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Effect of Base Erosion and Profit Shifting On Corporation Tax Performance, A Case of Multinational Enterprises in Kenya

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Abstract

The Revenue performance against the set target has been a big challenge. To overcome this revenue gap there is need to shift focus and look at the contemporary issues such as Base Erosion and Profit Shifting (BEPS) that affect Corporate Tax performance across the borders and beyond. Against this backdrop the present study sought to establish the effect of Base Erosion and Profit Shifting on Corporation Tax performance with reference to Multinational Enterprises in Kenya. More specifically, the study sought to establish the correlation between Corporation Tax performance and Base Erosion and Profit Shifting; establish extent of Base Erosion and Profit Shifting by Multinational Enterprises in Kenya; determine the factors that influence the Differential Tax Rate in Kenya; and to establish the challenges facing Kenya Revenue Authority on dealing with BEPS. Descriptive research design was used in the study. The population of interest consisted of staff members working in the Kenya Revenue Authority in Nairobi, mainly Large Taxpayer Office and Medium Taxpayer Office. The population was divided into strata based on the industry and the recommended sample size shall be 42 respondents thus the whole population was used to give the intended data. The main technique applied by the study was of the questionnaires which was issued to the respondents and given enough time to answer the questionnaires. Open ended and close-ended questions were used during the exercise.

Keywords: Base erosion, profit shifting, multinational enterprises

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1. Background

The chapter begins by introduction of key aspects of the study such as the definition of a Tax, Taxation process, Globalization, Double Taxation treaties, Arm length principle, Base Erosion and Profit Shifting and Transfer Pricing (Mispricing). Tax avoidance and Tax evasion planning strategies, Statement of the problem, the study objectives, research questions, justification and scope of the study and finally the limitations of the study.

1.1 Background of the Study

1.1.1 Base Erosion and Profit Shifting

Base Erosion and Profit Shifting is about maximizing private wealth at the expense of the income tax. It is about private optimization without remorse (Mintz, J. and. Weichenrieder. A.J, 2005). The integration of national economies and markets has increased substantially in recent years, putting a strain on the international tax rules. Which were designed more than a century ago. Weaknesses in the current rules create opportunities for Base Erosion and Profit Shifting (BEPS), requiring bold moves by policy makers to restore confidence in the system and ensure that profits are taxed where economic activities take place and value is created (OECD, 2017).

It is an empirical matter of fact that money is mobile and fungible (Haufler, A. and M. Runkel, 2012). Thus, multinational groups may achieve favorable tax results by adjusting the amount of debt in a group entity. The influence of tax rules on the location of debt within multinational groups have been established in a number of academic studies and it is well known that groups can easily multiply the level of debt at the level of individual group entities via intragroup financing. Financial instruments can also be used to make payments that are economically equivalent to interest but have a different legal form, therefore escaping restrictions on the deductibility of interest. Base Erosion and Profit Shifting (BEPS) risks in this area may arise in three basic scenarios; first, Groups placing higher levels of third party debt in high tax countries, referred as Thin Capitalization, secondly, Groups using intragroup loans to generate interest deductions in excess of the, Group's actual third party interest expense and thirdly, Groups using third party or intragroup financing to fund the generation of tax exempt income.

Following the release of the report addressing Base Erosion and Profit Shifting in February 2013, OECD and G20 countries adopted a 15-point Action Plan to address BEPS in September 2013. The Action Plan identified 15 actions along three key pillars: introducing coherence in the domestic rules that affect cross-border activities, reinforcing substance requirements in the existing international standards, and improving transparency as well as certainty (Mintz, J. and. Weichenrieder. A.J, 2005). After two years of work, measures in response to the 15 actions were delivered to G20 Leaders in Antalya in November 2015. All the different outputs, including those delivered in an interim form in 2014, were consolidated into a comprehensive package (OECD, 2017).The BEPS package of measures represents the first substantial renovation of the international tax rules in almost a century. Once the new measures become applicable, it is expected that profits will be reported where the economic activities that generate them are carried out and where value is created. BEPS planning strategies that rely on outdated rules or on poorly coordinated domestic measures will be rendered ineffective.

1.1.2 Multinational Enterprises and Base Erosion and Profit Shifting

Corporation Tax is a key component of the tax systems of developed countries because it is one of the primary ways of taxing capital. In the United States, for instance, about one-third of total tax revenues at all levels of government came from capital taxes in 2013. Close to 30 percent of these taxes came from the corporate income tax ($350 billion), while the rest is accounted for by property taxes ($450 billion) and taxes on personal capital income and estates ($450 billion), (Eurostat, 2014). In Europe, the average capital share of government tax revenues is 20 percent, which is less than in the United States because consumption taxes play a larger role; but like the United States, Europe's corporate tax accounts for about one-third of its capital taxes (Eurostat, 2014). Yet despite its important role, the practicality and enforceability of corporate income tax is seriously challenged by globalization, and if the current trends are sustained it could well become relatively much less important in the next two or three decades (Mintz, J. and. Weichenrieder. A.J, 2005).

1.1.3 Treaty Shopping and Corporate earnings

Each of the three core principles for international taxation of corporate earnings agreed upon in the 1920's; source-based taxation, arm's length pricing, and bilateral agreements, raises its own issues. First, Zucman . G, (2016) points out that the choice of thousands of bilateral treaties over a multilateral agreement has created a web of inconsistent rules. Multinationals firms can exploit these inconsistencies to avoid taxes by carefully choosing the location of their affiliates; what is known as "treaty shopping" (Zucman . G, 2016). One prominent example is Google's "double Irish Dutch sandwich" strategy, so named because it involves two Irish affiliates and a Dutch shell company squeezed in between. A similar strategy is used by other multinationals; in the case of Google, it was first analyzed by reporter Jesse Drucker (2010) and then by academics (for example, (Kleinbard, 2011, p. 707-714) and international organizations (for example, IMF, 2013). It starts with Google US transferring part of its intangible capital; specifically, its search and advertisement technologies; to "Google Holdings," which is a subsidiary incorporated in Ireland, but for Irish tax purposes, and it is a resident of Bermuda (where its “mind and management” are supposedly located). The transfer took place in 2003, a few months before Google's initial public offering, and at the time presumably generated a taxable income in the United States. Google US had an incentive to charge less than current market value.

1.2 Statement of Problem

The Schemes of repatriation of profits earned in Kenya by Multinational Enterprises, is hurting the collection of Corporation Tax due from such MNE. The core issue of tax justice cuts across both the developed and developing countries (Donohoe. P.M. McGill. A.G, and Edmund, 2014). This tax justice is being threatened today, by contemporary issues such as the emerging of Digital economy and how to manage the threat of Base Erosion and Profit Shifting phenomenon, which is shaking the economies of developing countries. Kenya is strategically placed and attracts Multinational Enterprises, who strategically set up regional business hub. In Kenya, Multinational Enterprises are many, dealing with both infrastructure projects, consumer goods and services. Even with the best intentions, the Arms- Length Principle is hard to implement. There is much leeway for abuse especially with regard to intellectual property such as patents, trademarks and other proprietary information (Mintz, J. and. Weichenrieder. A.J, 2005).

We trace the history of corporate tax planning from a compliance-focused activity to a profit-enhancing endeavor to a risk management center. Tax directors of U.S. multinational corporations face unprecedented global pressures from taxing jurisdictions seeking to increase their share of the enterprise's worldwide taxes. Increasingly, corporations must consider the risks that a tax strategy will impose on them, not only in terms of potential lost revenue, but also in terms of reputation and market share (Donohoe. P.M,. McGill. A.G, and Edmund, 2014). We discuss the components of tax risk management in today's global environment and speculate how future corporate tax planning will change in light of the Organization for Economic Co-operation and Development, Base Erosion and Profit Shifting project.

1.3 Objectives of the Study

1.3.1 General Objective

The overall objective of this study was to establish effect of Base Erosion and Profit Shifting (BEPS) on Corporation Tax performance. A case of Multinational Enterprises in Kenya.

1.3.2 Specific Objectives

The study was firmly anchored on the following specific objectives:

Establish the correlation between Corporation Tax performance and Base Erosion and Profit Shifting.

Establish the extent to which corporate tax performance is affected by use of BEPS schemes, applied by multinational enterprises

Determine BEPS schemes used by multinational enterprises to reduce the profit margin thus declaring lower amount of corporation tax payable

To establish the challenges facing Kenya Revenue Authority on dealing with BEPS.

Establish the extent to which top management get involved in formulating policy and legal framework to counter the effects of BEPS corporation tax

1.3.3 Research Questions

The following research questions guided the study:

What is the correlation between Corporation Tax performance and Base Erosion and Profit Shifting?

What is the extent to which corporate tax performance is affected by use of BEPS schemes, applied by multinational enterprises?

What are the BEPS schemes used by multinational enterprises to reduce the profit margin, thus declaring lower amount of corporation tax payable

What are the challenges facing Kenya Revenue Authority on dealing with BEPS.

To what extent does the top management get involved in formulating policy and legal framework to counter the effects of BEPS on corporation tax performance?

1.4 Justification of the Study

Researchers, scholars, Tax practitioners, and government policy makers need to be informed about the essence of capacity building on International Taxation. Establish strategies on how to manage BEPS in Kenya. To be able to improve tax performance within the KRA. To put in place Tax Framework within which Base Erosion and Profit Shifting issues can be resolved within the shorted time possible. Eliminate the high compliance cost associated with following up Multinational Enterprises when they under declare taxes. Train many tax officers on emerging global Tax challenges such as Base Erosion and Profit Shifting.

In addition, the findings of this study shed some light on the best practices to curb BEPS and promote best revenue growth practices from MNE. The results of this study may trigger similar studies that can eventually lead to some improvement in management and Taxation of MNE. Seal all the contemporary Tax planning avoidance schemes in this Digital Era. It should be noted that the improvement of the Revenue Performance from MNE couldn’t be divorced from the imperatives of improving tax officers’ capacities through adequate capacity building, allocation of adequate resources and a solid legal framework and best administration policies.

For that purpose, there is a need for the Board of Management to discuss with the Treasury, National finance department and the policy makers to review the double taxation treaties and non-double taxation treaties. In a view to level, the playing ground for just Tax System. There is need to define Permanent Establishment in relation to Digital Economy (Donohoe. P.M,. McGill. A.G, and Edmund, 2014)..

1.5 Scope of the study

This study was conducted and assessed the effects of BEPS on Corporation Tax performance of Multinational Enterprises. The specific objectives included To Establish the correlation between corporation Tax performance and Base Erosion and Profit Shifting. To establish the extend of Base Erosion and Profit Shifting by Multinational Enterprises in Kenya and to determine the factors that influence Base Erosion and Profit Shifting in Kenya.

The target population included top-level managers, middle level managers and the tax officers from selected KRA- Large Taxpayer Office – Domestic Tax Departments in Nairobi. Were MNE Tax matters are administered. The study was conducted from March to July 2017. The population sample size is 42, audit and compliance Tax Officers.

1.6 Limitation of the Study

The study encountered situations of uncooperative respondents who were reluctant to answer the questionnaires. To overcome this challenge, the researcher obtained a letter of introduction from the Kenya School of Revenue Administration (KESRA) stating that the data collected was only meant for Academic research purposes. The researcher made prior arrangements in terms of booking time in advance before dropping questionnaires to avoid inconveniences.

The organizations' confidentiality policy restricted most of the respondents to answer some of the questionnaires since it was not in the organization confidentiality policy to expose the organization confidential matters. To overcome this challenge the researcher obtained a letter of introduction from the KESRA to assure the respondents that the information given was only for study purpose and was not to be used for any other controversial purpose a part from the intended academic driven purpose.

1.7 Definition of Terms

Arm's Length Principle (ALP)

This valuation principle is commonly applied to commercial and financial transactions between related companies. It says that transactions should be valued as if they had been carried out between unrelated parties, each acting in his own best interest. (OECD, 2006)

Base Rate

This is the minimum rate set by the Central Bank– like the Bank of England or Federal Reserve or Central Bank of Kenya – which it will charge to lend money to commercial banks, below which banks are not allowed to lend to its customers. Base rate is decided in order to enhance transparency in the credit market and ensure that banks pass on the lower cost of fund to their customers. Loan pricing will be done by adding base rate and a suitable spread depending on the credit risk premium.

BEPS

Base erosion and profit shifting (BEPS) refers to tax avoidance strategies that exploit gaps and mismatches in tax rules to artificially shift profits to low or no-tax locations. Under the inclusive framework, over 100 countries and jurisdictions are collaborating to implement the BEPS measures and tackle BEPS related issue, under the umbrella of BEPS project, as guided by the fifteen Action Items (OECD, 2013).

Double Taxation Treaty (DTT)

This refers to an agreement between two or more countries that reduces the amount of tax that an international worker or company must pay, so they do not have to pay tax twice on the same income (Cambridge Business English Dictionary, 2017).

When a country enters into the double taxation treaty, any tax paid in the country of residence will be exempt in the country in which it arises. In the same breath, Tax deducted at source will be off-settable against your UK liability as the UK has a double taxation agreement with South Africa.

G20

It refers to an international forum for the governments and central bank governors from 20 major leading industrialized and emerging economies.

Globalization

The term refers to the worldwide movement toward economic, financial, trade, and communications integration. Globalization implies the opening up of the local and the nationalistic perspectives to a broader outlook of an interconnected and interdependent world with free transfer of capital, goods, and services across national frontiers. However, it does not include unhindered movement of labor and, as suggested by some economists, may hurt smaller or fragile economies if applied indiscriminately (Business Dictionary.com. 2017).

Tax

(from the Latin word taxo) a compulsory financial contribution imposed by a government to raise revenue, levied on the income or property of persons or organizations, on the production costs or sales prices of goods and services (Collins English Dictionary, 2012).

Taxation

This is the means by which governments finance their expenditure by imposing charges on the citizens and corporate entities (Business Dictionary.com, 2017.) Governments use taxation to encourage or discourage certain economic decisions. For example, reduction in taxable personal (or household) income by the amount paid as interest on home mortgage loans results in greater construction activity, and generates more jobs.

Taxation Process

It refers to the entering into a tax-motivated transaction. It encompasses the cooperation of several arms of the government. The Assessor sets the value of your property or income bracket. Then proceeds to impose the tax rates as stipulated in the law. In addition to advising taxpayers their mandate and rights in the entire tax system.

Tax-Avoidance

It is a lawful minimization of tax liability through sound financial planning techniques such as phasing the sale of assets over a period long enough to effect maximum exemption from capital gains tax. Whereas tax avoidance is legal, tax evasion is not (BusinessDictionary.com, 2017).

Tax Evasion

It is unlawful attempt to minimize tax liability through fraudulent techniques to circumvent or frustrate tax laws, such as deliberate under-statement of taxable income or willful non-payment of due taxes. Whereas tax evasion is an offense (punishable by both civil and criminal penalties), tax avoidance is not (Business Dictionary.com.2017).

Tax Planning

The analysis of a financial situation or plan from a tax perspective. The purpose of tax planning is to ensure tax efficiency, with the elements of the financial plan working together in the most tax-efficient manner possible. Tax planning is an important part of a financial plan to reduce the tax liability.

Tax Base

The total area, including all property, assets, and income that can be taxed by a city or state. If population growth slows in one city or suburb and shifts to another area, the tax bases of the different areas also change. The area people are leaving will see its tax base shrink. The newly popular area will see its tax base grow. If businesses leave an area that also shrinks the tax base (Webster's New World Finance and Investment Dictionary, 2010). The aggregate value of the financial streams or assets on which tax can be imposed. In the case of income tax, for instance, the tax base is determined by what the tax authorities' state as the minimum amount of annual income that can be taxed (taxable income). If this minimum amount (tax threshold) is lowered, this will automatically increase (widen) the tax base; if it is raised, the tax base will be narrowed.

Differential Tax Rate

The principle of the Differential Tax rate is that a different proportion of taxation, as well as a different amount, may be applied to men in different circumstances. For instance, if you apply an income tax of zero to incomes under $2,000, of 5 per cent rate. Again, if you charge an amount of $5 for taking out one license for a particular purpose, $15 for taking out two licenses, $50 for taking out three, and so on, you are applying a differential tax rate to licenses (Dale A. et al, 2011)

There is nothing revolutionary today about the idea of the Differential Tax rate. We are all used to it and we all practice it. The trouble is that we do not practice it for the one useful end it may serve, which is the better distribution of property. When a very rich man dies in England for instance or in France today, half his property may go to the State, but the State does not use that windfall for the re-establishment, as owners, of men now destitute. It uses such capital sums to supplement its own income-expenditure. It spends the estate duties on salaries, social services, public works, and not upon financing the re-establishment of property, which is the one thing it ought to do in the case of a tax especially aimed against excessive accumulation (Dale A. et al, 2011)

2. Literature Review

This chapter presents the theoretical review of the study which is based on the Progressive Taxation Theory (PTT), Proportionate Principle (PP) and the Theory of International/Foreign Trade. The empirical review is also highlighted here where discussions are made based on the contribution of top taxation and international trade experts. The discussion centered on the role Multinational Enterprises play to circumvent the payment of Taxes and shift all the profits to lesser or no tax jurisdictions. The question is how the developing countries can reverse this trend. The conceptual framework is presented.

2.1 Theoretical Review

2.1.1 Progressive Taxation Theory

Taxation is said to be progressive when the rate of tax increases as the tax base increase. Fagan E.D(1938) argues that since the appearance of Selegman's Progressive Taxation(2d.ed) in 1908 and Surets Theories De L'impot Progressif in 1909, there have been numerous restatements' and refinement of certain arguments' on progressive taxation. Some of the Theories of Progressive taxation advanced may be classified as (i) Sacrifice Theories, which include The Equal Sacrifice Theory, The Proportional Theory, the Equi-marginal Sacrifice Theory and The Minimum Theory, (ii) The Faculty Theory, (iii.) The Income Theory, (iv) The Social Importance Theory and (v.) The Social –Political Theory. The analysis of the foregone, outline the doctrine focus on a particular attention upon sacrifice.

2.1.2 Proportionate Principle:

Classical economists advocated the proportional system of taxation. Under this system, the individuals are required to pay tax in proportion to their income, i.e., the rate of tax remains same as the base changes. In order to satisfy the idea of justice in taxation, (Mill, J.M, 1985) and some other classical economists have suggested the principle of proportionate in taxation. These economists were of the opinion that if taxes are levied in proportion to the incomes of the individuals, it will extract equal sacrifice. The modern economists, however, differ with this view. They assert that when income increases, the marginal utility of income decreases. The equality of sacrifice can only be achieved if the persons with high incomes are taxed at higher rates and those with low income at lower rates. They favor progressive system of taxation, in all modern tax systems.

2.1.3 Theory of International/Foreign Trade:

Trade by a company within the country in which it is based, is known as home trade or domestic trade (Shay, E.S, 2014). In home trade, people try to specialize in the production of those commodities in which they have a comparative advantage. While the Foreign trade plays an important role in the economies of backward as well as advanced countries of the world. This can be seen from the fact that in some of the countries like Canada, United Kingdom, Australia, etc., more than 20% of the national income is derived from international trade.

Trade between different countries takes place because it is to their mutual advantage. The main conditions under which international trade is profitable. David Ricardo put the Theory of Comparative Cost forward in 1817. The main purpose behind developing this theory was to advocate for mutual trade. It is worthy to note that the gains from international trade arise because of the diversity in the conditions of production (natural or acquired) in different countries. Each country tries to specialize in the production of those commodities in which its comparative cost advantage is greatest or the comparative disadvantage is the least.

2.2 Empirical Review

We cannot deny this fact that international trade has certain evil consequences but if it is properly controlled, it can prove very beneficial for all the countries of the world. The estimates by the OECD indicate that Africa loses an estimated Kshs. 5.1 trillion ($50billion) tax revenue annually in illicit cross-border trade (Otieno.B, 2017).

2.2.1 Taxation and Development

Besley, et al, (2014) noted that, low-income countries typically collect taxes of between 10 to 20 percent of GDP while the average for high-income countries collect around 40 percent. In order to understand taxation, economic development, and the relationships between them, we need to think about the forces that drive the development process. Poor countries are poor for certain reasons, and these reasons can help to explain their weakness in raising tax revenue. We begin by laying out some basic relationships regarding how tax revenue as a share of GDP varies with per capita income and with the breadth of a country's tax base.

A baseline model of what determines a country's tax revenue as a share of GDP is sketched. The primary focus then shifts to asking the question, why do developing countries tax so little? The starting point is the factors related to the economic structure of these economies. However, we argue that there is also an important role for political factors, such as weak institutions, fragmented policies, and a lack of transparency due to weak news media. Moreover, social and cultural factors, such as a weak sense of national identity and a poor norm for compliance; may stifle the collection of tax revenue. In each case, we suggest the need for a dynamic approach that encompasses the two-way interactions between these political, social and cultural factors and the economy.

2.2.2 Globalization

Globalization is making it increasingly easy for corporations to shift profits to low-tax countries. Modern technology has also made it simpler for wealthy individuals to move funds to undeclared bank accounts in offshore tax havens. Both issues have featured prominently in the news and global economic debates since the financial crisis, but the arguments tend to be based on relatively little empirical evidence (Gabriel. Z, 2017). Measuring the costs of tax havens to foreign governments is fraught with difficulties. However, balance of payments data and corporate filings show US companies are shifting profits to Bermuda, Luxembourg, and similar countries on a large and growing scale. About 20 percent of all US corporate profits are booked in such havens, a tenfold increase since the 1980s. This profit shifting typically done within the letter of the law and thus would be best described as avoidance rather than fraud. In attempt to quantify its cost for government, coffers by taking a fresh look at the most recent macroeconomic evidence and combining it in a systematic manner. Over the last 15 years, the effective corporate tax of US companies has declined from 30 to 20 percent, and about two-thirds of decline can be attributed to increase profit shifting to low-tax jurisdictions. Wealthy individuals, too, use tax havens, sometimes legally, to benefit from banking services not available in their home country; and sometimes illegally, evade taxes. A number of changes have sought, with some success, to curb that form of tax evasion over the last years (Gabriel. Z, 2017). Such as establishing legal frame that seeks to repatriate cash moved by individuals to such safe havens.

2.2.3 Base Erosion and Profit Shifting in Kenyan

Kenya hopes to catch multinational tax cheats by strengthening the capacity of tax and financial crime investigators in tackling illicit financial flow (Otieno.B, 2017). Tax authorities have focused attention on tax planning by leading Multinational Enterprises. Kenya is not an Island; it has been affected in equal measure. Kenya has many MNE operating in the country and some get exemptions and other incentives to invest in Kenya. This has a direct impact on tax. Yet some exploit the weakness in the tax system to mis-declare taxes due. Since 2013, the OECD has been leading a global initiative to attack Base Erosion and Profit Shifting (BEPS). This initiative brought together the Tax Authorities of more than 60 countries, including all of the G20, the BRICs as well as several major developing countries. Business groups and NGOs participated in an extensive consultation.

The driving force behind the BEPS initiative is to arm Tax Authorities with tools to review and attack tax planning that is perceived as aggressive and enable Tax Authorities to collect what they believe to be their fair share of tax. The formation of a technical group that lead to the adoption of the BEPS action by the G20, aims to save developing countries an estimated $150 billion (Sh1.5 trillion) in tax losses, a quarter of them in Africa. It is important for KRA to follow closely the development of the Base Erosion and Profit Shifting issues to overcome the existing gap in our current tax legislation to maintain the basis of taxation, and reduce leakages in the collection.

The money is hidden by being routed through complex networks of offshore companies, many in the British Virgin Islands; the tax haven that is home to half of the offshore accounts named in the Panama Papers. In 2013, the Africa Progress Panel, chaired by Kofi Annan, and Global Witness examined five major sales of mining rights in DRC. Each deal involved firms registered in the British Virgin Islands. They established a gap between the market value of the concessions and the actual price paid by the buyers.

2.2.4. Conceptual Framework

The Conceptual framework indicting the relationship among the variable is shown in the figure 2.1. The study conceptualized that the dependent variable (Performance of Revenue) depends upon the independent variable (strategies to eliminate BEPS).

Figure 2.1 conceptual framework

2.2.5. Operationalization of the variables

The independent variables are the strategies to eliminate BEPS. Several strategies are considered critical if KRA has to deal with BEPS as an emerging contemporary threat to revenue collection. The involvement of the top-level management is formulation of policies that guide on how to deal with BEPS. Existence of a Transparency Framework policy for Tax Information Exchange upon which all policy for tax the DTT's and MOU's with other Tax Authorities can refer. Capacity building of the tax officers in critical. To equip them to deal with emerging issues among them BEPS. Capacity building of tax officers will determine the number of Base Erosion and Profit Shifting cases assessed and the extra revenue derived from the compliance checks done (Gabriel. Z, 2017)..

The amount of profit margin established is an indicator of how much revenue is expected. There is a direct relationship between profit margin and tax declared. The number of tax officers trained is a key indicator of the effort being put to curb BEPS, by KRA. The intervening variable, the nature of business is critical. The industry a taxpayer operates in has its own dynamics. Posing a unique working environment for taxation purpose (Gabriel. Z, 2017). The number of years a Multinational Enterprise has been in operation dictates how it has mastered the tax schemes, to do tax planning. To enable it declare the least possible tax liability. The beneficial owner (Trust)/ nomine company is equally a determinant in the tax-planning scheme (Mintz, J. and. Weichenrieder. A.J, 2005). There is need to redefine, the permanent establishment (PE) especially during this era of digital economy. That span across borders; where taxpayers have their source of income and where they reside or declare the income.

2.3 The Research Gaps

There are several gaps in this study. These include different economies, legal frameworks and the government policies considered. The studies cited in this research project are mostly from the developed economies, namely the G20 member countries. The legal frameworks and administration policies under which they operationalized their tax administration regimes are unique to their tax environment.

Kenya Revenue Authority although burning its mid-night oil to catch up with the emerging contemporary tax issues, has a lot to do. For instance to seal the legal loopholes in the tax laws, it is mandated by the government of Kenya to implement. It is noted there is need to train its employees to meet the international levels. As well, as implement the current technologies in tax administration. Most notable challenge is the integration of East Africa Community and its impact on tax collection. As well as the interpretation and implementation of Double Taxation Treaties within the member counties of the EAC. Few papers have been written in regard to BEPS in the Kenyan context. Therefore, the study sought to bridge the gap, to highlight and to contextualize the magnitude of BEPS in Kenya and its impact on revenue performance. The study prompts more scholars in Kenya to critically examine the subject matter further.

3. Methodology

This chapter presents the methodology, used to carry out the study. It further describes the type and source of data, the target population and sampling methods and the techniques that were used to select the sample size. It also describes how data was collected and analysed.

3.1 Research Design

Research design is the outline, plan or scheme that is used to generate answers to the research problem. It is the plan and structure of investigation. Descriptive research design was used in the study. Descriptive research sought to establish factors associated with certain occurrences, outcomes, conditions or types of behavior. Descriptive research is a scientific method of investigation in which data is collected and analyzed in order to describe the current conditions, terms or relationships concerning a problem (Mugenda and Mugenda, 2003).

3.2 Target Population

Target population as defined by Kothari (2004) is a universal set of the study of all members of real or hypothetical set of people, events or objects to which an investigator wishes to generalize the result. The population of interest consisted of 72 staff members working in the Kenya Revenue Authority in Nairobi, mainly Large Taxpayer Office and Medium Taxpayer Office. Those members of staff working in both Compliance and Audit programs in the Domestic Tax Department (DTD). Revenue Financial data was also obtained from the selected Multinational Enterprises in both Large Taxpayer Office (LTO) and Medium Tax Office (MTO) for the years 2011 to 2016.

3.3 Sample Design

A sample is a finite part of a statistical population whose properties are studied to gain information about the whole (Kothari, 2004). When dealing with people, it can be defined as a set of respondents (people) selected from a larger population for the purpose of a survey. Sampling, on the other hand, is the act, process, or technique of selecting a suitable sample, or a representative part of a population for determining parameters or characteristics of the whole population. The researcher made use of a probability sampling method. Stratified random sampling since the population is heterogeneous, the population was divided into strata based on the industry and the recommended sample size shall be 42 respondents thus the whole population was used to give the intended data. The Naissiuma (2008) formula was employed to calculate the sample size as demostrated below:

$$n = \frac{NC^2}{C^2+(N-1)e^2}$$

Where:

n=sample size

N= population size

C=coefficient of variation ($21\% \leq C \leq 30\%$)

e = error margin ($2\% \leq e \leq 5\%$)

$$n = \frac{72 * 0.3^2}{0.3^2+(72-1)0.03^2} = 42$$

respondents

3.4 Data collection Procedure

The main technique applied by the study was the use of questionnaires, which was issued to the respondents and given enough time to answer the questionnaires. Open ended and close-ended questions were used. The secondary data from the Revenue Financial Reports obtained was also analysed.

3.5 Data Analysis Methods

According to Kothari (2004), data analysis procedure includes the process of packaging the collected information, putting it in order and structuring its main components in a way that the findings can be easily and effectively communicated. After the fieldwork, before analysis, all questionnaires were adequately checked for reliability and verification. Editing, coding and tabulation were then be carried out. The data was then analyzed using qualitative and quantitative techniques.

Qualitative methods involved content analysis and evaluation of text material in this case responses from open-ended questions. The Tax officers business challenges content analysis. Quantitative methods and descriptive statistics to establish the extent of capacity building strategies to empower the tax officer to deal with Taxation of MNE.T-test analysis to establish the relationship between the Base Erosion and Profit shifting planning strategies and performance of Corporation tax in Kenya Revenue Authority in Nairobi.

4. Research Findings and Discussion

The present study set out to establish the net effect of Base Erosion and Profit Shifting (BEPS) on Corporation Tax performance with reference to Multinational Enterprises in Kenya. More specifically, the study sought to establish the correlation between Corporation Tax performance and Base Erosion and Profit Shifting; establish extend of Base Erosion and Profit Shifting by Multinational Enterprises in Kenya; determine the factors that influence the Tax Rate Differential in Kenya; and to establish the challenges facing Kenya Revenue Authority on dealing with BEPS.

4.4.1 Extent of Base Erosion and Profit Shifting

The study sought to establish the extent of Base Erosion and Profit Shifting by Multinational Enterprises in Kenya. To this end, respondents were first asked to indicate the number of tax officers involved in managing BEPS. Findings are as indicate in table 4.3.

Table 4.3 Number of tax officers involved

As presented in table 4.3, it was established that an average of 20 officers from KRA are involved in dealing with BEPS, indicate by a mean value of 19.59. Across different sectors, the highest number of officers involved was 25, and the least, 16. This implies that the problem of BEPS is wide spread and requires substantial human resource to address it, hence the number of officers.

4.4.2 Factors that Influence Differential Tax Rate

The study sought to determine the factors that influence the Differential Tax rate in Kenya. To this end, respondents were first asked to indicate whether top management gets involved in Base Erosion and Profit Sharing legal framework policy formulation. This was meant to determine top management's commitment in dealing with BEPS, to which all respondents unanimously affirmed.

Respondents were further asked to indicate how they build tax officer competencies as well as how the tax officers are groomed. This was meant to indicate the staff capacity to deal with BEPS. It was established in this regard that to build staff competencies and groom them, tax officers undertake continuous trainings on transfer pricing and related matters, exchange programs with neighboring Tax Authorities, exposure to cases and nurturing interested officers, benchmarking, seminars, workshops and conferences as well as close collaboration with the OECD, World Bank, the UN and IBFD for technical support.

4.4.3 Challenges facing Kenya Revenue Authority

The study further sought to establish the challenges facing Kenya Revenue Authority on dealing with BEPS. To this end, respondents were asked to indicate the challenges they faced in dealing with BEPS. In this regard, a majority of respondents cited lack of appropriate work tools for instance a benchmarking database, lack of adequate capacity among tax officers in matters relating to transfer pricing, weak legal framework dealing with such emerging issues as BEPS, shortage of tax officers able to address the problem vis a vis the large number of countries involved, lack of adequate information to deal with the problem as well as non-cooperation by the tax payers.

4.4.4 Corporation Tax performance and Base Erosion and Profit Shifting

The study sought to establish the correlation between corporation tax performance and Base Erosion and Profit Shifting. To this end, respondents were first asked to indicate whether or not there exists a track record of the number of BEPS cases successfully completed, to which all respondents unanimously agreed, implying that whereas the problem of BEPS is widespread among multinationals, KRA is making significant efforts in addressing the same.

The study further sought to find out the amount of revenue collected from BEPS initiative in a year. This would indicate the corporate tax performance from BEPS, vis a vis the amount of tax declared. Findings are as presented in table 4.4.

Table 4.4 Amount of Revenue Collected from BEPS Initiative

As indicated in table 4.4, an average of Kshs1.24 billion shillings is collected very year, from BEPS initiative. Compared by the average of Kshs102.9 million declared by the multinational corporations in question, it can be deduced that overall, efforts by KRA to deal with BEPS have been successful to a considerable extent.

To find out the correlation between corporation tax performance and Base Erosion and Profit Shifting, the study performed a T test to find out the mean difference between corporate tax declared in a year and the amount of revenue collected from BEPS initiative in each respective year. This significance of the mean difference will show whether initiatives to address BEPS have been successful. Findings are presented in table 4.5.

Table 4.5 T test

As indicated in table 4.5, there is a significant mean difference between the revenue from BEPS (M = 1240.27778; Sig. = .000) and corporation tax declared (M = 102.91892; Sig. = .004) at both 90% and 95% confidence levels. It can therefore be deduced that initiatives to curb BEPS have a significant effect on the amount of revenue collected.

5. Summary, Conclusion and Recommendations

This chapter presents a summary of the research findings. The implications from the findings and areas for further research are also presented.

5.1 Summary of Findings

The study sought to establish the extent of Base Erosion and Profit Shifting by Multinational Enterprises in Kenya. It was established that an average of 20 officers from KRA are involved in dealing with BEPS, indicated by a mean value of 19.59. Across different sectors, the highest number of officers involved was 25, and the least, 16. The study sought to determine the factors that influence the tax rate differential in Kenya. To this end, respondents were first asked to indicate whether top management gets involved in Base Erosion and Profit Sharing legal framework policy formulation. This was meant to determine top management's commitment in dealing with BEPS, to which all respondents unanimously affirmed (Gabriel. Z, 2017).

The study further sought to establish the challenges facing Kenya Revenue Authority on dealing with BEPS. In this regard, a majority of respondents cited lack of appropriate work tools for instance a benchmarking database, lack of adequate capacity among tax officers in matters relating to transfer pricing, weak legal framework dealing with such emerging issues as BEPS, shortage of tax officers able to address the problem vis a vis the large number of countries involved, lack of adequate information to deal with the problem as well as non-cooperation by the tax payers.

The study sought to establish the correlation between corporation tax performance and Base Erosion and Profit Shifting. To find out the correlation between corporation tax performance and Base Erosion and Profit Shifting, the study performed a T test to find out the mean difference between corporate tax declared in a year and the amount of revenue collected from BEPS initiative in each respective year. It was established in this regard that there is a significant mean difference between the revenue from BEPS (M = 1240.27778; Sig. = .000) and corporation tax declared (M = 102.91892; Sig. = .004) at both 90% and 95% confidence levels.

5.2 Conclusion

From the foregoing findings, it can be deduced that the problem of BEPS is wide spread and requires substantial human resource to address it, hence the number of officers. Among the factors that significantly influence the tax rate differential in Kenya in regards to BEPS is the top management commitment in policy formulation as well as efforts to build staff competencies at KRA.

Among the most significant challenges faced by KRA in their efforts to address BEPS include lack of appropriate work tools for instance a benchmarking database, lack of adequate capacity among tax officers in matters relating to transfer pricing, weak legal framework dealing with such emerging issues as BEPS, shortage of tax officers able to address the problem vis a vis the large number of countries involved, lack of adequate information to deal with the problem as well as non-cooperation by the tax payers.

It can further be concluded that efforts by KRA to curb BEPS have a significant influence on the amount of revenue collected. This can largely be contributed by the considerable resource allocation including finances for capacity building as well as work force.

5.3 Recommendations

Among the challenges faced by KRA is the lack of adequate information about the tax performance by various MNE. To address this, the OECD should work with all OECD members, BEPS associates and any country willing to participate to publish, on a regular basis, a new corporate tax statistics publication, which would compile a range of data and statistical analyses relevant to the economic analysis of BEPS in an internationally consistent format. Among other information, this publication would include aggregated and anonymized statistical analyses prepared by governments based on the data collected under the Action 13 country-by-country reports.

The government of Kenya should work with all OECD members, BEPS associates and any willing participating governments to produce periodic reports on the estimated revenue impacts of the proposed and enacted BEPS counter Measures. The OECD should continue to produce and refine analytical tools and BEPS indicators to monitor the scale and economic impact of BEPS and to evaluate the effectiveness and economic impact of BEPS counter measures. The government of Kenya should improve the public reporting of business tax statistics, particularly for MNE

5.4 Suggestions for Future Studies

The present study has established effect of Base Erosion and Profit Shifting (BEPS) on Corporation Tax performance with reference to Multinational Enterprises in Kenya. Future studies may focus on MNE within a particular industry for a more detailed analysis.

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Annex

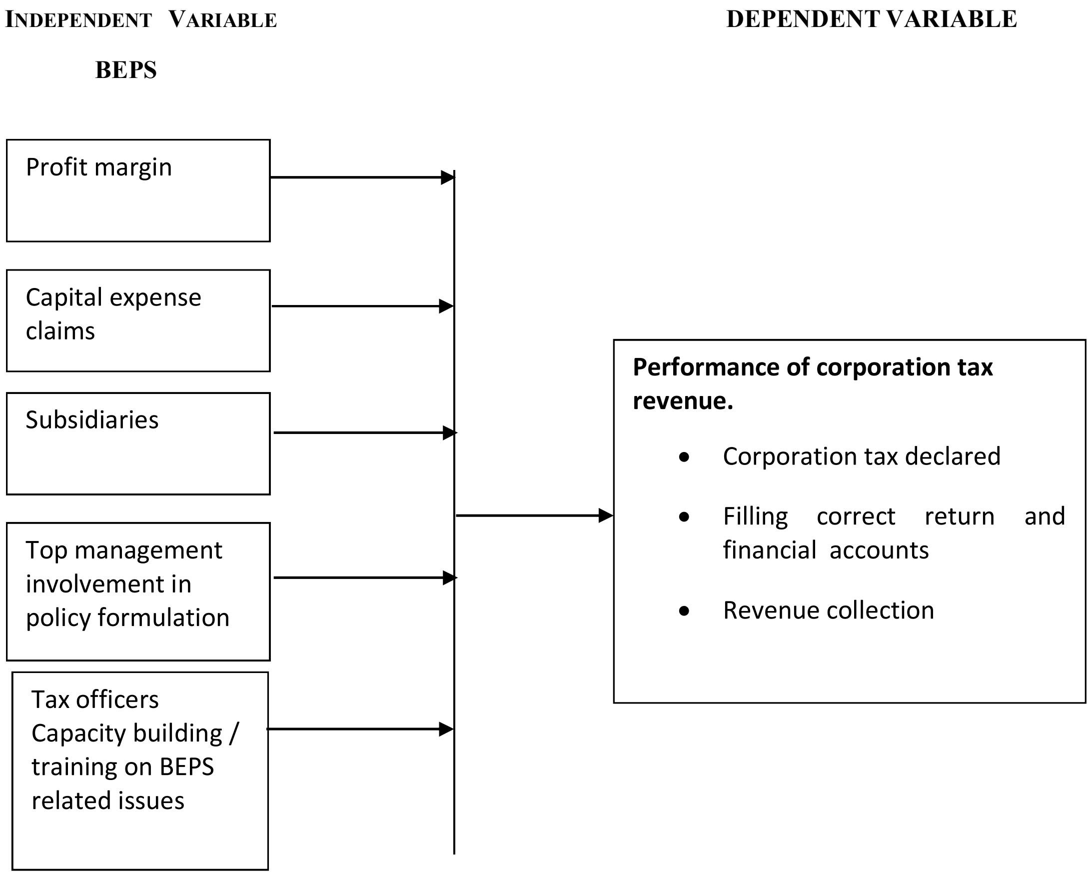

Figure 2.1 Source: Author (2017)

Table 4.3 Number of tax officers involved

	N	Minimum	Maximum	Mean	Std. Dev
Number of tax officers involved	37	16.00	25.00	19.5946	1.93591
Valid N (list wise)	37				

4.4.4 Corporation Tax performance and Base Erosion and Profit Shifting

Table 4.4 Amount of Revenue Collected from BEPS Initiative

	N	Min	Max	Mean	Std. Dev
Revenue collected from BEPS	36	350.00	3000.00	1.2403E3	803.99178
Valid N (list wise)	36				

Table 4.5 T test

	t	df	Sig. (2-tailed)	Mean Diff
Revenue from BEPS	9.256	35	.000	1240.27778
Corporation tax declared	3.041	36	.004	102.91892

QUESTIONNAIRE

I am a student at Kenya School of Revenue Administration. I am conducting a research in order to understand **effects of *Base Erosion and Profit shifting on corporation tax performance, a case multinational enterprises in Kenya.*** The information I acquire from you will only be used in this research and hopefully the responses to these questions will be treated as confidential. Please do not write your name anywhere on the questionnaire. Your co-operation will be greatly appreciated. Kindly fill or tick where appropriate.

Thank you in advance.

A. BACKGROUND

1. Name of enterprise selected for Base Erosion and Profit Shifting assessment?..................................

2. Which industry does the enterprise operate in?..

3. How long has the enterprise been in operation?...

4. What is the number of staff in the firm?...

B. POLICY FORMULATION

1. Does the top management get involved in the Base Erosion and Profit Shifting legal framework policy formulation?

Yes [ ] No [ ]

2. Are there records of accomplishment of BEPS cases successfully completed?

Yes [ ] No [ ]

3. How do you build competencies on the Tax officers?...

………………………………………………………………………………………..

4. How are the Tax offers groomed?...

……………………………………………………………………………………

5. How many Tax officers are involved in managing the Base Erosion and Profit Shifting sector?.................

6. Indicate the challenges facing Base Erosion and Profit Shifting sector?

………………………………………………………………………………………………

C. PERFORMANCE

1. Estimate how much Revenue is collected from Base Erosion and Profit Shifting audit initiatives in a year

a) Between 100-200 million ☐

b) Between 201-300 million ☐

c) Between 301-400 million ☐

d) Above 401 million ☐

2 Are there objections that arise due to Base Erosion and Profit Shifting assessments?

Yes ☐ No ☐

3 .Indicate by a tick the extent to which you agree that corporation tax declared by multinational enterprises is reduced by use of BEPS schemes

(SA; strongly agree, A; agree, U; undecided D; disagree **SD**; strongly disagree)

STATEMENTS	SA	A	U	D	SD	
Artificial avoidance of permanent establishment (PE) Status in relation to BEPS						
abuse of tax treaties						
Transfer pricing outcomes that are not in line with value creation.						
Aggressive tax planning arrangement						
Use related party and third party debts to achieve excessive interest deductions						

4. How long does it take to complete a compliance check profiled on Base Erosion and Profit Shifting related issue?

a) A month ☐

b) 6 months ☐

c) A year ☐

d) Above a year ☐

5. Indicate by use of a tick the extent to which Base Erosion and Profit Shifting (BEPS) influence performance of a corporation tax.

(SA; strongly agree, A; agree, U; undecided D; disagree **SD**; strongly disagree)

STATEMENTS	SA	A	U	D	SD

Multinationals enterprises under declare their profit margin					
Multinational enterprises overstate their capital expanses claims					
Multinational enterprises rarely transact with their subsidiary at arms-length principal					
Multinational enterprises rarely File correct return and financial accounts to minimize their exposure to their BEPS schemes.					
Compliance checks and audit on multinational enterprises rise and collect more revenue when you focus on BEPS issues					

6. Is Corporation tax performance is affected by BEPS schemes?

Yes [ ] No [ ]

Thank you for your contribution.

APPENDIX II

LIST OF G20 MEMBER COUNTRIES

The members of the G20/OECD BEPS Project are:

Argentina,

Australia,

Brazil,

Canada,

China,

France,

Germany,

India,

Indonesia,

Italy,

Japan,

Republic of Korea,

Mexico,

Russia,

Saudi Arabia,

South Africa,

Turkey,

The United Kingdom,

The United States of America

The European Union.

APPENDIX III

The OECD Action Plan

Brauner, Y. (2014) enumerates the Action Plan, the fifteen Action Items namely:

Action Item 1 (Address the Tax Challenges of the Digital Economy)

To identify the main difficulties that the digital economy poses for the application of existing international tax rules and develop detailed options to address these difficulties, taking a holistic approach and considering both direct and indirect taxation. Issues to be examined include, but are not limited to, the ability of a company to have a significant digital presence in the economy of another country without being liable to taxation due to the lack of nexus under current international rules, the attribution of value created from the generation of marketable location-relevant data through the use of digital products and services, the characterization of income derived from new business models, the application of related source rules, and how to ensure the effective collection.

Action Item 2 (Neutralize the Effects of Hybrid Mismatch Arrangements)

To develop model treaty provisions and recommendations regarding the design of domestic rules to neutralize the effect (e.g. double non-taxation, double deduction, long-term deferral) of hybrid instruments and entities. This may include:

(i) Changes to the OECD Model Tax Convention to ensure that hybrid instruments and entities (as well as dual resident entities) are not used to obtain the benefits of treaties unduly;

(ii) Domestic law provisions that prevent exemption or non-recognition for payments that are deductible by the pay or;

(iii) Domestic law provisions that deny a deduction for a payment that is not includible in income by the recipient (and is not subject to taxation under controlled foreign company (CFC) or similar rules);

(iv) Domestic law provisions that deny a deduction for a payment that is also deductible in another jurisdiction; and;

(v) Where necessary, guidance on co-ordination or tiebreaker rules if more than one country seeks to apply such rules to a transaction or structure. Special attention should be given to the Interaction between possible changes to domestic law and the provisions of the OECD Model Tax Convention. This work will be coordinated with the work on interest expense deduction Limitations, the work on CFC rules, and the work on treaty shopping.

Action Item 3 (Strengthen CFC Rules)

To develop recommendations regarding the design of controlled foreign company rules. This work will be coordinated with other work as necessary. At face value, this is indeed an important component of an anti-BEPS initiative. Deferral is an important feature of tax planning in the United States, as well as most other productive countries. Therefore, anti-deferral regimes, such as CFC rules, supposedly make sense. It is not only important but also relevant, since the schemes that brought

BEPS to the top of the agenda exposed some of the most conspicuous failures of the United States (its CFC rules) – the inability to capture royalty income from foreign exploitation of intangibles of United States - MNEs and the use of the so-called same country exception in the “Dutch Sandwich” scheme, to name two.

Action Item 4 (Limit Base Erosion via Interest Deductions and Other Financial Payments)

To develop recommendations regarding best practices in the design of rules to prevent base erosion through the use of interest expense, for example through the use of related-party and third-party debt to achieve excessive interest deductions or to finance the production of exempt or deferred income, and other financial payments that are economically equivalent to interest payments. The work will evaluate the effectiveness of different types of limitations. In connection with and in support of the foregoing work, transfer pricing guidance will also be developed regarding the pricing of related party financial transactions, including financial and performance guarantees, derivatives (including internal derivatives used in intra-bank dealings), and captive and other insurance arrangements. The work will be coordinated with the work on hybrids and CFC rules.

Action Item 5 (Counter Harmful Tax Practices More Effectively, Taking Into Account Transparency and Substance)

To revamp the work on harmful tax practices with a priority on improving transparency, including compulsory spontaneous exchange on rulings related to preferential regimes, and on requiring substantial activity for any preferential regime. It will take a holistic approach to evaluate referential tax regimes in the BEPS context. It will engage with non-OECD members on the basis of the existing framework and consider revisions or additions to the existing framework.

Action Item 6 (Prevent Treaty Abuse)

To develop model treaty provisions and recommendations regarding the design of domestic rules to prevent the granting of treaty benefits in inappropriate circumstances. Work will also be done to clarify that tax treaties are not intended to be used to generate double non-taxation and to identify the tax policy considerations that, in general, countries should consider before deciding to enter into a tax treaty with another country. The work will be coordinated with the work on hybrids.

Action Item 7 (Prevent the Artificial Avoidance of PE Status)

To develop changes to the definition of PE to prevent the artificial avoidance of PE status in relation to BEPS, including through the use of commissionaire arrangements and the specific activity exemptions. Work on these issues will also address related profit attribution issues.

Action Items 8 (Assure that Transfer Pricing Outcomes are in Line with Value Creation)

These action items are perhaps the most interesting of the Action Plan. There should be little doubt that transfer pricing is the primary element of BEPS planning. It is the key to the transactions that led to the universal interest in BEPS and the OECD's, BEPS project. The essence of these transactions is the so-called "movement" of their intangibles – actually then rights to exploit these intangibles outside the United States – to a low tax jurisdiction, primarily Ireland, but also Luxemburg, Switzerland, etc. This was done through a cost-sharing scheme that is still unique to the transfer-pricing regime of the United States. Such movement shielded from US taxation – both directly and indirectly – the income from the exploitation of these intangibles. Next, the MNEs would structure their business worldwide in a manner that would maximize the profits shifted to these low tax jurisdictions at the expense of the jurisdictions where they operate using multiple schemes. These schemes all belong to the BEPS project, yet first in importance is the simple use of transfer pricing, since the arm's length based transfer pricing is inherently biased in favor of these MNEs and this bias is particularly pronounced for MNEs with larger intangible components in their businesses.

Action Item 9 (Risks and Capital)

To develop rules to prevent BEPS by transferring risks among, or allocating excessive capital to group members. This will involve adopting transfer pricing rules or special measures to ensure that inappropriate returns will not accrue to an entity solely because it has contractually assumed risks or has provided capital. The rules to be developed will also require alignment of returns with value creation. This work will be coordinated with the work on interest expense deductions and other financial payments.

Action Item 10 (Other High-risk Transactions)

To develop rules to prevent BEPS by engaging in transactions which would not, or would only very rarely, occur between third parties. This will involve adopting transfer pricing rules or special measures to: (i) clarify the circumstances in which transactions can be re-characterized; (ii) clarify the application of transfer pricing methods, in particular profit splits, in the context of global value chains; and (iii) provide protection again

Action Item 11 (Establish Methodologies to collect and Analyze Data on BEPS and the Actions to address it)

To develop recommendations regarding indicators of the scale and economic impact of BEPS and ensure that tools are available to monitor and evaluate the effectiveness and economic impact of the actions taken to address BEPS on an ongoing basis. This will involve developing an economic analysis of the scale and impact of BEPS (including spillover effects across countries) and actions to address it. The work will also involve assessing a range of existing data sources, identifying new types of data that should be collected, and developing methodologies based on both aggregate (e.g. FDI and balance of payments data) and micro-level data (e.g. from financial statements and tax returns), taking into consideration the need to respect taxpayer confidentiality and the administrative costs for tax administrations and businesses. This is both a very general and a very specific Action.

Action Item 12 (Require taxpayers to disclose their aggressive tax planning arrangements)

To develop recommendations regarding the design of mandatory disclosure rules for aggressive or abusive transactions, arrangements, or structures, taking into consideration the administrative costs for tax administrations and businesses and drawing on experiences of the increasing number of countries that have such rules. The work will use a modular design allowing for maximum consistency but allowing for country specific needs and risks. One focus will be international tax schemes, where the work will explore using a wide definition of “tax benefit” in order to capture such transactions. The work will be coordinated with the work on co-operative compliance. It will also involve designing and putting in place enhanced models of information sharing for international tax schemes between tax administrations (Traversa, 2013).

Action Item 13 (Re-examine Transfer Pricing Documentation)

To develop rules regarding transfer pricing documentation to enhance transparency for tax administration, taking into consideration the compliance costs for business. The rules to be developed will include a requirement that MNEs provide all relevant governments with needed information on their global allocation of the income, economic activity and taxes paid among countries according to a common template.

Action Item 14 (Make Dispute Resolution Mechanisms More Effective)

To develop solutions to address obstacles that prevent countries from solving treaty-related disputes under MAP, including the absence of arbitration provisions in most treaties and the fact that access to MAP and arbitration may be denied in certain cases. It is unclear what direction the OECD will take on this matter.

Action Item 15 (Develop a Multilateral Instrument)

To analyze the tax and public international law issues related to the development of a Multilateral Instrument **(MI)** to enable jurisdictions that wish to do so to implement measures developed in the course of the work on BEPS and amend bilateral tax treaties. On the basis of this analysis, interested Parties will develop a multilateral instrument designed to provide an innovative approach to international tax matters, reflecting the rapidly evolving nature of the global economy and the need to adapt quickly to this evolution.