



BUILDING A GROWTH-FRIENDLY TAX ENVIRONMENT

Raising Tax Certainty Virtual Seminar

12 December 2023





BUILDING A GROWTH-FRIENDLY TAX ENVIRONMENT

Tax Certainty and Cross-Border Tax Disputes

Prof. Dr. Jeffrey Owens

Director of the WU Global Tax Policy Center

Dr. Anastasiya Piakarskaya

Postdoc Research Associate at the WU Global Tax Policy Center

Timoleon Christodouloupoulos

Teaching and Research Associate at the WU Global Tax Policy Center

*Jurisdiction/Organization: **Vienna University of Economics and Business***



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cross-border VAT/GST disputes**

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Action Plan**



Part 01

Why tax certainty is important



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Tax certainty



Predictable and stable business environment



Improved tax compliance and resolution of cross-border tax disputes



Positive impact on investment and trade and promotion of the economic growth

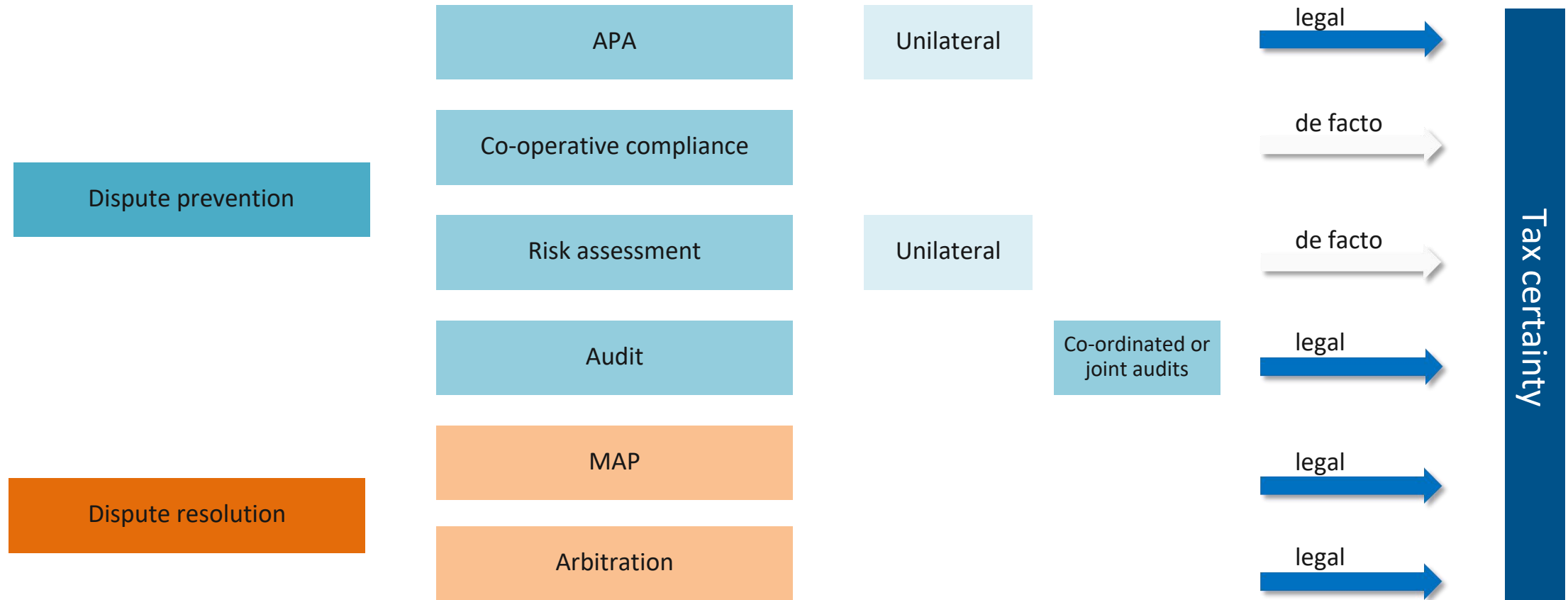
Drivers of tax uncertainty

- Frequent changes in international environment, technology and business models.
- Lack of global coordination of taxation rules.
- Unclear and vague tax legislation, frequent changes in tax law, regulations and guidelines.
- Inconsistent application and interpretation of tax rules by tax authorities and taxpayers.
- Poor relationship between business and tax administration.
- A lack of accessible dispute resolution mechanisms that would be able to generate clear outcomes in a timely manner.



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Tax certainty tools in the international landscape





Part 02

The impact of the move towards tax transparency and new technology



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The move towards tax transparency & good corporate governance

Tax Administrations
Sources of Information



- Automatic Exchange of Information
- Mandatory Disclosure – BEPS Action 12
- CbCR – BEPS Action 13
- Disclosure of tax rulings
- FATCA/CRS
- KYC/AML rules
- Board signs the tax returns



The impact of technology

Data & Technology

- 80% of tax administrations use *big data* to improve their compliance work.
- 38% of Tax Administrations report requiring electronic invoice mechanism and 50% electronic fiscal devices/cash registers in 2020 as a technique to improve compliance.
- Significant increase of use of virtual assistants (e.g., chatbots), *Artificial Intelligence*, Application programming interfaces (APIs) and Robotic Process Automation (RPA).
- Future tax audits are expected to focus more on *reviewing systems and processes* and rely heavily on *data analytics, rule-based systems* and other digital innovations to *identify anomalies and detect risks*.

(Source: OECD)

Challenges

- *Data Protection & Privacy Requirements*
- *Availability of Data considering: Gig Economy, Crypto-currencies, “scale without mass”*
- *Availability of data at the domestic level vs Availability of data at the international level (Exchange of Information)*
- *Harmonisation of solutions to enable seamless data processing and interoperability of systems*
- *Taxpayers’ rights*



Part 03

The role of Cooperative Compliance



The concept of Cooperative Compliance

Traditional Supervision



Tax administration

WHAT?

Transaction

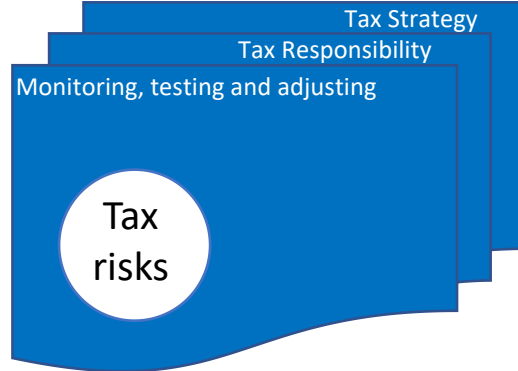
CC supervision



Tax administration

HOW?

Tax Control Framework



Overview

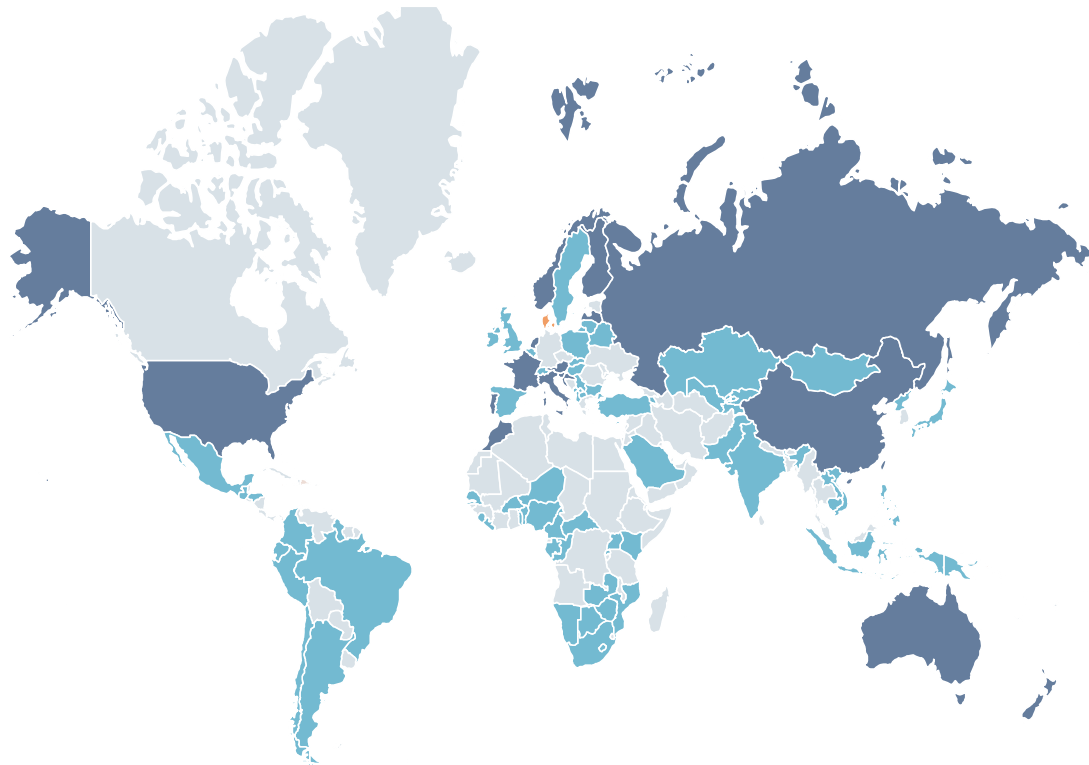
Cooperative Compliance: a collaborative trust-based relationship between tax authority and taxpayer (vs traditional ex-post audits).

Common features

- Improved certainty, efficiency and effectiveness
- Voluntary programme
- Relevant mostly to large business taxpayers
- Assessment whether a taxpayer is “in control” of its risks (TCF)
- Providing real-time or even advance certainty about tax positions



Cooperative Compliance (or similar) programmes expanding



■ Countries with a TCF as a requirement for cc in 2017 based on OECD Tax Administration 2019
■ Countries with a cc program based on Isora Data for 2020 (in addition to the blue marked countries) – the information on TCF as a requirement was not part of the survey

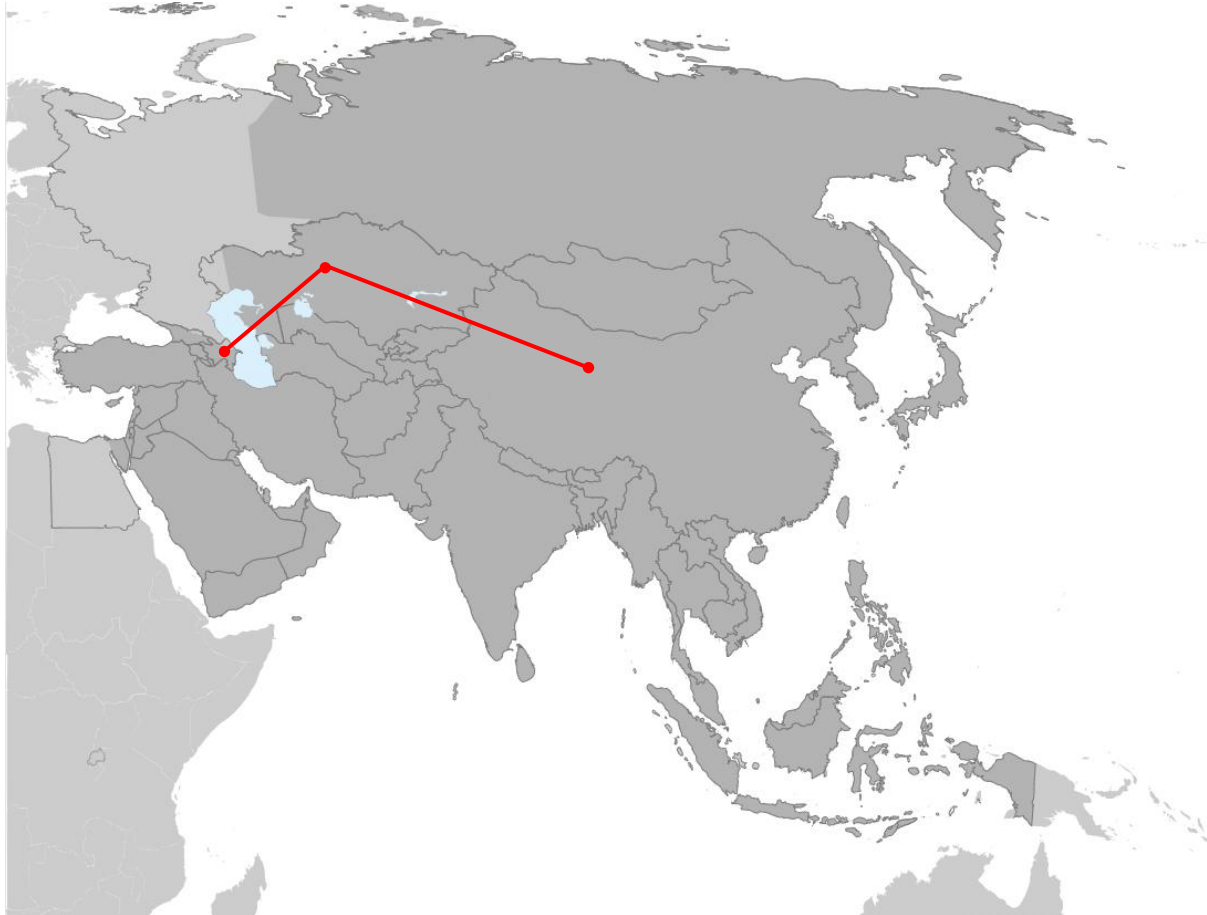
Based on CIAT, IMF, IOTA, OECD (2022), International Survey on Revenue Administration: 2020 and 2021 & OECD Tax Administration 2019.

Cooperative Compliance benefits

- Drives good governance within MNEs and Tax Administrations alike
- Increases voluntary transparency that goes beyond statutory obligations
- Helps to develop a risk driven approach to compliance management
- More targeted tax audits
- Frees up the resources of the Tax Administration
- Facilitates dispute prevention & resolution



New frontiers: Multilateral Cooperative Compliance



Overview

- Need for effective cross-border tax certainty instruments / programmes
- Project-related MCC
- Trend towards multilateralism
- Tax certainty for large- and potentially medium-size projects

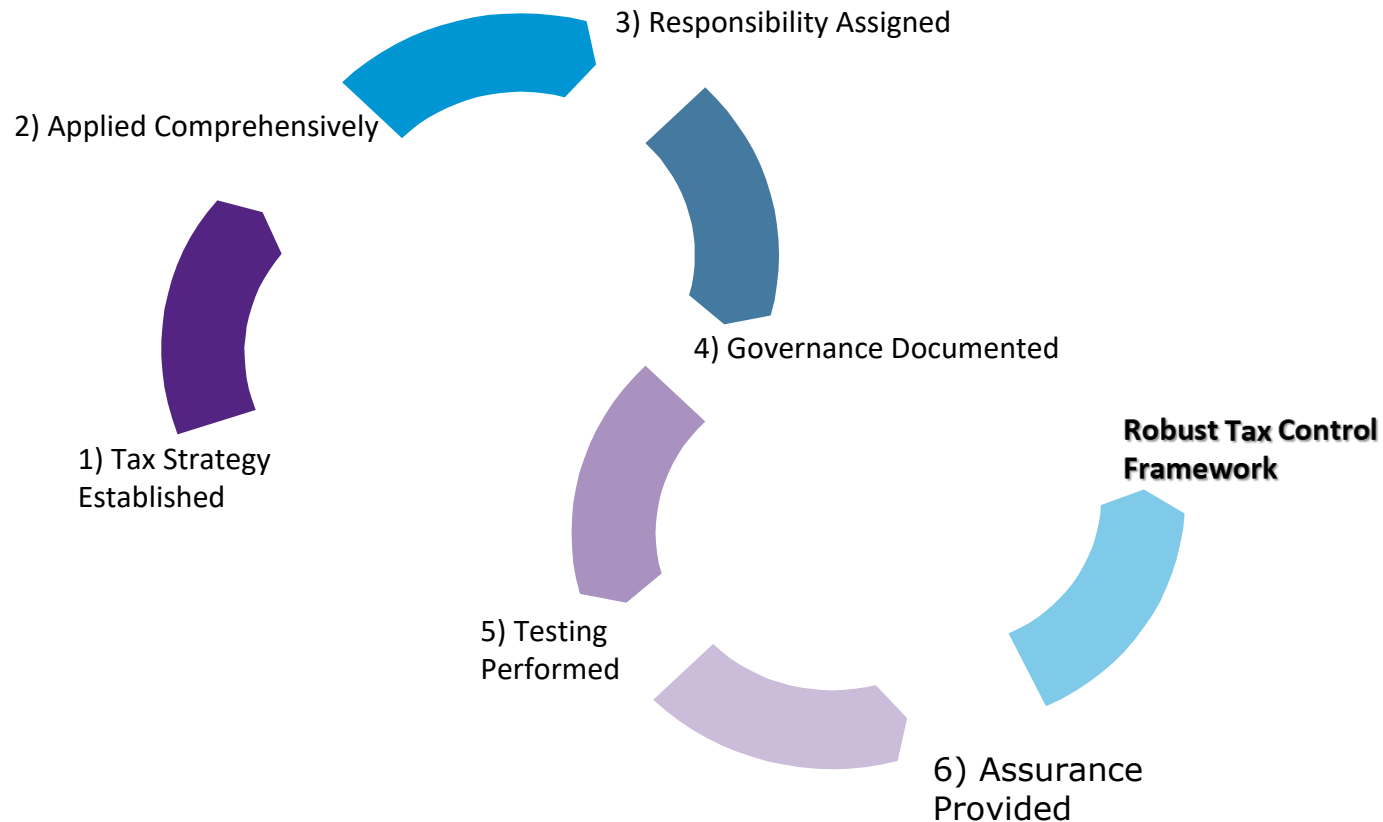
Examples

- Gas pipeline across multiple countries
- Cross-border restructurings involving multiple jurisdictions
- Railway connecting multiple countries



Common Approach in Tax Control Frameworks: A Requirement for MCC

Tax Control Framework: the part of the system of internal control that assures the accuracy and completeness of the tax returns and disclosures made by an enterprise.



Tax Control Framework

- Key tool for disclosure and transparency between the tax administration and taxpayer
- Guide parties' assurance activities in an effective and consistent manner
- Precision, comparability and harmonisation needed at global level
- No 'one size fits all' approach

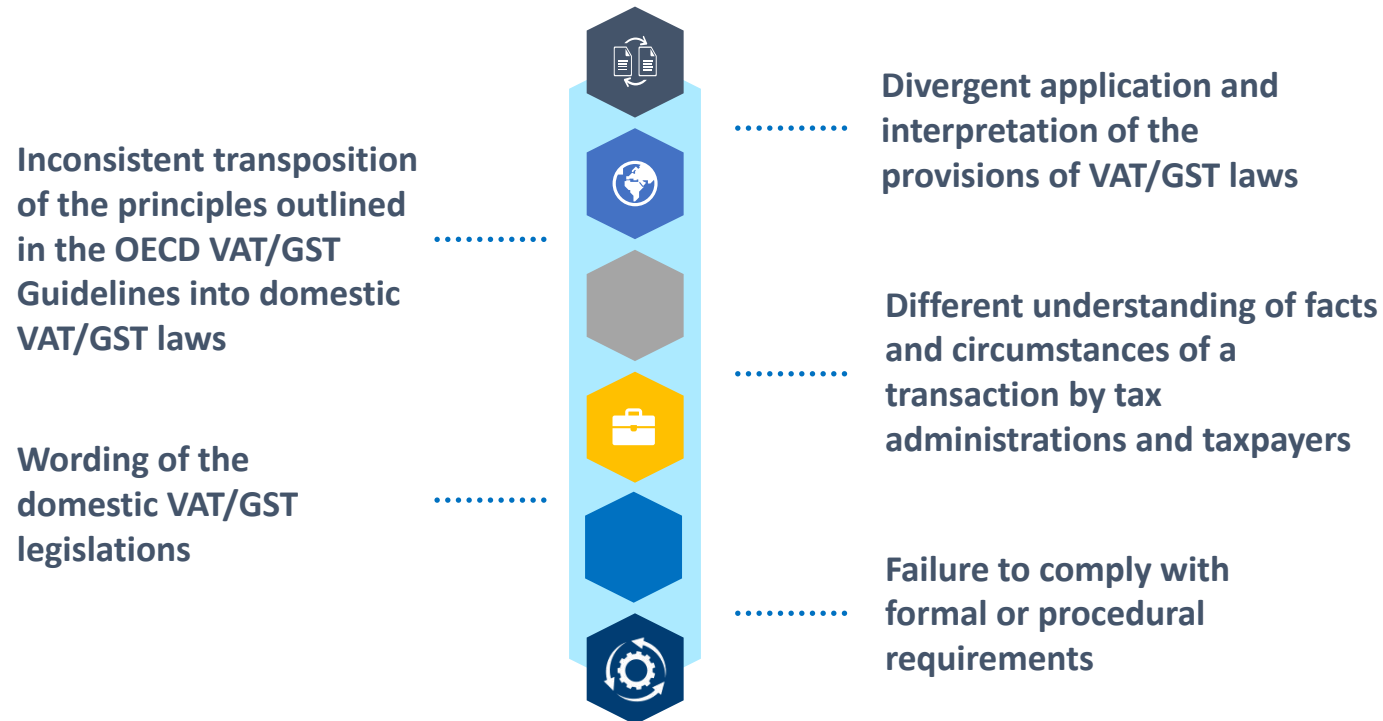


Part 04

**The neglected issue:
cross-border VAT/GST disputes**



What causes cross-border VAT/GST disputes?



- **The most common types of cross-border VAT/GST disputes:**
 - Place of supply
 - Neutrality of VAT/GST (the right to deduct or refund input VAT/GST)
 - Characterization of taxable supplies (goods, services)
 - Qualification of taxable persons
 - Non- or late VAT refunds



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Mechanisms to prevent cross-border VAT/GST disputes

Need for robust administrative practices at the domestic level to provide tax certainty



Clear and well-drafted VAT/GST legislation



Tax authorities' guidance



Binding tax rulings



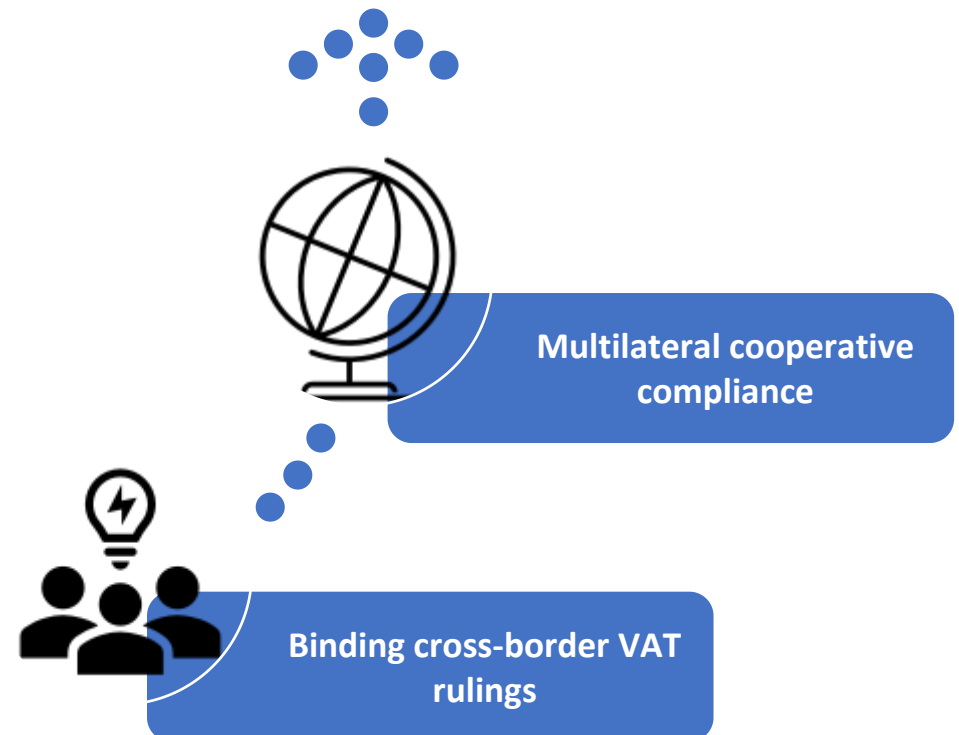
Enhanced taxpayer services



Cooperative compliance

The role of technologies
is crucial

But what about the cross-border level?





Mechanisms to resolve cross-border VAT/GST disputes

Domestic mechanisms

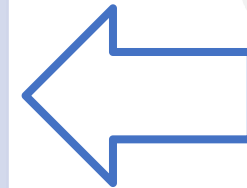
- **Improved court practices**
- **Mediation**
- **Arbitration**
- **Arbitration court**
- **Use of technologies to facilitate dispute resolution**

Is there potential for an international solution?

- **International Mediation Panel**
- **Extending Art. 25 of the OECD/UN Model Convention to VAT/GST disputes**



Can BRI Mediation Panel help resolve cross-border VAT/GST disputes?





Part 05

**The way forward:
a post-Nursultan Action Plan**



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The Way Forward: A Post Nur-Sultan Action Plan

Use the BRITACOM to promote greater trust between businesses and tax administrations.

Explore how new technologies can help in minimising disputes and resolving them more effectively.

Give more emphasis to VAT/GST disputes.

Exploring the creation of a BRI Mediation Panel to resolve cross-border tax disputes.

Encourage more BRI countries to enter CC programs and examine how project based MCC could work for big BRI infrastructure projects.

Launch work on the role of the TCF in getting better tax compliance.

**Check how WU
can contribute!**





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Global Tax Policy Center Surveys – Call for Input

The Global Tax Policy Center (GTPC) is an integral part of the Institute for Austrian and International Tax Law at Vienna University of Economics and Business (WU), which is one of the leading academic institutions in the area of international tax law. It brings together tax policy makers, tax administrations, tax practitioners from around the globe and provides the forum for discussing policy formulation and implementation, as well as employing best practices of developed and developing countries. The GTPC is conducting several research projects, including those on Cooperative Compliance and cross-border VAT disputes. One of the data collection methods that we adapted includes online surveys that allow gathering input from various stakeholders around the globe on the relevant issues of tax policy and possible approaches to their resolution.

The [Survey on multilateral cooperative compliance](#) explores the potential for the development of a multilateral cooperative compliance programme to improve the prevention and resolution of cross-border tax disputes. It has two parts: the first one mainly focuses on the respondents' experience with national cooperative compliance programmes, Bilateral or Multilateral APAs, MAP, joint audits and programmes such as ICAP, where respondents are asked to evaluate the efficiency of these programmes (e.g. in terms of timing, adequacy of tax certainty, complexity, etc.) based on their experience. The second part is more aspirational, and we ask respondents to give us their view of how a multilateral (cross-border) cooperative compliance programme would work efficiently, regard being had to the needs of their organisation.

The [Survey on Tax Control Frameworks](#) examines the role of Tax Control Frameworks for cooperative compliance programs. This includes the standards and assurance procedures used for the TCF and the role of technology. The results of the survey will be used to compare existing requirements for a TCF in order to develop a set of standard requirements that will meet the needs of most countries. The results will further be used to propose an assurance standard that would enable tax administrations to gain comfort that a TCF can be relied upon to produce complete and accurate tax returns and disclosures.

The objective of the [Global Questionnaire on Cross-Border VAT/GST Disputes](#) is to collect data from stakeholders in order to obtain better insights into this relevant topic. This would help to evaluate the scale of the issue, identify the root causes of such disputes with the goal of developing a toolkit for tax policy makers to prevent and resolve cross-border VAT/GST disputes in a more efficient way. The questionnaire consists of four parts and aims to collect data for the period 2016 to 2020. We would really appreciate it if you could share your experience related to the cross-border VAT/GST disputes that your organisation has faced by providing quantitative and qualitative information as well as your valuable views on how to better minimize or resolve cross-border VAT/GST disputes.

We would be pleased if you participated in our surveys or forwarded them to colleagues who have relevant experience.

Thank you in advance,

The Global Tax Policy Center team



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THANKS



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