RECONCILING SOUTH ASIAN TAX INCENTIVES WITH THE OECD GLOBAL MINIMUM TAX: AN ANALYSIS

Alisha Ahuja and Ananya Joshi [*]

This paper examines how the 15% global minimum effective tax rate introduced by the Organisation for Economic Co-operation and Development (OECD) Pillar Tworules affects the fiscal policies of developing nations. The primary problem addressed is the conflict between this new global standard and the traditional tax incentives, such as Special Economic Zone benefits and tax holidays, that South Asian nations use to attract Foreign Direct Investment (FDI). Countries including India, Pakistan, Bangladesh, Sri Lanka, Nepal, and the Maldives face the risk that the Global Minimum Tax (GMT) will render their domestic incentives counterproductive, as the tax revenue may instead be collected by the home jurisdictions of Multinational Enterprises (MNEs). To address these challenges, the article performs a comparative policy analysis across South Asian jurisdictions and draws lessons from proactive regulatory frameworks adopted in Southeast Asia and Africa. The study finds that ambiguities in taxation frameworks and administrative capacity challenges could undermine fair taxation and regional competitiveness. The article concludes that South Asian economies must adopt a phased implementation strategy centered on the Qualified Domestic Minimum Top-up Tax (QDMTT). This mechanism ensures that tax revenue remains within the host country while aligning with international standards. Furthermore, it recommends a transition from corporate tax exemptions to non-tax incentives and infrastructure development to remain attractive to investors. These reforms are essential for market integrity in the post 2025 international tax landscape.

[*] The authors are Fourth-Year students at Rajiv Gandhi National University of Law, Punjab.

Keywords*: *OECD's Pillar Two rules, Global Minimum Tax, South Asia, tax incentives, Foreign Direct Investment, Multinational Enterprises

I. INTRODUCTION

1.1. The Global Minimum Tax Framework

The regulation of global corporate taxation is currently undergoing a structural shift that significantly impacts the developing economies of South Asia. At the center of this change is the GMT framework, which seeks to harmonize effective tax rates and curb competition based on fiscal incentives. However, the path to implementation is marked by significant geopolitical friction. For example, on January 20 2025, the United States withdrew from the OECD global minimum tax agreement, citing concerns that the deal disproportionately affects American companies. This move, alongside directions to the United States Treasury to develop measures against perceived unfair tax rules, reflects deep apprehensions regarding fiscal sovereignty.[1] Such developments risk reigniting global tax disputes and destabilizing international tax cooperation, directly affecting the cross-border investments that South Asian nations rely upon.

Corporate tax avoidance has emerged as a growing concern in the contemporary global taxation landscape. With the advent of the modern globalised and digitalised economy, it has become a widespread and common practice for MNEs to save their additional profits from being taxed by artificially shifting them to low-tax jurisdictions. Such exploitative practices, known internationally as Base Erosion and Profit Shifting ("BEPS") practices, reduce the tax revenue of certain economies and undermine the fairness of competition and taxation worldwide.[2]

In an effort to address these challenges and safeguard tax bases, the Organisation for Economic Co-operation and Development ("OECD"), in collaboration with the G20 countries, developed an action plan in 2013, comprising 15 points to strengthen tax bases.[3] Though the BEPS 1.0

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[1] The Hindu, 'Trump effectively pulls U.S. out of global corporate tax deal' (*The Hindu,* 21 January 2025) <https://www.thehindu.com/business/trump-effectively-pulls-us-out-of-global-corporate-tax-deal/article69123936.ece> accessed 24 January 2025.

[2] Reuven Avi-Yonah and Haiyan Xu, 'Evaluating BEPS: A Reconsideration of the Benefits Principle and Proposal for UN Oversight' (2016) 6 Harv Bus L Rev 185 https://repository.law.umich.edu/cgi/viewcontent.cgi?article=2868&context=articles accessed 20 January 2025.

[3] OECD, 'Action Plan on Base Erosion and Profit Shifting', (*OECD,* 2013) <http://dx.doi.org/10.1787/9789264202719-en> accessed 20 January 2025; *see also* OECD, 'Base erosion and profit shifting (BEPS)' (*OECD,* 2024) <https://www.oecd.org/en/topics/policy-issues/base-erosion-and-profit-shifting-beps.html> accessed 20 January 2025.

action plan was successful, this existing action plan proved to be inadequate in addressing the existing BEPS practices tied to the digitalization of the economy.

Significant breakthrough occurred on 8 October, 2021, when 136 members signed a statement on a two-pillar solution, marking the advent of a novel international tax regime.[4] As a part of this initiative, Pillar One mandates corporations to pay taxes in the areas where their users are situated. MNEs with consolidated revenue of at least 20 billion euros and profitability of more than 10% are compelled to pay a certain amount of tax in the markets where business is conducted.[5]

Pillar Two mandates and ensures the payment of a minimum level of tax on profits earned through the Global Anti-Base Erosion tax regime ("GloBE Rules") and the Subject to Tax Rule (STTR).[6] The GloBE Rules or the GloBE Model Rules envision the GMT, seeking to put a cap on competition by imposition of corporate tax. The GMT is imposed with the aim of bringing the global minimum Effective Tax Rate ("ETR") to 15% upon MNEs with consolidated group revenue exceeding €750 million in two out of four consecutive years. A framework for imposing top-up taxes ensures that MNEs pay a minimum level of 15% tax on their excess profits in each jurisdiction. These taxes are not structured as conventional direct taxes on income, but instead target excess profits at the domestic level in cases when the ETR falls below 15% in a given year.[7]

Top-up taxes are enforced upon entities through a range of mechanisms, namely, the Income Inclusion Rule ("IIR"), the Under Taxed Payments Rule (UTPR), and the QDMTT.[8] The IIR is a form of top-up tax enforced in the parent jurisdiction of the MNE, that is, the jurisdiction in which the Ultimate Parent Entity ("UPE") operates. The residual foreign profits are taxed in the country of such operation itself to reach the minimum tax rate. However, in instances where

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[4] Reuven Avi-Yonah and Young Ran Kim, 'Tax Harmony: The Promise and Pitfalls of the Global Minimum Tax' (2022) 43 Mich J Int'l 505 <https://heinonline.org/HOL/P?h=hein.journals/mjil43&i=523> accessed 20 January 2025.

[5] OECD, 'Programme of Work to Develop a Consensus Solution to the Tax Challenges Arising from the Digitalisation of the Economy: Inclusive Framework on BEPS' (*OECD,* 2019) <https://doi.org/10.1787/87061b68-en.> accessed 20 January 2025.

[6] OECD, 'Tax Challenges Arising from the Digitalisation of the Economy – Global Anti-Base Erosion Model Rules (Pillar Two): Inclusive Framework on BEPS' (*OECD,* 2021) (*hereinafter*, **"GloBE Rules"**) https://www.oecd.org/en/publications/tax-challenges-arising-from-digitalisation-of-the-economy-global-anti-base-erosion-model-rules-pillar-two_782bac33-en.html accessed 20 January 2025.

[7] OECD, 'Commentary to the GloBE Rules' *OECD* (2022) https://doi.org/10.1787/1e0e9cd8-en accessed 20 January 2025.

[8] OECD, 'Minimum Tax Implementation Handbook (Pillar Two)' (*OECD,* 2023) https://www.oecd.org/content/dam/oecd/en/topics/policy-sub-issues/global-minimum-tax/minimum-tax-implementation-handbook-pillar-two.pdf accessed 20 January 2025.

the IIR cannot be enforced in a particular jurisdiction, implementing jurisdictions are allowed to allocate and collect the top-up tax from subsidiaries of the MNE via a 'denial of deduction' under the UTPR. Alternatively, under the QDMTT mechanism, a country with low tax rates is empowered to incorporate minimum tax provisions within its domestic jurisdiction. Here, the top-up tax is imposed on the MNE's additional revenue and collected by that country itself.

1.2. The Global Minimum Tax and South Asia

The implementation of the GMT poses unique challenges for South Asian countries, which are developing countries which rely on tax incentives for attracting FDI.[9] For instance, the incentives offered by India to attract investment in its SEZs, and similar tax holidays granted across specific sectors in Bangladesh and Sri Lanka, may lose their appeal in garnering investment. The transition from such corporate tax incentives to their complete removal is not likely to be a seamless process. Further, increased dependency on other forms of taxation in order to compensate for the minimum tax such as personal income and consumption may lead to undesirable consequences for the consuming masses.[10]

Developed countries have propagated a "benefits for all" approach as an advantage of implementing the GMT domestically. However, South Asia's developing economies may be disproportionately affected by the IIR and UTPR mechanisms of collecting top-up taxes, as these essentially allow for developed nations housing the UPEs to collect additional profits under GMT obligations.[11]

The GMT risks placing disproportionate burdens on the developing economies of South Asia. In this backdrop, reliance on tax incentives must be reconsidered in order to explore alternative approaches. Thus, it becomes imperative to analyse the economic and fiscal implications of the global minimum tax for South Asian countries, namely, India, Pakistan, Bangladesh, Nepal, Maldives, and Sri Lanka, in light of the comprehensive tax incentives deployed by them, along with the challenges encountered in aligning with global standards.

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[9] IISD and ISLP, 'A Guide for Developing Countries on How to Understand and Adapt to the Global Minimum Tax' (*IISD,* 2023) https://www.iisd.org/system/files/2023-06/guide-developing-countries-adapt-global-minimum-tax-final_0.pdf accessed 20 January 2025.

[10] Leopoldo Parada, 'Global Minimum Taxation: A Strategic Approach for Developing Countries' (2024) 15 Colum J Tax L 187.

[11] IISD and ISLP, 'A Guide for Developing Countries on How to Understand and Adapt to the Global Minimum Tax' (*IISD,* 2023) <https://www.iisd.org/system/files/2023-06/guide-developing-countries-adapt-global-minimum-tax-final_0.pdf> accessed 20 January 2025.

II. TAX INCENTIVE REGIMES IN SOUTH ASIA

FDI is a substantial source of capital influx in developing economies leading to economic growth and development.[12] These economies fill in their coffers of external finances, by taxing the profits made by the MNEs operating within their territories. Among the various factors, tax incentives are predominantly used by states to make their territories more favorable to MNEs for investment and operation purposes.[13] However, this often leads to states indulging in tax competition and offering lower tax rates to MNEs ultimately resulting in corporate profit sharing and tax base erosion. In order to assess the impact that the implementation of GMT would cause on the revenues of the states as well as the enterprise, it is necessary to bring to the table various tax incentives being provided by the developing South Asian economies to attract FDI.

2.1. India

India has in effect multiple tax incentives provided on the basis of various factors, which includes, location in which the enterprise is set up, industry in which it works, activity undertaken by it and export linked activities undertaken by it. Apart from the incentives provided in the tax regime, India has also actively participated in engaging with other countries through Advance Pricing Agreements, Double Taxation Avoidance Agreements (DTAAs) and provisions for Foreign Tax Credits (FTCs), which aims to encourage investors to set up MNEs in India's domestic territory.

MNEs engaged in the business of processing and packaging of agricultural and meat products may avail a 100% tax exemption for the first five years, followed by a reduced tax rate of 25% (30% for companies) for the next five years.[14] In order to tackle the problem of unemployment, an additional 30% export linked deductions are offered on costs incurred for employment of new employees.[15] Investments in the areas like research and development and skill

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[12] P. Loungani, 'The Arcane World of External Debt' (*Finance & Development,* 2001) <https://www.imf.org/external/pubs/ft/fandd/2001/06/loungani.htm> accessed 21 January 2025.

[13] United Nations Conference on Trade and Development (UNCTAD), 'The Impact of International Investment Agreements on FDI Flows: An Overview of Empirical Studies' (2003) <https://unctad.org/system/files/official-document/iteipcmisc3_en.pdf> accessed 20 January 2025.

[14] The Income Tax Act 1961 (no 43 of 1961) s 80IB (11A).

[15] Income Tax Act 1961 (no 43 of 1961) s 80JJAA.

development projects in India has recently seen an uprise owing to the incentives being offered by the government which include a weighted deduction of 150% of qualifying expenditures.[16]

Moreover, targeted areas, for instance, Special Economic Zones (SEZs) and International Financial Services Centres (IFSCs), such as GIFT City, offer exemptions on export income, duty-free imports, and other fiscal advantages[17] which encourage international entities to set up their bases and lead to development of such areas. Such tax incentives focus on simplifying compliances for MNEs and reducing the associated litigation risks, building a safe and competitive environment for international businesses to gloom.

2.2. Bangladesh

Bangladesh offers significant exemptions for international corporations operating in their territories including, but not limited to, a 100% tax exemption for the first 10 years, for corporations setting their offices in designated economic zones and contributing to backward linkages.[18] The IT sector of Bangladesh also has in place a 10% cash incentive for exports to promote and prioritize innovation and global competitiveness.[19] International corporations indulging in the large infrastructure projects and public-private partnerships (PPPs) can also benefit from the 100% income tax holidays, exemptions from capital gains tax, and full repatriation of profits and dividends during their initial 10 years of operations.[20]

The Bangladesh Investment Development Authority (hereinafter, 'BIDA'), has been set-up with a vision to make the state a preferred destination for international investment. The BIDA has made efforts to provide international corporations with streamlined regulatory processes and investment guarantees for a business-friendly operational framework.[21] The tax holidays provided to corporations in specific areas and sectors, exemptions from paying custom duties

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[16] Department of Scientific and Industrial Research, 'Fiscal Incentives for Scientific Research: Annexure' <https://www.dsir.gov.in/fiscal-incentives-scientific-research-annexure> accessed 20 January 2025.

[17] Gujarat International Finance Tec-City (GIFT City), 'Tax Benefits' <https://accreditation.giftgujarat.in/tax-benifits> accessed 20 January 2025; Special Economic Zones (SEZ), 'FAQ' <https://sezindia.gov.in/FAQ> accessed 20 January 2025; Gujarat International Finance Tec-City (GIFT City) <https://giftcity.gov.in/> accessed 19 January 2025.

[18] The COMCEC Coordination Office, 'Bangladesh: Trade and Economic Integration' (2021) <https://www.comcec.org/wp-content/uploads/2021/07/10-TRD-BNG.pdf> accessed 15 January 2025.

[19] Bangladesh Association of Software and Information Services (BASIS), 'IT Services Export Promotion Strategy' <https://basis.org.bd/public/files/publication/5e123f2d5a6c6ba96136a3b168568073f9800e5b0f5b9.pdf> accessed 21 January 2025.

[20] Bangladesh Consulate General, 'Investment Prospects in Bangladesh' <https://bcgdubai.gov.bd/investment-prospects-in-bangladesh/> accessed 21 January 2025.

[21] Bangladesh Investment Development Authority (BIDA), 'Vision and Mission' <https://bida.gov.bd/vision-mission> accessed 19 January 2025.

and incentives for corporations involved in manufacturing, logistics and technology make Bangladesh an attractive destination for MNEs in South Asia. Through these initiatives the government of Bangladesh aims to strengthen their export industries and infrastructure development.

2.3. Sri Lanka

Sri Lanka provides tax incentives for MNEs in targeted areas of tourism, agriculture, and manufacturing.[22] International entities and corporations have to comply with the simplified regulatory requirements specified by the government in order to avail sector specific concessions. To boost the revenues, the government offers VAT and Custom Duty exemptions to MNEs engaged and operating in the tourism sector, a major contributor to the Sri Lankan economy.[23] Likewise, areas of agriculture and education are also promoted by incentivizing investment in form of lower corporate tax rate and tax-free inputs and machineries.[24] The tax incentives are organized sectorally, to foster investment and growth in emerging and profit-bearing industries in Sri Lanka.

Sri Lanka has also constituted the Board of Investment, a broader fiscal measure to provide incentives which include income tax holidays, reduced rates for specified durations, and exemptions on customs duties and levies for import of capital goods.[25] MNEs involved in export activities also benefit from the duty-free import facilities and tax benefits tied to employment generation.[26] The government is in the process of restructuring the tax regimes by bringing more tax incentives in order to attract more inflow of Foreign Direct Investment.[27]

2.4. Pakistan

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[22] Institute of Policy Studies of Sri Lanka, ‘Incentivizing Exports through Free Trade Zones’ (2017) <https://www.ips.lk/wp-content/uploads/2017/01/Incentivizing.pdf> accessed 20 January 2025.

[23] US Department of Commerce, ‘Sri Lanka: Travel and Tourism Country Commercial Guide’ (2024) <https://www.trade.gov/country-commercial-guides/sri-lanka-travel-and-tourism> accessed 20 January 2025.

[24] World Bank, ‘South Asia Regional Energy Infrastructure: Multi-Page Report’ <https://documents1.worldbank.org/curated/en/579031468760780513/pdf/multi0page.pdf> accessed 20 January 2025.

[25] US Department of Commerce, ‘Sri Lanka Import Tariffs and Taxes’ (2024) <https://www.trade.gov/country-commercial-guides/sri-lanka-import-tariffs-and-taxes#:~:text=These%20taxes%20entail%20concessions%20and,is%20increased%20by%202.5%20percent.> accessed 19 January 2025.

[26] International Labour Organization (ILO), ‘Sri Lanka EPZ Report’ <https://webapps.ilo.org/public/french/dialogue/download/epzsrilanka.pdf> accessed 20 January 2025.

[27] Human Rights Watch, ‘Sri Lanka: New Government Pledges Economic Reform and Justice’ (*HRW*, 16 January 2025) <https://www.hrw.org/news/2025/01/16/sri-lanka-new-government-pledges-economic-reform-justice> accessed 20 January 2025.

Pakistan has an inclusive tax framework that provides incentives to MNEs specifically operating in the Special Economic Zones ("SEZs") and Special Technology Zones ("STZs").[28] International entities and corporations setting their business in the SEZs are granted income tax exemption for 10 years and also a year exemption from customs duties on the import of plant and machinery for installation.[29] Additionally, the tech corporations incorporated in STZs avail a plethora of incentives including a 10-year income tax exemption, customs duties exemptions on capital goods imports, sales tax exemptions on goods, machinery, and equipment, and property tax exemptions.[30] International entities looking for long- term investment destinations prefer such incentives along with strategic locations and developing industrial sectors to set up their businesses, make profits and cut costs.

To promote the area of research and development, the government also offers tax benefits in the sectors of Information Technology and Information Technology-Enabled Services resulting in increased revenues for the state.[31] The income earned by MNEs in this area benefits from the 100% tax credit, on the condition that 80% of export proceeds are routed through formal banking channels. IT corporations also provide for 100% foreign ownership and profit repatriation, as well as sales tax exemptions on exports of IT services within the Islamabad Capital Territory.[32] Other incentives provided in the territory of Pakistan include duty-free import of machinery and materials for setting of operations and a reduced 1% income tax rate for zone businesses.[33] These incentives make it an investor-friendly destination for MNEs.

2.5. Nepal

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[28] World Bank, 'Assessment of Special Economic Zones in Pakistan' (2025) <https://documents1.worldbank.org/curated/en/585181583852150750/pdf/Assessment-of-Special-Economic-Zones-in-Pakistan-Suggesting-Steps-Towards-Improved-Performance.pdf> accessed 20 January 2025; Special Technology Zones Authority (STZA), 'FAQs' (2021) <https://stza.gov.pk/storage/2022/01/STZA-FAQs-15.12.2021.pdf> accessed 27 January 2025.

[29] PwC Pakistan, 'Corporate Tax Credits and Incentives' <https://taxsummaries.pwc.com/pakistan/corporate/tax-credits-and-incentives#:~:text=Profits%20and%20gains%20derived%20from%20a%20transmission%20line%20project%20set,)%2C%20subject%20to%20certain%20conditions.> accessed 21 January 2025.

[30] Hong Kong Trade Development Council (HKTDC), 'Trade Developments and Tax Incentives' <https://research.hktdc.com/en/article/NjQzNzk3NjY4#:~:text=Also%20on%20offer%20are%20exemptions%20from%20all,to%20be%20exempt%20from%20paying%20property%20tax> accessed 19 January 2025.

[31] Pakistan Economic Survey 2022, 'Information Technology Chapter' <https://www.finance.gov.pk/survey/chapter_22/Annex%20III%20INFORMATION.pdf> accessed 20 January 2025.

[32] Pakistan Economic Survey 2023, 'Information Technology Chapter' <https://www.finance.gov.pk/survey/chapters_23/15_Information_Technology.pdf> accessed 27 January 2025.

[33] Investment Policies Of Pakistan-Final Version-1708_240316_214332.pdf

Nepal focuses on sectors of infrastructure, hydropower, and exports, for attracting MNEs through the mechanism of tax exemptions and incentives.[34] MNEs that are working on hydropower projects can avail a 100% income tax exemption for the first 10 years of operation and a further 50% exemption for the subsequent five years. This incentive aligns with the recent transition by economies for development of renewable energy.[35] Nepal, like other states, offers reduced tax rates and duty exemptions to international corporations engaging in export of raw materials and capital goods.[36] Certain specified and targeted areas, which remain relatively underdeveloped, offer additional benefits to MNEs including additional tax concessions and extended tax holidays.[37]

It also has in place a structured and advanced investment outline which supplements these incentives by providing more fiscal flexibility. Upon fulfilling the tax requirements, the corporations can opt for 100% repatriation of profits and dividends.[38] The provision for income tax holidays and exemption from custom duties on imports of machinery and equipment is applicable on MNEs adding to public-private partnerships ("PPPs") in infrastructure and large-scale projects.[39] The initiative of implementing provisions for streamlined customs procedures and reduced VAT for corporations working in manufacturing and export has significantly benefited Nepal.[40] These tax incentives supplemented by the regulatory initiatives have made Nepal an investment destination for MNEs in South Asia.

2.6. Maldives

The Maldives' Special Economic Zones (SEZ) Act[41] lays down the significant tax incentives provided by the government on large-scale private investments in areas such as export

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[34] World Bank, 'Nepal Energy Infrastructure Sector Assessment' (2019) <https://documents1.worldbank.org/curated/en/592481554093658883/pdf/Nepal-Energy-Infrastructure-Sector-Assessment.pdf> accessed 20 January 2025.
[35] Tax Consultant Nepal, 'Tax Incentives for Special Industries in Nepal' <https://taxconsultantnepal.com/tax-incentives-for-special-industries-in-nepal/> accessed 19 January 2025.
[36] US Department of Commerce, 'Nepal Import Tariffs and Taxes' (2024) <https://www.trade.gov/country-commercial-guides/nepal-import-tariffs#:~:text=Special%20Duty%20Reductions%20of%20five,and%20rent%20is%20too%20high>. accessed 20 January 2025.
[37] US Department of State, 'Nepal Investment Climate Statement 2024' (2024) <https://www.state.gov/reports/2024-investment-climate-statements/nepal/> accessed 20 January 2025.
[38] Law Imperial, 'Repatriation of FDI in Nepal' <https://www.lawimperial.com/repatriation-of-fdi-in-nepal/> accessed 20 January 2025.
[39] Asian Development Bank (ADB), 'Technical Assistance Completion Report: Nepal Regional Transmission Project' (2015) <https://www.adb.org/sites/default/files/project-documents/41025-012-nep-tacr.pdf> accessed 20 January 2025.
[40] Asian Development Bank (ADB), 'Manufacturing Sector Profile: Nepal' (2020) <https://ibn.gov.np/wp-content/uploads/2020/04/Manufacturing-Sector-Profile.pdf> accessed 20 January 2025.
[41] Maldives Special Economic Zones Act, 2014 (no 24 of 2014) (Maldives).

processing, transshipment, technology parks, and international financial services. In the SEZ framework, the investments beyond the threshold of $100 million can apply for tax exemptions, including exemptions from business profit tax, goods and services tax ("GST"), and withholding tax.[42] Foreign Investors investing in SEZs are also provided with flexible regulations for foreign employment and exemptions from taxes on land sales and purchases. Corporations can also acquire freehold land in the Maldives provided their 50% shareholding is local.[43] The investment size and sector determines the quantum of these exemptions, nonetheless, the framework of incentives is designed to develop Nepal's infrastructure and increase the inflow of FDI.

Apart from the incentives provided by the SEZ Act to corporations based in these zones, the Export Import Act[44] exempts corporations from import duty for projects of national and societal significance. The government is empowered under the Income Tax law to announce tax incentives depending upon the strategic importance of projects.[45] In 2023 the Muizzu Administration decreased the minimum threshold for SEZ eligibility from $150 million to $100 million, under the SEZ Act.[46] This amendment aligned with the government's motive to increase investments in these areas. The design of these initiatives aims to attract MNEs to Nepal's high-priority and transformative economic sectors and contribute to Nepal's economy.

III. ASSESSING THE IMPLICATIONS OF THE GMT FOR SOUTH ASIAN COUNTRIES

The profitability of FDI in developing countries is directly impacted by taxation policy and tax incentives.[47] In furtherance of their aim to maintain competitiveness, tax incentives are granted

[42] US Department of State, 'Maldives Investment Climate Statement 2024' (2024) <https://www.state.gov/reports/2024-investment-climate-statements/maldives/> accessed 21 January 2025.
[43] 'Doing Business in Maldives' (2024) *Maldives Economic Development* <https://issuu.com/medmv/docs/doing_business_in_maldives> accessed 19 January 2025.
[44] Export Import Act of the Maldives, 1979 (no 31 of 1979) (Maldives).
[45] Government of Maldives, 'Public Finance Revenue Policy' <https://www.finance.gov.mv/public-finance/revenue-policy> accessed 20 January 2025.
[46] Invest Maldives, 'Investment Areas under the SEZ Law' (2025) <https://investmaldives.gov.mv/president-dr-mohamed-muizzu-announces-the-investment-areas-and-minimum-investment-thresholds-to-be-considered-under-the-special-economic-zones-law/> accessed 20 January 2025.
[47] Jack Mintz and Thomas Tsiopoulos, 'Taxation of Foreign Investment in South Asia' (1993) World Bank Internal Discussion Paper, 1 <https://documents1.worldbank.org/curated/en/196101468915661044/pdf/Taxation-of-foreign-investment-in-South-Asia.pdf> accessed 21 January 2025.

to MNEs in the form of preferential tax rates, exemptions from income, tax holidays, investment grants and other forms of incentives that postpone the taxes owed.[48]

Developing countries in South Asia characteristically have higher rates of corporate tax than the global standard, with India taxing foreign companies at 35%, Pakistan at 29% and Bangladesh at rates ranging from 22.5% to 27.5%.[49] However, the abovementioned statutory requirements do not practically guarantee the actual payment of taxes at such rates. This is because, keeping in mind the wide-ranging tax incentives given to MNEs by developing countries in order to attract FDI, such companies may end up paying less than the statutory corporate tax rates. In this context, the GMT has introduced a limit to tax competition relating to incentives among developing countries. It increases the effective tax that is collected, which was previously lowered due to incentives, despite high statutory rates.

3.1. Ramifications of the GMT for the Indian Tax Regime

India has attracted FDI through the strategic employment of Special Economic Zones ("SEZs") by offering tax incentives, which are comprehensive in nature and aim to boost exports and investments. This is exemplified by GIFT City in Gujarat, which hosts the first International Financial Services Centre ("IFSC") in India. Incentives in the form of tax holidays allow a deduction of 100% on gross income for ten consecutive years. Reduced corporate tax rates, exemptions on distributed income and concessional capital gains tax rates are also among the many fiscal benefits given.[50] The Minimum Alternate Tax ("MAT"), at a statutory rate of 15% under Section 115JB of the Income Tax Act, 1961,[51] has been reduced to 9% for promoting ease of doing business. Certain businesses are also exempted from the Commodities Transaction Tax.

Further, in GIFT City, additional incentives have also been introduced specifically for IFSCs.[52] For instance, sector-specific benefits have been offered to players in aviation, by way of foreign

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[48] Alexandra Readhead, Thomas Lassourd and Howard Mann, 'The End of Tax Incentives: How Will a Global Minimum Tax Affect Tax Incentives Regimes in Developing Countries' (*IISD Investment Treaty News*, 7 October 2021) <https://www.iisd.org/itn/en/2021/10/07/the-end-of-tax-incentives-how-will-a-global-minimum-tax-affect-tax-incentives-regimes-in-developing-countries-alexandra-readhead-thomas-lassourd-howard-mann/#:~:text=How%20a%20Global%20Minimum%20Tax,effective%20tax%20rate%20(ETR)> accessed 21 January 2025.

[49] PwC Worldwide Tax Summaries, 'Quick Charts: Corporate income tax (CIT) rates' (*PwC,* 2025) <https://taxsummaries.pwc.com/quick-charts/corporate-income-tax-cit-rates> accessed 21 January 2025.

[50] PwC, 'Evaluating impact of SEZs in India through sectoral analysis and case studies' (*PwC*, 2021) <https://www.epces.in/uploads/SEZ%20impact%20assessment%20study%20report_PwC_revised%20final%20version_20210716.pdf> accessed 22 January 2025.

[51] The Income Tax Act, 1961 (no 43 of 1961) s 115JB.

[52] PwC (n 49).

lease rentals being exempted and tax holidays on aircraft leasing. Thus, it can be inferred that such tax incentives are essential in ensuring the competitiveness and adaptability of India's SEZs.

Notwithstanding its market position, India has recognised the importance of the GloBE Rules, taking steps to align its financial and economic policy with the Rules. The 2% equalisation levy, charged on any amounts received for foreign e-commerce services,[53] was proposed to be removed in the Union Budget 2024-25, with Finance Minister Nirmala Sitharaman observing that this would be a significant step towards India's compliance with the global setup.[54] She further confirmed that India would take positive initiative to adopt OECD's two-pillar framework.

It also becomes imperative for India to recognise and implement the GloBE Rules domestically in the context of their acceptance in several states such as the UK, France, Netherlands, Japan, Switzerland, South Korea and Canada, where many Indian multinational conglomerates have major operations.[55] These conglomerates are to be subject to the rules from 2025 onwards in those jurisdictions, irrespective of domestic legislation. With the risk of losing its taxing rights to other jurisdictions, India's implementation at a national level becomes a necessary measure to protect its tax base.

Thus, India's position on the GMT is influenced by its existing competitive corporate tax rates. Its production-linked incentive schemes drive investments in sectors like electronics, pharmaceuticals, and renewable energy, which may then qualify for a substance-based income exclusion under the GloBE rules. This would have no direct effect on the effective tax rate. For example, India's corporate tax rates exceed the 15% threshold, minimizing the immediate impact of a possible QDMTT framework. This means that no significant generation of revenue can be expected in general, however, in SEZs such as GIFT City that offer comprehensive tax incentives, such revenue can be expected.

3.2. The South Asian Experience

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[53] Income Tax Department, 'Equalisation Levy' (Ministry of Finance, 31 July 2024) <https://incometaxindia.gov.in/Pages/equalization-levy.aspx#:~:text=Equalisation%20levy%20is%20charged%20at%20the%20rate%20of%202%25%20from,such%20levy%20shall%20be%20chargeable> accessed 22 January 2025.

[54] Government of India, 'Memorandum Explaining the Provisions in the Finance Bill, 2024' (2024) <https://www.indiabudget.gov.in/doc/memo.pdf> accessed 22 January 2025.

[55] PwC, 'OECD Pillar Two country tracker' (*PwC,* 2025) <https://www.pwc.com/gx/en/services/tax/pillar-two-readiness/country-tracker.html#pdf-download> accessed 22 January 2025.

The implementation of the GMT in other South Asian countries, particularly, Bangladesh, Nepal, Sri Lanka, Pakistan, and Maldives, is also likely to have a significant impact on their economic and fiscal frameworks, particularly in relation to their reliance on tax incentives to attract FDI. For instance, Bangladesh's 10-year tax holidays in economic zones, and Nepal's tax exemption for hydropower projects lower the effective tax rates MNEs.[56] The enforcement of a minimum 15% would curtail such practices, effectively limiting the extent of these incentives.

Economically, this could reduce the attractiveness of these nations as investment destinations and MNEs may look to relocate their operations to countries offering other competitive advantages. The 10-year income tax exemptions and duty-free imports SEZs and STZs in Pakistan might lose their appeal if the GMT prevents MNEs from benefiting from these concessions.[57] Similarly, in Sri Lanka, where tourism, agriculture and export sectors are incentivized, reduced tax holidays could hinder the government's efforts in promoting these sectors.[58]

Notwithstanding, the GMT may lead to increased tax revenue by curbing erosive practices. If countries adopt the QDMTT mechanism, it becomes possible for them to retain additional tax revenue that would be otherwise taxed in foreign jurisdictions under the IIR. The implementation of QDMTT on the infrastructure and export sectors in Bangladesh may allow for retention of excess revenue. However, the challenge lies in balancing the potential gains from the GMT with the loss of competitiveness in attracting FDI. This can be addressed by refocusing on aspects such as regulatory ease, infrastructure development, and workforce skills to remain competitive.

It can be seen that the GMT poses challenges for these developing countries in South Asia, as it targets profit-based tax incentives, which many nations rely on to attract FDI.[59] The focus on

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[56] Bangladesh Investment Development Authority, 'Bangladesh Investment Handbook: A Guide for Investors' *BIDA* (2020) <https://bida.gov.bd/themes/bida/assets/pdf/Bangladesh-Investment-Handbook-by-BIDA.pdf> accessed 22 January 2025; *see also* Bureau of Economic and Business Affairs, '2024 Investment Climate Statements: Nepal' (*U.S. Department of State,* 2024) <https://www.state.gov/reports/2024-investment-climate-statements/nepal/> accessed 22 January 2025.

[57] PwC, 'Pakistan: Corporate - Tax credits and incentives' (*PwC,* 2024) <https://taxsummaries.pwc.com/pakistan/corporate/tax-credits-and-incentives> accessed 22 January 2025.

[58] Roshan Perera, Thashikala Mendis, and Janani Wanigaratne, 'Reforming the tax incentive structure in Sri Lanka' (*Advocata,* 25 October 2023) <https://www.advocata.org/commentary-archives/2023/10/25reforming-the-tax-incentive-structure-in-sri-lanka> accessed 22 January 2025.

[59] Catherine Brown, 'A global minimum tax: is Pillar Two fair for developing countries?' (*International Centre for Tax and Development*, 19 July 2023) <https://www.ictd.ac/blog/global-minimum-tax-pillar-two-fair-

curbing excessive tax incentives may undermine these countries' ability to compete globally for capital. In order to navigate this, it is suggested that South Asian countries may adopt targeted and cost-based incentives, moving away from profit-based incentives.[60] Governments are to ensure that any incentives are grounded in sound economic rationale, by requiring companies to provide detailed financial models. By investing in non-tax determinants of investment, such as infrastructure, human capital, and governance, can help mitigate the adverse effects of the GMT in these countries.

IV. COMPARATIVE POLICY ANALYSIS ACROSS SOUTH ASIA

The South Asian countries have shown varied responses to the introduction of the GMT. The states in favor of adopting GMT have argued it to be a measure to ensure that all MNEs are taxed at a minimum level of the threshold of 15% on their income in each jurisdiction where they operate. This helps in diminishing countries' "race to the bottom" with domestic tax rates, with profit shifting being discouraged and competition with regard to taxation limited.[61] However, states with limited fiscal tools have nonetheless shown their reluctance in adopting a global approach which might hinder their flow of FDI. In this section, the responses of various South Asian Countries would be analyzed in order to analyze the future implementation of GMT in South Asia.

4.1. India

India as a member of the OECD/G20 Inclusive Framework on BEPS joined the October 2021 *Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy*.[62] As a G20 member and a prominent economy in the present framework, India has been constructively engaging and negotiating on the aspects of dispute

developing-countries/#:~:text=For%20the%20developing%20country%2C%20it,countries%2C%20also%20include%20tax%20carveouts> accessed 22 January 2025.

[60] Alexandra Readhead, Thomas Lassourd and Howard Mann, 'The End of Tax Incentives: How Will a Global Minimum Tax Affect Tax Incentives Regimes in Developing Countries' (*IISD Investment Treaty News*, 7 October 2021).

[61] Organisation for Economic Co-operation and Development (OECD), 'Global Minimum Tax' <https://www.oecd.org/en/topics/sub-issues/global-minimum-tax.html> accessed 20 January 2025.

[62] OECD, 'OECD/G20 Inclusive Framework Members Joining Statement on Two-Pillar Solution to Address Tax Challenges Arising from Digitalisation' (October 2021) <https://www.oecd.org/content/dam/oecd/en/topics/policy-issues/beps/oecd-g20-inclusive-framework-members-joining-statement-on-two-pillar-solution-to-address-tax-challenges-arising-from-digitalisation-october-2021.pdf> accessed 20 January 2025.

resolution and the treatment of withholding tax. It claims to resolve the challenges before finally signing the deal.[63] The government with the reduction in the corporate tax rate for foreign companies from 40% to 35% and the withdrawal of the 2% equalisation levy, in the Union Budget FY 2024-25 gave a glimpse of its intention of implementing the GMT. [64]

India, at present does not have an existing CFC framework, which will allow it to implement the GMT on MNEs without any internal contradictions. There are broadly two ways available to the government for implementation of the GMT in Indian tax regime, one being, introduction of the GMT through the Annual Union Budget in the provisions of the Income Tax Act and the other way may be the release of draft rules on which the comments of the stakeholders can be invited.

The effective corporate tax rate will, though remain unaffected with the implementation of GMT, the Indian economy might benefit with collection of additional tax revenue from the affiliated norms of Income Inclusion Rule (IIR) and Undertaxed Profit Rules (UTPR) under the garb of GMT.[65] However, MNEs operating and planning to set up their bases in the GIFT City are expected to be at the epicentre of the GMT impact in India. The substance-based income exclusion rule is effectively a carve-out for expenditure on tangible fixed assets and payroll costs. The remaining balance might be affixed with a top-up.

India has also during the ongoing discourse raised a few concerns which impact the adoption of the GMT on a global as well as individual level. Though the process of implementation of Pillar One had started long back, yet it has not been overall successful in majority of the countries.[66] There also exists uncertainties with regard to the linking process of the two pillars under the same framework. The vagueness in the air of Subject to Tax Rule, also needs to be cleared before the wave of GMT comes upon MNEs.

The Indian government has to also delve into the contradictions that the implementation of GMT would create in the existing tax legislations and the overall tax regime of the country.

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[63] Business Standard, 'India Not to Sign Global Corporate Tax Deal Until Concerns Addressed' (*Business Standard*, 25 July 2024) <https://www.business-standard.com/economy/news/india-not-to-sign-global-corporate-tax-deal-until-concerns-addressed-124072501205_1.html> accessed 21 January 2025.

[64] Institute of Chartered Accountants of India (ICAI), 'Union Budget 2024 Highlights' <https://www.icai.org/post/prc-union-budget-2024> accessed 23 January 2025.

[65] The Financial Express, '15% Minimum Corporate Tax Rule Likely Part of IT Act Review' (*Financial Express*, 27 July 2024) <https://www.financialexpress.com/business/industry-15-per-cent-minimum-corporate-tax-rule-likely-part-of-i-t-act-review-3636723/> accessed 23 January 2025.

[66] International Tax Review, 'India and the Two-Pillar Solution: The Road Ahead' (*International Tax Review,* 2024) <https://www.internationaltaxreview.com/article/2dmy2lhwi8la8dmbp6gw0/sponsored/india-and-the-two-pillar-solution-the-road-ahead> accessed 23 January 2025.

Additionally, the effective date of implementation should be announced in advance, so that the MNEs have sufficient time to comply and align their policy with that of GMT. The stakeholder consultation would play a significant role in resolving concerns of MNEs and assuring minimum complexity and compliance costs. The resources for substantial accounting and collecting tax information also need to be readily available before the rules are implemented.

4.2. Bangladesh

Bangladesh has not committed to the Pillar Two of GLOBE Rules, that is, the GMT. Experts cite various challenges being faced by the state owing to which the state has been reluctant to consent to a global approach of minimum tax.[67] The FDI in the Bangladesh economy is mainly contributed by the MNEs working in the export sector who enjoy various tax benefits and incentives. The introduction of GMT might lead to removal of these benefits and increase in the compliance costs of MNEs. This may result in MNEs shifting to other favourable locations, thus impacting the FDI in Bangladesh's economy.

The IT sectors and other sectors of garments and pharmaceuticals might also face a decrease in the number of MNEs set up in these sectors. Bangladesh's economy also lacks sources other than tax incentives for attracting FDI, which is another reason for the state being reluctant to adopt the said framework. With the aim of internal development and enhanced exports, the government of Bangladesh tends to preserve the current tax regime which offers various tax incentives to MNEs in the region.

4.3. Sri Lanka

Sri Lanka has refused to sign the GMT global deal. The Sri Lankan government has, owing to the ongoing economic crises, chosen to not be a part of the global initiative.[68] The government has stated that at present the state is facing a serious risk of defaulting on its debts. The United States has taken a negative stand on the present scenario of the states' economy by stating that the Sri Lankan economy is amidst the most protectionists in the world. A report highlighted that there are alarming concerns in obtaining credit (132/190), registering property (138/190),

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[67] Deloitte, 'Bangladesh Tax Highlights 2024' <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-bangladeshhighlights-2024.pdf> accessed 22 January 2025.

[68] Tamil Guardian, 'Sri Lanka Refuses to Co-Sign US-Backed Global Minimum Tax' (*Tamil Guardian,* 2024) <https://www.tamilguardian.com/content/sri-lanka-refuses-co-sign-us-backed-global-minimum-tax> accessed 23 January 2025.

paying taxes (142/190), and contract enforcement (164 out of 190).[69] Further it also stated that Sri Lanka is a difficult place for investors to thrive, as the transaction costs are high and the governmental economic policies are uncertain and corrupt.

The state is being backed up by the IMF to recover its economy from debts and for this the Sri Lankan government is not willing to let go of its tax autonomy as it also fears that the framework is designed to divert tax profits to developed nations. It is also argued that the Income Inclusion Rule(IIR), which provides for taxing of MNEs by the home countries, is expected to be tilted against smaller states.[70] These rising concerns have led to Sri Lanka joining the resisting group.

4.4. Pakistan

Pakistan has not acknowledged its participation in the global initiative of fixing the minimum tax on MNEs. The incentives that are in effect, presently in Pakistan, may get affected due to the implementation of the 15% minimum rule. For instance, Pakistan provides MNEs an incentive of zero tax rate and reduced corporate tax rates in the SEZs. Now the incorporation of the GMT would mean that these areas would have similar tax rates compared to others, thereby negating the aim of development of these areas.[71] Additionally, Pakistan is a developing economy working on its tax infrastructure and governance issues. The implementation of GMT would require data collection, compliance monitoring, and dispute resolution, thus adding onto the burdened economy.[72]

Due to the instability of Pakistan's political regime, it is difficult for it to commit to a broader fiscal measure like GMT. At present, Pakistan on the recommendation of the IMF is trying to broaden the tax base which might not be possible post implementation of GMT. The state is

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[69] Tax Justice Network, 'Top Economists Condemn IMF "Arm-Twisting" Countries to Adopt Harmful OECD Tax Deal' (*Tax Justice Network*, 2024) <https://taxjustice.net/press/top-economists-condemn-imf-arm-twisting-countries-to-adopt-harmful-oecd-tax-deal/#:~:text=The%20open%20letter%20also%20cites,9> accessed 22 January 2025.

[70] Institute of Development Studies, 'Inclusive Framework Tax Deal: Interests of Lower-Income Countries' (2024) <https://www.ictd.ac/blog/inclusive-framework-tax-deal-interests-lower-income-countries/#:~:text=Most%20LMICs%20are%20likely%20to,compatible%20with%20Pillar%202%20rules> accessed 23 January 2025.

[71] Financier Worldwide, 'Global Minimum Tax: Should Smaller Countries Opt In or Out?' (*Financier Worldwide,* 2024) <https://www.financierworldwide.com/global-minimum-tax-should-smaller-countries-opt-in-or-out> accessed 23 January 2025.

[72] Brookings Institution, 'The New Global Tax Deal Is Bad for Development' (2024) <https://www.brookings.edu/articles/the-new-global-tax-deal-is-bad-for-development/> accessed 23 January 2025.

not willing to put at stake the current revenues it is earning from the foreign investment and which it might lose coming under the Pillar Two framework.

4.5. Nepal

Nepal has not shown its alignment with the framework of GMT. Being a small economy, Nepal offers various incentives to MNEs in its priority sectors which include, hydropower, tourism, and agriculture. Implementing GMT would undertake within its garb all these incentives offered in these sectors and impose a common tax slab.[73] Nepal's economy is heavily reliant on investment in these areas, which may come under threat by imposing a 15% rule. Moreover, the administration of Nepal is not developed to bring in effect the complex mechanism and processes of the OECD. Nepal is currently working on large-scale developmental projects that boosts the Nepal economy.

Nepal also has fear of losing its tax rights to developed nations post the implementation of GMT, under the garb of Income Inclusion Rule. It is also being assumed that foreign investment would only be limited to some western countries if the global approach is adopted. Prioritizing the economy's present needs and the ongoing stance of other neighboring countries on GMT, Nepal has not shown a favorable stance towards GMT.

4.6. Maldives

Maldives has not formally signed the deal but is undergoing the negotiations and assessing the implications of implementing GMT in its economy. The primary concern of Maldives is the impact of GMT on the tax incentives being offered by the government in the tourism sector which is considered as the primary source driving the economy of Maldives.[74] The government fears that investment in some sectors might get impacted since MNEs in Maldives are usually attracted towards the incentives like tax holidays being provided in such sectors.[75] Moreover, the investment in renewable energy infrastructure[76] may also be reduced as the investors will have the option of investing in developed countries at the same costs and taxes.

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[73] US Department of State, 'Nepal Investment Climate Statement 2024' (2024) <https://www.state.gov/reports/2024-investment-climate-statements/nepal/> accessed 21 January 2025.

[74] Aminath Shiyana, 'Challenges for International Tax Administration in Maldives' (*IMF Conference Presentation,* 2024) <https://www.imf.org/-/media/Files/Conferences/2024/13-IMF-Japan-Conf/Presentations/aminath-shiyana-maldives-challenges-for-international-tax-administration.ashx> accessed 22 January 2025.

[75] Chambers and Partners, 'Corporate Tax 2024: Maldives Practice Guide' <https://practiceguides.chambers.com/practice-guides/corporate-tax-2024/maldives> accessed 22 January 2025.

[76] US Department of State, 'Maldives Investment Climate Statement 2023' (2023) <https://www.state.gov/reports/2023-investment-climate-statements/maldives/> accessed 21 January 2025.

However, a few experts argue that committing to the global framework would help Maldives tax entities that are carrying out profit shifting activities. It is also expected that aligning with such a framework will make Maldives a global player and increase non-tax based foreign investment. There is also scope for Maldives to put forward its representation in asking for a share of redistributed tax revenues, thus benefiting it as a whole.

V. INSIGHTS FROM OTHER REGIONS: COMPARATIVE PERSPECTIVES FROM SOUTHEAST ASIA AND AFRICA

5.1. The Global Minimum Tax and South Asia

Fiscal incentives, including tax holidays and tax exemptions, are relied heavily upon by ASEAN member states in attracting FDI. Corporate tax rates vary, with Malaysia taxing the highest at 5.9% of its GDP, followed by Cambodia at 4.4% and Thailand at 3.9%. Corporate tax rates in Vietnam stand at 3.8%, in Singapore at 3.6%, and in Indonesia at 3.1%. Lao People's Democratic Republic charges the lowest corporate tax, at 1.5% of its GDP.[77]

With taxation being a matter of domestic jurisdiction, measures have been taken by several Southeast Asian states to incorporate the GMT into their existing taxation systems. For instance, the Multinational Enterprise (Minimum Tax) Bill 2024 was introduced and subsequently passed in its Parliament by Singapore. It sought to implement two top-up taxes, namely, the Domestic Top-up Tax and the Multinational Enterprise Top-up Tax. The Bill received presidential assent on 8 November 2024, and is currently in force. The Act has also been accompanied with the Multinational Enterprise (Minimum Tax) Regulations 2024 (MMT Regulations).[78]

Similarly, Malaysia implemented the GMT framework through its Income Tax Act.[79] Part XI introduces the GloBE rules and a QDMTT mechanism, wherein MNEs within the ambit of the GloBE Rules are mandated to file a Top-up Tax return as well as an information return. This is

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[77] Sufian Jusoh and Intan Murnira Ramli, 'Global Minimum Tax: Policy Impact on Investment Promotion and Incentives in ASEAN Member States' (*Economic Research Institute for ASEAN and East Asia*, 2024) <https://www.eria.org/uploads/Global-Minimum-Tax-Policy-Impact-on-Investment-Promotion-and-Incentive-in-AMS.pdf> accessed 23 January 2025.
[78] Multinational Enterprise (Minimum Tax) Bill, 2024 (no 39 of 2024) (Singapore).
[79] Inland Revenue Board of Malaysia, 'Guidelines on the Implementation of Global Minimum Tax in Malaysia' (*LHDN Malaysia*, 2 December 2024) <https://www.hasil.gov.my/media/zzzivm2x/guidelines-on-the-implementation-of-global-minimum-tax-in-malaysia_2122024.pdf> accessed 23 January 2025.

in effect since 1 January 2025. Vietnam adopted GMT by way of applying an additional corporate tax through Resolution No. 39/2023/UBTVQH15.[80] As per the resolution, 15% GMT is to be imposed upon MNEs with revenue exceeding $800 million or more in any two of four consecutive years. Thailand followed suit by releasing the draft Top-up Tax Act to implement GloBE on 1 March 2024. Subsequently, the Emergency Decree on Top-up Tax, B.E. 2567 (2024) was enacted in furtherance of implementing the QDMTT, IIR and UTPR mechanisms.[81]

5.1.1. Actionable Insights for South Asia

In order to maintain competitiveness, Southeast Asian economies have emphasised on factors impacting investor decisions, rather than on tax holidays. Reference to their experience can be drawn by South Asia in adopting and implementing the GMT, as both aim to maintain incentives attracting FDI while ensuring compliance with the GMT. Steps may be taken to ensure this. For instance, reliance on tax holidays in order to attract investments can be reduced by countries such as India and Bangladesh. Instead, the QDMTT mechanism may be enforced. Thailand's Emergency Decree enables a QDMTT to collect top-up taxes from locally-operating MNEs. Similarly, Malaysia and Singapore ensure the retention of excess revenue through the QDMTT mechanism. A similar mechanism can be adopted by India and other South Asian countries to keep additional profits of MNEs within the domestic economy.

Further, South Asian countries can enact comprehensive domestic legislations to operationalise the GMT framework within their domestic jurisdictions. Here, reference may be drawn to Singapore's Multinational Enterprise (Minimum Tax) Act and Regulations and Thailand's Top-up Tax Act. Clear timelines can be introduced in order to allow entities to prepare for and comply with the new laws, in a phased manner. South Asian countries can adopt centralised digital tax filing systems for the filing of taxes by MNEs similar to the platforms in Singapore and Malaysia. Here, India's Goods and Services Tax Network can be altered to include such compliances.

5.2. The African Regime

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[80] UNCTAD Investment Policy Hub, 'Viet Nam Approves new minimum corporate income tax (CIT) for multinational enterprises' (*UNCTAD*, 28 November 2023) <https://investmentpolicy.unctad.org/investment-policy-monitor/measures/4490/approves-new-minimum-corporate-income-tax-cit-for-multinational-enterprises#:~:text=On%2029%20November%202023%2C%20the,Rules%20(global%20minimum%20tax)> accessed 23 January 2025.

[81] EY, 'Thailand enacts Top-up Tax Emergency Decree to implement BEPS 2.0 Pillar Two' (*EY Global Tax News*, 03 January 2025) <https://globaltaxnews.ey.com/news/2025-0119-thailand-enacts-top-up-tax-emergency-decree-to-implement-beps-20-pillar-two> accessed 23 January 2025.

In its meeting on the theme "*Tax in Africa: Contemporary Issues Affecting the Continent*," the African Union discussed the impact of the GloBE Rules on existing tax incentives in Africa's various domestic jurisdictions.[82] It was observed that African countries can enact domestic legislations enforcing the global minimum tax and incorporating the DMTT mechanism into their domestic jurisdictions in order to protect their taxing rights and hold onto additional revenue.

A range of tax incentives have been in force in African economies, which have effectively brought the tax rate below 15% for several MNEs. With this in view, the African Tax Administration Forum ("ATAF") released its "*Suggested Approaches to Drafting Domestic Minimum Top-up Tax (DMTT) Legislation*"[83] with the aim of providing a framework to operationalise the GloBE Rules within Africa.

In 2023, over 50 countries announced their intention of adopting the GloBE Rules into their domestic jurisdictions by 2024,[84] though only implemented by South Africa as of yet, which enacted the Global Minimum Tax Act in December 2024 in furtherance of this aim. South Africa's Global Minimum Tax Act directly references the GloBE Rules in Part II.[85] It includes provisions pertaining to the IIR as well as the QDMTT or a domestic minimum tax, to be directly interpreted in the South African context. However, the Act is not inclusive of the UTPR mechanism, and provisions related to it are excluded from the Act altogether.

5.2.1. Actionable Insights for South Asia

South Asia can draw upon the African experience in order to find a balance between the emphasis laid on attracting FDI and the principle of fair taxation as laid down in the GloBE Rules. The priority given to the IIR and the QDMTT mechanisms over the UTPR under South Africa's Global Minimum Tax Act serves as an example for South Asian countries, particularly for India and Pakistan, in order to facilitate the smooth and gradual integration of the GloBe Rules.

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[82] Second Specialized Technical Committee on Finance, Monetary Affairs, Economic Planning and Integration, 'Tax in Africa: Contemporary Issues Affecting the Continent' (*African Union,* 2023) <https://au.int/sites/default/files/newsevents/conceptnotectlys/42811-CN-Concept_Note_for_the_2nd_STC_Subcommittee_on_Tax_-_03.05.2023.pdf> accessed 24 January 2025.

[83] ATAF Communication, 'ATAF Unveils Revised Suggested Approaches to Drafting Domestic Minimum Top-Up Tax Legislation' (*African Tax Administrative Forum*, 4 October 2023) <https://www.ataftax.org/ataf-unveils-revised-suggested-approaches-to-drafting-domestic-minimum-top-up-tax-legislation#:~:text=The%20Suggested%20Approach%20provides%20three,as%20the%20Income%20Inclusion%20Rule.> accessed 24 January 2025.

[84] *Ibid*.

[85] Global Minimum Tax Act, 2024 (no 46 of 2024) (South Africa).

Further, South Africa's Act provides a direct reference to the GloBE Rules, thus allowing for a standardised interpretation and implementation within its domestic territory. Similar to this, India and Bangladesh, which are already signatories to the BEPS framework, can directly incorporate the Rules and all additional frameworks to simplify the legislative process. In this manner, South Africa's method of implementing the GMT provides a practical model for South Asian countries.

VI. Conclusion and Recommendations

The withdrawal of the U.S. from the GMT has raised concerns about the feasibility of the global minimum tax framework. Concerns cited include disproportionate impact on its MNEs as well as adverse effects on competition due to increased tax rates which effectively subject them to higher taxation. Further, an unbalanced reallocation of taxing rights and uneven implementation point out an inherent inequality in the OECD's tax regime. Apprehensions over its universal adoption along with reservations voiced by developing nations cast doubt on the GMT's efficacy.

6.1. MNEs

The MNEs should keep themselves updated with the jurisdictional developments of the states in which they operate.[86] MNEs in the states which are going to adopt the framework of GMT, should focus on setting up a flexible model with data collection instruments and mechanism for its compilation and analysis in order to assess the impact of these rules and comply with the requirements.[87] There is a need for revisiting its tax structure to align it with the OECD's Pillar Two Rules and address any potential contradictions that may arise. The MNEs should focus on evaluating their effective tax rates (hereinafter, ETR) in territories of operation. This would help MNEs to calculate the top-up tax that may be imposed as a result of adoption of GMT under the IIR and the UTPR Rules.[88] It is also expected that MNEs transfer pricing

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[86] KPMG, 'Recent Developments on OECD Pillar One & Two Norms and Article 12B of UN Model Convention' (2024) <https://kpmg.com/in/en/blogs/2024/09/recent-developments-on-oecd-pillar-one-two-norms-and-article-12b-of-un-model-convention.html> accessed 23 January 2025.

[87] PwC, 'Pillar Two Guide for Multinational Enterprises' (2024) <https://www.pwc.com/m1/en/services/tax/me-tax-legal-news/2024/pillar-two-guide-for-multinational-enterprises.html> accessed 23 January 2025.

[88] Grant Thornton, 'Implications of Pillar 2: What It Means for Global Businesses' (2024) <https://www.grantthornton.global/en/insights/articles/implications-of-pillar-2/> accessed 23 January 2025.

policies might come under scrutiny post this framework is adopted. Thus, a comprehensive review of such policies can lead to better compliance with the rules with less compliance costs.

MNEs should prioritize investing in a tax software which can provide it with a reliable database of ETR's across different states, making it possible to flag risk associated areas and work on them to prevent any potential losses. However, the introduction of GMT has provided an opportunity for MNEs to explore greater profit making opportunities by opting for mergers and acquisitions which will enable it to balance the increase tax rates while also prioritizing its profits.

6.2. OECD's Two-Pillar Framework

While the implementation of GMT is expected to reap huge benefits for states, despite the promising returns, there are still discrepancies about the success of the idea with the laid down rules. Economists cite various loopholes in the present framework of the GMT rules which may result in complications and decreased additional revenues and complications for states. The rules provide an alternative of providing tax credits to MNEs which may ultimately go against the idea of fair taxation.[89] The arbitrary parameter of deciding whether the subsidies and other grants would come under the head of reduction in tax (the numerator in a tax rate calculation) or an increase in income (the denominator) has proven as a deterrent for states committing to the 15% tax rule.[90] It also provides for taxing MNEs below 15% provided the MNE has substantial operations in low-tax countries. This would mean that though states may formally come into alignment with GMT, it still has provision to escape it via the existing loopholes in the framework.

The implementation of the OECD' Pillar Two should be done in a balanced and phased manner, consulting the stakeholders and giving them and the states sufficient time to address their concerns and bring the required machinery and tools for adoption of the GMT. The states should be provided with expert guidance to design and implement the framework of QDMTT, which is being considered as one of the most beneficial aspects of GMT for developing countries. The states lack the knowledge on how to incorporate the rule of QDMTT, complex

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[89] Tax Foundation, 'The Flaws in Pillar Two: The International Global Minimum Tax' (2024) <https://taxfoundation.org/blog/pillar-two-flaw/#:~:text=Pillar%20Two%2C%20the%20international%20global,a%2015%20percent%20minimum%20tax.> accessed 23 January 2025.

[90] International Tax Review, 'Pillar Two Has Crack in Its Foundation, Senior Economist Warns' (*International Tax Review,* 2024) <https://www.internationaltaxreview.com/article/2cwoh1z2kg0do4qv2blkw/direct-tax/pillar-two-has-crack-in-its-foundation-senior-economist-warns> accessed 22 January 2025.

in nature, to their domestic tax setup.[91] Critics have also put forth vagueness and contradiction in the existing rules and commentaries which puts at stake the adoption of such a global approach. The existing rules should be further clarified and rectified for a smooth transition to the new global tax regime.

6.3. Developing States

The developing countries should, apart from considering the aspect of revenue gain/loss from GMT, view the mechanism as an opportunity to review their state's current tax and non-tax incentives and look for alternatives of monetary incentives to attract MNEs to their region. The governments can also opt for alternatives like qualified refundable credits which will help it to prioritize areas and sectors while not being impacted by the GMT.[92] The conversion of tax incentives to non-tax incentives can be an effective strategy for states fearing loss of foreign investment in their economies. For instance, the conversion of tax holidays to subsidized loans and grants can help in keeping the MNEs attracted to the states' territory. However, a proper administration consisting of skilled professionals is required to practically carve out such schemes for MNEs and while doing so focus on long-term goals of the economy.[93]

The revenues generated by the states from applying the GMT on MNEs should be invested in medium-term economic stability to secure any future economic instability. The states should also make sure that a developed dispute resolution mechanism is in place as the different stances on OECD's Pillar Two rules may give rise to sudden increase in the cases. The government should reassess its past agreements with other states and governments which may come in the way of adopting the GMT and look for possible solutions harmonizing them. The Finance Ministry should look in the present framework and prepare a draft document highlighting the changes proposed for implementation of GMT. The draft should be released for public review and any suggestions/concerns should be addressed. A task force should be constituted to assess the impact on the sensitive sector of the economies and submit the report before states finally enter into the global deal.

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[91] Oxford University Centre for Business Taxation, 'Could Pillar 2 Be Enough?' (2024) <https://oxfordtax.sbs.ox.ac.uk/article/could-pillar-2-be-enough> accessed 23 January 2025.

[92] Thomson Reuters, 'What Is Global Minimum Tax?' (2024) <https://tax.thomsonreuters.com/blog/what-is-global-minimum-tax/> accessed 23 January 2025.

[93] International Institute for Sustainable Development (IISD), 'The Inclusive Framework Agreement on Global Minimum Tax' (2024) <https://www.iisd.org/publications/inclusive-framework-agreement-global-minimum-tax> accessed 23 January 2025.

The reluctance of developing economies to enforce the GMT domestically compromises its success as a global initiative. Due to the imposition of a mandatory minimum tax rate of 15%, the comprehensive tax incentives offered by them to attract FDI are rendered ineffective, potentially slowing economic growth. However, without the participation of such a substantial number of developing countries, the GMT may be applied unevenly across jurisdictions. In this context, it is questionable whether the GMT framework can be imposed globally in a uniform manner in order to achieve its aim of establishing a fair and inclusive tax regime. Thus, in order to realise its goal, a balanced approach addressing the concerns of developing economies must be developed and adopted.