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The 6th BRITACOF

Shared Progress in Taxpayer Service for a Better Business Environment

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Tax Rule of Law Governance

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Good Tax Rule of Law Governance Supports
Compliance and Fosters Investment

What is Tax Rule of Law Governance?

1. Tax Policy making
2. Tax Law Making
3. Tax Law Administration/Enforcement
4. Dispute Resolution

Domestic Level

International Level

Domestic Tax Policy Making

- Ministry of Finance / Economic Affairs
- Guided by, amongst others:
  - Budget requirements
  - Composition of GDP
  - Composition of population
  - Natural resources
  - Macro-economic data
  - Domestic vs. international economy
  - Political realities and choices

Domestic Law Making

- Government
- Parliament
- Lobby
  - Industry pressure
  - Non-governmental organisations
- International pressure
  - Tariffs
  - Retaliation

Domestic Tax Law Administration / Enforcement

- Ministry of Finance
- Revenue Service / Tax collector

Domestic Dispute Resolution

- Administrative appeal
- Court appeal

International Tax Policy Making

- Regional
  - EU, GCC, APEC, ANDEAN, African Union, etc.
- Global
  - OECD / Inclusive Framework / UN / IMF / World Bank / PCT
  - G7 / G20
- Global North vs. Global South?
- OECD vs. UN? UN Framework Convention on Tax Cooperation?
- What to expect in a fractured world with fading multilateralism?

International Tax Law Making I

- Bilateral and Multilateral Tax Treaties
  - Allocation of taxing rights
  - Exchange of information
  - Non-discrimination
  - Mutual assistance

- Regional treaties
  - TFEU and Directives
  - Customs Unions
  - Etc.

International Tax Law Making II

- Legitimacy of ‘trickle down’ G7, G20, OECD reality?
  - OECD MC favors capital exporting countries?
  - Pillar One as a failed project – only served to delay DSTs?
  - Pillar Two forced on the IF without real consensus?
  - The US pushed both Pillars, for understandable reasons, but does not wish to be bound by either of them
  - The EU gives in to pressure from the US?
- How much effective control by national parliaments?

Int’l Tax Law Administration / Enforcement

- Exchange of Information
- Mutual assistance
- Global and regional cooperation
  - FTA
  - BRITACOM
  - ATAF
  - IOTA
  - Etc.

International Dispute Resolution

- Map & arbitration
- Investment treaty arbitration

Global Rule of Law under Pressure

- Global Tax Rule of Law Governance – does it exist?
- Trade and Tax are becoming transactional and political – 'weaponisation' of tax and tariffs
  - If you enact a DST, we will impose tariffs on imports from your country
  - If you apply UTPR, we will penalize you with our tax
  - If you don't invest in our country, we will impose tariffs on imports from your country
- Global consensus on re-allocation of taxing rights is an illusion
- Focus on regional and bilateral agreements
- Rather than Pillar One and Pillar Two – focus on domestic tax base

Global Rule of Law under Pressure

- Global agreement on matters of common interest
  - Baseline definitions in income tax treaties
  - Effective dispute resolution
  - Exchange of information
  - Mutual assistance
  - Exchange of best practices
  - Capacity building

Thank you