

“SOFT LAW” IN INTERNATIONAL LAW- MAKING: HOW *SOFT* INTERNATIONAL TAXATION LAW IS RESHAPING INTERNATIONAL ECONOMIC GOVERNANCE

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ABSTRACT

This article offers a comprehensive analysis from the perspective of international economic law for understanding base erosion and profit shifting reform (hereinafter “BEPS”) as a major example of modern soft law and its effect on the international taxation regime and, beyond, international economic law and governance. This article illustrates that soft law can be seen as a signal of maturation of international law as policy makers tend to consider the developments and legal systems of others areas in this pluralistic world. This article makes three main claims. The first claim is that, international taxation has a strong nexus with international trade and investment and that they interact with each other. This requires for trade, investment and tax norms to not be in conflict with each other. The article’s second claim is that when compared with hard law, soft law has its own merits and can play a more vital role in the construction of the international economic regime. In particular it argues that, soft law is more suitable to making some experimental movements when compared with hard law. The article’s third and final claim is that BEPS, as a form of soft law, is radically transforming the international taxation regime.

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