TAX FOUNDATION

The Impact of BEPS 1.0

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Key Findings

- Both the OECD Pillar Two agreement and scheduled changes to the Tax Cuts and Jobs Act are likely to alter the international corporate income tax landscape in the coming years.
- The OECD also spearheaded a considerable tax policy initiative, known as BEPS 1.0, last decade, and its effects are still being felt.
- Tax policy benefits from stability and slow, considered change. It is worth examining the successes and failures of the BEPS 1.0 initiative before adding new initiatives.
- Base erosion and profit shifting are legitimate problems with international corporate income taxation. Even if low effective rates have some desirable economic properties, these should be achieved through legislation, not costly tax planning.
- Some of the better ideas for international reforms were already made in that prior effort. And many reforms come with compliance costs. Future reforms may have a worse cost-benefit ratio.
- Future efforts should avoid duplication, pursue win-win arrangements, and aim to reduce compliance costs.

Introduction

The global landscape of international corporate taxation is undergoing significant transformations as jurisdictions grapple with the difficulty of defining and apportioning corporate income for the purposes of tax.

The most important upcoming changes on this front include scheduled changes to the U.S. Tax Cuts and Jobs Act (TCJA), which will increase the effective tax rates on a variety of its international provisions, and the Pillar Two global minimum tax agreement brokered by the Organisation for Economic Co-operation and Development (OECD).

Further down the line, the OECD may come to an agreement on another global tax agreement known as Pillar One, which would apportion some corporate income according to the location of sales, rather than the location of production. Additionally, the United Nations is also creating a working group on global tax policy.

However, as policymakers look ahead to these new changes, they should also remember that substantial work has been done on international tax policy in the last decade. The OECD's first effort on Base Erosion and Profit Shifting (BEPS) was a considerable undertaking, and TCJA substantially reformed the U.S. international tax rules. These reforms are relatively young, dating back to roughly 2015 and 2017, respectively.

Examining these efforts is important for several reasons. Policymakers should understand what works and what does not work in international tax policy when crafting new international rules. They should avoid duplication of past efforts. And they should attempt to "weed the garden" by removing rules that do not work or have been superseded by better ones.

A recent Tax Foundation report examined the legacy of TCJA international reforms.[1] Below is an examination of the OECD's early efforts on BEPS, often called "BEPS 1.0." It will describe the problems OECD BEPS efforts were intended to address, the actions taken by the OECD, and the implementation of those actions. Then it will examine the results, where possible, and draw lessons from those results.

Corporate Tax Avoidance Behaviors

The recent flurry of changes to international corporate income taxation reflects a legitimate need to adapt the international tax system to a changing economy. Cross-border transactions have become more frequent and more global income has become attributable to so-called intangibles: abstract ideas like intellectual property that are difficult to pin down to a specific location. These trends have made the definition of corporate income, and the apportionment of that corporate income among jurisdictions, more difficult.

1 Alan Cole, "The Impact of GILTI, FDII, and BEAT," Tax Foundation, Jan. 31, 2024, https://taxfoundation.org/research/all/federal/impact-gilti-fdii-beat/

When the definition or location of income is ambiguous, multinational enterprises (MNEs) have a pecuniary incentive to report their income in ways that incur a lower tax burden. This behavior presents a problem for policymakers. While low effective tax rates can be a fine policy applied broadly, it is undesirable for MNEs to achieve low effective rates haphazardly through tax planning. This favors business models that lend themselves to tax planning over those that do not, and it might end up spurring lawmakers to enact higher tax rates to meet revenue targets, shifting more of the corporate income tax burden to companies less able to shift income to lower tax jurisdictions.

Corporate tax avoidance behaviors take a variety of forms, depending on the kind of tax the MNE intends to avoid. Corporate income taxes are primarily apportioned through a source-based system: that is, a corporation's income is taxable by the jurisdiction in which the corporation produces its goods or services. However, some countries, including the U.S., also employ some residence-based taxation: that is, a corporation may also pay tax to the jurisdiction of its ultimate parent entity, on top of any source-based taxes it might owe.

As most corporate income taxes today are source-based, the most important avoidance strategies are designed to reduce liabilities associated with source-based taxation.

Transfer Pricing

One of the simplest tax avoidance behaviors involves transfer pricing. Transfer pricing is not a tax avoidance strategy per se; it is simply the valuation of transactions between different components of an MNE, which is necessary and required for tax and accounting purposes. However, MNEs can sometimes take advantage of flexibility in transfer pricing to reduce their tax burdens. Payments from a subsidiary in one jurisdiction to a subsidiary in another jurisdiction are deducted from income in the first jurisdiction and counted as income in the second jurisdiction. An MNE stands to benefit if its payments from high-tax jurisdictions to low-tax jurisdictions are valued as high as possible, and if its payments from low-tax jurisdictions to high-tax jurisdictions are valued as low as possible. While this does not change the MNE's overall income, it shifts the income to low-tax jurisdictions, reducing the average effective rate on the MNE's global income.

Transfer pricing regulations require that related-party transactions be valued at "arm's length"—that is, they should resemble the values that one would see in a similar transaction between unrelated parties, each maximizing its own interest. However, it is difficult to define and enforce arm's length in practice; it is a hypothetical value that in many cases leaves room for substantial subjectivity and debate. In some cases, comparable unrelated-party transactions may not exist at all.

Interest and Thin Capitalization

The deductibility of interest creates another way for MNEs to lower their global tax liability by taking advantage of tax rate differentials. Firms use debt financing for a few reasons. First, offering both debt and equity allows the MNE to raise capital from savers with diverse risk tolerances. And second, payments to bondholders—unlike the earnings paid out to shareholders—are often deductible from corporate income tax.

The tax advantage of interest deductibility is considerable, so firms of all kinds borrow, and the deductibility of interest helps offset taxable income. However, firms prefer to avoid too much leverage because it increases the risk of costly bankruptcy.

Given an optimal amount of leverage—an amount that allows for some interest deductibility but does not pose a serious risk of bankruptcy—an MNE would prefer to locate that leverage, and the associated tax deductions, in a high-tax jurisdiction, wiping out the taxable income there, while booking taxable income more in low-tax jurisdictions.

Limitations on interest deductibility—often called thin capitalization rules—are one policy tool that jurisdictions have used to limit this practice.

Intellectual Property Location

The location and valuation of intangible assets like intellectual property are subject to considerable ambiguity. Patents, trademarks, and copyrights are important assets for MNEs, but they do not have a clear location in the way that more physical assets do. In many cases, MNEs can transfer intangible assets to subsidiaries in low-tax jurisdictions. While the arm's length principle might apply to such transfers in theory, the MNE in practice is likely to have a better understanding of the true value of its intangibles than tax authorities do. It can therefore make trades that ultimately favor its subsidiaries in low-tax jurisdictions.

As those intangible assets begin to earn income, such as royalties, that income manifests more heavily in low-tax jurisdictions than the underlying research and development (R&D) activities might suggest. This in turn reduces the MNE's global tax liability.

Treaty Shopping

Many cross-border transactions are governed by a patchwork of thousands of bilateral tax treaties. In treaty shopping arrangements, MNEs divert an international transaction through an intermediate country to get more favorable terms from the intermediate country's network of tax treaties.

For example, consider a country that applies withholding taxes on outbound royalty payments. It may have valid reasons for this policy—for example, to help protect its own tax base from profit shifting to low-tax jurisdictions. In some tax treaties, it waives or substantially reduces its withholding taxes to attract investment. But it retains its withholding taxes on royalty payments to low-tax countries.

An MNE that holds its intellectual property in a low-tax jurisdiction might want to earn revenues in this country but avoid the withholding tax. It could use a treaty shopping arrangement, sending the royalty payments through an intermediate country with a tax treaty, and then onward to the low-tax jurisdiction. This treaty shopping arrangement effectively extends the reprieve from withholding tax further than the lawmakers intended.

Strategies for Avoiding Residence-Based Taxation

Residence-based taxation, determined by the nationality of the MNE's ultimate parent entity, is an alternative to source-based taxation that plays a supplementary role in some countries. Under residence-based taxation, a country taxes its MNEs on their foreign profits as well as domestic profits.

Most OECD countries in recent years have used territorial tax systems, which largely exempt foreign profits through a provision known as a participation exemption. An MNE, therefore, might owe no additional tax to its parent company's country beyond the tax already paid to the jurisdiction in which it is operating.

Territorial systems are attractive locations for corporate headquarters and allow a country's corporations to be more competitive abroad. However, under territorial systems, there is an incentive to shift profits to foreign jurisdictions with lower tax rates than the MNE's home jurisdiction. (By contrast, profit shifting under a fully worldwide tax system would not escape the home jurisdiction's taxes.) Therefore, most countries take at least some notice of their MNEs' foreign profits, and, in some cases, tax them through provisions called controlled foreign corporation (CFC) rules. CFC rules are a limited form of residence-based taxation. They try to protect the corporate income tax base from profit shifting, without endangering domestic firms' competitiveness abroad.

If a country employs too much residence-based taxation, through a worldwide system of tax or with heavy-handed CFC rules, then corporations may attempt to avoid this by effectively changing their home country through mergers and acquisitions.[2]

The OECD's 15 Actions

In the mid-2010s, the OECD spearheaded an effort among some of the world's largest economies to combat some of these avoidance behaviors. In July 2013, this effort took shape in a document outlining a 15-item action plan.[3] After input and deliberation, the OECD then released a final series of reports on this plan in October 2015.[4] Today, most of the world's countries—not just the OECD members—are signatories to the plan. However, only a handful of the actions are called "minimum requirements," or standards to which signatories must adhere. In the last eight years, significant progress has been made on many, but not all, of the actions.

Action 1 was ambitiously titled "Addressing the Tax Challenges of the Digital Economy," an extremely broad scope. Products without a clear physical location, especially internet products, were posing all kinds of challenges to tax systems designed for the wheat-and-steel economies of the 20th century, and Action 1's nominal purpose was to address those challenges.

2 Kyle Pomerleau, "Everything You Need to Know About Corporate Inversions," Tax Foundation, Aug. 4, 2014, https://taxfoundation.org/blog/everything-you-need-know-about-corporate-inversions/.
3 Organisation for Economic Co-operation and Development, "Action Plan on Base Erosion and Profit Shifting," Jul. 19, 2013, https://www.oecd.org/tax/action-plan-on-base-erosion-and-profit-shifting-9789264202719-en.htm.
4 Organisation for Economic Co-operation and Development, "Action Plan on Base Erosion and Profit Shifting," Oct. 5, 2015, https://www.oecd.org/ctp/beps-2015-final-reports.htm.

Unsurprisingly, Action 1 remains unfinished. (Arguably, it has barely begun.) The Action 1 report almost serves more as a thesis statement for the whole BEPS project, rather than a specific and narrow action plan. It notes that BEPS issues are exacerbated by digitalization and refers to other OECD BEPS actions that are especially digitalization-specific. But importantly, it rejected the idea of creating a separate tax system for "digital" business models from the traditional physical economy. Digital and information components were fast becoming part of every sector, so it made sense to rebuild tax codes to handle them.[5]

In the years since 2015, disputes over taxing rights on large corporations have intensified, with many countries enacting digital service taxes and attempting to raise revenues from large technology companies, typically those from the United States. Over time, an outgrowth of Action 1 has been an attempt to strike deals on some of these issues and reallocate taxing rights throughout the global economy. This effort became known as OECD's two-pillar solution, or BEPS 2.0.[6]

Although Action 1 is only beginning to have an influence on corporate income taxes through the Pillar Two agreement, it has led to policy change on value-added taxes (VAT), which have their own problems with digitalization. When sellers have no presence in the jurisdiction where the end consumer resides, it is often difficult to enforce VAT compliance. Insights from Action 1 have been relevant in European Union (EU) VAT reforms, such as the place of supply changes that went into effect in 2015.[7]

Action 2 was far more concrete and achievable. It sought to address a problem known as hybrid mismatch arrangements. Some financial arrangements incorporate a mix of debt-like and equity-like features. As a result, they can be treated as bond payments within one country's tax system and equity payments within another country's tax system. This can result in a deduction for one party without a matching income receipt for another party. For example, an entity in one country makes a payment that is counted as deductible interest under that country's rules, but the receiving country counts it as a dividend under a participation exemption. Different rules for debt and equity are arguably a problem throughout the corporate income tax system in general, but the problems are exacerbated when different jurisdictions with different definitions of debt and equity payments are involved.

The OECD recommended an approach to addressing these arrangements, either through the denial of deductions or the recognition of income. This approach has achieved voluntary adoption by many significant economies, including the EU in 2016 and 2017 Council Directives known as Anti-Tax Avoidance Directives (ATAD) I and II.[8] Furthermore, the U.S. Treasury under Secretary Steven Mnuchin issued guidance moving the hybrid rules within existing U.S. law to more closely match the OECD approach.[9]

Action 2 addressed a clear problem and achieved some success in treating the symptoms of a broader problem—debt-equity bias in tax codes. Greater reforms to address debt-equity bias may be worth pursuing in the future.

5 Organisation for Economic Co-operation and Development, "Addressing the Tax Challenges of the Digital Economy, Action 1 - 2015 Final Report," Oct. 5, 2015, https://www.oecd.org/tax/addressing-the-tax-challenges-of-the-digital-economy-action-1-2015-final-report-9789264241046-en.htm.

6 Stephanie Soong, "BEPS 5 Years Later: Action 1 and the Quest to Tax Digital Activity," Oct. 5, 2020, https://www.taxnotes.com/featured-news/beps-5-years-later-action-1-and-quest-tax-digital-activity/2020/10/02/2d0lg.

7 Deloitte, "EU: 2015 Place of Supply Changes," Jul. 1 2014, https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-indirect-tax-eu-2015-place-of-supply-changes.pdf.

8 European Union, "Council Directive 2016/1164, laying down rules against tax avoidance practices that directly affect the functioning of the internal market," Jul., 12, 2016, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32016L1164; European Union, "Council Directive 2017/952, amending Directive (EU) 2016/1164 as regards hybrid mismatches with third countries," May 29, 2017, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2017.144.01.0001.01.ENG.

9 Federal Register, "Rules Regarding Certain Hybrid Arrangements," Apr. 8, 2020, https://www.federalregister.gov/documents/2020/04/08/2020-05924/rules-regarding-certain-hybrid-arrangements.

Action 3 was a series of recommendations for the design of effective CFC rules. CFC rules had existed prior to action 3; they can protect territorial tax systems from overly aggressive profit shifting, so many countries had an incentive to adopt them before the OECD outlined some best practices. While OECD recommendations were reasonable and inspired some EU changes, the action will largely be superseded by the income inclusion rule (IIR) of Pillar Two, which operates as a more powerful claim on worldwide income than most CFC rules today.

Action 4 recommended limitations on interest deductibility to combat the use of debt financing in base erosion and profit shifting. The EU and U.S. both implemented limitations on interest deductibility following the BEPS report; the European limitation came as a part of ATAD I, and the U.S. limitation as a part of TCJA. However, the limitations in the U.S. were not exclusively enacted for BEPS reasons. Limitations on interest deductibility had been present in several draft tax plans, in part to raise revenue and reduce debt-equity bias.[10] The EU limitation of 30 percent of earnings before interest, taxes, depreciation, and amortization (EBITDA) is now relatively common around the world, including in non-EU countries such as Australia and Canada. The U.S. limitation, which was initially set at 30 percent of EBITDA and tightened to 30 percent of earnings before interest and taxes (EBIT) is more stringent and makes the U.S. an international outlier. [11]

Limitations on interest deductibility have some virtues in curbing profit shifting and reducing debt-equity bias. However, they also have some vices: the ratios are arbitrary, many countries use accounting standards in a manner for which they were not intended, and interest limitations not paired with business tax rate cuts may raise marginal effective tax rates on investment.

Action 5 focuses on combating harmful tax practices. The two major components of Action 5 are a review of certain preferential tax regimes and a transparency framework that facilitates exchanges of information between countries on tax rulings. While Action 5 is a minimum requirement for signatories of the OECD's inclusive framework, it is mostly the transparency framework that is compulsory.

The OECD's forum on harmful tax practices (FHTP) labels regimes it evaluates as harmful—that is, likely to contribute to profit-shifting—but there is no clear binding force behind the FHTP's labels. Though there exist somewhat objective criteria for harmful tax practices, the label can in practice be relatively arbitrary and even political in nature. For example, a U.S. tax provision for foreign-derived intangible income (FDII) remained "under review" with the FHTP for several years until the Biden administration proposed removing it in 2021. FHTP then strongly characterized the situation, stating that FDII is "in the process of being eliminated" and that "the United States has committed to abolish this regime."[12] As of 2024, FDII remains U.S. law, and FHTP's characterization of the situation remains the same.

Action 6, and relatedly, Action 15, address treaty shopping. Action 6, a BEPS minimum standard, asks jurisdictions to adopt provisions that limit the ability to extend bilateral treaties to inappropriate circumstances. Typically, a sign of treaty shopping is that a corporation from a third country benefits from a treaty between two countries that the corporation does not reside in. Action 6 offers several different mechanisms to address treaty shopping. Action 15, known as the multilateral instrument (MLI), offers a

10 Alan Cole, "Interest Deductibility: Issues and Reforms," Tax Foundation, May 4, 2017, https://taxfoundation.org/research/all/federal/interest-deductibility/.
11 Garrett Watson and William McBride, "U.S. Businesses Face Growing Impact from Tightened Interest Deductions and Higher Interest Rates," Tax Foundation, Sep. 12, 2023, https://taxfoundation.org/blog/ebitda-us-business-interest-expense-limitation/.
12 Daniel Bunn, "Will FDII Stay or Will it Go?," Tax Foundation, Aug. 10, 2021, https://taxfoundation.org/blog/will-fdii-stay-will-go/.

kind of ready-made patch for many tax treaties. When jurisdictions adopt the MLI, they can consider their treaties with other MLI adopters effectively patched for the purposes of Action 6, without having to renegotiate each one individually.

Though progress on Action 6 has been speedy for countries adopting the MLI, it has been slow among those countries that have not adopted the MLI, including the U.S.

Action 7 proposes changes to the definition of a "permanent establishment" for the purposes of tax treaties, to deter common arrangements where MNEs avoid having a taxable presence in a jurisdiction. For example, an MNE that wishes to sell into a market with high tax rates, but does not wish to be a taxable business under that market's laws, might operate through an intermediary or series of intermediaries to avoid having a taxable presence of its own. Action 7 would attempt to modify tax treaties to make it more likely that such activity falls in the scope of a jurisdiction's taxation. Like Action 6, Action 7 can be adopted as part of the MLI from Action 15.

Actions 8-10 involve guidance on transfer pricing for intangibles, risks and capital, and high-risk transactions respectively. These actions attempt to better align transfer pricing outcomes with the substance of value creation. One component of the OECD framework is to categorize the business functions pertaining to intellectual property: development, enhancement, maintenance, protection, and exploitation, and enumerate principles for how the costs and revenues from these functions should be allocated. However, the subjectivity involved in transfer pricing will always risk some profit shifting.

Transfer pricing regulations may come at a cost: in making investments by multinationals more expensive after tax, they could make some investments less worthwhile. A 2018 study by IMF economists Ruud De Mooij and Li Liu finds that transfer pricing regulations can decrease investment in foreign subsidiaries of multinationals.[13]

Action 11 attempts to devise metrics or indicators for quantifying profit-shifting activity. However, the lack of good data and proper experimental designs make this extraordinarily difficult in practice. A study of several BEPS action 11 indicators concludes that the metrics are simplistic and potentially easily confounded by trends unrelated to profit shifting. For example, multinational firms have lower tax rates than purely domestic firms, but multinational firms may differ from domestic firms in other ways besides tax planning that result in lower tax rates.[14]

Action 12 recommends mandatory disclosure rules that would require taxpayers or tax advisors to disclose certain aggressive tax planning authorities to their jurisdictions.

Action 13, a BEPS minimum standard, requires large MNEs to prepare a country-by-country (CbC) report with aggregate data on the allocation of income, profit, and other key measures among tax jurisdictions. This CbC report is then to be shared with tax authorities.

13 Rood de Mooij and Li Liu, "At A Cost: the Real Effects of Transfer Pricing Regulations," Mar. 23, 2018, https://www.imf.org/en/Publications/WP/Issues/2018/03/23/At-A-Cost-the-Real-Effects-of-Transfer-Pricing-Regulations-45734.

14 Daniel Klein, Christopher Ludwig, Katharina Nicolay, and Christoph Spengel, "Quantifying the OECD BEPS Indicators – An Update to BEPS Action 11," Feb. 25, 2021, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3792823.

CbC reporting is not necessarily perfectly reliable—apportioning corporate metrics among jurisdictions is often guesswork at best—and it can be significantly burdensome for MNEs with many entities across many lines of business and many jurisdictions.

However, even the act of CbC reporting, imperfect though it may be, may have had a chilling effect on profit shifting by MNEs. After the introduction of CbC reporting by the EU, an accounting study found a 1-2 percentage point increase in taxes for firms just above the €750 million revenue threshold for CbC reporting, relative to the firms just below. This finding is potentially consistent with the idea that transparency reduces tax planning.[15]

Action 14, a standardized procedure for speedier dispute resolution between jurisdictions, is also a BEPS minimum standard.

Action 15, the BEPS MLI mentioned above, is a framework for the speedy updating of treaties on mutually agreed-upon rules. The number of bilateral tax treaties in the world is immense, as there are tens of thousands of possible combinations of two jurisdictions that might want to negotiate treaties with each other. While many provisions can, and arguably should, be addressed in individual bilateral agreements, there is also a place for harmonization among many countries simultaneously. The MLI helps serve that role and has led to speedy adoption of some BEPS conventions. Over 100 jurisdictions have adopted the MLI thus far, but the U.S. is not among that group.[16]

Takeaways from BEPS 1.0

Global policymakers should be deliberate and careful as they move on from BEPS 1.0 to the next phase of international tax policy. The effects of BEPS and TCJA may not be fully felt yet. In a recent report on TCJA's international reforms, Tax Foundation showed modest evidence that the rise in profit shifting has slowed or even stalled. For the U.S. especially, there is evidence that more intellectual property is being located at home.[17]

However, there was also reason to believe that the full effects of the reforms of the 2010s—whether from the TCJA or from BEPS—would not be felt overnight. Some profits—"stuck profits"—are located in jurisdictions that don't reflect economic substance, but not necessarily because the current TCJA and BEPS regimes were insufficient. Instead, they may merely reflect legacy arrangements that are hard to unwind.[18] Many of the effects of the BEPS reforms, therefore, may take many years to fully manifest, as eventually new intangibles eclipse legacy intangibles in value, for instance.

Additionally, stable tax codes are desirable, and uncertainty over upcoming changes to U.S. and OECD tax laws may prevent MNEs from making changes. A deliberate, slow, and well-telegraphed pace of change may allay some of that uncertainty.

15 Preetika Joshi, "Does Private Country-by-Country Reporting Deter Tax Avoidance and Income Shifting? Evidence from BEPS Action Item 13," *Journal of Accounting Research* 58:2 (Mar. 13, 2020), https://onlinelibrary.wiley.com/doi/abs/10.1111/1475-679X.12304.

16 Organisation for Economic Co-operation and Development, "Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting," January 2023, https://www2.oecd.org/ctp/treaties/multilateral-instrument-BEPS-tax-treaty-information-brochure.pdf.

17 Alan Cole, "The Impact of GILTI, FDII, and BEAT," Tax Foundation, Jan. 31, 2024, https://taxfoundation.org/research/all/federal/impact-gilti-fdii-beat/.

18 Alan Cole, "The Impact of GILTI, FDII, and BEAT," Tax Foundation, Jan. 31, 2024, https://taxfoundation.org/research/all/federal/impact-gilti-fdii-beat/.

There are also some specific principles and lessons from the BEPS 1.0 experience that can inform policymakers as they take the next steps.

First, most actions have costs. CFC rules, more elaborate definitions of "permanent establishment," and CbC reporting requirements all occupy the time and energy of talented people who might better serve the global economy in other roles. In addition to what are probably substantial compliance costs associated with these rules, there are also considerable administrative costs involved. Getting a better handle on these costs should be an imperative to better inform future policymaking. This could be achieved in a number of ways, such as by the OECD or another international body instituting a series of surveys of taxpayers and administrators.

Second, much has already been done. The OECD's flurry of actions is a legitimately impressive effort, even if many actions are not fully enforced or adopted, and even if a handful are essentially incomplete.

Third, the lowest-hanging fruit may already be picked. Ideas like curbing hybrid mismatch arrangements are genuinely good, but they cannot be done twice. Future efforts might be more costly with less benefit than the efforts of the past. Additionally, a proliferation of backstops and minimum tax regimes may result in instances of unintended double taxation.

Fourth, some of the best ideas—like frameworks for speedier dispute resolution—are about using harmonization to reduce compliance costs, not raise them.

Fifth, even without a specific enforcement mechanism, good tax ideas can achieve broad voluntary compliance simply by providing a net win for everyone.

And sixth, the biggest disputes over the distribution of corporate tax revenue will never be fully solved. Issues like "harmful tax practices," digital service taxes, the two-pillar agreement, and trade disputes in general will continue to be raised by countries arguing in their own self-interest. The corporate income tax has inherent limits as a policy tool, limits that will never be fully overcome, and—while also imperfect—destination-based taxes with broad bases, such as VATs, are likely to be a bit hardier in the face of globalization and digitalization than the corporate income tax.

Given these lessons, international policymakers attempting to forge new agreements should eschew more marginal attempts to curb profit shifting with high compliance costs. They should avoid duplicative efforts. And they should attempt to "weed the garden" by removing requirements that have proven ineffective or better solved by a different policy tool.[19]

Global tax policy will likely always remain an unfinished job. No tax regime is perfect, even in one jurisdiction, much less two hundred. And the competing interests of different jurisdictions and MNEs make it unlikely that any regime will last permanently. However, international policymakers should err on the side of deliberate, mutually beneficial, and well-considered changes.

19 Daniel Bunn, "Weeding the Garden of International Tax," Tax Foundation, Jul. 19, 2023, https://taxfoundation.org/blog/decluttering-international-tax-rules/.