



BRITACOM: A New Multilateral Tax Administration Cooperation Mechanism under the Belt and Road Initiative

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Key Points:

- A multilateral tax cooperation mechanism has been established under the Belt and Road Initiative (BRI) to remove tax barriers and improve tax certainty.
- China is willing to play a bigger role in international tax reform.
- BRITACOM needs more concrete plans and multilateral instruments to achieve its goal.

The People's Republic of China (PRC) is trying to facilitate trade and investment by removing tax barriers, especially those between China and countries along the Belt and Road Initiative (BRI). In April 2019, during the opening ceremony of the first Belt and Road Initiative Tax Administration Cooperation Forum (BRITACOF) hosted by the State Taxation Administration (STA) of the PRC, a new multilateral tax cooperation mechanism called the "Belt and Road Initiative Tax

Administration Cooperation Mechanism" (BRITACOM) was established.

Ever since Xi Jinping, the President of PRC, first announced the BRI in 2013, this project has been the center of China's development strategy. Chinese businesses are encouraged to "go out" and become globalized. According to the Ministry of Commerce of PRC, Chinese businesses invested more than \$90 billion directly in BRI countries between 2013 and 2018, and Chinese companies have set up a number of overseas business cooperation zones with a total investment of \$300 billion.¹ As the economic communication between China and BRI countries deepens, tax issues have become more and more important. Although China has established a broad network of bilateral tax treaties, which involves 107 countries, more such international agreements are required. There are still 10 BRI countries that have not entered any tax treaty with China, including Myanmar, Iraq

¹ Shangwu bu (商务部) [Ministry of Commerce of PRC], Woguo dui "yidai yilu" yanxian guojia zhijie touzi chao 900 yi meiyuan (我国对 "一带一路" 沿线国家直接投资超 900 亿美元) [China's direct investment in BRI countries

exceeded \$90 billion], (Apr. 19, 2019), <http://www.mofcom.gov.cn/article/difang/201904/20190402854569.shtml>.

and Jordan, where Chinese investment is particularly high. Meanwhile, some countries lack bilateral tax treaties with other BRI countries, which could result in double taxation in the context of cross-border infrastructure projects. The domestic tax laws and regulations can also cause trouble. As most BRI countries have developing economies with immature tax systems, tax laws can be interpreted differently by local tax administrations and are also subject to unanticipated frequent changes; as such these features can lead to tax uncertainty and tax disputes.

The establishment of BRITACOM answered the above concerns about tax barriers for investment. The idea of BRITACOM came from the Belt and Road Initiative Tax Cooperation Conference (BRITCC) held in Astana, Kazakhstan, May 14-16, 2018. In BRITCC, more than 200 delegates from tax authorities, businesses and academia discussed tax issues related to BRI, and achieved the “Astana Proposal by BRITCC Participating Jurisdictions for Enhancing Cooperation in Tax Matters” (Astana Proposal). The Astana Proposal requires member states to “build a strong and powerful Belt and Road tax cooperation mechanism, working on sharing successful experiences and best practices, enhancing tax administration capabilities jointly, coordinating

and resolving tax disputes, strengthening dialogue and cooperation on tax policy and administration, applying growth-friendly tax policies and promoting the development of global tax system in a fair, transparent and modern direction.”²

Multilateral consultations were held to establish the BRITACOM building on the Astana Proposal. During September 26-28, 2018, the Working Group Meeting of the BRITACOM was held in Yangzhou, China. Thirty-five delegates from 22 jurisdictions and international organizations drafted the Memorandum of Understanding on the establishment of the BRITACOM. Eventually, over 30 tax authorities from countries and regions along the BRI signed this Memorandum of Understanding on the opening ceremony of BRITACOM of 2019 to join the BRITACOM.

After two days of meetings, the BRITACOM released the Wuzhen Statement³ as its outcome. The Wuzhen Statement shows that the BRITACOM involves 34 council members, 22 observers and an advisory board consisting of 11 world-recognized tax experts.⁴ The Secretariat, which deals with the daily operation of BRITACOM, is a liaison office based in Beijing. In the meantime, 19 council members and observers have formed the Belt and Road Initiative Tax Administration Promotion Alliance (BRITAPA). According to the Wuzhen Statement, the

² A si ta na “yidai yilu” shuishou hezuo changyi (阿斯塔纳 “一带一路” 税收合作倡议) [Astana Proposal by BRITCC Participating Jurisdictions for Enhancing Cooperation in Tax Matters], (May 15, 2018), <http://www.chinatax.gov.cn/n810219/n810744/n1671176/n3465625/c3466012/content.html>.

³ Wuzhen shengming (乌镇声明) [Wuzhen Statement], (Apr. 20, 2019), <http://www.chinatax.gov.cn/n810219/n810724/c4308333/content.html>.

⁴ The council members include tax authorities from Afghanistan, Algeria, Angola, Bengal, Cambodia, Cameron,

PRC, Congo-Kinshasa, Djibouti, Gabon, Gambia, Georgia, Hong Kong, Indonesia, Kazakhstan, Kuwait, Macau, Mongolia, Nepal, Nigeria, Papua New Guinea, Rwanda, Samoa, Senegal, Serbia, Sierra Leone, Slovakia, Somalia, South Sudan, Sudan, Surinam, Tajikistan, United Arab Emirates, Uruguay. The observers include tax authorities from Armenia, Ivory Coast, Cyprus, Greece, Hungary, Iran, Italy, Morocco, New Zealand, Peru, Qatar, Republic of Korea, Saudi Arabia, Singapore, East Timor, Ukraine, 5 international organizations including the Organization for Economic Cooperation and Development (OECD) and the International Bureau of Fiscal Documentation (IBFD).

BRITACOM aims to build a growth-friendly tax environment by strengthening tax administration cooperation and encouraging tax authorities to share best experiences.⁵ It considers five specific aspects of tax cooperation: (1) following the rule of law in taxation, (2) raising tax certainty, (3) expediting dispute resolution, (4) simplifying tax compliance and digitizing tax administration, 5) enhancing tax administration capacity.⁶ To carry out the Wuzhen Statement, the Council adopted the Wuzhen Action Plan⁷ to explicate the actions it will take in the next two years. Those actions include holding annual BRITACOF and having concurrent tax policy dialogues with businesses,⁸ building an official BRITACOM website to share tax information among BRI countries,⁹ training taxpayers after new tax law issued,¹⁰ providing taxpayers multiple approaches to resolve tax disputes,¹¹ improving negotiation process and supporting the implementation of minimum standards in Base Erosion and Profit Shifting (BEPS) Project Action 14,¹² setting up four BRI tax institutes in Beijing, Yangzhou, Macau, and Kazakhstan,¹³ simplifying tax compliance by reducing unnecessary information submission and providing tax training,¹⁴ taking appropriate confidentiality and security measures when sharing tax information under laws,¹⁵ and doing research for tax uncertainty, tax dispute resolution, tax administration capacity building, and tax administration digitalizing.¹⁶

Some actions declared in the Wuzhen Action Plan have been carried out, while others are still pending. The official website for BRITACOM has not been launched, all information related to BRITACOM can only be found on the website of the STA. The latest news about BRITACOM was released on May 28, 2019, reporting on the first training session for BRITAPA held at the Yangzhou Tax Institute. Thirty tax officials from 13 countries and regions including Kazakhstan, Nepal, Tajikistan, Ukraine, and Hong Kong studied the latest trends of dispute settlements of the BEPS project.¹⁷

The BRITACOM shows that BRI jurisdictions are supportive of cross-border trade and investment and determined to remove tax barriers for investors. Moreover, it is also an ambitious plan; China undertakes to enhance its influence on international tax rulemaking. The international tax regime was formed in the 20th century, when the underlying principles and rules were mostly established by developed countries. Due to a lack of experience and tax specialists, China had always been a follower and responder of international tax laws in the past. However, a golden opportunity has presented itself to China. The international tax regime is facing great challenges because of intensifying globalization and digitization. International tax competition and multinationals' tax avoidance has spurred tax

⁵ *Supra* note 3, art. 6.

⁶ *Id.* art. 14-31.

⁷ Wuzhen xingdong jihua (乌镇行动计划) [Wuzhen Action Plan], (Apr. 20, 2019), <http://www.chinatax.gov.cn/n810219/n810744/n1671176/n4324401/c4324846/part/4324862.pdf>.

⁸ *Id.* art. 1-2.

⁹ *Id.* art. 3.

¹⁰ *Id.* art. 5.

¹¹ *Id.* art. 6.

¹² *Id.* art. 8.

¹³ *Id.* art. 9.

¹⁴ *Id.* art. 13-14.

¹⁵ *Id.* art. 15.

¹⁶ *Id.* art. 4, 7, 10, 16-18.

¹⁷ Guojia shuiwu zongju [STA], "yidai yilu" shuishou zhengguan nengli cujin lianmeng shou qi peixun ban zai yangzhou juban (国家税务总局 [STA], "一带一路" 税收征管能力促进联盟首期培训班在扬州举办) [Belt and Road Tax Administration Promotion Alliance starts training session in Yangzhou], (May 28, 2019), <http://hd.chinatax.gov.cn/gdnps/content.jsp?id=4383989>.

reform worldwide, and created the conditions for the BEPS, following calls for tax coordination and cooperation. With its growing economic power and research ability, China is eager to play a bigger role in international tax reform. Since the start of the BEPS project in 2013, China has been active in shaping the process of developing the BEPS package.¹⁸ However, the BEPS project is limited in scope. Although more than 60 developing countries participated in the development of the BEPS package, only 21 BRI countries signed the Multilateral BEPS Convention.¹⁹ Therefore, by developing the BRITACOM, China could extend its idea about international tax regime to more partner countries. Through experience sharing and communication, the Chinese tax system will gradually increase its influence, which in turn will provide China with more leverage to be active in future international tax rulemaking. Actually, the establishment of the BRITACOM is already helping China to expand its tax cooperation network. On June 7, 2019, the Pyidaungsu Hluttaw approved Myanmar's participation in BRITACOM as an observer.²⁰

However, if China wants to build an effective and efficient multilateral tax cooperation mechanism to reduce tax uncertainty and tax disputes, the BRITACOM needs more concrete plans and multilateral instruments. The Wuzhen Action Plan

is merely a preliminary step for further tax cooperation; all the actions it declares to take are too general and without a specific agenda. In addition, although the BRITACOM pays great attention to tax dispute settlement, it seems that the main instrument involved is still the Mutual Agreement Procedure (MAP) under bilateral tax treaties. However, as mentioned above, not every BRI country has a broad tax treaty network like China. It takes time for countries to negotiate and sign tax treaties with each other, and this is unlikely to be accomplished within two years. Thus, to facilitate the negotiation and signing process, the BRITACOM can learn from the BEPS project and may develop its own multilateral instrument like a convention on tax principles, or even a BRI Model Tax Treaty.

The next BRITACOF will be held in Kazakhstan, spring 2020. An interim assessment report of the Wuzhen Action Plan will be submitted to the forum then. Let's wait and see if the BRITACOM will be proven successful.

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¹⁸ See Reuven S. Avi-Yonah & Haiyan Xu, *China and the Future of the International Tax Regime*, U OF MICHIGAN LAW & ECON RESEARCH PAPER No. 17-017, (Oct. 21, 2017), available at: <https://ssrn.com/abstract=3056796> or <http://dx.doi.org/10.2139/ssrn.3056796>.

¹⁹ Including Bulgaria, Croatia, Czech, Egypt, Georgia, Hungary, India, Indonesia, Israel, Kuwait, Latvia, Lithuania,

Pakistan, Poland, Romania, Russia, Serbia, Singapore, Slovakia, Slovenia, and Turkey.

²⁰ Shi Yinglun, *Myanmar's parliament approves signing as observer in BRI-related mechanism*, XINHUA NET (June 8, 2019, 1:46 PM), http://www.xinhuanet.com/english/2019-06/08/c_138126605.htm.