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# Practicing Experts' Views on BEPS: A Critical Analysis

Eva Eberhartinger & Matthias Petutschnig

## ABSTRACT

In July 2013 the OECD, to tackle multinational tax avoidance, published its Action Plan against base erosion and profit shifting. The Action Plan suggests a variety of legislative and administrative measures to eliminate frictions from interactions between domestic tax laws and international tax treaties, including potential double non-taxation of businesses operating in several countries. By virtue of the OECD's structure, the proposed measures have been designed and developed predominantly by representatives from the tax administrations of OECD member countries. Our research investigates the views and opinions of other stakeholders in this process, namely tax experts from practice. We conduct a conjoint analysis, surveying experts in international taxation regarding their perceptions and beliefs on the effectiveness of the proposed actions. We find that experts rank actions that are aimed at enhancing international coordination and cooperation, as well as actions that reduce legal uncertainty, higher than other actions. Of lesser importance are anti-treaty-abuse measures, further transparency at the taxpayer level and amendments to the definition of permanent establishment.

**Keywords:** BEPS, OECD, Conjoint Analysis, tax avoidance.

**JEL Classification:** H26, H25, K34

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## 1. Introduction

Starting in 2010-2011, media reports have drawn attention to the fact that some highly profitable multinational companies seem to pay almost no corporate income tax in the source country, ie. the country in which the income is assumed to be earned. The effective tax rates on foreign profits of Google Inc. and Apple Inc., for example, have been reported to be 3% and 1%, respectively (Dharmapala 2014). The fact that some multinationals are able to drastically reduce their tax liability by exploiting flaws and loopholes in existing tax rules suggests that the taxation of multinational firms is in need of reform (Fuest et al. 2013) which is reflected in the intense public debate surrounding profit shifting and tax avoidance by multinational firms. Given that many countries face high levels of public debt and strong pressure to generate tax revenue, it is not surprising that this debate has brought the taxation of multinational firms to the top of the international policy agenda.

The G20 leaders stressed the need to take action against multinational profit shifting and tax avoidance at the summit in Los Cabos in June 2012 (G20 2012). On 12 February 2013, the OECD published its report "Addressing Base Erosion and Profit Shifting" (OECD 2013b), which summarizes the preliminary findings of the OECD's work in this field and identifies so-called key pressure areas.

On July 19 2013, the OECD published a global action plan (BEPS Action Plan) with 15 actions aimed at tackling multinational tax avoidance (OECD 2013a). The BEPS Action Plan suggests a variety of legislative and administrative measures which all aim at eliminating double non-taxation or taxation at a level which is perceived to be as too low or not in line with real economic activities. The deadlines for the three steps in elaborating specific recommendations on how to address these actions are September 2014, September 2015 and December 2015. The final BEPS packages with further detail on each action were released in October 2015 and will be discussed subsequently.

Given the OECD's structure, the BEPS Action Plan has been developed predominantly by representatives of the tax administrations of member countries. The Action Plan thus reflects the perceptions of tax authorities regarding how to best counter tax avoidance by multinationals. Tax

administrations, however, are just one stakeholder group in the efforts against harmful tax practices. Other stakeholders are invited to participate in the discussion process via several measures. The public had the opportunity to comment on discussion drafts, and the OECD offers public consultations. Our research investigates the views and opinions of other stakeholders in this process, namely tax experts from practice. We conduct a conjoint analysis surveying perceptions and beliefs of tax expert on the effectiveness of the proposed actions. The structure and functioning of a conjoint analysis implicitly compels the respondent to rank different legislative and administrative measures, as suggested by the OECD, and allows identifying individual utilities and importances for various combinations of these measures. In aggregate, these individual utilities provide insight into what measures practicing tax experts deem to be effective and efficient against multinational tax avoidance. Given that the OECD does not provide any rankings of the importance of the proposed actions, the findings of this project could be very helpful to policymakers in deciding which BEPS actions should be prioritized.

The remainder of this paper is structured as follows: First we provide an overview of the OECD BEPS Action Plan and the ongoing academic debate in section 2 and develop the hypotheses for our study. Section 3 addresses the conjoint analysis research method, while section 4 presents and discusses the results of our survey. Section 5 provides results of robustness checks, and section 6 concludes.

## **2. Hypothesis Development**

The BEPS Action Plan includes fifteen Actions. Some are to be implemented at the level of domestic tax law, some require a change in bilateral tax treaties and a third group of actions is directed at developing new, and improving existing best practice guidelines. Others cover the international cooperation between tax administrations and the transparency of taxpayers, legislators and administrations. The Actions can very generally be placed into the following groupings (Ault et al. 2014): rules for the digital economy (Action 1); prevention of double non-taxation (Actions 2, 3, 4, 5 and 6); alignment of economic activity and taxation (Actions 7, 8, 9 and 10); tax transparency and

dispute resolution (Actions 11, 12, 13 and 14); and efficient and effective implementation (Action 15).

It has been shown by prior literature (e.g. Fuest et al. (2013); OECD (2013b); Devereux and Vella (2014); Dharmapala (2014); Kofler (2013); Schindler and Schjelderup (2013); Vann (2014)) that two aspects of the international tax regime are the ones that are used most often to establish base erosion and profit shifting schemes, namely hybrid mismatches and transfer pricing (especially involving intangibles). Thus, it can be argued that Actions 2 (hybrid mismatches) and 8 through 10 (transfer pricing) might be seen by tax experts as the most important Actions for achieving the aims of the BEPS Action Plan:

*H1: Practicing tax experts rank the importance of Actions 2, 8, 9 and 10 higher than the importance of other Actions.*

Action 5 deals with tax havens, off-shore regimes in non-traditional tax havens, and similar rent-seeking and beggar-thy-neighbour regimes in traditionally high-tax jurisdictions. It addresses the responsibility of tax policymakers to amend domestic legislation facilitating the establishment of BEPS planning structures by multinational corporations (MNCs). The Action mentions a “holistic” approach to identifying objectionable practices and specifically mentions the need to engage non-OECD members. The Action Plan further stresses the need for an essential link between legitimate tax jurisdiction claims and value creation activities in a sense that, if at all, preferential tax treatments should be granted only under the prerequisite of a substantial local business activity (*see further* Englisch and Yevgenyeva, 2013). We thus hypothesize that tax experts value this Action 5 relatively highly because it stresses the need for a coordinated approach by a larger group of countries, including non-OECD members.

*H2: Practicing tax experts rank the importance of Action 5 higher than the importance of other Actions.*

It can be seen that H1 and H2 are mutually exclusive. However, it seems over-interpretative to hypothesize the relative importance of Action 5 (covered in H2) vis-à-vis Actions 2, 8, 9 and 10 (covered in H1).

Actions 12 and 13 propose measures to improve tax transparency at the level of the taxpayer. Action 12 requires the taxpayer to disclose its aggressive tax planning arrangements, while Action 13 proposes country-by-country reporting of high-level financial and tax information per jurisdiction, such as revenues, profit or loss, tax paid and accrued, stated capital, and accumulated earnings for the entire MNC. The basic aim of these Actions is to improve the information flow about tax risks to tax administrations and tax policymakers, as well as to provide comprehensive information for the early detection of aggressive tax planning techniques (OECD 2013b).

Major concerns regarding the details of these Actions (e.g. the absence of a definition of “aggressive tax planning arrangements”) and concerns regarding a potential breach of the right to privacy and confidentiality<sup>1</sup> by the intended disclosure requirements have been expressed in the literature (Baker 2015; Brauner 2015; Evers et al. 2014; Grau Ruiz 2014). These are concerns regarding the legitimacy, but also and – for our research, more significantly – concerns regarding the efficiency of the proposed measures, as insufficiently defined measures can be both illegitimate and ineffective. One might argue that tax experts share these views expressed in the literature, and thus Hypothesis 3 reads:

*H3: Practicing tax experts rank the efficiency of Actions 12 and 13 lower than the efficiency of the other Actions.*

The various transformations of the measures resulting from the Action Plan into domestic and/or treaty law could be a considerable source of dispute between taxpayers and (several) tax administrations. Action 14 therefore calls for improvement of the mutual agreement procedure

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<sup>1</sup> Such right can be found, for example, in article 8 of the European Convention on Human Rights.

(MAP) and for better arbitration to resolve treaty-related disputes. Currently, treaty provisions regarding MAPs and regarding arbitration are either non-existent or they are vague, very heterogeneous and lack conformity, and furthermore, most of them do not have predefined rules of procedure laid down in the treaty and grant taxpayers very limited rights (Malherbe 2015). Even though Action 14 might be important to mitigating future bilateral and multilateral disputes, it does not seem to directly affect base erosion and profit shifting:

*H4: Practicing tax experts rank the efficiency of Action 14 lower than the efficiency of the other Actions.*

The OECD (OECD 2013b) points out that the countries share a common interest in establishing a level playing field among themselves. Failure to collaborate in addressing BEPS issues could result in unilateral actions that would risk undermining the consensus-based framework for addressing double taxation which exists today. The consequences could be damaging in terms of increased possibilities for mismatches, additional disputes, increased uncertainty for business, heterogeneous anti-avoidance measures and a race to the bottom with respect to corporate income taxes (OECD 2013b).

In this regard, a holistic approach is considered necessary to properly address the issue of BEPS (Brauner 2014a). The OECD thus stresses the importance of a multilateral approach towards stronger international cooperation and coordination of tax policies. However, the current international tax regime is characterized by unilateral legislation and bilateral treaties (Brauner 2014b). Even though the overwhelming majority of these treaties conform to a single model convention (OECD 2010), divergences do exist. The BEPS Action Plan contains Actions that target the bilateral (or even multilateral) treaty level of the international tax regime, as well as Actions that aim at the domestic level. However, with the apparent need for more international cooperation and coordination, the Actions that focus on the treaty level can be seen as more effective to hamper BEPS. The first hypothesis therefore reads as follows:



*H5: Practicing tax experts view BEPS Actions that focus on the treaty level as more effective to counter BEPS than Actions that aim at the domestic level.*

The OECD's BEPS initiative is based on the understanding that uncoordinated domestic legislation can hardly succeed. The current, OECD Model-based regime already provides a form of coordination through soft law,<sup>2</sup> i.e. standard setting and the de facto predominance of the OECD Model (Brauner 2014a) and the accompanying Commentary, reports and guidelines. Yet, apparently, this paradigm has proven inefficient. The current primary reliance on soft law (such as best practices guidance) with no binding implementation mechanisms is inconsistent with the goals of the OECD BEPS initiative (Brauner 2014a).

The evolution of soft law is strongly debated in international law literature. Klabbers (1998) argues that soft law creates uncertainty and contributes to the crumbling of the entire legal system. Also, the legal clarification of ambiguous soft law and its applicability require an additional legal level of jurisdiction. In the same vein, Schäfer (2006) distinguishes rules from standards and argues – based on the well-established observation that law reduces transaction costs, including losses from asymmetric information – that binding legal rules differentiate legal from illegal behaviour in a comprehensive and clear manner, while standards are unclear and fuzzy, general legal criteria that require complicated and costly judicial interpretation. Abbott and Snidal (2000), Abbott et al. (2000) and Blutman (2010) also argue that hard agreements reduce the costs of operating within a legal framework by strengthening commitments and reducing transaction costs, while soft law cannot yield all these benefits but may lower the costs and increase the chances of achieving some sort of agreement in the first place. This notion can be supported by the flexibility and often the formal easiness of enactment of soft law and its subsequent changes.

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<sup>2</sup> “Hard law” describes legal measures set by legislative power (i.e. parliament, in particular; codified law), whereas “soft law” relates to measures set by standard setters or other institutions or self-governing professional bodies, which are not legally binding, but possess a convincing power (such as accounting standards). In this sense, the OECD Model Convention as well as its Commentary or the Transfer Pricing Guidelines can be considered soft law. An income tax treaty, ratified by parliament, is hard law.

With regard to soft law in international tax law, Vogel (2005) argues – with reference to the High Court of Australia – that the Commentary on the OECD Model is a guide to the current usage of terms by the parties to the treaty and thus an important source for interpretation of tax treaties. Mössner (2005), however, exemplifies the legal uncertainty that is connected to soft law by showing that the German Federal Tax Court references the Commentary on the OECD Model only when the Commentary supports the Court’s opinion, while completely ignoring the Commentary in all other cases.

Therefore, one could argue that traditional (binding) legislation is more effective, reduces transaction costs and provides more legal certainty than soft law. From the perspective of enhancing legal certainty for both taxpayers and tax administrations, a significant revision of the architecture of the relevant rules towards more directly binding and better coordinated regulations seems preferable (Brauner 2014b; Kofler 2013; Wittendorff 2010). Lawsky (2009) and Logue (2005) argue along similar lines, suggesting that tax experts prefer traditional legislation over soft law. Hypothesis 6 thus reads as follows:

*H6: Practicing tax experts view BEPS Actions that aim at implementing and changing domestic law and/or treaty law provisions as more effective to counter BEPS than Actions that aim at establishing non-binding soft law, such as best practice guidelines and recommendations.*

### **3. Research Design**

#### **3.1. Method - Conjoint Analysis**

Conjoint analysis traces back to Luce and Tukey (1964). It has been used in marketing research for over 40 years, starting with Green and Rao (1971). It comprises specific procedures for both collecting and analysing empirical data. Although conjoint analysis is widespread in market and marketing research, in tax research only a few studies have used such a design.<sup>3</sup>

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<sup>3</sup> To name a few: Milliron and Toy (1988) deal with influential effects on the decision regarding tax declaration; Blaufus and Ortlieb (2009) employ a conjoint analysis to study the influence of tax complexity on the employee’s decision concerning company pension plans; Hundsdorfer and Sichtmann (2009) analyse the importance of tax aspects in

Conjoint analysis aims at determining the contribution of individual product attributes (“attributes”) as well as their possible values (“levels”) to the total perceived individual utility of a particular product. To measure total utilities, a set of product variants (different combinations of different levels of several product attributes) is presented to the participants, who then state their preferences on those product variants (Blaufus and Ortlieb 2009). Thereafter, the researcher can decompose ordinal scaled total utility values – for instance values obtained by rankings – by ordinary least squares estimation (OLS) or Hierarchical Bayes estimation (HB) into metric part-worth utilities for each attribute and level. On the basis of the part-worth utilities, it is possible to calculate the relative importance of an attribute in the case of modification. (For further descriptions of the method, see, e.g., Green and Srinivasan (1990, 1978); Baier and Brusch (2009); Green and Rao (1971); Rao (2014).)

As a decompositional approach, conjoint analysis differs from compositional models, which collect ratings from participants separately on each of the attributes comprising a product. As a result of this approach, the concept provides greater range sensitivity, a better chance of detecting potential nonlinearity in utility part-worths, greater similarity to real choice situations and a greater chance of detecting real importance of weights (Sattler and Hensel-Börner 2000). The concept of conjoint analysis forces trade-off decisions between individual attributes (Blaufus and Ortlieb 2009) and precludes the participants from classifying all attributes as “very important” – which Skiera and Gensler (2002b, 2002a) show that participants tend to do when queried as to the preference for individual product attributes.

This specific aspect of the conjoint analysis methodology that implicitly compels the participant to provide relative values and to rank the various attributes, presents the major advantage of this method for the research questions of this paper. The method is perfectly suited for situations like the OECD Action Plan where different legal measures that all have some potential to

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entrepreneurial decision-making using a conjoint analysis; Sell et al. (2010) study the influence of taxation on decisions about the legal form of organizations; Hundsdorfer et al. (2013) apply conjoint analysis to study the influence of tax labeling and tax earmarking on German taxpayers’ willingness to contribute.

achieve the overall aim of limiting base erosion and profit shifting are surveyed. It prevents the respondent from rating each item as “very important” or as “not important”, which might be of particular importance given the topic (tax avoidance) and the possible disposition of the respondents (tax experts).

For data analysis, conjoint analysis provides two further advantages. First, it allows the calculation of the part-worth utilities not only on an aggregated basis, but also on an individual level. Because our hypotheses apply at the individual level and we assume heterogeneous individuals, this approach is very well suited to our research question. Second, the consideration of non-linear relations between the attributes and levels on the one hand, and the total utility of a product on the other, is rather simple (Blaukus and Ortlieb 2009).

### **3.2. Operationalization**

To test our hypotheses and to study the perceptions and opinions of experts in the field of international taxation, we conduct a conjoint analysis based on an online questionnaire that we design using Sawtooth Software’s Adaptive Conjoint Analysis System (ACA).

ACA is a hybrid conjoint analysis method developed by Johnson (1987). The system is a computer-administered, interactive conjoint method and combines the design of conjoint tasks, data collection and data analysis through the use of personal computers. Its principal advantage is that ACA has been specifically designed for situations in which the number of attributes exceeds what can reasonably be accommodated with traditional conjoint analysis methods (Rao 2014). ACA achieves this by focusing on the attributes that are most and least relevant to the respondent, and thus avoids information overload by focusing on only a few attributes at a time.

ACA uses a computerized questionnaire and commences with a simple self-explication task to identify important attributes. Part-worths for those attributes identified as more important are

adjusted through a series of graded paired comparisons.<sup>4</sup> A unique feature of ACA is that the procedure is both “adaptive” and “dynamic”, in that the answers already provided by respondents in earlier sections of the questionnaire are used at each step to select the next paired comparison question. This allows asking questions designed to be maximally relevant and efficient for refining utility estimates and helps in stabilizing the utility estimates at the individual level (Rao 2014).

Employing conjoint analysis for research beyond the scope of market and marketing research requires translating the product-oriented marketing logic to the respective scientific research area. In our study, we achieve this by understanding the whole BEPS Action Plan as the product, and basically define the various Actions as attributes. The levels of these attributes are then defined by the various measures proposed by the OECD (2013a) to achieve the goals of the respective Action.

### **3.3. Data Collection and Sample**

As briefly described above, we use an online questionnaire that reacts dynamically to the answers that the participants provide in one section, to establish the following section(s) to gather the data. The first stage of the questionnaire asks the respondent to rate the various levels for each attribute (BEPS Action) with regard to their suitability for the aim of reducing BEPS. In the second section, the questionnaire uses the highest and lowest level of each attribute in section 1 of the questionnaire and asks the respondent to value how much more important the highest rated level than the lowest rated level is for the aim of reducing BEPS. In the last section, pairwise comparisons of level combinations of different attributes are presented to the respondent. The respondents’ task is to judge which of the two combinations presented would have a higher positive influence on the aim of reducing BEPS if only one of the presented combinations can be implemented. This task is repeated numerous times so that every possible combination of highest and lowest rated levels across attributes is evaluated.

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<sup>4</sup> The suggested number of pairs ( $N$ ) is  $\frac{K(K-1)}{2}$  where  $K$  is the total number of levels across all attributes and  $k$  is number of attributes (see Johnson (1987)).

As this paper surveys the perceptions of practicing tax experts on the effectiveness of individual Actions of the BEPS Action Plan, we exclude Actions 1, 11 and 15 from the study, as they will not effectuate directly observable changes to daily tax practice. For Action 1 (*Address the tax challenges of the digital economy*) the OECD will only publish a report that identifies and examines the main difficulties that the digital economy poses for the application of existing international tax rules. Further legislative or administrative steps are currently not envisioned. Action 11 (*Establish methodologies to collect and analyse data on BEPS and the actions to address it*) and Action 15 (*Develop a multilateral instrument*) cover technical details of implementing and monitoring the legislative means that will be developed under the other Actions.

We therefore focus our study on Actions 2-10 and 12-14. In general, we refer to the options proposed in the OECD Action Plan. See Table 1 for information about all attributes and levels used in this paper.

[Insert Table 1 about here]

With regard to Action 3 (*Strengthen CFC rules*), which calls for general guidance on the design of such anti-deferral rules, but in its current state refrains from suggesting specific policy instruments, we draw on the academic discussion of the design of CFC legislation to survey this Action. Kane (2014) divides possible approaches to CFC legislation into three categories, namely (1) anti-hybridity rules, (2) deduction-inclusion rules and (3) minimum tax rules. As anti-hybridity rules are basically covered by Action 2 and deduction-inclusion rules are covered by Actions 2, 4 and 9, we feel comfortable with focusing on the following suggestions for minimum tax rules:

1. *CFC rules that include only foreign passive income, irrespective of whether that income comes from a low-tax country or not;*
2. *CFC rules that include foreign passive income exclusively from a low-tax country; and*
3. *CFC rules that include foreign passive and active income exclusively from a low-tax country.*

We invited, by email, 286 Austrian experts in international taxation to participate in the online survey. We thus ensure that only individuals who are thoroughly knowledgeable in this field of

taxation, and who are confronted in their daily business with the issues addressed by the BEPS initiative, participated in our survey. We considered the following groups of people as experts in international taxation: (1) the members of the Austrian branch of the International Fiscal Association (IFA), (2) the members of the Committee for International Tax Law of the Austrian Chamber of Chartered Accountants and (3) individuals that have published in 2014 in the most renowned Austrian international tax law journal (*Steuer und Wirtschaft International, SWI*). We excluded members of the Austrian Fiscal Administration and adjusted for multiple entries. The questionnaire was written in German to prevent translation errors. We used the official German translation of the BEPS Action Plan issued by the OECD as the basis for the phrasing of attributes and levels. The questionnaire was available online from 2 February 2015 until 6 March 2015.<sup>5</sup>

We designed the questionnaire so that BEPS from a worldwide perspective is addressed. We specifically did not ask for the Austrian perspective, and we phrased questions without mentioning 'Austria'. Nevertheless, participants obviously respond against their Austrian professional and legal background.

To avoid strategic answers (for instance answers in the interest of the participant's clients or with regard to the success of the participant's clients tax planning schemes), we addressed the participants explicitly as "experts" in international tax, and emphasized the importance of their expert opinion for research. We did not address them as consultants, and we did not mention their clients. However, as is regularly the case for surveys, we cannot ascertain the absence of strategic answers. Given the structuring of the survey instrument so as to reduce the risk of strategic answers, as well as the results of our robustness checks (see section 5), we feel rather comfortable ruling out any distorting effects from strategic answers.

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<sup>5</sup> A pre-test of the survey with doctoral / PhD students and post-doc researchers with research interests in international tax law from the WU – Vienna University of Economics and Business was conducted from October 23<sup>rd</sup> 2014 to November 11<sup>th</sup> 2014.

From the invited group of experts, 118 individuals participated in the survey. Due to incompleteness, 57 questionnaires had to be dropped from the observations, leaving 61 complete responses in the sample. The response rate (20%) is not large, which might give rise to concerns as to the professional quality of the respondents (suggesting that only those who have sufficient time, i.e. are underemployed, respond). However, the analysis of the professional background of the participants (see Table 2, below) emphasizes their very high degree of expertise, so that we do not further entertain such concerns.

## **4. Results and Discussion**

### **4.1. Descriptive Statistics**

Table 1 reports descriptive statistics of demographic information on the participants. The sample consists of 43 (70.5%) male and 18 (29.5%) female respondents with a high degree of professional experience (83.61% with more than 6 years and 45.90% with more than 15 years' professional experience). The respondents were largely educated at a tertiary level; 21 (34.43%) hold Masters degrees and 34 (55.74%) hold doctorate/PhD degrees. They are predominately chartered accountants (*Steuerberater*: 36, 59.02%) and/or certified public accountants (*Wirtschaftsprüfer*: 13, 21.31%), of which 11 (18.03%) participants are both chartered accountants and certified public accountants. A vast majority (38, 62.30%) works in the accounting/tax consulting/auditing profession at a high level in their respective firms (32, 52.46% as partners; 6, 9.84% as senior managers; and 8, 13.11% in an expert function).

The statistics for regularly dealing with international tax matters and knowledge of the OECD BEPS Action Plan show that the targeted groups of individuals can rightfully be described as experts in international taxation: 46 (75.41%) respondents indicated that they spend more than 25% of their regular working hours per week with international tax matters, and almost all of the participants had good knowledge of the BEPS Action Plan; 23 (37.70%) indicated that they had read the Action Plan before and 29 (47.54%) indicated that they had informed themselves about the Action Plan through



scientific publications or professional journals. Overall, the group of participants can be considered highly qualified and equipped with thorough knowledge of the issues in question.

Additionally, the Cronbachs Alpha, a scale reliability coefficient which is widely used as an estimate of the reliability of survey studies, of our questionnaire ( $\alpha = 0.8168$ ) suggests that the questionnaire is a highly valid and very appropriate instrument to study the research questions of this paper.

[Insert Table 2 about here]

#### **4.2. Relative Importances of Attributes**

Table 3 reports the average relative importances and t-statistics relative to the mean of all attributes for all completed online ACA questionnaires. Figure 1 provides an overview of the attributes' relative importances in a ranked order. It is evident at first sight that preference for the ten attributes differs.

[Insert Table 3 about here]

[Insert Figure 1 about here]

The importance measures are calculated on an individual level using Hierarchical Bayes estimation. They are then ratio-scaled so that the values add up to 100. This normalization is done so that each respondent has equal impact when computing average utility values for all respondents (Horng 2005). The importance measures of the attributes can thus be interpreted as the share of the respective attribute's importance of the combined utility of all attributes. An attribute with an importance of 20% is twice as important as an attribute with an importance of 10%. The importance measures are study-specific and the attribute's importance is always relative to the other attributes used in the study; it can neither stand alone for itself nor be compared across studies using different sets of attributes (Böhler and Scigliano 2009).

The attribute “Neutralize the effects of hybrid mismatch arrangements” has the highest importance value (13.35%); the attributes “Limit BEPS via interest deductions” (12.71%) and “Transfer pricing – Intangibles” (12.70%) are a close second and third. The lowest importance values have the attributes “Prevent the artificial avoidance of PE status” (5.23%) and “Dispute resolution” (6.27%). The t-statistics of the four highest and four lowest rated attributes are throughout highly statistically significant at the 1% or 5% significance levels.

A comparison of the mean of 10% to the importance values shows the following results. Four attributes (“Neutralize the effects of hybrid mismatch arrangements” [13.35%]; “Limit BEPS via interest deductions” [12.71%]; “Transfer pricing – Intangibles” [12.70%]; “Counter harmful tax practices” [11.79%]) are substantially above the mean (t-statistics significant at the 1% level). Four attributes (“Prevent treaty abuse” [8.53%]; “Tax transparency” [8.47%]; “Dispute resolution” [6.27%]; “Prevent the artificial avoidance of PE status” [5.23%]) are considerably below the mean (t-statistics significant at the 1% level or at the 5% level). Two attributes are only slightly above or at the mean (“Transactions that occur very rarely between third parties” [10.55%]; “Strengthen CFC rules” [10.40%]).

To summarize, practicing experts show several preferences. First, hybrid mismatch arrangements and excessive interest deductions are viewed as being the most serious sources for BEPS. Second, a change in the international regulatory practice of transfer pricing issues (Actions 8; 9 and 10 which all rank above the median in the importance values at ranks 3; 2 and 5) is essential to reducing base eroding and profit shifting behaviour. Third, experts view measures against harmful tax practices by countries and the enhancement of international transparency on that matter as very important (Action 5). Of lesser importance are anti-treaty-abuse measures, further transparency on the taxpayer level and amendments to the definition of permanent establishment.

#### **4.3. Average Utilities of Levels**

As the average importance values of the attributes are computed on the basis of the utility values of the respective attribute’s levels. The attribute’s importance values are decomposed into

their respective sets of levels to analyse the interrelation between the various levels of any attribute. To evaluate and analyse the utilities across respondents, the data are rescaled using the “zero-centred diffs” method.

The diffs method rescales utilities so that, for each individual, the total sum of the utility differences between the worst and best levels of each attribute across attributes is equal to the number of attributes times 100 (Sawtooth 2006). This leads to scaled utility values for the levels that sum-up within the respective attribute to zero. The average utility values are interval data and represent the desirability of the attribute levels. As Horng (2005) points out, due to the arbitrary origin within each attribute, the utility values of levels between attributes (e.g. “Prevent treaty abuse” versus “Strengthen CFC rules”) cannot be directly compared. Horng (2005) also indicates that as utility values are interval data, they do not support ratio operations. Therefore, when comparing utility values within the same attribute, a level with a utility value of 30 is not twice as desirable as a level with a utility value of 15. However, the directionality of level utility values and the absolute distance between best and worst levels within one attribute do reveal the overall preferences of respondents for levels within an attribute. Positive values indicate positive utilities and, thus, a positive impact on the decisions of respondents, whereas negative values point to aversion to the level. Table 4 shows the average utility values for all levels and within all attributes. It further provides t-statistics of the average utilities relative to the mean of all levels within the respective attributes.

[Insert Table 4 about here]

For the most important attribute from the results reported in Table 3 (“Neutralize the effects of hybrid mismatch arrangements”), the analysis shows that the respondents prefer domestic provisions that prevent exemption for payments that are deductible by the payer (utility: +9.44) over any other option against hybrid mismatch arrangements. However, this is only borderline significant ( $p$ -value: 0.1167); the least preferred option (“Domestic provisions that deny a deduction for a payment that is also deductible in another jurisdiction”) is statistically significant ( $p$ -value: 0.0383). In

addition, the difference between these two most and least preferred levels (see Table 6, Panel A) is significant (p-value: 0.0137).

For the aim of limiting BEPS via interest deduction, which ranks second in importance, the respondents see the best strategy in shaping the respective transfer pricing regulation: both levels that propose changes to the transfer pricing guidelines are valued statistically significantly highly positive (“Transfer pricing rules regarding contractual risk assumption” – utility: +16.43 and “Transfer pricing guidelines regarding related-party financial transactions” – utility: +10.91).

For the attribute “Intangibles”, only the level “Ensuring that profits associated with the transfer and use of intangibles are appropriately allocated in accordance with value creation” has a highly positive utility (+ 32.16, p-value: 0.000). The other three levels of this attribute have negative utilities which could be attributed to the rather generic wording of Action 8. For Action 5, we find a very strong and clear sentiment towards a stronger inclusion of non-OECD members in the efforts against BEPS (utility + 12.15, p-value: 0.049). The perceived high importance of more international cooperation and coordination is also represented in Action 10, where the respondents value the clarification of transfer pricing methods in the context of global value chains as most important (utility: +10.19, p-value: 0.0727).

When analysing the lesser important attributes, we find that changes to the definition of permanent establishment seem to be judged as rather negligible. Not only is the attribute itself the lowest rated attribute, but the respondents are also indifferent as regards the levels. The absolute distance between the highest and lowest rated level is the smallest across attributes, and the highest rated level has a utility of a mere +1.95. Also, the p-values of both levels indicate the minor importance of this issue. With regard to dispute resolution (which is considered as the second least important attribute), the respondents indicate a strong and clear need for more legal certainty, as “Implementation of mandatory arbitration provisions in tax treaties” is the only level with a positive utility value (+13.37, p-value: 0.0168). Country-by-country reporting (utility: +27.50, p-value: 0.000) is seen as a more effective measure than the mandatory disclosure of aggressive or abusive

transactions (utility: -27.50, p-value: 0.000) to enhance tax transparency on the taxpayer level. Further, domestic rules against treaty abuse (utility: +19.59, p-value: 0.0044) are rated higher than clarifying wordage in the OECD Model (utility: -19.59, p-value: 0.0044). Finally, a CFC rule that includes only foreign passive income from a low-tax country is seen as the most appropriate CFC rule (utility: +36.81, p-value: 0.000) among the presented options.

#### **4.4. Discussion**

The results provide some interesting insights into the perceptions of practicing tax experts of the OECD Action Plan. At the attribute level, a strong trend towards those Actions that are targeted at hybrid mismatches (Action 2) and at improving the effectiveness of transfer pricing regulations (Actions 8-10) is observable – which supports Hypothesis *H1*.

The results also support both hypotheses regarding the different Actions aimed at improving tax transparency. *H2* and *H3* hypothesize that tax experts value regulations that are aimed at improving tax transparency at the country level by involving a spontaneous exchange of information regarding preferential tax treatment (Action 5) relatively higher than regulations that aim at improving tax transparency at the taxpayer level (Actions 12 and 13). This result could be interpreted such that tax experts are cautious and sensitive with regard to the privacy and confidentiality concerns expressed in the literature. One should bear in mind that from the options of Action 5, the experts view the inclusion of non-OECD members in the exchange of tax information as most effective. For tax transparency at the taxpayer level, the experts view country-by-country reporting (Action 13) surprisingly as more effective than a mandatory disclosure of aggressive or abusive transactions (Action 12). This is probably because of the legal uncertainty connected to Action 12, as that Action fails to provide any guidance on the arrangements that are the target of the disclosure rules (Baker 2015).

With respect to the overarching Hypotheses *H5* and *H6* that focus on the quality of the implementation of anti-BEPS measures, we find some indications that enhanced international coordination is seen as necessary, but also that implementation measures of hard law are preferred

to soft law instruments. The findings substantiate *H5*, according to which Actions at the treaty level are more effective than those at the domestic law level; with the exception of Actions 2 and 6, for each Action (attribute) that provides such options (levels), the one option which supposedly requires more international coordination is rated higher than the purely domestic option.

However, the two exceptions (Actions 2 and 6) support Hypothesis *H6* on the higher appropriateness of hard law over soft law. Across almost all attributes,<sup>6</sup> the levels that include hard law terms such as “rules”, “law provisions” or “mandatory” are rated higher than the levels that include soft law terminology such as “regulation”, “guidelines” or “methods”. This is observable at Actions 2 and 6, where the levels calling for “domestic law provisions” and “domestic rules” are rated higher than the levels proposing “clarifications in the OECD Model” (which is further explained in the Action Plan as amendments to the preamble of the OECD Model). This finding can further be substantiated by the results for Action 14 where “mandatory arbitration provisions” are preferred over “facilitate the access to mutual agreement procedures”.

**5. Robustness Checks**

To verify the results presented in section 4, we conduct a series of robustness checks. Table 5 displays the t-values of 2-tailed, pairwise t-tests of the differences between average attribute importance scores reported in Table 3. These tests compare each attribute importance score with each other attribute importance score. The results reveal that almost all of the attribute importance scores are significantly different from other attribute importance scores at the 1% level.

[Insert Table 5 about here]

Tables 6 and 7 provide the t-values of 2-tailed, pairwise t-tests of the differences between level utility values for each attribute. These tests compare each level utility value score with each other

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<sup>6</sup> The results for the attribute “*Limit BEPS via interest deduction*” (Actions 4 and 9) does not support *H5* however it supports *H6*.

level utility value score within the same attribute. The results show that the differences between the highest and the lowest rated levels are almost all statistically significant.

[Insert Table 6 about here]

[Insert Table 7 about here]

Table 8 reports results for various sub-samples, including participants with high knowledge of the BEPS Action Plan (Sub-sample 1), a high allotment of regular working hours spent dealing with international tax matters (Sub-sample 2) or long-lasting professional experience (Sub-sample 3).

[Insert Table 8 about here]

Sub-sample 1 shows slight differences in the rankings of attributes' average importances for participants that indicated that they were very well informed (read the Action Plan) or well informed (through scientific or professional journals) about the Action Plan, as opposed to the full sample. The results for this sub-sample are, in large part, statistically significant. The differences in the attributes importance scores between sub-sample 1 and the full sample are throughout all attributes statistically insignificant. Similar results yields the analysis of Sub-sample 2, containing participants that spend the majority of their regular working hours (more than 50% per week) dealing with international tax matters. Again, the attribute importance scores change slightly, although the differences to the full sample are insignificant.

The analysis of Sub-sample 3 (which includes only participants with more than 15 years professional experience) provides two statistically significant changes of attributes importance scores and subsequent changes to the importance ranking. Hybrid mismatch arrangements seem to be of lesser importance, while improving transparency at the taxpayer level and harmful tax practices by countries have more relevance to the sub-sample than to the full sample. This more experienced

group perceives the deficits in transparency about transactions and structures, as well as about preferential tax treatments, as the most pressing needs. Additionally, we find that this more experienced group rates the envisaged changes to the definition of permanent establishment significantly less important to curbing BEPS than the full sample.

The same direction is indicated by Sub-samples 4 and 5 that include participants in the level of partner (Sub-sample 4) and partner or senior manager (Sub-sample 5) in their respective firms. The differences to the full sample are throughout not significant, with the one exception of Action 2 on hybrid mismatch arrangements which is regarded as less important than by the full sample. This very experienced and highly influential sub-group also considers attribute 3 (Limit BEPS via interest deduction) as most important, followed by the transfer pricing issues surrounding intangibles. Hybrid mismatch arrangements rank fourth. Changing the definition of permanent establishment is again the least important Action.

Sub-samples 3, 4 and 5 also support our assumption of the absence of strategic answers and bias from a consulting perspective. If more senior participants were more likely to give strategic answers that biased the results, significant differences would have been seen.

## **6. Conclusion**

The BEPS Action Plan proposes a number of different measures to address the shortcomings of the current system of international taxation. However, the Action Plan mainly represents the opinions on these shortcomings and the beliefs as to which legislative measures are most effective to curb base erosion and profit shifting schemes, of one group of stakeholders in this process, namely tax administrations. This paper broadens the view on BEPS and anti-BEPS measures, as it surveys the perceptions of practicing tax experts on the effectiveness of the envisaged changes to the international tax system.



The research method employed allows an in-depth investigation of the opinions on the Action Plan, as the conjoint analysis methodology compels the participant to implicitly rate different aspects of the Actions and prevents respondents from just grading all aspects as “very effective”. The results show that tax experts favour anti-BEPS measures which provide more international coordination and approach aggressive and abusive tax schemes on a tax treaty level. Second, the results provide evidence that tax experts prefer traditional hard law instruments over soft law measures, probably because of the legal uncertainty concerns connected with soft law.

Focusing on the specific Actions, we find that hybrid mismatch arrangements and excessive interest deductions are viewed as being the most serious sources for BEPS. Also, a change in the international regulatory practice of transfer pricing issues (Actions 8; 9 and 10 which all rank above the median in the importance values at ranks 3; 2 and 5) is viewed by participants as essential to reducing base eroding and profit shifting behaviour. Third, experts view measures against harmful tax practices such as preferential tax treatments by countries and the enhancement of international transparency and information exchange on that matter, as very important (Action 5).

Of lesser importance are anti-treaty-abuse measures, further transparency on the taxpayer level and amendments to the definition of permanent establishment. In particular, the low importance of the latter may be driven by the Austrian perspective. Being a capital exporting country, a broader definition of the permanent establishment and the resulting exemption of its income would be disastrous to Austrian tax revenue.

With regard to hybrid mismatch arrangements, tax experts show a clear preference for the non-exemption of respective income for the recipient (instead of non-deduction of respective cost for the payor), which might contribute to the current discussion.

The results of this study provide noteworthy insights into the opinions of a very homogeneous group of tax experts that are concerned with international tax matters on a daily basis. Some of the results are not very surprising and are rather foreseeable; however these results are very valuable as they support some of the beliefs, theories and assumptions that form the basis for the proposals of

the Action Plan. Some of the results, on the other hand, such as the relative unimportance of the proposed changes to the definition of permanent establishment, are rather astonishing. Both the verification of the considerations of the Action Plan and the disaffirmation of the measures that are considered by the OECD as well as by prior literature as being important and effective are valuable findings. The results of this study could assist tax policymakers in deciding which Actions should be prioritized for implementation.

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**Table 1 – Adaptive Conjoint Analysis: Attributes and Levels**

Table 1 reports the operationalization of Actions of the OECD BEPS Action Plan for the conjoint analysis. The aims of the Actions are defined as attributes and the various options proposed by the Actions define the levels for the conjoint analysis.

Attribute	Levels	Action
<b>Neutralize the effects of hybrid mismatch arrangements</b>	Change the OECD Model Tax Convention to ensure that hybrid instruments and entities (incl. dual resident entities) are not used for treaty abuse	2
	Domestic law provisions that prevent exemption or non-recognition for payments that are deductible by the payer	2
	Domestic law provisions that deny a deduction for a payment that is not includible in income by the recipient	2
	Domestic law provisions that deny a deduction for a payment that is also deductible in another jurisdiction	2
<b>Strengthen CFC rules</b>	CFC rules that include only foreign passive income irrespective whether that income comes from a low-tax country or not	3
	CFC rules that include foreign passive income exclusively from a low-tax country	3
	CFC rules that include foreign passive and active income exclusively from a low-tax country	3
<b>Limit BEPS via interest deduction</b>	Domestic law provisions to restrict excessive interest deductions	4
	Transfer pricing guidelines regarding the pricing of related-party financial transactions	4
	Transfer pricing rules to ensure that inappropriate returns will not accrue to an entity solely because it has contractually assumed risks or has provided capital	9
<b>Counter harmful tax practices more effectively taking into account transparency and substance</b>	International transparency regarding preferential tax treatments (harmful tax competition)	5
	Introduce a requirement of substantial activity for any preferential regime	5
	Include non-OECD members in the compulsory spontaneous exchange on preferential regimes	5
<b>Prevent treaty abuse</b>	Clarify in the OECD Model Convention that tax treaties are not intended to be used to generate double non-taxation	6
	Develop domestic rules to prevent treaty abuse	6
<b>Prevent the artificial avoidance of PE status</b>	Change the definition of PE to prevent the artificial avoidance of PE status through the use of commissionaire arrangements	7
	Change the definition of PE to prevent the artificial avoidance of PE status through the specific activity exemptions	7
<b>Intangibles</b>	Adopt a broad and clearly delineated definition of intangibles	8
	Ensure that profits associated with the transfer and use of intangibles are appropriately allocated in accordance with value creation	8
	Develop transfer pricing rules or special measures for transfers of hard-to-value intangibles	8
	Update the guidance on cost contribution arrangements	8
<b>Transactions that would occur only very rarely between third parties</b>	Clarify the circumstances in which transactions that are not at arm's length can be recharacterized	10
	Clarify the application of transfer pricing methods in the context of global value chains	10
	Protect against common types of base eroding payments, such as management fees, if they are not at arm's length	10
<b>Tax transparency</b>	Develop mandatory disclosure rules for aggressive or abusive transactions	12
	Require that MNCs provide all relevant governments with needed information on their global allocation of income, economic activity and taxes paid (country-by-country reporting)	13
<b>Dispute resolution</b>	Facilitate access to mutual agreement procedures and arbitration	14
	Implement mandatory arbitration provisions in tax treaties	14

**Table 2 – Descriptive Statistics**

Table 2 reports descriptive statistics of the sample of 61 experts in international taxation from Austria who were surveyed using an online ACA questionnaire.

		Number	Percent
Gender	Male	43	70.49
	Female	18	29.51
Age	< 30 years	6	9.84
	30-49 years	33	54.10
	50-64 years	21	34.43
	> 64 years	1	1.64
Education level	High School	2	3.28
	Bachelor	3	4.92
	Master	21	34.43
	Doctorate	34	55.74
	other	1	1.64
Professional qualification (multiple answers possible)	Chartered accountant ( <i>Steuerberater</i> )	36	59.02
	Certified public accountant ( <i>Wirtschaftsprüfer</i> )	13	21.31
	Attorney ( <i>Rechtsanwalt</i> )	7	11.48
	none of the above	16	26.23
Occupation (multiple answers possible)	Accountant / auditor	38	62.30
	Attorney	9	14.75
	Industry / business	5	8.20
	Academia	10	16.39
	other	6	9.84
Job title	Assistant / consultant	3	4.92
	Senior assistant / senior consultant	3	4.92
	Manager	5	8.20
	Senior manager	6	9.84
	Partner	32	52.46
	Expert	8	13.11
	other	4	6.56
Experience	0-5 years	10	16.39
	6-15 years	23	37.70
	16-25 years	16	26.23
	> 25 years	12	19.67
Dealing with international tax matters	0%-25% (of weekly working hours)	15	24.59
	26%-50% (of weekly working hours)	21	34.43
	51%-75% (of weekly working hours)	13	21.31
	76%-100% (of weekly working hours)	12	19.67
Knowledge of the BEPS Action Plan	very good (read the Action Plan)	23	37.70
	good (informed through scientific / practitioners journals)	29	47.54
	somewhat (informed through general media)	5	8.20
	not at all	4	6.56

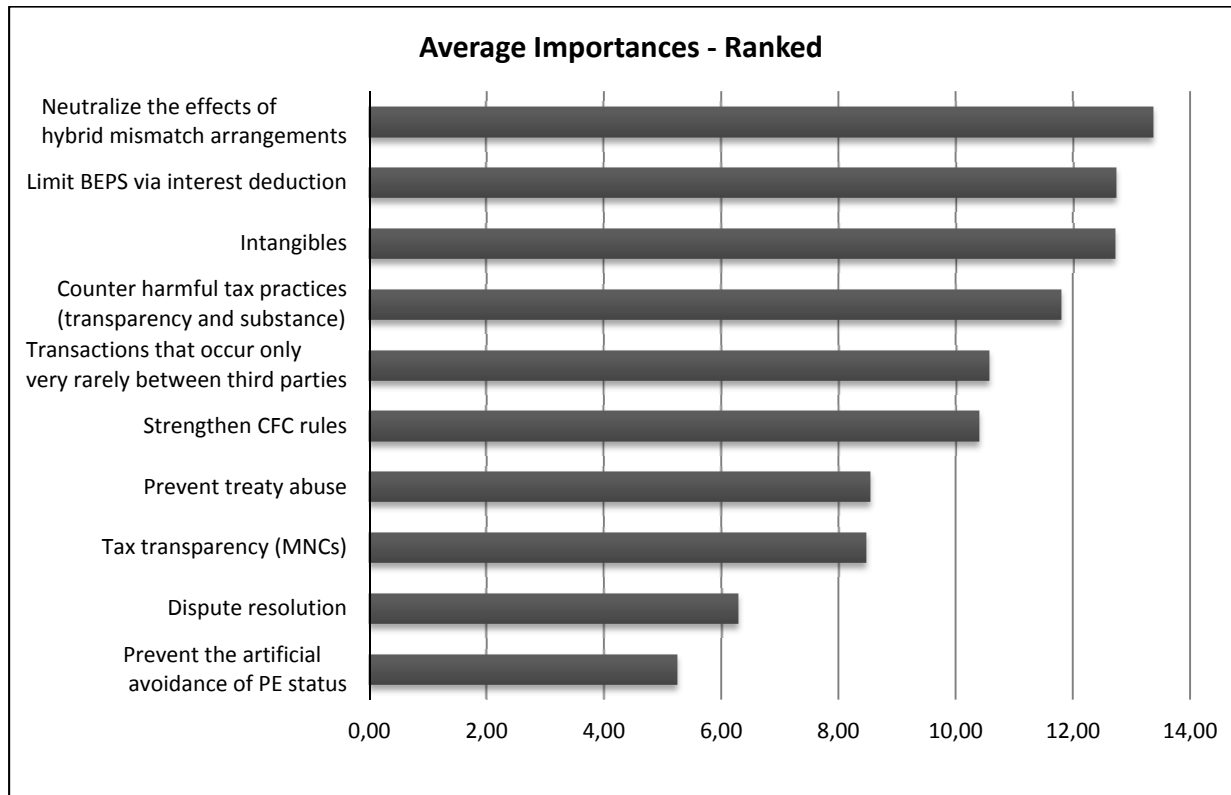
**Table 3 – Average Importances of Attributes**

Table 3 reports Average Importance Scores of Attributes of the OECD BEPS Action Plan and t-statistics from the sample of 61 experts in international taxation from Austria who were surveyed using an online ACA questionnaire. T-values significant at the 10%, 5% and 1% levels are marked with \*, \*\* and \*\*\*, respectively.

Action	Attributes	Average importances (%)	Std. dev.	Rank	t-value (p-value)	Diff to best
2	Neutralize the effects of hybrid mismatch arrangements	13.3530	5.7984	1	4.5164*** (0.0000)	0.0000
3	Strengthen CFC rules	10.3951	4.3731	6	0.7056 (0.4831)	-2.9579
4; 9	Limit BEPS via interest deduction	12.7120	4.8755	2	4.3444*** (0.0001)	-0.6410
5	Counter harmful tax practices (transparency and substance)	11.7864	5.2003	4	2.6829*** (0.0094)	-1.5667
6	Prevent treaty abuse	8.5250	5.1430	7	-2.2399** (0.0288)	-4.8280
7	Prevent the artificial avoidance of PE status	5.2325	3.8145	10	-9.7616*** (0.0001)	-8.1205
8	Intangibles	12.7005	5.0493	3	4.1771*** (0.0001)	-0.6526
10	Transactions that occur only very rarely between third parties	10.5529	4.3233	5	0.9988 (0.3219)	-2.8002
12; 13	Tax transparency (MNCs)	8.4686	5.1843	8	-2.3070** (0.0245)	-4.8844
14	Dispute resolution	6.2740	4.3017	9	-6.7650*** (0.0000)	-7.0790

**Figure 1 – Average Importances of Attributes (ranked)**

Figure 1 reports ranked Average Importance Scores of Attributes of the OECD BEPS Action Plan from the sample of 61 experts in international taxation from Austria who were surveyed using an online ACA questionnaire.



**Table 4 – Average Utilities of Levels**

Table 4 reports Average Utility Scores of Levels and t-statistics from the sample of 61 experts in international taxation from Austria who were surveyed using an online ACA questionnaire. T-values significant at the 10%, 5% and 1% levels are marked with \*, \*\* and \*\*\*, respectively.

Action	Attribute	Level	Average Utilities	Std. Dev.	t-value (p-value)
2	Hybrid mismatch arrangements	Changes to the OECD Model Tax Convention to ensure that hybrid instruments and entities are not used for treaty abuse	1.3023	81.3241	0.0299 (0.9763)
2		Domestic law provisions that prevent exemption or non-recognition for payments that are deductible by the payer	9.4423	38.2790	1.5918 (0.1167)
2		Domestic law provisions that deny a deduction for a payment that is not includible in income by the recipient	1.2031	51.7014	0.3923 (0.6962)
2		Domestic law provisions that deny a deduction for a payment that is also deductible in another jurisdiction	-11.9484	43.1312	-2.1178** (0.0383)
3	Strengthen CFC rules	CFC rules that include only foreign passive income irrespective whether that income comes from a low-tax country or not	-26.0467	36.1821	-5.8987*** (0.0000)
3		CFC rules that include foreign passive income exclusively from a low-tax country	36.8057	41.8882	7.0705*** (0.0000)
3		CFC rules that include foreign passive and active income exclusively from a low-tax country	-10.7590	40.1620	-2.1269** (0.0376)
4	Limit BEPS via interest deduction	Domestic law provisions to restrict excessive interest deductions	-27.3314	67.7472	-3.2656*** (0.0018)
4		Transfer pricing guidelines regarding the pricing of related-party financial transactions	10.9058	53.6733	1.7587* (0.0837)
9		Transfer pricing rules to ensure that inappropriate returns will not accrue to an entity solely because it has contractually assumed risks or has provided capital	16.4256	36.7035	3.6691*** (0.0005)
5	Counter harmful tax practices	International transparency regarding preferential tax treatments	-12.6065	39.9481	-2.5595** (0.0130)
5		Introduce a requirement of substantial activity for any preferential regime.	0.4604	68.3232	-0.0287 (0.9772)
5		Include non-OECD members in the compulsory spontaneous exchange on preferential regimes	12.1461	49.4140	2.0098** (0.0490)
6	Prevent treaty abuse	Clarify in the OECD Model Convention that tax treaties are not intended to be used to generate double non-taxation	-19.5880	46.0257	-2.9590** (0.0044)
6		Develop domestic rules to prevent treaty abuse	19.5880	46.0257	2.9590** (0.0044)
7	Prevent the artificial avoidance of PE status	Change the definition of PE to prevent the artificial avoidance of PE status through the use of commissionaire arrangements	-1.9485	32.4928	-0.6017 (0.5496)
7		Change the definition of PE to prevent the artificial avoidance of PE status through the specific activity exemptions	1.9485	32.4928	0.6017 (0.5496)
8	Intangibles	Adopt a broad and clearly delineated definition of intangibles	-14.8985	48.2283	-2.3231** (0.0236)
8		Ensure that profits associated with the transfer and use of intangibles are allocated in accordance with value creation	32.1635	53.1443	4.9048*** (0.0000)
8		Develop transfer pricing rules or special measures for transfers of hard-to-value intangibles	-3.6763	43.4989	-0.5244 (0.6019)
8		Update the guidance on cost contribution arrangements	-13.5886	50.2144	-2.5980** (0.0118)
10	Transactions that occur only very rarely between third parties	Clarify the circumstances in which transactions that are not at arm's length can be recharacterized	2.6066	37.6075	0.1356 (0.8926)
10		Clarify the application of transfer pricing methods in the context of global value chains	10.1935	49.1518	1.8269* (0.0727)
10		Protect against common types of base eroding payments, such as management fees, if they are not at arm's length	-12.8000	53.8828	-1.7594* (0.0836)
12	Tax transparency	Develop mandatory disclosure rules for aggressive or abusive transactions	-27.4954	41.5471	-5.2472*** (0.000)
13		Require that MNCs provide all relevant governments with necessary information on their global allocation of income, economic activity and taxes paid (country-by-country reporting)	27.4954	41.5471	5.2472*** (0.000)
14	Dispute resolution	Facilitate access to mutual agreement procedures and arbitration	-13.3680	35.7968	-2.4592** (0.0168)
14		Implement mandatory arbitration provisions in tax treaties	13.3680	35.7968	2.4592** (0.0168)



**Table 5 – T-tests across Attributes**

Table 5 reports t-values of 2-tailed, pairwise t-tests of the differences between average attribute importance scores reported in Table 3 from the sample of 61 experts in international taxation from Austria who were surveyed using an online ACA questionnaire. These tests compare each attribute importance score with each other attribute importance score. T-values significant at the 10%, 5% and 1% levels are marked with \*, \*\* and \*\*\*, respectively.

Attributes  paired t-test N = 61 DF = 60 t-value; p-value in parentheses; ***, ** and * indicate 1%, 5% and 10% significant levels	Hybrid mismatch arrangements	Strengthen CFC rules	Limit BEPS via interest deduction	Counter harmful tax practices	Prevent treaty abuse	Prevent the artificial avoidance of PE status	Intangibles	Transactions that rarely occur between third parties	Tax transparency
Strengthen CFC rules	2.9973*** (0.0040)								
Limit BEPS via interest deduction	0.5776 (0.5657)	-2.5782** (0.0124)							
Counter harmful tax practices	1.5723 (0.1212)	-1.5397 (0.1289)	1.0041 (0.3194)						
Prevent treaty abuse	4.4186*** (0.0000)	2.0578** (0.0440)	4.7331*** (0.0000)	3.1115*** (0.0028)					
Prevent the artificial avoidance of PE status	8.8867*** (0.0000)	6.9057*** (0.0000)	8.7190*** (0.0000)	8.1661*** (0.0000)	3.6101*** (0.0006)				
Intangibles	0.6291 (0.5317)	-2.4108** (0.0190)	0.0119 (0.9905)	-0.8346 (0.4072)	-4.5164*** (0.0000)	-9.7907*** (0.0000)			
Transactions that rarely occur between third parties	2.7562*** (0.0077)	-0.1898 (0.8501)	2.7937*** (0.0070)	1.3001 (0.1986)	-2.0806** (0.0417)	-7.1761*** (0.0000)	2.6100** (0.0114)		
Tax transparency	4.2344*** (0.0001)	2.1554** (0.0352)	4.5791*** (0.0000)	3.3970*** (0.0012)	0.0581 (0.9539)	-3.5367*** (0.0008)	4.5452*** (0.0000)	2.3612** (0.0215)	
Dispute resolution	8.5632*** (0.0000)	5.3836*** (0.0000)	6.6620*** (0.0000)	6.1026*** (0.0000)	2.7038*** (0.0089)	-1.2927 (0.2011)	6.7379*** (0.0000)	5.0234*** (0.0000)	2.3460** (0.0223)

**Table 6 – T-Tests levels within attributes**

Table 6 reports t-values of 2-tailed, pairwise t-tests of the differences between level utility values reported in Table 4 from the sample of 61 experts in international taxation from Austria who were surveyed using an online ACA questionnaire for each attribute. These tests compare each level utility value score with each other level utility value score within the same attribute. T-values significant at the 10%, 5% and 1% levels are marked with \*, \*\* and \*\*\*, respectively.

**Panel A**

<p><b>Levels - Action 2</b> paired t-test N = 61 degrees of freedom = 60 t-value; p-value in parentheses; ***, ** and * indicate 1%, 5% and 10% significant levels</p>	<p>Model Tax Convention to ensure that hybrid instruments and entities are not used for treaty abuse</p>	<p>Domestic law provisions that prevent exemption or non-recognition for payments that are deductible by the payer</p>	<p>Provisions that deny a deduction for a payment that is not includible in income by the recipient</p>
Domestic law provisions that prevent exemption or non-recognition for payments that are deductible by the payer	-0.5543 (0.5814)		
Domestic law provisions that deny a deduction for a payment that is not includible in income by the recipient	-0.1413 (0.8881)	0.6813 (0.4983)	
Domestic law provisions that deny a deduction for a payment that is also deductible in another jurisdiction	0.7942 (0.4302)	2.5390** (0.0137)	1.7610* (0.0833)

**Panel B**

<p><b>Levels - Action 3</b> paired t-test N = 61 degrees of freedom = 60 t-value; p-value in parentheses; ***, ** and * indicate 1%, 5% and 10% significant levels</p>	<p>CFC rules that include only foreign passive income irrespective of whether that income comes from a low-tax country or not</p>	<p>CFC rules that include foreign passive income exclusively from a low-tax country</p>
CFC rules that include foreign passive income exclusively from a low-tax country	-7.5514*** (0.0000)	
CFC rules that include foreign passive and active income exclusively from a low-tax country	-2.0332** (0.0465)	5.2013*** (0.0000)

**Panel C**

<p><b>Levels - Action 4</b> paired t-test N = 61 degrees of freedom = 60 t-value; p-value in parentheses; ***, ** and * indicate 1%, 5% and 10% significant levels</p>	<p>Domestic law provisions to restrict excessive interest deductions</p>	<p>Transfer pricing guidelines regarding the pricing of related-party financial transactions</p>
Transfer pricing guidelines regarding the pricing of related-party financial transactions	-2.6866*** (0.0093)	
Transfer pricing rules to ensure that inappropriate returns will not accrue to an entity solely because it has contractually assumed risks or has provided capital	-3.7455*** (0.0004)	-0.5019 (0.6176)

**Panel D**

<p><b>Levels - Action 5</b> paired t-test N = 61 degrees of freedom = 60 t-value; p-value in parentheses; ***, ** and * indicate 1%, 5% and 10% significant levels</p>	<p>International transparency regarding preferential tax treatments</p>	<p>Introduce a requirement of substantial activity for any preferential regime</p>
Introduce a requirement of substantial activity for any preferential regime	-0.9682 (0.3368)	
Include non-OECD members in the compulsory spontaneous exchange on preferential regimes	-3.5052*** (0.0009)	-0.8987 (0.3724)

**Table 7 - T-Tests levels within attributes**

Table 7 reports t-values of 2-tailed, pairwise t-tests of the differences between level utility values reported in Table 4 from the sample of 61 experts in international taxation from Austria who were surveyed using an online ACA questionnaire for each attribute. These tests compare each level utility value score with each other level utility value score within the same attribute. T-values significant at the 10%, 5% and 1% levels are marked with \*, \*\* and \*\*\*, respectively.

**Panel A**

Levels - Action 6, 7, 12, 13, 14 paired t-test N = 61 degrees of freedom = 60 t-value; p-value in parentheses; ***, ** and * indicate 1%, 5% and 10% significant levels	Action 6: Level 1 Clarify in the OECD Model Convention that tax treaties are not intended to be used to generate double non-taxation	Action 7: Level 1 Change the definition of PE to prevent the artificial avoidance of PE status through the use of commissioner arrangements	Action 12 Develop mandatory disclosure rules for aggressive or abusive transactions	Action 14: Level 1 Facilitate access to mutual agreement procedures and arbitration
Action 6: Level 2 Develop domestic rules to prevent treaty abuse	-2.9590*** (0.0044)			
Action 7: Level 2 Change the definition of PE to prevent the artificial avoidance of PE status through the specific activity exemptions		-0.6017 (0.5496)		
Action 13 Require that MNCs provide all relevant governments with necessary information on their global allocation of income, economic activity and taxes paid (country-by-country reporting)			-5.2472*** (0.0000)	
Action 14: Level 2 Implement mandatory arbitration provisions in tax treaties				-2.4592** (0.0168)

**Panel B**

Levels - Action 8 paired t-test N = 61 degrees of freedom = 60 t-value; p-value in parentheses; ***, ** and * indicate 1%, 5% and 10% significant levels	Adopt a broad and clearly delineated definition of intangibles	Ensure that profits associated with the transfer and use of intangibles are allocated in accordance with value creation	Develop transfer pricing rules or special measures for transfers of hard-to-value intangibles
Ensure that profits associated with the transfer and use of intangibles are allocated in accordance with value creation	-4.2848*** (0.0001)		
Develop transfer pricing rules or special measures for transfers of hard-to-value intangibles	-1.1881 (0.2395)	3.9533*** (0.0002)	
Update the guidance on cost contribution arrangements	0.1551 (0.8772)	4.3496*** (0.0001)	1.4013 (0.1663)

**Panel C**

Levels - Action 10 paired t-test N = 61 degrees of freedom = 60 t-value; p-value in parentheses; ***, ** and * indicate 1%, 5% and 10% significant levels	Clarify the circumstances in which transactions that are not at arm's length can be recharacterized	Clarify the application of transfer pricing methods in the context of global value chains
Clarify the application of transfer pricing methods in the context of global value chains	-1.2297 (0.2236)	
Protect against common types of base eroding payments, such as management fees, if they are not at arm's length	1.2674 (0.2099)	1.9215* (0.0594)

**Table 8 – Average Importances of Attributes – Sub-samples**

Table 8 reports results for five sub-samples, including participants with high knowledge of the BEPS Action Plan (Sub-sample 1), a high allotment of regular working hours spent with international tax matters (Sub-sample 2), long-lasting professional experience (Sub-sample 3), participants in the rank of Partner (Sub-sample 4 – next page) or Partner or Senior Manager (Sub-sample 5 – next page). T-values of the subsamples and t-values of 2-tailed, pairwise t-tests of the differences between the sub-sample and the full sample for each attribute significant at the 10%, 5% and 1% levels are marked with \*, \*\* and \*\*\*, respectively.

Action	Attributes	Sub-sample – Knowledge of BEPS Action Plan (N=52)				Sub-sample – Dealing with international tax matters > 50% (N=25)				Sub Sample – Experience > 15 years (N=28)			
		Average Importances (%)	Rank (Rank full sample)	t-value (p-value)	t-value (p-value) Full vs. Sub-Sample	Average Importances (%)	Rank (Rank full sample)	t-value (p-value)	t-value (p-value) Full vs Sub-Sample	Average Importances (%)	Rank (Rank full sample)	t-value (p-value)	t-value (p-value) Full vs Sub-Sample
2	Neutralize the effects of hybrid mismatch arrangements	13.71219	1 (1)	4.4743*** (0.0000)	0.4329 (0.6669)	13.32826	1 (1)	2.9985*** (0.0062)	-0.0223 (0.9824)	11.60204	4 (1)	1.7712* (0.0878)	-1.9359* (0.0634)
3	Strengthen CFC rules	10.35428	6 (6)	0.5963 (0.5536)	-0.0687 (0.9455)	10.64109	6 (6)	0.7348 (0.4696)	0.2819 (0.7804)	10.32072	7 (6)	0.4380 (0.6649)	-0.1016 (0.9199)
4; 9	Limit BEPS via interest deduction	12.74381	3 (2)	4.1932*** (0.0001)	0.0486 (0.9614)	12.55584	2 (2)	2.9698*** (0.0067)	-0.1815 (0.8575)	13.88481	1 (2)	4.2216*** (0.0002)	1.2745 (0.2134)
5	Counter harmful tax practices (transparency and substance)	11.53126	4 (4)	2.0512** (0.0454)	-0.3417 (0.7340)	11.75559	5 (4)	1.5793 (0.1273)	-0.0277 (0.9781)	12.45008	2 (4)	2.1044** (0.0448)	0.5701 (0.5733)
6	Prevent treaty abuse	7.91121	8 (7)	-2.942*** (0.0049)	-0.8645 (0.3914)	8.33972	8 (7)	-1.6546 (0.1110)	-0.1847 (0.8550)	8.39415	8 (7)	-2.0995** (0.0453)	-0.1777 (0.8654)
7	Prevent the artificial avoidance of PE status	5.41453	10 (10)	-8.596*** (0.0000)	0.3412 (0.7343)	5.434885	10 (10)	-6.451*** (0.0000)	0.2860 (0.7773)	3.88610	10 (10)	-12.718*** (0.0000)	-2.8008*** (0.0093)
8	Intangibles	12.95564	2 (3)	3.9879*** (0.0002)	0.3443 (0.7320)	12.88744	3 (3)	2.2820*** (0.00316)	0.1478 (0.8838)	12.2412	3 (3)	2.4651** (0.0203)	-0.502 (0.6175)
10	Transactions that occur only very rarely between third parties	10.6492	5 (5)	1.0531 (0.2973)	0.1563 (0.8765)	10.77111	4 (5)	0.8226 (0.4188)	0.2328 (0.8179)	10.6778	6 (5)	0.8637 (0.3954)	0.1592 (0.8747)
12; 13	Tax transparency (MNCs)	8.52711	7 (8)	-2.043** (0.0462)	0.0811 (0.9357)	8.37037	7 (8)	-1.5973 (0.1233)	-0.0963 (0.9241)	10.8994	5 (8)	1.0044 (0.3241)	2.7146** (0.0114)
14	Dispute resolution	6.2007	9 (9)	-6.322*** (0.0000)	-0.1218 (0.9035)	5.91568	9 (9)	-4.969*** (0.0000)	-0.4360 (0.6667)	5.6437	9 (9)	-6.845*** (0.0000)	-0.9903 (0.3308)

**Table 8 – Average Importances of Attributes – Sub-samples cont’d**

Table 8 reports results for five sub-samples, including participants with high knowledge of the BEPS Action Plan (Sub-sample 1 – previous page), a high allotment of regular working hours spent with international tax matters (Sub-sample 2 – previous page), long-lasting professional experience (Sub-sample 3 – previous page), participants in the rank of Partner (Sub-sample 4) or Partner or Senior Manager (Sub-sample 5). T-values of the subsamples and t-values of 2-tailed, pairwise t-tests of the differences between the sub-sample and the full sample for each attribute significant at the 10%, 5% and 1% levels are marked with \*, \*\* and \*\*\*, respectively.

Action	Attributes	Sub-sample – Partner (N=32)				Sub-sample – Partner and senior manager (N=38)			
		Average Importances (%)	Rank (Rank full sample)	t-value (p-value)	t-value (p-value) Full vs Sub-Sample	Average Importances (%)	Rank (Rank full sample)	t-value (p-value)	t-value (p-value) Full vs Sub-Sample
2	Neutralize the effects of hybrid mismatch arrangements	10.73528	4 (1)	1.0332 (0.3095)	-3.678*** (0.0009)	11.34697	4 (1)	1.8722* (0.0691)	-2.7882*** (0.0083)
3	Strengthen CFC rules	10.55583	6 (6)	0.7697 (0.4473)	0.2226 (0.8253)	10.66358	6 (6)	1.0814 (0.2865)	0.4375 (0.6643)
4; 9	Limit BEPS via interest deduction	14.09979	1 (2)	4.5971*** (0.0001)	1.5561 (0.1298)	13.74582	1 (2)	4.7577*** (0.0000)	1.3131 (0.1972)
5	Counter harmful tax practices (transparency and substance)	12.42349	3 (4)	2.4235** (0.0214)	0.6371 (0.5287)	11.82219	3 (4)	2.0380** (0.0487)	0.0401 (0.9683)
6	Prevent treaty abuse	8.85488	8 (7)	-1.3348 (0.1917)	0.3845 (0.7032)	8.70618	8 (7)	-1.5880 (0.1208)	0.2223 (0.8253)
7	Prevent the artificial avoidance of PE status	4.66761	10 (10)	-9.184*** (0.0000)	-0.9730 (0.3381)	4.64686	10 (10)	-10.262*** (0.0000)	-1.1227 (0.2688)
8	Intangibles	12.59077	2 (3)	2.8578*** (0.0076)	-0.1210 (0.9045)	12.48988	2 (3)	3.1445*** (0.0033)	-0.2660 (0.7917)
10	Transactions that occur only very rarely between third parties	10.72663	5 (5)	1.0395 (0.3066)	0.2486 (0.8053)	11.07416	5 (5)	1.5339 (0.1336)	0.7444 (0.4613)
12; 13	Tax transparency (MNCs)	9.90248	7 (8)	-0.1097 (0.9133)	1.6135 (0.1168)	9.70218	7 (8)	-0.3445 (0.7324)	1.4269 (0.1620)
14	Dispute resolution	5.44323	9 (9)	-6.143*** (0.0000)	-1.1200 (0.2713)	5.80216	9 (9)	-5.7587*** (0.0000)	-0.6473 (0.5215)