

# International tax challenges for Asia and the G20: Competition and coordination

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# Three international tax challenges

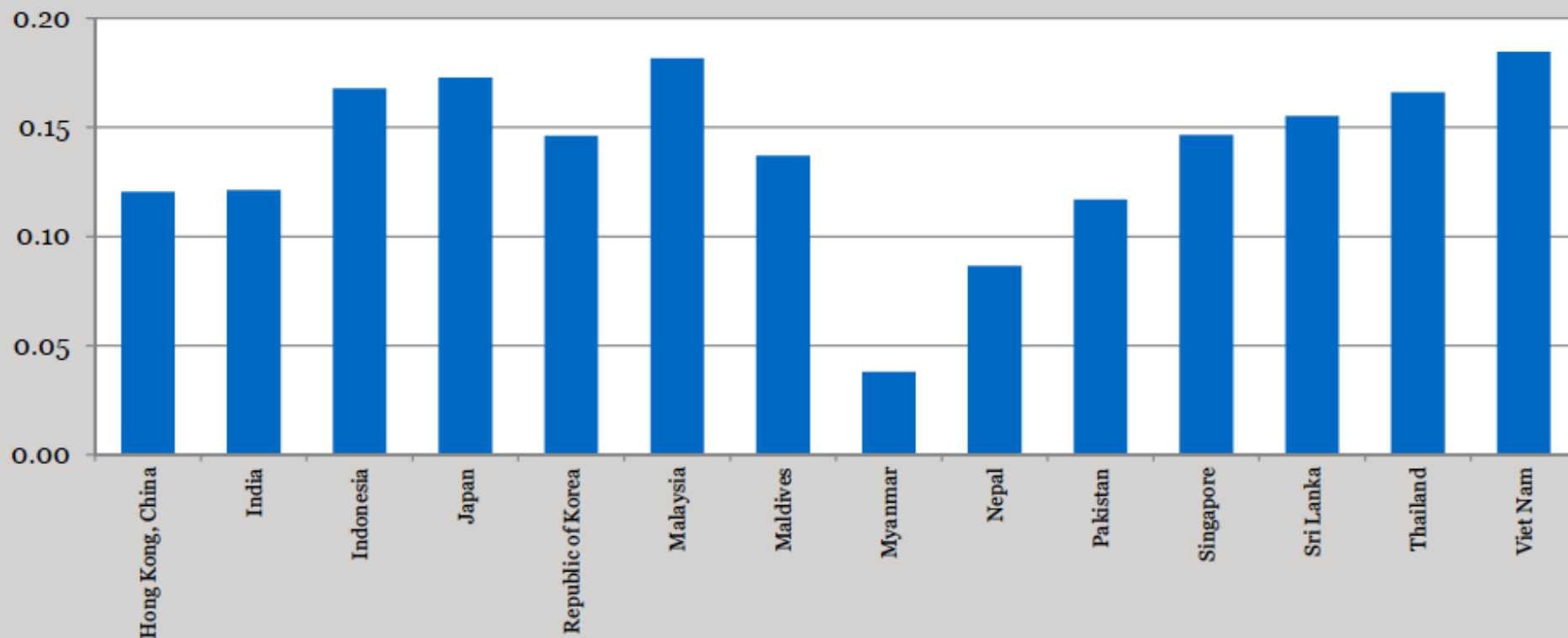
1. **Protecting** the company tax base
2. **Cooperating** in transnational tax administration
3. Moving towards **multilateral coordination** in company taxation

# 1. Protecting the company tax base

- Company tax revenues
- Company tax rates
- Tax holidays or incentives for investment
- Tax treaty network
- Transparency of company profit/tax reporting?

# Tax:GDP ratio

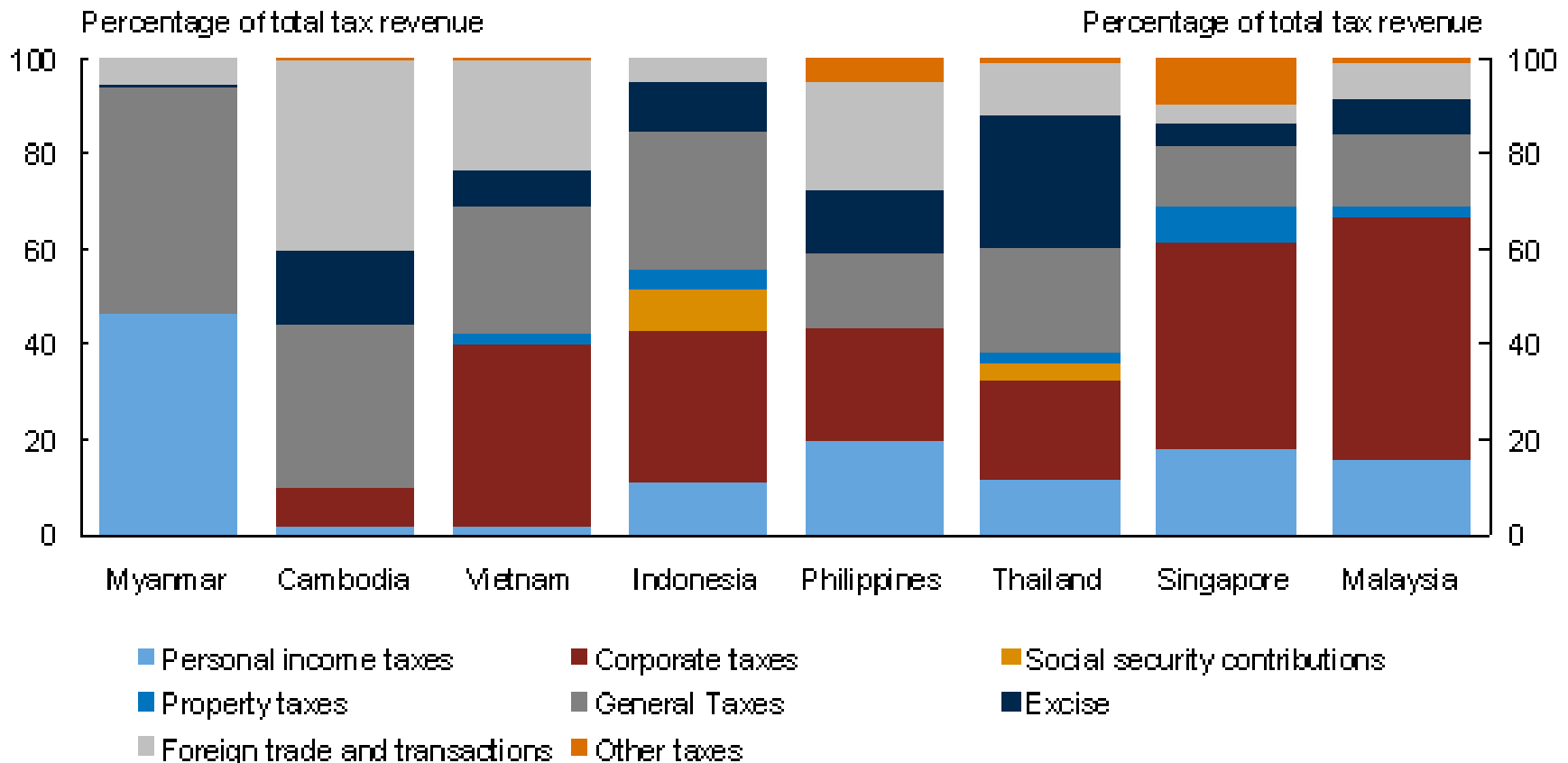
**Total Taxes to GDP Ratio in Selected Asian Countries, Average 1990-2010**



*Asian Development Bank; IMF 2012*

# Tax mix - selected Asian countries (2002)

[red is corporate tax]



*Aust Treasury 2006*

# Is tax competition a problem?

- Personal income tax and sales taxes are inadequate to fund government; tariffs are being phased out
- ASEAN
  - Goal of attracting investment from the world;
  - But, also significant competition between member states for mobile investment
- Should corporate tax on mobile capital go to zero?

# Tax incentives or holidays

- Corporate tax rates continue to trend down (more slowly) – converging on 20%?
- But, anyway, Asia-Pacific has always had lots of tax incentives
  - Tax holidays
  - Reduced tax rates
  - Accelerated depreciation
  - Export/investment zones
  - Investment credits, etc

# Tax treaty networks

- Australia's DTAs with Asia-Pacific
  - Bilateral DTAs to relieve double taxation or address tax evasion, with: Japan, China, Fiji, India, Indonesia, Kiribati, South Korea, Malaysia, Papua New Guinea, Philippines, Singapore, Sri Lanka, Taipei, Thailand, Vietnam



# Bilateral treaty networks in ASEAN

ASEAN Double Tax Treaties (2013)										
	Brunei	Cambodia	Indonesia	Laos	Malaysia	Myanmar	Philippines	Singapore	Thailand	Viet Nam
Brunei	x		F	F	F			F		F
Cambodia		x								
Indonesia	F		x	NF	F	NF	F	F	F	F
Laos	F		NF	x	F	F			F	F
Malaysia	F		F	F	x	F	F	F	F	F
Myanmar			NF	F	F	x		F	F	F
Philippines			F		F		x	F	F	F
Singapore	F		F		F	F	F	x	F	F
Thailand			F	F	F	F	F	F	x	F
Vietnam	F		F	F	F	F	F	F	F	x

Source: IBFD, 2013; KPMG 2013

# Company profit/tax transparency

- Australia: from 2014 tax year
  - ATO must publish corporate gross income; taxable income; tax paid
  - Company income > \$100m; resource tax
- “Country by country reporting”
  - Will transparency increase company tax revenues?
  - Most promising: sharing information between revenue agencies and enhance legitimacy

## 2. Transnational cooperation in tax administration

- Tax information exchange
- Assistance in collection, audit and joint administration
- Multilateral Convention on Mutual Assistance in Taxation
- Engagement with Global Forum, OECD, G20 and UN

## “The era of [tax] secrecy is over...”

- On 2 April 2009 the G20 agreed to take action against non-cooperative tax jurisdictions, including tax havens
- In 2014, the G20 affirm that the “new standard” is automatic exchange of information based on OECD principles.
- Australia as G20 President is pushing forward this agenda

# What does this mean in practice for the Asia-Pacific?

- TIEAs
  - Growing global network of bilateral TIEAs on OECD model
  - Extent of Asia-Pacific network?
  - Exchange of information on request
- Require administrative resources
  - Evidence of benefit for the region?
  - Enhanced tax revenues?

# Global Forum

- Now 122 members
- Last meeting Nov 2013 Jakarta, Indonesia
- Peer review of treaties and domestic law
  - Malaysia was on previous peer review group, HK will be on 2014 group
- IMF and other technical assistance
- New focus on beneficial ownership and transparency through entities

# Global Forum – peer reviews

2012				2013				2014	
1 <sup>st</sup> Half		2 <sup>nd</sup> Half		1 <sup>st</sup> Half		2 <sup>nd</sup> Half		1 <sup>st</sup> Half	
Samoa	Turkey	Belgium	British Virgin Islands	Bahrain, Kingdom of	Malaysia	Anguilla	Andorra	Belize	Czech Republic
Argentina	Portugal	Bermuda	Austria	Estonia	Samoa	Antigua and Barbuda	Botswana	Dominica	Gibraltar
Belize	Finland	Cayman Islands	Hong Kong, China	Jamaica	Slovak Republic	Chile	Ghana	Marshall Islands	Hungary
Dominica	Sweden	Cyprus	India	Philippines	Slovenia	Former Yugoslav Republic of Macedonia	Grenada	Nauru	Curaçao
Israel	Iceland	Guernsey	Liechtenstein	Argentina	U. S. Virgin Islands	Costa Rica	Israel	Niue	Poland
Marshall Islands	Slovenia	Malta	Luxembourg	Turks and Caicos	Vanuatu	Guatemala	Liberia	Saudi Arabia	Sint Maarten
Nauru		Qatar	Monaco	United Arab Emirates	Indonesia	Mexico	Russian Federation	Cook Islands	
Niue		San Marino	Panama	Barbados	Colombia	Montserrat	Saint Kitts and Nevis	Portugal	
Poland	Brazil	Singapore	Switzerland	Brunei	Georgia	Trinidad and Tobago	Saint Lucia	Uruguay	
US Virgin Islands	Seychelles	The Bahamas		Macao, China	Nigeria		St. Vincent and the Gren.	Aruba	
				Kenya			Lebanon		

- Phase 1 review
- Phase 2 review
- Combined reviews

# Multilateral Convention on Mutual Assistance in Tax Matters



*Source: OECD*



# Multilateral Convention

- Now 63 signatories
- Asia Pacific:
  - Australia, China, India, Indonesia (not yet in force), Japan, Korea, New Zealand, Singapore (not yet in force), US, Canada

# Multilateral Convention

- Automatic exchange and some other features require a bilateral agreement between specific countries
- 40 countries signed up “early” to the new automatic standard
  - Not one Asian country yet
- What about US FATCA in the region?
  - Only Japan, Australia have agreements

### 3. Towards **multilateral coordination** in company taxation

- OECD/G20 Base Erosion and Profit Shifting
- Can the countries in this region contribute to & benefit from BEPS?
  - Transfer pricing
  - Thin capitalisation
  - Tax residence concepts
  - General anti-avoidance rules
  - Treaty abuse rules

# Transfer pricing

- E-commerce/digital economy
  - Intellectual property: is profit produced where IP is located?
  - How does tax fit with IP laws in the region?
  - Service fees, royalties, definition of “permanent establishment” for treaties
- Arm’s length standard: OECD model? UN?
- Pricing methods; profit split? factors?
- Most importantly: **Administration!**

## Other ways to harmonise company tax

- Model treaty/unilateral rules
  - eg permanent establishment ,withholding taxes
- Multilateral instrument with default rules for consistency of treatment of finance instruments or entities?
- Transfer pricing: formulary apportionment?
  - Sales, IP, workforce, management, HQ

# Is regional tax integration possible?

- Some talk of European Community model
  - Revenue sharing? Fiscal federalism?
  - Coordinating body? Dispute resolution?
- How does tax fit with regional/bilateral trade & investment treaties?
  - ASEAN Economic Community in 2015
  - Tax is not a major part of ASEAN EC blueprint



# Thank you

- Questions?