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REFLECTING THE GLOBAL ANTI-BASE EROSION FROM THE PERSPECTIVE OF DEVELOPING COUNTRIES

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Abstract

Since late 2019, new discussions on the global minimum tax rate have emerged in international tax law, centered on the GloBE proposal. The central issue discussed in this paper is the plausible impact of GloBE on developing countries. Given its origin, it is assumed that the GloBE will benefit developed countries to the detriment of developing countries. In this paper, I draw on scholars' criticisms of similar projects like GloBE to prove that GloBE is highly critical of developing countries' interests as they risk losing taxing rights and revenues. I hence advise developing countries to be mindful of this and adopt GloBE rules cautiously as they reserve the sovereign right to walk out of multilateral measures in favour of unilateral measures concerning the allocation of taxing rights.

Key words: GloBE, Pillar two, (harmful) tax competition, developing countries, OECD, global minimum tax rate

Introduction

Since the second half of the 1990s, the international tax system has undergone several changes aimed at aligning it to the world's socio-economic changes. In this context, international organisations such as the European Union (EU) and the Organisation for Economic Cooperation and Development (OECD) have played a key role and continue to be at the forefront.

In this paper, I focus on the OECD, whose role in shaping international tax structures is widely known and recognised in legal scholarship (Avi-Yonah, 2001; Morriss & Moberg, 2012; Christians, 2009; Christians, 2010; Christians & Apeldoorn, 2018; Ring, 2008). On several occasions, the OECD, either alone or in collaboration with other organisations, has initiated the changes that have influenced the structure of the international tax system. Examples include the OECD project that

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concluded in 1998 with a report on harmful tax competition and subsequent progress reports, the joint OECD/G20 project on Base Erosion and Profit Shifting (BEPS) that concluded in 2013 with a plan of fifteen actions and the ongoing Global Anti-Base Erosion (GloBE) project.

GloBE is a project that is still under development. It is not yet known whether it will be fully successful or not. However, legal scholars have so far expressed interest in researching and writing about it, either by critically analysing what is known so far or by predicting the future of the project. GloBE has been the subject of controversy in international tax circles and has caused great consternation in developing countries. Indeed, apart from broader issues of complexity and implementation, there are widespread concerns that the GloBE proposals may benefit developed countries to the detriment of developing countries. In this context, I would chip in with a particular interest in developing countries.

The trigger for this paper is the uncertainty about whether GloBE will benefit all countries equally. This uncertainty is essentially fuelled by the differences in interests of developed and developing countries. It is precisely for this very reason that I focus on the plausible impacts of GloBE on developing countries. My argument is based on the assumption that it is difficult to fit the interests of developed countries, which are capital exporters, and the interests of developing countries, which are capital importers, int one box. Understandably, the interests of the home jurisdictions are most likely to be opposed to the interests of the host jurisdictions. Considering that the GloBE is led by the OECD, usually referred to as the rich nations' club, it is worrisome to think of how developing countries will safely stand with the GloBE.

That being the case, in this paper I draw on scholars' critiques of the earlier design of international tax rules that preceded the GloBE project to pave the way for my critique of the GloBE. In this way, I aim to show that the development of international tax rules has always been critical, especially from the perspective of developing countries. Furthermore, I aim to show that the main cause of that critical aspect is the fact that developing countries are not effectively involved in the design of international tax rules, which, once designed, apply globally, i.e. also to developing countries. In this context, I also discuss that GloBE is not a timely concern for developing countries.

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To produce this paper, I have made extensive use of a qualitative method based on a doctrinal approach. To this end, I have reviewed the documents available to date on the subject of GloBE such as the OECD reports, the comments on the OECD blueprints, academic writings, and a broad literature review. I then undertook a critical analysis premised on the OECD's previous projects vis-à-vis developing countries.

This paper is divided into six sections. In section one, I introduce the paper. In section two, I provide an overview of OECD initiatives prior to GloBE. In section three, I provide an overview of the OECD's GloBE project. In section four, I reflect on the possible impact of GloBE on developing countries. In section five, I discuss the timeliness of Globe for developing countries. In section six, I draw a conclusion and make recommendations.

The pre-GloBE initiatives

Before GloBE, the OECD engaged in other projects that impacted on the international tax system. Without claiming to describe all OECD projects, in the next paragraphs I briefly discuss three OECD works that are closely related to GloBE in one way or another. These are the OECD project that concluded in 1998 with a report on harmful tax competition, the subsequent progress reports and the BEPS project.

The 1998 OECD report on harmful tax competition

The OECD's concern with harmful tax competition began in the early 1970s with its work on tax havens (Morriss & Moberg, 2012). The OECD project on harmful tax competition *stricto sensu* began in May 1996 and the results were released in 1998. The main objective of the project was to develop a better global understanding of harmful tax practices (Salinas, 2003). The trigger for project was the proliferation of harmful tax competition between countries trying to attract financial and mobile activities. As a result, there was a risk of distorting trade and investment as well as the erosion of the tax bases (OECD, 1998). The erosion of the tax base erosion poses a threat to tax revenues, tax sovereignty, and tax fairness.

The aim of the project was, therefore, to develop a better understanding of how harmful tax competition affects the location of financial and other service activities, erodes the tax bases of other countries, distorts trade and investment patterns, and undermines the fairness, neutrality and broad social acceptance of tax systems in general (OECD, 1998). In this context, the OECD report identified six problems caused by harmful tax competition (OECD, 1998):

> distorting financial and, indirectly, real investment flows; undermining the integrity and fairness of tax structures; discouraging taxpayer compliance; reshaping the desired level and mix of taxes and public spending; undesirably shifting the tax burden to less mobile tax bases; and increasing administrative costs and compliance burdens.

According to the OECD Report, there are two forms of harmful tax competition: tax havens and harmful preferential tax regimes (HPTRs). Without defining what tax havens are, the 1998 OECD report elaborated on the determining factors, namely (a) no or only nominal taxes, (b) laws and/or administrative rules and/or practices which prevent effective exchange of information, (c) lack of transparency and (d) absence of any requirement for substantial activity (OECD, 1998).

A similar approach was used for harmful preferential tax regimes, for which the OECD report identified two categories of determining factors. The first category, referred to as ‘key factors’, consists of (a) a low or zero effective tax rate on specified kinds of income, (b) ring-fencing, (c) lack of transparency and (d) no effective exchange of information (OECD, 1998). The second category factors support the key factors, and consist of (a) artificial definition of the tax base, (b) non-compliance with international transfer pricing principles, (c) exemption of foreign source income from residence-country taxation, (d) negotiable tax rates or tax bases, (e) the existence of secrecy provisions, (f) access to a wide network of tax treaties, (g) the promotion of the regime as a tax minimisation vehicle and (h) encouragement by the regime of purely tax-driven operations or arrangements (OECD, 1998).

The geographical scope of the 1998 report was worldwide with respect to tax havens, while with respect to HPTRs it was limited to the territories of OECD members. As for the scope *ratione materiae*, the

1998 OECD report only covered 'geographically mobile activities, such as financial and other service activities, including the provision of intangibles'. This coverage was determined by the fact that the location of financial and service activities was considered highly problematic in terms of harmful tax competition (OECD, 1998).

The 1998 OECD did not focus on statutory tax rates, but on low effective tax rates. This focus justifies that the OECD considers transparency and effective exchange of information as important tools in the fight against harmful tax competition (Samuels & Kolb, 2001). However, transparency and the right to privacy are at odds with each other. The same applies to the exchange of information vis-à-vis state tax sovereignty. These and other criticisms were raised against the 1998 OECD report.

The 1998 OECD report was indeed very controversial and divided minds, as it recorded both praise and criticism. As for the praise, OECD members were largely supportive. This support contributed to the establishment of the Forum on Harmful Tax Practices as recommended in the 15th recommendation of the report. The Forum coordinated and promoted knowledge in the fight against harmful tax practices, as it contributed to the elimination or amendment of some harmful tax practices, and also to the derailing of some nascent harmful tax practices.

The 1998 OECD report also pioneered the problems of harmful tax competition, as it served as the basis for the development of international tax rules regarding transparency and exchange of information (Orlov, 2004). The OECD project also played an important role in shaking up the world, which began to recognise harmful tax competition as a serious problem. This led scholars to describe the 1998 OECD project as a reasonable response to harmful tax competition (Samuels & Kolb, 2001; Townsend, 2001).

However, the OECD project was also criticised. For example, scholars considered the OECD project to be manipulated to satisfy the interests of G7 and OECD members (Littlewood, 2004; Morriss & Moberg, 2012; Sanders, 2002; Abbott & Burton, 2017). Scholars also described the project as a tool for high-tax jurisdictions to eliminate competition with low-tax jurisdictions (Samuels & Kolb, 2001). The 1998 OECD report was also criticised for not being supported by some OECD members, such as Luxembourg and Switzerland. Despite the US

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signature, some Americans also criticised the OECD report as a tyrannical violation of state tax sovereignty (Nicodème, 2009; Ring, 2008; Hishikawa, 2002; Carlson, 2002; Samuels & Kolb, 2001; Orlov, 2004).

The OECD report was also seen as an attempt to create global tax cartels (Abbott & Burton, 2017; Carlson, 2002) and as Neo-colonialism by the world's richest countries dictating policies to poor countries against their sovereignty (Arnold, 2016; Sanders, 2002; Dabner, 2004; Morriss & Moberg, 2012). Low-tax rates and substantial economic activity factors were also criticised as being vague (Barker, 2002; Salinas, 2003; Townsend, 2001). Enforcement mechanisms were also criticised. Indeed, the OECD's strategy of blacklisting countries and the coordinated threat of sanctions were negatively described as 'naming and shaming', 'stigmatising', 'threatening', 'coercion', etc (Johnson, 2006; Sanders, 2002; Palan, 2013).

The progress reports

The 1998 OECD report recommended, among other things, the establishment of a forum to review jurisdictions with harmful tax competition features in order to counter their proliferation. In this context, the Forum published a first report in 2000 on progress in identifying and eliminating harmful tax practices. The 2000 progress report identified 35 tax havens and 47 harmful preferential tax regimes (OECD, 2000). Another progress report was published in 2001. In this report, the 'no substantial activity requirement' was dropped out due to its limited practical relevance (OECD, 2001).

The 2004 progress report reviewed the progress made by each jurisdiction mentioned in the 2000 report. This report concluded that 18 regimes had been abolished or are in process of abolishment, 14 regimes had been amended, and 13 regimes were found not harmful (OECD, 2004). The 2006 report, referring to the 2000 report, found that 20 regimes had been abolished, 13 had been amended, 13 had been reviewed as not harmful and only one had been reviewed harmful (OECD, 2006). The 2006 report also noted that three regimes had been introduced after 2000, but were found not harmful. No further progress report was published until 2013, when the OECD, in cooperation with the G20, launched the BEPS project.

The BEPS project

Motivated by the need to align the location of taxable profits with the location of economic activity and value creation, the OECD, in cooperation with the G20, embarked on Base Erosion and Profit Shifting (BEPS) project. BEPS project's report was published on 05 October 2015 and contains a plan of fifteen actions to be implemented at different levels by OECD members and non-members.

Of the fifteen actions, Action five was more related to tackling harmful tax competition, as it aimed to address "*harmful tax practices with respect to geographically mobile activities such as financial and other service activities, including the provision of intangibles... that unfairly erode the tax bases of other countries, potentially distort the location of capital and services*" (OECD, 2015). In this respect, BEPS Action 5 intended to strengthen the 1998 OECD report on harmful tax competition.

It is important to note that four BEPS actions, including Action five, have been raised to the level of minimum standards under the so-called "BEPS Inclusive Framework". The purpose of the Inclusive Framework is to include all interested non-OECD members on equal footing with members in the implementation of the four minimum standards. Given its objective, the Inclusive Framework primarily targets developing countries, which have always been left out of the development of international tax rules. The call to join the BEPS Inclusive Framework was launched in 2016 and by August 2022, the Inclusive Framework counted 141 countries.

Four years after the release of the results of the BEPS project, the OECD embarked on another project, the first documents of which were published in 2019. This is the Global Anti-Base Erosion (GloBE) project, which I discuss in more detail below.

An overview of the OECD's GloBE project

Towards the end of the last decade, there were new discussions in international tax law. One of the driving forces behind these discussions is the OECD's Global Anti-Base Erosion (GloBE) Proposal, also known as Pillar Two. The central aim of Pillar Two is to introduce a global minimum tax rate. Pillar Two focuses on two interlinked domestic rules, namely an Income Inclusion Rule (IIR) and its backstop tax on base-

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eroding payments rule, referred to as Under-Taxed Payment Rule (UTPR) (OECD, 2019a; Devereux, 2020; Dourado, 2020). IIR will function by imposing a top-up tax on a parent entity on a low-taxed income of a constituent entity. UTPR will function by denying deductions or making an equivalent adjustment to the extent of the low-taxed income of a constituent entity. The two proposed rules have a common element: they target an income or payment that is not taxed or is taxed below a minimum rate.

The GloBE blueprint documents were released in 2019 and were formulated as a project to address the tax challenges arising from the digitalisations of the economy. The released documents include the Program of Work, the Public Consultation Document on GloBE (Pillar Two), the Report on the Pillar Two Blueprint, etc (OECD, 2019a; OECD, 2019b; OECD, 2020). Despite divergent interests, the Inclusive Framework reached an agreement on the global minimum tax rate of 15% on 01 July 2021. On 20 December 2021, the OECD/G20 published Model Rules for domestic implementation of the GloBE rules, which set out the scope and main mechanisms for the minimum tax rules system. In March 2022, the OECD published technical guidance together with commentary and illustrative examples to promote consistent and common interpretation of the GloBE rules. It is expected that Pillar Two will be developed into a law by the end of 2022, to take effect in 2023.

Pillar Two essentially aims to tax multinational corporations (MNCs) at a minimum tax rate, which has so far been set at 15%, in order to discourage MNCs' profit shifting to low-tax jurisdictions. To this end, home jurisdictions should be given the right to tax back where host jurisdictions have not sufficiently exercised their primary taxing right or have otherwise taxed below the effective minimum tax rate (OECD, 2019a; Noked, 2021; Heitmüller & Valderrama, 2021). In this way, the interest in profit shifting would decrease (Heitmüller & Valderrama, 2021; Harpaz, 2021). Of course, the minimum tax rate would not restrict the right and freedom of countries to determine their own tax systems, including low or no corporate income tax (CIT) (Riccardi, 2021).

The OECD's GloBE is still under development. Nevertheless, there are controversial views about it. For example, scholars criticise that the OECD calls GloBE a continuation of BEPS, but goes far beyond the original BEPS, which did not see low-tax rate *per se* as problematic

(Eden, 2020; Riccardi, 2021; Silva, 2020). Similarly, GloBE is criticised for addressing problems arising from the digitalised economy, but goes beyond that to address them broadly (Noked, 2020). Some scholars also believe that GloBE could have a negative impact on tax sovereignty and the allocation of taxing rights (Riccardi, 2021; Silva, 2020; Harpaz, 2021). Moreover, as it is difficult for all countries to reach consensus on GloBE rules, there is a risk that GloBE will not become fully global. In this case, its goals will not be achieved and will likely encourage MNCs to relocate their headquarters to jurisdictions that do not participate in GloBE (Devereux, 2020). This is likely to happen on the basis of the traditional principle of state tax sovereignty, which is explicitly recognised by GloBE as it does not mandatorily require members to adopt GloBE rules, let alone non-members.

On the positive side, scholars expect GloBE to change corporate taxation worldwide. GloBE is expected to change the behaviour of taxpayers and jurisdictions (Riccardi, 2021; Dourado, 2020). In this context, GloBE is expected to limit unilateral uncoordinated actions that enable profit shifting and fuel harmful tax competition (Blum, 2019).

The GloBE rules are still under development and it is too early to assess them adequately. Nevertheless, their implementation is likely to affect tax structures worldwide. Based on this general consideration, it might be interesting to put a special focus on developing countries, given the divided opinions so far.

Plausible impact of GloBE on developing countries

GloBE aims to be adopted globally. If this goal is achieved, GloBE will affect every jurisdiction in one way or another. Without undermining the potential impact of GloBE on developed countries, there are some concerns for developing countries. The focus on developing countries is due to the fact that GloBE is being driven by organisations' whose members are developed countries, namely the OECD, the G20 and the G7. It is hence assumed that GloBE is being developed to primarily satisfy the interest of developed countries. This assumption implies that GloBE will primarily benefits rich countries with high taxes, while developing countries face a high risk of losing tax revenues (Mason, 2021; Fung, 2017; Tandon, 2022; Titus, 2022). This assumption is further based on the fact that the interests of developed countries (capital exporters) and developing countries (capital importers) diverge, and therefore, the benefits also diverge. This assumption also leads to two opposing expectations vis-à-vis developing countries, as developed below.

The positive expectations

In addressing the remaining BEPS challenges, there is optimism that Pillar Two may address the BEPS failure to adequately protect developing countries' tax bases from artificial profit shifting. This is in line with the GloBE's self advocacy to shield developing countries from granting inefficient favourable tax measures under peers' pressure (Hearson, 2020). Even though, this can be confirmed by a prior objective assessment of the inefficiency of tax incentives in developing countries.

Moreover, there is a positive expectation that GloBE will reduce profit shifting and curb harmful tax competition. Indeed, a global minimum tax rate would put a floor to tax competition (Silva, 2020; Hearson, 2020). However, a floor on tax rates can be challenged by competition through narrowing the tax base. GloBE would also be beneficial if the limited tax competition is only the bad tax competition, which is not granted as GloBE risks forcing countries to abandon their low-tax policies, even those that do not lead to artificial profit shifting. Indeed, as lower tax levels do not always equate to harmful tax practices, GloBE runs the great risk of eliminating bad as well as good tax competition. Apart from this optimistic approach, GloBE is so far full of pessimism for developing countries, as developed below.

The negative expectations

A full implementation of GloBE will affect economic development of some countries. This likely effect will mainly affect developing countries. This assumption is based on several factors. First of all, there is no one size fits all and the minimum tax rate cannot be a panacea. If GloBE is pushed by capital-exporting countries, it is because they believe that GloBE is in their interest. Therefore, the opposite is hard to believe, namely that GloBE is also in the interest of capital-importing countries. Similarly, there is a risk that GloBE will lead to an unfair redistribution of taxing rights, as a disproportionate share of tax revenues could benefit the richest headquarter countries.

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Moreover, most developing countries use low tax rates to efficiently attract foreign direct investment (FDI). It is clear that GloBE will affect these policies and make it difficult for developing countries to attract strategic investments. If this happens, GloBE will become a reflection of existing global power structures in which developed countries shape international tax policies tailored to their interests.

GloBE also risks concentrating global wealth in the hands of developed economies and increasing the dependence of developing countries. As long as favourable tax measures are not harmful, developing countries should use them freely. Despite the thesis of combating profit shifting, reducing tax competition and preventing uncoordinated anti-avoidance measures, the design of GloBE seems to be attractive to capital exporters (residence jurisdictions) but not to capital importers (source jurisdictions). In this sense, GloBE would increase the tax revenues of developed economies (capital exporters) to the detriment of developing economies (capital importers) (Apriliasari, 2021). From this point of view, GloBE looks negative for developing countries. GloBE is also too complex for developing countries to manage and some features of GloBE could be very difficult for developing countries to implement (Hearson, 2020; Riccardi, 2021; Silva, 2020; Piciotto *et al.*, 2021).

The GloBE project also risks having a reverse effect. One of the triggers of GloBE is the spillover effects of low-tax policies on other countries in the form of revenue losses. The sequence is the spillover effect from low-tax jurisdictions, generally developing and small size jurisdictions, to developed economies. With the minimum tax rate, there is a risk that the spillover effect will occur in the opposite direction, i.e. in the order from developed economies to developing economies. Indeed, in the current international tax regime, high-tax jurisdictions are troubled by the spillover effects of low-tax jurisdictions. With the GloBE, it will be the other way round: the low-tax jurisdictions will be troubled by the policies of the high-tax jurisdictions. When that happens, GloBE will simply be a model of coordinated tax competition, with developed countries unnecessarily competing with developing countries. Whether or not this coordinated tax competition is harmful will be a matter of discussion once the GloBE rules are implemented.

With GloBE, there is also the danger that a race to the bottom will be replaced by a race to a minimum tax rate. Indeed, if the OECD expects low-tax jurisdictions to raise their domestic effective tax rates, high-tax jurisdictions might lower their domestic effective tax rates in parallel. In other words: if the agreed minimum tax rate of 15% is implemented, there is a risk that several jurisdictions with CIT higher tax rates than 15% will race to the minimum tax rate. This may be more likely for developing countries than for developed countries. In this scenario, what is meant to be the global minimum tax rate could end up becoming the global maximum tax rate, with the race to the minimum tax rate having negative effects, like the race to the bottom.

Moreover, GloBE has been linked to the Inclusive Framework to achieve its legitimacy. Nevertheless, the interests of the inclusive framework members are quite different. Not only that, but the participation of developing countries in the Inclusive Framework is questionable and viewed with scepticism. One of the reasons for this is that the concerns of developing countries regarding the allocation of taxing rights are not adequately addressed. This is because even when developing countries participate in the Inclusive Framework, their participation is very small, silent and not on an equal footing with developed countries (Christensen, Hearson, & Randriamanalina, 2020).

This weak participation is due to several factors: the OECD's fast decision-making process, the complex and highly technical intensive discussions, the limited technical capacity, the limited financial resources, the lack of organised caucuses to negotiate common positions, the discrepancy between technical and political understanding, the over-representation of developed countries versus a limited representation of developing countries, (Christensen, Hearson, & Randriamanalina, 2020; Hearson, 2020), to name a few. As a result, developing countries have little room to defend and promote their interests within the Inclusive Framework, as their voices are not sufficiently heard. Moreover, many developing countries joined the Inclusive Framework because they feared being blacklisted by the EU or losing EU technical assistance (Christensen, Hearson, & Randriamanalina, 2020; Hearson, 2020).

Moreover, due to the global and intrinsic nature of tax competition, GloBE is likely to influence the way developing countries approach tax competition. In this context, a successful implementation of GloBE is likely to change the behaviour of jurisdictions and taxpayers. Nevertheless, there is no guarantee that taxpayer behaviour will change because taxpayer behaviour is influenced by various fiscal and non-fiscal factors. Even if the change occurs, some taxpayers may lose their appetite to invest in developing countries, which in turn will lead to a loss of FDI, which will then affect the socio-economic situation of developing countries.

Developing countries will also be forced to bring their policies in line with GloBE. This can be done by adjusting existing favourable tax measures or by abolishing them. An example of this is the case of tax sparing clauses. Indeed, the logic of GloBE contrasts with the logic of tax sparing clauses in tax treaties. Hence, if the GloBE rules are successfully implemented, the tax sparing clauses will become obsolete, which will call developing countries to revise their existing tax treaties. In addition, the implementation of the GloBE rules will obviously force developing countries to redesign their tax systems so that they remain attractive while complying with the GloBE rules. In other words, developing countries should be mindful and stand ready to see their sovereignty affected in one way or another. Hence, although it is almost a done deal, developing countries should be cautious in adopting and implementing the GloBE rules.

These negative expectations from the perspective of developing countries are in addition to the concerns that developed countries have expressed so far. Indeed, several European countries have shown great concerns about the uncertainties surrounding GloBE. As a result, several European countries have so far been reluctant to move forward with GloBE rules. This is the case, for example, with Poland, Sweden, Estonia, Malta, and Hungary, which have on several occasions, repeatedly expressed their opposition and reluctance to GloBE rules. At the European level, this has led to a delay in the adoption of the EU Directive on global minimum tax, which as of now is not yet adopted, despite the original target of adopting it by the end of June 2022.

The implementation of the GloBE rules is ambitiously set for 2023. As the OECD does not have the power to enforce domestic legislation, countries are expected to adopt domestic legislation to implement the GloBE rules. In addition to the aforementioned resistance from some of the European countries, some other countries with well-positioned global economies have shown similar reluctance. This is the case of India, which has not yet taken any steps to change its internal legislation to cope with GloBE.

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Given these examples, which show that Europeans are concerned, uncertain, and reluctant about GloBE, despite their membership of the OECD, it make sense to understand the greater concerns, uncertainties, and reluctancies of developing countries that are not members of the OECD. Moreover, it is important to reflect on whether GloBE is what developing countries really need now, given other global challenges that hardly affect developing countries.

GloBE a timely concern for developing countries?

As explained in section three of this paper, discussions on the revolutionary GloBE emerged towards the end of the last decade, more specifically in late 2019. This time coincided with several unprecedented global challenges that hit developing countries particularly hard.

In fact, shortly after the launch of the GloBE project, the entire world was hit by Covid-19. Although no single country was left untouched, developing countries were the hardest hit for several reasons: poor access to health services, poor health facilities, low numbers and generally sub-standard health services and medical staff, etc. In addition, a poor mindset and ignorance of the population in developing countries also contributed to the widespread prevalence of Covid-19 in these countries. Another factor that has contributed to the devastating impact of Covid-19 in developing countries is the fact that developing countries have been generally the last to have access to vaccines against the disease. Nevertheless, it is agreed that life became normal in several countries in relation to vaccination coverage.

Shortly after developing countries got access to vaccines, relatively after others, as they were struggling to recover from the socio-economic consequences of Covid-19, another event occurred. This is the war between Russia and Ukraine, the outbreak of which in February 2022 worsened the economies of developing countries. Although taking place in the West, it has several negative consequences for developing countries, such as high inflation, shortage of food, and loss of foreign direct investment.

Considering the damage caused by the two unprecedented events within a period of about three years, the most important task for developing countries would be to recover from the consequences of the two disasters. Further to that, it is important for developing countries to develop strategies to build sustainable economies that cannot be easily

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shaken by a pandemic like Covid-19 or a foreign war like the one between Russia and Ukraine. Therefore, the question is whether developing countries see GloBE as an opportunity to build this system? The answer could be very negative.

On the contrary, GloBE can also be perceived negatively. Indeed, to effectively participate in the development of GloBE rules, developing countries need to commit financial and human resources, which they do not have. Similarly, developing countries cannot afford to spend the few resources they have to attend the high-level GloBE meetings in Paris, in lieu of buying food and medicines for their population.

Conclusion: a repeated history of criticism

In this paper, I have discussed the plausible impacts of GloBE on developing countries. Considering that the GloBE project is engineered by the OECD, the G20 and the G7, whose members are all developed countries, I have shown that the interests of developing countries are at great risk. This is in contrast to the interests of developed countries, whose protection could be the primary target of GloBE.

In this paper, I have also examined other OECD projects in the field of international tax law to show that similar criticisms of previous projects are recurring. By comparing GloBE with these other projects, I have discussed how each OECD project has been challenged on sovereignty and other related issues. Indeed, the question of violation of sovereignty was raised against the 1998 OECD project on harmful tax competition, the 2013 OECD/G20 BEPS project and again with regard to the GloBE project. Despite the criticisms raised, the two previous projects discussed in this paper were implemented at the insistence of the OECD, as evidenced by the fact of going beyond its members to reach non-members. The same is likely to happen with GloBE. This kind of imposition reiterates the OECD’s behaviour as the world’s international tax policymaker. In other words, regardless of the criticism, the projects were pushed through mainly because of the power and role of the initiators in global tax governance.

Given this recurring situation, several recommendations to developing countries are possible. First, the OECD and similar organisations such as the G7 and the G20, are able to push through their best-laid plans because, among other things, they form caucuses. As long as developing countries continue to fight each on its own, it will be difficult for them to have a strong voice. I, therefore, recommend developing countries to form caucuses and speak one voice in the negotiations and discussions of international tax governance.

Secondly, with regard to GloBE, I advise developing countries to adopt the GloBE proposals with caution, as it is *prima facie* designed not really to benefit capital-importing countries, but capital-exporting countries. Developing countries should also be mindful that GloBE is not necessarily good for their interests, as they remain sovereign to walk out of multilateral measures in favour of unilateral measures regarding the allocation of taxing rights.

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