0.2659 0.7913
3		CFC rules that include foreign passive income exclusively from a low-tax country	<b>16.36</b>	<b>12.79</b>	<b>7.58</b>	<b>2.8507***</b> <b>0.0046</b>	<b>7.0140***</b> <b>0.0001</b>	1.2934 0.2016
3		CFC rules that include foreign passive and active income exclusively from a low-tax country	-9.73	-13.22	-7.16	<b>2.9471***</b> <b>0.0034</b>	<b>-2.173**</b> <b>0.0305</b>	-1.5452 0.1284
4	Limit BEPS via interest deduction	Domestic law provisions to restrict excessive interest deductions	-6.00	-0.99	-9.05	<b>-3.2731***</b> <b>0.0012</b>	<b>1.9929**</b> <b>0.0471</b>	<b>2.6850***</b> <b>0.0097</b>
4		Transfer pricing guidelines regarding the pricing of related-party financial transactions	<b>8.15</b>	<b>3.48</b>	<b>8.03</b>	<b>3.6626***</b> <b>0.0003</b>	0.0996 0.9207	<b>-1.9392*</b> <b>0.0579</b>
9		Transfer pricing rules to ensure that inappropriate returns will not accrue to an entity solely because it has contractually assumed risks or has provided capital	-2.15	-2.49	1.02	0.3009 0.7637	<b>-2.8250***</b> <b>0.0050</b>	-1.2339 0.2228
5	Counter harmful tax practices more effectively taking into account	International transparency regarding preferential tax treatments (harmful tax competition)	-3.77	-0.25	-2.31	<b>-3.4294***</b> <b>0.0007</b>	-1.4216 0.1561	0.7563 0.4529
5		Introduce a requirement of substantial activity for any preferential regime	<b>3.09</b>	-0.99	<b>7.92</b>	<b>2.8024***</b> <b>0.0054</b>	<b>-3.3159***</b> <b>0.0010</b>	<b>-2.6768***</b> <b>0.0099</b>
5			0.68	<b>1.24</b>	-5.61	-0.4730	<b>5.3375***</b>	<b>2.1208**</b>

	transparency and substance	Include non-OECD members in the compulsory spontaneous exchange on preferential regimes				0.6365	<b>0.0001</b>	<b>0.0387</b>
6	Prevent treaty abuse	Clarify in the OECD Model Convention that tax treaties are not intended to be used to generate double non-taxation	-3.66	-12.68	-5.82	<b>7.4194***</b>	<b>1.7784**</b>	<b>-2.0781**</b>
6		Develop domestic rules to prevent treaty abuse	<b>3.66</b>	<b>12.68</b>	<b>5.82</b>	<b>0.0001</b>	<b>0.0763</b>	<b>0.0427</b>
7	Prevent the artificial avoidance of PE status	Change the definition of PE to prevent the artificial avoidance of PE status through the use of commissionaire arrangements	-3.80	-10.06	-7.25	<b>-7.4194***</b>	<b>-1.7784**</b>	<b>2.0781**</b>
7		Change the definition of PE to prevent the artificial avoidance of PE status through the specific activity exemptions	<b>3.80</b>	<b>10.06</b>	<b>7.25</b>	<b>0.0001</b>	<b>0.0763</b>	<b>0.0427</b>
8	Intangibles	Adopt a broad and clearly delineated definition of intangibles	-6.49	-3.71	-7.88	<b>8.3640***</b>	<b>4.6160***</b>	<b>-1.7415*</b>
8		Ensure that profits associated with the transfer and use of intangibles are appropriately allocated in accordance with value creation	<b>13.53</b>	<b>6.18</b>	<b>6.71</b>	<b>0.0001</b>	<b>0.0001</b>	<b>0.0875</b>
8		Develop transfer pricing rules or special measures for transfers of hard-to-value intangibles	-0.97	-4.03	1.12	<b>-8.3640***</b>	<b>-4.6160***</b>	<b>1.7415*</b>
8		Update the guidance on cost contribution arrangements	-6.07	1.56	0.05	<b>0.0001</b>	<b>0.0001</b>	<b>0.0875</b>
10	Transactions that would occur only very rarely between third parties	Clarify the circumstances in which transactions that are not at arm's length can be recharacterized	-0.48	-8.43	-3.08	<b>-2.4432**</b>	1.2208	<b>1.900*</b>
10		Clarify the application of transfer pricing methods in the context of global value chains	<b>5.36</b>	3.20	-1.02	<b>0.0151</b>	0.2231	<b>0.0630</b>
10		Protect against common types of base eroding payments, such as management fees. if they are not at arm's length	-4.88	<b>5.23</b>	<b>4.10</b>	<b>6.6556***</b>	<b>6.1771***</b>	-0.1965
12	Tax transparency	Develop mandatory disclosure rules for aggressive or abusive transactions	-8.71	-4.92	-2.92	<b>0.0001</b>	<b>0.0001</b>	0.845
13		Require that MNCs provide all relevant governments with needed information on their global allocation of income. economic activity and taxes paid (country-by-country reporting)	<b>8.71</b>	<b>4.92</b>	<b>2.92</b>	<b>2.9403***</b>	<b>-2.0067***</b>	<b>-1.9289*</b>
14	Dispute resolution	Facilitate access to mutual agreement procedures and arbitration	-8.61	-2.00	-3.50	<b>-7.0204***</b>	<b>-5.6380***</b>	0.5256
14		Implement mandatory arbitration provisions in tax treaties	<b>8.61</b>	<b>2.00</b>	<b>3.50</b>	<b>0.0001</b>	<b>0.0001</b>	0.6014
						<b>8.1299***</b>	<b>2.6653***</b>	<b>-2.3472**</b>
						<b>0.0001</b>	<b>0.0081</b>	<b>0.0228</b>
						<b>1.9872***</b>	<b>5.8684***</b>	1.6550
						<b>0.0478</b>	<b>0.0001</b>	0.1040
						<b>-8.0507***</b>	<b>-7.1499***</b>	0.4379
						<b>0.0001</b>	<b>0.0001</b>	0.6633
						<b>-3.2627***</b>	<b>-4.9894***</b>	-0.8757
						<b>0.0012</b>	<b>0.0001</b>	0.3852
						<b>3.2627***</b>	<b>4.9894***</b>	0.8757
						<b>0.0012</b>	<b>0.0001</b>	0.3852
						<b>-6.6538***</b>	<b>-5.1462***</b>	0.5199
						<b>0.0001</b>	<b>0.0001</b>	0.6054
						<b>6.6538***</b>	<b>5.1462***</b>	-0.5199
						<b>0.0001</b>	<b>0.0001</b>	0.6054

**Table 8 - Average Importances of Attributes by Legal Origin**

Table 8 reports Average Importance Scores of Attributes of the OECD BEPS Action Plan, the ranks from 1 to 10, and t-statistics from the sample of 448 experts in international taxation worldwide, split by legal background (according to La Porta et al. 1999: English in Panel A, and German in Panel B), who were surveyed using an online ACA questionnaire. T-values significant at the 10%, 5% and 1% levels are marked with \*, \*\* and \*\*\* respectively.

Action	Attribute	Panel A				Panel B					
		English (N=83)		Diff	Non-English (N=365)		German (N=133)		Diff	Non-German (N=315)	
		average importance	Rank	t-value p-value	average importance	Rank	average importance	Rank	t-value p-value	average importance	Rank
2	Neutralize the effects of hybrid mismatch arrangements	11.6044	3	1.7113* 0.0877	12.62616	2	12.7662	1	-0.9204 0.3578	12.29780	3
3	Strengthen CFC rules	<b>13.68665</b>	<b>1</b>	<b>-2.9166***</b> <b>0.0037</b>	<b>11.74308</b>	<b>4</b>	<b>11.30245</b>	<b>5</b>	<b>1.9996**</b> <b>0.0461</b>	<b>12.44124</b>	<b>2</b>
4;9	Limit BEPS via interest deduction	11.44943	4	0.9134 0.3615	12.00086	3	12.31461	2	-1.1529 0.2496	11.72309	4
5	Counter harmful tax practices more effectively taking into account transparency and substance	11.09692	5	0.3070 0.7590	11.28363	5	11.42797	4	-0.4922 0.6228	11.17349	5
6	Prevent treaty abuse	8.589278	7	0.4979 0.6188	8.91214	7	8.663906	7	0.4860 0.6272	8.93188	7
7	Prevent the artificial avoidance of PE status	6.060202	10	-1.7332* 0.0837	5.27995	10	5.397268	10	0.1009 0.9197	5.43601	10
8	Intangibles	11.70508	2	1.5571 0.1202	12.68453	1	12.18662	3	0.8398 0.4015	12.63668	1
10	Transactions that would occur only very rarely between third parties	10.06705	6	0.0759 0.9396	10.11076	6	10.24363	6	-0.4093 0.6825	10.04314	6
12;13	Tax transparency	7.706556	9	0.5961 0.5514	8.09242	8	8.295596	8	-0.7099 0.4782	7.90496	8
14	Dispute resolution	8.03443	8	-1.2004 0.2306	7.26648	9	7.401749	9	0.0183 0.9854	7.41171	9

**Table 9- Average Importances of Attributes by Personal Characteristics**

Table 9 reports Average Importance Scores of Attributes of the OECD BEPS Action Plan, the ranks from 1 to 10, and t-statistics from the sample of 448 experts in international taxation worldwide, who were surveyed using an online ACA questionnaire, split by personal characteristics according to the demographic questionnaire: professional background as auditor and/or accountant in Panel A, and higher education with a master's or a doctorate degree in Panel B). T-values significant at the 10%, 5% and 1% levels are marked with \*, \*\* and \*\*\* respectively.

Action	Attribute	Panel A				Panel B					
		Auditor/Accountant (N=119)		Diff	other occupations (N=329)		Master or Doctorate (N=373)		Diff	no Master nor Doctorate (N=75)	
		average importance	Rank	t-value p-value	average importance	Rank	average importance	Rank	t-value p-value	average importance	Rank
2	Neutralize the effects of hybrid mismatch arrangements	12.18658	3	0.6471 0.5179	12.52738	1	<b>12.19665</b>	<b>3</b>	<b>2.3155**</b> <b>0.0210</b>	<b>13.63147</b>	<b>1</b>
3	Strengthen CFC rules	11.834	4	0.6196 0.5358	12.20051	2	12.05557	4	0.4062 0.6848	12.33985	3
4;9	Limit BEPS via interest deduction	<b>12.7815</b>	<b>2</b>	<b>-2.2746**</b> <b>0.0234</b>	<b>11.57938</b>	<b>4</b>	<b>12.21858</b>	<b>2</b>	<b>-3.0705***</b> <b>0.0023</b>	<b>10.3078</b>	<b>5</b>
5	Counter harmful tax practices more effectively taking into account transparency and substance	11.63485	5	-0.9831 0.3261	11.10949	5	11.01987	5	2.1743** 0.0302	12.38875	2
6	Prevent treaty abuse	8.118868	7	1.7566* 0.0797	9.11762	7	8.82080	7	0.2791 0.7803	9.009141	7
7	Prevent the artificial avoidance of PE status	5.318009	10	0.3650 0.7153	5.46303	10	5.46719	10	-0.5426 0.5877	5.212228	10
8	Intangibles	<b>13.55558</b>	<b>1</b>	<b>-2.6027***</b> <b>0.0096</b>	<b>12.12238</b>	<b>3</b>	12.58406	1	-0.7375 0.4612	12.10028	4
10	Transactions that would occur only very rarely between third parties	10.57378	6	-1.2681 0.2054	9.93226	6	10.17320	6	-0.7032 0.4823	9.751838	6
12;13	Tax transparency	8.058474	8	-0.0898 0.9285	8.00735	8	7.98032	8	0.3601 0.7190	8.222899	8
14	Dispute resolution	5.938355	9	3.6036*** 0.0003	7.94060	9	7.48376	9	-0.6723 0.5018	7.035723	9