

# Good Tax Governance and Trade: A case study of the Samoa Agreement (replacing the EU- ACP Cotonou Agreement)

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# EU Strategy in direct taxation

## **2016 EU Anti-Tax Avoidance Package**

Goal: Fairer, simpler and more effective corporate taxation in the EU

Some measures

- Communication on an External Strategy for Effective Taxation

The External Strategy presents a stronger and more coherent EU approach to working with third countries on tax good governance matters.

It also sets out a process to create a common EU list of third countries for tax purposes.

# EU Standard of Tax Good Governance

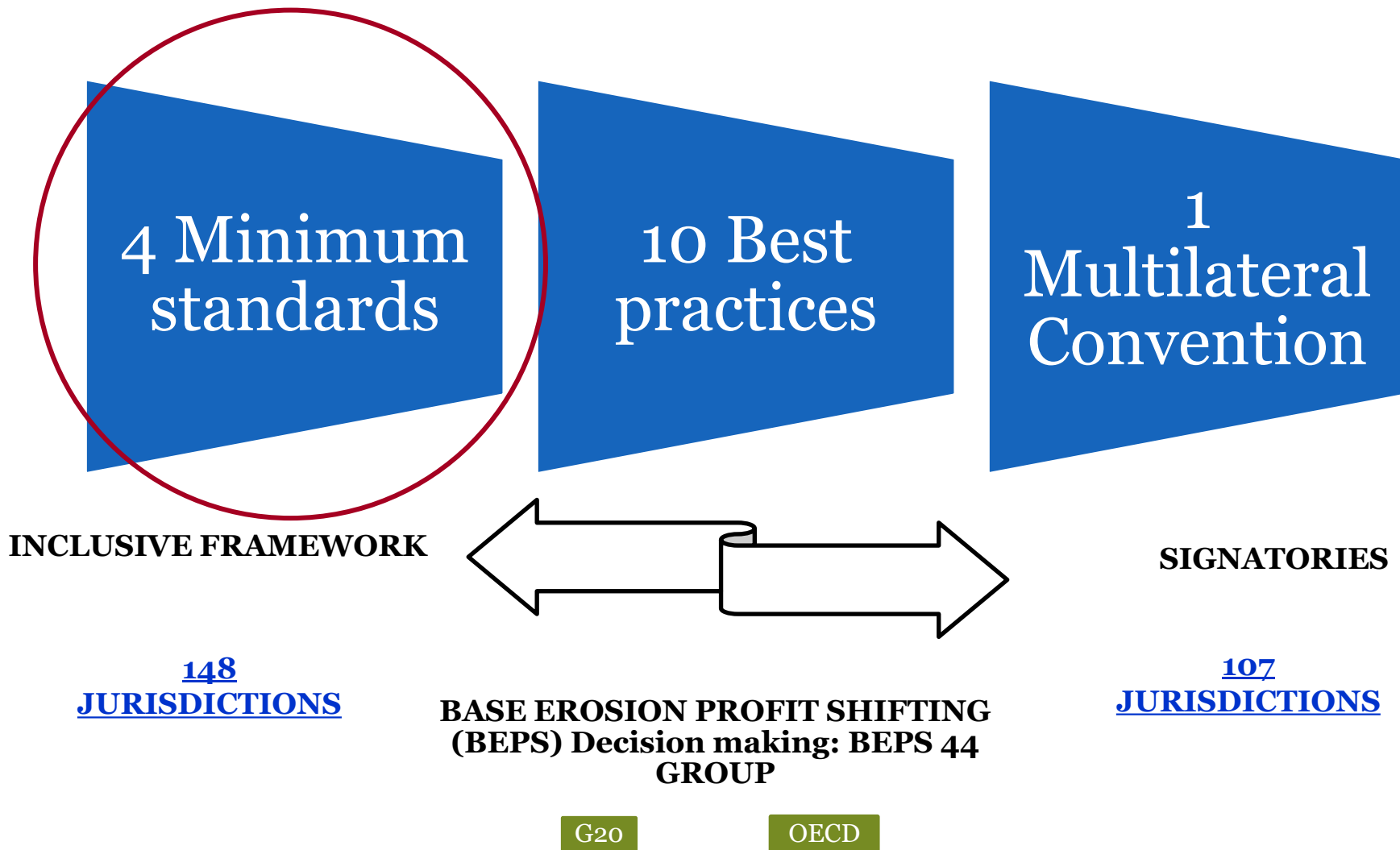
- ❑ ECOFIN Council: 2008 Standard of Tax Good Governance: Transparency, exchange of information, fair tax competition. In 2018 BEPS 4 Actions.

# Tax Initiatives

1. Financial crisis: Need for revenue, and to tackle tax evasion and bank secrecy. Exchange of Information: On request and then automatic (financial account information). [Global Transparency Forum 173 tax jurisdictions](#)
2. BEPS tackle base erosion and profit shifting by multinationals 148 tax jurisdictions
3. The EU list of non-cooperative jurisdictions for tax purposes is part of the EU's work to fight tax evasion and avoidance. It is composed of countries which have failed to fulfil their commitments to comply with tax good governance criteria within a specific timeframe, and countries which have refused to do so.

Countries listed (as of February 2026) American Samoa, Anguilla, Guam, Palau, Panama, Russia, Turks and Caicos Islands, US Virgin Islands, Vanuatu, Viet Nam [Link here](#)

# TAX GOVERNANCE – OECD and G20



# TAX GOVERNANCE: EU AND THIRD COUNTRIES

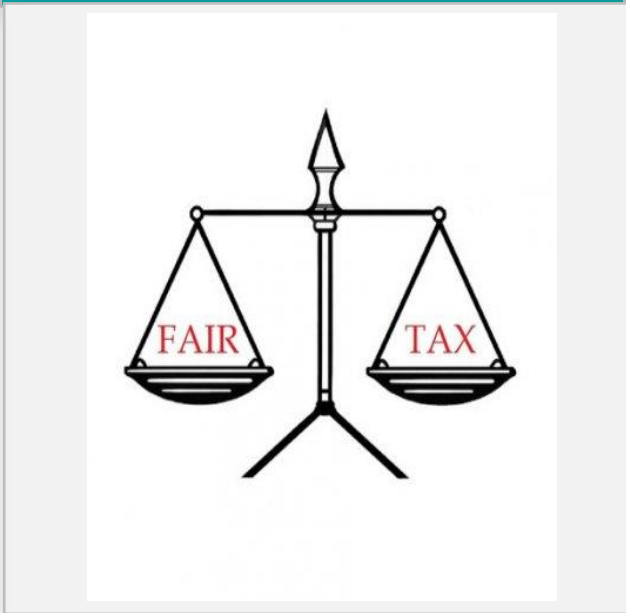
## Anti-Tax Avoidance Directives



## State Aid Investigations



## Fair Tax Competition



# Legitimacy deficits

- Scholars, civil society and countries have expressed in articles and meetings at international and regional level their concerns regarding the legitimacy of the EOI and BEPS Project vis-à-vis non-OECD, non-G20 countries.
- Participation Global Transparency Forum and BEPS Inclusive Framework – Content and coordination with tax administrations of countries regarding decisions/discussions at the BEPS Inclusive Framework. More time to be given to staff preparation for meetings.
- Participation Peer Review Minimum Standards – How to make it effective, and also to contribute to exchange of best practices.

# EU Standard of Tax Good Governance

MOSQUERA VALDERRAMA, I.J. [The EU standard of good governance in tax matters for third \(non-EU\) countries. Intertax](#)

# Role EU

EU role in the formation of international law – proactive co-shaping of the international legal order alongside other actors (*Kochenov and Amtenbrink, 2013*)

## In taxation

- Standard: Improve international tax cooperation and facilitate the collection of legitimate tax revenues. To promote fair taxation: central to the EU's social and economic model and its sustainability. EU as a major political and economic player internationally: **To support BEPS (smooth and timely implementation) in the single market and internationally**

# EU and standard of good governance in tax matters

*“The Parties recognise and commit themselves to implement the principles of good governance in the tax area, including the global standards on transparency and exchange of information, fair taxation, and the minimum standards against Base Erosion and Profit Shifting (BEPS). The Parties will promote good governance in tax matters, improve international cooperation in the tax area and facilitate the collection of legitimate tax revenues”.*

Council of the European Union, Council Conclusions on the ‘EU Standard Provision on Good Governance in Tax Matters for Agreements with Third Countries, FISC 180, ECOFIN 364 (26 Apr. 2018), <http://data.consilium.europa.eu/doc/document/ST-8344-2018-INIT/en/pdf>

# EU and standard of good governance in tax matters

**Standard can be introduced in:**

- For third (non-EU countries) strategic partnership agreement: Legally binding framework for cooperation
- For third (non-EU countries) a coordinated tax clause that should be included in free trade agreements that the EU concludes with third countries
- For third (non-EU countries) relevant agreements, without prejudice to their respective competences. Thus trade and strategic partnership but also other areas (aid, cooperation)

# **EU Standard of good governance in tax matters**

*The Commission has since tabled the **updated clause in all relevant new and ongoing negotiations, several of which are in the process of being successfully concluded.***

*The Commission will continue to insist on the inclusion of the tax good governance clause in all relevant future negotiations on international agreements.*

***In the event that a third country refuses to accept the clause, or insists on changing it to the extent that it no longer serves the intended purpose, the Commission and Member States must consider the appropriate response. Such countries could be scrutinised under the EU listing exercise.***

# EU Standard of good governance in tax matters

*Another important way in which the EU promotes fairness in tax matters is through a **tax good governance clause in relevant international agreements with third countries**. The European Parliament considers the tax good governance clause to be one of the “core instruments of EU external policy” (TAXE 3 report, 26/03/2019) and has repeatedly called for it to be systematically included in any relevant EU agreements with third countries and regions.*

*In the 2016 External Strategy, the Commission suggested **updating and strengthening the standard good governance clause, to align it with the latest international norms**. Member States endorsed a new text in May 2018 and confirmed that such wording should be included in all relevant international agreements.*

# EU Standard of good governance in tax matters

- 2020 [Tax Good Governance in the EU and beyond](#)

*Tax good governance is the foundation on which fair taxation is built. Broadly, tax good governance encompasses tax transparency, fair tax competition, the absence of harmful tax measures and the application of internationally agreed standards.*

# Agreements between EU and Africa

# QUESTIONS

- ❖ What is the purpose of the Standard of Tax Good Governance? And still valid to be included in Agreements?
- ❖ Does the new Samoa Agreement reflect the new changes in geopolitics as well as in global governance?
- ❖ Is the Samoa Agreement a good declaration of intentions but without any effectiveness? And if so, should the Samoa Agreement be terminated?
- ❖ How to deal with tax, trade and investment provisions including climate deal, competitiveness, tackling tax avoidance, and addressing SDG Agenda including the 2063 African Development Agenda?
- ❖ Should we work in silos (tax vs. trade vs. investment)?
- ❖ To address climate change and sustainable economic growth and development is a more comprehensive approach desired for instance regarding the influence of the Cross-border mechanism adjustment mechanism (CBAM) in Africa: emission, digitalization, use of data centers.

See Workshop Impact of Carbon Border Adjustment Mechanism (CBAM) and AI on Sustainable Development in Asia 1-2 October [ [Programme with slides](#) ] [Recording Day 1](#) – [Recording day 2](#)

# **Other Agreements with African countries .**

# EU SADC EPA

EU-Southern Africa Development Community Partnership Agreement. Link [here](#)

## Article 19 Cooperation on tax governance

- The Parties recognise the importance of cooperation on the principles of good governance in the area of taxation through the relevant authorities.
- Article 99 Taxation
  1. Nothing in this Agreement, or in any arrangement adopted under this Agreement, shall be construed to prevent either Party from distinguishing, in the application of the relevant provisions of their fiscal legislation, between taxpayers who are not in the same situation, in particular with regard to their place of residence or with regard to the place where their capital is invested.
  2. Nothing in this Agreement, or in any arrangement adopted under this Agreement, shall be construed to prevent the adoption or enforcement of any measure aimed at preventing the avoidance or evasion of taxes pursuant to the tax provisions of agreements to avoid double taxation or other tax arrangements or domestic fiscal legislation.
  3. Nothing in this Agreement shall affect the rights and obligations of either Party under any tax convention. In the event of any inconsistency between this Agreement and any such convention, that convention shall prevail to the extent of the inconsistency.

# EU-South Africa (trade)

- On 20 November 2025, the EU and South Africa signed the **first-ever Clean Trade and Investment Partnership (CTIP)**, building on the EU-SADC EPA
- The Clean Industrial Deal, the EU's roadmap for competitiveness and decarbonisation
- The agreement will focus on investment, the clean energy transition, skills and technology, and on developing strategic industries along the entire supply chain. The EU-South Africa CTIP will be accompanied by a Global Gateway investment package worth €4.7 billion.
- CTIP are a new instrument in the EU's trade policy toolbox – to bolster the EU's competitiveness, diversify supply chains and boost economies.
- Memorandum of Understanding CTIP [here](#) Link EU Parliament Paper [here](#)
- See Also [\*\*Analyzing the role of EU's Clean Trade and Investment Partnerships \(CTIP\) in Sustainable Investment and its Impact on Corporations in the Global South AND How EU Clean Trade and Investment Partnerships Can Foster Sustainable Investment Governance\*\*](#)

# EU-Angola (investment)

- 1 September 2024, the EU-Angola Sustainable Investment Facilitation Agreement (SIFA) – the first ever EU agreement on investment facilitation – entered into force. Link [here](#)
- This agreement aims to foster a more transparent, predictable and efficient investment climate in Angola, and therefore encourage increased sustainable investment by EU businesses in Angola.
- Reference to the Cotonu Agreement (no yet to Samoa Agreement)
- No reference to 2063 African Development Agenda, yes to the 2030 SDG Agenda.

Discussions with Cameroon, Côte d'Ivoire and Ghana and on SIFA agreements are under way.

# EU-Angola (investment) & tax

- Article 5 Measures against corruption and other illegal activities
- *1. The Parties recognise the negative impact of corruption, money laundering, terrorism financing, **tax fraud and tax evasion** on economies and societies, including the impeding of sustainable development and discouraging of investment.*
- *2. Each Party confirms its commitment to take adequate measures to prevent and fight corruption, money laundering, terrorism financing, tax fraud and tax evasion, with regard to matters covered by this Agreement, in accordance with internationally agreed standards that have been endorsed or are supported by that Party, such as the United Nations Convention against Corruption adopted by the United Nations General Assembly on 31 October 2003 and the Organisation for Economic Co-operation and Development (hereinafter referred to as "OECD") Guidelines for Multinational Enterprises of 2011, as well as the **current standards in the field of international taxation***

# EU – KENYA (EPA) & Tax

## EU-KENYA

The EU and Kenya concluded negotiations for an Economic Partnership Agreement (EPA) on 19 June 2023. [Link](#)

### *ARTICLE 21*

#### *Good Governance in the Tax Area*

*The Parties recognise the importance of cooperation on the principles of good governance in the area of taxation through the relevant authorities in line with their respective national laws and regulations.*

# EU – KENYA (EPA) & Tax

## *ARTICLE 130 Taxation*

*1. Nothing in this Agreement, or in any arrangement adopted under this Agreement, shall be construed to prevent a Party **from distinguishing, in the application of the relevant provisions of its fiscal legislation, between taxpayers who are not in the same situation**, in particular with regard to their place of residence or with regard to the place where their capital is invested.*

*2. Nothing in this Agreement, or in any arrangement adopted under this Agreement, shall be construed to prevent the adoption or enforcement of any measure aimed at preventing the avoidance or evasion of taxes pursuant to the **tax provisions of agreements to avoid double taxation** or other tax arrangements or domestic fiscal legislation.*

*3. **Nothing in this Agreement shall affect the rights and obligations of the Parties under any tax convention.** In the event of any inconsistency between this Agreement and any such convention, that convention shall prevail to the extent of the inconsistency.*

# The Samoa Agreement (Post-Cotonu Agreement)

MOSQUERA VALDERRAMA I.J. and DEBELVA F. [The Legal Transplant of EU Standards in Taxation: A case study of the ACP Post-Cotonu Agreement in Redefining Global Governance: A Tax, Trade and Investment Perspective in the EU and beyond. Eds. I. Mosquera Valderrama, A. Christians, J. Chaisse and F. Heitmüller. Springer Publications.](#)

# EU Standard in Agreements

## EU-ACP

### June 2018 EU Negotiating Directives

#### Strategic priorities

- The Agreement will include provisions to support legislation and initiatives addressing all forms of corruption, introduce more transparency and accountability over public funding and in the delivery of public services, improve revenue collection, tackle tax evasion and avoidance, money laundering and illicit financial flows and meet **global tax governance standards**. In this regard, particular attention will be given to the proper use of financial external assistance.

**April 2020**, the ACP Group of States became an international organisation: the Organisation of African, Caribbean and Pacific States (OACPS).

South Africa left the Samoa Agreement and decided to go a bilateral negotiation.

# Good Tax Governance in Samoa Agreement

## EU-ACP

The EU and OACPS chief negotiators concluded their negotiations on 15 April 2021. [Text Agreement](#) More than 40 references to tax.

### Art. 12 Good Governance

*6. The Parties recognise and commit themselves to implementing the principles of good governance in the tax area, including the global standards on **transparency and exchange of information, fair taxation and the minimum standards against Base Erosion and Profit Shifting (BEPS)**. They shall promote good governance in tax matters, improve international cooperation in the tax area and facilitate the collection of tax revenues. They shall cooperate to enhance capacity to comply with those principles and standards and reap the benefits of a thriving rules-based financial sector. They agree to engage in timely partnership dialogue at bilateral and international levels on tax matters.*

# Good Tax Governance in Samoa Agreement

## Art. 12 Good Governance

*4. The Parties shall ensure transparency and accountability in public funding, including financial assistance, and in the delivery of public services. **They shall improve revenue collection and tackle tax evasion and avoidance and illicit financial flows.** They agree to cooperate in the fight against money laundering and terrorism financing and engage in timely partnership dialogue at bilateral and international levels on matters related to anti-money laundering and terrorism financing.*

# Tax provisions in Samoa Agreement

More provisions on tax:

Art. 10 Enables of Economic Development: Effective and predictable tax systems

Art. 20 Extractive Industries and Processing: tax fraud, tax evasion and source taxation

Art. 35 Public Finance and Financial Governance: Effectiveness, transparency of tax systems, and tackling tax avoidance through bilateral and multilateral consultations

Art. 41 Financial Governance: Good Governance, effectiveness, efficiency, transparency and fairness of tax systems

Art. 83 Domestic Public Resources: Modernize tax systems and strengthen tax administrations.

# EU Standard in Samoa Agreement

However: Legitimacy and Feasibility concerns regarding these provisions.

- ❑ How these provisions will be effectively implemented in the tax systems of ACP Countries? Diversity (including small island developing states), different tax systems as well as different needs and capacities constrain. Law in the books vs. law in action?
- ❑ Are these provisions legitimate since EOI, BEPS are only soft law and countries may or may not decide to participate in these initiatives (soft law); however, by introducing it in a partnership agreement, not clear for whom these provisions will be applicable (EU investors? EU countries? African countries?) and legitimate have these countries have participated in the EOI and BEPS and if not, then, why to commit to them now throughout this agreement?

# EU Standard in Samoa Agreement

Legitimacy and Feasibility concerns.

- ❑ How are these provisions linked to trade, development and investment? Yes to 2030 SDG Agenda, but to the 2063 African Development Agenda? Only economic development (art. 10) and what about digital divide and digital development.
- ❑ <https://globtaxgov.weblog.leidenuniv.nl/2025/04/14/tax-and-digital-development-in-the-2025-financing-for-development-conference/>
- ❑ More trade? More Investment? See extractive industries proposal which does not align with reality (stabilization clauses in extractive industry).

# EU Standard in Samoa Agreement

## Legitimacy and Feasibility concerns

- ❑ Environmental Cross-Border Adjustment Mechanism consequences for ACP countries
  - ❑ In operation since 1 January 2026, the CBAM puts a price on carbon emitted during production of imported goods in the most carbon-intensive sectors: iron and steel, cement, fertilisers, aluminium, electricity and hydrogen, and encourages cleaner industrial production in non-EU countries. Some countries see it as a protective measure from EU. Not in the agreement.
- ❑ Geopolitics: List of non-cooperative jurisdictions: Palau en Vanuatu? But would there be a list of EU non-cooperative jurisdictions 2019 attempts by EU Parliament link [here](#) (listed Netherlands, Malta, Luxembourg, Cyprus and Ireland)