

**INTERNATIONAL VERTICAL EQUITY IN GLOBAL
TAX GOVERNANCE — AN ASIAN PERSPECTIVE**

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Abstract

Rising multipolarity is seen to be leading to a fracturing of the global economy, which has hitherto been characterised by efficiency, multilateralism and a level playing field. Amongst many responses, some have focused on the expertise and incentives that small states might have to keep the global system together. For example, it has been argued “small states can create effective (if restricted) multilateral groupings that are either plurilateral or minilateral, but that can seamlessly transition to open, inclusive multilateralism when interests again align” (Quah, 2024).

The same observation and solution may also apply in the field of global taxation. There are two major multilateral initiatives, the OECD/G20 Inclusive Framework to tackle base erosion and profit shifting (BEPS) and the United Nations (UN) initiative for a new UN Tax Convention Framework, both underway in organising international tax reforms. While the UN initiative has emerged due to concerns in the Global South about the fairness of OECD-led efforts, the UN Tax Convention Framework is also limited in its capacity to effect substantive changes (Bunn, 2023; Picciotto, 2024). In addition, as major multilateral bodies, both the OECD and the UN inevitably run into difficult issues on decision-making and fair representation.

While recognising the relevance and value of both organisations, this paper suggests that smaller bodies and relationships can be formed to meet the gaps and weaknesses of the current global multilateral options. Instead of small states, this paper focuses on how and why regional organisations should strengthen their agency in determining global tax policies and outcomes. These regional voices not only represent the

perspectives of member states in the region, but can also aim to align with one another in multilateral platforms.

The paper is structured as follows. The first section provides a theoretical background on the concept of plurilateralism. It then offers reasons based on principles of equity to explain why this form of governance is necessary in the international taxation space. The second section points to the region of Asia as a case study to illustrate why those principles of equity are important, and the impact that arise when they are not adequately observed. The third section returns to the idea of plurilateralism to explore how regional groups might be in better positions to fill the gaps of global multilateral efforts in pursuing those principles of equity.

INTERNATIONAL VERTICAL EQUITY IN GLOBAL TAX GOVERNANCE — AN ASIAN PERSPECTIVE

1. PLURILATERALISM ALONGSIDE MULTILATERALISM

1.1 WHAT IS PLURILATERALISM?

In contrast to the all-inclusive nature of global multilateralism, plurilateralism involves select groups of countries pursuing specific objectives outside the framework of universal participation (Belhaj, 2024). This is a new strategy increasingly pursued by policymakers because of its advantages in efficiency and effectiveness (Basedow, 2018). For example, it enables like-minded states to advance shared interests more effectively by bypassing gridlocks that are often encountered in larger multilateral forums (Belhaj, 2024).

Nonetheless, the risks of these trends are also well documented. Of greatest concern is how the growing influence of regional organisations could fragment global governance structures and diminish global cooperation. However, the two approaches are not necessarily mutually exclusive. As Thomas Hale (2017) argued, the challenges of multilateralism do not necessarily mean that global governance is stuck in insurmountable gridlock. Hale identifies seven pathways such as “technical groups with effective and legitimate process” and “civil society coalitions with reformists states” that could overcome the challenges. Following the same thinking, this paper offers the view that plurilateral initiatives in the form of regional taxation organisations are a pathway out of gridlock in the international taxation space.

While not arguing that plurilateralism should be the best or only form of governance, this paper refers to the debate insofar as to explore how regional organisations can fill the gaps in multilateral coordination in international taxation issues.

1.2 MAKING THE CASE FOR PLURILATERALISM IN INTERNATIONAL TAX GOVERNANCE

Other than arguments based on efficiency and effectiveness, the case for plurilateralism in a multilateral tax world can also be made on grounds of fairness, or equity. More specifically, this paper draws upon the idea of international vertical equity — the role of vertical equity in the international context (Rosenzweig, 2021) — to explain why and how it is better achieved when plurilateral arrangements complement the multilateral frameworks.

The concept of international vertical equity comes from the two ideas of “inter-nation equity” and “vertical equity”. Inferring the principles from these two concepts, we argue that an equitable tax system demands: (1) consideration of the different contexts of states (“differential component”); and (2) ensuring adequate resources are provided to achieve equitable outcomes (“enabling component”).

First, the differential component stems from the idea of vertical equity, which argues that appropriate distinctions should be made between differently situated taxpayers (Rosenzweig, 2021). In the international context, this idea has largely informed a moral requirement of redistribution from higher- to lower-income countries. Investments in low-income countries and regulation of tax competition also find justification in this principle of vertical equity (Ozai, 2020).

What has been less considered is the way in which we define these “differently situated stakeholders.”¹ In a domestic setting, information such as personal income and ownership of assets are usually used to decide how one taxpayer is differently situated from another, and hence how a progressive taxation system might be set up. In an international setting involving sovereign states that differ immensely from one another in every economic, political, historical and cultural aspect, the ability to make that “appropriate distinction” between stakeholders might be an impossibility. This difficulty might provide some explanations for the long-standing criticisms mounted on bodies like the OECD on their failures to sufficiently represent the positions of weaker countries that are poor and developing (ATAF Secretariat, 2019; Brauner, 2021).

Second, the “enabling component” is more concerned with operational and practical aspects of international tax governance. The concept of “inter-nation equity” refers to the allocation of taxing rights in the international context and aims to ensure that each country receives an equitable share of tax revenues from cross-border transactions (OECD, 2014). In other words, this step is about implementing redistribution processes whereby infrastructures and mechanisms are put in place to enable that allocation of taxing rights.

This is important as desired outcomes of fair policies cannot be achieved if they cannot be implemented; for example, if they are too complex or costly for some members to implement. This has been an ongoing concern in the formulation of both Pillars One and Two under the BEPS project. One of the key principles of the UN Tax Convention

¹ In this context, the term “tax-payers” mainly refer to states rather than multinational enterprises (MNEs). While the BEPS policies such as the global minimum tax are imposed on MNEs, jurisdictions are the ones gaining or losing revenues from each other as a result of these changes. To minimise confusion, the term “stakeholders” is used instead.

Framework is therefore to “provide for rules that are as simple and easy to administer as the subject matter allows” (Ad Hoc Committee, 2024). In the proposed Zero Draft Terms of Reference published in June 2024, the UN Ad Hoc Committee also proposed that developing countries should be enabled to fully participate in negotiations by covering travel and local expenses involved in the process (Ad Hoc Committee, 2024).

However, given the UN Ad Hoc Committee is still at the early stages of drafting the Tax Convention Framework’s terms of reference, it remains to be seen as to whether such a multilateral body can deliver on these ambitions. In a closed-door discussion organised by the Institute of Policy Studies (IPS) in Singapore on 26 March 2024, it was recognised that the convention will be constrained by budgetary, expertise and organisational limitations. For example, even with the possible expansion of the UN Convention working group, it will still greatly lag behind the OECD in terms of manpower and technical expertise. In terms of representation, the Convention will be also obligated by the UN General Assembly resolution to ensure inclusion of a wide group of stakeholders. This not only includes developing countries but also civil society, businesses advisors and academics. A difficulty that is currently being negotiated is how these groups will participate in the UN process, given that they must be officially recognised bodies, but the processes involved may not be possible for many organisations (Gee & Yap, 2023).

The later sections highlight Asia as a case study, explaining how the lack of consideration of the region’s peculiar situations and practical capabilities could impede intended desired outcomes or give rise to unintended negative consequences. This is the present situation where multilateral arrangements have been unable to adequately address both the “differential” and “enabling” components.

The final section then returns to the idea of plurilateralism and explores how regional organisations could better represent the unique contexts and needs of Asia; and how they ought to contribute in the overall multilateral efforts to ensure the two principles underpinning an equitable international tax system might be achieved.

2. THE CASE OF ASIA

Asia has 48 countries and at least 52 tax jurisdictions if one includes Hong Kong, Macau, Labuan and Taiwan. Of these, four are members of the OECD and six are members of the G20. The majority of Asian countries have participated as members of the OECD/G20 Inclusive Framework although countries like Cambodia, Lao People's Democratic Republic, and Myanmar are still non-members.

It goes without saying that all regions in the world are unique from one another, and even within regions there are wide diversities in terms of economies, cultures, politics, etc. The aim of this paper is not to argue for the exceptionalism of Asia. Instead, it draws on the economic, historical and existing circumstances of the region to explain how they interact with global tax policies. Through that, the point is to show how existing multilateral frameworks have not been able to take into account the contexts of Asia and therefore policies pursued under these models have not upheld the components of international vertical equity.

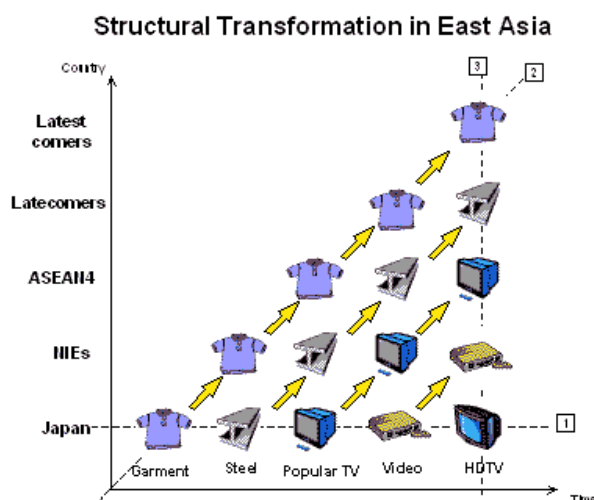
Sections 2.1 and 2.2 speak to the “differential” component — how the unique contexts of Asia have to be seriously accounted for in an equitable system. Section 2.3 explains how the “enabling” component is not satisfied without adequate resources for parties to achieve the intended equitable outcomes.

2.1 INTRICATE ECONOMIC LINKS WITHIN THE ASIAN REGION

In this section, we briefly consider the economic history of Asia, showing how the growth of the region has been predicated upon dependency on one another. Understanding these links within the region could allow one to appreciate the fact that global tax policies do not interact with each of these countries individually, and that there are spillover effects on the entire region. For example, one-size-fits-all tax policies aimed at benefitting perceived disadvantaged countries but reduce the attractiveness of the region as a whole will bring more harm than good to these countries in the long run.

2.1.1 “FLYING GEESE” MODEL OF DEPENDENCE

In the context of the modern economy, economic development of Asia can generally be described as beginning with high growth in Japan in the 1960s. This was followed by the “four tigers” — Hong Kong, Singapore, South Korea and Taiwan. Malaysia and Thailand then followed the high-growth path sometime in the 1980s (Bank of Japan, 2015).

Figure 1: Flying Geese Model²

Source: (Okita, 1985)

The “flying geese” model of economic development (Akamatsu, 1961) is a well-known explanation of how these staggered growth took place in the region. The flying geese formation refers to the “V” shape that geese form to achieve higher flying efficiency as fatigued birds fall back as others take lead. These birds take turns leading and reduce the wind resistance for those at the back.

Using this model, scholars had likened the lead goose to Japan, which began the labour-intensive production processes in the 1960s but gradually passed it on to the then newly industrialising economies like the “four tigers”. As these countries advanced into more capital- and knowledge-intensive economies, countries like Malaysia and Thailand then took over production activities. The model hence describes how the production of goods continuously moves from more advanced to

² “NIEs” refers to “newly industrialising economies”. They mainly comprise of the “four tigers”, i.e., Hong Kong, Singapore, South Korea, Taiwan. “ASEAN4” refers to Indonesia, Malaysia, the Philippines, and Thailand.

less advanced countries in Asia, resulting in an overall positive outcome for the whole region. This process has been described as “an articulated regional division of labour” leading to the growth of “factory Asia” (Capannelli & Filippini, 2009).

The ability of countries at different development stages to step up is not a natural occurrence. For example, if the “newly industrialising economies” (NIEs) were unable to offer and keep up with production activities, Japan would not have been able to advance as it had. The same goes for the ASEAN4 countries and the advancement of the NIEs. The flow from one tier to another hinges on comparative advantage, which does not exist simply with economies being present in the region.

Instead, deliberate policies were pursued. For example, the NIEs were particularly active in creating export-processing zones, where foreign companies were granted various preferential treatments (Kasahara, 2013).

2.1.2 COMPARISON WITH OTHER ECONOMIES – WHAT IT MEANS FOR DESIGN OF GLOBAL TAX POLICIES

Having briefly outlined how Asian economies took off from the 1960s and 1970s, it is helpful to compare the process with other major regions in the same timeline.

With the end of the Cold War and the fall of the Berlin Wall in 1989, economic integration and pursuit of a free market economy were the main driving forces of the European economy at that time. The following quote neatly summarises the European economy:

The European model, based on a legalistic approach to regional cooperation and encompassing the development of wide and deep regional institutions, was

able to generate substantial economic gains through the creation of a single market, a monetary union, and by close coordination among national authorities in several economic, political, and social issues. (Capannelli & Filippini, 2009)

While both Asia and Europe saw strong cooperation between states, the ways in which it was done was evidently very different. As the “flying geese” model described, the nature of Asia’s growth had been characterised by division of labour and a variation of policies to meet the economic needs at different junctures of growth. On the contrary, the European model is centred on coherence and consolidation.

The implementation of a minimum tax rate that is to be uniformly adopted worldwide might make sense for more homogeneous economies in regions like Europe. However, policymakers casting their eyes across Asia will see that the region is very diverse and has varied economic and fiscal policy contexts that may require more nuanced considerations (Koh, 2022).

One may argue that the Asian region’s economic development trajectory as compared to Europe’s would diverge — given recent trends such as the fragmentation of economies and protectionism. In response to this, we compare the landscape of digitalisation between Asia and major economies like the United States (US) to show that the former remains unique in how its manufacturing and services economies are intertwined and interdependent.

While names like Apple, Amazon and Microsoft are dominant players in the digital field, the information and communications technology (ICT) sector in Asia is actually among the world’s largest. This is mainly driven by the region’s comparative advantage in manufacturing but also that Asia’s home-grown tech giants are mainly operating within

their domestic markets (IMF, 2021). This contrasts with large US tech giants that generate most of their revenue outside the US.

As the Asian countries depended on each other in the “flying geese” model in the late 20th century, similar interactions can be seen in today’s digital economy.

For example, advanced ICT manufacturing economies like South Korea and China have gone beyond manufacturing to be actively engaged in e-commerce, tapping the enormous markets in emerging economies like Bangladesh, the Philippines, Thailand and Vietnam. This, however, is not a mere provider-consumer relationship. Movements from manufacturing to service-provider activities are also happening. For example, while Indonesia has been a large market, it has also seen the rise of major companies like PT Gojek that is amongst the region’s biggest e-commerce players. In facilitating these interactions, Singapore has positioned itself as a service centre and headquarters logistics base for Southeast Asia, serving as an intermediary between the region and the world beyond (Chia & Lim, 2003). This is unsurprising given the strength that the city-state has offered in terms of educated and skilled workforce, socio-political stability, sound legal framework, financial capabilities and efficient infrastructures. Scholars have also identified the potential of hubs like Singapore to not only connect economies, but also bridge gaps by providing training for lesser-developed economies — thereby lowering their learning curve and leapfrogging ahead (Chia & Lim, 2003).

Wang has observed that “while the United States and the European countries focus on building an open and free internet and digital regulations, their Asian counterparts emphasize more on the economic benefits and opportunities from digital connectivity”

(Wang, 2023). Again, this shows how Asia has always been on a somewhat different trajectory from other regions — one focused on cooperation to leverage another's strengths towards win-win outcomes for the region as a whole.

2.1.3 HUB-AND-SPOKE MODEL OF ECONOMIC DEPENDENCY

The rapid growth of Asia's digital economies does bring to the fore the importance of appropriate tax policies to ensure revenue is distributed amongst these closely linked countries in a way that is fair (IMF, 2021). Appropriate policies would require consideration of how the distribution of taxing rights affect these chains of interaction between economies in the region.

Tax policies that fail to recognise the economic links within the region can take the form of diminishing the attractiveness of the regional hub, leading to unintended consequences where development of the entire region is hampered. This is especially salient in the context of the digital economy where the successful regional hubs are characterised by strength in the development, enhancement, maintenance, and protection of intangible assets and intellectual properties. Under the GloBE policies and provisions like the Substance-Based Income Exclusion (SBIE) rule, returns to tangible assets and payroll are excluded from the new global minimum tax in preference over intangible related returns. The unsurprising result is that advantages or incentives for jurisdictions to compete on intangible assets would be diminished or eliminated due to the minimum 15 per cent tax (Perry, 2022). If countries like Singapore consequently lose the ability to be an effective and attractive hub to the region and the rest of the world, the long-term negative impacts will trickle down to the rest of the economies linked to it.

Indeed, low tax jurisdictions sheltering profits through intangible assets booked in their jurisdictions are detrimental and should be curbed. However, whilst tax havens are often seen to have high-value intangible assets, not all low-tax jurisdictions with such assets are tax havens nor should the presence of high-value intangible assets be conclusive indicia of a jurisdiction being a tax haven. To illustrate, one of the factors that the OECD uses to identify tax havens is that the activities in the jurisdictions are not substantial (OECD, 2000).

A proper understanding of the contexts of hubs like Singapore and its activities with other countries in the region should be taken in consideration when assessing the implications of provisions like the SBIE in terms of fairness and effectiveness. In ignoring the positive contribution of intangible assets when properly harnessed for economic growth and the good of a region, the SBIE framework arguably lacks fairness.

Akin to intellectual property, the mobility of capital around the world has been seen as a problem for fair taxation due to unfair booking of profits. One should not ignore the positive aspect — in that capital mobility also means the ability of a country or hub to attract foreign direct investments does not have to be a zero-sum game for its neighbours. In an era where there is cross-regional and international competition for foreign direct investments — such as is witnessed in the chip industry — a hub's ability to attract and intermediate capital investment into a region can lead to spillover effects and benefit the economies of the region when capital is directed to the region to build supply chains across countries, exploiting the different comparative advantages across the region (Hill & Menon, 2020).

2.2 ROLE OF TAX INCENTIVES³

In the context of Asia's interdependent economy, this section draws attention to the role of tax incentives and explain how they have been vital in the growth and development of the region. As with the arguments above, the region as a whole and the individual jurisdictions have unique positions that explain why their economies have been so closely intertwined, and why tax incentives have played such considerable roles in promoting development.

Recognising the positive role that tax incentives play discourages the simple assumption tax incentives are essentially harmful tools of competition that should be eliminated. Instead, a careful understanding of the differentiated situation — where tax incentives have and continue to play different roles in Asia compared to other regions — could lead to more nuanced policies that take into consideration how exemptions could be made for these taxation tools. The OECD for instance, prepared a report “Tax Incentives and the Global Minimum Corporate Tax — Reconsidering Tax Incentives After the GloBE Rules” at the request of the Indonesian G20 Presidency (OECD, 2022). The report made the following findings:

1. Pillar Two places multilaterally agreed limits on tax competition and will ease the pressures on jurisdictions to offer tax incentives.

³ This section is largely drawn from the report “Asia Voices: Perspectives on Tax Policy” (Gee & Woo, 2022), which is edited by the co-author of this paper.

2. Jurisdictions will continue to be able to use the tax system to attract investment under the GloBE Rules, but the rules will discourage the use of damaging tax incentive policies.
3. The revenues generated by Pillar Two can be used by jurisdictions to support economic development or to improve their overall investment environments.
4. Jurisdictions should begin preparing for the arrival of Pillar Two now, including through a thorough assessment of the tax incentives currently in place.
5. The design of tax incentives will require careful reconsideration in a post-Pillar Two environment, as the GloBE Rules will not affect all taxpayers or all tax incentives in the same ways and to the same extent.

This report is a good starting point for further research into the design and efficacy of tax incentives that are suited to the unique circumstances of Asian jurisdictions in a post-GloBE world.

2.2.1 LIMITATIONS IN COMPETING ON NON-TAX FRONTS

As with most developing countries, those in Asia have been dependent on tax incentives to attract foreign investments. This is because they generally have limited ability to compete with developed countries on other factors such as educated workforce, quality of infrastructure, technology, supply chain integrity, etc. (Andrew, 2023).

Similar strategies were also used by countries in other regions, like Europe in the early days of developing their economies. For example, under the reforms of Jean-Baptiste Colbert in the 17th century, tax reductions were used to aid the growth of new industries in France. One example was the textile industry which was given special attention as Colbert had wanted to reduce the country's reliance on imports of cloth. It was of particular note that these tax reductions were not given to other industries that were already established (Kurtzleben, 1997). In the early 20th century until the early 1970s, major maritime nations like the Britain also depended on highly favourable fiscal incentives to build and maintain its maritime commercial power (Gekara, 2010).

Today, many of these large European countries have built strong and reputable industries and have also seen large shifts towards being service exporters. It may be natural that tax incentives are no longer as crucial given that these developed countries now have other offerings to attract investments. However, about 84 per cent of today's world's population still reside in developing countries that are threading the paths that these large nations did decades ago (Mahler et al., 2024). The need of these countries to establish their industries and compete via fiscal incentives should be fairly considered.

Many Asian countries today are still transitioning from agriculture or low-cost manufacturing to higher value-add services and industries, and would depend on tax incentives to diversify their economies. Even for highly developed countries like Singapore that has been a vital hub for the region, it is a small city state with highly limited natural resources. Therefore, tax policies have been crucial to achieve and maintain its economic attractiveness (Wong & Tang, 2018).

The ability of Asian countries to successfully take off in the “flying geese formation”, described in Section 2.1, can be attributed to deliberate policies enacted to leverage their comparative advantages. These policies include the creation of special economic zones to draw different kinds of investors to promote specific activities — whether these are in manufacturing or other activities higher up in the value chain. The following case studies more specifically explain how certain tax incentives have successfully uplifted their economies, such that the incentives have become an integral part of global value chains in modern commerce. It should be acknowledged tax incentives alone did not lead to these outcomes and that other factors institutional frameworks, infrastructure and technology have also been important. However, these examples seek to explain how, in contrast to the belief that competition via tax incentives is always detrimental, well-designed tax incentive schemes can act as catalysts for economic development for countries and consequent positive outcomes for the region.

2.2.2 EXAMPLES OF USE OF TAX INCENTIVES IN ASIA

South Korea

From its emergence as one of the “four Asian tigers” to becoming a dominant export and digital economy, South Korea has consistently adjusted its tax structures to shape the business environment.

In the 1960s, South Korea implemented tax incentives designed to promote foreign exchange earning activities, with the aim of providing support for its First Five-Year Economic Development Plan focused on export promotion.

In the 1980s, after the second oil crisis of 1979, the government switched its economic policy directions fundamentally — from protection to competition and openness, and from regulation to liberalisation and privatisation. This era saw major changes in the area of tax incentive where strategic industries were targeted for growth. The Asian financial crisis that started in late 1997 then led the government to initiate comprehensive reform measures to overhaul the economy, including changes to tax laws by exempting or reducing taxes on asset transactions that were needed for corporate and financial restructuring.

As the Korean economy matured, the incentives were adjusted accordingly. This is consistent with the general observation that tax incentives differ among developed and developing countries (Valderrama, 2021). This trend continues to the present day where contemporary incentives are offered in line with the changing comparative advantages of the country — for example, to attract foreign capital and financial services firms to move to the Busan International Financial Center.

In 2020, the South Korean government announced the Korean New Deal that is based on two main policies — the Digital New Deal and the Green New Deal (Ministry of Economy and Finance, 2020). Under the Digital New Deal, South Korea will transition to a 5G network, facilitating the infrastructure upgrade through tax incentives. The Green New Deal entails the setting up of special economic zones by providing fiscal and tax support to pursue projects like expansion of a robotics factors and establishing an autonomous vehicle testing site (OECD, n.d.). The use of such tax incentives are central to drawing private investments that can guide the economy towards specific outcomes and targeted economic development.

The Philippines

The Philippines is an example of how a developing country has used tax incentives to create over 400 economic zones nationwide, not only driving headline economic growth but also promoted domestic employment and development (Napa et al., 2018). The Philippine Economic Zone Authority (PEZA) is the main investment promotion agency. Since its introduction in 1995, PEZA exports have expanded from 5 per cent of the country's GDP to 17 per cent in 2021, providing direct employment from about 122,000 to 1.6 million. Based on the total direct and indirect employment figures (at 7.8 million) and the social profile of the Philippines, PEZA has estimated that one in five Filipinos or a total of 23 million individuals have been positively affected by the PEZA programmes (Lau & Woo, 2022).

More specifically, the programme has also helped position the Philippines as a significant part of the global IT outsourcing industry. A key pillar of the economy, the business process outsourcing in the Philippines accounted for about 12 per cent of the global outsourcing market by revenues in 2021 and has benefited adjacent sectors such as real estate and retail (Venzon, 2021).

Nonetheless, it ought to be recognised that that attractive tax incentives have not entirely translated to positive results for the country and its people. For example, while the Philippines arguably has the most attractive fiscal incentives compared to other ASEAN countries, it has not drawn the biggest share of FDI inflows. In fact, while Vietnam has fewer incentives, it managed to register twice as much FDI as the Philippines in 2016. Singapore has consistently secured the biggest share of FDI

inflow despite the absence of incentives such as the Gross Income Earned incentive that the Philippines promotes.

What these show is that investors are discerning and are not blindly drawn to the most attractive incentives that jurisdictions can offer. Pillar Two under BEPS 2.0 can provide the opportunity and political will for countries like the Philippines to evaluate and remove those incentives that are ineffective. However, the broader picture to keep in mind is that incentives have been integral to the development of countries. Though there are costs that ought to be weighed up, one should be cautious about the adopting the simplistic view that tax incentives are necessarily harmful.

Thailand

From the 1980s, Thailand has made significant progress in social and economic developments as it moved from being a low-income to an upper middle-income country. Its export-led model powered the economy, which grew at an average rate of 7.5 per cent from 1960 to 1996 (World Bank, n.d.). Tax incentives had played important roles in the country's economy particularly from 1977, with the enactment of the Investment Promotion Act. In the earlier years, tax strategies had been built around attracting inward FDI for the manufacturing sector and integration into the global value chain. Thailand is not a net outward investor and has a rapidly growing presence in its neighbouring countries (Lau & Woo, 2022).

The investment strategies in Thailand are headed by the Board of Investment (BOI), which approves any incentives awarded. Similar to many other countries, the incentives have been targeted for different purposes and can be seen in the following categories:

- Activity-based (e.g., agriculture, bio and medical industries, digital and high value services)
- Technology-based (e.g., biotechnology, nanotechnology, advanced materials)
- Merit-based for enhanced competitiveness (e.g., R&D)
- Area-based (e.g., pertaining to development of specific regions or sub-regions)

However, as with many countries emerging out of its developing state, its growth rate has fallen as productivity stagnated over the last few years (World Bank, n.d.).

Responses to these could be seen in pivots in its tax strategies. For example, in June 2024, the government approached new tax incentives aimed at stimulating domestic tourism amidst the low season from May to November 2024. Businesses holding seminars for example, are given incentives and individuals can also deduct up to US\$408 in actual expenses made to tour operators or for accommodation in hotels when travelling to secondary tourism provinces (ASEAN Briefing, 2024). On a higher level, the BOI had also recently introduced the Thailand 4.0 vision and the Bio-Circular-Green economy model, which aims for Thailand to become a high-income country by 2037, along with sustainable and inclusive development through economic upgrading towards a value-based and green economy (OECD, 2021).

The examples of Thailand and South Korea illustrate how tax incentives have evolved as the countries moved up the value chain. In the initial developing stages, most countries in Asia focused on low-cost manufacturing and labour-intensive activities while developed leveraged its comparative advantages in capital intermediation and intangible assets.

Today, the Asian region remains a diversity of developing and developed countries with a wider gap in development levels between the countries. In comparison, most European countries are developed countries.

What this implies is that one-size-fits-all approaches will likely be less appropriate for the development of more heterogenous regions like Asia. For example, the current use of payroll and tangible assets as proxies for substance does not fully reflect value creation nor address the evolving needs of nations as they develop. Whilst the two factors may be appropriate for some sectors such as manufacturing in countries like Thailand and the Philippines at their early stages of development, leaving out capital and intangibles like intellectual property clearly would not fit the needs of these countries as they scale the value curve, nor Singapore and South Korea at their already advanced stages of development. Referring again to the above point on the dependency and intricacies of economies in Asia, the growth of the countries in different development stages can have significant impact on the health of the region as a whole.

2.3 CAPACITY LIMITATIONS IN ASIA

Having described the unique path of growth that Asia has taken, this sub-section draws attention to another reality of the region — its existing limitations in capacities. Both forms of contexts are important when pursuing the “differential” and “enabling” components of international equity.

It is a generally understood that Asia comprises of mostly developing countries. The aim of this section is therefore largely concerned with the “enabling component”, to

illustrate the idea that serious consideration of the capabilities of jurisdictions is important to ensure an equitable tax system.

A basic but important context that has not been given sufficient attention is that most countries in Asia lack the capability to meaningfully participate in the discussions in international tax policy-making, such as the formulation of GloBE. Even assuming all the rules and provisions decided in these global policies are equitable for them, they still lack the ability to implement the complex rules to achieve those intended equitable outcomes.

2.3.1 LACK OF CAPACITY TO PARTICIPATE MEANINGFULLY IN INTERNATIONAL DISCUSSIONS

First, much of Asia comprises developing countries and there are little to no representation in international decision-making bodies. Using the G20-OECD yardstick⁴ where developing countries are defined as those with a Gross National Income per capita of US\$12,535 or less in 2019, one could note that of the countries in South Asia, East Asia and the Pacific defined as such by the World Bank, there are no developing Asian countries amongst OECD members.

Only three developing Asia economies are G20 members (China, India and Indonesia) and of these, only China and India are members of the 24-member Steering Group of the OECD/G20 Inclusive Framework in BEPS. In addition, the majority of the population in these developing countries do not have English or French as their lingua

⁴ From the October 2021 OECD/G20 “Base Erosion and Profit Shifting Project Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy” (OECD, 2021).

franca, the two official languages for the BEPS negotiations, official statements, model rules and treaties. This language disadvantage will persist into the future, in terms of intellectual participation to formulate new norms, the implementation of BEPS rules, and negotiations to resolve international tax disputes.

Sengupta (2016) explained how the institutional setting of the Inclusive Framework made it difficult for countries lacking in resources to participate. For example, it was noted that countries wanting to participate in the framework must first commit to the comprehensive BEPS Package and also pay an annual member's fee to cover the costs of the framework. For developing countries, finding people conversant with the topic of international taxation who can be committed to this work is also difficult. The costs of about €20,000 per year is another barrier to participation (Sengupta, 2016).

The same challenge of adequate representation applies to the UN initiative. In a series of closed-door discussions convened by the IPS in Singapore across 2023–2024, it was noted that countries like Singapore, the Republic of Korea, and China are represented on bodies like the UN Ad Hoc Committee to draft the Terms of Reference for a United Nations Framework Convention. However, there is no unified Asian organisation that solicits and coalesces views of governments, businesses, civil groups and academia across Asia. These views are important because they will include perspectives such as advocating for the unique economic positions for the region as a whole, as explained in the previous sections.

2.3.2 LACK OF CAPACITY TO IMPLEMENT POLICIES

Another struggle for countries in Asia might be in the implementation processes. Without doubt, the complexity of BEPS will pose a challenge for all jurisdictions and

multinational enterprises. The difficulties might be more salient for developing countries in Asia, such that these considerations should inform the design of tax policies. As mentioned above, if the countries do not have the resources or capability to implement policies, equitable outcomes cannot be achieved however fair and just the design of policies are.

An example to illustrate this point can be taken from the country-by-country reporting (CbCR) of the BEPS project. CbCR is a form of reporting initiated in the BEPS Action 13, requiring all large multinational enterprises to provide aggregate data on the global allocation of income, profit, taxes paid and economic activities in the tax jurisdictions where they operate. Efforts to make this information available are important in enabling tax administrations in jurisdictions to carry out transfer pricing and BEPS assessments. As Brauner noted, CbCR should be especially beneficial for developing countries because they are much more likely to be dependent on the efficacy of information exchange by their residence jurisdictions.

However, as Brauner more sharply observed, “resources gap and capacity issues make the benefits to richer countries likely larger than whatever benefits the poorer countries enjoy” (Brauner, 2021). This is mainly due to the design of the CbCR whereby the information offered by MNEs are kept confidential and available only to the residence jurisdiction, which will exchange it with the relevant source jurisdictions. It was argued that this opacity increases the burdens on poorer countries who have less resources to obtain the information. The automatic bilateral relationships established for CbCR is another aspect that might broaden the inequality gap between richer and poorer countries because the latter are clearly disadvantaged without the resources to navigate and establish these relationships one by one. As of 20 June

2024, for example, countries like the Philippines, Myanmar and Vietnam are still missing from the list of countries that have active exchange relationships with other jurisdictions (OECD, 2024).

These examples illustrate the importance of the “enabling component” mentioned in Section 1, which is that an equitable system requires jurisdictions to have the resources and abilities to implement the policies that are meant to bring about those equitable outcomes. The next section focuses on how regional organisations could enable jurisdictions to meaningfully participate in negotiations and make their differentiated positions known, and also to have adequate resources to implement the policies.

3. ROLES OF REGIONAL ORGANISATIONS IN PURSUING INTERNATIONAL VERTICAL EQUITY

Section 2 fleshed out various contexts of Asia as a region, from the different ways in which its economies are intertwined to the capacity limitations that many face.

The purpose of this is to show that these contexts interact with international taxation policies in ways that can bring about both positive and negative externalities. The latter in particular, causes the compromise of the two components of international vertical equity. This section focuses on how strong plurilateral arrangements like regional groupings can complement and fill the gaps of existing multilateral frameworks.

Section 1 briefly outlined how multilateral efforts led by the OECD and possibly even the UN might not be able to ensure that both components are sufficiently achieved. For example, while the UN Tax Convention Framework has set out principles calling for full and effective participation of parties, budgetary and organisational constraints still pose difficulties for the participation of governmental and non-governmental bodies. This means that gaps remain for states and non-state stakeholders to articulate and advocate for their differentiated positions in ways that can meaningfully influence changes in the multilateral settings.

Plurilateral initiatives like regional organisations can be more effective in plugging these gaps. In Asia, groups like the Association of Southeast Asian Nations (ASEAN) have been established to cooperate on various issues from economic growth to cultural development. However, at present, these groups are general and broad in

their target areas, and they do not have the advocacy positions or expert tax resources needed to explore and articulate the differentiated positions of its member states.

3.1 NEED FOR A REGIONAL TAXATION VOICE

The need for a regional platform on taxation was one of the most common themes that surfaced throughout the “Asia Voices: Perspectives on Tax Policy”⁵ seminars, which gathered the perspectives of policymakers, academics and businesses in the region. There is at present a lacuna in Asia in not having a neutral regional tax policy organisation or research centre able to collate and articulate the diverse circumstances and positions of Asian countries.

In further discussions, the call for a regional tax organisation to research and advocate for the perspectives of the region had crystallised in the more concrete aims:

- (1) To support policymaking and policymakers with in-depth, objective and credible research from an Asian perspective;
- (2) To distil and advocate for the perspectives of Asian jurisdictions on international tax policies;
- (3) To serve as a neutral platform for convening and engaging policymakers, corporates, and advisers on aligning and cooperating on taxation policies that benefits the whole region;

⁵ Convened by the Institute of Policy Studies, National University of Singapore.
Asia Voices: Perspectives on Tax Policy Seminar 2023
(<https://lkyspp.nus.edu.sg/ips/events/details/asia-voices-perspectives-on-tax-policy-seminar-2023>)
Asia Voices: Perspectives on Tax Policy Seminar 2024
(<https://lkyspp.nus.edu.sg/ips/news/details/asia-voices-perspectives-on-tax-policy-2024>)

- (4) To complement the efforts of multilateral frameworks, acting as the connecting link between the large organisations and individual member states.

Such an established platform might be better placed and equipped to participate meaningfully in multilateral initiatives such as the UN Tax Convention Framework and the OECD sponsored initiatives. What this also shows is that encouraging plurilateral initiatives does not necessarily replace efforts of multilateral forums. Instead, they can be complementary whereby smaller organisations effectively help collate and coalesce the views and articulate the needs of countries in their regions and then feed them into discussions at the larger multilateral platforms.

Currently, there are established organisations that are already performing some of these functions. For example, the Asian Development Bank (ADB)'s Asia Pacific Tax Hub (APTH) has been providing knowledge expertise and consulting services to developing countries. Following the arguments of this paper, the APTH could also be more active in working with multilateral bodies to distil knowledge and assist developing countries in implementation of policies. There is also the ASEAN+3 Macroeconomic Research Office, or AMRO, that has set up its Regional Knowledge Hub to facilitate cooperation and advancement in finance and economic areas. However, a more specific focus on international taxation issues would be needed in order to advocate for the region's positions on these areas.

3.2 SUPPORTING PLURILATERAL INITIATIVES

The concept of plurilateralism has mainly been debated in the context of trade and more specifically, with the role of the World Trade Organization (WTO) (McDonagh, 2021; Lewis, 2024). For reasons of efficiency, effectiveness and equity, it is worth also

considering how plurilateral initiatives can play important roles in the international taxation space. This includes how plurilateral alternatives might be allowed in the existing multilateral arrangements. For example, there can be rules that are negotiated and applied only by a subset of countries according to their specific contexts and how they still work for the overall agreement outcomes in the multilateral settings (Andrew, 2023; Heitmuller, 2024).

The African Tax Administration Forum (ATAF)⁶ representing the African continent is an example of a regional organisation that has strongly advocated for their positions and contributed to the establishment of the UN Tax Convention Framework. For other regional groups to achieve similar levels of coordination and contribute meaningfully at multilateral platforms, support like funding and capacity-building are crucial.

Within regions, more advanced and well-to-do jurisdictions could lead in organising these regional initiatives and also shoulder more of the financial burdens to sustain the operations of the organisations. For example, in Asia, jurisdictions such as Singapore and Hong Kong functioning as hubs would naturally have more tangible and intangible capabilities to take the lead in organising such initiatives.

For bodies like the OECD and UN, supporting plurilateral initiatives should also be seen as complementary to its interests and efforts. At the present, efforts and resources have already been dedicated to support specific groups of countries such as the developing countries. For example, the OECD had been providing capacity building support for developing countries such as e-learning and training seminars on

⁶ See the 2019 report “The Place of Africa in The Shift Towards Global Tax Governance: Can taxation of the digitalised economy be an opportunity for more inclusiveness?” (ATAF Secretariat, 2019) for an example.

taxation issues. The Platform for Collaboration on Tax (PCT), a joint effort by the IMF, OECD, UN and World Bank Group, produced toolkits to help low capacity countries to implement reforms.

Another example is the “Transfer Pricing Documentation” published in 2021 that was said to be “designed to support the successful implementation of effective transfer-pricing documentation requirements” (IMF et al., 2021). However, the document is only available in English, French, Russian and Spanish — none of it would be the main or working languages of most developing countries, especially in Asia. Moreover, developing countries like Laos and Myanmar do not yet have any specific rules and definitions related to transfer pricing due to lack of expertise and resources to implement and enforce them (Banchongphanith, 2024). It has also been noted that instead of expecting countries like Laos to enact regulations based on international best practices, what might be more manageable would be to consider the unique characteristics of the Laotian economy and from there consider methods focused on certain sectors most at risk of profit shifting.

All these show the missing link between these large international bodies and the needs of countries on the ground. Although there are clear motivations and intentions from multilateral organisations to ensure an equitable playing field, there remains a gulf in understanding the needs and capabilities of countries and regions. Regional organisations can bridge that gap by working with both the multilateral bodies and member states in their own organisations. For example, the regional organisation would be able to surface the realities of its members’ economies and capacities to the multilateral bodies and work with them on designing appropriate policies that considers the impact on the whole region. The same organisation will then also work closely with

its members in the implementation of the designed policies and provide feedback on the challenges or benefits of any global international taxation rules sought to be adopted.

If done successfully, a more equitable tax governance structure might be achieved where the different positions of jurisdictions are fairly advocated (“differential component”); and that the policies can truly be implemented to reap the intended benefits (“enabling component”).

4. CONCLUSION

Asia is an incredibly diverse region that mainly comprises developing countries. Compared to regions like the EU that aims for harmonisation, Asia has leveraged the diversity and comparative advantages of different countries in the region to achieve its rapid growth in the last decades. The intricate economic ties between the countries remain relevant in today's digitalised world, and equally relevant is the fact that many Asia countries are still on the path of development which European countries had been several decades ago.

These are important contexts that can interact with international tax policies to produce very different outcomes from countries in counterpart regions. According to the two demands derived from the principle of international vertical equity — the differential and enabling components — it also makes the case for frameworks and resources to be in place in order for the different contexts of different regions to be practically managed.

However, the nature of multilateral platforms and mechanisms is such that smaller and less advanced countries find it difficult to articulate their contexts; it is also hard for decision-making bodies to sensibly recognise the backgrounds of every single stakeholder.

As such, this paper also suggested and explored how plurilateralism, in the form of regional organisations complementing the work of multilateral bodies, can plug these gaps and achieve greater equity in the negotiation and implementation processes of international taxation policies.

5. SUMMARY DISCUSSION ON PAPER

On 6 September 2024, the authors presented the arguments of this paper at the [Reimagining Global Tax Governance](#) conference at the Saïd Business School, University of Oxford.

The section summarises the comments and discussion points raised during the conference that are of relevance to this paper's arguments.

5.1 EFFICACY OF PLURILATERAL ARRANGEMENTS GIVEN DIVERSITY OF REGIONS

One of the questions that was asked in response to the presentation was about the value-add of plurilateral arrangements (compared to multilateral ones) given that smaller groupings can also have diversity that result in similar problems relating to practical decision-making or the fairness thereof. This concern is particularly valid in the context of this paper's proposal, which is about the role of regional groupings representing the views of countries in Asia. As mentioned in the sections above, Asia is made up of many countries of varying backgrounds and contexts. Being able to fairly represent respective country contexts yet sustaining a coherent regional perspective might be as difficult as doing so in the multilateral forums.

The acknowledgement of this potential issue has shaped the ongoing discussions on how such regional groupings should be formed. At the time of writing in September 2024, an Asia Tax Observatory⁷ ("ATO" or "The Observatory") is being proposed by

⁷ The "Asia Tax Observatory" is a tentative title for the proposed organisation and might change as the idea develops.

the Asia Voices Working Group. The Observatory aims to go beyond being mere group of representatives from the region gathered to make decisions on global tax policies. Instead, the ATO (an independent organisation) will focus on providing platforms for engagement and opportunities to build capacities for participating stakeholders. These might mean organising seminars, conferences, training courses between tax advisors and policymakers as well as fostering the growth of tax experts through collaboration between think-tanks and universities. These activities are part of the “enabling component” to build up the capacities and relationships needed for the member states to meaningfully participate and not replicate the problems that have been identified in the multilateral forums. If it becomes a trusted platform, the ATO can sustain discussions and education over the long term. In this way, the likelihood of understanding the different contexts of each country and making coordinated policies is higher than if countries were to come together only when called upon to make decisions.

Nonetheless, just as Titus argued for a regional tax governance in Asia-Pacific, “inherent power imbalances are unavoidable”, and these “imbalance can only be managed, not eliminated” (Titus, 2024). The establishment of an organisation such as the ATO — with a focus on building relationships and capacities through the long term, is one way of managing these inherent inequalities and power imbalances in regional groupings.

5.2 SCOPE AND ROLE OF PLURILATERALISM

Diving deeper into the practical workings of plurilateral arrangements, the conference also discussed the scope and roles of such arrangements.

First, the role of plurilateral groupings in relation to multilateralism was considered — whether they should co-exist or if former arrangement should lead a multilateral forum in its steady state.

The proposal of this paper and the ATO aligns more with the first idea — that regional arrangements would co-exist to complement the aims and efforts of multilateral arrangements. The value of this co-existence is for smaller groupings to plug the gaps of larger forums that would be inherently created due to their sheer size. For example, the barriers to entry in terms of cost of travel and participation will always be lower in regional compared to international forums, particularly for Asian countries. There is therefore a case for plurilateral groupings to always co-exist with multilateral forums to enable more effective participation.

The other option is that plurilateral groups are formed as interim arrangements or “test beds” to trial out the implementation of certain tax policies. The value of such an arrangement is to facilitate the adoption of policies on multilateral forums once they are proven to be feasible and beneficial at the lower levels. Compared to regional groupings that aim to build relationships and capacities between members, plurilateralism of this sort is likely formed for specific purposes. What might be most valuable about this arrangement is the ability to showcase what works for regional or smaller groupings.

However, if the policies are only meant to be piloted in plurilateral group for the sole purposes of scaling it to multilateral platforms, the difficulties that GloBE Pillars One and Two face today might be replicated. As mentioned throughout this paper, what might be easy or sensible to implement in one region might not be so for another

region. Implementing policies on a global scale compared to a regional one can also have different effects as the behaviours and interactions of stakeholders are different and hence different effects. Therefore, where plurilateral groups function as “test beds” or sandboxes, the goals of equity might still be better achieved if they operate alongside multilateral frameworks.

Second, the make-up of plurilateral arrangements was also considered. This could be small groupings comprising countries in the same geographical region or transcending that to include countries gathered based on common interests. The two are not necessarily mutually exclusive. More often than not, regional groupings share common interests and therefore have more reasons to form alliances or seek coordinated policies. This scope of this paper is mainly concerned about plurilateralism in terms of regional groupings. However, it is worth exploring how plurilateral groupings based on common interests could be formed and the value that might be delivered for such groups and the broader context. For example, investment hubs of the world might see value in consolidating their voices to articulate their roles in their regions and also to explore together, the impacts of various international policies on their contributions and functions. This might be particularly relevant for hubs that increasingly deliver and operate on intangibles where there need more consensus and recognition of their value. Another example could be a plurilateral group formed by developing countries heavily reliant on certain sectors such as manufacturing. Rather than being confined to its region, countries in regions like Asia or Africa can also come together to share perspectives, advocate for their unique positions, and also share best practices and knowledge.

What might be even more valuable is going beyond to recognise the ties which bind economies of different natures and seek small-group cooperation to pursue improve those ties. For example, an investment hub and certain group of developing economies might share interest in the benefits that are being generated through their trade and business relationships. More intentional coordination of policies and implementation thereof might protect and further grow these ties through stability and focus on win-win outcomes.

Nonetheless, it is recognised that these groupings formed based on shared interests might be harder to initiate and sustain. Having too many overlapping organisations might also be counter-productive in requiring too many resources from countries to participate in these various initiatives and to ensure that their positions in each organisation is not contradictory. The same issues to do with “enabling component” will also be faced by developing countries to meaningfully participate in these non-regional groupings. As such, it might still be more feasible to begin with strengthening the roles and influences of regional grouping, which would most likely already comprise of the diversity of economies.

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