The 75th Anniversary of the Bulletin for International Taxation: “75 Years of International Taxation: Looking Back and Looking Ahead”

Johann Hattingh provides an overview of articles in the 75th anniversary special issue of the Bulletin for International Taxation that cover thematically arranged topics prepared by distinguished authors, while he also looks back at the development of the journal and its future.

1. Introduction

This special issue marks the 75th anniversary of the Bulletin for International Taxation, the first issue of which was published sometime in 1946.1

The initial editor was Jaap van Hoorn Jr., then called the “Secretary for the Bulletin.”2 In 1954, he became the second managing director of the Bureau, and he was to remain at the helm of the organization until his retirement in 1985 after a remarkable career of 40 years.3 His foundational work laid the ground for the success of the journal. Future editors4 and staff of the Bureau built on his legacy, such that the journal is firmly established as a renowned forum for the dissemination of knowledge about international taxation.

While looking back at the development of the journal and its future, most immediately it is hoped that readers will enjoy the articles gathered for this momentous occasion. The articles cover a range of topics prepared by distinguished authors, most of whom are long-standing contributors.

2. Articles in This Special 75th Anniversary Issue

The editorial board of the journal wanted to ensure an engaging and exciting special issue and therefore decided to invite distinguished authors to contribute essays or thought pieces instead of the usual longer descriptive and analytical articles. The theme was set as “75 Years of International Taxation: Looking Back and Looking Ahead”. All of us at the journal were astounded by the enthusiastic response, which is evident in the quality and large number of articles presented in this special issue. On behalf of the editorial board, our sincerest “thank you” to all contributors.

Assembling material and working with our authors for this special issue presented a bittersweet moment for the staff of the Bureau. A couple of weeks before his passing on 27 October 2021, we had the pleasure to interact with Professor Frans Vanistendael, who was Academic Chair of IBFD from 2007 to 2013. We are humbled and proud to publish his last publication with IBFD in this special issue.5 Professor Vanistendael was a great ambassador for international taxation as a serious field for scholarly and practical enquiry and, above all, was a warm and kind person who is fondly remembered. In his honour, a memorial editorial by the current holder of the chair, Professor Pasquale Pistone, is published in this special issue.6

The articles in this special issue are arranged in three broad themes. The themes reflect the type of material that has become the staple of the journal: essays that illuminate the international tax regime and potential future changes; reflective and analytical articles about the state of the worldwide network of model-based income tax treaties and the many unresolved legal and policy questions about them; and contributions about regional and comparative tax topics. Each of these lend themselves perfectly to the overall theme of looking back and looking ahead.

2.1. The international tax regime today and its past

The decade leading up to this journal’s jubilee has been dominated by major reform projects undertaken by prominent institutional actors who impact the development of the international tax order. Several of these projects, ranging from taxation measures to address the digitization of economic activity to addressing cross-border tax avoidance and evasion, are of an ongoing nature and present a once-in-a-generation opportunity for meaning-

-----------------------------------------------------------------------------------------------------------------------------

* Professor, Faculty of Law, University of Cape Town. The author may be contacted at bulletin@ibfd.org.

1. The exact date in 1946 when the first issue of the journal (then called the Bulletin for International Fiscal Documentation) was published remains a mystery. In 2006, the name was changed to Bulletin for International Taxation.


4. In the era of Van Hoorn at the helm of the Bureau, Mr J.C.L. Huiskamp became the second editor of the Bulletin in 1965, and from 1971 to 1989, Mr D.A. van Waardenburg was editor. Subsequently, the editors of the journal were: S.M.C. Lyons J. D. (1989 to 2002); Dr P.E. Soos, JD, LLM (2002 to 2008); F. Dickinson (2008 to 2014); Dr A.M. Bal (2014 to 2019).


-----------------------------------------------------------------------------------------------------------------------------
ful change. It is therefore appropriate to present contributions that consider these ongoing reform projects at the outset of this special issue.

In The International Tax Regime at 100: Reflections on the OECD's BEPS Project, Reuven Avi-Yonah, in a historical note, traces the intellectual origins of key aspects of the so-called Two Pillar proposal that stems from the OECD’s Committee of Fiscal Affairs. He highlights the origins of sales-based factors to allocate residual profits tax to market jurisdictions, and the single tax principle. Avi-Yonah’s account reveals an age-old process of transplantation whereby concepts and constructs found in the taxation systems of powerful countries such as the United States are likely to find their way into the taxation systems of many others, where they will need to be assimilated.

Stephen Shay makes a compelling case in The Deceptive Allure of Taxing “Residual Profits” for simplification of the OECD/G20 Pillar One proposal given expected modest tax revenue gains by market countries. Graeme Cooper continues the missive about the OECD/G20 Pillar One proposal in Building on the Rubble of Pillar One. He traces how the proposal set out to jettison “pillars” of the existing international tax architecture from dematerializing the permanent establishment concept to partly neutralizing the arm’s length notion and de-recognizing separate corporate personality. Most immediately, the apparent revolution is being diminished in current machinations to refine Pillar One, but perhaps future international tax reforms will embroider on the three crumbling keystones identified by Cooper.

In Some Considerations on the Limitation of Substance-Based Carve-Out in the Income Inclusion Rule of Pillar Two, Luis Eduardo Schoueri scrutinizes the current iteration of the OECD/G20 Pillar Two proposal that will seek to introduce a global minimum tax on corporations. In his assessment, the detail of the substance-based carve-out calls into question whether it is based on any rational policy, such as recognition of value creation in a source jurisdiction.

The goal of aligning the location of taxation with the location of value creation is carefully considered by Angelo Nikolakakis in Aligning the Location of Taxation with the Location of Value Creation: Are We There Yet?!. He enquires whether the OECD/G20 Base Erosion and Profit Shifting Project and the resulting Two Pillar proposal has the ultimate aim of tax base alignment, or tax base expansion?

Stepping away from the detail of the OECD/G20 proposals for international tax reform of the day, Parthasarathi Shome in The Absence of a Stable Core in the International Taxation Regime unpacks five dynamic areas that explain why the international tax regime appears to be in continuous flux. Looking to the future, whilst in the long term the UN as a home for international taxation might provide a stabilizing institutional architecture, more immediately Shome calls for the creation of a global fiscal organization that might be founded on the contours of the OECD Inclusive Framework.

The bouquet of essays on the international tax regime is concluded by John Prebble in Tax Competition’s Terminological and Factitious Lure. His closely argued essay detangles market competition from tax competition to unmask the latter as a construct devoid of steady meaning with consequences that are contested. The utility of tax competition as a potential lodestar to explain the course of development of the international tax regime is thereby brought into question.

2.2. The Tax Treaty Monitor

It is axiomatic that the Bulletin has become the major global forum for learned exchange of views about all aspects of tax treaties. In 1946, at a time when there were less than 50 income tax treaties for the avoidance of double taxation globally, articles about tax treaties already regularly appeared in the Bulletin. For example, the first of these reported the influential 1945 income tax treaty concluded by the United Kingdom and the United States. Reporting and publishing the text of notable income tax treaties were later transferred out of the Bulletin resulting in the IBFD Tax Treaty Database. Another example from the Bulletin’s foundational issue dealt with the topic of “The Application of Double Taxation Treaties to New Taxes”, which is as current today as it must have been in 1946. In the interregnum, many thought-leading pieces on tax treaties have appeared in the pages of the journal.
Regular features of the journal and analytical articles, some of which led to intense scholarly dialogues, as well as special issues, all stand out for the collective contribution to knowledge about the interpretation and application of model-based tax treaties. It is therefore no surprise that in this special issue, the bulk of contributions appear under the famous Tax Treaty Monitor section of the Bulletin.

David Ward wrote a scholarly article in which he supported the use and application of public international law principles to interpret tax treaties (D.A. Ward, Principles to be Applied to Interpret Tax Treaties, 34 Bull. Intl. Fiscal Docn. (1980), pp. 553-555). Ward dealt with issues that were novel at the time, some of which were to become hotly debated in subsequent years and the casus belli in disputes before the courts. Topical questions foreshadowed by Ward included the interpretation of strict; text-based or teleological?; the use of preparatory works, the vexed question of the legal value of the OECD Commentaries; interpretation by reference to domestic law and interpretation by competent authorities. Ward’s prophetic article has become a classic in the store of international tax literature. John Avery Jones, another of the journal’s long-standing authors, assessed trialblazing legal questions about competent authority agreements concerning the interpretation and application of tax treaties (J. Avery Jones, Mutual Agreement Procedure, 34 Bull. Intl. Fiscal Docn. (1980), pp. 556-558). In a similar vein, in 1985 Philip Baker published an article based on an IFA Congress panel discussion, under the chairmanship of John Avery Jones, in which Professors Klaus Vogel, Kees van Raad and Sir Ian Sinclair critiqued the views of David A. Ward about the interpretation of clauses patterned on art. 3(2) of the OECD Model (I. Avery Jones, Interpretation of Tax Treaties, 39 Bull. Intl. Fiscal Docn. (1985), pp. 75-85). Thus started possibly the longest ongoing debate in the pages of the Bulletin about a topic of tax treaty interpretation. The matter still receives regular attention (see J.F. Avery Jones, A Fresh Look at Article 3(2) of the OECD Model, 74 Bull. Intl. Taxn. 11/12 (2021) and M. Lang, Tax Treaty Interpretation – A Response to John Avery Jones, 74 Bull. Intl. Taxn. 11 (2020), Journal Articles & Opinion Pieces IBFD).

From March 1998 to February 2008, Klaus Vogel was editor of the Tax Treaty Monitor: Tax Treaty News section of the Bulletin, in which he surveyed recent developments from around the world and provided often terse but immensely insightful commentary. Brian I. Arnold succeeded Klaus Vogel and continued the tradition, from July 2008 to December 2014, of not only dedicated reporting but also incisive analyses of global tax treaty developments. After December 2014, this feature ceased to appear in the journal because coverage of news about tax treaty developments was transferred to IBFD’s daily tax news service.


The Tax Treaty Monitor was started in the December 1997 issue of the Bulletin. It was intended to be published at approximately three-monthly intervals to examine various important issues affecting the application of tax treaties. A review of significant events and a list of recently signed treaties will also be included” (Editorial, 51 Bull. Intl. Fiscal Docn. 12 (1997), at p. 530).

In Tax Treaty Policy in West Africa: Past, Present and Future, Belema Obuorforbo charts the development of tax treaties in West Africa, including a multilateral approach and prospects for enhancement of intra-regional trade.

The second special issue of articles starts with reflections on the nature of current income tax treaties and particularly their use for tax avoidance purposes. In From the Avoidance of Double Taxation to the Avoidance of Double Non-Taxation: The Changing Objectives of Tax Treaties, Porus F. Kaka attributes the failure of the existing network of tax treaties to deal with cross-border tax avoidance to the lack, for too long, of multilateral solutions. Charl du Toit questions and points out in Beneficial Owner: The Enigma Storms Ahead that, despite all the criticism beneficial ownership
has received, the concept’s use as a “policing term” appears to be ever-increasing.

In Twenty Years of Change to the Treatment of Services in the OECD Model and the UN Model, Carmel Peters29 illustrates a shift in international tax treaty policy in this area that favours allocating greater taxing rights to source countries. Jan de Goede,30 in The Future of the Taxation of Software Payments: Reflections on the Proposal to Amend Article 12 of the UN Model as Discussed by the UN Tax Committee in April 2021, deals with the hard question of the tax treaty treatment of software payments. He points to inevitable complexity in the ongoing work to refine an area that is rife for divergent interpretations.

John F. Avery Jones31 sheds light on a foundational provision of model-based tax treaties in What Can We Learn from the History of Article 21 of the OECD Model? The history reveals an unsatisfactory explanation of the original design of this aspect of the OECD Model, including the possibility that misunderstanding informed parts of the model clause. Kees van Raad,32 in Proposal for a Reform of Article 21 of the OECD Model, puts forward a possible corrective. He illustrates that careful consideration is required to synchronize the distributive rules of the models with article 21. This duet of articles by two masters offers a powerful warning to draftspersons who are responsible for crafting and amending international legal instruments or models: utmost care is required to avoid cementing flaws in a network of legal instruments.

Michael Lang33 deals with a basic but neglected question of tax credit relief under tax treaties in What Is a “Tax Paid in That Other State” under Article 23 of the OECD Model? His position is that the tax authorities of the state of residence must independently determine whether, and to what extent, the amount paid to the tax authorities of the state of source qualifies for tax treaty credit relief.

The Tax Treaty Monitor section for this special issue concludes with three contributions about tax treaty interpretation with an eye to the future. In The Interpretation of Tax Treaties: Looking to the Future, Brian J. Arnold34 explains why national courts often make fundamental mistakes in deciding tax treaty cases. Arnold’s solution is a process whereby tax treaty experts could be asked to provide non-binding advice to national courts on tax treaty issues.

Michael Lang33 deals with a basic but neglected question of tax credit relief under tax treaties in What Is a “Tax Paid in That Other State” under Article 23 of the OECD Model? His position is that the tax authorities of the state of residence must independently determine whether, and to what extent, the amount paid to the tax authorities of the state of source qualifies for tax treaty credit relief.

29. C. Peters, Twenty Years of Change to the Treatment of Services in the OECD Model and the UN Model, 75 Bull. Intl. Taxn. 11/12 (2021), Journal Articles & Opinion Pieces IBFD.


Guglielmo Maisto35 explains how common tax treaty interpretation may in the future be enhanced following work of the International Law Commission of recent years in Interpretation of Tax Treaties and the Decisions of Foreign Tax Courts as a “Subsequent Practice” under Articles 31 and 32 of the Vienna Convention on the Law of Treaties (1969). He sets out legal and practical considerations under public international law for the use of the decisions of foreign tax courts to aid common tax treaty interpretation.

In International Investment Agreements and the International Tax System: The Potential of Complementarity and Harmonious Interpretation, Robert Danon and Sebastian Wuschka36 analyse the similarities and differences between key aspects of the international investment protection treaty regime and the international tax regime, making a case for harmonious interpretation. This trailblazing analysis points to prospects for legally integrating various allied fields of international economic law in future.

2.3. Regional and comparative taxation

The last theme addressed by contributions in this special issue concerns regional and comparative taxation. Nathan Boidman and Michael N. Kandev37 explain what Canada has done and may still do in response to external pressures to reform in Canada at the Crossroads of International Tax Reform: Between Harmonization and Tax Competition. They conclude that, whilst uneven implementation of global tax proposals has been witnessed, Canada has increased taxes on foreign multinationals and wealthy and/or foreign individuals in the name of tax fairness.

In Japan’s Corporate Income Tax: 1995-2021, Yoshihiro Masui38 reveals three broad trends. He concludes by pointing to a likely further shift to VAT or an alternative form of tax base in Japan to deal with a disruptive and more digitalized global market.

Jinyan Li39 charts China’s transformation from a norm taker to a norm shaker and its implications for global tax governance in China’s Rising (and the United States’ Declining) Influence in Global Tax Governance? Some Observations. Since the 1980s, she has illuminated readers of the Bulletin on the position of China in the international tax order. In The Belt and Road Initiative Tax Administration Cooperation Mechanism (BRITACOM): Where Is It


47. Na Li proposes that the agenda of the BRITA-COM should not only be to produce soft law instruments, but should include the negotiation of multilateral conventions to achieve its aims.

The closing analysis belongs to Frans Vanistendael, former Academic Chair of IBFD who passed away shortly after finalizing his contribution for this special issue. It is an immense privilege to publish his visionary essay, An EU Corporate Income Tax Filling the Hole in the EU Budget: An End to Tax Competition and “Tax-Abuse”? Vanistendael proposes that an EU corporate income tax will not only raise revenue for the EU budget, but is likely to end tax competition between Member States as well as several forms of tax abuse. Ultimately, it will enhance democracy within the European Union.

Finally, as a tailpiece we reprint Mickey Mouse: A British Tax Eader that appeared in 1981, most probably written by D.A. van Waardenburg, as an example of the more amusing aspects of taxation that, at times, receive attention in the Bulletin.

3. Looking Back: The Bulletin as a Window

The Bulletin’s entire archive has become electronically available to the public as part of the activities celebrating the 75th anniversary. The impression gained from studying back issues of the journal is one of the Bulletin as a window through which key moments in the development of the international tax regime and its communities may be seen. Readers are invited to study the archive at the hand of notes to guide them through material that offers vistas on this remarkable journey of gradual development.

For those who are interested in the development of IBFD, the archive provides compelling material that tells the astonishing story of the Bureau and its personalities. In studying the archive, one cannot but conclude that IBFD is a truly unique organization created by and for the national and later for many of IBFD’s other publications. They provide quality contributions on a range of taxation topics of interest to a global audience of professional and academic readers to make sense and face the challenges of the contemporary tax landscape. According to the IBFD library catalogue, more than 1,300 authors have contributed material to the journal over its 75 years of existence.

This special issue of the Bulletin should not disappoint readers. The reflections and viewpoints provided by contributors are of the highest order. A feast of ideas is on offer.

It is therefore right that this special issue marking the 75th anniversary of the Bulletin should be dedicated to the tireless effort of all the authors who have contributed over the years and without whom the journal will not be able to exist. To them all, our most sincere “thank you”.

5. The Future

The future of the Bulletin is not certain. According to doomsday prophets, whether journals like the Bulletin will remain recognizable as such in another 25 or 50 years is an open question. The impact of digitization on the publishing industry continues unabated with relentless consequences presenting existential threats for journals. They sketch an alternate future of dematerialized paper products in which persistent “consumer” demand for online-only “content” prevails, which will mean an inevitable loss of identity for a journal. According to these visionaries, the Gutenberg press is about to halt.

In the special issue marking the 50th anniversary of the Bulletin, several renowned international tax authors raised alarm about the impact of the “Internet” on tax systems. Some of the rather severe consequences predicted 25 years ago, such as a dramatic increase in the incidence of double taxation because of the “communications revolution”, has not materialized yet.

The lesson from the past is perhaps that the threat of technology should not be overstated since human ingenuity has a remarkable capacity for adaptation to the collective ideal and need.

Accordingly, the future of the Bulletin is firmly in the hands of the journal’s readers and authors, for they are primus inter pares (first among equals) in this matter. The IBFD and its flagship journal exist because of and for the international tax community. It is not like profit-seeking enterprises, such as multinational publishing conglomerates. IBFD is an independent, non-profit organization whose goal is to promote and disseminate the understand-

42. See the text above at n. 5.
44. All editions of the journal from 1946 to 1998 can be accessed on the IBFD Library Portal. See https://library.ibfd.org/client/en_GB/ibfdli brary/my-BULLETIN-75TH-10%2C7C%2C10%2C%2C%2C0%2C% 7C7Ctrue.
45. This editor’s notes about the journal’s development and noteworthy articles that were published since 1946 are plotted on a timeline that may be found at the link provided in supra, n. 44.
46. The first correspondents of the Bulletin were appointed in 1950 (see P.J. Adriani, Introduction, 5 Bull. Intl. Fiscal Docn (1950), at p. 4).
ing of cross-border taxation at the highest level. Readers and authors are therefore encouraged to express their views about the journal, for its future very much depends on their ongoing feedback, recommendations, needs and continued support. For example, if readers and authors want to see a centenary special issue of the *Bulletin* in 25 years, they should please make their wishes known to IBFD.  

48. Correspondence may be delivered electronically to bulletin@ibfd.org or by post to P.O. Box 20237, 1000 HE Amsterdam, the Netherlands.