

OECD SECRETARY-GENERAL REPORT TO G20 LEADERS

Hamburg, Germany
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G20 

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This report consists of two parts. Part I is an update report by the OECD Secretary-General regarding the latest developments in the international tax agenda. Part II is a Progress Report to the G20 by the Global Forum on Transparency and Exchange of Information for Tax Purposes.

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Introduction

Fixing the international tax system to close down loopholes, improve transparency and make sure that multinational enterprises pay tax where they carry out their activities has been a key priority of the G20 since its inception. Major progress has been achieved, making the fight against tax avoidance and tax evasion a success story of the G20, with the support of the OECD. With recent recognition of the backlash against globalisation, and a stronger-than-ever need to deliver an agenda of inclusive growth, the work of the G20/OECD work on tax is one of the most important contributions to these challenges, and one which is having a concrete impact to address the concerns being raised.

2017 is the year of implementation: implementation of the Common Reporting Standard with the first automatic exchanges of financial account information (AEOI) to take place in September 2017; and, implementation of the measures to address base erosion and profit shifting (BEPS), with the OECD/G20 Inclusive Framework on BEPS implementation now fully operational.

Following the Panama Papers, your call to identify jurisdictions which had not sufficiently progressed towards satisfactory level of implementation of the tax transparency standards triggered massive progress. Since April 2016, 17 jurisdictions have made changes leading to an upgrade in their overall ratings against the Exchange of Information on request (EOIR) standard, and 31 countries have committed to joining the multilateral Convention on Mutual Administrative Assistance in Tax Matters. This Convention now covers all financial centres, OECD and G20 countries and many developing countries have begun taking advantage of it as well, creating over 7 000 exchange relationships with the latest countries joining. As a result of these developments, only one jurisdiction is currently identified, in line with your request in July 2017, as having not yet made sufficient progress on the tax transparency standards. Continued diligence is required though, and I propose to report back at your 2018 Summit with an update on the identification of non-cooperative jurisdictions, reflecting progress towards the effective implementation of the tax transparency standards, in particular for AEOI.

The OECD/G20 Inclusive Framework on BEPS today has 100 countries and jurisdictions as members, all committed to the BEPS package and monitoring its implementation, with peer reviews of the four minimum standards. Efforts to begin implementation of the BEPS measures have been rapid, as illustrated with 77 countries and jurisdictions already addressing tax treaty shopping through the new Multilateral Convention on Tax Treaty Related Measures to Prevent BEPS, and a number of preferential regimes, such as patent boxes, abolished or revised to meet the new standards. Under the Inclusive Framework, the peer reviews to assess the effective implementation of the four BEPS minimum standards are now underway, and a number of important pieces of guidance have been issued to support implementation of the measures by taxpayers and tax administrations. The results of the Inclusive Framework's work in the past year are set out in their report, annexed hereto, and include specific work targeting the priority BEPS issues for developing countries, recognising that improving domestic resource mobilisation, including through stronger tax systems, is fundamental to achieving the universal Sustainable Development Goals. We expect that our work with developing countries, and particularly with those in Africa, will support the objectives of the G20 Compact with Africa which is being considered as one of the possible outcomes of the Hamburg Summit.

Looking ahead, support on implementation across all areas of the G20's tax agenda will continue. In the Inclusive Framework, technical discussions amongst its members continue, in particular on a number of important issues relating to transfer pricing, and with a growing sense of urgency among many governments for the development of policy options to be advanced in relation to taxation of the digital economy, we will publish an interim report in the first half of 2018. Following-up the delivery in March to G20 Finance Ministers of recommendations from the joint OECD-IMF report to enhance tax certainty, we will monitor progress and provide an update next year, recognising that certainty is important to establish an environment conducive for trade and investment.

The work on the international tax agenda has become more inclusive in recent years, and has demonstrated the power of multilateral cooperation to deliver global solutions to global problems. At the same time, G20 members continue to have a specific and critical leadership role to play. Your rapid implementation of agreed measures, and commitment to continue working together on evolving global tax challenges sends an important message. The OECD will continue to support your efforts in these important matters.

While my report outlines the impressive advances which you have led in the last twelve months, your ongoing commitment to creating a strong and effective international tax system for all is vital to continued progress.

PART I

**OECD SECRETARY-GENERAL REPORT
TO G20 FINANCE MINISTERS AND CENTRAL BANK GOVERNORS**

a) Tax Transparency

(1) Recent developments

The Global Forum now includes 142 members. Progress towards tax transparency is continuing with close to 2 000 bilateral exchange relationships for AEOI to be activated by July. These efforts are paying off. 500 000 people having disclosed offshore assets, and around 85 billion euros in additional tax revenue identified as a result of voluntary compliance mechanisms and offshore investigations.

Since 2008, thanks to the action of the G20, tax cooperation between countries has become the rule, and bank secrecy for tax purposes is coming to an end. Exchange of information on request between tax authorities is now a universal rule, with **the Global Forum on Transparency and Exchange of Information for Tax Purposes (Global Forum) now having 142 member countries and jurisdictions.** The last 12 months has seen major improvements on the tax transparency front, which is reflected in the Global Forum report in Part II.

Automatic exchange of financial account information is also moving forward, with the first exchanges under the OECD's Common Reporting Standard (CRS) beginning next September. As such, automatic exchanges are now deemed inevitable; **more than 500 000 taxpayers have disclosed offshore assets** over the past 8 years, and **close to 85 billion euros in additional tax revenue** has been identified as a result of voluntary compliance mechanisms and offshore investigations.

Establishment of a global exchange network for CRS information

With 101 jurisdictions having committed to start exchanging CRS information by 2018 at the latest, rapid progress has been made to put in place the necessary international legal framework. By July, **over 60 jurisdictions will have activated close to 2 000 bilateral relationships for the automatic exchange of CRS information,** including all 50 jurisdictions committed to undertaking first exchanges in 2017.

The vast majority of these bilateral exchange relationships are based on the multilateral Convention on Mutual Administrative Assistance in Tax Matters and the CRS Multilateral Competent Authority Agreement, with the remainder operating under bilateral treaties and agreements, as well as the EU DAC 2 (Directive on Administrative Cooperation in the field of taxation). In addition, there are now 92 countries and jurisdictions having signed the CRS Multilateral Competent Authority Agreement, which provides a standardised mechanism to facilitate automatic exchange between tax authorities.

Delivery of the Common Transmission System

In 2015, the Forum on Tax Administration requested the OECD to select a service provider to build and run a secure, encrypted common system for bilateral exchanges of tax information. The OECD's Common Transmission System (CTS) is essential for countries in terms of implementing their commitment to AEOI, as well as other tax information exchange such as Country-by-Country Reports and information on tax rulings.

The CTS is now fully designed and developed, and has been delivered for operation in late May, allowing those jurisdictions which are committed to begin first exchanges of CRS information in 2017, time to link up to the system before September.

(2) State of Play on the level of implementation of the agreed tax transparency standards

Because of the perspective of the G20's call to identify non-cooperative jurisdictions on the tax transparency standards, jurisdictions have moved fast to meet the objective criteria: 31 have signed (or asked to sign) the multilateral Convention on Mutual Administrative Assistance in Tax Matters, 101 have committed to commencing automatic exchanges of financial account information in 2017 and 2018 (all requested jurisdictions have now committed), and 17 jurisdictions have improved their Global Forum rating on the EOIR standard, so that only one (Trinidad and Tobago) remains "Non Compliant".

Reacting to the "Panama Papers", G20 Finance Ministers and Central Bank Governors at their meeting in April 2016 reaffirmed the importance of effective and widespread implementation of the internationally agreed standards on tax transparency. Further, they said:

We mandate the OECD working with G20 countries to establish objective criteria by our July meeting to identify non-cooperative jurisdictions with respect to tax transparency.

In July 2016, the G20 Finance Ministers **endorsed the OECD/G20 proposals for the objective criteria** (see below). Based on those criteria, they further asked:

"for the OECD to prepare a list by the July 2017 G20 Leaders' Summit of those jurisdictions that have not yet sufficiently progressed toward a satisfactory level of implementation of the agreed international standards on tax transparency"

This mandate was confirmed by the G20 Leaders at their Hangzhou Summit in September 2016.

The Objective Criteria

The [objective criteria](#)¹ relate to three important components of tax transparency: implementation of the Exchange of Information on Request (EOIR) standard, the implementation of the Common Reporting Standard for automatic exchange of information (AEOI), and joining the multilateral Convention on Mutual Administrative Assistance in Tax Matters.

¹ See www.oecd.org/tax/oecd-secretary-general-tax-report-g20-finance-ministers-july-2016.pdf.

The OECD and G20 members agreed benchmarks for each of the criteria, with jurisdictions needing to meet at least two of the three benchmarks. These benchmarks were:

- i. a “Largely Compliant” rating with respect to the EOIR standard;
- ii. a commitment to implement the AEOI standard, with first exchanges in 2018 (with respect to the year 2017) at the latest; and
- iii. participation in the multilateral Convention or a sufficiently broad exchange network permitting both EOIR and AEOI.

In addition, there was agreement on an overriding criterion which would see a jurisdiction listed even if it met at least two of the other criteria. Namely, the case where a jurisdiction is determined by the Global Forum peer review process to be “Non Compliant”, or is blocked from moving past Phase 1, or where it was previously blocked from moving past Phase 1 and has not yet received an overall rating under the Phase 2 process.

Developments since April 2016

After the G20’s call in April 2016, efforts to address tax transparency redoubled, with jurisdictions making massive progress towards the international tax transparency standards for exchange of information “on request” and automatic exchange of information.

Stocktaking of this progress has been made by the Global Forum. Through its fast track process for reviewing implementation of the commitment to the EOIR standard by jurisdictions that did not have an overall rating of at least “Largely Compliant”, provisional ratings have been adopted by the Global Forum, as set out in Part II of this report.

In the context of the G20’s call for the identification of non-compliant jurisdictions, actions have been taken by governments to meet the objective criteria agreed by the G20. These actions are real game changers in the area of transparency as they ensure a level playing field:

(i) On the AEOI Standard

Whereas 5 financial centres had still not done so in April 2016, all requested jurisdictions have now committed to AEOI, starting at the latest in September 2018. Today, **101 jurisdictions² are committed to automatically exchange all financial account information under the CRS**, with all interested partners meeting confidentiality safeguards. **More than 80% of those committed jurisdictions have already put in place both the domestic and international legal frameworks required to deliver on the commitments made**, and financial institutions are already collecting the information to be exchanged.

² In addition, the United States has indicated that it is undertaking automatic information exchanges pursuant to FATCA from 2015 and has entered into intergovernmental agreements (IGAs) with other jurisdictions to do so. The Model 1A IGAs entered into by the United States acknowledge the need for the United States to achieve equivalent levels of reciprocal automatic information exchange with partner jurisdictions. They also include a political commitment to pursue the adoption of regulations and to advocate and support relevant legislation to achieve such equivalent levels of reciprocal automatic exchange.

However, attention will have to be paid to whether the necessary legislation, regulations and international agreements are in place in time for these exchanges to start, at the latest in September 2018. It is time to move from commitments to effective implementation, which the Global Forum will be monitoring.

(ii) On the multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC)

By April 2016, 19 financial centres had not yet signed the MAC. They are all now in the process of signing,³ together with a number of developing countries which are taking advantage of this powerful instrument which provides for compulsory EOIR between parties, and optional AEOI. All requested jurisdictions have now either signed or applied to sign the MAC, **bringing the existing number of signatories to 111, or 125 taking into account the further 14 countries which have already applied to sign.** Overall, **more than 7 000 bilateral exchange relationships are created under the MAC** with these new countries joining.

(iii) On the EOIR Standard

Since April 2016, significant changes made by jurisdictions to address the recommendations made by the Global Forum, has led to upgrades in the overall ratings of 17 jurisdictions. **Today, only six jurisdictions are still considered “Partially Compliant”, and only one “Non Compliant”.**

Status of implementation of the tax transparency standards as at July 2017

Today, as a result of these developments, **only one jurisdiction (Trinidad and Tobago) is not considered to have made sufficient progress towards satisfactory implementation of the agreed tax transparency standards.** It is to be noted that continued dialogue with such jurisdiction is in place, and improvement is expected.

However, progress must continue – it is clear that the G20’s strong call for progress in April and July 2016 led to rapid progress by jurisdictions which would have otherwise not met the standards. It is now important that the playing field be levelled, in particular through effective implementation. AEOI exchanges under the CRS will begin in September 2017, and the second and final batch of 51 jurisdictions will begin in September 2018. Countries and jurisdictions should therefore now be assessed on their ability to meet, in practice, their commitment to AEOI. The criteria to identify jurisdictions not having made sufficient progress should be updated accordingly, to take into account both progress in the implementation of the EOIR standard as well as on the multilateral Convention on Mutual Administrative Assistance on Tax Matters. **I propose to update you next year on such progress.**

³ With the exception of Antigua and Barbuda, and Saint Vincent and the Grenadines, which have not yet requested to sign the MAC.

(3) Work on beneficial ownership

Since my report to the G20 Finance Ministers in March, the OECD has furthered its work aimed at improving the effectiveness of beneficial ownership information in the tax area, based on the FATF standard. This complements the work of the Financial Action Task Force (FATF) and the Global Forum on the issue of beneficial ownership information. The primary focus of the OECD's work is an analysis of the potential costs and benefits of the design of a common format for electronically searchable data sets of ownership information. This work is set to continue into the second half of 2017, with a view to reporting back with first conclusions by early 2018.

b) Inclusive Framework on BEPS

The work to support the coherent global implementation of the BEPS package is having a concrete impact on tackling BEPS, and the peer review process for the BEPS minimum standards is already underway. The Inclusive Framework on BEPS now has 100 member countries and jurisdictions, and 77 jurisdictions participated at the recent signing ceremony to join the Multilateral Convention on Tax Treaty Related Measures to Prevent BEPS, held at the OECD headquarters. Monitoring the implementation of the BEPS package will be an important priority, along with ongoing technical work on issues such as transfer pricing and taxation of the digital economy. Coherent global implementation will also require ongoing consultation with tax authorities and taxpayers, and additional guidance.

In November 2015, you endorsed the 15 elements of the package to address BEPS, and called for broad and consistent implementation. In response to that call, the OECD has established the Inclusive Framework on BEPS, reflecting a major shift in global governance on international tax matters. **The Framework now gathers together 100 countries and jurisdictions that represent more than 93% of global GDP and reflect a broad diversity of economic profiles and levels of development, with more than 50% of members being non-OECD, non-G20 economies.** The evidence continues to grow of the steadfast, global political will for countries to cooperate in order to fight tax avoidance.

In its first year, the Inclusive Framework has made important advances on its mandate that are already having a concrete impact on tackling BEPS. **The peer review mechanisms for the four BEPS minimum standards have been established, and the peer reviews are now underway.** This will ensure that a level playing field is established on BEPS issues where negative spill-overs might otherwise occur – such as putting an end to tax treaty shopping and harmful preferential tax regimes, and ensuring greater transparency on tax rulings and multinationals' global operations. In addition, further guidance has been developed by the Inclusive Framework to support tax administrations and taxpayers as they put in place the new measures. This will also help to deliver coherent global implementation.

The commitment to implementation is becoming a reality. Already **more than 6 000 tax rulings that could give rise to BEPS concerns have been exchanged between tax administrations**. Commitments to curtail treaty shopping are being enacted, **with 77 countries and jurisdictions participating in the signing ceremony at the OECD Headquarters on 7 June last, to join the Multilateral Convention on Tax Treaty Related Measures to Prevent BEPS**. This unique instrument allows countries and jurisdictions to quickly update their networks of bilateral tax treaties, in line with the BEPS package. The Country-by-Country reporting (CbCR) requirements for multinationals are coming online, and **already covering 95% of relevant multinationals. More than 120 preferential tax regimes are under review**, with a number of them already being abolished or revised to align with the new rules. An additional seven countries and jurisdictions recently signed the Multilateral Competent Authority Agreement for CbCR, now with a total of 64 signatories.

While data that reflects the impact of the BEPS measures is still being collected, anecdotal evidence suggests that they are having an impact to end BEPS practices. In the business community there is a **greater focus, at a more senior-level, on tax and reputational risks. Thus, there is less tolerance for arrangements such as the so-called “cash boxes”,** which hold valuable assets with little, if any, economic substance while earning high rates of return.

In the year ahead, monitoring the implementation of the BEPS package remains an important priority for the Inclusive Framework, with the first results of the peer reviews to be published as of September 2017. At the same time, **technical work continues on issues relating to transfer pricing,** including the profit split method and attribution of profits to permanent establishments, **as well as to address the tax challenges raised by the digitalisation of the economy, reflecting a growing sense of urgency among many governments to advance the development of policy options on this issue.** The membership of the Inclusive Framework is also expected to grow further, as countries seek to have robust measures in place to tackle BEPS, and to ensure that they are working with other countries on an equal footing to deliver a global level-playing field.

The full details of the progress made by the Framework and its members in the period July 2016 – June 2017, are set out in the Inclusive Framework report, in Annex 1.

c) Tax policy

Tax certainty and taxation of the digital economy have been key tax policy topics in 2017. Requested by you, the OECD/IMF March 2017 report on Tax Certainty identified the diverse sources of tax certainty, and outlined practical recommendations which OECD and G20 countries could adopt to enhance certainty, relevant for trade and investment. Discussions to explore the complex issue of taxation of the digital economy continue in the face of a growing sense of urgency among many governments for the development of policy options to be advanced. An interim report on taxation of the digital economy will be delivered by the OECD/G20 Inclusive Framework on BEPS in early 2018, followed by a final report in 2020.

Tax Certainty

As you requested in Hangzhou, the OECD, working with the IMF, has undertaken work on the issue of tax certainty, recognising its relevance for trade and investment.

Based on an OECD survey of a large sample of businesses from across the globe, the report produced for G20 Finance Ministers in March highlighted some important findings:

- The tax system is an important factor influencing investment and location decisions, but it is not the only or the most important factor.
- Uncertainty around corporate income tax and VAT is considered by more than 50% of survey respondents to be very or extremely important in affecting investment and location decisions.
- The sources of uncertainty are diverse, from tax policy and tax administration issues through to taxpayer behaviour.
- Issues in connection with tax administration (including inconsistent and unpredictable implementation and administration of the tax law) and international taxation (such as ineffective dispute resolution mechanisms to resolve issues of double taxation and inconsistent approaches to the application of international tax standards) appear to be among the major drivers of uncertainty.

The report also recommends practical actions for OECD and G20 countries which would support greater certainty, recognising that the appropriateness of these measures will differ between countries.

- Reducing complexity and improving clarity through improved tax policy design.
- Improving tax dispute prevention and resolution, at the domestic and international level, through mechanisms which are fair and independent, accessible to taxpayers and provide timely resolution.
- At the international level specifically, improvements to dispute resolution mechanisms including both Mutual Agreement Procedures and arbitration.
- Application of other, innovative tools to enhance certainty in tax administration, including cooperative compliance programmes, advance pricing agreements, as well as simultaneous and joint audits.

Building on this work, we are now preparing for a workshop in October 2017 to be held in Tanzania, to discuss the issue of tax certainty in developing countries. In 2018, with the IMF we will report to you on progress made towards enhancing tax certainty.

Tax challenges of the digital economy

Following the delivery in 2015 of the report on the Tax Challenges of the Digital Economy as part of the BEPS package, work has continued on this complex issue within the Inclusive Framework on BEPS. A critical aspect of the future work will be to assess the effectiveness of measures implemented as part of the BEPS package, as well as other tax measures introduced by countries, in addressing the direct and indirect tax challenges associated with digitalisation. While carrying out this monitoring, which will take into account new trends and developments in digital technologies, the Inclusive Framework will continue to explore policy options to ensure the ongoing relevance and efficacy of our tax systems and standards, both from a tax policy and a tax administration perspective.

As requested by the G20 Finance Ministers in March, the OECD/G20 **Inclusive Framework on BEPS will deliver an interim report by April 2018 , and a final report in 2020 on the implications of digitalisation for taxation.** In a rapidly changing environment, this work will be crucial to ensuring that our tax systems remain fit for purpose so that governments are well-placed to harness the benefits of digitalisation and be prepared for the challenges that such change and disruption can bring.

d) Tax and Development

With growing demand from developing countries for assistance to build stronger tax systems, the number of targeted, capacity building programmes continues to grow. From OECD's bilateral programmes tackling transfer pricing and other BEPS issues, to Tax Inspectors Without Borders assistance on complex tax audits that have led to more than USD 278 million in additional tax revenues to date, in June 2017, the OECD's new Africa Academy on Tax and Financial Crime Investigation was also launched, hosted by Kenya. These initiatives will support the objectives of the G20 Compact with Africa.

Many developing countries have now committed to fully participate in the work on the global tax agenda being undertaken in the Inclusive Framework on BEPS, as well as the work of the Global Forum (see further Part II). The OECD is working with partners in regional and international organisations to deliver high-quality support to enhance the quality of tax systems in developing countries, which will also be able to support the objectives of the G20 Compact with Africa. The 2030 Agenda has made clear that, for developing countries, the path to sustainable development remains limited without significant improvements in domestic resource mobilisation.

Responding to a growing demand, OECD bilateral country activities on transfer pricing and other BEPS issues have been scaled up. **To-date, a total of 29 countries have been provided with assistance through the OECD bilateral capacity building programme, and it is expected that these programmes will provide assistance to an additional six countries by the end of 2018.** Activities in this assistance vary according to the needs of the country involved, often covering both legislative and organisational change to improve tax administration procedures, as well as support on specific BEPS Actions, including transfer pricing issues. In many cases, these programmes are delivered in partnership with organisations such as the World Bank Group and the EU.

The OECD-UNDP Tax Inspectors Without Borders initiative (TIWB) continues to expand, delivering practical assistance on complex tax audits. TIWB-style assistance has proven enormously effective both in improving the quality of tax audits in participating countries, but also in increasing revenue collection, **with over USD278 million collected to date.** There are **currently 21 TIWB programmes running, including the launch of the first South-South cooperation between Kenya and Botswana,** with a further six programmes due to commence in 2017. As demand continues to grow rapidly, and outpaces supply, an additional roster of experts has been identified to supplement the pool of experts already provided through partnerships with revenue authorities.

Building on the success of the OECD's Academy for Tax Crime Investigation hosted by Italy in Ostia, in June 2017 at the G20 Conference on Africa, the **OECD launched a new Africa Academy for Tax and Financial Crime Investigation,** hosted by Kenya and supported by Germany and Italy. Attracting officials from finance ministries, tax administrations, financial investigation and anti-corruption units, as well as prosecutors and members of the judiciary, the intensive training programmes offer the opportunity to learn the latest techniques and skills needed to detect, investigate and prosecute tax and other financial crimes.

As a partner in the **Platform for Collaboration on Tax,** the OECD has been working on the development of the toolkits to assist developing countries on high priority issues in international taxation. The draft Toolkit on accessing comparables for transfer pricing was released for public consultation in January 2017, and the final edition was recently launched at the third meeting of the Inclusive Framework on BEPS, on 21-22 June. The draft Toolkit on taxing offshore indirect transfers of assets was released for public consultation in June 2017, and will be finalised later in the year. A public consultation on the Toolkit on transfer pricing documentation is anticipated by the end of the year. The remaining four toolkits will be delivered in 2018, on schedule. A more detailed report on the activities of the Platform is set out in their joint report to G20 Leaders.

PART II

**GLOBAL FORUM ON TRANSPARENCY AND
EXCHANGE OF INFORMATION FOR TAX PURPOSES
PROGRESS REPORT TO THE G20 LEADERS**

Executive summary

Effective and widespread implementation of the internationally agreed standards on tax transparency provides a vital defence against tax evasion and therefore remains at the forefront of the global agenda. In April 2016, the G20 Finance Ministers and Central Bank Governors and, in September 2016, the G20 Leaders strongly reaffirmed this importance by reiterating their call to all relevant jurisdictions to commit to and deliver on their commitments to implement the standard on automatic exchange of financial account information (the AEOI Standard) in time to commence exchanges by 2018 at the latest and to sign the multilateral Convention on Mutual Administrative Assistance in Tax Matters (the Multilateral Convention). Further, the G20 expressed their expectation that by their July 2017 Summit all jurisdictions will upgrade their peer review ratings against the standard of exchange of information on request (the EOIR Standard) to a satisfactory level. These priorities also laid the foundation for the objective criteria against which the OECD and the G20 are set to identify non-cooperative jurisdictions with respect to tax transparency. This was accompanied by a call to all countries and international organisations to assist developing economies in building their tax capacity.

This report offers an overview of critical milestones that have been reached in the implementation of the internationally agreed standards on transparency and provides evidence of consistent and successful progress against the objective criteria and beyond them, as well as exposing the remaining gaps in effective implementation.

There has been an intense focus in the Global Forum on implementing the AEOI Standard to deliver the commitments. This shift is well underway and the impact of this move is being felt across the world. There are now 101 jurisdictions committed to commence exchanges under the AEOI Standard by 2018, of which 50 jurisdictions will start exchanging in September 2017. A large majority of these 101 jurisdictions have already enacted domestic laws to require financial institutions to report comprehensive information on financial accounts and assets they hold for non-residents, ready for exchange. In relation to “early adopters”, information with respect to 2016 has already been collected by financial institutions and will be reported to tax administrations and exchanged later this year.

Jurisdictions with less than satisfactory ratings on the EOIR Standard have demonstrated their progress through the Global Forum’s Fast-Track review procedure. In 2017, 15 of the 21 jurisdictions that were rated “Partially Compliant” or “Non-Compliant”, or had been blocked from a Phase 2 review for a long time, have undergone a Fast-Track review. As a result, 13 jurisdictions have provisionally been upgraded to “Largely Compliant” and 1 to “Partially Compliant”. One jurisdiction had submitted a Fast-Track request, but it was determined that the necessary progress had not been achieved and it continues to be rated “Non-Compliant”. A number of critical changes have been introduced by the reviewed jurisdictions, including the elimination of strict bank secrecy and bearer shares, improved access to accounting records and a more rigorous oversight and enforcement of obligations to maintain information. It should be noted however that these provisional ratings, similarly to other ratings assigned by the Global Forum under its first round of peer reviews, are not

a prediction of the outcome of the next full EOIR review, which will be carried out in accordance with the Global Forum's methodology and conducted against the 2016 Terms of Reference.

Further progress has also been achieved on expanding the breadth of the Multilateral Convention. Since the Global Forum's last report to G20 Leaders in September 2016, 14 jurisdictions have deposited an instrument of ratification, acceptance or approval and eight jurisdictions have signed the Multilateral Convention. Overall, as of 23 June 2017, the number of participating jurisdictions has reached 111. With a further 14 jurisdictions that have submitted a request to join, the Multilateral Convention has been transformed into a powerful global instrument enabling information exchanges between most jurisdictions around the world.

One year ago the G20 sent a strong signal to all countries and jurisdictions that a level playing field in the area of tax transparency is an ultimate global priority. The Global Forum has designated considerable resources to enable its members, and in particular those which are developing countries, to achieve swift and effective progress. Although much remains to be done in the future, this report provides the evidence of remarkable progress that has been achieved.

Introduction

Recent years have seen a tectonic shift in the tax transparency landscape, in particular with the emergence of AEOI as a new and potent weapon in tax administrations' armouries in the fight against offshore tax evasion. The scope, scale and dynamics of exchanges continue to expand. Since the last G20 Leaders' meeting in September 2016, the membership of the Global Forum has grown to 142 jurisdictions, including Benin, Djibouti, Ecuador, Faroe Islands, Moldova, Thailand and Togo (see Appendix 1). All new members – and more than half of all Global Forum members – are developing countries. With a considerable majority of countries and jurisdictions across the globe already committed to the tax transparency, the key priority for the coming years is to ensure that the internationally agreed standards on tax transparency are implemented in an effective, coherent and timely manner, and all jurisdictions including developing countries are able to participate and benefit from them.

A global commitment to ensure a level playing field in the area of tax transparency was strongly reiterated by the G20 Finance Ministers and Central Bank Governors in April 2016. All countries and jurisdictions were called to upgrade their Global Forum rating to a satisfactory level by the time of the July 2017 G20 Leaders' Summit. Also, all relevant jurisdictions including all financial centres were called on to commit without delay to implementing the AEOI Standard to exchange by 2018 at the latest and to join the Multilateral Convention. Furthermore, recognising the need to secure swift and measurable progress, the OECD was asked to work closely with all G20 members "to establish objective criteria ... to identify non-cooperative jurisdictions with respect to tax transparency". This was accompanied by a call to all countries and international organisations to assist developing economies in building their tax capacity.

The OECD's proposals for the objective criteria were endorsed by the G20 Leaders in September 2016. The jurisdictions' progress in the field of tax transparency will be measured against the following criteria and benchmarks: (i) implementation of the EOIR Standard: a jurisdiction must obtain at least a "Largely Compliant" rating with respect to the EOIR Standard, (ii) implementation of the AEOI Standard: a jurisdiction must make a commitment to implement the AEOI Standard, with first exchanges in 2018 (with respect to the year 2017) at the latest; and (iii) joining the Multilateral Convention: a jurisdiction must participate in the Multilateral Convention or set up a sufficiently broad exchange network permitting both EOIR and AEOI.

In order for a jurisdiction to be considered cooperative with respect to international tax transparency, it would, for the first assessment, need to meet the benchmarks of at least two of the three above-mentioned criteria. However, where a jurisdiction is determined by the Global Forum peer review process to be "Non-Compliant", or is blocked from moving past Phase 1, or where it was previously blocked from moving past Phase 1 and has not yet received an overall rating under the Phase 2 process, it will be considered a non-cooperative jurisdiction notwithstanding that it may have met the benchmarks of two of the three criteria.

While members of the Global Forum have made tremendous progress in implementing the tax transparency standards, the G20 call created a further impetus for change. The Global Forum has played an instrumental role in facilitating the process of global transformation. A special procedure

was approved at its plenary meeting in November 2016 in Tbilisi, Georgia, to allow jurisdictions with less than satisfactory ratings to demonstrate improvements before the July 2017 G20 Leaders' Summit. The Fast-Track procedure allowed the Global Forum to evaluate, on a provisional basis, whether a jurisdiction has made sufficient progress such that it is likely that the jurisdiction's overall rating would be upgraded if evaluated today against the 2010 Terms of Reference. The Global Forum also facilitated the commitment and implementation process with respect to the AEOI Standard, as well as providing assistance to countries and jurisdictions in signing the Multilateral Convention. All members had access to a comprehensive programme of technical assistance, covering both EOIR and AEOI standards.

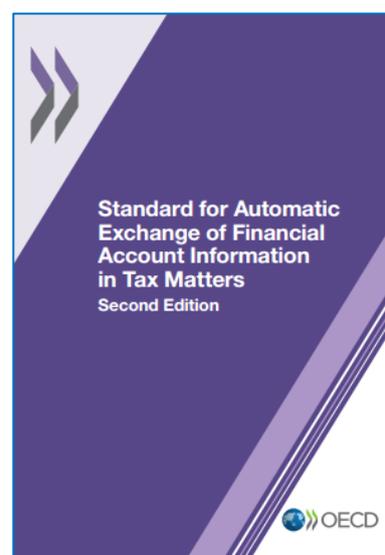
This report provides an overview of critical milestones that have been reached in the field of tax transparency and exchange of information for tax purposes. The report first tracks the progress made towards implementation of the AEOI Standard in accordance with the commitments made. Financial institutions, including banks, insurers, funds and investment trusts, are already collecting and reporting detailed information to the tax authorities on assets they hold for individuals and entities resident offshore, and the first exchanges between tax authorities under the new AEOI Standard are only weeks away. This report also sets out urgent work still required to ensure the full delivery of the AEOI commitments and a level playing field. Next, it contains an update on the effectiveness of EOIR implementation, based on the first round of the peer reviews after incorporating the outcomes of the Fast-Track process carried out in 2017, and on the new second round of peer reviews. Then, the report gives a status of the participation in the Multilateral Convention and the ongoing work on the availability of beneficial ownership information. Finally, it outlines extensive technical assistance provided by the Secretariat, most notably to ensure that developing countries are able to fully benefit from the global advances in tax transparency.

Automatic Exchange of Information: An unprecedented global shift to greater tax transparency

a) The rapid development of the AEOI Standard, with swift and widespread commitments to its immediate implementation

The breadth and depth of the recent move to the automatic exchange of information as a new internationally accepted transparency standard is unprecedented.

Immediately after the development by the OECD, working with G20 countries, of the Standard in Automatic Exchange of Financial Account Information (the AEOI Standard) in 2014, it was adopted by the Global Forum as its second tax transparency standard, complementing its existing standard of EOIR. To ensure a level playing field, maximising the benefits of the Standard and minimising the costs, all members (except developing countries without financial centres) were asked to commit to its implementation in time to commence exchanges in 2017 or 2018.



This triggered a wave of political commitments to implement the AEOI Standard and there are now 101 jurisdictions committed to this timetable, as set out below.

Status of commitments to the Common Reporting Standard*

Jurisdictions undertaking first exchanges in 2017 (50)

Anguilla, Argentina, Belgium, Bermuda, British Virgin Islands, Bulgaria, Cayman Islands, Colombia, Croatia, Cyprus⁴, Czech Republic, Denmark, Estonia, Faroe Islands, Finland, France, Germany, Gibraltar, Greece, Greenland, Guernsey, Hungary, Iceland, India, Ireland, Isle of Man, Italy, Jersey, Korea, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, Montserrat, Netherlands, Norway, Poland, Portugal, Romania, San Marino, Seychelles, Slovak Republic, Slovenia, South Africa, Spain, Sweden, Turks and Caicos Islands, United Kingdom

Jurisdictions undertaking first exchanges in 2018 (51)

Andorra, Antigua and Barbuda, Aruba, Australia, Austria, The Bahamas, Bahrain, Barbados, Belize, Brazil, Brunei Darussalam, Canada, Chile, China, Cook Islands, Costa Rica, Curaçao, Dominica, Ghana, Grenada, Hong Kong (China), Indonesia, Israel, Japan, Kuwait, Lebanon, Marshall Islands, Macao (China), Malaysia, Mauritius, Monaco, Nauru, New Zealand, Niue, Pakistan, Panama, Qatar, Russia, Saint Kitts and Nevis, Samoa, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Singapore, Sint Maarten, Switzerland, Trinidad and Tobago, Turkey, United Arab Emirates, Uruguay, Vanuatu

* The United States indicated that it has been undertaking automatic information exchanges pursuant to FATCA since 2015 and has entered into intergovernmental agreements (IGAs) with other jurisdictions to do so. The Model 1A IGAs entered into by the United States acknowledge the need for the United States to achieve equivalent levels of reciprocal automatic information exchange with partner jurisdictions. They also include a political commitment to pursue the adoption of regulations and to advocate and support relevant legislation to achieve such equivalent levels of reciprocal automatic exchange.

b) Success in implementing the commitments to AEOI

Implementing the AEOI Standard requires significant legal, technical and operational work both at a domestic and international level and a huge amount has been achieved:

1. Virtually complete delivery by all those exchanging information in 2017, with information already having been collected in 2016 and currently being reported by financial institutions to tax authorities ready for exchange this year.
2. 80 per cent of the committed jurisdictions in total have so far put in place the complete domestic legal framework requiring the collection and reporting of the information by financial institutions (with an additional 8 per cent already having part of the domestic legal framework in place).

⁴ Note by Turkey: The information in this document with reference to “Cyprus” relates to the southern part of the Island. There is no single authority representing both Turkish and Greek Cypriot people on the Island. Turkey recognises the Turkish Republic of Northern Cyprus (TRNC). Until a lasting and equitable solution is found within the context of the United Nations, Turkey shall preserve its position concerning the “Cyprus issue”.

Note by all the European Union Member States of the OECD and the European Union: The Republic of Cyprus is recognised by all members of the United Nations with the exception of Turkey. The information in this document relates to the area under the effective control of the Government of the Republic of Cyprus.

3. The very widespread activation of international legal relationships for automatic exchange between all those exchanging this year.
4. A Common Transmission System (CTS) for the transmission of the data between tax authorities, which was developed by the OECD, has been built and Global Forum members exchanging this year are currently linking up to it.

c) Urgent action still needed

While significant progress has been made, this is no time for complacency. All the commitments must be delivered in full to remove the places for tax evaders to hide and to provide a level playing field. The most urgent task is for those committed to exchanging information in 2018 to ensure that data for exchange is collected by financial institutions this year, in order for it to be reported and exchanged in 2018. This requires both primary and secondary legislation/regulations. While the data is already being collected in the large majority of jurisdictions, 20 jurisdictions have yet to implement the complete domestic legal framework for data collection and reporting, and are therefore at risk of failing to meet their commitments, as the data is not being collected to be ready for exchange in 2018. The Global Forum is monitoring the timely delivery of commitments very closely and providing support where needed. In addition to monitoring timeliness, the Global Forum also has a process to ensure that each jurisdiction's domestic framework correctly incorporates all the key elements of the AEOI Standard. This process is currently underway and the results will inform future updates.

Delivering a level playing field requires not only the domestic data collection rules to be in place but also exchanges to take place with all "interested appropriate partners". These are all jurisdictions wishing to receive information and which meet the standards on confidentiality and the proper use of information. This therefore requires data collection with respect to all interested partners and the putting in place of international exchange networks with them. While this is generally the case for those exchanging in 2017, work still remains to be done in relation to 2018 exchanges.

d) The Global Forum is supporting this process

The Global Forum's role in ensuring the effective implementation of the AEOI Standard goes beyond monitoring, even during the implementation phase. Preliminary assessments of key components of implementation of the standard are being carried out, coupled with extensive support to ensure the effectiveness of the standard from the start and to support a level playing field. This includes:

1. Assessing the confidentiality and data safeguard standards applied, including the legal and operational confidentiality framework in place. This process has been completed for virtually all of the 101 jurisdictions implementing the AEOI Standard. Where gaps are identified, assistance is provided to address them.
2. Assessing the quality of the domestic legislation against the AEOI Standard, including the jurisdiction-specific excluded financial institutions and accounts. This process is well underway and has already resulted in many jurisdictions bringing forward amendments to address inconsistencies or areas lacking clarity.

3. Monitoring and supporting networks of international agreements being activated between all interested appropriate partners. This includes pairing-up interested partners, providing the CTS for the operational exchanges and providing a formal mechanism for peers to raise issues relating to denial of or slow pace of putting in place agreements by their partners.
4. Providing extensive generic and targeted support to assist members in the implementation process (see the Technical Assistance section below).

These activities will not only help ensure the effectiveness of the AEOI Standard from the outset, but will also feed into the development of the Terms of Reference and Methodology for the comprehensive peer reviews of the effectiveness of the implementation of the AEOI Standard. While the comprehensive reviews are not due to commence until 2019/2020, work is beginning now to ensure they are robust and effective, with a particular area of focus being the effective implementation of the requirements by financial institutions.

Exchange of Information on Request

a) Further progress in effective implementation of the EOIR Standard

The first round of EOIR peer reviews was fully completed in November 2016. Overall, 22 jurisdictions were rated by the Global Forum as “Compliant”, 77 “Largely Compliant”, 12 “Partially Compliant” and 5 “Non-Compliant” with the EOIR Standard. A further four jurisdictions were blocked from a Phase 2 review for a long time and therefore could not be rated in the first round.

All jurisdictions with an overall rating of “Partially Compliant” or “Non-Compliant” (or the jurisdictions with a deemed “Non-Compliant” rating, or without a Phase 2 rating because of being blocked from a Phase 2 review for a long time) were eligible to apply for a Fast-Track review under the procedure adopted by the Global Forum. Each jurisdiction was given an opportunity to show that it is likely that its overall rating would be upgraded as evaluated against the 2010 Terms of Reference. The process of the Fast-Track reviews was rigorous with the reports informed by peer input, approved by the Peer Review Group and then adopted by the Global Forum. However, it should be noted that these provisional ratings, similarly to other ratings assigned by the Global Forum under its first round of peer reviews, are not a prediction of the outcome of the next full EOIR review, which will be carried out in accordance with the Global Forum’s methodology and conducted against the 2016 Terms of Reference.

In total, 21 jurisdictions were eligible to request a Fast-Track review and 14 jurisdictions were able to demonstrate sufficient improvement in their legal frameworks and EOI practices. Their existing ratings were suspended and all but one received a new – albeit provisional – rating.

Impact of Fast-Track reviews on the EOIR ratings

Jurisdiction	Original GF rating	Provisional rating
Andorra	Partially Compliant	Largely Compliant
Antigua and Barbuda	Partially Compliant	Largely Compliant
Costa Rica	Partially Compliant	Largely Compliant
Dominica	Partially Compliant	Largely Compliant
Dominican Republic	Partially Compliant	Largely Compliant
Guatemala	Non-Compliant	Largely Compliant
Federated States of Micronesia	Non-Compliant	Largely Compliant
Lebanon	Not Rated	Largely Compliant
Marshall Islands	Non-Compliant	Partially Compliant
Nauru	Not Rated	Largely Compliant
Panama	Non-Compliant	Largely Compliant
Samoa	Partially Compliant	Largely Compliant
Trinidad and Tobago	Non-Compliant	Non-Compliant
United Arab Emirates	Partially Compliant	Largely Compliant
Vanuatu	Not Rated	Largely Compliant

These provisional ratings reflect the great progress made by the jurisdictions in implementing the EOIR Standard. Many have been able to address serious deficiencies both in their legislative frameworks as well as in EOIR practice. The important steps by these jurisdictions include:

- 2 jurisdictions have abolished bearer shares.
- 9 jurisdictions have improved their access powers to meet the EOIR Standard, particularly with regard to access to bank information. 4 jurisdictions have amended their rules to enable the access to and exchange of bank information. This brings the overall number of jurisdictions which have eliminated strict bank secrecy since 2008 to 69 and marks a nearly universal extinction of bank secrecy for EOI purposes in the jurisdictions which have been reviewed by the Global Forum in the first round of peer reviews.
- 9 jurisdictions have introduced provisions to ensure the availability of accounting records.
- 11 have improved their oversight and enforcement of obligations to maintain information.
- 10 jurisdictions have expanded their network of exchange relationships. The Multilateral Convention has played a central role in this rapid advancement (see further an update on the Multilateral Convention below).

Furthermore, in a number of cases, Global Forum members have provided peer input confirming that exchange of information in practice has improved.

Overall ratings following first round of peer reviews, including provisional ratings under the Fast-Track Procedure

Australia, Belgium, Canada, China (People's Republic of), Colombia, Denmark, Finland, France, Iceland, India, Ireland, Isle of Man, Japan, Korea, Lithuania, Mexico, New Zealand, Norway, Slovenia, South Africa, Spain, Sweden	Compliant
Albania, Argentina, Aruba, Austria, Azerbaijan, The Bahamas, Bahrain, Barbados, Belize, Bermuda, Botswana, Brazil, British Virgin Islands, Brunei Darussalam, Bulgaria, Burkina Faso, Cameroon, Cayman Islands, Chile, Cook Islands, Cyprus ⁵ , Czech Republic, El Salvador, Estonia, Former Yugoslav Republic of Macedonia, Gabon, Georgia, Germany, Ghana, Gibraltar, Greece, Grenada, Guernsey, Hong Kong (China), Hungary, Israel, Italy, Jamaica, Jersey, Kenya, Latvia, Lesotho, Liechtenstein, Luxembourg, Macao (China), Malaysia, Morocco, Malta, Mauritania, Mauritius, Monaco, Montserrat, Netherlands, Nigeria, Niue, Pakistan, Philippines, Poland, Portugal, Qatar, Romania, Russia, San Marino, Senegal, Singapore, Slovak Republic, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Seychelles, Switzerland, Turks and Caicos Islands, Uganda, United Kingdom, United States, Uruguay	Largely Compliant
Andorra, Antigua and Barbuda, Costa Rica, Dominica, Dominican Republic, Guatemala, Federated States of Micronesia, Lebanon, Nauru, Panama, Samoa, United Arab Emirates, Vanuatu	Provisionally* Largely Compliant
Anguilla, Curaçao, Indonesia, Sint Maarten, Turkey	Partially Compliant
Marshall Islands	Provisionally* Partially Compliant
Trinidad and Tobago**	Non-Compliant
<p>* These jurisdictions have been reviewed under the Fast-Track review procedure and assigned a provisional overall rating. These jurisdictions will be scheduled to undergo a full review under the strengthened 2016 Terms of Reference in the near future.</p> <p>** This jurisdiction applied for the Fast-Track review, but the progress it demonstrated was not sufficient to justify an upgrade of its rating beyond "Non-Compliant".</p>	

The upgraded ratings illustrate a positive dynamic and confirm that tax transparency has rapidly improved across the world.

⁵ See Footnote 4.

b) The second round of reviews

The second round of EOIR peer reviews, which started in the third quarter of 2016, is being carried out under strengthened terms of reference which include the requirement of beneficial ownership information. A total of 27 peer reviews have already been launched, with the first evaluation results expected in the second half of 2017.

Ongoing second round of EOIR peer reviews

Launched in Q3 and Q4 of 2016		Launched in Q1 and Q2 of 2017	
Australia	Qatar	Ghana	United States
Bermuda	Canada	Monaco	San Marino
Cayman Islands	Denmark	Belgium	New Zealand
Ireland	Germany	France	Estonia
Mauritius	India	Isle of Man	Guernsey
Norway	Jamaica	Italy	Hungary
	Jersey	The Bahamas	
	Curaçao		

Another 15 peer reviews will be launched before the end of 2017.

2017 Schedule for the second round of reviews⁶

Launch in Q3 of 2017	Launch in Q4 of 2017
Japan	Aruba
Philippines	Indonesia
Singapore	Netherlands
United Kingdom	Saint Kitts and Nevis
Anguilla	Former Yugoslav Republic of Macedonia
Antigua and Barbuda	Andorra
Turks and Caicos Islands	Bahrain
	Kazakhstan

⁶ The Schedule of Reviews will shortly be updated to reflect the outcomes of the Fast-Track Procedure and provided to the Global Forum for adoption.

The Convention on Mutual Administrative Assistance in Tax Matters

Since the Global Forum's last report to G20 Leaders in September 2016, further progress has been achieved on expanding the breadth of the Multilateral Convention. This includes 15 jurisdictions which have deposited an instrument of ratification, acceptance or approval (Cook Islands, Guatemala, Israel, Lebanon, Malaysia, Marshall Islands, Monaco, Pakistan, Panama, Russia, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Switzerland and Uruguay) and eight jurisdictions which have signed the Multilateral Convention (Cook Islands, Kuwait, Lebanon, Marshall Islands, Pakistan, Panama, St Lucia and United Arab Emirates). As of 23 June 2017, 111 jurisdictions participate in this powerful international instrument (see Appendix 2). With a further 14 jurisdictions submitting a request to join and currently engaged in the process to sign the instrument, the Multilateral Convention has been transformed into a powerful global instrument enabling information exchanges between most jurisdictions around the world.

The importance of the Multilateral Convention is evidently increasing in the context of AEOI as it provides an efficient tool for the implementation of the AEOI Standard and the Country-by-Country Reporting. Therefore, the OECD and Global Forum have been working jointly to assist the committed jurisdictions to join the Multilateral Convention as a matter of priority. All jurisdictions which have committed to implement the AEOI Standard by 2017 are now participating in the Multilateral Convention. With respect to the jurisdictions committed to 2018 exchanges, the work is still ongoing: 3 have not deposited their instruments of ratification, acceptance or approval and 11 members are not yet participating in the Convention. Practically all of these 11 jurisdictions however are already engaged in the process of joining. In less than a year since the last Global Forum report to the G20 Leaders, the OECD's Multilateral Competent Authority Agreement for the Common Reporting Standard, which complements the Multilateral Convention and enables the AEOI exchanges, has been signed by 8 jurisdictions, taking the overall number of signatories to 92.

Ongoing work on Beneficial Ownership

At their meeting in April 2016, the G20 Finance Ministers and Central Bank Governors called on the Financial Action Task Force (FATF) and the Global Forum to make initial proposals by their October 2016 meeting on ways to improve the implementation of the internationally agreed standards on transparency, including on the availability of beneficial ownership information of legal persons and legal arrangements, and its international exchange. This call was subsequently endorsed by the G20 Leaders. The initial proposals of the Global Forum were developed through consultation with the Global Forum membership and the FATF and then were delivered to the G20 Finance Ministers and Central Bank Governors for their October 2016 meeting. Since then the Global Forum has been working on their implementation.

The proposals made by the Global Forum are based upon three pillars.

a) Improving effective implementation of beneficial ownership through peer reviews

Under the first pillar, the Global Forum integrated the effective implementation of the legal and beneficial ownership requirements into the new reviews against both the EOIR and AEOI standards. The implementation of this first pillar incorporates four specific actions, namely: i) ensuring particular importance is being placed on the beneficial ownership requirements during the second round of EOIR reviews (Action 1); ii) providing training and support, notably on the assessment of beneficial ownership requirements (Action 2); iii) assessing the legal framework implementing AEOI (Action 3); and iv) developing the AEOI Methodology and Terms of Reference (Action 4).

b) Ensuring closer institutional cooperation between the FATF and the Global Forum

Under the second pillar, cooperation between the FATF and the Global Forum is being enhanced and will lead to a greater synergy of work in relation to beneficial ownership. This enhanced collaboration is implemented through two actions, namely: i) setting up a framework for closer cooperation at the institutional level by inviting the FATF to be an observer to the Global Forum (Action 5), and ii) carrying out a mapping exercise which analyses where the Global Forum and the FATF standards coincide (Action 6).

c) Facilitating effective implementation through examples of effective implementation and technical assistance

Under the third pillar, the Global Forum, the FATF and the OECD will work together to compile and widely disseminate examples of effective implementation for tax purposes, and will provide technical assistance as necessary. Two concrete actions are envisaged under the third pillar, namely: i) compiling examples of effective implementation in relation to the beneficial ownership requirements (Action 7), and ii) providing technical assistance (Action 8).

These actions are already well underway. Most notably, the beneficial ownership requirement has been incorporated in the EOIR review process with the first tranche of reviews currently taking place, the FATF has been invited to be an observer to the Global Forum, the mapping exercise is underway and regional training events have taken place to assist members. The Global Forum will continue to take these actions forward.

Technical assistance

Growing membership of the Global Forum and new demanding targets have further increased the need for technical assistance. For many developing countries, the Global Forum membership opens the door to modern administrative practices which facilitate tax compliance and enforcement and which would be difficult to put in place without any support.

a) Supporting EOIR implementation

To enable countries and jurisdictions to meet the benchmark of at least a “Largely Compliant” rating by July 2017, the Global Forum initiated an intensive outreach campaign toward the jurisdictions eligible to undergo the Fast-Track review process through WebEx presentations and a training seminar. In parallel, the Global Forum engaged in bilateral discussions with each eligible jurisdiction to provide tailored technical assistance regarding the specific issues a jurisdiction needed to address. This assistance often took the form of a review of draft legislation, engagement with political leadership and other forms of support.

The Global Forum also continued to provide overall capacity building programmes to member jurisdictions. In 2016, it conducted EOI training seminars in France, Kazakhstan, Korea, Singapore, the United Kingdom and the United States; in early 2017, it hosted EOI training programmes in Chile, the Philippines and Turkey. The combined attendance at these seminars exceeded 150 officials. In particular, the Global Forum Secretariat interacted with a number of jurisdictions who were undergoing Phase 1 or Phase 2 reviews in 2016 in order to provide help with legislation, process manuals and internal guidance.

b) Supporting AEOI implementation

In addition to monitoring the timely delivery of the AEOI commitments, the Global Forum is providing extensive support on its implementation. This includes:

1. Providing both generic and targeted support, including in relation to reviewing draft domestic laws in particular, as well as putting in place of the necessary legal, operational and technological frameworks to keep the data safe and secure in accordance with the standard.
2. Supporting and developing tools, such as an AEOI Helpdesk, the multilateral international legal frameworks and the CTS to facilitate the actual transmissions themselves, tailored to the needs of large and small, developed and developing jurisdictions.

c) Providing other targeted assistance

The Global Forum Secretariat have engaged in a substantial number of bilateral missions, targeted at educating and building political will for implementing the global tax transparency standards in jurisdictions that are still moving toward a satisfactory level of implementation. This includes missions associated with a featured induction programme for new members (Armenia, Chad, Côte d’Ivoire, Guyana, Egypt, Faroe Islands, Lebanon, Maldives, Moldova, Niger, Paraguay, Papua New

Guinea, Tanzania, Thailand and Togo), pilot projects on AEOI (Albania, Colombia, Pakistan, Ghana, the Philippines and Morocco) and a targeted regional programme – the Africa Initiative (Burkina Faso, Cameroon, Gabon, Ghana, Kenya, Morocco, Nigeria and Uganda). Regional cooperation in Latin America and the Caribbean and Asia-Pacific regions was also enhanced.

Looking Ahead

2017 marks a significant year in the progress towards tax transparency. Global Forum members continue to demonstrate tremendous advances in implementing the international standards – both in terms of legislative changes and expanding their network of exchange relationships, and in improving their practices leading to successes with improved compliance and enhanced revenue collection. The first exchanges under the AEOI Standard are set to begin shortly, marking a final end to the era of bank secrecy for tax purposes. The focus in the coming months will be on ensuring successful automatic exchanges in 2018, on effective implementation of beneficial ownership requirements which are part of the new round of peer reviews, and providing much needed assistance and support to developing countries to be able to use the available tools in their fight against tax evasion and illicit flows.

Appendix 1

List of the Global Forum members

- | | |
|----------------------------------|---------------------------------------|
| 1. Albania | 73. Kenya |
| 2. Andorra | 74. Korea |
| 3. Anguilla | 75. Kuwait |
| 4. Antigua and Barbuda | 76. Latvia |
| 5. Argentina | 77. Lebanon |
| 6. Armenia | 78. Kingdom of Lesotho |
| 7. Aruba | 79. Liberia |
| 8. Australia | 80. Liechtenstein |
| 9. Austria | 81. Lithuania |
| 10. Azerbaijan | 82. Luxembourg |
| 11. The Bahamas | 83. Macau (China) |
| 12. Bahrain | 84. Malaysia |
| 13. Barbados | 85. Maldives |
| 14. Belgium | 86. Malta |
| 15. Belize | 87. Marshall Islands |
| 16. Benin | 88. Mauritania |
| 17. Bermuda | 89. Mauritius |
| 18. Botswana | 90. Mexico |
| 19. Brazil | 91. Moldova |
| 20. British Virgin Islands | 92. Monaco |
| 21. Brunei Darussalam | 93. Montserrat |
| 22. Bulgaria | 94. Morocco |
| 23. Burkina Faso | 95. Nauru |
| 24. Cameroon | 96. Netherlands |
| 25. Canada | 97. New Zealand |
| 26. Cayman Islands | 98. Niger |
| 27. Chad | 99. Nigeria |
| 28. Chile | 100. Niue |
| 29. China (People's Republic of) | 101. Norway |
| 30. Colombia | 102. Pakistan |
| 31. Cook Islands | 103. Panama |
| 32. Costa Rica | 104. Papua New Guinea |
| 33. Côte d'Ivoire | 105. Paraguay |
| 34. Croatia | 106. Peru |
| 35. Curaçao | 107. Philippines |
| 36. Cyprus | 108. Poland |
| 37. Czech Republic | 109. Portugal |
| 38. Denmark | 110. Qatar |
| 39. Djibouti | 111. Romania |
| 40. Dominica | 112. Russian Federation |
| 41. Dominican Republic | 113. Saint Kitts and Nevis |
| 42. Ecuador | 114. Saint Lucia |
| 43. Egypt | 115. Saint Vincent and the Grenadines |
| 44. El Salvador | 116. Samoa |
| 45. Estonia | 117. San Marino |

- | | |
|---|-------------------------------|
| 46. Faroe Islands | 118. Saudi Arabia |
| 47. Finland | 119. Senegal |
| 48. Former Yugoslav Republic of Macedonia (FYROM) | 120. Seychelles |
| 49. France | 121. Singapore |
| 50. Gabon | 122. Sint Maarten |
| 51. Georgia | 123. Slovak Republic |
| 52. Germany | 124. Slovenia |
| 53. Ghana | 125. South Africa |
| 54. Gibraltar | 126. Spain |
| 55. Greece | 127. Sweden |
| 56. Grenada | 128. Switzerland |
| 57. Guatemala | 129. Tanzania |
| 58. Guernsey | 130. Thailand |
| 59. Guyana | 131. Togo |
| 60. Hong Kong (China) | 132. Trinidad and Tobago |
| 61. Hungary | 133. Tunisia |
| 62. Iceland | 134. Turkey |
| 63. India | 135. Turks and Caicos Islands |
| 64. Indonesia | 136. Uganda |
| 65. Ireland | 137. Ukraine |
| 66. Isle of Man | 138. United Arab Emirates |
| 67. Israel | 139. United Kingdom |
| 68. Italy | 140. United States |
| 69. Jamaica | 141. Uruguay |
| 70. Japan | 142. Vanuatu |
| 71. Jersey | |
| 72. Kazakhstan | |

The European Union fully participates in Global Forum work

Appendix 2

Jurisdictions participating in the Convention on Mutual Administrative Assistance in Tax Matters*

	Jurisdictions	Current status regarding the Convention
96	Albania, Andorra, Anguilla ⁽¹⁾ , Argentina, Aruba ⁽²⁾ , Australia, Austria, Azerbaijan, Barbados, Belgium, Belize, Bermuda ⁽¹⁾ , Brazil, British Virgin Islands ⁽¹⁾ , Bulgaria, Cameroon, Canada, Cayman Islands ⁽¹⁾ , Chile, China (People's Republic of), Colombia, Costa Rica, Croatia, Curaçao ⁽³⁾ , Cyprus, Czech Republic, Denmark, Estonia, Faroe Islands ⁽⁴⁾ , Finland, France, Georgia, Germany, Ghana, Gibraltar ⁽¹⁾ , Greece, Greenland ⁽⁴⁾⁽⁵⁾ , Guernsey ⁽¹⁾ , Hungary, Iceland, India, Indonesia, Ireland, Isle of Man ⁽¹⁾ , Israel, Italy, Japan, Jersey ⁽¹⁾ , Kazakhstan, Korea, Latvia, Liechtenstein, Lithuania, Luxembourg, Malaysia, Malta, Marshall Islands, Mauritius, Mexico, Moldova, Monaco, Montserrat ⁽¹⁾ , Nauru, Netherlands, New Zealand, Nigeria, Niue, Norway, Pakistan, Poland, Portugal, Romania, Russia, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Saudi Arabia, Senegal, Seychelles, Singapore, Sint Maarten ⁽⁴⁾ , Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Tunisia, Turks and Caicos Islands ⁽¹⁾ , Uganda, Ukraine, United Kingdom, Uruguay, United States ⁽⁶⁾	Convention entered into force
4	Cook Islands, Guatemala, Lebanon, Panama	Instrument of ratification, acceptance or approval deposited
11	Burkina Faso, Dominican Republic, El Salvador, Gabon, Jamaica, Kenya, Kuwait, Morocco, Philippines, Turkey, United Arab Emirates	Protocol/amended Convention signed

* This table includes State Parties to the Convention as well as other Global Forum members, including jurisdictions that have been listed in its Annex B naming a competent authority, to which the application of the Convention has been extended pursuant to Article 29 of the Convention. It also includes participating jurisdictions that are not Global Forum members.

⁽¹⁾ Extension by the United Kingdom.

⁽²⁾ Extension by the Kingdom of the Netherlands.

⁽³⁾ Extension by the Kingdom of the Netherlands. Curaçao and Sint Maarten used to be constituents of the "Netherlands Antilles", to which the original Convention applied as from 1 February 1997.

⁽⁴⁾ Extension by the Kingdom of Denmark.

⁽⁵⁾ Jurisdiction which is not a member of the Global Forum.

⁽⁶⁾ The United States have signed and ratified the original Convention which has been in force since the 1st April 1995. The Amending Protocol was signed the 27 May 2010 but is awaiting ratification.

Annex I

Inclusive Framework on BEPS Progress report July 2016 - June 2017

Available:

www.oecd.org/tax/beps/inclusive-framework-on-BEPS-progress-report-july-2016-june-2017.pdf

Inclusive Framework on BEPS

Progress report July 2016-June 2017



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The third meeting of the Inclusive Framework on BEPS held on 21-22 June 2017 in Noordwijk, the Netherlands.

This document was approved by the Inclusive Framework on BEPS at its Third Session on 21-22 June 2017 and prepared for publication by the OECD Secretariat.

This document, as well as any data and any map included herein, are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.



We welcome the establishment of the G20/OECD Inclusive Framework on BEPS, and its first meeting in Kyoto. We support a timely, consistent and widespread implementation of the BEPS package and call upon all relevant and interested countries and jurisdictions that have not yet committed to the BEPS package to do so and join the framework on an equal footing.

G20 Leaders, Hangzhou Communique, September 2016

In response to the G20's call for broad and consistent implementation of the BEPS package, the Inclusive Framework was established in June 2016, and in its first 12 months, we have seen 100 countries and jurisdictions become members. Representing a broad range of economic profiles, accounting for more than 93% of global GDP, as well as regional diversity, from Latin America through Asia-Pacific, this reflects the global commitment to address BEPS through enhanced international co-operation. Already we see rapid progress towards shutting down the loopholes and mismatches that facilitate base erosion and profit shifting, in particular on the four BEPS minimum standards that address critical issues like tax treaty shopping, tax rulings, harmful preferential tax regimes, transparency on multinationals' global operations and

improved dispute resolution mechanisms. Going beyond standard-setting, the Inclusive Framework is also making sure that implementation is effective, with a rigorous peer review and monitoring framework that will ensure a level-playing field.

Realigning taxation with the substance of the economic activity, improving transparency and reinforcing coherence between national tax systems, concrete measures are being taken by countries to curtail BEPS:

- The use of tax rulings is becoming more transparent. Information on more than 6 000 tax rulings has already been exchanged between tax administrations, shining a light on transactions that could give rise to BEPS concerns.

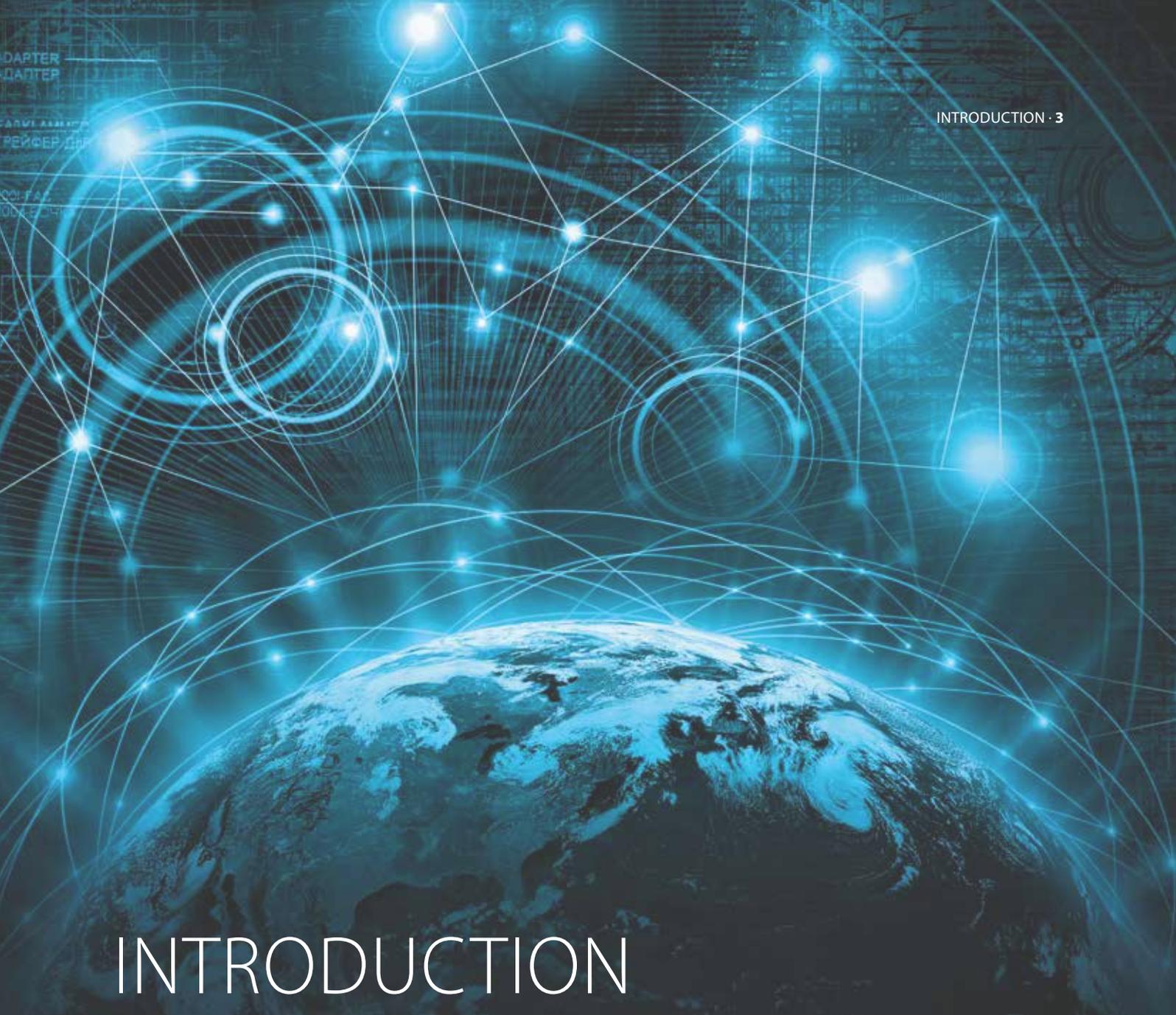
- Opportunities for treaty-shopping abuse are shutting down, with over 67 countries already signing on to the Multilateral Convention on Tax Treaty Related Measures to Prevent BEPS. Accounting for close to 40% of existing bilateral tax treaties with existing signatories, this Convention is ensuring that third countries cannot be used to access a tax treaty benefit that would not otherwise be available. In addition, some countries are undertaking bilateral negotiations to modify existing tax treaties to address treaty-shopping abuse.
- Harmful tax practices are being curtailed. 125 preferential tax regimes, such as patent boxes, are under review, with more than 10 regimes already having been abolished or amended in line with the new agreed rules, to ensure that tax benefits are only available where there is substantial activity being carried out by the taxpayer.
- So-called “cash boxes”, entities designed to hold valuable assets but which have little, if any, economic substance, can no longer earn disproportionately high rates of return. This discourages the shifting of taxable income to subsidiaries where no underlying value creating activity is actually being carried out.
- Obligations on multinational enterprises to provide Country-by-Country reporting to their parent entity’s tax administration are already in place for more than 95% of the multinational enterprises that will be affected. For the first time, tax administrations will have the big picture about the MNE’s global operations, and be better placed to make an assessment of the tax risks involved, allowing more targeted, effective use of their resources.

This report describes the progress that the Inclusive Framework and its members have made since the establishment of the Framework at the inaugural meeting in Kyoto, Japan. It outlines how countries are progressing in the implementation of the BEPS package and in particular, the minimum standards. While data on the impact of the measures remains limited at this stage, anecdotal reports suggest that the “post-BEPS” environment is having an important impact on taxpayer behaviour, with tax arrangements often now subject to Board-level oversight. While 2016-2017 is a transition

period as jurisdictions commence implementation with the support of the Inclusive Framework, more data on the impact of the BEPS measures and changes to international tax planning arrangements will emerge in the coming years.

Looking forward, monitoring BEPS implementation is an important priority for the Inclusive Framework, as well as providing support to tax administrations and taxpayers through the implementation process. Already, new guidance and tools on certain BEPS actions have been delivered over the past year and this work is set to continue with a special focus on addressing the specific BEPS challenges faced by lower-capacity countries, working with regional tax organisations and partners with the OECD in the Platform for Collaboration on Tax (the IMF, UN and World Bank Group).

Challenges remain nonetheless, with ongoing discussions to address technical issues like transfer pricing, and also to monitor outstanding and emerging BEPS issues, in particular with regards to the digital economy. These issues will be a key focus of the members of the Inclusive Framework in the year ahead, and will require the ongoing political support of their governments to ensure its continued success in putting an end to BEPS.



INTRODUCTION

The OECD/G20 Project to address Base Erosion and Profit Shifting (“BEPS”) was launched following a request by G20 Leaders in June 2012 to identify the key issues that lead to BEPS. The OECD’s February 2013 report, *Addressing BEPS*, became the basis for the 15-point BEPS Action Plan which was endorsed by the OECD Council, as well as by G20 Leaders at their July 2013 Summit in Saint Petersburg.

Organised around three pillars, the objectives of the Project were to (i) reinforce the coherence of corporate income tax rules at the international level, (ii) realign taxation with the substance of the economic activities, and (iii) improve transparency. As a result of an ambitious work programme that was completed in only two years, the BEPS package of 15 measures was delivered in October 2015. The package of measures was developed by 44 countries including all OECD and G20 Members participating on an equal footing, as

well as through widespread consultations with more than 80 other jurisdictions in addition to input from stakeholders including business, academics and civil society.

In parallel, based on a 2014 survey of the top priority BEPS-related issues facing low income countries, the OECD had begun work with other international organisations on a series of toolkits for low capacity countries to try to address these issues in a practical way.

The Inclusive Framework on BEPS

In September 2015, the G20 Finance Ministers called on the OECD to build “a framework by early 2016 with the involvement of interested non-G20 countries and jurisdictions, particularly developing economies, on an equal footing”. The G20 Leaders reiterated this request in their November 2015 communiqué:

To reach a globally fair and modern international tax system, we endorse the package of measures developed under the ambitious G20/OECD Base Erosion and Profit Shifting (BEPS) project. Widespread and consistent implementation will be critical in the effectiveness of the project, in particular as regards the exchange of information on cross-border tax rulings. We, therefore, strongly urge the timely implementation of the project and encourage all countries and jurisdictions, including developing ones, to participate. To monitor the implementation of the BEPS project globally, we call on the OECD to develop an inclusive framework by early 2016 with the involvement of interested non-G20 countries and jurisdictions which commit to implement the BEPS project, including developing economies, on an equal footing.

In February 2016, the proposed architecture of the Inclusive Framework on BEPS (“the Inclusive Framework”) was endorsed by G20 Finance Ministers, and its inaugural meeting was held in Japan in June 2016. Today, 100 countries and jurisdictions have joined the Inclusive Framework, and, having all committed to implement the BEPS package, are now progressing the Inclusive Framework’s mandate, which is to:

- i. Review the implementation of the 4 BEPS minimum standards;
- ii. Gather data for the monitoring of the other aspects of implementation, including under BEPS Actions 1 (on the tax challenges of the digital economy) and 11 (on measuring and monitoring BEPS);
- iii. Finalise the remaining technical work to address BEPS challenges; and
- iv. Support jurisdictions in their implementation of the BEPS package, including by providing further guidance on the standards and by developing toolkits for low income countries.

This report

This report by the Inclusive Framework on BEPS presents the current state of play in progressing its mandate, covering the period from July 2016 to June 2017. Part 1 of the report sets out the progress made in implementation of the BEPS package, including the four minimum standards, and also highlights the impact on BEPS activities that these measures are already having. Part 2 outlines the work of the Inclusive Framework in this 12-month period: the establishment of the peer review processes, the ongoing standard-setting work and delivery of guidance on implementation, as well as the assistance being delivered, often in partnership with other international organisations and regional bodies, to ensure all countries and jurisdictions are supported in the BEPS implementation process.



Part I – BEPS
measures are being
implemented
around the world

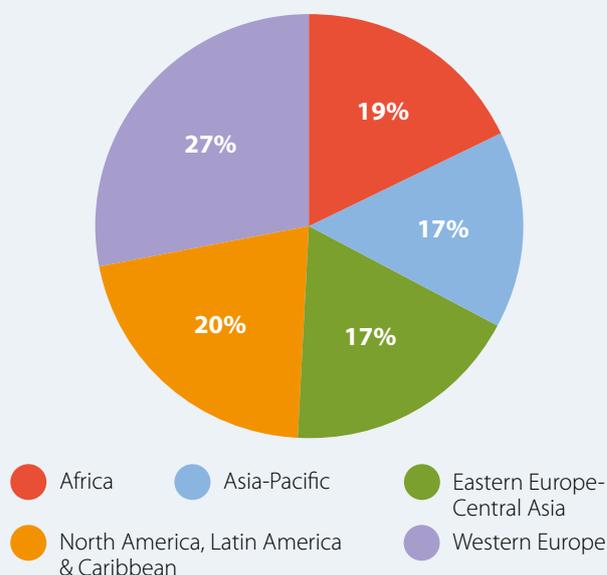
To date, 100 countries and jurisdictions have decided to work together on an equal footing to implement the BEPS package of measures, and all of them are moving quickly forward with their common commitment to ensure that their tax bases can no longer be eroded by artificial profit shifting and base erosion. While the four BEPS minimum standards have understandably been an early focus of implementation efforts, many countries are already going further, drawing on the other tools included in the package to ensure that opportunities for BEPS are curtailed. June 2017 saw 68 countries and jurisdictions join the Multilateral Convention to Implement the Tax Treaty Related Measures to Prevent BEPS, a major first step towards the update of the more than 3 000 bilateral tax treaties that are in place globally.

Data that reflects the impact of the BEPS measures is still being collected, however anecdotal evidence suggests that these measures are already having an impact. Multinational Enterprises (MNEs) are changing the nature of their tax planning arrangements to ensure alignment between the location of their value-creating activities and the location of profits for tax purposes. At the same time, tax administrations are beginning to benefit from greater transparency, and are sharing information and working together to tackle BEPS on a more systematic basis.

With the establishment of the Inclusive Framework on BEPS, a major shift in global governance on international tax matters has occurred. Together, the **100 members of the Inclusive Framework represent more than 93% of global GDP**. They reflect a broad diversity of economic profiles and levels of development, demonstrating the fact that BEPS challenges are global, and require global solutions implemented with enhanced international co-operation. From small open economies, OECD and emerging economies, financial centres, and developing countries, membership spans the Americas, Africa, Europe and Asia-Pacific. The work of the Inclusive Framework also continues to be supported at the highest levels of the international agenda, reflected in repeated G20 communiqués and many other fora and high-level processes, including APEC, BRICS leaders, and the UN-led 2030 Agenda.

Figure 1. Regional composition of the Inclusive Framework on BEPS

100 Members of the Inclusive Framework –
Regional balance by number of Inclusive Framework members



1. INCLUSIVE FRAMEWORK MEMBERS HAVE ADAPTED THEIR LEGAL AND REGULATORY FRAMEWORKS TO IMPLEMENT THE FOUR BEPS MINIMUM STANDARDS

In order to put an end to BEPS practices, key priority measures were identified where action was urgent, as no action by some jurisdictions would have created negative spillovers (including adverse impacts on competitiveness) on others. **Minimum standards were therefore identified to fight harmful tax practices (BEPS Action 5), prevent tax treaty abuse, including treaty shopping (Action 6), improve transparency with Country-by-Country Reporting (Action 13), and enhance the effectiveness of dispute resolution (Action 14).**

For the minimum standards, Inclusive Framework members have committed to rapid implementation of the measures, and to be subject to peer review to ensure consistent implementation. The effect of establishing these standards is clear – implementation has advanced quickly in these areas, establishing a more level playing field.

1.1. BEPS minimum standards: Increasing transparency

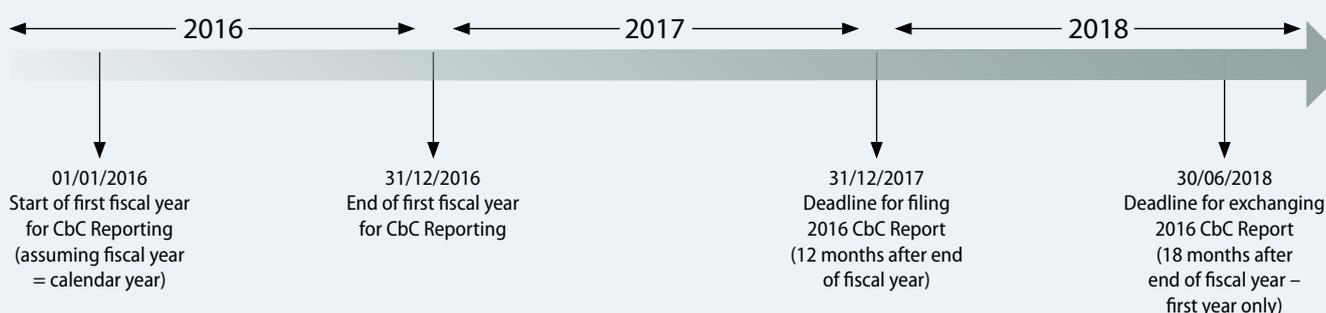
In the past, tax administrations have had limited information on the global picture relevant to the correct taxation of the profits of MNEs. Changing this imbalance was a key objective of the BEPS Project. Enhanced transparency with the implementation of the minimum standards on the exchange of information on tax rulings (BEPS Action 5) and on Country-by-Country reports (Action 13) is intended to ensure that there will be fewer places for BEPS arrangements to remain hidden.

Improving transparency with Country-by-Country reporting (Action 13)

Country-by-Country Reports (CbCRs) contain information on where an MNE records profits and sales, employs staff, holds assets and pays and accrues taxes. The BEPS package requires CbCRs to be filed by MNEs with annual consolidated group revenue equal to or more than EUR 750 million (or near equivalent amount in domestic currency, as of January 2015). The CbCR information is required to be delivered to tax administrations based on a common template, and, where provided under domestic law, may be supplemented by a Master File containing key information regarding the MNE's global business operations and transfer pricing policies, and a Local File containing information on material related party transactions in the relevant jurisdiction. Together, these documents are a powerful tool to allow tax authorities to see the big picture of an MNE's operations and conduct more effective high-level transfer pricing risk assessments.

The new CbCR requirements are designed to boost the risk-assessment capacities for tax administrations, particularly when used in conjunction with other sources of information such as the Master File and Local File which are part of the three-tiered documentation package agreed under the BEPS Action 13 report, although not part of the minimum standard. A key step towards implementation is for countries to establish the necessary domestic legal framework to require CbCR. **More than 50 jurisdictions have already implemented an obligation for relevant MNEs to file CbCRs**, of which more than half (30) have completed all necessary domestic processes and have a full legal framework in place. Jurisdictions that have taken action already include all 35 OECD Members, 7 non-OECD G20

Figure 2. Recommended exchange schedule for Country-by-Country reports



countries (Argentina, Brazil, India, Indonesia, People's Republic of China, the Russian Federation and South Africa), as well as 13 other jurisdictions (Bermuda, Colombia, Guernsey, Isle of Man, Jersey, Kenya, Liechtenstein, Malaysia, Malta, Mauritius, Peru, Senegal, and Singapore). For the 28 EU member states, the obligation to implement CbCR has also been enshrined in a binding Directive (Council Directive 2016/881/EU). In addition, Master and Local File requirements are already being implemented by 38 jurisdictions.

As well as putting in place the domestic legal framework to allow CbCR, jurisdictions have also moved quickly to ensure that CbCRs can be exchanged between tax administrations, on a confidential basis pursuant to an appropriate international instrument (e.g. a double tax convention, tax information exchange agreement or the multilateral Convention on Mutual Administrative Assistance in Tax Matters). To date, **64 jurisdictions¹ have signed the Multilateral Competent Authority Agreement** (the CbC MCAA), which is designed to operationalise the exchange of CbC Reports between jurisdictions that are parties to the multilateral Convention on Mutual Administrative Assistance on Tax

Matters². Some jurisdictions have entered into bilateral Competent Authority Agreements to operationalise the exchange of CbCRs with specific jurisdictions.

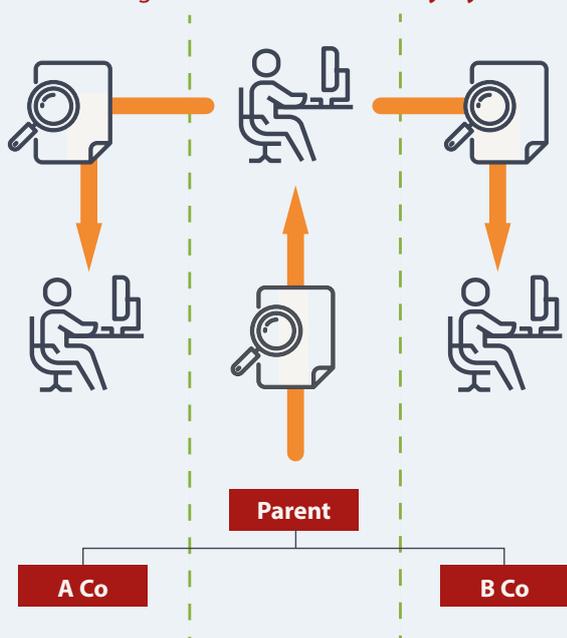
Applying the agreed EUR 750 million, or equivalent, threshold reduces compliance costs but also ensures that MNE groups controlling about 90% of total corporate revenues will be subject to the CbCR obligations. With the actions already taken by governments to meet their commitments, CbCR obligations covering 95% of those MNEs are already in place. With 12 months to go until the first CbCR exchanges take place, over 800 exchange relationships between pairs of jurisdictions have already been created and tax administrations are putting in place the processes to draw on the information in the CbCR in their transfer pricing risk assessment processes.

Some challenges remain as certain jurisdictions are following different timelines to implement the CbCR requirement (starting in respect of 2017 or later). Some of these jurisdictions have allowed their MNE Groups to file their CbCRs with their tax administrations pursuant to parent surrogate filing in order for these

1. An up to date list of the jurisdictions which have signed the CbC MCAA is available at: www.oecd.org/tax/automatic-exchange/about-automatic-exchange/CbC-MCAA-Signatories.pdf.

2. Multilateral Convention on Mutual Administrative Assistance on Tax Matters: www.oecd.org/ctp/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm

Figure 3. Action 13: Country-by-Country reporting filing and exchange of CbC reports



The ultimate parent of a group should prepare the CbC Report for the group and provide this to the tax authority in the country where it is resident.

The tax authority will exchange the CbC Report with tax authorities in other countries under Automatic Exchange of Information powers contained in tax treaties or TIEAs, supported by competent authority agreements (CAAs).

This relies on all countries applying the minimum standard and having instruments for automatic information exchange and CAAs.

MNE Groups to avoid certain adverse consequences (local filing). A number of developing countries are also facing capacity constraints to put in place the necessary legal framework as well as protections in relation to

confidentiality and appropriate use. In order to help these countries securely receive CbCRs as quickly as possible, the Inclusive Framework is exploring practical ways to address these constraints (see Part II).

Box 1. Tackling BEPS with the multilateral OECD/Council of Europe Convention on Mutual Administrative Assistance in Tax Matters

The multilateral Convention on Mutual Administrative Assistance in Tax Matters is an increasingly useful tool for countries as they seek to implement the BEPS package, since it facilitates cross-border co-operation between tax authorities. In particular, the ability to exchange tax information under the Convention provides a legal basis for jurisdictions to meet their commitments to share Country-by-Country Reports and tax rulings.

Since the delivery of the BEPS package in October 2015, 22 countries have joined the Convention: Burkina Faso, Cook Islands, Dominican Republic, Israel, Jamaica, Kenya, Kuwait, Lebanon, Malaysia, Marshall Islands, Nauru, Niue, Pakistan, Panama, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Senegal, Uganda, United Arab Emirates and Uruguay. Today, there are 111 jurisdictions participating in the Convention.

Countering harmful tax practices - transparency of tax rulings (Action 5)

The second component of transparency under the BEPS minimum standards concerns the commitment to the compulsory spontaneous exchange of information on certain tax rulings established under Action 5. While tax rulings can play a useful role in offering certainty for taxpayers, transparency is critical to ensure a level playing field is maintained and to shed light on possible BEPS mismatches in different jurisdictions. Under Action 5, for the first time, information on all rulings in key risk categories is required to be spontaneously exchanged with all other jurisdictions where those rulings may be relevant, subject to the necessary legal framework being in place for spontaneous exchange of information. The standard requires the exchange on rulings issued on a going-forward basis as well as for certain rulings issued in the past, in defined circumstances, since January 2010.

In addition, both in the lead-up to and during the BEPS Project, there was broad recognition that a lack of transparency on tax rulings granted to MNEs which

Figure 4. Framework for tax rulings exchange

Scope of the compulsory spontaneous exchange of summaries of rulings	
Categories of rulings	Jurisdictions receiving the information
1 Taxpayer-specific rulings related to preferential regimes	1 For rulings 1-3: jurisdictions of residence of all related parties with which the taxpayer enters a transaction for which a ruling is granted or which gives rise to income from related parties benefiting from a preferential regime; and jurisdictions of residence or immediate parent company and ultimate parent company
2 Cross-border unilateral APAs and other cross-border unilateral tax rulings (such as ATRs) covering transfer pricing or the application of transfer pricing principles	
3 Cross-border rulings providing for unilateral downward adjustment to the taxpayer's taxable profits that is not directly reflected in the taxpayer's financial / commercial accounts	2 For PE rulings, the head office or jurisdiction of the PE; and the jurisdictions of residence of immediate parent company and ultimate parent company
4 Permanent establishment rulings	3 For conduit rulings, the jurisdiction of residence of any related party making payments to the conduit (directly or indirectly); and the jurisdiction of residence of the ultimate beneficial owner of payments made to the conduit; and the jurisdiction or residence of immediate parent company and ultimate parent company
5 Related party conduit rulings	
6 Any other type of ruling that in the absence of spontaneous exchange gives rise to BEPS concerns (if and when agreed by the FHTP and IF)	

Applies to both past rulings and new rulings

limited tax obligations, including in other jurisdictions in which they had business operations, could give rise to mismatches in tax treatment and instances of double non-taxation. The commitment to exchange of information on relevant tax rulings is allowing tax administrations to ensure that the international tax rules are being applied appropriately. All jurisdictions have needed to invest significant resources to identify, prepare and start exchanging information on rulings in line with the agreed format and protocols. In some cases, several jurisdictions have needed to enact legislative and regulatory changes to allow them to meet their commitment, and for the 28 EU member states, they are also subject to a Directive (amended Directive 2011/16/EU on administrative co-operation in the field of taxation) for the exchange of information on rulings, which was adopted in record time.

So far, **9 000 relevant rulings have been identified, and already by the end of 2016, 6 000 exchanges about those rulings have already taken place between tax administrations around the world, and thousands more are underway**, arming them with useful data about potential risks to their own tax base. In addition, as a result of this enhanced international co-operation, a deterrent effect is anticipated as taxpayers realise that rulings on any transactions or arrangements that may give rise to BEPS concerns will promptly be reported to other relevant tax administrations, which have the power to take appropriate action to address it.

1.2. BEPS minimum standards: Aligning taxation with value creation

Countering harmful tax practices – preferential regimes (Action 5)

The need to realign the location of taxation with the location of the underlying economic activity and value creation is a key pillar of the BEPS Project, and this “substance” requirement, is reflected in the minimum standard on harmful tax practices, relating to preferential regimes. In particular, the minimum standard introduced a requirement that relevant regimes meet a substantial activity test. For intellectual property (IP) regimes, such as patent boxes, that means they now need to be compliant with the nexus approach, which limits the tax benefits in proportion to the underlying research and development (R&D) activities.

Box 2. The Common Transmission System – better tools for tax information exchange

The OECD-led procurement of a Common Transmission System (CTS) offers tax authorities a secure, confidential and common platform under which to bilaterally exchange tax information, and in particular, significant amounts of information as expected to be exchanged as a result of the BEPS minimum standards on tax rulings and Country-by-Country reporting. With its development initiated and supported by the members of the OECD’s Forum on Tax Administration, the CTS will also be used by many countries for other forms of tax information exchange, for example with respect to the OECD standard on automatic exchange of financial account information (the Common Reporting Standard, or CRS). Its development represents the first time that tax administrations from around the world have pooled their financial resources to develop and acquire a common technological platform for bilateral co-operation, thereby significantly reducing costs while increasing efficiency and ease of use.

The CTS, which is expected to go live in the coming months, will be a secure and encrypted “pipe” through which Competent Authorities can bilaterally exchange CRS, Country-by-Country and tax ruling information with each other. Competent Authorities can access the CTS to send and/or receive information both through a server-to-server link-up (SFTP) and in a browser-based manner (HTTPS). The CTS is scalable, in order to allow other types of exchange of information to take place through the CTS in the future.

Put simply, the nexus approach stops profit shifting on IP income because jurisdictions can only offer a preferential regime for profits from IP generated by R&D activity by the taxpayer itself, with limited scope for outsourcing.

Ensuring IP regimes meet the nexus approach counters potentially harmful tax practices, and means that the benefits of these regimes will typically be available only where there is substantive research and development activity undertaken by the entity.

Practically all countries and jurisdictions are quickly taking steps to ensure their preferential regimes comply with the new rules. As set out in Table 1, IP regimes in the following countries which were listed in the Action 5 Report have already been found to be not harmful:

Belgium, People's Republic of China,³ Hungary, Italy,⁴ the Netherlands, Portugal, Switzerland and the United Kingdom. Colombia and Luxembourg have abolished their regimes completely. In addition, new IP regimes introduced since agreement on the standard have been designed specifically to conform to the standard, for example, in India, Ireland, and Turkey. The remaining IP regimes are at different stages of the domestic review, regulatory and legislative processes to ensure their regimes are compliant, but the direction of progress is clear. Full and swift implementation of the changes necessary to conform to the nexus approach are essential to deliver each country's commitment, to achieve a level playing field and to prevent non-compliant countries and jurisdictions from obtaining an unfair competitive advantage by failing to comply.

Preventing tax treaty abuse (Action 6)

Recognising that tax treaty abuse, and in particular treaty shopping, raises some of the most important sources of BEPS concerns, the BEPS package included strong measures to tackle them. Countries and

jurisdictions have agreed to include anti-abuse provisions in their tax treaties to counter treaty shopping, along with an explicit statement in each treaty that the treaty is not intended to create opportunities for non-taxation or reduced taxation through tax evasion or avoidance.

The impact of the Action 6 minimum standard is certain to be widespread and long-lasting. Treaty-shopping structures which had become standard practice in the tax planning of multinational enterprises, using special purpose holding companies in treaty shopping hubs, will no longer be viable when countries have implemented this commitment, either through joining the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS (the multilateral instrument, or MLI) or updating their tax treaties through bilateral negotiations. With the Action 6 minimum standard implemented, tax treaties will serve only their intended purpose of preventing double taxation, without creating opportunities for unintended double non-taxation of cross-border income through avoidance or evasion.

Already, 68 jurisdictions have joined the MLI, thereby updating over 1 100 bilateral tax treaties in line with this standard (see Box 3). This constitutes a true “sea change” in the world of international tax planning and avoidance.

3. While the regime did not technically comply with the nexus approach, it is considered functionally equivalent and therefore evaluated as not harmful, given its distinct features and safeguards and the willingness of China to provide additional information.

4. As applies for new entrants on or after 1 January 2017.



1.3. BEPS minimum standards: Ensuring greater certainty with effective dispute mechanisms

Improving effectiveness of cross-border tax dispute resolution mechanisms (Action 14)

While a significant focus of the BEPS Project is on addressing gaps and mismatches that facilitated no or low-taxation, the need to avoid double taxation is also an important component of the package. Under Action 14, a minimum standard was established to improve the effectiveness of dispute resolution mechanisms, including through dispute prevention, availability and access to mutual agreement procedures (MAP), resolution of MAP cases and implementation of MAP agreements. The MLI, in which 68 jurisdictions already participate, is one of the principal means by which countries and jurisdictions are meeting certain tax treaty-related elements of this minimum standard.

By emphasising this issue as a BEPS minimum standard, increased and high-level attention on the importance of improving the effective resolution of cross-border tax disputes is also having an important impact on the measures taken by tax authorities. Aiming at providing faster, more efficient resolution of these disputes, a number of countries including Brazil, Canada, China, Germany, Greece, Italy, Japan, Mexico, South Africa and the United States, have already announced steps ranging from increases in personnel to handle MAP cases, clearer guidance on administrative procedures for MAP, or reaching bilateral agreements on how to resolve recurring cross-border tax issues. In addition, the EU is preparing to adopt a Directive on enhancing the effective resolution of international tax disputes between EU Member States. The progress made by countries and jurisdictions will be taken into account in the peer review process.

Many countries are also going further. So far 20 countries⁵ have committed to introduce mandatory binding arbitration, requiring tax authorities to proceed to an arbitration process if the dispute is not resolved within a defined period. A total of 25 MLI

5. In the context of the Action 14 report, Australia, Austria, Belgium, Canada, France, Germany, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Poland, Slovenia, Spain, Sweden, Switzerland, the United Kingdom and the United States have made the additional commitment to implement mandatory binding arbitration in tax treaties.

signatories⁶ have already agreed to mandatory binding MAP arbitration as part of the MLI, tripling the number of treaties under which the arbitration procedure is available.

2. IMPLEMENTING THE OTHER ELEMENTS OF THE BEPS PACKAGE

2.1. Existing international tax standards have been modernised to address BEPS

In addition to the establishment of new minimum standards, an important component of the BEPS package was an update of the existing international tax standards namely the OECD Model Tax Convention and the OECD Transfer Pricing Guidelines. These changes have gone a long way towards ensuring the rules promote a better alignment between the location of taxation and the location of value creation and underlying economic activity.

2.1.1. Updating the Model Tax Convention and amending existing bilateral treaties

The provisions of the OECD Model Tax Convention and its commentary are amended in line with the BEPS measures, including to prevent tax treaty abuse (Action 6) and improve dispute resolution (Action 14), as well as to prevent the artificial avoidance of “permanent establishment” status (Action 7). Pursuant to Action 7, the definition of “permanent establishment” in Article 5 of the OECD Model Tax Convention is amended to address the use of formalistic planning such as *commissionnaire* structures and offshore rubber stamping arrangements. Action 7 also updated the specific-activity exemptions in Article 5(4), and added a specific anti-abuse rule to prevent multinational groups from fragmenting their operations in a country in order to claim exemption from permanent establishment status.

In the short term, these measures will be swiftly implemented into a large number of existing tax treaties through the MLI, and they are also being implemented in the course of bilateral tax treaty negotiations. Moreover, incorporating these measures into the OECD Model Tax Convention will have a long-term impact

6. Of the signatories to the MLI, 25 jurisdictions opted in for the provisions mandatory binding arbitration - Andorra, Australia, Austria, Belgium, Canada, Fiji, Finland, France, Germany, Greece, Ireland, Italy, Japan, Liechtenstein, Luxembourg, Malta, Netherlands, New Zealand, Portugal, Singapore, Slovenia, Spain, Sweden, Switzerland and the United Kingdom.

Box 3. The Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS

Developed by over 100 countries and jurisdictions, the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS (the Multilateral Instrument, or MLI) and its accompanying Explanatory Statement, is a groundbreaking tool, allowing countries to rapidly amend their bilateral tax treaty network with a single instrument.

On 7 June 2017 at the signing ceremony at the OECD, 77 countries and jurisdictions expressed their commitment to update their tax treaty networks in line with the BEPS package, 67 of which signed the MLI, with a further 9 jurisdictions formally expressing their intention to sign in the near future.⁷ With the first signing ceremony in June, already more than 1100 existing tax treaties will be modified, and additional treaties will be covered as more parties join the MLI. It is expected that by the end of 2017, a further 20 jurisdictions will have signed the MLI.

The MLI covers treaty-related minimum standards that were agreed as part of the BEPS package and to which all countries and jurisdictions within the Inclusive Framework on BEPS have committed. These standards relate to the prevention of treaty abuse (Action 6)⁸ and the improvement of dispute resolution (Action 14). Furthermore, the MLI enables the Parties to implement other tax treaty measures developed in

the BEPS Project, e.g. mandatory binding arbitration, which 25 countries have committed to implementing, or measures against artificial avoidance of permanent establishment status through *commissionnaire* arrangements. Recognising the need to accommodate a variety of tax policies, the MLI is a flexible yet robust instrument that provides optionality while not diverging from the minimum standards. Further, given the importance of countering treaty abuse and improving dispute resolution, some signatories prioritise the implementation of the minimum standard measures, while planning to opt in for other provisions at a later stage.

The jurisdictions that participated in the first signing ceremony are now preparing for ratification of the MLI in accordance with their domestic processes. For the modifications of an existing bilateral tax treaty to have effect, both parties to the treaty will have to ratify the MLI in accordance with their domestic procedures for which the timing will vary between countries. It is anticipated that the first modifications will enter into effect in 2018.

The OECD is the Depository of the MLI and will continue to work with the signatories to ensure the clarity of the MLI and its relation with existing treaties, maximising the impact of the treaty related BEPS measures.

7. China's signature also covers Hong Kong, China. The provisional MLI positions are available at oe.cd/mli. Bermuda has indicated that it has bilaterally invited all of its DTA partners to update its treaties to the standard articulated by the MLI.

8. The Action 6 Report provides for a simplified and a detailed Limitation on Benefits provision. Given that the detailed Limitation on Benefits provision requires substantial bilateral customisation, which would be challenging in the context of a multilateral instrument, the MLI does not include a detailed Limitation on Benefits provision.



Signing Ceremony of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS – 67 countries and jurisdictions signed at the OECD on 7 June 2017 in Paris, France.

as countries will be able to draw on the Model, as they have previously, for tax treaty negotiations. The updated OECD Tax Convention Model will be published in the second half of 2017.

In parallel, the UN Committee of Experts on International Cooperation in Tax Matters has already adopted changes to the United Nations Model Double Taxation Convention incorporating the key tax treaty recommendations of the BEPS package, including the recommendations made under Action 7 on the “permanent establishment” concept, as well as the minimum standard on tax treaty abuse under Action 6. The broad adoption of the tax treaty related BEPS recommendations by the UN Committee of Experts demonstrates the broad support for the tax treaty related recommendations developed in the BEPS Project, and will support the swift and consistent adoption of the BEPS recommendations globally.

2.1.2. Revising the Transfer Pricing Guidelines

The OECD Transfer Pricing Guidelines, which are applied by a wide range of countries and are concerned with determining the conditions, including the price, for transactions within an MNE group resulting in the allocation of profits to group companies in different countries, were also changed by the BEPS Project. Actions 8, 9, and 10 dealt with transfer pricing issues, involving transfers of intangibles (Action 8), the assumption of risks and the employment of capital (Action 9), and other transactions presenting significant

BEPS exposures (Action 10). The final report on these Actions contained important new transfer pricing guidance of general application, aimed at ensuring that tax results in controlled transactions will be aligned with value creation in substance. This guidance was promptly incorporated into the Transfer Pricing Guidelines in May 2016, thus causing the new guidance to be immediately effective as part of domestic tax law in many countries, and as persuasive authority in many others.

Consequently, tax administrations are now better equipped to address profit shifting by multinational groups through mechanisms such as:

- contractual allocations of risk to low-taxed affiliates that lack the capacity to assume those risks;
- provision of capital by an entity that lacks the resources to manage that capital; and
- planning based on mere ownership of an intangible by an entity that does not perform value-creating functions such as development, enhancement, protection, and exploitation of the intangible.

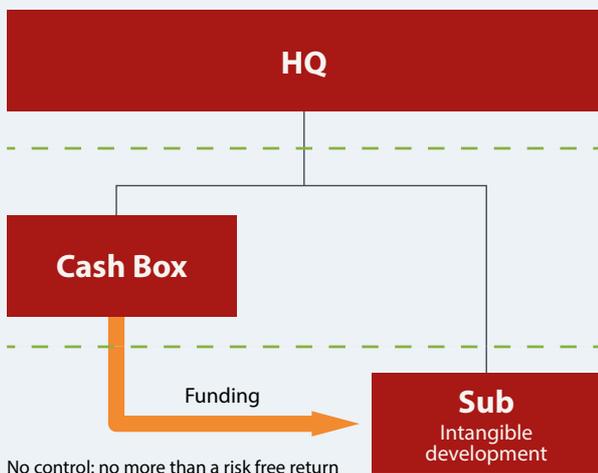
These changes are putting an end to arrangements like the “cash box”, with the strengthened guidance on risk, intangibles and capital ensuring that such an entity which provides funding for the development of valuable intangibles but does not have the capacity to control the risks associated with its investment will be accorded no more than a risk-free return on its funds.

Due to these changes in the OECD Transfer Pricing Guidelines and the OECD Model Tax Convention, the BEPS Project has made major progress to update two of the most important international tax standards, altering the global corporate tax landscape significantly.

2.2. Domestic measures to tackle BEPS

The BEPS package included a number of measures that could be implemented, or predominantly implemented, through a country’s domestic law. These were a combination of agreed common approaches where convergence over time is expected, namely with regards to limiting excessive interest deductibility (Action 4) and neutralising hybrid mismatches (Action 2), as well as

Figure 5. Cash box



guidance based on best practice for jurisdictions intending to limit BEPS through controlled foreign company (CFC) rules (Action 3) and increase transparency through mandatory disclosure rules (Action 12).

While not minimum standards, these measures have already seen significant interest from countries seeking to protect their tax base. All of the 28 EU Member states are required, under the EU Council's Anti-Tax Avoidance Directive (2016/1164/EU), to introduce rules based on Action 2 (hybrid mismatches), Action 3 (CFC rules) and Action 4 (interest deductibility), while Viet Nam is the first non-European country to introduce rules based on Action 4 which apply to third party and related party debt. Australia and New Zealand are also consulting on proposed legislation that would translate Action 2 into their domestic law. There are a further five countries (Japan, Liechtenstein, Mexico, Norway, South Africa) that have already partially adopted the Action 2 recommendations into their domestic law, and a number of others are actively reviewing their rules with a view to considering full implementation of the Action 2 measures. In total, there are 35 countries that have (or will shortly have) the Action 2 hybrid mismatch and branch mismatch rules, or elements of these, in their domestic legislation.

Excessive interest deductions, hybrid instruments, hybrid entities, and subsidiaries without substance that benefit from low effective taxation have long been key tools used by multinational groups for aggressive tax planning purposes. As countries introduce rules based on BEPS recommendations to limit interest deductions based on the level of earnings in a jurisdiction, to address unintended tax benefits from differences in the tax treatment of financial instruments or entities, and to tax the income in CFCs, it will become more difficult for groups to enter into aggressive tax planning structures to separate taxable income from the location of the underlying economic activity. Where groups seek to identify new opportunities for BEPS practices, mandatory disclosure rules will make it easier for countries to identify and respond to these schemes in a timely manner.



2.3. Addressing digital economy tax challenges in indirect taxation

To address some of the tax challenges raised by the digital economy, new guidelines and implementation mechanisms relating to value-added tax (VAT)/ goods and services tax (GST) were agreed under BEPS Action 1 to level the playing field between domestic and foreign suppliers. They address the challenge of collecting VAT/GST on services and intangibles supplied by foreign suppliers, and allow tax authorities to collect the tax in the jurisdiction where the consumer is located, in accordance with the destination principle. These measures have now also been incorporated in the OECD's International VAT/GST Guidelines, which have been endorsed by over 100 countries, jurisdictions and international organisations.

This work will greatly enhance compliance levels while limiting compliance costs for digital suppliers by promoting more consistent and effective implementation of the agreed approaches. Already, the overwhelming majority of OECD and G20 countries have implemented rules for the collection of VAT on business to consumer (B2C) supplies of services and intangibles by foreign suppliers in accordance with Guidelines, with a simplified regime to facilitate compliance. Among the latest countries to implement these solutions are Australia, India, New Zealand and South Africa. Even for those countries that have not yet implemented these rules, most are now considering reform in light of these principles.

The early data on the impact of these measures is very promising. The EU, as the earliest adopter of these principles, has identified the total VAT revenue declared via its simplified compliance regime (Mini One Stop Shop or MOSS) in its first year of operation (2015) as in excess of EUR 3 billion. Approximately 70% of the total cross-border B2C supplies of services and intangibles that are in scope of this regime are captured by this simplified compliance regime.

Options to facilitate the collection of VAT on low-value goods from online sales were also outlined in the Action 1 Report on Addressing the Tax Challenges of the Digital Economy. Based on reducing or removing VAT exemption thresholds, these approaches rely on the intervention of online vendors or other parties involved in the supply

chain for online sales, such as e-commerce platforms or express couriers. A number of countries have announced or are actively considering the removal of their VAT exemption thresholds for the importation of low value goods from online sales and the implementation of the approaches for a more efficient collection of import VAT. For example, the 28 EU member states are considering reform to remove the current exemption from VAT for imports of low value goods and to extend the MOSS registration-based system to cover low-value goods.

Together, this progress facilitates, through a coherent global approach, greater compliance with the tax rules by businesses in the booming e-commerce sector. Other elements of the work to address the tax challenges of the digital economy are being explored, as set out in Part II of this report.

3. MAKING INROADS AGAINST BASE EROSION AND PROFIT SHIFTING

Work under the BEPS Project made clear that BEPS was having a significant adverse fiscal impact, with an OECD analysis of financial accounts from a cross-country database estimating the global corporate income tax (CIT) revenue losses could be between 4% and 10% of global CIT revenues, i.e. USD 100 to 240 billion annually in 2014 figures. To continue to track the economic and fiscal impact of BEPS and the influence of the BEPS package of measures, as agreed in the BEPS package, new data collection processes are being put in place to support improved measurement and monitoring of BEPS.

For now, more recent data that reflects the early stages of implementation of the BEPS package are not yet available, and a lack of empirical evidence on the extent and magnitude of tax-induced profit shifting continues to be a major challenge in evaluating government policies to prevent BEPS. MNEs do not publicise or provide measures of their efforts to take advantage of gaps in the international tax rules. Confidential corporate tax return information has been available to qualified researchers to systematically analyse BEPS in only a few countries. Companies' financial statement information is severely limited in the details necessary to separate BEPS behaviours from the effects of tax rates, bases and other tax system rules. Even the best available dataset of financial statement reports was

missing details of many of the MNE groups discussed during various Parliamentary and Congressional inquiries of BEPS across the globe.

3.1. Shutting down specific BEPS practices

However, it is clear that the implementation of the BEPS package will make a number of cross-border tax planning schemes that were previously used, unavailable or no longer financially attractive.

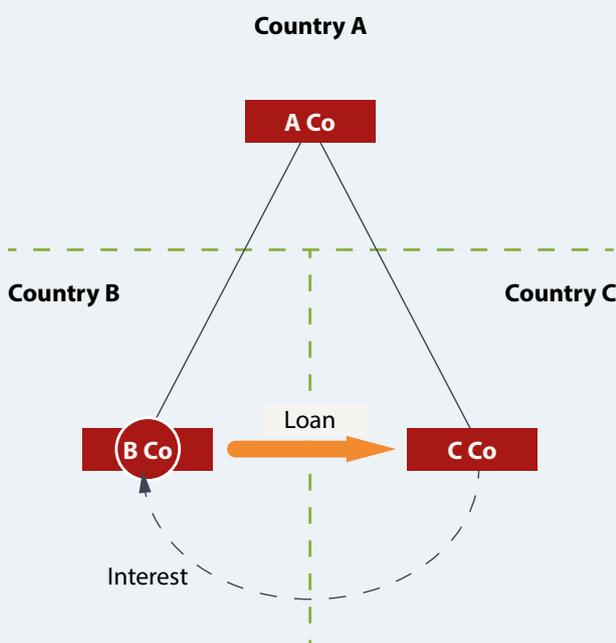
- So-called “cash boxes”, entities holding valuable assets that fund intangible investments with little, if any, economic substance, will no longer earn high rates of return. This will discourage the shifting of taxable income to subsidiaries where no underlying economic activity is being carried out.
- Zero substance transactions will earn zero taxable profits. The revised transfer pricing rules require that the assignment of taxable income requires real economic activity and value creation.
- Harmful tax practices are being curtailed. Preferential tax regimes like “patent boxes” will only benefit taxpayers to the extent that they incur qualifying

research and development expenditures that give rise to the IP income. A number of countries have already revised their IP regimes to include a substantial activity requirement.

- The use of tax rulings or other similar arrangements will be fully transparent. Compulsory spontaneous exchanges on those rulings will shine a light on arrangements or transactions that could give rise to BEPS concerns.
- Treaty-shopping abuse, particularly treaty-shopping hubs (third countries used to access a tax treaty benefit that would not otherwise be available in a particular transaction or arrangement), are being curtailed with a minimum standard to limit the availability of treaty benefits to residents that meet certain conditions or a more general anti-abuse rule.

According to surveys and comments from tax intermediaries, a significant percentage of MNEs are proactively taking steps based on the BEPS recommendations. Many are preparing for the actual national implementations, while some are implementing restructurings, changing their tax planning, and changing the location of their investments. As more

Figure 6. Example of impact of BEPS measures on certain tax planning structures
Reverse hybrid structure - pre and post-BEPS measures



Outline: A Co establishes a subsidiary in Country B in order to make a loan to another group company (C Co). B Co is disregarded for tax purposes under Country B law but treated as a separate entity under Country A law, so that the interest payment made by C Co is not treated as income of a resident under the laws of either Country A or B.

Pre-BEPS result: Interest payment is deductible under Country C law but not treated as taxable income of a resident under the laws of either Country A or B.

Post-BEPS result: Deny C Co a deduction for the interest payment (and restrict entitlement to treaty relief on withholding) to the extent payment not included in income under laws of either Country A or B.

countries implement national legislation and those laws come into effect, more MNEs will be changing their tax planning, which should lead to less double non-taxation. The economic impact of the BEPS Project will be better, although not perfectly, measured as a result of the BEPS transparency rules, new data reflecting business behaviours after the national laws take effect, and additional focus on the issue by tax administrations, academics and government researchers.

3.2. The BEPS Project is affecting business tax planning behaviour

Notwithstanding the constraints on data availability (see section 3.3 below), anecdotal evidence suggests that MNE's profit shifting behaviours are changing and will change more in the future as a result of the BEPS Project. The BEPS Project increased the focus of national governments and MNEs on the need to better align the location of taxable income with the location of economic activity and value creation. Four of the BEPS Actions are minimum standards that will be implemented by all members of the Inclusive Framework, but many countries and the European Union also implementing some of the other BEPS Actions, such as the anti-hybrid and interest limitation rules. The revised OECD Transfer Pricing Guidelines have automatically taken effect in many countries and are being incorporated by legislation or regulations in other countries.

The BEPS Project has increased the focus of MNEs on tax and reputation risks. The KPMG Global Head of Tax stated: "The BEPS Project has done a great deal to shine

a light on the risks associated with tax loopholes. The results are nothing short of transformational."⁹ A recent Deloitte survey of tax directors found that "55% agree or strongly agree that their business has changed the way they conduct tax planning for cross-border transactions as a result of proposed changes arising from the BEPS project."¹⁰ Further, in a survey of tax executives in Asia, "75% of respondents would not enter into a legal tax planning strategy if it is perceived by some to be aggressive, even if the strategy is legal or the tax law did not specifically consider it illegal". This is a sharp increase from three years ago, when the corresponding figure was only 40%.¹¹

Changes in business tax planning take time, and often are done only after final guidance and actual implementation takes effect. Further, those changes are rarely publicised, taking the form of internal business restructurings, transfer pricing methodology modifications, and alternative financial arrangements. Reports by tax advisory firms, however, provide some insights into what they are telling their clients and report survey responses by clients about their tax planning after the BEPS Project. While these reports may stress potential

9. European CEO, "Shifting the Rules, 19 April 2016. <https://home.kpmg.com/content/dam/kpmg/pdf/2016/04/shifting-the-rules-jane-mccormick-european-ceo-interview.pdf>

10. Deloitte, "OECD's Base Erosion and Profit Shifting (BEPS) Initiative and the "Global Tax Reset." Full results of the third annual multinational survey," May 2016, p. 11. <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-beps-full-survey-results-may-2016.pdf>

11. Deloitte, "Shifting sands: risk and reform in uncertain times: 2017 Asia Pacific Tax Complexity Survey," p. 22. <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Tax/dttl-tax-deloitte-2017-asia-pacific-tax-complexity-survey.pdf>



issues to encourage clients to engage tax advisors to help them prepare for the changes, these surveys consistently show that a significant percentage of the respondents are already taking actions to prepare for changes. A Thomson Reuters survey of tax directors found “66% proactively taking steps based on the BEPS recommendations; 22% waiting for countries to implement, 7% waiting for all action points in the project to be finalized before you act; 3% waiting for peers to make a move, and 3% not doing anything at all”.¹²

“The heightened tax risk environment is also affecting other, beyond operational, elements of companies’ businesses’, according to the 2017 Tax Risk and Controversy survey by EY. 30% of all respondents said they changed a transfer pricing arrangement because of tax risk. Respondents also said they changed a financing arrangement (23%); changed the substance of the legal entity involved (17%); modified an M&A transaction (17%); changed the functions allocation (14%); changed a hybrid structuring (14%)”.¹³

An EY report published in 2017 on global transfer pricing states that “companies have actually been handed somewhat of an operational opportunity, in particular from the OECD’s focus on development, enhancement, maintenance, protection and exploitation of intangibles (DEMPE) functions and business alignment. The need

to align tax and the business models is critical — tax authorities are already questioning and seeking to understand the alignment as a starting point of inquiries, audits or from proactive discussions.” “As anti-BEPS principles take ever firmer hold, companies will need to update their business structures and ultimately their transfer pricing framework and documentation.”¹⁴

Tax advisors are recommending that clients prepare for the increased transparency of MNEs’ global operations to tax authorities through Country-by-Country Reporting. In a recent article by Mayer Brown attorneys, they recommend: “With the first CbC reports due shortly, and with taxing authorities exchanging CbC reports with a view to identifying MNEs’ BEPS exposures, taxpayers may want to already draft their first CbC report to identify BEPS exposures and to already develop possible alternatives or improvements to their structures”.¹⁵

The extent to which MNEs change their tax planning will only become evident as data on their financial operations and tax collections become available to analysts. In the meantime, the advice to MNEs by tax advisors and investment firms, such as BNYMellon, is “All MNEs will need to consider the impact of BEPS on their group holding structures, cross-border financing arrangements, transfer pricing arrangements, and

12. Thomson Reuters, 2016 Global BEPS Readiness Survey Report, June 2016, p. 5. <https://tax.thomsonreuters.com/BEPS/survey-report-2016/>

13. EY, 2017 Tax Risk and Controversy Series, Tax Steps into the light, p.12. <http://www.ey.com/gl/en/services/tax/ey-tax-steps-into-the-light>

14. EY, 2016-17 Transfer Pricing Survey Series, Operationalizing Global Transfer Pricing: Key steps for translating strategy into practice, p. 2. www.ey.com/gl/en/services/tax/ey-operationalizing-global-transfer-pricing

15. Pieron, Astrid, Lewis Greenfield, and Lucus Giardelli, “Performing a BEPS Diagnostic – The CbC Report as a Tool for Taxpayers,” Tax Notes International, February 20, 2017, p. 755.



permanent establishment status.”¹⁶ Moreover, “It is likely that the OECD/G20 will have achieved its goal of preventing a cash-rich minimally functioning entity (a cash box) from earning the residual returns associated with development, enhancement, maintenance, protection, and exploitation of intangibles” according to a 2016 Deloitte survey.¹⁷ Future data will be able to confirm these expectations.

The BEPS Project focused policymakers, tax administrations and top business officials on tax risk and profit shifting. Although still very early in the implementation of the BEPS Project recommendations, stakeholders are already beginning to act to reduce BEPS practices. Governments are joining the Inclusive Framework, and quickly enacting enabling legislation to meet the four minimum standards, as well as to apply the revised OECD Transfer Pricing Guidelines and other measures from the BEPS package where needed.

16. BNY Mellon, Base Erosion and Profit Shifting (BEPS), 2016, p. 2. https://www.bnymellon.com/emea/en/_locale-assets/pdf/our-thinking/base-erosion-profit-shifting.pdf

17. Deloitte, The new transfer pricing landscape: A practical guide to the BEPS changes, November 2016, p. 21

3.3. We are working towards collecting more and better quality data to measure the impact of BEPS implementation

As recognised in the BEPS Action 11 Report on Measuring and Monitoring BEPS, any attempts to construct indicators or undertake economic analyses of the scale and impact of BEPS are severely constrained by the significant limitations of existing data sources. Equally, a lack of currently available data is also a major constraint on the analysis of the impact of BEPS measures. To provide more accurate monitoring of the impact of BEPS and the effect of the BEPS package over time, a series of new data collection and analysis processes are now being put in place.

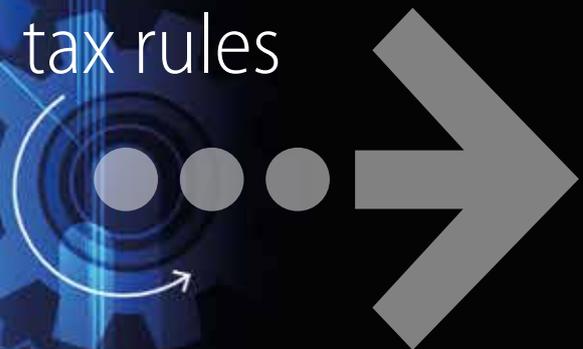
In particular, aggregated and anonymised statistics from Country-by-Country Reports (CbCRs) will be made available to the OECD Secretariat for the economic and statistical analysis of BEPS and future assessment of the effectiveness of the changes recommended as part of the BEPS package. Up until now, one of the largest obstacles to the measurement and analysis of BEPS has been the lack of available data on the income, taxes, and business activity of MNE groups on a jurisdiction by jurisdiction basis. While this CbCR data is not expected to be available for analysis until 2019/2020, it could be a useful source of information to track the impact of BEPS. In addition, members of the Inclusive Framework are currently working on the design and development of a new Corporate Tax Statistics dataset. The first release of the new Corporate Tax Statistics dataset is expected in 2018.

The Action 11 Report also recommended that the BEPS indicators be periodically updated and refined to assist with the monitoring of the scale of BEPS and the impact of the measures implemented under the BEPS package. While data that may shed light on the impact of the BEPS measures is not yet available, more recent data than was relied upon in producing the BEPS indicators in the Action 11 Report have become available. A number of the BEPS indicators have been updated using more recent data and are included in Annex D. While these indicators do not provide any insights in relation to measures implemented under the BEPS package, they do provide a more recent update of the indicators in the period leading up to the release of the BEPS package, confirming the trends that we saw in the previous data.





Part II –
The Inclusive
Framework on
BEPS is moving
forward to
monitor BEPS
implementation
and further refine
the international
tax rules



With its inaugural meeting held in June 2016, the 100 members of the Inclusive Framework on BEPS have moved quickly to take forward its mandate, including the peer reviews of the four BEPS minimum standards, monitoring of the other elements of the BEPS package, and the ongoing standard-setting work. The Inclusive Framework is also working to provide guidance and support to jurisdictions and taxpayers on the implementation of the BEPS measures, including the top priority BEPS-related issues identified by developing countries. Partnering with other international and regional organisations where appropriate, a broad engagement process on the BEPS Project continues, to ensure that global support for this important agenda is maintained.

1. PEER REVIEWS OF THE BEPS MINIMUM STANDARDS HAVE COMMENCED TO ENSURE THAT IMPLEMENTATION IS CONSISTENT AND LEVELS THE PLAYING FIELD

1.1 The peer review process for the BEPS minimum standards

To ensure that Inclusive Framework members meet their commitment to implement the four BEPS minimum standards, each member will undergo a peer review process, based on individual terms of reference and methodology for each standard. The terms of reference set out the criteria for assessing the implementation of the minimum standard, while the methodologies set out the procedural mechanism by which jurisdictions will complete the peer review, including the process for collecting the relevant data, the preparation and approval of reports, the outputs of the review and the follow-up process. While the initial assessment of whether a jurisdiction meets the minimum standard will take place at the level of the relevant subsidiary body of the Inclusive Framework, the final decision will be made at the plenary level. These reviews will be adopted subject to a “consensus minus one” rule, aimed at ensuring that no one jurisdiction, whether the jurisdiction under review or another jurisdiction with an isolated position, can block consensus on the adoption or publication of a report.

Peer reviews will also be undertaken for “jurisdictions of relevance” – jurisdictions which have been identified whose implementation of a particular minimum standard is important to safeguard the level playing field, and which are not members of the Inclusive Framework. The process for identifying jurisdictions of relevance is dynamic and will continue as needed over the course of the Inclusive Framework’s review of the BEPS minimum standards.

Further information about the terms of reference and methodology for the peer reviews of the minimum standards can be found in Annex C.

1.2 Schedule of the Peer Reviews

The peer reviews for the four BEPS minimum standards take place from 2016 through to 2020. The timing for each review reflects the implementation deadlines for each particular standard, as well as ensuring that areas of higher risk are targeted first.

Figure 7. Status of peer review process

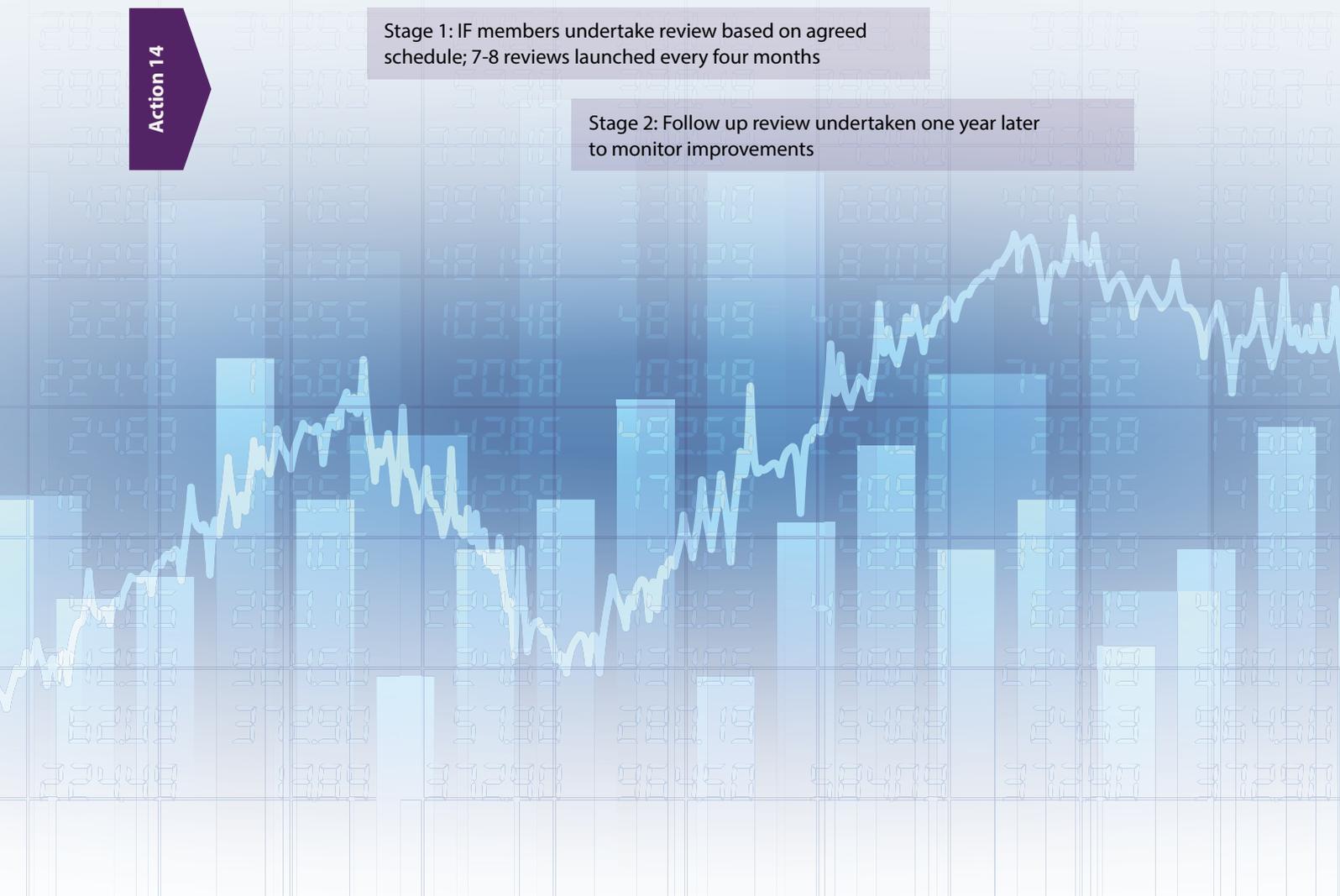
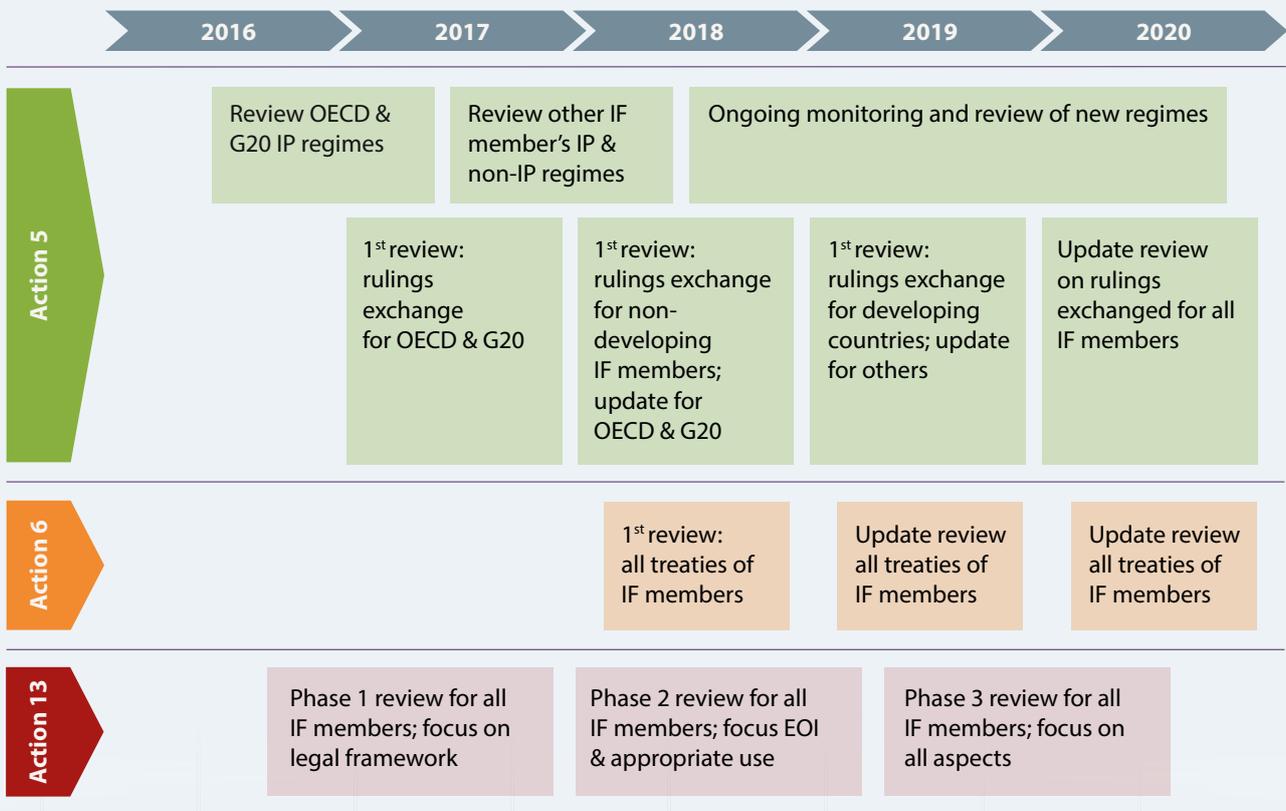


Table 1. Results from the peer reviews of preferential regimes

IP regimes which have been found to be not harmful			
Belgium	People's Republic of China	Hungary	India
Ireland	Italy	Netherlands	Portugal
Switzerland (canton of Nidwalden)	Turkey (5/B regime)	United Kingdom	
IP regimes which have been abolished			
Colombia	Luxembourg		
Non-IP regimes which have been found to be not harmful			
Lithuania (Free Economic Zone Taxation Regime)*	Mauritius (Global Headquarters Administration)	Mauritius (Global Treasury Activities Regime)	Mauritius (Investment Banking)
Singapore (Aircraft Leasing Scheme)	Singapore (Development and Expansion Incentive - Services)*	Singapore (Finance and Treasury Centre)	Singapore (Financial Sector Incentive)
Singapore (Global Trader Programme)	Singapore (Pioneer Incentive - Services)*		
Non-IP regimes which have been abolished			
Malaysia (Treasury Management Centre)			
Non-IP regimes that have been found to be potentially harmful but not actually harmful			
Georgia (International Finance Company)	Seychelles (Reinsurance business)		
Non-IP regimes which have been found to be out of scope			
Georgia (Free Industrial Zone)	Georgia (Special Trading Company)	Malaysia (Approved Service Projects)	Panama (Colon Free Zone)

* These regimes will also be reviewed as IP regimes in mid-2017.

Further details of the schedules of the peer reviews for each minimum standard can be found in Annex C, including on the mechanism for deferral of a peer review in certain cases to take into account the lower capacity and limited resources of some jurisdictions.

1.3 First outcomes from the peer review processes

As can be seen from Figure 7, all of the peer reviews are now underway, with the exception of Action 6 where attention has focused on supporting countries implementing through the development of the MLI. The outcomes of the peer reviews will be published on an ongoing basis, once they are adopted by the Inclusive Framework.

The first results from the peer review of preferential regimes are set out in Table 1.

In addition to the above regimes which have been cleared, the Forum on Harmful Tax Practices is pursuing its ambitious review cycle for 2017 and 2018 with over 125 regime reviews scheduled or already underway.

2. ONGOING BEPS STANDARD SETTING, IMPLEMENTATION GUIDANCE AND OTHER WORK

2.1 Addressing the tax challenges of the digitalisation of the economy

The digital transformation of the economy, which is accompanied by rapid change and disruption, is having a profound impact on the global economy. The BEPS Action 1 report on *Addressing the Tax Challenges of the Digital Economy* identified and analysed the direct and indirect international tax issues raised by digitalisation and considered a number of tax policy solutions to address these issues.

There was clear agreement that the consistent and widespread implementation of the BEPS package would address many of the double non-taxation concerns raised by digitalisation. The BEPS Action 1 Report also presented a number of specific options, including a new tax nexus of “significant economic presence”, the use of a withholding tax on certain types of digital transactions, and a “digital equalisation levy”. None of

the three options were recommended, in part because further calibration of the options would be needed and in part because it was expected that other measures developed in the BEPS Project will have a substantial impact on BEPS issues in the digital economy and will mitigate some of the broader tax challenges of the digital economy. However, it was noted that with further calibration to provide additional clarity about details of the options, countries could introduce any of the options in their domestic laws, provided they respect existing treaty obligations, or new bilateral tax treaties. In fact, an increasing number of countries have taken steps to introduce measures to tax digitalised activities and highly digitalised business models in different ways, which may present a significant challenge, and it was agreed to continue to monitor developments and continue the work on this issue.

In the area of indirect taxes (VAT/GST), guidelines and implementation mechanisms were developed to allocate the collection of consumption taxes on cross-border business-to-consumer (B2C) supplies of services and intangibles to the country where the customer is located, enshrining the “destination principle”. These have now been incorporated in the OECD International VAT/GST Guidelines. In relation to the challenge of collecting VAT on the importation of low value goods, the main approaches available to governments to reduce or remove low-value VAT exemption thresholds were presented. This work is described in more detail in Part I.

Future work on VAT will include the development of implementation guidance and the ongoing monitoring and evaluation of the effectiveness of the VAT measures included in the BEPS package. The first component of the implementation guidance will support the coherent implementation of the simplified registration and compliance regimes, including for foreign suppliers. The second component of the implementation guidance will deal with the role of online “platforms” and other intermediaries in the collection of VAT on online sales with an emphasis on the design and implementation of measures to secure the efficient and effective collection of VAT on the trade generated and executed by these platforms and intermediaries.

The Inclusive Framework is now working towards the delivery of an interim report on the tax challenges of

the digital economy in 2018 and a final report in 2020. The variation in measures adopted by countries to date has the potential to give rise to increased uncertainty and compliance costs for businesses. Against this background, there is a growing sense of urgency among many governments for the development of policy options to be advanced. Consistent with its mandate, the TFDE will be aiming to carry forward its work in the year ahead, monitoring developments in the digital economy, assessing the extent of the broader tax challenges it raises, and, as appropriate, developing policy options to address those challenges. The importance of this issue has been reinforced by the G20, where the Finance Ministers at their meeting in March 2017 called on the Inclusive Framework to provide an update on work on this topic in early 2018, as well as by the G7 Finance Ministers in the communique following their meeting in May 2017.

2.2 The Inclusive Framework continues its work on standard setting and implementation guidance for tax administrations and taxpayers

2.2.1 Addressing the remaining BEPS transfer pricing issues (Actions 8-10)

In the transfer pricing area, four separate work streams are in progress, as identified in the 2015 Report on transfer pricing under BEPS Actions 8-10.

First, revised guidance on the use of the transactional profit split method is being developed, with a view to helping both taxpayers and tax administrations to better determine (1) when that method is the most appropriate transfer pricing method and (2) how it can be applied in practice. This method is particularly relevant when global business operations share unique and valuable intangibles. Combined with the existing guidance produced in 2015, the revised guidance on the use of the transactional profit split method should support increased alignment of a multinational business’s value creation and the reporting of its taxable income.

Second, additional guidance is being drafted with respect to the attribution of profits to a permanent establishment. This relates to the BEPS work under Action 7, which amended the permanent establishment definition in the OECD Model Tax Convention. In addition, the profit attribution issue implicates the new

transfer pricing guidance produced under BEPS Actions 8-10, given that a permanent establishment can arise due to the activities of a dependent agent that is often, in practice, an associated enterprise. This is a highly technical area where clear guidance and suggestions for practical administrative approaches will be useful.

Third, the transfer pricing of financial transactions between members of a controlled group of companies is the subject of new guidance being developed by the Inclusive Framework. This guidance will address such issues as the risk-adjusted rate of return on funding, the pricing of intra-group guarantees and cash pooling arrangements, and the group synergy benefits arising from captive insurance.

Finally, the Inclusive Framework is working on implementation guidance regarding the approach to transfers of hard-to-value intangibles which was outlined in new guidance under the 2015 BEPS Actions 8-10 Report. This guidance project is primarily for the benefit of tax administrations, particularly those that have not had significant experience to date in dealing with such transfers.

2.2.2 Updating the work on BEPS involving interest deductibility and other financial payments (Action 4)

Building on the 2015 BEPS Report on interest deductibility and other financial payments, in December 2016, two new important sections to this report were delivered. These new sections tackle issues highlighted in the 2015 Report, and provide important support to countries in implementing the Action 4 common approach to interest deductibility and other financial payments in a manner which effectively targets groups that pose the greatest BEPS risk.

The first new section contains additional detail on elements of the design and operation of the group ratio rule, focusing on the calculation of net third party interest expense, the calculation of group EBITDA (earnings before interest, tax, depreciation and amortisation) and approaches to the deal with the impact of entities with negative EBITDA on the operation of the rule. The second new section looks at features of the banking and insurance sectors which suggest that the Action 4 common approach may not be suitable for addressing BEPS risk involving interest by

entities in these sectors. It explores aspects of banking and insurance business that can impose constraints on a group's ability to use interest for BEPS purposes, summarises risks in these sectors identified by countries involved in the work on Action 4, and considers different ways in which these risks may be addressed.

2.2.3 New work to address hybrid mismatches involving branch structures (Action 2)

New work has also been undertaken on hybrid mismatches, relating specifically to branch structures. Released in June 2017, this work adds to the 2015 Report on Neutralising the Effects of Hybrid Mismatch Arrangements which set out recommendations for domestic rules designed to neutralise mismatches in tax outcomes that arise in respect of payments under a hybrid mismatch arrangement. Divided into two parts, the 2017 update describes the various categories of branch mismatch arrangements covered, and sets out recommendations for specific changes to domestic law and branch mismatch rules that would bring the tax treatment of these arrangements into line with the common approach set out in the 2015 Report.

Box 4. Toolkits on BEPS and related issues

In addition to the other forms of guidance being issued to support countries in the implementation of the BEPS package, a series of toolkits focused on the top priority BEPS-related issues identified by low capacity countries, are under development by the partners in the Platform for Collaboration on Tax (the OECD, IMF, UN and World Bank Group). To be delivered between 2015 and 2018, the toolkits take a practical approach, and address the BEPS-related issues with an awareness of key tax challenges in developing countries, such as effective taxation of the extractive industries.

- **Tax incentives:** identified as being the top priority by developing countries, the report was the first deliverable in November 2015.²⁰ It addresses the efficiency of tax incentives (their impact, with related costs and benefits), as well as best practices for granting, monitoring and assessing tax incentives.
- **Lack of comparables data:** this toolkit aims at assisting developing countries to address difficulties in accessing comparables data and to use approaches to apply internationally accepted principles in the absence of comparables for transfer pricing purposes. This toolkit was published in June 2017.²¹

2.2.4 Guidance for implementing Country-by-Country Reporting requirements (Action 13)

As governments and taxpayers have moved towards the implementation of the CbC reporting requirements, the Inclusive Framework has issued a series of guidance documents since June 2016. These materials respond to questions raised in the practical implementation of the measure, concerning issues relating to definitions, the types of entities to be covered by the CbC reporting, as well as further details on the filing obligation and process for exchange of the CbC reports between tax administrations. The guidance issued includes:

- June 2016: Transitional filing options for MNEs; Guidance on the application of CbC reporting to investment funds; Guidance on the application of CbC reporting to partnerships; and the impact of exchange rate fluctuations on the agreed EUR 750 million filing threshold for MNE groups;
- December 2016: Notification requirements for MNE groups during transitional phase;

- **Mineral product pricing:** one of the key BEPS challenges for developing countries is in the extractives industry. Reports analysing the pricing and supply chains of gold, copper and iron ore have been tested with developing countries and refined based on feedback. Two additional case studies on thermal coal and rough diamond valuation are under development. This work was published in June 2017 as part of the toolkit on lack of comparables data (see also Box 6 on BEPS in the extractive industries).
- **Indirect transfers of assets:** policy options for countries in implementing rules on taxation of indirect transfer of assets as well as effective mechanisms to identify transactions and best processes for tax collection. This toolkit is due to be published in mid-2017.
- **Transfer pricing documentation:** this toolkit aims at providing guidance, templates and model legislation to facilitate implementation of the new transfer pricing documentation requirements agreed within BEPS Action 13. It is due to be published in 2017.

- April 2017: The definition of revenues; the accounting principles/standards for determining the existence of and membership in a group; the definition of total consolidated group revenue; the treatment of major shareholdings and the definition of related party for purposes of completing Table 1 of the CbC report.

Together this guidance provides greater certainty for MNEs and tax administrations alike, and is published on both the OECD's CbC Reporting website¹⁸ and the OECD's Automatic Exchange of Information Portal.¹⁹

18. www.oecd.org/tax/beps/country-by-country-reporting.htm

19. www.oecd.org/tax/automatic-exchange/

- **Tax treaty negotiation:** this toolkit will address tax policy considerations for low income developing countries to take into account before engaging in a bilateral tax treaty as well as guidance for the negotiation itself.
- **Base eroding payments:** this work stream will provide a tool to better deal with particular types of payments such as interests, royalties, management fees as well as intragroup services.
- **Supply chain restructuring:** this toolkit will provide guidance in particular, within the telecommunications sector, the extractive industries and the remuneration of intragroup services.
- **BEPS risk assessment:** the goal of this toolkit is to assess the risks of BEPS practices and BEPS countermeasures implemented in developing countries, with particular attention given to risks in transfer pricing.

20. www.oecd.org/tax/tax-global/options-for-low-income-countries-effective-and-efficient-use-of-tax-incentives-for-investment.pdf

21. www.oecd.org/tax/pct-delivers-toolkit-to-help-developing-countries-address-lack-of-comparables-for-transfer-pricing-analyses.htm

3. SUPPORTING A GLOBAL MEMBERSHIP TO TACKLE BEPS

3.1 Ensuring effective participation in the Inclusive Framework

The history of the BEPS Project reflects an ever more participatory approach, which ultimately led to the establishment of the Inclusive Framework, now open to all interested jurisdictions to participate in its work on an equal footing. Over the same period, there has been a growing awareness and analysis of the challenges faced by developing countries in tackling international tax matters, and as a result an evolution of the support required to meet those challenges. For developing countries, which as a proportion of total tax revenues have a higher reliance on corporate income tax revenues than more developed countries, the impact of BEPS is particularly critical as they prioritise domestic resource mobilisation to deliver the Sustainable Development Goals.

Based on demand from developing countries, a series of initiatives have been put in place to support these countries to effectively participate in the Inclusive Framework and implement the BEPS measures.

- **Mentoring:** the OECD, together with the regional tax organisations and the other international organisations, will mentor developing countries that are or will be participating in the Inclusive Framework on BEPS.²² This includes clarifications on technical papers, procedural matters and preparation for peer review processes.
- **Twinning:** interested new members of the Inclusive Framework are partnered with more experienced members to provide bilateral support on selected BEPS issues. Twinning is also expected to raise greater awareness amongst experienced partnering members of the issues faced by new Inclusive Framework members.
- **Webinars:** aimed at preparing new members for technical working party meetings, webinars led by the Secretariat are held in advance of technical meetings to review key agenda items with new members.

22. During the BEPS Project several countries have already been involved in the mentoring program, namely: Botswana, Cameroon, Democratic Republic of the Congo, Jamaica, Kenya, Morocco, Nigeria, Peru, Senegal, Sri Lanka, Tunisia, Uganda, Vietnam, Zambia and Zimbabwe.

Box 5. Regional BEPS meetings from July 2016 to June 2017

Regional meetings have been an important part of the OECD strategy for engaging with developing countries on BEPS since 2014, enabling an accessible dialogue and engagement with developing countries and to complement the technical working party meetings.

These meetings have been organised around five regional/linguistic groupings, in close co-operation with the other international organisations and in full partnership with relevant regional tax organisations. These organisations play a crucial role in channelling inputs, creating a co-ordinated environment among Inclusive Framework members and indirectly representing countries unable to participate in the Inclusive Framework meetings.

In 2016-2017, regional meetings were held as follows:

- **Latin America and the Caribbean:** Uruguay, 21-23 September 2016.
- **Francophone countries:** Tunisia, 22-24 November 2016.
- **Asia-Pacific:** Philippines, 29 November - 1 December 2016.
- **Eastern Europe and Central Asia:** Lithuania, on 14-16 December 2016 and Georgia, on 5-7 April 2017.
- **Africa:** OECD supported the ATAF Consultative Conference on the Inclusive Framework in South Africa, on 6 October 2016.

3.2 Bilateral and multilateral assistance on implementation of the BEPS measures

Focused on supporting jurisdictions to meet their commitments to implement the BEPS package, a variety of channels for multilateral and bilateral assistance are also available through the Inclusive Framework. Where possible, integration of these support channels with existing in-country development assistance, to ensure continuity and reinforced support, as recommended in the 2016 report of the Platform for Collaboration on Tax: “*Enhancing the Effectiveness of External Support in Building Tax Capacity in Developing Countries*”. Examples of the type of assistance include:

- **Global Relations seminars and workshops:** building on experience gained since the OECD's Global Relations programme on tax was launched in 1992, these seminars and workshops provided information and practical skills on key BEPS topics and allow officials from a variety of countries to develop a peer network that is critical for effective international tax co-operation.
- **Train the Trainers Events:** multilateral skills-building workshops are conducted through "train the trainer" programmes for lead officials in Inclusive Framework members' tax administrations. The purpose of train the trainer events is to enable the cascading of knowledge in a coherent and co-ordinated way, and ultimately to provide a team of specialists with skills and knowledge suitable for conducting audits/reviews and applying internationally accepted principles in an appropriate manner.
- **Bilateral support on transfer pricing and other BEPS-related issues:** these programmes actively build capacity in developing countries to support the application of the OECD's transfer pricing and other BEPS measures through tailored country-level assistance. In many cases, these programmes are undertaken in partnership with other organisations such as ATAF, CREDAF, the European Commission and the World Bank Group. More than 20 countries now receive assistance leading to legislative changes (e.g. transfer pricing, interest deductibility) and dedicated capacity building efforts to tackle BEPS practices (risk assessment, administrative and governance framework to monitor BEPS risks, integration with exchange of information tools). In some countries, a partnership between the OECD and BIAC (Business and Industry Advisory Committee to the OECD), business representatives share knowledge on supply chains and business models, an essential prerequisite to effective transfer pricing in many cases. A dedicated programme has also been established to support countries addressing BEPS-related issues in the extractive industries – see Box 6.

The OECD/UNDP Tax Inspectors Without Borders (TIWB) initiative also has a role to play in supporting jurisdictions to apply the agreed measures to tackle BEPS effectively. TIWB aims at facilitating expert

Box 6. Tackling BEPS issues in the extractive industries

With many developing countries identifying particular challenges in tackling BEPS in the extractive industries, a focussed effort has been placed on mineral product transactions, to better inform the transfer pricing analysis.

Case studies (see the toolkit on mineral pricing referred to in Box 4) are already helping developing countries: in **Liberia**, tax officials are using the iron ore study to improve their understanding of their mining sector and to establish iron ore prices on related party sales; in **Nigeria**, tax authorities have used thermal coal analysis in conjunction with Tax Inspectors Without Borders assistance to identify potential coal mispricing; and **Chile** is currently using analysis on gold to challenge profit shifting via sales fees charged by related parties offshore. Advice has also been provided to **Kazakhstan** on their mineral sector reform programme of 2016.

deployments offering practical "learning by doing" assistance on real audit cases, focusing on complex international tax issues. Results to date show that TIWB-style audit assistance can result in improved quality and consistency of tax audits, as well as increases in revenue collected. Expert deployments have assisted countries to increase their tax collected by over USD 278 million between 2012 and April 2017.

4. ENGAGEMENT WITH OTHER STAKEHOLDERS

As one of the objectives of the BEPS Project is to provide better rules that are efficient and workable in practice, governments recognised the need to involve the business community, civil society and academia, and to take their views and concerns into account, therefore reinforcing the legitimacy of the rules adopted. Engaging with all stakeholders has been a key element of the success of the BEPS Project to date, providing an opportunity for the business community, civil society and academia to share their views which are taken into account in the development of the BEPS measures. This engagement has continued over the last year, through a range of channels.

The OECD Tax Talks series is a regular webcast hosted by the Secretariat that includes updates on the work of the Inclusive Framework, including an opportunity for

viewers to ask questions of Secretariat experts. Since June 2016, five Tax Talks have been broadcast to more than 10 000 viewers.

Drawing on the experience of the 11 public consultations held on the discussions drafts before the publication of the 2015 BEPS reports, the Inclusive Framework continues to provide opportunities for the private sector and the civil society to give comments and feedback in relation to the ongoing standard-setting work. Public consultations have been held to discuss the draft text of the MLI (in July 2016, gathering close to 90 participants) and the draft guidance on the attribution

of profits to permanent establishments and on the profit split methods for transfer pricing (in October 2016, with close to 160 participants). In January 2017, the draft toolkit to support developing countries address the lack of comparables for transfer pricing analysis was also released for public comments by the partners in the Platform for Collaboration on Tax (IMF, OECD, World Bank Group and the UN).

In addition, regional meetings of the Inclusive Framework have included sessions open to businesses and civil society, who were also invited to participate in the inaugural meeting of the Inclusive Framework

Box 7. International and regional organisations work to support BEPS implementation

International and regional organisations are playing a key role in supporting their membership in the implementation of BEPS, as well as feeding in the experiences of their membership into the work of the Inclusive Framework. Several organisations are Observers to the Inclusive Framework, namely: the African Tax Administration Forum (ATAF), the Centro Interamericano de Administraciones Tributarias (CIAT), the Centre de Rencontres et d'Études des Dirigeants des Administrations Fiscales (CREDAF), the International Monetary Fund (IMF), the World Bank Group (WBG) and the United Nations (UN).

International organisations

The IMF, the UN and the WBG are permanent observers to the Inclusive Framework. They are collaborating with the OECD through the Platform for Collaboration on Tax, to strengthen their co-operation on tax issues and in particular on capacity-building support to developing countries, such as the delivery of toolkits to translate the complexity of some of the BEPS Actions for low capacity countries and to deliver reports on other international tax priorities (see Box 4).

Regional organisations

Regional tax organisations also actively participate in the Inclusive Framework's work, as well as support their members to implement the BEPS measures. ATAF, CIAT and CREDAF are permanent observers. IOTA participates on an ad-hoc basis in the IF meetings.

ATAF

In 2014, ATAF was mandated by its members to represent African countries inputs into the BEPS Project. The ATAF Cross Border Technical Committee was formed to carry out the mandate and

made numerous inputs into the BEPS Projects that shaped several of the BEPS outcomes that were high priority issues for African countries.

CIAT

CIAT has set up a Network of International Taxation Experts to strengthen the relationships between officials working in this area for better co-operation at the regional level, facilitating the exchange of regional practices and the implementation of new international developments. The Network also aims to identify the regional political priorities and refer them to the Inclusive Framework and other relevant Organisations. The inaugural meeting of the CIAT network will take place in Cartagena de Indias in July 2017. CIAT's 2017 Technical Conference, to be held in Costa Rica in September, will be devoted to BEPS.

CREDAF

In 2015, the Centre de Rencontres et d'Études des Dirigeants des Administrations Fiscales (CREDAF - Exchange and Research Centre for Heads of Tax Administrations) established a Working Group on BEPS to define common positions and provide input into the BEPS Project.

IOTA

The Intra European Organization of Tax Administrations (IOTA) has recently launched a Forum on Implementation of Measures to counter BEPS, the first meeting will take place in the 2nd half of 2017. The Forum is aimed at creating opportunities for its members to co-operate and to share practices on the implementation of the BEPS measures. The OECD is also member of the Steering group of this Forum.

in Kyoto on 30 June-1 July 2016 and again at their meeting in the Netherlands on 21-22 June 2017. Regular conference calls are also scheduled with key members of the business and civil society communities to provide updates and share views on the progress of the Inclusive Framework's work.

Regular briefings are also undertaken with parliamentarians given their critical role in tackling BEPS through consistent adoption of the agreed measures, and the Secretariat is regularly invited to participate in parliamentary hearings across the world to explain the work being undertaken to address BEPS. Over the last year, this has included events with the Commonwealth Parliamentary Association (CPA), and the Parliamentary Forum in Nairobi, organised by the Inter-Parliamentary Union (IPU) and the Association of European Parliamentarians With Africa (AWEPA), as well as numerous discussions with parliamentarians from individual countries.

CONCLUSION

The establishment of the Inclusive Framework on BEPS has marked a seminal moment in the global governance of international tax issues. With 100 countries and jurisdictions having expressed a high-level commitment to work together, on an equal footing, to tackle base erosion and profit shifting, strong progress in addressing this global problem is underway. The commencement of the peer review processes will ensure a level playing field in the key BEPS issues identified in the four minimum standards, while the delivery of practical guidance is supporting jurisdictions and taxpayers in a coherent and smooth implementation of the new requirements. Notwithstanding the current constraints on data availability, anecdotal evidence, largely in the form of business surveys undertaken by tax intermediaries, suggests that MNE's profit shifting behaviours are being reduced and will decline more in the future as a result of the BEPS Project.

The year ahead promises important progress in the ongoing standard setting work relating to issues such as transfer pricing and profit attribution, while the policy options to address the tax challenges of digitalisation of the global economy will be further considered. The results of the peer review processes will be made public, while broad engagement with all stakeholders involved in the BEPS Project will continue, to ensure that a wide range of perspectives contribute to balanced and impactful outcomes.



Annex A – Membership of the Inclusive Framework on BEPS, Including its Steering Group

1. Complete list of Members of the Inclusive Framework on BEPS, as of 21 June 2017²³

Andorra	Cayman Islands	Finland	Japan	Nigeria	Slovenia
Angola	Chile	France	Jersey	Norway	South Africa
Argentina	China (People's Republic of)	Gabon	Kazakhstan	Pakistan	Spain
Australia	Colombia	Georgia	Kenya	Panama	Sri Lanka
Austria	Congo	Germany	Korea	Papua New Guinea	Sweden
Belgium	Costa Rica	Greece	Latvia	Paraguay	Switzerland
Belize	Côte d'Ivoire	Guernsey	Liberia	Peru	Thailand
Benin	Croatia	Haiti	Liechtenstein	Poland	Turks and Caicos Islands
Bermuda	Curaçao	Hong Kong (China)	Lithuania	Portugal	Turkey
Botswana	Czech Republic	Hungary	Luxembourg	Romania	Ukraine
Brazil	Democratic Republic of the Congo	Iceland	Macau (China)	Russia	United Kingdom
British Virgin Islands	Denmark	India	Malaysia	San Marino	United States
Brunei Darussalam	Djibouti	Indonesia	Malta	Saudi Arabia	Uruguay
Bulgaria	Egypt	Ireland	Mauritius	Senegal	Viet Nam
Burkina Faso	Estonia	Isle of Man	Mexico	Seychelles	
Cameroon		Israel	Monaco	Sierra Leone	
Canada		Italy	Netherlands	Singapore	
		Jamaica	New Zealand	Slovak Republic	

23. An up-to-date list of members can be found online at www.oecd.org/tax/beps/inclusive-framework-on-beps-composition.pdf



2. Composition of the Steering Group of the Inclusive Framework on BEPS

22 members, participating in their personal capacity:

<i>Name</i>	<i>Country</i>	<i>Name</i>	<i>Country</i>
Mr Martin KREIENBAUM, <i>Chair</i>	Germany	Ms Fabrizia LAPECORELLA	Italy
Mr Cheikh Ahmed Tidiane BA, <i>Deputy Chair</i>	Senegal	Ms May ABO GHALLY	Egypt
Mr Jianfan WANG, <i>Deputy Chair</i>	People's Republic of China	Ms Marlene NEMBHARD-PARKER	Jamaica
Mr Mike WILLIAMS, <i>Deputy Chair</i>	United Kingdom	Mr Mansanori YOSHIDA	Japan
Mr Carlos Eduardo PROTTO	Argentina	Mr Harry ROODBEEN	Netherlands
Mr Luc BATSELIER	Belgium	Mr Mathew Olusanya GBONJUBOLA	Nigeria
Mr Flavio Antonio ARAUJO	Brazil	Mr Stig SOLLUND	Norway
Mr Brian ERNEWEIN	Canada	Ms Huey Min CHIA-TERN	Singapore
Mr Edouard MARCUS	France	Ms Yanga MPUA	South Africa
Mr Lasha KHUTSISHVILI	Georgia	Ms Mariá Jose GARDE	Spain
Ms Pragya S. SAKSENA	India	Mr Christoph SCHELLING	Switzerland

Annex B – BEPS actions and the subsidiary bodies of the Inclusive Framework on BEPS

The OECD's Committee on Fiscal Affairs in its Inclusive Framework on BEPS format is the decision making body of the Inclusive Framework. Subsidiary bodies of the Inclusive Framework carry out the technical work on each of the BEPS Actions, as set out in the table below.

All members of the Inclusive Framework participate on an equal footing in the decision-making body, as well as in the technical working groups.

BEPS Action	Relevant subsidiary bodies and ad hoc groups of the Inclusive Framework
<p>Action 1 – Addressing the Tax Challenges of the Digital Economy</p> <p>This action analyses BEPS risks exacerbated in the digital economy and shows the expected impact of the measures developed across the BEPS Project. It concludes that the digital economy cannot be ring-fenced as it is increasingly the economy itself and proposes technical options to deal with the tax challenges of the digital economy.</p>	<p>Task Force on the Digital Economy</p>
<p>Action 2 - Neutralising the Effects of Hybrid Mismatch Arrangements</p> <p>This action provides a common approach which facilitates the convergence of national practices through domestic and treaty rules to neutralise such arrangements. It helps to prevent double non-taxation by eliminating the tax benefits of mismatches and to put an end to costly multiple deductions for a single expense, deductions in one country without corresponding taxation in another, and the generation of multiple foreign tax credits for one amount of foreign tax paid.</p>	<p>Working Party No. 11 on Aggressive Tax Planning</p>
<p>Action 3 - Designing Effective Controlled Foreign Company Rules</p> <p>This action sets out recommendations in the form of building blocks of effective CFC rules, while recognising that the policy objectives of these rules vary among jurisdictions. It identifies the challenges to existing CFC rules posed by mobile income such as that from intellectual property, services and digital transactions, and allows jurisdictions to reflect on appropriate policies in this regard.</p>	<p>Working Party No. 11 on Aggressive Tax Planning</p>
<p>Action 4 - Limiting Base Erosion Involving Interest Deductions and Other Financial Payments</p> <p>This action provides a common approach to facilitate the convergence of national rules in the area of interest deductibility. It aims at ensuring that an entity's net interest deductions are directly linked to the taxable income generated by its economic activities and fostering increased co-ordination of national rules in this space.</p>	<p>Working Party No. 11 on Aggressive Tax Planning</p>

BEPS Action	Relevant subsidiary bodies and ad hoc groups of the Inclusive Framework
<p>Action 5 - Countering Harmful Tax Practices More Effectively, Taking into Account Transparency and Substance</p> <p>This action sets out a minimum standard based on an agreed methodology to assess whether there is substantial activity in a preferential regime. In the context of IP regimes such as patent boxes, consensus was reached on the “nexus” approach. In the area of transparency, a framework has been agreed for mandatory spontaneous exchange of information on rulings that could give rise to BEPS concerns in the absence of such exchange.</p>	<p>Forum on Harmful Tax Practices</p>
<p>Action 6 - Preventing the Granting of Treaty Benefits in Inappropriate Circumstances</p> <p>This action includes a minimum standard on preventing abuse including through treaty shopping and new rules that provide safeguards to prevent treaty abuse. Other changes to the OECD Model Tax Convention have been agreed to ensure that treaties do not inadvertently prevent the application of domestic anti-abuse rules. It also contains the policy considerations to be taken into account when entering into tax treaties with certain low or no-tax jurisdictions.</p>	<p>Working Party No. 1 on Tax Conventions and Related Questions</p>
<p>Action 7 - Preventing the Artificial Avoidance of Permanent Establishment Status</p> <p>This action includes changes to the definition of permanent establishment in Article 5 of the OECD Model Tax Convention. These changes address techniques used to inappropriately avoid the tax nexus, including via replacement of distributors with commissionaire arrangements or via the artificial fragmentation of business activities.</p>	<p>Working Party No. 1 on Tax Conventions and Related Questions</p>
<p>Actions 8-10 - Aligning Transfer Pricing Outcomes with Value Creation</p> <p>Action 8 looked at transfer pricing issues relating to controlled transactions involving intangibles, since intangibles are by definition mobile and they are often hard-to-value. Under Action 9, contractual allocations of risk are respected only when they are supported by actual decision-making and thus exercising control over these risks. Action 10 has focused on other high-risk areas. The combined report contains revised guidance which responds to these issues and ensures that transfer pricing rules secure outcomes that better align operational profits with the economic activities which generate them. It also contains guidance on transactions involving cross-border commodity transactions as well as on low value-adding intra-group services.</p>	<p>Working Party No. 6 on the Taxation of Multinational Enterprises</p>

Annex B – BEPS actions and the subsidiary bodies of the Inclusive Framework on BEPS

BEPS Action	Relevant subsidiary bodies and ad hoc groups of the Inclusive Framework
<p>Action 11 - Measuring and Monitoring BEPS</p> <p>This action assesses currently available data and methodologies and concludes that significant limitations severely constrain economic analyses of the scale and economic impact of BEPS and improved data and methodologies are required. Noting these data limitations, a dashboard of six BEPS indicators has been constructed. These indicators provide strong signals that BEPS exists and suggest it has been increasing over time.</p>	<p>Working Party No. 2 on Tax Policy Analysis and Tax Statistics</p>
<p>Action 12 - Mandatory Disclosure Rules</p> <p>This action provides a modular framework of guidance drawn from best practices for use by countries without mandatory disclosure rules which seeks to design a regime that fits those countries' need to obtain early information on aggressive or abusive tax planning schemes and their users. The recommendations provide the necessary flexibility to balance a country's need for better and more timely information with the compliance burdens for taxpayers.</p>	<p>Working Party No. 11 on Aggressive Tax Planning</p>
<p>Action 13 - Guidance on Transfer Pricing Documentation and Country-by-Country Reporting</p> <p>This action contains a three-tiered standardised approach to transfer pricing documentation, including a minimum standard on Country-by-Country Reporting. First, the guidance on transfer pricing documentation requires multinational enterprises (MNEs) to provide tax administrations with high-level information regarding their global business operations and transfer pricing policies in a "master file" that is to be available to all relevant tax administrations. Second, it requires that detailed transactional transfer pricing documentation be provided in a "local file" specific to each country, identifying material related-party transactions, the amounts involved in those transactions, and the company's analysis of the transfer pricing determinations they have made. Third, large MNEs are required to file a Country-by-Country Report that will provide annually and for each tax jurisdiction in which they do business the amount of revenue, profit before income tax and income tax paid and accrued and other indicators of economic activities.</p>	<p>Ad Hoc Group on Country-by-Country Reporting, consisting of members of both Working Party No. 6 and Working Party No. 10</p>

BEPS Action	Relevant subsidiary bodies and ad hoc groups of the Inclusive Framework
<p>Action 14 - Making Dispute Resolution Mechanisms More Effective</p> <p>Recognising the importance of removing double taxation as an obstacle to cross-border trade and investment, countries have committed to a minimum standard with respect to the resolution of treaty-related disputes. In particular, this includes a strong political commitment to the effective and timely resolution of disputes through the mutual agreement procedure.</p>	<p>Forum on Tax Administration - Mutual Agreement Procedures Forum/ Working Party 1 on Tax Treaties</p>
<p>Action 15 - Developing a Multilateral Instrument to Modify Bilateral Tax Treaties</p> <p>This action explored the technical feasibility of a multilateral instrument to implement the BEPS treaty-related measures and amend bilateral tax treaties. This led to the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS, which was adopted in November 2016.</p>	<p>Ad Hoc Group on the Multilateral Instrument for BEPS tax treaty measures</p>

Annex C – Peer reviews of the minimum standards by the Inclusive Framework

1. Terms of Reference and Methodologies

Terms of Reference and Methodologies of the peer review standards are publicly available as follows for the minimum standards:

- On the exchange of tax rulings: www.oecd.org/ctp/beps/beps-action-5-harmful-tax-practices-peer-review-transparency-framework.pdf
- On preventing tax treaty abuse: www.oecd.org/tax/treaties/beps-action-6-preventing-the-granting-of-treaty-benefits-in-inappropriate-circumstance-peer-review-documents.pdf

- On Country-by-Country reporting: www.oecd.org/tax/beps/beps-action-13-on-country-by-country-reporting-peer-review-documents.pdf

- On making dispute resolution mechanisms more effective: www.oecd.org/tax/beps/beps-action-14-on-more-effective-dispute-resolution-peer-review-documents.pdf

2. Schedule of peer reviews

Information on the current schedules for the peer reviews, which are subject to change, can be found below for each of the minimum standards.

Action 5 – Transparency framework for the exchange of tax rulings

Peer review timeline for OECD/G20 members

2017	2018	2019	2020
1st review	2nd review	3rd review	4th review
Of the 2016 implementation period	Of the 2017 implementation period	Of the 2018 implementation period	Of the 2019 implementation period

Peer review timeline for IF members (non-developing countries)

2017	2018	2019	2020
	1st review	2nd review	3rd review
	Of the 2017 implementation period	Of the 2018 implementation period	Of the 2019 implementation period

Peer review timeline for developing countries that request additional time

2017	2018	2019	2020
		1st review	2nd review
		Of the 2018 implementation period	Of the 2019 implementation period

Action 5 – Preferential regimes

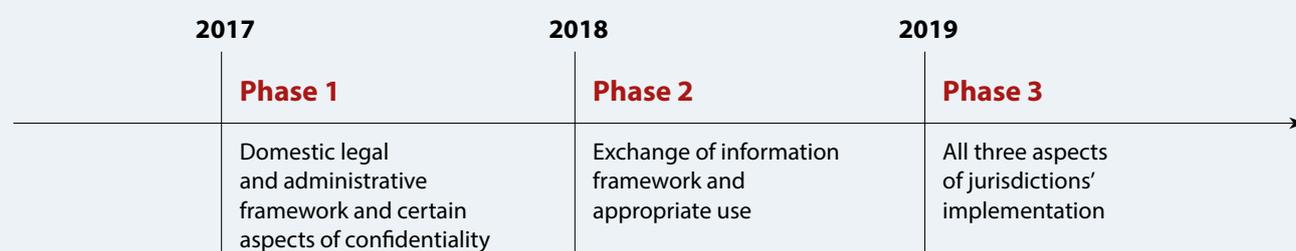
Peer review timeline for all IF members

**Action 6 – Treaty shopping**

Peer review timeline for all IF members

**Action 13 – Country-by-Country reporting**

Peer review timeline for all IF members



Annex C – Peer reviews of the minimum standards by the Inclusive Framework

Action 14 – Mutual agreement procedures*

1st batch 5 December 2016	2nd batch 7 March 2017	3rd batch by August 2017	4th batch by December 2017	5th batch by April 2018	6th batch by August 2018	7th batch by December 2018	8th batch by April 2019
Belgium	Austria	Czech Republic	Australia	Estonia	Argentina	Brazil	
Canada	France	Denmark	Ireland	Greece	Chile	Bulgaria	Brunei
Netherlands	Germany	Finland	Israel	Hungary	Colombia	China	Curacao
Switzerland	Italy	Korea	Japan	Iceland	Croatia	Hong Kong (China)	Guernsey
United Kingdom	Liechtenstein	Norway	Malta	Romania	India	Indonesia	Isle of Man
United States	Luxembourg	Poland	Mexico	Slovak Republic	Latvia	Papua New Guinea	Jersey
	Sweden	Singapore	New Zealand	Slovenia	Lithuania	Russia	Monaco
		Spain	Portugal	Turkey	South Africa	Saudi Arabia	San Marino

*Not all Inclusive Framework members are currently scheduled for review on Action 14. The Terms of Reference for the Peer Review of Action 14 provides (paragraph 7): the MAP Forum should defer the review of any such member that is a developing country and is not an OECD or G20 country if that member has not yet encountered meaningful levels of MAP requests and there is no feedback from other members of the FTA MAP Forum indicating that the jurisdiction's MAP regime requires improvement.

Annex D – Updated BEPS indicators

Five of the six original BEPS indicators have been updated since the publication of the BEPS package in October 2015.²⁴ While data that may shed light on the impact of the BEPS measures is not yet available, more recent data than that relied upon in producing the BEPS indicators in the Action 11 Report have become available. This update reflects data as recent as 2012 to 2014, which means, however, that these figures are not intended to capture the impact of the measures arising from the BEPS Project which only began in 2013, with the final package of measures released in October 2015. Instead, these updated indicators provide an updated snapshot, which suggests that BEPS behaviours had been continuing and increasing prior to the finalisation and implementation of the BEPS package.

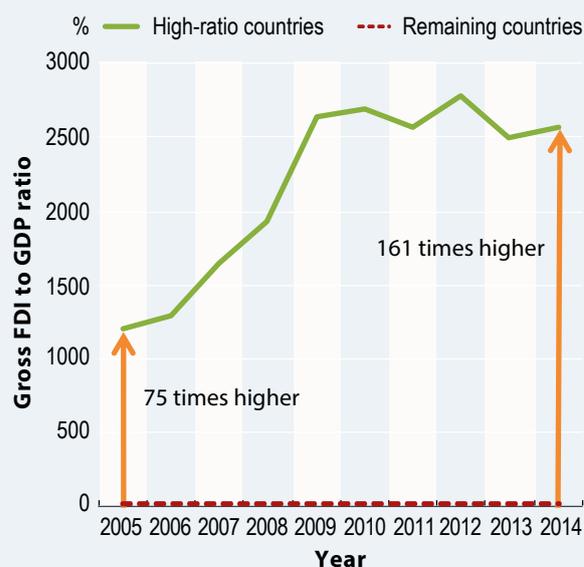
The indicators highlight BEPS behaviours using different sources of data, employing different metrics, and examining different BEPS channels. While there are many caveats that need to be applied to the indicators due to the limitations of the data used to calculate them and the difficulty of distinguishing between tax-motivated and behaviour driven by other economic factors, the combined dashboard of indicators provides evidence of BEPS behaviour.

The Action 11 Report released in 2015 clearly states the caveats that need to be applied when considering the BEPS indicators. In particular, the FDI Indicator is sensitive to the number of countries considered as having a high ratio of FDI to GDP and to the reference year chosen. FDI data is driven by many economic factors other than BEPS behaviour. Additionally, the recent update of such data has shown that the indicator can change with data revision. Under the mandate of Action 11, further work is being carried out to develop more refined sources of data which are becoming available. For these reasons, each of the indicators needs to be seen in the context of the dashboard of indicators and not as standalone indicators of BEPS.

Some of the key insights that can be drawn from these updated BEPS indicators are:

- **Foreign direct investment is concentrated.** Significantly high concentrations of foreign direct investment (FDI) relative to gross domestic product (GDP) in a relatively small number of countries could be an indication of BEPS, since GDP is a measure of real economic activity and FDI measures investment related both to real economic activity but also to purely financial activity including BEPS.
- The data shown in Figure 8 presents the average gross FDI to GDP ratios for a group of countries with high FDI to GDP ratios (solid dark line) and the same ratio for the average of all other remaining countries (dashed line). This indicator is calculated as the ratio of these two lines, represented by the arrows on Figure 8. The indicator shows an increasing concentration of FDI in countries with high FDI to GDP ratios.

Figure 8. Concentration of Foreign Direct Investment Relative to GDP



24. Further information regarding the indicators and the underlying data relied upon can be found in the Action 11 Final Report, Measuring and Monitoring BEPS.

The profit rates of MNE affiliates located in lower-tax countries are higher than their group’s average worldwide profit rate. Two indicators examine the profitability of a MNE’s affiliates in low-tax countries, since when BEPS occurs it is expected that firms will shift profits from high-tax affiliates to low-tax affiliates.

The first of these two indicators measures the share of pre-tax income reported by MNE affiliates with high profit rates and low tax rates, and it is clear that in 2013, low-tax, high-profit affiliates account for 45% of total income (the same as in the 2015 Report), while only 12% of total income is reported by higher-tax, lower-profit affiliates, as illustrated in Figure 9. This high concentration of total income located in the bottom right quadrant of Figure 9 provides an indication of BEPS.

The other profitability-based indicator compares the profitability of a MNE’s affiliates in low-tax countries to the profitability of a MNE’s worldwide operations. In 2013, the average profit rate of MNE affiliates in low-tax

countries was 2.3 times as high as MNE groups’ average profit rates (compared with about 2 times as high based on 2011 data). This is a broad indication of BEPS.

A proxy measure of the separation of taxable profits from the location of the value creating activity with respect to intangible assets is the ratio of royalties to R&D spending. A high ratio of royalties to R&D spending could suggest a country has more IP rights than would be expected given its R&D expenditure and such a high ratio may provide an indication of BEPS. This could be explained, in part, by MNEs moving intangibles into low tax jurisdictions where generally little of the value creating R&D activity has occurred.

In Figure 10, and continuing the trend shown in the 2015 Action 11 Report, it can be seen that the indicator has grown from 7.7 in 2005 to 9.3 in 2012, which may suggest that an increasing amount of royalties are received in jurisdictions where the amount of R&D activity is relatively low.

Figure 9. High profits of low-tax affiliates

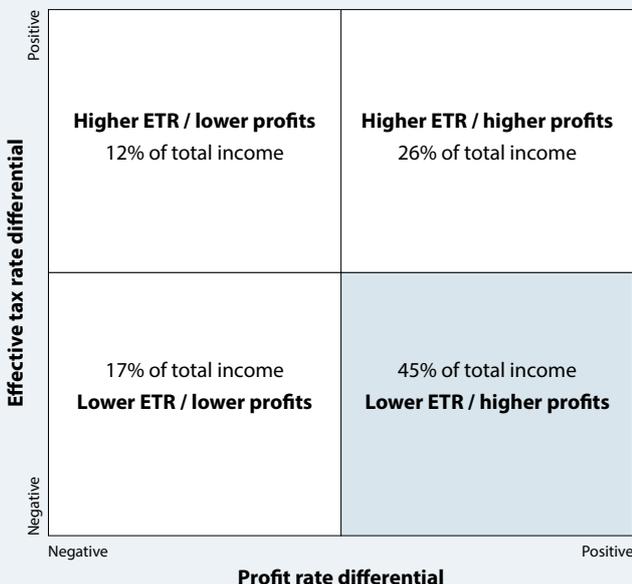
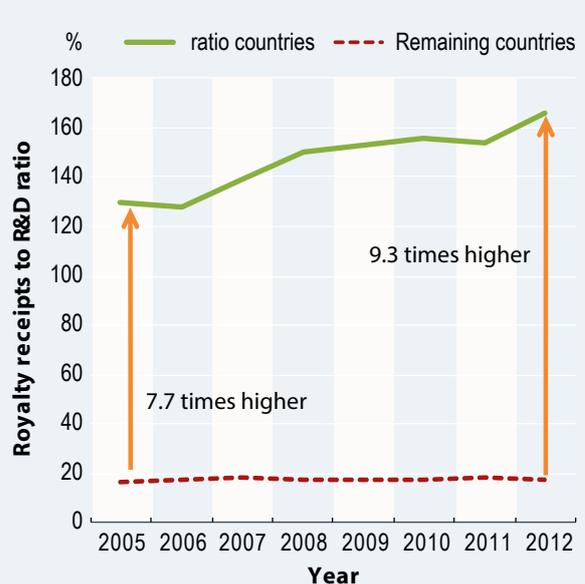


Figure 10. Concentration of royalty receipts relative to GDP

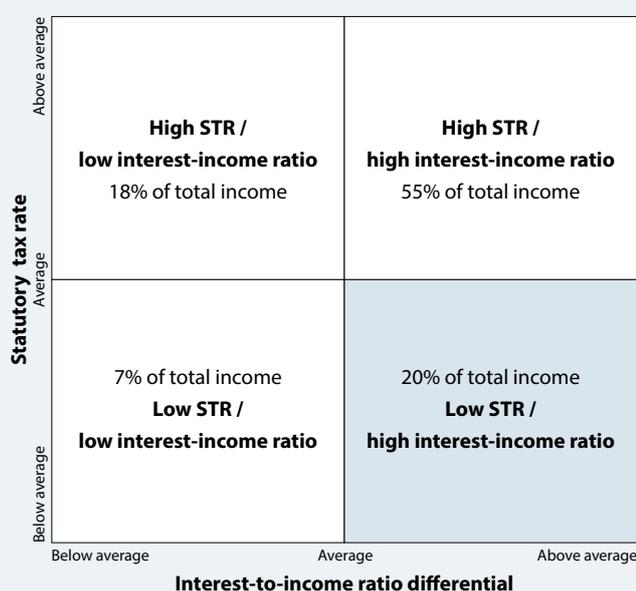


Debt from both related parties and third parties appears to be more concentrated in MNE affiliates in countries with higher statutory tax rates. The strategic allocation of debt to facilitate excessive interest deductions is one of the BEPS channels used by MNEs to reduce their worldwide tax liability. By placing debt in locations with high tax rates, firms can lower their overall tax liability.

The indicator presented in Figure 11, based on 2013 data, provides evidence that debt is concentrated in high tax countries. Affiliates subject to high statutory tax rates and with high interest-to-income ratios made 55% of total interest payments (compared with 45% in 2011) and had an average interest-to-income ratio of 30%. This compares with affiliates subject to low statutory tax rate and with low-interest ratios accounting for only 7% of total interest payments (10% in 2011), with an average interest-to-income ratio of 2%.

Looking forward, continued work on the refinement of indicators to measure BEPS will be needed to examine the actual effects of the BEPS package as more and better data become available. The BEPS package also recommended that as new data become available, they should be included in a Corporate Tax Statistics analysis to provide a more complete view of the global activities of the largest MNEs and to improve the analysis of BEPS and the effectiveness of the actions taken to address BEPS as part of the BEPS package. This CBCR data is not expected to become available for future analysis before 2019/2020, however, considerable ongoing work continues in the development of the new Corporate Tax Statistics analysis to ensure that the Inclusive Framework is well placed to maximise the use of these data when they become available.

Figure 11. High interest-to-income ratios of high-tax affiliates



Further reading

Overview of the OECD's work on BEPS:
www.oecd.org/tax/beps/beps-actions.htm

OECD (2015), *Base Erosion and Profit Shifting, 2015 Final Reports*, OECD Publishing, Paris.
<http://dx.doi.org/10.1787/23132612>

OECD (2013), *Action Plan on Base Erosion and Profit Shifting*, OECD Publishing, Paris.
<http://dx.doi.org/10.1787/9789264202719-en>

OECD (2013), *Addressing Base Erosion and Profit Shifting*, OECD Publishing, Paris.
<http://dx.doi.org/10.1787/9789264192744-en>



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This report by the Inclusive Framework on BEPS presents the current state of play in progressing its mandate, covering the period from July 2016 to June 2017. Part 1 of the report sets out the progress made in implementation of the BEPS package, including the four minimum standards, and also highlights the impact on BEPS activities that these measures are already having. Part 2 outlines the work of the Inclusive Framework in this 12-month period: the establishment of the peer review processes, the ongoing standard-setting work and delivery of guidance on implementation, as well as the assistance being delivered, often in partnership with other international organisations and regional bodies, to ensure all countries and jurisdictions are supported in the BEPS implementation process.



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 www.oecd.org/tax/beps

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OECD Secretary-General Report to G20 Leaders

Hamburg, Germany | July 2017

This report consists of two parts. Part I is an update report by the OECD Secretary-General regarding the latest developments in the international tax agenda. Part II is a Progress Report to the G20 by the Global Forum on Transparency and Exchange of Information for Tax Purposes.

